



**Convention on the
Rights of the Child**

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COMMITTEE ON THE RIGHTS OF THE CHILD
CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES
UNDER ARTICLE 44 OF THE CONVENTION

Initial reports of States parties due in 2002

THE NETHERLANDS (ARUBA)

[29 January 2003]

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Introduction

1. Aruba's initial report is submitted in pursuance of article 44, paragraph 1 (a), of the Convention on the Rights of the Child, which entered into force for the Kingdom of the Netherlands in respect of Aruba on 17 January 2001. The report has been drawn up, as far as possible, in accordance with the general guidelines governing the form and content of initial reports approved by the Committee in October 1991 (CRC/C/5). It was prepared by a commission representing both governmental and non-governmental organizations, established by Prime Minister's Decree of 12 April 2001.
2. The report describes the present situation in Aruba and the country's organizations and agencies committed to protecting children's rights. It is as complete as possible in all respects, but makes no claim to being exhaustive. Not all relevant information is available.
3. The Government invited a number of non-governmental organizations to contribute to the report because their cooperation is essential in the fields covered by the Convention. However, its efforts to promote an ongoing dialogue with civil society and concerted action to improve the position of children means there are differences of opinion on how to improve services and facilities and how best to promote and protect children's rights.
4. As far as possible, the present report aims to describe the situation in Aruba from both the Government and NGO points of view, while acknowledging that the Government is ultimately responsible for taking all appropriate measures to implement the Convention and for reporting to the Committee.

I. GENERAL MEASURES OF IMPLEMENTATION

A. Measures taken to harmonize Aruban law and policy with the provisions of the Convention (art. 4)

5. As early as the mid-1990s, the Government and States (Parliament) of Aruba and non-governmental organizations (NGOs) active in the field of youth care and protection in Aruba felt an urgent desire to make Aruba a party to the Convention on the Rights of the Child. However, it was decided to take the necessary legislative action to guarantee implementation before acceding to the Convention. While many of the rights that the Convention is intended to confer on children are also contained in other human rights instruments already in force in Aruba, some are not.
6. A particular gap in existing national legislation was the lack of statutory provisions for compulsory school attendance. This was despite the demand for such provisions in the International Covenant on Economic, Social and Cultural Rights, which was already in force for Aruba. For many years the need to introduce compulsory education went unrecognized because the vast majority of children (98 per cent) attended school anyway. Due to a series of factors (including large-scale immigration from elsewhere in the region), this situation has changed over the past decade.

7. Following consultation with the Advisory Council, a draft National Ordinance on Compulsory Education was eventually presented to Parliament in April 2001. In view of the progress being made in this direction, it was decided at the end of 2000 to proceed with Aruba's accession to the Convention on the Rights of the Child and on 17 January 2001 the Convention entered into force for Aruba. Work will continue on harmonizing national law and policy with the provisions of the Convention. It is essential, for example, that changes be made in the near future to the detention and vice laws. Moreover, there is so far no coherent youth policy. A number of departments, agencies, committees and organizations develop, coordinate and implement policies on specific sectors, but a coordinated approach is thought to be desirable, and indeed necessary if the provisions of the Convention are to be effectively implemented.

B. Existing or planned mechanisms at the national or local level for coordinating policies relating to children and for monitoring the implementation of the Convention

8. In order to ensure coordinated and efficient implementation of the Convention, the Government decided at the end of March 2001 to appoint a committee made up of representatives of a number of government departments and NGOs. Its membership was deliberately chosen to increase familiarity with the Convention in both the public and the private sector, to trigger information transfer between the two and to promote public awareness. The committee has two co-chairs, one from the public sector and the other from NGOs.

9. The committee has the following three tasks:

- To advise the Government on the implementation of the Convention;
- To fulfil the international reporting obligations under the Convention;
- To promote public awareness of the rights of the child.

10. When the new Government took office in mid-2001, it proclaimed 2002 as the Youth Development Year. Youth policy is to focus on providing the necessary facilities and resources to enable every young person to develop his or her capacities and talents to the full.

11. The Government's youth policy programme for 2001-2005 features the following priorities:

- To promote the participation of young people in decision-making on matters affecting them. The first step in this direction will be to establish a National Youth Council;
- To modernize education and make it more attractive to young people. Action will be taken to promote the use of computers in schools and to improve access to the Internet. Young people will be given the opportunity to influence educational reforms, for example via student councils. In addition, special programmes will be designed to reduce early school-leaving;

- To promote healthy recreational pursuits among young people. Youth organizations will be encouraged to organize sports, cultural and social activities in the various districts, and to train youth leaders to run them. Stricter controls will be imposed on admission to discos and nightclubs and on the sale of alcoholic beverages to minors. Action will be taken to promote educational programmes encouraging young people to engage in healthy forms of recreation and in voluntary work, and combating risk factors like crime, drug use and teenage pregnancy. Specific attention will be paid to the social rehabilitation of young people who have been in contact with crime or have become involved in criminal networks.

12. Since parents bear the primary responsibility for their children and have an important role in their upbringing, an important aim of government policy is to make it as easy as possible for parents to combine family care with paid employment. To this end, the Government will explore the potential for legislation on flexible working hours.

13. A priority in the 2002-2005 policy plan of the Minister for Social Affairs will be to amend and update relevant legislation in order to protect the rights of the weaker members of society, including children and young people. Action will also be taken to improve services providing help and support for this segment of the population, in order to promote their full and equal participation in society. The Minister for Social Affairs has established a plan of action, starting in January 2002, to work with the relevant public and private sector institutions to identify the needs of particular categories of people, including children and young people, and existing impediments and deficiencies in the services provided for them.

International cooperation

14. International cooperation also has a role to play in achieving the aims of the Convention. Ever since 1986, CEDE-Aruba - the *Centro Desaroyo Aruba* (Centre for Development Aruba) - has acted as an autonomous intermediary between Dutch government development assistance (and some private sector funds) and Aruban NGOs concerned with social development and education. The aim of CEDE-Aruba is directly or indirectly to increase the self-sufficiency and improve the position of disadvantaged segments of Aruban society. Since 1990 the Centre has received around Af. 13 million (US\$ 7.2 million). Of this, 38.6 per cent has been invested in projects benefiting young people. The strategic plan for 2000-2005 gives priority to projects benefiting children (aged 0-4) and young people (aged 12-18).

C. Measures taken or envisaged to make the principles and provisions of the Convention widely known to adults and children alike (art. 42)

15. Long before the ratification of the Convention on the Rights of the Child, a number of welfare organizations, schools and government agencies made a regular point of calling attention to the Declaration and Convention on the Rights of the Child. A range of governmental and non-governmental bodies have organized activities over the years. In 1994, the Government responded to an initiative by the non-governmental organization *Fundashon Pa Nos Muchanan* by designating 20 November as National Children's Day. The establishment of a National Day

is intended to draw greater public attention to the rights of the child in Aruba. Every year since then, action has been taken on and around 20 November to focus attention on children's rights. Various organizations (community centres, youth groups and childcare centres) organize activities for children, the media and NGOs produce special programmes and publications, and the Ministry of Health, Social Affairs, Culture and Sport organizes occasional government-backed public celebrations for children and young people.

16. On 9 and 10 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 event was attended by around 115 young people aged between 13 and 18. The purpose of the forum was:

- To give young people information and make them aware of their rights;
- To give them a chance to express their views and discuss the practical significance of these rights with people of their own age.

17. The forum centred on youth participation and the right of young people to express an opinion on all matters directly affecting them. During the forum, young people considered the Government's plans to establish a Youth Parliament and had an opportunity to present proposals on observance of the rights of the child in the national Parliament.

Promotional task of the Committee on the Rights of the Child

18. One of the tasks of the Committee is to promote general public awareness of the rights of the child in Aruba. The Committee intends to fulfil this task primarily by supporting and encouraging existing initiatives by NGOs and government agencies. A number of bodies are active in this area. They are well known to the general public and have established channels of communication with various target groups. The Committee will support these existing organizations by ensuring that adequate supplies of up-to-date promotional materials are available and by facilitating the provision of training and the establishment of contacts at both the local and the international level. The Convention will be translated into explanatory materials of varying levels of difficulty in the local language, Papiamentu, Dutch, English and Spanish. All these activities will, of course, depend on the availability of adequate resources.

D. Measures taken or envisaged to make the report widely available to the public at large (art. 44, para. 6)

19. In addition to making periodic reports to the United Nations treaty bodies, the Committee is expected to ensure that its reports are circulated and widely publicized within Aruba. Summaries of this initial report will be produced in Papiamentu, Dutch, English and Spanish for dissemination via the press. The report itself will be made available to all public and private sector bodies and individuals, for example via libraries. More generally, the Committee will maintain ongoing contacts with the media concerning the dissemination of information on the rights of the child and related developments.

II. DEFINITION OF THE CHILD

20. Since the introduction of the new Civil Code (*Official Bulletin 2001, No. 89 - NBWA*) on 1 January 2002, the definition of the child reads as follows: “Minors are individuals who have not reached the age of 18, who are not or have not been married and who have not been declared to be of full age through the application of article 253ha.” (Under the old provisions, the age limit was 21.)

21. A minor woman who exercises parental responsibility over her child and who wishes to bring up and care for that child may apply to the court of first instance to declare her of full age pursuant to article 253ha NBWA, provided she has reached the age of 16.

22. Such an application may be made before the birth of the child by or on behalf of the minor mother, even if she will only attain the age of 16 around the time of delivery. In such cases, the court will not decide on the application until the birth has taken place, or, if the woman has not reached the age of 16 at that time, until she has done so. The court will only grant the application if it considers it desirable and in the interests of the mother and her child. If another person has responsibility, it will be transferred to the mother. The minor woman is competent to act in law and to appeal against judgements.

Age of civil majority

23. Provided he/she is acting with the permission of his/her legal representative, a minor is competent to perform legal transactions, unless the law determines otherwise. The legal representative may give such permission only if he is competent to perform such acts on behalf of the minor. Permission must be given in writing and for specific legal transactions or purposes. Permission shall be deemed to have been given if the act in question is one that it is customary for minors of that age to perform (art. 234, Book 1).

Legal minimum age for the exercise of certain rights and obligations

Compulsory education

24. The draft National Ordinance on Compulsory Education, now before the Aruban Parliament (Staten), states that compulsory education ends when a pupil reaches the age of 17 or before if he/she has completed general secondary or secondary vocational education.

Enlistment/draft into the armed forces

25. The National Ordinance on Military Service (*Official Bulletin 1994, No. GT 9*) sets the minimum age for such service at 18 years. The draft was suspended several years ago; enlistment into the armed forces is now purely voluntary.

Minimum age for employment

26. Employment legislation distinguishes between people of 18 and over, young people between 14 and 17, and children younger than 14. Article 15 of the National Ordinance on Employment (*Official Bulletin 1990, No. GT 57*) prohibits the employment of children. With regard to young people aged between 14 and 17, article 17 of the Ordinance in principle bans working at night and work which is classified as hazardous by a subsequent national decree.

Criminal liability

27. Article 477 of the Code of Criminal Procedure (*Official Bulletin 1996, No. 75*) reads as follows: "No one may be prosecuted for an offence committed before the age of 12 years."

28. A limited number of coercive measures may be applied in the case of a minor under the age of 12 who is suspected of having committed a criminal offence. These include arrest, entry into premises for the purposes of arrest, a body search, search of clothing, detention in custody for the purposes of questioning and confiscation of objects in his/her possession.

29. Children over the age of 12 are criminally liable, though special criminal provisions apply to those aged between 12 and 18. These provisions differ from those of the criminal law applicable to adults in that the courts may take the defendant's age into account as well as the importance of training and education (see arts. 40 to 41 (m) of the Aruban Criminal Code).

30. With a view to the most effective and least damaging form of punishment for young people and in view of the importance of education and training, the Government has decided that it is desirable to make sentencing more flexible and better tailored to the individual in question. It has therefore begun preparations for a general review of juvenile criminal law; a draft national ordinance is expected to be sent to the Advisory Council and the Staten at the end of 2002 or early 2003.

Consent to marriage

31. NBWA sets the age-limit for entering into marriage for both men and women at 18 years. Exceptions may be made if the couple wishing to marry have both reached the age of 16 and the woman submits a doctor's certificate attesting to the fact that she is pregnant or has already borne a child.

Sexual consent

32. Under Aruban law, minors do not need their parents' consent in order to become sexually active. However, sexual intercourse with girls under 12 carries a maximum prison sentence of 12 years (art. 250 of the Criminal Code). In addition, article 251 imposes a term of imprisonment not exceeding 8 years on anyone having sexual intercourse outside marriage with a girl aged over 12 but under 15 years.

Use of alcohol and drugs

33. The sale of alcohol to a child under the age of 16 carries a custodial sentence of up to three weeks or a fine of up to Af. 300 (art. 475 of the Criminal Code). Aruban anti-drug legislation (National Ordinance on Narcotics) criminalizes the possession, transport and sale of illicit drugs.

Legal or medical counselling

34. If children aged between 12 and 16 have to undergo medical treatment, it is necessary to have both their consent and the consent of their parents or guardians. However, according to the new Civil Code (effective as from 1 January 2002), the consent of the parents or guardian will

not be required if the treatment is clearly necessary in order to avert a serious risk to a minor aged 12-16, or if the minor wishes to receive the treatment despite his/her parents' refusal to give their consent.

Voluntary testimony in court

35. Under the new Civil Code and the Code of Criminal Procedure a child under the age of 15 may not take an oath but is allowed to testify. Children may be heard as witnesses or victims in criminal proceedings. In civil cases they cannot be independent parties to the proceedings, but may be heard by the court. It is nevertheless not customary to hear children under the age of 12. Because children may not be a party to proceedings, they are not entitled to make an independent application for access to their parents. They may however be heard during access proceedings and may always send a letter to the court.

III. GENERAL PRINCIPLES

A. Non-discrimination (art. 2)

36. The recognition of equality and the fundamental right of equal treatment is laid down in article 1, paragraph 1, of chapter I of the Constitution of Aruba which states that "all people in Aruba are equal. Discrimination on the grounds of religion, belief, political opinion, race, sex, colour, language, nationality, social origin, wealth, birth, or membership of a national minority or on any other grounds whatsoever is prohibited."

37. Article 1.22 of the Constitution stipulates that statutory regulations will not be applied if application would be incompatible with the provisions of chapter I of the Constitution. Based on this article the courts have jurisdiction to judge whether statutory provisions, including the provisions in National Ordinances, comply with the basic human rights provisions set out in chapter I of the Constitution.

38. Through the Kingdom of the Netherlands, Aruba is also a party to various international instruments, such as the International Covenant on Civil and Political Rights (ICCPR), the International Covenant on Economic, Social and Cultural Rights (ICESCR), the International Convention on the Elimination of All Forms of Racial Discrimination, the Convention on the Elimination of All Forms of Discrimination against Women and the European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR).

39. The prohibition of discrimination, which is also enshrined in ICCPR and ICESCR, has led to the removal of the distinction that used to be made between legitimate and illegitimate children. This was eliminated from the Aruban legal system by the introduction of the New Civil Code on 1 January 2002.

40. Despite the present formal equality of all children before the law, it must be acknowledged that certain children are vulnerable because of their particular exceptional circumstances, such as children who are victims of violence, abuse or neglect and those in need of social or psychological support.

41. The policy of the Minister for Social Affairs is to improve the special protection available for the rights of the weaker members of society, including children and young people under the age of 18. Action will focus on identifying the problems of such vulnerable groups, in order to ensure their full and equal participation in society by amending and updating existing legislation and improving the help and support services.

B. Best interests of the child (art. 3)

42. Although parents must assume the primary responsibility for their children, there are also judicial institutions, administrative authorities or legislative bodies and other public or private social welfare agencies which have a duty to give priority to the interests of the child. If there is a conflict of interests, the interests of the child will generally take precedence. This is particularly important in the case of decisions by these agencies.

43. In criminal cases, the Aruban Foundation for Child Welfare and Rehabilitation looks after the best interests of juvenile offenders by taking or encouraging both preventive and repressive measures to protect their moral and/or physical well-being. It also deals with cases of minors with behavioural problems reported by parents or the Prosecutor General's Office.

44. In civil cases the Guardianship Board looks after the best interests of the child. The main tasks of the Guardianship Board are:

(a) To care for minors entrusted to it by the courts or the Public Prosecutor by virtue of their statutory powers;

(b) To advise the courts in cases of adoption, parental custody and restoration of or change in guardianship or parental authority;

(c) To investigate the interests of minors and, if necessary, to enforce statutory child protection measures, such as placement under supervision, divestment of parental authority, adoption and the supervision of children placed in foster families.

In doing this, the Guardianship Board works closely with the police, the Public Prosecutor and other government agencies active in the social field, such as the Department of Social Affairs and the Department of Education.

C. The right to life, survival and development (art. 6)

45. Articles 308 to 311 of the Criminal Code make abortion a criminal offence. Prenatal support and assistance are provided for mother and child (see also sects. VI and VII of the present report).

46. Under the provisions of the Civil Code a child acquires legal personality (i.e. a legal existence) on the day he or she is born, provided he or she is born alive and is viable. Article 2 of the Civil Code contains the *nasciturus rule* under which a child may inherit and receive gifts subject to the suspensive condition that he or she is born alive and is viable.

D. Respect for the views of the child (art. 12)

47. In Aruba, there is no tradition of involving children in decision-making on matters affecting them. This is reflected in relations within the family. Since parents are responsible for the upbringing, protection and well-being of their children, they expect to take the decisions. Children are traditionally expected to be quiet and obedient. In general, therefore, they are not encouraged to express their views or argue their case.

