



***Periodic Report by Aruba  
(Kingdom of the Netherlands)  
under the Convention on the Rights of the Child***

**2003-2006**

## **Introduction**

This periodic report by Aruba under the Convention on the Rights of the Child is submitted in accordance with article 44, paragraph 1(b) of the Convention and Concluding Observation no. 63 of the Committee on the Rights of the Child (CRC/C/15/Add.227).

The present report describes the developments that have taken place in Aruba since the initial report was submitted at the end of 2002. It gives special attention to the Concluding Observations that the Committee on the Rights of the Child made in January 2004 after considering Aruba's initial report. A mixed committee representing both governmental and non-governmental organisations, established by Prime Minister's Decree of 12 April 2001, prepared this report. The information provided in it covers the period 2003-2006 and should be seen as supplementary to the initial report.

By the third quarter of 2006 the Aruban population consisted of 103,102 inhabitants, 27,376 of whom were children under the age of 18.

### **I General measures of implementation**

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

A number of recent developments have significantly enhanced implementation of the Convention. They include:

- **establishment of an Aruban counselling and reporting centre on child abuse in August 2005**

More information on this centre's mandate can be found in Chapter V.

- **adoption in March 2006 of a national ordinance amending the Aruban Criminal Code to include additional provisions criminalising the sale of children, child prostitution and child pornography**

More information on this ordinance can be found in Chapter VII I.

- **ratification of the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography of 25 May 2000**

More information on this can be found in Chapter VIII.

- **initial steps towards establishing a centre for young people with special needs**

More information on this can be found in Chapter VIII.

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

The Aruban Committee on the Rights of the Child has the task of advising the Government on implementing the Convention on the Rights of the Child. In 2005-06 the Committee drafted a paper indicating what measures each sector and ministry needed to take to ensure Aruban compliance with the Convention. The Aruban Committee was guided in its work by its own findings from the first Aruban report and by the UN Committee's recommendations. In carrying out the action points, the ministries are taking the initiative to involve relevant governmental and non-governmental organisations. In an open dialogue with cabinet ministers and Members of Parliament, Committee members have been able to explain the implications of fully and comprehensively implementing the action points. The statutory instruments still need to be adapted in a number of areas. Particularly at policymaking level, local bodies and authorities need to work together in a systematic, coordinated way.

The cabinet has endorsed the Aruban Committee's recommendations and action points and asked the Social Affairs Department to coordinate a comprehensive approach to implementing them. The action points have now been distributed to the ministries and non-governmental organisations. The Committee has also met with the *Asociacion Trabao pa Hubentud* (ATHA), the umbrella group of youth organisations, and the *Parlamento Hubenil* (Youth Parliament) to discuss implementation of the action points. Presentations are planned for other governmental and non-governmental organisations. The Committee is working to foster the highest possible levels of awareness and commitment in carrying out these measures.

To carry on its activities, the Aruban Committee needs a budget of its own, for which plans are being worked out. At present its activities are financed by contributions from the bodies represented; where necessary sponsors are sought.

As part of the Kingdom, Aruba is party to a great number of both UN and European human rights conventions. To raise consciousness about the rights of the child, the Social Affairs Department recently set up a human rights coordination centre, which promotes human rights through education and by developing social policies based on human rights conventions.

The UN Committee on the Rights of the Child recommends establishing an ombudsman for children. There have been regular signs of public interest in an ombudsman in Aruba, but so far no concrete steps have been taken to establish one.

**C. Measures taken or envisaged to make the Convention's principles and provisions widely known to adults and children alike**

As mentioned above, meetings about implementing the Convention have taken place between members of the Aruban Committee on the Rights of the Child and the ministers and parliamentarians involved. Directly after the discussion of Aruba's initial report in 2004, the Committee's findings were discussed with the cabinet. The initial report and Concluding Observations are available in the Library and at the University of Aruba. These documents are available on request in an information packet from the Department of Foreign Relations. The report and recommendations have also been discussed in the media.

Sponsoring by two service clubs has enabled the Aruban Committee to publish a colourful educational brochure in Papiamentu entitled *Mucha tambe tin derecho* (Children have rights too). The brochure is already available at several locations and was sent, together with a learning package produced by the Education Department, to all schools for Universal Children's Day for their fifth and sixth-year pupils. A separate learning package will also be developed for the lower years. In the longer run, a survey will be held of children and young people to gauge their familiarity with the rights of the child and find out to what extent they think these rights are respected.

***Parlamento Hubenil (Youth Parliament)***

The Youth Parliament was established in 2003. The principles of the Aruban Youth Parliament Foundation are based on the Convention on the Rights of the Child, above all the rights to participation and freedom of expression. Creative methods to attain these goals are continually being sought. One of the Youth Parliament Foundation's most important objectives is to foster a culture of debate among young people. Since its establishment the Youth Parliament has carried out a number of projects, which always target youth. For example, events have been organised against drug and alcohol use and in favour of safe sex. The Parliament also has its own debating programme on TV. Youth Salud was a successful workshop to make young people aware of the dangers of overweight. A survey was also held of pupils to find out what they think about the Aruban school system.

