

HIDDEN AND AFRAID

VENEZUELANAS WITHOUT STATUS OR PROTECTION ON
THE DUTCH CARIBBEAN ISLAND OF CURAÇAO

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Cover Photo: Boats off the coast of Curaçao, a Dutch Caribbean island that lies just 40 miles from Venezuela and has become a destination for many Venezuelans fleeing conditions at home. Photo Credit: Falco Ermert.

***PSEUDONYMS ARE USED FOR ALL VENEZUELAN INTERVIEWED BY REFUGEES INTERNATIONAL.**

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SUMMARY

Since the mass movement of people fleeing the crisis in Venezuela intensified in 2017, the countries of Latin America and the Caribbean have grappled with ways to meet the needs of this growing population. Countries like Colombia, Peru, and Ecuador, which host the largest numbers of Venezuelans, have put in place temporary residence schemes that allow beneficiaries to remain in the country legally and access employment. In displacement crises, the quality of services and assistance typically varies from one host country to another, but the fate of Venezuelans seeking refuge on the small island of Curaçao, only 40 miles from the coast of Venezuela, could very well be the worst in the Americas.

No data are available on the number of Venezuelans in an irregular situation currently in Curaçao, but according to estimates received by Refugees International, it could be as high as 10,000 to 13,000. Not only has the government of Curaçao failed to put in place a protection scheme for this population, it has enforced an “active removal strategy” by arresting, detaining, and deporting Venezuelans with irregular status. Curaçao is part of the Kingdom of the Netherlands, and as such is bound by several international human rights treaties and conventions, including the European Convention on Human Rights (ECHR). For Venezuelans in Curaçao, however, these rights are inaccessible.

A Refugees International team visited Curaçao in February 2019 to research the conditions of Venezuelans living there. The team interviewed Venezuelans living in an irregular situation, members of the Venezuelan diaspora with legal status on the island, and representatives of civil society organizations and UN agencies. They described a dire situation in which no real opportunities exist for Venezuelans who seek to obtain international protection or other forms of legal stay, thus forcing them into irregularity.

Because of their irregular status and the government’s policy of detaining and deporting people back to Venezuela, Venezuelans described to the team a life of hiding behind closed doors, in constant fear of the authorities. Because they cannot access the formal labor market, their only option is to work in the informal sector, where they are vulnerable to exploitation and have no legal protection or remedies against abusive employers. For women who face abuse at the hands of partners or ex-partners, there is nowhere to turn for protection.

In February 2019, at Curaçao’s request, the government of the Netherlands announced it would provide assistance to Curaçao in facing the influx of refugees and migrants from Venezuela. This development provides an opportunity for the government of Curaçao to make changes that should include a system for granting Venezuelans access to legal status, including the right to work, and an immediate end to the policy of detaining and deporting Venezuelans because of their immigration status.

The government of Curaçao should also address reports of sexual exploitation of women from Venezuela and provide protection and remedies for victims. It should also tackle reports of xenophobia and discrimination against its refugee and migrant population through an information and education campaign.

RECOMMENDATIONS

To the government of Curaçao

- In view of the situation inside Venezuela, stop deportations of Venezuelan nationals back to Venezuela.
- Grant Venezuelan migrants temporary residence permits that give them access to the labor market, education, and health care.
- Establish an asylum system that allows people seeking international protection to apply at any time and regardless of how they entered the country. Those granted asylum should have access to labor markets, health care, and education.
- Once the asylum process is established, the government of Curaçao should make information on it publicly available, including at points of entry in Curaçao.
- Collaborate with the United Nations Office of the High Commissioner for Refugees (UNHCR) to ensure that effective international protection avenues are provided in Curaçao.
- Grant people who have been recognized as refugees by UNHCR the right to work in Curaçao.
- In line with Curaçao's obligations under the International Covenant on Civil and Political Rights (ICCPR), ensure that detention on the grounds of immigration status is used only as a last resort and for the shortest period of time.
- When people are detained because of their irregular status, ensure that they are informed of their rights to apply for international protection and contact a lawyer. Also, ensure that lawyers have unhindered access to clients in detention and detainees have access to free legal aid.
- Prioritize granting residence permits to suspected victims of trafficking, which give them the right to work and access to health care, including during an investigation.
- Carry out a campaign to combat xenophobia and discrimination against migrants and refugees, including those from Venezuela. Such a campaign should include information on the situation in Venezuela and the conditions that have pushed millions of people to flee the country.

To the Ombudsman of Curaçao

- Carry out an independent investigation into trafficking for sexual exploitation in Curaçao.
- Continue monitoring the use and conditions of detention of persons on the grounds of their immigration status, and access to international protection in Curaçao.

To the government of the Netherlands

- Ensure that policies applied to migrants, asylum seekers, and refugees in Curaçao meet the obligations of the Kingdom of the Netherlands under international law, including the European Convention on Human Rights, the UN Convention against Torture, the International Covenant on Civil and Political Rights, and the UN Convention on the Rights of the Child.

