

Annex to the response of the Kingdom of the Netherlands:

Ad para 27, question 4: relevant provisions in the Revised Penal Code of Curaçao:

The relevant provisions are as follows:

Article 2:208

- 1. Any person who commits an indecent act with his minor child, stepchild or foster child, his ward, a minor entrusted to him for care, education or supervision, or an employee or subordinate who is a minor is liable to a term of imprisonment not exceeding eight years or a fifth category fine.*
- 2. The same penalty will apply to:*
 - a) any public servant who commits an indecent act with a person under his authority or in his charge;*
 - b) any person who is employed in or for any institution to which he has not been admitted and who commits an indecent act with a person admitted to the institution; for the purposes of this article an institution is deemed to include a prison, children's home, orphanage, hospital, psychiatric institution and charitable institution;*
 - c) any person employed in the healthcare sector or in social work who commits an indecent act with anyone committed to his care as a patient or client.*

Article 2:209

- 1. Any person who intentionally causes or encourages his minor child, stepchild or foster child, his ward, a minor entrusted to him for care, education or supervision, or an employee or subordinate who is a minor, to commit an indecent act with another person is liable to a term of imprisonment not exceeding six years or a fourth category fine.*
- 2. Any person who intentionally causes or encourages a person whom he knows or may reasonably be expected to know is under the age of eighteen to commit an indecent act with another person, other than in the cases defined in paragraph 1, is liable to a term of imprisonment not exceeding three years or a fourth category fine.*
- 3. If the person concerned makes a habit of committing the indictable offence referred to in paragraphs 1 or 2, the terms of imprisonment set for these offences are increased by a third and the fines set for these offences increased to the next highest category.*

Article 2:210

- 1. The terms of imprisonment referred to in articles 2:196 to 2:209 are increased by not more than a third and the fines set for the offences increased to the next highest category if the offence is committed by two or more people acting in concert.*
- 2. The terms of imprisonment referred to in articles 2:196 to 2:207 are increased by not more than a third and the fines set for the offences increased to the next highest category if the offender commits the offence against his child, a child for whom he bears parental responsibility or is caring for and raising as a member of his family, his ward, a minor entrusted to him for care, education or supervision, or an employee or subordinate who is a minor.*
- 3. If one of the indictable offences referred to in articles 2:197 to 2:204 and 2:208 results in serious bodily injury or threatens the life of another person, the term of imprisonment set for the offence is increased by half and the fine set for the offence is increased to the next highest category.*
- 4. If one of the indictable offences referred to in paragraph 1 threatens the life of another person or results in another person's death, the sentence to be imposed*

is life imprisonment or a determinate term of imprisonment not exceeding thirty years or a fifth-category fine.

Article 2:211

A person convicted of one of the indictable offences referred to in articles 2:196 to 2:209 may be deprived of the rights referred to in article 1:64, paragraph 1 (a), (b) and (c).

Title XX

Assault

Article 2:273

- 1. Assault is punishable by a term of imprisonment not exceeding four years or a fourth-category fine.*
- 2. Assault committed with weapons as referred to in section 1, subsection 2 of the Firearms and Offensive Weapons Ordinance 1931 is punishable by a term of imprisonment not exceeding six years or a fifth-category fine.*
- 3. If the victim suffers serious bodily injury as a consequence of the offence, the offender is liable to a term of imprisonment not exceeding nine years or a fifth category fine.*
- 4. If the victim dies as a consequence of the offence, the offender is liable to a term of imprisonment not exceeding twelve years or a fifth category fine.*
- 5. Intentional acts committed for the purpose of impairing the health of another person are treated as the equivalent of assault.*
- 6. Attempted assault is not an offence.*

Article 2:274

- 1. Premeditated assault is punishable by a term of imprisonment not exceeding six years or a fifth category fine.*
- 2. Premeditated assault committed with weapons as referred to in section 1, subsection 2 of the Firearms and Offensive Weapons Ordinance 1931 is punishable by a term of imprisonment not exceeding nine years or a fifth-category fine.*
- 3. If the victim suffers serious bodily injury as a consequence of the offence, the offender is liable to a term of imprisonment not exceeding twelve years or a fifth category fine.*
- 4. If the victim dies as a consequence of the offence, the offender is liable to a term of imprisonment not exceeding fifteen years or a fifth category fine.*

Article 2:275

- 1. Any person who intentionally causes serious bodily injury to another person is guilty of serious assault and liable to a term of imprisonment not exceeding fifteen years or a fifth category fine.*
- 2. If the victim dies as a consequence of the offence, the offender is liable to a term of imprisonment not exceeding twenty years or a fifth category fine.*

