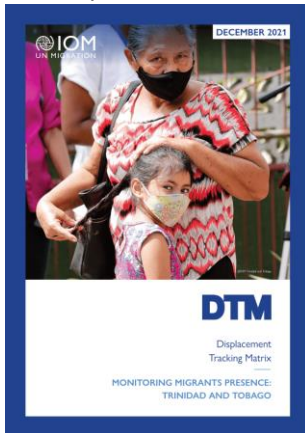


# The Failure of International Protection in Trinidad and Tobago

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On the night of February 5<sup>th</sup>, a pirogue carrying 38 Venezuelan migrants, including several minors was intercepted at sea. This was not the first time that such vessels had been intercepted by the Trinidad and Tobago Coast Guard and pushed back but it was the first time that interdiction at sea resulted in the death of a 9-month-old child and the shooting of his mother.



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Trinidad and Tobago has been consistent in its denial of international protection to migrants fleeing Venezuela to our shores and these efforts have been ramped up since the close of the June 2019 registration process, when the government declared that no other such process to regularise Venezuelan migrants would take place. It also announced the imposition of visas for Venezuelan nationals, a country with which Trinidad and Tobago has had open borders for over 300 years prior.

The failure to protect the rights of asylum seekers and forced migrants was crystallised by the February 5<sup>th</sup> shooting incident in the Gulf of Paria, where according to a statement issued by the Government of Trinidad and Tobago, a pirogue filled with migrants repeatedly rammed into a Coast Guard vessel ignoring several warnings from the latter to desist from such action. The Coast Guard officers acting out of fear for their lives, opened fire. The incredulous claim was upheld by the government of Trinidad and Tobago which stated that the Coast Guard followed protocol and thus, the incident was put to bed within a matter of days with no credible independent investigation being conducted. The case was closed.

## Hostile Border Policies

Countries, particularly those of the global north, have conspired to strip migrants and asylum seekers of their rights and their dignity through an eclectic combination of harsh border and migration policies. These policies take multiple forms, but all have the same outcome, the stigmatization, and the criminalization of migrants. These countries have managed to do this while constantly affirming their commitment to human rights and to upholding their international obligations in matters of international protection.

Trinidad and Tobago has become a zealous and discerning disciple, adopting the questionable practices of wealthier states that have acted in bad faith and without significant consequences when enacting policies that undermine the right to protection of migrants and refugees. In fact, the Prime Minister and the Minister of National Security have cited on multiple occasions the policies of the United Kingdom, Canada, the United States, Australia, and the European Union as justification for their own treatment of Venezuelan migrants and the policies and practices that have been adopted so far which provide inadequate protection.

In an effort to keep Venezuelan migrants out during the covid-19 pandemic, Trinidad and Tobago instituted strictly enforced border closures and labelled all migrants including persons seeking international protection undesirable, potential carriers of disease and ordered the immediate detention and deportation of those found in breach of border rules during the pandemic. This

declaration made by the Minister of National Security during a COVID-19 press conference came only 4 months after President Donald Trump instituted Title 42 as a means of controlling the entry of migrants on the US Southern Border.

## **Maritime Securitization**

During this same period, Trinidad and Tobago Coast Guard made significant investment in its border patrol mechanisms including the acquisition of border patrol vessels and weaponry. The Coast Guard has since become adept at carrying out interdictions at sea and has demonstrated its willingness to use force in order to prevent migrants from entering domestic waters. This constitutes an act of *refoulement* which is prohibited under international law. However countries like Trinidad and Tobago are not persuaded to act differently despite numerous pleas from human rights practitioners and activists because the precedent has long since been set on this matter since the US Supreme Court Ruling on Sale which still stands to this day and in which the US Supreme Court found that the US Coast Guard were not subject to the principle of *non-refoulement* at a time when their vessels were actively deployed to prevent Haitian migrants at sea from reaching US shores. Many countries including Italy, Australia and Canada have since adopted practices that bear out this ruling in respect of international protection offered to migrants arriving by sea, with Trinidad and Tobago being the latest in a line of countries to do so.

