Summary

In this study we have examined the possible elements for the approach of juvenile delinquency in Aruba in a convention-compliant manner. Convention-compliant in this sense means that juvenile delinquency is approached in a manner that complies with the content and aims of the United Nations Convention on the Rights of the Child (CRC), which has been in force in Aruba since 2001. The interests of the child must, pursuant to the CRC, be a primary consideration in respect of everything that concerns the child. Signatories must create conditions that enable all children falling within their jurisdictions to develop both in full and harmoniously (articles 6 and 9, CRC). It is not in the child’s interest to grow up in circumstances that could lead to an increased and serious risk of delinquency and other behavioural issues (article 3, CRC). A convention-compliant approach to delinquency consequently entails that the emphasis is on creating conditions for the optimum development of children, including the removal of risk factors that encourage problem behaviour and delinquency and reinforcing those promotive (beneficial) factors that can combat these. Such an approach (children’s rights-based approach) corresponds with what is called an evidence-based, early risk-focused approach in criminology.

The possible elements of a convention-compliant approach to juvenile delinquency in Aruba were investigated by way of the following two questions:

• What is the prevalence and incidence of juvenile delinquency in Aruba (in which gender and age differences, disparities in education and the differences between non-delinquent, moderately delinquent and severely delinquent youths were examined)?
• What are the risk and promotive factors for juvenile delinquency in Aruba?

A measurement of juvenile delinquency in Aruba has not exposed an alarming situation. A little over half of the youths between 10 and 18 have at some time perpetrated one of the measured offences, and a total of 40 percent did so in the preceding 12 months. The most common of the offences are generally committed by the same perpetrators. It also emerged that the offences more commonly committed by adolescents are predominantly mild in their nature. Non-school going youths generally reported they were more frequently involved in acts of delinquency and said they more likely to be involved in more serious acts of delinquency.

Support has been found, through the results of the study into the risk and promotive factors, for a risk-focused, ecological approach in criminology and for the plural risk model – juvenile delinquency in Aruba is not due to one single risk factor, but rather to an accumulation of risk factors and the absence of (sufficient) promotive factors in the various domains of functioning of the youth. The chance of problem behaviour and severe delinquency amongst Aruban youth increases relatively dramatically in accordance to the degree to which paramount risk factors are at issue in multiple domains.

In the individual domain, a number of factors were encountered that are closely related to delinquency and that can severely disrupt the development of children. For example, a considerable number of youths between the ages of 10 and 18 in Aruba demonstrate objectionable behaviour,
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emotional issues or behavioural issues. Of these factors, both objectionable behaviour and behavioural issues serve as good predictors for delinquency in Aruba. Although the Aruban youths reported little drug-use, a strong connection was encountered in this study between alcohol- and drug-use and severe delinquency. These individual factors consequently serve as warnings.

From the point of view of the convention, it is important that further studies are conducted into the causes of the psychosocial problems, given that psychosocial problems can hamper youths’ development. Pursuant to article 6 of the CRC, the right to physical health and to mental, emotional, cognitive, social and cultural development must be guaranteed by law. Article 24 of the CRC meanwhile states that children suffering from psychosocial issues are entitled to psychological help and that the Aruban authorities must act proactively in offering them access to this form of healthcare.

Primarily promotive factors were encountered in the family domain, and it emerged that the measured family characteristics (composition, size, high degree of family mobility and low socioeconomic status) bear no relation to delinquency. These results deviate from the findings of international studies. Moreover, children in Aruba are generally subject to being raised by their parents in an authoritative style, which is a promotive factor when it comes to delinquency. What Aruban parents and their children do become embroiled in is the discrepancy between a traditional image of the child and the rights and needs of the modern and growing child. These results imply that preventative policy does not, in this context, have to focus excessively on family support. However, in view of the fact that child-raising during the period of adolescence is related to delinquency in Aruba, sufficient child-raising support must be available if such risks are present in this domain. Furthermore, parents must be supported when it comes to adapting the traditional image of the child that still exists in the society.

