



DETAINED AND DEPORTED

VENEZUELAN DENIED PROTECTION IN CURAÇAO

AMNESTY
INTERNATIONAL



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Cover photo:

Airing cage in Sentro di Detenshon i Korekshon Korsou (SDKK prison)

All photos in this report were taken on 3 May 2018 at the Sentro di Detenshon i Korekshon Korsou, SDKK prison (cover and first three photos) and Rio Canario Police Station (last two photos) with the permission of the Curaçao authorities.

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1. GLOSSARY

Asylum seekers	Asylum seekers are people who have left their country and seek international protection, but have yet to be recognised as refugees.
Refugees	Refugees are defined in the <i>Convention Relating to the Status of Refugees</i> as people who cannot return to their own country because they have a well-founded fear of human rights abuses or persecution for reasons of their race, religion, nationality, membership of a particular social group, or political opinion. Their own government cannot or will not protect them and so they are forced to seek international protection.
Refugee status	Legal recognition of the status granted to people with a well-founded fear of persecution for reasons of their race, religion, nationality, membership of a particular social group or political opinion, as defined under the 1951 <i>Convention Relating to the Status of Refugees</i> ('Refugee Convention'). Status can be assessed by procedures set up in a country of refuge under the Refugee Convention, or by the UN refugee agency, UN High Commissioner for Refugees (UNHCR).
UNHCR	United Nations High Commissioner for Refugees, the UN refugee agency. The agency is mandated by the UN General Assembly to protect and support asylum seekers, refugees and stateless people – namely, people in need of international protection. ¹
ECHR	<i>The European Convention for the Protection of Human Rights and Fundamental Freedoms.</i>
<i>Refoulement</i>	The transfer of anyone to a place where they are at a real risk of serious human rights violations – such as persecution or torture and other cruel, inhuman or degrading treatment or punishment. The principle of <i>non-refoulement</i> has been codified in the Refugee Convention and numerous international human rights instruments. The principle also forms part of customary international law and therefore applies to all states, regardless of whether they are parties to the relevant treaties. As enshrined in the <i>Charter of Fundamental Rights of the European Union</i> ² , the principle of non-refoulement must be observed in respect to all removal, expulsion or extradition procedures, irrespective of whether or not a person has been formally recognised as a refugee or has formally submitted a request for international protection.

¹ Internally Displaced Persons (IDPs) also fall within UNHCR's mandate (since they did not cross any international border, they are therefore not able to "qualify" as refugees under the 1951 Convention).

Migration-related detention, or immigration detention	Migration-related detention refers to “the deprivation of an individual’s liberty, usually of an administrative character, for an alleged breach of the conditions of entry, stay, or residence in the receiving country.” Detention for migration-related purposes can take many forms, including detaining people in penal institutions, specialised detention centres, restricted movement arrangements, as well as in closed camp settings.
Alternatives to detention	Non-custodial measures restricting the rights of migrants and asylum seekers (often the rights to freedom of movement or the right to privacy). They vary in levels of intrusiveness and can range from registration requirements, to bond/bail, designated residence, community release/supervision, reporting conditions, electronic tagging, or home curfew.
Forced return or deportation ³	The return to a person’s country of origin or habitual residence, following an official order to leave. Forced returns vary in the way they take place, but usually involve being detained and during deportation escorted by a security officer from the national police or immigration authority of the sending country.

² Article 19 (2) of the *Charter of Fundamental Rights of the European Union*, European Union, 26 October 2012, 2012/C 326/02, www.refworld.org/docid/3ae6b3b70.html

³ The official term that the Curaçao government uses for forced return/deportation is removal.

2. EXECUTIVE SUMMARY

“The policeman told me that because I was an illegal migrant, I did not have any rights.”

- Vanessa, pregnant Venezuelan migrant in Curaçao

Because of a lack of a fair and effective asylum policy in Curaçao, people fleeing from violence and crisis in their country are not able to apply for international protection. Instead, they can be detained and deported.

Many of the men, women and children with irregular immigration status in Curaçao come from Venezuela. The human rights situation in Venezuela has been a serious concern for Amnesty International for several years, including a spiralling crisis in food and health care provision, rising violence, and unrest. An estimated 2.3 million Venezuelans have fled the country up to June 2018. Colombia is receiving the highest number of Venezuelans seeking safety, with an estimated 870,000 currently living in the country. Albeit on a much smaller scale, the island of Curaçao, located some 70 kilometres from Venezuela, has also become a destination country for some Venezuelans seeking protection.

Amnesty International is concerned about the situation of thousands of people with irregular immigration status in Curaçao; and at reports of human rights violations in the process of detaining people seeking asylum, as well as their deportation from the island. As a result, Amnesty International investigated both the Curaçao asylum procedure, and its detention and removal procedures.

Since October 2010, Aruba, Curaçao, Sint Maarten and the Netherlands are the four constituent countries of the Kingdom of the Netherlands. The Charter for the Kingdom of the Netherlands provides that each of the countries have the responsibility to “promote the realisation” of human rights. However, the “safeguarding” of these rights is a Kingdom affair. This report analyses the responsibilities of both Curaçao and the Kingdom of the Netherlands.

This report is based on desk and field research. Amnesty International visited Curaçao in May 2018 and visited the Rio Canaria police station and the Foreigners Barracks at the SDKK prison. In addition Amnesty International conducted 21 interviews with 40 representatives of the Curaçao government, local and international organisations and lawyers. Amnesty International also interviewed asylum seekers, irregular migrants and deported Venezuelans.

LACK OF PROCEDURES LEAVES PEOPLE FLEEING CRISIS UNABLE TO APPLY FOR PROTECTION

While not all Venezuelans who left their country might qualify as refugees, undisputedly all have faced a severe increase in human rights violations. Such is the gravity of the situation in Venezuela that in March 2018, UNHCR stated in its ‘Guidance Note’ that international protection is needed for a very significant proportion of Venezuelans.

Until July 2017, UNHCR had an informal working relationship with the Red Cross on Curaçao in the absence of an official Curaçao asylum procedure. Applicants for international protection could register with UNHCR at the offices of the Red Cross. Regularly, a UNHCR team visited the island to conduct refugee status determination assessments. The two organisations also collaborated in the provision of support and reception.

In July 2017, Curaçao's government adopted a Ministerial Decision to take over the registration process of people in need of protection from UNHCR. This decision was taken without consulting with UNHCR. The new procedure devised by the Curaçao authorities was not made available to the public and did not provide for a transition period as the government took immediate and full responsibility for the registration of all protection requests. Since its decision to take over the processing of the applications, the Curaçao authorities have not issued any asylum laws or policies, and no statistics regarding asylum claimants have been published. In practice, it became very difficult for people seeking safety to request for international protection.

Those who either did not immediately claim asylum on arrival, or entered the country as tourists, or have been on the island for some time, or were previously removed or had a permit to live on the island are not allowed to apply for protection.

Amnesty International interviewed Venezuelans with irregular legal status in Curaçao. Their testimony, as well as that of experts also interviewed, confirmed that having irregular status and a lack of procedures to seek protection makes people very vulnerable to exploitation, extortion, violence, trafficking, sexual abuse, and discrimination.

“I called the police station to ask where I could apply for protection. The police officer laughed and told me that no such procedure existed.”

- A Venezuelan staff member working for a humanitarian organisation

The Government of Curaçao told Amnesty that in cases where an application for protection based on a risk of torture or other ill-treatment have been determined as admissible, applicants should be referred by an Advisory Working Group to the Minister of Justice to the UNHCR office in Washington for further registration and status determination as asylum seekers. However, the Advisory Working Group only met for the first time in April 2018 and is still in the process of setting up relevant criteria for the evaluation of applications. Amnesty International found that UNHCR has not received any referrals from Curaçao of people seeking protection since July 2017. To not enable people to apply for asylum and without a fair assessment of their request for protection, people are at risk of deportation to places where they will suffer serious human rights violations. This is in violation of Article 3 of the European Convention of Human Rights and Fundamental Freedoms (ECHR): No one shall be subjected to torture or cruel, inhuman or degrading treatment or punishment.

VIOLATIONS OF HUMAN RIGHTS IN DETENTION AND THE RIGHT TO NON REFOULEMENT

People who were detained and removed after July 2017 were denied the opportunity to apply for international protection due to the state failing to establish a functioning asylum procedure.

Simultaneously, the government of Curaçao designed an ‘active removal strategy’ in response to the growing numbers of Venezuelans arriving and staying in Curaçao illegally. In 2017, the authorities removed 1,532 foreigners from the island, among them 1,203 (78.5%) Venezuelans. In the first four months of 2018, the authorities removed 475 foreigners including 386 (81.3%) Venezuelans. People who are to be removed can be, and usually are, detained in prisons or police stations pending their removal.

In the Sentro di Detenshon i Korekshon Korsou (SDKK), foreigners with an irregular immigration status are kept in a separate part of the prison, referred to as the Foreigners Barracks. According to a factsheet from the prison, in 2017, the prison held 1,085 people who did not have legal status in the country. This included 640 women and 445 men. Of these, Venezuelans constituted an overwhelming majority with a total of 867 persons. The number of people potentially also being held at police stations for similar irregularities in their legal status is not included in these figures, meaning the total numbers could be even higher. Depriving individuals of their liberty, solely on the basis of their migration status is a violation of Article 5 of the ECHR: the right to liberty and security.

“Some guards treat us like animals.”

- ‘Manuel’, a man with irregular legal status detained in the Rio Canaries police cells

In 2007, the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) found that “[t]here are no specific regulations governing the detention of irregular migrants, resulting in a very basic and restrictive regime.” At the time of Amnesty International’s visit in May 2018, the conditions in the Foreigners Barracks had deteriorated as compared to the situation documented by the CPT in their most recent visit in 2015. Amnesty International observed appalling conditions including overcrowding, lack of hygiene and inadequate bedding. The outdoor air cage does not provide any shade and detained migrants complained to Amnesty International that they had been kept locked inside for two consecutive days without being allowed outdoors. Because of lack of capacity in the barracks, 25 men were moved to cells at the Rio Canario police station. The conditions at this police station were completely inadequate.

Detained Venezuelan migrants in the SDKK who were interviewed by Amnesty International said they were subjected to punitive and degrading treatment such as prison staff withholding them access to basic goods until they have bought a plane ticket back to Venezuela. Several cases of ill-treatment upon arrest or in detention were reported to Amnesty International, including those of guards sexually abusing women detainees by asking them for sexual acts in exchange for soap and sanitary towels. According to the Curaçao government, children are being separated from their parents and put in foster care in children’s homes for the duration of their parents’ detention. This practice continues despite it being contrary to the protection of the best interests of the child.

Although Curaçao states that it is not bound by the Convention Relating to the Status of Refugees, the country is subject to international law norms that prohibit *refoulement*. Curaçao is also bound by the European Convention of Human Rights and Fundamental Freedoms. These obligations forbid Curaçao from transferring people to a place where they are at risk of serious human rights violations.

AMNESTY INTERNATIONAL'S MAIN RECOMMENDATIONS ARE AS FOLLOWS:

- The Curaçao government should guarantee the rights of asylum seekers and refugees in need of international protection and put in place a clear, accessible and well-functioning asylum procedure to protect anyone from *refoulement*.
- The Curaçao government should refrain from deporting anyone until their claim for asylum has been promptly, fairly and effectively assessed.
- The Curaçao Ministry of Justice must ensure that all persons seeking protection have access to this procedure, including access to an effective remedy to appeal a negative decision. The effective remedy should include a suspensive effect of the decision.
- The Curaçao government should ensure that the detention of asylum seekers and migrants is only used as a last resort, where necessary in the specific circumstances and proportionate to a legitimate purpose pursuant to international human rights law.
- The Curaçao Ministry of Justice must ensure that the rights of those detained are upheld, and their conditions of detention are in line with international human rights standards.
- Allegations of ill treatment, excessive use of force or any other form of abuse during arrests or in immigration detention should be investigated promptly, thoroughly and impartially by an independent body. Perpetrators should be prosecuted and reparations should be provided to victims. Action must be taken to ensure such abuse is prevented from being perpetrated again in the future by other officials.
- The Curacao government should ensure that in all decisions relating to children, the best interests of the child shall be a primary consideration. Children must not be separated from their parents and/or legal guardians. Alternatives to detention must be applied to the entire family.
- The Kingdom of the Netherlands must ensure that the human rights of migrants, asylum seekers and refugees are guaranteed in all constituent countries of the Kingdom. The Curaçao government and the Dutch government must – in the context of the Kingdom of the Netherlands - urgently work together to guarantee the human rights of people seeking protection.

3. METHODOLOGY

This report is based on desk and field research. Amnesty International visited Curaçao in May 2018 and conducted 21 interviews with 40 representatives of local and international civil society organisations, law firms, the Curaçao National Ombudsman, the Red Cross, the United Nations Refugee Agency (UNHCR), and the Curaçao Ministries of General Affairs, Justice, and Social Affairs, Labour and Development (SOAW). In addition, Amnesty International conducted field visits to the Rio Canario police station and the Foreigners Barracks at the Sentro di Detenshon i Korekshon Korsou (SDKK prison) – locations where asylum seekers and foreigners with an irregular immigration status are detained before their removal from Curaçao.

Amnesty International also interviewed Venezuelan people with an irregular immigration status and deported Venezuelans. In Curaçao, Amnesty International obtained extensive testimonies from four Venezuelans. One of them had come to Curaçao with the explicit purpose of applying for asylum. The other three had fled Venezuela because living conditions had become unbearable. In addition, Amnesty International conducted in-depth phone interviews with five Venezuelans who had been deported to their home country. Amnesty also had short conversations with 10 Venezuelans at the offices of a private legal intermediary who provides assistance in the application process of work and residency permits. Two group discussions took place with a group of 26 detained women and 13 detained men at the SDKK prison. Lastly, Amnesty International talked to one detained Venezuelan man at the Rio Canaries police station. All these detained Venezuelans were awaiting deportation because of their irregular migration status. In July 2018 the government of Curaçao has been given the opportunity to fact check the findings in the chapters 4, 5 and 6. The comments received were incorporated into the report as much as possible.

Throughout the report, several cases are discussed extensively as emblematic cases that illustrate Curaçao's policies towards asylum seekers and foreigners with an irregular immigration status. These cases represent a larger set of testimonials received by the Ombudsman and the organisation Venex (a Venezuelan diaspora organisation)⁴ Amnesty International corroborated the testimonies of those interviewed by communicating with their lawyers and relatives, and by obtaining supporting evidence such as medical records, police reports, court documents and other legal documents, as well as photographs and videos.

In order not to expose people who spoke to Amnesty International to further risk, all of their names have been changed and – when necessary – some identifying information has been withheld. The one exception is the case of Natalia Saabedra, who received substantial media attention on the island and who gave explicit consent to Amnesty International to discuss her case in public.

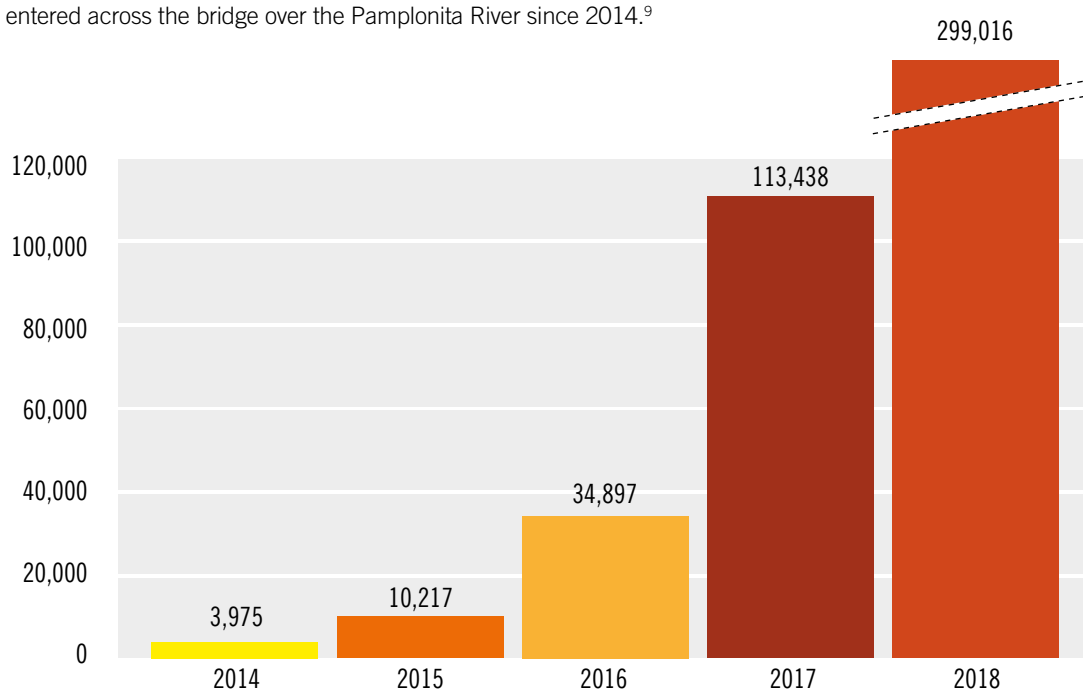
Amnesty International would like to thank everyone who contributed to this research, particularly the Venezuelans interviewed, as well as their friends and advocates in Curaçao. Amnesty International would also like to thank the Curaçao government for setting up a comprehensive interview program at the relevant ministries and facilitating the visits to the detention facilities where Amnesty International could talk with the detainees.