48. In recent years, this traditional approach to parenting has come under increasing pressure. The presence of modern information and communication technology means that families are constantly exposed to a wide range of often conflicting influences. There is an observable tendency for children to be more vocal and for problems of communication to arise between parents and children. Parents generally lack the necessary knowledge and skills to cope with these developments. They are less sure of their role than they used to be and find it more difficult to bring up their children properly, especially as regards the provision of support and guidance during the transition to adulthood and independence. The socio-economic trends of recent years have also resulted in more women entering employment and therefore being unavailable to supervise children in the home.

49. Today's parents have to compete with a greater number of parallel and sometimes negative influences on their children's social attitudes, for example from the media. Via modern information technology, children are also exposed to different points of view and are becoming ever more eager to express their own.

50. In recent years there has been increasing recognition of the need to provide parenting support. Social services, public information programmes and parenting courses now pay greater attention to encouraging good communication between parents and their growing children. Another positive development is that more young people are joining voluntary service clubs and other organizations where they have the opportunity to develop their talents and express their opinions.

51. To promote participation by young people in society, there are government plans to institute a youth council which will elect representatives to a youth parliament. The committee set up to advise on the establishment of the latter has recommended that members of the youth parliament should be allowed to participate in the deliberations of the National Assembly (Staten) and to offer it advice on issues relevant to young people, both on request and on their own initiative. To ensure continuity, the powers of the youth parliament will have to be enshrined in legislation.

Right of the child to be heard within the education system

52. Within the education system, a number of instruments are in place to ensure that the rights of children are respected and that children have a voice in matters affecting their interests.

53. School boards have a duty to draw up regulations for the schools they govern. The competent minister can issue instructions regarding the contents of such regulations. They include rules for the avenues open to pupils (or, in the case of minors, their parents or guardians)

to appeal against temporary or permanent exclusion from the school. There are also rules concerning the choice of examination subjects. Once again, in the case of minors, the school head will discuss this with the parents. In addition, the various examination decrees provide that candidates must be notified of all matters concerning them and that they are entitled to discuss and peruse their examination papers. The examination decrees also provide avenues by which students may appeal against decisions by school heads preventing them from participating in examinations or excluding them from examination halls.

54. In general, however, it has to be admitted that education legislation makes virtually no mention of the rights of pupils below the age of majority; in this respect, statutory provision is behind the times and in urgent need of modernization.

55. The implementation of various educational reform projects is likely to result in the necessary legislative provision. At any rate, the new system of general secondary education due to come into operation in August 2003 regards pupils as active, independent and discerning individuals with the kind of broad knowledge and skills base required by today's society. There is no place in it for the rigidly hierarchical structure of the past, but it assumes that the school community and all those connected with it have a strong commitment to education within a framework of shared responsibility. For that reason, there is now a need for new legislation on consultation and participation in decision-making within the education system.

Right of the child to be heard in civil proceedings

56. Aruban law allows the parties concerned to take part in proceedings and to present their case. Under family procedural law, the parents and guardians of minors and other interested parties such as the Guardianship Board, as well as minors aged 12 and over, all have a right to be heard in cases relating to parental responsibility, guardianship or legal capacity for minors. The same applies to adoption and access cases.

Right of the child to be heard in criminal proceedings

57. It is a general principle of criminal law in Aruba that children have a right to be heard in criminal proceedings affecting them; children up to the age of 12 are immune from criminal prosecution; minors over this age are - like adults - always heard and examined in criminal cases where they are on trial. The general statutory basis for the conduct of criminal cases against young people in this age group is article 479 of the Code of Criminal Procedure of Aruba (AB 1996 No. 76) which provides that the normal provisions of the Code apply to juveniles unless the Code determines otherwise. Consequently, any minor accused of a crime will be heard when taken into police custody, again when remanded and a third time during the trial. During criminal proceedings, a minor will be subject to examination as the accused and, as such, will also be entitled to have the last word. As a further guarantee that young minors suspected of a crime can defend their own interests, the same rights to be heard also accrue to their lawyers.

IV. CIVIL RIGHTS AND FREEDOMS

A. Name and nationality (art. 7)

58. The human rights instruments concluded over the past 50 years, especially ECHR and ICCPR, led to the radical modernization of the law of persons and family law. As regards the interpretation of ECHR, the rulings of the European Court of Human Rights, based in Strasbourg, are binding on Aruba. But social developments too made it necessary to revise legislation that dated from 1869.

59. The old law of persons and family law were replaced in Aruba as of 1 January 2002 through the introduction of Book 1 of the new Aruban Civil Code (NBWA). The provisions of NBWA form the basis for the present report. It should be noted, however, that practice, as described in the present report, is still largely based on the old Civil Code. Where relevant a comparison will be made with the rules under the old system. Book 1 of NBWA consists largely of peremptory law. Although on occasion account is taken of exceptional local circumstances and prevailing opinion, NBWA in principle follows Book 1 of the new Dutch Civil Code.

Right to a name

60. Every child is registered immediately after birth, and has the right from birth to a name and nationality. The arrangement governing the right to a name and nationality is such that all children have a name and a nationality.

61. Births taking place in Aruba must be registered within five days with the civil registrar (art. 19 (e), para. 6, of NBWA). Births reported after this period are referred to the Public Prosecution Service, which may institute criminal proceedings (art. 19 (d), para. 6). Article 19 (e), paragraph 1, states that the mother is competent to register the child, while the father is obliged to do so (art. 19 (e), para. 2). If the father is absent or unable to register the child, the following persons have a duty to register the birth:

- Anyone who was present at the birth;
- The occupant of the house where the birth took place, or, if the child was born in a nursing home, a prison or similar institution, the head of the institution or a subordinate specifically designated by him by means of a non-notarial instrument.

62. The obligation rests on those present at the birth only if the father is absent or unable to register the birth. Failing to discharge this statutory duty is a criminal offence (art. 467 of the Aruban Criminal Code).

63. Article 19 (a) of NBWA contains provisions concerning births taking place on board a vessel or aircraft registered in Aruba during an international voyage or flight.

64. In general, nursing staff encourage the mother or parents to register a newly born child with the authorities. A registry official visits the hospital on a daily basis. In the event that the mother is for medical reasons unable to register the child and there were no family relatives present at the birth, the nursing staff that were present will register the child.

65. A comparison of the annual number of registered births taking place in hospital (1,508 in 2000) and the annual number of children registered with the civil registrar (1,294 in 2000) shows that a considerable number of births are not registered. This possibly has to do with parents' anxiety about registering the child if they are not in possession of valid residence papers.

66. Under article 19 (e), paragraph 7, of NBWA, the registrar has to establish the identity of the person registering the birth. To combat fraud, he may require an attestation from a doctor or midwife that the child was indeed born of the woman registered as its mother (art. 19 (e), para. 8).

67. The birth certificate constitutes proof that a child of a particular sex was born of a particular mother on the date and at the place specified in the certificate. It also constitutes compelling evidence of the child's surname (art. 6 of NBWA). Children take the surname of their father, or that of their mother. Children who have a family-law relationship with their father, that is to say, they were born of the marriage between their father and mother or were acknowledged or adopted by their father, bear his name. If the mother is unknown, the registrar will enter a provisional given name and surname in the birth certificate, pending the adoption of a national decree establishing the given name and surname of the child (art. 5, paras. 1 and 2).

68. It should be noted that the existing legislation on names has been found discriminatory on grounds of gender (Supreme Court 23 September 1988, NJ (*Nederlandse Jurisprudentie*) 1989, 740). According to the Supreme Court, parents must be offered a choice between the surname of the father and that of the mother. However, the law on names will not as yet be amended in the new Civil Code. Experience shows that changes to the system of names arouses fierce debate. Nor is there any evidence that people have difficulty with the current system, under which children bear their father's surname. It has therefore been decided to separate this issue from the new Civil Code project. In any event, it is quite possible that a court in Aruba, in accordance with the wishes of a mother and the man who acknowledges her child, or of the mother alone, might accept an acknowledgement of paternity without attaching any consequences with regard to the child's name. In such circumstances the child would then continue to bear the mother's name.

Right to nationality

69. The recognition of nationality in the Kingdom, and therefore in Aruba, is laid down in the Netherlands Nationality Act. The primary rule contained in the Act derives from the *ius sanguinis* principle, i.e. a child automatically acquires Dutch nationality if the father or mother is a Dutch national. This also applies if the father dies before the child is born. A foundling will be deemed to be a Dutch national if it is found in the territory of the Netherlands, the Netherlands Antilles or Aruba, or on board a maritime vessel or aircraft registered in the Netherlands, the Netherlands Antilles or Aruba, unless it emerges within five years of the date on which the child is found that it has another nationality by birth. The child of a father or mother who was living in the Netherlands, the Netherlands Antilles or Aruba at the time of its birth, and who were themselves born to a mother who was residing in one of those countries is also regarded as a Dutch national (sect. 3 of the Netherlands Nationality Act).

70. A minor alien may acquire Dutch nationality through acknowledgement or legitimation by a Dutch national. A child born to a person who acquired Dutch nationality in this way is also a Dutch national (sect. 4 of the Netherlands Nationality Act). Children adopted by court order in the Netherlands, the Netherlands Antilles or Aruba acquire Dutch nationality if the adoptive father or mother had Dutch nationality on the date when the adoption order became final and if the children in question were minors on the date when the order was made at first instance. Any child born of a person who acquired Dutch nationality in this way is also a Dutch national (sect. 5 of the Netherlands Nationality Act).

71. Article 14, paragraph 2, of the Act states that no one may be deprived of Dutch nationality if as a result they would become stateless.

Right of the child to know its parents and to be cared for by them

72. The right of a child to know its parents is fulfilled automatically if the child grows up with its parents. This is the most common situation. The mother of the child is the person who has given birth to it or who has adopted the child (art. 198 of NBWA). The identity of the father is discussed above in connection with the right to a name. The biological father is thus not necessarily the legal father. For example, a sperm donor - i.e. a man not married to the woman who gives birth to the child, but who has supplied sperm - is not in principle the legal father. The question is whether the child is entitled to know the name of the donor. The Supreme Court gave a ruling on this matter in 1994 (Supreme Court 15 April 1994, NJ 1994, 608), stating that "the general right of personality underlying such fundamental rights as the right to respect for privacy, the right to freedom of opinion, conscience and religion and the right to freedom of expression also includes the right to know the identity of the parents from whom one is descended". Referring to article 7 of the Convention on the Rights of the Child, the Supreme Court pointed out that "the right to know the identity of the parents from whom one is descended is not absolute. This right must yield to the rights and freedoms of others if they weigh more heavily in a given case." This means for example that the interests of the mother and those of the donor must also be taken into account.

73. As a result of events such as divorce or death of the parents, it may be impossible for the right of a child to be cared for by its parents to be fulfilled within the family. Sometimes it may be in the child's interests to be removed from the family for a while. This may be the case where the interests or the health of the child are seriously endangered. In such circumstances the assistance provided to the child and the parents should be aimed at reuniting the child with its family. It may also be in some children's interests to be adopted, in which case they do not return to their original parents. Since adoption is a very far-reaching measure, the applicable rules are very strict. A child's prospects with its own parents have to be compared with the prospects following adoption. If the latter are better, adoption is possible. It is standard practice in adoption cases for the child to be informed about its natural parents. The adoption court ensures that this has been done.

74. Title 14, Book I, of NBWA regulates responsibility for minor children. The term "parental responsibility" has replaced the old term of "parental authority". The general term "responsibility" includes both parental responsibility and guardianship. A guardian is always

someone other than a parent. Responsibility covers the care and upbringing of a child, the administration of its property and representation in civil matters, both at law and otherwise (art. 245).

75. The nature and limits of parental authority are now interpreted in a more contemporary way, while article 249 lays down the obligations resting on children. What is important is mutual respect between family members in general and between parents and children in particular. Parental responsibility comprises the obligation and the right of parents to care for and raise their minor children. Caring for and raising children includes care and responsibility for their physical and mental well-being and helping them to develop their full potential (art. 247). Children have to take into account the powers conferred on parents and guardians in exercising their responsibilities and the interests of other members of their family.

76. If there is a conflict of interest between the parent or guardian exercising responsibility and the child, the court may appoint a special guardian (art. 250). The matter at issue may relate either to the care and raising of the child or to the administration of its property. The court has to assess whether it is necessary to appoint a special guardian in the light of the interests at stake. The explanatory memorandum accompanying NBWA sets out the Government's view that the conflict must be reasonably serious and - in matters of property - the amounts involved substantial. The age of the child may naturally play a role.

77. Although the age of majority has been reduced to 18 years, parents are obliged to support their children up to the age of 21. While the child is still a minor the law refers to "the costs of care and upbringing" and when he/she becomes a "young adult" (i.e. from 18 to 21) to "living and study costs" (art. 395 (a), para. 1).

78. If a parent or step-parent fails adequately to meet his obligations with regard to the costs of care and upbringing, the Guardianship Board or the other parent or step-parent may apply to the court of first instance to determine the amount the parent or step-parent in question must pay (art. 406, para. 1). The minimum amount to be paid in child maintenance is Af. 250 per month.

79. If a child's home life is seriously threatening its physical or moral well-being, the court of first instance may place the child under a supervision order. It may do this at the request of one of the parents, another person who is caring for and raising the child as part of his/her family, a relation by blood or marriage (up to four removes), the Guardianship Board or on the application of the Public Prosecution Service (art. 254).

80. If a supervision order is made, the court of first instance appoints a family supervisor to supervise the child in accordance with guidelines drawn up by the court. In doing so, the court bears in mind the religious or other convictions of the child and the family to which it belongs (art. 255). The family supervisor tries to have as much personal contact with the child and its family as possible. The role of the family supervisor is to promote the general well-being of the child, both by advising the parents on how best to raise and care for their child, and by encouraging them to do all that is necessary to achieve this end (art. 260).

81. If a parent is unsuitable or unable to discharge his/her duty to care for and raise a child, he/she may be divested of parental responsibility at the request of the Guardianship Board or on the application of the Public Prosecution Service, provided this is in the child's best interests

(art. 266 of NBWA). A parent who neglects his/her children may also be divested of parental responsibility without his/her consent (art. 269 of NBWA). In both cases the family-law relationship between parent and child continues to exist, but the parent's rights are affected.

B. Preservation of identity (art. 8)

82. A child's given name and surname confirm its identity. They are both entered in the register of births (art. 19 of NBWA). Alterations may only be made on the instructions of the court of first instance (art. 24 of NBWA). No one may infringe a person's right to the use of his/her given name; article 8 of NBWA states that anyone using someone else's name without his permission is committing an unlawful act in respect of that person if he thereby creates the impression that he is that person or is a member of his family.

83. A given name may be changed only at the request of the child's legal representative, on the order of the court of first instance (art. 4, para. 4, of NBWA). A child's surname may only be changed by national decree, again at the request of the child's legal representative (art. 7, para. 1, of NBWA), i.e. as a joint decision of the Minister of Justice and the Governor of Aruba. The surnames of children acquiring Dutch nationality through naturalization may be changed (art. 12 of the Netherlands Nationality Act).

84. A child has a family-law relationship with its parents and blood relatives (art. 197 of NBWA). Articles 198 and 199 of NBWA regulate who the legal parents of a child are. The mother is the woman who gave birth to the child or adopted it; the father is the man who fathered, acknowledged or adopted the child, or who has been granted a declaration of paternity. When a child is adopted, existing family-law relationships cease (art. 229, para. 2, of NBWA) and a new family-law relationship is established with the adoptive parents (art. 229, para. 1, of NBWA). Adoption is only permitted if it is clearly in the child's interests and a number of statutory requirements have been met (arts. 227 and 228 of NBWA). The child must be a minor, must have consented to adoption if it is older than 12, and must not be a grandchild of the adoptive parent; the adoptive parent(s) must be at least 18 years older than the child; the natural parents must not have contested the adoption (but not if the parents have been divested of parental responsibility, either with or without their consent); and the natural parents must no longer exercise parental responsibility for the child. An adoption order may be revoked by the court of first instance at the request of the adopted person (art. 231, para. 1, of NBWA). No grounds need be put forward for such a request.

85. The Aruban Criminal Code contains a number of provisions relating to the protection of family-law relationships, some of which are relevant to children. The offences defined include casting doubt on a person's parentage (art. 241), relinquishing or abandoning a child under 12 to another person (art. 264), abandoning an infant (arts. 268 and 271) and removing a minor from the authority of his legal parents or guardian (arts. 292 and 293).

C. Freedom of expression (art. 13)

86. The fundamental rights and freedoms laid down in the Constitution of Aruba apply to everyone, children and adults alike. Each individual is therefore entitled to freedom of expression in relation to Government and society.

87. The right to hold opinions and the right, inextricably linked with it, to express them is guaranteed by article 1.12 of the Constitution of Aruba. No one requires prior permission to publish thoughts or opinions through the press, without prejudice to the responsibility of every person under the law. Nevertheless, the law lays down rules concerning public order or the rights of other persons. For example, a licence is required for the operation of a TV station; the licence is granted for 10 years and subject to certain conditions. One provision is that broadcasts may not be detrimental to the sound development of the population. The National Decree on Alcohol Advertising (*Official Bulletin 1993, No. GT 46*), for example, prohibits the targeting of minors and limits the broadcasting of such advertisements to the period between 2200 and 0100. In practice, however, advertisements for beer sometimes appear on TV and radio outside this period.

88. Another provision is that if the security of the State, public order or morals, the protection of the reputation of others, the disclosure of confidential information, or safeguarding the authority or impartiality of the judiciary make broadcasting a particular programme partially or wholly undesirable, the broadcasting of this programme or part thereof may be prohibited by order of the Minister of Justice. An appeal against such a decision is possible.

89. There is no prior supervision of the content of radio and television broadcasts. No one is required to submit thoughts or opinions for prior approval in order to disseminate them by means other than the press, radio or TV, without prejudice to the responsibility of every person under the law. Performances open to persons under the age of 16 may be regulated by law in order to protect morals.

