

Venezuelan refugees on Curaçao: Human right violations in a tropical paradise

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Key messages

- From around 4 million Venezuelans who fled their country, an estimated 26.000 have come to Curacao. This constitutes a humanitarian crisis within the Kingdom of the Netherlands, and crisis management should be organized accordingly.
- The failure to protect Venezuelan people who seek refuge in Curaçao results from a combination of a lack of political willingness and capacity and experience to deal with refugees on the island.
- The reception of Venezuelans coming to Curacao is undermined by consistent allegations that criminalize them as smugglers and other fear-mongering messages. This echoes discourses maintained by the Netherlands and other European countries to secure their borders.
- Assistance of the Netherlands, as foreseen in the status of the Kingdom, to help set up a functioning asylum procedure and offer humanitarian aid to Venezuelans in Curaçao is necessary, yet is also hindered by complicated relations between the Kingdom partners and lack of priority for refugee rights in the Netherlands.
- The single focus on asylum procedures makes parties look away from the humanitarian needs of the migrants who may not seek asylum but need medical aid, food and shelter.

WHEN
DISASTER
MEETS
CONFLICT

This research brief is based on 10 interviews and other conversations held in May 2019 in Curacao by Peter Heintze with representatives of different stakeholders concerned with Venezuelans in Curacao, as well as the study of (grey) literature. The authors are grateful to the generous time provided by the research participants and we like to especially thank Marion Peeters and Ieteke Witteveen for their comments on the draft of this brief. The authors are of course responsible for the content of this publication.

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Photo: Herman Volker

Introduction

Ambiguous governance and legal relationships are harmful to the most vulnerable individuals, especially if related authorities and policy makers do not have a direct interest in solving humanitarian problems. These issues are apparent in how the crisis in Venezuela is playing out in Curaçao, a Caribbean island 50 miles off the Venezuelan coast.

A former Dutch colony, Curaçao is now an autonomous country that forms part of the Kingdom of the Netherlands along with St. Maarten, Aruba and the Netherlands itself. With a population of 160,000, the island's golden beaches attract many visitors from the United States and South America. Beyond tourism, the other pillar of the island's economy is its oil refinery, leased and operated since 1985 by the Venezuelan state oil company Petróleos de Venezuela (PDVSA). From a deeper historical perspective, Curaçao is part of the vivid Caribbean culture of exchange, based on the movement of between the Caribbean islands and the South American coast, trading goods and pursuing opportunities.

But the crisis in Venezuela has changed life on Curaçao. US sanctions against Venezuela have brought the refinery to a standstill. Wealthy Venezuelans no longer visit: hotels have closed their doors and the Insel Air was declared bankrupt in February 2019. The unemployment rate increased from 14% in 2017 to 26% in 2019,¹ and the island's public finances are under pressure.

¹ Interview Lesley Fer, Ministry General Affairs (11 March 2019).

Boats arriving in Curaçao bring a growing number of Venezuelan refugees. Nobody knows the exact numbers, but the non-governmental organization VENEX estimates that one to three boats arrive every week, bringing 30-50 Venezuelans per boat. Almost all of these arriving Venezuelans stay as irregular or non-documented residents.² Estimates of the numbers non-documented Venezuelans in Curaçao vary from 4,000-6,000 (according to the government of Curaçao),³ to 5,000-15,000 (Amnesty International),⁴ to 'around 26,000' (UNHCR/IOM).⁵ The truth is that nobody really knows. The non-documented Venezuelans depend on strong informal networks and survive as traders or seasonal workers in the construction or tourism industries. Many employers in Curaçao welcome the cheap labour, but people increasingly complain about unfair competition. Most non-documented Venezuelans manage to remain 'under the radar'. Non-documented Venezuelans that are caught by the authorities are detained and deported back to Venezuela. Due to the Venezuelans crisis, larger numbers of Venezuelans leave for neighbouring countries, also to Curaçao. And because of this bigger influx, the authorities of Willemstad give more priority to deterring and tackling of non-documented persons. Deporting non-documented Venezuelans to Venezuela is however a challenge since president Maduro closed the borders, also with Curaçao.

