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The Permanent Mission of the Kingdom of the Netherlands to the United Nations Office other International Organizations in Geneva presents its compliments to the Office of the High Commissioner for Human Rights and has the honour to inform the Committee against Torture as follows.

In its concluding observation 19 on the report of the Kingdom of the Netherlands to the Committee against Torture for 2007, the Committee indicated that it would like to obtain more information on juveniles in prisons on the Netherlands Antilles (concluding observation 11) and on sexual abuse or assault in the prison on Aruba (concluding observation 12).

With regard to concluding observation 11 the Kingdom of the Netherlands reacts as follows.

Reference is made to the attached report of the Netherlands Antilles' authorities on the separation of juvenile offenders from adult offenders.

The correctional facility on Curaçao offers juvenile inmates the possibility to participate in educational programmes consisting of, among others, lessons in computer skills as well as different kinds of vocational training.

The correctional facility on Curaçao continues to act on implementing a new classification of inmates and on the allocation of cells. Plans have been made to build a new correctional facility on Curaçao.

With regard to concluding observation 12 the Kingdom of the Netherlands reacts as follows.

OHCHR REGISTRY

17 JUN 2008

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The Ministry of Justice of Aruba has drawn up a code of conduct with regard to unwanted behaviour and contacts in correctional facilities between inmates as well as between staff and inmates, specifically concerning sexual harassment and sexual intimidation. This code is due to enter into force on 1 August 2008. It defines unwanted behaviour and contacts, the rules of behaviour and how to act in case the rules are broken. Furthermore, it defines the procedure for complaints:

“Official complaints can be filed. The contact person on sexual harassment and sexual intimidation is the first one to be addressed by the victim. The contact person:

- investigates the complaint and everyone involved in such an investigation is bound to observe strict confidentiality;
- can address the person suspected of sexual harassment and sexual intimidation;
- will draw the victim's attention to the possibilities to get professional assistance;
- will inform the prison board about the complaint and the investigation, provided the victim concurs.”

The code of conduct will be translated into Papiamentu, Spanish, English and Dutch and will be made available to both inmates and staff alike.

The Mission of the Kingdom of the Netherlands avails itself of this opportunity to renew to the Office of the High Commissioner for Human Rights the assurances of its highest consideration.

Geneva, 10 June 2008



Office of the High Commissioner for Human Rights
Palais des Nations
Avenue de la Paix, 8-14
CH-1211 Geneva 10

Report of the Netherlands Antilles' authorities on measures taken to separate juvenile offenders under 18 years from adult offenders

In general, policy is geared towards keeping the detention of minors to a minimum. Whenever possible, given the offence and the specific individual offender, alternatives to imprisonment such as community service are imposed instead.

Curaçao

Curaçao possesses a Remand Centre / Prison with a total of 565 places. Detainees of 16 to 17 years of age who have been tried under adult criminal law are kept separate from adult detainees as much as possible by placing them in the FOBA (Forensic Observation and Guidance Unit), which has separate cells. However, it is not possible to prevent all contact between juveniles and adults. Young offenders who have been tried under juvenile criminal law (12-17 year-olds) are generally kept in the Government Youth Offenders' Institution (GOG) under an indefinite detention order.

Since 2002/2003, Brasami (a semi-open drug rehabilitation centre) has had a youth wing with ten rooms/beds for young addicts. In the absence of a closed mandatory treatment centre / juvenile prison for young offenders, ten minors convicted of robbery have been transferred to Brasami for drug rehabilitation since 2003 under indefinite detention orders.

In 2004, for the first time, there were two cases of very young offenders (13 and 14 years of age) found guilty of homicide. After consultation with the Ministry of Justice in the Netherlands, the Public Prosecution Service sought and obtained from the court indefinite detention orders for both minors, these orders to be implemented in closed juvenile institutions for mandatory treatment in the Netherlands.

Bonaire

The former remand centre, which possessed the status of police cell complex for several years, regained the status of remand centre on 1 August 2005 after a long process of renovation. Bonaire therefore now possesses a remand centre with a total of 48 places.

The aim is to keep the time minors are kept in preventive custody to a minimum. In the vast majority of criminal cases involving minors, pre-trial detention is suspended at the earliest possible stage and the minor is given an opportunity to do community service or follow a course through the mediation of the Guardianship Council. Delinquent minors tried under juvenile criminal law are generally kept in the Government Youth Offenders' Institution (GOG) on Curaçao or in the juvenile wing of the semi-open drug rehabilitation centre Brasami on Curaçao.

Sint Maarten

Sint Maarten has its own custodial institution with a total of 150 places. The capacity of this institution is wholly inadequate. The men's wing is always full, though the women's wing is generally not. The aim is to keep minors separate from adult detainees as much as possible. In the men's wing this aim is to a large extent fulfilled, but lack of capacity means it cannot be achieved at all times. In the women's wing, the present building does not allow for any separation between minors and adults: it consists of a number of cells in a single central space where all activities take place. Plans are in progress for a large-scale expansion of detention capacity. It appears that these plans will allow for full differentiation between diverse categories of detainees.

Sint Eustatius and Saba

Sint Eustatius and Saba currently possess only police cells. The aim is to ensure that minors are separated from adult offenders when placing them in detention. Given the small number of detainees, this aim is almost always fulfilled. Here too plans are in progress to expand the cell capacity at police stations, the aim being to include some cells that are suitable for long-term detention.

When a minor is sentenced to a long term of imprisonment, the possibility of transfer to the Netherlands exists, for admission to a special juvenile institution. However, this is a makeshift solution used only in exceptional situations. In view of the upward trend in juvenile crime, the preference of the Public Prosecution Service would be to set up a closed institution for the mandatory treatment of juvenile offenders.

No suitable correctional institution exists for young offenders of 12 to 17 years of age who have been tried under juvenile criminal law, however. The Public Prosecution Service has recently taken steps to recruit a technical assistance expert to draw up a project proposal for this juvenile correctional institution. An expert from the Ministry of Justice in the Netherlands will start on this project proposal in 2007. Meanwhile, at the request of the Public Prosecution Service, the Research and Documentation Centre (WODC) of the Dutch Ministry of Justice is calculating the capacity that will be needed.

Plans to build a youth custodial institution have also been incorporated into the Netherlands Antilles Public Safety Plan. This five-track plan was devised by the Netherlands and covers prevention, self-reliance, detection and punishment, rehabilitation and long-term management. One of the measures listed in this plan is the creation and expansion of detention capacity for young offenders. A plan of action to implement this measure was scheduled for presentation on 1 April 2006. The Public Safety Plan also states that the closed wing of the Government Youth Offenders' Institution (GOG) can be expected to house 40 young offenders.

A working group made up of persons drawn from various relevant services is currently studying plans to create a closed juvenile prison. In 2004 an inquiry into whether the existing statutory framework would allow the closed wing of the GOG to be used as a temporary juvenile prison concluded that no statutory framework exists for long-term detention in the GOG. This means that the legislation would have to be amended before the closed wing of the GOG could be used as a facility for juvenile detention. The advent of the new Criminal Code provides for some of the necessary changes in the law, but these will need to be further elaborated by National Decree and/or National Ordinance.