90. The National Cinemas Ordinance (*Official Bulletin 1990, No. GT 12*) makes a licence necessary for showing films in public. The Minister of Transport and Communications appoints a committee for film classification (art. 13 of the Cinemas Ordinance). In practice, however, there is no supervision of cinema attendance to ensure that children do not see films that are not intended for their age group.

D. Access to information (art. 17)

91. In Aruban law, freedom of expression presupposes the freedom to collect information. Article 1.12, paragraph 5, of the Aruban Constitution guarantees the right to collect and receive information without prior supervision. This right may only be limited by or pursuant to national ordinance. Children initially acquire information from their parents and through their education. They also have access to information through the media (newspapers, radio and television) and through the Internet.

92. Because Dutch remains the language of instruction in most forms of education in Aruba, school materials mostly originate from the Netherlands. Since 1990, however, the Aruban Teacher Training College has devoted specific attention to training teachers in multicultural education. Aspects of multicultural education are an integral part of all curriculum components.

93. Aruba has a National Library that over the past 20 years has developed from being merely an institution for lending books into a multifunctional centre providing books in different languages and audio-visual materials, and a place where one can study, attend lectures, visit

exhibitions, read local and international newspapers and magazines, view films, access the Internet and take courses. The importance of the library is illustrated by the frequent use that is made of its services. Children make the most use of the library. Subscription fees are kept low in order to make the library accessible to all.

94. In general, the habit of reading is not deeply ingrained in Aruba. Together the National Library and the media try to encourage the population to engage in cultural activities. The written word receives specific attention and efforts to promote reading in the form of book presentations, exhibitions, literary events, readings of literary works and film evenings are high on the National Library's agenda. Its area of operation and aims also mean that it has varied and structured contact with national and international educational institutions. For example, it organizes, together with the Foundation for Cultural Events in the Netherlands Antilles, the Netherlands and Aruba (NANA), the annual children's book festival in Aruba. This features a different theme and special guest every year, and lots of schools participate in the activities held during the festival.

95. The Library's School Mediatheque Service lends books to various schools in Aruba. Its Media Service produces audio-visual materials in the fields of education, culture and information about Aruba. In 2000, 26 films on related subjects were made in collaboration with organizations, including the Social Affairs Department, the Education Department and the children's helpline.

E. Freedom of thought, conscience and religion (art. 14)

96. Freedom of religion is regulated by the Constitution and applies to everyone, children and adults alike. Although the majority of Arubans are Roman Catholic, religious minorities are given every opportunity to practise their faith.

97. Pursuant to article 1.15 of the Constitution, everyone has the right to practise his religion or belief, either individually or in community with others. In certain cases, limitations may be imposed by law. The grounds set out in article 18, paragraph 3, of the International Covenant on Civil and Political Rights (ICCPR) are also incorporated in the Aruban Constitution. Such limitations, however, have never been imposed in practice.

98. Furthermore, article 1.20 of the Constitution stipulates that "education shall be of constant concern to the Government" and that State education shall be regulated by national ordinance, respecting everyone's religion or belief. This article distinguishes between State and private education. Parents are completely free to decide which school they send their children to. The great majority of schools are private. This is closely related to the fact that the Roman Catholic Church played a major role in organizing education in Aruba. Most schools are denominational (i.e. Catholic or Protestant), and are fully subsidized by the Government. The conditions attached to grants from public funds are laid down by national ordinance.

99. State schools are administered by the Government. Education in State schools is available to everyone, and respects all religions and beliefs.

100. The Government of Aruba considers that as long as a child cannot yet be deemed capable of forming its own opinions, parents or guardians may decide as they see fit on the religious education of their children. This is also the gist of article 14 of the Constitution. As soon as children may be deemed so capable, however, parents or guardians must respect their opinions even if they are not in keeping with their own. The Government of Aruba believes that article 14 of the Convention should receive a broad interpretation. The article deals not only with freedom of thought, conscience and religion, but also with the freedom to adopt a religion or belief. This is in accordance with the provisions of article 18 of ICCPR.

F. Freedom of association and peaceful assembly (art. 15)

101. The Government of Aruba regards the right to freedom of association and peaceful assembly and demonstration as essential to the functioning of democracy in Aruba. The right to peaceful assembly is regulated in article 1.13 of the Constitution. The right to freedom of association is recognized on the basis of article 1.11 of the Constitution. The National Ordinance on Unlawful Assembly (*Official Bulletin 1988, No. GT 5*) and the National Ordinance on Assembly and Meetings (*Official Bulletin 1999, No. GT 2*) regulate these rights further. These rights apply to everyone, children and adults alike. As with other fundamental rights, no additional restrictions are imposed on children other than those generally imposed by ICCPR.

G. Protection of privacy (art. 16)

102. The right to privacy is a fundamental right enshrined in article 1.16 of the Constitution (*Official Bulletin 1987, No. GT 1*). The area of personal privacy includes a child's home and family. Article 1.16 guarantees everyone the right to respect for his/her privacy, subject only to restrictions laid down by or pursuant to national ordinance. It also states that rules shall be laid down by national ordinance regarding protection from the unrestricted recording and provision of personal data and the right of access to personal data and the use made thereof, as well as the right to demand correction of such data. For further details of the content and significance of article 1.16 and the restrictions that are or may be imposed by law, see the report submitted by Aruba under article 17 of ICCPR (the fifth report dates from January 2000).

103. The right to correspond freely is codified as a separate fundamental right in article 1.18, paragraph 1, of the Constitution. This article states that the confidentiality of correspondence is inviolable, except in cases specified by national ordinance in which letters may be opened by court order. Article 1.18, paragraph 2, protects the confidentiality of telephone and telegraph communications, making confidentiality in this area inviolable, except in cases specified by national ordinance where persons designated by that ordinance may intercept communications.

H. The right not to be subjected to torture or other cruel, inhuman or degrading treatment or punishment (art. 37, para. (a))

104. This article relates to children who have been deprived of their liberty. In principle, Aruban legislation and practice comply with the norm enshrined in the article. Article 1.3 of the Constitution confers the right to inviolability of the body, subject to restrictions laid down by national ordinance. Article 1.4 of the Constitution prohibits the death penalty (and the Criminal Code no longer contains any such sanction).

105. As part of the Kingdom of the Netherlands, Aruba is a party to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and has implemented that Convention in part through introducing specific penalties for the crime of torture (National Ordinance implementing the Torture Convention, *Official Bulletin 1999, No. 8*). This Ordinance states that the acts described as such in article 1 of the Convention shall be punishable in Aruba as forms of torture. Since the entry into force of the Ordinance, no prosecutions or convictions for torture have taken place.

106. Aruba is also a party to the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment. Consequently, Aruba is under an obligation to allow the Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment to visit and inspect places where people are held in detention. This Committee may visit locations other than prisons (such as the psychiatric wing of the hospital) where people are kept against their will by the authorities.

107. Aruban juvenile criminal law is laid down in articles 40 ff of the Criminal Code, but the provisions are fairly outdated. The major penalties that at present may be imposed on juveniles consist of fines, reprimands and indefinite detention orders (essential to which is the issue of upbringing). The array of penalties does not offer sufficient scope for differentiation, and consequently, insufficient account can be taken of the specific sentencing requirements in each individual case. A comprehensive revision of juvenile criminal law is now in preparation. A draft national ordinance is expected to be submitted to the Advisory Council for advice and thereafter to Parliament in 2003.

108. Life sentences may not be imposed on juveniles (unless there are grounds for applying the ordinary criminal law to the juvenile in question). In such cases, the sentence may be reduced at any time by means of a pardon.

109. Legislation on prisons is at present contained in the Framework Prison Ordinance (*Official Bulletin 2000, No. GT 1*) and the National Prison Decree (*Official Bulletin 2000, No. GT 2*). Article 11 of the Framework Prison Ordinance stipulates that child prisoners must be held separately from adult prisoners. In addition, in allocating prisoners as much account as possible is taken of their age and degree of development (art. 13). Article 42 of the National Prison Decree States that the prison director shall ensure that young prisoners who have spent considerable time in the institution have a more gradual transition to freedom through being allowed greater liberties as the date of their release approaches. The Aruban Correctional Institution has a Supervisory Committee which regularly checks the treatment of prisoners.

110. In view of the outdated legislation referred to above, a new draft national ordinance on the enforcement of custodial sentences has been put before Parliament. This states that separate institutions are required for male prisoners under the age of 21, but not for women under 21 (art. 7 of the draft ordinance), and sets up a new Supervisory Committee to oversee the treatment of prisoners (art. 3 of the draft ordinance). Prisoners will also be able to file complaints with the Committee regarding alleged violations of their rights or their legal status within the institution. And finally, the draft ordinance contains exhaustive rules on the use of force against prisoners.

111. The plans for a new building to house the Aruban Correctional Institution envisage a new wing for juveniles. The new premises have high priority but are not yet under construction. The plans have been submitted to the Aruban Development Foundation with an application for funding.

Young psychiatric patients

112. At present Aruba has only one child psychiatrist. The psychiatric wing of the hospital has no separate child psychiatrist.

113. Supervision of institutions where psychiatric patients are cared for - that is to say, the way in which they are treated - is the responsibility of the Director of Public Health and of the Procurator General (see art. 6 of the National Ordinance on Mental Health and *Official Bulletin 1992, No. GT 15*). There is as yet no separate right of complaint for people receiving nursing care. The Government has recently set up a committee entrusted with the task of preparing amendments to the outdated National Ordinance on Mental Health. The amendments will devote specific attention to the legal protection of people in mental health institutions. The legislative process is expected to be set in motion early in 2003, once preparations are completed.

V. FAMILY ENVIRONMENT AND ALTERNATIVE CARE

Family policy

114. Families exist in various forms: two parents with children, one parent with children, one parent with children and a partner who is not their biological parent, a parent with children and one or more relatives such as an aunt or grandparent. Aruba's Civil Code proceeds from the assumption that children are raised by their biological parents. But it also regulates the status, rights and obligations of foster parents, adoptive parents, guardians and other persons responsible for bringing up children. The average Aruban family has one to two children.

115. The number of one-parent families has increased significantly over the past 30 years. More than one sixth of the population (17.25 per cent) live in one-parent families (census 2000). Many are headed by a divorced parent or a parent who has separated from their partner, and many by an unmarried mother. The growing divorce rate (over 50 per 100 marriages between 1997 and 2000) has also contributed to this trend.

116. Government policy is based on the principle that families bear the primary responsibility for the well-being of their members. In this context, article 251, paragraph 1, of the Civil Code gives parents joint responsibility for their children for as long as they are married. They administer their children's property and represent them in civil matters. The State intervenes only if the family fails to discharge its duties in a satisfactory manner. The courts can divest parents of or discharge them from parental responsibility, but they can do so only in circumstances defined by law and only in the interests of the child. They may resort to such measures, for instance, if a parent is unsuitable or unable to prevent abuse or neglect (see part IV above).

117. The National Ordinance on Social Services (*Landsverordening Maatschappelijk Zorg; Official Bulletin 1989, No. GT 27*) provides a statutory basis for assistance to people or families in need and for intervention to prevent crisis situations. In view of the increase in family and behavioural problems in recent years, the State needs to provide more targeted and structured assistance. The Minister of Social Affairs will devote special attention to families in need in the 2002-2005 policy memorandum. One of the aims is to improve cooperation between Government and private organizations in order to provide better services for those families.

A. Parental guidance (art. 5)

118. The duty of parents to care for and raise their children is anchored in law. The law also States that this obligation applies to both parents. They share parental responsibility as long as they are married. The law allows one parent to exercise responsibility only if the other is not in a position to do so. Parental responsibility entails the right to perform any action deemed necessary or appropriate to further the interests of children. It also allows parents to administer their children's property, but obliges them to exercise this right with due care and consideration.

119. The courts may appoint a guardian to supervise children who are not under parental responsibility. Guardianship entails the same rights and obligations as parental responsibility.

B. Parental responsibility (art. 18, paras. 1 and 2)

120. Parents share legal responsibility for their children as long as they are married (art. 251 of the new Aruban Civil Code). Divorced parents may continue to exercise joint parental responsibility if both wish to do so. Alternatively, the courts assign parental responsibility to one of the parents.

121. If only the identity of the child's mother is known, or if the parents are not married, the mother exercises sole parental responsibility unless she was not competent to do so at the time of the child's birth. This might be the case, for instance, if she herself was a minor. Legislation introduced in January 2002 allows the courts to declare an under-age mother to be of age.

122. A woman who is not legally competent to exercise parental responsibility at the time of her child's birth acquires that responsibility automatically as soon as she is competent, unless responsibility has already been awarded to a third party. In that event, the mother may apply to the court of first instance to be awarded parental responsibility. If a guardian has legal responsibility for the child, the court may only refuse the mother's application if it has reason to believe that the child's interests would otherwise be compromised.

123. On the death of a person exercising joint parental responsibility, the surviving parent acquires sole responsibility. On the death of a person with sole parental responsibility, the court of first instance awards responsibility to the surviving parent or a third party, on its own initiative or on application by the Guardianship Board or the surviving parent. The court will only refuse an application for parental responsibility from the surviving parent if it has reason to believe that the child's interests would otherwise be compromised. This applies even if the deceased parent has nominated another guardian in his or her will. The nomination is taken into account, but the law gives priority to guardianship by a parent.

124. Although the Aruban Civil Code does not state explicitly that the principal concern of parents must be the interests of their child, this can be inferred from article 247, which states “parental responsibility encompasses the obligation and right of parents to care for and raise their children. They are therefore responsible for their children’s psychological and physical well-being and for nurturing their development.” This applies equally to guardians or other persons entrusted with responsibility for a child.

125. The State subsidizes private organizations to help families raise their children. People with family problems or problems raising their children can seek counselling from the Social Affairs Department (DSZ), which, if necessary, refers them to more specialized agencies for special education counselling, marriage guidance counselling, or individual therapy. Parents are informed about their child’s development and progress, its potential and aptitudes. They are also advised whether the child needs special care or counselling to prevent or remedy development disorders.

126. To assist the growing number of families with problems, the department has been organizing an annual series of information evenings for parents and children since 1998. They deal with drugs, crime, teenage pregnancy and other problems facing young people today. Special attention is paid to communication between parents and children. (For information about financial assistance, see sect. VI below.)

127. Non-governmental agencies also offer assistance to parents. Most prominent in this field is the *Fundación Pa Nos Muchanan*, founded in 1991, which embraces the principles of the Universal Declaration of the Rights of the Child. The agency was instrumental in Aruba’s ratification of the Convention on the Rights of the Child. Its aim is to ensure that children under the age of 12 receive the best possible upbringing, and it does so by supporting parents in the home and carers in the out-of-school care centres. It provides information and advice and organizes courses and workshops for parents and carers. It also gives support and advice to childcare centres on quality standards for day-care centres and encourages them to improve the quality of care and education to children aged 0-12 years. (For more information on day-care centres, see sect. VI below.)

128. It is generally acknowledged that the services and facilities available at present fall short of what is needed. The support provided by the Social Affairs Department, the Guardianship Board and private agencies is merely a drop in the ocean. Far more is required in the way of preventive and remedial counselling for parents.

C. Separation from parents (art. 9)

129. Article 9, paragraph 3, of the Convention on the Rights of the Child provides that children of divorced parents are entitled to maintain contact with the parent who has not been granted parental responsibility. The courts may deprive a parent of the right to access only if:

- Access would seriously compromise the child’s psychological or physical well-being;
- The parent is deemed manifestly unsuitable or unable to cope with access;

- A child aged 12 or over has indicated during its hearing by the court that it does not wish to have contact with that parent;
- Access would be contrary in any way to the child's interests.

130. Children aged 12 and over - or younger children who are capable of assessing their own best interests - may request the courts to be allowed contact with the parent who has not been granted parental responsibility. They may also ask the courts to order that the parent in question be kept informed about their progress, or be given a say in important decisions concerning their upbringing.

Residence rights

131. Under Aruba's admissions policy, a child and/or one of its parents may lose their right to remain in Aruba if they cease to satisfy the conditions for residence. Following a divorce, for instance, one of the parents may lose their right to remain in Aruba. In that event, it must be decided whether their children may remain in the country. The same situation arises when a child is born out of wedlock and the parents subsequently cease to cohabit. Such cases are assessed on their own merits and with due regard to Aruba's international obligations, under article 8 of the European Convention on Human Rights, for example, when deciding whether termination of one or both parents' residence rights should result in termination of their children's residence rights.

132. The general policy is that if a family does not qualify, or ceases to qualify, for residence in Aruba, all members of the family are expelled together.

D. Family reunification (art. 10)

133. The island's booming economy has attracted numerous foreigners over the past decade. The majority come from Colombia, Venezuela and the Caribbean islands around Aruba, and are mostly employed in the tourist industry. This huge influx of people was putting such a strain on the system that controls had to be introduced. The rules for family reunification were tightened up. As a rule, children aged 6 years and over are refused admission, as it transpired that they were having difficulty adjusting to the Dutch school system. A child and/or its parents may lose their rights to remain in Aruba if they cease to meet the conditions for admission.

134. The present regulations are based on the National Ordinance on Entry and Deportation (LTU), (*Official Bulletin 1966, 17*), which has been amended on several occasions. More detailed provisions are laid down in the National Decree of 17 January 1963 containing general measures (*Official Bulletin 1985, 57*).

135. Parents and children who are not living in the same country (i.e. Aruba) may apply for family reunification under articles 6 to 14 of LTU. These provisions govern entry for a temporary stay and residence permits issued by or on behalf of the Minister of Justice.

136. Entry permits are issued subject to certain conditions concerning place of residence, occupation or business, employment with a specific employer, or relating to public policy, public order, public safety, public morals or the public interest. Terminating the admission of someone who enjoys the right of entry by operation of law or through a permit also implies the termination of those rights in respect of their spouse and minor children.

137. The Minister of Justice tightened up policy on the admission of foreign nationals as from 1 September 2002. Foreigners are no longer admitted accompanied by their families.

