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A VERY BEAUTIFUL BUT HEAVY JACKET

The experiences of migrant workers with diverse sexual orientation, gender identity and expression in South-East Asia

An initiative of the United Nations funded by the European Union



**Spotlight
Initiative**
*To eliminate violence
against women and girls*





A VERY BEAUTIFUL BUT HEAVY JACKET

The experiences of migrant workers with diverse sexual orientation, gender identity and expression in South-East Asia

Emily Dwyer



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FOREWORD

In the ASEAN region, labour migration has become a significant driver of change, proving beneficial for economic and community development in both countries of origin and destination. Migrant workers are not a homogenous group - gender, age, ethnicity, nationality are some of the characteristics that can influence how individuals and groups experience migration. While there is growing recognition that gender is not binary, migrant workers are often only identified as being men or women in most studies and data sets. Among the 5.1 million migrant workers who are employed in the region, little is still known about the motivations or experiences of migrant workers with diverse sexual orientations, gender identities and expressions (SOGIE), with even less information available on the discrimination, violence and harassment that they may experience in the world of work.

Through interviews with migrant workers with diverse SOGIE, and consultations with representatives of governments, workers' and employers' organisations, and non-government actors in four ASEAN countries (Cambodia, the Philippines, Thailand, and Viet Nam), this research study supports efforts to strengthen and protect the rights of migrant workers with diverse SOGIE in the region.

Findings from the research reveal that for workers with diverse SOGIE, migration can provide many opportunities for economic advancement, family acceptance and personal transformation. However, such opportunities often coexist with precarity. For migrant workers with diverse SOGIE, discrimination can impact them at multiple levels: experiences

that impact migrant workers with diverse SOGIE specifically because of their diverse SOGIE, and experiences that can impact all migrant workers but have distinctive consequences for migrant workers who have diverse SOGIE. Women migrant workers with diverse SOGIE may have different gendered experiences because of their SOGIE, which could be different from the experiences of other migrant workers who identify as male or female.

The ILO fundamental rights Conventions apply to all workers, regardless of their gender or status as migrant workers. Governments, employers' and workers' organisations, and civil society all have a role to advance, promote, and protect the rights of migrant workers with diverse SOGIE in the world of work. The ILO's Violence and Harassment Convention (No. 190) specifically notes that everyone has a right to a world of work free from violence and harassment, and States should make efforts towards equality and non-discrimination in employment "...for women workers, as well as for workers and other persons belonging to one or more vulnerable groups or groups in situations of vulnerability that are disproportionately affected by violence and harassment in the world of work".

The lived experiences of migrant workers with diverse SOGIE, the accompanying analysis and recommendations that are presented in this report, seek to motivate action in both policy and practice, to ensure that labour migration governance in ASEAN is inclusive and responsive to the needs of all migrant workers regardless of their sexual orientation, gender identity and expression, or sexual characteristics.

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GLOSSARY¹

Assigned (female or male) at birth	The sex recorded at birth (for example on a birth certificate), which does not necessarily align with that person's gender (for example, a trans man would be assigned female at birth, but is a man).
Bakla	Used in the Philippines to describe gay men (especially with normatively feminine gender expression) and trans women or gender diverse people who are assigned male at birth. The term is sometimes used pejoratively, and some trans women prefer the term <i>transpinoy</i> instead of <i>bakla</i> .
Bisexual	A person who is emotionally, romantically or sexually attracted to people from two or more genders.
Butch	A person (often a woman whose sexual orientation is to other women) whose gender expression is normatively masculine in dress, attitude and/or presentation.
Cisgender	A person whose gender matches with their sex assigned at birth.
Cisnormativity	The assumption that all people are cisgender women or men, which is often inscribed in law, institutions and social practices.
Dee	A South-East Asian term for a woman who often partners with a Tom. Their gender expression and social role often aligns with feminine norms and they may also enter relationships with men and may not identify as a person with diverse SOGIESC.
Discrimination	Any distinction, exclusion or preference made on the basis of race, colour, sex, religion, political opinion, national extraction or social origin that has the effect of nullifying or impairing equality of opportunity or treatment.
Direct discrimination	When less favourable treatment is explicitly or implicitly based on one or more prohibited grounds. It includes sexual harassment and other forms of harassment.
Documented	Migrant workers and members of their families are considered to be documented or in a regular situation if they are authorized to enter, to stay and to engage in a remunerated activity in the State of employment pursuant to the law of that State and to international agreements to which that State is a part.
Endo sexism	The assumption that all people's physical sex characteristics align with the medical or societal expectations of male or female bodies. Example: Non-consensual surgery on infants to remodel their genitalia to have the appearance and (sometimes only partial) functionality of those associated with female or male bodies. The operation of this norm invalidates or disadvantages people whose sex characteristics do not align with those expectations.
Gay	A man whose primary emotional, romantic, or sexual attraction is to other men. It is also used by people of other genders to describe their same-sex sexual orientation.

¹ Glossary definitions are drawn primarily from the *Media Friendly Glossary on Migration: Women Migrant Workers and EAW Edition* (ILO 2020), and *The Only Way is Up: Monitoring and Encouraging Diverse SOGIESC Inclusion in the Humanitarian and DRR Sectors* (Edge Effect, UNEP, UN Women 2021). Reference should also be made to the *Inclusion of Lesbian, Gay, Bisexual, Transgender, Intersex and Queer (LGBTIQ+) Persons in the World of Work: A Learning Guide* (ILO 2022), and *IOM SOGIESC Full Glossary of Terms* (IOM 2020).

Gender	<p>This is usually understood as the economic, social and cultural attributes and opportunities associated with being men or women at a particular point in time. It also refers to the socially constructed relationship between women and men and the attributes, behaviour and activities to which each is expected to adhere. Gender differences are determined and reinforced by cultural, historical, ethnic, religious and economic factors. Gender roles differ over time and between cultures, but may be changed. Gender is often wrongly conflated with “sex”, which refers to biological differences.</p> <p>Edge Effect notes that this standard definition assumes the gender binary, and instead proposes interpreting “gender” as the ensemble of feminine and masculine characteristics connected with an individual as these might relate to their sex assigned at birth, to their deeply felt internal sense of themselves, or to learned social differences that, though deeply rooted, are changeable and may vary across and within cultures.</p>
Gender-based violence and harassment	<p>Violence and harassment directed at persons because of their sex or gender, or which disproportionately affects persons of a particular sex or gender, and that includes sexual harassment. This term was agreed in the ILO Violence and Harassment Convention, 2019 (No. 190), hereafter “C.190”. See also “Violence and Harassment in the World of Work” and “World of Work” (ILO and UN Women 2020).</p>
Gender binary and binarism	<p>The assumption that all people identify as one of two genders, women or men, something that is often inscribed in law, institutions, and social practices.</p>
Gender diverse	<p>A person whose gender does not fit within the binary or other normative expectations of gender identity or gender expression, including notions that gender is fixed or that someone must have a gender. Terms such as non-binary and gender-queer express nuances of gender diversity, and agender people reject the need to identify as any gender.</p>
Gender expression	<p>The external presentation of gender identity, which can be expressed in many ways, including through clothing, haircut, voice, bodily movements and the ways one interacts with others.</p>
Gender identity	<p>Each person’s deeply felt internal and individual experiences of gender, which may or may not correspond with their sex as assigned at birth.</p>
Harassment	<p>Any improper and unwelcome conduct that might reasonably be expected or be perceived to cause offence or humiliation to another person. Harassment may take the form of words, gestures or actions that tend to annoy, alarm, abuse, demean, intimidate, belittle, humiliate or embarrass another or which create an intimidating, hostile or offensive work environment. “Harassment” normally implies a series of incidents.</p> <p>For the definitions in C.190, see “Violence and harassment in the world of work” and “Gender-based violence and harassment”, above.</p>
Heteronormativity	<p>The assumption that all people are or should be heterosexual in their sexual orientation, which is often inscribed in law, institutions and social practices. This term also implies a binary gender system, with stereotypical gender roles.</p>
Heterosexual	<p>A person who is romantically and sexually attracted to people from the opposite gender, in a system that assumes there are only two genders.</p>
Indirect discrimination	<p>Apparently neutral situations, regulations or practices which in fact result in unequal treatment of persons with certain characteristics. It occurs when the same condition, treatment or criterion is applied to everyone, but has a disproportionately harsh impact on some persons on the basis of such characteristics as race, colour, sex or religion, and is not closely related to the inherent requirements of the job.</p>