- Work with UNHCR to ensure asylum seekers and refugees in Curaçao receive the protection and humanitarian assistance they need.
- Convene a meeting of experts from Latin American and Caribbean host countries of Venezuelan asylum seekers, refugees, and migrants to exchange information and best practices on providing protection and assistance to improve the situation for Venezuelans in Curaçao.

To the government of the United States

- Support civil society efforts in Curaçao to provide assistance to asylum seekers, refugees, and migrants from Venezuela and other countries, with a focus on access to health care and the protection of women, including protection from gender-based violence and sex trafficking and exploitation.



BACKGROUND

Since 2017, the number of Venezuelans fleeing their homes and crossing into neighboring countries has increased at alarming rates. Political and economic crises have left many without access to basic goods—including food and medicine—and social services. In February 2019, the number of refugees and migrants from Venezuela reached 3.4 million.¹ The United Nations Office of the High Commissioner for Refugees (UNHCR) and the International Organization for Migration (IOM) estimate that the total number of Venezuelans fleeing their country will reach 5.3 million by the end of 2019.²

The countries of Latin America and the Caribbean host the vast majority of Venezuelans—an estimated 2.7 million.³ Some of the larger host countries in Latin America have put in place policies that include temporary residence permits that grant Venezuelans access to labor markets and education. However, such arrangements are far less common among host countries in the Caribbean. In Curaçao, they do not exist. Although official figures are not available, thousands of Venezuelans are estimated to be living on the island in an irregular situation, putting them at risk of arrest, deportation, and exploitation.

Indeed, the Curaçao government has openly engaged in what it has termed an “active

removal strategy” by detaining and deporting Venezuelans back to Venezuela. As noted by the United Nations Committee against Torture, the authorities in Curaçao forcibly returned more than 1,000 Venezuelans in 2017, some of whom expressed a fear of being subjected to torture and other ill-treatment upon return.⁴

During and following its visit to Curaçao in February 2019, a Refugees International delegation received credible information about the ongoing immigration detention of Venezuelan nationals in Curaçao and deportations back to Venezuela. Despite the Venezuelan government’s closure of the border to air and sea traffic from Curaçao in late February 2019,⁵ the Curaçao authorities continued deportations to Venezuela by air. According to information received by Refugees International, these deportations were ongoing at the time of the writing of this report.

Curaçao is a small island development state (SIDS) with a population of just over 160,000. It faces economic challenges that have been heightened by the instability in Venezuela, given the countries’ close trade ties. In 2017, its unemployment rate was 14.1 percent, with the youth unemployment rate reaching 32.8 percent.⁶ These rates decreased slightly in 2018, to 13.4 and 29.3 percent, respectively.⁷ Curaçao’s economy is built primarily on three distinct industries: tourism, oil refining, and offshore finance. Curaçao’s economy has been significantly impacted by the

1. UN, “Venezuelan Refugees Now Number 3.4 Million; Humanitarian Implications Massive, UN Warns,” UN News, February 22, 2019, <https://news.un.org/en/story/2019/02/1033361>.

2. Christine Armario, “UN: Venezuela Exodus Likely to Swell to 5.3 Million in 2019,” Associated Press, December 14, 2018, <https://www.apnews.com/9d028257954545ccb1489cc0c4fb59e8>.

3. Armario, “UN: Venezuela Exodus.”

4. Office of the United Nations High Commissioner for Human Rights (OHCHR), Committee Against Torture, “Concluding Observations on the Seventh Periodic Report of the Netherlands,” December 2018, https://tbinternet.ohchr.org/Treaties/CAT/Shared%20Documents/NLD/CAT_C_NLD_CO_7_33166_E.pdf.

5. Nicholas Casey, “Venezuela Closes Border to 3 Caribbean Islands Ahead of Aid Showdown,” New York Times, February 20, 2019, <https://www.nytimes.com/2019/02/20/world/americas/venezuela-borders-aid.html>.

6. Curaçao Chronicle, “Labor Force Survey 2018 Starts in Curaçao in Early September,” August 29, 2018, <http://curacaochronicle.com/local/labor-force-survey-2018-starts-in-curacao-in-early-september/>.

7. Central Bureau of Statistics Curaçao (CBS), “Results Labor Force Survey 2018,” https://www.cbs.cw/website/press-releases-2019_3580/item/results-labour-force-survey-2018_2587.html.

crisis in Venezuela.⁸ Because of the limited economic opportunities on the island, many young, educated Curaçaoans leave for the Netherlands or other countries in search of work. A perceived threat of competition over jobs has contributed to tensions between the locals and Venezuelan migrants and refugees.