The Foundation has organised various projects and courses with and for youth council members, including debating courses and presentations and discussions on young people and their social environment. The Youth Parliament has also taken part in various national and international conferences and dialogues on such topics as tourism, sustainable development, HIV/AIDS, Papiamentu as a language of instruction, the 2005 elections and the constitutional changes in the Kingdom. In all these discussions youth council members gave their opinions about the subjects and about how they envisage the future.

The Government supports the Youth Parliament and employs a youth consultant with a special mandate to support the Youth Parliament and advise on its activities and projects.

### **III General principles**

In its Concluding Observations, the UN Committee on the Rights of the Child expresses its concern about discrimination against children from migrant families, in particular in access to services, and the fact that disability is not considered a ground for discrimination as defined by the Constitution. With regard to access to services, we refer to Chapters VI and VII of the present report. As for the comment that disability is not considered a ground for discrimination as defined by the Constitution, we note that Chapter I of the Constitution lays out Arubans' fundamental rights. Chapter I is based on the following documents:

- the Convention for the Protection of Human Rights and Fundamental Freedoms adopted in Rome on 4 November 1950;
- the American Convention on Human Rights of 22 November 1969;
- the International Covenants on Civil and Political Rights and on Economic, Social and Cultural Rights of 16 December 1966;

- the European Social Charter of 18 October 1961;
- the Constitution of the Kingdom of the Netherlands as revised on 17 February 1983;
- the Constitution of the Netherlands Antilles.

The first article of the Aruban Constitution includes the principle of equality and a ban on discrimination. Article I.1 reads:

All persons in Aruba shall be treated equally in equal circumstances. Discrimination on the grounds of religion, belief, political opinion, race, sex, colour, language, national or social origin, membership of a national minority, wealth, birth or on any other grounds whatsoever shall not be permitted.

The ban on discrimination in the second sentence of article I.1 of the Constitution tightens up the injunction to treat people equally. Discrimination is defined on the basis of characteristics of individuals or groups that they are powerless to change, or cannot change without harm to their personal identities. Article I.1 thus clearly protects children with disabilities.

The principle of equality must be honoured when statutory instruments are applied as well as when they are adopted. Statutory provisions are not applied if their application would be incompatible with the first chapter of the Constitution on fundamental rights (article I.22). This means that when fundamental rights are at stake, the government's actions can be reviewed in the courts for their constitutionality, that is for conformity with the injunction to treat people equally in equal circumstances.

The new draft Criminal Code extends the scope of the discrimination provisions. These now include discrimination against persons with a mental or physical disability. The new Code will be presented to Parliament no later than January 2008.

## **V Family environment & alternative care**

*The Committee recommends that the State party increase the funding and availability of quality childcare facilities and services, support parental education programmes, in particular for parents of disadvantaged and vulnerable children and adolescents, and*

*ensure that all children and adolescents of working parents have the right to benefit from these services and facilities.*

### **Childcare services**

There is a major demand for childcare and in recent years, childcare centres in Aruba have been able to develop freely with little government intervention. However, not all these developments have been positive, so the government is preparing legislation which will introduce quality requirements for childcare.

Research has revealed a range of problems which in turn affect the way legislation is implemented. Ways are currently being devised of funding the cost of implementing the new legislation. A tripartite system is envisaged, in which the costs are shared by the government, employers and parents. However, it takes time to collect the necessary data on financial matters and discipline. There are no cross-sectoral agreements in Aruba, which makes it difficult to implement regulations that apply across the board.

The only form of childcare funded mainly by the government is Traimerdia, a project for after-school care. However, it has a waiting list of about 600 children aged between 4 and 12. In April 2005, parents and relatives of mentally handicapped people set up Asociacion Sonrisa, an after-school childcare centre which can take 12 mentally handicapped children aged between 4 and 17.

### **Support programmes for families**

In recent years, foundations and government institutions providing preventive and curative care for parents and children, such as the Guardianship Board, the Social Affairs Department (DSZ), the Respeta Mi Foundation and the Fundashon Pa Nos Muchanan have been given more funding to recruit new staff. The cofinancing organisation CEDE Aruba provides funding for activities, courses and workshops run by various NGOs.

#### *Parenting advice and information centre*

In 2004, the White-Yellow Cross Foundation (*stichting Het Witgele Kruis*) set up a parenting advice and information centre. It aims to help parents with children aged between 2½ and 5, who come to the White-Yellow Cross clinics and need help with educational and parenting issues.

#### *Let's Talk Project*

In January 2005, the Aruban police (KPA) launched the Let's Talk Project. This is a cooperative venture involving interactive information sessions for parents and children on such topics as sexuality, teenage pregnancy, alcohol abuse, bullying, violence, gangs etc.

#### *Teenage pregnancy*

According to Guardianship Council statistics, the number of teenage pregnancies in Aruba is rising. At present, the Council has two social workers dealing with this and related issues. In 2005, a number of NGOs set up CEMBRAH, a network organisation that provides help for teenage parents. CEMBRAH represents a range of organisations involved with the social, physical, preventive, educational and other aspects of teenage pregnancy. A package of care offers various forms of guidance and help to teenage parents. In addition, CEMBRAH produces and disseminates information for young people as part of its active teenage pregnancy prevention programme.