⁴ <https://www.linkedin.com/company/fundashon-venex-curaçao/>

4. BACKGROUND AND CONTEXT

NEIGHBOURS IN CRISIS: THE EXODUS FROM VENEZUELA

Since 2017, the departure of Venezuelan citizens to neighbouring countries has increased dramatically.⁵ The latest statistical report produced by the International Organisation for Migration (IOM) on the migration of Venezuelan nationals estimates that the number of Venezuelan nationals abroad increased from 700,000 to more than 1,600,000 between 2015 and 2017.⁶ In August 2018 the Office of the UN High Commissioner for Refugees (UNHCR) reported that over 2.3 million people had recently left the country.⁷ The number of arrivals in neighbouring states has steadily increased to 5,000 a day as of early 2018.⁸ In Colombia, the country most impacted by the outflow, there are an estimated 870,000 Venezuelans, with thousands having entered across the bridge over the Pamplonita River since 2014.⁹



↑ Number of asylum seekers from Venezuela 2014-August 2018.¹⁰

Source: UNHCR Operational Portal Refugee Situations – Venezuela Situation. data2.unhcr.org/en/situations/vensit

⁵ UNHCR, *Responding to the Needs of People Displaced from Venezuela*, Supplementary, March 2018, data2.unhcr.org/en/documents/download/63088

⁶ IOM, *Situation Report Venezuela*, 24 April 2018, www.iom.int/sites/default/files/situation_reports/file/venezuela_sr_20180411-18.pdf

⁷ Spokesperson for the Secretary-General, Stéphane Dujarric: “as of June 2018, an estimated 2.3 million Venezuelans, out of the 32.8 million people who live there, have fled the country mainly to Colombia, Ecuador, Peru and Brazil.” 14-Aug-2018, www.unmultimedia.org/tv/unifeed/asset/2217/2217274/

⁸ UNHCR, *Situational Update Venezuela*, August 2018.

⁹ UNHCR, *Responding to the needs of people displaced from Venezuela*, Supplementary, March 2018. Ministry of Foreign Affairs of Colombia: Mas de 870,000 venezolanos están radicados en Colombia, July 2018, migracioncolombia.gov.co/index.php/es/prensa/comunicados/comunicados-2018/julio-2018/7929-mas-de-870-mil-venezolanos-estan-radicados-en-colombia Other sources mention that Colombia alone received over one million Venezuelans: Reuters staff, ‘Venezuela migrants in Colombia tops a million over 15 months: government’, *Reuters*, 13 June 2018, www.reuters.com/article/us-colombia-venezuela/venezuela-migrants-in-colombia-tops-a-million-over-15-months-government-idUSKBN1J92NY

¹⁰ In some countries, individual records may relate to a case (group of individuals) and not just that of an individual alone.

Country	Date	Number
Colombia	1 Jun 2018	181,472
Chile	31 Dec 2017	84,479
Argentina	29 May 2018	77,936
Ecuador	30 Apr 2018	65,000
Panama	31 Mar 2018	51,420
Peru	19 May 2018	46,299
Brazil	30 Apr 2018	25,311
Mexico	31 Dec 2017	24,979
Costa Rica	24 Nov 2017	5,600
Uruguay	31 Dec 2017	3,248
Canada	28 Feb 2018	1,817

↑ Other forms of legal stay: the number of Venezuelans in neighbouring states
Source: UNHCR Operational Portal Refugee Situations – Venezuela Situation

The severe human rights crisis including the lack of access to goods and healthcare and an increasingly deteriorated economy formed the reason behind this exodus.¹¹ In response to large-scale anti-government protests in 2017 – some of which attracted tens of thousands of Venezuelans – the security forces cracked down on protestors. They have used undue, unnecessary or excessive force, detained thousands of people arbitrarily, and resorted to torture and other ill treatment of protesters.¹² The judicial system is used to silence dissidents, including using military jurisdiction to prosecute civilians. Human rights defenders are harassed, intimidated and subject to raids. Conditions of detention are extremely harsh. Amnesty International has documented a vast number of human rights violations during periods of mass protests and social unrest,¹³ including cases of torture and other ill treatment of demonstrators held in state custody.¹⁴

¹¹ Amnesty International, *Amnesty International Report 2017/18 – Venezuela* (Index: POL 10/6700/2018), www.amnesty.org/en/countries/americas/venezuela/report-venezuela/

¹² Amnesty International, *Amnesty International Report 2017/18 – Venezuela*, 2018; *Human Rights Watch, Venezuela: Events of 2017*, 2018, www.hrw.org/world-report/2018/country-chapters/venezuela. The UN Human Rights Office identified “the existence of a policy to repress political dissent and instil fear in the population to curb demonstrations.” See: Office of the United Nations High Commissioner for Human Rights (OHCHR), *Human rights violations and abuses in the context of protests in the Bolivarian Republic of Venezuela from 1 April to 31 July 2017*, August 2017, www.ohchr.org/Documents/Countries/VE/HCRReportVenezuela_1April-31July2017_EN.pdf

¹³ AMR 53/009/2014, Amnesty International, *Venezuela: human rights at risk amid protests*, www.amnesty.org/en/documents/amr53/009/2014/en/

¹⁴ AMR 53/020/2014, Amnesty International, *Venezuela: briefing to the UN committee against torture, 53rd session, November 2014*, www.amnesty.org/en/documents/amr53/020/2014/en/; AMR 53/1239/2015, Amnesty International, *Venezuela: the faces of impunity one year since the protests, victims are still waiting for justice*, www.amnesty.org/en/documents/amr53/1239/2015/en/

In addition to civil and political unrest, Venezuela is also facing a terrible economic crisis with a projected 1,000,000 % inflation rate at the end of this year.¹⁵ A food and health crises threatens the lives of Venezuelans in general, and of small children, people with chronic illnesses and pregnant women in particular.¹⁶ Caritas Venezuela reported an increase in cases of severe malnutrition in children under the age of five from an already extremely high level of 10.2% in February 2017 to 14.5% in September 2017.¹⁷ Beyond food, there is a severe shortage of medicines and medical supplies. The Venezuelan healthcare system has deteriorated dramatically. In 2016 maternal mortality had increased by 65% compared to the previous year and infant mortality by 30%.¹⁸ Cases of malaria had increased by 76%.¹⁹

While not all Venezuelans who left the country necessarily qualify as refugees, it is evident that a significant number of people are in need of international protection. In response to this situation, the United Nations High Commissioner for Refugees (UNHCR) recently released its *Guidance Note on the Outflow of Venezuelans*,²⁰ wherein the UN agency states that the broad circumstances leading to the outflow of Venezuelan nationals would fall within the spirit of the *Cartagena Declaration*,²¹ with a resulting rebuttable presumption of international protection needs. This means that due to the context of massive human rights violations in Venezuela and other circumstances that have seriously disturbed public order, the UNHCR recommends that cases of Venezuelans seeking asylum should be examined in the light of both the *Convention on the Status of the Refugees* and the *Cartagena Declaration*.

In light of the extraordinary situation, some destination countries in the region – such as Colombia – have established special mechanisms to facilitate various forms of regularisation and even protection. At the same time, both within and outside the region, in the past few years an increasing number of Venezuelans, some 299,016,²² have filed asylum claims.²³ However, an estimated 60% of Venezuelans abroad remain in an irregular situation, without documentation. This makes them particularly vulnerable to exploitation, extortion, exactions, violence, trafficking, sexual abuse, recruitment, discrimination and xenophobia.²⁴

¹⁵ Reuters staff, 'IMF projects Venezuela inflation will hit 1,000,000 percent in 2018', *Reuters*, 24 July 2018, www.reuters.com/article/us-venezuela-economy/imf-projects-venezuela-inflation-will-hit-1000000-percent-in-2018-idUSKBN1KD2L9

¹⁶ Amnesty International, *Emergency Exit: Venezuelans Fleeing the Human Rights Crisis*, 2018, www.amnistiaonline.org/SalidadeEmergencia/#

¹⁷ Caritas Venezuela, *Monitoreo de la Situación Nutricional en Niños Menores de 5 años*, 2017, caritasvenezuela.org/wp-content/uploads/2017/12/Cuarto-Bolet%C3%ADn-SAMAN-Julio-Agosto-2017.-Caritas-de-Venezuela-1.pdf

¹⁸ Amnesty International, *Emergency Exit: Venezuelans Fleeing the Human Rights Crisis*, 2018.

¹⁹ Human Rights Watch, *Venezuela: Events of 2017*, 2018.

²⁰ UNHCR, *Guidance Note on the Outflow of Venezuelans*, March 2018, data2.unhcr.org/en/documents/download/63243; UNHCR, *Responding to the needs of people displaced from Venezuela*, p. 6, March 2018.

²¹ *Cartagena Declaration on Refugees* is a declaration adopted by a colloquium of experts from the Americas in the search for durable solutions to the problems faced by thousands of Central Americans who had been forced to leave their homes as a consequence of generalised violence that resulted from the serious regional conflicts during the 1980s. The Declaration expands the definition of refugee to include persons who have fled their country because their lives, safety or freedom have been threatened by generalised violence, foreign aggression, internal conflicts, massive violation of human rights or other circumstances that have seriously disturbed public order. See: www.unhcr.org/about-us/background/45dc19084/cartagena-declaration-refugees-adopted-colloquium-international-protection.html

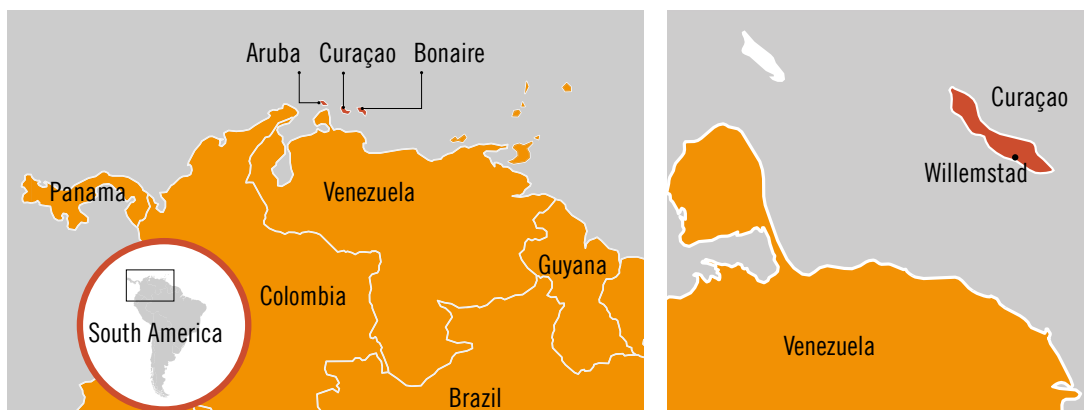
²² Last updated 1 August 2018

²³ In some countries, individual records may relate to a case (group of individuals) and not just that of an individual alone. data2.unhcr.org/en/situations/vensit

²⁴ UNHCR, *Venezuela Situation Update*, May 2018.

CURAÇAO AS A DESTINATION COUNTRY

The island of Curaçao – a constituent country of the Kingdom of the Netherlands – is located some 70 kilometres from Venezuela. On clear days, the Venezuelan Falcón province can be seen across the ocean.



Government:	Parliamentary representative democracy under constitutional monarchy. Autonomy within the Kingdom of the Netherlands Established on 10 October 2010 (dissolution of the Netherlands Antilles).
Head of state:	King Willem-Alexander
Governor:	Lucille George-Wout
Head of government:	Eugene Rhuggenaath
Capital:	Willemstad
Religion:	80% Catholic, 15% remaining, 5% no religion.
Surface:	444 km ²
Population:	160.337
Unemployment:	14.1%
Youth unemployment:	32.8 %

The Curaçao population is very much connected to Venezuela, both professionally and personally, through a vibrant exchange of trade and tourism. In fact, there were significant numbers of Venezuelans, both documented and not, on the island long before the current crisis broke out in Venezuela two years ago. As a consequence of these close connections, Curaçao has become a destination country for Venezuelans fleeing their country. Official figures are not available, but according to estimates there are currently some 5,000 to 15,000 Venezuelans with an irregular immigration status on the island.²⁵ As of the end of April 2018, 679 people had applied for asylum with UNHCR.²⁶

²⁵ According to the Curacao government, most of the Venezuelan people with an irregular status have been living in Curaçao for years. The government informed Amnesty (27 July 2018) that they are currently conducting an investigation to get a better picture of the situation and the possible numbers; According to the government, there are also 3,756 registered Venezuelans on Curaçao. Interview with Stella van Rijn at the Ministry of General Affairs, 2 May 2018. For more information on numbers, see: UNHCR, *Venezuela Situation*, August 2017; H. Marijnissen, 'Curaçao heeft vluchtelingen te over, maar het woord asiel komt er niet voor', *Trouw*, 5 April 2018, <https://www.trouw.nl/samenleving/Curaçao-heeft-vluchtelingen-te-over-maar-het-woord-asiel-komt-er-niet-voor~aed0a711/>; Latin American Herald Tribune staff, 'Venezuelan Rafters Shipwreck Shocks Nation', *Latin America Herald Tribune*, 13 July 2018, www.laht.com/article.asp?ArticleId=2448914&CategoryId=10717: "[...] unofficial estimates placing the number of Venezuelans living illegally on Curaçao at 20,000".

²⁶ UNHCR Operational Portal Refugee Situations – Venezuela Situation, May 2018, data2.unhcr.org/en/situations/venezuela First in July and again in October 2017, the Curaçao government requested UNHCR to cease registration and "to comply by the national procedure and send people in need of protection to the national authorities for registration." According to the government of Curaçao as a response to previewing this report "UNHCR had knowingly registered almost 300 immigrants in one single morning without involving and informing the Curaçao authorities, and thus violating our national procedure."

To accommodate this group is quite a large responsibility for an island with a population of 161,591 people.²⁷ Beyond matters of size, the current economic outlook for Curaçao is not promising. Since the start of 2018, 2,000 people have lost their jobs.²⁸ The unemployment rate in 2017 was 14.1% (which is 0.8% increase from 13.3% in 2016) and the youth unemployment rate was 32.8%.²⁹ The Curaçao authorities therefore state that they do not possess the resources to support Venezuelan asylum seekers and refugees.³⁰

THE KINGDOM OF THE NETHERLANDS: “SHARED RESPONSIBILITIES?”

The Kingdom of the Netherlands dissolved the Netherlands Antilles on 10 October 2010, reconstituting Curaçao and Sint Maarten as new constituent countries within the Kingdom. Aruba, Curaçao, Sint Maarten and the Netherlands are now the four countries making up the Kingdom of the Netherlands.³¹ The *Charter for the Kingdom of the Netherlands* regulates the constitutional relationship between the four countries, which all have their own government and parliament.³² These institutions are empowered to enact legislation related to the countries’ own affairs. Kingdom affairs are addressed in the Council of Ministers of the Kingdom, which consists of the Ministers of the Netherlands and three Ministers plenipotentiary appointed by Aruba, Curaçao and Sint Maarten.³³

The dissolution of the Netherlands Antilles and the reconstitution of Curaçao and Sint Maarten as constituent countries within the Kingdom was a substantial challenge. Both countries’ public administration systems had to be overhauled to adjust to the new administrative reality. The government of the Netherlands promised to support the new constituent countries while they organised themselves to function properly.³⁴ The *Charter for the Kingdom of the Netherlands* provided the legal foundation for this partnership, as it lays down rules for mutual assistance, consultation and cooperation between the four countries.

ARTICLE 36, CHARTER FOR THE KINGDOM OF THE NETHERLANDS

“The Netherlands, Aruba, Curaçao and Sint Maarten shall accord one another aid and assistance.”

²⁷ Curaçao is a long island, stretching some 40 miles (64 km) from southeast to northwest. The island is about 10 miles (16 km) at its widest point, covering a total of about 180 square miles (472 square km). See also: www.worldometers.info/world-population/Curaçao-population

²⁸ See the Central Bank Curaçao and St Maarten, *Economic Developments in 2017 and Outlook for 2018*, www.centralbank.cw/uploads/files/Economische%20ontwikkelingen%20in%202017%20en%20vooruitzichten%20voor%202018_ENG.pdf

²⁹ See Central Bureau of Statistics Curacao, www.cbs.cw/website/search_213/?trefwoord=unemployment With closing of hotels and downsizing of major companies, the labour market has gone through dramatic changes. These changes have manifested themselves in an increased unemployment rate. See for context: Index Mundi, www.indexmundi.com/map/?v=2229&l=nl

³⁰ Interview with a government official of the Ministry of General Affairs, 2 May 2018; Interview with a government official of the Ministry of Justice, 2 May 2018; Interview with a government official of the Ministry of SOAW, 4 May 2018.

³¹ The first three countries are located in the Caribbean. The Kingdom therefore has a European part and a Caribbean part. Bonaire, St. Eustatius, and Saba became special municipalities within the Netherlands.