E. Recovery of maintenance (art. 27, para. 4)

138. In view of the recent lowering of the age of majority from 21 to 18, the Aruban Civil Code now obliges parents to support their children and pay for their studies up to the age of 21. Step-parents are obliged to support stepchildren who form part of their family only for the duration of their marriage.

139. Parents are obliged to support their minor children financially, insofar as they are able to do so. The same obligation applies to a step-parent in respect of the minor children of his or her partner, and to a father who has no family-law relationship with his biological children. A father in this position is obliged, if there are grounds for doing so, to provide assurances that he will fulfil that obligation, or else make over the full amount payable. Maintenance is fixed by the courts (art. 394).

140. An application for the costs of care for and upbringing of a minor lapses five years after the date of the child's birth unless payments are made within that time (art. 403).

141. If there is no family-law relationship between a minor child (under 18) and its father, then the father is only obliged to pay maintenance until the child reaches the age of majority, except in the case of children who are unable to provide for themselves due to a psychological or physical handicap (art. 394).

142. If a parent or step-parent fails to provide or to provide sufficiently for the maintenance of their minor children, the Guardianship Board or the person with responsibility for the child may ask the court of first instance to set an amount that the parent or step-parent should pay (art. 395 (b)). However, it is impossible to recover maintenance if that person's whereabouts are unknown.

F. Children deprived of a family environment (art. 20)

143. Under Aruban civil law, guardianship of minors may be entrusted to charitable associations, organizations or institutions which have the status of a legal entity, are registered in Aruba, and are tasked by their constitutions with the long-term care for minor children (art. 302). The majority of minor children in such cases are placed in residential facilities or with foster families. When entrusting guardianship of a minor child to a legal entity, the courts take account, as far as possible, of the religious convictions of the child and its family (Residential facilities are non-denominational). If a child is placed in a residential facility or with a foster family, the legal entity concerned is obliged to keep the Guardianship Board informed in writing as to where the child is living. Unless the law states otherwise, legal entities entrusted with

guardianship have the same powers and obligations as any other guardian. A minor entrusted to a legal entity may not be taken into or out of Aruba without permission from the court of first instance. Such permission is only granted if the court considers the move to be in the interests of the child.

Residential facilities

144. Parents who are unable to manage children with social, emotional or behavioural problems may send them to a residential facility and ask the Social Affairs Department (DSZ) to pay fees. To be eligible they must be Dutch nationals and registered as residents in Aruba. They must also be either Aruban by birth, or have lived in Aruba for at least three years. Anyone who has applied for naturalization is also eligible. The Minister of Social Affairs may consider other applications in exceptional and urgent cases. The courts can also order a child to be placed in a residential facility.

145. Three residential facilities provide temporary care for minors:

- Casa Cuna Progreso admits boys and girls up to the age of 6. It can accommodate 36 children;
- Kinderhuis Imeldahof provides temporary care and supervision for boys from 6 to 14 and girls from 6 to 18, whose well-being is threatened at home. Children are admitted up to the age of 12. Imeldahof has 42 places. It tries to return children to their own homes as soon as the problems have been solved, or to place them with foster families;
- Casa pa Hubentud takes up to 20 boys and girls aged 13 and over. It provides accommodation and supervision for children who are unable to live with their parents, relatives or guardian.

146. These residential facilities are funded partly by the State and partly from donations. They also receive a daily allowance per resident: Casa Cuna receives Af. 12 per child and Imeldahof and Casa pa Hubentud Af. 11. All three institutions liaise to coordinate policy, care arrangements and quality.

147. The Social Affairs Department provides family counselling so that children in care can be returned to their homes. It also offers families and children specialized help, including counselling for children with special educational needs. Although staff shortages have prevented this service from being available to all in need, efforts are being made to improve the situation.

Foster care

148. Foster families take children into care for relatively long periods of time, but they are not awarded guardianship. Either the parents or a third party are the guardians of the child. Children are placed with foster families until circumstances enable them to return to their own family or

until they are in a position to support themselves independently. In recent years, it has been the trend in Aruba, as in the rest of the world, to place children with a foster family rather than in residential care, selecting a social environment as similar as possible to their own. The demand for foster families has accordingly increased sharply.

149. At present, there is a shortage of foster families of all kinds: for long-term as well as short-term care and for emergencies. One reason is that the allowance granted by the State (Af. 120 per child, per month) falls short of the real cost of maintaining a child, so that many families cannot afford to foster. People are also deterred by the lack of sufficient assistance/guidance given to foster families.

150. *Fundación Guia Mi* is a family supervision and child protection agency. It arranges supervision for minors and looks after their interests in general. Supervision as such is provided by the *Fundación Guia Mi*, the Guardianship Board and the Social Affairs Department, but they are inadequately staffed.

151. A flaw in the system is that residential facilities close at weekends, so that children need alternative accommodation. As very few foster families are available, some children are sent back to their own homes, which is generally not in their interests. Solutions to all these problems are being sought at present. The Government is considering the possibility of increasing the financial allowance offered to carers, and perhaps setting up a central office to recruit, train and supervise foster families.

G. Adoption (art. 21)

152. Adoption is subject to legal guarantees of the rights and obligations of both the adopted children and the adoptive parents (arts. 227-228 of the Civil Code). Aruban civil law designates the competent authority in relation to an adoption. The law also spells out the conditions governing adoption and the family-law implications for both the child and the adoptive parents. The Civil Code allows adoption only if it is in the general interests of the child (art. 227, para. 3). Adoptions take place by judgement of the court of first instance in response to an application from the prospective adoptive parents. An adoption is effective as of the date of the court judgement.

153. Article 228 of the Civil Code provides that the child to be adopted must be a minor on the date of the application, and may not be the legal or biological child of either of the applicants.

154. Adoption severs the family-law relationships between a child and its relations by blood and marriage, and makes the child the legitimate child of its adoptive parents and family. The new Civil Code allows adoption by single persons (art. 227, para. 1) and step-parents (art. 228 chapeau, para. 1 (b)) as well as by married couples. A new condition is that the parents may not have responsibility for the child at the time of the adoption (art. 228 chapeau, para. 1 (f)). Also amended is the former requirement that the adoptive parents must be of age. Under the new legislation, an adoptive mother must be at least 16 (art. 228 chapeau, para. 1 (e)). There is no minimum-age restriction for the father.

155. Article 228, paragraph 2, of the new legislation curtails the right of the biological parents to oppose an adoption. The courts are no longer obliged to consider the parents' objection in the following circumstances:

- If the child has never lived with its family or has lived with them for only a short time;
- If the parents have seriously neglected the child or misused their parental responsibility;
- If either of the parents has been convicted of an offence against the child.

156. A parent with access to a child who is to be adopted may ask the courts to allow his or her right of access to continue (art. 229, para. 4).

157. The Civil Code also allows adoptions to be revoked at the request of the adopted child when he or she comes of age. The court will only grant such applications if they are in the interests of the child. Revocation means that the child loses its status as the legitimate child of the adoptive parents, and that the family-law relationships between the child and its original relations by blood and marriage are restored.

H. Illicit transfer and non-return (art. 11)

158. Article 11, paragraph 1 of the Convention on the Rights of the Child allows States Parties to take measures to combat the illicit transfer of children abroad and failure to return them to the country. They are required to promote the conclusion of bilateral or multilateral agreements and accession to existing agreements. An implementing bill is being drafted which will make Aruba party to the Convention on the Civil Aspects of International Child Abduction, signed in The Hague on 25 October 1980.

I. Abuse and neglect (art. 19), including physical and psychological recovery and social reintegration (art. 39)

Statutory framework

159. Under Aruban law, cases of child abuse or neglect by parents are brought before the courts or a public prosecutor. This may result in criminal proceedings or a child protection order, for example divestment of parental responsibility or custody (with consent) under article 360 of the Civil Code, or divestment of parental responsibility or custody (without consent) (art. 362 of the new Civil Code).

160. The court of first instance may also issue a supervision order to protect children who are suffering from serious neglect or abuse, and who are being physically or psychologically harmed as a result. Such children may be placed under a supervision order at the request of one of its parents, a relation by blood or marriage up to the fourth degree of consanguinity, the Guardianship Board or the Public Prosecution Service.

161. In such cases, the court appoints a family supervisor to supervise the child in accordance with guidelines drawn up by the court. The family supervisor is responsible for promoting the child's general well-being, both by counselling the parents on its care and upbringing, and by encouraging them to do all that is necessary to achieve this end. For their part, the parents are obliged to follow the supervisor's instructions. The maximum term of a supervision order is one year, but it can be extended by further periods of one year or cancelled at any time. It ends automatically when a child reaches the age of majority.

162. Children whose physical or psychological well-being are seriously threatened at home may be placed under a care order. The court of first instance may decide to place the child in a residential facility or foster home. Care orders are likewise issued for a maximum of one year. They can also be extended for one year at a time or cancelled at any time.

163. Children may only be separated from their parents if the courts consider such action necessary in the child's interests. This applies, for instance, to children who are abused or neglected or whose moral, physical or psychological well-being are threatened at home.

164. The court of first instance may divest a parent of responsibility for one or more children if circumstances warrant such action. Grounds for doing so include:

- Misuse of parental responsibility or serious neglect of the care or upbringing of one or more children;
- An objectionable lifestyle;
- A conviction by final and conclusive judgement for certain offences;
- Failure to comply with the instructions of the family supervisor or any attempt to obstruct the child's placement in an observation unit or an institution designated by the court;
- A well-founded fear that the child's interests will be neglected because the parent is removing, or demanding the removal of, a child whose care and upbringing have been entrusted to a third party.

The situation in practice

165. The absence of a framework for policy on youth services has prevented the Government from dealing systematically with the problems of neglect, abuse and sexual abuse. A total of 946 cases are on record for 1999 and 2000, but the true figures are believed to be much higher.

166. In May 2000, the Minister of General Affairs appointed an advisory committee to inventory existing services and facilities. The committee was also asked to submit proposals on coordination, personnel and measures to improve expertise, and to estimate the cost of implementing its recommendations. The committee was appointed in response to the findings of a report submitted to the Government in 1999 by the Social Affairs Department's Committee on Sexual Abuse.

167. According to the advisory committee's report of August 2001, Aruba's present infrastructure is adequate. However, it is not used optimally due to unsatisfactory registration, poor coordination and fragmented services. The report recommended that a monitoring group be appointed to develop a policy framework and monitor the standard of services. It also stressed that the problems should be examined systematically in order to find ways of preventing and dealing with the underlying causes of child abuse and neglect. Finally, it concluded that independent, structural funds should be reserved for this purpose.

168. The authorities are also planning to set up a child abuse counselling centre, whose tasks will include maintaining a centralized register. The idea was put forward by the Ministries of Health and Social Affairs and Guardianship Board. It was approved by the Government at the end of 1993. A committee was appointed in May 1997 to advise the authorities as to how the centre should work in practice and how much the service would cost.

169. Children have easy access to a child helpline and may remain anonymous if they wish, while several organizations offer assistance and organize public information and prevention campaigns.

170. The *Fundación Respeta Mi* was founded in 1991 to heighten public awareness of the fact that society as a whole must take responsibility for combating child abuse. The foundation has championed the cause of psychologically, physically and sexually abused children for more than a decade by organizing publicity campaigns, lectures, workshops, a telephone helpline and a library, and publishing leaflets and books in Papiamentu. It is run by unpaid professionals and relies on financial donations. The foundation has now applied for State subsidization.

J. Periodic review of placement (art. 25)

171. Article 25 concerns the rights of children whom the competent authorities have placed in an institution for the purpose of care, protection or treatment of their physical or mental health, periodic reviews of their treatment, and all other circumstances relevant to their placement. Aruba's youth services pay close attention to these rights.

172. As regards voluntary placements, efforts have been made in recent years to keep care placements as short as possible. The duration depends on the nature and seriousness of the problem. Regular meetings are held between the institution concerned, the Social Affairs Department and the parents to monitor the child's progress. Each case is reviewed when the placement order expires. It is then decided whether the placement should be extended or whether the child can return home.

173. The *Fundación Guia Mi* (see paragraph 150 above) monitors the treatment of children whom the courts have placed in care or foster families. Their progress is evaluated at regular intervals and discussed with their families and foster families. On the basis of these evaluations the courts decide whether a placement should be extended.

VI. BASIC HEALTH AND WELFARE

A. Survival and development (art. 6, para. 2)

174. See under III.C (The right to life, survival and development) and VIII.B (Children in conflict with the Law), which refer to the provisions in the Criminal Code concerning the protection of the unborn child, and to provisions in the Civil Code concerning the rights and obligations of parents in relation to their children.

B. Disabled children (art. 23)

175. It is inevitable that a relatively small country like Aruba with a population of approximately 100,000 will generally have a limited potential to cater for people with special needs. The percentages of adults/children with special disabilities and needs are comparable to those in other countries, but this means that the absolute numbers are small. Health issues are generally well covered by the existing medical facilities. Table 1 below gives some indication of the number of disabled children. It should be remembered, however, that these figures are based on self-reporting (in other words, respondents may not have reported children's status entirely objectively).

Table 1

Handicapped persons, by age and sex, 1991 and 2000

	1991			2000		
	Male	Female	Total	Male	Female	Total
Child (0-14)	191	160	352	389	252	641
Youth (15-24)	172	132	304	188	173	361
Total	363	292	656	577	425	1 002

Source: Central Bureau of Statistics, Aruba, Census 2002.

C. Health and health services (art. 24)

176. Aruba has a well-organized health-care system including general practitioners and a wide variety of medical specialists. For highly specialized treatment, it is usually possible to go abroad, for example to the United States of America or the Netherlands. Aruba has a 247-bed hospital (the Horacio Oduber Hospital) with fairly up-to-date medical equipment, and a medical centre that deals with some urgent cases. There is also a government medical laboratory and a number of such facilities that are privately run. A wide range of pharmaceutical drugs are in good supply. No patients' organizations have yet been set up, although some work was done in this direction a few years ago.

177. According to the Central Bureau of Statistics, the number of births in 2000 was 1,294 (657 boys and 637 girls). The infant mortality rate in 1999 was 6.5 per 1,000 and cases of perinatal mortality in that year numbered 8 (equivalent to 14.9 per 1,000). In 2000, the mortality figure for children in the first year of life was 7, including two cases where the reason recorded was “slow foetal growth, foetal malnutrition and immaturity”.

General Health Insurance

178. General Health Insurance (AZV) was introduced on 1 January 2001 and everyone registered as resident in Aruba is now compulsorily insured. Once registered for the scheme they qualify for a basic insurance package. The statutory basis of AZV is a national ordinance passed in 1992. Contributions are means-tested.

179. Under AZV, children can consult a general practitioner free of charge. An appointment with a medical specialist requires referral by a general practitioner, except in the case of children under the age of 4, who can go direct to a paediatrician. Treatment abroad requires prior consent from AZV. Prescribed medication is obtainable from dispensing chemists free of charge, provided the drugs concerned are on the list of approved medicines.

180. Dentistry (including orthodontic treatment) for children under the age of 13 is virtually free of charge, provided they have a record of regular treatment. There is a small charge for fillings and for orthodontic treatment. For 13- to 18-year-olds, a more limited range of treatment is available free of charge.

181. Children who are not registered as resident in Aruba are not insured via AZV. Every kind of medical treatment available in Aruba is available to them, but their parents have to pay for it. There is no official figure for the number of children in this position.

Obstetric care

182. AZV covers the cost of the obstetric care provided by general practitioners, midwives and four gynaecologists. The country has three midwives, who also provide antenatal care and carry out health checks for pregnant women. The majority of births take place in the hospital. In 2001 there were 1,444 hospital deliveries, including 573 caesarean sections and 871 vaginal deliveries. This compares with 24 home deliveries in the same period.

183. The Central Bureau of Statistics records 1,266 births in Aruba in 2001. This shows that there is a disparity between the number of registered deliveries and the official birth statistics, probably because some births are not reported to the civil register.

184. Premature births are relatively rare. This may be a consequence of the small size of the population. Since the hospital in Aruba has no neonatology department, pregnant women are taken to Curaçao or Venezuela if there is any expectation of premature delivery. Premature babies in need of special care are likewise transferred to Curaçao immediately after birth.

185. The White Yellow Cross (*Stichting voor Volkshygiëne Wit Gele Kruis*) community nursing service organizes regular antenatal classes. Attendance is voluntary and subject to a small fee. The classes cover not only various aspects of pregnancy and birth, but also infant care and nutrition. The White Yellow Cross also provides post-natal care. In addition, there is a privately run interdisciplinary antenatal and maternity clinic (*Centrum voor Interdisciplinaire Zwangerschapsbegeleiding en Kraamzorg, CIZKA*) which provides post-natal care on a commercial basis.

Health-care services for children and young people

186. Health-care services for children and young people in Aruba are provided partly by the not-for-profit White Yellow Cross community nursing service and partly by the Government-run Youth Health Care Service.

187. The White Yellow Cross was set up to provide preventive health care for children aged 0 to 6 and is divided into a baby care service (0-15 months) and a service for toddlers and young children (under the age of 7). Both types of care are provided via appointments or consultations with doctors or nurses, which the children attend together with their parents, grandparents or guardians. The main focus of attention is the physical growth and general development of the child.

188. Nutrition, including breastfeeding, is discussed with parents. They are also given the opportunity to seek specialist advice on and short-term treatment for developmental or behavioural difficulties. Since the aim is one of prevention, children in need of medical attention are referred to a general medical practitioner or paediatrician. Users of White Yellow Cross services pay a family contribution to the organization.

189. The Youth Health-Care Service is a statutory government agency which exists to monitor, maintain and promote the social and medical well-being of children from birth to the end of secondary education. This is achieved via periodic health checks and the more specific examination of children referred by doctors and nurses. General health checks are carried out in virtually all schools every school year. The service is free of charge. Children can be referred to special education experts or, if necessary, to a general practitioner or paediatrician.