Article 2:276

- 1. Premeditated serious assault is punishable by a term of imprisonment not exceeding fifteen years or a fifth category fine.*
- 2. If the victim dies as a consequence of the offence, the offender is liable to a term of imprisonment not exceeding twenty-four years or a fifth category fine*

Article 2:277

- 1. The terms of imprisonment referred to in articles 2:273 to 2:276 are increased by one third where:
a) the victim of the indictable offence is the offender's mother, father, spouse or partner, a child for whom he bears parental responsibility or a child whom he is caring for and raising as a member of his family;*

- b) the victim of the indictable offence is a person entrusted to the offender for care, education or supervision;
- c) the victim is a public servant and the indictable offence is committed during the lawful performance of or in connection with his official duties;
- d) the indictable offence involved the administering of substances endangering life or health.

2. If the indictable offence carries a maximum determinate term of imprisonment of twenty years or more, a sentence of life imprisonment or a determinate term of imprisonment not exceeding thirty years will be imposed.

Article 2:278

If any of the indictable offences referred to in articles 2:275 and 2:276 is committed with terrorist intent, a sentence of life imprisonment or a determinate sentence not exceeding thirty years or a fifth-category fine may be imposed.

Article 2:279

Conspiracy to commit the indictable offence referred to in article 2:276 with terrorist intent is punishable by a term of imprisonment not exceeding twelve years or a fifth category fine.

Article 2:280

Any person intentionally participating in an attack or affray in which several persons are involved, is, without prejudice to each person's responsibility for the acts he himself has committed, liable to:

1. a term of imprisonment not exceeding two years or a fourth-category fine if the attack or affray causes serious bodily injury;
2. a term of imprisonment not exceeding three years or a fourth-category fine if the attack or affray results in a person's death.

Article 2:281

A person convicted of one of the indictable offences referred to in this title may be deprived of the rights referred to in article 1:64, paragraph 1 (a), (b) and (c).

Ad Paragraph 29, question 9: adopt without delay legislation criminalizing all forms of human trafficking.

Article 286f Criminal Code for Bonaire, St, Eustatius and Saba

1.) Any person who:

1. with the intention of exploiting another person or removing his or her organs, recruits, transports, transfers, accommodates or shelters that other person by means of duress, violence or another hostile act, or the threat of violence or other hostile act, or by means of extortion, fraud, deception or the abuse of power arising from a specific state of affairs, or by means of the abuse of a position of vulnerability, or by means of giving or receiving payments or benefits in order to obtain the consent of a person having control over that other person;
2. recruits, transports, transfers, accommodates or shelters a person with the intention of exploiting that other person or removing his or her organs, if that person has not yet reached the age of eighteen years;
3. recruits, takes away or abducts a person with the intention of inducing that person to make him or herself available for sexual acts with or for a third party for payment in another country;
4. forces or induces another person by means referred to under 1o to make him or herself available for work or services or to make his/her organs available, or takes any action in the circumstances referred to under 1o which he knows or

may reasonably be expected to know will result in that other person making him or herself available for work or services or making his or her organs available;

5. induces another person to make him or herself available for sexual acts with or for a third party for payment or to make his or her organs available for payment, or takes any action in relation to another person which he knows or may reasonably be expected to know will result in that other person making him or herself available for these acts or making his or her organs available for payment, if that other person has not yet reached the age of eighteen years;
6. intentionally profits from the exploitation of another person;
7. intentionally profits from the removal of organs from another person, if he knows or may reasonably be expected to know that the organs of that person were removed under the circumstances referred to under 1o;
8. intentionally profits from the sexual acts of another person with or for a third party for payment or the removal of that person's organs for payment, if this other person has not yet reached the age of eighteen years;
9. forces or induces another person by the means referred to under 1o 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 or a fifth category fine.

2.) Exploitation shall include, at the minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced or compulsory labour or services, slavery or practices comparable to slavery or servitude.

3.) The following offences shall be punishable by a term of imprisonment not exceeding eight years or a fifth category fine:

1. offences as defined in paragraph 1 if they are committed by two or more persons acting in concert;
2. offences as defined in paragraph 1 if they are committed in respect of a person who is under the age of sixteen.

4.) The offences defined in paragraph 1, committed by two or more persons acting in concert under the circumstances referred to in paragraph 3 under 2o, shall be punishable by a term of imprisonment not exceeding ten years or a fifth category fine.

5.) If one of the offences defined in paragraph 1 results in serious physical injury or threatens the life of another person, it shall be punishable by a term of imprisonment not exceeding twelve years or a fifth category fine.