This research has looked into the situation of Venezuelan refugees at Curaçao. Several reports have recently appeared to discuss this from a human rights perspective. Building on these reports, the current research adds a humanitarian perspective. In this respect it is salient that the Netherlands promotes the reception of refugees in the regions as a preferred option over reception in Europe. While this policy may be criticized, in this paper we are keen to see what the policy would mean now that the Netherlands Kingdom is the region where desperate migrants seek reception.

Post-colonial relationships and legal uncertainty

Responsibility for responding to the situation is made difficult by legal uncertainties stemming from Curaçao's colonial background. Curaçao is responsible for its own social welfare, health, education, police, justice and finance, while foreign and defence policy is the responsibility of the Kingdom as a whole. Thus the Dutch coast guard plays an active role in the fight against drug trafficking, while humanitarian aid, asylum policy and migration issues are the responsibility of the government of Curaçao.

Curaçao's relations with its former colonial power remain delicate. The relations between countries within the Kingdom are determined in the Charter for the Kingdom of the Netherlands and Statute Laws, in which the responsibility to help one another is key. Parties within the Kingdom feel that the Netherlands, the largest country

² Interview Carlos Rivas, VENEX, Venezuelan Expats in Curaçao (6 March 2019).

³ Interview Lesley Fer, Ministry General Affairs (11 March 2019).

⁴ Amnesty International, 'Detained and reported' (September 2018), pp. 18.

⁵ R4V (Response for Venezuelans), Venezuelan Refugees & Migrants in the region (September 2019). R4V is a coordination platform initiated by UNHCR and IOM.

within the Kingdom, has a special responsibility to assist in times of trouble. But in practice, this does not run smoothly. Dutch intervention is not always appreciated in a country keen to preserve its newly gained independence, while the Dutch government appears reticent to help: extra money only comes after a formal request for assistance has been approved by The Hague, and under strict conditions. The Netherlands will only act when other parts of the Kingdom make a formal request – even in times of disaster. For example, as Hurricane Irma moved towards St. Maarten in 2017, the Dutch navy prepared aid and positioned itself close to the island, but soldiers only came ashore to the devastated island after there was a request from the government of St. Maarten, which was delayed as the island's lines were down.

There are many other uncertainties in the field of international law and regulations. The new country Curaçao, for instance, did not sign the Refugee Convention (1951), meaning the UNHCR does not have jurisdiction in Curaçao. The fact that the Netherlands has long been a signatory is irrelevant from a strictly legal point of view, although it could be argued that the Netherlands as a signatory has a moral duty to advance the terms of the convention in the Kingdom especially in times of trouble. In 2018, the Dutch Advisory Council on International Affairs warned that given that only the Netherlands has signed human rights treaties, this could lead to severe legal inequality within the Kingdom.⁶

Another particularity is the position of Curaçao with respect to the European Union (EU). Unlike some other territories associated with EU Member States, Curaçao is not part of the European Union and so European regulations are not generally applicable. However, the people of Curaçao do enjoy European citizenship⁷ and the European Convention on Human Rights (ECHR, 1950) is applicable.⁸

Detailing an inadequate response

Until 2017 UNHCR took care of the registration of asylum seekers through an informal working relationship with the Red Cross in Curaçao. These registrations showed a sudden increase in numbers of Venezuelan asylum seekers, from 13 in 2016 to 663 in 2017. In 2017, however, the government of Curaçao decided to take over the registration process from the UNHCR. As far as observers are aware of, not a single asylum seeker has been granted asylum in 2018 and 2019.⁹

⁶ AIV, Advies 107, 'Fundamentele rechten in het Koninkrijk: eenheid in bescherming' o.l.v. prof. dr. E.M.H. Hirsch Ballin (AIV, Den Haag, juli 2018), pp. 5-6.

⁷ European Parliament, 'Status Caribisch gebied binnen de Europese Unie' (Website of the European Parliament). Website consulted on 18 April 2019.

⁸ Dora Brouwer & Hemme Battjes, 'Asielrecht in de overzeese gebieden van het Koninkrijk' (Website verblijfblog of VU University, article 6 February 2018). Website consulted on 18 April 2019; Ombudsman of Curaçao, 'Ambtshalve onderzoek naar de rol van de Minister van Justitie in het kader van het Curaçaose Vreemdelingen- c.q. vluchtelingenbeleid' (2018), p 4.