*The Committee recommends that the State party expand alternative care in all parts of the Kingdom through, inter alia, increasing the support services and financial assistance for foster care families as well as the number of staff working in residential institutions in Aruba so as to ensure that children receive full-time care, including at weekends.*

#### **Foster care**

In 2004, alternative care was expanded with the opening of Centro Famia di Crianza Arubano, a centre for foster families. It is responsible for recruiting new foster families, registering, preparing and training new foster parents, liaising between children and the foster parents and organising group activities for foster parents. Since its opening, the centre has helped 59 families.

#### **Residential facilities**

Since last year, Casa Cuna Progreso, which takes children up to the age of 6, has also been open at weekends. This means that children already resident during the week can stay on and also that non-resident children can be given emergency accommodation at weekends. Negotiations are currently under way to open the Imeldahof residential facility for children aged from 6 to 14 at weekends in the first quarter of 2007. The residential facility for 14 to 18-year-olds (formerly Cas pa Hubentud) merged with the Remedial Education Centre. This is not yet open at weekends. More information about this centre for children with special needs can be found in Section VIII.



*The Committee recommends that the State party:*

- *Ensure that there is a clearly defined policy on child abuse and neglect, which includes prevention, reporting and assistance to victims and is supported with adequate financial and human resources, in Aruba;*
- *Enact the 1993 Aruban Government Decree on the establishment of a medical examiner's office which registers cases of child abuse and neglect and coordinates investigation and treatment of victims in a child-sensitive manner.*
- *Explicitly prohibit corporal punishment by law and carry out public information campaigns about the negative consequences of ill-treatment of children, and promote positive, non-violent forms of discipline as an alternative to corporal punishment.*

### **Prevention**

In 2006, there was a shift of emphasis within the Social Affairs Department towards parenting support, family coaching and family therapy. Within the Life and Family Problems Division, a subdivision was set up with responsibility for family therapy. The Help in the Home (Huis aan Huis Hulp) project was launched to provide parenting support and give families practical coaching in creating harmony at home. The Social Affairs Department district teams are also involved in the scheme. Family counsellors from the above-mentioned subdivision are being trained to provide this type of family therapy.

There are plans to set up a Prevention Council with representatives from NGOs and government bodies. It will have the following responsibilities:

- a. to devise a policy on the prevention of child abuse and neglect ;
- b. to devise programmes which foster the prevention of child abuse and neglect ;
- c. to generate funding for the prevention programmes.

A new initiative to prevent cruelty to children was launched at the beginning of 2006, with the website of Fundacion Respeta Mi : [www.respetami.aw](http://www.respetami.aw). The website gives information in Papiamentu about how to recognise, and deal with child abuse. The website is designed for both children and adults (parents, guardians, teachers, activity leaders, etc).

### **Corporal punishment**

Aruba's Criminal Code prohibits child abuse. However, parental 'smacking' or 'slapping' is not specifically forbidden by law. The draft of the new Criminal Code, scheduled to enter

into force in 2008, will not expressly prohibit smacking by parents as a disciplinary measure against undesirable behaviour.

### **Child abuse reporting centre**

The child abuse counselling centre, Bureau Sostenemi ('support me'), became operational in 2005. It aims to function as a central registration point for child abuse and, in liaison with existing institutions and organisations campaigning against child abuse, to promote a more structured approach to tackling the abuse and exploitation of juveniles. Like the Dutch Advice and Reporting Centre for Child Abuse and Neglect, the Bureau's medical examiner registers, refers and monitors children who have been neglected and/or subjected to sexual or other forms of abuse. Bureau Sostenemi has two social workers and an administrative assistant, and is government-funded. So far, its activities are largely at a preliminary stage and have involved liaising with various bodies in order to draw up cooperative agreements, arrange publicity through the media and publish leaflets and posters.

## **VI Basic health and welfare**

### **Disabled children**

Since Aruba is a small country, it is unfortunately not always able to provide specialised care or special education for disabled children. There is no round-the-clock care for disabled children. There are no educational services or day care for children with motor and/or serious multiple disabilities. Children with learning difficulties may be eligible for special education in Aruba, but because of the lack of facilities, they often end up on waiting lists or can only be placed for a portion of the week. The Foundation for the Mentally Disabled draws regular attention to such problems.

*The Committee recommends that the State party strengthen its efforts to integrate children with disabilities into mainstream education and everyday life by improving the physical accessibility of mainstream schools, leisure and recreational facilities, and other public buildings and spaces in Aruba.*

With the help of the board of governors and the parents' committee, certain schools have in recent years improvised and adapted their buildings, sports and recreational facilities for the access and use of disabled pupils. However, other public buildings and amenities require more attention and substantial adaptation. Current building adaptations are often the result of private initiatives and as such require planning and building permits. Building

adaptations for disabled access are supposed to meet certain guidelines, but these are not laid down in law and are therefore not mandatory. All planning applications are recommended to include disabled access but this is not usually followed up by an inspection. New legislation is in preparation which will make disabled access a mandatory element in building adaptation, and will ensure that construction work is also approved by an inspector. These amendments are due to be presented to parliament in 2007.