In February 2019, the government of the Netherlands established a humanitarian hub in Curaçao at the request of Curaçao, the United States, and Venezuelan opposition leader Juan Guaidó, whom the government of the Netherlands has recognized as the interim president of Venezuela.⁹ The hub is intended to coordinate the delivery of assistance to Venezuelans still in Venezuela, given the island's close proximity to the latter. In response, the Maduro government closed the border with Curaçao.¹⁰

Few humanitarian organizations operate inside Curaçao, although IOM and the Red Cross maintain a local presence. UNHCR and one international nongovernmental organization are stationed on nearby Aruba. As a result, the response in Curaçao has been coordinated largely by local volunteers, most of whom are Venezuelans who have been on the island for several years. UNHCR has repeatedly offered to provide operational and legal support to Curaçao.¹¹

Until now, Curaçao and the Netherlands have done little to respond to the precarious situation of Venezuelans on the island itself. In October 2018 and again in January

2019, the government of Curaçao formally requested assistance from the government of the Netherlands to respond to the arrival of Venezuelan migrants and refugees. In February 2019, the Netherlands agreed to provide short-term technical assistance to help Curaçao address this situation.¹² It remains to be seen whether and how such assistance will address the protection needs of Venezuelans who have sought refuge in Curaçao.

The Netherlands is often seen as a supporter of human rights and a provider of humanitarian assistance and development aid internationally. However, the fate of Venezuelans in Curaçao stands in stark contrast to the support the Netherlands provides refugees elsewhere—for instance, through initiatives that help refugees access employment in Turkey and Jordan. The Netherlands has also provided humanitarian assistance to Venezuelans still inside the country and has donated 4 million euros to Venezuelan migrants and refugees in Colombia.¹³

LACK OF AN EFFECTIVE ASYLUM PROCESS

Curaçao has no formal domestic asylum system. Instead, until 2017 UNHCR conducted registration of asylum seekers: asylum applicants registered with UNHCR at

8. Because of the countries' close economic ties, the crisis in Venezuela has affected crucial economic activities, such as oil refining, tourism, and trade. For more information, see: "Crisis in Venezuela Continues to Affect Curaçao," Curaçao Chronicle, January 2, 2019, <https://www.Curacaochronicle.com/post/local/crisis-in-venezuela-continues-to-affect-Curaçao/>.

9. The Daily Herald, "Curaçao Base for Humanitarian Aid," February 15, 2019, <https://www.thedailyherald.sx/is-lands/85238-Curaçao-base-for-humanitarian-aid>.

10. Casey, "Venezuela Closes Border."

11. UNHCR, "UNHCR Renews Offer to Curaçao on Venezuelan Refugee Response," January 17, 2019, <https://www.unhcr.org/en-us/news/press/2019/1/5c40d3ba4/unhcr-renews-offer-to-Curaçao-on-venezuelan-refugee-response.html>.

12. Lizan Nijkraak, "For Venezuelan Refugees, There's No Safe Haven in Curaçao," Foreign Policy, January 28, 2019, <https://foreignpolicy.com/2019/01/28/for-venezuelan-refugees-theres-no-safe-haven-in-Curaçao-asylum-maduro-netherlands-kingdom-nederland/>.

13. Nijkraak, "For Venezuelan Refugees."

STRUCTURE AND RESPONSIBILITIES IN THE KINGDOM OF THE NETHERLANDS

Curaçao is an autonomous, constituent country of the Kingdom of the Netherlands. In 2010, the Kingdom of the Netherlands dissolved the Netherlands Antilles, reconstituting Curaçao and Sint Maarten, along with Aruba and the Netherlands, as the countries comprising the Kingdom of the Netherlands. Each of the four countries has its own government and parliament, and the mandate to oversee all national affairs. However, the Kingdom, as regulated by the Charter of the Kingdom of the Netherlands, is responsible for certain “Kingdom affairs.” In practice, Kingdom affairs are carried out by the government of the Netherlands.

As outlined by Article 3 of the Charter, the Kingdom is responsible for foreign relations, defense, Dutch nationality, and conditions for the admission and expulsion of foreigners, among others. Although the general rules and policies of expulsion and admission of foreigners are the responsibility of the Kingdom, the treatment of migrants on the island of Curaçao is an internal affair, and thus regulated by the government of Curaçao.

Both the autonomous countries and the Kingdom have responsibilities to uphold human rights, including, in the case of Curaçao, those of Venezuelans on the island. Article 43 of the Charter stipulates that “1. Each of the Countries shall promote the realization of fundamental human rights and freedoms, legal certainty and good governance,” and “2. The safeguarding of such rights and freedoms, legal certainty and good governance shall be a Kingdom affair.”

The Charter also outlines rules for mutual assistance, consultation, and cooperation between the four countries under Article 36, which states, “The Netherlands, Aruba, Curaçao and Sint Maarten shall accord one another aid and assistance.”

the offices of the Red Cross in Curaçao, and UNHCR visited the island to conduct refugee status determination (RSD) assessments and issue refugee certifications.

