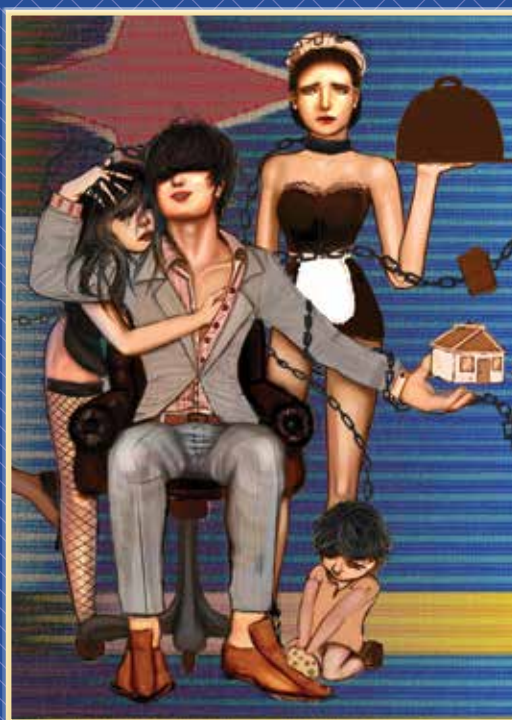


A Situational Analysis of Aruba's Response to Human Trafficking



International Organization for Migration (IOM)
Organisation internationale pour les migrations (OIM)
Organización Internacional para las Migraciones (OIM)

Taskforce
Anti Human Trafficking
& Smuggling
Aruba



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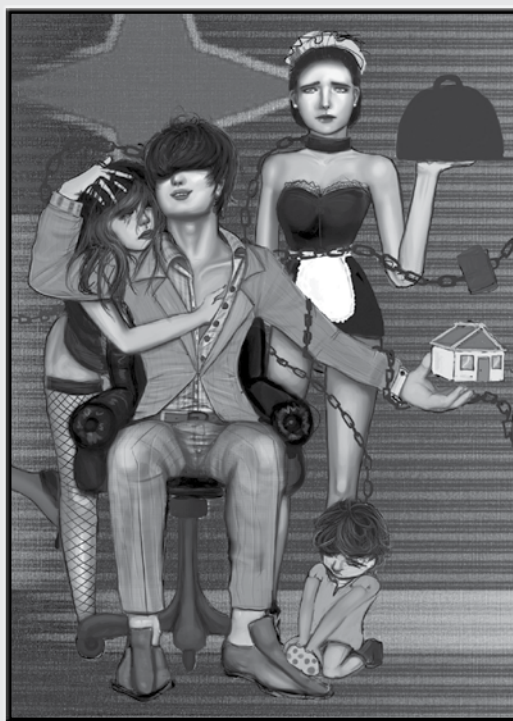
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Page 2 artwork: Chando Held, awarded second place in Aruba's Youth Artwork Competition 2012 (Artwork title: *Price*).

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A Situational Analysis of Aruba's Response to Human Trafficking



Research conducted on behalf of IOM
by Letizia Maduro



International Organization for Migration (IOM)
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Aruba



WHY THE FIGHT AGAINST HUMAN TRAFFICKING MATTERS

Maybe you ask yourself why the fight against human trafficking matters.

Why, when people generally are not aware what human trafficking is or do not know who is at risk to become a victim of human trafficking?

Why, when people are not always willing to report suspicious circumstances or instances of possible human trafficking that they encounter?

Why, when victims do not want to make a statement so that the authorities can start an investigation against the suspected trafficker?

Why, when proving human trafficking is difficult and the system can only convict the trafficker to a limited time in prison?

Why, when a victim is left with a lifetime of trauma and might not be able to get their life back on track?

Why, when it is a worldwide problem and a small island like Aruba has limited resources?

I'll tell you why the fight against human trafficking matters.

It matters because human trafficking is a direct violation of a basic human right – the right to freedom.

It matters because anybody can fall victim to a trafficker and end up in a situation of slavery.

It matters because today it might seem far away, but tomorrow it can be your child, your sister, your brother or your cousin that is exploited by a trafficker.

It matters because we need to give the enslaved a voice, so that their stories can be heard and we can learn from them.

It matters because this fight can result in one more victim saved, one more trafficker convicted and one more child protected.

The fight against human trafficking can never stop, even when the odds seem against us and there are little positive results.

The fight against human trafficking can never stop, even when it makes us unpopular because we don't want to admit that it can happen here.

The fight against human trafficking matters!

Opening statement during the Aruba National Day against Human Trafficking on 18 October 2012 by Jeannette Richardson-Baars, Aruba's Anti-Human Trafficking and Smuggling National Coordinator.





Artwork (title: "Price") by Chando Held (16 years old).

Artist's description of the artwork:

"The (mis)use of people with no reason. This is a shame for human beings."

Dedication

This Situational Analysis is dedicated to our friend and colleague Caroline Van Tuyn, LL.M, who passed away in 2012 after a long struggle with cancer. She was the first person to raise awareness on human trafficking in Aruba, at a time when hardly anybody had heard of it. She presided over the Interdisciplinary Working Group on Human Trafficking in 2006–2007 and was a valued member of the Aruba Anti-Human Trafficking and Smuggling Taskforce from 2007 to 2012. From the beginning she was convinced that Aruba needed to undertake research so that relevant information would be available and the corresponding action would be coordinated and effective. We are convinced that she would have loved to see this Situational Analysis conducted and published.

FOREWORD BY THE ARUBA ANTI-HUMAN TRAFFICKING AND SMUGGLING TASKFORCE

Those who deny freedom to others, deserve it not for themselves, and, under a just God, can not long retain it. – Abraham Lincoln

The Aruba Anti-Human Trafficking and Smuggling Taskforce was formed in 2007 as an interdepartmental and interdisciplinary committee to fight human trafficking and migrant smuggling. The following Aruban Government agencies are represented in the Taskforce: the Aruba Police Force (Chair), the National Security Service, the Public Prosecutor's Office, the Department of Foreign Affairs, the Department of Social Affairs, the Victim Assistance Bureau, the Department of Labour and Research, the Directorate of Alien Integration, Policy and Admission, the Dutch Caribbean Coast Guard, Aruban Border Control and Immigration Services, and the Department of Contagious Diseases.

Since the National Plan of Action against Human Trafficking 2008–2010 (hereafter the "Plan of Action") was presented in 2008, the Taskforce has completed several initiatives for the education and training of government officials, guidance and support to possible victims, the establishment of a telephone helpline and availability of emergency shelter. In addition, the Taskforce also advocated for changes to relevant laws and regulations. The awareness campaign entitled "Open Your Eyes" was announced in April 2011. Campaign posters and flyers were put up in October 2011, on the National Day against Human Trafficking. The posters and flyers are available in Dutch, English, Papiamentu and Spanish. The campaign is designed to inform the general public about human trafficking, with particular focus on its "invisibility." It also shows the public how to recognize the signs of human trafficking and promotes a telephone number for help on the matter.

In June 2012, Aruba's Anti-Human Trafficking and Smuggling National Coordinator received the Trafficking in Persons (TIP) Award from US Secretary of State Hillary Clinton in recognition of an extraordinary commitment to uncovering human trafficking cases, raising public awareness with a limited budget and finding alternative methods to provide protection services to victims of trafficking. This important recognition of the Taskforce's work during the previous five years made it clear that even small island nations like Aruba, with its limited financial and human resources, can make a difference in the fight against human trafficking. While only a few cases of human trafficking are reported annually and no convictions have been



made yet, the Taskforce members are committed to working together and with other agencies to raise awareness on human trafficking, prosecute traffickers and bring needed assistance to victims of trafficking.

The Taskforce is convinced that the conclusions and recommendations of this Situational Analysis will help various stakeholders take the necessary steps against human trafficking in the coming years. The Taskforce would like to thank IOM for its willingness to assist Aruba and for its support in making this research possible. Our heartfelt thanks also go to the researcher, Ms Letizia Maduro, for the outstanding work she has done in the past months. We would not have been able to do this without you. *Masha danki!*

FOREWORD BY THE INTERNATIONAL ORGANIZATION FOR MIGRATION



The International Organization for Migration (IOM) fights against the exploitation of migrants in all its forms, especially the severe human rights violations suffered by trafficked persons. Building on our commitment and global presence, IOM works to strengthen the capacity of our partners in government and civil society and set operational standards to achieve sustainable results that will provide protection and empower trafficked women, men, girls and boys; raise awareness and understanding of the issue of human trafficking; and bring justice to trafficked persons.

Over the years, the partnership between the Government of Aruba and IOM has steadily grown closer and more effective in fighting human trafficking. Despite our progress, however, we know that there are more victims to be identified and assisted, and more traffickers to be prosecuted in Aruba. We are strong in our conviction that the fight against human trafficking matters!

In 2011, the IOM partnership with Aruba advanced another big step, as part of the Organization's regional capacity-building project to combat human trafficking in Antigua and Barbuda, Aruba, Jamaica, St Vincent and the Grenadines, and Trinidad and Tobago, with funding from the US Department of State.

IOM and its Aruban partners recognize the need to better understand the island's strengths and weaknesses in its response to human trafficking. This recognition, in turn, serves as the basis for the publication of this Situational Analysis as a discussion and action guide for government and civil society stakeholders to improve Aruba's response to the crime.

As one way to enhance the response to human trafficking, we are pleased to showcase artwork that youth in Aruba created for a 2012 competition. Denzel R. Ellis (16 years old) won first place for *A Cold, Cruel World*, which depicts the artist's perception of human trafficking in Aruba by showing the countries from which victims are trafficked, how victims are controlled and exploited by traffickers in Aruba, and to where victims are transported after Aruba. Chando Held (16 years old) was awarded second place for *Price*, which the artist describes as "the (mis)use of people...this is a shame for human beings."



With the publication of this Situational Analysis, IOM and its Aruban partners look forward to ensuing discussion and achieving next steps, such as an island-wide information campaign and the activities for Aruba's annual National Day against Human Trafficking (18 October), and addressing the gaps highlighted by this research. Finally, we look forward to identifying and assisting more victims of trafficking and prosecuting traffickers.

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This Situational Analysis was prepared on behalf of IOM and in close cooperation with the Government of Aruba, in particular the Ministry of Justice and Education and the Aruba Anti-Human Trafficking and Smuggling Taskforce. It was made possible through generous support from the US Department of State's Office to Monitor and Combat Trafficking in Persons.

We would like to express our sincere appreciation of the work done by our research consultant, Letizia Maduro, who diligently examined Aruba's laws and policies, interviewed key stakeholders in multiple countries to ascertain current procedures and practices, and compiled all of the analysis and recommendations into one language.

We would also like to thank all persons, departments and organizations that provided information, gave assistance or contributed to this report in any way. Particular recognition is due to those persons who agreed to be interviewed and took the time to provide valuable information. Interviewees included representatives from the the Aruba Police Force (KPA), Department of Labour and Research (DAO), the Department of Contagious Diseases (DBZ), the Department of Social Services (DSZ), the Department of Alien Integration, Policy and Admission (DIMAS), and the Victim Assistance Bureau (BSH).

Representatives from the Chamber of Commerce and Industry (KVK), Aruban Border Control and Immigration Services (IASA), the Youth and Vices Squad (JZP), the Organized Crime Unit (UGC), the Department of Foreign Affairs (DBB), the Public Prosecutor's Office (OM), and Aruba's Anti-Human Trafficking and Smuggling National Coordinator deserve thanks for providing significant insight into Aruba's context.

Particular mention is made for members of the Sanibars Committee and representatives from the immigrant communities for sharing their experiences and feedback.

The information provided through email by the Dutch NGO CoMensha, the Bureau of the National Rapporteur on Human Trafficking (BRNM), and stakeholders in the Netherlands, Suriname and Sint Maarten was received with appreciation. Also, we would like to express our gratitude to Quito Maduro for sharing his knowledge of Aruba's legal context.


1 The acronyms for Aruban Government agencies which appear here are based on the original and more commonly used Dutch or Papiamentu names. A list of these names and their equivalents in English is available in the "List of Acronyms and Abbreviations."

Special credit goes to Taskforce members and representatives from the Department of Alien Integration, Policy and Admission who reviewed this report and provided comments that helped to clarify and ensure accuracy.

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LIST OF ACRONYMS AND ABBREVIATIONS

Acronyms for terms and names in English:

AWG	International code for the official currency of Aruba, the Aruban florin
CEDAW	Convention on the Elimination of all Forms of Discrimination against Women
ECHR	European Convention on Human Rights
ILO	International Labour Organization
IOM	International Organization for Migration
MOU	Memorandum of Understanding
NGO	Non-governmental Organization
TIP	Trafficking in Persons
UN	United Nations
UN Protocol	United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children
UNTOC	United Nations Convention against Transnational Organized Crime
VOT	Victim of Trafficking



Acronyms derived from Dutch or Aruban Papiamento names, with unofficial English translations:

Acronyms based on the name in Dutch or Papiamento	Name in Dutch or Papiamento	Unofficial translation into English
AZV	Algemene Ziektekosten Verzekering	General Health Insurance
BCMh	Beoordelingscommissie Mensenhandel	Review Committee on Human Trafficking
BNRM	Bureau Nationaal Rapporteur Mensenhandel	Bureau of the National Rapporteur on Human Trafficking
BSH	Bureau Slachtofferhulp	Victim Assistance Bureau
BWA	Burgerlijk Wetboek Aruba	Aruba Civil Code
CBA	Criminaliteitsbeeldanalyse	Analysis of Crime and Criminal Activity
CBS	Centraal Bureau voor de Statistiek	Central Bureau of Statistics
DAO	Directie Arbeid en Onderzoek	Department of Labour and Research
DBB	Directie Buitenlandse Betrekkingen	Department of Foreign Affairs
DBZ	Dienst Besmettelijke Ziekten	Department of Contagious Diseases
DIMAS	Departamento di Integracion, Maneho y Admision di Stranhero	Department of Alien Policy, Admission and Integration
DVG	Directie Volksgezondheid	Department of Public Health
DWJZ	Directie Wetgeving en Juridische Zaken	Department of Legislation and Legal Affairs
GVO	Gerechtelijk Vooronderzoek	Judicial Preliminary Investigation
IASA	Instituto Alarma y Seguridad Aruba	Aruban Border Control and Immigration Services
JZP	Jeugd en Zeden Politie	Youth and Vices Squad
KPA	Korps Politie Aruba	Aruba Police Force
KRB	Kosteloze Rechtskundige Bijstand	Free Legal Aid Bureau
KVK	Kamer van Koophandel en Nijverheid Aruba	Aruba Chamber of Commerce and Industry
KWCARIB	Kustwacht voor het Koninkrijk der Nederlanden in het Caribisch gebied	Dutch Caribbean Coast Guard
LBZ	Landsverordening Besmettelijke Ziekten	Contagious Diseases Law
LCMM	Landelijk Coördinator Mensenhandel en Mensensmokkel	Anti-Human Trafficking and Smuggling National Coordinator

Acronyms based on the name in Dutch or Papiamentu	Name in Dutch or Papiamentu	Unofficial translation into English
OM	Openbaar Ministerie	Public Prosecutor's Office
PG	Procureur-Generaal	Attorney General
SIAD	Servicio di Impuesto y Aduana Aruba	Aruba Tax Office
Sr	Wetboek van Strafrecht	Dutch Criminal Code
SrA	Wetboek van Strafrecht Aruba	Aruba Criminal Code
SvA	Wetboek van Strafvordering Aruba	Aruba Code of Criminal Procedures
TGO	Team Grootchalig Onderzoek	Large-scale Investigation Team
TMMA	Taskforce Mensenhandel en Mensensmokkel Aruba	Aruba Anti-Human Trafficking and Smuggling Taskforce
VDA	Veiligheidsdienst Aruba	Aruba National Security Service
VTA	Voorlopige Toelating tot Aruba	Provisional admission to Aruba (In-flight letter)
UGC	Unit Georganiseerde Criminaliteit	Organized Crime Unit
RST	Recherche Samenwerkingsteam	Joint Investigations Team



TERMINOLOGY

For the purpose of this Situational Analysis²:

Aruba

Aruba is a constituent country within the Kingdom of the Netherlands. Aruba is not a country in the strict definition of the word, but for the purpose of this Situational Analysis it will be referred to as such, for example, as a “destination,” “transit” or “source country.”

Immigration

A process by which non-nationals move into a country for the purpose of settlement (IOM, 2004).

Institutional response

A structured response, not only limited to governmental response but any institution or organization that is organized and structured.

Irregular migration

Movement that takes place outside the regulatory norms of sending, transit and receiving countries. There is no clear or universally accepted definition of irregular migration. From the perspective of destination countries it involves illegal entry, stay or work, which means that the migrant does not have the necessary authorization, documents or immigration regulations to enter, reside or work in a given country. From the perspective of the sending country, the irregularity is in the fact that, for example, a person crosses an international boundary without a valid passport, visa and/or some other travel document, or does not fulfil the administrative requirements for leaving (IOM, 2004).

Law

A set of generally binding regulations. In Aruba, a law is enacted jointly by the government and parliament.

Policy

General principles by which a government is guided (IOM, 2004). In Aruba, a policy must be formally authorized by the ministry under which it falls and must be in conformity with the law.

² Sources used for these definitions can be found in the Bibliography, under Terminology.

Practice

To do or perform habitually or customarily; what task or action is done in reality.

Procedure

A set of established instructions for conducting action and performing tasks. In Aruba, government procedures must be formally authorized by the minister under which it falls and must be in conformity with the law and policy.

Prostitution

The practice or occupation of engaging in sexual activity with someone in exchange for payment. There is much debate about the choice of terminology when speaking of “prostitution” as opposed to “commercial sex work,” with the choice of terminology often reflecting the ideological position of the speaker. In this Situational Analysis, we speak of “prostitution” and “prostitutes.” However, the choice of wording does not imply any ideological stance on the part of IOM, nor should the use of the words “prostitute” and “prostitution” imply any negative judgment of persons engaged in such activity (IOM, 2007).

Sponsor

Also known as a “guarantor” and, particularly in Aruba, it is known as *garansteller* (a Dutch word). For the purpose of this report, a sponsor is a person who assumes responsibility for another person who is migrating to Aruba.

Stakeholder

Persons with interest or concern in a specific subject. For the purpose of this Situational Analysis, the term is used to refer to persons with interest or concern in efforts against human trafficking.

Victim

The term “victim” has generated much debate in the context of violence against women; many argue that it implies powerlessness, rather than the resilience of the victim and therefore prefer to use the term “survivor.” However, in the area of human rights and protection, the term “victim” is used to refer to someone experiencing injustice for which the perpetrator is responsible. It indicates that the person or persons experiencing human rights violations have the right to protection, assistance and reparation (Billings et al., 2005) (as cited in IOM, 2007). In this Situational Analysis – which focuses on human trafficking as a crime, protection and assistance – we use the term “victim” with the above clarification to highlight his or her rights to protection, as well as the responsibilities of government and civil society to afford this protection.



EXECUTIVE SUMMARY

Human trafficking is a complex crime wherein the exploitation of human beings is central. Around the world efforts are being made to counter human trafficking. Such a complex crime requires an integrative approach that brings together various disciplines and perspectives. Countries around the world, including Aruba, have recognized the need for such a multidisciplinary approach. Also important is international cooperation, as human trafficking can involve the crossing of international borders. Through treaties such as the UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, the international community urges countries to focus on three elements when fighting human trafficking: 1) the prevention of human trafficking, 2) the protection of victims of trafficking and 3) the prosecution of traffickers. This paper analyses Aruba's response to human trafficking, focusing specifically on the three aforementioned elements and determining to what extent it is structured by identifying the strengths and weaknesses in Aruba's laws, policies, procedures, practices and partnerships.

As this Situational Analysis helps to note, clearly Aruba has invested much energy and resources in the fight against human trafficking since the introduction in 2006 of a human trafficking article in the Aruban Criminal Code. Through the formation of a Taskforce committed to fighting human trafficking and the introduction of a National Coordinator to supervise and coordinate efforts, Aruba has achieved a great deal towards these ends. Aruba has organized awareness campaigns as part of its prevention efforts, has assisted victims of trafficking and is committed to prosecuting traffickers, albeit no convictions have yet been made (as of December 2012). Through cooperation with other countries within the Kingdom of the Netherlands, the Aruban Government has been able to protect victims of trafficking. This cooperation has also assisted Aruba in setting goals and monitoring efforts against human trafficking.

Despite many of the great efforts that this Situational Analysis highlights, there are specific areas that Aruba needs to improve, such as increased visibility on domestic workers by government departments, more contact with and information for newly arrived immigrants, and written policy regarding prostitution in all its forms. The Government of Aruba, in addition, should consider formalizing cooperation with non-governmental organizations (NGOs) in charge of sheltering victims. Moreover, it is necessary for government departments and agencies, NGOs and other groups to receive training on identifying victims of human trafficking. Aruba should continue its efforts to fight human trafficking and strive for a more structured response. It is therefore recommended that the position of the Anti-Human Trafficking and Smuggling National Coordinator be a full-time one and a budget allocated for efforts against human trafficking. These are just some of the major recommendations in this Situational Analysis.

I. INTRODUCTION



Trafficking in persons (or “human trafficking”) is often described as a modern-day form of slavery. Human trafficking occurs around the world, can have various forms and can affect a broad range of people. One main feature of human trafficking is the exploitation of individuals for financial gain or other benefits (Alvarez and Alessi, 2012). Men, women and children can be forced, coerced or defrauded into forms of exploitation. Traffickers frequently use existing migration flows to transport victims to specific destinations. The crossing of borders is not a hallmark characteristic of human trafficking, as it occurs within individual countries as well, although immigrants form an especially vulnerable group (IOM, 2003; IOM, 2010).

Numerous countries and regions are conducting research and making efforts to combat human trafficking, with most studies coming from Asia and Europe (IOM, 2005). In the Caribbean region, governments have been working together, as well as with other organizations, to better understand and respond to the problem of human trafficking (IOM, 2010). An assessment by the International Organization for Migration (IOM) compared countries in the Caribbean in 2005 and 2010 in terms of their efforts to respond to human trafficking. By 2010 many Caribbean countries had ratified the UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children. Many countries had also enacted national laws against trafficking in persons and established national plans of action (IOM, 2010).

Aruba is one of the Caribbean countries that has made progress in its response to human trafficking; however, no empirical research has thus far been conducted on the subject. Stakeholders in Aruba have difficulties advocating change and improving victim identification and assistance, due to the lack of substantive information about the human trafficking context, which in turn constricts policy- and decision-making. Corresponding to the need for empirical research, the Aruba Anti-Human Trafficking and Smuggling Taskforce (TMMA, in Dutch: *Taskforce Mensenhandel en Mensensmokkel Aruba*, hereafter referred to as the “Taskforce”), together with IOM, decided to conduct a situational analysis in 2012. The objectives were to investigate the institutional response to human trafficking in Aruba and identify the structures and mechanisms that either assist or hinder the efforts to combat human trafficking. In this Situational Analysis, both the strengths and weaknesses of Aruba’s current response to human trafficking are analysed, with special focus given to prevention, protection and prosecution.

This introductory chapter briefly discusses two definitions of human trafficking that are used throughout this Situational Analysis: 1) the United Nations definition, as stated in the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children; and 2) the definition in the Aruban Criminal Code (SrA, in Dutch: *Wetboek van Strafrecht Aruba*). Subsequently an overview is given of the response to human trafficking, particularly in the Caribbean region. Chapter 2 then presents the methodology of the Situational Analysis and includes a literature and media review of human trafficking in Aruba. Chapter 3 gives an overview of human trafficking in Aruba. Chapter 4 presents the actual situational analysis, that is,

the point-by-point examination of Aruba’s institutional response to human trafficking. This is followed by a discussion of the bilateral and multilateral cooperation against human trafficking in Aruba in Chapter 5. Chapter 6 rounds up the Situational Analysis with a conclusion that summarizes key points and suggests other topics for research.

Background Information on Aruba

Aruba is a constituent country within the Kingdom of the Netherlands. The Kingdom consists of four countries: the Netherlands, Aruba, Curaçao and Sint Maarten. It is one of the islands in the Lesser Antilles and lies in the southern part of the Caribbean Sea, about 27 kilometres off the coast of Venezuela (see Figure 1). The island of Aruba is about 33 kilometres long and has a total area of about 180 square kilometres.

Figure 1: Map – Location of Aruba in the Caribbean



Source: Aruba-TravelGuide.com, 2013

All citizens within the Kingdom of the Netherlands have the same nationality; consequently, Aruban citizens have Dutch nationality. Aruba has two official languages, Dutch and Papiamentu, the latter being the predominant one. Papiamentu is a creole language incorporating words from Spanish, Dutch, English, Portuguese and West African languages. In Aruba most persons speak English and Spanish as well.

The 2010 census conducted by the Central Bureau of Statistics (CBS, in Dutch: *Centraal Bureau voor de Statistiek*) put the total population of Aruba at 101,484 persons. Aruba’s multicultural population consists mostly of mixed-descent people, with many immigrants and temporary labour workers from different countries. More than 30% of the population in 2010 was said to be immigrants who were born outside of Aruba (see Table 1). Of the population’s foreign-born immigrants, most had been living in Aruba for more than 10 years (see Table 2). Persons from Colombia form the biggest immigrant group in Aruba, with 9,279 living in the country. They are followed by immigrants from the Netherlands (4,358) and the Dominican Republic (4,113). There are also considerable numbers of immigrants from Venezuela, Curaçao, Haiti, Suriname, Peru and China. There possibly are irregular immigrants among these numbers, since no questions were asked regarding immigration status when the census was taken (CBS, 2010).

Table 1: Aruban Population by Place of Birth

Place of birth	Aruba	Foreign country	Unknown
Number of persons	66,973	34,432	80

Source: Adapted from the 2010 Aruba Census, Table P-C.2

Table 2: Foreign-born Population by Length of Residence in Aruba

Years residing in Aruba	< 1	1–4	5–9	10 >
Number of persons	1,025	4,210	5,082	23,069

Source: Adapted from the 2010 Aruba Census, Table P-C.4

1.1 The Definition of Trafficking in Persons

Many countries and organizations recognize and use the definition of trafficking in persons that is stated in the UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children (hereafter referred to as the “UN Protocol”), which entered into force in 2003. The UN Protocol is a supplementary protocol to the United Nations Convention against Transnational Organized Crime (UNTOC). As of June 2012, 117 countries had signed the UN Protocol and 151 countries were party to it. After Aruba adapted its law against human trafficking in 2006, the Kingdom of the Netherlands informed the Secretary-General of the United Nations that the UNTOC would apply to Aruba as well. The UNTOC and its protocols formally came into effect for Aruba on 18 January 2007 (UN, 2013).