*The Committee recommends that the State party undertake awareness-raising campaigns to address prejudicial attitudes to children with disabilities, and promote their full integration into society.*

Large-scale awareness campaigns very occasionally take place in Aruba, usually thanks to fund-raising by non-governmental organisations. As yet, there are no specific government plans to promote the social integration of disabled children.

*The Committee recommends that the State party take all necessary measures, in cooperation with parents and religious leaders, to ensure universal vaccination of children.*

The vaccination programme is unchanged and universal vaccination is guaranteed.

*The Committee recommends that the State party take all necessary measures to reduce mother-to-child transmission of HIV/AIDS, including but not limited to the use of antiretroviral drugs for pregnant women who are HIV-positive.*

Pregnant women are given routine blood tests for HIV and syphilis. If the woman is HIV-positive, her midwife, general practitioner or gynaecologist will contact an internist and they will jointly draw up a course of treatment. In the post-partum period, the paediatrician administers the necessary antiretrovirals for a 6-week period. In recent years, the number of HIV-positive mothers has dropped, thanks to blood tests during pregnancy. People living with HIV/AIDS (including pregnant women) can obtain information, treatment and guidance from the Public Health Department. If necessary, the patient is referred to a specialist. Various ministries and organisations are working together on information and prevention. Regular care for infants with HIV/AIDS is available by arrangement with the hospital in Aruba: children are treated by a paediatrician and teenagers by the internist.

Once children are old enough to go to school, their situation is discussed by the head of school, their parents and a member of staff at the Infectious Diseases Service of the Public Health Department. The purpose is to exchange information and agree on the action to be taken in the event of certain circumstances such as an accident involving blood, where there is a danger of the infection spreading.

*The Committee recommends that the State party take all necessary financial and administrative measures to ensure adequate availability of mental health services for adolescents.*

After the departure of Aruba's only psychiatrist for children and teenagers, the *Kids and Teens* project was launched. It aims to provide mental health care for children and teenagers and is housed in a psychiatry practice where assessment and therapy are provided by a team of two psychologists and a child psychiatrist. Where necessary, other institutions are involved in the treatment. In 2007, the project team will be supplemented on a weekly basis by a child psychiatrist from Curaçao. The cost of care is covered by General Health Insurance (AZV), provided the client is referred by a general practitioner.

Apart from this, there is no single institution that actively promotes general mental health care for teenagers in Aruba. Depending on their age (older than 16) and the nature of their problem (drugs, alcohol, pregnancy), teenagers are currently referred to other care institutions for specific help.

*The Committee recommends that the State party take all necessary measures to prevent drug and alcohol abuse, including education campaigns, and ensure that there are sufficient rehabilitation services specifically for children and adolescents.*

There are no specific reception facilities in Aruba for children and teenagers with problems related to drugs and/or alcohol. Older teenagers are usually referred to institutions that specialise in the reception, counselling and rehabilitation of adults. Addiction is a topic covered in the secondary school curriculum in the subject Personal Development (introduced in the 2004-2005 school year). A new primary curriculum is currently being developed, which will focus on health and movement and emphasise a lifestyle that is healthy in all respects – physically, socially, emotionally and mentally. It is hoped that this approach will have a preventive effect. Information about alcohol and drugs is also provided

by non-governmental organisations, which develop their own materials and hold lectures and workshops.

*The Committee recommends that the State party strengthen programmes on sex education, including those in schools, and reproductive health counselling for adolescents and take effective measures to prevent early pregnancy.*

In 2006, a number of institutions mounted a joint campaign against teenage pregnancy . Their information meetings and exhibitions are now well-attended events. There is also a programme which provides information to parents of children in the upper forms of primary school. Some children are already sexually active by then, so information needs to target prevention even within this young age group. The government is developing a new primary school curriculum which deals with sexuality. The subject is covered in the secondary school curriculum in the subject of Personal Development. Information campaign material has been produced, including a play, which was performed in 2006. In 2005, the Child and Youth Telephone Helpline also developed material on sexuality and pregnancy.

*The Committee recommends that the State party provide teenage mothers in Aruba with the appropriate assistance and ensure that they can finish their education.*

Whether teenage mothers are able to finish their education depends on the policy of the school in question, but the practice of expelling girls once they are found to be pregnant is now rare. Most schools operate a policy of allowing pregnant teenagers to stay at school until around the seventh month of the pregnancy. They return to their classes several weeks after the birth. Thanks to the above-mentioned CEMBRAH agreement on the prevention of teenage pregnancies, counselling is available for teenagers from the moment their pregnancy is confirmed. However, the mothers still have to cope with the extra expense incurred by the pregnancy and providing care for the baby once they go back to school. Childcare services will accommodate babies during school hours for a small fee. However, there are currently no grants or other schemes in place to cover the extra costs of pregnancy.