In recent years, the number of Venezuelans applying for asylum in Curaçao has risen sharply. In 2014, there were no applications. In 2015, three applicants filed for asylum; in 2016, that number rose to 13. In 2017, UNHCR received 663 applications.¹⁴ However, in July 2017, the government of Curaçao announced that it was taking over the process, thereby requesting that UNHCR suspend its registration activities. Subsequently, there has been no viable procedure for people to apply for asylum on the island.

Since July 2017, the only procedure for foreigners seeking protection in Curaçao has been based on Article 3 of the European Convention on Human Rights (ECHR), to which the Kingdom of the Netherlands—including all of its constituent countries—is party. Under Article 3, individuals cannot be deported to their countries of origin if there is a real risk that they would be subjected to torture or other ill-treatment. The procedure is detailed in a June 2018 document from the Ministry of Justice: to be eligible, when they arrive on the island, foreigners must apply immediately with the border control authorities at the airport or seaport of arrival, or with the immigration desk of the Curaçao Police Force (KPC).¹⁵ If they do not immediately apply for protection under Article 3 upon arrival, they forfeit their right to do so. All foreigners who do make immediate claims will, in principle, be held in custody while their claims are reviewed by the KPC.¹⁶

According to the document issued by the Ministry of Justice, when the Curaçao authorities determine that an asylum seeker is eligible for protection under Article 3, the applicant should then be referred by the Ministry of Justice to UNHCR for RSD. However, at the end of March 2019, UNHCR informed Refugees International that it had not received any such referrals.

In December 2018, the UN Committee against Torture urged the Kingdom of the Netherlands to do the following:

“Promptly establish a national asylum determination procedure in Aruba, Curaçao and Sint Maarten that permits a thorough assessment of whether there is a substantial risk that the applicant would be subjected to torture in the country of destination, and ensure that the European Netherlands provides the necessary assistance in establishing such procedures, fully in accordance with Article 43 of the Charter for the Kingdom of the Netherlands providing that promotion and protection of human rights is a Kingdom affair.”¹⁷

PATHWAYS FOR REGULARIZATION

Many of the larger Latin American countries that host Venezuelan migrants and refugees have adopted systems—of varying coverage and effectiveness—providing temporary legal status for those seeking refuge. This relief usually comes in the form of a temporary residence permit that often provides the right

14. UNHCR, “Venezuela Situation: Responding to the Needs of People Displaced from Venezuela: Supplementary Appeal,” January–December 2018, p. 6, <http://reporting.unhcr.org/sites/default/files/unhcr%20venezuela%20situation%202018%20supplementary%20appeal.pdf>.

15. Government of Curaçao, Ministry of Justice, “Procedure voor Besherming op Grond van Artikel 3 EVRM,” https://www.gobiernu.cw/files/Ministeries/JUS/Procedure_voor_bescherming_op_grond_van_artikel_3_EVRM_.pdf.

16. For more, see: Amnesty International, “Detained and Deported: Venezuelans Denied Protection in Curaçao,” September 9, 2018, p. 28, <https://www.amnesty.org/download/Documents/EUR3589372018ENGLISH.PDF>.

17. UN Committee against Torture, “Concluding Observations on the Seventh Periodic Report.”

INTERNATIONAL OBLIGATIONS

As the body recognized under international law, only the Kingdom of the Netherlands can conclude, ratify, and accede to international treaties and conventions. Yet within the Kingdom, the implementation of and compliance with such international legal agreements is the responsibility of the individual countries. However, as the state party to these agreements, it is the Kingdom that is accountable under international law.¹⁸

The division of responsibilities between the government of Curaçao and the Netherlands is complex when it comes to the fulfillment of obligations under international and customary law. Not all international treaties and conventions ratified by the Kingdom of the Netherlands apply in Curaçao. For example, Curaçao is not party to the Refugee Convention of 1951. Furthermore, unlike the Netherlands, Curaçao is not part of the EU, and EU legislation on asylum does not apply on the island.

However, as part of the Kingdom of the Netherlands, several international human rights treaties and standards do apply in Curaçao, and the rights they provide to people on the island of Curaçao, including Venezuelans, must be upheld. Article 14 of the 1948 Universal Declaration of Human Rights provides that “everyone has the right to seek and to enjoy in other countries asylum from persecution.” Further, Article 3 of the ECHR states that no one shall be “subjected to torture or to inhuman or degrading treatment or punishment.” The principle that nobody should be returned to a country where they would be at risk of persecution—non-refoulement—is enshrined by customary international law.

to work.¹⁸ Curaçao has yet to establish such a system. Although the country does provide pathways for foreigners to obtain residence permits, they are all but inaccessible for recent arrivals from Venezuela.

