

# INVISIBLE MOVEMENTS: RECOMMENDATIONS FOR FACILITATING THE MOVEMENT OF PERSONS WITH DIVERSE SEXUAL ORIENTATIONS, GENDER IDENTITIES, GENDER EXPRESSIONS AND SEX CHARACTERISTICS IN THE CARIBBEAN

Case Studies: The Bahamas | Barbados | Belize | Jamaica  
Suriname | Trinidad and Tobago



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# INVISIBLE MOVEMENTS: RECOMMENDATIONS FOR FACILITATING THE MOVEMENT OF PERSONS WITH DIVERSE SEX ORIENTATIONS, GENDER IDENTITIES, GENDER EXPRESSIONS AND SEX CHARACTERISTICS IN THE CARIBBEAN

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Trinidad and Tobago



# 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.

Persons with diverse sexual orientations, gender identities, gender expressions and sex characteristics (SOGIESC) have been marginalized and persecuted throughout history and across the world. As a result, when a person with diverse SOGIESC decides or is forced to migrate, they often face additional obstacles and have different protection needs compared to other migrants. These obstacles may arise at any moment of their migration journey, and they are more likely to suffer discrimination, prejudice, violence or difficulty accessing assistance in their countries of origin, transit or destination.

Today, the rights of persons with diverse SOGIESC continue to be a topic of contention in many parts of the world. Advocacy groups, international human rights organizations, and governments work, negotiate and debate this subject within complex cultural and political contexts. Caribbean States are not an exception. The needs of persons with diverse SOGIESC are a matter of great relevance as States work to build more inclusive and prosperous societies and ensuring the human rights of all persons becomes an essential consideration. When it comes to migration policy and legislation, important gaps remain as there are no specific provisions for the protection and assistance of these populations in the Caribbean. This is exacerbated by the fact that in some countries, there is legislation dating back to the colonial era that restricts the cross-border mobility of persons with diverse SOGIESC. Even though these pieces of legislation are usually not enforced in the present, their existence and the language they use are not in line with regional agreements that recognize the right to free movement for all CARICOM nationals nor with international human rights.

This study intends to shed light on legislation and policies that impact the cross-border mobility of persons with diverse SOGIESC in the Caribbean. Its ultimate goal is to assist governments, institutions, civil society organizations and other relevant stakeholders who work for the development of inclusive migration normative. By incorporating actionable recommendations based on human rights principles, it hopes to demonstrate how the inclusion of considerations on migrants with diverse SOGIESC contributes to achieving the goals and 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.

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 various Caribbean States. Through this perspective, we are helping building baseline knowledge and recommendations to facilitate the implementation of inclusive migration policies that benefit States, migrants and civil society alike.



Michele Klein Solomon  
IOM Regional Director for Central America, North America and the Caribbean

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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, ethnicity, nationality, age, and socioeconomic status; this, in turn, impacts migrants in their countries of origin, transit and destination. Consequently, 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. This is the case of migrants with diverse sexual orientations, gender identities, gender expressions and sex characteristics (SOGIESC).<sup>1</sup>

Around the world, including the Caribbean, migrants with diverse SOGIESC are faced with diverse needs and risks, some of which are similar to those of other groups of migrants, and some of which are specific to their experiences as persons with diverse sexual orientations, gender identities or expressions, or sex characteristics. IOM, in collaboration with UNHCR, has identified the following as the most common needs that persons from these populations have throughout their migration journeys: participation and outreach, individual documentation, protection from sexual and gender-based violence, other issues of safety and security, access to justice, material assistance, shelter and sanitation, education, livelihoods, and health (IOM and UNCHR, 2021).

Furthermore, previous studies concerning Caribbean States have signalled that migrants with diverse SOGIESC often find themselves in situations of vulnerability, in part, due to migration policies and legislation that, although in many cases are no longer enforced, still include language or provisions that are not in alignment with current international standards for ensuring the protection of these populations (IOM, 2018, 2020).

This study focuses on the policies and legislation affecting the cross-border migration of persons with diverse SOGIESC 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 migrants with diverse SOGIESC in all stages of their migration cycles.

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<sup>1</sup> This document uses the term “migrants with diverse SOGIESC” in order to encapsulate as many different experiences as possible. However, it is important to recognize that there are different ways to refer to a person’s sexual orientation, gender identity, gender expression and sex characteristics; all of which may be influenced by age, location, language, political and cultural references, or other factors. While some individuals may feel represented by the identities included here, others may identify with different ones such as those represented in the term LGBTIQ+; likewise, there may be individuals who identify with a different term or with no term at all. For a definition of this and other related terms used throughout the document see glossary (p.29).

# 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 English-speaking countries of the Caribbean region and Dutch-speaking Suriname and zooms into specific case studies in the Bahamas, Barbados, Belize, Jamaica, Suriname and Trinidad and Tobago (see map 1) to comprehend different experiences, good practices and limitations. These countries have been chosen following one or more of the following criteria:

- Presence of populations that migrate internationally;
- Lack of official data on the migration experience of people with diverse SOGIESC;
- Historical economic and political ties between these countries;
- Existence of regulations which still use language or include provisions that are not in alignment with international standards for ensuring the protection of persons with diverse SOGIESC.

**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**

The needs and protection measures that have been identified by previous studies for persons with diverse sexual orientation, gender identity, gender expression and sex characteristics (SOGIESC) as they migrate globally are cross-cutting to the analysis presented in this study. Additionally, the way migration intersects with a person's sexual orientation, gender identity, gender expression, or sex characteristics must be understood to achieve the objectives of this study. Both aspects are further explained in the following paragraphs.

### **Specific needs of migrants with diverse SOGIESC as identified in previous research**

The *Protection Workbook: Sexual Orientation, Gender Identity, Gender Expression and Sex Characteristics (SOGIESC) in Forced Displacement and Migration*, developed by IOM in collaboration with UNHCR (2021), is the main framework for understanding cross-border migration of persons with diverse SOGIESC and for assessing their needs. The Workbook touches upon 10 key challenge areas, including participation and outreach, individual documentation, sexual and gender-based violence, other issues of safety and security, access to justice, material assistance, shelter and sanitation, education, livelihoods, and health. These areas were used as variables for the development of data collection tools and as themes of the study, as they highlight the main concerns faced by migrants with diverse SOGIESC.

The study also uses the 2030 Agenda for Sustainable Development as a basis, specifically target 10.7, which seeks “to facilitate orderly, safe, and responsible migration and mobility of people, including through 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 Migrants, and the Los Angeles Declaration on Migration and Protection.

### **Intersectionality and discrimination**

Intersectionality is a concept that recognizes the multiplicity of identities within a person or a group. Belonging to diverse groups entails different opportunities, challenges and a different access to resources. This report uses an intersectional approach to gender equality recognizing that class, ethnicity, religion, sexual orientation, age and other forms of identity influence the experiences of discrimination and migration of people. The concept was used to analyse how the experiences of migrants with diverse SOGIESC are often different from their cisgender, heterosexual and endosex counterparts. This is because diverse SOGIESC migrants not only experience discrimination as migrants but also because of their sexual orientations, gender identities, gender expressions or sex characteristics (IOM, 2021a).

### **Guiding principles for the protection of the human rights of people with diverse SOGIESC**

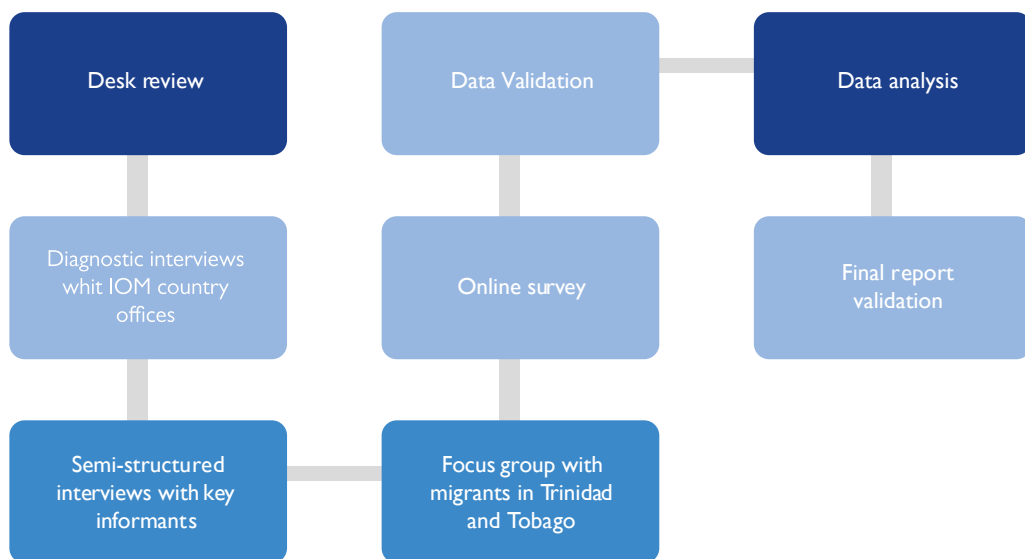
Considering that the goal of this document is to provide governments and relevant stakeholders with a list of recommendations and provisions for the protection of the human rights of migrants, it uses different international instruments as part of its analytical foundations and to build its own guidelines. Two key documents are the Yogyakarta Principles (ICJ, 2006) and its follow-up, the Yogyakarta Principles Plus 10 (ICJ, 2017). Both documents address the forms of abuse and harassment suffered by people with diverse sexual orientations and gender identities and sets a list of international standards and obligations of States to safeguard the human rights of those populations.

Other key documents are the objectives of the Global Compact for Migration, the Principles and Guidelines on the Human Rights Protection of Migrants in Vulnerable Situations from the Office of the United Nations High Commissioner for Human Rights (OHCHR), and the principles of IOM's Migration Governance Framework (MiGoF).

## RESEARCH PROCESS

The study relies mainly on qualitative data obtained from primary and secondary sources between April and August 2022. Primary sources include 43 semi-structured interviews with key stakeholders, a focus group with migrants in Trinidad and Tobago, and an online survey answered by migrants in or from the countries of study. Secondary sources include the revision of different official government documents from the countries in question, previous studies, and journalistic articles. Figure 1 includes a summary of the research process.

**Figure 1. Stages of the research process**



Source: Authors' elaboration

### Desk review

This consisted of an analysis of legislation and policies that affect the cross-border mobility of people with diverse SOGIESC, assessing whether these documents integrate or consider these populations. It also included a review of internal and external data (for example, IOM studies and reports, academic papers, news articles, and studies compiled by international and regional organizations) to comprehend their experiences when migrating 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 in accordance with their relation to the six variables that help explain the migration needs of persons with diverse SOGIESC:

- Individual documentation: experiences related to the documentation required while crossing borders mainly at security and immigration checkpoints;
- Justice: experiences when accessing justice;
- Safety and security: experiences and perceptions of safety while crossing borders;
- Health services: experiences when seeking access to and support from health services;
- Labour: experiences when applying for legal employment with equal pay;
- Shelter and sanitation: experiences when accessing decent housing options.