## **VII Education, leisure and cultural activities**

*The Committee recommends that the State party expedite the adoption of the National Ordinance on Compulsory Education and ensure that it is enforced, including for children of undocumented migrants.*

The draft National Ordinance on Compulsory Education has not yet passed through parliament. Once this has happened, a committee appointed by the Education Department will make preparations for implementing compulsory school attendance. As yet, there is no agreed timeframe for this.

In May 2000, a steering group was appointed to establish how many children aged 4 to 18 in Aruba do not attend school and the reasons for their non-attendance. The inquiry found that 515 children and young people in the 4-16 age group and 41 teenagers aged 17 and 18 did not attend school. A programme to get this group back into education (Incorporation Programme) was accordingly set up in the 2001-2002 school year. Solutions for tackling non-attendance are described in three policy documents, which have since been adopted by the Aruban government. Priority is being given to the 4-12 age group.

Immigrant children aged 8 to 13 attend the Incorporation Programme for a year. They are trained in separate premises from the regular primary pupils, using the PRISMA method, and the following year they join the regular class appropriate to their age and ability. Attendance is conditional on one of the parents or guardians having a residence permit and the child's being resident in Aruba on or before 1 December 2000. Recently arrived immigrants have been admitted since then, and are therefore not included in the 515 children registered in 2000.

Non-attending children aged between 14 and 18 were incorporated into the education system in the 2002-2003 school year, and followed a curriculum consisting of Dutch, Papiamentu, Arithmetic/Mathematics and Social Orientation. The subjects Personal Development and Study Counselling were subsequently added to the timetable.

As of 1 September 2005, a total of 183 pupils (94 girls and 89 boys) aged 7 to 19 were involved in the Incorporation Programme (see Appendix 1a).

*The Committee recommends that the State party expand education possibilities for children with disabilities in Aruba, including those with learning disabilities, at the secondary school level.*

As described in the initial report on Aruba, the country has three schools for children with learning difficulties, including one for pupils with severe learning difficulties (MLK) and one for deaf and hearing-impaired children. The Foundation for the Visually Impaired (FAVI) provides teaching for blind and visually-impaired children within mainstream education.

There is no separate special education at secondary school level in Aruba. Junior secondary vocational education partly caters for pupils with learning and behavioural difficulties, but most of them are from primary schools for children with severe learning difficulties. There is a pilot project for secondary education at the school for deaf and hearing-impaired children. The school for pupils with severe learning difficulties does not officially provide secondary education, but pupils aged 12 and over can attend classes and receive counselling.

After comparing Aruba's education system with others in the world, it was decided to base the Strategic Plan for reforming nursery and primary education on the principle of inclusiveness. Draft policies on special education (including at secondary level) are currently up for discussion. They aim to secure a single, continuous learning process for all pupils. The underlying principles are inclusiveness and the right to education. It is proposed to set up a multidisciplinary team responsible for early detection of development disorders and to make peripatetic counselling available to all schools.

*The Committee recommends that the State party expedite efforts to address non-attendance and the dropping out of school.*

Draft programmes for combating dropout in the current school system are currently in preparation. A joint venture involving various government ministries will focus on a Remedial Education Centre programme for school dropouts. The Aruban Education Department will be responsible for the educational content and will focus on developing programmes, setting up a special needs support structure, organising training courses, refurbishing classrooms and providing basic facilities. There are plans for a multidisciplinary centre, a joint venture involving experts from a variety of disciplines. Its task would be to advise, refer, diagnose, identify, implement and coordinate with regard to special needs services and to contribute significantly to efforts to tackle the problems of children and young people up to the age of 18. It will focus on learning difficulties, social, emotional and behavioural problems, and also physical and mental disability. The multidisciplinary centre

will bring together teaching staff, a paediatrician, a social worker, a remedial psychologist/teacher, a child psychiatrist and other education specialists. The multidisciplinary team will be responsible for screening clients and then carrying out tests or a course of counselling or therapy, advising parents, the school and social services, referring children where necessary and monitoring their progress.

As of 1 September 2005 there were 20,990 people in the 4-17 age group, of whom 20,072 attended school (Appendices 2, 3 and 4). There were almost equal numbers of boys, and girls, but the gender proportions varied according to the type of school (Appendices 5 and 6). In 2005, almost a quarter (22.7%) of the population were receiving schooling (Appendix 7).

The teacher-pupil ratio currently stands at 16.85 (Appendix 8). In terms of the success rate, there is a definite fall-off at the end of primary education, expressed in the relatively high percentage of over-age pupils (over 12 years) (Appendix 9). This is due partly to older pupils (particularly immigrant children) joining the system from outside.

Of all pupils who continue their schooling at secondary level, 67.6% enter general secondary education (Appendix 9). Many encounter problems during (Appendix 10) and at the end (Appendix 11) of their time at secondary school. In 2004, 67% of pupils passed the school-leaving examination (Appendix 12). The examination results (Appendix 13-16) and the subject combinations chosen by pupils (Appendix 17-19) in general secondary education reveal traditional gender roles. Girls are more inclined towards languages and on the whole achieve better results in these subjects than boys. Boys tend to opt for science subjects and get better results in them than girls.

