

INVISIBLE MOVEMENTS: RECOMMENDATIONS FOR FACILITATING THE CROSS-BORDER MIGRATION OF INDIGENOUS PEOPLES IN THE CARIBBEAN

Case Studies: Belize | Suriname | Trinidad and Tobago



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FOREWORD

The International Organization for Migration (IOM) operates under the principle that orderly and humane migration contributes to the economic and social development of States and migrants. As the leading organization addressing migration around the world, IOM seeks to ensure that migration occurs in a context of respect to the human dignity and well-being of all.

Migration is a complex process that poses challenges to all stakeholders. However, persons and groups in vulnerable situations often face unique obstacles associated with their own identities or origins, the way they are perceived by society, and how they are represented in legal systems.

This is the case for many indigenous peoples who have been historically marginalized and persecuted. They are often geographically isolated and have few opportunities for political and social participation in the societies where they reside. As a result, they experience structural barriers in accessing proper health care, education, and labour, which are often exacerbated by discrimination and a lack of recognition, cultural understanding and sensitivity. Moreover, having mobilized centuries across ancestral territories, their current needs and rights while moving across borders demands special attention.

In the context of international migration, the needs of indigenous peoples are often connected to the geographical distribution of the lands they inhabit. Many indigenous reservations and territories in the Americas, including the Caribbean, are located in regions that have been divided by the international borders of present-day States. For indigenous groups, this means that free movement within their ancestral lands is subject to the regulations that States have in place to manage their borders, and that they frequently must engage in cross-border migration to access basic services or live their lives as fully integrated communities.

In recent times, however, indigenous peoples' rights have regained attention in the international landscape, prompting States to re-evaluate their legislation and policies for their inclusion and protection. As part of these efforts, this document sheds light on legislation and policies that impact the cross-border mobility of indigenous persons in the Caribbean while incorporating actionable recommendations based on human rights principles. These recommendations aim to all relevant stakeholders who work on the development of inclusive migration normative, evidencing how including considerations on indigenous groups in the context of cross-border migration contributes to achieving the objectives of the 2030 Agenda for Sustainable Development, the Global Compact for Safe Orderly and Regular Migration, and the commitment to leave no one behind.

To this end, we are thankful for the investment made by the U.S. Department of State Bureau of Population, Refugees, and Migration that allowed IOM to undertake a regional study in different Caribbean States. Through this perspective, we are helping building baseline knowledge and recommendations to facilitate the implementation of inclusive migration policies that benefit States and civil society alike.

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INTRODUCTION

The number of people who migrate across international borders continues to increase. In 2020, there were approximately 281 million international migrants in the world, representing 3.7 per cent of the global population (IOM, 2022). The experiences of international migrants vary depending on different circumstances; push and pull factors intersect with personal characteristics such as gender, race, nationality, age, and socioeconomic status, impacting migrants in their countries of origin, transit and destination. As a result, migrants who belong to historically marginalized groups are often at risk of discrimination, stigmatization, violence or difficulty accessing assistance when mobilizing across country borders, especially when they have an irregular immigration status.

Indigenous populations in the Americas are an example of a group that has faced important obstacles to their humane and orderly migration. As a consequence of long historical processes of colonization, decolonization and the creation of new independent States, many of the territories where indigenous people live are located across the bordering regions of more than one country. Given their ancestral connections with these lands, free movement is crucial for their self-identification as indigenous peoples, their self-determination, and their cultural survival as distinct peoples across the world. However, the needs of indigenous peoples have not always been carefully considered in regional and national migration frameworks, limiting their free movement through ancestral and customary territories, and threatening the sustainability of their livelihoods, their lifestyles and their family unities.

In the Caribbean, for example, countries where indigenous populations are present have specific government bodies for their protection. Nevertheless, in most cases, indigenous peoples are not legally recognized by States as autonomous communities with specific rights, particularly affecting their access to labour, education, and healthcare. Cross-border indigenous migrants and communities are negatively impacted by this situation as it places them in positions of social and economic disadvantage, and it often makes them a target of discrimination. (IOM, 2008). Such discrimination and the lack of recognition of their rights and ways of life runs counter to the principles outlined in the Universal Declaration of Human Rights and the United Nations Declaration on the Rights of Indigenous Peoples, two key instruments for the protection of human rights and, more specifically, indigenous peoples' rights.

This study focuses on the policies and legislation affecting the cross-border mobility and migration of indigenous peoples in the Caribbean. Using a human rights approach based on principles enshrined in regional and international instruments, it analyses specific case studies in different countries to provide examples of good practices, limitations and opportunities for improvement. The primary purpose of the document is to provide actionable recommendations that governments, civil society and human rights organizations can use to minimize risks and guarantee the safety of indigenous populations as they mobilize throughout their ancestral territories and country borders alike.

METHODOLOGY

This section includes information about the methodological design of this research study. It provides insight on the countries of analysis, the analytical framework and the main challenges and limitations faced during the research process.

COUNTRIES OF ANALYSIS

The geographic scope of the study encompasses the Caribbean region and zooms into specific case studies in Belize, Suriname, and Trinidad and Tobago (see map 1) to comprehend different experiences, good practices and limitations. These countries were selected based on the presence of indigenous populations in their territories and on previous studies that identified indigenous peoples as key populations that often find themselves in situations of vulnerability when mobilizing across international borders (IOM, 2018, 2020, 2022). Another important factor for the selection of these countries was the lack of official data on the migration experiences of indigenous peoples.

Map 1. Selected countries for case studies



Source: ESRI and UN World Map

Note: This map is for illustration purposes only. The boundaries and names shown, and the designations used on this map do not imply official endorsement or acceptance by the International Organization for Migration.

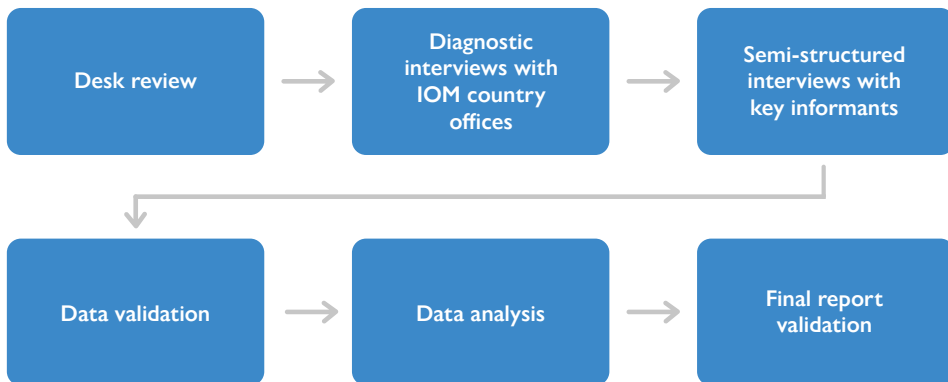
ANALYTICAL CONSIDERATIONS

IOM's 2008 report, *Indigenous Routes: A Framework for Understanding Indigenous Migration*, provides the analytical lens for understanding modern cross-border migration patterns of indigenous peoples. This highlights the need to collect disaggregated data on indigenous peoples to help inform government policies and develop effective schemes that promote humane and orderly migration. Following this framework, this document aligns with the 2030 Agenda for Sustainable Development, specifically with target 10.7 of the Sustainable Development Goals, which seeks “to facilitate orderly, safe, and responsible migration and mobility of people, including through the implementation of planned and well-managed migration policies”; the Global Compact for Safe, Orderly and Regular Migration (GCM); the New York Declaration for Refugees and Migrant, and the Los Angeles Declaration on Migration and Protection.

RESEARCH PROCESS

The study relies mainly on qualitative data obtained from secondary and primary sources between April and September 2022. Secondary sources include the revision of different official government documents from the countries in question, previous research studies, and journalistic articles. Primary sources include in-depth and semi-structured interviews with 26 key stakeholders. Figure 1 includes a summary of the research process.

Figure 1. Stages of the research process



Source: Author's elaboration

Desk review

This consisted of an analysis of legislation and policies that affect the mobility of indigenous peoples, such as laws, government policies and strategic plans, and of an assessment of whether this population is integrated or considered in these documents. It also included internal and external data (e.g. IOM studies and reports, academic papers, news articles, and studies compiled by international and regional organizations) to comprehend the experiences of these populations when mobilizing, as well as international guidelines and good practices to ensure the protection of their rights. All collected data were stored in a matrix and organized into seven variables that help explain the migration needs of indigenous peoples. These variables are:

- Citizenship and birth registration
- Travel documentation
- Education
- Labour
- Healthcare
- Violence against women and girls
- Language barriers

Diagnostic interviews

The research team had discussions with staff from IOM country offices to contextualize and understand sensitive aspects of the topic of study, identify information gaps, and map out the best approach when reaching out to organizations and government agencies.

Semi-structured interviews

Twenty-six interviews were conducted with government officials, NGO's and international organizations to understand how government legislation and policies affect the mobility of indigenous peoples in the countries of analysis. Interview questions derived from the key variables and themes identified by researchers. Personal information of the respondents was anonymized following data protection principles. Interviewees were identified through a stakeholder mapping validated by IOM country offices to ensure that research participants were the most relevant to the purpose of the study.

Data validation

Interview notes were presented to respondents, providing them with the opportunity to review or edit the information they previously provided and give feedback on the interim research findings. This validation process improved the accuracy and reliability of the study.

Data analysis

All information was systematized into a matrix that included selected variables per country of analysis, limitations, best practices, and recommendations related to national legislation and policies that influence the mobility of indigenous peoples.