³² *Charter for the Kingdom of the Netherlands*, Decree of 1 November 2010, Bulletin of Acts and Decrees of the Kingdom of the Netherlands (Staatsblad), Volume 2010, 775, Text of the Charter for the The Kingdom of the Netherlands as last amended by Kingdom act in connection with the dismantling of the present Constitutional Order of the Netherlands Antilles, [Hereinafter: *the Charter*].

³³ See Article 7 of the Charter. Also there is a “duty of confidentiality with regard to what is discussed or happened at the meeting”, see Article 26 of the Rules of procedure for the Council of Ministers, wetten.overheid.nl/BWBR0006501/2010-10-10/1#Paragraaf6

³⁴ Action plans were drawn up for parts of the governments that were not functional yet on the date that Curaçao and Sint Maarten became constituent countries of the Kingdom. These action plans were originally set up for a duration of 2 years. See the news item on the Dutch government website: www.government.nl/latest/news/2010/09/21/for-constitutional-reform-in-the-kingdom-2011-is-the-year-of-implementation

The Charter also determines that the four countries regulate their own affairs autonomously and are jointly responsible for Kingdom affairs.³⁵ Article 3 of the Charter specifies which areas are considered “Kingdom affairs”. These areas include foreign relations, defence, Dutch nationality and general conditions for the admission and expulsion of aliens.³⁶ In the context of Venezuelan asylum seekers, it is important to mention that the Charter provides that the countries have the responsibility to protect human rights. Article 43 explains that each of the autonomous countries has the obligation to promote the realisation of fundamental human rights and freedoms, legal certainty and good governance. However, the safeguarding of such rights and freedoms, legal certainty and good governance is deemed a “Kingdom affair”, and therefore ultimately the responsibility of the Kingdom’s government.

ARTICLE 43, CHARTER FOR THE KINGDOM OF THE NETHERLANDS

1. “Each of the Countries shall promote the realisation of fundamental human rights and freedoms, legal certainty and good governance.”
2. “The safeguarding of such rights and freedoms, legal certainty and good governance shall be a Kingdom affair.”

As written above, the dissolution of the Netherlands Antilles was only eight years ago and a substantial challenge for all parties involved. And still, much work remains to be done in clarifying the different responsibilities.

The Kingdom of the Netherlands is subject to international law and therefore only the Kingdom (not the Netherlands, Aruba, Curaçao or Sint Maarten) can conclude treaties. The Kingdom ratifies the treaties and indicates for which countries a treaty will apply. It is possible that a treaty applies to the Kingdom as a whole, but also only to one or more countries.

In June 2018, the Advisory Council on International Affairs (AIV) came up with the report ‘Fundamental rights in the Kingdom: Unity in protection’. The AIV concludes that within the Kingdom of the Netherlands, human rights differ – with human rights treaties signed by the Kingdom often only being valid in the Netherlands. Citizens in the Caribbean part of the Kingdom therefore have fewer rights than their European fellow citizens.³⁷ The same applies to the human rights of migrants and asylum seekers.

Although the Kingdom ratified the 1951 Refugee Convention, it declared that this convention did not apply to its overseas territories.³⁸ As a result, Curaçao states that it is not required to offer international protection under this convention.

³⁵ See the Dutch government website: www.government.nl/ministries/ministry-of-the-interior-and-kingdom-relations

³⁶ Article 3 of the Charter reads in full: “1. Without prejudice to provisions elsewhere in the Charter, Kingdom affairs shall include: a. maintenance of the independence and the defence of the Kingdom; b. foreign relations; c. Dutch nationality; d. regulation of the orders of chivalry, the flag and the coat of arms of the Kingdom; e. regulation of the nationality of vessels and the standards required for the safety and navigation of seagoing vessels flying the flag of the Kingdom, with the exception of sailing ships; f. supervision of the general rules governing the admission and expulsion of Dutch nationals; g. general conditions for the admission and expulsion of aliens; h. extradition. 2. Other matters may be declared to be Kingdom affairs in consultation. Article 55 shall apply *mutatis mutandis*.”

³⁷ Advisory Council on International Affairs (AIV), *Fundamental rights in the Kingdom: Unity in protection*, June 2018.

³⁸ According to Article 40 of the Refugee Convention, “Any State may, at the time of signature, ratification or accession, declare that this Convention shall extend to all or any of its territories for the international relations of which it is responsible”, see www.unhcr.org/3b66c2aa10

This does not mean, however, that Curaçao can deal with applicants seeking international protection as it sees fit. Curaçao is indeed bound by the European Convention on Human Rights (ECHR) which provides for important protection provisions.³⁹

“Unless there is a specified reservation or declaration, international treaty obligations are binding upon the Kingdom as a whole, and the Kingdom can be held accountable under Public International Law. Regarding the ICCPR and CAT, no reservations have been made.”⁴⁰

Curaçao is obliged to protect people from being sent back to a place where they could face torture or other cruel, inhuman or degrading treatment or punishment on the basis of the *European Convention on Human Rights and Fundamental Freedoms* (ECHR), the *International Covenant on Civil and Political Rights* (ICCPR) and the 1987 *UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment* (UNCAT), as well as the customary international law principle prohibiting *refoulement*.⁴¹

All three conventions either explicitly include or have been determined by bodies overseeing or implementing them to include a prohibition of *refoulement*, meaning that removal of a person to a country where he or she is exposed to inhuman or degrading treatment or faces a risk of being tortured is not allowed.⁴²

Furthermore, the principle of *non-refoulement* is a rule of customary international law and therefore applies to all states, regardless of whether they are parties to the relevant treaties.⁴³

From the above, it follows that the Kingdom of the Netherlands is required under international law to respect the principle of *non-refoulement*, and so is Curaçao. That means that a person in Curaçao who is in fear of ill treatment upon return can invoke Article 3 of the ECHR.⁴⁴ And on the basis of Article 13 of the ECHR, people in Curaçao who risk *refoulement* have the right to an effective remedy against expulsion before a national authority. And they could eventually – on the basis of Article 34 – lodge an application with the European Court of Human Rights (ECHR).

³⁹ *European Convention for the Protection of Human Rights and Fundamental Freedoms*, 4 November 1950 [Hereinafter: ECHR]. In 1954, the Netherlands declared that the ECHR also applies to what was then known as the Netherlands Antilles: the Netherlands' Caribbean territories including Curaçao. This was done based on the Convention's Article 56.

⁴⁰ ICESCR, *Sixth periodic report Kingdom of the Netherlands - International Covenant on Economic, Social and Cultural Rights*, February 2016, p. 3.

⁴¹ Committee on Economic, Social and Cultural Rights, *Sixth periodic reports of States parties due in 2015: The Netherlands*, UN Doc. E/C.12/NLD/6, 20 May 2016, para. 3. The Kingdom of the Netherlands has recognised that “[I]nternational treaty obligations are binding on the Kingdom as a whole and the Kingdom can be held accountable under public international law.”

⁴² Article 3 and Article 13 of the ECHR, Article 3 of the CAT and Article 2 (3) (a) (right to an effective remedy) and Article 7 of the ICCPR (prohibition against torture and inhuman or degrading treatment).

⁴³ UNHCR, *The Principle of Non-Refoulement as a Norm of Customary International Law: Response to the Questions Posed to UNHCR by the Federal Constitutional Court of the Federal Republic of Germany in Cases 2 BvR 1938/93, 2 BvR 1953/93, 2 BvR 1954/93*, 31 January 1994.

⁴⁴ Article 3 of the European Convention on Human Rights: “No one shall be subjected to torture or to inhuman or degrading treatment or punishment.” The European Court of Human Rights has held that this provision prohibits the extradition of a person to a foreign state if they are likely to be subjected there to torture.

The *Charter for the Kingdom of the Netherlands* allows Curaçao to call upon other Kingdom countries for assistance to uphold this international norm. Article 36 is compulsory: “the countries *shall accord* each other aid and assistance”. For this article to come into play, it is important that Curaçao is clear in asking for assistance from the Kingdom of the Netherlands. Recently the Curaçao government informed Amnesty International that they did invoke Article 36. The Dutch government indicated that it can offer assistance from, among others, the Immigration and Naturalisation Service. In June this year an official delegation from the Netherlands had several working sessions with the Curaçao Immigration Services. Arrangements were made for a follow-up visit.⁴⁵

In addition, Articles 3 and 43 of the Charter clearly state what areas are determined as Kingdom affairs. Two of these areas are: the general conditions for the admission and expulsion of aliens, and the safeguarding of human rights.

Yet, between Curaçao and the Kingdom of the Netherlands, there is no clarity about the different responsibilities. The argument that the admission and expulsion of aliens is a “country affair” of Curaçao rather than a “Kingdom affair” comes up repeatedly in public statements by representatives of the Netherlands’ government.⁴⁶ The State Secretary of the Interior and Kingdom Relations in the Netherlands’ government, for example, has stated that the financial support that the ministry recently provided to help with the detention of aliens in Curaçao is merely an act of voluntary contribution and cannot be seen as the exercise of an obligation or responsibility of the Netherlands.⁴⁷ He added: “As long as they (Curaçao) are adhering to international law, the Kingdom will not get involved.”⁴⁸

This raises the question of whether the policy and practice of admission and expulsion of aliens (including asylum seekers) in Curaçao is in conformity with international legal obligations. If not, this is in the end indisputably a matter for the Kingdom of the Netherlands.⁴⁹

It appears that the government of the Netherlands ignores the fact that human rights are at stake, which would then legally trigger the Kingdom’s “safeguarding” responsibilities under Article 43 of the Charter, as well as under international law. Instead, the government appears to collectively view Venezuelans as “economic migrants” and, in turn, wrongly assumes that this situation therefore does not involve human rights. Dating back to June 2015, members of the Netherlands Parliament requested its government to start designing scenarios to support Curaçao in its efforts to provide Venezuelan nationals in Curaçao with protection. Although the Minister answered in April 2017 that “the Caribbean parts of the Kingdom and

⁴⁵ Email from the Curaçao government, 27 July 2018.

⁴⁶ See, most recently: Ministry of the Interior and Kingdom Relations, *Answering of questions put forward by member of Parliament Bosman on the reception of Venezuelans on Aruba and Curaçao and the Dutch assistance*, 18 May 2018, www.tweedekamer.nl/kamerstukken/kamervragen/detail?id=2018Z04853&did=2018D29395 See also responses from the Dutch government over the last years: 29 June 2016, Minister of Foreign Affairs, Koenders: “Migration and tourism pertain primarily to the jurisdiction of the Caribbean countries within the Kingdom.” See: zoek.officielebekendmakingen.nl/dossier/29653/kst-29653-24?resultIndex=15&sorttype=1&sortorder=4 Or: 5 Juli 2017, Minister of Foreign Affairs, Koenders: “The admission of aliens is a country affair and falls in Curaçao under the responsibility of the Minister of Justice of Curaçao.” See: zoek.officielebekendmakingen.nl/dossier/29653/kst-29653-33?resultIndex=6&sorttype=1&sortorder=4 Or: 16 April 2018, Minister of Foreign Affairs, Blok: “Admission and immigration policy are country affairs, but the Netherlands can help and advice in the further design of the procedures.” See: zoek.officielebekendmakingen.nl/dossier/29653/kst-29653-38?resultIndex=0&sorttype=1&sortorder=4

⁴⁷ Ministry of the Interior and Kingdom Relations, *Answering of questions put forward by member of Parliament Bosman on the support of the Netherlands for detention and expulsion of undocumented people on Curaçao*, 18 May 2018, www.tweedekamer.nl/kamerstukken/kamervragen/detail?id=2018Z06589&did=2018D29372

⁴⁸ Ministry of the Interior and Kingdom Relations, *Answering of questions put forward by member of Parliament Bosman on the reception of Venezuelans on Aruba and Curaçao and the Dutch assistance*, 18 May 2018.

⁴⁹ See also the official explanation note (Memorie van Toelichting) of Article 43 of the Charter.

the Netherlands are preparing and taking preventive measures for the possible reception of Venezuelan migrants [...] such as [...] drawing up crisis plans [...],”⁵⁰ Amnesty International has seen no evidence that any of these measures or plans for reception have been implemented.

Venezuelans face a severe increase of human rights violations in their own country.⁵¹ UNHCR states: “While individual circumstances and reasons for these movements vary, international protection considerations have become apparent for a very significant proportion of Venezuelans.” UNHCR calls on States to consider protection-oriented arrangements to enable legal stay for Venezuelans with appropriate safeguards.⁵² Yet the government of the Netherlands has stated repeatedly that it did not expect refugees to arrive in Curaçao. They argue that it’s mostly “economic migrants” who are fleeing Venezuela and that dealing with such migration issues is an affair of the Curaçao government.⁵³

The Netherlands who normally boast about striving to protect and promote human rights all over the world, should then first start with protecting and promoting human rights within its fellow countries of the Kingdom.⁵⁴

As a consequence of Article 43 of the Charter and the above-mentioned human rights duties, the Kingdom is indeed obliged to respond if a constituent country fails to fulfil its duty adequately in this field.⁵⁵

UPHOLDING HUMAN RIGHTS IN CURAÇAO

In response to concerns over the number of Venezuelans currently residing on the island, the Curaçao government has started to actively deport Venezuelans back to their home country – stating that these are not people in need of protection but rather “economic migrants”. The Minister of Foreign Affairs in the Netherlands’ government has publicly supported this policy. Addressing a new round of questions from the

⁵⁰ Questions from Parliament (Sjoerdsma - D66), 22 February 2017, 1565, and answers from the Minister, 6 April 2017, about Venezuelan refugees in Curaçao. The Curaçao government confirmed that “specific crisis plans for Venezuelan migration have been drawn up. Also, together with the Netherlands, additional plans in case of mass migration have been prepared.” (email from the Curacao government, 27 July 2018)

⁵¹ Amnesty International, *Amnesty International Report 2017/18 – Venezuela*, 2018.

⁵² UN High Commissioner for Refugees (UNHCR), Guidance Note on the Outflow of Venezuelans, March 2018, www.ecoi.net/en/document/1426162.html

⁵³ See, for example, M. Sedee, ‘Nederland steunt Caribische eilanden bij migratie uit Venezuela’, NRC Handelsblad, 6 April 2018, www.nrc.nl/nieuws/2018/04/06/nederland-steunt-caribische-eilanden-bij-migratie-uit-venezuela-a1598417; NOS, ‘Blok: Nederland gaat geen vluchtelingen uit Venezuela opnemen’, NOS.nl, 22 May 2018, nos.nl/artikel/2233100-blok-nederland-gaat-geen-vluchtelingen-uit-venezuela-opnemen.html; Kamerstuk 29653 nr. 23, 28 July 2015, Algemeen overleg over de brief van de Minister van Buitenlandse Zaken d.d. 27 februari 2015 houdende een reactie op verzoek van de vaste commissie voor Buitenlandse Zaken inzake de actuele situatie in Venezuela en de mogelijke consequenties voor de Koninkrijksdelen in het Caribisch gebied, zoek.officielebekendmakingen.nl/dossier/29653/kst-29653-23?resultIndex=21&sorttype=1&sortorder=4 + Kamerstuk 29653 nr. 19, 25 June 2015, Motie van de leden Sjoerdsma en Knops, zoek.officielebekendmakingen.nl/dossier/29653/kst-29653-19?resultIndex=24&sorttype=1&sortorder=4 + Kamerstuk 29653 nr. 21, 25 June 2015, Motie van de leden Ten Broeke en Knops, zoek.officielebekendmakingen.nl/dossier/29653/kst-29653-21?resultIndex=22&sorttype=1&sortorder=4

⁵⁴ Promoting and protecting human rights worldwide is a priority in the foreign policy of the Netherlands. See *Human Rights Report 2016*, Ministry of Foreign Affairs. See also: Advisory Council on International Affairs (AIV), *Fundamental rights in the Kingdom: Unity in protection*, June 2018.

⁵⁵ Whether this is the case is to be assessed domestically by the Council of Ministers of the Kingdom. Ministry of Foreign Affairs, *Kingdom of the Netherlands: One Kingdom – Four Countries; European and Caribbean*, The Hague April 2015, p. 2, www.government.nl/documents/leaflets/2015/06/05/kingdom-of-the-netherlands-one-kingdom-four-countries-european-and-caribbean

Netherlands Parliament in October 2016, the government stated that the Curaçao government was hesitant to shelter Venezuelans because this might attract more people to come to the island. It also stated that removals took place in accordance with Curaçao's legal framework.⁵⁶ In April 2018, the Dutch government similarly responded to concerns about the lack of protection on the island by stating that Curaçao had put in place a functioning asylum procedure.⁵⁷

As this report will discuss further, compelling evidence suggests that no more foreigners have been able to apply for international protection since July 2017.⁵⁸ In addition, serious human rights violations have been reported to take place in the process of detaining and removing asylum seekers and migrants with an irregular immigration status from the island. Amnesty International therefore conducted an in-depth study of (1) the Curaçao procedure to ask for protection against *refoulement* based on Article 3 of the ECHR and (2) its detention and removal procedures.