## **Diagnostic interviews with IOM country offices**

The research team conducted interviews with staff from IOM country and regional 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 with key informants**

Key stakeholders were identified through a stakeholder mapping validated by IOM country and regional offices to ensure that research participants were the most relevant to the purpose of the study. Forty-three interviews were conducted with government officials, academia, and non-governmental organizations (NGOs) to understand how government legislation and policies affect the cross-border mobility of people with diverse SOGIESC in the countries of analysis. Questions included in the interviews were derived from the key variables and themes identified by the researchers. Personal information of the respondents was anonymized following data protection principles.

## **Focus group with migrants in Trinidad and Tobago**

Five migrants with diverse SOGIESC in Trinidad and Tobago were invited to participate in a focus group; they were first contacted by civil society organizations who have worked with them in the past in order to guarantee that they understood the implications of their participation and that the activity would be a safe space for them.

The main purpose of the focus group was to share and process their experiences as people with diverse SOGIESC in a foreign country, to help build case studies, and to improve the understanding of how such experiences are influenced by government legislation and policies. Furthermore, the small size of the group allowed them to create an environment of trust in which they could participate comfortably and freely. Personal information of the respondents was anonymized following data protection principles.

## **Online survey**

In order to gain essential insights into migration experiences in relation to government legislation and policies, an online survey, developed in English and Spanish, was launched and targeted at people with diverse SOGIESC who had migrated to or from the countries of analysis. The survey was distributed through snowballing sampling and was completed by 10 respondents.

## **Data validation**

Interview notes were presented to interviewees, providing them with the opportunity to review or edit the information they had 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 affecting the migration of people with diverse SOGIESC.

## **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 study faced limitations due to topic-related and region-specific challenges. These key limitations are as follows:

- The available data on migrants with diverse SOGIESC in the Caribbean region is scarce and varies from country to country, which limited the ability to compare case studies.
- The varying degrees of familiarity amongst stakeholders about the topic of study;
- Analysing the needs of people with diverse SOGIESC was challenging as their experiences cannot be discussed as if they were one monolithic community. Furthermore, the language and conversations about this topic are often limited to gay men or lesbian women, which could exclude other groups with diverse SOGIESC or conflate sexual orientation with gender identity, gender expression or sex characteristics;
- Sampling limitations occurred as the study was not able to reach a number of people large enough for it to be statistically representative.

# 1. IMPLICATIONS FOR THE CROSS-BORDER MOBILITY OF PEOPLE WITH DIVERSE SOGIESC IN THE CARIBBEAN

## GENERAL CONTEXT

Migration patterns in the Caribbean are marked by the migration of Caribbean citizens to countries outside the region, predominantly to North America and Europe, followed by intraregional migration among Caribbean countries and territories. The emigration rate in most countries in the region surpasses the immigration rate significantly. For example, in Suriname, emigrants constituted approximately 46.6 per cent of the total population in 2020, followed by Jamaica with 37.8 per cent, and Barbados with 34.7 per cent (Migration Data Portal, 2021).

Although in 2020 approximately 90.5 per cent of Caribbean emigrants resided in another country outside the region, estimates show an increase of the intraregional immigration, which has almost duplicated over the past three decades, with a substantial growth from 437,177 in 1990 to 859,403 in 2020 (UN DESA, 2020). One of the main intraregional migration flows is the migration of nationals from Haiti to the Dominican Republic (IOM, 2018). Other significant flows include the mobilization of nationals of the Caribbean Community (CARICOM) as well as the Organisation of Eastern Caribbean States (OECS), utilizing free movement provisions.

As of 2020, immigration rates have increased in the region. This was especially evident in the Bahamas, where international migrants, predominantly from Haiti, made up 16.3 per cent of its total population; and in Belize, where international migrants, predominantly from Guatemala, El Salvador and Honduras, made up 15.6 per cent (UN DESA 2020). Caribbean countries have also become increasingly important destinations for migrants from other regions; an important flow is the arrival of Venezuelan nationals, especially in the Dominican Republic and in the southern Caribbean, including Aruba, Curaçao, Guyana, and Trinidad and Tobago (Migration Data Portal, 2021).

In terms of the main push factors, migrants tend to mobilize across the Caribbean due to demographic and environmental factors, social and political dynamics, and educational opportunities. Nevertheless, migration for employment opportunities remains the prominent reason to leave their country of origin (IOM, 2019). Table 1 includes a summary of key migration data for the countries of study:

**Table 1. Migration data per country of analysis**

Country	Total population	Immigration stock	Emigration stock	Immigrants as a percentage of the population	Emigrants as a percentage of the population
Bahamas	393 248	65 583	53 793	116.2	13.7
Barbados	287 371	34 869	99 611	12.1	34.7
Belize	397 621	62 043	52 756	15.6	13.3
Jamaica	2 961 161	23 629	1 118 931	0.8	37.8
Suriname	586 634	47 801	273 209	8.1	46.6
Trinidad and Tobago	1 399 491	78 849	330 519	5.6	23.6

Source: UN DESA, 2020, Migration Data Portal, 2020, and author's calculation.

## THREATS FACED BY PEOPLE WITH DIVERSE SOGIESC

Although people with diverse SOGIESC are affected by the main drivers of migration, other specific situations impact their lives, their access to human rights, and thus influence their motivations to migrate. Often this population experiences different conditions of discrimination and exclusion, heightened threats of violence, abuse, exploitation, extortion, and oppression, highly shaping their experiences when migrating throughout the region (United Nations, 2016). Women with diverse SOGIESC are subjected to discrimination and they are more vulnerable to experiencing sexual assault and rape (Brown, 2019); this is especially true for transgender women, who frequently experience gender-based violence.

People with diverse SOGIESC are also more likely to be excluded from migrant communities coming from the same country of origin due to their sexual orientation or gender identity, which makes it more difficult for them to establish support systems in host countries (IOM, 2016). Additionally, they face higher risks when migrating in emergency situations as States often do not consider their specific needs into disaster response and recovery strategies. These challenges push many people with diverse SOGIESC to hide their sexual orientation and gender identity (ibid.).

## CROSS-BORDER MOBILITY OF PEOPLE WITH DIVERSE SOGIESC

People with diverse SOGIESC, like any citizen of CARICOM and the Organisation of Eastern Caribbean States (OECS), have legal access to all the rights protected under the regimes' agreements, such as the free movement of skilled CARICOM nationals under the Revised Treaty of Chaguaramas (Art. 46). However, advocates for the rights of people with diverse SOGIESC fear that existing provisions in immigration acts could, in practice, restrict the cross-border mobility of such populations. In June 2016, for example, the Caribbean Court of Justice (CCJ) handled the complaint of a Jamaican immigrant, Maurice Tomlinson, against the States of Belize and Trinidad and Tobago, who alleged that by including the term "homosexuals"<sup>2</sup> as individuals who can be denied entry under certain circumstances, the countries' immigration laws discriminated against his sexual orientation. Nonetheless, the Court dismissed the case because Mr. Tomlinson was unable to show that he had been prejudiced by the provisions. The Court found that the mere existence of those laws did not prevent Mr. Tomlinson or other persons with diverse sexual orientation from enjoying their right to free movement among those countries. However, the Court stated that the ruling did not "condone the indefinite retention on the statute books of a national law which in appearance seems to conflict with Community law" (CCJ, 2006, p.4) and recommended States to "ensure that national laws, subsidiary legislation and administrative practices are transparent in their support of the free movement of all nationals and that in principle, national legislation should be expressly harmonised with Community law (ibid.).

In spite of this, as shown in the following section, many national laws and immigration acts from various Caribbean countries still contain provisions that affect the cross-border mobility of people with diverse sexual orientations in their territories, most of which have not been amended. Even though in most cases these regulations are not actively enforced by institutions, key informants narrated instances of discrimination where people with diverse SOGIESC have been treated unfairly and cited the existence of these laws as one of the reasons why this happens.

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<sup>2</sup> The term "homosexual" has been included here since it is the term used in the actual pieces of legislation; however, its use in English is not recommended by IOM as it is considered an outdated, and often offensive, clinical term. Instead, the words gay or lesbian may be used.

## 2. NATIONAL AND INTERNATIONAL REGULATIONS RELEVANT TO THE MOVEMENT OF PEOPLE WITH DIVERSE SOGIESC

There are several international and regional agreements in the field of human rights that relate to the rights and movement of people with diverse SOGIESC in the Caribbean. Under national and international law, these individuals are protected in two fundamental areas: (a) their universal rights, recognized by States or in international declarations; and (b) their particular rights as migrant workers, refugees, or CARICOM nationals, guaranteed by national, regional or international laws. Table 2 includes a summary of the relevant international agreements and their ratification status per country of analysis:

**Table 2. International and regional agreements pertinent to the protection of migrants with diverse SOGIESC**

International Agreements	Ratification by Country					
	Bahamas	Barbados	Belize	Jamaica	Suriname	Trinidad and Tobago
UNHCR – The 1951 Refugee Convention and 1967 Protocol Relating to the Status of Refugees	1993	Not ratified	2007	1964 (convention) 1980 (protocol)	2007	2007
The International Covenant on Civil and Political Rights (1966)	2008*	1973*	1996*	1975*	1976 and 1976*	1978*
The International Covenant on Economic, Social and Cultural Rights (1966)	2008*	1973*	2015*	1975*	1976*	1978*
The Revised Treaty of Chaguaramas (1973)**	1983	1973	No	1973	1995	1973
The Convention on the Elimination of All Forms of Discrimination against Women (1979)	1993*	1980*	1990 and 2002	1984*	1993*	1990*
The Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (1984)	2018*	Not ratified	1986 and 2015	Not ratified	2021*	Not ratified
The Convention on the Rights of the Child (1989)	1991*	1990*	1990	1991*	1993*	1991*
The International Convention on the Protection of the Rights of All Migrants Workers and Members of Their Families (1990)	Not ratified	Not ratified	2001	2008	Not ratified	Not ratified
United Nations Convention against Transnational Organized Crime (2000)	2008	2014	2003	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)	2008	2014	2003	2003	2007	2007
The International Convention for the Protection of All Persons from Forced Disappearance (2006)	Not ratified	Not ratified	2015	Not ratified	Not ratified	Not ratified
The Convention on the Rights of Persons with Disabilities (2006)v	2015*	2013*	2011*	2007	2017*	2015*

\* Optional protocol(s) not Ratified

\*\* Regional treaty

Source: OHCHR, 2022; CARICOM, 2022

Caribbean law and jurisprudence mainly derive from the common law, civil law and mixed legal systems, created during the different colonization processes that occurred in the region (FIU, n.d.). In the last decades, commonwealth nations, the Bahamas, Barbados, Belize, Jamaica and Trinidad and Tobago, and Suriname, a former Dutch nation, experienced multiple changes in sovereign control that highly influenced the development of their laws and legal systems. As mentioned previously, there are immigration acts that have yet to be amended as well as other pieces of legislation which contain discriminatory provisions against persons with diverse SOGIESC. For example, Barbados, Belize, Jamaica and Trinidad and Tobago still hold laws that criminalize consensual sexual relations between consenting adults of the same sex, and most legislative documents in the region fail to recognize and include same-sex relations and diverse expression, identity and characteristics.