190. A 1996/1997 Health Department survey of primary school children revealed that 15 per cent (one in seven) of them were overweight. This result is similar to findings in other countries. A 1999 survey of adolescents aged 13-15 showed that 28 per cent had the same problem. Habits of physical exercise among primary and secondary school children are generally poor, with 27 per cent taking little or no exercise outside school hours. The White Yellow Cross and the Youth Health Care Service employ dieticians to give individual consultations, hold information evenings for parents (and children) and develop materials encouraging healthy eating.

191. The Youth Health Care Service has worked with the Education Department on a number of joint projects designed to promote healthy eating habits and physical exercise among children and adolescents.

Vaccinations

192. Vaccination programmes in Aruba began in the 1960s and have been regularly expanded since then. Vaccination is not compulsory but the number of parents refusing them is negligible. The Government bears the cost of procuring the necessary vaccines and vaccination equipment. The programme is conducted in the schools by the White Yellow Cross and the Youth Health Care Service and takes place in accordance with World Health Organization standards. Since June 2002, the programme has been as follows:

2 months	D(P)TPolio + ActHIB
3.5 months	D(P)TPolio + ActHIB
5 months	D(P)TPolio + ActHIB
11-12 months	D(P)TPolio + ActHIB
14-15 months	MMR
5-6 years	DTP
10 years	DTP + MMR

193. The vaccination record is checked when the child enters the first year of primary education (at age 6-7) and, provided the parents agree, any missed vaccinations are given at that point.

194. The number of children known to the White Yellow Cross exceeds the number of registered births. The discrepancy is thought to mean that even children who are not officially registered (i.e. children without legal residence status) are known to the White Yellow Cross and receive the necessary vaccinations. These are normally given free of charge. The introduction of Hepatitis B vaccine is now under discussion.

Other bodies

195. The Family Planning Foundation (*Famia Planea*) was set up in 1970 and provides information on family planning with a view to encouraging responsible parenthood. Access to the organization's services is easy and acceptors are given information and contraceptives in exchange for an annual membership fee. The Foundation also gives talks to children in the upper grades of primary school and in secondary schools.

196. In 2001 a not-for-profit organization called *Fundación pro Lechi Mama Aruba* (Mother's Milk Aruba) was set up to deal with various aspects of breastfeeding.

Children with HIV/AIDS

197. To date nine children (born since 1994) have been registered with the contagious diseases section of the Health Department as having HIV/AIDS. One has died. In addition, two children were registered as HIV-positive at birth but have since tested negative.

198. The contagious diseases section provides a registration and support service for people with HIV/AIDS. In the case of children, support and counselling are given to both parent and child. In consultation with the paediatrician, babies born to mothers with HIV/AIDS are given Retrovir syrup during the first six weeks of life and regular blood tests are carried out thereafter.

199. A paediatrician is currently preparing a draft protocol on "Mother-to-Child Transmission". This will involve the provision of support and medication to infected mothers throughout pregnancy and birth. The protocol will also cover the treatment and medication of the infant.

Circumcision for religious reasons

200. So far as is known, children in Aruba are never circumcised for religious reasons. Where male circumcision is undertaken for medical or other reasons, it is performed in the hospital by a medical specialist.

Teenage pregnancies

201. According to figures from the White Yellow Cross organization, the number of teenage pregnancies has remained virtually stable and has not increased in recent years. In 2001, a total of 69 births were registered to teenage mothers (under the age of 18), 85 per cent of these were first-time deliveries. The 2000 census recorded 63 mothers under the age of 18, while the number of births to 18- and 19-year-olds in that year was 168. The rate of pregnancy among 15- to 19-year-old women in Aruba is 5.1 per hundred. By international standards, this is a fairly average rate, on a par with that in the United States of America, but very much higher than the Dutch figure of 0.4 per hundred.

202. Pregnancy among teenage schoolgirls can cause particular problems because some secondary schools exclude pupils in these circumstances. Few return to school after the birth. Antenatal checks on pregnant teenagers are conducted by a general practitioner, a midwife or a gynaecologist. Following the birth, a major proportion of the care of the new baby is the responsibility of the grandmother if she is not employed outside the home. Arrangements for the guardianship of the child are made by the Guardianship Board. There are no specific services for teenage parents and/or their children. Presumably they use the generic family support services. The Association of Youth Welfare Work in Aruba (ATHA) is currently setting up a project to address the various needs of pregnant teenagers. So far as prevention of teenage pregnancy is concerned, the *Fundación Pa Nos Muchanan* provides parents with information on sex education via the media and other channels and has given parenting courses on the subject for the past four years.

203. The provision of institutional services to teenage mothers is hampered by adherence to an ad hoc, short-term approach motivated by lack of funding, manpower and support. Ability to respond to their needs is seriously undermined by disagreements on the appropriate approach to be adopted and an absence of coordination both between the various service providers and between them and governmental organizations. Preventive action needs to be based on a clear vision of its nature, purpose and approach.

International cooperation

204. There are many contacts with organizations like World Health Organization/Pan-American Health Organization (WHO-PAHO) and World Health Organization/Caribbean Epidemiology Centre (WHO-CAREC). Workshops and conferences are regularly organized and attended by Aruban representatives. A UNAIDS Theme Group established in 1999 cooperates with other bodies in addressing the need for a strategy for the prevention and treatment of HIV/AIDS in Aruba.

D. Social security (art. 26)

205. The Aruban social security system is governed by a number of statutory arrangements largely based on the Dutch system. The aim is to provide an assured minimum income for all who are wholly or partly unable to support themselves as a result of illness, disability, old age, unemployment, etc. The social security system consists of a range of benefits funded out of the public purse and insurance schemes financed through individual contributions. The insurance schemes can be subdivided into social insurances and employee insurances.

206. The social insurances in Aruba are the General Old-Age Pension (AOV), General Widows and Orphans Insurance (AWW) and General Health Insurance (AZV). In principle, everyone resident in Aruba is insured, as is every Aruban taxpayer, whether or not resident in the country. In the case of AZV, all residents are compulsorily insured. Employee insurance schemes include medical insurance, accident insurance and severance pay. Every employee is also compulsorily insured.

207. Benefits include social assistance, designed for individuals and families who have no income or whose income is below subsistence level. To qualify, claimants must have Dutch nationality, be domiciled in Aruba and either have been born in Aruba or have lived in the country for three years. Claimants who have applied for Dutch nationality but not yet been granted it may be given transitional assistance. Others can apply for one-off crisis payments.

208. Unless they are already in employment, minors do not normally have an autonomous right to social security based on social insurance contributions. Any right to social security is normally derived from their parents and/or guardians. The basic principle is that parents and guardians are responsible for the care and financial support of their children. Exceptions are made to this rule in the following cases:

- Under AWW, orphans have an independent right to assistance;
- Under the National Decree on Social Assistance, handicapped children aged 16 and over who are still living with their parents can claim disability benefits;
- Under ministerial guidelines, an independent right to benefit is also granted to children and foster children of people on benefits if they are still living with their parents/foster parents and have become pregnant;
- Finally, as residents of Aruba, children have an independent right to health insurance under AZV and are registered as insured persons in their own right.

E. Childcare services (art. 18, para. 3)

209. The main response to the growing demand for organized childcare since the 1980s has come from the private sector. Initially, facilities were designed mainly for children aged 0-4. The number of centres catering for this age group has increased and a number of them are now also providing care for children of school age. In addition, there are a number of centres providing only after-school care.

210. The number of private sector childcare centres registered with the *Fundación Pa Nos Muchanan* is now (in 2002) around 106. It is impossible to say exactly how many exist because the centres are not obliged to register with any official body. Nor can precise figures be given for the number of children using these facilities. Census returns in 2000 showed that 3,377 children under the age of 4 were receiving organized childcare at that time. This figure is likely to be less than the total since some of the centres also cater for children of school age and the Census returns provide no information on the number of children in this age group who are in organized after-school care.

211. In order to control the proliferation of organized childcare facilities, the policy of the Government is to impose quality criteria via a new statutory licensing system. Official-level preparations for a draft National Ordinance on Childcare are now at an advanced stage. To enable the childcare centres to meet the criteria it will impose for the training of staff, a second Emergency Childcare Training Course (a junior vocational level course for existing staff of childcare centres) was launched in January 2001. There are also plans to organize combined theory and practice courses at a more advanced level for childcare centre supervisors. Since 1996, the Government has also subsidized the staffing and running costs of the *Fundación Pa Nos Muchanan*, a not-for-profit organization set up to, among other things, help childcare centres improve the quality of their services.

212. In 1996, in view of the serious shortage of places for after-school care, a government-funded project was launched under the name of "Traimerdia". This has its own project organization responsible for curriculum development and the provision of advice and in-service training for the centres. After-school activities are designed to support and enrich the educational curriculum. They are provided in existing school buildings and there is close cooperation with teachers, who actually run some parts of the programme. The ultimate aim is to make after-school care an integral part of children's schooling, based on a shared view of their developmental needs. More than 900 children in nursery, primary and special education are currently receiving after-school care in 6 schools spread throughout Aruba.

213. With the exception of the "Traimerdia" project, childcare is financed mainly by parents' contributions. The costs are not tax-deductible either for the parents or for the organizations running the centres, and the vast majority of the centres fail to qualify for government subsidies because they are privately run. Contributions from employers are also virtually non-existent. So far as is known, only one company in Aruba currently provides childcare facilities for its workers. Two other organizations - a bank and a public sector body - pay part of the cost of the care provided to their employees. Since there is as yet no legislation entitling parents to work flexible hours or part time, parents have little or no chance of accommodating their children's care needs in that way.

214. The present Government is eager to give high priority to the provision of childcare, especially where both parents are working. Accordingly, the government programme for 2001-2005 includes plans to expand facilities, where necessary, and to encourage provision closer to parents' homes or workplaces. The Government also intends to explore the potential for introducing flexible working hours (see also art. 18, paras. 1 and 2).

F. Standard of living (art. 27, para. 1-3)

215. Aruban law makes parents primarily responsible for the care and upbringing of their children until they reach the age of majority. They have a duty to provide their children with a standard of living appropriate to the family income. This obligation extends not only to the cost of food, clothing and accommodation, but also to that of children's general upbringing. The law also provides the means to compel parents who do not have parental responsibility for their children to provide for their maintenance (see arts. 5, 18, paras. 1 and 2 and 27, para. 4).

216. Parents who lack the resources to provide for themselves or their children can apply for financial assistance under the National Decree on Social Assistance (LBBV). The standard monthly benefit is Af. 285 for the head of the household plus Af. 120 for each additional member of the family (provided he or she has Dutch nationality). These are gross figures, since any other income is deducted. The maximum total amount of social assistance that a family can receive is linked to the minimum monthly wage (Af. 1,200 on 1 July 2002). People with little or no income can also apply for housing benefit, provided they occupy social housing. In crises, a one-off extra payment can also be granted under article 10 of LBBV and the costs of bed-and-breakfast accommodation or rent of an apartment can be temporarily met by the State.

217. To help low-income parents with the cost of education, the school bus fares are reimbursed. Secondary school children also qualify for an allowance of up to Af. 400 to help meet the cost of textbooks. In addition, families on social assistance receive an extra annual payment for each family member in full-time education. This is intended to help meet the cost of clothing, shoes and school equipment (see also art. 28).

218. Private charities, like Church-based organizations and voluntary service clubs, also provide help for needy individuals and families. This usually takes the form of help in kind, including food, second-hand clothes and furniture. For their funding, the organizations rely mainly on gifts and donations from private individuals and business organizations. Since August 2001, the not-for-profit "Ban Uni Man pa Cria nos Muchanan" organization has provided children of low-income families with daily breakfasts at their kindergartens or primary schools after it was found that increasing numbers of children were going to school without breakfast. The children are referred by the schools and 230 children are currently being served at 2 kindergartens and 10 primary schools. The children are sponsored to receive the meals by private individuals, service clubs and businesses.

219. No recent figures are available for the poverty line in Aruba or the percentage of the population living below it. In order to improve the position of socio-economically disadvantaged members of society, the policy of the Minister for Social Affairs and Infrastructure who came into office in 2001 is directed at improving existing social support

networks and help from civil society organizations, ensuring that the professional services cater more accurately to the real needs of the less privileged and weaker segments of society, and encouraging their participation in society. Action is to focus particularly on the construction of affordable housing for sale and rent. In the light of a balanced economic and social development, government policy is also directed at achieving a more equal distribution of income. Measures to be taken include a further increase in minimum wages, encouragement for people on social support to enter the labour market, intensification of retraining programmes and refresher courses, and better control of the cost of living.

VII. EDUCATION, LEISURE AND CULTURAL ACTIVITIES

Education

Compulsory school attendance

220. In late 1999, following a lengthy period of preparation, the draft National Ordinance on Compulsory Education was presented to the cabinet. A number of bodies (including NGOs) were invited to comment on the draft. Although the principle of compulsory school attendance was generally welcomed, it became clear that certain conditions were necessary to ensure its success. These include:

- Sufficient funding;
- Adequate educational infrastructure (buildings and materials);
- Sufficient staff with proper training;
- Sufficient schools (including provision for the disabled);
- Pupil support and guidance;
- Policies for the education of juvenile detainees;
- A plan for the introduction of multilingual education;
- Training to help staff deal with the linguistic difficulties of immigrants.

221. Opinion was divided on the question of whether school attendance should be made compulsory for the children of illegal immigrants. The issue is complicated by the lack of hard information about the number of illegal immigrants in Aruba. The draft National Ordinance on Compulsory Education includes provision for children without a residence permit to be given a right to education.

222. The administrative courts in Aruba have recently ruled that children who have no legal right of abode in Aruba can still derive the right to education from the Convention on the Rights of the Child. According to the court, the Convention has direct effect in this respect.

223. The draft National Ordinance is now before Parliament. In order to maximize school attendance, it imposes two duties on parents. Firstly, they must ensure that the child is enrolled at a school by 1 May in the school year in which it reaches the age of 4. Secondly, they must ensure that the child continues to attend school during regular school hours at least until it has completed a course of general secondary or secondary vocational education, or has reached the age of 17, whichever occurs first.

Free access to education/real cost of education to families

224. Education in Aruba is free, with the partial exception of the Colegio Arubano (which provides pre-university and senior general secondary education), the Aruba Hotel School, the Teacher Training College (IPA) and the University of Aruba, where students pay annual fees.

225. In the case of the Colegio Arubano, needy students can apply to the Government for a grant to defray the cost of books and to the Colegio Arubano Social Fund for help with other costs. Students of the University of Aruba can apply for a student loan from the Government or the Dutch scholarship programme WSF. Students of IPA can also apply for a student loan from the Government.

226. Some school boards and schools levy a special charge for particular forms of provision and for extracurricular activities. Needy students can apply to the Government for special help to defray certain educational expenses: free school transport and, for community college (EPI) students, a student loan of Af. 100 per month.

Educational finance

227. Spending on education has declined from 6.10 per cent of gross domestic product (GDP) in 1981 to 4.75 per cent in 2000 (staff salaries accounting for 90 per cent of school running costs). Generally speaking, the financing of education has not kept pace with changing demand. Schools suffer serious problems due to sub-standard physical conditions. In order to complete current projects for reform at all levels of education, the organizations in Aruba involved in such reforms have recommended to the Government that educational funding should be equivalent to at least 6 per cent of gross national product (GNP). In addition, these organizations have recommended that the procedures for the funding of education should be made more transparent, flexible and efficient.

228. In other countries in the Caribbean region, public expenditure on education averages nearly 15 per cent of total public expenditure. In Aruba it is approximately 17 per cent.

229. Although in principle education in Aruba is free, most students in publicly and privately run government-subsidized schools do pay certain contributions and, of course, students in privately run non-subsidized schools pay the full cost of tuition. According to the Income and Expenditure Survey of 1998, the average annual household expenditure on formal education amounted in that year to Af. 664.40 (Af. 499.60 for low-income households and Af. 1,046.50 for high-income households). As there were approximately 29,500 households in Aruba in 1998, the total expenditure on formal education fees is estimated to amount to Af. 19,599,800, or 0.63 per cent of GDP.

230. Total public (including development aid) and private expenditure on education is estimated to be Af. 172,548,105, or 5.57 per cent of GDP. Salaries account for 84.7 per cent of current expenditure and 62.5 per cent of total expenditure. Educational innovation programmes account for 6.4 per cent of capital expenditure and 1.7 per cent of total expenditure. Infrastructure (including new facilities in the context of educational reform) accounts for 70 per cent of capital expenditure and 18.3 per cent of total expenditure. Nearly all capital expenditure takes place through the Ministry (98.2 per cent, including student loans). Another source of finance is development aid. Traditionally, education has been one of the major beneficiaries of Dutch development aid, with a 17 per cent share of all development aid funds in the period 1986-1999. In 1998 the social sector in Aruba received Af. 13,543,182 in Dutch development aid, of which Af. 10,985,512 was for education (equal to 0.35 per cent of GDP).

Financial assistance for those in need

231. Ever since 1993, Government help with the cost of schooling has been available to families who are living on social assistance and have resident children or foster children in full-time education. This extra assistance takes the form of an annual payment and is intended to meet all or part of the cost of necessary clothing, footwear and school equipment. The amount paid for each child is Af. 120, up to a maximum of Af. 500 for each family.

Enrolment rates

232. Aruba has never had problems with general access to education, even though there was no compulsory education. In every age group except 4-year-olds, the enrolment rate is over 93 per cent.

233. In recent years, however, the enrolment rate has been declining. Since 1986, the structural problem of school dropouts has been further complicated by the influx of immigrant children of school age. The education system has faced not only the structural problems of the year group system (e.g. repeating and early school-leaving), but also the challenge of dealing with children who speak different languages, have different cultural backgrounds and have often had little previous experience of school. All this has exacerbated the problems of the education system.