This report presents the main findings and details courses of action for Curaçao and the Kingdom of the Netherlands to improve the situation of Venezuelans on the island who are in need of protection on the island. It is time for the government, to comply with their obligations under international human rights law and time for the Kingdom to help, assist and safeguard human rights in all its countries.⁵⁹

⁵⁶ Kamerstuk 29653 nr. 30, 26 October 2016, *Algemeen overleg over de brief van de Minister van Buitenlandse Zaken d.d. 7 juli 2016 met de reactie op het verzoek van de vaste commissie voor Koninkrijksrelaties inzake de actuele situatie in Venezuela en de mogelijke consequenties voor de afzonderlijke landen in het Koninkrijk*, zoek. officielebekendmakingen.nl/dossier/29653/kst-29653-30?resultIndex=9&sorttype=1&sortorder=4

⁵⁷ Kamerstuk 29653 nr. 38, 16 April 2018, *Brief van de Minister van Buitenlandse Zaken*, zoek. officielebekendmakingen.nl/dossier/29653/kst-29653-38?resultIndex=0&sorttype=1&sortorder=4

⁵⁸ See also for example: Report of the Curaçao Ombudsman, *Ambtshalve onderzoek naar de rol van de Minister van Justitie in het kader van het Curacaose vreemdelingen- c.q. vluchtelingenbeleid*, 27 June 2018; L. Fränkel, 'Gevluchte Venezolanen leven op Curaçao in angst voor uitzetting', NOS.nl, 26 February 2018, <https://nos.nl/nieuwsuur/artikel/2219578-gevluchte-venezolanen-leven-op-curacao-in-angst-voor-uitzetting.html>; H. Marijnissen, 'Curaçao heeft vluchtelingen te over, maar het woord asiel komt er niet voor', Trouw, 5 April 2018, www.trouw.nl/samenleving/Curaçao-heeft-vluchtelingen-te-over-maar-het-woord-asiel-komt-er-niet-voor~aed0a711/

⁵⁹ Article 43 (2) of the Charter stipulates that safeguarding fundamental human rights and freedoms is a Kingdom Affair.

5. APPLYING FOR INTERNATIONAL PROTECTION IN CURAÇAO

HUMAN RIGHTS LAW AND STANDARDS

The right to seek asylum is enshrined in Article 14 of the *Universal Declaration of Human Rights* (UDHR)⁶⁰: “Everyone has the right to seek and to enjoy in other countries asylum from persecution”.

The rights of migrants and asylum seekers are protected by international law, regardless of how and why they arrive in a country. They have the same rights as all other human beings, plus a right to special protection as guaranteed in:

- The *UN Refugee Convention*, (Article 33) which protects refugees from being returned to countries where they risk being persecuted.
- The *European Convention for the Protection of Human Rights and Fundamental Freedoms* (Article 3), which states that no one shall be subjected to torture or to inhuman or degrading treatment or punishment. (ECHR).
- Article 4 of Protocol No. 4 of the ECHR, which prohibits collective expulsion of aliens.
- The *International Covenant on Civil and Political Rights* (Article 7) that states that no one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment (ICCPR).
- The *UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment* (Article 3) that states that no State Party shall expel, return or extradite a person to another State where there are substantial grounds for believing that he would be in danger of being subjected to torture (UNCAT).

As discussed above, Curaçao states that it is not bound by the ratification of the Refugee Convention, yet the country is subject to the international (customary) law norm against *refoulement*.⁶¹ Obligations under human rights law (including treaties and customary international law) forbid Curaçao – under the international legal principle of *non-refoulement* – from transferring people to a place where they are at risk of serious human rights violations.⁶²

⁶⁰ UN General Assembly, Universal Declaration of Human Rights, 10 December 1948, 217 A (III) [Hereafter: UDHR]. The UDHR is regarded as the cornerstone of the international human rights legal system.

⁶¹ The Curaçao Supreme Administrative Court ruled in 2011 that requests for protection must be assessed under Article 3 of the ECHR, ECLI:NL:OGHACMB:2011:BV2081; see also ECLI:NL OGEAM:2016:8; see also the Report of the Curaçao Ombudsman, *Ambtshalve onderzoek naar de rol van de Minister van Justitie in het kader van het Curaçaose vreemdelingen- c.q. vluchtelingenbeleid*, 27 June 2018.

⁶² See also the Brazil Declaration and Plan of Action, A Framework for Cooperation and Regional Solidarity to Strengthen the International Protection of Refugees, Displaced and Stateless Persons in Latin America and the Caribbean, 3 December 2014, www.acnur.org/cartagena30/en/brazil-declaration-and-plan-of-action/. The countries agreed to do more on reception of refugees and asylum seekers. The declaration is not legally enforceable.

ARRIVALS AT CURAÇAO

Venezuelans use two different means of transport to travel to Curaçao. One option is to travel by airplane. This is facilitated by the fact that Venezuelans do not need a visa to enter Curaçao as a tourist. A second option, which has become more prevalent of late due to the dire situation in Venezuela, is to take a small boat (*lancha*) that carries around 30 people and that enters the country without permission. In 2017 the Coast Guard arrested 293 Venezuelans trying to reach Curaçao by boat. All such migrants are then taken by the Coast Guard to the Police Force of Curaçao.⁶³ Despite the Coast Guard's operations, boats continue to arrive on the island.⁶⁴ This obviously brings with it severe dangers for the people departing from Venezuela, as evidenced by a boat accident in January 2018 that left four people dead and 28 missing when the boat they travelled on capsized before it had reached the shore.⁶⁵

REQUESTING A RESIDENCE PERMIT

The National Ordinance Admission and Removal (*Landsverordening Toelating en Uitzetting*, LTU) is the main body of immigration law that applies to Curaçao. People who want to stay on the island beyond the 90 days term⁶⁶ allowed for tourism need to apply for a residence permit.⁶⁷ Initially, they can apply for a temporary residence permit. For this, they need to show they have sufficient means to support themselves ('*voldoende middelen van bestaan*') and they are not a threat to public order and safety (i.e. they do not have a criminal record). The criterion that someone possesses sufficient means of support is suspended if the person has someone willing to act as a financial guarantor.⁶⁸ In colloquial terms, it is said that they have someone who 'signs for them'.

According to the National Ordinance on Administrative Justice (*Landverordening op de Administratieve Rechtspraak*, LAR), the authorities need to decide on a request within four months of the application.⁶⁹ After which, people have six weeks to appeal the decision.⁷⁰ For temporary residence permits, people have to apply in Curaçao and await the final outcome of the application abroad.⁷¹ If they stay on Curaçao without permission, this forms a reason to reject their application. An earlier irregular stay on the island qualifies as a threat to public order and hence a reason to reject an application.⁷² After 10 years of continuous residency on the island, the foreigner can apply for a residence permit for a permanent stay.⁷³

⁶³ Annual report 2017 from the Coastguard for the Kingdom of the Netherlands in the Caribbean, May 2018.

⁶⁴ Interview with a local journalist, 7 May 2018; see also D. Drayer, 'Kustwacht Curaçao onderschept weer Venezolanen', NOS.nl, 31 July 2017, <https://nos.nl/artikel/2185793-kustwacht-curacao-onderschept-weer-venezolanen.html>; Annual Report 2017 (see above). The number of migrants arrested at sea has increased in the recent years: 2016: 122, 2015: 88, 2014: 5, 2013: 43, 2012: 44, 2011: 27.

⁶⁵ See: C. Jiménez and A. Moncada, 'Living this way breaks your heart', The Washington Post, 27 March 2018, www.washingtonpost.com/news/worldpost/wp/2018/03/27/venezuela-crisis/?utm_term=.f5ca8eab9c62; M. Sampathkumar, 'Venezuela shipwreck: Four people dead and 28 missing after boat sinks on way to Curaçao', *Independent*, 11 January 2018, www.independent.co.uk/news/world/americas/venezuela-shipwreck-latest-updates-Curaçao-dead-missing-sink-boat-sank-a8154106.html

⁶⁶ The visit term for tourists from Venezuela is 30 days, which can be prolonged until 90 days.

⁶⁷ Article 6 (1) of the LTU.

⁶⁸ Article 9 of the LTU.

⁶⁹ Article 3 (2) of the Landsverordening Administratieve Rechtspraak (P.B. 2001, no 80), entry into force 10 October 2010, [Hereinafter: LAR].

⁷⁰ Article 55 and Article 7 of the LAR.

⁷¹ This applies to requests for a first application.

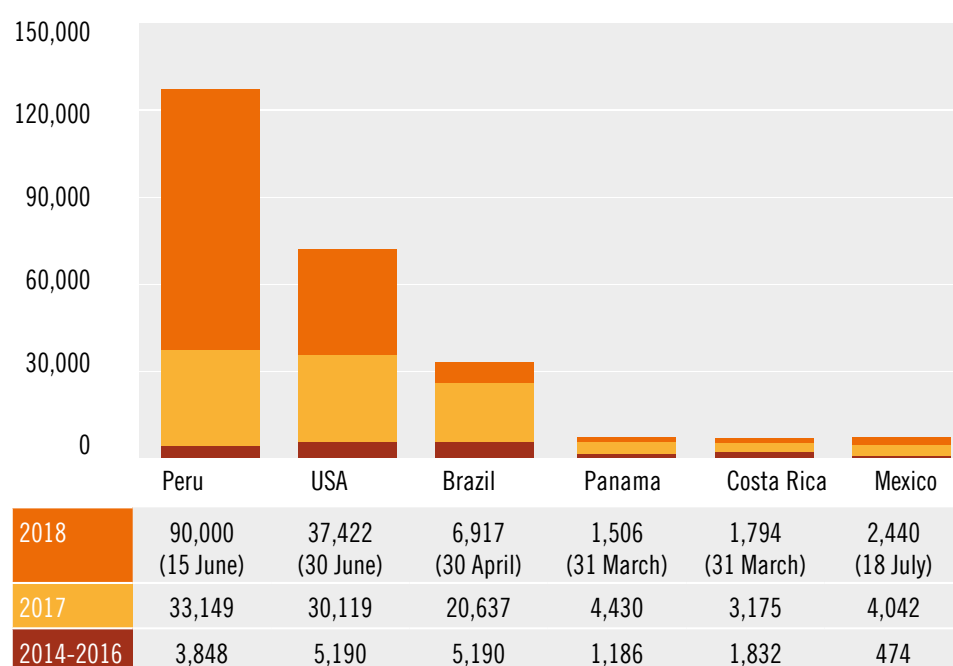
⁷² Article 9 of the LTU.

⁷³ Article 9 of the LTU.

APPLYING FOR PROTECTION

In the absence of an official Curaçao asylum procedure, UNHCR had an informal working relationship with the Red Cross on Curaçao until 5 July 2017.⁷⁴ Until that date, applicants could register with UNHCR at the offices of the Red Cross.⁷⁵ The Red Cross would send these forms to UNHCR offices in Washington. A UNHCR team would visit the island every couple of months to conduct substantive refugee status determination assessments.⁷⁶ Over the past years, this procedure resulted in several (mainly Colombian, Cuban, and Syrian) refugees being resettled from Curaçao. Refugees who did not qualify for resettlement were allowed to stay in Curaçao due to their refugee certificate, however their stay remained irregular.⁷⁷

In recent years, Curaçao experienced an increase in the numbers of Venezuelan asylum seekers from 3 in 2015, to 13 in 2016, to 663 in 2017.⁷⁸ This increase matches the peak in Venezuelan asylum seekers in the Americas in 2017 more generally (see image below).



↑ Asylum applications 2014-2018, primary countries of asylum⁷⁹

Source: UNHCR Operational Portal Refugee Situations – Venezuela Situation

In response to the increase in the number of Venezuelans registering with UNHCR, combined with the growing number of Venezuelans arriving and staying on the island irregularly, the government shored up its efforts to remove Venezuelans with an irregular immigration status from the island. The goal of

⁷⁴ This set-up has existed since the formation of Curaçao as a constituent country of the Kingdom of the Netherlands in 2010. UNHCR supported the Red Cross to offer assistance until 5 July 2017.

⁷⁵ Interview with the Red Cross Curaçao, 3 May 2018; interview with UNHCR Antilles, 1 May 2018.

⁷⁶ Throughout the status determination process, some small financial assistance was available from the Red Cross to cover medical expenses. Until July 2017, UNHCR funded the Red Cross to provide this assistance.

⁷⁷ Interview with the Red Cross Curaçao, 3 May 2018.

⁷⁸ UNHCR, *Venezuela Situation: Responding to the needs of people displaced from Venezuela*, data2.unhcr.org/en/documents/download/63088 Supplementary, March 2018; UNHCR Operational Portal Refugee Situations – Venezuela Situation. data2.unhcr.org/en/situations/vensit, data2.unhcr.org/en/situations/vensit

⁷⁹ In some countries, individual records may relate to a case (group of individuals) and not just that of an individual alone.

this “active removal strategy” was “to counter a potential pull effect”.⁸⁰ In addition, on 5 July 2017 the Curaçao government adopted a Ministerial Decision to take over the registration process of asylum seekers from UNHCR. Although Amnesty International requested the Ministry of General Affairs for a copy of this Ministerial Decision, it has not been made available.⁸¹

The decision did not anticipate any transition period, meaning that the government took on full responsibility for the registration of all protection requests from one day to the next. Asylum seekers who had registered with UNHCR before this date could request an annual renewal of their registration by emailing the UNHCR offices in Washington (as long as their status had not yet been determined). Since 5 July 2017, the following procedure applies:

1. Foreigners, who want to apply for protection under Article 3 of the ECHR, have to do this immediately after entering Curaçao with the border control authorities. The authorities will investigate the request. Curaçao has a formal template with standard questions that need to be asked by the authorities. Afterwards the border authorities will hand over all information together with the foreigner concerned, to the staff of the immigration desk of the Curaçao Police Force (KPC).
2. In the case of unauthorised (in the document called “illegal”) arrival, foreigners in need of protection have to report immediately to border control authorities (at the airport or harbour) or go directly to the immigration desk of the KPC.
3. All these foreigners will in principle be held in custody.
4. Foreigners who entered the country as a tourist and claim protection do not qualify for this procedure.
5. After examination by KPC, the file will be handed over to the Admissions Organisation, which will take care of further administrative input, investigation and registration. The results will be given to the Working Group in order for them to draft a final advice for decision-making by the Minister of Justice.
6. Approved applications will be handed over by the Admission Office for a request for asylum to the UNHCR.
7. If refugee status is granted, the UNHCR will start resettlement procedures.

Summary of a one-page document from the Ministry of Justice: *Asylum procedure Curaçao*.⁸²

In practice, the above-mentioned criteria to apply for protection against *refoulement* mean that a person who enters Curaçao without immediately lodging a protection claim loses the right to do so.⁸³ This places an unreasonable burden on refugees who may be traumatised because of the persecution they have fled. The

⁸⁰ Interview with Lesley J. Fer at the Ministry of General Affairs, 2 May 2018. In response to this report, the Curaçao government said: “It is not a strategy of the government to use the removal of people as a deterrent. We acknowledge that this can be explained as such because it can be the effect. Moreover, the increase of the ‘bycatches’ of undocumented migrants is precisely because of the excess of undocumented migrants on the island.” (email from the Curacao government, 27 July 2018.).

⁸¹ This request was made during a phone call with a representative of the Ministry of General Affairs on 30 May 2018 and via email on 12 June 2018. According to the Curaçao government, decisions of the Council of Ministers are confidential and can therefore not be shared.

⁸² Undated document from the Ministry of Justice, *Asylumprocedure Curaçao*. Amnesty International obtained the document through informal channels. The document includes a link to: www.gobiernu.cw/files/Ministeries/JUS/Procedure_voor_bescherming_op_grond_van_artikel_3_EVRM_.pdf

⁸³ Interview with representatives of the Ministry of Justice, 2 May 2018.

request will be rejected as inadmissible. This is confirmed in interviews with representatives of the Ministry of General Affairs, the Ministry of Justice, the Ministry of Social Affairs, Labour and Development (SAOW), and the Curaçao Police Force (KPC). Neither the criteria for protection nor the template with the questions have been made public, which makes it an unfair process for asylum seekers.⁸⁴

The government did not provide Amnesty International with access to the written document underlying this procedure, but government officials describe the steps of the procedure as follows:⁸⁵

- A person who applies for international protection at immigration and/or the police station is detained and a short interview takes place. This is done by the Unit Monitoring and Detection (*Toezicht en Opsporing*), which forms part of the Curaçao Police Force.⁸⁶ The intake consists of an interview in which the persons applying for protection against *refoulement* are asked about their personal details, their family relations, and their statement on why they are in need of protection.⁸⁷ A confirmation that the hearing took place (*gedaan gehoor*) should then be written up.⁸⁸
- The full package of documentation should then be sent to the Ministry of Justice's Admissions Organisation (*Toelatingsorganisatie*) within three working days. Here, a larger file is to be put together with information related to the relevant criteria. The Admissions Organisation conducts a second, more thorough intake interview and collects all relevant documentation. The whole file should subsequently be sent to an Advisory Working Group consisting of one member from the KPC's Monitoring and Detection Unit, one member from the Ministry of Justice's Admission Organisation, and the sector director of labour at the Ministry of Social Affairs, Labour and Development (SOAW).
- The Advisory Working Group should review the file and draft an advisement for the Minister of Justice. The Minister of Justice ultimately decides whether the person at issue qualifies for protection under Article 3 of the ECHR and is admissible to apply for asylum with UNHCR. If they do not qualify for protection and/or are deemed inadmissible to apply for asylum, they are deported. In those cases where people are deemed admissible to apply for asylum with UNHCR, the Advisory Working Group should then refer applicants to the Regional Office of UNHCR in Washington for UNHCR registration and refugee status determination. Once a case is referred to UNHCR, the applicant is released from detention and may enter the island to await the outcome of the refugee status determination process.