**Table 3. Overview of national legislations restricting same-sex relations or the movement of people with diverse sexual orientations**

Country	Legislation	Sections and articles
Barbados	Sexual Offences Act	Section 9: Any person who commits buggery is guilty of an offence and is liable on conviction on indictment to imprisonment for life.
Belize	Immigration Act	Section 5 (e). Categories of prohibited immigrants: Any prostitute or homosexual or any person who may be living on or receiving or may have been living on or receiving the proceeds of prostitution or homosexual behaviour.
	Criminal Code Act	Section 53: Every person who has carnal intercourse against the order of nature with any person or animal shall be liable to imprisonment for ten years. This Section was deemed unconstitutional by the Supreme Court of Belize court in 2016; therefore, consensual same-sex activity between adults has been decriminalized.
Jamaica	Offences Against the Person Act	Art. 76, Unnatural offences: Whosoever shall be convicted of the abdominal crime of buggery, committed either with mankind or with any animal, shall be liable to be imprisoned and kept to hard labour for a term not exceeding ten years.
	Offences Against the Person Act	Art. 77, Unnatural offences: Whosoever shall attempt to commit the said abominable crime or shall be guilty of any assault with intent to commit the same, or of any indecent assault upon any male person, shall be guilty of a misdemeanour; and being convicted thereof, shall be liable to be imprisoned for a term not exceeding seven years, with or without hard labour.
	Offences Against the Person Act	Art. 79, Outrages on decency; any male person who, in public or private, commits, or is a party to the commission of, or procures or attempts to procure the commission by any male person of, any act of gross indecency with another male person, shall be guilty of a misdemeanour; and being convicted thereof shall be liable at the discretion of the court to be imprisoned for a term not exceeding two years, with or without hard labour.
Trinidad and Tobago	Immigration Act	Section 8 (e). Prohibited classes: prostitutes, homosexuals or persons living on the earnings of prostitutes or homosexuals, or persons reasonably suspected as coming to Trinidad and Tobago for these or any other immoral purposes.
		Section 8 (f). Prohibited classes; persons who are reasonably suspected of attempting to bring into Trinidad and Tobago or of procuring prostitutes or other persons for the purpose of prostitution or homosexual or other immoral purposes.
	Sexual Offences Act	Section 13**: (1) A person who commits the offence of buggery is liable on conviction for twenty-five years. (2) In this section "buggery" means sexual intercourse per annum by a male person with a male person or by a male person with a female person. This Section was deemed unconstitutional by the High Court of Justice in Trinidad and Tobago in 2018; therefore, consensual same-sex activity between adults has been decriminalized.

Sources: Government of Barbados, 1992; Government of Belize, 2011, 2020; Government of Jamaica, n.d.; Government of Trinidad and Tobago, 2012, 2016; compilation prepared by authors.



Key informants from government and civil society highlighted different barriers as reasons why some of these legislations have not been amended yet, including the influence of religious groups and beliefs in society, and the lengthy and thorough process of amending constitutions, which forms the basis of some of these legislations.

Nevertheless, attempts to reform legislation have made important progress in recent years, and many government officials expressed the sense of urgency to examine legislation based on global trends and international commitments. For example, the Government of Barbados has begun to talk more openly about the need for change, especially since the country separated itself from the United Kingdom as a republic in 2021 and is still in the process of constitutional reforms.

In 2018, the High Court of Justice in Trinidad and Tobago ruled that country's laws criminalizing same-sex acts among consenting adults were unconstitutional (Human Rights Watch, 2018). Furthermore, the Office of the Attorney General has identified 27 discriminatory active laws, including discrimination based on one's sexual orientation, and is in the process of revisions to make amendments. However, key informants have indicated that the legislative documents that discriminate against people with diverse SOGIESC are currently not being addressed due to the ranking priorities of discrimination against other vulnerable groups.

Another example is the case of Belize where, in 2013, Caleb Orozco, a gay man and activist, acted as the main litigant against Belize's anti-sodomy law. With the support of the United Belize Advocacy Movement (UNIBAM), he filed a constitutional case against section 53 of Belizean law which criminalized same-sex behaviour. In 2016, the law was ruled unconstitutional, and the judgement included the clause that section 53 "shall not apply to consensual sexual acts between adults in private". Since then, this clause has been brought in front of Belize's Attorney General's Ministry where one of the judges is looking to codify this judgment, so the law will be changed in accordance with it.

### 3. CONSIDERATIONS AND CASE STUDIES ON THE NEEDS OF MIGRANTS WITH DIVERSE SOGIESC

As part of the research process, it was possible to identify experiences of persons with diverse SOGIESC where they have encountered discrimination or other obstacles to access basic human rights including access to citizenship, shelter and sanitation, justice, labour, health and safety. These experiences show different treatment before the law for these populations either because of legislation that may openly discriminate against the rights of people with diverse SOGIESC, or because there's room for discretion in the application of the law, which may expose migrants with diverse SOGIESC to suffer discrimination. This section presents case studies of migrants with diverse SOGIESC exemplifying situations in which their particular needs have not been met, and a list of human rights that should have been considered in each situation.

#### CITIZENSHIP AND PROOF OF LEGAL IDENTITY

Proof of legal identity is often essential for accessing specific rights and services provided by States such as healthcare, education, and job benefits (IOM, 2018). Although migrants in general face challenges during their journeys and in obtaining proof of legal identity, people with diverse SOGIESC are subject to additional constraints when moving across international borders. An example of this would be individuals who do not identify with the gender that was assigned to them at birth, as is the case of transgender and non-binary people. These persons often face difficulties accessing proper documentation and proof of citizenship due to discrepancies between their gender identity and the gender shown on their documentation.

The lack of recognition of the right to identity for people with diverse gender identities and gender expressions, regularly translates into limitations to access other services or creates situations where migrants might be forced to act against the law to obtain basic rights. For example, representatives of civil society organizations who were consulted as part of this study mentioned cases in which gay individuals engage in “fake” heterosexual marriages in order to obtain citizenship.

Moreover, the online survey developed as part of this study also found that most interviewees perceived that they had been discriminated against as members of the LGBTIQ+ <sup>3</sup> community. Out of the 10 respondents, three from Jamaica and three from Venezuela reported encountering discrimination when attempting to regularize their status.

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<sup>3</sup> Although “persons/migrants with diverse SOGIESC” is the preferred term for this study, the acronym LGBTIQ+ (and variations of it) is used when quoting or paraphrasing information from interviews, surveys or secondary sources that used the latter term.

## CASE STUDY 1. ACQUIRING CITIZENSHIP IN THE BAHAMAS: STACEY

In the Bahamas, citizenship is acquired by persons who are: (a) born in the country to married parents; (b) born in or outside of the country to an unmarried Bahamian female; (c) born outside the country to a married Bahamian male born in the Bahamas; (d) adopted by a married Bahamian male; or (e) adopted by a single Bahamian female. Alternatively, migrants born in the Bahamas can apply for citizenship at 18. As part of the process, applicants must provide proof of their legal identity and of their parents' citizenship. Applicants are over 19 years old, they must publish their request in the newspaper.

Stacey is a 19-year-old trans girl born in the Bahamas to a Haitian mother and a Bahamian father. Through the Bahamas Nationality Act (Chapter 190), she acquired her mother's Haitian nationality along with her status as a migrant. Although she lived her entire life in the Bahamas, at the age of 18, she was denied access to higher education because she did not have the Bahamian citizenship.

Stacey, assisted by Human Rights Bahamas, began the citizenship process at 18 to obtain higher education. However, her status as a trans woman posed a challenge: her identity documents registered her as male, and she did not have any proof of legal identity that identified her as a female or included her chosen name. She was also not able to change this given that the Bahamas does not provide legal pathways to change an individual's sex and/or name on documentation. As a result, Stacey had to apply for citizenship under a gender and a name with which she does not identify.

The Human Rights Bahamas employee that followed Stacey's case commented on her situation: "It is so hard that she has to let her identity as Stacey go for a bit just to get by. She can't be her true self." Stacey's positionality as a trans woman intersected with her immigration status, resulting in a situation where she had to prioritize accessing individual documentation over her self-recognition and psychological well-being. Furthermore, given Stacey's gender identity and expression, the mismatch in the documentation makes her easily identifiable as a trans woman, which could lead to her being the target of transphobic discrimination.

### International instruments relevant for this case study

- International Covenant on Civil and Political Rights (Art. 24)
- 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)
- Convention on the Rights of Persons with Disabilities (Art. 18)

## JUSTICE

Access to justice emerged as a critical element among migrants with diverse SOGIESC. Different participants of the interviews and the survey, experienced severe obstacles while attempting to report crimes and take legal action, mainly discrimination and fear.

Informants offered multiple examples of trying to report exploitation, verbal, and physical abuse, only to be ignored, dismissed, or ridiculed by authorities. In one of the most concerning cases, a migrant trans woman was physically assaulted and then hospitalized because of her injuries; however, she did not report the incident to the police because her assailants threatened to burn down her house in retaliation. These behaviours are not only symptomatic of a wider problem with stigmatization and discrimination but are also the result of the lack of protection for individuals with diverse SOGIESC in institutional norms and practices. In some cases, discriminatory actions are in stark contrast with anti-discrimination laws, but in other cases, perpetrators might feel justified by laws that criminalize same-sex behaviours. It is a serious problem that is often dismissed; key informants from Belize also expressed having to face these types of situations.

"Because I am a migrant, I am afraid to call the police to report gender violence; I don't know if they would detain me."

Luisa (56), survey respondent

"The police must be trained. Within a short period of time, two murders have been committed against the LGBTI community, and these cases have not been dealt with seriously by the police".

Marcus (34), survey respondent

Data collected through the survey confirms the information found in case studies, respondents reported being unable to trust authorities and feeling unsafe when requesting support. Some mentioned that when they went to the police they were mistreated, directly hindering their access to justice.

In contrast, most migrants trust and rely on civil society organizations for assistance and support.

## CASE STUDY 2. ACCESSING JUSTICE IN TRINIDAD AND TOBAGO: ERIC

Eric is a 35-year-old gay man who emigrated from Venezuela to Trinidad and Tobago in 2015. When asked about his experience as a gay man in Trinidad and Tobago, he reported various occurrences in which he suffered physical and verbal abuse or in which he felt unsafe. He described one of the experiences as follows:

Some time ago I was walking to my house and two guys were pretending to be waiting for a taxi, and I thought that's what they were doing. They stopped me and asked me for directions. They realized that I am gay, I don't know; no, I do know how... because of how I talk or whatever, and I use a lot of expressions. So they robbed me, and one of them hit me in the head and chest with a screwdriver. They started to run, they even took my cellphone, my money etc., but one of the guys said: "don't run because he's gay, don't worry, he won't do anything to us." Only then I realized that I was bleeding (...) I went to the police and asked them to look for them, but they couldn't find them. Then I asked to be taken to the hospital because I was bleeding so much. When we got to the hospital, and a female police officer asked me if it had been my ex-boyfriend who did that to me. And I was like, oh my God, I cannot understand how you can ask someone this question when they are bleeding so much, like really, really bad... So I said, no, they just robbed me (...) I had to wait two hours, and the doctor said if I had been hit two inches to the side in my eye, I could have died. The police officer laughed when I told her everything when I went to the police station, so I left with more pain in my heart than the actual physical pain.