Intersectionality	The intersections of gender with other areas of discrimination and exclusion, including but not limited to race, class, caste, gender, ethnicity, sexuality, gender identity, disability, nationality, immigration status, geographical location, religion and so on.
Labour migration	The movement of persons from one geographical location to another in order to find gainful employment, typically referring to international border crossing. Note: The term “labour migration” is preferred to “labour import/export”, as the latter term can imply a commodification of people.
Lesbian	Usually, a woman whose primary emotional, romantic, or sexual attraction is to other women. Some non-binary people may also identify as lesbians.
Migrant worker	A person who is to be or has been engaged in a remunerated activity in a State of which he or she is not a national. Article 2 of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families was adopted by the UN General Assembly in 1990 and entered into force in 2003. Note: The term “migrant worker” is preferred to “alien worker”, “economic migrant”, or “foreign worker”.
Migrant Worker Resource Centres (MRCs)	MRCs deliver services directly to migrant workers and their communities in countries of origin and destination, and are often housed in government institutions, trade unions, or civil society organizations (CSOs). MRCs provide information on migration for work, and provide a space to ask questions, lodge complaints, and get legal aid. Counselling is provided at MRCs and in communities through outreach activities and meetings, as well as through online and telephone sessions.
PrEP	Pre-exposure prophylaxis (PrEP) refers to antiretroviral medicines prescribed before exposure or possible exposure to HIV. PrEP strategies under evaluation increasingly involve the addition of a post-exposure dosage.
Queer	A person with diverse gender or sexuality that does not fit into usual identity categories including LGBT.. It is a reclaimed term used by some people with diverse SOGIE, but remains offensive for some older people with diverse SOGIE, as it was used as a slur in the past.
Recruitment	The advertising, information dissemination, selection, transport, placement into employment and – for migrant workers – return to the country of origin where applicable. This applies to both jobseekers and those in an employment relationship.
Sex characteristics	Genetic, hormonal, and anatomical characteristics used by the medical system (and informed by social norms) to classify the sex of bodies.
Sexual exploitation	Actual or attempted abuse of a position of vulnerability, power or trust for sexual purposes, including, but not limited to, profiting monetarily, socially or politically from the sexual exploitation of another. Sexual exploitation and abuse constitute acts of serious misconduct, and are therefore grounds for disciplinary action including summary dismissal and criminal proceedings.
Sexual harassment	Any form of unwanted verbal, non-verbal or physical conduct of a sexual nature with the purpose or effect of violating the dignity of a person, in particular when creating an intimidating, hostile, degrading, humiliating or offensive environment, including at work. While typically involving a pattern of behaviour, it can take the form of a single incident. Sexual harassment may occur between persons of the opposite or same sex. Both men and women can be either the victims or the offenders. See also “Harassment” (above) and “Violence and harassment in the world of work” (below).



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Sexual orientation	A person's capacity for profound emotional, romantic or sexual attraction to individuals or people of a different gender, the same gender, or more than one gender.
Stigma	Opinions, judgments held by individuals or society that negatively affect a person or group associated with a particular circumstance, quality or characteristic. Stigma is often based on harmful stereotypes and prejudices.
Transpinoy	A term used in preference to bakla (see above) by some transgender people in the Philippines.
Tom	A South-East Asian term used by women whose gender expression and social role aligns with masculine norms and whose primary emotional, romantic, or sexual attraction is to women – often “dees” (see above).
Transgender	People whose gender does not align with their sex assigned at birth.
Trans man	A transgender person assigned female at birth, but who is a man.
Trans woman	A transgender person assigned male at birth, but who is a woman.
Undocumented	Migrant workers and members of their families are considered undocumented or in an irregular situation if they are not authorized to enter, to stay and to engage in a remunerated activity in the State of employment pursuant to the law of that State and to international agreements to which that State is a part.
Violence and harassment in the world of work	<p>A range of unacceptable behaviours and practices, or threats thereof, whether a single occurrence or repeated, that aim at, result in or are likely to result in physical, psychological, sexual or economic harm, and includes gender-based violence and harassment.</p> <p>This term was agreed in C.190). See also “World of work” and “Gender-based violence and harassment”, above.</p>
World of work	<p>Refers to circumstances in the course of, linked with, or arising out, of work:</p> <ul style="list-style-type: none">• in the workplace, including public and private spaces where they are a place of work;• in places where the worker is paid, takes a rest break or a meal, or uses sanitary, washing and changing facilities;• during work-related trips, travel, training, events or social activities;• through work-related communications, including those enabled by information and communication technologies;• in employer-provided accommodation; and• when commuting to and from work. <p>The term is drawn from article 3, C.190). See also “Violence and harassment in the world of work” and “Gender-based violence and harassment”, above.</p>
Yogyakarta Principles	A set of principles regarding the application of international human rights law in relation to SOGIESC. Originally published in 2006, they were updated in 2017 as the YP+10. For more details see https://yogyakartaprinciples.org .

ACRONYMS

ACFID	Australian Council for International Development
ACHIEVE	Action for Health Initiatives Inc. (Philippines)
ACTRAV	ILO Bureau for Workers' Activities
ADHOC	Cambodian Human Rights and Development Association
AICHR	ASEAN Intergovernmental Commission on Human Rights
ACRA	Association of Cambodian Recruitment Agencies
AIDS	Acquired Immuno-Deficiency Syndrome
Anak-OFW	Children for whom overseas Filipino workers (OFWs) have assumed responsibility.
APCASO	Asia Pacific Council of AIDS Service Organisations
APCOM	Asia Pacific Coalition on Male Sexual Health
APTN	Asia Pacific Transgender Network
ASEAN	Association of Southeast Asian Nations
CCHR	Cambodian Center for Human Rights
CDSI	Corporate SOGIE Diversity and Inclusiveness
CEACR	Committee of Experts on the Application of Conventions and Recommendations
CEDAW	Committee on the Elimination of Discrimination against Women
CESCR	Committee on Economic, Social and Cultural Rights
CGU	Council of Global Unions
CMA	Center for Migrant Advocacy
CMW	Committee on the Protection of the Rights of All Migrant Workers and their Families
COD	Country of destination
COO	Country of origin
COVID-19	Coronavirus disease (2019)
CRC	Committee on the Rights of the Child
CRDP	Committee on the Rights of Persons with Disabilities
CSDI	Corporate SOGIE Diversity and Inclusiveness (index, the Philippines)

CSE	Certificate of Secondary Education
CSO	Civil society organization
DFA	Department of Foreign Affairs (Philippines)
DLPW	Department of Labour Protection and Welfare (Thailand)
DOLE	Department of Labor and Employment (Philippines)
DRR	Disaster risk reduction
EVAW	Ending violence against women
FGD	Focus group discussion
FILO	Filipino Lesbian Organization
FRY	Foundation for Rural Youth (Thailand)
GAI	Global Accountability Index
GESI	Gender Equality and Social Inclusion
HIV	Human Immuno-Deficiency Virus
HRDF	Human Rights and Development Foundation (Thailand)
HRD	Human rights defenders
HRW	Human Rights Watch
ICCPR	International Covenant on Civil and Political Rights
ICJ	International Commission of Jurists
IDS	Institute of Development Studies
ILGA	International Lesbian, Gay, Bisexual, Trans, and Intersex Association
ILO	International Labour Organization
IOM	International Organization for Migration
IPPF	International Planned Parenthood Federation
iSEE	Institute for Research on Public Policy
IRPP	Institute for Studies of Society, Economy and Environment (Viet Nam)
ITUC-AP	International Trade Union Confederation – Asia Pacific
IVR	Interactive voice response
KII	Key informant interview
LNOB	Leave no one behind
LSCW	Legal Support for Women and Children Cambodia

NGO	Non-governmental organization
LGBT	Lesbian, gay, bisexual, transgender
LGBTQ	Lesbian, gay, bisexual, transgender, queer
LGBTQI+	Lesbian, gay, bisexual, transgender, queer, intersex plus (+) other identities
LGBTIQ+	Lesbian, gay, bisexual, transgender, intersex, queer plus (+) other identities
MAC	Manpower Association of Cambodia
MFA	Migrant Forum in Asia
MoU	Memorandum of understanding
MoWA	Ministry of Women's Affairs (Cambodia)
MMCEAI	Mindanao Migrants Center for Empowering Actions, Inc. (Philippines)
MRC	Migrant Worker Resource Centre
MSDHS	Ministry of Social Development and Human Security (Thailand)
NAPVAW	National Action Plan to Prevent Violence against Women
NHRI	National human rights institution
ODI	Overseas Development Institute
OFW	Overseas foreign worker
OHCHR	Office of the High Commissioner for Human Rights
OWWA	Overseas Workers Welfare Administration
PDOS	Pre-departure orientation seminar
PDOLVT	Provincial Departments of Labour and Vocational Training
PMPI	Positibong Marino Philippines, Inc.
POLO	Philippine Overseas Labor Office
PrEP	Pre-exposure prophylaxis
PRIDE	Promoting Rights, Diversity and Equality in the World of Work (ILO)
RGC	Royal Government of Cambodia
SDG	Sustainable Development Goal
SERC	State Enterprises Workers' Relations Confederation (Thailand)
SOGI	Sexual orientation and gender identity
SOGIE	Sexual orientation, gender identity and/or expression
SOGIESC	Sexual orientation, gender identity and/or expression, and sex characteristics

SRHR	Sexual and reproductive health and rights
STI	Sexually transmitted infection
SWING	Service Workers In Group (Thailand)
TESDA	Technical Education and Skills Development Authority
TTUC	Thai Trade Union Congress
TWC2	Transient Workers Count Too
UN	United Nations
UNESCO	UN Educational, Scientific and Cultural Organization
UNGA	UN General Assembly
UNHCR	UN High Commissioner for Refugees
UNHRC	UN Human Rights Council
UNSDG	UN Sustainable Development Group
UN Women	United Nations Entity for Gender Equality and the Empowerment of Women
UPR	Universal periodic review
USAID	United States Agency for International Development
VND	Vietnamese Dong (currency)
WMW	Women migrant worker
YP	Yogyakarta Principles
YP+10	Yogyakarta Principles plus 10

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EXECUTIVE SUMMARY

Among the millions of migrant workers who move between countries in South-East Asia and beyond, little is known about the motivations and experiences of migrant workers who are also people with diverse sexual orientations, gender identities and gender expression (SOGIE)² including lesbian, gay, bisexual, transgender, and queer people.