Only formally established on 13 April 2018,⁸⁹ the official Advisory Working Group met for the first time on 30 April 2018 and is still in the process of setting up criteria with the help of the Dutch Immigration and

⁸⁴ The principle of legal certainty requires that the law must be made public as to prevent the arbitrary use of state power. Furthermore, the court – without a known procedure and its conditions – cannot substantially review a claim or an appeal against a decision based on that procedure. This deprives people of their right to an effective remedy (Article 13 ECHR); Since the interview with the Amnesty researcher in May 2018, information about the procedure has been published on the website of the Government of Curaçao. On 21 June 2018, the Minister of Justice held an information session in the city center where the public received information and the opportunity to ask questions.

⁸⁵ Amnesty International requested access to the document on several occasions. All information on the procedure is therefore based on the information obtained during interviews with representatives of the Ministry of General Affairs, 2 May 2018; during interviews with representatives of the Ministry of Justice, 2 May 2018; during interviews with the representatives of the Ministry SOAW, 4 May 2018, and during interviews with representatives of the Curaçao Police Force (KPC), 3 May 2018.

⁸⁶ As will be discussed in more detail in the next section, several people accused this unit of physical and psychological mistreatment.

⁸⁷ The unit also collects relevant documentation to support these claims and checks whether the person has been previously convicted for a crime and/or is being sought by Interpol.

⁸⁸ Amnesty could not verify whether this happens.

⁸⁹ See the report of the Curaçao Ombudsman, *Ambtshalve onderzoek naar de rol van de Minister van Justitie in het kader van het Curaçaose vreemdelingen- c.q. vluchtelingenbeleid*, 27 June 2018, p. 5.

Naturalisation Service (*Dutch Immigratie- en Naturalisatiedienst*, IND).⁹⁰ Criteria that frequently came up in discussions with government officials are (besides those criteria mentioned above): whether people have already been on the island for a while, whether they have been previously removed from the island and whether they previously had a permit to live on the island. In any of the above cases, people are assumed to be looking for a legal stay rather than international protection and they are therefore found inadmissible to apply for protection against *refoulement*. This serves as a strong indication that their cases are not substantially examined to see whether applicants qualify for international protection.

The above-mentioned admissibility criteria are very problematic under international law. Most of the people applying for international protection will not have access to UNHCR's asylum procedure and will be automatically classified as a migrant applying for a legal stay.⁹¹ This goes for Venezuelan migrants who are already staying on the island with a residence permit, just as it goes for people who entered the country without making themselves known immediately as an asylum seeker. These people run the risk of being detained and deported. The procedure does not consider that their situation might qualify for international protection and/or that changes in their home country may have given rise to a protection claim during their stay on Curaçao.

“I called the police station to ask where I could apply for protection. The police officer laughed and told me that no such procedure existed.”

- A Venezuelan working for a humanitarian organisation⁹²

NO ACCESS TO ASYLUM

As discussed above, until now, no formal procedure to process protection claims has been implemented, nor promulgated.⁹³ Although the Curaçao government claims that they also review the substance of asylum claims, it is understood that the Curaçao government had (as of the writing of this report) not referred any asylum seeker to UNHCR since taking over the registration process.⁹⁴ In other words, since UNHCR had to stop its registration procedure in July 2017 until at least April 2018, Curaçao did not offer those in need of international protection the opportunity to apply for asylum with UNCHR.⁹⁵

⁹⁰ 2 May 2018; Interview with a representative of the Ministry of SOAW, 4 May 2018.

⁹¹ Interviews with representatives of the Ministry of General Affairs, 2 May 2018; Interviews with representatives of the Ministry of Justice, 2 May 2018; Interviews with representatives of the Ministry of SOAW, 4 May 2018, Interviews with representatives of the KPC, 3 May 2018.

⁹² Interview with Venex Curaçao, 30 April 2018; Preliminary report by the Ombudsman (March 2018); Report Curaçao Ombudsman, *Ambtshalve onderzoek naar de rol van de Minister van Justitie in het kader van het Curaçaose vreemdelingen- c.q. vluchtelingenbeleid*, 27 June 2018.

⁹³ Promulgate means to formally proclaim or declare a new statutory or administrative law as in effect after it receives final approval. It means to make known, announce, or declare officially. In response to this report the Curaçao government told Amnesty that the procedure is under construction (email from the Curaçao government, 27 July 2018).

⁹⁴ According to government officials, three people have applied for asylum since 5 July 2017. Interviews with representatives of the Ministry of Justice, 2 May 2018. All persons who asked for protection (Article 3 of the ECHR) are still in the procedure and no decision has yet been taken, according to the Curaçao government (email from the Curaçao government, 27 July 2018). See report Curaçao Ombudsman, *Ambtshalve onderzoek naar de rol van de Minister van Justitie in het kader van het Curaçaose vreemdelingen- c.q. vluchtelingenbeleid*, 27 June 2018.

⁹⁵ See also: Report Curaçao Ombudsman, *Ambtshalve onderzoek naar de rol van de Minister van Justitie in het kader van het Curaçaose vreemdelingen- c.q. vluchtelingenbeleid*, 27 June 2018; Interview with the Ombudsman Curaçao, 2 May 2018; Interview with Venex Curaçao, 30 April 2018.

THE CASE OF ISMARCITO⁹⁶

Ismarcito* is a 31-year-old man from Venezuela who travelled to Curaçao in April 2018 to apply for asylum. He told Amnesty that he was an active participant in the youth movement supporting Venezuelan opposition politician Henrique Capriles. He and his companions also participated in the 2017 protests against the Maduro government. Ismarcito calls himself “lucky” as he only has the scars of two bullet wounds in his right arm as a result of attending those protests. On his phone, he carries the pictures of several of his fellow protesters who he said were killed in the streets of Caracas. One was only 17 years old and joined the protests with his leg wrapped up in a cast after already having been shot in the leg by security forces.⁹⁷

Ismarcito and his fellow protestors did not realise that the government recorded all the protests and hacked their social media accounts. According to Ismarcito, of the 40 students in his group, 25 or 26 were arrested and four were killed during the protests.⁹⁸ The remaining students are all in exile. Ismarcito himself decided to leave his country when the police started showing up at his house various times a day to arrest him. He managed to keep himself hidden – moving between friends’ houses to avoid being detained.

“The intelligence services have their eye on us. They would have taken me prisoner and maybe they would have killed me on the way to the station and thrown my corpse off a bridge. There is so much news about young people who were arrested and that no one ever heard from again. I have nothing to guarantee my life if I were to be deported back to Venezuela.”

Before leaving Venezuela, Ismarcito emailed all relevant documentation that he would need to prove his protection claims to his own email account. He feared that it would be too dangerous to travel with them on his person. His fears proved true, as the authorities thoroughly searched his personal belongings and documents at the Valencia airport before leaving Venezuela.

Ismarcito managed to enter Curaçao as a tourist and subsequently met with several fellow countrymen to learn more about Curaçao’s asylum policy. Their stories scared him, since they told him that, from July 2017, the Curaçao asylum procedure has only existed in theory and no one had been able to apply for asylum since that date. In the end, Ismarcito decided that it would be too risky to apply for international protection in Curaçao. He left Curaçao and applied for asylum in another country.

Meanwhile, detained people with an irregular immigration status who explicitly requested protection against *refoulement* were denied such access and were – often – informed that no such procedure exists.⁹⁹ The Secretary General of the Ministry of General Affairs (*Ministerie van Algemene Zaken*) responded to

⁹⁶ Interview with “Ismarcito” (alias), 5 May 2018. Amnesty International also talked informally with several of Ismarcito’s family members and also saw text messages and photos that corroborated his story.

⁹⁷ Since the adoption of Resolution 8610 on 27 January 2015, the Venezuelan armed forces are allowed the “use of potentially lethal force, along with firearms and any other potentially lethal weapon to prevent disorders, support the legitimately constituted authority and reject any aggression”. See: Resolution 008610 of the Ministry of Defence, published in the Official Gazette on January 27, 2015.

⁹⁸ See more details about the number of deaths, injuries and arrests in 2017: runrun.es/rr-es-plus/319427/fotos-infografia-y-mapa-muertos-en-protestas-en-venezuela-parte-dos.html; Newspaper *Venezuela El Nacional*: www.el-nacional.com/noticias/presos-politicos/mas-1300-manifestantes-presos-condiciones-infrahumanas-reclusion_198528

⁹⁹ *Ex officio* investigation into the role of the Minister of Justice in the context of the Curaçao aliens or refugee policy, see the Report Ombudsman Curaçao, 27 June 2018; Interview with the Ombudsman Curaçao, 2 May 2018; interview with Venex Curaçao, 30 April 2018.

these accusations by stating that perhaps not everyone in the state apparatus has been made aware of the new procedure, and that communications within the departments could be further optimised, but that border officials should know about the procedure by now.¹⁰⁰

Between 5 July 2017 and December 2017, UNHCR staff visited Curaçao on two occasions to conduct refugee status determination interviews.¹⁰¹ Once Venezuelans – living in an irregular situation in Curaçao – heard that UNHCR was present in Curaçao, large numbers of new asylum seekers attempted to register with UNHCR. Despite the absence of a Curaçao asylum procedure, the Curaçao government now argues that these people should not have been registered by UNHCR but by the government of Curaçao.¹⁰² They have therefore checked whether the persons registered on UNHCR's list line up with the government's own (elusive) criteria for access to the asylum procedure.¹⁰³ At the time of writing this report, no decisions were yet made.¹⁰⁴

¹⁰⁰ Interview with Stella van Rijn at the Ministry of General Affairs, 2 May 2018.

¹⁰¹ In the period July to October 2017, the Red Cross facilitated the registration for UNHCR (by handing out RSD application forms and subsequently submitting the completed forms to Washington). They registered 256 asylum seekers (125 Venezuelans). During these visits, UNHCR recognized 68 of them as being refugees.

¹⁰² According to the Curaçao government, UNHCR acted in conflict with previously made agreements (email from the Curacao government, 27 July 2018).

¹⁰³ Interviews with representatives of the Ministry of General Affairs, 2 May 2018; interviews with representatives of the Ministry of Justice, 2 May 2018; interviews with representatives of the KPC, 3 May 2018.

¹⁰⁴ The authorities of Curaçao have informed Amnesty that they are going through the list to assess whether these persons are eligible for protection on the basis of Article 3 of the ECHR (email from the Curacao government, 27 July 2018).

6. CURAÇAO'S DETENTION AND REMOVAL PROCEDURE

HUMAN RIGHTS STANDARDS

A number of human rights apply for migrants, particularly while in detention, including but not limited to: the right to freedom from arbitrary detention; the right to freedom of movement; the right to freedom from torture and other cruel, inhuman or degrading treatment or punishment (other ill treatment); the right to humane conditions of detention; the right to be informed of the reasons for detention; the right to legal assistance; the right to a legal remedy when faced with removal;¹⁰⁵ the right to communicate with family and the outside world; the right to access medical care; the right to guarantees of accountability and oversight; and the right to access a complaint mechanism. The enjoyment of personal liberty should be any individual's default condition.¹⁰⁶

Amnesty International opposes the routine or automatic use of migration-related detention and requires that states conduct individualised assessments for each migrant or asylum seeker, taking into account their histories and specific needs. A person should only be detained for such time as strictly necessary and proportionate, so as to carry out identity and security checks. Amnesty also opposes migration-related detention for the sole purpose of determining the elements on which an individual's claim to asylum is based. Any decision restricting the right to liberty of migrants or asylum seekers must always be necessary, proportionate and provided by law. Detention may be unlawful where it is prolonged or mandatory and the need for detention should be regularly reviewed.

The right to liberty can only be restricted in specific and exceptional circumstances. Migrants and asylum seekers, like anyone else, must remain free unless there are compelling reasons to deny them freedom in accordance with international human rights law and standards. Any restrictions of their liberty shall be clearly prescribed by laws which themselves comply with international human rights law and standards, are strictly justified, and are as minimally intrusive as possible. Arbitrary detention can never be justified.

¹⁰⁵ Article 13 ECHR in combination with Article 3 ECHR: If there's a claim that there exist substantial grounds for fearing a real risk of treatment contrary to Article 3, it is required that the involved person has access to a remedy with automatic suspensive effect. See: *M.S.S. v Belgium and Greece* (30696/09), European Court of Human Rights (ECtHR) (2011), para. 293.

¹⁰⁶ Article 9 and Article 14 of the UDHR; Article 5 (1) of the ECHR; UN Human Rights Committee (HRC), *CCPR General Comment No. 27*; Article 12 (Freedom of Movement), 2 November 1999; Supra note 3, and Guideline 8; Supra note 5 and Principle 33, GA Body of Principles.

The following are illustrative iterations of these principles:

- *International Covenant on Civil and Political Rights* (ICCPR), (1966), Article 9(1): “Everyone has the right to liberty and security of person. No one shall be subjected to arbitrary arrest or detention. No one shall be deprived of his liberty except on such grounds and in accordance with such procedures as are established by law.”
- *European Convention for the Protection of Human Rights and Fundamental Freedoms* (ECHR), (1950), Article 5(1)(f): “Everyone has the right to liberty and security of person. No one shall be deprived of his liberty save in the following cases and in accordance with a procedure prescribed by law: [...] the lawful arrest or detention of a person to prevent his effecting an unauthorised entry into the country or of a person against whom action is being taken with a view to deportation or extradition.”
- The *European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment* (CPT): “Deprivation under aliens legislation should only be a measure of last resort, after a careful and individual examination of each case. In addition, the continued need for it should be the subject of periodic review. Alternative (con-custodial) measures should be developed and used wherever possible.”¹⁰⁷

THE CURAÇAO LEGISLATION

Under Curaçao legislation, a foreigner who does not have, or no longer has, permission to stay on the island, can be removed from the country. People who are to be removed may be – and usually are – detained pending their removal.¹⁰⁸ Towards this end, the public prosecutor (*Hulpofficier van Justitie*) needs to hear the person and determine whether he or she can be detained. The person should receive a copy of the decree on detention (*beschikking tot inbewaringstelling*). A lawyer may be present at this hearing and the person being detained may appeal both the detention procedure and the removal procedure. The court determines whether the deciding official acted within the scope of their powers. Lawyers should also have free access to foreigners awaiting removal in detention.¹⁰⁹ There is no access to legal aid if a person cannot afford a lawyer. Family members who do not possess an individual permit are generally removed together.¹¹⁰ The removed person loses the right to enter Curaçao for a maximum period of three years.¹¹¹

As the case of Natalia Saabedra shows, reality may be different.

¹⁰⁷ European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), ‘CPT Factsheet Immigration Detention’, March 2017, see: rm.coe.int/16806fbf12 [Hereinafter: *CPT Factsheet Immigration Detention 2017*].

¹⁰⁸ Article 16 of the LTU; Interview with representatives of the Ministry of Justice, 2 May 2018; interview with representatives of the KPC, 3 May 2018.

¹⁰⁹ See Chapter 10.4 of the ‘Herziene instructie aan de Gezaghebbers Inzake de toepassing van de Landsverordening Toelating en Uitzetting’ (P.B. 1966, no. 17), zoals gewijzigd en het Toelatingsbesluit (P.B. 1985, no. 57), zoals gewijzigd, Gegeven door het Minister van Justitie. Oranjestad, June 2006; www.kgmc.nl/nl/assets/uploads/pdf/ltu-16juni2006.pdf [Hereinafter: *Instruction of the LTU 2006*].

¹¹⁰ Article 13 of the LTU.

¹¹¹ Article 9 of the LTU.

THE CASE OF NATALIA SAABEDRA¹¹²

On 9 February 2018, Natalia Saabedra, a 31-year-old woman from Venezuela and a migrant with an irregular status, was arrested at the dental clinic in Curaçao where she worked as a cleaner. Her arrest was triggered by an anonymous complaint to the authorities that the clinic employed an “illegal foreigner”. She was taken to the Rio Canario police station, where immigration officers questioned her. The officers quickly found out that Natalia Saabedra’s two (Venezuelan) children were also staying on the island. A relative was taking care of them, because she feared that the authorities would deport her children as well, and she felt she would not be able to take care of them in Venezuela.

After being questioned at the police station, Natalia Saabedra was transferred to the Foreigners Barracks (*de Vreemdelingenbarak*) at the Sentro di Detenshon i Korekshon Korsou (SDKK prison). She told Amnesty that she was not provided with information about her rights in detention or her right to appeal against her detention. She was also not granted access to a lawyer. She was told that she did not have the right to an (pro bono) attorney because she was not a prisoner. Instead, the authorities told her, she was simply being held until she would come up with the money to buy a plane ticket back to Venezuela.

