



AI Index Number: AMR 49/0448/2019
Date: 28/05/2019

OPEN LETTER TO KEITH CHRISTOPHER ROWLEY PRIME MINISTER OF TRINIDAD AND TOBAGO

Dear Prime Minister,

I am writing on behalf of Amnesty International to welcome your government's recent announcement that a registration process will be opened for Venezuelan migrants and refugees in Trinidad and Tobago and to request further information on the proposal.

The human rights situation in Venezuela

As you may have seen, just this month Amnesty International issued its most recent in a series of reports on Venezuela, *Hunger for justice: Crimes against humanity in Venezuela*.¹ It details how selective extrajudicial executions, arbitrary detentions, and deaths and injuries caused by the excessive use of force by the Venezuelan authorities or by persons or groups of persons acting with the authorization, support or acquiescence of the Venezuelan authorities, may constitute crimes against humanity and require an urgent response from the international community.

This situation, as well as the serious deterioration in living conditions and the systematic violation of economic, social and cultural rights, have forced more than 3.7 million people to flee Venezuela, and at least 3 million are in other Latin American or Caribbean countries and in need international protection.

Venezuelans need international protection

In September 2018, in our letter² to Presidents across the Latin America and Caribbean region, in the face of mass human rights violations in Venezuela we called on regional states to provide unrestricted access to international systems of protection such as refugee status and other complementary mechanisms, to expedite access for Venezuelans to legal residency with appropriate safeguards, and to strictly adhere to and respect the principle of *non-refoulement*. We further called on states to facilitate access to public services for Venezuelans, in particular the right to health, education and work.

Just days ago the UNCHR updated its Guidance Note on Venezuelans, detailing that the majority fleeing Venezuela are in need of refugee protection.³ Prime Minister, those fleeing Venezuela are overwhelmingly not "economic migrants" from whom your government needs to "protect (the) interests of the people of Trinidad and Tobago" as you stated in a recent press conference⁴, but people in need of international protection fleeing a situation in which their lives, security and freedom are at risk.

Trinidad and Tobago's response

¹ Amnesty International, "Hunger for Justice: Crimes against humanity in Venezuela" (AMR 53/0222/2019); See also: Amnesty International, "Emergency Exit", <http://www.amnistiaonline.org/SalidadeEmergencia/>; Amnesty International, "10 things you need to know about Venezuela's human rights crisis", 4 March 2019, available at: <https://www.amnesty.org/en/latest/news/2019/02/10-things-you-need-to-know-about-venezuelas-human-rights-crisis/>

² Amnesty International, "Urgent Measures: Venezuelans need international protection" (AMR 01/9019/2018)

³ UNCHR, "Majority fleeing Venezuela in need of international protection", 21 May 2019 and see UNCHR, "Guidance Note on International Protection Considerations for Venezuelans – Update 1", available at: <https://www.refworld.org/cgi-bin/texis/vtx/rwmain?page=search&docid=5cd1950f4>

⁴ CNC3, "Post cabinet news conference", available at: <https://www.facebook.com/CNC3Television/videos/445470876029049/>



In this context, Amnesty International welcomes Trinidad and Tobago's decision to offer solutions that would help Venezuelans gain legal residency. Nevertheless, Amnesty International has a series of questions regarding the government's proposed registration process, based on the limited publicly available information.⁵

According to reports, there are approximately 40,000 Venezuelans in Trinidad and Tobago, if not more.⁶ Based on government information, the proposed period for registration will only last for two weeks, and register approximately 28,000 people, between 31 May and 14 June 2019.⁷ Amnesty International is concerned that the proposed period is likely to be too short to register such a large number of potential applicants and would like to receive further information about how your government proposes to process all the applicants in such a limited period of time, and how it plans to safeguard the confidentiality of those that register and ensure that it does not fall into the hands of the Venezuelan authorities. We would also like further information about what will happen to those migrants and refugees that are unable to register during this timeframe.

