



Section 1. State Under Review

1. The Republic of Trinidad and Tobago (TT) Government is currently governed by the political party known as the People's National Movement (PNM) which won the parliamentary democratic elections of 2015 and 2020 and is headed by elected Prime Minister and Member of Parliament for the Constituency of Diego Martin West, the Honourable Dr. Keith Christopher Rowley.

Section 2. Challenges in Implementation of Human Rights Obligations and Recommendations

A. Protecting Migrant Rights Under A Domestic Legal Framework

2. The Immigration Act Chap 18:01 Act No 41 of 1969 is the primary legislative document relating to and impacting on migrants including those considered economic migrants as well as asylum - seekers and refugees and which is enforced by the Immigration Division of the Ministry of National Security. There is no mention of the word "asylum - seeker" or "refugee" in the Act but is nonetheless relied on as the law on how all foreign nationals are to be treated. In its submission to the UPR in 2016, LWC recommended that there ought to be reform of the Immigration Act to bring our immigration laws into compliance with International Human Rights Standards in the migration context¹.
3. Trinidad and Tobago although acceding to the 1951 Refugee Convention has not yet implemented domestic laws to give effect to the obligations falling thereunder.² In 2014 Cabinet approved a national policy to address asylum and refugee matters. This was a commendable human rights effort on the part of the Government at that time.
4. In the interim also, the Government adopted procedures³ in May 2017 agreed upon between the Ministry of National Security - Immigration Division, Living Water Community (LWC) and the United Nations High Commissioner for Refugees (UNHCR) to establish a process for persons seeking to apply for refugee status in the absence of legislative provisions.

¹ Living Water Community, 2nd Cycle UPR Submissions, May 2016, Section 2, Paragraph 1, Recommendation 3

² Doonath, Alina, "AG insists: No refugee laws, but there are protocols," *Loop TT*, November 23rd 2018 <https://www.looptt.com/content/ag-insists-no-refugee-laws-we-have-protocols>

³ Revised Interim Standard Operating Procedures (SOPs) for the Protection of Asylum - Seekers and Refugees in Trinidad and Tobago



5. It must be noted that although a refugee policy was drafted, it has not been implemented.⁴ Actors in asylum and refugee matters therefore continue to be guided by the above - mentioned interim measures. This we submit is not good practice as interim measures without the implementation of a policy have given rise to these very procedures being short lived and inoperational especially at a crucial time of this Venezuelan crisis.
6. Although the Government of Trinidad and Tobago made progress in implementing other recommendations, such as opening an inquiry into the treatment of detainees at the Immigration Detention Centre in 2018⁵, the Immigration Act remains unamended. The lives of refugees and asylum - seekers remain in limbo due to the absence of clear statutory or policy guidelines on how to treat this issue. This has left judicial officers with wide discretion on sentencing of those migrants charged for illegal entry although being asylum - seekers or recognised refugees.
7. Furthermore, while the Refugee Unit of the Immigration Division tasked with the responsibility of matters touching and concerning asylum - seekers and refugees, continues to be in full force and operations, there are operational gaps in procedure in mainstreaming services for asylum - seekers and refugees across the other units of the Immigration Division.
8. Therefore, in the absence of legislative provisions, asylum - seekers and refugees, are subject to penalisation and refoulement⁶ as pursuant to the Immigration Act, persons entering the country through irregular channels face up to three years imprisonment and a fine of up to fifty thousand dollars for a first time offence.⁷ As asylum - seekers and refugees are also classed as irregular migrants they are also subject to deportation proceedings.⁸
9. The Venezuelan Crisis presented a unique challenge and subsequently one variation to the treatment of refugees, whereby the Government allowed any Venezuelan in the country in June 2019 the opportunity to register in a *migrant registration process* that granted them a minister's permit which afforded them the right to work.
10. Accordingly, persons entering through irregular channels are not only breaching the laws

⁴ Teff, Melanie "Forced into illegality: Venezuelan refugees and migrants in Trinidad and Tobago", *Relief Web*, January 27th 2019, <https://reliefweb.int/report/trinidad-and-tobago/forced-illegality-venezuelan-refugees-and-migrants-trinidad-and-tobago>

⁵ Living Water Community, 2nd Cycle UPR Submissions, May 2016, Section 2, Paragraph 1, Recommendation 1

⁶ On the 2nd November 2000, Trinidad and Tobago acceded to the 1951 Convention Relating to the Status of Refugees and its 1967 Protocol. Pursuant to Article 33 (1) "No Contracting State shall expel or return ("refouler") a refugee in any manner whatsoever to the frontiers of territories where his life or freedom would be threatened on account of his race, religion, nationality, membership of a particular social group or political opinion".