Study objectives. This report fills that gap. It draws on surveys and interviews with 147 migrant workers with diverse sexual orientations, gender identities and gender expressions, exploring their experiences across the migrant work journey as they travel from countries of origin such as Cambodia, Myanmar, the Philippines and Viet Nam to work in countries of destination in South-East Asia (especially Thailand), East Asia, and beyond.

Implications for policy and practice. The report also explores how labour migration policies and practices can acknowledge or address these experiences while protecting and promoting the rights of migrant workers with diverse SOGIE.

Types and sources of discrimination. People with diverse SOGIE often enter migrant work for reasons similar to those of many other migrant workers, but their experiences are often coloured by distinctive issues related to their SOGIE status.. Migrant workers in general can experience precarity of the following types, among many others:

- temporariness and limited legal status;
- limited enjoyment of fundamental protections and rights at work; and
- discrimination within societies and social isolation.

However, migrant workers with diverse SOGIE experience at least two characteristic forms of discrimination - experiences that impact migrant workers with diverse SOGIE simply because of their diverse SOGIE, and which have specific consequences; and experiences that impact all

migrant workers, but have distinctive consequences for migrant workers with diverse SOGIE.

As the stories shared in this report demonstrate, precarity for people with diverse SOGIE has many sources:

- within families;
- among neighbours and local communities;
- in faith communities;
- in schools;
- at workplaces and throughout the whole employment cycle;
- during encounters with police and the justice system;
- in accessing health facilities and services;
- accessing social protection systems and benefits; and
- in taking part in public life.

Discriminatory legal constraints include the following:

- same-sex sexual acts between consenting adults remain criminalized in 69 countries (at the time of this writing);
- many anti-discrimination laws fail to mention SOGIE as protected characteristics; and
- other laws (or their absence) frustrate the living of dignified lives, for example laws blocking the rights to change gender markers on identification documents or to marry the person you love or laws enforced in ways that amount to targeting of people with diverse SOGIE.

WHAT THIS STUDY FOUND

Many people with diverse SOGIE found genuine opportunities in migrant work. Of the migrant workers interviewed for this study, 72 per cent reported economic advancement as their motivation

² In this report SOGIE is used in preference to LGBTQ, as diversity of gender and sexuality in South-East Asia and other regions goes well beyond the constraints of the LGBTQ identity categories. The choice of terminology is discussed further in section 1.2 of the report.



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for labour migration. Actual or perceived potential to earn money was the reason cited most frequently for choice of country of destination. Of the total sample of migrant workers, 63 per cent reported that while working in their country of destination they could meet their basic needs and save or remit money to families.

The interviews and focus group discussions (FGDs) revealed many different positive outcomes, including the following:

- sufficient savings to open businesses in countries of origin;
- purchasing land for housing;
- acquiring skills and experiences that would enhance employment opportunities; and
- contributing to family economic well-being.

Among those who remitted funds, 43 per cent reported that it improved relationships with their families, helping to dispel negative stereotypes of people with diverse SOGIE as “failures” or “burdens”. Of the migrant workers interviewed, 41 per cent also reported escaping from discrimination or restrictions on personal freedom as a motivation.

Among these interviewees, 59 per cent reported a higher quality of life in their country of destination than in their country of origin.

However, those opportunities for economic advancement, family acceptance and personal transformation often coexisted with new precarity. The report title – *A Very Beautiful but Heavy Jacket* – hints at the complexity of migrant work experiences for people with diverse SOGIE. This phrase was used by a Vietnamese bisexual cisgender man, describing his migrant work experiences in South-East Asia. While he saw some economic success as a migrant worker, he also lived in fear that his fellow migrant workers or employers would discover his relationships with men, and in the fear of the potential for consequent physical violence, contract termination and deportation. Migrant workers with diverse SOGIE described many different challenges across the migrant work journey. In transit, for example, some respondents, mainly transgender and gender diverse migrant workers, reported experiencing discrimination or harassment at the hands of authorities at border

crossings when their gender expression did not match their official documents.

Others found that the discrimination followed them from their country of origin, with fellow migrant workers being an ongoing source of harassment. This often led migrant workers with diverse SOGIE to avoid participating in events or training provided by service providers, and contributed to social isolation in their country of destination. One third reported violence, harassment or discrimination while in the country of destination, by employers, immigration and other authorities, and service providers as well as fellow migrant workers. Upon return to countries of origin, some migrant workers with diverse SOGIE reported having again lost freedoms that they enjoyed in countries of destination, some returning to “closeted” lives. For others, increased family acceptance evaporated since they were no longer sending remittances.

Although acronyms such as LGBTIQ+ are often used generically, people with diverse SOGIE are not homogenous. As migrant workers, gay men and lesbian women may have quite different motivations and experiences compared each other, or compared to those of trans men and trans women and people with non-binary gender identities, and different to people with other diversity of gender and sexuality. For example, some transgender and gender-diverse people are often more “visible” – through various aspects of gender expression and when their identity documents cannot be changed – making it easier for them to be identified and targeted. People with diverse sexual orientations sometimes share that visibility – for example, some lesbians who eschew traditionally feminine gender expression – while others who do not have such obviously visible “markers” may have more options for blending into the crowd. The complexities of visibility were key to many experiences reported in this study. Among those who cited workplace discrimination in their countries of origin as a motivating factor for migrant work, 85 per cent were transgender and gender diverse people. Community discrimination in countries of origin was cited as a motivation for migrant work more often by transgender and gender diverse people (52 per cent of citations) than by gay and lesbian people (26 per cent and 22 per cent, respectively).

Visibility was reflected in accounts of discrimination or harassment at border crossings, experienced mainly by transgender and gender diverse people, but also by lesbians whose gender expression led officials to question their femininity. Transgender and gender diverse people, more than other participants, recounted taking jobs that exposed them to violence or targeting by authorities. Many migrant workers avoid sharing their sexual orientation or gender identity, with key concerns being personal safety and the risk that being “out” may undermine their chances of secure employment – thus 32 per cent of participants took steps to conceal their SOGIE some or all the time, including transgender people dressing during transit as per their sex assigned at birth. Other people felt compelled to carefully manage and edit information that they shared with co-workers, and others avoided social situations and struggled with increased levels of isolation. The need to constantly monitor what you are sharing and how others are reacting can take a large mental toll, especially when the stakes are so high.

Understanding the diversity of experience also requires recognition that migrant workers with diverse SOGIE have other characteristics, among these ethnicity, gender and rurality, that shape their opportunities and experiences individually and through interaction with their SOGIE. It also means dispensing with some stereotypes. For example, while many trans and gender-diverse people do work in the adult entertainment sector, many also work in other sectors. Overall, people with diverse SOGIE who participated in the research worked in construction, manufacturing, agriculture, retail and hospitality as well as in adult entertainment.

Making labour migration safe and fair for people with diverse SOGIE requires governments and labour sector organizations to address direct discrimination that has the effect of nullifying or impairing equality of opportunity or treatment in employment or occupation. Clear examples of direct discrimination among the experiences described in this report include over-policing of trans and gender-diverse people at border crossings; denial of work opportunities because someone has diverse SOGIE; and perpetrating harassment or violence against a migrant worker because of their SOGIE.

Indirect discrimination, often less obvious, is also of great importance. This manifests when people fail to recognize deep social norms-based assumptions in their own attitudes and behaviours or in the society around them. For example, broadly-targeted services may not address the specific concerns, information or support needs of migrant workers with diverse SOGIE. Data gathered through more than 70 interviews conducted with representatives of civil society organisations (CSOs), migrant-worker service providers, trade unions and government departments suggest that in most circumstances neither tailored nor targeted services are available. Of the interviewed organizations, just 4 per cent reported having specialist materials or services targeting the needs of migrant workers with diverse SOGIE. Only 18 per cent of these organizations provided their staff with any form of training on diversity of SOGIE. Past experiences of direct discrimination may also lead migrant workers with diverse SOGIE to distrust service providers, or to avoid participation in services offered by migrant worker-focused organizations.

Both direct and indirect forms of discrimination are based in deep social norms-based assumptions about the world and people within it. For people with diverse SOGIE, these assumptions are heteronormativity, cisnormativity, gender binarism and endosexism – in short, the belief that all people have physical bodies which align with medical and social stereotypes of female and male bodies. Perpetrators of direct discrimination often try to justify their harassment, violence or unequal treatment of migrant workers with diverse SOGIE in terms of these norms, and believe that other people will actively or tacitly support that harassment, violence or unequal treatment because they hold similar views.

Improving safety and fairness for people with diverse SOGIE requires that government and non-government actors understand and identify discriminatory norms, and take positive steps to counter them. Such steps may include needs assessments, or evaluation of existing service provision; training for service providers on issues that impact people with SOGIE; and measures to provide gender-responsive services.