While Amnesty International welcomes states that propose alternatives for Venezuelans to gain legal residency, the proposed registration process does not exempt Trinidad and Tobago from its obligations under the Convention relating to the Status of the Refugees (1951 Refugee Convention) and its Protocol (1967), to respect the rights of those seeking asylum.

According to the UNHCR, which in Trinidad and Tobago conducts refugee status determination procedures in the country, as of January 2019, there were 7,600 Venezuelan asylum-seekers in Trinidad and Tobago.⁸

As such, in line with the recent recommendation of Trinidad and Tobago's *Joint Select Committee on Human Rights, Equality and Diversity on the Treatment of Detainees at the Immigration Detention Centre*,⁹ we strongly urge your government to approve national refugee legislation, consistent with international law and standards. We welcome the Attorney General's stated willingness to prepare the legislation.¹⁰ We also remind your government that almost all states in Latin America, including countries also confronted with the challenges on the situation in Venezuela, have national legislation on refugees, so passing such a law would bring Trinidad and Tobago in line with regional trends and would allow it to lead appropriately the response within the Caribbean region.

According to information published by your office, following a one-year period, registered "migrants may not be granted any further time to stay in the country (unless Cabinet decides to grant an extension) and will be required to return to Venezuela."¹¹

Amnesty International would like further information about what options will be made available for asylum-seekers and recognized refugees following expiration of the one-year amnesty period. We remind your government that asylum-seekers and refugees are protected from forcible return to a country in which their life or freedom may be in danger on account of race, religion, nationality, membership in a particular social group or political opinion. As such, deportation of those registered with UNHCR would be contrary to international law.

⁵ Office of the Prime Minister of Republic of Trinidad and Tobago, "Venezuelan Registration Policy Gets Green Light", Available at: <https://www.opm.gov.tt/venezuelan-registration-policy-gets-green-light/>

⁶ Latin America and the Caribbean, "Venezuelan refugees & migrants in the region," January 2019, Available at: <https://data2.unhcr.org/es/documents/download/68069>

⁷ Office of the Prime Minister of Republic of Trinidad and Tobago, "Venezuelan Registration Policy Gets Green Light", Available at: <https://www.opm.gov.tt/venezuelan-registration-policy-gets-green-light/>

⁸ See <https://data2.unhcr.org/en/situations/venisit>

⁹ See Tenth Report of the Joint Select Committee on Human Rights, Equality and Diversity on the Treatment of Detainees at the Immigration Detention Centre, available at: <http://www.tparliament.org/reports/p11-s4-J-20190215-HRED-R10.pdf>.

¹⁰ The Ministry of Attorney General and Legal Affairs Ministerial Response, The Tenth Report of the Joint Select Committee on Human Rights, Equality and Diversity on the Treatment of Detainees at the Immigration Detention Centre, available at: <http://www.tparliament.org/reports/p11-s4-J-20190430-HRED-r10-mr-MAGLA.pdf>

¹¹ Office of the Prime Minister of Republic of Trinidad and Tobago, "Venezuelan Registration Policy Gets Green Light", Available at: <https://www.opm.gov.tt/venezuelan-registration-policy-gets-green-light/>



Amnesty International also understands based on recently released information from the Ministry of Communications that the registration process is obligatory.¹² We would like information about what will happen to those who do not register, as well as further information about what will happen to Venezuelans who have not registered with UNCHR after the one-year period. Additionally, we understand that migrants are required to present a series of documents including, birth certificates, identification cards, passports, among others. In research on the Colombian and Venezuelan border, Amnesty International found that Venezuelan migrants and refugees in need of international protection did not have passports and as such we are concerned that many will be unable to provide the required documentation.¹³

We also understand that Venezuelan asylum-seeking and refugee children are currently unable to access public education in Trinidad and Tobago, despite the country having ratified the Convention on the Rights of the Child and being party to the Refugee Convention which, in Article 22, requires states to provide refugees “the same treatment as is accorded to nationals with respect to elementary education.” Based on information that Amnesty International was able to obtain, the proposed registration process will not guarantee the right to education for Venezuelans. In line with our recommendations to other countries in the region, and in line with Trinidad and Tobago’s own Refugee Policy,¹⁴ Amnesty International strongly recommends that Trinidad and Tobago facilitate Venezuelan, and other refugee children, with access to public school.