Article 3 of the UN Protocol’s definition of human trafficking states as follows:

For the purposes of this Protocol:

(a) “Trafficking in persons” shall mean the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs;

(b) The consent of a victim of trafficking in persons to the intended exploitation set forth in subparagraph (a) of this article shall be irrelevant where any of the means set forth in subparagraph (a) have been used;

(c) The recruitment, transportation, transfer, harbouring or receipt of a child for the purpose of exploitation shall be considered “trafficking in persons” even if this does not involve any of the means set forth in subparagraph (a) of this article;

(d) “Child” shall mean any person under eighteen years of age.

According to the UN Protocol’s definition, three interdependent elements must be cumulatively present to constitute a trafficking offence for adults, which shall be referred to as: 1) activity, 2) means and 3) purpose (that is, exploitation). When children are involved, the element of “Means” is not necessary to meet the definition of human trafficking. Charts 1 and 2 give an overview of the elements of trafficking of adults and of children, respectively.

Chart 1: Human Trafficking (Adults)

Activity	Means	Purpose (Exploitation)
Recruitment	Threat or use of force or other forms of coercion	Prostitution of others or other forms of sexual exploitation
Transportation	Abduction	Forced labour or services
Transfer	Fraud	Slavery or practices similar to slavery
Harbouring	Deception	Servitude
Receipt	Abuse of power or of position of vulnerability	Organ removal
	Giving or receiving of payments or benefits	

+ + = **TRAFFICKING OF ADULTS**

Source: IOM, 2010

At the minimum, there must be at least one element from each column (Activity, Means and Purpose) to constitute a case of adult trafficking. Many cases of adult trafficking have several elements of “Activity” (that is, recruitment, transportation, transfer and receipt) and “Means” (that is, deception, threats, force and forms of coercion).

Chart 2: Human Trafficking (Children)

Activity	Purpose (Exploitation)
Recruitment	Prostitution of others or other forms of sexual exploitation
Transportation	Forced labour or services
Transfer	Slavery or practices similar to slavery
Harbouring	Servitude
Receipt	Organ removal

+ = **TRAFFICKING OF CHILDREN**

Source: IOM, 2010

At the minimum, one element of “Activity” and “Purpose” are required to constitute child trafficking. Many cases of child trafficking also include “Means” elements, such as coercion and deception, although it is not a definitional requirement.

An anti-human trafficking article (Art. 286a SrA) was introduced to the Aruban Criminal Code in 2006 which is almost identical to the anti-human trafficking article (Art. 273f Sr) in the Dutch Criminal Code (Sr, in Dutch: *Wetboek van Strafrecht*). The following text is an unofficial translation of Article 286s of the Aruban Criminal Code.

1. Any person who:

(a) by force, violence or other act, by the threat of violence or other act, by extortion, fraud, deception or the misuse of authority arising from the actual state of affairs, by the misuse of a vulnerable position or by giving or receiving remuneration or benefits in order to obtain the consent of a person who has control over this other person recruits, transports, moves, accommodates or shelters another person, with the intention of exploiting this other person or removing his or her organs;

(b) recruits, transports, moves, accommodates or shelters a person with the intention of exploiting that other person or removing his or her organs, when that person has not yet reached the age of eighteen years;

(c) recruits, takes with him or abducts a person with the intention of inducing that person to make himself/herself available for performing sexual acts with or for a third party for remuneration in another country;

(d) forces or induces another person by the means referred to under (a) to make himself/herself available for performing work or services or making his/her organs available or takes any action in the circumstances referred to under (a) which he knows or may reasonably be expected to know will result in that other person making himself/herself available for performing labour or services or making his/her organs available;

(e) induces another person to make himself/herself available for performing sexual acts with or for a third party for remuneration or to make his/her organs available for remuneration or takes any action towards another person which he knows or may reasonably be expected to know

that this will result in that other person making himself/herself available for performing these acts or making his/her organs available for remuneration, when that other person has not yet reached the age of eighteen years;

(f) wilfully profits from the exploitation of another person;

(g) wilfully profits from the removal of organs from another person, while he knows or may reasonably be expected to know that the organs of that person have been removed under the circumstances referred to under (a);

(h) wilfully profits from the sexual acts of another person with or for a third party for remuneration or the removal of that person's organs for remuneration, when this other person has not yet reached the age of eighteen years;

(i) forces or induces another person by the means referred to under (a) to provide him with the proceeds of that person's sexual acts with or for a third party or of the removal of that person's organs;

shall be guilty of trafficking in human beings and as such liable to a term of imprisonment not exceeding six years and a AWG 100,000³ fine, or either of these penalties:

2. Exploitation comprises at least the exploitation of another person in prostitution, other forms of sexual exploitation, forced or compulsory labour or services, slavery, slavery-like practices or servitude.

3. The following offences shall be punishable with a term of imprisonment not exceeding eight years and a AWG 100,000 fine, or either of these penalties:

(a) offences as described in the first paragraph if they are committed by two or more persons acting in concert;

(b) offences as described in the first paragraph if such offences are committed in respect of a person who is under the age of sixteen.

³ AWG is the currency used in Aruba, the Aruban Guilder. AWG 100,000 equals about USD 56,180.

4. The offences as described in the first paragraph, committed by two or more persons acting in concert under the circumstance referred to in paragraph 3 under (b), shall be punishable with a term of imprisonment not exceeding ten years and a AWG 100,000 fine, or either of these penalties.

5. If one of the offences described in the first paragraph results in serious physical injury or threatens the life of another person, it shall be punishable with a term of imprisonment not exceeding twelve years and a AWG 100,000 fine, or either of these penalties.

6. If one of the offences referred to in the first paragraph results in death, it shall be punishable with a term of imprisonment not exceeding fifteen years and a AWG 100,000 fine, or either of these penalties.

7. Article 261 is applicable mutatis mutandis.

When comparing the UN Protocol's definition of human trafficking with that of the Aruban Criminal Code's, the latter can readily be seen as encompassing all the elements highlighted in the former. This means that Article 286a SrA meets standards set by the UN Protocol for both adult and child trafficking.

1.2 Overview of the Response to Trafficking in Persons

Around the world, there seems to be an increasing amount of concern about human trafficking, both on the national and the international levels. This is reflected in the rise in publications on the subject matter (IOM, 2005). Human trafficking is a complex crime which can involve multiple criminal activities and a broad range of actions and behaviours. Therefore, it requires a holistic response that can address the problem on several levels and be specific enough to be effective in local settings as well (IOM, 2010). The provisions of the UN Protocol recognize that such a holistic approach must be established by countries for them to effectively combat human trafficking.

The need for a comprehensive approach has been affirmed by the European Court of Human Rights on two separate occasions. In the human trafficking case *Rantsev v. Cyprus and Russia* (2005), the Court decided that the two defendant Member States have positive obligations under Article 4 of the European Convention on Human Rights (ECHR) with regard to human trafficking. These obligations are: the prevention of human trafficking, the protection of victims of trafficking and the prosecution of traffickers (§ 284). The Court also refers to the *Siliadin* case (2010) in which the Court stated that "the UN Protocol and the Anti-Trafficking Convention refer to the need for

a comprehensive approach to combat trafficking which includes measures to prevent trafficking and to protect victims, in addition to measures to punish traffickers” (§ 285).

Historically there has always been more focus on the trafficking of women and children for sexual exploitation than any other forms of exploitation (Alvarez and Alessi, 2012). Researchers have expressed the need for more focus on other forms of exploitation (for example, Alvarez and Alessi, 2012; IOM, 2005; and Laczko and Gramegna, 2003). Researchers also propose an approach that is not only victim-centred, but one that looks at broader social structures and problems that help promote and enable human trafficking, such as the demand for cheap labour and the role of law enforcement agencies (Alvarez and Alessi, 2012; IOM, 2003; and IOM, 2005). By conducting more interdisciplinary research using different disciplines and perspectives, change can be initiated at the micro-, mezzo- and macro- levels (Alvarez and Alessi, 2012).

The Netherlands is one country that has implemented an interdisciplinary approach to addressing human trafficking. The Dutch Government introduced the “programmatic approach,” (sometimes referred to as the “barrier model”), which combines resources from both criminal and administrative government departments to combat human trafficking. This approach involves looking at mechanisms and structures in legitimate practices and organizations that could be contributing to human trafficking, as well as the lack of mechanisms and structures resulting in the same effect (Kiemel and Ten Kate, 2007; Van Gestel and Verhoeven, 2009).

As stated in the Introduction, many Caribbean countries have been working towards a comprehensive approach to human trafficking that focuses on prevention, protection and prosecution. There is a large network of individuals in the Caribbean (representing stakeholders from different disciplines and lines of work) who are aware of the human trafficking context in the region and are moving to counteract it. Both governmental and non-governmental institutions are contributing to the effort against human trafficking by setting up and maintaining taskforces and assisting victims. Some Caribbean countries also cover expenses related to training and awareness-raising activities. Additionally, these trainings and workshops have expanded to include a larger target audience, such as parents. Nowadays, there is a much higher degree of acknowledgment in the Caribbean of the existence of human trafficking in the region and, therefore, the need to focus on the protection of victims and the prosecution of traffickers as well. At the same time, efforts are being made to improve screening methods to identify possible victims of human trafficking. Institutions that proactively work to counter human trafficking are cooperating with partners in other countries to more effectively combat the crime (IOM, 2010).

2. METHODOLOGY AND REVIEWS

2

This chapter contains four subchapters. The first and second subchapters specify the details of the research itself, including its methodology and limitations. The latter two subchapters describe findings from the literature and media sources on the subject of human trafficking in Aruba.

2.1 Research Methodology

As stated in the Introduction, one of the objectives of this Situational Analysis is to analyse Aruba's institutional response to human trafficking. This report aims to highlight the progress already made in the fight against human trafficking and determine how structured Aruba's response is. Moreover, this report endeavours to identify gaps that possibly hinder the goal of combating human trafficking and provide recommendations to improve Aruba's response. Therefore, it is important to recognize available tools and means for responding to human trafficking and identify which are still lacking. To analyse the response, this report looks at existing efforts in prevention, protection and prosecution, with focus on the laws, policies, procedures and practice behind such efforts. The second objective of this report is to present government structures already in place that either work towards or against the ultimate goal of combating human trafficking. Even though specific cases of human trafficking in Aruba are mentioned, the focus of this report is not on human trafficking trends in Aruba.

The Situational Analysis was conducted between August and December 2012, making it a cross-sectional study of a qualitative nature. Different research methods were used to achieve the aforementioned objectives. Initially, a general literature review was carried out which focused on basic information on (combating) human trafficking, both internationally and, more specifically, in the Caribbean region. For information on what has been written about human trafficking in Aruba in particular, a literature and media review was conducted following a more specific framework. The literature review includes journal articles and publications by international organizations, while the media review includes information from newspaper articles, online news sources, blogs and forums. All newspaper and online news sources used are dated within the period 2009–2012; blogs and forums are dated within the period 2001–2009.

Stakeholders, among which are various government agencies, non-governmental organizations (NGOs) and other relevant persons and groups, served as important informational sources for this Situational Analysis. To assess the involvement of these key stakeholders in regard to prevention, protection and/or prosecution, a range of documents were examined. These documents included laws,⁴ policies and the Plan of Action of the Aruba Anti-Human Trafficking and Smuggling Taskforce. More

4 Most of the laws studied are published on the website of the Aruban Government (www.overheid.aw).

specifically, a recent Master Thesis of Law was used to better understand possible human trafficking in prostitution in Aruba (Eman, 2012). No information from this thesis was used without appropriate verification, either through official documents or through the interviews conducted. After studying these documents, stakeholders were chosen and interviews were set up.⁵ The interviews were semi-structured, with a list of questions on specific topics to guide the interview, yet with plenty of room for receiving insights from the interviewees. Also, the questions were customized to the interviewees' departmental or organizational context.

Through one of the government departments, contact was established with a bar owner who eventually helped arrange an interview with two other bar owners. All three owners have their bars in San Nicolas and are part of Sanibars, a committee of bar owners whose bars have prostitutes with residence-employment permits.⁶ Almost every bar in San Nicolas that has prostitution according to government regulations is represented by this committee, which serves as a contact point and "spokesperson" for the bar owners collectively. The committee has a lawyer who represents the bar owners and helps them address any legal matter that arises. Aruba's prostitution context is elaborated further in Subchapter 3.1.2.

Phone calls were made to different government departments and other institutions to gather and verify information and to follow up on certain matters. There was also email contact with different NGOs and institutions both in the Netherlands and within the Caribbean region. Taskforce meetings were also visited, both to observe and participate in. There were also multiple email exchanges and meetings with the Aruba Anti-Human Trafficking and Smuggling National Coordinator (LCMM, in Dutch: *Landelijk Coördinator Mensenhandel en Mensensmokkel*, hereafter referred to as the "National Coordinator"), from whom a great amount of information was gathered.

The research methodology also included observing some locations that have prostitution, as a data-gathering tool. The researcher observed locations that were easily accessible to the general public, such as the streets (particularly, street corners) where prostitution is said to occur, in bars where women have residence-employment permits and are prostitutes, and in the back alleys of these bars at daytime.

2.2 Research Limitations

Human trafficking is a particularly challenging research topic because the population that is the subject of the study remains largely hidden, making it nearly impossible to draw a representative sample (IOM, 2005; and Laczko and Gramegna, 2003). Collecting accurate data from victims is especially difficult due to circumstances and situations

⁵ See Annex A for a full interview list.

⁶ Officially, the residence-employment permit is for *animeerdama*, a Dutch word which literally translates in English to "adult entertainer." This special permit is explained in Subchapter 4.1.2 of this report.

that may involve violence, coercion, trauma and stigmatization. Institutional policies and proceedings can also discourage victims from implicating their traffickers and pursue their legal options because, for example, the judicial proceedings can make the victim feel “re-victimized” (IOM, 2005).

A significant research obstacle is that policies related to human trafficking can be highly politicized making it difficult to access important information (IOM, 2005). In conducting this Situational Analysis, the researcher was confronted with obstacles in accessing even public information. Often, public access to case information was restricted if the Court had not yet announced a verdict. In addition, it was somewhat challenging to access government information. For example, the Aruban Government website contains information that is not always structured in a useful manner; moreover, some of the information on the website is outdated. Many government stakeholders were helpful when the researcher contacted them by phone or email. Sometimes, however, the researcher struggled to obtain information from other civil workers because the phone was not answered and the messages were not returned.

The literature review has significant limitations because this Situational Analysis is the first of its kind in Aruba. Very little information has been written on Aruba’s human trafficking context in international journals and other international publications. Even within the region, few publications cover Aruba’s human trafficking context. In addition, articles or reports that may hold information about Aruba’s human trafficking context often do not distinguish Aruba from Curaçao, Bonaire, Saba, Sint Eustatius and Sint Maarten; rather, these islands are lumped together as a Dutch Caribbean collective. Another problem with the literature was the difficulty of verifying the accuracy of published information. In some cases, the research study’s methodology was not specified, making it difficult to distinguish fact from conjecture or speculation.

Like the literature review, the review of media sources posed its own set of limitations. In Aruba, not all newspapers maintain digital archives that are accessible to the public or that feature a search function. Furthermore, even when digital archives are available, they only usually date back to 2010 or 2011, not earlier. Also, because of (on-going) renovations that started in June 2010, it has become impossible to access the National Library’s newspaper archives (original print editions); moreover, a search of that many print-edition newspapers would have been too big a task for this research endeavour.

Considering the limitations described above, this Situational Analysis should therefore be seen as a starting point for research on human trafficking in Aruba.

2.3 Literature Review

Most of the literature that specifically examines human trafficking in Aruba is published by the United States Department of State in its annual Trafficking in Persons Report (herewith referred to as the “US TIP Report”). The report describes Aruba primarily as a destination country. In at least one publication, Aruba was cited as a transit country (US DoS, 2006). To be specific, Aruba is cited as a destination country for victims from the Dominican Republic, Venezuela, Peru, Brazil, Colombia and Haiti (US DoS 2001, 2005, 2006, 2007, 2008). The 2005 US TIP Report references children trafficked to Aruba to work as underage prostitutes. The US Department of State gathers the information for the TIP reports from various Aruban Government departments and agencies, NGOs, local embassies and international organizations. For the last two years, Aruba has not been subsumed under the Kingdom of the Netherlands, as had previously been the case, but has been listed separately in the report.

The US TIP Report categorizes a country by the actions it has taken against human trafficking into one of four tiers: Tier 1 (the highest rank), Tier 2, Tier 2 Watch List and Tier 3 (the lowest rank). Both in 2011 and 2012, Aruba was categorized as a Tier 2 country. The following excerpt from the 2012 US TIP Report explains why:

The Government of Aruba does not fully comply with the minimum standards for the elimination of trafficking; however, it is making significant efforts to do so. The Government identified new labour trafficking victims, formalized a victim identification checklist for officials, and expanded extensive public awareness efforts during the reporting period. However, it has not yet successfully prosecuted a trafficking offender.

The 2012 US TIP Report recommends that Aruba “increase efforts to prosecute” traffickers and should consider “providing the anti-trafficking committee with an independent budget.”

A 2006 publication by IOM Colombia classified Aruba as a destination country for Colombian migrants, many of whom were women. Another publication that mentions Aruba in the context of human trafficking is a 2002 article by the International Human Rights Law Institute, which noted that human trafficking routes originating from the Dominican Republic reach other Caribbean countries and territories, including Aruba, as well as South America and Europe. The article, however, did not specify Aruba as a transit or destination country and merely enumerates possible human trafficking routes.

In one publication, the International Labour Organization (ILO) cited Aruba as a transit country (2005). The publication recounts the case of a Colombian woman trafficked

from Colombia to Aruba, and then to Amsterdam, with Japan as the final destination, where she was sexually exploited. Lastly, the 2005 US TIP Report cites Aruba as a transit country but does not specify whether it is a source or destination country.

Publications by CoMensha were also studied for this Situational Analysis. CoMensha is a Netherlands-based NGO which assists other organizations with information about human trafficking. It also has a coordinating and initiating role in helping victims of trafficking find shelter. In its annual reports, CoMensha cites the coordination between itself and Aruba, particularly in terms of sharing knowledge and experience in dealing with human trafficking. In 2009 the NGO provided training to Aruban Government stakeholders regarding the protection of, assistance to and registration of victims (CoMensha, 2010). Its annual reports also mention estimates of the number of possible victims found throughout the Netherlands. Many Arubans migrate to the Netherlands; in many cases, young Aruban adults go to the Netherlands to obtain higher education. Because of this migration trend, it is possible that some victims of trafficking registered in the Netherlands, and, thus, in CoMensha’s database, are of Aruban origin. CoMensha’s annual reports categorize possible victims by nationality or country of origin. In CoMensha’s reports, all possible victims who are from a country within the Kingdom of the Netherlands are recorded as having Dutch nationality.⁷ This means that victims of trafficking who were born in Aruba are not counted separately from those who were born elsewhere in the Kingdom. CoMensha clarified, however, that it takes note of every suspected victim’s country of origin, and that the “Netherlands Antilles” is used to record victims from the islands of Aruba, Curaçao, Sint Maarten, Saba, Sint Eustatius and Bonaire as a collective. Table 3 gives the number of possible victims of trafficking whose origins were recorded as the “Netherlands Antilles,” but since all six islands are lumped as one group, it is not clear exactly how many victims, if any, are Aruban. CoMensha also explained that there might more victims of trafficking whose country of origin is Aruba, or one of the other aforementioned islands, but were not registered by the organizations providing the victim’s data.

Table 3: Number of Possible Victims of Trafficking whose Country of Birth was Noted as the Netherlands Antilles (2007–2011)

Year	Number of possible victims of trafficking
2007	3
2008	4
2009	3
2010	4
2011	4

Source: Email correspondence with CoMensha.

⁷ As stated in Chapter 1 (“Introduction”), Arubans have Dutch nationality.

In the Netherlands, the Bureau of the National Rapporteur on Human Trafficking (BNRM, in Dutch: *Bureau Nationaal Rapporteur Mensenhandel*) is tasked with reporting on the nature and extent of human trafficking, as well as on the effects of the policies implemented by the Dutch Government (NRM, 2012). A 2012 BNRM publication (*Human Trafficking: Prosecution and Adjudication Rates*) revealed data on the countries of birth of human trafficking suspects and convicted offenders in the Netherlands. Table 4 shows, by year (from 2006 to 2010), the number of individuals suspected or convicted of human trafficking in the Netherlands whose country of birth is the Netherlands Antilles (which is composed of Aruba, Curaçao, Sint Maarten, Saba, Sint Eustatius and Bonaire). As in the case of the CoMensha data, it is unclear whether Arubans are involved and, if so, how many of them are.

Table 4: Number of Suspects and Offenders Convicted of Human Trafficking whose Country of Birth was Noted as the Netherlands Antilles (2006–2010)

Year	Number of suspects	Number of convicted offenders
2006	4	-
2007	12	4
2008	5	6
2009	6	3
2010	5	4

Source: Adapted from *Human Trafficking: Prosecution and Adjudication Rates* (Dutch: *Mensenhandel: Kwantitatieve gegevens over [de vervolging en berechting van] verdachten en veroordeelden in mensenhandelzaken in de periode 2006-2010*), Tables B3.21 and B3.22.

A 2009 publication by the Convention on the Elimination of all Forms of Discrimination against Women (CEDAW) notes that the 2007 Analysis of Crime and Criminal Activity (CBA, in Dutch: *Criminaliteitsbeeldanalyse*) report concluded that there were no concrete indications of human trafficking in Aruba. Yet, according to the CBA publication, the Taskforce believes that certain risk factors do exist. The publication also mentions the general ordinance against street prostitution and the law against encouraging or intentionally capacitating prostitution in Aruba. Another useful point raised in the CEDAW publication is the observed increase in the demand for live-in maids, many of whom are foreign women. No further information was provided about live-in maids in the publication.

For the purpose of this Situational Analysis, the researcher also reviewed the CBA report, which states that there is no concrete evidence to support the claim that human trafficking exists in Aruba, but there are some implications and suspicions.⁸ The CBA report speaks of irregular migration in Aruba, and how there is evidence of

⁸ Although the CBA report is unavailable to the general public, the Public Prosecutor’s Office granted this researcher permission to receive a copy for the Situational Analysis.

immigrants entering through illegal channels and of immigrants entering legally but staying without the proper residence permits. It must be noted that the CBA report was published in 2007, and presumably much has changed since then.

It becomes clear from the available literature that not much has been written about human trafficking in Aruba. The TIP Reports by the US Department of State describe human trafficking scenarios that may not match the official government records, as will become clear in Chapter 3. Allegations in neither the IOM (2006) or ILO publication can be found in Aruba's official government records, making it difficult to verify such allegations, much more follow up on it. CoMensha and the BNRM both likely have information about Aruban human traffickers and victims of trafficking in the Netherlands, yet their publications do not divulge this information. As mentioned above, the CBA report was published in 2007, just when the Taskforce was created; hence, it is possible that there were cases of human trafficking that were not reported or that were not identified and classified as such by authorities.

2.4 Media Review

In both local and international news publications, articles have been written about human trafficking in or related to Aruba, as well as Aruban Government efforts to combat the crime. This subchapter references media articles on topics relating to human trafficking, including articles about escort services.

The Aruban media has published many reports and stories about human trafficking, with Aruba described mainly as a destination country. Beginning in 2010, various Aruban newspapers and online news sources have cited one particular case of trafficking for forced labour. News agencies covered the arrest of one suspect and the raid conducted on the business involved in the case. According to the news reports, one victim made an official complaint in 2010 through international channels. More recent articles have covered the development of the Aruban Government's criminal case against the accused. The case, which was filed in 2010, is scheduled to be tried in 2013.

Another case that has been highlighted in Aruban media in recent times is a civil case in which an employee (the petitioner) is suing his employer (the respondent) for unjustified termination of the employment contract due to abuse of circumstances. These circumstances show signs that could be categorized as human trafficking. Media reports state that the petitioner, a man from India, along with other employees from India, had to work longer hours than local employees and were paid less than the minimum wage. The employer also exerted pressure on these employees' families in India if they did not follow the employer's rules. According to Indian employees working in other companies in Aruba, they have experienced similar abuses as well. Allegedly, the fear of reprisal and deportation keep these immigrant workers from reporting such practices to the authorities.

A Colombian online news source posted an article in October 2011 about a human trafficking network operating in Bogotá that has connections to Aruba, Bonaire and Curaçao. Two men and one woman from the network were arrested. According to the article, Colombian police seized money and visas for 40 persons destined for various Caribbean countries. Both the arrests and the seizure were the result of three police operations carried out in Bogotá. The network recruited women from low-income areas in Colombia and forced them into prostitution by means of violence and threats. Through Interpol, the Colombian Government requested the Aruban Government's assistance with arresting a woman in Aruba who was allegedly in charge of receiving the victims when they arrived in the country. The nationalities of the suspects were not mentioned in the article.

In various Dutch, American and Aruban news sources, Aruba is cited as a possible country of origin in at least one suspected case of human trafficking. Aruban and Dutch news sources published articles in July 2011 about several Aruban women who were allegedly trafficked into the Netherlands. According to the articles, these women were trafficked through debt bondage and were promised jobs for ten months, but were instead forced to open bank accounts, pay expensive phone bills and get mortgages in their names. The traffickers threatened the women with violence. The alleged trafficking of those women occurred on different occasions between May 2010 and January 2011. The details about the accused traffickers varied among the articles. Some mentioned that three men were arrested in the Netherlands and another one was apprehended in Aruba, while others stated that there were actually four suspects, all of whom were living in the Netherlands. According to *Amigoe*, a local newspaper, the man from Aruba was held for questioning in April of 2011, but was not placed under arrest. The article did not explain why he was questioned. In April 2011, www.24ora.com, an online news source targeting audiences in Aruba and Curaçao, published an article reporting the detention of a man in Aruba in connection to the arrests of suspected human traffickers in the Netherlands. It was unclear if the person was held for questioning or was arrested. One major difference between the www.24ora.com and other articles was that the former reported that these women were forced into prostitution in the Netherlands, while the latter did not.

Numerous Aruban newspapers and online news sources have published articles on the Aruban response to human trafficking. The articles highlight the introduction of the National Day against Human Trafficking in 2011, the hotline number that was set up to help victims, the "Open Your Eyes" awareness-raising campaign and the various seminars and conferences that took place in 2011.

In 2012, a number of articles on human trafficking in Aruba focused on the findings of that year's TIP Report by the US Department of State and the implications for Aruba. According to one article for example, it can be concluded from the 2012 US TIP Report that insufficient funding and human resources hinder Aruba's efforts against human trafficking. The media also published articles about the TIP Hero Award granted by

US Secretary of State⁹ Hillary Clinton to the National Coordinator for her efforts in the fight against human trafficking. Also in 2012, many articles were published about the awareness-raising events held during the week surrounding 18 October, Aruba's National Day against Human Trafficking.