⁷ Immigration Act, Chapter 18:01, Section 40

⁸ UNHCR "UNHCR Trinidad & Tobago Fact Sheet, December 2020", *Relief Web*, January 20th 2021, <https://reliefweb.int/report/trinidad-and-tobago/unhcr-trinidad-tobago-fact-sheet-december-2020>



under the Immigration Act and are placing themselves at risk of arrest, detention and prosecution for illegal entry, but are also placing their lives at risk in desperation as they may take perilous journeys at the hands of smugglers and human traffickers. Minors, women, the elderly, the disabled and other categories of vulnerable migrants are especially placed at heightened risk. This was especially seen in December 2020 where the bodies of 14 migrants including children were found off the coast of Venezuela, their intended destination believed to be Trinidad.⁹

11. Due to border control mechanisms implemented especially during the COVID - 19 pandemic, there have been instances of returns in the past few months. In September 2020, 93 Venezuelans were deported from Trinidad.¹⁰ The group being housed at the Chaguaramas Heliport and the Immigration Detention Centre in Aripo, were put on two Coast Guard vessels and taken to Soldado Rock, a small island off the coast of Icacos near the T&T/Venezuela maritime border. They were then handed over to officers of Venezuela's Guardia Nacional, who took them on the remainder of their journey back to their country.

12. Recommendations to improve the situation of asylum - seekers and refugees include:

- i. Finalise the draft Refugee Legislation and approve with urgency;
- ii. Reform the Immigration Act to be compliant with international human rights standards, especially the 1951 Refugee Convention of which Trinidad and Tobago acceded to, so that there are protection sensitive procedures implemented to deal with refugees and asylum - seekers;
- iii. In the interim, implement a review of the 2014 Refugee Policy and/or the 2017 SOPs to bring these documents in line with quality protection standards for screening and referral mechanisms to the appropriate agency/agencies;
- iv. Formulate a properly constituted Refugee Status Determination Panel/Committee comprising members of the Immigration Division, Civil Society, UNHCR, the International Organisation for Migration (IOM), the Ministry of Attorney General and Legal Affairs and other appropriate agencies;
- v. Utilise existing legislative mechanisms to grant work rights for example via minister's permit to all asylum - seekers and refugees whilst also opening a new registration process for Venezuelans recognising their need for international protection;
- vi. Ensure that these groups are considered in economic recovery plans and labour market needs; and
- vii. Grant access to public health services and medication, and ensure equitable and non - punitive access to COVID - 19 testing and vaccines.

⁹Venezuelan crisis: Fleeing migrants found drowned, *BBC News*, December 14 2020, <https://www.bbc.com/news/world-latin-america-55301701>

¹⁰Achong, Derek, "90 Venezuelans Deported" *Trinidad and Tobago Guardian*, September 18th 2020, <https://www.guardian.co.tt/news/93-venezuelans-deported-6.2.1213959.37aabde75a>