234. To help meet the country's 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 to try to establish how many children aged 4 to 18 in Aruba do not attend school and the reasons for their non-attendance. Based on the results of this inquiry, consideration would be given to the steps that should be taken to get these children into school.

235. There are three main categories of non-attenders, namely:

- Local children who have never attended school;

- Immigrant children who attended in their own countries but have never done so in Aruba. Economic policies in Aruba have triggered a major influx of foreign workers over recent years. This has had direct implications for the education system, but the educational infrastructure was unprepared for the increased demand for school places, especially for immigrant children. As a result, a number of them do not attend;
- Local and immigrant children who have left school early (dropouts).

236. The first of these categories can be quantified to some extent by comparing the figures in the population register with those for children enrolled in school. The second is less easy to quantify, because the children concerned are generally illegal immigrants; they are neither recorded in the population register nor enrolled at a school. In the case of the third group, the numbers of dropouts are recorded by the schools but their motives for leaving are not generally known. Because of the difficulty of obtaining exact information, it was decided to keep a national register in which parents or guardians of non-attenders could register their children. This has revealed that the majority of the children registered are not attending school because their residence papers are not (yet) in order and they are therefore not included in the population register.

237. The Committee for the Inclusion of Non-Schoolgoing Children has proposed ways in which the primary school system could cater for such non-attenders. Its proposals are divided into solutions for the short, medium and long term and are intended to create the right educational, financial and logistical conditions to allow all children in the relevant age group to be given places in primary education. The Cabinet has now approved its proposals and a person has been appointed to coordinate implementation.

238. Since national registration identified few dropouts, a more detailed survey of this group is to be carried out. Before the results become known, however, there are plans for private sector initiatives directed at non-attenders.

239. In September 2000, for example, the not-for-profit IDEA “Iniciativa Desaroyo Educacion Aruba” (Education Development Initiative Aruba) organization launched a project called “Nos Hogar” (Our Home) directed at 13- to 19-year-olds who have either dropped out of education prematurely or never been to school at all in Aruba (mainly because they are immigrants). Eighty-eight teenagers are currently being helped by the project and there is a long waiting list. The educational programme is intended to be community-based and intercultural, and to stress personal development (with a strong emphasis on building a positive self-image). IDEA is at present still operating without government support, but does receive support from CEDE-Aruba. It has now applied for government subsidies.

Children with disabilities

240. Special education in Aruba is provided by two schools for children with learning disabilities (Emma School and Caiquetio School) and one school for children with severe learning disabilities (“Scol Dun’un Man”). In addition, “School Scucha Nos” offers education for children with hearing impairments. Visually impaired children attend mainstream primary schools where they can receive help from special peripatetic teachers employed by the Foundation for the Visually Impaired (FAVI).

241. Children with physical disabilities may find it difficult to attend school because school buildings are not designed to cater for them. So far, the education system has not given sufficient attention to this group of children. The legislation on mainstream kindergarten, primary and secondary education provides that all types of schools are to receive the same amount of funding for all pupils, although it does give the competent Minister power to vary the amount in exceptional cases.

242. The special education curriculum is based on the primary school curriculum, but takes account of the nature and degree of disability. Since the 1970s, the language of instruction in special education has been Papiamentu. To improve the quality of special education, the Department of Education and the Teacher Training College have over the years organized several in-service training courses for special schoolteachers. Even so, and despite heavy per capita spending (1998: Af. 13,625) special education remains a rather marginalized sector of the education system. The Aruban school system offers facilities for a fairly restricted range of disabilities and parents often have to emigrate in order to obtain the necessary professional help for their children. Where this is not possible, children are deprived of such help. To address this situation and other problems, the reform of special education has been entrusted to PRIEPEB (“Project for the restructuring of kindergarten, primary and special education”).

243. Formal secondary education for children with disabilities is still a problem. This type of education has recently been introduced as a special stream within lower vocational education (“Educacion Profesional Basico”, EPB).

Children with learning disabilities

244. Teachers within mainstream primary education are expected to be able to cater for children with mild learning disabilities. However, schools lack the necessary professional expertise, coordination, internal organization and institutional culture to provide effective help for these children.

245. Children who are thought to need special education are referred by teachers in mainstream primary schools to the Advisory Service of the Department of Education. If necessary, the children are tested and the results are discussed with their parents. The final decision to apply for a place in a special school is in their hands. Whether the child can be placed depends on whether there is a vacancy. There are two schools with a total of 235 pupils spread over 21 classes (average class size: 11). So far, capacity has always been just sufficient, sometimes with a small waiting list, and applicants have always been able to obtain a place in the course of the school year. However, problems are expected to arise if the number of applications remains at the current level or even increases year on year. For that reason, the Government has been asked to expand the capacity of special schools (extra classes/staff).

246. Aruba also has a school for children with severe learning difficulties (the “Scol Dun’un man”). It has five classes with an average of seven to eight pupils in each.

247. Children diagnosed as having behavioural difficulties can be referred to the Department of Education by their teachers or parents. The children are tested and, where possible, a plan of therapeutic action is drawn up for the use of the teacher. There is no direct support or guidance for the children themselves.

248. For children with severe psychological problems, there is no special educational provision. They often end up in the SVG facilities for children with severe learning difficulties (see para. 251 below).

Private sector initiatives

249. In the past, the facilities described above often failed to cater satisfactorily for children with more exceptional special needs. To fill these gaps in provision, a number of facilities were established during the 1960s and 1970s as a result of private sector initiatives. At the moment, the private sector provides special education or educational support for children with mental, visual and hearing impairments.

250. In general, the support and education available for children at these schools can be said to be satisfactory, given the small size of the community in Aruba. Nevertheless, efforts are being made to increase expertise. The teachers and special facilitators are all qualified, but there is currently no scope for specialization.

Foundation for the Mentally Disabled

251. The Foundation for the Mentally Disabled (SVG) was established in 1964 and caters for people with severe learning difficulties (IQ of less than 60). SVG runs a day-care centre for children of nursery-school age ("Pasadia Bibito Pin") and a school for older children ("Skol Dun'un man"). Together they cater for 70 to 80 children, which is sufficient to meet current demand.

252. The Department of Education pays SVG the usual per capita grant for the children's education and there is an additional subsidy from the Department of Social Affairs. However, the children's particular special needs give rise to many extra costs (e.g. for building adaptations and social work, psychological, educational, physiological and speech therapy services) and donations are necessary to cover the organization's operating deficits.

253. Although the aim of special education is to produce independent individuals who are well integrated into society, it must be acknowledged that Aruba offers disabled people very limited opportunities. There are few special facilities for them in terms of housing, public buildings, public transport, etc. and adults find it difficult to gain employment.

254. For children with multiple disabilities, there is neither the necessary diagnostic provision nor adequate care facilities. It follows that they are unlikely to achieve their full potential. Although SVG exists to serve only people with mental disabilities, it also does its best to accommodate children with multiple disabilities. This is only possible if adequate physical care can be provided and if transport can be arranged. If this is not the case, the children remain at home or, if possible, their families take them abroad.

Foundation for the Visually Impaired (FAVI)

255. This not-for-profit organization was set up in 1974 to help visually impaired people of all ages. Because its small staff has to cater for such a wide range of clients, there is little staff

specialization. The support provided for children with visual impairments is designed to promote their social integration and acceptance. It can be given as soon as a visual handicap is diagnosed, even if the child is still a baby or toddler.

256. FAVI staff provide any necessary classroom support for children in primary, secondary and special education. They work closely with teachers and can advise on possible modifications to classrooms and instructional materials.

257. FAVI services are provided free of charge, but clients have to pay for any necessary aids or equipment. Because they are often unable to do so, FAVI lends out such apparatus - especially to children - and campaigns for it to be provided under General Health Insurance (AZV) and/or other insurance schemes.

Foundation for the Hearing Impaired (FEPO)

258. The Foundation for the Hearing Impaired provides support for people of all ages. Following a rubella epidemic in 1970, which left many children with serious hearing disabilities, a special school for deaf and hearing-impaired children ("Scucha Nos") was set up. Although the rate of deafness and hearing impairment in the school population has now returned to normal, the school still exists and is run by FEPO. It currently caters for around 12 pupils aged between 3 and 13. Since no special secondary education is available, they then have to transfer to mainstream secondary schools (usually lower vocational education). However, this is about to change. Beginning in October 2002, hearing-impaired pupils who are not admitted to some other form of secondary education will be able to receive special secondary education at "Scol Scucha Nos".

259. In order to diagnose hearing impairment as early as possible, infants attending the White Yellow Cross clinics are given a hearing test (the Ewing test) at around 10 months. Where a severe hearing impairment is diagnosed, FEPO staff can provide immediate support for the affected child and its family. In the case of less severe impairments, support is provided later at school. Children with very severe disabilities attend the "Scucha Nos" school.

260. Teaching at the school concentrates on the development of speech and sign language. In order to promote integration into mainstream education, all pupils attend a mainstream school once a week. There too they receive support from FEPO.

261. The cost of hearing tests and the purchase of hearing aids is met by General Health Insurance (AZV), but maintenance and repairs are a problem. Most children treat their hearing aids rather carelessly and are apt to come to school without them.

262. All the organizations providing care and support for children with disabilities feel the need for a multidisciplinary team responsible for early detection of development disorders and structuring of coordinated multidisciplinary provision.

Children unable to attend school for health reasons

263. Figures from the Central Bureau of Statistics show that in Aruba 93 per cent of children in the relevant age group actually attend school. It is difficult to say whether the remaining non-attendance is due to chronic or temporary ill health; no figures are available on this.

Strategies in favour of equal educational opportunities for girls

264. Statistical data show that in Aruba girls do not have fewer educational opportunities than boys. Girls do better in school, are less likely to repeat a year and are less often transferred to special education than boys. Female students who continue their studies in the Netherlands tend to achieve better results than male students and more often return to Aruba.

265. Aruba has no problems with respect to access and equity issues, although girls continue to choose to study in specific fields and are less inclined to technical studies. In content and orientation, the curriculum at all levels of education still reflects a highly traditional, submissive and dependent female role in all spheres of life.

266. Although women have enjoyed a relatively high level of schooling in Aruba for many years, this is not always reflected in management and leadership positions on the island. Curriculum reforms in both primary and secondary schools aim at developing life skills and interpersonal relations based on respect (one effect of the introduction of the basic general cycle for 12- to 14-year-olds in lower vocational education (EPB) has been to involve both boys and girls in domestic as well as technical subjects). It is hoped that this will further the emancipation of female students. It is crucial, however, that more specific attention be paid to emancipatory education for girls in Aruba.

Programmes of international cooperation

UNESCO

267. Aruba is an associate member of UNESCO and has had its own National Committee since 1999. UNESCO runs a Participation Programme under which all member States can apply for subsidies for projects approved and prioritized by the National Committees. The programme is set to run for two years and each member State is entitled to submit up to 11 projects. A distinction is drawn between local and regional projects. Following extensive media publicity, the National Committee in Aruba has received 15 applications from various public and private sector organizations and individuals. As a result, it has approved and prioritized 11 projects. At the time of writing, however, these still have to be approved by UNESCO headquarters in Paris. The projects are worth US\$ 277,384.04 and relate to matters such as:

- *Training of Educational Leaders for Educational Reform in Aruba* (implementation of training courses at various levels);
- *Remedial Teaching of Instruction Language for Colegio EPI* (helping students to overcome the language barrier);
- *Informative Reference Books for Children* (production, distribution and sale of a series of educational books for children aged 9 to 12);
- *Tell me a story* (short children's TV series in Papiamentu).

Right of the child to rest and leisure

268. The National Ordinances on nursery, primary and secondary education give the Minister of Education the authority to set the dates of the start and end of the school year, public holidays and the total annual number of holidays for all Government-subsidized schools, whether publicly or privately run. The school year begins on 1 August and ends on 31 July. There are 60 days' holiday a year (including public holidays). Children in nursery and primary education attend school for between 22 and 24 hours a week. The maximum in secondary education is 30 hours a week.

269. Since the 1980s, there has been a steady increase in the rate of female employment. The programme for children in organized after-school care includes sufficient rest and leisure. Current after-school care facilities however are not sufficient to meet the demand. No concrete figures are available on the number of children who are at home without adult supervision and perhaps responsible for the care of younger children after school hours. Another threat to the necessary rest and leisure is the part-time work (e.g. packing, shopping and taking it to customers' cars) done by pupils after school, sometimes to supplement the family income.

270. Changes in the second half of the twentieth century have affected even the way children play. Since the arrival of industrially produced toys, children play outdoors less. This is partly due to rapid urbanization, which has left little or no open space or provision for play in residential areas, and to increasing road traffic. More recently, access to cable television and the Internet have also had a major influence on the way children spend their leisure time.

Recreational activities

271. The majority of the recreational activities available are organized by the private sector. A few neighbourhoods have public, non-commercial playgrounds open to all and the island also has the Arikok National Park, a children's farm and a small number of museums. Many families go to the beach regularly at weekends and a visit to the cinema is a favourite outing for many teenagers.

272. There are currently nine community centres and five youth clubs, most of which provide social, cultural and sporting activities for children over the age of 6 and for teenagers. At the end of 2000, a project was launched on the initiative of the umbrella organization for youth welfare organizations ("Asociacion Trabao di Hubentud na Aruba", ATHA) to construct open-air parks/playgrounds at community centres and youth clubs. CEDE-Aruba has begun building eight such facilities, funded by the Netherlands.

273. In addition, the scouting movement provides a wide range of activities designed to promote the spiritual, intellectual and physical development of young people aged 5 to 18. Most of the groups are in Oranjestad and the surrounding area. Activities in the San Nicolaas area are very limited. There is considerable enthusiasm among teenagers, but it is mainly boys who join. Special mention should be made of the scouting group for "special children" which has recently been launched with great support from the Sonrisa Association for parents of the mentally disabled.

274. Disabled children currently have little opportunity to join in with leisure and sporting activities. There are many barriers to access. Various initiatives are, however, under way to create improved opportunities for them.

Foundation for the Visually Impaired (FAVI)

275. For children with visual impairments, FAVI provides out-of-school group activities such as swimming, keyboard skills, computer and guitar lessons. FAVI also has a small toy library.

Sonrisa Association

276. This association of parents of mentally disabled children/adults has its own centre where activities are provided after school, at weekends and during school holidays. There are good facilities enabling children and supervisors to stay at the centre for periods of several days at a time. The different activities serve a varying group of around 50 mentally disabled children/adults. All the activities are provided free of charge, except in the case of camping holidays, where a small financial contribution is requested. Otherwise, the activities are funded entirely through donations. They are run by volunteers (for example, student teachers).

Scouting in Aruba

277. In May 2001 the Aruban Scouting Association started two mixed-sex scout groups for mentally disabled children, one for the 8- to 15-year-olds and the other for the over-16s. They take part in activities on public occasions (such as the Queen's Birthday marches).

Special Olympics

278. A Special and Para Olympics Organization was established in 1999. So far, its activities have been directed only at mentally disabled people, but they could be extended to include people with other types of disability. The body is a member of the International Special Olympics Organization, and Aruban sportspeople took part in the last Special Olympics in 1995. A national Special Olympics has been held once in Aruba itself. Training sessions take place once a week and are attended by around 10 participants. Transport to and from training sessions is inevitably a problem. The necessary resources come from donations and activities are organized entirely by volunteers.

Fundashon Arubano pa Remavalidashon-FARVA

279. The aim of this not-for-profit body is to promote the social integration of disabled people via recreational rowing. The people involved have a wide range of disabilities and there are no age-limits. The group of around 12 participants includes several teenagers. The foundation has been in existence for five years, relies entirely on volunteer labour and is funded by donations. Its activities take place at one of the beaches in Oranjestad.

Sporting activities

280. Various federations are active in the sporting field (football, tennis, basketball, swimming, etc.). Most of them have a special youth wing and concentrate primarily on competitive sport. There is virtually no supervision of training sessions. The trainers are

frequently drawn from among the players and receive no special training. By contrast, sporting activities at community centres and youth clubs focus on recreational sport. There is also a government agency, IDEFRE, which organizes various types of sports competitions for primary and secondary school pupils. Pupils are nominated by their schools and only the best are selected to take part. Participants are predominantly male (70 per cent boys and 30 per cent girls). IDEFRE also provides lessons in various branches of sport for primary school children, irrespective of ability. These are organized in almost all districts. Due to lack of financial resources, participation is limited to the fourth to the sixth year of primary school. The children are recruited via the schools and, once again, fewer girls than boys take part. To cover the costs, IDEFRE has for the past few years received financial support from the Foundation for the Development of Community Education. The children are charged only Af. 10.

281. Children also have physical education lessons at school. Children's physical development is a high priority of nursery education, and physical education is a separate subject on the curriculum of mainstream primary and secondary schools. Schools without their own gymnasiums teach physical education outdoors but there are some schools which are unable to provide such teaching at all because their sports halls have been declared unfit by the Occupational Health Service.

Commercial entertainment

282. Discos and clubs attract many young people. Studies of young people's nightlife conducted by the Department of Social Affairs in 1997 and 1998 reveal that these places are frequented by children as young as 12. There is little control on admission or on the sale of alcohol to minors. The present Government intends to introduce stricter law enforcement to protect minors in this respect.

283. Annual festivities include many organized activities for children and young people. Especially around Carnival time, they are involved in a wide range of contests, song festivals and other activities. The adult equivalents of these events are also open to children of all ages and continue very late into the night.

Right of the child to participate in cultural and artistic life

284. To encourage creativity among the young, various private sector organizations provide music, ballet, theatre and art lessons. Although there are activities for children of all ages from as young as 2 or 3, problems of transport, location and expense prevent many from participating. Since the lessons are mainly given in Oranjestad, they tend to be attended by children from that area.