In both local newspapers and online news sources, articles that specifically focused on sexual services can be found. In *Diario*, a local newspaper, for example, the escort business in Aruba was criticized for its hidden character. The article also referenced real websites (including the websites' addresses) where women were allegedly recruited from Latin America to come and work in the escort business in Aruba. *Diario* also published an article about the inspections that were conducted by the Department of Contagious Diseases (DBZ, in Dutch: *Dienst Besmettelijke Ziekten*) and the Aruban Police of prostitution in San Nicolas, which is government regulated. The inspections included verifying the validity of the business permits and the bar's operating hours, determining whether the prostitutes received weekly medical check-ups and assessing the conditions of the prostitutes' private rooms. The media article also reported the Department of Contagious Diseases' assurances that it will continue to conduct inspections in San Nicolas to monitor the spread of contagious diseases and the individual health conditions of the prostitutes.

Advertisements for escort businesses are run in *Aruba Today*, which is a free, local English-language newspaper that is specifically directed at tourists and widely available at hotels and restaurants. No such advertisements have been found in other Aruban newspapers. Escort businesses in Aruba can also be found online, either on the businesses' respective websites, on a business directory website or on blogs and forums¹⁰.

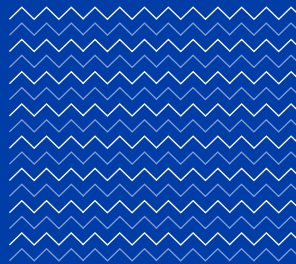
This media review makes it clear that there has been some coverage of the suspected cases of, and on other issues that may be linked to, human trafficking in Aruba. Moreover, there has been media coverage of the Aruban Government's efforts throughout 2011 and 2012, particularly those pursued by the Taskforce to raise awareness. There have even been articles on human trafficking published in Dutch, American and Colombian news sources that in some way relate to Aruba. The trustworthiness and accuracy of the news articles, however, is questionable. At times a particular source gives more, less or contradicting information when compared to other sources. The contradictions may be due to differences such as the news agencies' writing and reporting standards. It is also worth mentioning that because Aruba is a small island, the local media tends to report on anything newsworthy and can be expected to cover human trafficking stories in the future, should any arise.

9 The US Department of State is the US Government's lead agency on foreign affairs and is equivalent to a Ministry of Foreign Affairs.

10 See the Media Review subsection in the Bibliography for links to the websites used in this section.

3. ARUBA'S HUMAN TRAFFICKING CONTEXT

3



This chapter presents information on Aruba’s human trafficking context. Each subchapter elaborates on human trafficking as it involves Aruba. Both official and unofficial cases are described, as well as observations and grey areas that may be linked with human trafficking. The first subchapter enumerates known trafficking cases, whereby the forced labour or sexual exploitation occurred in Aruba; there is also a discussion of possible child trafficking in Aruba. The second and third subchapters describe the crime of human trafficking from and through Aruba. The last subchapter covers the Aruban Government’s response to the crime, highlighting activities, policies and structures currently in place. Parts of this chapter are analysed further in Chapter 4.

3.1 Trafficking in Aruba

“Trafficking in Aruba” is a term that encompasses any and all human trafficking that occurs within Aruban territory. This includes trafficking that involves recruiting a person from a foreign country and taking him or her to Aruba (by any means of transportation), where he or she is exploited. It also includes trafficking of persons already living in Aruba; in this context, the trafficked persons can be Aruban citizens, tourists or immigrants with either regular or irregular immigration status. The focus is on the exploitation occurring in Aruba, irrespective of where the trafficking started or who is involved.

Analysing the literature on human trafficking in Aruba, carrying out an Aruban media review and looking at cases of human trafficking that have been reported in Aruba, it becomes apparent that certain groups and sectors in Aruba are more vulnerable to human trafficking than others. These sectors include:

- Prostitution (with or without permits)
- Escort business
- Domestic work (live-in maids)
- Small retail shops

Two additional groups have also been identified as possibly being at greater risk of human trafficking: 1) newly arrived immigrants and 2) immigrants with irregular immigration status. The extent of the vulnerability of some of these groups and sectors is elaborated in Chapter 4.

From 2009 until the end of 2012, there have been a total of 10 official cases of alleged or confirmed human trafficking documented by the Anti-Human Trafficking and Smuggling National Coordinator. Breaking this figure down, four of the cases were reported in the 2009–2010 period, with the other six from 2011 to 2012. Of the four cases brought forward in 2009 and 2010, all were discussed by the Review Committee on Human Trafficking (hereafter referred to as the “Review Committee”).

A special law enforcement team was assigned to investigate one of these reports further. Of the cases reported in 2011 and 2012, four were discussed by the Review Committee. Three of these cases were determined to be human trafficking, and two of them were assigned to a special law enforcement team for further investigation. Subchapter 4.3 provides more information about the role of the investigative team.

3.1.1 Trafficking for Forced Labour

According to the Aruban Government records, during the period 2009–2010, a special law enforcement team investigated two possible cases of trafficking for forced labour. The first case involved the labour exploitation of one male victim which came to the knowledge of the Anti-Human Trafficking and Smuggling National Coordinator through an NGO. The official report was made by the victim, who was recruited from India and presented with a “lucrative” job offer. According to the victim, he was subjected to extremely long working hours with little or no pay, poor living conditions and limited food. Also, his passport was retained by the employer, the alleged trafficker. A preliminary investigation was started but the case was not prosecuted because the allegations could not be corroborated.

The second alleged human trafficking case investigated by the law enforcement team also involved labour exploitation. It was brought to the attention of the Review Committee but was put on hold because of the lack of evidence. Towards the end of 2010, the two alleged victims in the case filed official complaints and the case was started up again. Eventually, a total of 15 alleged victims of different nationalities made official complaints towards the same case. They made allegations of limited freedom, long working hours, little pay, sexual exploitation, assault, use of force and intimidation. This case was transferred to the “Large-scale Investigation Team (TGO, in Dutch: *Team Grootchalig Onderzoek*),” and eventually four arrests were made. The case is scheduled to be tried in 2013.

As mentioned in Subchapter 3.1, two alleged cases of human trafficking for forced labour were referred to a special investigative team in 2011. The first case was initially reported by a citizen who was concerned about the working and living conditions of a friend. The alleged victim was a female of Surinamese decent and was working as a housekeeper for a family, also of Surinamese decent. The housekeeper’s partner worked for the same family. The couple had children, who lived with them in the premises where they worked. The housekeeper reported that their employer took her and her partner’s identification documents, so they had a very limited possibility of leaving. The couple and the housekeeper’s friend went to social occasions a few times, but the employer eventually stopped these interactions. Because the housekeeper and her partner did not file official complaints, even though the National Coordinator invited them to do so, no further investigation was carried out.

Another case of alleged trafficking for forced labour involved a Chinese woman and was reported by her Aruban boyfriend. The alleged victim was brought from China to Aruba by her employer for the purpose of marrying his son. She did not like the son but stayed on to work in her employer's supermarket and restaurant. According to her boyfriend's statement, she worked long hours with little compensation, which was in direct violation of Aruba's labour laws. Food and housing was supplied by the employer, but these were not up to standards. The employer did not apply to renew the Chinese woman's residence-employment permit, yet kept her working for another year. This case was handed over to the Large-scale Investigation Team but it is on hold at the moment due to the rotation of the public prosecutor in charge of human trafficking cases in Aruba.

A Civil Case

In the media review for this Situational Analysis, a civil case is mentioned that has elements of human trafficking but has not been investigated as such. In this civil case, the Court of Justice (in Dutch: *Hof van Justitie*) found that there was evidence to prove that the employer attempted to pressure the employee into signing a resignation letter. The employer did this by pressuring the employee's family abroad and by refusing to pay the employee wages that was owed him until he signed the resignation letter. The employee, however, refused to sign the resignation letter and was fired. To complicate his situation further, the employee was forced to move out of his residence, which was owned by the employer. Furthermore, the employer contacted the authorities to have the employee deported after he was fired. The Court of Justice decided that the termination of the employment was unlawful and that the employer had put the employee in a vulnerable situation.

3.1.2 Trafficking for Sexual Exploitation

In 2011 Aruba's Anti-Human Trafficking and Smuggling National Coordinator received an international request for assistance through Colombian authorities concerning a possible case of human trafficking for sexual exploitation. Colombian Government officials dismantled a network of human traffickers with connections to the sex industries in Aruba, Curaçao, Sint Maarten and Bonaire. This case, mentioned in the media review, was the only case of trafficking for sexual exploitation officially documented in the period 2009 to 2012.

Commercial Sex in Aruba

The Situational Analysis focuses on three groups providing commercial sexual services in Aruba. Firstly, there is prostitution regulated by the Government. Regulated prostitution occurs in one zone in San Nicolas, a city in Aruba. Prostitutes who are at the bars in this special zone need a specific residence-employment permit. Legally the permit stipulates their function as “adult entertainer” but they are prostitutes. The regulated prostitutes come mostly from Colombia and can work a maximum of three months at these bars. They are required to undergo a medical test for contagious diseases upon arrival, and have weekly medical check-ups as well.

Secondly, there is prostitution that is not permitted by the Government. Persons working in this unregulated prostitution are engaged in commercial sex without an “adult entertainer” permit, and therefore are not obligated to have weekly check-ups performed by a doctor. Unregulated prostitution occurs in bars and restaurants outside of the San Nicolas’ special zone. Locals can point out specific bars and restaurants where this prostitution is said to happen. Unregulated prostitution also occurs on the streets. Street prostitution is not just unregulated but also illegal in Aruba. Certain areas in Aruba are known for street prostitution; some of these areas were observed by the researcher in the course of this Situational Analysis.

The third group is the escort business. Escort businesses in Aruba can be found by using internet search engines, and some advertise in a newspaper intended for tourists. Some tourists who have visited Aruba and some of those who are planning to visit Aruba use online blogs and forums to discuss available prostitutes and escort businesses in Aruba. The Government does not regulate escort business, and for example there is no special permit issued. This means that men and women working in the escort business do not have weekly check-ups done by a medical professional.

3.1.3 Child Trafficking

Despite the 2005 US TIP Report’s reference to child prostitution, there are no official government reports of child trafficking in Aruba.

Children Vulnerable to Human Trafficking

While conducting research for this Situational Analysis, certain issues concerning the vulnerability of children to trafficking arose. For example, there is the issue of children working long hours in family-owned supermarkets or restaurants. Another is the matter of children becoming victims to “sugar daddies” and “sugar mommies,” that is, persons who offer money and gifts in return for sexual favours and/or companionship. Children in these circumstances are particularly vulnerable to trafficking, but to date there is insufficient information available about these phenomena.

3.2 Trafficking from Aruba

“Trafficking from Aruba” means that a person from Aruba is trafficked to a foreign country. For the purpose of this Situational Analysis, this term applies to Aruban citizens who are recruited directly from Aruba and exploited in another country and Arubans who have relocated to foreign countries and are trafficked there.

As mentioned in the Subchapter 2.4 (“Media Review”), one case of trafficking involved Aruban women allegedly trafficked to the Netherlands through debt bondage. They were reportedly forced to open bank accounts, pay expensive phone bills and apply for mortgages in their names. When the Dutch Police investigated this case, it requested assistance from the Aruban Police; as a result, one person was questioned but was not arrested in Aruba.

An Unofficial Case of Human Trafficking

While gathering background information for this Situational Analysis, the researcher received news about a trafficking case that was not officially recorded because of the victim’s circumstances and decision. The case involved an Aruban who was studying in the Netherlands, who, while there, was recruited by her ‘boyfriend’ and trafficked for sexual exploitation. Because of the victim’s circumstances, she decided not to report her situation to either the Dutch or Aruban Police. This case may not be a single occurrence. As mentioned in Subchapter 2.3 (“Literature Review”), the CoMensha registries do not provide clear information on how many Arubans are victims of trafficking in the Netherlands.

3.3 Trafficking through Aruba

“Trafficking through Aruba” means that a victim transits through Aruba, but that the exploitation does not occur in Aruba. While Aruban authorities do not have official records of victims who have transited through Aruba, this is no reason to conclude Aruba is not or has no potential to be a transit point for human trafficking. It is possible that Aruba already is or could be used as a transit country for human trafficking due to its proximity to other Caribbean islands, to Central and South America and to the existence of direct flights to the Netherlands (and, therefore, Europe in general). One particular case mentioned in the literature review involved a victim trafficked from Colombia to Japan through Aruba; this case however is not on Aruba’s official records.

3.4 Current Government Response to Human Trafficking

Taskforce

The fight against human trafficking is a young field in Aruba. The current criminal article against human trafficking was passed in 2006. Some months later, in January 2007, a multidisciplinary team consulting on immigration policy established the Aruba Anti-Human Trafficking and Smuggling Taskforce. In August 2007, the chairmanship of the Taskforce was taken over by the Aruba Police Force due to the serious nature of the subject. The role of the Taskforce is twofold: 1) submit multidisciplinary policy proposals for preventing and combating human trafficking and migrant smuggling and 2) raise awareness through campaigns of the Government and beyond. The Taskforce members represent the following departments:

- Aruba Police Force (KPA, in Dutch: *Korps Politie Aruba*)
- Department of Alien Policy, Admission and Integration (DIMAS, in Papiamentu: *Departamento di Integracion, Maneho y Admision di Stranhero*)
- Department of Foreign Affairs (DBB, in Dutch: *Directie Buitenlandse Betrekkingen*)
- Public Prosecutor’s Office (OM, in Dutch: *Openbaar Ministerie*)
- Department of Labour and Research (DAO, in Dutch: *Directie Arbeid en Onderzoek*)
- Department of Social Affairs (DSZ, in Dutch: *Directie Sociale Zaken*)
- National Security Service Aruba (VDA, in Dutch: *Veiligheidsdienst Aruba*)
- Department of Public Health (DVG, in Dutch: *Directie Volksgezondheid*)
- Aruban Border Control and Immigration Services (IASA, in Papiamentu: *Instituto Alarma y Seguridad Aruba*)

- Victim Assistance Bureau (BSH, in Dutch: *Bureau Slachtofferhulp*)
- Dutch Caribbean Coast Guard (KWCARIB, in Dutch: *Kustwacht voor het Koninkrijk der Nederlanden in het Caribisch gebied*)

Within the Taskforce there are four committees, with each member of the Taskforce assigned to one or more committees, depending on the role of the department represented by that member. The committees are as follows:

- 1) Laws and Regulations Committee – responsible for reviewing and adapting current laws and regulations so they meet international standards for victim assistance.
- 2) Publicity and Awareness Committee – responsible for awareness-raising among government departments and agencies and non-governmental organizations and institutions, as well as the general public.
- 3) Victim Assistance Committee – responsible for practical issues concerning assistance to victims, such as the possibilities for shelter and/or medical aid, as well as for discussing ways to generate funds for financing the assistance to victims of trafficking.
- 4) Prostitution Policy Committee – responsible for identifying problems with Aruba’s prostitution policies and improving them.

The Aruban Anti-Human Trafficking and Smuggling National Coordinator serves as Chair of the Taskforce. This position, created and first assigned in 2008, is not full-time, as whoever holds it has other, more regular duties. The primary task of the National Coordinator is to coordinate all cases of human trafficking and migrant smuggling, report to both national and international agencies on the subject and deliver speeches and lectures on human trafficking and migrant smuggling.

Habri bo Wowo (“Open Your Eyes”)

The Publicity and Awareness Committee announced their first awareness campaign in April 2011 and in October 2011 launched the *Habri Bo Wowo* (“Open Your Eyes”) campaign. *Habri Bo Wowo* posters and flyers were sent to Aruban Government buildings, schools, Queen Beatrix International Airport and NGOs and asked to be put up by 18 October. The posters and flyers were in the four principal languages in Aruba (Papiamentu, Dutch, English and Spanish) and included a list of warning signs for identifying possible victims and a hotline number. The hotline operates 24 hours a day and concerned individuals can call if they have questions about human trafficking or want to report a possible case. The posters and flyers were sponsored by the Dutch Ministry of Justice and CoMensha. 18 October 2011 was designated the first National Day against Human Trafficking in Aruba. On this day, the Minister of Justice and Education and the National Coordinator held a press conference.

The National Coordinator was interviewed by local radio programmes and local TV shows with the aim of informing the public on the subject matter and drawing attention to the hotline number. At around the same period a three-day seminar on child trafficking was organized by the US Department of State, the US Department of Homeland Security's Immigration and Customs Enforcement Bureau and the Aruba Anti-Human Trafficking and Smuggling Taskforce.

In 2012 the National Coordinator, the Taskforce and IOM held awareness events during a whole week period surrounding the National Day against Human Trafficking, 18 October. The week's theme was "Why the Fight against Human Trafficking Matters." Throughout the week a guest speaker, who was herself a human trafficking survivor and activist, gave talks and speeches. The week also included a lecture at the University of Aruba which was open to the public, a press conference with the Minister of Justice and Education, a lecture at a secondary school and a symposium organized by students at the University of Aruba. Several articles on the subject ran in local newspapers and news websites throughout the week. The guest speaker and National Coordinator also appeared on a local TV and a local radio programme, and gave interviews to a local newspaper.

Review Committee on Human Trafficking

The Review Committee on Human Trafficking (BCM_H, in Dutch: *Beoordelingscommissie Mensenhandel*) is part of the Aruban Government's response, but is a separate body from the Taskforce. The Review Committee analyses reports of human trafficking and migrant smuggling and is chaired by the National Coordinator. The Review Committee includes members of the Police Force, the Public Prosecutor's Office, the Department of Labour and Research and the Department of Alien Policy, Admission and Integration (hereafter, the "Department of Alien Policy"). The members gather information on human trafficking cases and together decide if there is enough information to recommend further investigation. This process is explained further in Subchapter 4.3 ("Prosecution").

Memorandum of Understanding

In June 2008, the first "experts' meeting" on human trafficking in the Kingdom of the Netherlands was held in Aruba. The meeting was attended by representatives from the Netherlands, Suriname, Sint Maarten, Curaçao and Aruba. As a result of the meeting, a Memorandum of Understanding on Human Trafficking was signed in January 2009 by the Ministers of Justice of the Netherlands, Sint Maarten, Curaçao and Aruba. In 2011 the Memorandum was revised by the aforementioned countries

to elaborate on the nature of the required cooperation and the actions that need to be taken.

The Memorandum of Understanding for the countries in the Kingdom of the Netherlands is an important tool in Aruba's anti-human trafficking efforts. The Memorandum aims to improve cooperation between countries in the Kingdom and ensure the priority of combating human trafficking and migrant smuggling. An important additional component to the legal framework, it is a binding agreement and Kingdom countries should strive to meet its provisions.

This subchapter lays out some of the 2011 Memorandum provisions. Chapter 4 describes the provisions on prevention, protection and prosecution, and Chapter 5 describes cooperation provisions.

In terms of country-specific action, the Memorandum demands that multidisciplinary teams be formed to discuss issues related to human trafficking and migrant smuggling. These teams must include members from the respective countries' immigration, labour inspection, investigation and prosecution agencies. The Memorandum also calls for each country to have a National Coordinator and that all coordinators meet at least twice a year to discuss how to better combat human trafficking. In addition, every two years each country must publish the Analysis of Crime and Criminal Activity report, which must include a section on human trafficking. Moreover, the countries of the Kingdom should ensure that enough training and information is available to employees and civil workers involved in the prevention, protection and prosecution of human trafficking. Provisions of the Memorandum should, when applicable, be integrated in the plans of action of the different countries, which are individually responsible for funding the execution of such in their respective territories. Therefore, each government's budget should allocate the necessary annual funds for these operations. After three years, the Kingdom countries are scheduled to evaluate and revise, if applicable, the Memorandum agreements.

The 2011 Memorandum has an appendix listing the National Coordinator's tasks, which include supervising the progress of the Memorandum's provisions; ensuring internal and external training in combating human trafficking and migrant smuggling; drafting plans of actions; chairing the Taskforce and the Review Committee; ensuring proper shelter for victims of trafficking; and ensuring adequate regulations for human trafficking and migrant smuggling are formulated. Finally, the National Coordinator should also report yearly to the Minister of Justice of Aruba on the progress of the efforts made against human trafficking on the island.

4. SITUATIONAL ANALYSIS - MAIN FINDINGS

4

This chapter contains the core of the Situational Analysis, which examines the institutional response to human trafficking in Aruba and the government structures that facilitate or hinder such response. This chapter is divided into three subchapters, each focusing on a particular activity: 1) the prevention of human trafficking, 2) the protection of victims and 3) the prosecution of traffickers. Each of these three subchapters presents information on relevant laws, policies, procedures and practice. Each subchapter also includes a discussion on partnerships that work towards the highlighted activity and offers recommendations on how to improve Aruba's response.

4.1 Prevention

Prevention of human trafficking is in itself a very complex topic because it relates to various areas that are part of any society such as labour and migration. As explained in Subchapter 1.2, it is important to also look at social and governmental mechanisms and structures that could contribute to the occurrence of the crime. Human trafficking can occur through legal mechanisms, for example by using a legal port of entry and the employment permit system. It can also occur through illegal mechanisms, such as by entering a country through an unofficial port or working without a permit or with the wrong permit.

Public awareness is an essential component in preventing human trafficking. It is important for the Aruban public to be aware of what human trafficking entails and realize the possibility of it occurring. It is important for the public to know what the Aruban Government and other organizations are doing to prevent human trafficking in Aruba, assist victims of trafficking and to bring traffickers to justice. Special attention should be given to immigrants who have recently come to Aruba because they may not speak any of the local languages and may depend on other people to help them understand labour laws, their legal obligations and rights and (emergency) contact points.

This subchapter builds on topics discussed in Chapter 3 and, when applicable, information is ordered in the same manner, that is, 1) labour, 2) prostitution and 3) children. When speaking about labour, information is given on, for example, minimum wages and other employee rights, inspections carried out by the Department of Labour and Research (hereafter referred to as the "Labour Department") and, also, the legal process for immigrants to acquire a residence-employment permit for any kind of employment. Subchapter 4.1 explains the process of acquiring a three-month residence-employment permit as a female "entertainer" and be a prostitute in a bar that is located in San Nicolas, as well as other relevant issues. The extent to which child trafficking is prevented is also assessed. These topics were chosen to highlight possible gaps in government action which hinder prevention efforts and, therefore, also where improvements can be made.

4.1.1 Law

Memorandum of Understanding

As mentioned in Subchapter 3.4, the Memorandum of Understanding on Human Trafficking signed by Aruba can be seen as an addition to the legal framework against human trafficking. Specifically, with regard to prevention and information, the Memorandum states that countries should carry out awareness campaigns yearly. The campaigns should target the general public, tourists, at-risk groups, civil workers and specific socioeconomic sectors. The Memorandum assigns 18 October as the National Day against Human Trafficking for the member countries. Moreover, the Memorandum requires each member country to post information on human trafficking and migrant smuggling on its government website.

Labour

In Aruba, basic labour laws, which are applicable to all persons employed in Aruba, have provisions on, among others, minimum wage, child labour prohibition, working hour limitations, overtime compensation and vacation time regulation. Basic labour laws are intended to ensure the legal protection of employees, setting minimum labour standards in Aruba.

As of January 2012, the minimum wages applicable to persons 18 and older in Aruba are as follows:

- Approximately USD 901 (AWG 1,604.60), gross, per month for persons working in industries, factories and construction companies.
- Approximately USD 421 (AWG 748.60), gross, per month for domestic workers.
- Approximately USD 4.71 (AWG 8.40), gross, per hour if a person works less than 22 hours a week.

According to the Labour Regulation Law (in Dutch: *Arbeidsverordening*) employees are allowed to work a maximum of eight hours a day and no more than 45 hours in a seven day week. In deviation from that rule employees are allowed to work a maximum of eight and a half hours a day, for a maximum of five days a week. Exceptions to these working hour limits are applicable to persons working in hospitality and in casinos, who can work a maximum of 48 and 55 hours a week, respectively (the exceptions can be found in separate laws). The Labour Regulation Law also stipulates the requirement for rest periods, a permit that enables employees to work overtime, and prohibitions and compensation for overtime work. Child labour prohibition laws are specified later in this subchapter. In addition, there are also laws specifying labour relations in the Aruba Civil Code (BWA, in Dutch: *Burgerlijk Wetboek Aruba*, Book 7a, Title 7a).

The Labour Department is responsible for inspecting the compliance of labour laws stemming from Article 23a of the Labour Regulation Law. The designated civil workers of the Labour Department have, for so far it concerns their task, the competencies to:

- Require a business to provide them with all relevant information;
- Demand access to the business books, documents or other information carriers and make copies or temporarily take these with them;
- Inspect and examine business goods and temporarily take these with them;
- Enter all places of business, except homes, without the explicit consent of the occupant, accompanied by persons designated by these civil workers;
- If necessary, be assisted by the police to get access to the aforementioned places.

Article 23a of the Labour Regulation Law also states that all persons are obligated to cooperate with the designated civil workers with regard to the above-mentioned points. Article 24 of the same law details the consequences to non-compliance or incomplete compliance.

Amendments to Labour Laws

Recently, the Aruban Government has been working to amend existing labour laws. One proposed change would enable inspectors to fine businesses that violate labour laws. This change will give inspectors more power to ensure that businesses comply with the law.

As mentioned in the Introduction, immigrants in Aruba work for different lengths of time. The Law on Admission, Deportation and Expulsion (LTUV, in Dutch: *Landsverordening Toelating, Uitzetting en Verwijdering*) regulates legal migration flow to and through Aruba. This law specifies which persons need a residence permit to legally reside in Aruba. Article 6 of the LTUV provides for two types of residence permit: one that is valid for an indefinite and another for a definite period of time. Permits valid for an indefinite period of time have no expiry, but only certain people who meet the requirements are eligible for these, which, for the purpose of this report, will not be elaborated further.

Article 7 states that the application for the residence permit should be filed by the immigrant personally. An exception to this rule is when it is the first application of a foreign national (for example, the would-be immigrant worker) who resides abroad and wants an employer based in Aruba. In this case, the employer submits the application on behalf of the foreign national. The employer also needs to submit a statement declaring that the company is registered both with the Aruba Tax Office (SIAD, in Papiamentu: *Servicio di Impuesto y Aduana Aruba*) and the Company Registry, which

is maintained by the Chamber of Commerce and Industry (KVK, in Dutch: *Kamer van Koophandel en Nijverheid Aruba*, hereafter referred to as “Chamber of Commerce”). Article 7 of the LTUV also states that permits with expiry should have a term of no more than one year. Immigrants in Aruba who hold this type of residence permit can stay in Aruba for a maximum period of three years. The Minister responsible for admission of foreigners¹¹ can in some circumstances grant an immigrant worker one more year to stay in Aruba, for a total of four years. According to the “Admission Regulation” stipulated in Article 7, Clause 4 of the LTUV, further regulations¹² can be made, in view of public policy and public health, governing immigrants applying for a residence permit. This Admission Regulation also specifies that a person who has applied for a residence permit needs to enter Aruba with a valid passport for identity verification, an in-flight letter (VTA, in Dutch: *Voorlopige Toelating tot Aruba*) to enter Aruba and, if necessary, an entry visa (Articles 1, 4 and 5).