*The Committee recommends that the State party include human rights education in the school curriculum in Aruba.*

From nursery to vocational education in Aruba, new curriculums focus to a greater or lesser degree on gender equality and the prevention of role stereotyping. These topics are covered in the subject Movement and Health (*movecion y salud*) in primary education, Personal Development in general secondary education, Humanitarian Education and Life Skills in junior secondary vocational education, and Personal and Social Development in secondary vocational education. Locally produced materials are available for all these



subjects so as to provide optimal links with Aruban students and their everyday experience of life.

*The Committee recommends that the State party ensure that sufficient teaching materials are available in Papiamentu for primary and secondary students .*

Preparations are being made to introduce Papiamentu as the language of instruction in primary education, up to and including the fourth year. In practice, this means that there will be a new curriculum. This demands a great deal of input in terms of developing teaching material and also training and instructing teaching staff.

Research will show whether Papiamentu as a medium of instruction should be extended to the sixth year of primary school. There are also plans to teach Papiamentu as an individual subject from the age of 4, and also Dutch, English and Spanish from the same age.

At present, there are no plans to change or extend the language of instruction in secondary education. With the exception of the hotel and catering stream in secondary education, where pupils are trained for occupations in tourism, the medium of instruction is Dutch. Papiamentu is taught as a subject in its own right. This is linked to the fact that after secondary school many students pursue higher education in the Netherlands.

## **VIII Special protection measures**

### **Recent legislative developments**

1. *National Sexual Offences and Stalking (Criminalisation) Ordinance (Official Bulletin 2003 no. 47)*. This ordinance, which expands the criminal law protection of minors against sexual abuse, entered into force on 22 August 2003. It considerably extends the period in which a complaint of a sexual offence can be lodged, so that long after they reach the age of majority minors can lay an information or lodge a complaint for sexual offences committed against them (Criminal Code art. 73 d). It also makes possession and distribution of child pornography criminal offences ( art. 247). It includes boys in the protection against rape and unwanted physical penetration (Criminal Code art. 248 et seq.) and broadens the definition of the criminal offence of paying for sexual abuse of minors aged 16 and over or being present during such abuse (Criminal Code arts. 256a and 256b). Finally, it modernises the definitions of and considerably increases the penalties for the

offences of promoting sexual abuse of minors by third parties and trafficking in children (Criminal Code arts. 258 and 259 respectively).

2. *National Custodial Institutions Ordinance (Official Bulletin 2005 no. 75)*. This ordinance regulates detention in Aruba. It lays down the organisation of custodial institutions and the legal status of inmates. While maintaining the punitive character of imprisonment, the ordinance provides that inmates' stay in an institution will help to prepare their return to society. Inmates are to be offered meaningful activity or work corresponding as much as possible to their characters and capacities. The ordinance provides that minor male inmates should be housed separately, and minor female inmates in any case in a unit with only female inmates. All inmates under 16 are to take part in an educational or training programme established for them by or on behalf of the director, and must join in the corresponding activities. All inmates between the ages of 16 and 21 can choose between taking part in an educational or training programme and doing work for no more than eight hours a day on weekdays; their choices are recorded in their detention plans. Inmates who work receive pay. Under the ordinance, regulations will be laid down for each unit of a prison. All inmates have the right to lodge complaints about their treatment and about decisions made about them. They also have the right to send and receive letters, to have telephone conversations for no more than five minutes a week, to have visitors and to receive necessary medical treatment. However, this ordinance has not yet entered into force. It will do so at a time still to be determined, when the implementation and transitional legislation will also be instituted.
3. *Draft Revised Criminal Code*. A special Committee on the Criminal Code and Criminal Procedure has recently presented a draft ordinance to the Government whose aims include a complete revision and modernisation of juvenile criminal law. An earlier draft ordinance prepared by the government, which would have included a partial revision of existing juvenile criminal law, was rejected by the government's most important advisory body, the Advisory Council. The new draft is expected to be submitted to the States (Parliament) no later than 1 January 2008. Its entry into force will however depend on when the necessary implementation legislation is adopted.
4. *Introduction in March 2006 of a National Criminal Code (Amendment) Ordinance, including further provisions on criminal penalties for people smuggling, human trafficking and exploitation of children*. This new law

implements the Optional Protocol on the sale of children, child prostitution and child pornography signed in New York on 25 May 2000, which Aruba has now ratified. It also implements the Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, and the Protocol against the Smuggling of Migrants by Land, Sea and Air, both signed in New York on 15 November 2000 and supplementing the United Nations Convention against Transnational Organised Crime.

*The Committee recommends that the State party develop a National Plan of Action against Commercial Sexual Exploitation of Children and strengthen regional cooperation in this regard.*

Little is known about the existence or gravity of commercial sexual exploitation of children in Aruba. So far the Youth and Sexual Offences Unit of the police has not uncovered any cases or received any reports of it. Nor have any cases been reported to the social services. The number of companies offering escort services does seem to be keeping pace in recent years with the increase in tourism on the island, however.