Final report validation

After completing the systematization and analysis of the data, the first draft of the research report was sent out for validation of IOM's thematic specialists, and their feedback was included accordingly in the final report.

LIMITATIONS OF THE STUDY

The collection of primary data was completed during the COVID-19 pandemic, which made it more difficult to access stakeholders in countries with stricter regulations. Additionally, as a result of logistical constraints a tropical storm during field visits, several interviews had to be carried out remotely.

Limited internet access in areas where indigenous peoples live, language barriers, and the difficulty to conduct field work in indigenous communities presented several challenges to reach the target population and collect more primary data. Additional research that includes the perspectives of the migration experiences of indigenous peoples related to legislation and policies is recommended to better understand their cross-border migration in the region.

Data on indigenous peoples in the Caribbean region is very scarce, and most available literature for Latin America and the Caribbean focuses on Latin American countries while including little information on Caribbean countries.

1. IMPLICATIONS FOR THE MOBILITY OF INDIGENOUS PEOPLES IN THE CARIBBEAN

GENERAL CONTEXT

Coming from Central and South America, indigenous peoples were the first settlers of the Caribbean region. Recent studies have shown that indigenous peoples of Wayana in Suriname, French Guiana and Brazil have inhabited their territories for more than 4000 years (WRM, 2019). The establishment of European colonies, as well their subsequent decolonization to become independent States, created arbitrary borders that divided previously unified indigenous lands. This separation has often forced various indigenous groups to abide by the administrative rules of more than one single country and between country borders.

Belize, Guyana and Suriname are home to some of the largest surviving populations of indigenous peoples in the Caribbean. These countries share comparable contexts of small national populations and low population density per square kilometre in the hinterlands (Bulkan, 2019). Trinidad and Tobago, on the other hand, is the oldest settled island of the Caribbean region, and it is marked by a small number of indigenous peoples (Boomert, 2016). Other Caribbean countries still inhabited by indigenous groups include Cuba, Dominica, Dominican Republic, Grenada, Jamaica, Puerto Rico and St. Vincent and the Grenadines.

There are approximately 477 million indigenous peoples across the world, making up just 6 per cent of the global population (ILO, 2019), and around 19 per cent are living in extremely poor conditions (World Bank, 2022). The Latin America and Caribbean region consist of 826 different indigenous groups, estimated between 42 and 50 million people (ECLAC, 2013), and account for 11.5 per cent of the global indigenous population (ILO, 2020). Although the number of indigenous peoples globally decreased in comparison to pre-colonial times, in recent years, the population has grown significantly. According to estimates from the 2012 Census of Guyana, for example, there were approximately 78,500 indigenous peoples in the country, which was close to double the estimates of the 1980 Census (Minority Rights Group International, 2018). Approximately 17.4 per cent of the Belizean population are indigenous peoples (Government of Belize, 2010), followed by 10.5 per cent in Guyana (Government of Guyana, 2012), 3.8 per cent in Suriname (Government of Suriname, 2012), and 0.1 per cent in Trinidad and Tobago (Government of Trinidad and Tobago, 2011). The Kalinago peoples account for 3.7 per cent of the total population of Dominica (Government of Dominica, 2011) and they represent 3 per cent of the total population in St. Vincent and the Grenadines (Government of St. Vincent and the Grenades, 2011); a 15.9 per cent decline since 2001. Table 1 summarizes the data on indigenous populations for the three countries for which case studies will be presented on this study.

Table 1. Total indigenous population in Belize, Suriname, and Trinidad and Tobago according to most recent censuses

Country	Belize	Suriname	Trinidad and Tobago
Total population	393 248	586 634	1 322 546
Total indigenous population	68 425	22 292	1 394
Total as a percentage of the population	17.4	3.8	0.1
Main indigenous groups	Maya (Q'eqchi', Mopan, Yucatec), Garifuna	Lokono (Arawaks), Kaliña (Carib), Trio (Tiriyo, Tareno) Wayana ¹	Caribs (Santa Rosa First Peoples Community); Warao

Source: Authors' compilation with data from Government of Belize Census, 2010, Government of Suriname Census, 2012, Government of Trinidad and Tobago Census 2011.

There are different ethnic groups in all indigenous populations, and as discussed before, they often inhabit territories spanning across the borders of more than one country. Maps 2, 3 and 4 show the largest indigenous groups in Belize, Suriname and Trinidad and Tobago respectively as well their approximate geographical distribution and bordering countries of their communities.

¹ Other smaller indigenous groups in Suriname include: the Akurio, Warao, Wai-Wai, Katuena, Tunayana, Mawayana, Pireuyana, Sikiiyana, Okomoyana, Alamayana, Maraso, Sirewu, Sakëta and Apalai people (VIDS, 2020).

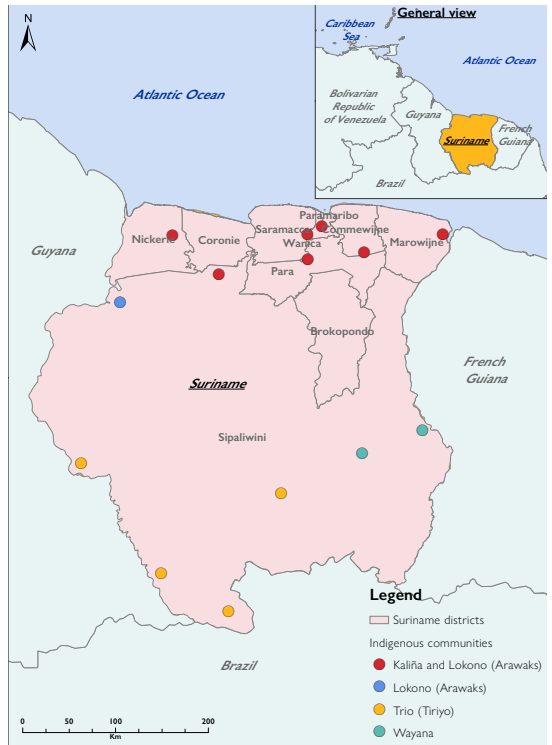
Map 2. Main indigenous groups in Belize²



Source: Minority Rights Group International, 2017; Mundo Maya Belice, 2019.

Note: This map is for illustration purposes only. The boundaries and names shown, and the designations used on this map do not imply official endorsement or acceptance by the International Organization for Migration.

Map 3. Main indigenous groups of Suriname



Source: Kambel, 2006.

Note: This map is for illustration purposes only. The boundaries and names shown, and the designations used on this map do not imply official endorsement or acceptance by the International Organization for Migration.

² Yucatec peoples reside primarily in the Corozal, Orange Walk, and Cayo Districts. Mopán Maya peoples reside primarily in San Antonio Village of Toledo District and villages of the Cayo District. Q'eqchi reside primarily in villages of the Toledo District. Garifuna communities reside primarily in coastal villages although some also live in towns and villages with the Creole population (Minority Rights Group International, 2017).

Map 4. Main indigenous groups of Trinidad and Tobago³



Source: ESRI and UN World Map

Note: This map is for illustration purposes only. The boundaries and names shown and the designations used on this map do not imply official endorsement or acceptance by the International Organization for Migration.

CROSS-BORDER INDIGENOUS MIGRATION

Most indigenous peoples mobilize between countries motivated by different push factors, such as dispossession of land, natural resource degradation, conflict and violence, greater access and affordability to services (e.g. education, healthcare, education, communication, electricity), economic opportunities, family ties, and cultural and spatial proximity. This phenomenon is referred to as cross-border indigenous migration (IOM, 2008).

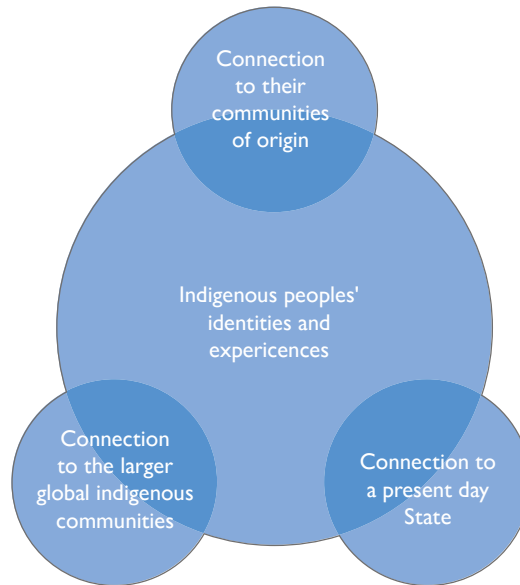
Cross-border indigenous migration is considered international migration even though indigenous communities have not mobilized outside their own ancestral territories.

The identities and experiences of indigenous peoples and individuals are often connected by at least three different systems of identification or belonging (see Figure 2): the community system, the country or State system, and the larger global system of collective experiences shared by indigenous communities around the world (IOM, 2008). Their ability to navigate all these systems at the same time remains critical to the survival of indigenous populations as distinct communities.

³ In addition to Santa Rosa First Peoples, Warao peoples who inhabit lands mostly in the Bolivarian Republic of Venezuela have been migrating and settling in Trinidad and Tobago during recent years.

The primary system of indigenous peoples is linked to their community and land. Indigeneity – the legitimate recognition of a person’s origins and belonging to an indigenous ethnic group – is thus defined through self-identification and mutual recognition by other community members. As mentioned in the previous section, indigenous communities in the Caribbean include the Lokono, Garifuna, Kalinago, Maya, and the Wayana peoples. Approximately 10,000 Lokono peoples still inhabit Barbados, Guyana, French Guiana, Suriname, Trinidad and Tobago, and the coastal areas of northern Venezuela (Taylor, 2013). For Lokono peoples inhabiting neighbouring countries such as Guyana and Suriname, having the capability to move freely between bordering communities is vital for the survival and self-identification.