The status of migrants in Curaçao is regulated by the main immigration law of 1966—the National Ordinance on Admission and Removal (Landsverordening Toelating en Uitzending [LTU]). Under this law, tourists from Venezuela holding a valid passport may enter Curaçao without a visa or written permit and stay for up to 90 days. Any foreigner who wishes to stay more than 90 days must acquire a residence permit issued by national authorities.²⁰

To apply for a residence permit, foreigners must present the authorities with all necessary documents, including a copy of a valid passport and birth certificate; a certificate of good conduct; and proof of sufficient resources to support themselves and each of their family members.²¹ If a person has a financial guarantor, the proof of sufficient resources is not needed.²² People who apply for a residence permit must do so on the island but then await the decision abroad—a process that can take up to four months.²³

Some Venezuelans interviewed by Refugees International in Curaçao said they had attempted to regularize their own or their

child's status but had been unsuccessful. According to a lawyer at the law firm Scheperboer-Parris in Curaçao, "If they're here illegally and they want to legalize their situation, it is almost impossible."

Indeed, Venezuelans face many challenges throughout this process. For one, they cannot work legally; therefore, many do not meet the standard for proof of sufficient resources. Additionally, resident permit applicants must wait outside of the country for a decision on their applications. This requirement would seem particularly challenging, if not prohibitive, for Venezuelans fleeing their country.

CURAÇAO'S POLICY OF DETAINING AND DEPORTING VENEZUELAN TO VENEZUELA

With no asylum system and no alternative protection arrangements, Curaçao offers Venezuelans no real viable pathway to regularize their status. Instead, it has implemented an "active removal strategy"

18. Such protection arrangements exist in countries in Latin America such as Colombia, Peru, and Ecuador. For more information, see: Dany Bahar, Meagan Dooley, and Cindy Huang, "Integrating Venezuelans into the Colombian Labor Market," Global Economy and Development at Brookings, Policy Brief, December 2018, https://www.brookings.edu/wp-content/uploads/2018/12/Venezuelan-Migrants_English.pdf; Marta Martinez, "Temporary Residency Permits a Lifeline for Venezuelans in Peru," UNHCR, October 12, 2018, <https://www.unhcr.org/news/latest/2018/10/5bc0e3af4/temporary-residency-permits-lifeline-venezuelans-peru.html>; and Daniel Almeida, "Ecuador ID Cards Give Refugees a Better Chance to Start Over," UNHCR, May 2018, <https://www.unhcr.org/news/latest/2018/5/5ae8262e4/ecuador-id-cards-give-refugees-better-chance-start.html>.

19. Government of the Netherlands, Ministry of Foreign Affairs, "Kingdom of the Netherlands: One Kingdom—Four Countries; European and Caribbean," April 2015, <https://www.kgmc.nl/en/assets/uploads/pdf/the-kingdom-of-the-netherlands-engels.pdf>.

20. Government of Curaçao, Cabinet of the Minister Plenipotentiary of Curaçao, Ministry of General Affairs, "Residence Permit," <https://www.kgmc.nl/en/declaration-of-sufficient-resources>.

21. Government of Curaçao, Ministry of General Affairs, Cabinet of the Minister Plenipotentiary of Curaçao, "Residence/Working," <https://www.kgmc.nl/en/residence-working>.

22. Amnesty International, "Detained and Deported," p. 26, <https://www.amnesty.org/download/Documents/EU-R3589372018ENGLISH.PDF>.

23. Amnesty International, "Detained and Deported."

IN MARCH 2018, UNHCR issued a guidance note to countries receiving or hosting Venezuelans.²⁴ UNHCR encourages states “to consider protection-oriented arrangements to enable legal stay for Venezuelans, with appropriate safeguards.” UNHCR urges states in such arrangements to guarantee the following minimum standards in all circumstances: that the requirements and procedures are defined under international law; that such arrangements are accessible to all Venezuelans regardless of when they entered the host country; that access to basic rights is guaranteed, including access to health care, education, and the right to work; and that guarantees exist against forced return to Venezuela. UNHCR states that such arrangements are without prejudice to the right to seek asylum.

for Venezuelans who find themselves trapped in an irregular situation. Under this policy, Venezuelans are detained, pending deportation, in the foreigners’ barracks of the prison of Curaçao or in a police station.²⁴ A lawyer with the firm Scheperboer-Parris told Refugees International that in practice the guards working in the barracks make it difficult for her to access her Venezuelan clients who are in detention.

According to a 2018 report by the Ombudsman of Curaçao,²⁶ Venezuelans are then deported as quickly as possible. In fact, the Ombudsman found that deportations were being conducted without first checking whether detainees were entitled to international protection, even in cases where the detainees explicitly requested access to asylum procedures or had credible claims regarding their fear of return.²⁷ In addition, the Ombudsman found that the government’s deportation policy had violated the ECHR.²⁸

In late March 2019, Curaçao’s Minister of Justice Quincy Girigorie reportedly announced that efforts to identify Venezuelans with irregular status on the island were being intensified, with a special focus on businesses employing people without the documentation required.²⁹

Enrique, a man from Venezuela who told Refugees International that he had already been deported to Venezuela once, said that “when they [the police] stopped me, I was coming home from work. They handcuffed me in the car and put me in Rio Canario [the police station].” Enrique said he spent the night there and was put on a flight to Venezuela the following day and had to pay for his ticket himself. He said that he returned to Curaçao by boat two weeks later.