As Natalia Saabedra told Amnesty International: “[...] the people from immigration intimidated me on four occasions. They locked me in a room and started shouting at me. They threatened that they would put me in prison and that they would take my children away from me because I had abandoned them. The prison guards also mistreated me. They did not give me any toiletries or clean clothes. I only had one little dress to wear. They would not give me clean clothes because I would not tell them where my children were.”¹¹³

It was only after 45 days that Natalia Saabedra first saw a lawyer. The lawyer told Amnesty that her access to the prison was severely restricted. On the five occasions that she visited the prison, prison officials only gave access to Natalia twice.¹¹⁴

On 23 April 2018, the authorities identified the school where Natalia Saabedra’s children were enrolled. Both her six-year-old daughter and her eight-year-old son were picked up from their classrooms and placed in a foster home.¹¹⁵ In the meantime, the Bishop of Curaçao had signed a letter declaring that he would put himself up as a guarantor for the family. This proved insufficient to sway the judge presiding over a summary procedure to allow the family to stay in the country until a final ruling about her deportation case would be issued (scheduled for 14 May 2018). On 25 April 2018, at which point Natalia had been in detention for 75 days, the whole family was removed to Venezuela.¹¹⁶ In the first week of their return, Natalia Saabedra says that she and her children have been the victims of two armed robbery attempts on the street. People expected her to have financial means because she came from Curaçao.

¹¹² Telephone interview with Natalia Saabedra, 8 May 2018; interview with one of her family members, 1 May 2018. Her lawyer (Geraldine Parris), local humanitarian organisations and newspaper accounts have corroborated Natalia’s story. See also: elpitazo.com/internacional/abogado-berend-scheperboer-curacao-viola-leyes-internacionales-al-deportar-venezolanos/; noticiascuracao.com/venezolanas-inician-huelga-de-hambre-en-curacao-suplicando-no-ser-deportadas

¹¹³ In response to this report’s findings, the Curaçao government told Amnesty that the personnel of Monitoring & Detection deny the verbal intimidation. Nathalie would not cooperate with her expulsion and hid her children (email from the Curacao government, 27 July 2018).

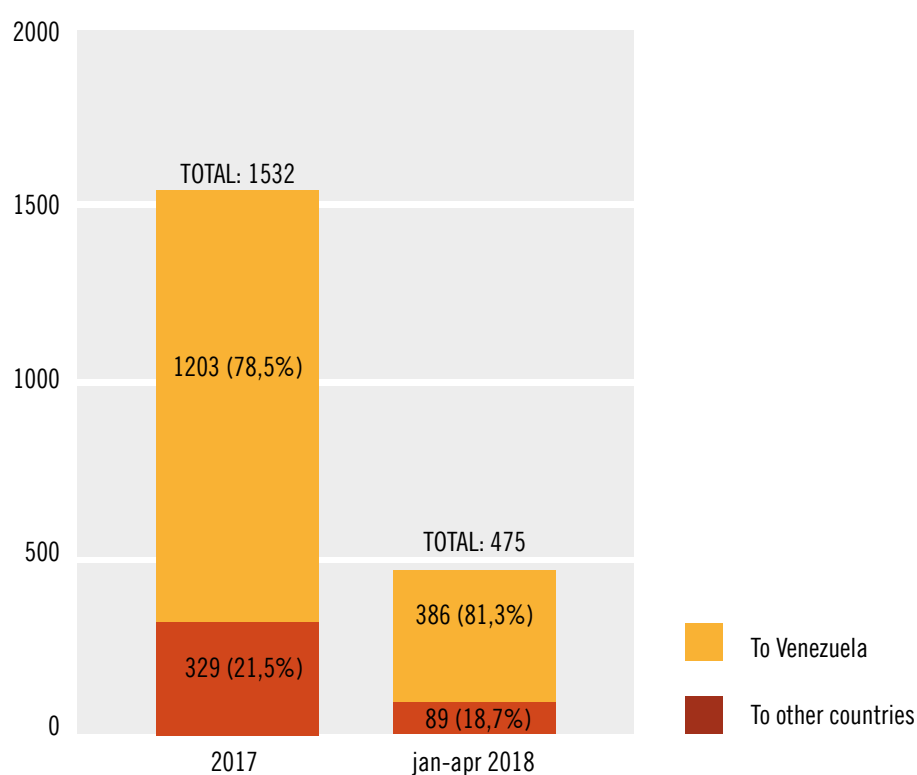
¹¹⁴ Interview with lawyer Geraldine Parris 30 April 2018. In response to this report’s findings, the Curaçao government told Amnesty that the lawyer had not complied with the rules of the SDKK.

¹¹⁵ According to the Curaçao government, the children were picked up according to the procedure of the KPC and placed in foster home ‘Casa Manita’, via the custody board ‘Oficina pa Bienestar di Mucha’ (email from the Curacao government, 27 July 2018).

¹¹⁶ As an exception, the government paid for their plane tickets. In accordance with her removal order, Nathalie has an entry ban for a period of three years (email from the Curacao government, 27 July 2018).

THE CURAÇAO PRACTICE

Curaçao's authorities implemented an "active removal strategy"¹¹⁷ of foreigners with an irregular immigration status from the island.¹¹⁸ According to government officials, this removal strategy will "counter a potential pull effect."¹¹⁹ In addition, this continuous removal of foreigners with an irregular immigration status is also necessary since the detention centres are currently already over their maximum capacity.¹²⁰ In 2017, the authorities removed 1,532 foreigners from the island, with 1,203 (78.5%) of these being Venezuelan. In the first four months of 2018, the authorities removed 475 foreigners – 386 (81.3%) of these were Venezuelan.¹²¹ As discussed above, those people who were detained and removed after 5 July 2017 would not have been able to apply for international protection due to the fact that no functioning asylum procedure existed at this point in time. Without a fair assessment of their asylum request and without transparent and fair procedures – including the right to know the reasons for a decision, and the right to appeal such a decision – people will continue to be at risk of further human rights violations.



↑ Removals from Curaçao 2017 and the first four months of 2018

¹¹⁷ During interviews government officials used this term. Interview with Lesley J. Fer at the Ministry of General Affairs, 2 May 2018. In response to this report, the Curaçao government said: "It is not a strategy of the government to use the removal of people as a deterrent. We acknowledge that this can be explained as such because it can be the effect." (email from the Curacao government, 27 July 2018).

¹¹⁸ Under the LTU, removal (*verdwijdering*) takes place in the case of irregular migrants. Expulsion (*uitzetting*) takes place when a foreigner is stripped of his residence permit and removed from the country (such as when they have committed a crime).

¹¹⁹ In Dutch: "om een aanzuigende werking tegen te gaan". Interview with Lesley J. Fer at the Ministry of General Affairs, 2 May 2018.

¹²⁰ Interview with Luis Curiel at KPC, 3 May 2018; Interview with Stella van Rijn at the Ministry of General Affairs, 2 May 2018.

¹²¹ Official figures received from the Curaçao Police Force (KPC).

The “removal strategy” suffered a severe blow on 5 January 2018, when Venezuela closed the border with Curaçao and the adjoining islands of Aruba and Bonaire.¹²² The ban on all trade and travel prevented the further removal of people back to Venezuela. The impasse was broken in early April 2018 when the Netherlands Minister of Foreign Affairs Steve Blok travelled to Caracas to sign an agreement with the Venezuelan government.¹²³ In his own words, this “fortunately” allowed for the continued removal of Venezuelans who he termed “economic migrants”, from Curaçao to Venezuela.¹²⁴ Yet the following sections show that this support for Curaçao’s “active removal strategy” sustains an extremely problematic detention and removal process, which fails to meet the international human rights obligations to protect refugees and migrants.

DETENTION FACILITIES AND REGIME IN CURAÇAO

“In line with its administrative nature, immigration detention must not be punitive in character: it is not a sanction or a punishment. Therefore, immigration detainees should be afforded both a regime and material condition appropriate to their legal situation.

Immigration detention centres should provide accommodation, which is adequately furnished, clean and in good state of repair, and which offers sufficient living space for the numbers involved.”

CPT Factsheet Immigration Detention¹²⁵

Foreign nationals held under aliens’ legislation in Curaçao are detained at the Foreigners Barracks (*Vreemdelingen Barakken*), an immigration detention facility located inside the SDKK prison. An inspector of the Curaçao Police Force responsible for immigration cases can order detention. Responsibility for the accommodation and care of immigration detainees was fully transferred from the police to the SDKK in 2012.¹²⁶ In 2017, the irregular foreign population at the prison consisted of 1,085 people: 640 women and 445 men. While the vast majority of detainees (846 foreigners) spend less than nine days in detention, longer stays also occurred: 10-29 days (173 people), 30-59 days (55 people), 60-89 days (4 people) and longer than 90 days (2 people). In 2017, Venezuelans constituted the overwhelming majority of people detained, at a total of 867; followed by Jamaicans (61 people), Colombians (45 people) and Dominicans (34 people).¹²⁷

¹²² Curaçao Chronicle editors, ‘Curaçao Parliament calls on Venezuela to end trade and travel ban’, in *Curaçao Chronicle*, 24 January 2018, CuraçaoChronicle.com/politics/Curaçao-parliament-calls-on-venezuela-to-end-trade-and-travel-ban/. The government in Caracas complained that the islands of the Dutch Kingdom remained inactive in the face of gold and copper smuggling.

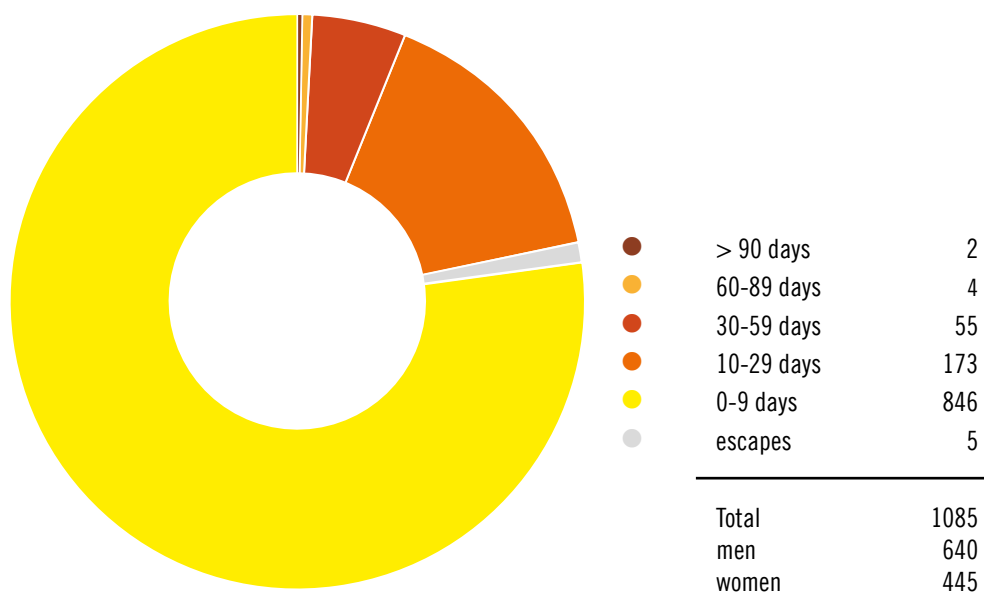
¹²³ Government of the Netherlands, ‘Venezuela lifts border blockade after visit by Blok’, 8 April 2018, www.government.nl/latest/news/2018/04/08/venezuela-lifts-border-blockade-after-visit-by-blok

¹²⁴ René Zwart, ‘Exclusief interview Blok: ‘Bereiken van akkoord met Venezuela was niet makkelijk’, in *Curaçao Nieuws*, 8 April 2018, www.Curaçaonieuws.nu/exclusief-interview-blok-bereiken-van-akkoord-met-venezuela-was-niet-makkelijk

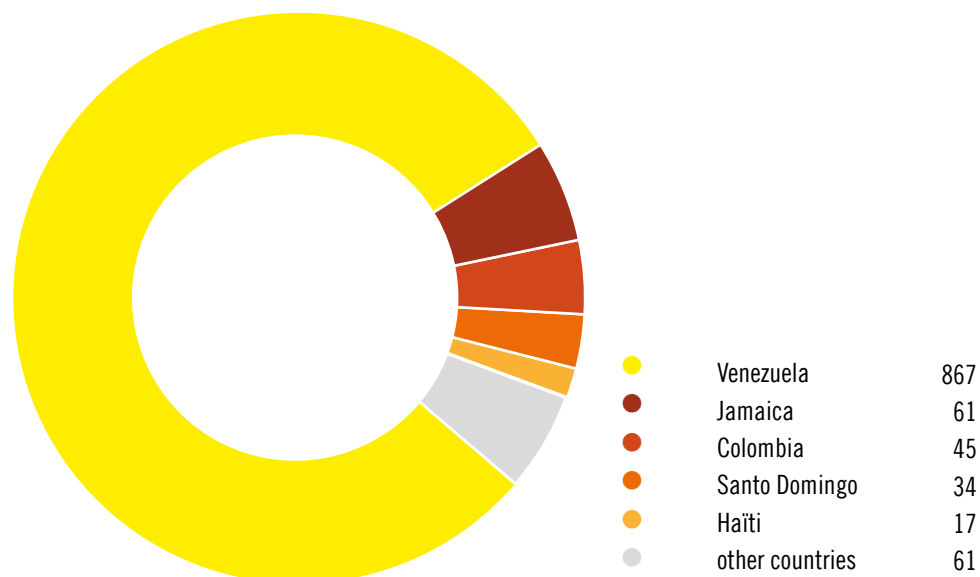
¹²⁵ CPT Factsheet Immigration Detention 2017, p. 3.

¹²⁶ Council of Europe, *Report to the Government of the Netherlands on the visit to the Caribbean part of the Kingdom of the Netherlands carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 12 to 22 May 2014*, 25 August 2015, CPT/Inf (2015) 27, rm.coe.int/1680697831 [Hereinafter: CPT/Inf (2015) 27].

¹²⁷ All figures in this paragraph come from a factsheet provided by the prison.



↑ Factsheet SDKK prison: duration of detention 2017.



↑ Factsheet SDKK prison, nationalities of immigrants 2017.

The barracks consists of two buildings, one for women and one for men. The women's building has a capacity to host 30 women. At the time of Amnesty International's visit, 26 women were detained here.¹²⁸ The men's building has a capacity to host 15 men. At the time of visit, 13 men were detained here. Both buildings have a recreational area, a sleeping area, an area with toilets and showers, and an outdoor cage that offers no shade and that appeared to be locked at the time of Amnesty International's visit.

¹²⁸ The report of the Curaçao Ombudsman, 9 March 2018, mentions a capacity of 24 women: *Verslag van de bevindingen van de Ombudsman van Curaçao in het kader van een aangekondigd werkbezoek aan de Sentro di Detenshon i Korekshon Korsou (SDKK)*.



↑ Airing cage in Sentro di Detenshon i Korekshon Korsou (SDKK prison)

People are kept in the barracks until they have come up with the money to buy a return ticket home.¹²⁹ According to several of the female detainees who Amnesty International talked to, they are subject to psychological mistreatment in the form of verbal abuse and threats to get them to buy a ticket as quickly as possible. The prison staff has also been reported to withhold detainees' access to basic goods, such as clean clothes and toiletries, until they have bought their ticket.¹³⁰ The women also complained about the food – saying its quality is generally very bad.¹³¹

The facilities at the barracks are minimal. A telephone is available, which can be operated with the use of phone cards that the detainees buy themselves or that they have someone on the outside buy for them.¹³² Mobile phones are taken away from the detainees and stored for the duration of their stay in the barracks. The women's dormitory contains bunk beds (see picture) and a small ventilator – with the women's personal effects scattered over the beds. There is no air conditioning, but the windows do open.

Each barrack has three showers and three toilets – with no doors or shower curtains. According to the prison guards, the doors have been removed to prevent the detainees from using them to break out of prison. As a consequence, the (female) Amnesty International researcher and her (female) prison escort walked in on women in various stages of undress. Water covered the floor of the sanitary area and the adjoining hallways. This led one woman to slip and make a hard fall during the visit.

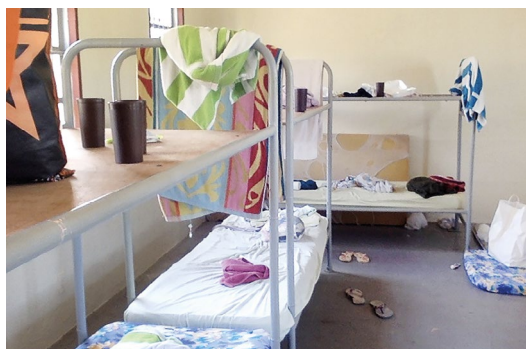
¹²⁹ CPT/Inf (2015) 27, para. 203: "There appeared to be no legal maximum period of immigration detention. [...] The delegation was informed that if a person remained unable to afford a flight ticket after approximately five months, the State would pay for the ticket to enable deportation."; See also p. 84 no. 10.5 of the Instruction of the LTU 2006.

¹³⁰ Telephone interview with Natalia Saabedra, 8 May 2018; interview with Venex Curaçao, 30 April 2018.

¹³¹ This was confirmed by six removed Venezuelans contacted through Venex Curaçao, 18 June 2018.

¹³² Interview with Urny Floran at Vreemdelingenbarak, 3 May 2018.