Figure 2. Systems of connection of indigenous communities



Source: Author's elaboration

The second system is linked to a country and its society, normally established by citizenship. In this regard, citizenship is among the most significant human rights because it allows individuals to benefit from diplomatic protection and assistance of a State (OHCHR, n.d.). Although Caribbean countries have different policies within their legislations to grant citizenship, some indigenous peoples struggle to complete the requirements to obtain citizenship in their countries of origin due to inequitable policies, lack of access to birth registration systems, lack of transportation or language barriers. This, in turn, makes it difficult for them to access other documents such as proof of legal identity and travel documents, which are needed to mobilize across international borders. A study of UNICEF in Latin America and Caribbean (2016) found that, although levels of birth registration in the region have significantly increased since the year 2000, the registration process in a number of countries still lacks sensitivity to indigenous people’s cultures and traditions, including their cross-border movements. According to the study, in Guyana and Suriname, more than half of mothers lack knowledge of how to register a child’s birth. In Belize, and Trinidad and Tobago this rate is much lower with less than 10 per cent (ibid). Although not specified in the study, it is likely that these statistics also pertain to indigenous mothers.

The last system connects indigenous people to the largest international community. Prime examples of the recognition of this international community are the UN Declaration on the Rights of Indigenous Peoples and global conferences such as the 2021 World Summit of Indigenous Peoples and Nature in Marseille, which invited various indigenous groups around the world to be part of the conversation, including the Wayana community of Brazil, French Guiana and Suriname.

CURRENT THREATS TO THE LIVELIHOODS AND LAND RIGHTS OF INDIGENOUS PEOPLES

It is estimated that indigenous peoples and local communities own, manage, use or occupy approximately 25 per cent of the planet's land area (UNEP, 2020). Even though the direct impacts of human alteration on natural resources tend to be less critical in indigenous-held lands, global climate change and the degradation of agricultural and marine resources are expected to have detrimental effects on indigenous communities and their livelihoods (ibid.). According to United Nations Special Rapporteur on extreme poverty and human rights, Philip Alston, by 2100, many individuals will be forced to choose between starvation and migration as a result of climate change (UNHCR, 2019).

Legal and illegal mining also constitute a significant threat to indigenous lands and are important drivers of migration and conflict (World Bank, 2015). Illegal gold mining is prevalent in Guyana, Suriname, French Guiana, Brazil, and Venezuela. Mercury has also been found along the Lawa river of French Guiana and Suriname, damaging important sources of food for local Wayan indigenous groups who are highly dependent on its waters for sustenance (Lozano et al., 2022). Lack of adequate food resources and food security is an important push factor for migration around the world, and it may push indigenous communities to urban areas or neighbouring countries. The inability of the State to provide indigenous peoples with proper access to food and adequate living standards goes against the Universal Declaration of Human Rights, and the International Covenant on Economic, Social and Cultural Rights.

There are other challenges to safe border-crossing of indigenous peoples and their access to basic services. For example, language barriers hinder their access to information and to public health and social protection services; this is especially true during crises since some authorities do not always take historical, cultural, and linguistic elements into account when providing protection and assistance to these populations. Indigenous peoples in the Caribbean also suffer discrimination and exclusion, resulting in greater vulnerability. An IOM-ECLAC study found that in Dominica, due to the impact of Hurricane Maria, around 90 percent of the indigenous Kalinago population were displaced, and many of the affected families migrated to other countries to improve their living conditions and livelihood opportunities (Bleeker et al., 2021). Furthermore, an IOM research study (2021b) found that this population was statistically more likely of having to migrate as a result of natural disasters and that institutional response frameworks often do not include specific considerations to assist and respond to their needs.

RISKS FACED BY INDIGENOUS PEOPLES DURING CROSS-BORDER MOVEMENTS

Between October and November 2021, the Regional Inter-Agency Coordinating Platform for Refugees and Migrants from Venezuela (R4V) held conversations with Venezuelan Warao indigenous communities in Trinidad and Tobago and in Guyana to identify areas that impact their daily lives. The most relevant to cross-border indigenous migration were: (a) differentiated inclusion in regularization processes and obstacles with accessing official documentation and refugee status to comply with immigration requirements; (b) risks linked to the presence of armed actors and organized crime groups, such as human trafficking, exploitation, psychical and sexual abuse, and sometimes even murder; (c) gender-based violence; (d) lack of income-generating alternatives linked to the traditional and cultural practices of the peoples as well as bilingual/trilingual education systems that contribute to the preservation of indigenous peoples; (e) specific risks for special protection groups such as women, children, adolescents, and youth; and (f) xenophobia and discrimination (R4V, 2021).

It is important to consider the intersecting factors that contribute to these situations of vulnerability; evidence shows that indigenous women and girls are disproportionately at risk of experiencing violence while migrating voluntarily or involuntarily across the Caribbean region. A 2017 study on indigenous women and children in Guyana found that, between 2013 and 2015, one in every four victims of human trafficking was an indigenous individual, and most of them were women (UNICEF, 2017). Cases have been found of adolescent indigenous boys and girls involved in voluntary labour migration to Brazil, but who ended up being victims of labour exploitation (ibid).

2. NATIONAL AND INTERNATIONAL REGULATIONS RELEVANT TO THE MOVEMENT OF INDIGENOUS PEOPLES

There are several international and regional agreements in the field of human rights that relate to the rights and movement of indigenous peoples in the Caribbean. Indigenous peoples are protected in three legislative areas: (a) their universal rights, recognized by States or in international declarations; (b) their rights as migrant workers, guaranteed by national, regional, or international laws; and (c) their rights as indigenous individuals guaranteed by national or international law. Tables 3 and 4 present an overview of the international and regional agreements relating to the rights and movement of indigenous peoples in the Caribbean countries where field research was conducted as part of this study.

Table 2. International agreements about migration and human rights pertinent to the research and their ratification in Belize, Suriname and Trinidad and Tobago

International agreements	Ratification per country		
	Belize	Suriname	Trinidad and Tobago
UNHCR – The 1951 Refugee Convention and 1967 Protocol Relating to the Status of Refugees	1990	1978	2000
International Convention on the Elimination of All Forms of Racial Discrimination (1965)	2001	1984	1973
International Covenant on Economic, Social and Cultural Rights (1966)	2015*	1976*	1978*
International Covenant on Civil and Political Rights (1966)	1996*	1976*	1978*
Convention on the Elimination of All Forms of Discrimination against Women (1979)	1990	1993*	1990*
Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (1984)	1986	2021*	Not ratified
Convention on the Rights of the Child (1989)	1990*	1993*	1991*
International Labour Organization Indigenous and Tribal Peoples Convention 169 (1989)	Not ratified	Not ratified	Not ratified
United Nations Convention against Transnational Organized Crime (2000)	2003	2007	2007
Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime (2000)	2003	2007	2007
International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (1990)	2001	Not ratified	Not ratified
UNDRIP – United Nations Declaration on the Rights of Indigenous Peoples (2006)	2007	2007	2007
Convention on the Rights of Persons with Disabilities (2006)	2011*	2017	2015*

* Optional protocol(s) not ratified

Source: Author's elaboration.

Table 3. Regional agreements relating to the rights and movement of indigenous peoples in the Caribbean

Regional agreements	Ratification per country		
	Belize	Suriname	Trinidad and Tobago
The Revised Treaty of Chaguaramas (1973)	2005	2003	2003
American Declaration on the Rights of Indigenous Peoples (2016)	2016	2016	2016

Source: Author's elaboration.

ADHERENCE OF NATIONAL POLICIES AND REGULATIONS TO INTERNATIONAL STANDARDS

Although Belize, Suriname, and Trinidad and Tobago are not State parties to the Indigenous and Tribal Peoples Convention 169 of the International Labour Organization (ILO), they voted in favour of adopting the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP). This global framework is the most comprehensive instrument that defines indigenous peoples' rights in international law and policy and includes minimum standards for the recognition, protection, and promotion of these rights (OHCHR, 2013a). The American Declaration on the Rights of Indigenous Peoples, also adopted by these countries, mentions the right to self-determination, education, health, self-government, culture, lands, territories, and natural resources, and it includes provisions that address the situation of indigenous peoples in the region (OAS, 2016). These human rights frameworks set out to be universally protected and are enshrined in other legally binding international instruments. Specifically, the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights complement the normative content of the UNDRIP. The Committee on Economic, Social and Cultural Rights, for example, has formulated general guidelines on the rights to adequate housing, food, water, and health as they pertain to indigenous peoples (Wiessner, 2009). Along the same lines, the Committee on the Elimination of All Forms of Racial Discrimination proclaimed a general recommendation that delineates the State's responsibility to protect indigenous peoples from discrimination (ibid.).

At the ratification level, Belize, Suriname, and Trinidad and Tobago have not yet established specific legislation to ratify and implement international frameworks for the protection of indigenous peoples and their rights when moving across international borders. Nevertheless, some initiatives have been pursued to address their needs and protect their rights. Table 5 outlines the organizational and legislative frameworks pertaining to indigenous peoples available in the three countries of analysis.

Table 4. Overview of organizational and legislative framework pertaining to indigenous peoples

Country	Belize	Suriname	Trinidad and Tobago
Legislative framework	The Constitution of Belize 1981 (rev. 2011) mentions the need for the State to protect the cultural identity, dignity and social and cultural values of Belizeans, including those of indigenous peoples	Several drafts of the Indigenous and Tribal Peoples Collective Rights Act submitted to the Parliament since October 2019.	No legislative framework touches on indigenous issues
Government body	Ministry of Human Development, Families and Indigenous Peoples' Affairs	Directorate of Sustainable Indigenous Development of the Ministry of Regional Development and Sports	No specific assigned government body
Committee	Toledo Maya Land Rights Commission	No specific committee in existence	First Peoples Development Committee

Source: Compilation prepared by the authors.