### International instruments relevant for this case study

- International Covenant on Civil and Political Rights (Arts. 26 and 27)
- Convention against Torture and other Cruel, Inhumane or Degrading Treatment or Punishment (Art. 14)

## SAFETY AND SECURITY

The information collected in this study made it possible to gain a better understanding of how persons with diverse SOGIESC are often at risk of having their rights to safety and security ignored or even infringed.

The focus groups developed as part of this study showed how migrants with diverse SOGIESC often find themselves in a double situation of vulnerability, several participants reported feeling insecure and unsafe as a migrant with diverse SOGIESC. Some informants also provided suggestions on how this can be addressed, starting by establishing friendly services to respond to the needs of these populations and sensitizing both the communities and service providers.

"A migrant was shot in the head. However, they did not report the incident because of their fear of being deported (...) The government does not know how to integrate the diverse people into society. There are practical things that can be done – make your service friendly and accommodating to members of the diverse SOGIESC community. Additionally, there needs to be a lot more sensitization: the way communities are perceived affects how they are treated. It is very important for there to be continuous sensitization of service providers to ensure that they actually address social issues and issues affecting migrant populations. It is important that there are sanctions for inappropriate actions and behaviour; sanctions act as a response mechanism."

Martha (40), focus group participant

### CASE STUDY 3. SAFETY AND SECURITY IN TRINIDAD AND TOBAGO: ERIC

Eric is 35 years old; he is gay, and he is a migrant living in Trinidad and Tobago, where he has been subject to aggressive expressions of discrimination. Once, he went to a club with a female friend, and as they sat in the back of the taxi, the taxi driver asked him if his female friend was his girlfriend. When Eric answered no, the taxi driver proceeded to ask him if he was gay, to which Eric's answer was yes. At that moment, the taxi driver slowed down the vehicle and Eric started to fear for his safety. The taxi driver asked him why he was gay and that he should not be like that. He also asked how much Eric charged for prostituting himself and claimed that gay people should not exist. The traumatizing encounter made Eric feel insulted and unsafe. The situation did not escalate any further, but it could have easily led to a situation that could have even threatened his safety.

#### International instruments relevant for this case study

- International Covenant on Civil and Political Rights (Arts. 26 and 27)
- International Convention on the Protection of the Rights of All Migrants Workers and Members of Their Families (Art. 14, 16, 17, 23, 43 and 44)

### HEALTH SERVICES

Multiple key informants provided information regarding experiences accessing health services. Similarly, many indicated being frequently discriminated against when accessing other services. For example, informants from civil society organizations would provide information about specific services essential to transgender people that are unavailable in the country of destination.

Several key informants of this study communicated a series of healthcare needs as migrants in foreign countries, ranging from general physical health to mental health. A particular emphasis was put on access to sexual health care, and treatment or prevention for sexually transmitted diseases, including HIV/AIDS.

"I know someone who ended up in prostitution. He contracted HIV and was not receiving proper medication for it. Because he did not have access to proper health care, he passed away a few years later (...) It is very difficult for migrants with trans experiences to access health care. Mostly because of the way they look, they feel less secure with health caregivers. I pray every night to God because I don't like to get sick in this country."

Francis, (25), focus group participant

"For me, health care has been provided whenever I have requested it. However, I know, from experience, that people with chronic illnesses are not given care because of the cost of their medical condition, which is a regrettable fact as sometimes people, especially migrants, do not have the resources."

Luisa (56), survey respondent

## CASE STUDY 4. ACCESSING HEALTHCARE IN THE BAHAMAS: MATTHEW AND ANDREA

Matthew, a 29-year-old migrant in the Bahamas, was an inmate in a Bahamian prison. He was also a person with diverse SOGIESC who was living with HIV/AIDS. He asked guards for HIV/AIDS medication; however, they dismissed the request and did not provide any form of medication or assistance to him.

Similarly, when Andrea, a transgender migrant in the Bahamas, was seeking help from social services to access healthcare, the government clerk told her: “We don’t want people like you here.”

There are government policies that allow people with diverse SOGIESC access to healthcare services; however, these policies are not always fully enacted mainly because there is no system to ensure a discrimination-free implementation of such policies or because these have not been effectively communicated to front-line personnel.

### International instruments relevant for this case study

- International Covenant on Economic, Social and Cultural Rights (Art. 12)
- Convention on the Elimination of All Forms of Discrimination against Women (Arts. 10, 11, 12 and 14)

## LABOUR

Rights to employment are protected by the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, which would consequently include migrant workers with diverse SOGIESC. From the countries included in this treaty, only Belize and Jamaica have ratified said treaty.

Several key informants mentioned having migrated looking for better job opportunities, or after emergencies or economic crises in their countries of origin; in many cases, however, they have encountered important challenges when trying to access decent work in the countries of destination. Some of those who could find a job, did so under informal conditions.

There are situations where even informal labour is inaccessible for people with diverse SOGIESC. This is one of the main reasons why sometimes migrants with diverse SOGIESC engage in commercial sex work.

“People with diverse SOGIESC work in places where there is a lot of exploitation. They work longer hours and often get threatened with having to do the worst jobs when they do not obey”

Rodrigo (30), survey respondent

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“A lot of migrants do not work stable jobs. These vulnerabilities expose them to dangerous situations”

Hernando, (46), survey respondent

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“Prostitution is also a major problem for the migrant community and is often seen as the only way to earn money; this is often accompanied by discrimination, violence and poor [access to good] contraceptive measures.”

Chantal, (51), survey respondent

When asked about access to formal employment and job assistance, one person responded having had positive experiences. Most survey respondents reported having had negative experiences such as discrimination and exploitation when attempting to access labour or while working.

"Sometimes, discrimination comes from co-workers, who think that because we are Venezuelan immigrants and do not speak the language, we are inferior."

Luisa (56), survey respondent

## CASE STUDY 5. ACCESSING LABOUR IN SURINAME: JOSHUA

Joshua is a 22-year-old man that migrated from his country of Jamaica to Suriname to be with his partner. After a few months, their relationship ended and Joshua found himself alone, in a new country, and with no support network and job prospects. Multiple factors aggravated this condition: he had no legal documentation, and he did not speak Dutch (Suriname is one of the few Dutch-speaking countries of the Caribbean).

Joshua was unable to find formal employment and was forced to engage in survival sex work. He eventually contracted HIV. The lack of stable employment options and his irregular immigration status contributed to him being unable to afford health insurance and receive proper treatment.<sup>4</sup> Joshua consequently developed AIDS and died a few years after his arrival due to lack of access to life-saving treatments.

### International instruments relevant for this case study

- International Covenant on Economic, Social and Cultural Rights (Art. 7)
- International Covenant on Civil and Political Rights (Art. 8)

<sup>4</sup> As stipulated in the National Basic Health Insurance Law (*Wet Basiszorgverzekering, S.B. 2014 no. 114*), all residents — defined as anyone who has a domicile, principal residence or actual residence in Suriname — are responsible for financing the expenses of personal health care and are therefore obliged to obtain basic health insurance. This suggests that all migrants, including those with irregular status, must obtain health insurance.



## SHELTER AND SANITATION

Finding appropriate housing in host countries can be extremely complex for migrants due to several factors such as limited knowledge of the host country, limited financial resources and lack of official documentation. The difficulty to provide proof of legal identity often makes migrants vulnerable to abuse by landlords who may take advantage of their lack of economic means or of their irregular immigration status, charging them more, or not complying with landlord responsibilities. Several key informants from different countries mentioned difficulties in finding affordable housing under safe and fair conditions; some stated that migrants with diverse SOGIESC often face even more challenges trying to find appropriate housing due to their sexual orientation and/or gender identity. These perceptions were echoed by those migrants who responded to the online survey. Although most of them reported being able to find proper housing, they also mentioned that the process was affected by discrimination, both due to their immigration status and to them being LGBTIQ+ individuals.

In regard to temporary shelters, informants seemed to have contrasting views; half of those who had lived in temporary shelters deemed them safe while the other half did not. One of the respondents had been detained in a migrant detention centre and reported that the facility did not provide proper access to healthcare, safety, and hygienic conditions.

### CASE STUDY 6. ACQUIRING SAFE HOUSING IN TRINIDAD AND TOBAGO: JEVAUN AND ZIGGY

Jevaun and Ziggy are a queer couple that migrated from Jamaica to Trinidad and Tobago. Originally, they were a lesbian couple, but as Jevaun started exploring his gender identity, he found that he felt more comfortable identifying as transmasculine.

In Trinidad and Tobago, they struggled to find accessible housing. A few weeks after they were finally able to find a place they could afford, their landlord identified them as a queer couple and started treating the couple in a discriminatory manner including showing up unannounced, verbally abusing them, and cutting their water and electricity.

A local advocacy organization (CAISO: Sex and Gender Justice) supported them to find another accommodation. They also provided further assistance to get food, documentation and emotional support. Although the organization offered guidance to report the event to the police, the couple decided not to pursue any legal action as it would entail exposing themselves and face the risk of possible retaliation and deportation. Furthermore, they believed that the police would have been dismissive of their claims.

#### International instruments relevant for this case study

- International Convention on the Elimination of All Forms of Discrimination against Women (Art. 14)
- Convention on the rights of the Child (Arts. 24 and 27)
- International Convention on the Protection of the Rights of All Migrants Workers and Members of Their Families (Art. 43)

## 4. RECOMMENDED PRINCIPLES FOR THE PROTECTION OF THE HUMAN RIGHTS OF PEOPLE WITH DIVERSE SOGIESC

This section explores recommended guiding principles central to the human rights of migrants with diverse sexual orientations, gender identities, gender expressions and sex characteristics (see Table 4). Enshrined in international instruments that specify the responsibility of States to uphold the rights of persons, the following recommended principles are directed at all stakeholders who participate in the development of policy and legislation that affect persons with diverse SOGIESC and their needs as they migrate across international borders, including in countries of origin, transit and destination. Accordingly, governments, decision-makers, NGOs and other civil society organizations may benefit from considering these recommendations as baseline reference when developing the necessary migration 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 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 Yogyakarta Principles and the Yogyakarta Principles plus 10, developed by the International Panel of Experts in International Human Rights Law and on Sexual Orientation and Gender Identity;
- The Migration Governance Framework (MiGoF) developed by IOM;
- The United Nations Global Compact for Safe, Orderly and Regular Migration (GCM).

**Table 4. Recommended principles for the protection of the human rights of people with diverse SOGIESC**

1. Prioritize non-discrimination
2. Provide access to justice
3. Ensure that border management protects human rights
4. Adhere to international standards and the fulfilment of migrants' rights
5. Implement gender-responsive migration governance
6. Ensure access to health
7. Promote access to labour and inclusion
8. Promote the protection of persons with diverse SOGIESC from torture, violence, exploitation, and trafficking in persons
9. Prioritize facilitating regular migration and proof of legal identity
10. Promote evidence-based policies and public discourse
11. Avoid generalizations and recognize intersectional factors

Source: Authors' elaboration

## THE PRINCIPLES

### Principle 1. Prioritize non-discrimination

Migrants with diverse SOGIESC experience widespread discrimination, which often leads to physical and mental threats. Several factors tend to intersect on these experiences, including their condition as migrants, their sexual orientation, gender identity and gender expression, as well as other social and economic factors.