285. A government agency called the Foundation for the Development of Community Education was set up in 1997 to increase children's participation in cultural and artistic life. The Foundation is responsible for a national project designed to promote the social, cultural and general development of the population of Aruba in general and of young people in particular. It organizes courses in cooperation with public and private sector bodies in the various districts, including IDEFRE and the "Instituto di Cultura". To date, these courses have focused mainly on music, drawing and handicrafts.

286. The National Library of Aruba cooperates with the Netherlands and the Netherlands Antilles in organizing annual activities in nursery and primary schools to mark the Children's Book Festival. To encourage children to read, it also distributes books free of charge to schools and has a mobile library that tours the schools, lending out books. The library also organizes out-of-school activities, including weekly afternoon activities and a special reading programme during the main school holidays. The activities take place at the public libraries in Oranjestad and San Nicolaas and are intended to be both fun and educational. As well as readings, they include handicrafts, music and games. The library is also actively involved in the presentation of local children's books, coupled with special activities for children. Activities are provided free of charge and are open to all.

287. Since 1997, the Museum of Archaeology in Aruba has provided special activities for primary school classes in years 4 and 5. The activities are intended to familiarize the children with the indigenous Indian culture of Aruba and to support the history teaching package designed in cooperation with the Curriculum Development Section of the Department of Education. Classes are not only taken to view the museum's exhibits, but also explore Indian life via games and assignments. In view of the great interest shown by the schools, activities are now being developed for classes in years 1 and 2. Since 1998, the museum has also cooperated with community and childcare centres in organizing camps for children aged 2 to 16 during the main school holidays. In addition, student teachers on work experience placements organize excursions for age groups 6-10 and 11-16. On special occasions, presentations are given at venues like community centres and it is intended to expand these activities to serve a wider public.

288. A government agency called the "Instituto di Cultura Aruba" provides lessons in drama and choreography, mainly for secondary school students. Courses are free of charge and end with presentations to the public and in schools. The institute also works together with private sector bodies to encourage the organization of children's art exhibitions and provides cultural activities to complement events organized by the private sector. It is currently engaged in setting up a sculpture and drawing project for adults and teenagers. So far, activities have all been based in Oranjestad, but in future the institute intends to organize activities in other parts of the island as well.

289. It should be noted that private sector activities are not normally subsidized by the Government and rely mainly on voluntary effort. The heavy financial burden and rapid turnover in volunteers complicate the work of these organizations. So much time has to be invested in finding funds and new volunteers that evaluation and reporting are given a very low priority. Consequently, it is difficult to tell what results these programmes achieve or how many children they serve.

290. Physical access is a particular problem in relation to all forms of recreation on the island. Most children have to be brought and taken home by car. There is little or no use of public transport, partly because bus services are infrequent and do not cover all areas. Given that the majority of adults are at work, many children are unable to make use of the recreational facilities that exist.

VIII. SPECIAL PROTECTION MEASURES

A. Children in emergency situations (arts. 22, 38 and 39)

1. Refugee children (art. 22)

291. In accordance with article 2 of the Charter for the Kingdom of the Netherlands and the Ordinance on Admission and Expulsion, requests for asylum in Aruba that are made in Aruba are dealt with by the Aruban authorities. Requests for asylum in the Netherlands that are made in Aruba are dealt with through the office of the Governor of Aruba. The Protocol to the Convention relating to the Status of Refugees entered into force for Aruba on 1 January 1986. The term “refugee” is confined, in both the 1951 Convention and the Protocol thereto, to persons who have a well-founded fear of persecution. Since Aruba has no statutory procedure for dealing with asylum-seekers, each request has to be dealt with on an ad hoc basis. This is because few requests for political asylum have been received to date. Although there are no official procedures, the authorities concerned collaborate as closely as possible in order to determine whether there is a well-founded fear of persecution (this fear must be supported by facts) and, if so, to provide proper protection for the person concerned. Consultations are also held with the Ministry of Foreign Affairs in The Hague, the missions of the Kingdom abroad and the relevant international organizations.

292. If unaccompanied minor asylum-seekers arrive in Aruba (which has not yet happened), the help of the Department of the Guardianship Board will be enlisted; it is this Department’s statutory task to care for all children entrusted to it. The Department is also responsible for supervising the protection of children against neglect, abuse, or ill-treatment, and may decide to place a child in a foster home or residential care as an interim solution.

2. Children in armed conflicts (art. 38), including physical and psychological recovery and social reintegration (art. 39)

Article 38

293. Aruba’s only involvement in armed conflict in the twentieth century was in the Second World War. There is no compulsory military service.

Article 39

294. Fostering physical and psychological recovery and the social reintegration of child victims is a matter of ongoing concern to the Government of Aruba, which provides constant support in this area. A wide range of non-governmental organizations (the most important ones being the *Fundación Respetami* and the *Fundación Guia’mi*) and government departments (chief among them being the Department of the Guardianship Board and the Department of Social Affairs) specifically address the problem of child victims and child abuse. They also run information campaigns warning the public of the dangers and consequences of the ill-treatment of children. Government policy on combating the various forms of child abuse was explicitly formulated last year by a government Commission, whose report, *Mi a dal contra e porta* (I bumped into a door), was completed in August 2001.

295. The Guardianship Board and the Department of Social Affairs support victims of child abuse. They have a wide range of possible measures at their disposal, ranging from child and family therapy to the enforcement of legal sanctions to protect victims of child abuse.

B. Children in conflict with the law

1. Administration of juvenile justice (art. 40)

Paragraph 1

296. Aruba's Criminal Code (AB 1991 No. GT 50; "WvSrA") and Code of Criminal Procedure (AB 1996 No. 75; "WvSvA") contain special rules prescribing sanctions and criminal procedure for juveniles. The main points of juvenile law are as follows. There is no criminal liability under 12 years of age (art. 477 of WvSvA). A special sanctions regime applies to minors aged 12 to 18, as set forth in article 40 ff of WvSrA. The sanctions that may be imposed on minors hence differ from those applicable under the regular criminal law; they are inspired by educational principles and are intended to protect the minor's upbringing and development to maturity. For this reason, it is highly exceptional for minors to be sentenced to prison, and the maximum fine that may be imposed is very small.

297. The most important and most drastic youth sanction is an indefinite detention order, in which the child's upbringing is continued in care. Other options include returning the child to its parents without imposing any sanction, and issuing a caution.

298. The sanctions regime for juveniles is to be revised in the near future. The aim is to introduce a more varied array of sanctions, allowing courts to pursue a policy of differentiation, tailoring sanctions as much as possible to the individual needs of the juvenile offender and the particular case at hand. The main sanctions will involve restrictions of liberty: alternative sanctions in the form of work or study. While detention will be retained as the heaviest juvenile sentence, it will not have primacy. Another basic principle of the new system will be that only one sanction can be imposed on a juvenile at any one time. The official preparations for the draft National Ordinance amending the juvenile criminal law are nearing completion.

299. In 1996 a youth educational work programme was set up to embrace social as well as educational aspects. It is specially designed for first offenders aged 14 to 18 who are still attending school. A total of 56 young people took part from 1996 to 2000, of whom 39 completed the programme.

300. Table 2 below gives the figures for arrests of juveniles over the past few years. The majority involved cases of theft and vandalism.

Table 2

1996: 57	1999: 37
1997: 52	2000: 53
1998: 25	2001: 80

Source: Rehabilitation and Child Protection Board.

301. Both the existing and the forthcoming law provide for the imposition of adult sentences on a juvenile aged 16 to 18 if the minor's level of maturity calls for it. Conversely, someone aged 18 to 21 may receive a juvenile sanction if this is more appropriate to the level of maturity of the person concerned.

302. Separate provisions of criminal procedure exist in relation to juvenile offenders (arts. 479 et seq. of WvSvA), reserving a special place for the parents (or legal representatives) and the Department of the Guardianship Board. In addition, WvSvA excludes a large number of coercive measures from application to young offenders (art. 478 of WvSvA).

Paragraph 2 (a)

303. Article 1, paragraph 1, of WvSrA lays down the general principle of *nulla poena sine lege*, which therefore also applies to juveniles.

Paragraph 2 (b)

(i)

304. The presumption of innocence is a recognized principle of Aruban criminal law. It is contained in article I.6, paragraph 2, of Aruba's Constitution.

(ii)

305. Article I.6, paragraph 3 (a), of Aruba's Constitution guarantees that everyone shall be informed promptly, in a language which he understands and in detail, of the nature and cause of the charges against him, of his right to remain silent, and of his right to legal counsel. The charges are also communicated promptly to the parents or legal representatives. These principles are specified separately for persons who have been deprived of their liberty in article I.5, paragraph 3, of the Constitution.

(iii)

306. The right to be tried within a reasonable time by an independent tribunal is enshrined in art. I.5, paragraph 2, of the Aruban Constitution. This right is also safeguarded by article 6 of the European Convention for the Protection of Human Rights and Fundamental Freedoms, which has direct effect within the Aruban legal order. The right of parents to attend their child's trial is enshrined in article 489, paragraph 1, of the WvSvA.

(iv)

307. An accused person can never be compelled to make a statement. Both in the pre-trial period and during actual legal proceedings he must be cautioned explicitly regarding this right (see article 82, paragraph 1 (b) and 2, and article 315, paragraph 3, of WvSvA). Article 310, paragraph 3, of WvSvA further provides that the court must prevent any questions from being asked with the aim of eliciting a statement that could then not be said to have been made voluntarily. Article I.6, paragraph 3 (d), of the Aruban Constitution gives an accused the right to examine witnesses, and to have defence witnesses summoned and examined.

(v)

308. The right of appeal is contained in article 434 of WvSvA.

(vi)

309. The right to be assisted by an interpreter is enshrined in article I.5, paragraph 3 (b) and article I.6, paragraph 3 (a), of the Aruban Constitution, as well as article 82, paragraph 4, article 231, and article 348, paragraph 1, of WvSvA.

(vii)

310. The right to privacy is safeguarded in respect of juveniles facing criminal charges by having trials of persons under 16 conducted behind closed doors as a matter of principle. In the case of 16-18-year-olds, the courts may decide to hold the hearing behind closed doors if they so wish (art. 488 of WvSvA).

Paragraph 3

(a)

311. There is no criminal liability under 12 years of age (art. 477 of WvSvA). For the rest, only a limited number of specified coercive measures can be applied to them if they are accused of a criminal offence (art. 478 of WvSvA).

(b)

312. Where juveniles aged 12 to 16 are concerned, the introduction of a so-called “halt procedure”, that can prevent a case going to court, is being discussed. This procedure will involve an out-of-court settlement of minor infringements of the law which, if duly adhered to, will lead to charges being dropped. The Public Prosecutor can choose to settle out of court in other ways too, for instance by agreeing on an alternative sanction such as participation in one of the youth education programmes run by the Rehabilitation and Child Protection Board.

Paragraph 4

313. Aruba does not as yet have any specialized institutional care for juvenile offenders. Juvenile detainees are currently held in the young offenders’ wing of Aruba’s Correctional Institution (*Korrektie Instituut Aruba, KIA*). This wing consists of 10 cells, each of which can hold up to three juveniles. KIA offers little or no scope for education, training, or supervision. Aruba therefore needs to acquire a youth detention centre as soon as possible, with well-defined social and educational features and expert staff.

314. In this connection it would be appropriate to mention the government report of 1996 entitled *Recht Vooruit* (Law in progress), which makes clear recommendations in the sphere of preventive, punitive and curative measures for juveniles who have been, or who are at risk of getting, in trouble with the authorities. The report also highlights the importance of setting up a remedial educational centre for maladjusted children with behavioural problems.

2. Children deprived of their liberty, including any form of detention, imprisonment or placement in custodial settings (art. 37 (b), (c) and (d))

General

315. The Kingdom of the Netherlands accepts article 37 (c) of the Convention with the reservation that the provisions of criminal law that are in principle applicable to adults may also apply to minors who have reached the age of 16.

Article 37 (b)

316. The basic principle that detention may never be applied unlawfully or in an arbitrary fashion is a general legal rule in the Aruban justice system. It applies to all persons, not only juveniles, and is contained in article I.5 of the Aruban Constitution. Under paragraph 1 of this article, no one can be deprived of his liberty save lawfully, which means in accordance with the applicable rules of law contained in formal statutory regulations: first and foremost Aruba's Code of Criminal Procedure, which defines exhaustively the grounds on which pre-trial detention may be imposed and lists the criteria to be taken into account by criminal courts when imposing a term of imprisonment. Other key provisions deal, for instance, with the general principles of due process (see, for example, article 71 of the Code of Criminal Procedure of Aruba, which applies to all types of pre-trial detention that may be imposed pursuant to that Code), and articles 9 et seq. and 40 et seq. of the Criminal Code of Aruba, which contain rules on maximum prison sentences.

317. Paragraphs 2 and 3 of article I.5 of the Aruban Constitution guarantee that everyone who has been deprived of his liberty will be brought promptly before a court, that he is entitled to be brought to trial within a reasonable time, and - and this is the most important safeguard against arbitrariness or any other unlawful form of detention - that he is entitled to institute proceedings to obtain a prompt ruling on the lawfulness of his detention, whereby his release will be ordered if the detention is unlawful.

318. Detention can be imposed only if no other means are available to achieve the desired goal. For detention during the pre-trial phase (i.e. while the investigation of the charges against the juvenile are still in progress), this follows, for instance, from the principles of subsidiarity and proportionality on which the coercive measures involving deprivation of liberty are based. Thus, article 71 (c) and (d) of the Code of Criminal Procedure of Aruba states that the application of coercive measures - including the deprivation of liberty - is admissible only if the object pursued cannot be achieved in any more appropriate and less drastic manner, and only if the seriousness of the infringement of rights caused by detention can reasonably be justified by the seriousness of the criminal offence. Where sentencing is concerned, on the other hand, this follows from the generally accepted rule that detention can be imposed only as a last resort, i.e. if no other suitable sanctions are available.

Article 37 (c)

319. The Aruban prison system operates according to the fundamental principle that inmates are to be treated humanely, with respect for the inherent dignity of the individual, although this is not stated explicitly in the extremely outdated legislation. Article 11 of Aruba's Framework

Prison Ordinance (AB 2000 GT 1) further provides for the separation of juvenile and adult detainees, while article 13 provides that factors such as age and degree of maturity should be taken into account as much as possible when assigning detainees to groups. Article 42 of the National Prison Decree (AB 2000 GT 2) further provides that in the case of juveniles serving long prison sentences, the transitional period surrounding release must be carefully prepared, in particular by increasing freedom gradually. This Decree also regulates the right to conduct correspondence and receive visits (arts. 46 and 47).

320. The disciplinary sanctions whereby detainees can be cast into irons and given dry bread (*droge kost*) every other day, sanctions which are still included in article 22, paragraph 1, of the Framework Prison Ordinance today, have long since ceased to be imposed. They do demonstrate how out-of-date the prison legislation is, however, and the Government has therefore prepared entirely new legislation in the form of a draft national ordinance on the enforcement of custodial sentences. The Government submitted this draft national ordinance to the Advisory Council for the second time in 2000, and is expected to submit it to the Aruban Parliament in 2002.

321. Explicit statutory rules are also under preparation for children detained in police custody. Under article 90, paragraph 1, of the Code of Criminal Procedure of Aruba, no restrictions may be imposed on persons in general who have been detained in police custody - with the exception of article 90, paragraph 2, which lists a number of possible measures that may be taken in the interests of an investigation - other than those that are absolutely essential to the purpose of their confinement or to the need to maintain order. On these grounds, juveniles being held in police custody may, as a matter of principle, be visited by their parents and receive correspondence. For the rest, articles 483 and 484 of the Code of Criminal Procedure provide special scope for releasing juveniles from police custody or pre-trial detention on certain specified conditions.

322. As already noted, Aruba is party to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment. It therefore adopted the National Ordinance on the Implementation of the Convention against Torture (AB 1999 No. 8), defining the criminal offence of torture - including a precise definition of the offence itself - as perpetrated by public officials. The criminal offence of torture carries a maximum prison sentence of 15 years, or 20 years if the victim dies. Inciting a public official to torture is also explicitly defined as a criminal offence in this National Ordinance.

Article 37 (d)

323. Regarding the right to legal counsel and the assignment of free legal representation to juveniles who cannot pay, the applicable rules are contained in the Code of Criminal Procedure of Aruba and the National Decree on the Assignment of Counsel in Criminal Cases (AB 1997 No. 50), which is based on it. A minor who is deprived of his liberty is entitled to the immediate assistance of a lawyer at various specified times: before being questioned (art. 48, para. 3, of the Code of Criminal Procedure) and in the event of pre-trial detention (art. 481 of the Code of Criminal Procedure).

324. The right to challenge the lawfulness of the deprivation of liberty before a court of law and to obtain a prompt decision on the matter - i.e. the right to bring a habeas action - is contained in article 1.5, paragraph 3 (a), of the Aruban Constitution, on the basis of which anyone who has been deprived of his freedom is entitled to institute proceedings to obtain a prompt ruling on the lawfulness of his detention, whereby his release will be ordered if the detention is unlawful. For criminal cases in particular, article 89 of the Code of Criminal Procedure further provides that the accused can ask the examining magistrate to examine the lawfulness of the detention as soon as possible, and in any case within 72 hours after the beginning of the initial period of detention - that is, detention in police custody. If the detention is found to be unlawful, the examining magistrate can order the immediate release of the accused. The other forms of pre-trial detention - remand in custody, detention in custody, and extended remand in custody (*bewaring, gevangenneming and gevangenhouding*) - must all be ordered by the court.

3. The sentencing of juveniles, in particular the prohibition of capital punishment and life imprisonment (art. 37 (a))

Article 37 (a)

325. Aruba does not have capital punishment, whether for juveniles or for adults. The death penalty is considered inhumane and was abolished long ago. Like other countries in the Kingdom, Aruba will not extradite persons to another country if there is a reasonable chance that the person requested will be sentenced to death in the requesting State.

