

Civil Society Submission to the UN Universal Periodic Review

**41st Session of the UPR Working Group
November 2022**

Submission by the World Council of Churches (WCC) and the United Protestant Church of Curaçao

The Netherlands – Curaçao

The right to protection from racial discrimination, and the rights of migrants

Introduction

Curaçao is an island country in the Caribbean and is a constituent country of the Kingdom of the Netherlands. Its population is approximately 160,000, consisting of people of Amerindian and European descent, as well as people of African descent who came to the island as slaves. Large part of the population consists of people that at one time in history migrated to the island during the last 100 years. These immigrants were Syrians, East-European Jews, (East) Indians, Chinese, Venezuelans, Portuguese (mainly from Madeira), Surinamese, and natives of the English-speaking Caribbean (the British West Indies and the Dutch Windward Islands).

Relevant recommendations from the 2017 UPR of the Netherlands

During the last UPR of the Kingdom of Netherlands in 2017, 19 recommendations were made relating to discrimination relating to racism, xenophobia and intolerance, stereotypes, hate speech targeting Muslims migrants, Jews, refugees and asylum seekers, minority groups as well as those of Africa descent.

Concerning Curaçao, Greece recommended the extension to Curaçao of the ratification of Convention to Protect all Persons from Enforced Disappearance and accession to the 1951 Convention on the Status of Refugees, and its 1976 protocol. (131.25)

Legal Framework and policies

The Charter for the Kingdom of the Netherlands provides that each of the four constituent countries of the Kingdom of the Netherlands (Aruba, Curaçao, Sint Maarten and the Netherlands) have the responsibility to promote the realisation of human rights. However, the safeguarding of these rights is the responsibility of the Kingdom of the Netherlands.

The Kingdom of the Netherlands, including Curaçao, has ratified eight of the nine main human rights treaties. It has not yet ratified the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families. The legal framework governing the immigration policy of Curaçao is set out in the National Ordinance Admission and Removal (Landsverordening Toelating en

Uitzetting (LTU), zoals laatst gewijzigd in A.B. 2010, nr. 5).¹

There is no anti-discrimination law in Curaçao, but the Constitution (Staatsregeling) of Curaçao enshrines respect for human rights as well as unobstructed access to the courts and to the Ombudsman for redress in cases of discrimination by the government. The Ombudsman has drawn up detailed standards of good governance which makes deviations from those standards, including discrimination, easy to identify. No allegations of racial discrimination have been mentioned in the annual reports of the Ombudsman over the past five years.

Curaçao's Constitution, introduced on 10 October 2010 states that all persons in Curaçao will be treated equally in equal circumstances. Discrimination on the basis of race and certain other grounds is not tolerated.

The Government of Curacao has approved the establishment of a Human Rights Institute in accordance with the Paris Principles.

The '80-20' legislation, initiated by the parliament of Curaçao, was aimed at ensuring sufficient jobs for locals, by proposing that all companies must ensure that 80% of employees were born locally. However, following concerns that this would be discriminatory to immigrants and contrary to the European Convention on Human Rights and the Charter of the Dutch Kingdom, it has not been adopted into law.

The Criminal Code of Curaçao (November 15th 2011) provides for criminal jurisdiction over all persons (including foreign nationals) residing permanently in Curaçao who commit acts of a racist or xenophobic nature through computer systems or electronic networks. It is a criminal offence to give intentional public expression to views insulting to a group of persons on account of their religion, belief, political views, race, colour, language, national or social origin, physical, psychological or intellectual disability, sex, sexual orientation or minority status.

Migration to Curaçao

Information from the Central Bureau of Statistics² of Curacao show that many 'new' immigrants from the region are not highly educated and have a low level of educational participation, high labour participation, a high unemployment rate, a high percentage in work and a low income. Migrants from Europe and North America compared to the other groups scored much better in these areas. A needs assessment carried out by the International Organisation for Migration (IOM) in 2021³ identified the need for a baseline study with regard to migration in Curaçao to inform the development of a migration policy and strategy in line with the Sustainable Development Goals. The Curaçao authorities are now working on a study of migration and integration which focuses on various new immigrant communities (from Colombia, the Dominican Republic, Haiti, Jamaica and Venezuela) on the island. The aim of the study is to get a better picture of how the demands on the island's social services are affected by their presence.

¹ Government of Curaçao, 2010

² <https://senso.cbs.cw/central-bureau-of-statistics-curacao>

³ curacao_1_-_english_4.pdf (iom.int)

The situation of Venezuelan refugees

According to reports from Refugees International⁴, and Amnesty International⁵ up to 17,000 Venezuelans live in Curaçao with irregular migratory status, many of whom having fled the human rights situation in their own country. There is no protection scheme for this population, and a strategy of active removal is carried out through the arrests, detention under inhumane conditions, and deportation of Venezuelans with irregular status, which leads many to hide in fear of the authorities.

Venezuelan refugees have virtually no real opportunities to obtain international protection or other legal ways to remain in the country, hence they are forced into irregularity. Their only economic option is to work in the informal sector, where they are vulnerable to exploitation and have no legal protection or remedies against abusive employers. For women who face abuse at the hands of partners or ex-partners, there is nowhere to turn for protection.

Recommendations

The Government of the Kingdom of the Netherlands - responsible for safeguarding human rights in all countries of the Kingdom, must work with the government of Curaçao to improve the protection of the human rights of refugees and migrants.

In particular, the Government of Curaçao must take measures to ensure that the international protection procedure meets the standards of international human rights law, and is fully resourced and implemented to assist those who seek safety in the country, and no person is deported to a place where they are at risk of serious human rights violations.

Legislation and policy must be adjusted in a line with international human rights standards to allow immediate family reunification for immigrants.

The recommendation made by Greece in the 2017 UPR of the Netherlands remains relevant – that the ratification of Convention to Protect all Persons from Enforced Disappearance (131.25) and the accession to the 1951 Convention on the Status of Refugees, and its 1976 protocol must be extended to Curaçao.

The Kingdom of the Netherlands, including Curaçao, should ratify the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families.

⁴ <https://www.refugeesinternational.org/reports/2019/4/26/un-dispatch-venezuelan-refugees-in-curaao-are-facing-abuse-detention-and-deportation>

⁵ <https://www.amnesty.org/en/latest/news/2021/10/curacao-authorities-continue-deny-protection-people-fleeing-crisis-venezuela>