3. CONSIDERATIONS AND CASE STUDIES ON THE NEEDS OF INDIGENOUS PEOPLES

Many indigenous communities are adversely impacted by the absence of legislative and administrative procedures that protect their rights and needs since their distinct visions of development, concerns and way of life are often not considered by national or local policy makers or administrators (UN DESA, 2009). However, the international indigenous movement and the increasing number of organizations working with indigenous peoples have been vocal in underlining the challenges faced by indigenous communities. In the Caribbean, these advocacies have prompted States to re-evaluate their government framework for the protection and assistance of indigenous peoples living on indigenous ancestral territories within the borders of these States. As shown in the previous section, Belize, Suriname and Trinidad and Tobago have taken initial steps in this regard. Table 5 summarizes relevant precedents that contextualize the importance of considering the specific needs of indigenous peoples in the Caribbean.

Table 5. Historical steps for the consideration of the rights of indigenous peoples in the Caribbean

Country case	Description of the event
Maya peoples in Belize*	In 2015, the Caribbean Court of Justice (CCJ) took on a judgment that resulted from a long-standing dispute between 25 representatives of the Maya community of the Toledo district in Belize, including the Maya Leaders Alliance, the Toledo Alcaldes Association, Juan Pop, twenty-two representatives of the villages in the Toledo District, and the Government of Belize. The CCJ found that the Government violated "Maya community members' right to protection of the law by failing to ensure that the existing land law system recognized and protected Maya land rights" (ELAW, 2015). On this ground, the CCJ granted land rights to the Maya Peoples and issued a Consent Order to the State "to protect the rights of the appellants and to do so in consultation with the Maya people or their representatives" (Magnusson, 2022), in adherence to the UNDRIP (Art. 19). In response, the government established the Ministry of Indigenous Peoples Affairs and the Maya Land Rights Commission as the body in charge of implementing CCJ's Order. In 2017, it amended the Belize Constitution Act to include indigenous peoples.
Kaliña and Lokono peoples in Suriname**	The Inter-American Court of Human Rights (IACHR) represented the 2015 case of Kaliña and Lokono indigenous peoples against the State of Suriname. The IACHR ruled in favour of the people's request for the right to land. In response, in 2016, the Government of Suriname established the Sustainable Indigenous Development Directorate of the Ministry of Regional Development and Sports to improve indigenous peoples' economic and social position. The Directorate serves as liaison with the traditional authority of indigenous communities in Suriname to identify priority issues in communities to be addressed, including issues related to their cross-border mobility. In addition, a draft law proposal, the Indigenous and Tribal Populations Collective Rights Act, along with a proposal for the revision of the Constitution of Suriname for the recognition of these peoples was submitted by the country's Commission for Legislation to the then Minister of Regional Development in 2019. According to the Sustainable Indigenous Development Directorate, an interdepartmental committee is forthcoming to coordinate and monitor the implementation of the draft legislation and the creation of corresponding policies.
Carib peoples in Trinidad and Tobago***	The Santa Rosa First Peoples Community, that comprises the Carib peoples in the city of Arima, was recognized by the government as the legitimate representative of Trinidad and Tobago's indigenous peoples in 1990 (Government of Trinidad and Tobago, 2017). Since then, the government established several committees to handle indigenous affairs in the country. According to the Chief of the Santa Rosa First Peoples Community, in 2018, they have received 25 acres of land from the Government to rebuild their community under a lease agreement for 30 years.

*Sources: CCJ, 2015, ELAW 2015, Magnusson, M., 2022; and Nurse, M., 2015.

**Sources: IACHR, 2015 and information provided by the Directorate of Sustainable Indigenous Development in Suriname.

***Source: Information provided by the Santa Rosa First Peoples Community.

Despite these positive developments, challenges remain to indigenous peoples resulting from the absence of formal recognition through dedicated legislation and corresponding policies, leaving indigenous peoples vulnerable while moving across international borders. The design of both coordination mechanisms and administrative processes remains essential to the protection of indigenous peoples' rights (Cats-Baril, 2020). The following are specific areas of improvement and needs highlighted by key informants during interviews.

CITIZENSHIP AND PROOF OF LEGAL IDENTITY

Proof of legal identity for cross-border indigenous peoples is often necessary to access specific rights and services provided by States. For example, being able to provide proof of legal identity is in most countries a prerequisite to access to health, education, housing, banking, employment, justice, emergency assistance, and safe travel. Examples of documentation used as proof of legal identity are birth certificates, identity cards, travel documents or digital identity certifications (IOM, 2021a).

For people who move across international borders as part of their regular activities, the lack of access to this documentation often forces them to mobilize irregularly (ibid.). This is the case of many indigenous peoples that cross international borders to visit family members and friends, to work, or to access services (IOM, 2008). One of the main challenges faced by several communities that migrate circularly is the difficulty to obtain proof of citizenship, and even though countries of destination may recognize the membership of cross-border migrants in national indigenous communities, this does not imply that they have the right to citizenship in the respective country (ibid.) Although the UDHR (Art. 15) states that everyone has the right to a nationality, key informants from Suriname and Trinidad and Tobago expressed challenges with obtaining citizenship as explained in the following case study.

CASE STUDY 1. THE CHALLENGES OF ACCESSING CITIZENSHIP

The Trio peoples inhabit lands across Brazil, Guyana, and Suriname. In 2014, there were around 6,640 people across these countries. According to interviews conducted as part of this study, many people in the region struggle to obtain proof of citizenship and to fully enjoy their citizenship rights. Some lack access to legal identity and are unable to access critical government services such as healthcare.

Guyanese Trio people migrate circularly to Suriname to reunify with family and friends. However, many of them have no proof of either Guyanese or Surinamese citizenship. One of the reasons for this is that children of Trio people are often not registered at birth; and in order to do so, both parents must be able to provide birth certificates. As a response to this issue, the Association of Indigenous Village Heads in Suriname (VIDS) reached out to the Government of Suriname to provide this population with Surinamese citizenship recognizing that they have inhabited Surinamese land for over 30 years. Many of them have been naturalized since then.

Source: Information provided by the Association of Indigenous Village Heads in Suriname.

Relevant international instruments

- Universal Declaration of Human Rights (Art. 15)
- United Nations Declaration on the Rights of Indigenous Peoples (Arts. 6 and 33)
- International Convention on the Elimination of All Forms of Racial Discrimination (Arts. 1 and 5)
- International Covenant on Civil and Political Rights (Art. 24.3)
- Convention on the Elimination of all forms of Discrimination Against Women (Art. 9)
- Convention on the Rights of the Child (Arts. 7 and 8)
- International Convention on the Protection of the Rights of All Migrants Workers and Members of Their Families (Art. 29)
- International Labour Organization Indigenous and Tribal Peoples Convention 169 (Art. 4)

TRAVEL DOCUMENTS

Many indigenous migrants lack travel documents required to mobilize across international borders as a result of not being able to access identity documents. Nonetheless, while legislation in the countries of analysis require legal documentation to allow individuals to move across borders, in most cases a passport, key government officials consulted for this study indicated that migration officers are not enforcing such laws and normally allow indigenous peoples to move freely across borders separating their communities. Conversely, NGOs working with indigenous communities in Suriname expressed that, as this is left to the discretion of the front-line officers, travel documentation is sometimes requested. This is especially true for members of the Wayana community in Suriname who are confronted with increased border restrictions in French Guiana, preventing them from moving freely across borders to take their children to school, from access to employment, and from practicing their cultural rituals. Some indigenous individuals may take advantage of existing alternative mechanisms that facilitate the regular mobility of certain individuals; for example, some countries provide permits that allow workers (specifically) of bordering countries to cross their borders without hassle.

CASE STUDY 2. THE BORDER CROSSING CARD IN BELIZE – MEXICO

With the objective to facilitate the movement of workers from cross-border communities, nationals from Belize, including indigenous peoples, can request a Border Crossing Card to enter Mexico, at BZD 40 (USD 20) each year, for a maximum of 3 years.

The Border Worker Visitor Card Programme is mainly aimed at cross-border workers from Belize and Guatemala that occupy seasonal jobs in the Mexican States of Campeche, Chiapas, Tabasco and Quintana Roo. The card was not specifically designed to cater to the needs of indigenous peoples; therefore, the requirements may not be accessible to most members of these communities. As part of the application process, individuals must present a passport, birth certificate and certificate of nationality; those below 16 years must be accompanied by a parent or legal guardian who must sign the form. These requirements may exclude many indigenous peoples and children that do not have access to this kind of documentation.

Source: Government of Belize, n.d and IOM, 2021c.

Relevant international instruments

- International Convention on the Protection of the Rights of All Migrants Workers and Members of Their Families (Art. 21)
- Convention on the Rights of Persons with Disabilities (Art. 18.b)

EDUCATION

Indigenous peoples are among the most affected and disadvantaged in the right to education, and they often lack access to educational frameworks that respect their diverse cultures and languages (King and Schielmann, 2004). Indigenous peoples across the world, including in the Caribbean region, have a need for educational provisions that are both linguistically and culturally appropriate to their communities while not excluding them from broader access to national educational systems. Key informants in Suriname have stated that societal exclusion often stretches into educational institutions, affecting indigenous children both in countries of origin and in host countries. According to informants, this is one of the reasons why discrimination in the education system remains the main driver of migration. In Suriname, the absence of educational institutions in the areas where indigenous groups have historically settled means that children are deprived of the basic right to education, and families have to migrate to neighbouring countries to look for better opportunities.