Prostitution

There are few Aruban laws regulating prostitution. Aruba’s Criminal Code (SrA) contains no article on prostitution itself, which means that prostitution is not illegal in the country. However, the General Ordinance on Public Order (Art. 49 APV) declares it illegal for women to be in street prostitution.¹³ In addition, the Aruba Criminal Code (Art. 259 SrA) says it is illegal to make a profession out of intentionally inducing or promoting the prostitution of others (“pimping”).

The Contagious Diseases Law (LBZ, in Dutch: *Landsverordening Besmettelijke Ziekten*) has one article pertaining to prostitution in Aruba. The Contagious Diseases Law dates back to 1921, at which time the articles in the Contagious Diseases Law were already applicable to women in prostitution. The Contagious Diseases Law from 1921 has been revised several times over the years; the most recent changes were made in 1997.

Article 34 of the Contagious Diseases Law states that women who are “in the profession or habit of providing men with paid sexual services” must register with the Ministry of Justice. The registry keeps information such as the women’s names, ages, residential addresses and other relevant personal data. The Minister of Justice is required to send a copy of the registry to a physician, who was duly-appointed by the Minister of Health, to conduct medical examinations on the women. Women coming from abroad are instructed to register no later than 24 hours upon arrival in Aruba. If the women are residents of Aruba, they have a week to register after they have started working. Also, any change, such as the name or address, should

11 In 2013, the Minister of Integration, Infrastructure and Environment served this function but the composition of a ministry is subject to change.

12 A regulation is a law that acts on provisions stipulated in a national ordinance (which is of a higher order).

13 Because Art. 49 APV specifically references “women,” it is unclear whether it would be legal or illegal to have men in street prostitution.

be made to the registry within 48 hours.¹⁴ Article 34 further obligates these women to undergo weekly medical check-ups, performed by the aforementioned doctor. Women from abroad are obligated to have their first check-up with the doctor the first weekday after arriving in Aruba. The doctor is obligated to inform the Minister of Justice of women on the list who fail to show up for their weekly check-ups. Article 34 instructs the Minister of Justice, or a civil worker appointed by the Minister, to take measures to have non-compliant Aruban women see the doctor and remove non-compliant immigrant women from Aruba. Further, women on the said registry are obligated to follow the doctor's instructions regarding hygiene and, as stated in Article 34 of the Contagious Diseases Law, are forbidden to serve alcohol to men.

Amendments to the Contagious Diseases Law

The Department of Public Health (DVG, in Dutch: *Directie Volksgezondheid*) and the Department of Legislation and Legal Affairs (DWJZ, in Dutch: *Directie Wetgeving en Juridische Zaken*) are in the process of revising the Contagious Diseases Law to modernize it. No time frame has been given on when the revised law will be completed and implemented.

As mentioned in Subchapter 3.4, this Situational Analysis includes and discusses the escort business as a topic and in the context of prostitution. Although no comprehensive law regulates the escort business specifically, the Law on Company Registry (in Dutch: *Handelsregisterverordening*) does have implications. Article 1, Clause 3 of the Law on Company Registry obliges all businesses to register at the Chamber of Commerce, and any business not registered is in violation. The penalties for violating this law are laid down in Article 20.

Children

As mentioned previously, the Labour Regulation Law has provisions concerning children. For example, Article 4d of the law defines children as persons under the age of 14, while Article 15 specifically prohibits child labour, which means that children are not allowed to perform any work whether within or outside enterprises. Exceptions to the prohibition on child labour are work done on behalf of his or her family, or for the family business, or work of educational character at schools, work camps or foster care. While child labour is prohibited in Aruba, Article 16 of the Labour Regulation Law states that persons who have reached the age of 12 and have finished the sixth grade of school are allowed to perform work in settings where they can learn a trade or acquire vocational skills. They are also allowed to work if the tasks are not too demanding, whether physically and mentally, or of a dangerous nature. On the other hand, "juveniles" – that is, persons that have reached the age

¹⁴ A change in employer requires that a new permit be obtained.

of 14, but not 18 (Article 4c) – are prohibited from doing work of a dangerous nature and any work beyond 7 p.m. and before 7 a.m. (Article 17).

There is no specific law in Aruba that prohibits child prostitution; however, there are several articles in the Aruban Criminal Code (SrA) on sexual offences committed against children. Article 250 SrA addresses the rape of a child under the age of 12 and prescribes a penalty of a maximum of 12 years or a maximum fine of AWG 100,000. Article 253 SrA prohibits indecent acts against children under the age of 16. Article 251 SrA addresses the rape of a child that has reached the age of 12, but not 16. Article 251 SrA is a complaint offence, which means that prosecution can only occur if a complaint is made by the legal guardian(s) of the child or the government department in charge of child welfare. Other complaint offences related to the topic are stipulated in Articles 256, 256a and 256b.

Article 256 makes it a punishable offence for “a person who, by giving or promising money or objects, by abuse of circumstances or by deception, intentionally moves a person under the age of 18 to commit indecent acts or to tolerate indecent acts being committed on the minor by the said person.” Article 256a states that a person can be punished if he or she commits indecent acts or has sexual intercourse with a person who has reached the age of 16 but not of 18, if that minor makes herself/himself available for sexual acts with a third person.

Article 254 of the Criminal Code stipulates a higher maximum sentence in the case that the indecent acts committed against a child, as described in some articles (including Art. 251, 256, and 256a SrA) cause either serious bodily injuries or death. This list is by no means exhaustive, but gives an idea of what laws in Aruba, in addition to the trafficking article (Art. 286a SrA), offer protection to children in prostitution.

Obligatory Education

In December 2012, the new Law on Obligatory Education was implemented. This law obligates all children living in Aruba to go to school. In general, children are obligated to start schooling at the age of four. The obligation to attend school ends when a child has finished secondary school or has reached the age of 17. There are inspectors who work in cooperation with schools to make sure that children are, indeed, in school. Because this law has just been implemented, the extent to which it is enforced still needs to be determined. This law can be seen as a positive step in preventing child trafficking because different departments and inspectors will be alerted when children are found working during school hours.

Analysis

In Aruba there are various labour laws that aim to protect employees, for example, by establishing a minimum wage or limiting working hours. In addition, there are laws stipulating the responsibilities and authority of labour inspectors who enforce the labour laws. One limitation, however, is that labour inspectors do not have the legal authority to enter private residences without the permission of the occupant. This means that any work done inside a private home cannot be monitored. Consequently, employees of businesses operating from a house, as well as domestic workers living and working in a private home, are not monitored by labour inspectors. This can be seen as a missed opportunity for the Government to have some visibility on the working and/or living conditions of these employees. Therefore it is also a gap in the effort to prevent human trafficking.

Laws regulating prostitution are lacking. Article 34 of the Contagious Diseases Law is essentially the only legal framework regulating issues relating to prostitution in Aruba. This law has significant limitations. For example, it does not specify anything about residence-employment permits. Another limitation is its applicability only to “women who make a profession/habit out of sexual services with the opposite sex.” Yet this implies that also unregulated prostitution could be subject to the obligations stemming from Article 34 of the Contagious Diseases Law. One major problem with Article 34 is that it excludes male prostitutes and any same-sex sexual service. For the purpose of the Situational Analysis, the exclusion of male prostitutes implies one less opportunity that departments or officials can have contact with possible victims of trafficking.

The fact that there are no laws regulating the escort business should be a point of concern for Aruba, as the lack of such laws give government departments and agencies little to no basis to regulate or take action. The aforementioned articles and laws should apply to escorts engaged in prostitution. Article 34 of the Contagious Diseases Law, in particular, is applicable to the escort business because it does not mention any specific circumstances or forms of prostitution. However, it should be repeated that Article 34 only pertains to “women whose profession or habit is to provide sexual services to men.” Therefore, the men who are advertised as escorts in Aruba in newspapers and on the internet do not fall within the scope of the article.

The prohibition of child prostitution in Aruba is implied through laws that aim to protect children from sexual offences. Committing a sexual act with a child is in itself illegal. Law articles that prohibit sex with minors do not require that any form of violence be used against the child, nor take the consent of the child into account, for an act to be deemed unlawful. Furthermore, Article 286a of the Aruba Criminal Code stipulates that children in commercial sex can be considered victims of trafficking because, for children, it is not necessary to prove the means by which the exploitation occurred – that is, only the activity and exploitation need to be proven to have existed, as explained in Subchapter 1.1.

Some of the existing Aruban laws that can be used against child prostitution are complaint offences, which stipulates that only a parent, legal guardian or the child protection agency may file an official complaint in behalf of the child. This requirement should be removed given the seriousness of sexual offences, and taking into account the possibility of children being abused or exploited by their own guardians, who, for obvious reasons, would be unlikely to make an official complaint if they themselves were the perpetrators. Moreover, the Government should consider including a provision that obligates persons taking care of children outside the home, such as teachers, to report suspected sexual or other kinds of child abuse.

4.1.2 Policy

Labour

The Labour Department of Aruba is responsible for fulfilling various tasks that are ultimately aimed towards the protection of labourers' rights. These tasks include conducting research on labour situations, assisting in cases of labour conflict and carrying out labour inspections. For the purpose of this report, labour inspections will be the focus.

Aruba's Labour Department has a unit tasked with checking employers' and employees' compliance with various labour laws, such as those mentioned in Subchapter 4.1.1. The responsibility to carry out labour inspections stems from the Labour Regulation Law, as stated in the previous paragraph. There are two types of labour inspections conducted by the Labour Department. The first type is planned and scheduled (by the Labour Department itself), based on information in the Company Registry, which is maintained by the Chamber of Commerce and where all businesses are registered. The labour inspections are planned according to sector. Business may not be aware when labour inspectors will be dropping by their premises, but may become aware that their sector is currently being inspected through contact with other businesses. The second type of inspection is the "rush inspection," which is conducted when a report of alleged labour law violation is made to the Labour Department. Information on alleged labour law violation reaches the Labour Department through reports submitted to its Labour Inspection Unit (among other units within the department), the Labour Minister's Office or other government departments and agencies. A report can take the form of a call or written message.

Both types of inspection – that is, scheduled and "rush" – are unexpected by businesses and are carried out following the same procedure. In rare cases it is possible for a business to ask permission to re-schedule an inspection; the decision to move the inspection date, however, rests on the labour inspector. The reports prepared by labour inspectors are reviewed by officials of the Labour Department. In general, inspectors report to the Head of the Inspection Unit, who, in turn, reports to the Director of the Labour Department. If there are irregularities, inspectors issue

warnings to employers at fault and return to the business a second, and sometimes a third, time to assess the situation anew.

The policy on residence permits is set up by the Ministry of Integration, Infrastructure and Environment and is implemented by the Department of Alien Policy. As mentioned previously, a foreign national needs a residence-employment permit to work in Aruba. According to the 2012 residence permit policy, there are different types of residence permits and the goal of the residence is of importance. In general all residence permits (with or without the possibility of employment) are issued for one year and have to be renewed every year. A residence-employment permit is available with various validity periods, some longer than others. If the permit is valid for less than a year, the period is determined by the duration of the project, event or activity that the permit holder is working on.

The 2012 policy has a provision nullifying the previous policy that allowed a maximum of three years' validity for residence permits (see Subchapter 4.1: "Law"). Moreover, an employee can have his or her residence-employment permit changed to designate a different employer after a year and change the job function after three years (five years for domestic workers). The policy for residence-employment permit applications goes as follows: The first application for a residence-employment permit is submitted by the immigrant or on behalf of the immigrant (that is, by the sponsor or employer¹⁵). The residence-employment permit application form needs to be completely filled in and signed by the immigrant or sponsor and submitted to the Department of Alien Policy together with certain requisite documents attached. (A list of the required documents can be found on the Department of Alien Policy's website.¹⁶) The documents can be submitted in any of these four languages: Papiamentu, Dutch, English or Spanish. Official documents (for example, birth record, medical certificates, among others) coming from abroad have to be certified. The Department of Alien Policy issues a dated letter which serves as proof that the application has been received. Any fees, charges and deposits for processing the permit need to be paid in advance at the Tax Office. A foreign national applying for a residence-employment permit for the first time needs to do this outside of Aruba. If the application for the first residence-employment permit is successful, the Department of Alien Policy issues an in-flight letter to the sponsor which the foreign national uses to enter Aruba so he or she can continue with the residence-employment permit application process. The sponsor is therefore responsible for sending the in-flight letter to the foreign national, who cannot legally enter Aruba without it. The in-flight letter is valid for three months.

According to the 2012 policy, an immigrant worker who has entered Aruba has 30 days to report to a general medical practitioner, and then to the Department of

¹⁵ See the Terminology section for the definition of "sponsor" as used in this report.

¹⁶ The Department of Alien Policy official website is located at www.dimasaruba.com. The list of documentary requirements for residence permit applications is further explained in Subchapter 4.1. ("Procedure").

Public Health, to complete the residence-employment permit application steps. The general medical practitioner carries out various medical tests, the results of which are submitted to the Department of Public Health, along with the original copy of the in-flight letter. After reviewing the medical test results, the Department of Public Health forwards them to the Department of Alien Policy. The immigrant, who is awaiting the results of his or her permit application, may start working if the test results are satisfactory. The Department of Alien Policy informs the immigrant of its decisions on the residence-employment permit application through a registered letter, which the immigrant can pick up at the Post Office. (The Post Office is responsible for contacting the immigrant or sponsor to inform them that the decision letter is available for pick-up). It is also important to note that the application for the renewal of a residence-employment permit can only be submitted by the immigrant for whom the permit is intended and not by his or her sponsor. The renewal application can be submitted three months before the current permit expires.

As mentioned previously in this chapter, and in previous chapters as well, a foreign national who wishes to work in Aruba needs a sponsor to apply for a residence-employment permit. The sponsor is required to have an annual gross income of at least USD 28,090 (AWG 50,000). If the employer does not take in the social premiums for the employee, then the sponsor is required to pay these premiums, such as health care premiums and taxes. In addition, the sponsor or the foreign national needs to make a monetary deposit when applying for a permit, the amount of which depends on the country of origin. Because the sponsor is obligated to ensure that the immigrant leaves within 30 days of the residence-employment permit's expiry, deportation costs are taken out of the deposit if the immigrant fails to do so.

The 2012 policy on residence-employment permits stipulates certain requirements that employers have to comply with. When submitting an application package for a domestic worker's residence-employment permit, for example, the applicant has to hand in a labour contract that is written in a language that the domestic worker understands. The employer who is applying for a permit on behalf of a domestic worker also serves as the sponsor for the entire duration the employee resides in Aruba. Lastly, the employer has to provide the domestic worker with a room that meets the following requirements:

- Measures at least nine square meters, with a width of at least 2.5 meters, excluding the bathroom.
- Has at least one window with a minimum measurement of 60 by 90 cm and a maximum distance of 1.10 metres between the floor and the bottom of the window.
- Has its own door, with functioning locks to ensure the employee's privacy.
- Has a bed, a dresser and a decent place for sitting (a chair and a table).
- Has adequate ventilation, either through a ventilator or air-conditioning.
- A private bathroom with a door to the inside of the bedroom (if the house has two bathrooms, one may be used as a private bathroom for the domestic worker.)

In addition, the employer of the domestic worker also needs to submit a letter to the Department of Alien Policy that expresses his or her consent to the inspection of the domestic worker's intended living quarters. Representatives from the Department of Alien Policy inspect an employer's home when an application for the domestic worker's residence-employment permit is submitted; inspections are carried out again when changes are made to an existing permit (for example, a change in the employer's address and, therefore, a change in the domestic worker's place of work). In addition, the Department of Alien Policy also has the authority to conduct random inspections of the home.

As already mentioned, the 2012 policy tasks the Department of Public Health with medically screening all immigrant workers entering Aruba who have on-going residence-employment permit applications. The Department of Contagious Diseases reviews medical test results administered by a general practitioner and decides on the basis of the results whether to approve an immigrant worker's residence-employment permit application. The Department of Contagious Diseases requires immigrants to be tested specifically for HIV, syphilis, hepatitis B and tuberculosis, and advises the Department of Alien Policy of applicants' test results.

Prostitution

The official Aruban policy regarding regulated prostitution is not very clear,¹⁷ and this becomes apparent when searching for a written policy and consulting either governmental or non-governmental stakeholders about the matter. What has been found in written form are the policy and agreements from 1989, 1990 and 1995. The current prostitution policy dates back to the 1990s with certain adjustments introduced over the years. There is no document that lays out the current policy; rather, the researcher ascertained it through interviews about the current practice.

One policy on regulated prostitution dates from 1989 and originated from the then-named Department of Public Order and Safety (DOOV).¹⁸ The policy authors have explained that Aruba had to write its own policy on regulated prostitution when it ceased to be part of the Netherlands Antilles, and that policy from before 1989, was unavailable. However, it remains unclear to what extent this policy was endorsed by past Directors of the Department of Public Order and Safety and the concerned Aruban Government Ministries. The 1989 policy stipulated the following:

- The agreed-upon definition of a prostitute was that of a woman who repeatedly made herself available for sexual intercourse and/or indecent acts with men for material compensation or made a profession or habit out of it.

17 See the Terminology section and Subchapter 3.1.2 ("Trafficking for sexual exploitation") for a discussion on prostitution in Aruba.

18 The Department of Alien Policy (DIMAS) for some time assumed the name "Department of Public Order and Safety (DOOV)." These days, however, the name of the department has reverted to "Department of Alien Policy."

- If a woman was caught prostituting herself, she needed to be registered on a list, by means of an official report by the police, and was to be informed about her obligations as a prostitute.
- Legal obligations for prostitutes included handing in two identification photos, submitting personal information for encoding in the official registry, and immediately undergoing a medical examination for contagious diseases, followed by weekly check-ups conducted by a duly-appointed physician.
- The Children and Vices Police¹⁹ was tasked with maintaining the registry list of prostitutes. (All women, were erased from the list in 1986, when Aruba became independent from the Netherlands Antilles.)
- Foreign women who were prostitutes (known as *animeerdames*) needed to go through the Department of Alien Policy to be able to work in Aruba. The Department of Alien Policy would send these women's personal information to the Children and Vices Police, which conducted inspections to make sure that these women worked only in the bars to which their respective permits were assigned.
- Both foreign and local women needed to be at least 15 years of age.
- Foreign women prostitutes entered Aruba with temporary permits and stayed a maximum of three months. They could apply for another permit only after 12 months abroad. They were also not allowed to enter Aruba (not even as tourists) during the 12-month waiting period.

In August 1990, the Acting Director of the Department of Public Order and Safety announced a policy regarding foreign female prostitutes. However, it was unclear whether the 1990 policy was new or merely sought to revise previous policy. The 1990 policy on prostitution allowed licensed bars in San Nicolas to continue operating as is. The policy stipulates that:

- The bar owner applies, on behalf of the prostitute, for a residence-employment permit. The main policy advisor at the Department of Public Order and Safety judges the merit of each application according to established criteria based on the quota on the number prostitutes allowed to work in every bar,²⁰ and verifies that the prostitute has not worked in Aruba within the last 12 months.
- If a residence-employment permit is granted, the Department of Public Order and Safety needs to inform both the Children and Vices Police and the Airport Section of the Foreign Service Department about this.
- A foreign woman seeking work as a prostitute in Aruba is only allowed to enter the country on weekdays and needs to register with the Department of Public Order and Safety with a physician's declaration (no more than one week old) stating that she does not have HIV. If the statement is satisfactory, she can proceed to the Department of Contagious Diseases to

¹⁹ Now named the "Youth and Vices Squad."

²⁰ The quota is not stipulated in the policy document.

undergo medical tests. Only after clearing these tests can the woman then register with the Children and Vices Police.

- A woman is not allowed to work while she is still awaiting her medical test results.
- A prostitute who has worked the maximum three months in Aruba has to leave the country and wait at least 12 months before returning, regardless of the purpose of her return (for example, to be a prostitute again, to tour the country, to work as a domestic worker, among others).

On 4 August 1995, the Department of Public Order and Safety had a meeting with the Sanibars Committee to revise, correct and add details to the prostitution policy that would benefit all parties concerned. The parties agreed on certain points, including the following:

- Women who wish to work as prostitutes in Aruba can only enter the country on Sundays or Mondays.
- Women who wish to work as prostitutes in Aruba need to have with them a valid travel document, as well as a medical statement no older than 30 days, declaring that she does not have HIV, syphilis, tuberculosis or any other contagious disease. She must also have chest x-ray results, and all medical test results and certificates presented must be original copies.
- The bar owner must apply for a residence-employment permit for the woman at least five working days before she arrives in Aruba. As part of the application package, the bar owner needs to submit the following to the Department of Alien Policy: a completed permit application, four passport photos of the woman for whom the permit is intended, the woman's birth certificate and a photocopy of her passport's information page. Additionally the employer needs to purchase a government stamp and include a letter guaranteeing responsibility for the woman.
- The woman for whom a residence-employment permit is being requested needs to report to the Department of Contagious Diseases the immediate Monday or Tuesday following her arrival. On the Thursday or Friday of that week the doctor notifies the Department of Public Order and Safety and the woman about the medical test results.
- Bar rules can be set but these should not deprive the woman of her freedom.
- Women working as prostitutes are not allowed to work in more than one bar and are not allowed to serve alcohol to clients.
- Starting August 1995, all women working as prostitutes are obligated to pay taxes.

The Department of Contagious Diseases' policy regarding the medical tests that prostitutes are required to undergo differs somewhat from the Department of Order and Safety's policy, partly because of the need to be in accordance with the Law on Contagious Diseases. Women in prostitution have 24 hours upon arrival in Aruba to

report to the Department of Contagious Diseases to undergo medical testing and submit for review the medical test results that they have obtained before coming to Aruba. These women undergo a different set of medical tests than other immigrant workers – specifically, the women are tested for HIV, syphilis and tuberculosis. The results are sent to a specific duly-appointed physician (specifically, a general practitioner), who performs another medical examination of the women and reviews all of the results. This general practitioner is also responsible for performing weekly check-ups on the women. If there are any concerns arising from the review of the results, more medical tests are performed. If these additional tests are still unsatisfactory, the general practitioner is required to contact the Department of Alien Policy and the Youth and Vices Squad (JZP, in Dutch: *Jeugd en Zeden Politie*), which is a division of the Aruba Police Force and is responsible for crimes involving children and the youth, including sex crimes and crimes related to prostitution. These two entities would determine what actions to take next, such as order deportation.

In conducting the Situational Analysis, the researcher was unable to identify a specific government department or policy that covers or is responsible for regulating the escort business. When asked, no department could explain or offer a reason for the lack of a policy and departmental oversight.

Children

If labour inspectors find a child working for any business, the first course of action is to determine the child's age and ascertain whether he or she is working during school hours. Inspectors may also ask for a written permission from the parent(s) stating that the child is allowed to work.

Analysis

It is beneficial that Aruban labour policy enables labour inspectors to conduct “rush” inspections. If a business is in violation of a labour law, or worse, a rush inspection could help to halt the illegal action, even if just temporarily. Labour inspectors, however, rely only on reports from civilians or government departments and agencies, who must first know how to identify labour violations and detect possible indicators of human trafficking. This is why awareness campaigns are important because they alert stakeholders about possible indicators of human trafficking.

One thing about the permit application process for domestic workers (but not for other immigrant workers) that stands out is the fact that the employees need to provide the Department of Alien Policy with a copy of the signed contract, which needs to be in a language that the employee understands. This gives the department the assurance that employees are aware of their job description and know what is and is not expected of them in the workplace.

A written policy on prostitution is lacking. The policy dating from 1989 was mostly concerned with prostitutes born in Aruba or foreign women married to men with Dutch nationality. According to stakeholders who were interviewed for this Situational Analysis, it was far less common at that time for foreign women to work as prostitutes in Aruba. Therefore, some points mentioned in the 1989 policy have become irrelevant because all regulated prostitutes now come from abroad. It is also possible that policies on prostitution other than the aforementioned existed because the 1990 policy, for example, contains references to certain previous policies, although these have not been found by the researcher. For the purpose of this Situational Analysis, it is assumed that specific points not addressed in the most recent policy were carried over from previous ones. Almost all the aforementioned points stem from the 1995 agreement and remain applicable to this day, although some have been modified. Because the researcher could not find more recent written policies on prostitution, unwritten policies on prostitution are instead discussed (in Subchapter 4.1.4: “Practice”). One particular rule that has changed is the minimum age requirement for females to work as prostitutes – 15 in 1989 and 18 today.

The lack of a policy on the escort business poses a significant gap in government action for a number of reasons. First, it makes it impossible for authorities to regulate the escort business. For example, there is no tracking or monitoring of the number of escort companies established in Aruba, nor of the number of escorts or of the services (sexual or otherwise) they provide. Second, neither the escorts nor their employers pay tax. Third, escorts who provide sexual services are not obligated to undergo medical tests or weekly check-ups. Fourth, the lack of policy or control also means that the Government is unable to keep close watch on the situation, increasing the opportunity for human trafficking and other illegal activities.

4.1.3 Procedure

Labour

When labour inspectors make a site visit, they speak to the business owner and ask for company administration documents, which include the personnel register, and employee information, such as employees’ respective nationalities, working hours, vacation time benefits and wages. The inspectors select, at random, a sample of employees, whose information they gather and compare to the employer’s statements. The inspectors document the gathered information using a template that includes the different points covered in the various Labour Regulation Law articles. The inspectors also document any irregularities and issue warnings to employers found in violation or non-compliance.

To obtain a residence-employment permit, an immigrant worker has to submit an application package to the Department of Alien Policy, which includes the following documents²¹:

- The completed application form.
- Original receipt for the payment of application fees and charges, issued by the Tax Office.
- When using a representative (third person), an authorization letter (original copy) and a copy of the valid identification of the representative.
- A clear photocopy of the information page of the applicant’s valid passport.
- Three recent and identical colour photographs of the applicant.
- An original certificate of good conduct (background investigation).
- Completed “Reputation of Employer” form from the Tax Office.
- A clear photocopy of the sponsor’s valid identification document.

The following amounts are due when applying for a residence-employment permit:

1. An application fee, USD 36.50 (AWG 65);
2. Charges²², USD 674 (AWG 1,200); and
3. A deposit for a national of the following countries that amounts to:

Asia, Africa, Australia or Oceania	USD 2,528	(AWG 4,500)
European Union (EU)	USD 1,124	(AWG 2,000)
Non-EU countries in Europe	USD 1,685	(AWG 3,000)
Central and South America (except the countries listed below)	USD 562	(AWG 1,000)
Canada	USD 1,685	(AWG 3,000)
Chile, Argentina, Paraguay, Brazil or Uruguay	USD 1,124	(AWG 2,000)
Caribbean countries	USD 562	(AWG 1,000)

The Department of Alien Policy needs approval from the Labour Department before issuing a residence-employment permit. This is because the Department of Alien Policy should only give out residence-employment permits to applicants whose work functions and skills are needed in Aruba at the time of application. Permits for live-in domestic workers and prostitutes do not require the advice of the Labour

²¹ See Annex B for the complete form; source: www.dimasaruba.com.

²² The charges are for the actual permit. The charges are refunded to a person whose permit application is denied.