6.) If one of the offences defined in paragraph 1 results in death, it shall be punishable by a term of imprisonment not exceeding fifteen years or a fifth category fine.

7.) Article 261 shall apply *mutatis mutandis*.

Article 2:239 and 2:240 Criminal Code for Curaçao

The provision on human trafficking in Curaçao's Criminal Code is much broader than the old article 260 of the Criminal Code of the Netherlands Antilles.

The present article 2:239 covers not only sexual exploitation but also other aims of trafficking such as the provision of forced labour or services, slavery or slavery-like practices and the removal of organs. The prison sentences have also been adjusted.

Any person who is guilty of human trafficking is liable to a term of imprisonment not exceeding nine years. A person commits human trafficking if, for example, he:

- A. with the intention of exploiting another person, recruits, transports, transfers, accommodates or shelters that other person by means of duress, force or other hostile act, or the threat of force or other hostile act, or by means of fraud, extortion, deception or the abuse of power arising from a specific state of affairs;*
- B. recruits, takes away or abducts a person with the intention of inducing that person to make him or herself available for sexual acts with or for a third party for payment in another country;*
- C. recruits, transports etc. or forces or induces another person to make him or herself available for work or services, or by means of extortion, fraud etc. takes any action which he knows or may reasonably be expected to know will result in that other person making him or herself available for work or services;*
- D. induces another person to make him or herself available for sexual acts with or for a third party for payment;*
- E. profits from the exploitation of another person.*

The relevant provisions are as follows:

Article 2:239

1. Any person who:

- a) by duress, force or other act, by the threat of force or other act, by extortion, fraud, deception or abuse of a de facto position of power, by abuse of a position of vulnerability or by giving or receiving payments or benefits to obtain the consent of a person having control over another person recruits, transports, transfers, accommodates or shelters another person with the intention of exploiting this other person or removing his or her organs;*
 - b) recruits, transports, transfers, accommodates or shelters another person who has not yet reached the age of eighteen with the intention of exploiting this other person or removing his or her organs;*
 - c) recruits, takes away or abducts another person with the intention of inducing that person to make himself/herself available to perform sexual acts with or for a third party for gain in another country;*
 - d) forces or induces another person by the means referred to at (a) to make himself/herself available for work or services or make his/her organs available or takes any action in the circumstances referred to at (a) which he knows or may reasonably be expected to know will result in that other person making himself/herself available for work or services or make his/her organs available;*
 - e) induces another person to make himself/herself available for sexual acts with or for a third party for payment or to make his/her organs available for payment or takes any action in respect of another person which he knows or may reasonably be expected to know will result in that other person making himself/herself available for these acts or make his/her organs available for payment, if this other person has not yet reached the age of eighteen;*
 - f) intentionally profits from the exploitation of another person;*
 - g) intentionally 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 were removed in the circumstances referred to at (a);*
 - h) intentionally profits from the sexual acts of another person with or for a third party for payment or the removal of that person's organs for payment, if this other person has not yet reached the age of eighteen;*
 - i) forces or induces another person by the means referred to at (a) to surrender to him/her the proceeds of that person's sexual acts with or for a third party or of the removal of that person's organs;*
- is guilty of human trafficking and is liable to a term of imprisonment not exceeding nine years or a fifth-category fine.*

2. *Exploitation includes at the minimum the exploitation of the prostitution of others or other forms of sexual exploitation, forced or otherwise compulsory labour or services, slavery, slavery-like practices or servitude.*
3. *The following offences are punishable by a term of imprisonment not exceeding twelve years or a fifth-category fine:*
- a) *offences as defined in paragraph 1, if they are committed by two or more persons acting in concert;*
 - b) *offences as defined in paragraph 1, if they are committed in respect of a person who is under the age of sixteen.*
4. *The offences defined in paragraph 1 are punishable by a term of imprisonment not exceeding fifteen years or a fifth-category fine, if they are committed by two or more persons acting in concert in the circumstances referred to in paragraph 3 (b).*
5. *If one of the offences defined in paragraph 1 results in serious bodily injury or threatens the life of another person, it is punishable by a term of imprisonment not exceeding eighteen years or a fifth-category fine.*
6. *If one of the offences defined in paragraph 1 results in a person's death, it is punishable by a term of imprisonment not exceeding twenty-four years or a fifth-category fine.*

Article 2:240

Anyone who is guilty of using the services of a victim of an offence as referred to in article 2:239, paragraph 1, in the knowledge that this person is being forced or induced by the means referred to in article 2:239, paragraph 1 (a) to make himself/herself available to perform such services is liable to a term of imprisonment not exceeding four years or a fourth-category fine.