In December 2018, the UN Committee against Torture raised concerns about the detention—in appalling conditions—of per-

24. See Amnesty International, “Detained and Deported.”

24. UNHCR, “UNHCR Guidance Note on the Outflow of Venezuelans,” March 2018.

26. The Office of the Ombudsman of Curaçao is an independent body responsible for investigating the administrative and operational conduct of state agencies and officials, and tasked with ensuring the protection of civilians through various activities, such as monitoring places of detention and responding to complaints.

27. Office of the Ombudsman, “Ambtshalve Onderzoek Naar de Rol van de Minister van Justitie in het Kader van het Curaçaose Vreemdelingen-c.q. Vluchtelingenbeleid,” June 27, 2018, p. 9, <http://www.qracao.com/docs/rapport%20ambtshalve%20onderzoek%20vreemdelingenbeleid%20.pdf>.

28. Office of the Ombudsman, “Ambtshalve Onderzoek.”

29. Sailú Uribarri, “Gobierno Intensifica Búsqueda de Indocumentados,” Noticias Curazao, March 27, 2019, <http://noticiascurazao.com/gobierno-intensifica-busqueda-de-indocumentados/>.

sons in need of international protection in Curaçao, most of them from Venezuela. The Committee also noted that these persons are “subjected to ill-treatment and sexual assaults by police and immigration officials, against whom no charges have been brought.”³⁰

LIFE WITH IRREGULAR STATUS

The Refugees International team interviewed two dozen men, women, and children from Venezuela who were living in Curaçao, the majority of whom had arrived between one and three years earlier. All of them were in an irregular situation. The team also interviewed two women who had residence permits and had been living in Curaçao for five years; however, one of them had a daughter in irregular status despite attempts to regularize her stay.

Most of the Venezuelans interviewed told the team that in light of their irregular status, they limited their movements out of fear of being stopped by the police and deported to Venezuela. Not having regular status in Curaçao shaped every aspect of their lives, including the daily fear of being stopped by the police, their vulnerability to exploitation by employers, and their inability to seek redress when subjected to abuse by partners or former partners.

To protect the identity of Venezuelan refugees and migrants the team interviewed, we have changed their names and removed information that could identify them.

A. Constant fear of the authorities

During Refugees International’s research on the island of Curaçao, the fear that

Venezuelans experience because of their irregular status was palpable. The island is small, so being noticed can lead quickly to detention and deportation. For this reason, the team conducted all interviews in people’s homes, and securing interviews in this context was more challenging than the circumstances we have encountered in many other settings. Interviewees did not go outside to socialize or simply enjoy the island’s outdoor spaces or sit in squares or cafés. Most said they went outside only to work or buy groceries and medicine.

To avoid encounters with the police, interviewees described living closed off in their homes and feeling fearful and isolated. Parents said they rarely took their children outside, if at all. Sonia, a woman whose child goes to school, said that every day a neighbour picks him up and takes him there. Carlos, the father of a young child, told the team that he rarely goes out. “Here I live closed in,” he said.

Interviewees also described how on the occasions when they did go out, they nervously paid attention to their surroundings to avoid being stopped by police. “You’re always on the lookout,” said Enrique, describing his fear of the police. “You still have to go out, but at your own risk.” “I feel like I’m a prisoner,” said Rosa, who observed that except for some outings with her family during the weekends in the area near their home, she does not go outside.

B. Xenophobia

Despite the longstanding relationship between Curaçao and Venezuela, Refugees International heard many reports of discrimination and xenophobia directed toward Venezuelans living in Curaçao. Several of the Venezuelans the team interviewed described verbal abuse in the

30. OHCHR, UN Committee against Torture, “Concluding Observations on the Seventh Periodic Report.”

streets and bullying of children in school, and women recounted instances of harassment. Sandra, a Venezuelan woman interviewed, described the mistreatment she experienced. “I’ve been here two years, and I don’t have a right to anything. I can’t get sick. The other day a neighbor started throwing stones [at me,] saying ‘You’re Venezuelan,’” Sandra told Refugees International. “There is a lot of xenophobia here.”

C. Lack of access to services

Venezuelans and other foreigners in Curaçao without regular status do not have access to public health insurance and must pay the full price for health care and medication. Interviewees told Refugees International that this constitutes a considerable cost.

Cristina, a woman diagnosed with cancer in Curaçao, said that with the help of a lawyer, she had received chemotherapy treatment on the condition that she commit to reimbursing 200 Netherlands Antilles guilder (about USD \$100) per month to the hospital. “But without a work permit, how can I pay this?” she asked.

“If there is no money, you die,” said Andrea, whose two-year-old son suffered from health problems. She told the team that the last treatment he had received cost 800 guilder. “The doctor said ‘Keep him somewhere clean,’ but for that you need money and a steady job,” she said.