Department because, for the most part, locals are not interested in these jobs. The Department of Alien Policy informs the applicant of the decision outcome, whether positive or negative. An individual who receives a negative decision on his or her application can make an appeal according to the Administrative Jurisdiction Law (in Dutch: *Landsverordening Administratieve Rechtspraak*). If the appeal decision is not favorable to the applicant, he or she can re-appeal up to two more times.

The Department of Alien Policy and the Department of Contagious Diseases have official procedures for “average” immigrants (that is, non-domestic workers and non-prostitutes) who are coming to work in Aruba. These immigrants are likewise required to pass medical tests to obtain a residence-employment permit. The applicant can undergo the required tests at any registered general practitioner’s office or medical establishment in Aruba. The applicant then completes a form from the Department of Contagious Diseases which requests and grants consent to the Department to have his or her medical test results reviewed. The receptionist at the Department of Contagious Diseases reviews the form for accuracy, registers it and files the request. A staff nurse at the Department of Contagious Diseases then reviews the test results. This nurse issues a written statement declaring that the test results are satisfactory. If the results are unsatisfactory, the nurse consults the Department of Contagious Diseases staff physician, who then reviews the results and advises accordingly. Whatever the results, the nurse sends the statement to the receptionist, who, in turn, relays the results to the applicant. The applicant signs for his or her statement and a copy of which is sent to the Department of Alien Policy by courier. The receptionist at the Department of Contagious Diseases also files a copy of the result. If the medical test is satisfactory, the applicant will be able to get his or her residence-employment permit from the Department of Alien Policy.

Prostitution

In the special zone in San Nicolas, a bar owner needs a particular alcohol permit, called a *koffiehuisvergunning* in Dutch, in order to be eligible to have prostitutes in the bar. This particular alcohol permit allows a specific amount of alcohol to be served in the bar. The permit is obtained by filling out an application at the Department of Laws and Judicial Affairs, which then sends the completed form to the Ministry of Public Health for approval or rejection. Only a bar in San Nicolas that has a *koffiehuisvergunning* can have up to four females who are prostitutes and have residence-employment permits. The procedure for the residence-employment permit is, in essence, the same as that for other immigrants. Once the bar owner and the woman have decided that she will come to work in Aruba, she sends to the bar owner all the required documents and information for the permit application.²³ The bar owner pays the residence-employment permit’s fee and then submits the application package to the Department of Alien Policy. The department decides whether or not to approve the permit issuance to the applicant. If approved, the

²³ See Annex B for the list of required documents.

department will issue an in-flight letter, which is a special document that allows the woman to enter Aruba. The bar owner, however, is responsible collecting and sending the in-flight letter to her. The woman also has to undergo medical tests in her country of residence to ensure that she does not knowingly enter Aruba with a sexually transmitted disease. Consequently, the woman can only enter Aruba with a valid passport once she has the in-flight letter and results of the medical tests from her country of residence.

A woman coming from Colombia to work at a bar in San Nicolas also needs a visa to enter and must sign a letter acknowledging that “she knows that she will be working as a prostitute in Aruba.” She signs this letter at the Dutch Embassy in Bogotá when she applies for her visa. She can only enter Aruba legally once she has received her visa from the Dutch Embassy, the in-flight letter from Aruba, and the results of the medical tests performed in Colombia.

A woman who has arrived to be a prostitute at a bar in San Nicolas has 24 hours to report to the Department of Contagious Diseases for more medical tests. At the Department of Contagious Diseases, a sample of her blood is taken for HIV and syphilis screening, and a skin test is done for tuberculosis. The woman then must go to the medical centre for a chest x-ray. The blood test is conducted by employees of the Department of Contagious Diseases and sent to the National Laboratory. The Department of Contagious Diseases receives the results in one to three days from the National Laboratory and the medical centre. The woman also has to consult a general practitioner to undergo a medical examination. This physician reviews the results of the prior tests and sends a letter of good health to the Department of Contagious Diseases if the woman passes all the tests. The Department of Contagious Diseases issues a letter that declares whether the applicant’s test results are satisfactory to the Department of Alien Policy. The woman can officially start working at the bar in San Nicolas and be a prostitute once the Department of Alien Policy has approved her permit application. If the tests results are unsatisfactory, the Department of Contagious Diseases contacts the Youth and Vices Squad, which would then be responsible for deporting the woman.

Children

The procedure for labour inspectors when they find a child working in a business is to first determine the child’s age. The inspectors also determine if the child is enrolled or attending school and if he or she is working during school hours. Labour inspectors also verify if a child has written permission from his or her parent(s) to be working. The labour inspector reports unacceptable kinds of work, or work hours, for the child to the business owner. The inspector returns to the place of business to determine whether the situation has changed, for example, if parental permission has been granted. If not, the inspector must make note in his or he report that child labour occurs in that particular place of business.

Analysis

An important procedure regarding regulated prostitution is the fact that women from Colombia have to get a visa and sign a letter stating they are aware that they will be prostitutes in Aruba. This extra administrative measure may help to prevent unsuspecting Colombian women from being tricked into prostitution in Aruba and, therefore, serve as deterrent for traffickers targeting Colombian woman for work in San Nicolas’s special bar zone.

4.1.4 Practice

Labour

Labour inspections occur frequently, yet there are far too many businesses to inspect in Aruba. In addition, labour inspectors currently have little power because they cannot issue fines and can only give out warnings and return to a place of business to check if the problem has been solved. Another issue for labour inspectors is that government agencies’ operating hours are from 7:30 a.m. to 4:30 p.m. Consequently, labour inspectors would not normally inspect businesses that operate outside these hours; only in exceptional cases of “rush inspections” do they proceed to make the inspection outside of regular government working hours.

Workers’ lack of knowledge about their labour rights is a gap in Aruba’s efforts to prevent trafficking. In some cases, labour inspectors have seen that employers do not always inform employees of their rights, for example, when employers make employees pay for administration costs, which should be covered by the business. As this can be seen as a deduction on the employee’s salary slip, the inspectors can also look at how the salary slips have been made as a possible warning indicator. There is a great chance that an employer who creates a “homemade” salary slip is hiding too-low wages or violating other labour laws. The chance that a labour law is being violated is smaller if an employer uses an accountant to create the salary slip.

Businesses listed as possibly carrying out exploitative practices in Subchapter 3.1 include construction firms and small retail shops, such as jewellery and clothing stores. The Labour Department inspects these, in particular, in addition to supermarkets and restaurants. Labour inspectors sometimes come across different situations that may be classified as human trafficking. One example is the case where an immigrant had his passport taken by his employer, lived in a small room arranged for by his employer whereby a rent fee was deducted from his pay, and had little freedom of movement. Another case was that of immigrant workers who worked long hours in a hot kitchen. They were forced to keep working after they finished their shifts and were not paid for the extra hours they worked. Although they were paid above the minimum wage, the employer took out money for food and rent, even though neither was up to local standards. The workers lived together in small spaces and had

little social contact with others. In such cases, all the documented paperwork may be correct but the situation itself is not. Another situation encountered by labour inspectors is one in which prostitutes who had been misled as to the nature of the work and how much they would be earning at night; therefore, they had to work during the day as well. The Labour Department has also encountered situations where employers misled employees into believing that permits for overtime work were, in fact, permits for other purposes, or that expired permits for overtime were still valid, such that these employees worked overtime while they were no longer allowed to do so. Some employers also did not hang overtime permits on the wall (as is required by law), so that everyone could read the specifics. Knowing that some of these situations occur because employees lack information (sometimes because employers deliberately withhold it from them), the Labour Department wants to organize lecture or awareness sessions to inform employees and the general public as well.

The minimum wage for live-in domestic workers is much less than the standard minimum wage (see Subchapter 4.1.1: “Law”), because the understanding is that the employer provides housing and food. Labour inspectors have noticed that some live-in domestic workers do not live in the house where they work, which is where they are registered to live, but elsewhere. Consequently, these domestic workers who are supposed to be receiving free housing have to pay for rent. Labour inspectors have also come across immigrants who have residence-employment permits to be live-in domestic workers but are working in businesses such as supermarkets and restaurants. Some of them work “double shifts” – one during the day, as domestic workers, and another, at night, for a business. Others work full-time for a business and do no domestic work. Both situations are unacceptable and breach labour and permit laws. With regard to the Department of Alien Policy inspecting domestic workers’ living quarters, these inspections are only conducted before the employee starts working. Typically, no random inspections are carried out afterwards (to ensure that no changes have been made to the worker’s living arrangements), even though the Department of Alien Policy has that authority. As previously mentioned, the Labour Department cannot legally enter houses without expressed permission from the owner.

The process of getting a residence-employment permit has been explained in Subchapter 4.1.3. Even though the policy states that an in-flight letter is valid for 30 days, in actual practice, the validity is in most cases just 10 days – a remnant of an old policy. This means that the holder of such letter has 10 days to get medical tests done in Aruba and take those results to the Department of Contagious Diseases. According to stakeholders interviewed, it usually takes four to six weeks for permit applications to be processed and for the immigrant or sponsor to receive word of the decision. As mentioned previously, most permits are issued for one year. For first time requests, immigrants are supposed to wait until they get an in-flight letter to be able to enter Aruba. In practice it seems that some are already in the country when applying for their first permit. Only after a year, the immigrant who wants to renew the

application will do so at the Department of Alien Policy. Also, there is no government contact with the immigrant when he or she goes to a general practitioner's office to get medical tests done. It is only when the immigrant has received the results from the general practitioner and takes these to the Department of Contagious Diseases that there is contact with a government department.

Prostitution

The actual practice of regulating prostitution in Aruba differs from codified policy. According to bar owners, most women who want to be prostitutes in Aruba approach the bar owners by e-mail or by communicating with other women who have previously worked at the bars in San Nicolas. Official records show that almost all of the women working in these bars are from Colombia, with only two who are not – one from the Dominican Republic and another from Peru – in the last 10 years. According to the bar owners and other stakeholders, women who previously worked in a San Nicolas bar and returned to their home country approach other women about available work at these bars. In addition, the bar owners also acknowledge that some of them rely on other points of contact in the country of origin to recruit women for work.

Once the woman and the bar owner decide and agree that she will go to Aruba to work, the whole residence-employment permit application can begin. The procedure for a foreign woman to get a residence-employment permit and be a prostitute in Aruba is essentially the same as that for other immigrants. One major difference is that the permit for prostitutes is only valid for three months, while it is valid for one year for most other immigrant workers. A disadvantage hereof for the regulated prostitutes is that they are not required to register with the Census Bureau and, therefore, do not automatically get medical insurance. According to stakeholders who were interviewed, prostitutes, indeed, do not have medical insurance. Another difference is that the application process for a residence-employment permit for prostitutes is much shorter than that for other immigrant workers; it takes about three weeks from the time that the bar owner submits the application for her residence-employment permit until she arrives in Aruba.

Residence-employment permits for prostitutes are only issued to those working at certain bars in San Nicolas. In total there are 32 bars in San Nicolas' special zone that have permission to have prostitutes, with each bar allowed to have a maximum of four. This quota is not explicitly mentioned in any of the policies, but has just been the practice for many years now according to stakeholders. Therefore, the maximum number of permitted prostitutes in San Nicolas is 128. Also, even if a bar owner operates more than one bar, a prostitute can only work at the bar specified on her residence-employment permit. A woman who prostitutes in Aruba for three months is supposed to wait at least one year before applying for a new permit. The reason for this time frame is unclear but it has been the case for at least 12 years. However, bar owners claim that they have seen prostitutes who return to Aruba within a year, namely to be escorts.

Women arrive on either a Saturday or a Sunday and report to the Department of Contagious Diseases the following Monday. Some staff members at the Department of Contagious Diseases are of the opinion that some of these women work as early as their first day in Aruba, despite not having taken or passed the medical test by the Department of Contagious Diseases and obtaining work approval from the Department of Alien Policy. A woman can only start working as a prostitute upon the issuance of the appropriate residence-employment permit, which is only possible with satisfactory medical test results. It should take only a few days for the Department of Alien Policy to issue the residence-employment permit, but on occasion it takes a few weeks. Even though there is no policy to support it, employees of the Department of Contagious Diseases who perform the medical tests ask the women certain questions on, for example, whether they are in Aruba on their free will, or whether they know the working conditions, among others.

It is a common perception that prostitutes are employees of the bar owner. However, the circumstances of their job do not support this completely. Bar owners do not pay any wages to the women, but usually pay for their residence-employment permits (cost: AWG 1265) and, sometimes, plane tickets, both of which are “reimbursed” by the prostitutes during their three-month stay in Aruba. Bar owners also rent out private rooms on the bar’s premises to the prostitutes for them to sleep and provide sexual services. Rent for such a room is approximately USD 62 (AWG 110) to USD 79 (AWG 140) per day. In some bars, rooms are spacious and well-kept, while in others, they may be small and not very comfortable. Officially, prostitutes are only allowed to work during the bar’s operating hours. In practice, however, they often work irrespective of the bar’s operating hours. Prostitutes can usually be seen during the day in the back alleys of bars, loitering around the doorways or talking to people in cars. These women stand in doorways because street prostitution is illegal; they could be arrested for prostituting on the sidewalks or streets.

Bars have verbal agreements with the women on what they can or cannot do. For example, when the bars are not open, the women are allowed to go anywhere but are encouraged to stay in San Nicolas. There usually are strict safety rules that the women have to follow when outside the bar premises, as they do not have medical insurance, and the bar owners would be liable for any hospital expenses should anything untoward happen. This liability is assigned to the bar owner in the letter that he or she signs to become the woman’s sponsor.

At the moment, the Labour Department does not inspect bars that have prostitutes because the inspectors normally do not work during the bars’ peak operating hours. The inspectors work regular government office hours (7:30 a.m. to 4:30 p.m.), when the prostitutes are not working or the bars are closed. The Labour Department has conducted inspections outside regular government office hours in the past, but such have happened only in extreme cases. In the past the Youth and Vices Squad inspected the bars in San Nicolas regularly, checking prostitutes’ residence-employment permits and ensuring that everything was legal in the bar’s operations. The 1990 prostitution

policy required the Department of Public Order and Safety to forward the findings of their inspections to Youth and Vices Police Squad. It is, however, unclear to what extent the policy requiring the Department of Alien Policy to provide information to the Youth and Vices Squad remained valid as of December 2012. In recent years the Youth and Vices Squad has not been inspecting the regulated bars in San Nicolas. The inspections stopped because, first, the Department of Alien Policy ceased providing the Youth and Vices Squad with the official registry of regulated prostitutes, which it did so in the past, and, therefore, the Youth and Vices Squad no longer has the necessary information to conduct inspections of the prostitutes. This might be due to the fact that the policy on these inspections is unclear. Second, the Youth and Vices Squad has limited human resources, especially considering that many of their other cases (for example, those involving children) are of higher priority and urgency.

Bar inspections are carried out about twice or thrice a year by the Department of Contagious Diseases, the Department of Hygiene and a certain department of the Aruba Police Force. The inspections are done at night and all on one night. The Department of Contagious Diseases checks if the prostitutes have enough condoms, if they are abused and if they have symptoms of any disease. The Hygiene Department inspects the sanitary conditions in the bar premises and the Police inspects permits. There are about 32 bars in San Nicolas that have prostitutes, so not all bars or all of the women are inspected each time. On rare occasions the Department of Contagious Diseases carries out inspections by themselves. Both the Youth and Vices Squad and the San Nicolas bar owners acknowledge that they maintain open lines of communication between them. A bar owner who is encountering problems will call the Youth and Vices Squad, which arrives at the bar to assess and address the situation.

Little is known about the escort business in Aruba. Many of the escort businesses do advertise their “services” and contact information (cell phone number, e-mail address or website) in local newspapers or on the Internet. In their advertisements, most escort businesses state that they have female escorts to entertain men, women and couples. A few of the businesses advertise that their escorts “serve men, couples, women, all genders” and promise “rapid delivery.” The advertisements feature services like (erotic) massages, lap dances, bachelor parties, private shows and hotel room visits. Some common taglines include: “Free pick-up and delivery,” “Anything goes,” “No rules,” “Massage escort” and “Tours of the Red Light District.” Some escort businesses are or have been registered at the Chamber of Commerce, either as escort businesses or under a euphemism or nickname. As mentioned earlier, an operational, unregistered business is acting against the Law on Company Registry and could be fined (in Dutch: *Handelsregisterverordening*, Art. 1, Clauses 3 and 20). Also, as mentioned above, the Department of Contagious Diseases has confirmed that escorts who are providing sexual services are not medically screened, despite the Contagious Diseases Law. The Department of Contagious Diseases has approached escort businesses but they have denied that their escorts provide sexual services and insist that these men and women only provide companionship. As mentioned, the

escort businesses' websites and advertisements imply otherwise. The non-screening of escorts – whose clients are both locals and tourists – for contagious diseases raises a serious health concern. The opinion of some of the stakeholders interviewed is that some men and women working in the escort business enter the country as tourists. There are also allegations that these “tourists” transfer large sums of money to personal bank accounts in their countries of residence. The Labour Department has been unable to inspect any escort business as many are registered (if at all) using a residential address.

Children

In practice there are children who perform paid work. The Labour Department has encountered children who work in supermarkets or construction. Mostly these children are 11 years old and older. The Department also has, on occasion, stumbled upon children who had not secured the required parental permission to work; at other times, children work in the same place as their parents or because their parents want them to.

It is difficult to inspect cases of alleged child labour. At the moment inspectors do not have a policy or legal guidelines to follow to help them determine what age, type of work and work conditions are appropriate for a child. Therefore, the Department cannot decide with certainty if the child is working too much or if the work is too hard for them.

Amendments Child Labour Laws

The Labour Department is currently overhauling many of its laws and procedures in order to adapt them to the times. These changes are expected to take effect over the next few years. By then, the labour inspectors should have guidelines detailing the appropriate type of work and age for children.

Public Awareness

As previously indicated, awareness plays an important role in the prevention of human trafficking. There have been a number of activities organized by the Taskforce that aimed to increase public awareness of the phenomenon of human trafficking. These included seminars, the awareness campaign “Habri Bo Wowo” (“Open Your Eyes”) and the designation of 18 October as the National Day against Human Trafficking. Press conferences and other media events have helped to further disseminate the information to more persons in Aruba. In addition, the “Habri Bo Wowo” awareness campaign poster was displayed at the offices of the Department of Contagious Diseases, the Aruba Police Force and the Department of Alien Policy. At least four

posters were put up in the Department of Alien Policy offices, one in each of the four languages widely used in Aruba (Dutch, English, Spanish and Papiamentu).

Analysis

Labour inspectors only come in contact with live-in domestic workers who work at an official place of business and not at a residence. The fact that neither the Department of Alien Policy nor the Labour Department conducts inspections of live-in domestic workers at the residence where they work makes them an invisible sector. Cases of human trafficking for domestic work have been reported worldwide; the lack of residential inspections in this sector can be seen as a gap for Aruba's human trafficking response. Moreover, because all domestic workers in Aruba are immigrants (because no Aruban wants to perform this job), the lopsided supply-and-demand situation may mean that the vulnerability of immigrants to exploitation is higher.

As already mentioned, the lack of contact between government departments and immigrants during the latter's first year in Aruba is a gap in the effort to prevent trafficking. It is important for immigrants to have more opportunities to interact with government stakeholders to reduce the risk of being trafficked. It would also be beneficial to provide them with information on their rights as employees and on the available services that may help them in case they find themselves exploited.

A woman who wants to be a prostitute in Aruba needs to pay for different things in order to gain entry to the country and be able to work. These expenses include the residence-employment permit application fees, an entry visa (if required of her nationality), a plane ticket, taxes and living allowance in Aruba. In most cases, bar owners agree to initially pay for the residence-employment permit application and the plane ticket of the woman; the amount spent is a loan which she has to pay back to the bar owner. This can be seen as debt bondage, since the woman is already in debt before she even starts working.

Seeing that each bar can have a maximum of four prostitutes, there could be a maximum of 128 prostitutes in the 32 bars in San Nicolas. The health and hygiene inspections of bars with prostitutes are conducted a maximum of three times a year, with the inspections done in one night. It is therefore impossible for such inspections to cover all 32 bars and all 128 prostitutes. Thus, many of these women can use up their three-month stay in Aruba without even once being inspected.

Another gap noticed was that there are no laws, policies or procedures requiring government departments to inform immigrant workers in Aruba of, for example, the country's labour laws. Because most immigrants do not understand Dutch, they cannot use the information on the official Aruban Government website, which is in Dutch and/or Papiamentu. Information can also be obtained from the Department of Alien Policy, although most immigrant workers arriving in Aruba for the first time

do not have any contact with the Department of Alien Policy until after a year, when it is time to renew their residence-employment permit.

4.1.5 Partnerships

As is clear from the previous subchapters, the prevention of human trafficking is a very complex endeavour involving a range of institutional partners. One of these partnerships is between the members of the Taskforce's Publicity Committee, who are in charge of planning and executing public awareness campaigns. The Publicity Committee has thus far successfully completed two awareness campaigns, one in 2011 and another in 2012.

Another key partnership working to prevent human trafficking in Aruba is between the Department of Alien Policy and the Department of Contagious Diseases, agencies which are both integral to the immigration process. As of December 2012, however, this partnership does not seem to have pursued much activity towards this goal. The Department of Contagious Diseases does forward immigrants' medical test results, and the accompanying recommendations, to the Department of Alien Policy, but there is little contact unless problems arise.

One problem that came to the attention of the researcher during interviews with stakeholders is that policies change when government departments are reorganized or when staff members change, for example, because of reorganization. This makes inter-agency cooperation rather difficult. Another issue that came up in stakeholder interviews is the fact that each department has its own assigned tasks. Therefore, department officers do not act on a problem that does not fall under their agency's jurisdiction, even if they have their own personal opinions about the issue.

One interviewee expressed positive feelings towards the establishment and existence of the Aruba Anti-Human Trafficking and Smuggling Taskforce. The interviewee appreciates that the Taskforce makes contact between different government departments possible, and so cooperation is easier. Because of the Taskforce, Aruban Government agencies have become more willing to help and refer points of contact in other departments. Second, the Taskforce encourages and enables stakeholders to have a broader, inter-agency perspective of the human trafficking issue, whereas departments encourage staff to consider the situation only within the context of the departmental mandate.

4.1.6 Recommendations

Public awareness of what human trafficking is, its severity and the possibilities of it occurring in Aruba are essential in the fight against the crime. Human trafficking can affect different sectors and, therefore, involve many different kinds of persons. It is recommended that the Government work with embassies/migrant foundations and other NGOs to educate not just on human trafficking but, particularly with immigrant

workers, on labour laws, with special attention to topics such as minimum wage and appropriate work conditions, and make the public aware of points of contacts in government and non-governmental organizations (NGOs) that can assist should there be possible human trafficking. Also recommended are awareness campaigns at schools, through the Department of Education, for students who plan to go abroad for work or to pursue higher education.

An important part of prevention is training for government workers, NGOs and other relevant persons and groups. Because human trafficking usually includes a variety of offences, it is possible that government departments can pick up signs pointing to trafficking – for example, when an employer takes away an employee’s passport or when labour law violations are occurring. This way, government departments can prevent situations from worsening and turning into human trafficking. (More about trainings for government departments and other groups are laid out in Subchapter 4.2.5: “Partnerships.”)

It is recommended to review the policy and procedures for providing information to immigrants. Upon their arrival in Aruba, immigrants who hold a valid residence-employment permit or in-flight letter should be provided with basic information on the country’s labour laws, as well as emergency numbers that he or she can contact (including that of his or her country’s embassy). This information should be available in English and Spanish at the very least. It is important that the Aruban Government provide information on what practices are, and are not, legally acceptable in Aruba, because immigrants are at greater risk of being exploited and becoming victims of trafficking. It is important for immigrants to be furnished with a summary of Aruban labour and immigration laws in a language they understand, as many do not know Dutch. Information is currently available from different government departments, but only upon request. It is recommended, therefore, that information be given systematically. The Government should also consider increasing the opportunities for contact between immigrants and government agencies within the former’s first year in Aruba. One obligatory contact opportunity is recommended to be set three to six months after arrival, although more contact is desirable.

There are several areas of concern regarding prostitution in Aruba. One very important recommendation is that policies be updated in writing (so as to be made official) and rendered to all participating parties. Considering that the Taskforce has a Prostitution Policy Committee, it is recommended that this Committee coordinate and monitor the actual drafting of prostitution policy in cooperation with relevant departments. It is recommended that inspections by the Department of Contagious Diseases, police and Health Department occur more than twice a year, spread out, as it is not possible to inspect so many bars and permits in one night. Also, bar owners and regulated prostitutes must be made fully aware of prostitutes’ legally prescribed living conditions (such as room size and the maximum daily rent fee). Moreover, regulated prostitutes should be informed in writing (in a language they understand) of their fundamental rights and obligations.

As already mentioned, it is unclear how far the Youth and Vices Squad is required to inspect the bars in San Nicolas because the Squad no longer receives the necessary information from the Department of Alien Policy. It is recommended that this issue is discussed when a new prostitution policy is drafted. More importantly, the capacity of the Squad to conduct the inspections should be reconsidered. It may make more sense to assign this responsibility to another department, such as the Labour Department, and carry out inspections during the bars' operating hours. Transferring the responsibility of conducting inspections to another department increases the number of bars and prostitutes monitored. In addition, the aforementioned inspections should be conducted separately from the health and hygiene inspections at the bars' premises.

To prevent trafficking for forced prostitution in Aruba, the Government should put more focus on illegal street prostitution and unregulated prostitution, which occurs either in bars or restaurants or in the guise of an escort business. The Government should appoint one of its departments to, first, assess and oversee escort businesses in Aruba. It is recommended that Aruba regulate escort businesses, through a written policy, subject to applicable laws – for example, laws on contagious diseases, taxes and labour, among others. The policy should also state at a minimum that all escort businesses have the obligation to register with the Chamber of Commerce and that all escorts are to follow instructions set out in Article 34 of the Law on Contagious Diseases. A limit on the number of escort businesses that can operate in Aruba and a maximum number of employed escorts may also be imposed. The new policy can also hold newspaper companies responsible if they print advertisements for escort businesses that are not registered with the Chamber of Commerce or those whose escorts do not undergo the required weekly check-ups. Inspecting escort businesses to check their compliance with the new regulatory laws and policies would be essential to a favorable outcome.

It is recommended that the Law on Contagious Diseases, particularly its article relating to prostitution (Art. 34), be revised to cover male prostitutes as well. Further, the article should not be limited to sexual activities between a prostitute and a client of the opposite sex and, therefore, should cover same-sex sexual activities. Any new laws or policies on prostitution should have a gender balance.

4.2 Protection

Victim protection is another important part of the work being done by countries trying to combat human trafficking. As previously mentioned, the need for protection has been highlighted in different international treaties and by the European Court of Human Rights. It is important to remember that victim protection can include a wide range of needs, since trafficking situations differ substantially. Therefore, this report recognizes different steps relating to victim protection.