It has emerged from this study that life is not easy for Aruban children, and this includes schools. Pupils at primary school, in particular, exhibited considerably more psychosocial issues than, for example, their peers in the Netherlands. It is known that children with psychosocial issues struggle to develop and that a weak association with school is strongly related to problem behaviour. It is easy to link this to the actual output of educational institutions – Aruban children structurally occupy lower education levels than their Dutch peers, and three-quarters of the working population of Aruba are graduates of a technical school. Poor educational performance in Aruba indicates an underperformance – children are unable to develop to their fullest potential (articles 6 and 29, CRC). The cause of this underperformance might be found in the child (in this regard, the language deficiency and the high degree of emotional and behavioural issues are particularly notable in Aruba), but might also be found in the school domain (where the primary education output is particularly notable).

A considerable segment of youths in Aruba engage in unstructured leisure activities, which constitute a risk factor for delinquency, while it was also found that the factor of structured leisure activities in the weekend are a promotive factor in Aruba. One in five Aruban youths stated that they engaged in no leisure activities whatsoever in the preceding year. However, in Aruba this factor is not related to delinquency. These results have significant implications with regard to policy, especially in view of the fact that it has become evident that youths require (more) structured leisure activities and that it follows from the CRC that States Parties shall respect and promote the right of the child to participate fully in cultural and artistic life and shall encourage the provi-
sion of appropriate and equal opportunities for cultural, artistic, recreational and leisure activity (article 31, CRC).

The opportunity to identify risk and promotive factors provides for reference points in respect of prevention in Aruba. The study highlights that the prevention of juvenile delinquency in Aruba must primarily focus on the school domain of education and recreation. The high prevalence of psychosocial issues underscores the importance of adequate professional help and research into the causes of internalising problems. One question to ask here is whether the internalising issues have the same causes as the phenomenon of rage (externalising issues) that is evident to a high degree in large parts of the Caribbean region. The results encountered in the school domain and the poor educational performance in Aruba point to the necessity of research into opportunities for improving school performance and a comprehensive overhaul of the education system.

The study has shown that developmental criminological, educational and legal points of departure converge in terms of an approach to juvenile delinquency. The rationale that juvenile criminal law should be a part of integral youth policy lies in the fact that the interest of every child is applicable, sans discrimination, and that the interests of the child must be the central point of focus. This means that children that are guilty of delinquent behaviour must be dealt with from the concept that tackling the issue is in the interest of the child and aims to develop and integrate that child to an optimum degree.

While there may be broader implications, from the legal approach, for a convention-compliant approach to juvenile delinquency in Aruba, a convention-compliant approach to juvenile delinquency can – using the developmental criminological and educational results of this study – be specified. On the other hand, legal arguments can be used to justify or compel measures that arise from the Convention on the Rights of the Child. A convention-compliant approach to juvenile delinquency thus in reality becomes a legal legitimisation of the educational/developmental psychological approach to behavioural problems.

It has been established that, after a decade as a signatory to the CRC, the implementation of the convention’s provisions is lagging far behind in Aruba. In part because of the fact that the Kingdom of the Netherlands is a single sovereign signatory to the CRC, joint action on the part of the distinct nations is favoured in this study, in order to guarantee that all children under the jurisdiction of the Kingdom are rendered able, in an identical manner, to exercise their rights.

The inclusion of a constitutional safety net for the implementation of conventions in article 27 of the Charter for the Kingdom of the Netherlands provides fresh perspectives for the implementation of the CRC in Aruba. With due regard for the upcoming obligation on the part of the Kingdom to report to the United Nations Committee on the Rights of the Child (in March 2012), it is highly recommended that the nations shortly institute a common scheme that aims specifically at implementing the CRC.

Collective action on the part of the nations of the Kingdom shall fill the presently extant gaps that place the focus of Dutch human rights policy exclusively on the Netherlands and on other countries, and that Aruba and the other Caribbean nations are not a part of the international children’s rights movement. This implies that the Caribbean nations are given the opportunity to actively participate in a UN context and in the international children’s rights movement, and
that the Kingdom’s permanent UN representation shall actively work for the interests of the Caribbean nations from the perspective of the common objectives and actions. A part of this is also that, within the context of the Kingdom and in accordance with the recommendations of the UN Committee, fitting and suitable support is requested from UN organs and UN-related bodies with respect to these scenarios.