326. Furthermore, juveniles under 16 years of age can never be sentenced to life imprisonment. Life sentences do exist in Aruba (see art. 9, para. 1 (a) in conjunction with art. 11, para. 1, of the Criminal Code of Aruba (AB 1991 No. GT 50)), and mean actual imprisonment for the rest of the person's life. However, these provisions are superseded by the special provisions of articles 40 to 41 (m) inclusive of the Criminal Code, which list the sanctions that may be imposed on young people. Article 41 (f) further provides in particular that in cases in which a minor is made subject to a non-punitive restriction order, having been found guilty of a criminal offence carrying a maximum prison sentence of three years or more, the maximum prison sentence that the court may impose at the same time is half that for adults. In the event of a criminal offence carrying a maximum sentence of life imprisonment, the maximum sentence that can be imposed on juveniles under 16 years of age is 10 years.

327. The maximum sentences listed in the previous paragraph also apply, in principle, to juveniles aged 16 to 18. However, in certain cases it is possible to administer justice to juveniles in this age range according to the rules applicable to adults, in which case they can be sentenced to life imprisonment (see art. 41 (j), para. 5). The main criterion applied here is whether the particular minor aged 16 to 18 can be regarded as a juvenile or an adult in terms of maturity. If life imprisonment is imposed, however, the person concerned still has the option of asking for a remission and seeking to get the sentence reduced.

4. Physical and psychological recovery and social reintegration (art. 39)

328. It is fair to say that the Aruban community pays greater attention to cases involving the abuse, ill-treatment and neglect of children than in the past. Particularly noteworthy are the reports issued by the Government in 1999 and 2001, *Abuso sexual di mucha* (Child sex abuse) and *Mi a dal contra e porta* (I bumped into a door), which propose a range of policy measures to prevent child abuse as far as possible and to ensure that the care and supervision of young victims of abuse, ill-treatment and neglect are pursued as effectively and as well as possible.

329. Aruba has a variety of institutional provisions geared partly towards caring for children who have suffered some form of abuse or ill-treatment. The main government bodies are the Department of the Guardianship Board, which can arrange, where necessary, for court orders placing minors in care or for the divestment of parental responsibility (Aruba has three residential institutions for children placed for various reasons in the care of the authorities) and the Department of Social Affairs, which provides the lion's share of voluntary aid in this connection. In addition, several non-governmental organizations are active in this area. The Government is constantly seeking ways of expanding and differentiating the range of aid that is available, and keeps the public informed about these options at all times.

330. In 1997 the Government took the first steps towards establishing a Child Abuse Counselling Centre to serve as a central agency for reporting on cases of child abuse and ill-treatment and caring for victims. A report on the projected Centre is currently under preparation.

331. Under criminal law, children are protected against abuse primarily by the provisions of articles 250, 251, 253, and 255 et seq. of Aruba's Criminal Code. In addition, article 260 criminalizes trafficking in women and girls. It is worth mentioning that a draft National Ordinance to amend the sex offences in the Criminal Code has passed the Aruban Parliament. Its aim is to considerably improve the protection offered to minors and other vulnerable groups. The possession and distribution of child pornography, for instance, will be explicitly defined as a criminal offence.

C. Children in situations of exploitation, including physical and psychological recovery and social reintegration

1. Economic exploitation, including child labour (art. 32)

332. It has come to the attention of the Department of Labour, through unofficial reports and statistics of the census held in 2000,¹ that there are children working in the evenings as well as in the daytime, mostly at the checkouts of various supermarkets. Thus, under the terms of

¹ As at 2000, Aruba's labour force consisted of almost 42,000 workers employed by almost 5,000 businesses. The hotel and restaurant sector had the largest percentage of workers at 18.3 per cent, followed by the commercial sector at 17 per cent. The census held in 2000 registered 4 employees aged 14, 13 aged 15, 21 aged 16, and 76 aged 17. This makes a total of 114 minors, or 0.3 per cent of the labour market. Most of these children were found to be working in the wholesale and retail trade.

ILO conventions on child labour, there is a certain amount of child labour in Aruba; many of these children are quite young (generally under 16) and have therefore not yet completed their schooling.

333. Although no formal study has been conducted on child labour in Aruba, there are no indications of children being employed anywhere other than in the wholesale and retail sectors. Children working at supermarket checkouts are a common sight. Their work generally consists of putting groceries in bags, loading them into shopping carts, taking the cart to the customer's car and loading the groceries into the car. The children generally receive tips from customers. No child labour has been reported in other sectors, such as the construction industry, agriculture, or the hotel and catering trade. Nor have any reports been received of children performing hard manual labour.

334. It is a criminal offence for children under 15 to do any work, whether paid or unpaid. Furthermore, young persons aged 15 to 17 are protected by law against night labour; they may not perform any kind of work, paid or unpaid, between 1900 and 0700 hours.

335. Article 19 of the Labour Ordinance imposes on parents, guardians and the heads of families in which minors are being raised the obligation to ensure that minors who are under their parental authority, guardianship, or supervision do not perform any work that is prohibited by the Labour Ordinance. Sanctions may be imposed under criminal law for violations of this prohibition.

336. Although the Kingdom of the Netherlands has ratified the ILO Minimum Age Convention and the ILO Night Work of Young Persons (Industry) Convention with respect to Aruba, it is recognized that domestic laws on child labour are not as detailed as these conventions and need to be revised.

337. The Department of Labour plans to further investigate the issue of child labour, to chart its prevalence, the number of hours children work, and the pay they receive. In this regard, it is essential to enact legislation on compulsory schooling, as soon as possible, to give inspectors a legal basis for compelling child employees to return to school. Closer cooperation among the Government's various inspection units will make controls on child labour more efficient. Heavier penalties are also needed to discourage businesses from employing children.

2. Drug abuse (art. 33)

338. The Government's general policy on substance abuse among young people is to promote freedom from addiction or any kind of substance abuse. Alcohol is probably the substance most frequently used on the island, because of its easy accessibility and availability. Alcoholic beverages are served and consumed at most festivities, celebrations and social gatherings. Although the Criminal Code prohibits the sale of alcoholic beverages to children under 16, these are readily available to the public in supermarkets and grocery stores.

339. With regard to narcotic drugs, the Aruban anti-drugs legislation, the National Ordinance on Narcotics (*Landsverordening verdoevende middelen*), criminalizes the possession, transport and sale of illicit drugs. The aim of the drugs policy is to achieve zero use. There is a general consensus among workers in the field, both law enforcement officers as well as others, that strict

adherence to the National Ordinance on Narcotics is essential. However, drug addicts and other users have been decriminalized in the Aruban setting. Addicts are regarded as sick individuals in need of treatment (this does not mean, however, that addicts who break the law will not be prosecuted).

340. The *Fundación Anti Droga Aruba* (FADA) has been conducting drug surveys in schools for more than 12 years. Its 2001 survey among secondary school students revealed that marijuana was the illicit drug most frequently used. Eight per cent of the sample secondary school population said they had used it. Ecstasy was next in line, with 3 per cent of the sample group reporting taking it. It is feared that since ecstasy is used as a party drug, it may become more prevalent over the next few years. Approximately 2 per cent of the students reported having used cocaine or its derivatives, and another 1 per cent stated they had used crack.

341. Aruba has a close network of organizations operating in the field of prevention, recovery and aftercare. One of the principal organizations working in the field of prevention is FADA. The objective of this organization is to prevent the use and abuse of all drugs, both legal (i.e. alcohol) and illicit. It tries to achieve this objective in various ways:

- By helping children and young people to acquire the necessary tools, such as knowledge, experience, and a positive attitude to make healthy decisions;
- By giving parents and carers the necessary support to enable them to guide children and young people and help them to develop into healthy adults;
- By providing information and raising the awareness of children, young people and adults of the dangers attached to the abuse of alcohol and of illicit drugs.

342. FADA has developed a preventive programme/drugs curriculum for primary schools. In addition, there are lectures and workshops at primary and secondary schools to teach children about the dangers that drugs pose to people's health, social life and general well-being.

343. Government agencies and NGOs cooperate to maximize the results that can be achieved with the limited resources available. The Anti-Drugs Coordination Office (CBDB) is the focal point for coordination and liaison on alcohol and drug abuse issues, especially in the area of demand reduction. CBDB provides technical assistance to NGOs at their request.

344. Aware of the importance of education in this regard, an anti-drugs, pro-self-esteem and character-building curriculum for all school pupils will start in August 2003. For young people aged 12 to 14 years, a module to promote personal development is included in the secondary school curriculum. The underlying principle is that, besides being informed about the dangers of drug use, children and young people should also be taught certain skills and be given tools to discourage them from experimenting with drugs.

345. The Government finances all three of Aruba's drug rehabilitation centres, two of which are publicly run. The rehabilitation programme is basically provided free of charge. However, both these rehabilitation centres and the existing rehabilitation programmes are designed for

adult addicts. Nevertheless, two minors are currently receiving treatment at one of the centres. CBDB is aware of the need for a treatment centre for young people. It expects to reach agreement in the near future with a private organization that has developed a programme that may be suitable for Aruba.

3. Sexual exploitation and sexual abuse (art. 34) and sale, trafficking and abduction (art. 35)

346. Children are protected from forms of sexual exploitation and sex abuse by specific provisions of the criminal law. Aruba's Criminal Code (AB 1991 No. GT 50) includes a special section on sex crimes (Title XIV of Book II of the Criminal Code, Crimes against Public Decency, arts. 244 to 266 inclusive), an important part of which consists of provisions designed to protect young people. In December 2002, the National Ordinance to amend these offences passed Parliament. It tightens up and widens the existing criminal law provisions and includes new provisions criminalizing child pornography and child prostitution.

347. One of the changes in the new ordinance is an increase in the lower age-limits in relation to sex offences, thus expanding the protection of young people. In addition, the criminalization of the abuse of minor boys is far more extensive than before.

348. The most important of the current provisions of the Criminal Code for the protection of young people are articles 246, 250, 251, 253, 255, 256, 257, 258, 260, 263 and 264; these articles explicitly criminalize, in brief, the exposure of a minor to material that constitutes an offence against decency, child sex abuse (rape is a criminal offence under a different provision that is not specific to minors), the sexual abuse or incitement to the sexual abuse of a minor by an abuse of power, trafficking in children, child neglect, and plying minors with drink. This does not mean that the provisions of criminal law that are not explicitly geared towards minors can never be applicable to them; the special provisions merely indicate aggravating circumstances. In this connection, three basic age groups are generally distinguished, which determine the degree of special protection afforded minors. The sexual abuse of a child under 12 years of age is in all cases the most serious offence, while the sexual abuse of a child aged 12 to 15 carries a slightly lower penalty; where the minor is 15 or older, the penalty is slightly lower again, or the offence is dealt with under general provisions on sex abuse.

349. The current article 260 of the Criminal Code provides that trafficking in children is in general a criminal offence. At the moment, there are no other specific provisions of criminal law targeting the abuse of children for commercial purposes. The new Ordinance will fill this gap.

350. There are no absolute figures on the prevalence of child abuse or neglect. In 2001, when the aforementioned Commission on Sex Abuse combined information supplied by various institutions and agencies that were involved in some way in the problem of child abuse, the following picture (for the years 1999/2000) emerged.

Physical and emotional neglect of children:	221 cases
Neglect of children:	291 cases
Sexual abuse of children:	174 cases

351. As already noted, the new Ordinance will substantially expand the scope of provisions on sex offences. The objective pursued with this new legislation, inasmuch as relevant here, is to redefine and considerably expand provisions on sex offences. For example, the possession of child pornography is a new offence. The substance of the new ordinance is to widen the criminalization of the abuse and sexual abuse of minors. It widens the scope of criminal legislation on child sex abuse, sexual intercourse with minors, and enticing minors to engage in such activity, and defines the existence of any special relationship of authority or care between the offender and the minor concerned in all cases as an aggravating circumstance.

352. The new ordinance also imposes heavier penalties on certain types of trafficking in human beings, including trafficking in children, aggravated criminal offences. The trafficking in and abduction of children are already defined as criminal offences in the Criminal Code of Aruba under the heading of “crimes against personal liberty” and as sex offences. In everyday practice in the Aruban community, abductions do occur after divorce, where the parent not awarded custody conceals the child or sends it abroad, thus withholding the child from the authority of the parent who has been awarded custody. As far as is known, however, there have been no cases in Aruba of organized child abduction.

353. Under the terms of the said Ordinance, incitement to child prostitution will carry a heavier penalty, as will trafficking in children. Furthermore, the possession of child pornography will be defined for the first time as a criminal offence in the Criminal Code.

D. Children belonging to a minority or an indigenous group (art. 30)

354. In Aruba, the rights contained in article 30 of the Convention on the Rights of the Child are implemented in a variety of ways. Aruba is a country where people of different nationalities, races and families have long lived side by side. The latest wave of immigrants has resulted from the resurgence of economic growth since 1987. They have come from all corners of the globe, but in especially large numbers from Latin America. In an open, pluriform society like Aruba, everyone is free to live his life in accordance with his own system of values, provided he does so within the framework of the norms and values imposed by the law of the land.

355. The various ethnic minorities have every opportunity to celebrate their own cultures and maintain their own ways of life. Over the years, a number of clubs have been formed for this purpose, including the “Alliance Française”, “Amigos de Colombia” and Portuguese and Filipino associations. The various minorities are also free to speak their own languages and to profess and practise their own beliefs or religions, despite the fact that the majority of the population is Roman Catholic. The Constitution of Aruba allows constraints to be imposed on freedom of religion in certain cases, but to date this power has never been used in practice.

356. In circumstances such as on the issue of a supervision and/or care order, continuity in upbringing is ensured by taking as much account as possible of the religious affiliation and beliefs of the child and its family (art. 255 of the new Civil Code). People admitted to penal institutions are likewise given the opportunity to practise their religion and to receive religious teaching (arts. 20 and 21 of the Prisons Ordinance).

Freedom of education

357. Article 1.20, paragraph 4, of the Constitution of Aruba states that education provided by public authorities is to pay due respect to the children's religions or beliefs. The education laws spell out how this is to be done. Publicly run schools are open to all children, irrespective of their background.

358. Minorities have the right to establish their own schools subject to supervision by the Government. This proviso means that the authorities can intervene in case of any breach of morality or public order. The Constitution of Aruba gives citizens the right to provide education, whether as a teacher or as a provider or organizer.

359. Anyone wishing to establish a school under the current education laws must satisfy certain basic requirements specified in the legislation, even if the education given at the school is not to be subsidized by the Government. These basic requirements relate, for example, to the teaching qualifications of the staff. There is, however, no obligation for the authorities to recognize and/or subsidize schools established in this way.

Language of instruction

360. The main language in Aruba is Papiamentu. Dutch is hardly used (except in Government and the courts), but is nevertheless the prevailing language within education. It is the language of instruction in primary, general secondary and most vocational education.

361. The majority of schoolchildren speak Papiamentu in the home (72 per cent); Spanish (11.6 per cent) and English (7.6 per cent) occupy second and third place respectively, followed by Dutch (6.9 per cent) and other languages (1.7 per cent). This means that the majority of pupils are being taught at school in a foreign language. This situation has been a hotly debated issue for many years and both the educational reforms of recent years and the current restructuring operations in kindergarten, primary, special and general secondary education have fanned the flames of dispute concerning the language of instruction.

362. The 1999-2008 Strategic Plan for the restructuring of nursery, primary and special education includes a proposal to restructure language use in schools to reflect the real socio-linguistic situation in Aruba but still recognizes the fact that Dutch is the language of instruction in secondary education and is likely to remain so for some time to come. For that reason, it is proposed 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.

Educational provision for immigrant children and minority language and culture teaching

363. The management of the Aruban economy over recent years has led to an influx of foreign workers. This immigration has had a direct impact on the schools. Statistics show that the rapid growth in the school population (especially in primary education) has mainly been due to the influx of immigrant children. The educational infrastructure has been ill-prepared to cope with the increased demand, let alone cater for the special needs of immigrants. Staff and schools have lacked the necessary training, preparation, advice and support to enable them to meet the educational and other needs of a multicultural and multilingual group of pupils. Nor have the

schools yet developed ways of dealing in a way satisfactory to all parties with the problem of the newcomers' - and many Aruban children's - inadequate command of the language of instruction (Dutch).

364. At the request of the Government, proposals were put forward in 2001 regarding the provision of education for children not currently attending school. Many of these non-attenders are children of illegal immigrants. Under new government policies, these children can now attend Aruban schools. The proposals related to the educational provision to be made for these children in the short, medium and long term.

365. One aspect of the proposed provision is minority language and culture teaching. The Strategic Plan attempts to provide for facilities to help ensure equal educational opportunities, including the option of multilingual schools featuring bilingual instruction. It is thought that this would give immigrant children the chance to develop through their own language and culture. Intercultural education is regarded as a necessary precondition for the proper education of all children. Intercultural education will both demand and increase a fundamental respect for all the cultures and cultural communities which are part of today's society in Aruba.

Children without a legal right of abode

366. Many children of immigrant parents are legally resident in Aruba, but some have been brought into the country illegally or have been born in Aruba to parents who have no legal right of abode. The discrepancy between the number of hospital deliveries and the number of births officially recorded in the civil register (see sect. VI above) and the findings of the Steering Group appointed to investigate non-attendance at school (see sect. VII above) give only a rough idea of the size of this problem. There is good reason to fear that it is not always possible to provide adequate help for this group of "invisible" children in case of medical emergencies, parental neglect, etc.

367. As already mentioned, the administrative courts in Aruba have recently (September 2002) ruled that a 14-year-old schoolgirl must be admitted to school to complete her junior general secondary education, even though she was unable to prove that she was legally resident in Aruba. The girl's father had brought a case against the State after his daughter was refused admission to the school because she was unable to present documentary proof of her legal status. The court concluded that the case constituted a violation of the right to education enshrined in the Convention on the Rights of the Child. The fact that the child could not prove that she was legally resident on the island did not mean that she had no right to education.