The facilities in the men's quarters were largely similar; with the notable exception that the men's sleeping area did not contain any beds, only mattresses. The beds were removed after some men allegedly destroyed their bed to use its parts to try and escape.¹³³



↑ Women's dormitory SDKK prison



↑ Men's dormitory SDKK prison

WOMEN'S EXPERIENCES WITH REMOVAL FROM CURAÇAO¹³⁴

When Amnesty International visited the barracks, the majority of the women were sitting outside in the shade on the small entrance steps to the building. They complained that they had been kept locked inside the building for two days without being allowed to go outdoors to have some fresh air. They were very agitated, since 15 of them had been told they would leave on a plane to Venezuela that morning. But the airplane was denied landing rights in Venezuela and the women were left without information about their pending departure. This left them very worried, as many of them had already been detained for several weeks.

The women told Amnesty that they had small children depending on them and that they could not afford to be detained for such a long time. Several of them also worried about the additional costs the delay would result in, as they suspected that they would need to buy a new ticket (they said this had happened on an earlier occasion to some of them). At the end of Amnesty International's visit, one of the guards told the 15 women that they were scheduled to leave that evening. They started to quickly pack up their belongings.

Yet the women did not leave that evening. After Amnesty International left, the women were told their flight to Venezuela had been cancelled again. This increased their agitation, leading them – according to the testimonies of two female detainees – to try to set fire to a couple of old mattresses. As punishment, they told Amnesty International by phone that all women were locked in the airing cage (see picture) for five hours. They said that their remaining mattresses were taken away and

¹³³ Interview with Urny Floran at the Vreemdelingenbarack, 3 May 2018; Following the report of the Curaçao Ombudsman (March 2018) the men's barracks was temporarily out of use after an escape attempt in January 2018. During this period the men were detained in police cells. The government told the Ombudsman that extra money was needed to renovate the barracks. Given the current state of maintenance, it must be concluded that no renovation has yet taken place.

¹³⁴ An impromptu group discussion with all female detainees in the barracks; telephone interview with removed Venezuelan "María", 14 May 2018; telephone interview with removed Venezuelan "Pancha", 14 May 2018. Several local humanitarian organisations and a local journalist corroborated their stories.

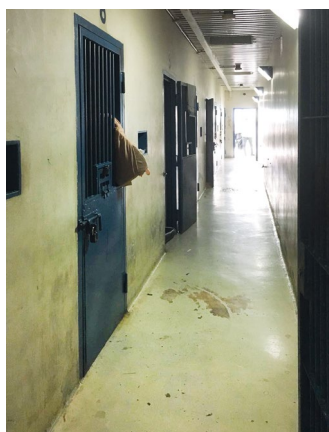
all of the women – including a pregnant woman – had to sleep on the floor. They did not get their mattresses back the following day either. One day later, they were finally put on a flight to Venezuela.

Amnesty International is concerned that taking away beds as collective punishment and forcing detained people to sleep on the hard floor is in violation of international human rights law and standards and a cruel, inhuman and degrading form of punishment.¹³⁵

DETENTION AT THE POLICE STATION

During the visit, the authorities told Amnesty International that in case of lack of capacity at the barracks, immigration detainees are moved to cells at the Rio Canaries police station.¹³⁶ The authorities did not share any figures as to the number of foreigners who were detained at the police station in 2017 or 2018. Police stations are generally equipped for holding people on remand or temporarily after conviction; they are never appropriate for immigration detention. The material conditions at this police station were completely inadequate. At the time of the visit, 25 men were detained at Rio Canario. The men were all locked up in a small hallway that gave access to some five individual prison cells of an estimated 4 to 9 m².¹³⁷ Not all cells were in use, as one cell apparently functioned as a storage area and a fire had reportedly destroyed another cell. The remaining three cells each contained a small stone bench, a toilet and a washing area. The cells did not have air conditioning or windows. The hallway opened onto a courtyard, where the detainees were locked up during the visit.

As early as 2013, the CPT stated that the material conditions at police stations such as Rio Canario are inadequate and completely unfit for long-term detention.¹³⁸ Based on observations made by Amnesty International, this illicit practice still takes place.¹³⁹



← Inside the Rio Canario Police Station

¹³⁵ Rule 42 of the *UN Standard Minimum Rules for the Treatment of Prisoners* (the Nelson Mandela Rules) provides that “General living conditions addressed in these rules [...] shall apply to all prisoners without exception”.

¹³⁶ Interview with Luis Curiel at KPC, 3 May 2018; interview with representatives of the Ministry of Justice, 2 May 2018.

¹³⁷ Criminal detainees were being held in a separate hallway.

¹³⁸ CPT/Inf (2015) 27, para. 139: “[...] material conditions at Rio Canario Police Station continued to be inadequate and the renovations planned for 2014 had still not taken place at the time of the CPT’s visit. There was very limited access to natural light in the 14 cells and the temperatures in these cells were high (between 30 and 35 degrees Celsius). Seven cells had serious sewage problems resulting in a putrid smell pervading the whole cellblock”; para. 142: “The CPT reiterates that the conditions of detention at police stations are completely inadequate for long-term detention.”

¹³⁹ A field visit report written by the Ombudsman after his visit to the SDKK prison revealed that in early 2018, all men were kept at the Police Station after an attempted breakout from the Foreigners Barracks.

MANUELS EXPERIENCE IN RIO CANARIO

Amnesty International was allowed to speak to one male detainee, who had been held at Rio Canario for a period of 46 days. He complained that several guards treated the immigration detainees “like animals”. When asked where the men sleep, he said that mattresses are available, which are put in the hallways so that the men can sleep (the three individual prison cells are too small to house all detainees). Amnesty International only saw two old mattresses in the storage cell. The male detainee said the food was generally good, except on holidays when the caterer is off and the men have to eat the food that is delivered to the station from the prison kitchens. As also repeatedly heard from detainees in the barracks, he regularly emphasised that he is not a criminal and that he only came to Curaçao to be able to take care of his family.

HUMAN RIGHTS CONCERNS ABOUT DETENTION

A prison is by definition not a suitable place in which to detain someone who is neither suspected nor convicted of a criminal offence.¹⁴⁰ Persons infringing immigration rules should, if detained at all, be accommodated in centres specifically designed for that purpose. Curaçao has longstanding human rights concerns in regards to its prison system as a whole.¹⁴¹ In 2007 the CPT visited Curaçao during its fourth periodic visit to the Kingdom of the Netherlands. The CPT found serious breaches of the *European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment* and adopted a set of recommendations to the authorities of Curaçao, then known as part of the Netherlands Antilles.

Although the CPT noted in 2015 that the material conditions had improved since the 2007 evaluation, the Committee also concluded that: “There are no specific regulations governing the detention of irregular migrants, resulting in a very basic and restrictive regime.”¹⁴² At the time of Amnesty’s visit, the material conditions in the barracks had deteriorated and were grossly inadequate. According to the barrack’s warden, recent budget cuts impede the provision of adequate facilities and staff. He also notes a particular lack of female guards, which cannot be addressed because the prison has maintained a moratorium on new hires since 2013.¹⁴³

The Law Enforcement Council (*Raad voor de Rechtshandhaving*) of Curaçao concluded in its inspection investigation in 2014 that the treatment of foreigners in the Foreigners Barracks is in flagrant violation of Article 18 of the Ordinance Prison Principles (*Landsverordening Beginselen Gevangeniswezen*). Their legal position is at a considerably lower level than that of the convicted prisoners.¹⁴⁴

¹⁴⁰ Council of Europe, *Report to the Government of Ireland on the visit to Ireland carried out by the European Committee for the Prevention of Torture, and Inhuman or Degrading Treatment or Punishment (CPT) from 16 to 26 September 2014*, 17 November 2015, CPT/Inf (2015) 38, para. 19, rm.coe.int/pdf%20/1680727e23

¹⁴¹ CPT/inf (2008)2. Council of Europe, *Report to the authorities of the Kingdom of the Netherlands on the visits carried out to the Kingdom in Europe, Aruba, and the Netherlands Antilles by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) in June 2007*, 5 February 2008, CPT/Inf (2008) 2, rm.coe.int/168069780d

¹⁴² CPT/inf (2015) 27; The CPT also notes in its 2017 report that the Dutch National Prevention Mechanism (NPM) does not have a mandate to visit places of deprivation of liberty in the Caribbean part of the Kingdom. See: Council of Europe, *Report to the Government of the Netherlands on the visit to the Netherlands carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 2 to 13 May 2016*, 19 January 2017, CPT/Inf (2017) 1, para. 9, rm.coe.int/16806ebb7c

¹⁴³ Interview with Urny Floran at the Foreigner Barracks, 3 May 2018.

¹⁴⁴ Raad voor de Rechtshandhaving report 2014: Inspectieonderzoek naar de kwaliteit en de veiligheid van de gedetineerden en inrichtingspersoneel in de penitentiaire inrichting op Curaçao, p. 23.

Prison personnel told Amnesty International that medical personnel are available to the detainees, as well as a special dietary regimen that applies to ill persons and pregnant women. Amnesty International could not verify these statements. However, one visibly pregnant woman Amnesty International met in the barracks said that even though she has asked to see a doctor, she has not yet seen one – and that her food regimen was the same as everyone.¹⁴⁵ Other women also complained that they did not get access to any medical staff. This included a 67-year-old woman with blood pressure issues, who was kept in detention for a period of three weeks.¹⁴⁶

Detainees should be guaranteed the right to go outside, at least for one hour a day in case they are held in custody for longer than 24 hours.¹⁴⁷ When Amnesty International visited the barrack, however, the female detainees complained that they had been kept locked inside for two consecutive days. The violation of this right becomes even more severe when taking into account that there are no activity programs or leisure activities for detainees.¹⁴⁸ According to the 2016 report of the Council of Law Enforcement (*Raad voor de Rechtshandhaving*), this had been improved with the installation of a fitness area.¹⁴⁹ The visit of Amnesty International to the barracks revealed, however, that this equipment had disappeared again. Except for a small television in the recreation room of each building, and one domino set in the women's recreational area, no other leisure equipment was available.

According to prison personnel, it is very difficult to provide the detainees with more recreational equipment, as they said that “the detainees have been known to destroy the facilities equipment during fits of aggression”.¹⁵⁰ This is not a valid reason to refuse the providing of leisure equipment.

¹⁴⁵ Interview with Urny Floran at Vreemdelingenbarak, 3 May 2018. See also CPT/inf (2015) 27, para. 208. “There were no regular visits or check-ups performed by medical staff. The persons interviewed indicated that they had not undergone any medical screening upon Admission”; Interview with Urny Floran at the Foreigners Barracks, 3 May 2018. The Barracks' warden noted that migrants could lodge a complaint about their treatment with the 'Commissie Politiecellen en Vreemdelingenzaken'. In practice, however, he noted that most foreigners lodge a complaint with their consul instead. Most of these complaints concern lack of access to medical support.

¹⁴⁶ Telephone interview with removed Venezuelan “María” (alias), 14 May 2018; telephone interview with removed Venezuelan “Pancha” (alias), 14 May 2018.

¹⁴⁷ Under Rule 23 (1) of the 'Nelson Mandela Rules': “Every prisoner who is not employed in outdoor work shall have at least one hour of suitable exercise in the open air daily if the weather permits.”

¹⁴⁸ CPT/inf (2015) 27, para. 206: “For short stays of up to three days the regime in the barracks could be considered as acceptable. However, in respect of persons who have to stay longer, additional measures need to be taken to offer some purposeful activities (educational, recreational or vocational).”

¹⁴⁹ Raad voor de Rechtshandhaving, *Penitentiare inrichting Curaçao – Inspectie onderzoek naar de rechtspositie van gedetineerden en personeel & organisatie*, May 2017, p. 11. This report focused on the SDKK (Sentro di Detenshon i Korekshon Korsou).

¹⁵⁰ According to a confidential source, this is a gross exaggeration as the main incident that took place last year in 2017 occurred when a mentally ill detainee was given the wrong medication.

CHILDREN

According to government officials, Curaçao has a policy of only removing foreigners on their own if they are 18 years or older. When irregular migrants have children, the children accompany their parents when they are removed. The authorities state that minors are put in foster care for the duration of their parents' detention.¹⁵¹ Amnesty International did not gain information or access to any of the children's homes or locations where minors have been sheltered and could hence not validate the conditions here.

"In all actions concerning children, the best interests of the child shall be a primary consideration."

The Convention on the Rights of the Child (CRC)¹⁵²

The case of Natalia Saabedra highlighted how government authorities failed to act in the children's best interests. According to Natalia and her lawyer, her children were taken from their school classroom to the police station without the presence of anyone they knew. They were kept at a children's home – separated from their mother – for two days while the authorities prepared for their removal.¹⁵³ In the – understated – words of the Secretary General of the Ministry of General Affairs: "The case did not merit a beauty award."¹⁵⁴

"Children must not be separated from their parents and/or legal guardians. The detention of children whose parents are detained should not be justified on the basis of maintaining the family unit, and alternatives to detention must be applied to the entire family instead."

Working Group on Arbitrary Detention¹⁵⁵

The Curaçao government officials have requested the Dutch government to pay for the creation of a detention facility in the Otrabanda neighbourhood that would accommodate women and children specifically.¹⁵⁶ This is a concerning development, as new detention facilities would potentially create more opportunities for human rights violations. As said above, children must not be separated from their parents, but the detention of a child because of their parents migration status constitutes a child rights violation and always contravenes the principle of the best interests of the child. The Dutch government should therefore support alternatives to detention that respect children's rights by allowing them to live together with their families as they participate in the immigration process.¹⁵⁷

¹⁵¹ Interview with Stella van Rijn at the Ministry of General Affairs, 2 May 2018; interview with Luis Curiel at KPC, 3 May 2018; interview with Joëlle de Jong-Mercelina at the Ministry of Justice, 2 May 2018.

¹⁵² Article 3 and Article 37 of the UN General Assembly, *Convention on the Rights of the Child*, 20 November 1989 [Hereinafter: *CRC*].

¹⁵³ Telephone interview with Natalia Saabedra, 8 May 2018; interview with one of her family members, 1 May 2018.

¹⁵⁴ Interview with Stella van Rijn at the Ministry of General Affairs, 2 May 2018.

¹⁵⁵ Working Group of Arbitrary Detention, Revised Deliberation No. 5 on deprivation of liberty of migrants, 7 February 2018, para. 40, www.ohchr.org/Documents/Issues/Detention/RevisedDeliberation_AdvanceEditedVersion.pdf

¹⁵⁶ Interview with Donate Philbert-Nieveld at Ministry of SOAW, 4 May 2018; The Dutch government contributes 132,000 euros to Curaçao for the renovation of additional detention capacity. See Answers on questions from MP Bosman, 18 May 2018, 2018-0000288372.

¹⁵⁷ International Detention Coalition (IDC), *There are alternatives – A handbook for preventing unnecessary immigration detention (revised version)*, 2015, www.idcoalition.org. See also: Nils Muižnieks, *Protecting Children's Rights: Europe should do more*, 18 November 2014, www.coe.int/en/web/commissioner/-/protecting-children-s-rights-europe-should-do-more

THE RIGHT TO A LEGAL REMEDY

“Any detention decision should be automatically and regularly reviewed as to its lawfulness, necessity and appropriateness, by means of a prompt, oral hearing by a court or similar competent independent and impartial body, accompanied by the appropriate provision of legal assistance.”

Factsheet from European Court of Human Rights¹⁵⁸

As stated in the *European Convention of Human Rights*, detained migrants and asylum-seekers, like any other detainee, have the right to be promptly brought before a judge or other officer authorised by law to exercise judicial power to review the lawfulness of the detention and its continued necessity and proportionality.¹⁵⁹ Such a review should be based on a case-by-case assessment of the personal circumstances of the individual, including age, health conditions and family situation.¹⁶⁰ Under international law, detainees should be informed about the procedure applicable to them in a language they understand.¹⁶¹ Lawyers should have free access to foreigners awaiting removal in detention.¹⁶²

These conditions are not met in Curaçao. The copy of the decree on detention (*beschikking tot inbewaringstelling*) that the detainees receive upon their registration at the police station is written in Dutch only. The only information that is translated into Spanish, English and Creole is the information that the detainee may not return to the country for three years (see photo of decree below). Police officers told Amnesty International that they give an oral explanation about the persons right to a legal remedy.¹⁶³ According to the National Ordinance Admission and Removal¹⁶⁴ migrants can challenge their detention and deportation in court, but the Curaçao Ombudsman found, however, that immigration detainees are not being informed about this right.¹⁶⁵ Several of the removed Venezuelans that Amnesty International interviewed similarly stated that they never saw their decree on paper and they were never informed about their right to a legal remedy.¹⁶⁶

¹⁵⁸ European Court of Human Rights, *Factsheet – Migrants in detention*, April 2018, www.echr.coe.int/Documents/FS_Migrants_detention_ENG.pdf

¹⁵⁹ Article 5 (4) of the ECHR: The right to have the lawfulness of detention decided speedily by a court. European Court of Human Rights: *R.U. v. Greece* (2237/8) (2011) para. 99; *M. and others v. Bulgaria* (41416/08) (2011) paras 97-84; *A.M. v. France* (56324/13) (2016) paras 40-43.