The team interviewed several women who were pregnant or had recently given birth. Without access to public health insurance, they had covered their own costs, which were particularly high for caesarean sections. Some of the women had saved money to pay for the costs related to giving birth, whereas others had partners with regular status who covered the costs.

Some Venezuelan children with irregular status do appear to attend school in Curaçao,

but official or even reliable figures are not available. A concern parents described to the team was that without regular status, their children could not obtain diplomas at school; they feared this would impede their ability to graduate to higher classes. Some interviewees also described bullying of Venezuelan children in school as a serious concern.

LACK OF ACCESS TO LEGAL WORK

Of all the concerns raised by Venezuelans the Refugees International team interviewed, the most pressing was their inability to obtain work permits and work legally. Interviewees described being forced to work informally in jobs that paid lower wages and did not provide a stable income. Even for highly qualified people, the jobs available to them are mainly in construction, caring for children and elderly persons, and cleaning. When they inquired about jobs that could provide more stability and better wages, employers asked to see proof of their legal status in Curaçao, which they could not provide. Carlos cited “the pressure you have, not being able to work...” to the team. “This year I have hardly worked because the first thing they ask for is documents when you ask for work.”

Several interviewees said it was common for employers to exploit the irregular status of Venezuelans in Curaçao by paying less than the promised wages, or not at all. Given their fear of their irregular status being discovered, approaching the authorities was not an option. “Many times, we’re not paid for our work,” said Andrea. “If you say something, [the employers] say ‘We’ll call the police.’”

Another woman, Marina, said she had lost her job in a restaurant after police checks made her employer fearful of being fined. “I had

a job in another restaurant. [The employer] didn't pay me anything. She said 'If you want to make a complaint, go ahead.' She knew I was undocumented." Like other interviewees, Marina told Refugees International that she mainly stays at home for fear of being stopped by police. "I try to not go out at all, except when I have a job, because I'm afraid. When they [the police] did checks on the restaurant, I ran like a criminal."

To work legally in Curaçao, foreigners must obtain a work permit in addition to a residence permit. According to information Refugees International received, these work permits are all but inaccessible to Venezuelans who have sought refuge in Curaçao in recent years.

"I've sold clothes to people from here, sometimes they don't pay me. They say 'If you say something, we'll send the police,'" said Irene, a woman who told Refugees International that she tries to earn some money by selling clothes informally. "At my work, they paid me when they wanted," said Enrique. "They still owe me money. It has been five months."

Even those who received refugee status from UNHCR officials before July 2017 do not have the right to work. Refugees International also interviewed a Colombian couple who have been in Curaçao for several years and hold refugee status from UNHCR but do not have the right to work legally.

LACK OF PROTECTIONS FOR WOMEN

The irregular status of Venezuelan women in Curaçao can put them at risk of abuse or exploitation without access to remedies. The Refugees International team interviewed women who had been abused by partners or

ex-partners with legal status; they said they felt powerless given their fear of deportation to Venezuela.

"He beat me and I wanted to call the police, but I was afraid they would deport me and leave the baby here," said Sara, the mother of a young child, about her ex-partner. She said he threatened to take the baby from her. "Without documents, I can't find a job to support myself and the baby," she said.

Ana told Refugees International that her partner threatens to call the police if she says she is leaving him. "Someone who is undocumented can't make a complaint or make any demands. How can I go to the police and ask for protection if they're going to stop me and send me to Venezuela?"

Cristina, who had been treated for cancer, said that her ex-partner had threatened to denounce her to the police; this threat terrified her because of the lack of adequate medical treatment in Venezuela. "The only fear I have is of dying," she said. "I'm not afraid of the immigration police, but if they send me back to Venezuela, what will I do?"

Refugees International also interviewed women who had worked in bars (locally referred to as "snack bars"). Venezuelan women, generally brought to Curaçao from Venezuela by the bar owners, must work to repay the debt incurred during the journey to the island and the cost of their stay there. According to reports received by Refugees International, the women are told they will serve drinks to customers but actually are required to engage in sex work.

According to Marisela Flemming, the director of Famia Plania, a local organization that provides services and outreach to women who work in these bars, "The situation in their country is very bad, so they come to Curaçao and emerge in those [sex work] situations for money. Money is needed to help their families and repay their debt."

In the United States 2018 Trafficking in Persons Report,³¹ Curaçao received a designation of Tier 2, indicating that the government of Curaçao does not fully meet the minimum standards for the elimination of trafficking but is taking steps to do so. The report found that the punishments for trafficking offenses were insufficient given the seriousness of the crime. In addition, the absence of dedicated funding for anti-trafficking efforts was hindering the government's ability to effectively assist victims of trafficking.³²

The report explicitly underscores the vulnerability of Venezuelan women who are in an irregular situation. "Due to the deteriorating situation in Venezuela, legal and illegal migration to Curaçao increased, leaving many vulnerable to trafficking, including women working illegally at bars and brothels."³³

According to the report, the government of Curaçao is conducting research focused on the phenomenon of Venezuelan "trago girls" through its office of the public prosecutor. The findings of this research are not yet public.³⁴

"I had a debt," said Sandra, a woman who told the Refugees International team that she had worked as a "trago girl" when she arrived in Curaçao. "The person who brought me said 'You think you will live just with [the money from] the trago [a commission on drinks ordered by customers]?' This comment implied that Sandra would have to have sex with the customers to earn enough money to repay the debt.