Identifying victims and reporting the crime are the first step towards their protection. One way to achieve this is by recognizing situations in which either governmental departments or NGOs may encounter the victims. Information and training enable representatives from these agencies to identify signs of possible human trafficking and know the appropriate steps to take if they suspect that a person is a victim. The same can be said for the general public, considering that they might be the end-consumers of products produced by victims of trafficking or in other ways have contact with them. It is also important for victims themselves to be aware of the signs of trafficking; otherwise they may not realize that they are victims. Moreover, victims of trafficking can only ask for help if they are aware of their rights and if they are informed of the services and organizations that can assist them (IOM, 2005).

Once a victim is identified the second step is to provide immediate protection by upholding his or her safety and arranging for immediate shelter, food, clothing, medical care and counselling. The third step is more long-term, and includes regularizing the victim's immigration status and, if necessary, providing a (temporary) residence-employment permit. Options for housing, financial aid and health care are also explored. The fourth step is availing legal assistance, which can help the victim, for example, receive compensation for damages suffered, as well as prevent the prosecution of crimes committed as a direct result of the trafficking situation (such as immigration violations or prostitution).

4.2.1 Law

There are no provisions in Aruban law that specifically mandate the protection of victims of trafficking. The human trafficking article (Art. 286a SrA) only speaks about offences and not about victims of the crime. There are, however, other laws that may be used to assist victims of trafficking with certain parts of the protection scheme as just mentioned. Also, since Aruba has ratified the UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children (UN Protocol), it has an obligation to provide victim assistance and ensure their protection (Art. 6 and 7). (Some of these obligations will be mentioned in this section.) Moreover, Aruba has obligations stemming from the Memorandum of Understanding on Human Trafficking signed by the four Kingdom countries. As mentioned in previous chapters, the Memorandum, which calls for the countries to ensure that enough funds are available to assist victims, can be considered as a supplement to the legal framework for victim protection.

Identification

As stated in Subchapter 4.1.1, the Memorandum calls on member countries of the Netherlands to hold awareness campaigns each year. Awareness campaigns can be seen as both a prevention and protection effort, since through education people learn to recognize the signs of human trafficking, thereby increasing the chance of identifying potential victims of the crime.

Safety, Shelter and Counselling

A victim of any crime in Aruba can receive assistance and support, according to Article 206 of the Aruba Code of Criminal Procedures (SvA, in Dutch: *Wetboek van Strafvordering Aruba*); both shelter and any immediate counselling fall under the scope of this article. The Memorandum of Understanding states that when the safety of one or more victims is compromised in any of the four signatory countries, shelter options in one of the other countries should be pursued. The Memorandum, therefore, enables victims whose safety has been compromised in Aruba to be transported to and sheltered in another Memorandum member country.

Residence Permits, Housing, Financial Aid and Health Care

Article 7 of the UN Protocol states that: each State Party shall consider adopting legislative or other appropriate measures that permit victims of trafficking in persons to remain in its territory, temporarily or permanently, in appropriate cases taking into consideration humanitarian and compassionate factors. As of December 2012, there was no specific law in Aruba granting an immigrant a residence permit based on the fact that he or she has been the victim of human trafficking. One temporary solution in Aruba is Article 19 of the Admission Regulation, which was initially intended for persons seeking asylum in Aruba, but has been broadened to include individuals in other exceptional situations. The article states that a person, who, at arrival in Aruba, claims special status or protection, as stated in a treaty valid for Aruba, will be granted a special temporary permit while the claim is pending a decision. The permit will be granted free of charge to the person claiming the status. The article also states that the permit should not restrict employment.

In Aruba, there are no laws stipulating options for sheltering or housing victims of trafficking. In addition, there is only one option for receiving government-regulated financial assistance. This type of financial assistance is general, and does not specify any kind of victim. It is intended for citizens who have no income and need help from the Government. It can consist of one time emergency financial assistance in the form of a loan or a monthly sum for persons who are unable to work or have certain limitations. The financial assistance is regulated by Aruba's Law on Social Care (in Dutch: *Landsverordening Maatschappelijk Zorg*) and the Social Welfare Regulation (in Dutch: *Landsbesluit Bijstandsverlening*). According to these laws, for a person to be eligible for financial assistance, they need to be:

- Born in Aruba, of Dutch nationality and registered at the Census Bureau.²⁴
- Living in Aruba for the last three years and registered at the Census Bureau for the last three years if this person was not born in Aruba but has Dutch nationality.

²⁴ The Census Bureau is where all citizens of Aruba are registered and where all their information is stored.

There are three exceptions to the aforementioned criteria, meaning that the following persons are also eligible for financial assistance:

- Minors who were born outside of Aruba because of medical issues that could not be treated in Aruba.
- Minors born outside of Aruba who has one parent that was born in Aruba and has Dutch nationality.
- A person born in Aruba who has submitted a petition to acquire Dutch nationality with a good chance of it being granted.

For persons who do not have Dutch nationality, and do not fall under the exceptions, there is only one possibility for financial aid. Article 17 and 18 of the Social Welfare Regulation enables a person to receive a one-time interest-free loan.

Financial Aid

A new law on financial aid for victims of trafficking should include a clause for victims of serious crime who are in need of more financial assistance than a one-time loan.

The General Health Insurance (AZV, in Dutch: *Algemene Ziektekosten Verzekering*) runs Aruba's national health insurance. All persons registered at the Census Bureau whose primary place of residence is Aruba are automatically insured by law (Article 3 *Landsverordening Algemene Ziektekostenverzekering*). In order to register with the Census Bureau, immigrants must have a valid residence permit. Temporary permits, such as those originally designed for asylum-seekers, do not give immigrants the option to register, thus excluding them from receiving national health insurance.

Legal Assistance

The Public Prosecutor prosecutes human trafficking as criminal offences against the country; as such, even though the Public Prosecutor is not the victim's attorney, the victim receives some legal counsel. Aside from the prosecution efforts, the victim of trafficking can receive some free legal assistance through Article 2 of the Law on Free Legal Assistance (in Dutch: *Landsverordening Kosteloze Rechtsbijstand*), which states that Aruban residents who are unable to pay for legal assistance can get it by registering with the Department of Social Affairs. Those earning the minimum wage or less are considered unable to pay. The article also states that non-resident foreigners can apply for free legal assistance in criminal cases if they meet certain criteria, such as being unable to pay. Non-resident foreigners include tourists or those with irregular immigration status. In civil cases, non-resident foreigners can only apply for free legal assistance if it is an obligation under an international agreement. The law

only covers criminal and civil cases and does not provide for free legal assistance in administrative cases.²⁵

The Aruba Code of Criminal Procedures makes it possible for victims to receive compensation for damages suffered from a crime committed against them (Art. 374 SvA). The compensation can be at the most USD 28,000 (AWG 50,000) and there cannot be a concurrent, pending civil case about the compensation.

The Public Prosecutor’s Office has the authority to decide which cases it does and does not prosecute (Art. 207 SvA). Therefore, the Public Prosecutor’s Office can decide whether to charge and prosecute a victim of trafficking who has committed a crime as a direct result of the trafficking situation (Art. 15 SvA). If the Public Prosecutor’s Office decides not to prosecute, there is a possibility for persons directly disadvantaged by such decision to file a complaint on this matter. This possibility will be elaborated on in Subchapter 4.3.1 (“Law,” under “Prosecution”).

Analysis

In summary, Aruba does not have specific laws that offer victim protection, but it does have other, more general, laws that can be used. Article 206 of the Aruba Code of Criminal Procedures makes it possible for victims of human trafficking to receive immediate shelter and counselling. The article does not require that a victim be an Aruban resident to receive assistance; all victims are eligible to receive assistance, regardless of their residence status. Through the Kingdom’s Memorandum of Understanding on Human Trafficking, victims can be sheltered on other islands if there is a safety concern in Aruba. Shelter on another island is a practical option because Aruba is small.

It is good that the Aruban Government issues temporary permits to victims of trafficking on grounds of humanitarianism and compassion, according to Article 19 of the Admission Regulation. One disadvantage of this permit, however, is that it prevents victims from registering with the Census Bureau, thereby excluding them from receiving health care. Also, victims who are not of Dutch nationality are excluded from receiving social welfare benefits, which automatically excludes immigrant workers in Aruba. The one-time, interest-free loan is, therefore, the only financial aid available to victims of trafficking who are not Dutch. The loan, however, does not provide enough money to cover the expenses of a long stay, so victims would have to find a job to support themselves. One benefit of the temporary residence permit provided for in Article 19 is that it does not restrict employment.

According to Article 2 of the Law on Free Legal Assistance, persons can receive criminal legal aid regardless of immigration status. Free legal assistance can only be

²⁵ These include cases appealing decisions made by government departments, for example, decisions on residence permits.

granted to non-residents for civil cases if an international treaty obligates Aruba to do so. The UN Protocol does not oblige Aruba to provide free legal assistance in either criminal or civil cases and only requires that victims of trafficking be informed about legal and administrative proceedings and have their views and concerns heard during criminal proceedings.

As mentioned, victims in Aruba can request compensation for damages not exceeding USD 28,000 in criminal cases, eliminating the need to go through a civil trial. Likely, most cases will not pursue a civil suit so the victim would not need to hire a private attorney. The Public Prosecutor's Office has the legal authority to choose the cases it prosecutes. This usually means that identified victims of trafficking would not be charged for crimes committed as a direct result of their trafficking situation. It is reasonable to think that this best practice of not charging victims for crimes related to their trafficking situation will continue in Aruba. This is an advantage for victims of trafficking in Aruba, since it negates the need for an additional law to protect them from prosecution.

4.2.2 Policy

Identification

The Aruba Anti-Human Trafficking and Smuggling Taskforce is not a bureau unto itself and, therefore, does not have a government-endorsed policy. As established by the Memorandum of Understanding on Human Trafficking, the Anti-Human Trafficking and Smuggling National Coordinator serves as the contact point for all cases of human trafficking. It is through the National Coordinator that subsequent steps are taken, either to assist victims or to determine if a case should be investigated further. The Taskforce's Plan of Action can also be seen as a policy document, as it serves as a guiding hand for actions undertaken by Taskforce members. The Plan of Action for Aruba covers the years 2008 to 2010. Both the Memorandum and the Plan of Action provide a policy directive to ensure that awareness campaigns are carried out yearly to increase victim identification.

Safety, Shelter and Counselling

The policy for safety is to determine if the victim needs to be transported to another country. In such situations the National Coordinator contacts representatives from the other Memorandum countries to determine if they have shelter available for the victims and to discuss further procedures. The policy for shelter is also to determine whether a victim of trafficking is in need of shelter, immediate or otherwise. The National Coordinator also contacts a local NGO to arrange for an immediate shelter for victims, as necessary, in Aruba.

The Victim Assistance Bureau is in charge of the human trafficking hotline and has an official, written policy on how to assist victims. The policy is not specific to victims of trafficking, but applicable to victims of crime in general. The bureau provides psychosocial and practical legal assistance to victims of crime in Aruba. It is possible for victims of trafficking in need of long-term counselling to access psychologists through the Department of Social Affairs.

Residence Permits, Housing, Financial Aid and Health Care

Article 19 of the Admission Regulation prescribes the current policy for issuing temporary residence permits on humanitarian and compassionate grounds. The temporary permit is given free of charge and provides for the possibility for employment. There is, however, no policy that provides housing to victims of trafficking. Moreover, the fact that a person is a victim of trafficking does not ensure that he or she receives financial aid. (The requirements mentioned in Subchapter 4.2.1 need to be met for financial aid eligibility.) A victim of trafficking who meets the requirements will receive monthly financial aid until he or she is able to work. If the victim is not Dutch, he or she will only be able to get a one-time loan.

A victim of trafficking needs to be registered with the Census Bureau to receive health care. In order to avail of the health-care benefits, a victim of trafficking must register with the General Health Insurance Office, which will issue him or her with a card bearing their information. This card is proof that they are legitimately covered by the General Health Insurance. Cardholders can use the card to go to the doctor or the pharmacist, for example, and have costs covered by the General Health Insurance scheme. The same health insurance rules and restrictions apply as for any other Aruban citizens.

Legal Assistance

According to the policy adopted by the Department of Social Services, free legal aid is available for both criminal and civil cases. Civil cases can be, for example, about labour laws or contract laws, and while free legal aid is available for the defendant in criminal cases, there is no provision for granting free legal aid to a victim of crime. In addition, there is no free legal aid for administrative cases, either. The Free Legal Aid Bureau (KRB, in Dutch: *Kosteloze Rechtskundige Bijstand*) assesses a prospective client's situation to ascertain whether he or she qualifies to receive free legal aid. Two requirements that qualify an individual to receive free legal aid is that he or she earns at most the minimum wage and is a resident in Aruba. There is no specific policy for non-residents. This means that only persons registered at the Census Bureau are eligible for free legal aid.

Analysis

All in all, Aruba has several policy directives that relate to the protection of victims of trafficking. The Memorandum of Understanding on Human Trafficking enables Aruba to arrange shelter for a victim in another Memorandum country when the victim's safety has been compromised in Aruba. The National Coordinator also determines the need for shelter in Aruba and makes the corresponding arrangements as necessary. Victims of trafficking can receive both short- and longer-term counselling through the Bureau of Victim Assistance and the Department of Social Affairs, respectively. In addition, Article 19 of the Admission Regulation is available for victims of trafficking to claim special status and a temporary residence permit to stay and live in Aruba. The benefit of this temporary residence permit is that it is free and allows employment. For victims of trafficking who are not Dutch, the ability to work legally in Aruba is crucial because they are ineligible for social welfare assistance.

A downside of the temporary residence permit, however, is that it does not give the opportunity for victims of trafficking to register with the Census Bureau and thus for national health care. Apart from the Public Prosecutor's efforts, victims of trafficking cannot receive free legal aid despite the provision for this possibility, stated in Subchapter 4.2.1.

4.2.3 Procedure

Safety, Shelter and Counselling

It is difficult to describe the specific procedure that the Aruba Anti-Human Trafficking and Smuggling Taskforce uses and how it protects victims of trafficking because the circumstances differ widely from case to case. A possible procedure is as follows: the Victim Assistance Bureau informs the National Coordinator about a possible case of human trafficking reported through the hotline. If the victim himself or herself is making the report, the Victim Assistance Bureau decides the case's level of urgency and what sort of assistance should be provided to the alleged victim. Some cases are not reported through the hotline but through the National Coordinator or the Aruba Police Force. However the case is reported to the authorities, the Victim Assistance Bureau is called upon to assist the victim(s) and the National Coordinator is always informed.

As trained social workers, staff of the Victim Assistance Bureau can also provide short-term counselling services. The National Coordinator can arrange immediate shelter for victims of trafficking through Red Cross Aruba on a short-term basis. If it is too dangerous for the victim to stay in Aruba, the National Coordinator will arrange for him or her to be flown to one of the other islands that have signed the Kingdom's Memorandum of Understanding on Human Trafficking.

Residence Permits, Housing, Financial Aid and Health Care

For long-term victim assistance, Taskforce members meet to discuss and assess available options. The Department of Alien Policy will assess the option of issuing a victim of trafficking who decides to stay in Aruba a residence permit or of replacing the existing permit to reflect a new employer (if a new employment arrangement has been made). Because of Aruba's obligations under the UN Protocol, the department will have to ensure that a temporary permit is issued to the victim. If the victim decides to return to his or her home country, repatriation can be arranged with the help of organizations such as IOM.

As previously mentioned, no specific policy or housing facilities exist for sheltering victims of trafficking. Private housing arrangements have to be made by the National Coordinator in cases when shelter is deemed necessary. Should a victim have a safe place to stay – for example, with friends or family – however, no housing arrangement needs to be made by the National Coordinator.

Receipt of financial aid and health care is contingent on whether an immigrant is registered at the Census Bureau. If a victim of trafficking is eligible for financial aid, he or she needs to first get papers from the Census Bureau as proof of eligibility, which he or she then submits to the Department of Social Services. The department assesses if, indeed, the victim meets the requirements and can be granted financial aid.

Legal Assistance

The procedure for any person – including a victim of trafficking – to obtain free legal aid is as follows: the person makes an appointment with the Free Legal Aid Bureau, to which they present the completed free legal aid application form that they obtained from the Census Bureau along with their income statements issued by the Tax Office. The Free Legal Aid Bureau examines the documents to determine if an applicant is eligible to receive free legal aid.

Analysis

There is a well-established procedure for identifying and assisting victims of human trafficking. The procedure in Aruba is to always inform the Anti-Human Trafficking and Smuggling National Coordinator of a report and always call the Victim Assistance Bureau, which ensures the victim receives immediate care and short-term counselling. The National Coordinator can immediately arrange temporary shelter for the victim of trafficking. It is a positive step that members of the Aruba Anti-Human Trafficking and Smuggling Taskforce meet to discuss different options for assisting victims.

Some of the existing policies have made assistance eligibility contingent on whether a victim is registered with the Census Bureau. This registration requirement is an

obstacle for victims who are immigrants with no residence permits or whose residence permits have expired or have been revoked by their sponsors. Moreover, victims of trafficking who are ineligible for the national health insurance scheme may need more money to pay for medical care that is only available through a private practitioner. In addition, victims of trafficking must find and rely on their own resources for long-term housing because no government-funded or -provided housing options currently exist.

Another gap identified is the lack of written, official and codified procedures for assisting victims of trafficking. The referral procedure currently in use for identifying and assisting victims has never been put in writing; likewise, no standard operating procedures have been formalized on paper. Government cooperation with Red Cross Aruba or other NGOs has not been written in black and white, either.

4.2.4 Practice

Identification

The first step in protection, (that is, victim identification) is described in the Memorandum of Understanding on Human Trafficking. As mentioned in Subchapters 3.4 and 4.1, the Taskforce has made public awareness-raising of human trafficking one of its main goals. Through the Taskforce's efforts and with help from the media, there now seems to be greater public awareness of human trafficking. Providing training for the different government departments and agencies, as well as NGOs, is essential for increasing stakeholders' knowledge and the chances of identifying victims of trafficking; this will be described later in this subchapter, in the "Partnerships" section. This Situational Analysis' examination of laws, policies and procedures has shown that these, on occasion, hinder victim identification. For example, newly arrived immigrants have little contact with government departments because most of the paperwork necessary to enter Aruba legally is prepared prior to arrival in the country. Upon arrival, an immigrant worker is only required to meet with one government agency – the Department of Contagious Diseases - but even with this the contact is minimal, since the immigrant only brings the medical test results, with the actual tests conducted at a general practitioner's office. Moreover, the permit application process does not require the immigrant to be present in Aruba when applying for the first time; instead, the sponsor merely submits the application form, waits to receive the in-flight letter, which he or she sends to the immigrant who is still abroad, and, finally, picks up the actual permit at the end of this process. Consequently, the immigrant appears to have little involvement in the application process prior to arriving in Aruba.

Safety, Shelter and Counselling

In practice, the Victim Assistance Bureau assists victims of trafficking with immediate services, including shelter and counselling. Emergency shelter in Aruba is available through Red Cross Aruba and short-term shelter, which is mainly intended for women in difficult situations, is available through the Foundation for Women in Distress. Children are also accepted at the Foundation's shelter, but in normal cases men are not. Exceptions have been made for men to stay at this shelter, but stakeholders point out that the men stay in a different section than the women. Shelter stay at Red Cross Aruba, which is paid for by the Government, is very short-term, up to three days. Shelter at the Foundation for Women in Distress is available for up to three months, and the Government provides a small stipend for each night's stay. There are no long-term shelter options currently available, and as there are no other shelters in Aruba (the Government does not have its own shelter), victims of trafficking have few options. Because of Aruba's small scale and the lack of shelter options, the victim's safety could be threatened. Having already experienced a security situation, Aruba flew some victims to other islands within the Kingdom to ensure their safety; this will remain an option because of the relationship between member countries of the Memorandum.

Funding is one consistent problem for efforts to counter human trafficking because there is no reliable budget allocation. Funding sources for shelter, in particular, are lacking. Even though the Memorandum clearly states that each member country should fund the implementation of the Memorandum's plans, which includes victim assistance, in practice this is not always the case.

Moonlighting Officers

One obstacle to victim protection that has been identified as a trend in some Caribbean countries involves police officers who have second jobs as night security personnel at clubs or bars; hence the nickname "moonlighting officers." This trend was observed in Aruba while conducting the Situational Analysis. It is a problematic trend because victims of trafficking may not trust a police officer whom they perceive to work in another (questionable) setting, such as a bar or club, and may not be willing to ask the police for help or make a report.

Residence Permits, Housing, Financial Aid and Health Care

The Department of Alien Policy helps a victim of trafficking by referring to a law that was originally designed for asylum-seekers and refugees, so that the victim is not deported if they lack a valid residence permit. The Minister of Alien Policy has the discretionary power to issue a temporary residence permit to victims of

trafficking because of Aruba's obligations under the UN Protocol and the Kingdom's Memorandum of Understanding (as explained in Chapter 5). This residence permit temporarily enables a victim to work legally in Aruba while the case is being heard. The Department of Alien Policy replaces existing residence permits of victims of trafficking upon transfer to a new employer. Under normal circumstances, switching jobs is only possible after one year, but on humanitarian grounds and on the discretion of the Minister of Alien Policy, the minimum-one-year rule is overturned for victims of trafficking. This exception allows victims to find new employers and work to earn a living, which is important because, as mentioned, a victim of trafficking is ineligible for government financial aid if he or she is not of Dutch nationality.

In practice, housing is typically arranged with a private owner, as there is no law, policy or procedure that provides assistance in housing arrangements. The Aruba Anti-Human Trafficking and Smuggling National Coordinator and Taskforce may assist victims who have chosen to return to their home country. Some victims of trafficking have decided to return back home, and, in some cases, the victims received reintegration support from IOM.

Once a victim of trafficking registers his or her residence permit with the Census Bureau, he or she can also register with the General Health Insurance Office (AZV) and receive a national health insurance card. Registering with the Census Bureau is only possible if one has received a residence permit (which is valid for a limited time), which may be issued if the existing residence permit has been replaced by a new one, under a new employer. The temporary permit obtained through Article 19 of the Admission Regulation does not give a victim of trafficking the right to register with the Census Bureau; it only gives them the right to work.

Legal Assistance

The Law on Free Legal Assistance makes it possible for an immigrant who is a victim of trafficking to receive legal assistance, even if he or she is not registered with the Census Bureau or has irregular immigration status. However, the policies and procedures governing this section of the Department of Social Services are not designed with non-residents or victims specifically in mind. Hence, despite the possibility set out in the Law on Free Legal Aid, no non-resident has received free legal aid in Aruba. Moreover, the policy and procedures for the free legal assistance in criminal cases are set up for accused parties, and no victims can request free legal aid for a criminal case.

No victim of trafficking is known to have been prosecuted in Aruba. As mentioned previously, the legal mandate of the Public Prosecutor allows him or her to protect victims from being prosecuted if the crime they committed was a direct result of their trafficking situation. In addition, Aruba has not deported victims due to their irregular immigration status.

Analysis

At the moment, victims of trafficking in Aruba are being protected and assisted. As cases come along, the Aruba Anti-Human Trafficking and Smuggling National Coordinator and Taskforce, as well as NGOs, work to come up with ways to assist. It is very clear that Aruba is putting much effort into the protection of and assistance to these victims, yet a more institutionalized approach to protection would be in the best interest of all parties involved. For example, Aruba can provide a victim with a temporary residence permit that makes employment possible, ensuring that he or she can legally stay and work in Aruba so they can sustain themselves and, possibly, their families. The legal possibility to work can be seen as essential to the victim's financial survival because those who are not of Dutch nationality are ineligible for monthly social welfare benefits; they can only receive a one-time interest-free loan. Free legal aid, even with its limitations, and access to health care are both only possible for persons registered with the Census Bureau. Again, the importance of a residence permit must be re-emphasized because it is a requirement for registering with the Bureau. In practice changing the existing residence-employment permit has been more beneficial because victims can register or stay registered at the Census Bureau with this permit.

4.2.5 Partnerships

Partnerships between institutions and agencies are necessary because of the complexity of human trafficking cases. No one particular stakeholder can possibly cover all of the victim protection components. Partnerships working towards victim protection include the Aruba Anti-Human Trafficking and Smuggling Taskforce and several NGOs. Within the Taskforce the partnership between members of the Victim Assistance Committee is important. This committee discusses and attempts to resolve issues concerning practical assistance to victims of trafficking. Essential as well is the Laws and Regulation Committee, since its members propose law and policy adaptations to better assist victims in the future. The partnership between these two committees is mediated within the Taskforce since all the members of both committees are in the Taskforce.

Partnerships between the Government and the NGOs providing shelter for victims of trafficking (that is, Red Cross Aruba and Shelter for Women) are not formal agreements, but verbal ones. There are plans to formalize the partnerships in the future, however. Because Aruba is a small island, there are a limited number of NGOs with adequate expertise in victim assistance. Because of these current limitations, the Government should formalize the partnerships.

The National Plan of Action against Human Trafficking 2008–2010, which was drafted by the Taskforce, is important because it facilitates cooperation between concerned agencies. Even though the Memorandum of Understanding on Human Trafficking tasked the National Coordinator with developing the Plan of Action, the drafting

process was a partnership because it consisted of Taskforce members setting goals and agreeing to implement the plan. At the moment, the Taskforce still uses the Plan of Action that was designed for 2008-2010. However, the plan does not explain details and does not assign responsibilities to each Taskforce member. Therefore, a new, properly-structured Plan of Action should be developed to clearly outline the goals and responsibilities of each Taskforce member and ensure that progress is documented.

Training for governmental and non-governmental groups is also an important way to foster partnerships because it brings different departments together, clarifies their roles and responsibilities and promotes cooperation on human trafficking cases. The Department of Contagious Diseases, for example, has not received training on human trafficking, despite the fact that the department's staff members have direct contact with men and women coming from abroad to legally work in Aruba within 10 days of entering the country. In addition, labour inspectors from the Department of Labour and Research have yet to receive training despite their having a greater chance of encountering a possible victim of trafficking. One problem with delivering training on human trafficking is that there is currently only one trainer, that is, the National Coordinator. This problem is further exacerbated by the fact that the National Coordinator position is not full-time. As such, cases and other emergencies often compete for the National Coordinator's time. Consequently, training sessions may be cancelled because of more pressing matters, and untrained staff members working in this area lack the appropriate skills to identify and assist potential victims. Even the best-designed training programme would be of no use if no time can be allotted to actually conduct it.

4.2.6 Recommendations

The small scale of Aruba helps facilitate the protection of victims because stakeholders are willing to help and find creative ways to assist despite limited resources. Yet, it is important for Aruba to establish a more institutional approach to protecting victims of trafficking. Aruba is making progress by adding clauses to different laws that will explicitly make it possible to assist victims of trafficking in a more structured manner. Specifically, there should be a policy and procedure that establishes a standard process for a victim of trafficking to change the employer who is listed on the residence-employment permit. There should likewise be a legal provision that permits victims to obtain a residence-employment permit and register with the Census Bureau. Some sort of monitoring mechanism should be established to ensure that legal policy and procedural adaptations occur in the best interest of victims.