One way to improve understanding of how to serve migrant workers of diverse SOGIE is to coordinate or partner with CSOs that focus on diversity of SOGIE, and that can, in a safe and non-discriminatory manner, provide advice, expertise and access to networks of people with diverse SOGIE. The evidence from interviews for this report indicates that few government and non-governmental organizations (NGOs) are currently taking such steps.

The added-value of taking a social norms-based approach is that it focuses attention where change needs to happen. Understanding the lives and experiences of migrant workers who are lesbian, gay, bisexual, transgender, or who use other ways of naming themselves, is important for understanding needs. This is not because this group of migrant workers need to change. Migrant workers with diverse SOGIE are not seeking special treatment or new rights, they are only seeking the same rights, protections and opportunities to which all human beings are entitled. The social norms-based approach puts the focus on how and why certain societies, institutions, organizations or individuals treat migrant workers with diverse SOGIE differently and negatively. This shift is important: in order for non-discrimination and equal treatment to become the reality, attitudes and behaviours among societies, institutions, organizations and individuals need to undergo change.

A MORE INCLUSIVE FUTURE?

During the interviews many government and non-government organizations expressed interest in doing more to address the rights and needs of migrant workers with diverse SOGIE. This included interest in building their awareness of issues through this report, undertaking training to assist them to work with migrant workers with diverse SOGIE, and rethinking assumptions about service delivery.

Human rights and labour rights experts interviewed for this project emphasized the fact that existing frameworks provide mixed levels of support for people with diverse SOGIE, but that this is sufficient for government and non-government organizations

to move forward with diverse SOGIE inclusion. None of the international human rights Conventions explicitly mention SOGIE as specific grounds for protection. Nevertheless, evidence such as the following suggests that acceptance of SOGIE as a ground for non-discrimination is growing:

- mentions in the resolutions of the Human Rights Council and the committees charged with monitoring Conventions; and
- appointment of the Independent Expert to report on discrimination and violence experienced by people with diverse SOGIE.

A wealth of research and advocacy has informed those developments. Key among these are the Yogyakarta Principles+10, which have provided clarity to duty bearers by identifying universal human rights principles that apply to all persons, regardless of their actual or perceived sexual orientation or gender identity.

Similarly, while key migration and development frameworks do not specifically mention people with diverse SOGIE, they do use generally inclusive language such as “all migrants” or “all workers”. ILO international labour standards apply to all workers, unless specific standards state otherwise. The Discrimination (Employment and Occupation) Convention, 1958 (No. 111) provides seven explicit grounds for protection against discrimination based on sex under article 1(1)(a); additional grounds can be determined by Member States after consultation with representative employers’ and workers’ organizations, where such exist, and, when applying the Convention, with other appropriate bodies. The 2019 Violence and Harassment Convention, 2019 (No. 190) and its accompanying Recommendation

No. 206 create a framework to prevent, remedy and eliminate violence and harassment in the world of work. While C.190 does not explicitly mention people with diverse SOGIE, it recognizes that promoting equality at work and tackling intersecting and multiple discrimination are key elements of any approach to prevent and end violence and harassment.

Faced with legal, social and economic precarity at home and abroad, migrant workers with diverse SOGIE possess their own agency and resilience to cope with and navigate discrimination from fellow migrants, co-workers, and employers with limited support from governments, service providers, employers and workers’ organizations. Many migrant workers who participated in this study offered practical suggestions for improving the experiences of migrant workers with diverse SOGIE, and called for labour migration organizations to treat them as stakeholders and participants in the design and implementation of measures taken in their name. The absence of a systematic and coordinated framework for diverse SOGIE inclusion in labour migration creates risks that some organizations will continue to see it as optional, that funding will continue to be insufficient, and that change, where it occurs, will be fragmented and fragile. In presenting the experiences of migrant workers with diverse SOGIE, this report hopes to motivate effective policy and practice action. Although this will likely prove a long road, change has to start somewhere, progress often emerges only in fits and starts, and opportunities need to be taken as they arise.



CHAPTER 1:

MOTIVATION, FRAMING AND METHODOLOGY

This report explores the following issues:

- experiences of migrant workers with diverse SOGIE;
- the extent to which principles, laws and policies include or protect these workers; and
- the extent to which duty bearers and service providers understand or address their particular needs.

With its focus on the Association of Southeast Asian Nations (ASEAN), the research that informs this report was conducted in four countries in South-East Asia, three of which are predominantly countries of origin (Cambodia, the Philippines and Viet Nam) and one that has predominantly served as a country of destination (Thailand).

The report includes seven chapters:

- This introductory chapter outlines the motivation and framing of the study; provides a brief introduction to the diverse SOGIE context of the four main countries discussed in the report; and briefly reviews the research process that led to the data, findings and recommendations in this report.
- Chapter two recounts the lived experience of migrant workers with diverse SOGIE, including their reasons for leaving their countries of origin to undertake migrant work; their experiences in transit and in countries of destination; and their circumstances upon return to countries of origin.
- Chapter three draws on interviews with government and non-government organizations, with a focus on stakeholders who are service providers for migrant workers in their countries of origin and destination.
- Chapter four explores where diversity of SOGIE intersects with human and labour rights standards and with the migration-development nexus.
- Chapter five identifies key issues for labour migration stakeholders to engage with over

the longer term as a basis for effective policies and practices.

- Chapter six presents the report's analysis and formal findings.
- Chapter seven proposes recommendations based on the foregoing.

1.1 OVERVIEW

This study is part of the Safe and Fair Programme,³ which has the overriding objective of ensuring that labour migration is safe and fair for all women in the ASEAN region. People with diverse SOGIE can include women, including lesbian, bisexual, and trans women, as well as women who use other cultural expressions, such as toms and dees (see the glossary, above), to describe their diversity of gender and sexuality in terms that do not necessarily or fully align with the standard identity categories encompassed by the acronym LGBTQ+.

In commissioning this study, the Safe and Fair programme recognizes that women with diverse SOGIE may have different gendered experiences of the world because of their SOGIE. The programme also recognizes that some people do not fit within the gender binary of women and men, and that the assumption of the gender binary means that those gender non-binary people are usually invisible to most labour migration research and policy, and remain potentially unprotected in migrant work realities. Their experiences are also addressed in this report.

So too does the study address the experiences of men with diverse SOGIE, including gay, bisexual, and trans men, whose gendered and other experiences as migrant workers are also routinely overlooked.

At its outset this research also intended to include people with diverse sex characteristics. Community outreach to intersex migrant workers, however, was not possible for reasons beyond the control of the research teams. For that reason this report uses the acronym SOGIE rather than SOGIESC when referencing migrant worker experiences. The broad inclusion of people with diverse SOGIE in this report also reflects the framing of the global

³ Safe and Fair: Realizing women migrant workers' rights and opportunities in the ASEAN region, is a joint programme of the International Labour Organization and UN Women under the EU-UN Spotlight Initiative to eliminate violence against women and girls.

ILO PRIDE programme. It is also apparent in more recent reports and guides published under the Safe and Fair programme (for example ILO 2021).

In analysing the experiences of women migrant workers (WMW), Hennebry et al. note that the precarity often experienced by migrant workers is “further entrenched through patriarchal norms and gender discrimination on the part of employers and others in the work environment” and by a “gendered division of labour where particular roles, expectations and responsibilities exist for women and not men” (Hennebry et al. 2016, 50). These norms and assumptions influence motivations of women migrant workers in their countries of origin, their experiences – including discrimination and violence – as migrant workers in transit and in countries of origin, and how remittances, skills building, life experience away from their countries, and domestic circumstances all shape their experiences upon return. Across this journey women retain agency and may have positive experiences, even as their options may be circumscribed or their experiences shaped by power and norms systemically expressed in societies, laws, policies and practices.

This report takes a parallel approach, exploring ways in which labour migration frameworks, laws, policy and practice overlook the significance of SOGIE for labour migration.

Many migrant workers with diverse SOGIE find positives in labour migration such as gaining opportunities to earn and build skills they might not have in their country of origin; earning enough to live, save or remit funds to families; escaping from discrimination in families, communities, and workplaces in their country of origin; shifting family attitudes towards people with diverse SOGIE as failures or burdens; or taking some control over their destinies and exploring who they are.

For others, related experiences can prove to be less positive: they may receive limited assistance entering migrant work, or feel compelled to use undocumented pathways; they may find themselves in insecure and unsafe work; they may experience social isolation and discrimination from other migrant workers; they may be targeted by authorities for discriminatory violence, or harassment at border crossings or because of the work they do; they may

find few avenues for redress after experiencing violence; they may feel generally unable to access migrant worker services; and they may find that increased family acceptance dissipates after they return home and remittances cease.

To understand both the positives and negatives, labour migration stakeholders need to view migrant workers’ experiences and their own policies and practices through a diverse SOGIE lens. When using this lens, stakeholders can see people and experiences that might usually be hidden, and understand how apparently neutral aspects of labour migration might not be neutral for people with diverse SOGIE. With this new insight, those stakeholders can design and implement policies and practices that are either SOGIE sensitive, that ameliorate the negative symptoms of different treatment; or that are SOGIE transformative, that challenge the underlying causes of differential treatment.