Objective 17 of the Global Compact for Safe, Orderly and Regular Migration (GCM) seeks to eliminate all forms of discrimination and promote evidence-based public discourse to shape perceptions of migration (United Nations, 2018). Similarly, Principle 2 of the OHCHR Principles and Guidelines (2017) calls for States to counter all forms of discrimination against migrants. Principle 2 of the Yogyakarta Principles declares that every person should have all their human rights guaranteed without any form of discrimination based on sexual orientation or gender identity (ICJ, 2006). Finally, Principle 1 of the Migration Governance Framework (MiGoF) indicates that, to protect the rights of individuals, States must combat xenophobia, racism, and discrimination while “ensuring adherence with the principles of equality and non-discrimination and ensuring access to protection” (IOM, n.d.).

### Principle 2. Provide access to justice

Migrants with diverse SOGIESC often must face different situations that threaten their safety or violate their rights; however, they often do not report crime or pursue legal action mainly fearing retaliation by the perpetrator, or feeling that authorities may not take them seriously, revictimize them, or even deport them (in the case of irregular migrants).

Principle 3 of the OHCHR Principles and Guidelines (2017) states that governments should ensure that migrants have access to justice. In addition, Yogyakarta Principle 3 establishes the right to recognition of any person before the law (ICJ, 2006).

### Principle 3. Ensure that border management protects human rights

When migrants with diverse SOGIESC enter a host country, they may have limitations to provide proof of legal identity and to speak the native language. Additionally, many frontline officers may not have the appropriate training to understand and cater to the specific needs of these populations. All of these may aggravate their conditions of vulnerability.

Objective 11 of the Global Compact for Migration states that borders should be managed in a secure manner, implementing policies that respect the human rights of all migrants (United Nations, 2018). Principle 5 of the OHCHR Principles and Guidelines (2017) declares that States must ensure that border management controls align with human rights. Furthermore, Principle 22 of the Yogyakarta Principles emphasizes the right to freedom of movement and that no one should be denied entry within the borders of a State on the basis of their sexual orientation or gender identity (ICJ, 2006).

#### **Principle 4. Adhere to international standards and the fulfilment of migrants' rights**

As any other group of migrants, people with diverse SOGIESC are entitled to their rights; however, discrimination due to their sexual orientation, gender identity, gender expression or sex characteristics, often compromises such rights.

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.). Similarly, Yogyakarta Principle 1 reaffirms that everyone is entitled to all human rights regardless of their sexual orientations and gender identities (ICJ, 2006).

#### **Principle 5. Implement gender-responsive migration governance**

Groups who have been historically marginalized, such as women (both cis and trans), transgender men, non-binary and gender nonconforming individuals, have unique experiences throughout the different stages of the migration cycle. At the same time, they have independence, agency and leadership that must be recognized in migration governance and policy, moving away from a victimizing view (United Nations, 2018).

Principle 20 of the OHCHR Principles and Guidelines (2017) affirms the responsibility of States to ensure human rights-based and gender-responsive migration governance. The Global Compact for Migration also incorporates gender perspective as a cross-cutting guiding principle.

#### **Principle 6. Ensure access to health**

People with diverse SOGIESC often have specific needs when it comes to healthcare; however, access to proper care and treatment can be difficult to obtain because of several factors, including various degrees of institutional and cultural unawareness of the experiences of these groups as well as the unavailability of programmes specifically aimed at addressing their needs.

Principle 12 of the OHCHR Principles and Guidelines (2017) affirms the State's responsibility to "ensure that all migrants enjoy the highest attainable standard of physical and mental health". Similarly, the right to the physical and mental health for people with diverse SOGIESC is highlighted in the Yogyakarta Principles (ICJ, 2006): Principle 17 states that sexual orientation and gender identity should never be used to discriminate against this population, and Principle 18 establishes the protection from medical abuses to persons on the basis of their sexual orientation or gender identity.

## Principle 7. Promote access to labour and inclusion

Access to dignified labour is indispensable for the livelihoods of people with diverse SOGIESC, and their participation and contribution in the economy are crucial factors in maintaining economic and sustainable development, not only for themselves but for the country they live in as well. Unfortunately, acts of discrimination they face, as migrants and as persons with diverse SOGIESC, frequently prevent them from accessing labour markets or having stable jobs.

Objectives 6, 16 and 19 of the Global Compact for Migration call on governments to facilitate the access to decent work, empower migrants to realize inclusion and to contribute to sustainable development. 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". Additionally, Yogyakarta Principle 12 states that every person, regardless of sexual orientation or gender identity, is entitled to decent work in the best conditions possible (ICJ, 2006).

## Principle 8. Promote the protection of persons with diverse SOGIESC from torture, violence, exploitation and trafficking in persons

Migrants with diverse SOGIESC face heightened threats of violence and are more susceptible to being exploited. There is a lack of safe spaces where migrants with diverse SOGIESC can go to obtain information regarding livelihood, legal assistance, or immigration status information without the fear of being deported.

Objective 7 of the Global Compact for Migration highlights the importance to reduce vulnerabilities throughout the migration cycle. Additionally, Principle 7 of the OHCHR Principles and Guidelines (2017) affirms that States should protect migrants from all forms of violence and exploitation. Also, Principles 10 and 11 of the Yogyakarta Principles call for the right to freedom from torture, inhuman or degrading treatment or punishment, and for the right to protection from all forms of exploitation and human trafficking (ICJ, 2006).

## Principle 9. Prioritize facilitating regular migration and proof of legal identity

Migrants with diverse SOGIESC, particularly transgender people, find it exceedingly difficult to access identity documentation that respect their chosen name and gender identity; as a result, many must travel with documents that contain information and photographs that they do not identify with, a situation which often exposes them to transphobic violence and criminalization.

Objectives 4 and 5 of the Global Compact for Migration emphasize the need to provide pathways to regular migration and ensure that all migrants have proof of legal identity. Furthermore, for individuals with diverse sexual orientations or gender identities, Principle 31 from the Yogyakarta Principles Plus 10 highlights their rights to legal recognition, including the ability to change gendered information in identity documents (ICJ, 2017).

## **Principle 10. Promote evidence-based policies and public discourse**

A lack of data collection regarding the specific needs of migrants with diverse SOGIESC often limits the States' capabilities to create specific policies for their assistance and protection. Moreover, unsupported information disseminated by the mass media often aggravates the stigmatization of these populations.

Objectives 1 and 17 of the Global Compact for Migration 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.

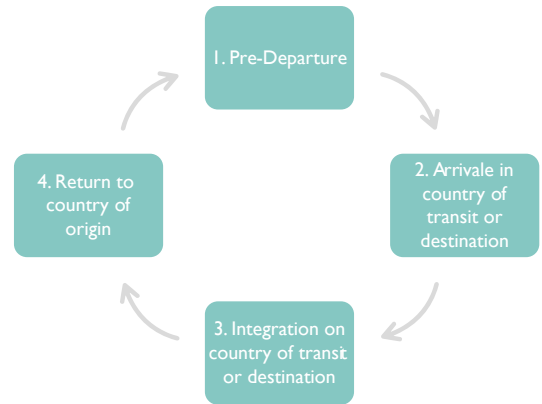
## **Principle 11. Avoid generalizations and recognize intersectional factors**

The OHCHR Principles and Guidelines (2017) outline that vulnerability must be understood as both situational and personal, and vulnerability to human rights violations is the result of intersecting forms of discrimination, inequality, structural and societal factors. Accordingly, the situation of each migrant with diverse SOGIESC should be addressed individually.

## 5. PROVISIONS FOR THE SOCIAL PROTECTION AND ASSISTANCE OF MIGRANTS WITH DIVERSE SOGIESC

This chapter discusses provisions States and other important stakeholders can implement to protect the rights of migrants with diverse SOGIESC throughout the migration cycle (see Figure 2). These actions have been categorized following the same six variables analysed in previous chapters: individual documentation, justice, safety and security, health services, labour, and shelter and sanitation. Apart from consulting different international agreements,<sup>5</sup> many of these provisions have been taken and adapted from *The Protection Workbook: Sexual Orientation, Gender Identity, Gender Expression and Sex Characteristics (SOGIESC) in Forced Displacement and Migration*, developed by IOM in collaboration with UNHCR (2021).

Figure 2. Phases of the migration cycle



Source: IOM, 2019

In addition to the variables referenced above, the chapter starts by introducing four general correlating variables in areas where provisions can be implemented; namely, these are the following:

- Ratification and implementation of international treaties
- Inter-institutional collaboration
- Participation and outreach
- Material assistance

The chapter also identifies relevant institutions for the implementation of such provisions in the Caribbean as well as selected examples of best practices from the region and other parts of the world that might be replicable or adaptable to the Caribbean context.

The overarching principle of these provisions is to ensure the recognition and protection of categories of vulnerable migrants based on their needs. Although many of the migration experiences of people with diverse SOGIESC overlap with those of other migrants, they also face a set of specific challenges. Improving the understanding of such specific circumstances is the first step towards developing policies and measures catering to their needs, to minimize unsafe migration processes, and to safeguard their right to free movement and access to essential services.

<sup>5</sup> Humans Rights Watch, 2022. Inter-American Commission on Human Rights, 2018. Caribbean Equality Project, 2020. Humans. Right Watch, 2022. Liberties, 2015. HIAS, n.d. Loop News, 2022. Inter-American Commission on Human Rights, 2018. Marsh& Rois, 2017.

## ALIGNMENT OF NATIONAL LEGISLATION WITH INTERNATIONAL STANDARDS

The following actions can be taken to protect migrants with diverse SOGIESC:

- Amend legislation that criminalizes same-sex relationships;
- Create anti-discrimination laws that include and protect people with diverse SOGIESC, recognizing the specific challenges they face when compared to other vulnerable populations;
- Create legislation that recognizes same-sex couples and consider their rights as equal to their heterosexual citizens. Alternatively, amend existing legislation to include same-sex couples;
- Amend or eliminate legislation that could impede entry to the country on the basis of one's sexual orientation or gender identity.

**Relevant institutions:** Legislative assembly and parliament, the office of the attorney general, inter-institutional committees dealing with jurisprudence and the alignment of international agreements, and government institutions in charge of enacting legislation.

## INTER-INSTITUTIONAL COLLABORATION <sup>6</sup>

The following actions can be taken to foster inter-institutional collaboration for the protection of migrants with diverse SOGIESC:

- Create a shared data collection system that accounts for the experiences of migrants with diverse SOGIESC. This process of collection should involve governments and civil society organizations alike in order to have reliable data that both stakeholders can use;
- Create a system to anonymize and protect data. Data relative to one's sexual orientation and gender identity are extremely sensitive, private, and could potentially endanger the safety of the population and individuals in question;
- Recognize the role of civil society organizations in the protection of human rights, promote inter-sectorial programmes and participative policy development.

### Good practice 1. The Eastern Caribbean Alliance for Diversity and Equality (ECADE)

The Eastern Caribbean Alliance for Diversity and Equality is a regional alliance whose core members come from organizations representing the lesbian, gay, bisexual, transgender and intersex communities. It operates as an independent umbrella organization and works with human rights groups to strengthen institutional capacities and to provide a platform for strategies and work towards equality within the region. The mission of the alliance is to strengthen regional capacities for the defence and full recognition of human rights.