¹⁶⁰ UN Committee Against Torture, (CAT), *Conclusions and recommendations of the committee: Hungary*, 6 February 2007; UN High Commissioner for Refugees (UNHCR), *Guidelines on the Applicable Criteria and Standards relating to the Detention of Asylum-Seekers and Alternatives to Detention*, 2012, Guideline 9.

¹⁶¹ Article 5 of the ECHR.

¹⁶² Article 5 (1) of the ECHR. European Court of Human Rights: *Rahimi v. Greece* (8687/08) (2011) paras 18, 25, 17, 98, 103 and 104.

¹⁶³ Interview with Luis Curiel at KPC, 3 May 2018.

¹⁶⁴ Articles 11.2 and 11.3 of the LTU (P.B. 1966, no. 17), [www.kgmc.nl/en/assets/uploads/pdf/landsverordering-toelating-en-uitzetting-\(ltu\).pdf](http://www.kgmc.nl/en/assets/uploads/pdf/landsverordering-toelating-en-uitzetting-(ltu).pdf)

¹⁶⁵ Preliminary report Curaçao Ombudsman (March 2018); interview Ombudsman, 2 May 2018; *Ex officio investigation into the role of the Minister of Justice in the context of the Curaçao liens or refugee policy*, Preliminary Report Ombudsman Curaçao, 28 June 2018.

¹⁶⁶ Telephone interview with Natalia Saabedra, 8 May 2018; telephone interview with “María”, 14 May 2018; email correspondence with a removed Venezuelan police officer, 30 May 2018.

Mi entrada en Curacao es prohibido durante 3 años después de la fecha de este decreto!

Il moi est interdit de entre aux Curaçao pendant 3 ans après le date de ce décret!

I am not allowed to enter Curacao during 3 years after the datemark of this decree!

↑ Scan of a copy of the decree on detention shared with Amnesty International by a Curaçao lawyer on 15 June 2018.

According to government officials, a pro bono lawyer is made available to every detained migrant.¹⁶⁷ In practice, there is no free legal assistance.¹⁶⁸ One lawyer explained to Amnesty International that people in migration detention are not entitled to free legal assistance in Curaçao.¹⁶⁹ As noted, Natalia Saabedra was actively denied her rights, including not being permitted access to her lawyer for the first 45 days of her stay in prison. Her lawyer offered her services for free after having been approached by members of the Venezuelan community.¹⁷⁰ Several immigration lawyers additionally noted that they are often denied access to their clients. This violation has become so prevalent that one (non-immigration) lawyer has started collecting testimonies from all his colleagues, which he will share with the relevant authorities.¹⁷¹

ILL TREATMENT DURING ARREST AND DETENTION

“No one shall be subjected to torture or to inhuman or degrading treatment or punishment.”

- Article 3 of the ECHR

“No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.”

- Article 7 of the ICCPR

Several interviews revealed testimonies from detained and removed foreigners about physical and psychological ill treatment, including threats, which they received at the hands of both the immigration authorities and prison personnel. In addition, the diaspora group Venex Curaçao has started to receive complaints from women that some prison guards now trade access to goods such as sanitary napkins or soap for sexual favours.¹⁷²

¹⁶⁷ Interview with Luis Curiel at KPC, 3 May 2018; interview with representatives of the Ministry of Justice, 2 May 2018.

¹⁶⁸ Ombudsman Curaçao, Letter to the Minister, 9 March 2018; Raad voor de Rechtshandhaving report 2014: *Inspectieonderzoek naar de kwaliteit en de veiligheid van de gedetineerden en inrichtingspersoneel in de penitentiaire inrichting op Curaçao*, p. 23. “Het is de Raad gebleken dat er voor de pas ingesloten illegale gedetineerde in de barak geen rechtskundige bijstand van overheidswege is geregeld. Dit is in strijd met de bepalingen van het Europees verdrag voor de rechten van de mens en de fundamentele vrijheden, zoals die door de CPT worden geïnterpreteerd.”

¹⁶⁹ Email correspondence with lawyer Berend Scheperboer, 2 June 2018;

¹⁷⁰ Email correspondence with lawyers Berend Scheperboer and Geraldine Parris-Scheperboer, 1 June 2018.

¹⁷¹ Interview with lawyer Berend Scheperboer, 30 April 2018; interview with lawyer Geraldine Parris, 30 April 2018; interview with lawyer Achim Henriquez, 1 May 2018; interview with lawyer Olga Kostrzewski, 1 May 2018.

¹⁷² Telephone conversation with Venezuelan lawyer Ana Carrera de Coloma, 18 June 2018. One lawyer in Venezuela has started to gather these testimonies. She will assist the complainees in writing up formal complaint letters, which will be handed over to the Netherlands Embassy in Venezuela to be passed on to the Curaçao authorities.

ILL TREATMENT DURING ARREST

Several of the persons interviewed by Amnesty International said that police are abusive in the course of arresting and detaining asylum seekers and (irregular) migrants. One case made it into the public eye in particular, because it was recorded on video and clearly showed an excessive use of force.¹⁷³

The case concerns Venezuelan investor Miguel who was staying on the island with his family. On 5 April 2018, he was waiting in his car with his two small children (aged four and six), while Ana, his seven-month pregnant wife, went into the Bon Bini supermarket to pay their electricity bill. Ana ran into an immigration control officer in the shop and was arrested because she could not produce a valid residence permit. The reason for this is that the couple was awaiting the renewal of their permit, which she could prove with the documentation that she carried with her.¹⁷⁴

Upon seeing Ana being escorted by officials outside of the supermarket, Miguel left his two children in the car with the engine running and hurried to his wife's aid. He said that he tried to explain to the officer that he and his wife both had a legal status on the island. According to Miguel, his explanation was seen as interfering with an arrest. In response, four police officers wrestled Miguel to the ground using the controversial "neck-breaker move" that involves twisting the opponent's neck to slam him to the ground. They put him in the van together with Ana. All the while, Miguel can be heard pleading with the officers – saying that he has the right to be on Curaçao and that his small children are waiting in the car.

After some 15 minutes, the situation calmed down and once the police had inspected their documents, they released the couple. In the meantime, a crowd of some 10 bystanders had taken it upon themselves to look after the two children in the car. Miguel said that the younger child slept through the whole incident, but the older child saw everything happen and was very confused. He is still afraid whenever he sees a police officer. Only one week after this incident, Miguel had to relive the entire ordeal again as another police officer arrested him in an unrelated traffic control incident and brought him in for a new round of questioning about his legal status.



↑ Source: Facebook¹⁷⁵

Video: the arrest of Miguel

¹⁷³ Telephone interview with "Miguel", 14 May 2018. "Homber envolví den akshon/detenshon na Bon Bini a konta su banda di medaya", 6 April 2018, www.facebook.com/extraCuraçao/videos/1731994773553954/?comment_tracking=%7B%22tn%22%3A%22O%22%7D

¹⁷⁴ According to the Curaçao government, at the time of arrest, Miguel did not hold a valid residence permit. His permit had expired on 18 October 2017 and his application was rejected on 23 February 2018. An appeal was submitted on 5 March 2018. On 11 April 2018 he submitted his employment permit and on 31 May 2018, his application for a residence permit was granted, (email from the Curacao government, 27 July 2018).

¹⁷⁵ Still image from Facebook, *Extra Curaçao*, "Homber envolví den akshon/detenshon na Bon Bini a konta su banda di medaya", 6 April 2018.

Another case concerned the ill treatment and lack of care and protection of a vulnerable person.

ILL TREATMENT OF A PREGNANT WOMAN DURING ARREST AND DETENTION¹⁷⁶

Vanessa – a migrant with irregular immigration status – was arrested in her home, where she was living with her partner. Vanessa had no resident permit. She was taken to the Rio Canario police station to be registered as an irregular migrant who would be removed from the country. She told Amnesty International: “They said that I did not have any rights because I was an illegal migrant.”

At the time of her arrest, Vanessa was four-and-a-half months pregnant. Despite the fact that she made this known to the staff at the police station, a senior official in the Monitoring and Detection Unit, subjected her to serious verbal and physical ill treatment: “He talked very badly to me. He told me to ‘shut my mouth’ because I ‘did not have the right to talk’. He asked me to take off my earrings and put them on the table. One of them fell on the ground. He told me to pick them up, but I refused because he looked like he was about to hit me. Then he grabbed me by the hair and threw me down on the floor. Another police officer entered and told him to ‘split her face’. So, he threw me against the wall.”

Vanessa was transferred to the Foreigners Barracks. She started to feel sick, which resulted in a visit from the prison medic. However, according to Vanessa, she did not receive a check-up but was merely told to take it easy and stay in bed. She did not receive special treatment or a special dietary regimen to support her pregnancy. She said that for the first ten days, all she ate was bread with peanut butter.

After three weeks in detention, Vanessa – together with seven other Venezuelan women – started a hungerstrike to protest against her deportation. Although the women received a lot of media attention, it did not help them¹⁷⁷ and the next day Vanessa was deported to Venezuela. Still very sick she immediately went to the hospital to get a check-up. She said it was there that she found out that her baby had died and that she had to get her pregnancy terminated. She told Amnesty International that she wants to share her story because: “I know that there is no more help for me. But this way I can help others and make sure that the people who did this to me won’t get away with it.”

Amnesty is extremely concerned about the accusations from detained and removed foreigners about the physical and psychological ill treatment, including threats, they received at the hands of both immigration authorities and prison personnel.¹⁷⁸ The traumatic impact on Vanessa of her alleged ill treatment – bearing in mind her individual circumstances – is apparent.

Allegations of ill treatment, excessive use of force, or any other abuses during arrests or in immigration detention must be investigated promptly, effectively and impartially by an independent body. Perpetrators should be prosecuted, and reparations provided to victims.

¹⁷⁶ Interview Venex Curaçao, 30 April 2018; Telephone interview with removed Venezuelan “Vanessa” (alias), 14 May 2018. “Vanessa” is one of several migrants alleging that they suffered physical and verbal abuse at the hands of a senior official from the Monitoring and Detection Unit – with cases dating back to 2001.

¹⁷⁷ curacaochronicle.com/judicial/eight-venezuelans-on-hunger-strike/; antilliaansdagblad.com/nieuws-menu/17338-hongerstaking-lijkt-zinloos/; curacaonieuws.nu/acht-venezolanen-in-hongerstaking/; noticiascuracao.com/venezolanas-inician-huelga-de-hambre-en-curacao-suplicando-no-ser-deportadas/; www.knipselkrant-curacao.com/hoyer2-scheperboer-en-witteveen-curacao-overtreedt-internationale-wetten-met-uitzetting-venezolanen/; antilliaansdagblad.com/curacao/17344-uitzetting-venezolanen-gaat-door/; deachterkantvancuracao.blogspot.com/2018/03/curacao-verkramp-om-venezolaanse.html

¹⁷⁸ In response to these report’s findings the Curaçao government told Amnesty International that cases concerning “physical and verbal abuse” are not known to the Curaçao Police Force (KPC), (email from the Curacao government, 27 July 2018).

7. CONCLUSION

Curaçao's current response to the Venezuelan situation shirks its responsibilities to refugees. These responses are characterised by a focus on restricting borders, extending detention and hastening deportation. On 5 July 2017, the Curaçao government adopted a Ministerial Decision to take over the registration process of asylum seekers from the UNHCR. There was no official transition period, meaning that – despite the fact that an asylum procedure is a highly complex system to set up – the government took on full responsibility for the registration of asylum claims from one day to the next. Curaçao lacks a fair and transparent asylum determination process and has failed to ensure that it meets its international human rights obligations to refugees and asylum seekers. Although UNHCR states that international protection is needed for a very significant proportion of Venezuelans, it is understood that – at least until April 2018 – no asylum seeker was referred to the UNHCR by the government of Curaçao. In 2017 alone, approximately 1,200 Venezuelans were deported from Curaçao.

Access to protection through a prompt, effective and fair asylum procedure is an essential element to ensure that refugees and asylum seekers enjoy the rights to which they are entitled. Without such a fair assessment, people are at risk of deportation to places where they will suffer serious human rights violations, contrary to international law. This is a violation of Article 3 of the ECHR: No one shall be subjected to torture or cruel, inhuman or degrading treatment or punishment. As a consequence of a lack of transparent and fair procedures, including the right to know the reasons for a decision, and the right to appeal such a decision, people will continue to be at risk of further human rights violations.

In Curaçao irregular migrants and asylum seekers can be detained and deported. Depriving individuals of their liberty, solely on the basis of their migration status, without access to information, adequate assistance, or meaningful procedures to challenge the detention decision is a violation of Article 5 of the ECHR (the right to liberty and security) and has devastating impacts on the sense of dignity and the mental and physical health of migrants, asylum seekers and refugees. It is a violation of the right to freedom from arbitrary detention.

While Curaçao, one of the constituent countries of the Kingdom faces a significant challenge with the crisis in Venezuela, playing out some 70 kilometres away from the Kingdom's borders, the government of the Netherlands is hesitant to get involved with the crisis and argues that this is not a Kingdom matter. The *Charter for the Kingdom of the Netherlands* provides that each of the countries has the responsibility to “promote the realisation” of human rights. Yet both under international law as well Article 43 of the Charter, the safeguarding of fundamental human rights is a Kingdom affair. In other words, at the end the Kingdom of the Netherlands is legally responsible for the respecting, protecting and fulfilling of human rights, including the rights of asylum seekers and migrants.

The prison buildings and facilities in Curaçao are in particularly bad condition. Now that the Dutch government has publicly supported Curaçao's “active removal policy”, the Curaçao government officials have requested the Netherlands' government to pay for the creation of a detention facility in the Otrabanda neighbourhood that would specifically target women and children. This is a very concerning development: as long as the Curaçao detention and removal policies are not consistent with international human rights

law and standards, new detention facilities may potentially create more opportunities for human rights violations. Since it is the case that the Netherlands supports Curaçao's detention and removal policies, they have an obligation to ensure that any such assistance is consistent with international human rights law and standards. This should include supporting alternatives to detention for migrants and having a refugee protection framework in line with international human rights law.

Amnesty International is extremely concerned about the accusations from detained and removed foreigners about physical and psychological ill treatment, including threats, which they received at the hands of both the immigration authorities and prison personnel.

8. RECOMMENDATIONS

TO THE GOVERNMENT OF CURAÇAO

- Guarantee the rights of the asylum seekers and refugees in need of international protection.
 - Ensure that all foreigners in need of protection are able to enter the asylum procedure – regardless of how and when they entered the island.
 - Examine asylum claims on their merits in a full and fair asylum process with all procedural and substantial safeguards, such as provision of information, quality interpretation, access to legal aid and access to an effective remedy against a negative decision. The effective remedy should include a suspensive effect of the decision.
 - Ensure that asylum seekers, refugees and irregular migrants in need have access to basic needs such as shelter, food and adequate health care.
 - Ensure that all asylum seekers have full access to the United Nations High Commissioner for Refugees. Fully cooperate with UNHCR and allow the individuals to be registered and assessed by the UNHCR.
 - Refrain from deporting anyone until their claim for asylum has been promptly, fairly and effectively assessed. Ensure that no person is returned to a place where they are at risk of serious human rights violations, in violation of the principle of *non-refoulement*.
- Ensure that the detention of asylum seekers and migrants is exceptional and only used as a last resort, where necessary in the specific circumstances and proportionate to a legitimate purpose pursuant to international human rights law. In the meantime, improve the detention facilities and adjust them to the nature of the detention and in conformity with human rights standards.
- Ensure that any detention decision will be automatically and regularly reviewed by a court, or similar competent independent and impartial body, and always accompanied by the appropriate provision of legal assistance.
- Make sure that all detained migrants have unfettered access to lawyers whilst in detention. Ensure that free legal aid is provided to any people in detention who cannot afford their own lawyer.
- Ensure that allegations of ill treatment, excessive use of force, or any other abuses during arrests or in immigration detention are investigated promptly, effectively, independently and impartially by an independent body. Perpetrators should be prosecuted and reparations provided to victims.
- Ensure that in all decisions relating to children, the best interests of the child shall be a primary consideration. Children must not be separated from their parents and/or legal guardians. Alternatives to detention must be applied to the entire family.
- Ask for assistance from the Dutch government in the context of the responsibilities of the Kingdom of the Netherlands in upholding the human rights of asylum seekers in need of protection.

TO THE KINGDOM OF THE NETHERLANDS

- Ensure that human rights are guaranteed equally in all areas of the Kingdom;
- Ensure that human rights of migrants and asylum seekers are respected, protected and fulfilled in all constituent countries of the Kingdom.

TO THE DUTCH GOVERNMENT

- Offer support and guidance and provide technical and financial assistance for ensuring an appropriate refugee protection framework in line with international human rights law and standards.
- Ensure that any support of the Curaçao detention and removal policies is consistent with international human rights law and standards. This should include supporting alternatives to detention.

VENEZUELANS DENIED PROTECTION IN CURAÇAO

Detained and Deported: Venezuelans denied protection in Curaçao presents compelling evidence that foreigners have not been able to apply for international protection in Curaçao since July 2017. It details a number of alleged human rights violations committed against people from Venezuela, who risk being sent back in breach of international law.

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