⁹ According to R4V the Curacao government has reported 704 asylum claims on 21 January 2019. R4V (Response for Venezuelans), Refugees and migrants from Venezuela. Website consulted on 1 October 2019.

A series of critical reports in 2018 expressed concerns about the human rights situation of asylum seekers in Curaçao¹⁰. The Ministry of Justice introduced a procedure for asylum seekers in 2018, but this procedure and criteria have not been made public, neither were relevant government officials instructed on the procedure¹¹. Amnesty International gained access to the document via informal channels and published a summary in September 2018 (as part of another critical report).¹² The document refers explicitly to Article 3 of the ECHR.

Custom officials themselves have appeared unfamiliar with the new procedure. In response, the University of Curaçao offered to train Ministry of Justice officials, which led to joint training by the University and the Ombudsman on both refugee rights and the ECHR.¹³ Despite these efforts, awareness remains very limited. Venezuelans confronted by police or custom officials are still treated as criminals. They are either deported immediately (though deportations are hampered by the closed borders)¹⁴ or detained in a centre known as the Barracks.¹⁵ Venezuelans, who indicate they are refugees and need protection, don't receive adequate information about the asylum procedure. For asylum seekers that enter an asylum procedure, the procedure does not meet minimum standard according to international law.¹⁶

With financial assistance from the Dutch government (€132,000) the capacity of the Barracks has recently grown from around 30 to 48,¹⁷ but the conditions of detention are deplorable: there is not enough food and water and hardly any medical assistance; lawyers and civil society organisations have little or no access to the prisoners; and often the detention period of is much longer than international law allows.

Denying international protection to (potential) refugees in need or deporting them to their country of origin are severe human rights violations, including of ECHR, article 3. Inadequate and illegal detention of foreigners or not allowing them juridical assistance contravenes ECHR article 5.

In its report *Detained and Deported* (2018), Amnesty International describes how the government of Curaçao devised an 'active removal strategy'. The report says that in

10 Human Right Watch, 'Venezuela: Refugee crisis requires concerted regional response' (January 2018); Ombudsman of Curaçao, 'Ambtshalve onderzoek naar de rol van de Minister van Justitie in het kader van het Curaçaose vreemdelingen- c.q. vluchtelingenbeleid' (June 2018).

11 Interview Keursly Concincion, Ombudsman of Curaçao (8 March 2019). And: Interview Marjon Peeters, University of Curaçao (7 March 2019).

12 Amnesty International gained access to the document via informal channels. A summary of the one-pager is published in the Amnesty report 'Detained and deported' (2018), pp. 28.

13 Interview Marjon Peeters, University of Curaçao (7 March 2019).

14 Interviews Ieteke Witteveen, Stichting Human Rights Caribbean (6 March 2019), Geraldine Scheperboer-Parris & Berend Scheperboer, lawyers (8 March 2019), Marjon Peeters University of Curaçao (7 March 2019), Lesley Fer, Ministry General Affairs (11 March 2019).

15 Interviews Ieteke Witteveen, Stichting Human Rights Caribbean (6 March 2019), Geraldine Scheperboer-Parris & Berend Scheperboer, lawyers (8 March 2019).

16 Consultation Marjon Peeters University of Curaçao (7 June 2019).

17 The capacity of 30 persons has been upgraded in March 2019 to 48. Another 22 places will be realized: Antilliaans Dagblad, 'Barakken SDKK onder handen genomen' (Website of Antilliaans Dagblad, article 5 March 2019). Website consulted on 19 April 2019.