CASE STUDY 3. THE CHALLENGES OF ACCESSING EDUCATION FOR THE WAYANA PEOPLE

The Wayana people are located in the south-eastern part of the Caribbean, in the region divided between Brazil, Suriname, and French Guiana. This remote indigenous community in the Kawemhakan village of Suriname has not had a school since their former school closed 28 years ago. As a result, families have to cross the border to French-Guiana in order to have their kids attend primary school.

In 2021, children crossed the Lawa River that divides the two countries to go to school in French Guiana, but recently, the border commission of Suriname has implemented a new mandate which states that children must be brought to an island located in the river for them to be picked up by boat and taken to the French-Guianese school. The mandate aims at preventing parents without documentation from entering French Guiana irregularly. Although the primary school across the border is free, the new regulation presents a challenge, especially for families with several children, as it requires families to make a yearly investment of 110 euros on transportation per child.

In regard to access to secondary school, it is only open to students with documentation that certifies their citizenship. Wayana students from Suriname often face limitations to continue their education; additionally, many have attended primary school in French and have to travel up to three days away by boat or go to Paramaribo (the capital) to get to the closest secondary school. In response to this situation, the Mulokot Foundation in Suriname is building a school focused on increasing the knowledge about the Wayana culture and at the same time teaching Wayana children educational topics common in the Suriname curriculum.

Source: Information provided by Directorate Sustainable Development Indigenous Population in Suriname.

Relevant international instruments

- Universal Declaration of Human Rights (Art. 26)
- United Nations Declaration on the Rights of Indigenous Peoples (Arts. 14, 15, 17 and 21)
- International Convention on the Elimination of All Forms of Racial Discrimination (Art. 5.5)
- International Covenant on Economic, Social and Cultural Rights (Art. 13)
- Convention on the Elimination of All Forms of Discrimination against Women (Arts. 10 and 14)
- Convention on the Rights of the Child (Arts. 23, 24, 28 and 29)
- International Convention on the Protection of the Rights of All Migrants Workers and Members of Their Families (Art. 29)
- Convention on the Rights of Persons with Disabilities (Art. 24)

LABOUR

Key informants in Belize and Suriname highlighted the continuous and natural cross-border movement of indigenous peoples for employment purposes. For example, indigenous groups from the interiors of Belize, Guatemala, and Mexico cross the borders to work in sugarcane fields. This migration flow connects indigenous communities in the rural towns of these countries through migratory routes caused by annual labour demands of the sugarcane industry. In other cases, as illustrated in case study 6, some indigenous peoples engage in labour migration due to unfortunate circumstances, such as economic crises in countries of origin or in response to emergencies.

CASE STUDY 4. THE CHALLENGES OF ACCESSING WORK FOR THE WARAO PEOPLES

The waters between Venezuela and Trinidad and Tobago are one of the main linkages between cross-border indigenous groups that regularly travel through the rivers for work, visiting family, and conduct regular activities. However, in the past five years, due to the socio-economic emergency in Venezuela, more indigenous peoples are migrating permanently to Trinidad and Tobago. Warao peoples from the Venezuelan city, Tucupita, have settled on the beaches of Moruga in the south of Trinidad and Tobago. According to key informants from the Santa Rosa First Peoples Community, those who are able to find any kind of employment, such as in the coconut fields, can advance their situation. However, many do not have legal documents to apply for regular employment.

In June 2019, the Government of Trinidad and Tobago recognized the need for income-generating mechanisms accessible to these communities and allowed Venezuelan migrants, including those who entered irregularly, to register in the country within a period of two weeks. Key informants from the Santa Rosa First Peoples Community indicated that this policy would have provided the Warao peoples with the opportunity to access legal documentation and regular employment. Unfortunately, this only benefited a portion of the Warao peoples, and many couldn't register due to various reasons, such as language and transportation barriers and the limited time provided by the Government to register.

Source: Information provided by the Santa Rosa First Peoples Community.

Relevant international instruments

- Universal Declaration of Human Rights (Art. 23 and 24)
- United Nations Declaration on the Rights of Indigenous Peoples (Arts. 17 and 21)
- International Convention on the Elimination of All Forms of Racial Discrimination (Art. 5)
- International Covenant on Economic, Social and Cultural Rights (Art. 7)
- International Covenant on Civil and Political Rights (Art. 8)
- Convention on the Elimination of All Forms of Discrimination against Women (Art. 11)

HEALTHCARE

Indigenous peoples are at higher risk of suffering from health issues such as poor nutrition, lack of access to affordable health services, lack of culturally appropriate and sensitive health programmes, inadequate or poor vaccination campaigns, and higher frequency of preventable diseases (IOM, 2008). Key informants from the United Nations Populations Fund in Suriname also mentioned that indigenous women have the highest pregnancy rate in the country as a result of a lack of information about sexual and reproductive health and access to contraceptives. One study named found that teenage pregnancies were the highest among indigenous women with 21 per cent (Verschueren et al., 2020). Moreover, key informants in Trinidad and Tobago mentioned that the Warao indigenous peoples from Venezuela often suffer from poor nutrition. According to an informant from the Santa Rosa Carib Community, many of these indigenous peoples do not have proper documents to access health care in the host country.

Health-related reasons to migrate are most evident in the internal movements of indigenous peoples (IOM, 2008). However, this can also work as a push factor for international movements; for instance, indigenous peoples in Suriname travel to neighbouring countries to access healthcare due to the remoteness of their community and the lack of health insurance required to access care in their country of origin.

CASE STUDY 5. THE CHALLENGES OF ACCESSING HEALTHCARE OF THE WAYANA AND THE TRIO PEOPLES

The Government of Suriname provides subsidies to a faith-based organization called the Medical Mission (Medische Zending) that manages 56 primary health clinics in the rural interior of the country. The clinics reach areas inhabited by indigenous peoples and receive about 60,000 patients each year.

These health centres, however, cannot cover all the needs of the indigenous populations and many still cross the border to Guyana and French Guiana in search for easily accessible health services and medicine. According to key informants, many Wayana women in Suriname are able to receive free contraceptives in French Guiana and prefer to have their babies in the neighbouring country because of the better-quality services.

Source: Information provided by the United Nations Population Fund in Suriname and the Mulokot Foundation.

Relevant international instruments

- Universal Declaration of Human Rights (Art. 25)
- United Nations Declaration on the Rights of Indigenous Peoples (Art. 21, 23, 24 and 29)
- International Convention on the Elimination of All Forms of Racial Discrimination (Art. 5.4)
- International Covenant on Economic, Social and Cultural Rights (12)
- Convention on the Elimination of All Forms of Discrimination against Women (Arts. 12 and 14)
- Convention on the Rights of the Child (Arts. 3, 24 and 25)
- International Convention on the Protection of the Rights of All Migrants Workers and Members of Their Families (Arts. 28, 43 and 45)
- Convention on the Rights of Persons with Disabilities (Art. 25)
- International Labour Organization Indigenous and Tribal Peoples Convention 169 (Art. 25)

VIOLENCE AGAINST WOMEN AND GIRLS

Addressing the intersected vulnerabilities that increase the risk of violence of many indigenous women and girls across the globe is a pressing issue (UN Women, n.d.). Historically, indigenous women have suffered from discrimination and inequality based on gender and ethnicity, resulting in increased levels of poverty and violence. This is also the case for the Caribbean region, where domestic violence and abuse have been proved to be common among indigenous communities. According to the Ministry of Human Development, Families and Indigenous Affairs in Belize, Maya indigenous women who have been subject to domestic violence, often choose not to leave the community or file a complaint against their abusers in fear of being outcasted by family or community members.

The risk for migrant women in transit is even higher, the Interagency Coordination Platform for Refugees and Migrants (R4V) found that Venezuelan indigenous women and girls were subjected to gender-based violence (GBV) during the migration route (R4V, 2022). In Trinidad and Tobago, they identified trafficking networks, which operate in both countries of origin and destination, which have kidnapped indigenous women travelling by boats and sold them to owners of local bars and prostitution houses. Additionally, R4V found cases of adolescents and women that were sexually abused and exposed to substance abuse by non-indigenous gang members in shelters shared with the indigenous peoples in the country (ibid.). Survivors of GBV, sexual violence, labour exploitation and human trafficking face challenges in accessing protection mechanisms due to discrimination and lack of support services, such as medical care to treat injuries, to assist in situations of rape, provide sexual and reproductive health and psychosocial support.

CASE STUDY 6. THE CHALLENGES TO CONCILIATE CULTURAL PRACTICES WHILE PROTECTING WOMENS RIGHTS

In 2018, the Children's Authority in Trinidad and Tobago reported a case of a 13-year-old Venezuelan indigenous girl that was sold by her family to a 24-year-old Trinidadian man to be married under the Warao rites. In promise of a better life, she travelled voluntarily to Trinidad and Tobago and was taken to an apartment, where she was found by the police.

The Government of Trinidad and Tobago treated the case as a human trafficking case. The Children's Authority took the child under their care and dispatched the emergency response mechanism involving the Child Protection Unit, the Counter Trafficking Unit, the Police Department and the Immigration Department. The case presented an important challenge for the authorities who, given the cultural parameters of the Warao rites, were uncertain about whether it is safe or not to return the girl to her community.

In response, the government took the following actions: (a) facilitated translation services to communicate with the indigenous girl; (b) contacted the Venezuelan Embassy to collect relevant information about the legislation in Venezuela in regard to child marriages within the Warao community and possibilities for return; (c) and communicated daily with the police and immigration departments.