1.2 SOGIE AND NORMS

Many reports in this topic area use the language of identity categories – lesbian, gay, bisexual, transgender and many others – often abbreviated through variations of the LGBTQ+ acronym.

Focusing on these identity categories has some limitations. There is much diversity of gender and sexuality that does align with the highlighted categories within that acronym. For example, in parts of South-East Asia some women who partner with other women call themselves toms and their partners call themselves dees. Reducing toms and dees to lesbians ignores important aspects of their lives, and is rejected by some toms and dees in whose view the word “lesbian” highlights sexual aspects of their lives that may be less important to them than the gendered dynamics between toms and dees. Similarly, some gender non-binary people use cultural terms that capture variations of sexual orientation, gender identity and gender expression that are not reducible to being transgender.

The impact of colonialism on cultural constructions of gender and sexuality should not be underestimated.

Yet in some countries the LGBTQ+ acronym has been falsely associated with a correlative import of sexual and gender diversity, and can even be dangerous to use. Nevertheless, while forces of globalization may have established use of the acronym, the gender and sexual diversity it describes has always been there. Many people with diverse SOGIE and many activists use LGBTQ+ identity categories out of habit, in the interests of familiarity or because they do genuinely feel like part of that identity and culture. Others do not, including those who perceive identity categories as excessively rigid boxes.

Such complexity might seem unhelpful for those who are just becoming familiar with the LGBTQ+ acronym, and who may have no personal stake in how people with diverse SOGIE are named or name themselves. In using SOGIE in preference to LGBTQ+, however, this report is not judging the use of those identity categories as right or wrong. The use of SOGIE is a deliberate choice, one that helps reframe the issues in ways that are productive for non-discrimination and equal treatment.

“Diverse SOGIE”. SOGIE is language from the realm of human rights, in which sexual orientation, gender identity and gender expression (SOGIE) can be described as characteristics of rights holders. These are the terms, for example, used in resolutions of the Human Rights Council from 2011 onwards that have affirmed SOGIE rights. Everyone has SOGIE. Heterosexuality, for example is a sexual orientation just as is homosexuality, bisexuality or other sexualities. This report uses “diverse SOGIE”, on the other hand, to describe sexual orientations, gender identities and gender expressions that are stigmatized because of their difference from the assumed norms of SOGIE.

Those assumed norms include the following:

- **Heteronormativity:** The assumption that all people are or should be heterosexual in their sexual orientation, a norm often inscribed in law, institutions and social practices. For example, there is often an assumption or expectation that families are based around a heterosexual relationship. The operation of this norm invalidates or disadvantages people in same-sex relationships and their

families, and invalidates other people who have sexual relations with people of different genders.

- **Cisnormativity:** The assumption that all people are cisgender women or men, which is often inscribed in law, institutions and social practices. For example, there is a common assumption or expectation that all people use toilets according to their sex as assigned at birth. The operation of this norm invalidates or disadvantages transgender people.
- **Gender binarism:** The assumption that all people identify as one of two genders, women or men, which is often inscribed in law, institutions and social practices. For example, people may assume that policies, forms, or data collection need to include men (and boys) and women (and girls) exclusively. The operation of this norm invalidates or disadvantages people whose gender identity is non-binary.
- **Endosexism:** The assumption that all people’s physical sex characteristics align with the medical or societal expectations of male or female bodies. For example, non-consensual surgery may be performed on infants to remodel their genitalia, giving them the appearance and (sometimes only partial) functionality of those associated with female or male bodies. The operation of this norm invalidates or disadvantages people whose sex characteristics do not align with those expectations.

The added-value of taking a social norms-based approach is that it takes the focus away from how and why identity groups are different, and switches that focus to why certain societies, organizations or individuals struggle to accept difference. This focus shift is important. LGBTQ+ and other people with diverse genders and sexualities are not causing the problem, they are not asking for special treatment, and they are not the people who need to change. In order for non-discrimination and equal treatment to become the reality, it is societies, laws, policies, organizations, families, individuals and others that need to reflect and address their attitudes and practices. This approach is analogous to the focus

shift encouraged by disability rights activists: from medical or charity models that situate disability as a problem within an individual to a social model in which the problem is situated within society and its lack of accommodations for people with disabilities.

The experiences of migrant workers recounted in chapter two (below) can be understood in terms of the operation of heteronormativity, cisnormativity and gender binarism.

Direct discrimination. Perpetrators of direct discrimination may (falsely) justify their harassment, violence or unequal treatment of migrant workers with diverse SOGIE through norms such as the misguided opinions that gay or lesbian or transgender people are themselves misguided, have a mental illness or pose a threat to society; or the knowledge that other people may actively or tacitly support such harassment, violence or unequal treatment because they too hold similar views.

Indirect discrimination often occurs when people fail to recognize those norms in their own attitudes and behaviours or in the society around them. For example, many migrant workers suffered discrimination and stigma from their own families, on the basis that being in a same-sex relationship brings shame on the family, will not provide children, and will likely impose an economic burden on the family. This is an example of heteronormativity. Threats of rape experienced by a tom while working and living with men on a construction site reflect the mistaken belief that women who love women are confused, and is another example of heteronormativity. Similar threats of rape experienced by a trans man reflect the mistaken belief that he was a woman, an example of cisnormativity. Trans women who work in adult entertainment and do not report violence, do so because they fear (based on past experience or common perception) that police will not investigate, may treat them badly, or report them to immigration authorities. Those suspected behaviours are rooted in cisnormative views of the world that invalidate transgender people or hold them to be less human or less deserving of respect. Systems that do not permit non-binary people to have identification cards (because gender in the law or identification system can only be woman or man) are based in

gender binarism, those that disallow transgender people changing their gender on identification cards are based in cisnormativity.

Indirect discrimination may also be present in views that existing general services are sufficient to meet the needs of people with diverse SOGIE. Improving safety and fairness for people with diverse SOGIE requires that government and non-government actors understand and identify discriminatory norms, and take positive steps to counter them. Such steps may include the following: (a) research to establish the needs of people with protected characteristics; (b) assessments of whether existing services meet those needs in safe, relevant and effective ways; (c) training for staff on issues that impact those people; and (d) providing services, adaptation of existing tools and materials or creation of specific tools or materials to meet needs. Government agencies and NGOs can also build closer relationships or partnerships with regional, national and subnational CSOs that focus on SOGIE diversity.

Evidence from interviews conducted for this report suggest that few government agencies or NGOs are taking such steps (see chapter four, below, for details).

1.3 RESEARCH DESIGN

1.3.1 METHODOLOGY

The research applied collaborative mixed methods comprising a review of secondary sources as well as the collection and analysis of both qualitative and quantitative data.

Review of the literature. This study reviewed over 130 secondary documents covering the project countries as well as regional and global literature. The review was designed to surface previous research on labour migration, SOGIE diversity, and the constellation of issues surrounding labour migration and SOGIE diversity. Sources included human rights and labour rights reports that addressed diverse SOGIE, reports focused on the four main research countries regarding

diversity of SOGIE as well as labour migration law, policy and guidance documents for South-East Asia and, again, the four main research countries. Identified literature included reports, briefing papers, academic journal articles, handbooks, case studies, blog posts and websites.

Key themes included the following:

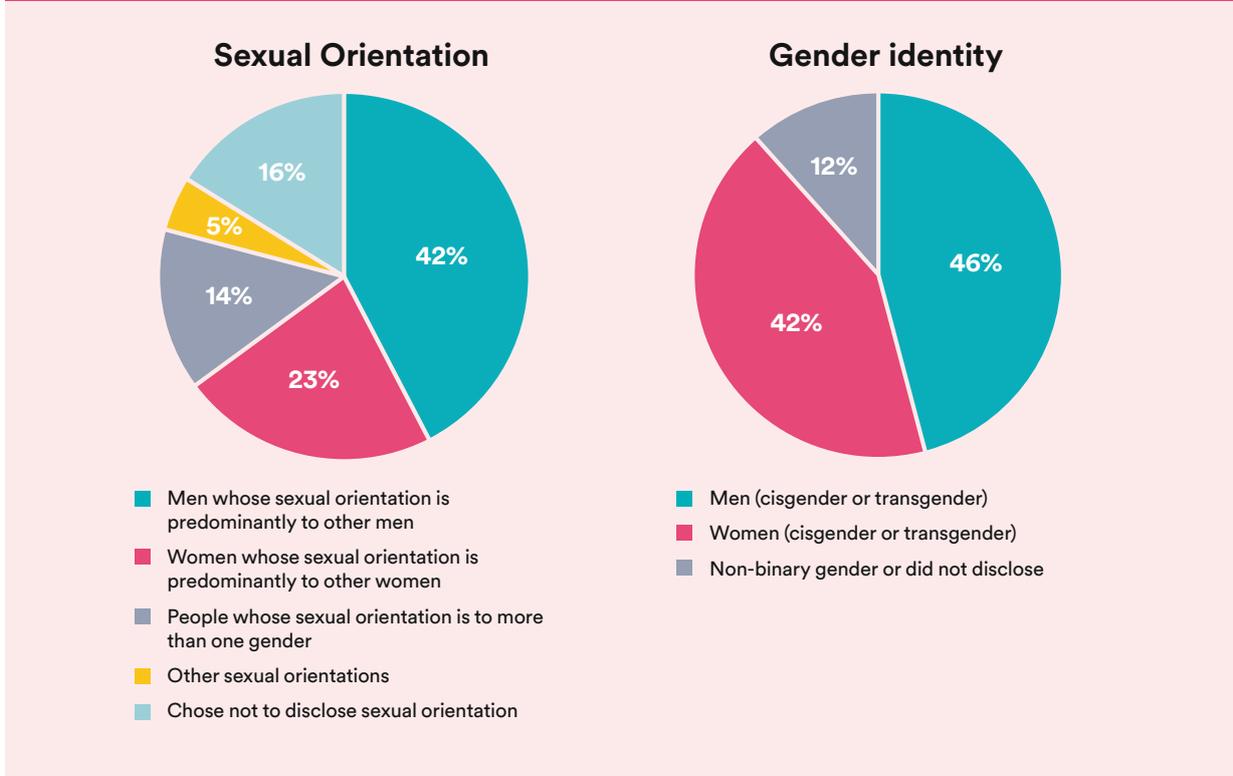
- **general discrimination and human rights violations** experienced by persons with diverse SOGIE, and strategies to protect and fulfil human rights
- **employment discrimination** against persons with diverse SOGIE, experiences in the workplace, and economic exclusion;
- **community-building** by migrant workers with diverse SOGIE, including discussions of relevant organizing within these communities;
- **migration policy and sexuality**, for example research that discusses ways in which specific migration policies reproduce sexual identities;
- **migration as a strategy** used by persons with diverse SOGIE to obtain acceptance and explore their identities away from “home”, including studies of same-sex marriage migration and queer diaspora communities in particular locations; and
- **forced migration** based on diverse SOGIE, processing of asylum claims and experiences of refugees and asylum seekers with diverse SOGIE.

The desk review was followed by field research. A team of three researchers, comprising a team leader and two researchers, was engaged for each country. All researchers were nationals of the country, selected upon the basis of community-based research experience especially within diverse SOGIE communities. The four teams were supported by a Philippines-based regional coordinator, with additional support from Edge Effect staff in Australia and New Zealand. Two regional organizations provided technical and logistical support: Migrant Forum in Asia (MFA) provided expert guidance on regional labour migration issues, and the ASEAN SOGIE Caucus provided expert guidance on regional diverse SOGIE issues. Both of these organizations

also facilitated engagement with their national member organizations. The teams received online training on migrant work issues, research methods and safeguarding.

The researchers conducted primary data collection with people with diverse SOGIE over a period of two months, from early January to late February 2021. The national research teams used a variety of methods to engage potential community participants, including the following: (a) personal networks; (b) diverse SOGIE organizational networks; (c) connections from migrant worker organizations; and (d) social media used by people with diverse SOGIE. All community participants were current or past migrant workers, and all were people with diverse SOGIE. The national research teams engaged with 147 current and former migrant workers with diverse SOGIE, through detailed interviews, FGDs and a survey. The challenges identifying research participants led to variations between the country samples. Participants were predominantly low-wage migrant workers undertaking work in a wide range of sectors including food and beverage, adult entertainment, construction, manufacturing and agriculture. The sample for Viet Nam and the Philippines, however, included some higher-waged professional workers. Just under 30 per cent of the migrant workers who took part in this research were undocumented, with the highest rate of undocumented workers travelling from Cambodia to Thailand. Most of the participants had completed at least some high school, while those travelling from the Philippines and Viet Nam had generally completed higher levels of schooling than migrant workers from Cambodia who took part in the study.

→ **Figure 1. Spectrums of sexual orientations and gender identities**



The interviews and FGDs were semi-structured guided conversations with migrant workers with diverse SOGIE. The purpose of these interviews and FGDs was to explore in detail topics identified in the initial stakeholder interviews with the research team, while providing space for those participants to take conversations in other directions. FGDs were predominantly used where the research teams identified several migrant workers with the same diversity of SOGIE who were already familiar with each other or had some kind of connection. Longer-form individual interviews were used when initial discussions or participation in FGDs led national research teams to decide that deeper probing of issues would prove fruitful. All of these interview and FGD participants also completed a survey to collect standardized data in addition to the information shared in the interview or discussion.

The national research teams used a “do no harm approach”, and adhered to international best practices for conducting research with women, migrant populations, and diverse-SOGIE persons with respect to violence and harassment. A robust consent process ensured that interviewee details and data shared were carefully managed; access

to raw data was restricted to the research team; and all data were to be securely deleted as soon as possible following completion of the project.

This report also draws upon engagement with more than 70 key informant interviews (KIIs) from the following: government departments and government-managed MRCs; migrant rights organizations; workers’ organizations and other labour rights organizations; diverse-SOGIE CSOs; human rights advocates; and academics. An initial set of interviews were conducted in the inception period, with informants selected through consultation with the Safe and Fair programme, Migrant Forum in Asia and ASEAN SOGIE Caucus. During the primary data collection phase, the national research teams conducted further interviews. These included informants from national government departments and agencies (Cambodia, Thailand and the Philippines) and government-managed migrant worker resource centres in Cambodia and Viet Nam. Additional interviews were conducted with NGOs managing migrant worker resource centres, along with national CSOs working in areas including labour rights, women’s rights and diversity of SOGIE.

While the initial plan was to conduct face-to-face interviews and FGDs, this was not always possible. COVID-19 movement restrictions and considerations of health safety meant some interviews had to be undertaken remotely via video-conferencing. Weekly meetings between the research teams included discussion of emerging trends or unexpected data, allowing the teams to adjust the range of questions during interviews and FGDs. Each team produced and presented country reports to one another – a process that replaced planned in-person sensemaking workshops not possible due to COVID-19 – and a presentation of emergent findings was provided for ILO staff in late March 2021. Detailed analysis of interviews continued until later in 2021, using textual analysis and quantitative coding and analysis of interview records.

1.3.2 CHALLENGES AND LIMITATIONS

This study does not provide a review of the ASEAN legal and policy frameworks on SOGIE or on labour migration. Instead, it presents a qualitative field study of migrant workers with diverse SOGIE, aiming to (a) shed light on their experiences of labour migration, and (b) to motivate policy and practice action supportive of their rights and needs.

Difficulties in accessing respondents and in collecting reliable information. Migrant workers with diverse SOGIE are hard to reach. Aside from their own concerns about the right to personal privacy, given the potential for legal recriminations and social stigma, people with diverse SOGIE often have good reasons to avoid sharing information about their lives. Within this group, furthermore, some subgroups are harder to reach than are others. For example, many people with diverse sexual orientations do not share this information widely, and are not necessarily connected to other people with diverse SOGIE through informal networks or CSOs. Some migrant workers with diverse SOGIE were concerned that the national research teams were covert government workers, and the research project a trap. A robust consent process overcame some fears that data gathered from



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migrant workers would be shared outside of the purpose of this report.

Sampling issues. Much research on SOGIE diversity relies on convenience samples based on users of existing CSO programmes or using snowball methods within personal networks of people with diverse SOGIE who take part in CSO programmes or who are known within activist networks. This can result in samples that heavily over- or under-represent certain groups of people. For example, samples often include over-representation of people from urban areas, of younger people, and of key populations accessing services from HIV/AIDS organizations. By contrast, the current research intended to apply a strategy of purposive sampling. This was to involve a convenience sampling and snowball community engagement approach to generate a pool of potential participants. From this pool, a subset was to be selected based on diverse SOGIE and other relevant criteria such as education level and urban/rural origins. This was to be undertaken at the national level to develop relatively comparable samples across those criteria. COVID-19, however, impacted the research design.

COVID-19 pandemic constraints. The onset of the COVID-19 pandemic and movement restrictions in each of the primary project countries significantly disrupted plans for community engagement and the above-mentioned purposive approach. Movement restrictions severely impeded domestic travel by the research teams, both in meeting with each other and in travelling for community engagement and data gathering. In the Philippines, for example, team members were unable to travel to meet in person. Travel restrictions and health concerns were also a disincentive for potential participants to come forward and participate. Furthermore, the pandemic placed great pressure on migrant worker organizations and diverse-SOGIE organizations that were simultaneously managing increased demand for services while themselves operating under considerable restrictions. National-level migrant worker organizations, in particular, were less able to provide support, which complicated efforts to reach migrant workers with diverse SOGIE in some work sectors.

A workshop was planned to bring together all country-based researchers for training and to help ensure a consistency and comparability across the four countries. While this workshop was cancelled because of COVID-19, the teams instead took part in online training and coordination. The constraints also made the interview and FGD processes much harder to organize and conduct safely according to COVID-19 guidelines and other safety considerations. FGDs tended to be organized with participants with similar gender and sexual diversity. Some FGDs and KIIs could only be held online.