The Public Prosecution Service said in its policy planning for 2006 that the extent and nature of prostitution in the hotel industry and in Oranjestad should be further investigated. There is a reasonably accurate picture of the milieu in the San Nicolas district where prostitution is concentrated, the activities going on there and the people who are active in them, because a system of permits is in place there. That is not true of the hotel industry or the capital, however, which is why the Public Prosecution Service wants to investigate the extent and nature of prostitution there. The investigation is also expected to provide a substantive picture of how children are or are not exploited in this milieu. But as stated above, at present there are no indications of such exploitation.

*The Committee recommends that the State party strengthen the capacity of the police in Aruba to receive and investigate complaints of trafficking and sexual exploitation in a child-sensitive manner, by increasing human and financial resources and providing appropriate training.*

There has recently been an internal reorganisation of the police, so that reports concerning minors now go directly to the specialised Youth and Sexual Offences Unit. This unit has

taken several courses on sexual offences and criminal law, including one on methods of questioning people with mental disabilities.

In 2005 talks began, led by the Public Prosecution Service, aimed at improving the effectiveness of the criminal investigation squad in relation to the Public Prosecution Service. Attention is focused particularly on recording complaints and conducting case screenings. Criteria for the quality and capacity of criminal investigation work, including cases concerning minors, are now being put on paper. Until now, however, smuggling and sexual exploitation of children have not been problems in Aruba.

*The Committee recommends that the State party ensure that all victims of trafficking and prostitution have access to appropriate services.*

See above. Implementation of this measure is temporarily on hold.

*The Committee recommends that the State party undertake an in-depth study of trafficking and sexual exploitation of children in Aruba, including the possible existence of sex tourism.*

The police and Public Prosecution Service are being vigilant so as to prevent trafficking and sexual exploitation of children in Aruba, and are alert to the possibility of sex tourism involving underage prostitutes. So far, however, there are no clear signs of any trafficking of children, sexual exploitation of children or sex tourism involving underage prostitutes in Aruba.

*The Committee recommends that the State party ensure the full implementation of articles 37, 40 and 39 of the Convention as well as the Beijing Rules and Riyadh Guidelines in the light of the Committee's 1995 day of general discussion on the administration of juvenile justice.*

The Bureau Sostenemi, recently established on the model of the Dutch Advice and Reporting Centres for Child Abuse and Neglect and designated doctors' offices, is engaged specifically in registering, referring and monitoring children who have been neglected, abused and/or sexually abused in any way.

A draft ordinance prepared by the government to amend the Criminal Code, which would have partially revised and modernised juvenile sentencing law in anticipation of

comprehensive Criminal Code revision, was rejected by the Advisory Council. The draft ordinance had proposed, on the Dutch model, to institute youth detention for no more than one year for 14 to 16-year-olds and for no more than two years for 16 to 18-year-olds, but the Advisory Council considered this contrary to the applicable international agreements, including the Convention on the Rights of the Child. This matter is therefore being taken up again by the departments responsible for drafting legislation.

*The Committee recommends that the State party amend legislation in the Netherlands and Aruba so that life imprisonment cannot be imposed on anyone between the age of 16 and 18 and fix a maximum limit for their detention.*

Young people between the ages of 16 and 18 who come in contact with the criminal law are in principle treated in accordance with Aruban Criminal Code articles 40-41m, which lay down the penalties for juveniles. Juveniles can never be sentenced to life imprisonment.

Young offenders between the ages of 16 and 18 can at present in exceptional circumstances be tried under adult criminal law. However, the new draft Criminal Code raises the threshold for treating young offenders between the ages of 16 and 18 as adults.

*The Committee recommends that the State party ensure that the detention of juvenile offenders is used only as a measure of last resort.*

As has been reported in the past, the Aruban penal system assumes that detention may only be imposed if no other appropriate sanctions are at hand to punish a juvenile offender. Detention may thus only be imposed as a last resort. There is a brief Juvenile Conference – a structured consultation between the Guardianship Board, the Rehabilitation and Child Protection Board, the Police Youth and Sexual Offences Unit, the Public Prosecution Service and the investigating officer – for every juvenile (12 to 18-year old) offender. The Juvenile Conference decides the best possible way of dealing with the case in light of the juvenile's interests and development. It opts for detention only if either the investigation or the seriousness of the offence makes this unavoidable. As a rule, young offenders are not interned with juveniles who have been institutionalised for behavioural problems.

The Child Protection Unit handles criminal cases involving children and adolescents and, with a view to prevention, cases of minors that have been reported by parents, guardians or carers: that is, minors with developmental and relational problems.