Source: Information provided by Children's Authority in Trinidad and Tobago.

Relevant international instruments

- International Covenant on Civil and Political Rights (Art. 14)
- Convention on the Rights of the Child (Art. 40)
- International Labour Organization Indigenous and Tribal Peoples Convention 169 (Arts. 12 and 30)
- International Convention on the Protection of the Rights of All Migrants Workers and Members of Their Families (Arts. 16, 18, 22 and 33)
- Convention on the Rights of Persons with Disabilities (Arts. 21 and 24)
- American Declaration on the Rights of Indigenous People (Art. 14)
- International Labour Organization Indigenous and Tribal Peoples Convention 169 (Art. 25)

LANGUAGE BARRIERS

Freedom of information is an essential component of the fundamental right of freedom of expression. The Universal Declaration of Human Rights (UDHR) states that everyone is entitled to rights and freedoms regardless of their language (Art. 2) and that they have the right to seek and receive information (Art. 19). Additionally, the Convention for the Protection of Human Rights and Fundamental Freedoms (Art. 14) prohibits any discrimination in the enjoyment of the Convention's rights and freedoms on the grounds of language. Nonetheless, speakers of dominant majority languages tend to fully enjoy their linguistic rights while minority groups, such as indigenous peoples, migrants, and refugees, are generally discriminated against on the grounds of language, which often do not enjoy official status and are less widely spoken in the countries where they reside.

Although States should ensure the protection of indigenous peoples' right to information, key informants mentioned language barriers as the main cause of exclusion from the general society and from basic services. Access to interpretation services in health centres, schools and government institutions in general, is frequently a cause of misunderstanding and exclusion.

CASE STUDY 7. THE IMPACTS OF LANGUAGE BARRIERS

At the beginning of the COVID-19 pandemic, restrictions were placed by the French government on the movement of the Wayana community in Suriname to French Guiana. The Surinamese government at that time was more focused on mitigating the impact of the pandemic in the most densely populated areas of the country; as a result, some communities located in the interior, including indigenous communities, were left unattended. For example, both governments disseminated information in their primary languages, and people from the Wayana community in Suriname were confused as to what restrictions they should follow and how. In order to address this, the Mulokot Foundation, an indigenous organization focused on improving the life of the Wayana peoples created a podcast as a tool to communicate important messages and supported the Government of Suriname translating COVID-19-related information to the Wayana language.

Source: Information provided by the Association of Indigenous Village Heads in Suriname.

Relevant international instruments

- United Nations Declaration on the Rights of Indigenous Peoples (Art. 23)
- International Covenant on Civil and Political Rights (Art. 14)
- Convention on the Rights of the Child (Art. 40)
- International Convention on the Protection of the Rights of All Migrants Workers and Members of Their Families (Arts. 16, 18, 22 and 33)
- Convention on the Rights of Persons with Disabilities (Arts. 21 and 24)
- International Labour Organization Indigenous and Tribal Peoples Convention 169 (Arts. 12 and 30)
- American declaration on the rights of indigenous people (Art. 14)

4. RECOMMENDED PRINCIPLES TO THE PROTECTION OF THE HUMAN RIGHTS OF INDIGENOUS PEOPLES

This chapter explores recommended guiding principles central to the human rights of indigenous peoples. Enshrined in international and regional instruments that specify the responsibility of States to uphold the rights of persons, these principles are directed at all stakeholders who participate in the development of policy and legislation that affect indigenous peoples as they migrate across international borders, including in countries of origin, transit and destination. Accordingly, governments, decision-makers, NGO's and other civil society organizations may benefit from considering these recommendations as baseline reference when developing needed migration normative and procedures to improve the conditions of the population in question.

Specifically, the following international instruments have been considered in the development of these principles:

- The United Nations Declaration of the Rights of Indigenous Peoples (UNDRIP);
- The American Declaration on the Rights of Indigenous Peoples developed by the Organization of American States (OAS);
- The Principles and Guidelines, supported by practical guidance, on the human rights protection of migrants in vulnerable situations, developed by the Office of the United Nations High Commissioner for Human Rights (OHCHR) in conjunction with the Global Migration Group (heretofore referred to as OHCHR Principles and Guidelines);
- The Migration Governance Framework (MiGoF) developed by IOM;
- The United Nations Global Compact for Safe, Orderly and Regular Migration (GCM).

Table 6. Recommended principles for the protection of the human rights of indigenous peoples

1. Recognize indigenous peoples' fundamental rights and freedom of movement
2. Respect indigenous peoples' rights to informed consent, to land and resources
3. Guarantee access to citizenship and proof of legal identity
4. Prioritize non-discrimination
5. Ensure access to education
6. Promote access to labour and inclusion
7. Recognize the right to information
8. Promote the protection of indigenous peoples from torture, violence, exploitation, and trafficking in persons
9. Promote evidence-based policies and public discourse

Source: Author's elaboration.

THE PRINCIPLES

Principle 1. Recognize indigenous peoples' fundamental rights and freedom of movement

Central to the existence of indigenous peoples is their ability to move freely across borders to visit community members and to practice their indigeneity (IOM, 2008). Therefore, the recognition of indigenous peoples' fundamental rights and freedom of movement should be a primary consideration in all decision-making processes related to the mobility of indigenous peoples.

Principle 1 of IOM's Migration Governance Framework (MiGoF) sets forth that, in order to facilitate humane and orderly migration, States are required to comply with international law and to respect, protect and fulfil the rights of persons within their territories, regardless of nationality or immigration status, and without discrimination (IOM, n.d.). The UNDRIP (Arts. 1 and 3) also affirms indigenous peoples' right to fully enjoy their fundamental rights and freedom, as a collective or as individuals, as recognized in the Universal Declaration of Human Rights (United Nations, 2008)

Principle 2. Respect indigenous peoples' rights to informed consent, to land and resources

Indigenous peoples face several threats to their livelihoods and are at significant risk of being displaced in times of emergencies due to climate change and other human-made threats.

The principle of free, prior and informed consent acknowledges indigenous peoples' intrinsic and prior rights to their lands and resources and "respects their legitimate authority to require that third parties enter into an equal and respectful relationship with them, based on the principle of informed consent" (OHCHR, 2013b). Therefore, States must apply this principle to all interactions with indigenous peoples where their livelihoods and future survival are at stake (ibid.).

Principle 3. Guarantee access to citizenship and proof of legal identity

Indigenous peoples in the Caribbean face challenges in accessing legal identity, which is often necessary to access specific rights and basic services (GCM, 2018).

The Universal Declaration of Human Rights (Art. 15) mentions that everyone holds the right to a nationality, and the UNDRIP (Art. 33) affirms that indigenous peoples have the right "to determine their own identity or membership in accordance with their customs and traditions" (United Nations, 2008). Moreover, Objectives 4 and 5 of the GCM emphasize the need to provide pathways to regular migration and ensure that all migrants have proof of legal identity. States are ultimately responsible for providing access to proof of legal identity to ensure safe, orderly, and regular migration of indigenous populations.

Principle 4. Prioritize non-discrimination

Indigenous peoples in the Caribbean suffer from high levels of discrimination and economic social disadvantages before, during and after cross-border migration (UN DESA, 2009). According to the OHCHR (2013a), specific measures are required for indigenous peoples due to their greater vulnerability, their historical experiences of marginalization and discrimination, and the disproportionate impact that continuing human rights violations have on them.

Objective 17 of the GCM seeks to eliminate all forms of discrimination (GCM, 2018), and Principle 1 of the MiGoF indicates that, in order to protect the rights of individuals, States must combat xenophobia, racism, and discrimination, “ensuring adherence with the principles of equality and non-discrimination and ensuring access to protection” (IOM, n.d.). The UNDRIP (Art. 2) affirms that “indigenous peoples and individuals are free and equal to all other peoples and individuals and have the right to be free from any kind of discrimination, in the exercise of their rights, in particular that based on their indigenous origin or identity” (United Nations, 2008), and the American Declaration on the Rights of Indigenous Peoples (Art. 12) indicates that there should be guarantees against racism, discrimination, xenophobia and related intolerance (OAS, 2016). Furthermore, Principle 2 of the OHCHR Principles and Guidelines (2017) calls for States to counter all forms of discrimination against migrants.

Principle 5. Ensure access to education

Indigenous children are often deprived of education because of the remoteness of many indigenous communities and the lack of recognized indigenous education on their lands.

Principle 15 of the OHCHR Principles and Guidelines (2017) outlines the States’ responsibility to protect the rights of migrants to education. Similarly, the UNDRIP (Art. 14) and the American Declaration on the Rights of Indigenous Peoples (Art. 15) include stipulations for indigenous peoples’ rights to establish their own educational systems and indigenous children’s rights to access education (OAS, 2016).

Principle 6. Promote access to labour and inclusion

Access to dignified labour is indispensable for the livelihoods of indigenous peoples. Work is often intertwined with their customary activities and subsistence economies, which are fundamental factors in maintaining indigenous peoples’ identity, cultures, economic self-reliance, and sustainable development.

Objectives 6, 16 and 19 of the GCM call on governments to facilitate the access to decent work, empower migrants to realize inclusion and to contribute to sustainable development (GCM, 2018). Principle 14 of the OHCHR Principles and Guidelines (2017) affirms the States’ obligation to “guarantee the right of migrants to work in just and favourable conditions”. Also, the Indigenous and Tribal Peoples Convention (No. 169) (OIT, 1989) provides a useful guide to indigenous labour practices.