2017, the authorities removed 1,532 foreigners from the island, 1,203 (78.5%) of them Venezuelan. In the first four months of 2018, the authorities removed 475 foreigners, including 386 (81.3%) Venezuelans.¹⁸ Prison director Urny Floran indicated that, despite the closed borders, Curaçao succeeds in deporting Venezuelans to their country, 'of course in consultation with, and with approval of the Venezuelan authorities'.¹⁹

It is unclear how many Venezuelans get to the island unseen by the authorities or how many do not survive the boat trip. Local media regularly report boats of refugees capsizing off for the coast.²⁰

After the 2018 reports of Amnesty International and Human Right Watch, a new report was published in April 2019 by Refugee International: *Hidden and Afraid*. Venezuelans without status or protection on the Dutch Caribbean Island of Curaçao. Again great concerns were articulated about the failures in protection and about the active removal strategy: 'In displacement crises, the quality of services and assistance typically varies from one host country to another, but the fate of Venezuelans seeking refuge on the small island of Curaçao ... could very well be the worst in the Americas'.²¹

Those caught by the authorities are not the only ones in difficulty. For many of the thousands of non-documented Venezuelans living in Curaçao, wages are low and working conditions dangerous, and they do not have access to social care and health insurance. Informal Venezuelan networks and a recently opened health clinic for basic medical support (see below) offer support and some protection.

Non-documented Venezuelans live in constant fear for the authorities. VENEX reported children being removed from their classrooms by the authorities to identify the whereabouts of their parents. VENEX was seriously concerned for their welfare: what happens to children who grow up in constant fear of authorities, who are forced to betray their own parents and see them deported?²²

One of the consequences of the criminalisation of refugee migrants is that activists and organisations at the island supporting non-documented Venezuelan people in need, are also subject to criminalization politics and do risk legal persecution.²³

18 Amnesty International, 'Detained and deported' (2018), pp. 11.

19 Antilliaans Dagblad, 'Barakken SDKK onder handen genomen' (Website of Antilliaans Dagblad, article 5 March 2019). Website consulted on 19 April 2019.

20 Interviews Ieteke Witteveen, Stichting Human Rights Caribbean (6 March 2019), Carlos Rivas, VENEX, Venezuelan Expats in Curaçao (6 March 2019).

21 Refugees International, 'Hidden and afraid' (2019), pp. 4.

22 Interviews Ieteke Witteveen, Stichting Human Rights Caribbean (6 March 2019), Carlos Rivas, VENEX (6 March 2019), Geraldine Scheperboer-Parris & Berend Scheperboer, lawyers (8 March 2019), Marjon Peeters University of Curaçao (7 March 2019), Maisy Scharbay & Henk Stomp, Red Cross Curaçao (8 March 2019).

23 Interviews Ieteke Witteveen, Stichting Human Rights Caribbean (6 March 2019), Lesley Fer, Ministry General Affairs (11 March 2019). See also: Sarah Hammerl, *Asylum criminalisation in Europe and its humanitarian implications* (United Against Inhumanity, 2019).

Unbearable situation, limited resources

Civil Society supporting refugees and non-documented people from Venezuela is modest in Curaçao. The most vocal spokesperson on the refugee issue is Ieteke Witteveen of the Stichting Human Rights Caribbean (HRC). She often gets calls from imprisoned foreigners: recently, she received one from a prisoner bleeding from a nasty cut that needed stitching. Medical attention was unavailable, so Witteveen had to contact the Minister of Justice as a last resort for mobilizing the necessary medical support. Until recently HRC was an informal organization depending on volunteers. Thanks to international funding, HRC was able to develop into a formal human rights organization. VENEX is also seeking ways to support Venezuelans in Curaçao, but it fully depends on volunteers. Both HRC and VENEX have more work than they can cope with.

Amnesty International has a presence in Curaçao. But while the international offices of Amnesty International (London) and Amnesty International Netherlands are very outspoken about the human rights situation, observers note that its Curaçao section is less outspoken.

Until 2017, Red Cross Curaçao worked with UNHCR on refugee registration. Since the government took this task away from them, the Red Cross seems to be less involved with the Venezuelans in Curaçao. The Red Cross Curaçao indicated they are financially supported by the people of Curaçao and it would be inappropriate if these resources disproportionately benefited Venezuelans. Nonetheless the Red Cross was preparing in March for an influx of 1,000 more Venezuelans in case of an escalation of conflict.²⁴

The relations between UNHCR and the government are strained. Several observers expressed irritation after the government stopped UNHCR registering refugees. The governments of Curaçao and the Netherlands recently turned to the International Organization for Migration (IOM), with the Dutch government giving it considerable funds to help Venezuelans refugees, including in Curaçao.²⁵ Civil society observers question the jurisdiction of IOM, however, and complain it has delivered emergency packages 'nobody was waiting for'.²⁶