*Source:* ECADE, 2019

**Relevant institutions:** Migration committees and working groups or inter-institutional and regional platforms in charge of discussing issues related to migration and/or people with diverse SOGIESC.

<sup>6</sup> Applicable in all phases of the migration cycle



## PARTICIPATION AND OUTREACH <sup>7</sup>

The following actions can be taken to include the participation of and outreach to migrant communities with members of diverse SOGIESC:

- Develop sensitization campaigns to promote safe and inclusive working environments while recognizing individual agency and the benefits of integrating migrants with diverse SOGIESC. Where diverse SOGIESC organizations exist, they may be able to assist with training and inclusive recruitment strategies;
- Hiring practices should be inclusive of people with diverse SOGIESC. This could be achieved through non-discrimination campaigns that include job advertisements with invitations for diverse populations to apply;
- Conduct sensitization campaigns and trainings focusing on outreach institutions that may interact with people with diverse SOGIESC, including in languages to reach migrant populations;
- Ensure people with diverse SOGIESC are specifically included in development and implementation of protection and assistance programmes, particularly those regarding gender-based violence prevention and response;
- Create confidential communication channels or hotlines, including in predominant languages of migrant communities, that people with diverse SOGIESC can use to ask for support or present a complaint;
- Establish partnerships with civil society organizations working with SOGIESC and migrant populations to provide information and assistance, and to develop referral protocols.

### Good practice 2. New York Police Department (NYPD) LGBTQ Outreach Unit

The NYPD is working to build a relationship with the diverse SOGIESC communities across the city. They work with the different precincts, service areas and transit districts as well as with other city agencies and advocacy organizations to provide information, safe spaces for conversation and assistance to survivors of possible bias incidents.

Source: NYPD, n.d

**Relevant institutions:** Government institutions dealing with outreach and internal affairs, with specific regards to labour and communications, civil society organizations working with community outreach.

## MATERIAL ASSISTANCE <sup>8</sup>

The following actions can be taken to improve the provision of material assistance to persons with diverse SOGIESC:

- Request feedback from migrants with diverse SOGIESC and civil society to identify potential risks in the distribution of material aid to ensure that the assistance is appropriate to their needs;
- Include migrants with diverse SOGIESC and civil society in discussions about specific needs to be addressed through material aid packages and programmes;
- Ensure that migrants with diverse SOGIESC have access to material assistance when needed without discriminatory practices barring them from this, particularly in the context of a crisis.

**Relevant institutions:** Social development government institutions with support from civil society organizations, and institutions in charge of emergency response.

<sup>7</sup> Applicable in all phases of the migration cycle

<sup>8</sup> Applicable in all phases of the migration cycle

## CITIZENSHIP AND PROOF OF LEGAL IDENTITY<sup>9</sup>

The following actions can be taken to ensure the regularization pathways are accessible to migrants with diverse SOGIESC:

- In processes of registration, promote safe, non-discriminatory, and confidential spaces, which could involve dedicating specific rooms, days or hours to receive to migrants with diverse SOGIESC;
- Consider respectful ways to collect data on sexual orientation, gender identity or sex characteristics;
- Develop official forms, databases and reports, considering inclusive and diverse categories in various relevant languages;
- Collaborate with civil society organizations to be able to reach and provide relevant information to migrants with diverse SOGIESC;
- Provide migrants with diverse SOGIESC with equal access to free legal assistance;
- Facilitate legal pathways for transgender people to change the sex and/or name they were assigned at birth on official documentation.

**Relevant institutions:** Departments handling the application and approval of passports, citizenship, residence, permits, visas, registration, and applications for refugee status.

### Good practice 3: Legal change in identity documents in El Salvador

In February 2022, the Supreme Court of El Salvador ruled that transgender people have the right to their identity. As a result, the country gave one year to develop a legislative mechanism that prohibits discrimination and ensures that transgender people can change their name in identity documents and modify gender markers in their identity documents.

*Source:* Human Rights Watch, 2022a.

<sup>9</sup> Applicable in phases 2 and 3 of the migration cycle

## JUSTICE <sup>10</sup>

The following actions can be taken to enhance access to justice for migrants with diverse SOGIESC:

- Create training programmes for police and judiciary members to improve their understanding of the vulnerabilities and needs of migrants with diverse SOGIESC;
- Ensure that providers of legal assistance are trained on the specific needs of migrants with diverse SOGIESC, particularly in regard to access to documentation and legal identity;
- Support migrants with diverse SOGIESC to present complaints; this includes support with translation services, legal counselling, protection against retaliation, among others.

**Relevant institutions:** Legal or judicial departments relating to the development and the implementation of the law.

### Good practice 4: Orden David and Women Against Rape, Inc. v. The Attorney General of Antigua and Barbuda

In June 2022, Orden David et al. v. the Attorney General of Antigua and Barbuda was filed in the Eastern Caribbean Supreme Court (ECSC). This motion was supported by the advocacy group Women Against Rape Inc. and was based on the grounds that the Sexual Offences Act 1995 had discriminatory provisions against people with diverse sexual orientation, particularly as they related to intimate male same-sex relations. David alleged that he had been a victim of ridicule, assault, persecution and discrimination by police officers and colleagues, because of his sexual orientation.

In July of that year, the High Court deemed the provisions of the Sexual Offences Act 1995 (Sections 12 and 15) that criminalized same-sex sexual relations unconstitutional as they contravened “the right to liberty, protection of the law, protection of personal privacy, freedom of expression, and protection from discrimination.”

*Source:* Eastern Caribbean Supreme Court, 2022.

<sup>10</sup> Applicable in phase 3 of the migration cycle

## SAFETY AND SECURITY <sup>11</sup>

The following actions can be taken to promote an environment that is safe and secure for migrants with diverse SOGIESC:

- Consider potential risks regarding safety and security in relation to programmes aimed at providing access to basic services;
- Provide training to security guards, neighbourhood watch teams, police forces and other entities to generate awareness on the needs for protection of migrants with diverse SOGIESC;
- Establish referral pathways to sensitive health care providers to respond to the needs for assistance of people with diverse SOGIESC.
- Develop mechanisms to allow migrants to report incidents related to their safety and security.

**Relevant institutions:** Ministries of national security, departments of immigration, police forces and other protection institutions.

## HEALTH SERVICES <sup>12</sup>

The following actions can be taken to improve access to health services for migrants with diverse SOGIESC:

- Collaborate with partners to detect suitable and confidential health care providers and counsellors, specially responding to cases of gender-based violence;
- Provide sensitization training to public health personnel to cater to the needs of migrants and people with diverse SOGIESC and prevent situations of discrimination and neglect;
- Ensure that proper medical forensic evidence is properly collected for prosecution processes;
- Whenever possible, provide transgender and intersex people the necessary hormones, sterile syringes for injection, and other medical supplies.

**Relevant institutions:** Ministries of health, health centres and other institutions relating to the availability, accessibility, and affordability of the healthcare.

## Good practice 5: Non-discriminatory training for the police force in Argentina

Argentina established an in-person programme and virtual training in sexual diversity and human rights, implemented by the General Directorate for Comprehensive Sexual Diversity Policies (DGPIDS) of the Secretariat for Human Rights and Cultural Pluralism. Between 2016 and 2018, approximately 20,000 government officials were trained and a third were members of security forces. The Ministry of Security's Coordination of Diversity and Non-Discrimination also includes an awareness-raising programme on sexual diversity and non-discrimination targeted at national policy, security forces and other officials of the Ministry. Moreover, the Territorial Gender Network, established in June 2017, disseminates practical tools to neighbourhoods and develops community networks to accompany LGBTI individuals who are experiencing violent situations.

*Source:* Inter-American Commission on Human Rights, 2018.

## Good practice 6: Homophobia-free health centres in Uruguay

In 2010, different institutions and civil society organizations came together to improve the inclusion of sexual diversity in Uruguay's healthcare system. This resulted in a project called Homophobia-Free Health Centres (Centros de Salud Libres de Homofobia in Spanish) aimed at developing: (a) trainings on health care needs of non-heterosexual and non-cisgender people with healthcare personnel, community members, medical residents and teachers; (b) public campaigns addressing respect to diversity in public services; (c) improved healthcare access and attention for LGBTIQ+ persons; and (d) pilot models for other health services in the country. Key elements of the project's success were its implementation in already existing systems such as sexual and reproductive health services as well as the incorporation of the knowledge of the LGBTIQ+ population.

*Source:* UNFPA, 2019.

<sup>11</sup> Applicable in phase 3 of the migration cycle

<sup>12</sup> Applicable in phases 2 and 3 of the migration cycle

## LABOUR <sup>13</sup>

The following actions can be taken to ensure that migrants with diverse SOGIESC have access to the labour market:

- Ensure that programmes for the development of livelihood and skills are non-discriminatory, accessible, and proactively identified for migrants with diverse SOGIESC;
- Enhance public-private partnerships to develop targeted livelihoods and skills development programmes for migrants with diverse SOGIESC;
- Collaborate with employers who are willing to hire migrants with diverse SOGIESC and support the establishment of safe workplaces, free from harassment and discrimination;
- Monitor programmes related to work inclusion to ensure positive outcomes for the targeted populations.

**Relevant institutions:** Labour and security institutions, gender departments, with support from civil society.

### Good practice 7: Inclusive employment in the United Kingdom

In July of 2018, the Government Equalities Office, located in the United Kingdom Cabinet Office, conducted national survey on LGBT persons in the country. Based on the consultation, the Government created the 2018 LGBT Action Plan: Improving the Lives of Lesbian, Gay, Bisexual and Transgender People to advance the rights of people with diverse SOGIESC, and improve their livelihoods without fear of discrimination. An LGBT Implementation Fund was also established to deliver the action plan. The themes mentioned in the plan are health, education, safety, rights and law, data and monitoring, representation and international. Additionally, it included a workplace section with the following provisions:

- Support inclusion in the workplace by providing employers with free LGBT related training materials;
- Include LGBT harassment in sexual harassment policies and guidance;
- Establish a working group including employers to understand the experiences of LGBT staff;
- Continue the establishment of inclusive working environments for LGBT staff in accordance with the Civil Service Diversity and Inclusion Strategy of the Department of Civil Service.

*Source:* Government of the United Kingdom, 2018.

<sup>13</sup> Applicable in phase 3 of the migration cycle

## SHELTER AND SANITATION <sup>14</sup>

The following actions can be taken to improve access to shelter and sanitation facilities for migrants with diverse SOGIESC:

- Ensure that migrants with diverse SOGIESC have access to appropriate shelter and sanitation to help safeguard their safety and security;
- Partner with civil society organizations and referral networks to identify safe and respectful landlords for migrants with diverse SOGIESC;
- Create gender neutral toilets, with consideration for specific hygienic needs, and privacy barriers that ensure the safety of people with diverse SOGIESC in shelters, and reception centres, with a particular attention to shelters during emergency responses.

**Relevant institutions:** Departments dealing with the development of housing schemes, temporary shelters and migrant reception centres. This includes departments of immigration and emergency response agencies.