The principle of non-refoulement for those arriving by sea

Amnesty International also notes with concern a series of recent media reports¹⁵ which suggest that the Trinidad and Tobago authorities have turned back boats of Venezuelan migrants and asylum-seekers pursuing legal entry. As previously raised with your government,¹⁶ the principle of *non-refoulement*, prohibits states from transferring people to another country or jurisdiction where they would face a real risk of serious human rights violations or abuses, and is binding on all states as part of customary international law. According to international law, when a state establishes effective control over a boat, that state is responsible for securing and protecting human rights,¹⁷ including allowing access to asylum procedures if anyone claims a fear of return to their country.¹⁸ As such, if Trinidad and Tobago authorities are indeed returning boats of Venezuelans, they may be doing so in violation of the *non-refoulement* principle.¹⁹

Finally, we urge the government to work with the whole UN system, human rights organizations, civil society and academia of Trinidad and Tobago, to find human rights-based solutions for Venezuelan refugees and migrants who feel compelled to endure great risks²⁰ to seek refuge in Trinidad and Tobago. Amnesty International also stands ready to offer guidance to your government on the implementation of its international human rights obligations.

Yours sincerely,

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Americas Director

¹² Ministry of Communications, Venezuelan migrant registration process FAQ.

¹³ See: <http://www.amnistiaonline.org/SaludadeEmergencia/Default/Quedarse/>; See also Trinidad and Tobago’s obligations under Article 31 of the Convention relating to the Status of Refugees.

¹⁴ Trinidad and Tobago: A phased approach towards the establishment of a national policy to address refugee and asylum matters in the Republic of Trinidad and Tobago, available at: <https://www.refworld.org/docid/571109654.html>

¹⁵ CNC3, “100 illegal Venezuelans arrested, ferries barred from docking in Cedros”, 8 May 2019, available at: <https://www.cnc3.co.tt/press-release/100-illegal-venezuelans-arrested-ferries-barred-docking-cedros>; Trinidad and Tobago Guardian, “Another Venezuelan boat denied T&T entry”, 9 May 2019, Available at: <http://www.guardian.co.tt/news/another-venezuelan-boat-denied-tt-entry-6.2.841877.c26ac6da6d>

¹⁶ Amnesty International, Open Letter to Keith Christopher Rowley Prime Minister of Trinidad and Tobago, (AMR 49/8270/2018)

¹⁷ ICCPR, Article 2(1). Trinidad and Tobago is state party to it since 1978

¹⁸ See UNCHR, “Rescue at Sea”, available at: <https://www.unhcr.org/publications/brochures/450037d34/rescue-sea-guide-principles-practice-applied-migrants-refugees.html>

¹⁹ The International Law Commission, whose mandate is to codify customary international law or progressive developments has recently adopted a draft Convention on Crimes against Humanity. While doing so the ILC concluded the following: ‘The 1951 Convention relating to the Status of Refugees contains exceptions to the non-refoulement obligation to allow return where the person has committed a crime or presented a serious security risk. Treaties since that time, however, have not included such exceptions, treating the obligation as absolute in nature. The Commission deemed it appropriate for draft article 5 to contain no such exception’, UN Doc. A/72/10, 2017, p.59’

²⁰ UNHCR, “Fears for Venezuelans missing in Caribbean shipwreck”, 26 April 2019; Washington Post, “Venezuelan migrants missing after 2nd sea tragedy in a month”, 20 May 2019