B. Preventing and Prosecuting Trafficking in Persons, Treating with Victims and Addressing Gender-Based Violence

13. LWC commends the establishment of a GBV Unit within the Trinidad and Tobago Police Service in 2020¹¹ to specifically deal with GBV issues. LWC has noted since the COVID - 19 lockdown that there has been an increase in the number of reports of GBV related cases from the migrant community. Some issues migrant and refugee women face include the language barrier faced when reporting an incident, fear of detention for being illegal, insensitive treatment when making reports and xenophobia.
14. According to the 2020 Trafficking in Person Report (TIP Report),¹² Trinidad and Tobago is ranked at Tier 2 out of three tiers. This signifies that the Government of Trinidad and Tobago does not fully meet the minimum standards for the elimination of trafficking; however, it is making significant efforts to do so.
15. Traffickers lure women and girls from Colombia, the Dominican Republic, and mainly from Venezuela with offers of employment, many via social media, and subject them to sex trafficking in brothels and clubs. Migrants from the Caribbean region and from Asia, in particular those lacking legal status, are at risk for forced labour in domestic service and the retail sector. Corruption in police and immigration has been associated with facilitating commercial and sex trafficking.¹³The high demand for commercial sex and prostitution services makes trafficking a lucrative business.
16. The ongoing humanitarian crisis in neighbouring Venezuela has contributed to an influx of refugees and migrants who are at high risk for trafficking. Recent research by Dr. Pierre commissioned by CARICOM (unpublished) shows that most trafficking victims are female between the ages of 15 and 24 most suffering from sexual exploitation and who have experienced physical or sexual violence during the trafficking life cycle. Around half of victims know their traffickers and over a quarter identified a law enforcement official complicit in their trafficking.
17. Critical hubs in Venezuela and Trinidad and Tobago are used to facilitate each stage of the trafficking process.¹⁴ According to Dr. Pierre's report, a staggering 43 percent of

¹¹ Lee, Carisa "TTPS Launches Gender - Based Violence Unit" *Trinidad & Tobago Guardian*, January 21st 2020, [TTPS launches Gender-Based Violence Unit - Trinidad Guardian](#)

¹²US Department of State, "2020 Trafficking in Persons Report: Trinidad and Tobago," Office to Monitor and Combat Trafficking in Persons <https://www.state.gov/reports/2020-trafficking-in-persons-report/trinidad-and-tobago/>.

¹³ Ibid

¹⁴ Venezuela Investigative Unit, "Venezuela's Other Plight: Sex Trafficking in Trinidad and Tobago", *InSight Crime*, February 11th 2021, <https://insightcrime.org/news/venezuela-other-plight-sex-trafficking-trinidad-and-tobago/>



those trafficked from Venezuela to Trinidad and Tobago travel from Sucre state.¹⁵ Traffickers in the state often focus on recruiting teenage girls along the coast, in cities such as Cumaná and Carúpano, according to Caracas Chronicles, citing an anonymous source in charge of falsifying passports for those trying to illegally leave the nation.¹⁶ Despite borders being closed as a result of the coronavirus pandemic, the Organization of American States (OAS) reported the outflow of Venezuelans to Trinidad and Tobago had continued through irregular, and often life-threatening, means.¹⁷ Migrants illegally traveling to the nation on a voluntary basis have been known to fall into the hands of human trafficking rings while at sea.

18. Whilst the data in the TIP Report is skewed more to regional brackets, in Trinidad and Tobago Human Trafficking is a crime punishable by law under Act. No. 14 of 2011, also known as the Trafficking in Persons Act, 2011 and there have been several efforts to improve the investigation and prosecution of sex traffickers within the jurisdiction. According to the TIP Report, efforts included screening and identifying more victims, investigating traffickers, including three potentially complicit officials, prosecuting eight suspected traffickers, and increasing anti-trafficking training for its officials. However, the Government did not meet the minimum standards in several key areas and has yet to secure a conviction under its 2011 anti-trafficking law, funding for victim assistance was reduced, and the laws did not provide immigration relief for victims or allow educational opportunities for vulnerable refugee children.
19. One of the major issues facing migrant victims is that they are not properly identified, screened and protected by the authorities. Instead, they are penalised for the crimes the traffickers compel them to commit resulting in increased trauma. Further, cases take very long to be investigated, and victims often request to be repatriated before the process is completed.
20. According to the TIP Report, the Government initiated two prosecutions and charged eight suspected traffickers in 2019, compared with four in 2018 and two in 2017. The Government reported no convictions for trafficking during the reporting period and had not yet convicted a trafficker under its 2011 anti-trafficking law, due in part to a dramatic court backlog, causing cases to take several years to make their way through the system. However, the Government passed several laws to reform the justice system's lengthy delays in criminal trials, evidence collection issues, and insufficient judiciary personnel. The gap here is the failure to effectively prosecute and convict persons of human trafficking.