In July 2019 Foundation Salú pa Tur, an initiative of the Dutch doctor Elisa Janszen, opened a clinic for non-documented Venezuelans. Janszen warns for severe health-risk in Curacao: the clinic offers basic medical support. This support is especially necessary because many arrivals have not received health care for years, due to the crisis in Venezuela, and hence have complex health issues to be addressed. Obtaining funding for more specialist care is a huge challenge, leaving for instance HIV-infected

²⁴ Interview Maisy Scharbay & Henk Stomp, Red Cross Curaçao (8 March 2019).

²⁵ In 2018 the government of the Netherlands granted in total €5.1 million in aid to Venezuelans in the region: 4 million to the IOM, 0.6 million to the International Federation of the Red Cross, and 0.5 million to UNHCR. Tweede Kamer, Aanhangsel van de Handelingen 1522 (13 February 2019), pp. 2 (answer 5).

²⁶ Interview Ieteke Witteveen, Stichting Human Rights Caribbean (6 March 2019).

people without proper medication. A growing number of HIV-infected people, or even AIDS patients, that have no access to proper health care, is to be expected.

A remarkable role is claimed by the Catholic Church in Curaçao, which is one of the few organizations that is allowed to visit Venezuelans in the Barracks. In March 2019, Bishop Luigi Secco indicated that the Catholic Church in Curaçao and Aruba want to support Venezuelan refugees, raising money through collections and preaching the need to protect vulnerable Venezuelans.²⁷

Taking a stand for vulnerable Venezuelans in Curaçao is indeed necessary. Public opinion is not positive towards Venezuelans. Migrants are collectively cast by the authorities as criminals (responsible for drug trafficking, human trafficking²⁸, and health risks) or fortune seekers. The government does not deny that there is a risk of human rights violations but it emphasizes the security risks from Venezuelan criminals, the risks of attracting large groups of Venezuelan refugees, and the burdens that large-scale refugee hosting will impose on the fragile economy.

Awareness-raising about the deplorable situation of the Venezuelan migrants is essential according to most observers interviewed in March 2019. Furthermore, both the Ombudsman and Marjon Peeters of the University of Curaçao indicated that the Netherlands could be supportive in further developing the new refugee procedure, for instance via joint working groups with officials from the Netherlands and Curaçao.²⁹

In January 2019 the government of Curaçao formally asked the Netherlands for support with accommodating Venezuelans on the island. Curaçao asked the Netherlands for expertise and capacity to meet the requirements of article 3 of the ECHR (focusing on asylum procedures).³⁰

The government of the Netherlands focuses on offering expertise and technical assistance for strengthening the asylum procedures within the framework of ECHR. In response to Curaçao's request for help in relation extending the capacity of the Foreigner Barracks, Dutch officials visited Curaçao in June and August 2018, while Curaçao officials visited the Netherlands in November 2018.³¹ But by March 2019 observers could not indicate substantial progress on the treatment of Venezuelans seeking refuge in Curaçao since the series of critical reports.³² In answers of the government to questions of the Dutch parliament about Dutch support to sheltering Venezuelan

²⁷ Interview Bob van Dillen, Cordaid & Silvi Hurkman, Vastenactie (11 March 2019).

²⁸ In addition: considerable numbers of Venezuelans are indeed involved in human trafficking, but as victims, rather than criminals.

²⁹ Interviews Marjon Peeters, University of Curaçao (7 March 2019), Keursly Concincion, Ombudsman of Curaçao (8 March 2019).

³⁰ Koninkrijksrelaties.nu, 'Curaçao doet Nederland officieel verzoek om hulp bij opvang Venezolanen' (Website Koninkrijksrelaties.nu, article 17 January 2019). Website consulted on 20 April 2019.

³¹ Tweede Kamer, Aanhangsel van de Handelingen 1522 (13 February 2019), p. 3 (answer 7).