Language and terminology issues. Further challenges included language differences, especially in Thailand, where the research team was interviewing migrant workers from different

countries and where interviews could not be conducted in Thai. The diversity of terms used by participants to describe their gender and sexuality also complicated efforts to manage the composition of the sample and to disaggregate data. Many people are unfamiliar with SOGIE terms; LGBTIQ+ categories are not necessarily used or viewed as appropriate by many; plus a wide variety of language or culturally specific terms may be preferred. Navigating this territory consumed significant time in each interview and FGD, and, especially with online interviews and FGDs, time was at a premium.

Analysis of the sample as a whole, rather than on a country basis. These constraints resulted in a smaller than the originally planned pool of potential participants, and impeded the purposive sampling strategy: all potential participants were included, and there was limited scope for equalizing participation between subgroups or on the basis of other criteria. The number of participants of each SOGIE subgroup varied considerably between countries, and there were significant variations in levels of schooling and other characteristics between country samples.

For these reasons, the report does not attempt analysis on a country basis, instead focusing on the sample as a whole. In particular, insufficient data was gathered from intersex participants to support analysis on the basis of sex characteristics. As noted earlier, unless the literature referenced makes use of “SOGIESC”, this report uses the term “SOGIE” when discussing the findings or the recommendations, since the research cannot speak on the experiences of intersex migrant workers.

Despite these challenges, the research teams delivered rich data from migrant workers with a variety of SOGIE from a variety of backgrounds working in a variety of sectors.



CHAPTER 2: REGIONAL AND COUNTRY BRIEFS

The general socio-economic, political and cultural conditions for people with diverse SOGIE in South-East Asia and in their countries of origin and destination, also shaped the experiences of migrant workers with diverse SOGIE across their migrant work journeys. Based on the desk review, this chapter summarizes the respective conditions for people with diverse SOGIE in the four designated countries of origin (Cambodia, the Philippines and Viet Nam) and one country of destination (Thailand).

Conditions in their countries of origin are among the push factors for migrants with diverse SOGIE. They are also the conditions workers returned to after undertaking migrant employment, and the conditions within which diverse SOGIE, migrant-worker and other organizations operate in those countries. Experiences of these conditions vary. For example, people living in rural areas might have more limited access to support services and informal community networks than people with diverse SOGIE in urban areas.

The conditions for people with diverse SOGIE in countries of destination are among the pull factors for some migrants with diverse SOGIE, and they shape the experiences of such workers in those countries, including the extent to which diverse SOGIE, migrant workers' groups, and other organizations are able to organize and provide support. Again, the experiences of those conditions by migrant workers with diverse SOGIE are not necessarily the same as those experienced by non-migrant populations with diverse SOGIE within those countries, as migrant workers might not be connected to diverse SOGIE communities or organizations in their countries of destination, and some migrant workers may be treated differently by employers and other people, on account of their migrant status.

The regional overview provides context for policymaking, advocacy and service provision that extends beyond the usual sphere of operations of national or subnational NGOs and involves coordination mechanisms among labour-rights stakeholders.

The country summaries present a brief introduction to research on issues such as family and societal acceptance, access to education (as a factor in subsequent employment), and experiences in workplaces.

Research on the social and economic conditions of people with diverse SOGIE is limited in many countries, and the summaries primarily draw upon research supported by United Nations (UN) agencies and diverse SOGIE CSOs. The four designated research countries are among countries in South-East Asia that, however gradually, are improving conditions for people with diverse SOGIE. For example, none of the four designated countries criminalize consensual same-sex sexual activity between consenting adults. However, all of them make very limited specific reference to diverse SOGIE in non-discrimination provisions, and this group tend to be subject to widespread discrimination, violence and harassment across many aspects of life.

The classification of countries on the basis of SOGIE conditions is difficult, for reasons including absent and inconsistent data on the lives of people with diverse SOGIE.⁴

Necessarily, these summaries are not comprehensive, and readers may seek further information through the references provided. As data collection progressed, the research teams engaged with migrant workers from the designated countries of origin who travelled to countries other than Thailand (including other countries in South-East Asia, East Asia and the Gulf States), and with migrant workers in Thailand who travelled from other countries of origin, especially from Myanmar. Briefs are not provided for these countries.

2.1 REGIONAL OVERVIEW

Regarding recognition of the rights of people with diverse SOGIE in South-East Asia, the report *Revealing the Rainbow* notes that regional progress has been inconsistent (ASEAN SOGIE Caucus,

⁴ To better understand attitudes towards LGBTIQ people in these countries of origin, refer to the Williams Institute *Global Accountability Index (GAI)*, and Franklin & Marshall, *Global Barometers for Gay Rights and Transgender Rights*.

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2018). Within some countries legislative and societal change has occurred, and some national human rights institutions have provided significant support for diverse SOGIESC human rights claims (UNDP/ILO, 2018). However, there are also “numerous situations where States in South-East Asia have actively limited the rights of the LGBTIQ community and LGBTIQ HRDs” (Destination Justice, 2018). Meanwhile, *Rainbow in Context*, an ASEAN SOGIE Caucus report, contends the following:

Lesbian, gay, bisexual, transgender, intersex and queer (LGBTIQ) persons may be found throughout South-East Asia. However, their existence is marked by stories of stigmatization, violence, and exclusion within the social, economic, and political lives of their communities and nations. Within ASEAN member-states, LGBTIQ people have been stigmatized as dangers to national security and threats to the moral fabric of society. What are often described as fundamental freedoms – rights to free expression, political association, family, health, and so on – are denied ...

ASEAN SOGIE Caucus 2017, 4

Although ASEAN is now committed to a people-focused agenda, and has implemented certain human rights measures, these have not extended to people with diverse SOGIESC (ASEAN SOGIE Caucus 2017). The UNDP/ILO report *LGBTI People and Employment: Discrimination Based on Sexual Orientation, Gender Identity and Expression, and Sex Characteristics in China, the Philippines and Thailand* notes that “the 2012 ASEAN Human Rights Declaration (AHRD) does not mention SOGIESC. Some governments noted their reservations about ‘sexual rights’ and ‘sexual orientation and gender identity’ in the Asian and Pacific Ministerial Declaration on Population and Development adopted in 2013” (UNDP, ILO 2018, 25). According to the ASEAN SOGIE Caucus:

The pervasive view of governments of ASEAN and society in general is that LGBTIQ rights activism is a push from the “Global North”: (e.g. Western and European states), and is thus not in line with the values of Southeast Asian cultures. This perspective – which asserts the problematic concepts of non-interference and independence on a larger scale – overshadows discussions regarding the legal recognition and protection of LGBTIQ people in the region.

ASEAN SOGIE Caucus 2017, 18

However, as activists and researchers have noted, a vibrant diverse SOGIESC civil society advocacy exists within South-East Asia. Organizations such as the ASEAN SOGIE Caucus at both the regional and national levels have established “home-grown” diverse SOGIESC advocacy that subverts old arguments that recognizing the human rights of people with diverse SOGIESC is at odds with traditional or “Asian” values. While these groups operate near the margins of ASEAN’s policy and institutions, their persistence creates space and opportunities for dialogue and progress (Langlois et al. 2017).

2.2 COUNTRY OF ORIGIN: CAMBODIA

Cambodia’s Constitution guarantees equality in article 31, “regardless of race, color, sex, language, religious belief, political tendency, national origin, social status, wealth or other status”. The *Being LGBTI in Asia: Cambodia Country Report* notes the following from a legal perspective:

On one hand, [in Cambodia] same-sex activities (either relationships or sexual activity) are not criminal offenses, but on the other, the law does not recognize LGBT people and is silent on discrimination against LGBT people. There are no legal protections for LGBT people. There is no prohibition of discrimination based on sexual orientation and/or gender identity and there are no sanctions for those who violate human rights of LGBT people.

UNDP, USAID 2014a, 27

The same report notes that, historically, Khmer language and Cambodian culture does not recognize identity categories such as gay, lesbian, bisexual or transgender. Moreover, as discussed earlier in the context of other research countries, concepts of gender and sex are intermingled, also challenging the relevance of sexual orientation and gender identity as discrete characteristics of human beings. The Cambodian Center for Human Rights (CCHR) reports that changes of gender markers for trans and gender diverse people is not prohibited, but is rarely permitted:

In Cambodia, there is no legislation which explicitly allows trans people to receive legal and administrative recognition of their self-defined gender identity. However, there is no specific legal provision prohibiting it, either. The lack of clarity surrounding the present legal situation leaves transgender Cambodians subject to the individual decision of relevant officials. While some transgender Cambodians are issued with ID cards conforming to self-defined gender identity, most local officials deny such requests, for fear of breaking the law.

Life for people who fall outside of accepted gender/sex norms presents many challenges, what a report by the CCHR describes as “liv[ing] on the margins of Cambodian society” (CCHR 2015, 10). As with other countries of origin in this study, negative educational and workplace experiences effect

the potential for people with diverse SOGIE to live dignified lives and may act as push factors for labour migration. In Cambodia, family attitudes feature prominently in published research. A CCHR report describes “coming out” to family as a “... very negative experience. Sometimes parents disown their children afterwards, cutting them off from any emotional or financial support, which often drives young people onto the streets, where they are hounded by hunger, homelessness and vulnerability to further abuse by strangers and law enforcement officials”. (CCHR 2012, 12)

The *Being LGBTI in Asia: Cambodia Country Report* adds that people with diverse SOGIESC experience

non-acceptance, differential treatment compared to other siblings, and rejection. Some parents believe that being gay is a mental illness and consider their children crazy ... Some families feel that LGBT children bring shame and dishonour to the family. National Dialogue participants reported insults, beatings, cursing, blaming, and confiscating of personal belongings such as phones and motorbikes ... Transgender participants reported that their families would not allow their gender to be changed on official documents, though it is unclear whether families have any say on changing gender on official documents ... Many reported being forced to separate from partners they loved and pressured into heterosexual marriages. As a consequence, many reported running away from home, moving in with friends or ‘those like me’.