¹⁵ Guardian Media "4,000 Venezuelan women trafficked in the last 4 years", *Trinidad & Tobago Guardian*, June 20th, 2020 <https://www.guardian.co.tt/news/4000-venezuelan-women-trafficked-in-last-4-years-6.2.1140713.bf2d79d829>

¹⁶ Venezuela Investigative Unit, "Venezuela's Other Plight: Sex Trafficking in Trinidad and Tobago", *InSight Crime*, February 11th 2021, <https://insightcrime.org/news/venezuela-other-plight-sex-trafficking-trinidad-and-tobago/>

¹⁷ UNHCR "UNHCR Trinidad & Tobago Fact Sheet, December 2020", *Relief Web*, January 20th 2021, <https://reliefweb.int/report/trinidad-and-tobago/unhcr-trinidad-tobago-fact-sheet-december-2020>



21. The TIP Report states that the Government identified 34 trafficking victims, an increase from 14 victims identified in 2018, 14 in 2017, and 13 in 2016. There were 33 adult and minor Venezuelan females identified as victims of sex trafficking and one male from India identified as a labour trafficking victim out of 180 vulnerable individuals law enforcement officials screened. A separate group of 46 female potential trafficking victims released from a group of suspected traffickers reported by the media were also screened for trafficking. One major gap identified was that NGOs stated that they had not received any assistance or case follow-ups after identifying and referring additional victims to the Counter Trafficking Unit (CTU). Outside experts noted there was insufficient Government funding and personnel for comprehensive victim care. Another gap identified was the failure of social skills and sensitivity involved in victim identification by authorities. Some observers indicated that following police actions or immigration raids, authorities detained some foreign victims for violating immigration laws without screening for trafficking indicators or victim care - even though those unlawful acts occurred as part of the trafficking crime and traffickers may have compelled victims to commit them.
22. Furthermore, the TIP Report noted that while the Government indicated victims were allowed to work and stay in the country, in practice a majority were not allowed to work because of safety concerns. The Government did not provide immigration relief to victims. Although the Government agreed that an international body could conduct refugee status determinations, there was no impact on a trafficking victim's legal status in the country and refugee children could not access public education, rendering them more vulnerable to trafficking. Language interpretation services were not always available for counselling sessions and police interviews; experts reported shelters did not have bilingual staff or volunteers. In addition, some Government officials noted a shortage of interpreters available to assist with foreign victim care and testimony. The issue of police corruption and involvement in sex trafficking rings also prevent many victims from feeling comfortable to report their issues to the relevant authorities.¹⁸
23. To ensure the full protection of the vulnerable migrant community in Trinidad and Tobago against human trafficking and sexual exploitation, the following are recommendations that ought to be implemented:
 - i. Increase attention, focus and resources on trauma-informed training and trafficking indicators on trafficking for NGO, shelter, social services, and law enforcement staff to improve their ability to identify and care for potential trafficking victims and GBV victims;
 - ii. Include civil society representation on the anti-trafficking task force;
 - iii. Train and engage the private sector to identify trafficking and also to co create solutions;

¹⁸ Bassant, Mark "Griffith: Cops involved in human trafficking under watch" *Trinidad & Tobago Guardian*, January 31st 2021, <https://www.guardian.co.tt/news/griffith-cops-involved-in-human-trafficking-under-watch-6.2.1282621.521e7c4554#.YBbr7sFxeo.whatsapp>



- iv. Increase support in the provision of victim care services in conjunction with NGOs, which included accommodation, counselling, legal aid, consular services, medical and psychological services, assistance in their native language, reintegration for domestic victims and relocation for foreign victims, and in some cases skill and English language training;
- v. Focus efforts on prevention of trafficking and the identification and prosecution of complicit law enforcement and immigration officers;
- vi. Focus efforts on the prevention of GBV, and to reduce demand for prostitution services via gender transformative approaches and stringent penalties for abusers;
- vii. Ensure access to mental health and wellbeing support tailored for men but also accessible to all persons;
- viii. Ensure synergy between refugee protection and human trafficking actors to respond to and address overlapping protection needs; and
- ix. Develop and implement a national action plan concerning human trafficking, migrant smuggling and sexual exploitation.