An annual budget should be allocated for the establishment of a more structured approach to victim protection. It is recommended to engage more persons with the knowledge and skills to train and lecture on human trafficking in Aruba, as well as supervise efforts made by the Aruba Anti-Human Trafficking and Smuggling National Coordinator and Taskforce, among other persons and institutions. At

the moment, only one person, the National Coordinator, is qualified to give such trainings, and because this position is not a full-time one, there is little time available to conduct training. More persons with the right knowledge and skills are needed because Taskforce members, including the National Coordinator, all have full-time jobs and commitments and, therefore, are not able to devote more time. It is also recommended to broaden trainings in the future to include any department or organization that could come in contact with victims of trafficking, such as police officers, medical professionals, hotel employees, fire department personnel and health inspectors, among others. As mentioned, certain government stakeholders (to be specific, labour inspectors) should have priority for receiving these trainings, since they have a greater chance to directly encounter victims.

Partnerships between the Aruban Government and the NGOs providing shelter to victims of trafficking should be formalized in writing. Moreover, the Government should consider establishing or properly funding the support of a shelter for victims of crime and disasters, especially for short- and medium-term accommodation. Further, government-funded shelter should be open to persons of all genders and ages.

The 2008–2010 Plan of Action should be revised to assign tasks in the areas of prevention, protection and prosecution, as well as define specific roles and responsibilities. The Plan of Action should also have a mechanism for evaluating progress.

Subchapter 4.1 described the lack of inspection of domestic workers and their live-in situations. It was pointed out that there is a gap in these inspections, since domestic workers' working and living conditions are not subject to further inspections after the first one, making this sector invisible. These inspections could be seen as preventive, as they send out the message that the Government does not tolerate illegal or inhumane labour practices. In addition, these inspections also work as opportunities for identifying victims of trafficking while in their exploitative situation. Therefore, the visibility of domestic workers and their live-in situation should be better incorporated as part of victim protection.

Data Collection

The Aruba Anti-Human Trafficking and Smuggling National Coordinator and Taskforce should put in place a database system that collects and stores information from each human trafficking report. Data collection should start at the moment a human trafficking report is made, with standardized screening forms and with the collection continuous throughout the duration of the case. The screening forms should include information on: the victim(s), the trafficker(s), the trafficking process, victim assistance and law enforcement's response.

In the future, this data could be used for tracking victim assistance and the progress of each case, which is useful to law enforcement agencies during a criminal investigation. Moreover, trends (if any) could be analysed and findings can be used in designing prevention strategies and for law enforcement agencies as they start a criminal investigation. Further, cost information from previous cases may be used to justify the allocation of human and financial resources for current and anticipated ones.

4.3 Prosecution

The prosecution of human traffickers is a key component in the fight against this crime. In accordance with Article 5 of the UN Protocol, Aruba has criminalized all forms of human trafficking (which was also described in Chapter 1). The current subchapter explains the prosecution process for a criminal case of human trafficking in Aruba. Whenever applicable, information from official reports and cases is used to illustrate how the prosecution process works and to emphasize the complexity of human trafficking cases.

Aruba's Legal System

Aruba works with the same legal system as the Netherlands'. This type of legal system is a civil legal system with an inquisitorial trial system, which means that the court is involved in determining the facts of the case and does not merely serve as a referee between the prosecutor and the defence attorney. In this system, there is no trial by jury, and only judges make rulings in criminal cases. Aspiring judges enrol in a special six-year programme after completing law school and are appointed for life.

Criminal cases are tried at the Court of First Instance, where one judge rules. If a person appeals his or her case, the case goes to the Court of Justice (of Aruba, Curaçao, Sint Maarten, Sint Eustatius, Saba and Bonaire), where three judges give out a ruling in the case. A second appeal, based on procedural aspects of the Court of First Instance or the Court of Justice's verdict, can be made at the Supreme Court. The Supreme Court does not overrule facts of the case, and only rules if procedures were correctly followed in the course of the first two trials. The Supreme Court is situated in The Hague (the Netherlands) and cases are presided over by three to five judges.

4.3.1 Law

Criminal cases of human trafficking in Aruba are subject to different laws that regulate the whole process of prosecution, most of which can be found in the Aruba Code of Criminal Procedures (SvA, in Dutch: *Wetboek van Strafvordering Aruba*). Essential to the prosecution process is that the offence committed is criminalized by law (Art. 9 SvA). As previously mentioned, human trafficking is criminalized under Article 286a of the Aruba Criminal Code.

Prosecution of criminal offences lies within the authority of the Public Prosecutor's Office (Art. 9 SvA), which has the discretion to choose the cases it does or does not prosecute (Art. 207 SvA). This discretion can only be overruled by a judge if a complaint is made and the judge rules it necessary for the Prosecutor's Office to hear the case. The complaint has to be made by a person who is directly disadvantaged by the decision not to prosecute (Art. 15 and further SvA).

The supervision of criminal case prosecution is the responsibility of the Attorney General, who can give instructions to the Public Prosecutor in the interest of a proper prosecution (Art. 14 SvA). The prosecution is divided into two parts: the first part is the preliminary investigation and the second part is the investigation-at-trial (these are discussed in the succeeding sections).

Preliminary Investigation

The preliminary investigation consists of one or more of these three different investigative forms: 1) the criminal investigation, 2) the judicial preliminary investigation and 3) the criminal financial investigation.

Public Prosecutors supervise criminal investigations in Aruba. They have the authority to issue orders to appointed persons and civil workers who are responsible for conducting criminal investigations (Art. 183 SvA). These appointed persons and civil workers can include, among others, police officers, detectives and civil servants with special competencies regulated by law. Moreover, Public Prosecutors and the Attorney General are qualified to investigate criminal offences (Art 184 SvA). The Public Prosecutor who receives information of an alleged crime launches the necessary criminal investigation and if there is reason hereto requests the conduct of a judicial preliminary investigation (Art. 187 SvA).

Criminal investigations can be very diverse, and a range of legal methods can be used to investigate the alleged offence and gather evidence for the criminal proceeding. For cases of human trafficking, these methods may include the physical investigation of body and clothing, interrogation, confiscation of material evidence, entering of homes and wiretapping (Book 3, Titles 4, 5, 9, 10 and 14 SvA). One specific law that could be used in the criminal investigation of human trafficking cases is the newly

introduced “BOB” law²⁶. The BOB law regulates and supervises law enforcement’s use of investigative powers, such as wiretapping and executing observations. This law was added to Aruba’s Code of Criminal Procedures because of the complexity and the globalization of criminal activities. In some cases a judge’s permission is necessary to execute certain investigative powers.

The second form of investigation – the judicial preliminary investigation – is the preliminary investigation carried out by a judge. Its procedures are described and prescribed by Title 3 of Book 4 of Aruba’s Code of Criminal Procedures. When a criminal investigation has produced enough leads, the Public Prosecutor requests that the judge starts a judicial preliminary investigation (Art. 221 SvA). A suspect can also request for a judicial preliminary investigation if he or she is remanded but a subpoena has not yet been issued (Art. 224-sub 2 SvA). In the judicial preliminary investigation, interviews are held with the suspect, witnesses and professionals. The Public Prosecutor and the suspect’s lawyer may be present at the interviews. If they are not present, they can send a list of questions that they would want to ask (Art. 226 SvA). If the judge is of the opinion that the witness will not be present at the trial, the judge invites the Public Prosecutor, the suspect’s lawyer and the suspect to be present during the interview. One exception to this is if there are suspicions that witnesses are being threatened (Art. 227 SvA). The suspect also has to be interviewed, as, according to Article 236 of the Code of Criminal Procedures, no Judicial Preliminary Investigation can end without the suspect having been interviewed.

The third type of preliminary investigation is the financial criminal investigation, which investigates the extent of financial gain and benefit derived from the criminal action. The possibilities and specifics of this form of investigation are laid out in Title 16 of Book 3 of the Code of Criminal Procedures.

If the Public Prosecutor deems it necessary, after the preliminary investigation is done, the prosecution of the suspect is continued as soon as possible by subpoenaing the suspect (Art. 284 SvA). If a judicial preliminary investigation is conducted, the Public Prosecutor has to inform the suspect no later than one month after the judicial preliminary investigation is closed whether he or she will be prosecuted (Art. 275 and 277 SvA).

Investigation-at-trial

In general, investigations-at-trial are open to the public (Art. 309 SvA). The presiding judge refers to the files set up by the Public Prosecutor to steer the investigation. During the investigation, the presiding judge questions the suspect(s), possible witnesses and experts. The Public Prosecutor and the defence lawyer are allowed likewise to question the suspects, witnesses and experts. Hereafter, the Public

²⁶ The BOB law was introduced in March 2012. “BOB” is the Dutch acronym for the National Ordinance Special Investigation Authorities.

Prosecutor determines what accusations have been proven against the suspect and recommends a sentence. It is then the defence attorney's turn to give his or her interpretation of what has been proven and to react on the sentence recommended by the Public Prosecutor. It is then up to the judge to decide what has been proven and what the sentence should be. The judge can give the sentence directly after the investigation-at-trial or at a later date, but within a timeframe of three weeks.

Memorandum of Understanding on Human Trafficking

The Memorandum of Understanding on Human Trafficking, signed by the Dutch Kingdom's constituent countries, prescribes provisions for the prosecution of trafficking offenders. The Memorandum, for example, demands that each country's Public Prosecutor's Office prioritizes cases of human trafficking. The focus should be on financial investigations and the confiscation of illegally obtained profits. The Memorandum also requires the Anti-Human Trafficking and Smuggling National Coordinator to chair a Review Committee that reviews reports of human trafficking. Moreover, the Memorandum stipulates that the Attorney General (PG, in Dutch: *Procureur-Generaal*) should be responsible for all Memorandum agreements relating to criminal prosecution.

Analysis

Article 286a of Aruba's Criminal Code criminalizes all forms of human trafficking in the country. Laws that relate to the prosecution of human trafficking cases are the same as with all other criminal cases. What stands out, however, is the Memorandum, because it empowers Aruba's legal framework by stipulating the prosecution of human trafficking cases as a priority. In addition, the Memorandum calls for member countries to investigate the financial aspect of the crime as a criminal offence. This is important for victims of trafficking if they request financial compensation for damages as a result of their trafficking situation, as explained in Subchapter 4.2.1. Moreover, the Memorandum requires the National Coordinator to chair the Review Committee, therefore ensuring its existence. The Review Committee can assist the Public Prosecutor's Office by providing information on which to base the decisions to investigate and to prosecute or not. The committee's existence, therefore, is essential.

4.3.2 Policy

Cases of human trafficking are of a high priority for the Anti-Human Trafficking and Smuggling National Coordinator, the Review Committee and the Public Prosecutor's Office. As previously mentioned, this priority stems from the Memorandum of Understanding on Human Trafficking. A high priority means that every case of possible human trafficking that surfaces must be looked at immediately. This also means that more human and financial resources may be used to investigate cases of human trafficking compared to others.

The Public Prosecutor's Office works with the National Coordinator, who also chairs the Review Committee, to decide whether a human trafficking case is strong enough to investigate further and, if so, whether to prosecute. The Review Committee's procedures are described in Subchapter 4.3.3. As with any other criminal offence, the decision to prosecute a case lies in the discretion of the Public Prosecutor's Office (Art. 207 SvA).

If the decision is to prosecute, the Public Prosecutor in charge of the human trafficking case will order the formation of a so-called Large-scale Investigation Team (TGO, in Dutch: *Team Grootschalig Onderzoek*) to start a criminal investigation. The team is composed of police officers and detectives drawn from the Organized Crime Unit of the Aruba Police Force (UGC, in Dutch: *Unit Georganiseerde Criminaliteit*) and the Joint Investigations Team (RST, in Dutch: *Recherche Samenwerkingsteam*). The Joint Investigations Team includes detectives from both Aruba and the Netherlands and focuses mainly on organized and transnational crime, as well as terrorism. The Large-scale Investigation Team has one head investigator who oversees the criminal investigation. The investigators have the authority to use different methods as mentioned in Subchapter 4.3.1, all stemming from the Aruba Code of Criminal Procedures.

Analysis

In accordance with the provisions set forth in the Memorandum of Understanding on Human Trafficking, the Public Prosecutor's Office mandate is to prioritize cases of human trafficking. The Public Prosecutor's Office assigns a large-scale investigation team to conduct the investigation.

Even though the Public Prosecutor's Office has the authority to decide the course of the case, it is excellent to see the Review Committee use an integrative approach in assessing whether a case is strong enough to investigate and prosecute. Because resources are gathered from different departments, the Public Prosecutor can receive this information faster and therefore decide more quickly on whether the case can be prosecuted. This will speed up the case and shows the priority given to human trafficking cases.

4.3.3 Procedure

The procedure for prosecuting cases of human trafficking is somewhat different than other criminal cases. If a possible case comes to surface, either through Aruba Police Force, Victim Assistance Bureau or other departments, the procedure is to always ensure the case has been referred to the Anti-Human Trafficking and Smuggling National Coordinator. Hereafter the National Coordinator will personally speak to and try to collect all possible information from the person making the report.

The National Coordinator then sends the collected information to the members of the Review Committee. The members of the Review Committee then start gathering information from their departments for the case. Depending on the department, the information gathered can pertain to persons, addresses, businesses, buildings, permits and so forth. Within a week, if possible, the members get together to discuss the information they have gathered. The information is put together, analysed and from here two questions are posed: firstly, is there enough information for the case to be investigated and secondly, could the case be prosecuted. If the answers to both questions are positive, the case, with all the information already gathered, is transferred to a Large-scale Investigation Team. If the answers to one or both of the questions are negative, then the case will not be investigated further but will be set aside for use at a later date if more information or evidence is available. If the case is referred to the Large-scale Investigation Team, the National Coordinator steps back and leaves the case in the hands of the Large-scale Investigation Team and the Public Prosecutor's Office.

Once the Public Prosecutor has decided to prosecute a case, a Large-scale Investigation Team is set up with different members from the Organized Crime Unit and the Joint Investigations Team. As mentioned, an officer is chosen to lead and oversee the investigation and also to serve as a contact point for the Public Prosecutor. In a human trafficking case, the Large-scale Investigation Team will use the information gathered from the Review Committee (if this took place). The Large-scale Investigation Team will then follow the same procedures for investigation as in other criminal cases, such as: interviewing the suspect(s), interviewing the victim(s), gathering information on persons and on businesses, searching homes and businesses, among others. There are many methods that can be used (all set out in the Aruba Code of Criminal Procedures), depending on the circumstances of each case. The Public Prosecutor uses the investigation's results to decide whether to pursue the case further or to discontinue the effort. If the Public Prosecutor decides to proceed, the Judicial Preliminary Investigation (GVO, in Dutch: *Gerechtigd Vooronderzoek*) carried out by a judge commences. It is also possible that a criminal financial investigation is conducted as well. The Public Prosecutor will then use the results of the preliminary investigation to decide if the suspect(s) should be prosecuted further or if the case will be dropped.

Analysis

When a human trafficking case is reported or there are suspicions of a case, the procedure in Aruba is to always inform the Anti-Human Trafficking and Smuggling National Coordinator. This is important because the National Coordinator needs to speak to the victim or person making the report in order to gather information which is then used by the Review Committee to gather more information. It is again the Public Prosecutor who decides if the case is prosecuted and if a Large-scale Investigation Team will be set up to investigate. Hereafter it is very much dependent on the circumstances of the case as to what happens with the investigation, for example what methods are used or whether the case is pursued further.

4.3.4 Practice

In Aruba there have not been any convictions of human trafficking. One case is being prosecuted and the verdict is expected to be announced in 2013. This case was investigated by a Large-scale Investigation Team, consisting of both investigators from the Organized Crime Unit and the Joint Investigations Team. There is one other case of human trafficking being investigated by a Large-scale Investigation Team but the specifics of this case were not available at the time of this report.

Although there have been no convictions yet, the two aforementioned cases have brought to attention important aspects of investigating and prosecuting human trafficking cases in Aruba. It became clear to the Organized Crime Unit when investigating these cases that expertise on human trafficking is lacking. There is no team within the Organized Crime Unit or the Joint Investigations Team that is specialized in human trafficking cases. These two law enforcement agencies mostly investigate crimes such as drug and arms trafficking, and murder. Therefore these investigators and detectives usually interrogate suspects and do not normally interview victims. One stakeholder said that the investigators lack training on how to interview victims and therefore the victim may not respond well to the interview approach. This may mean that the victim may hold back and not reveal information that could be used in the investigation or prosecution of that case.

More than one stakeholder pointed out that human resources are insufficient, even though human trafficking cases are a priority for the Public Prosecutor's Office, and therefore also for the Large-scale Investigation Team. This gap is not only in human trafficking cases but is a more structural issue. The lack of human resources to handle human trafficking cases is also due to their complexity because they could include a variety of offences such as labour law violations, fraud, mistreatment or rape. Moreover, physical evidence may be difficult to gather because it may not be present (anymore). Human trafficking is often a less visible form of crime. Victim and witness statements are important evidence but their reliability can be difficult to determine when there is little physical corroborative evidence. Victims may be reluctant to disclose information that they think would incriminate them. If this information is revealed later on in the investigation, the victims' credibility may be questioned by the defence attorney. Moreover cultural taboos may hinder victims from revealing important information. Therefore, law enforcement's interview method is very important for bonding with victims of trafficking.

The complexity and intensity of investigating human trafficking cases was highlighted by one of the cases in Aruba when fifteen victims made official complaints against a suspect. None of the victims were in Aruba when the investigation began and therefore it was necessary to travel to five different countries to interview them. Not only investigators but also the presiding judge, the Public Prosecutor and the defence lawyer travelled to attend the interviews. The travel of both the Public Prosecutor and the defence lawyer was necessary because they are allowed to ask victims and

witnesses questions in the trial process. Having to travel to so many countries also revealed an issue with a budget for investigating and prosecuting human trafficking cases. The total expense for investigating and prosecuting this case was large due to the amount of hours put in and the travel necessary to interview victims. The expenses were too much for the Aruban Government to absorb and were covered by the Netherlands.

As mentioned in Subchapter 4.3.1, the Memorandum of Understanding calls for member countries to conduct criminal financial investigations and attempt to confiscate illegally obtained profits when prosecuting human trafficking cases. Stakeholders have confirmed that there have been criminal financial investigations for human trafficking cases but no profits could be confiscated because of the cases' circumstances.

In Aruba, the Public Prosecutors are specialized in certain types of cases and there is one Public Prosecutor specialized in human trafficking. This does not mean that this Public Prosecutor only handles human trafficking cases or prosecutes all human trafficking cases; rather it means that he or she is especially knowledgeable on this subject. This specialized Public Prosecutor serves as a contact point on human trafficking cases for persons within the Public Prosecutor's Office and externally as well. Despite this, one problem experienced in Aruba is the rotation of prosecutors. Many prosecutors in Aruba come from the Netherlands to work for a period of three years, in most cases. This means that when the prosecutor leaves, he or she takes away the acquired experience and knowledge of the Aruban context.

Analysis

Human trafficking is a complex and often an invisible crime. In many cases victim and eyewitness reports are essential to prosecuting traffickers. This has proven to be an obstacle for police investigators in Aruba because they have not received enough training to interview victims. The investigators lack victim-sensitive interviewing skills because they are accustomed to interrogating suspects, which is a whole different approach. Therefore, information and evidence may not be obtained because victims who are treated like suspects in crime may choose to remain silent or not cooperate. This situation is compounded by not having a specialized team of investigators with the expertise to investigate human trafficking cases.

Another obstacle that may hinder Aruba's successful prosecution of traffickers is the lack of an adequate budget for investigation. Aruba is a small island and the complex nature of human trafficking cases often requires a large expenditure budget. Aruba is fortunate enough to have received funds from the Kingdom of the Netherlands to investigate one of the cases discussed in this subchapter. The budget problem is complicated further when the cases involve immigrants who, for whatever reason, do not stay in Aruba after the crime is committed. Victims may need to be flown to Aruba, or investigators, judges and lawyers may need to travel to the victims in other

countries to conduct interviews and cross examine. Investigating and prosecuting human trafficking cases take more time because of their scope, complexity and, sometimes, the travelling required.

There are many Dutch public prosecutors who work and reside temporarily in Aruba. The Dutch prosecutors return to the Netherlands when their contracted period ends, taking with them valuable information and experience. The process starts over every time a new prosecutor from the Netherlands arrives. Retaining institutional knowledge and capacity in Aruba is a challenge not only applicable to human trafficking cases but also to other criminal cases. However, it is desirable for prosecutors to have a good understanding of both human trafficking and the Aruban context because of the cases' complexity and magnitude.

4.3.5 Partnerships

The partnerships among the Review Committee members are very important for the prosecution effort. The Anti-Human Trafficking and Smuggling National Coordinator needs good cooperation from all of the Review Committee members to gather as much information as possible that could further the investigation and prosecution. This cooperation helps the Public Prosecutor decide whether to prosecute by using information from the different sources and departmental perspectives. In the past the Review Committee has come together to review reports of human trafficking. The information that was gathered by the Review Committee members was later used by the Large-scale Investigation Team.

The partnership with the Large-scale Investigation Teams is important for the Public Prosecutor's Office to be able to make a case, to have enough evidence and actually prosecute the alleged trafficker(s) or, if applicable, dismiss the case. The cooperation is also important for the Large-scale Investigation Team because some investigation methods require the Public Prosecutor's written permission. The communication between the Large-scale Investigation Teams and the Public Prosecutor's Office is not always clear. For example, when the Public Prosecutor in charge of human trafficking cases returned to the Netherlands in 2012, for some months, the Organized Crime Unit was unaware of who was assigned as the successor. Consequently, the case investigations were halted until the successor, who was a public prosecutor from the Netherlands, started working in Aruba.

Some stakeholders who were interviewed mentioned that feedback is often lacking on a case's status. For example, the Victim Assistance Bureau receives little feedback once it makes a report, even if subsequent action entails the Review Committee gathering information and the establishment of an Investigation Team. Another example is that sometimes the National Coordinator is also uninformed of the prosecution effort's progress.

4.3.6 Recommendations

Aruba has prosecuted two cases of human trafficking, and investigated several others, as of December 2012, demonstrating the Government's commitment to punish traffickers. These cases have also called attention to some areas where improvement is needed, such as the expertise of law enforcement. It is recommended that investigators develop more expertise in investigating human trafficking cases, for example, by receiving specialized technical training that includes techniques for interviewing victims in a sensitive manner. An effective interview approach is vital to obtaining victim and eyewitness statements that have evidential impact on the prosecutorial proceedings. Partnering with other departments, such as the Youth and Vices Squad, in the Aruba Police Force that regularly interact and interview victims of other crime is one possible way to learn better interviewing techniques. A cooperation agreement for future cases could be reached with a specialized police department that has more experience with victims. This would be a good interim solution until other investigators receive training and adopt victim-sensitive interviewing techniques. More expertise is also recommended for the Public Prosecutor's Office, in particular to train prosecutors who are likely to stay in Aruba for an extended period. These long-term, Aruba based prosecutors can increase their capacity and expand their experience and expertise by prosecuting future cases of human trafficking.

There is also room to improve cooperation and feedback from partners involved in the prosecution of trafficking cases. One solution would be to establish an agreement between the Public Prosecutor's Office and the Anti-Human Trafficking and Smuggling National Coordinator, enabling the prosecution's progress to be discussed and disseminated among Taskforce members. The progress would then be documented by the National Coordinator and sent to all Taskforce members. The agreement could state a specific time frame, for example every three months, when feedback on the case's progress is provided to all Taskforce members. There should also be a provision in the agreement stating that the feedback is given quickly when there are many case developments.

One of Aruba's structural problems is the budget available for investigating and prosecuting human trafficking. For example, prosecution of a human trafficking case involving a large number of victims proved too expensive for the Government's budget, necessitating financial support from the Netherlands. While it is understandable that Aruba, as a small island, has limited resources for investigation and prosecution, the Government should nevertheless allocate a realistic amount of funds to investigate and prosecute human trafficking cases, given their priority.

5. REGIONAL LEVEL

5



This chapter discusses bilateral and multilateral cooperation that Aruba has with different countries. The importance of cooperation is highlighted in the UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children (hereafter, the “UN Protocol”), where States Parties are encouraged to promote cooperation amongst each other to prevent and combat human trafficking and assist victims of trafficking (art. 2 sub c and art. 9 sub 4). Aruba has also recognized cooperation as a way to enhance knowledge on and ways to combat the crime of human trafficking.

5.1 Bilateral and Multilateral Cooperation

Memorandum of Understanding on Human Trafficking

As mentioned in Subchapter 3.4, Aruba has been part of a Memorandum of Understanding on Human Trafficking with the Netherlands, Sint Maarten and Curaçao since 2009. By signing the Memorandum in 2009 and again in 2011, the Ministers of Justice of the different Kingdom countries agreed to intensify their cooperation and give priority to preventing and combating human trafficking and migrant smuggling, and to assist victims of trafficking in the Dutch Caribbean. The Memorandum requires that the fight against human trafficking and migrant smuggling occur from a human rights perspective and be in accordance with relevant international treaties. The Memorandum states that the countries should strive to incorporate the provisions of the UN Protocol and the Council of Europe Convention on Action against Trafficking in Human Beings (hereafter referred to as the “European Trafficking Convention”) in their laws and policies.

The Memorandum stipulates the importance of sharing knowledge and experience. The cooperation promoted by the Memorandum is applicable to all the different organizations and departments involved in the fight against human trafficking, including those in charge of investigations, prosecution and immigration. Similarly the sharing of information should also include exchanging best practices on the subject of prevention. The Memorandum mentions that organizations in charge of victim protection should have yearly discussions. The Memorandum also calls for governments of the member countries to cooperate with IOM and CoMensha, an NGO based in The Netherlands that helps many victims of trafficking. The Memorandum instructs the member states to establish with IOM and CoMensha a basic referral process for victim assistance. The Memorandum makes CoMensha responsible for reviewing and revising the referral process every year and sending comments to the Anti-Human Trafficking and Smuggling National Coordinator in Aruba.

Aruba has, in the past, flown victims of trafficking whose safety was at risk to another island, as supported by the Memorandum’s cooperation principle for victim assistance. Some of the stakeholders interviewed mentioned good cooperation from government departments, such as the Victim Assistance Bureau.

International Organization for Migration (IOM)

Cooperation with IOM has helped progress Aruba's capacity to counter human trafficking. Since 2005, the cooperation primarily took the forms of Aruba's participation at IOM regional meetings and technical advice by IOM. Additionally, IOM and Aruba collaborated to assist some victims of trafficking with interpretation/communication and voluntary return and reintegration. Since 2011, Aruba has been part of IOM's regional capacity building project to counter human trafficking. This three year project is funded by the US Department of State, and aims to increase capacity in five Caribbean countries: Antigua and Barbuda, Aruba, Jamaica, St Vincent and the Grenadines and Trinidad and Tobago. At the national level, the project offers customized activities to strengthen government capacity to refer trafficking cases, to investigate and to prosecute trafficking related offences. At a sub-regional level, the project fosters collaboration through multi-country coordination workshops. IOM has also helped Aruba by arranging and assisting with this Situational Analysis and co-organizing many of the activities for the awareness week of 18 October in 2012. IOM also cooperated with Aruba when family members of a victim of trafficking in Aruba contacted IOM Ukraine about the victim's situation. IOM referred the case to the Aruba Police Force, which took action to assist the victim.