Principle 7. Recognize the right to information

Indigenous languages often do not enjoy official status and are less widely spoken in the countries where they reside.

Principle 16 of the OHCHR Principles and Guidelines (2017) states that governments are responsible to “uphold migrants’ right to information”. Objective 3 of the GCM builds on this by highlighting States’ responsibility to “provide accurate and timely information at all stages of migration” (GCM, 2018). The recognition and ability to utilize indigenous languages would significantly facilitate the transition for individuals from their places of origin to their destinations and promote better integration in receiving communities.

Principle 8. Promote the protection of indigenous peoples from torture, violence, exploitation, and trafficking in persons

Protection mechanisms for indigenous peoples are crucial for their safety, especially for women and girls, due to their higher risk of domestic violence and abuse, exploitation and trafficking. The American Declaration on the Rights of Indigenous Peoples calls for States to take the necessary steps, in collaboration with indigenous peoples, to prevent and eliminate all forms of violence and discrimination, especially against indigenous women and children (OAS, 2016).

Objective 7 of the GCM highlights the importance to reduce vulnerabilities throughout the migration cycle (GCM, 2018). Additionally, Principle 7 of the OHCHR Principles and Guidelines (2017) affirms that States should protect migrants from all forms of violence and exploitation. More specifically, the UNDRIP (Art. 22) and the American Declaration on the Rights of Indigenous Peoples (Art. 7) stipulate the rights of indigenous women and children to safety and explain that “violence against indigenous peoples and individuals, particularly women, hinders or nullifies the enjoyment of all human rights and fundamental freedoms” (United Nations, 2008; OAS, 2016).

Principle 9. Promote evidence-based policies and public discourse

Disaggregated data on the cross-border migration of indigenous peoples is not widely collected in a manner that allows policymakers to analyse and understand the full spectrum of cross-border indigenous migration around the world (IOM, 2008); information is even more scarce in the Caribbean region.

Objectives 1 and 17 of the GCM state that countries must collect and utilize reliable data as a basis of policies and to promote the development of discourses that can shape migration perceptions (GCM, 2018). Moreover, unsupported information disseminated by mass media may aggravate the stigmatization of these populations.

5. PROVISIONS FOR THE SOCIAL PROTECTION AND ASSISTANCE OF INDIGENOUS PEOPLES

This chapter discusses provisions States and other important stakeholders can implement to protect the rights of indigenous peoples throughout the process of cross-border migration. As previously discussed, indigenous cross-border migration refers to the mobility of peoples from the same indigenous community within their ancestral territories, across international borders (IOM, 2008). Many indigenous peoples in the Caribbean face specific challenges prior to, during and after their migration, requiring a particular approach to understand the context in which they migrate, as well as specific provisions to ensure that when they move, they do it in a regular and safe manner.

These actions have been categorized following the same variables analysed in previous chapters: citizenship and birth registration, travel documents, education, labour, healthcare, violence against women and girls and language barriers. Examples of good practices from the region or other parts of the world that might be adaptable or replicable to the Caribbean context are included for selected variables.

The chapter also identifies general institutions for the implementation of such provisions. Furthermore, it is crucial that competent institutions establish cooperation mechanisms with indigenous communities through their own representatives, and with organizations working with indigenous communities, in order to obtain their free, prior and informed consent before adopting, amending or implementing legislative or administrative measures that may affect them.

CITIZENSHIP AND BIRTH REGISTRATION

The following actions can be adopted to improve access to citizenship and birth registration among indigenous peoples:

- Provide alternatives to the documentation requirements to obtain citizenship in order to improve accessibility to indigenous communities. A measure to do this could be allowing the use of witnesses and testimonies of indigenous communities as an alternative to birth certificates;
- Simplify administrative procedures. This is especially important for indigenous communities as younger generations are increasingly facing a need for documentation, which their ancestors before them did not have. This is due to changing border regulations and migrations into urban areas for education or labour;
- Consider granting dual citizenship to members of cross-border indigenous communities or establish bilateral agreements with neighbouring countries to facilitate their free movement within their ancestral territories;

Best practice 1. Dual citizenship of the Wayuu peoples in Colombia and Venezuela

The Wayuu community consists of around 300,000 peoples in the Guajira Peninsula in the northeast of Colombia and the northwest of the Bolivarian Republic of Venezuela. They move back and forth across the borders, often spending the dry season on the Venezuelan side, and the rainy season in Colombia.

Wayuu peoples are allowed dual citizenship under the laws of both countries. The Constitution of Colombia (Art. 96), for example, grants Colombian citizenship by birth, or by adoption to “members of the indigenous peoples straddling borders areas, in application of the principle of reciprocity according to public international treaties” and the Constitution of the Bolivarian Republic of Venezuela states that the Venezuelan nationality will not be lost when electing or acquiring another nationality.

Dual citizenship facilitates the free movement for Wayuu peoples who have been able to obtain citizenship as well as travel documents needed to move across their ancestral lands. This is especially important now that more Wayuu peoples in Venezuela are migrating to Colombia and may be vulnerable to risks associated with irregular migration.

Sources: Government of the Bolivarian Republic of Venezuela, 2009, Government of Colombia, 2015 and Muller, 2013.

- Create awareness raising campaigns to inform cross-border indigenous communities of their right to a nationality as well as the process of obtaining citizenship.

Competent institutions: Departments that handle citizenship and birth registration, institutions that work in supporting indigenous peoples, representatives of indigenous communities.

TRAVEL DOCUMENTS

The following actions can be taken to improve access to travel documentation among indigenous peoples:

- Review bilateral or regional mobility agreements and memorandums of understanding (MOU's) to ensure alignment with human rights standards;
- Adopt or amend legislation according to current normative to ensure that indigenous peoples mobilizing irregularly across borders are not criminalized;
- Establish alternatives to documentation regularly required to travel, such as cross-border cards. This alternative documentation should be adapted to the contexts of indigenous peoples to make it easily accessible to them and ensure a hassle-free movement across borders.

Competent institutions: Departments of immigration, ministries of foreign affairs, and other institutions in charge of issuing passports and travel documentation.

EDUCATION

The following actions can be taken to improve education standards among indigenous peoples:

- Provide accessible education that considers indigenous cultures, offering bilingual or trilingual education, teaching indigenous languages, and promoting cultural exchange;
- Guarantee both basic primary and secondary education in remote areas inhabited by indigenous peoples and alternatives to facilitate access to higher education;
- Include the primary language(s) spoken in country of origin in educational frameworks to foster greater integration in society as a whole;

Best practice 2. Regular border crossing practices of Haudenosaunee peoples across Canadian – USA borders

In 1794, Great Britain and the United States of America signed the Jay Treaty allowing the free cross-border movement of the Haudenosaunee communities that inhabit the area. Under this treaty, Haudenosaunee people born in Canada are entitled to move freely into the United States of America for, among others, employment, education, retirement, and immigration purposes.

To qualify, individuals must prove their indigenous background at the port of entry with legal documentation that shows that they are at least 50 per cent of the American Indian race.

Examples of legal documentation are: (a) an identification card from the Ministry of Indian and Northern Affairs; (b) a written statement from a representative of the indigenous community with official records of the indigenous blood lineage; or (c) records of the indigenous community bearing the names of both parents. They are also required to provide identification that includes their photograph, such as a driver's license, passport, or a Western Hemisphere Travel Initiative-compliant travel document which includes special provisions for cross-border indigenous peoples.

Source: Government of the United States of America, n.d.

Best practice 3. The Antecume Pata Public Elementary School in French Guiana

The first school on the French side of the indigenous region was built in the Antecume Pata village inhabited by Wayana-Apalai. In 1986, it was integrated into the country's public sphere and became the Antecume Pata Public Elementary School. Supported by the Ministry of Education, indigenous and non-indigenous teachers work with an educational programme called Mother Tongue Teaching Assistants (Intervenants en Langue Maternelle in French) to preserve the indigenous language while also providing education in French. The school has improved the understanding of the distinct French society whilst preserving indigenous knowledge.

Source: Ali and Aillincai, 2013.

- Incorporate indigenous teachers into the indigenous education system and create standard operating procedures to provide teachers with sensitization training that focuses on the particular characteristics and needs of indigenous groups, including their need for cross-border indigenous migration.

Competent institutions: Ministries of education, regular and indigenous-led education centres.

LABOUR

The following actions can be taken to improve access to travel documentation among indigenous peoples:

- Create special permits or alternative documentation requirements to facilitate employment access to indigenous peoples living in neighbouring countries. For example, allowing them to sell their products could benefit both indigenous migrants and cross-border States;
- Protect income-generating activities of indigenous peoples that largely depend on natural resources;
- Establish schemes to help indigenous peoples find decent employment that consider traditional practices of indigenous peoples and foster income-generating alternatives linked to the customary and cultural practices of indigenous peoples, such as agricultural work.

Competent institutions: Ministries of labour, immigration and foreign affairs and departments of social security and human development.

Best practice 4. Protection and assistance of indigenous peoples in Costa Rica

The Ngäbe and Buglé peoples live within the national borders of Panama and Costa Rica. According to IOM estimates, each year, between 10,000 and 14,000 peoples migrate to Costa Rica for labour purposes, predominantly for the coffee and banana harvesting sectors.

The Comprehensive Migration Policy for Costa Rica 2013 - 2023 recognizes the Ngäbe-Buglé migrants as contributors to the labour market of Costa Rica that also require special attention. After consultations with Ngäbe-Buglé migrants, two provisions were included for protection and assistance of indigenous peoples:

- Establish and implement protocols, regulations, and procedures by the State to ensure the fulfilment of the rights of indigenous migrants and cross-border populations.
- Develop data-collection mechanisms across all government sectors that analyse the different indigenous migrant populations in the country.