### Good practice 8: Separate shelters for migrants with diverse SOGIESC in Amsterdam

In 2015, asylum-seekers and refugees with diverse SOGIESC were provided with separate shelters following multiple threats to their safety, physical abuse, and other related incidents in primary reception centres in the city of Amsterdam. The largest advocate for diverse SOGIESC rights in the Netherlands, COC, reported these abuses to the State Secretary for Justice and Security and called for the State to provide immediate protection and assistance to these migrants. Although the State Secretary denied COC's petition, the city of Amsterdam provided safe shelter through NGOs.

*Source:* Liberties, 2015.

<sup>14</sup> Applicable in phases 2 and 3 of the migration cycle

## CONCLUSIONS AND RECOMMENDATIONS

This document presents an important contribution to the body of knowledge in the field of Caribbean migration by improving the understanding about the migration experiences of migrants with diverse SOGIESC. Moreover, it provides basic guidelines for the development of policies and provisions that allow for the protection of these populations while migrating in the Caribbean. These are the main conclusions and recommendations obtained through the research project:

**National regulations that impact the cross-border migration of persons with diverse SOGIESC are not always in alignment with international and regional agreements:** This has implications for these populations who frequently find themselves in situations of vulnerability, in part, due to migration policies and legislation that still use language or include provisions that are outdated and are not aligned with international standards on human rights. Although legislation discriminates, and at times, criminalizes people with diverse sexual orientation, these laws are seldom enforced. Rather than justifying the maintenance of such laws, this reinforces the necessity to update them since their implementation can be the result of subjective discretion from officials towards select persons. Harmonizing such legislation and aligning policies with international standards can benefit both migrants and States. Moreover, many of these regulations are residuals of the colonial past of most Caribbean States and should be amended to better reflect the current context and the governments' perspective on human rights.

**Front-line officers that provide basic services, particularly to vulnerable groups, have been reported to discriminate against migrants with diverse SOGIESC:** Services providers, such as police officers and health care employees, whose role requires them to assist and protect people in situations of vulnerability, have been reported as ridiculing or neglecting the needs and claims expressed by migrants with diverse SOGIESC. Discriminatory actions of government representatives increase the fear and mistrust of migrants with diverse SOGIESC towards the State, and may de incentivize them from looking for help when needed. Providing front-line officers with appropriate training on diverse sexual orientations, gender identities, sex characteristics and forms of gender expression, in addition to migration related training, has been shown to improve the understanding of corresponding issues and needs. It is especially important to provide proper training to police officers and to establish mechanisms to present complaints.

**Situations of vulnerability faced by migrants with diverse SOGIESC are intersectional by nature:** Migrants with diverse SOGIESC face different challenges when compared to cisgender, heterosexual or endosex migrants. The vulnerabilities they may be exposed to can be situational and personal, and they are the result of intersecting structural and societal factors. For this reason, the situations and the needs of migrants with diverse SOGIESC must be understood and addressed individually. Although the implementation of protection provisions can benefit migrants with diverse SOGIESC at large, a case-by-case approach is recommended whenever possible.

**Transgender persons should be provided a legal pathway to change the sex and/or name they were assigned at birth on official documentation at any point in their transition:** This is particularly relevant in the case of transgender migrants as the discrepancy between their gender identity and the information reported on their birth certificates might complicate the process to obtain regular status or citizenship.

**Migrants with diverse SOGIESC often have difficulties to find decent and safe housing:** Although accessing housing options under fair conditions can be problematic for migrants at large, especially for migrants in irregular situations, people with SOGIESC face additional challenges linked to stigma around their sexual orientation and/or gender identity. They often have to pay more or suffer aggressions and mistreatment from landlords. A possible solution for this problem would be strengthening the system of social housing by creating programmes that specifically target people with diverse SOGIESC and are accessible to migrants.

**Many migrants with diverse SOGIESC face additional difficulties when attempting to access formal labour and find themselves engaging in survival sex work:** This is often influenced by irregular immigration statuses, related stigma and the discrimination people with diverse SOGIESC experience, especially trans people. Migrants who see themselves forced to engage in survival sex work are more vulnerable to sexually transmitted diseases and less likely to seek prevention and treatment services in fear of discrimination. It also increases their risk of suffering aggressions from clients and from others who hold stigmatized ideas about migrants and sex work. It is crucial to develop programmes targeting these populations to facilitate access to safer forms of work, livelihoods, and skills development.

**Civil society organizations have a crucial role in the defense and assistance of migrants with diverse SOGIESC:** Civil society organizations and NGOs often fill in gaps left by government institutions in addressing the needs of these populations and protecting their human rights. They frequently provide services that include access to justice, education, health care, and capacity building, in addition to material assistance such as food and shelter. Migrants often trust and rely on such organizations more than on government institutions. Collaborating with these organizations in the development and implementation of programmes targeted at migrants with diverse SOGIESC would be essential to reach out to them and to obtain information that can help in creating data-based interventions and policies.

**The available information on migrants with diverse SOGIESC is very limited and is not being used as a basis for creating policies and provisions pertaining to these populations:** The development of laws, policies, and actions that impact migrants with diverse SOGIESC must be based on reliable data rather than on stigmatized perceptions. However, the collection of this information can potentially endanger these individuals, making them easier to identify and target. It is recommended that governments prioritize the collection of information about the migration of people with diverse SOGIESC and their specific needs while creating standardized data protection protocols that ensure that informants are not re-victimized.



## APPENDIX 1: GLOSSARY

Assigned sex/  
gender at birth

The sex that is assigned to a person at birth, typically based on the infant's external anatomy, also referred to as birth sex or natal sex. The phrases "assigned female at birth" (AFAB) and "assigned male at birth" (AMAB) refer to people with typical male or female sex characteristics, regardless of their gender identity or gender expression. The phrase "coercively assigned female [male] at birth" (CAFAB and CAMAB) refers to intersex people assigned a binary sex, often via non-consensual surgeries.

Cisgender

A person whose sex assigned at birth and gender identity align. For instance, a person that has been assigned female as birth and identifies as female can be called a cisgender woman.

Endosex

A term describing a person who was born with sex characteristics that fit typical binary notions of male or female bodies. An endosex person may identify with any gender identity or sexual orientation.

Gender

The socially constructed roles, behaviours, activities and attributes that a given society considers appropriate for individuals typically based on the sex they were assigned at birth.

Gender  
expression

Individuals use a range of cues, such as names, pronouns, behaviour, clothing, voice, mannerisms and/or bodily characteristics, to express their own gender and to interpret other individuals' genders. Gender expression is not necessarily an accurate reflection of gender identity. People with diverse sexual orientation, gender identity or sex characteristics do not necessarily have a diverse gender expression. Likewise, people who do not have a diverse sexual orientation, gender identity or sex characteristics may have a diverse gender expression.

Gender identity

Each person's deeply felt internal and individual experience of gender, which may or may not correspond with their sex assigned at birth or the gender attributed to them by society. It includes the personal sense of the body, which may or may not involve a desire for modification of appearance or function of the body by medical, surgical or other means.

Gender-based  
violence (GBV)

Any act of violence targeting an individual on the basis of their gender. It includes acts that inflict physical, sexual or psychological harm or suffering, the threats of such acts, coercion and arbitrary deprivation of liberty, whether occurring in public or private life. GBV encompasses violence against people based on their SOGIESC because diverse SOGIESC is often perceived as a transgression of gender norms.

<sup>15</sup> These definitions have been taken directly from IOM's Full Glossary of Terms to describe sexual orientation, gender identity, gender expression and sex characteristics (2020).

Intersectionality

The recognition of the multiplicity of identities within a person or a group. Belonging to different groups entails different opportunities, challenges and a different access to resources. For instance, an intersectional approach to gender equality would recognize that class, ethnicity, religion, sexual orientation, age and other forms of identity influence the experiences of discrimination of women around the world.

LGBTIQ+

An acronym for lesbian, gay, bisexual, transgender, intersex and queer. The plus sign represents people with diverse SOGIESC who identify using other terms. In some contexts, LGB, LGBT or LGBTI are used to refer to particular populations. Additional characters may be added, such as A for asexual, agender or ally, 2S for Two-Spirit or P for pansexual. In many locations, the letter order varies, e.g., LGBTIQ+ or GBLTQI+. SOGIESC-related acronyms are not static and continue to evolve over time. To ensure inclusivity and accuracy, they should be applied with careful consideration to the individuals or populations being referenced.

People with diverse SOGIESC

Umbrella term for all people whose sexual orientations, gender identities, gender expressions and/or sex characteristics place them outside culturally mainstream categories.

Queer

Traditionally a negative term, queer has been reclaimed by some people and is considered inclusive of a wide range of diverse sexual orientations, gender identities and expressions. It may be used as an umbrella term for people with diverse SOGIESC, or as an alternative to the phrase “people with diverse SOGIESC” or the acronym LGBT. Queer is used by many people who feel they do not conform to a given society’s economic, social and political norms based on their sexual orientation, gender identity and gender expression.

Sex

The classification of a person as having female, male and/or intersex sex characteristics. While infants are usually assigned the sex of male or female at birth based on the appearance of their external anatomy alone, a person’s sex is a combination of a range of bodily sex characteristics.

Sex characteristics

Each person’s physical features relating to sex, including chromosomes, gonads, sex hormones, genitals and secondary physical features emerging from puberty.

Sexual orientation

Each person’s enduring capacity for profound romantic, emotional and/or physical feelings for, or attraction to, other people. Encompasses hetero-, homo-, bi-, pan- and asexuality, as well as a wide range of other expressions of sexual orientation. This term is preferred over sexual preference, sexual behaviour, lifestyle and way of life when describing an individual’s feelings for or attraction to other people.

## SOGIESC

### Trans/ Transgender

An acronym for sexual orientation, gender identity, gender expression and sex characteristics.

Terms used by some people whose gender identity differs from what is typically associated with the sex they were assigned at birth. Trans, transgender and non-binary are “umbrella terms” representing a variety of words that describe an internal sense of gender that differs from the sex assigned at birth and the gender attributed to the individual by society, whether that individual identifies as a man, a woman, simply “trans” or “transgender,” with another gender or with no gender.