Today, buoyed by the actions of others in the region, migrants arriving in Trinidad and Tobago in search of international protection are detained and subject to expedited removals while systematically being denied legal counsel even when they explicitly request it. This mirrors actions taken by the US Government along its southern border with Mexico and resembles the expedited removal of Haitian nationals from US soil by the US Government in September of last year. This kind of operation is dangerous as it creates legal black holes by placing parts of the national territory beyond the reach of constitutional, regional, and international law, thereby making it impossible for human rights lawyers and activists to monitor the goings-on at military facilities and detention centres where migrants are held prior to being deported from Trinidad to Venezuela. These deportations typically include women and children who are among the most vulnerable people fleeing political, economic, and social unrest plaguing Venezuela.

Beyond the hemisphere, Trinidad and Tobago as also taken inspiration from European Countries, particularly Sweden, France and Italy which prosecuted their citizens and other European nationals for providing assistance to persons seeking out international protection within their territorial waters or within their land boundaries. Trinidad and Tobago's Minister of National Security did not miss the opportunity to threaten legal action and fines against those persons who were providing assistance or services to "illegal migrants" declaring that all persons assisting Venezuelan nationals would be liable to prosecution for harbouring and assisting any such person. This resulted in numerous migrants being evicted from their places of residence as landlords feared prosecution compounding the high rates of unemployment among this population as a result of strictly enforced COVID-19 public health regulations.

## **Politicians, Media and the Amplification of Xenophobic Sentiment**

Taking a page straight out of the nationalist political movements of Europe and North America, local politicians have adopted positions in public discourse that alienate, vilify, and problematize migrants and those seeking asylum in Trinidad and Tobago making it acceptable for migrants to be blamed for problems that long pre-dated their arrival but which their presence made more perceptible. Their discourse was reinforced by media's superficial and at times ill-informed coverage of migrant issues

which in and of itself contributed to the perpetuation of stereotypes and misinformation about the migrant population in Trinidad and Tobago. This in turn provided government with the opportunity to diminish the narratives of those seeking protection, discrediting their accounts and by extension delegitimizing their need for international protection in the eyes of the public.

This has contributed in no small way to public support of justifications put forward in favour of denying education to migrant children, although the birth rate in Trinidad and Tobago has been in steady decline for at least two decades which means that there are not enough children currently being born to fill the benches of our nation's primary schools.

It has also reinforced the public's perception of Venezuelan migrants as a national security threat for Trinidad and Tobago, providing us with an excuse to ignore longstanding structural and internal issues that have given rise to insecurity while placing the blame at the feet of migrants and the hypothetical problems that could arise from their presence here.

## **Conclusion**

The adoption of these border control tactics may cater to the short-term interests of those holding political power, but they can have detrimental long term effects for the development of small, insular, countries like Trinidad and Tobago in a world where shifting borders and increasingly mobile populations will become the norm and where having defended the restriction of human rights access and international protection, we may find ourselves in situations where our nationals may not be afforded protections on the very same grounds used to deny them to Venezuelans and alas we will have no legs to stand on.

The denial of due process to those seeking international protection and abnegation of states to perform their duties and adhere to prescribed responsibilities as outlined in treaties, multilateral, or domestic instruments is contrary to the spirit, the principles, and the solidarity upon which the human rights movement is based.

The lack of strategic litigation on these matters in Trinidad and Tobago means that these practices will become entrenched and remain unchallenged before the courts cementing them into legitimate state actions in defence of borders. Local civil society and diaspora organisations should be supported to bring cases before the domestic courts and once the domestic avenues have been exhausted to challenge these practices in regional courts so that we can have the emergence policy borne out of juridically sound foundations which holds the state accountable for its actions and guarantees the rights of all.

**30 March 2022**