In 2015, the Governments of Panama and Costa Rica signed a labour agreement to protect the rights of all migrant labour workers, including indigenous peoples. It incorporates monitoring of working conditions and access to services such as health, education and social security.

Source: OIM, 2015.

HEALTHCARE

The following actions can be adopted to improve access to healthcare among indigenous peoples:

- Harmonize health policies to include the needs of indigenous peoples and to consider their traditions and the role of indigenous healthcare providers;
- Develop free and easily accessible healthcare in areas inhabited by indigenous groups;
- Establish intercultural dialogues that promote articulation with traditional knowledge.

Competent institutions: Ministries of health, governmental and non-governmental health institutions, and indigenous healthcare providers.

Best practice 5. Healthcare policy for indigenous peoples in Brazil

In Brazil, the right to health for indigenous peoples intersects with the Alma-Ata Declaration, which highlights primary health care as a mechanism to increase access and minimize health inequalities in the country. Between 1999 and 2002, the Brazilian Unified Health System established an indigenous health subsystem and a National Policy for the Care of Indigenous Peoples (PNASPI) as part of a strategy to guarantee health care access. It intends to provide differentiated health care to indigenous populations and considers their sociocultural and linguistic diversity.

According to PAHO (n.d.), challenges with the implementation of the PNASPI are: (a) dissatisfaction of indigenous peoples towards the system, mainly rooted in the absence of traditional indigenous knowledge; and (b) care focused on palliative and emergency measures, usually based on relocating patients for treatment, which is associated with high financial costs and shortage of and high turnover of health care workers. Nevertheless, at the 6th National Indigenous Health Conference held in Brazil in April 2022, the Government expressed its dedication to updating the PNASPI to consider the representativeness of all indigenous peoples living in the country along with their identified health care needs.

Source: Government of Brazil, n.d.

VIOLENCE AGAINST WOMEN AND GIRLS

The following actions can be taken to mitigate the perpetuation of violence against indigenous women and girls:

- Create standard operating procedures to provide sensitization trainings to frontline officers aimed at identifying and responding to the needs of indigenous populations, including for the identification of possible victims of human trafficking and other forms of exploitation;
- Include awareness campaigns for indigenous peoples on human trafficking and cross-border related crimes to provide information on how human trafficking and other related networks operate within indigenous communities and minimize the risks faced by these communities.

Competent institutions: Departments of gender and child protection, health, security and family protection institutions, organizations aiding indigenous peoples, women and girls.

LANGUAGE BARRIERS

The following actions can be implemented to improve the access to language resources among indigenous peoples:

- Create awareness-generation campaigns to discuss the importance and value of learning and protecting indigenous languages;
- Ensure that official communications, including migration and emergency-related information, reaches indigenous communities and is disseminated in indigenous languages;
- Provide access to interpretation services in institutions in charge of basic services such as health, education, immigration, and emergency response.

Competent institutions: Central communications or information department relating to citizenship, immigration, emergency response, health, labour, education and protection.

Best practice 6: Information hubs for migrants in Belize

In 2018, IOM and the Government of Belize implemented information hubs for migrants in key locations. These hubs provide critical information and services; for example: (a) assistance in the process and paperwork to obtain regular immigration status; (b) assistance in the application for various government services; (c) information to prevent trafficking in persons; and (d) capacity building for stakeholders who work with migrant populations on how to protect their rights and address their needs.

According to key informants from the Child Development Fund, information hubs have been established in the north and south of Belize to target the Maya communities living in those areas. Translation services are available for indigenous peoples to receive information in their own languages such as the Q'eqchi Mayan language. This is important because many indigenous people located in these areas have not been able to learn English or Spanish, which are the primary languages spoken in Belize.

Source: Information provided by the Child Development Fund.

CONCLUSIONS AND RECOMMENDATIONS

This report deepens the understanding of cross-border migration experiences of indigenous peoples within the Caribbean region, with a particular focus on the countries of Belize, Suriname, and Trinidad and Tobago. Data obtained through desk-research and interviews conducted with key stakeholders allowed for the identification of seven main aspects that defined the experiences of indigenous peoples: citizenship and birth registration, travel documents, education, labour, healthcare, violence against women and girls, and language barriers. The emphasis placed on these themes by stakeholders has allowed for the formulation of the conclusions and recommendations highlighted in this chapter.

Indigenous communities have historically mobilized across borders in the Caribbean region as part of their cultural practices: Several international and regional instruments outline the rights of all peoples while migrating, including those of indigenous peoples. Therefore, they must be respected as a right linked to their self-determination and freedom of movement. However, these rights are often not reflected appropriately in national legislation. It is therefore recommended to review national legislation and ensure alignment with international standards and human rights commitments.

Cross-border migration is a need for indigenous groups: It is part of their cultural identity, and they need to move to visit family or friends, to access work and other important services. Therefore, it is recommended that States prioritize policies, programmes and systems that allow for regular cross-border movement of indigenous peoples.

Proof of legal identity and citizenship is a need for indigenous communities: Indigenous migrants face multiple constraints in their access to legal identity, which is usually a requisite to access basic services including as education, health and labour, and other related forms of documentation. Obstacles faced by indigenous peoples are not only monetary and linguistic but also social and bureaucratic. The inclusion of provisions for indigenous peoples and children in protocols for citizenship and naturalization would help eliminate these barriers. National policies should recognize both the right to self-determination and the right to a nationality as complementary rather than mutually exclusive.

Cross-border identification cards for indigenous peoples have proven to be an effective tool to regularize the mobility of this population: Although travel documents do not substitute individual documentation and identification forms, they may be a powerful ally in supporting indigenous migrants' rights to movement. It is recommended that States establish mechanisms, through bilateral agreements, to allow the free movement of indigenous peoples across borders. One of such mechanisms is the cross-border identification cards, established through bilateral agreements between States that allow the orderly, safe and regular indigenous cross-border migration for dedicated purposes, such as immigration, employment and health. It is recommended that States adopt or amend legislation to ensure that irregular entry or the attempt to enter in an irregular manner of indigenous peoples are not considered criminal offences, but rather a movement pertaining to their indigeneity.

Lack of access to education is among the main drivers of cross-border indigenous migration for some indigenous communities: Indigenous children often experience challenges when accessing education. This is especially true for children in rural areas who do not have easy access to schools and must seek education in bordering countries. Efforts should be made to ensure that indigenous peoples have access to education that is culturally and linguistically tailored to their needs. Instruction in the mother-tongue language is recommended for indigenous children, youth, and adults. Beyond the lack of culturally and linguistically accessible education, there is also a lack of educational infrastructure in place for many indigenous communities. It is recommended that States facilitate the building of schools accessible to these communities, and work to provide qualified teachers, and where needed, school transportation.

Develop special provisions for the integration of vulnerable populations, including indigenous peoples into labour policy: Indigenous peoples are not adequately included in the labour policy in most States, and as a result they do not have the means to ensure safe and legal employment. This leads to cross-border migration for labour, rural to urban migration, and other forms of movement. Migrants that do not have any legal status oftentimes end up in the informal labour market where they encounter poor working conditions, exploitation and discrimination. Their lack of legal protection, furthermore, prevents them from speaking out against said conditions as they risk legal repercussion. In the case of indigenous migrants these risks are heightened by the recurrent and circular nature of their migration. To combat exploitation and unemployment, it is recommended that States create permits which grant indigenous peoples access to employment. If the barrier to accessing legal labour is lower, it reduces the likelihood of illegal labour and exploitation.

Most healthcare services in the Caribbean are centralized around capital cities and the most densely populated areas of the countries: Although national and international legislation recognize the right of migrants to healthcare, these people face multiple constraints when accessing them. Limited accessibility to health services makes access difficult for vulnerable groups living in rural areas, who are often exposed to different threats, such as malaria, leishmaniosis, and the effects of mercury poisoning. Additionally, indigenous peoples experience lack of culturally appropriate and sensitive health programmes, inadequate or poor vaccination campaigns, and higher frequency of preventable diseases. As a result, many indigenous groups who live in border communities cross to neighbouring countries to access proper health care. For indigenous migrants living in host countries, challenges exist around the lack of legal documentation. These migrants often do not know that they can access public healthcare without documentation and fear being deported if they attempt to do so. Such information, therefore, should be widely available both in the means and the indigenous languages. It is recommended to develop alternative health care frameworks, including local clinics, for indigenous communities in border regions, with particular attention to the needs of indigenous elders, women, children, and persons with disabilities.

Indigenous women and girls are highly susceptible to violence: Other than the challenges issued by their condition as migrants, they face the possibility of discrimination specific to their gender, such as rape, sexual harassment and gender-based violence. At the intersection of gender, ethnicity and migration, furthermore, there are problematics such as human trafficking, particularly prevalent among indigenous women.

Indigenous peoples are generally discriminated against on the grounds of language: Their languages often do not enjoy official status and are less widely spoken in the countries where they reside. Nevertheless, the recognition and ability to utilize indigenous languages would facilitate the transition for individuals from their places of origin to their destinations significantly and promote better integration in receiving communities. This involves an extensive effort of translation, through cooperation with leaders of indigenous communities or institutions that work with indigenous communities, and it could mean re-evaluating the means through which information about public offices is usually spread.

Intersectoral action between indigenous communities and levels of government is found as essential for effective action by governments to address the basic needs of indigenous peoples and their human rights: This requires institutional mechanisms that allow indigenous peoples to actively participate, be represented and consulted with in State political decision-making that impacts them, in adherence to the principles of free, prior and informed consent.

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