## REFERENCES

- Bleeker, A., P. Escribano, C. Gonzales, C. Liberati, B. Mawby.  
2021 *Advancing gender equality in environmental migration and disaster displacement in the Caribbean. Studies and Perspectives Series -ECLAC Subregional Headquarters for the Caribbean, 98.* Available at [www.repositorio.cepal.org/handle/11362/46737](http://www.repositorio.cepal.org/handle/11362/46737)
- Brown, J.  
2019 *The complexities of queer, Caribbean identities, and the dangers of west-centric LGBTQ+ Advocacy.* *Northeastern University Political Review*, 3 February. Available at [www.nupoliticalreview.com/2022/02/03/the-complexities-of-queer-caribbean-identites-and-the-dangers-of-west-centric-lgbtq-advocacy/](http://www.nupoliticalreview.com/2022/02/03/the-complexities-of-queer-caribbean-identites-and-the-dangers-of-west-centric-lgbtq-advocacy/).
- CARICOM  
n.d. *History of the Caribbean Community.* Available at [caricom.org](http://caricom.org)
- Caribbean Court of Justice (CCJ)  
2016 *Maurice Tomlinson vs The State of Belize and The State of Trinidad and Tobago, no. OA 001 of 2013 and no. OA 002 of 2013, 2016.* Available at [www.ccj.org/wp-content/uploads/2021/08/2016-CCJ-1-Tomlinson-v-Belize-2\\_CD.pdf](http://www.ccj.org/wp-content/uploads/2021/08/2016-CCJ-1-Tomlinson-v-Belize-2_CD.pdf).
- Eastern Caribbean Supreme Court (ECSC)  
2022 *The Eastern Caribbean Supreme Court in the High Court of Justice: Antigua and Barbuda.* Available at [www.eccourts.org/orden-david-et-al-v-the-attorney-general-of-antigua-and-barbuda/](http://www.eccourts.org/orden-david-et-al-v-the-attorney-general-of-antigua-and-barbuda/)
- Eastern Caribbean Alliance for Diversity and Equality Inc. (ECADE)  
n.d. *Consolidation and advancement of LGBTQ+ advocacy in the EC.* Available at [www.ecequality.org/about.html](http://www.ecequality.org/about.html)
- Government of Belize  
2011 *Immigration Act. Chapter 156.* Available at [www.belizejudiciary.org/download/LAWS-of-Belize-rev2011/Laws-of-Belize-Update-2011/VOLUME%208/Cap%20156%20Immigration%20Act.pdf](http://www.belizejudiciary.org/download/LAWS-of-Belize-rev2011/Laws-of-Belize-Update-2011/VOLUME%208/Cap%20156%20Immigration%20Act.pdf)
- 2020 *Criminal Code. Chapter 101.* Available at [www.agm.gov.bz/uploads/laws/639762f72be2e\\_Cap\\_101\\_Criminal\\_code\\_Act.pdf](http://www.agm.gov.bz/uploads/laws/639762f72be2e_Cap_101_Criminal_code_Act.pdf)
- Government of the Barbados  
1992 *Chapter 54. Sexual offences.* Available at [www.showdoc/cs/154/](http://www.showdoc/cs/154/)
- Government of Jamaica  
n.d. *The Offences Against the Person Act.* Available at [www.laws.moj.gov.jm/library/statute/the-offences-against-the-person-act](http://www.laws.moj.gov.jm/library/statute/the-offences-against-the-person-act)

Government of Trinidad and Tobago

2016 *Immigration Act. Chapter 18:01.* Available at [www.rgd.legalaffairs.gov.tt/laws2/alphabetical\\_list/lawspdfs/18.01.pdf](http://www.rgd.legalaffairs.gov.tt/laws2/alphabetical_list/lawspdfs/18.01.pdf)

Government of the United Kingdom

2018 *LGBT Action Plan: Improving the Lives of Lesbian, Gay, Bisexual and Transgender People.* Government Equalities Office, London. Available at [www.gov.uk/government/publications/lgbt-action-plan-2018-improving-the-lives-of-lesbian-gay-bisexual-and-transgender-people](http://www.gov.uk/government/publications/lgbt-action-plan-2018-improving-the-lives-of-lesbian-gay-bisexual-and-transgender-people)

Human Dignity Trust

n.d. *Belize: A constitutional challenge to the laws criminalising same-sex activity.* Available at [www.humandignitytrust.org/what-we-do/cases/belize-a-constitutional-challenge-to-the-laws-criminalising-homosexuality/#:~:text=Section%2053%20states%20that%20%E2%80%9Cevery,to%20imprisonment%20for%20ten%20years](http://www.humandignitytrust.org/what-we-do/cases/belize-a-constitutional-challenge-to-the-laws-criminalising-homosexuality/#:~:text=Section%2053%20states%20that%20%E2%80%9Cevery,to%20imprisonment%20for%20ten%20years)

Human Rights Watch

2018 *Trinidad and Tobago: Court Overturns Same-Sex Intimacy Ban.* 13 April. Available at [www.hrw.org/news/2018/04/13/trinidad-and-tobago-court-overturns-same-sex-intimacy-ban](http://www.hrw.org/news/2018/04/13/trinidad-and-tobago-court-overturns-same-sex-intimacy-ban)

2022 *El Salvador: Transgender people denied equal rights.* 18 July. Available at [www.hrw.org/news/2022/07/18/el-salvador-transgender-people-denied-equal-rights](http://www.hrw.org/news/2022/07/18/el-salvador-transgender-people-denied-equal-rights).

Inter-American Commission on Human Rights

2019 *Advances and Challenges towards the Recognition of the Rights of LGBTI Persons in the Americas.* Available at [www.oas.org/en/iachr/reports/pdfs/LGBTI-RecognitionRights2019.pdf](http://www.oas.org/en/iachr/reports/pdfs/LGBTI-RecognitionRights2019.pdf)

International Commission of Jurists (ICJ)

2006 *The Yogyakarta Principles: Principles on the Application of International Human Rights Law in Relation to Sexual Orientation and Gender Identity.* Available at [www.yogyakartaprinciples.org/wp-content/uploads/2016/08/principles\\_en.pdf](http://www.yogyakartaprinciples.org/wp-content/uploads/2016/08/principles_en.pdf).

2017 *The Yogyakarta Principles Plus 10: Additional Principles and State Obligation on the Application of International Human Rights Law in Relation to Sexual Orientation, Gender Expression and Sex Characteristics to Complement the Yogyakarta Principles, adopted on 10 November.* Available at [www.yogyakartaprinciples.org/wp-content/uploads/2017/11/A5\\_yogyakartaWEB-2.pdf](http://www.yogyakartaprinciples.org/wp-content/uploads/2017/11/A5_yogyakartaWEB-2.pdf).

International Organization for Migration (IOM)

2016 *Migration and Lesbian, Gay, Bisexual, Trans and Intersex (LGBTI) People: Module for Awareness-Raising and Training of Public Institutions, Social Organizations, and LGBTI Collectives and Activists in the Mesoamerican Region.* Available at [www.programamesoamerica.iom.int/sites/default/files/m%C3%B3dulo%20LGTBI\\_ENG\\_WEB\\_%288N%29.pdf](http://www.programamesoamerica.iom.int/sites/default/files/m%C3%B3dulo%20LGTBI_ENG_WEB_%288N%29.pdf)

2020 *Full Glossary of Terms.* Available at [www.iom.int/sites/g/files/tmzbd1486/files/documents/IOM-SOGIESC-Glossary-of-Terms.pdf](http://www.iom.int/sites/g/files/tmzbd1486/files/documents/IOM-SOGIESC-Glossary-of-Terms.pdf)

- 2021a *International Migration Law Information Note: International Standards on the Protection of People with Diverse Orientation, Gender Identity, Gender Expression and Sex Characteristics (SOGIESC) in the Context of Migration.* Available at [www.iom.int/sites/g/files/tmzbdl486/files/documents/InfoNote-International-Standards-Protection-of-People-with-Diverse-SOGIESC.pdf](http://www.iom.int/sites/g/files/tmzbdl486/files/documents/InfoNote-International-Standards-Protection-of-People-with-Diverse-SOGIESC.pdf)
- 2021b *Mechanisms for Labour Migration in the Caribbean.* San José. Available at [www.publications.iom.int/system/files/pdf/Labour-Mechanisms-Caribbean.pdf](http://www.publications.iom.int/system/files/pdf/Labour-Mechanisms-Caribbean.pdf)
- 2022 *World Migration Report 2022.* Geneva. Available at [www.publications.iom.int/books/world-migration-report-2022](http://www.publications.iom.int/books/world-migration-report-2022)
- n.d. *Migration Governance Framework.* Available at [www.publications.iom.int/books/migration-governance-framework](http://www.publications.iom.int/books/migration-governance-framework)

#### Liberties

- 2015 *Amsterdam offers separate shelter for LGBT refugees.* 10 December. Available at [www.liberties.eu/en/stories/amsterdam-offers-separate-shelter-for-lgbt-refugees-sn-8395/27294](http://www.liberties.eu/en/stories/amsterdam-offers-separate-shelter-for-lgbt-refugees-sn-8395/27294)

#### Migration Data Portal

- 2020 *Migration drivers.* 21 August. Available at [www.migrationdataportal.org/themes/migration-drivers](http://www.migrationdataportal.org/themes/migration-drivers)
- 2021 *Migration data in the Caribbean.* 27 August. Available at [www.migrationdataportal.org/regional-data-overview/migration-data-caribbean](http://www.migrationdataportal.org/regional-data-overview/migration-data-caribbean)

#### New York Police Department (NYPD)

- n.d. *LGBTQ Outreach Unit.* Available at [www1.nyc.gov/site/nypd/bureaus/administrative/lgbt-outreach.page](http://www1.nyc.gov/site/nypd/bureaus/administrative/lgbt-outreach.page)

#### Office of the High Commissioner for Human Rights (OHCHR)

- 2017 *Principles and Guidelines, Supported by Practical Guidance, on the Human Rights Protection of Migrants in Vulnerable Situations.* Geneva. Available at [www.ohchr.org/sites/default/files/Documents/Issues/Migration/PrinciplesAndGuidelines.pdf](http://www.ohchr.org/sites/default/files/Documents/Issues/Migration/PrinciplesAndGuidelines.pdf)
- n.d. *The Core International Human Rights Instruments and their monitoring bodies.* Available at [www.ohchr.org/en/core-international-human-rights-instruments-and-their-monitoring-bodies](http://www.ohchr.org/en/core-international-human-rights-instruments-and-their-monitoring-bodies)

#### United Nations

- 2016 *Living Free and Equal: What States are doing to Tackle Violence and Discrimination against Lesbian, Gay, Bisexual, Transgender and Intersex People.* New York and Geneva. Available at [www.ohchr.org/sites/default/files/Documents/Publications/LivingFreeAndEqual.pdf](http://www.ohchr.org/sites/default/files/Documents/Publications/LivingFreeAndEqual.pdf)
- 2018 *Global compact for safe, orderly and regular migration. Final draft.* Available at [www.refugeemigrants.un.org/sites/default/files/180711\\_final\\_draft\\_0.pdf](http://www.refugeemigrants.un.org/sites/default/files/180711_final_draft_0.pdf)

United Nations Department of Economic and Social Affairs (UN DESA)

2020 *International Migrant Stock*. Available at [www.un.org/development/desa/pd/content/international-migrant-stock](http://www.un.org/development/desa/pd/content/international-migrant-stock)

United Nations High Commissioner for Refugees (UNHCR) and the International Organization for Migration (IOM)

2021 *Workbook: Sexual Orientation, Gender Identity, Gender Expression and Sex Characteristics (SOGIESC) in Forced Displacement and Migration*. Available at [www.unhcr.org/en-us/publications/brochures/6163eab84/workbook-modules-10-12.html](http://www.unhcr.org/en-us/publications/brochures/6163eab84/workbook-modules-10-12.html)

United Nations Populations Fund (UNFPA)

2019 *Homophobia Free Health Centres: Systematization of Pilot Experience*. Montevideo. Available at [www.uruguay.unfpa.org/sites/default/files/pub-pdf/151\\_file2\\_2.pdf](http://www.uruguay.unfpa.org/sites/default/files/pub-pdf/151_file2_2.pdf)

United Nations Women

2021 *Intersectionality Resource Guide and Toolkit*. New York. Available at [www.unwomen.org/en/digital-library/publications/2022/01/intersectionality-resource-guide-and-toolkit](http://www.unwomen.org/en/digital-library/publications/2022/01/intersectionality-resource-guide-and-toolkit).