³² Interviews Ieteke Witteveen, Stichting Human Rights Caribbean (6 March 2019), Geraldine Scheperboer-Parris & Berend Scheperboer, lawyers (8 March 2019), Marjon Peeters University of Curaçao (7 March 2019), Keursly Concincion, Ombudsman of Curaçao (8 March 2019).

refugees in February 2019, funding Curaçao authorities for hosting Venezuelans has not been mentioned at all.³³

The approach of the Dutch government could be described as reserved. It stresses the need for formal requests for assistance from Curaçao and does not take the initiative in enhancing refugee shelter in the Caribbean islands or start discussions about the obligation to protect refugees – at least not in public. Holding back seems to suit both governments well but creates misery for the Venezuelan refugees. Strong comments and strict policies are used in order to diminish pull factors for migrants. While the Dutch government strongly supports the concept of ‘reception of asylum seekers in their own region’, in the case of the Venezuelan humanitarian crisis, it seems to have a strong preference for reception on the South American mainland.

Dutch authorities risk being supportive to human rights violations due to the activities of the Coast Guard of the Netherlands in the waters around Curaçao. In 2018 the Coast Guard intercepted 238 people, 186 of them around Curaçao.³⁴ One observer said that the Coast Guard treats everyone they intercept as drug couriers, and hand them over to the Curaçao authorities without checking whether they might need international protection under the Refugee Convention.³⁵

Several Dutch NGOs advocate better protection of Venezuelan people on Curaçao and support local NGOs there: VluchtelingenWerk (Dutch Council for Refugees), and the Catholic organizations Vastenactie and Cordaid. Other organizations, the Dutch section of Amnesty International and Stichting Vluchteling (the Dutch partner of the International Rescue Committee), protested against human right violations in Curaçao in 2018 and follow developments closely.³⁶

In April 2019 the Advisory Committee on Migration Affairs (ACVZ) published an interesting new report: The Kingdom of the Netherlands and the International Protection of (Asylum) Migrants. In this ‘notification’ (i.e. not advice), the committee explores the possibilities for the government of the Netherlands to intervene if one of the countries in the Kingdom fails to comply with international law or violates human rights in the process of implementing its migration policy. The conclusion of the ACVZ is that the Charter of the Kingdom ‘offers sufficient opportunities for countries in the Kingdom to cooperate in the area of international protection and migration’. It continues: ‘Although cooperation has been discussed since 2015, it is still modest in scope with regard to the protection and reception of Venezuelan migrants.’³⁷

33 Tweede Kamer, ‘Aanhangsel van de Handelingen 1522’ (13 February 2019), pp. 3-4, (answer 8); And ‘Handelingen 1610’ (19 February 2019), pp. 3 (answer 5); And ‘Brief Staatssecretaris Binnenlandse Zaken en Koninkrijksrelaties aan Parlement, 29653’ (22 February 2019).

34 Tweede Kamer, Aanhangsel van de Handelingen 1522 (13 February 2019), pp. 2 (answer 2).

35 Interview Ieteke Witteveen, Stichting Human Rights Caribbean (6 March 2019).

36 Partner consultation ‘Caribbean’ at VluchtelingenWerk in Amsterdam (2 April 2019).

37 Adviescommissie voor Vreemdelingenzaken, ‘Het Koninkrijk en de internationale bescherming van (asiel)migranten.’ (2019), p. 4.

Observers in Curaçao say the human rights violations in Curaçao might harm the Kingdom as a whole.³⁸ They might bring negative publicity and the ECHR in Strasbourg could impose severe penalties.³⁹ They recommend a more hands-on attitude for the Netherlands: less distant and more in line with the spirit of the Kingdom’s Charter.⁴⁰