CoMensha

Aruba also has been cooperating with CoMensha to counter human trafficking. In 2007 and 2008, CoMensha trained the Aruban Government departments as well as departments from other islands, like Bonaire and Curaçao, in the region. The training provided information on the protection of victims, shelter, legal position of victims of trafficking and registration. In July 2009 the Dutch Ministry of Justice provided funds to CoMensha in connection with the Memorandum (signed in January 2009) for prevention activities and to share expertise about victim assistance. These activities included training members of the Aruba Anti-Human Trafficking and Smuggling Taskforce.

18 October – National Day against Human Trafficking

The Kingdom of the Netherlands' Memorandum of Understanding on Human Trafficking stipulates 18 October as the annual day against human trafficking, which coincides with the date honoured in Europe. As part of this annual event Aruba sought to involve different countries and foster cooperation by organizing an awareness week surrounding 18 October in 2011 and 2012. Aruba invited different countries in the region and received representatives from the Caribbean countries of Jamaica, Sint Maarten, Bonaire and Curaçao, as well as from the United States. The country representatives attended a seminar at which many issues about human trafficking were discussed.

Analysis

It is clear that the Memorandum of Understanding on Human Trafficking is a great advancement in the fight against human trafficking, as it promotes cooperation between the different countries in the Kingdom of the Netherlands. The Memorandum's provisions that promote victim safety and assistance are important and necessary because of Aruba's small scale. It is commendable to see that the Memorandum requests the countries to include and follow the provisions of the European Trafficking Convention, such as not punishing victims for crimes that were a direct result of the trafficking situation. Even though Aruba has not ratified this European treaty, following it will help to ensure that the national efforts are in accordance with current international standards.

In the course of preparing this Situational Analysis, observations were made which confirmed that the Aruban Government has carried out some but not all of the commitments specified in the Memorandum. Agreements that Aruba has fulfilled include: the establishment and existence of the National Coordinator and the Taskforce, yearly awareness campaign on 18 October and cooperation with Memorandum member countries to uphold the safety of victims. Agreements with which have not been fully complied are: the allocation of specific financial resources to assist victims of trafficking, training to civil workers and other groups and the posting of human trafficking information on the official government website. The lack of training is an issue, as mentioned previously, due partly to the part-time position of the National Coordinator. Time constraints make it difficult for the National Coordinator to conduct these trainings and perform other tasks, which are extensive and cannot be expected to be completed by one person in a part-time position. The government website does not post information about human trafficking. The lack of information is probably more symptomatic of a general problem with the government website, which is not updated regularly and therefore is outdated. Moreover the information on the website is limited and is either in Papiamentu or in Dutch (laws are only in Dutch).

An important partnership for Aruba is its cooperation with IOM, which has encouraged and more importantly assisted the Aruban Government in its fight against human trafficking. Yet the amount and degree of technical assistance that IOM can provide is limited by its budget constraints, and there is uncertainty about what will happen after 2015, when IOM completes its five-country capacity-building project. As such, IOM has worked to help Aruba create sustainable ways to continue combating human trafficking well into the future.

5.2 Recommendations

One point that was mentioned in Subchapter 2.3 (“Literature Review”) is the fact that CoMensha and the Bureau of the National Rapporteur on Human Trafficking (BNRM, in Dutch: *Bureau Nationaal Rapporteur Mensenhandel*), which are both from the Netherlands, do not specify the victim and convicted trafficker’s country of origin when he or she originates from the Netherlands Antilles; instead, CoMensha and the National Rapporteur cluster these persons under one denominator – “Netherlands Antilles” – which includes six islands. Aruba is part of the Kingdom of the Netherlands and the Memorandum of Understanding on Human Trafficking has also been signed by the Netherlands; people from Aruba (and the other islands) should be recorded as such for better tracking and analysis. Therefore, it is recommended that these two organizations cooperate and record specific information about the country of origin information within the Kingdom of victims, suspects and convicted traffickers. The information about victims and offenders that is not yet published in the annual reports by CoMensha and the BRNM should be sent to the Anti-Human Trafficking and Smuggling National Coordinator. By doing this, the Aruban Government would have better knowledge about the Aruban victims and traffickers identified in the Netherlands. This knowledge, particularly about the victims, could help Aruba develop better prevention strategies.

The Memorandum of Understanding calls for all the member countries to have an Anti-Human Trafficking and Smuggling National Coordinator. The Memorandum has an appendix that lists the National Coordinator’s tasks. The extensive list requires the National Coordinator to be responsible for many tasks to address human trafficking. Given the range and multitude of tasks that the National Coordinator is supposed to perform, it is recommended that this position be full-time or that more than one person be responsible for conducting these tasks.

6. CONCLUSION

6

Combating human trafficking has become a priority for many countries. International treaties such as the UN Protocol provide signatory countries with a starting point, some direction and a commitment to themselves to combat human trafficking. The complexity of human trafficking and cases has been recognized by governments and organizations making efforts against this crime. The complexity and seriousness of the subject require the use of an integrative approach, which brings together information and resources from different persons, government agencies and other relevant groups and, therefore, allows multiple perspectives to be focused on the same subject. In the Caribbean region, as well as in many other countries around the world, such integrative approaches are currently being applied in the fight against the often-transnational crime of human trafficking. Aruba is one of the countries committed to combating human trafficking using an integrative approach towards this goal.

This Situational Analysis results from a desire among key stakeholders to better understand and assess Aruba's actions against human trafficking. This report focused on Aruba's institutional response to human trafficking by analysing the actions already put forward and identifying the strengths and weaknesses in Aruba's laws, policies, procedures, practices and partnerships. The report also identified existing structures that could be connected to human trafficking, by either assisting it or hindering efforts against it. For the purpose of this report, information was gathered by reviewing literature, media sources, laws and government documents, and by interviewing stakeholders and observing the local context.

Aruba has been fighting human trafficking since 2006, which means that it is a relatively new field. The "newness" is reflected in the scarcity of articles found while conducting the Literature Review for this Situational Analysis. Moreover, it was difficult to draw conclusions from the published articles and reports because the original authors' methods were unknown. Therefore, official information could not be separated from speculation or conjecture. A Media Review was also conducted to ascertain what had been published about Aruba's human trafficking context in newspapers, in online news sources and on blogs. It seems that there has been media coverage on different subjects directly and indirectly related to human trafficking in Aruba. There were press articles on alleged cases of trafficking in and from Aruba, and articles on human trafficking awareness campaigns carried out in Aruba. In addition to this, there were media articles about at risk groups such as the regulated prostitution and the escort business. Reliability was one major problem with the media articles because, for example, sources were unknown, some stories contradicted each other, and some sources published more information than others. The dilemma with reliability became apparent when comparing information published in the media to the Government's case information that was made public. This Situational Analysis does not focus on Aruba's human trafficking trends, and therefore no conclusions were made on particulars. Nevertheless reports of human trafficking have been made to and acted upon by the Aruban authorities. To this date, ten reports of human trafficking have come to the attention of the Anti-Human

Trafficking and Smuggling National Coordinator. Of these ten reports, six were determined to continue to the Review Committee for deliberation. After the Review Committee members deliberated, four of these six reports were transferred for criminal investigations to the Public Prosecutor's Office and a Large-scale Investigation Team. One of these cases is expected to receive its verdict in 2013.

Chapter 4, the core of this report, was divided into the three parts that are internationally recognized as essential in the fight against human trafficking: the prevention of human trafficking, the protection of victims and the prosecution of traffickers. Within each part laws, policies, procedures, practice, and partnerships were analysed.

Aruba introduced its human trafficking article (Art. 286a SrA) in 2006 and officially became a signatory of the UN Protocol in 2007. This was an important step for Aruba because the treaty sets standards for responding to human trafficking in terms of prevention, protection and prosecution. The Aruban Government's signing of the Memorandum of Understanding on Human Trafficking in 2009 advanced the fight against human trafficking. Not only does the Memorandum stipulate actions about cooperation between the Kingdom countries, it also demands certain action to be taken nationally and, therefore, commits Aruba to fighting the crime of human trafficking.

Aruba is making efforts to prevent human trafficking through the Taskforce by organizing campaigns and seminars with the goal of making people in Aruba aware of what human trafficking entails, what is already being done and what could be done when confronted with such a situation. An advantage for Aruba is its small scale, which means that all newspapers covered the public outreach campaign. It is important for the Aruban Government to look at internal structures and mechanisms that hinder prevention efforts. One essential process that needs to be studied is immigration to Aruba, particularly contact moments between immigrants and government departments. Also the Government's lack of attention to live-in domestic workers is an area of concern, especially because domestic workers are, internationally, known to be a vulnerable group of labourers and highly susceptible to being trafficked. There is also a need to improve the policy that regulates prostitution in Aruba and establish a policy and procedure for the escort business.

As was mentioned in this report, a full-time National Coordinator who can devote more time to prevention, protection, and prosecution efforts is notably missing. A full-time National Coordinator would be able to give more training and supervise efforts taken by different departments. Aruba should have more initiative to write a new plan of action that defines, monitors and evaluates specific activities and goals to become more transparent about what has and has not been achieved.

Also Aruba has demonstrated great effort in protecting victims by acting to ensure their safety and assistance. The Memorandum makes it possible to preserve a victim's

safety by relocating him or her to another island, a practice that has worked well for Aruba. Members of governmental departments, NGOs and other groups have worked together to assist victims, despite limited legal options. The importance of non-resident victims of trafficking being registered at the Census Bureau should be underscored. A non-resident victim who receives a residence permit can register with the Census Bureau and can benefit from more government assistance (for example, health care, free legal assistance) than if they were unable to register. Legally the temporary residence permit that can be issued to victims does not allow them to register with the Census Bureau. In practice, however, it would be better to change the employer listed on the existing residence-employment permit, thus enabling the victim to register with the Census Bureau.

Even though the Government has accomplished much, a more structured approach to providing protection is needed to help ensure that future victims will be assisted as well. Luckily actions are being taken to achieve this goal. Also the allocation of an adequate budget to ensure continued efforts would be important. Moreover, the establishment of a government-funded shelter would help to improve victim assistance.

Aruba was prosecuting two cases of human trafficking while this Situational Analysis was conducted. Even though these prosecutions have not reached their final stage and received a verdict (by December 2012), important aspects were observed that can, in turn, help Aruba improve its response.

Aruba has the human trafficking article 286a SrA and a range of laws that can be used to prosecute these human trafficking cases, which are priority cases for the Public Prosecutor's Office and for the Large-scale Investigation Teams. One of the cases was very extensive and required ample human and financial resources beyond Aruba's means; the country was, however, able to continue investigating the case with help from the Netherlands. Members from the Taskforce, Public Prosecutor's Office and the Large-scale Investigation Team worked hard to make the prosecution of this case possible.

Despite the positive steps Aruba has taken to prosecute human trafficking cases, there are some areas that can be improved. Stakeholders who were interviewed said that expertise on human trafficking among some investigators was lacking and there was no specialized team designated to investigate the crime. Moreover, interviewed stakeholders thought that investigators needed more training to improve their victim-interviewing methods to help gather better evidence for the prosecutorial effort. The Situational Analysis also recommends that communication be more structured between members who are involved in the prosecution so that they are aware of case progress.

The fight against human trafficking has become a global movement, necessitating an international response because human trafficking often includes border-crossing

and involves immigrants on the move. Cooperation with other countries is a valuable way to strengthen the effort against trafficking. Notably, Aruba is cooperating with countries within and outside of the Kingdom of the Netherlands. Aruba has hosted seminars on human trafficking, and Aruban civil workers have participated in events organized in Aruba and abroad. In addition the cooperation with IOM and CoMensha has helped Aruba improve its national response and international cooperation.

The overall conclusion from this Situational Analysis is that Aruba is making great efforts to combat human trafficking. Aruba is applying an integrative approach that is initiated through the creation of the Taskforce and the Review Committee, where members from different departments work together. Even though Aruba has good legislation to prosecute human trafficking cases, the national legal framework should be modified to better realize the goals of the UN Protocol, the European Trafficking Convention and the Memorandum of Understanding on Human Trafficking, and establish more structure and guidance. The commitment of the constituent countries of the Kingdom of the Netherlands, as evidenced by the Memorandum, is a great advancement in the fight against trafficking. The Aruban Government has already complied with many of the Memorandum's provisions.

Efforts against trafficking should be continued. Important steps that the Aruban Government could pursue are: to look at immigration structures and mechanisms, to revise old policy and formulate new policy on prostitution and the escort business, and to ensure that immigrant workers are visible to government departments. A more structured approach as well as human and financial resources are necessary to optimize Aruba's efforts in prevention, protection and prosecution. Moreover, the National Coordinator's position should be full-time, and Aruba should have more key stakeholders who are experts in this field. Governmental departments, NGOs and other relevant groups should receive training about human trafficking. These actions should be seen as an investment, not only in the fight against human trafficking but also in protecting citizens from other types of abuse, such as human rights or labour law violations.

6.1 Future Research

As with any research undertaking, more questions arose in conducting this Situational Analysis. Most of these questions and topics could not be researched further due to time constraints and in respect of the Situational Analysis' purpose. The laws, policies, procedures, practices and partnerships covered in this Situational Analysis should be reviewed in order to address other, related issues, such as abuse of immigrants, unlawful labour practices, child protection and public health. The following topics are therefore suggested for future research:

- Unregulated prostitution;
- Street prostitution;
- The escort business (including how to track its financial trails);
- Possibilities of providing information to immigrants;
- The utility of the Aruban Government websites, for example, in providing information;
- Sexual acts against minors and the laws that cover these violations;
- Trafficking in persons for the purpose of drug trafficking.

In addition to researching the subjects listed above, two key areas that warrant action might be as follows:

- The Aruba Anti-Human Trafficking and Smuggling National Coordinator and Taskforce should work with embassies and representatives of immigrant communities to provide training and discuss the possibility of human trafficking and other abuses occurring within such immigrant communities. As a result of this Situational Analysis, it is expected that much information can be gathered through better communication with immigrant groups to help in preventing human trafficking within these communities, identifying victims and prosecuting traffickers.
- The role of the Aruban Border Control and Immigration Services (IASA, in Papiamentu: *Instituto Alarma y Seguridad Aruba*) in the immigration process is a worthy point for better understanding and involving in the response. The chances of IASA coming in contact with possible victims should be considered, both when immigrants enter and exit the country. Because IASA helps deport immigrants with irregular immigration status, it is in a position to screen persons awaiting deportation to determine whether they are victims of trafficking.

The hope is that this Situational Analysis, which is the first of its kind in Aruba (and even in the entire Caribbean), will bring positive institutional changes, foster cooperation and promote further research, not only in human trafficking but in other areas as well. Ultimately, this Situational Analysis aims to serve as a tool for Aruban stakeholders to strengthen their efforts in the prevention, protection and prosecution of human trafficking by examining and improving laws, policies, procedures, practices and partnerships.

BIBLIOGRAPHY

Terminology

International Organization for Migration (IOM)

- 2004 Glossary on Migration. Available from http://publications.iom.int/bookstore/free/IML_1_EN.pdf (accessed 29 January 2013).
- 2007 *The IOM Handbook of Direct Assistance for Victims of Trafficking*. Geneva: IOM.

Oxford University Press

- 2013 Oxford Dictionaries. Available from <http://oxforddictionaries.com/> (accessed 29 January 2013).

Chapters 1, 2 and 3

Alvarez, M. and E. Alessi

- 2012 Human trafficking is more than sex trafficking and prostitution Implications for Social Work. *Affilia*, 27(2):142–152.

Committee on the Elimination of Discrimination against Women

- 2005 *Fourth Periodic Report of State Parties. The Netherlands: Aruba*. UN.

Central Bureau of Statistics (CBS)

- 2010 Migration characteristics of population, Aruba. Available from www.cbs.aw/cbs/readBlob.do?id=4118/ (accessed on 29 January 2013)

CoMensha/ La Strada Netherlands

- 2010 Annual Report Anti-Trafficking Coordination Centre. The Netherlands.

Eman, S. M.

- 2012 Aruba en Mensenhandel: In hoeverre voldoet Aruba aan de internationale afspraken over de aanpak van mensenhandel? Unpublished master's thesis, University of Aruba, Oranjestad, Aruba.

International Human Rights Law Institute, DePaul University College of Law

- 2005 *In Modern Bondage: Sex Trafficking in the Americas: Central America, the Caribbean and Brazil*. United States.

International Organization for Migration (IOM)

- 2003 *Is Trafficking in Human Beings Demand Driven? A Multi-Country Pilot Study*. IOM, Geneva.
- 2005 *Data and research on human trafficking: A global survey*. Vol. 43 (1/2) IOM, Geneva.
- 2006 *Dimensiones de la trata de personas en Colombia*. IOM, Colombia.
- 2010 *Exploratory Assessment of Trafficking in Persons in the Caribbean Region: The Bahamas, Barbados, Guyana, Jamaica, The Netherlands Antilles, St. Lucia, Suriname and Trinidad and Tobago*. IOM, Geneva.

Kiemel, J. and W. Kate

- 2007 *De programmatische aanpak van mensenhandel en mensensmokkel: Een verkenning aan de hand van Sneep*. Justitiële verkenning, 33(7):96–106.

Laczko, F. and M. Gramegna

- 2003 Developing better indicators of human trafficking. *The Brown Journal of World Affairs*, 10(1):179–194.

National Rapporteur on Trafficking in Human Beings and Sexual Violence against Children (NRM)

- 2013 Available from <http://english.bnrm.nl/about/> (accessed 29 January 2013).

United Nations (UN)

- 2013 Available from http://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=XVIII-12&chapter=18&lang=en#5/ (accessed 29 January 2013)

US Department of State

- 2012 Trafficking in Persons Report. Available from www.state.gov/j/tip/rls/tiprpt/index.htm/ (accessed 29 January 2013).

Van Gestel, B. and M. Verhoeven

- 2009 *De praktijk van de programmatische aanpak mensenhandel: Plan- en procesevaluatie van een pilot*. Den Haag: WODC. Cahier 2009- 7.

Aruba Media Websites Reviewed

Escort service and prostitution blogs and forums:

- <http://forum.cityxguide.com/topic/aruba/page/15>
- www.21orover.com/discus/messages/169/1884.html
- www.aruba.com/forum/f11/yap-yum-30564/
- www.holidaysexguide.com/p/aruba.php
- www.worldsexguide.com/guide/Caribbean/Aruba/index.htm

Recruitment website prostitution:

- www.mundoanuncio.com/categoria/eroticos_profesionales_18/buscar/trabajar_en_aruba.html

Colombia human trafficking network:

- www.eltiempo.com/justicia/ARTICULO-WEB-NEW_NOTA_INTERIOR-10622819.html

Human Trafficking case the Netherlands:

- www.24ora.com/internacional-mainmenu-6/34761-muhenan-arubiano-abusa-na-hulanda
- www.blikop112.nl/bericht/16663/vier_arrestaties_in_onderzoek_mensenhandel.html
- www.telegraaf.nl/binnenland/10267937/___Arubaanse_vrouwen_uitgebuit_.html
- www.24ora.com/local-mainmenu-5/30905-un-detencion-na-aruba-y-varios-na-hulanda-diaranson-pa-trafico-di-hende
- www.24ora.com/internacional-mainmenu-6/34761-muhenan-arubiano-abusa-na-hulanda

Escort service Aruba:

- www.yellowpages-aruba.com/categories/shops-services/escort-services/
- <http://onehappyendingaruba.net/>
- <http://pleasureinaruba.escort-site.com/>
- <http://baccaranightclub.com/>

ANNEX A. List of Interviews with Key Stakeholders

In the course of the Situational Analysis many interviews were conducted with different persons, departments and organizations. The questions for the interviews were specific to each interviewee but were all related to the prevention of human trafficking, protection of victims, prosecution of traffickers and/or partnership in anti-trafficking efforts. Below is a list of the interviews conducted with the main subject of each interview.

- In August and October 2012, interviews were conducted with the Department of Labour and Research (DAO) employees concerning labour laws and labour inspections. In January 2013 an interview was conducted with Labour inspectors concerning their role in prevention and protection of possible victims.
- In August 2012, a phone interview was conducted with an officer at the Youth and Vices Squad (JZP) about prostitution in Aruba and the role of JZP in inspections related to prostitution.
- In August 2012, an interview was conducted at the Victim Assistance Bureau (BSH) concerning their role with the human trafficking hotline and the protection of victims.
- In August and September 2012, interviews were conducted with employees of the Department of Alien Policy, Admission and Integration (DIMAS) concerning the immigration process. In January 2013 another interview was conducted for clarification and further details on the matter.
- In September 2012, an interview was conducted with three bar owners about prostitution in San Nicolas.
- In September 2012, an interview was conducted with representatives of the Chamber of Commerce (KvK) concerning registration of companies in connection with possible vulnerable groups.
- In September 2012, an interview was conducted with employees of the Department of Contagious Diseases (DBZ) concerning their role in medical tests and possible role in anti-human trafficking efforts. In January 2013 another interview was conducted for clarification and more details on the matter.
- In September 2012, an interview was conducted with employees of the Aruban Border Control and Immigration Services (IASA) concerning their role in the entry, re-entry and exit of immigrants.

- In October 2012, an interview was conducted with employees of the Free Legal Assistance (DSZ, department KRB) concerning the possibility and availability of free legal assistance to victims of trafficking.
- In October 2012, an interview was conducted with a Public Prosecutor at the Public Prosecutor’s Office about the investigative and prosecutorial role in human trafficking cases.
- In October 2012, an interview was conducted with representatives of an immigrant community concerning their knowledge of human trafficking and possibilities for specific prevention campaigns within their community.
- In December 2012, an interview was conducted with officers of the Organized Crime Unit (UGC) concerning their role in the investigation of human trafficking cases.
- Multiple interviews were conducted with members of the Aruba Police Force (KPA) at different times throughout the course of the research. These included interviews with the National Coordinator (LCMM) concerning all aspects of anti-human trafficking efforts.

ANNEX B. List of Required Documents for the Residence-Employment Permit Application



DIMAS
 Wilhelminastraat 31-33, Oranjestad, Aruba
 Tel. (297)5221500 Fax (297)5221505
 dimas@aruba.gov.aw · www.dimasaruba.com

LIST OF REQUIREMENTS AL EA/22-04-2012

EMPLOYMENT FIRST REQUEST		Applicant	DIMAS
A. FOR SUBMISSION			
1.	This completely filled out, original LIST OF REQUIREMENTS for the particular purpose of residence, and a copy thereof. This list is also the payment order of the application fees and charges and proof of submission. It should bear a stamp of the Tax Authorities not older than 6 months.	<input type="checkbox"/>	<input type="checkbox"/>
2.	Original receipt of fees application fees and charges paid, issued by the Tax Authorities Office (SIAD) (not older than 6 months).	<input type="checkbox"/>	<input type="checkbox"/>
3.	When using a REPRESENTATIVE (third party): a. an original authorization letter (not older than 6 months). b. 1 copy of the valid identification of the representative.	<input type="checkbox"/>	<input type="checkbox"/>
4.	A completely filled out original PERMIT APPLICATION FORM, signed by the employer/guarantor and applicant or the authorized representative and a copy thereof.	<input type="checkbox"/>	<input type="checkbox"/>
5.	A: 3 Recent and identical color photographs of the applicant (passport standard 35mm x 45mm).	<input type="checkbox"/>	<input type="checkbox"/>
6.	A: Clear photocopy of the front page (personal data) including the signature of applicant's valid passport. (Minimum 6 months valid upon submission).	<input type="checkbox"/>	<input type="checkbox"/>
7.	A: Original certificate of good conduct (background investigation) issued by the Country of residence, of the last five years. This should be provided with legalization (not older than 6 months) from a Dutch Embassy, or apostille (depending on membership International Convention). Certificates issued in one of the countries of the Kingdom of the Netherlands do not require legalization or apostille. If the certificate is in a language other than Dutch, English or Spanish, a translation should be provided by a sworn translator in Aruba. Please note, that no apostille is required for Colombia, regarding the certificate of good conduct. n case the ID number does not appear in the passport, a clear photocopy of the ID card (cedula).	<input type="checkbox"/>	<input type="checkbox"/>
8.	G: Original Form A of EMPLOYER concerning his reputation at the SIAD (SIAD stamp not older than 6 months).	<input type="checkbox"/>	<input type="checkbox"/>
9.	G: Clear photocopy of the valid identification of the guarantor (if guarantor is subject to a permit, a copy of his/her residence permit).	<input type="checkbox"/>	<input type="checkbox"/>
10.	G: A declaration stating his paid employment with regards to position, employer and applicant, issued by the Department of Labor Progress (not older than 6 months). For more information regarding exception categories and the method of handling you can contact the DPL by phone at 521-555 or visit their website at www.dpl.aw.	<input type="checkbox"/>	<input type="checkbox"/>
11.	G: If it concerns the employer's first request to the DIMAS, proof of registration at the Aruba Chamber of Commerce of the employer who submitted the request, not older than six months, and a settlement license of the legal personality (Limited Liability Company or other) issued by the Department of Economic Affairs.	<input type="checkbox"/>	<input type="checkbox"/>

* G: guarantor * A: applicant

Medical tests

Upon arrival, the interested party should undergo medical tests at a doctor established in Aruba; which results should be submitted within 30 days after the date of arrival in Aruba, to the Department of Infectious Diseases; Avicenastraat # 1 tel: 522-4200. .
 In case the interested party receives a statement of no objection from the Department of Infectious Diseases, the interested party may start working with his guarantor.

Additional information

- The DIMAS is entitled to request additional information.



Title: A Cold Cruel World

By Denzel R. Ellis (16 years), awarded first place in Aruba's Youth Artwork Competition 2012

Artist's description of the artwork:

A Cold Cruel World depicts several people and several countries' flags. On the right, are the flags of what the artist believes are some of the most common countries from which people are being illicitly transported into Aruba. In the top right, you can view a girl trying to escape back to her home country, yet she is unable to do so, because she is chained to the traffickers who have taken her passport after having seduced her into coming with them. The traffickers seduce people by means of promising them commodities like the house depicted in the lower right. The trafficker is depicted in the center, along with depictions of his actions of sexual exploitation, forced labour and servitude. The trafficker may decide to keep the people he has harvested, imprisoned or may choose to send or sell his prisoners to his parties in the Netherlands, as shown on the left. From there, they are mostly forced to enter another cruel world of exploitation. But without any physical borders, they can easily be transported to the rest of the European landmass and beyond.



International Organization for Migration (IOM)
Organisation internationale pour les migrations (OIM)
Organización Internacional para las Migraciones (OIM)

Taskforce
Anti Human Trafficking
& Smuggling
Aruba