C. Promoting the Right to Education and Encouraging Access to Formal Institutions of Learning

24. Persons wishing to access formal education in Trinidad and Tobago must have a student permit,¹⁹ most asylum-seekers and refugees do not qualify under the Immigration Act to access a student's permit. Although under the Constitution of Trinidad and Tobago²⁰ all children regardless of nationality have the right to an education, the clear legislative provisions under the Immigration Act prevents persons from being allowed to enter formal educational establishments. As a result, there are thousands of migrant children without access to formal education. This includes children whose parents registered in the 2019 Venezuelan migrant registration process.

25. The COVID - 19 lockdown measures made the learning environment in Trinidad and Tobago even more difficult, all learning spaces were closed as of mid-March 2020. The Ministry of Education (MoE) struggled to implement adequate and coherent policies, procedures and tools to meet the learning needs of students at this time. The MoE platform was also inadequate with meeting Information and Communications

¹⁹ Immigration Regulations Section 9, (6) (a) Where a person seeking to enter Trinidad and Tobago falls within the category described in section 9(1)(g) of the Act, the immigration officer shall not allow such person to enter Trinidad and Tobago for the purpose of entering any educational or training establishment in Trinidad and Tobago unless that person is in possession of a valid student's permit in the form set out as Form 43. The holder of a student's permit shall comply with the terms and conditions specified in such permit.

²⁰ Section 4, It is hereby recognised and declared that in Trinidad and Tobago there have existed and shall continue to exist, without discrimination by reason of race, origin, colour, religion or sex, the following fundamental human rights and freedoms, namely: (f) the right of a parent or guardian to provide a school of his own choice for the education of his child or ward;



Technology (ICT) needs, MoE estimated that 60,000 students may not have devices and engaged the support of the private sector to provide these.²¹ Migrant children registered under the humanitarian alternative, Equal Place (EP), faced virtual attendance constraints due to the digital divide, similar to local children.

26. Migrant children without access to educational opportunities may fall victim to criminal activity such as gangs, sex work, human trafficking, labour exploitation and narco-trafficking. The population especially remains at increased risk of sexual and labour exploitation. Due to significant challenges with accessing work opportunities and meeting basic needs, many children are increasingly being employed in the labour market.

27. The following are recommendations to ensure meaningful access to education for migrant children:

- i. Amend all education and/or immigration policies and legislation restricting access to education to foreign nationals to permit children of asylum - seekers and refugees to have uninhibited access to formal education, including Venezuelans who registered in 2019;
- ii. Utilise already existing humanitarian permits under the Immigration Act such as the Minister's Permit²² to grant children the right to study in the absence of legislative amendments;
- iii. Ensure adequate training for teachers and administrators in the local school system;
- iv. Ensure that psychosocial support and guidance is available to children in schools including programmes for early childhood development; and
- v. Expand formal education to develop, fund and include ICT solutions to education that can be utilised by refugee children where spaces may be unavailable in public schools, particularly for those of secondary age, to circumvent issues such as spaces in schools and/or resources.

Section 3. Conclusion

²¹ Parsanlal, Nneka "MOE: Almost 60k students can't access online learning", *Loop TT*, April 14th 2020, <https://www.looptt.com/content/moe-almost-60k-students-cant-access-online-learning>

²² Immigration Act, Chapter 18:01, Section 10:

(1) The Minister may issue a written permit authorising any person to enter Trinidad and Tobago or, being in Trinidad and Tobago, to remain therein.

(4) The Minister may attach to the entry or remaining in Trinidad and Tobago of such persons such terms and conditions as he may think fit, and if any person to whom a permit has been granted under subsection (3), contravenes any such term or condition, the Minister may cancel such permit.



28. We submit these recommendations and continue working to support the Government with its efforts to combat these issues.

Submitted by:

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Ministry for Migrants and Refugees
25th March 2021