While much attention is given to the development of asylum procedures, there is little attention to the humanitarian needs of the migrants. Their access to healthcare is minimal and comes at great costs. The migrants, especially as they stay out of sight, have enormous difficulty to find shelter and food. The number of Venezuelan migrants coming to Curaçao is expected to rise, and humanitarian aid is utterly insufficient. In March 2019, when the Curaçao government released a request for support to the Netherlands, it requested €4.5 million to support sheltering large numbers of Venezuelan refugees. However, at the same time, the official stressed Curaçao could only provide shelter to 250 refugees for a maximum period of three months.⁴¹ Furthermore, this official stressed concerns that more support would strengthen the pull factor for Venezuelan migrants. The 23,8 million euro support from the Netherlands granted to Curaçao and Aruba in September 2019 to support the countries with addressing the issue of Venezuelan migrants and refugees, is to a large extent dedicated to strengthening the borders, detention of foreigners and strengthening the ‘vreemdelingenketen’⁴² (‘foreigners chain’⁴³). The 10,7 million dedicated to crisis management (45 per cent of the 23,8 million), relates to funds that were granted at an earlier stage, supporting Curaçao and Aruba addressing the consequences of hurricanes. These statements underline that neither Curaçao nor the Netherlands is willing to recognize that there are already thousands of Venezuelans with humanitarian needs on the island.

The big question: capacity or will?

The big question for the governments concerned is whether their failure to protect Venezuelan people who seek refuge in Curaçao results from a lack of capacity or from political unwillingness.

38 Interviews Marjon Peeters, University of Curaçao (7 March 2019), Keursly Concincion, Ombudsman of Curaçao (8 March 2019).

39 Marjon Peeters referred to the case of M.S.S. versus Belgium and Greece for the European Court of Human Rights; where Belgium was imposed a fine for violating the European Convention on Human Rights, article 3 (ECHR, art. 3). Interview Marjon Peeters, University of Curaçao (7 March 2019).

40 Interviews Marjon Peeters, University of Curaçao (7 March 2019), Keursly Concincion, Ombudsman of Curaçao (8 March 2019).

41 Interview Lesley Fer, Ministry General Affairs (11 March 2019).

42 Staatssecretaris R.W. Knops, Brief aan de Tweede Kamer, Response op ondersteuningsverzoeken Aruba en Curaçao (6 September 2019), p. 2.

43 Anyone who enters the Netherlands as a foreign national and asks for asylum or is found to have entered the country illegally, goes through a step-by-step process that can either result in him or her being granted a residence permit or being expelled. Especially in promoting return as well as in detention or offering shelter, with all the attendant social, legal and medical responsibilities, a chain of organizations is involved. It is under the direction of the Repatriation and Departure Service of the Dutch Ministry of Justice and Safety.

Under pressure from a population suffering from economic crisis, a faltering economy and declining government revenues, the government of Curaçao tries to prevent the arrival of Venezuelan migrants and to encourage the departure of non-documented Venezuelans from the island. It issues warning about security and drugs, the risks of attracting large groups refugees or fortune seekers, and the unbearable financial burdens this might impose. Critical observers argue that the steps the government of Curaçao has taken, such as developing a refugee procedure, have been merely to silence criticism.⁴⁴

The framing of risks echoes the language of the centre-right government in The Hague. Critical observers in the Netherlands point at the way the Dutch government uses the Refugee Convention and development aid as means to keep refugees as far as possible from Dutch borders.⁴⁵

In the meantime, Venezuelans find their way to the island and thousands are facing daily challenges to survive. While solutions are sought to improve on asylum procedures, the current needs for support are not recognized. The situation is in the first place one of humanitarian needs. Everyone understands that in the current situation Curaçao can neither cope with the influx of migrants nor uphold refugee law using only its own resources. The UNHCR considers Venezuelans abroad as displaced people, and several neighbouring countries of Venezuela, such as Colombia, have taken steps to provide minimal services to migrants from Venezuela. Setting up a functioning asylum procedure and making it work is a priority for the Netherlands and Curaçao but should not deter from considering the support required for the daily survival of migrants arriving on the island.

If the Dutch government does not live up to its responsibilities, it may soon find itself in an even more awkward position. Venezuelans may increasingly seek refuge on neighbouring Bonaire, which is not a state within the Kingdom, but a municipality of the Netherlands for which the Dutch government in The Hague bears direct responsibility.

44 Interviews Ieteke Witteveen, Stichting Human Rights Caribbean (6 March 2019), Marjon Peeters, University of Curaçao (7 March 2019), Keursly Concincion, Ombudsman of Curaçao (8 March 2019), Geraldine Scheperboer-Parris & Berend Scheperboer, lawyers (8 March 2019).

45 For instance: Linda Polman, 'Niemand wil ze hebben' (2019).