"In Curaçao, the situation is tough," said Sara, who told the team she had also worked

as a "trago girl." "They don't give you the opportunity to work if you don't have papers. The places where it's the most viable to work are night places, 'trago bars,'" she said, adding, "They don't let you out until you finish paying your debt."

According to Marisela Flemming, many Venezuelan women do not easily agree to go to health clinics because they fear arrest and deportation. Additionally, some services, such as lab tests, which include screenings for sexually transmitted diseases, are very costly. Without access to public health insurance, they are often inaccessible to women who lack regular status. "Many [Venezuelans in an irregular situation] cannot afford services when they are not insured," Flemming told Refugees International. "This is a barrier to giving them proper health care."

ASSISTANCE FROM THE NETHERLANDS

In late February, 2019, in response to the requests from Curaçao, the government of the Netherlands announced its intention to cooperate with and support the government of Curaçao in dealing with the social challenges resulting from increased irregular migration from Venezuela.³⁵ In a letter to the Prime Minister of Curaçao, Eugene Rhuggenaath, the State Secretary for Interior and Kingdom Relations of the Netherlands, R.W. Knops, promised to provide technical assistance to Curaçao in a multiphase assistance package based on Article 36 of the Charter of the Kingdom of the

31. Government of the United States, Under Secretary for Civilian Security, Democracy, and Human Rights, Office to Monitor and Combat Trafficking in Persons, "2018 Trafficking in Persons Report: Country Narratives: Curaçao," June 2018, <https://www.state.gov/j/tip/rls/tiprpt/countries/2018/282641.htm>.

32. "2018 Trafficking in Persons Report."

33. "2018 Trafficking in Persons Report."

34. "2018 Trafficking in Persons Report."

35. Daily Herald, "Dutch Support for Asylum Process in Aruba, Curaçao," February 22, 2019, <https://www.thedailyherald.sx/islands/85479-dutch-support-for-asylum-process-in-aruba-Curaçao>.

Netherlands.³⁶

In the first phase, the government of the Netherlands pledged technical assistance in setting up “adequate processes and procedures within the various parts of the immigration system.”³⁷ The government of Curaçao announced that this assistance could include training and education around protection protocols, identification and registration, and reception and treatment of foreign nationals. In a second phase, the Netherlands will reportedly expand its immigration assistance programs to address return and expulsion processes and policies. It will also assist with maritime border surveillance and control.³⁸

Additionally, the government of the Netherlands announced that it will assist with vaccinations, specifically against diphtheria, whooping cough, and tetanus, among others.³⁹ The Netherlands also offered to act as a facilitator between Curaçao and international aid organizations, including UNHCR, IOM, and the Red Cross.⁴⁰

CONCLUSION

For an island the size of Curaçao, with a population of only 160,000, and with an economy that has suffered from the crisis in Venezuela, the challenges of hosting thousands of recently arrived refugees and migrants are undeniable. Also, although legislation lays out the division of responsibilities between the authorities of Curaçao and the Kingdom of Netherlands, the reality of implementing them is complex. These challenges do not justify the dire situation of Venezuelans on the

island of Curaçao within the Kingdom of the Netherlands, however.

Hosting a large number of refugees and migrants may be new to the authorities of Curaçao, but it is not new for the region of Latin America and the Caribbean or the rest of the world. There is a wealth of knowledge and expertise that can help Curaçao to implement best practices in key areas, including establishing an effective asylum system for people in need of international protection, protecting survivors of domestic abuse, and granting access to the formal labor market.

Over the coming months, the government of the Netherlands has pledged to respond to Curaçao’s request for help with technical assistance; this assistance will provide an opportunity for both parties to work together and bring the island’s policies toward Venezuelans in line with international human rights standards. The Netherlands is responsible for safeguarding human rights in the Kingdom and is accountable for violations of international human rights law that occur in Curaçao. It must ensure that the same standards apply in Curaçao as in other parts of the Kingdom.

**REFUGEES INTERNATIONAL SENIOR ADVOCATE
IZZA LEGHTAS AND FELLOW JESSICA THEA
TRAVELED TO CURAÇAO IN FEBRUARY 2019.**

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38. Daily Herald, “Dutch Support for Asylum Process.”

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ABOUT REFUGEES INTERNATIONAL

Refugees International advocates for lifesaving assistance and protection for displaced people and promotes solutions to displacement crises around the world. We are an independent organization and do not accept any government or UN funding.



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