Since September 2004, Public Prosecution Service Alternative Sanction (TOM) hearings are held at the Rehabilitation Board office. TOM hearings are an initiative of the Public Prosecution Service in collaboration with the Rehabilitation and Child Protection Board. Cases involving certain kinds of criminal offences are settled in these hearings so as to ease the burden on the courts and Aruba's Correctional Institute (KIA, the prison) as much as possible. The hearings are comparable to the way community service and alternative sanctions are imposed on juvenile offenders in the Netherlands. They are held only in cases involving criminal offences for which the public prosecutor in court would normally demand a sentence of no more than three months' imprisonment. Various people may be present at a TOM hearing: the suspect (accompanied by a lawyer and/or, in the case of a minor, his or her parents), the victim, the public prosecutor, a legal officer and Rehabilitation Board staff.

The public prosecutor makes a proposal to the defendant at the TOM hearing that can be considered a decision not to prosecute dependent on certain conditions. The defendant must comply with these conditions for a certain operational period. If the defendant fails to comply with the conditions, the case can be brought to court.

*The Committee recommends that the State party avoid detention of juvenile offenders with children institutionalised for behavioural problems.*

The recent renovation of Aruba's prison (KIA) has created a young offenders' wing with twelve cells and four isolation or punishment cells. Each cell has a bed, a toilet and a ventilator. Inmates may acquire television sets on their own. The maximum age for the young offenders' wing is currently 21. Each cell can hold up to three juveniles.

Juvenile inmates are offered the opportunity to complete school through independent study. Schooling is not compulsory. They have opportunities at present to take part in sports, borrow books from the library and take courses given by volunteers on spiritual development, handicrafts, drawing etc. But they have insufficient or no opportunities to acquire skills or earn diplomas while in detention. The new law on detention (the National Custodial Institutions Ordinance) will require the authorities to offer young inmates either targeted educational or training courses or work. The work would have to be paid. This law has not yet entered into force, however.

*Centre for young people with special needs*

A number of Aruban youth services organisations have noted for many years that services for young people aged 12 to 18 with serious behavioural problems are inadequate. As a result these young people can end up living in undesirable conditions, or even as transients or in a criminal milieu. There is still no facility in which behaviourally disturbed young people can be housed separately from other juvenile inmates. The prison has only one young offenders' wing, which has no such facility. The 'solution' is therefore to put young problem cases as much as possible alone in separate cells.

To provide these young people with a professional facility and treatment, the Ministry of Social Affairs has launched a project to create a centre for young people with special needs. The Centre will treat 12 to 18-year-olds with serious behavioural problems in open and closed wings, and later a secure wing. A director will be in charge of all three wings; each wing will have its own manager.

The open wing has already been opened for young people from the former residential facility *Cas pa Hubentud*. A team of seven group leaders is now supervising eleven young people up to the age of 17. In 2007 this open wing will be expanded to accommodate a group of approximately 16 young people. The aim will then be to house all the young people in an open wing at a single location. The plan is to use a former religious house near the Imeldahof residential facility.

The closed wing is scheduled to open at the end of 2006 and accommodate eight or nine young people. This group will live under strict rules, attend school and receive appropriate treatment. Its members will not be allowed to move about freely, but will be supervised closely and treated by a team of ten group leaders who are still to be appointed. These young people's intensive treatment and the location call for individual treatment in an environment requiring permanent surveillance.

Within two years, a secure wing will begin to operate at the site where the closed wing will have already been operating for two years. The secure wing will accommodate ten young people who will be placed there by court order. They will be under constant surveillance. They will live in an area shut off from the other wings and receive very strict treatment adapted to each individual. They will not be allowed to leave the premises. The Education Department will establish and run a special needs school on site that will provide them, as well as the young people in the closed and open wings, with education adapted to their needs. Ultimately there will be roughly 50 young people at two sites – 40 in closed wings

and ten in the secure wing – and about 32 in the open wing.

*The Committee recommends that the State party expedite efforts to create more alternatives to detention for children in conflict with the law.*

There are currently initiatives to introduce youth services legislation, which will include clearer provisions on alternative responses to criminal behaviour. The following alternatives to detention are currently available.

- *Community service.* The public prosecutor can impose a maximum of 120 hours of community service associated with a conditional decision not to prosecute (possibly as the outcome of a TOM hearing; see above). This occurs in cases where the public prosecutor after a notice of summons and accusation would have asked the court for a sentence of no more than three months' imprisonment. The court itself can impose a maximum of 260 hours of community service, as a substitute for six months' imprisonment. If the community service is not completed or not properly completed, the person concerned must still serve his or her term of imprisonment.
- *Youth/training programme.* The public prosecutor can require young offenders aged 14 to 18, often school attenders, to take part in a youth/ training programme for six weeks. Various themes (sexuality, drugs, communication, violence, self-image, etc.) are discussed three times a week. The young offenders then do work in the public interest in the afternoons for one of the six weeks.
- *Domestic Violence Offenders Programme (DVOP).* This alternative sanction consists of an eight-week course, the Domestic Violence Offenders Programme. It is usually imposed on perpetrators of domestic violence, particularly partners, parents and children. An American expert in the field has trained Rehabilitation and Child Protection Board staff to run the programme. Perpetrators of violent crimes who have been placed under the supervision of the Rehabilitation and Child Protection Board may also be persuaded to take this course.