UNDP, USAID 2014a, 37

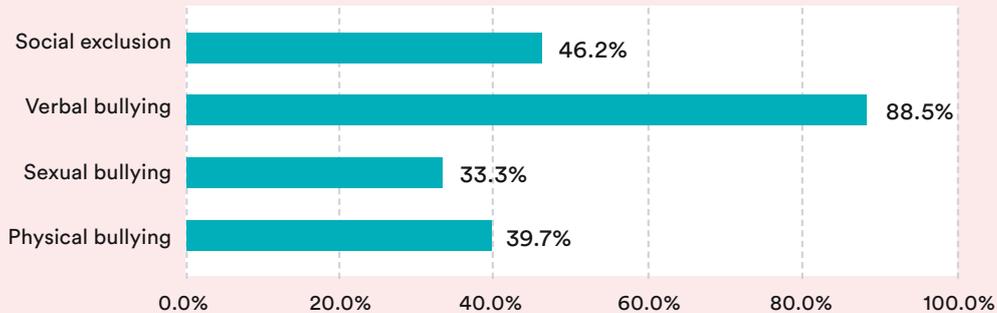
A study by the CCHR found that bullying and social exclusion of people with diverse SOGIESC was rife in Cambodian schools (see figure 2, below). Of those who experienced physical bullying within schools, 32 per cent reported that it occurred every day or often; of those who experienced verbal bullying, 49 per cent said it occurred every day or often. Most respondents did not report this behaviour towards them and, although many teachers acted

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to stop bullying, teachers also took part in bullying students with diverse SOGIESC.

→ Figure 2 Forms of school bullying



Data from a Cambodian Centre for Human Rights (CCHR) survey of former school students.

The *Being LGBTI in Asia: Cambodia Country Report* noted that “Dropout rates among LGBT youth are higher than the overall school-going population, due to bullying by peers and economic hardship from family rejection” (UNDP, USAID 2014a, 9). Lower educational attainment and mental health issues from school experiences can act as a constraint when job-seeking and building dignified lives. The same report also notes that

LGBT Cambodians do not feel comfortable being open about their sexual orientation in the workplace, and note limited job opportunities due to discrimination and exclusion. Little work has been done to raise SOGI issues among employers. Transgender persons are frequently harassed because of their appearance and their livelihood as entertainment or sex workers.

UNDP 2014, 9

A 2012 report by the Cambodian Centre for Human Rights (CCHR) noted that “Cambodian Labor Law, enacted in 1997, fails to make explicit mention of SOGI as grounds on which discrimination is prohibited. Article 12 provides for equality in the workplace but does not effectively and explicitly protect LGBT people” (CCHR 2012, 21). This report

also noted that little had been done to address issues of diverse SOGIESC in work contexts.

2.3 COUNTRY OF ORIGIN: THE PHILIPPINES

As of 2021, the Philippines did not have national anti-discrimination provisions for people with diverse SOGIESC. A SOGIE Equality Bill was first introduced into the Congress of the Philippines in 2000, and a 2017 version was passed by the House of Representatives but, as of this writing, had not yet passed in the Senate. In its absence, some local governments have passed ordinances to protect people on the basis of their SOGIE, among these the Quezon City Ordinance Providing for a Comprehensive Anti-Discrimination Policy on the Basis of Sexual Orientation, Gender Identity and Expression (SOGIE).⁵ However, these subnational protections cover less than 15 per cent of the population (Thoreson and Lee 2017). Same-sex acts between consenting adults are not criminalized, but there are reports of other laws, such as those regarding vagrancy, being used by law enforcement to target people with diverse SOGIESC (ProGay Philippines 2012). There is some uncertainty around the possibility for transgender and gender diverse

⁵ Ordinance No. SP-2357 (series of 2004) 29 September 2014.

people to change gender markers, with keys laws appearing to forbid this, while some people have managed to change identification documents nonetheless (OHCHR 2018).

Discrimination within education and the workforce are among other factors that limit economic and social opportunities of people with diverse SOGIE in the Philippines, which may contribute to push factors for people with diverse SOGIE to pursue international migrant work. *The Being LGBTI in Asia: The Philippines Country Report* notes that “LGBT individuals face challenges in employment both on an individual level and as members of a community that is subject to discrimination and abuse” (UNDP, USAID 2014b, 9). A UNDP/ILO study found that people with diverse SOGI in the Philippines faced significant discrimination seeking employment and harassment during employment, and that there was a lack of protection nationally or at the workplace level (UNDP and ILO 2018). The Labor Code of the Philippines makes no mention of SOGIE, and the UNDP/ILO study noted the following as of 2018:

“Currently, there are no specific services provided by the government that address SOGIESC-specific needs of LGBTI people. In contrast to research findings, many government officials believe that LGBTI people can avail themselves of all general programmes and that no one is discriminated against in service provision. But, this assertion is contradicted by research findings

UNDP and ILO 2018, 31

Among Philippines respondents to this UNDP/ILO research, 44 per cent reported that they had seen job advertisements that excluded their SOGIE, 26 per cent reported being asked about the SOGIE during interviews, and 21 per cent believed that had been denied jobs because of their SOGIE. Once in jobs, 73 per cent reported fellow workers often or sometimes making jokes about SOGIESC and 30 per cent reported being discriminated against, harassed or bullied. The respondents were “younger, better-educated and urban LGBTI populations, and white-collar employees in the formal economic sector” – workers in contexts where they might

have been greater awareness of diverse SOGIESC rights issues (UNDP and ILO 2018, 19). However, 2018 research by the Philippine LGBT Chamber of Commerce for the Corporate SOGIE Diversity & Inclusiveness (CSDI) Index revealed that only foreign companies in the Philippines had established measures to address diverse SOGI inclusion (Asia Society n.d.). While the Philippines have a structured approach to support for overseas workers, review of data, policy and guidance documents revealed neither data specifically on Filipino migrant workers with diverse SOGIE nor consideration of related issues they might face. Participation in education could also be challenging for people with diverse SOGIE. A Human Rights Watch report noted that the Philippines had enacted anti-bullying legislation that included SOGI as protected characteristics, but expressed the following reservations:

“Despite prohibitions on bullying, for example, students across the Philippines described patterns of bullying and mistreatment that went unchecked by school staff. Carlos M., a 19-year-old gay student from Olongapo City, said: “When I was in high school, they’d push me, punch me. When I’d get out of school, they’d follow me [and] push me, call me ‘gay,’ ‘faggot,’ things like that.” While verbal bullying appeared to be the most prevalent problem that LGBT students faced, physical bullying and sexualized harassment were also worryingly common – and while students were most often the culprits, teachers ignored or participated in bullying as well.

Thoreson and Lee 2017, 2

Definitions of family in law and policy in the Philippines assume a heterosexual family unit and reflect conservative and religious ideas of family. Such definitions are a source of discrimination and disadvantage for people with diverse SOGIE, one report noting lesbian focus group participants blamed “the state’s failure to recognize their partnerships ... for instability and impermanence in intimate relationships as well as their economic insecurity” (Hawkins et al. 2014, 22). The same report notes that

“heteronormative definitions of dependants affected lesbian women and trans men’s partners’ access to: life insurance; retirement benefits; disability benefits for work-related contingencies; death benefits; and health insurance policies. Access to programmes and saving schemes that helped to provide adequate housing were similarly hampered” (Hawkins et al. 2014, 14).

The Philippines includes a wide range of diverse SOGIE CSOs, and some people with diverse SOGIE live public and sometimes successful lives. Ladlad, a diverse-SOGIE political party, is officially registered, and the Philippines’ first openly transgender national political representative was elected to Congress in 2016 (OHCHR 2018, 134–135). However, reports also suggest toleration of diverse SOGIE often exists within narrow confines. The *Revealing the Rainbow* report notes that while the Philippines is ranked among the most LGBTIQ-friendly countries in the world, Filipino LGBTIQ HRDs questioned the results of this survey, claiming that the apparent acceptance of homosexuality may well only be a “veiled tolerance [...] centered around stereotypes” (Destination Justice 2018, 132) The ranking in question was based on 2013 research by the Pew Research Center, which found that 73 per cent of adult Filipinos agreed with the statement that “homosexuality should be accepted by society”. Activist Jonas Bagas responded with the following argument:

“The moment we ask for access to education, we are warned against recruiting students to homosexuality, or warned against getting into romantic relationships. The moment we ask for respect and for the recognition of our dignity, we are told that we are too loud, too flamboyant; we are reminded that gay sex is unnatural ...Filipinos are friendly to the bakla who makes them laugh, who’s creative and talented. But the moment that we demand [...] equality, we stop being the entertainers that you find funny; for you, we turn into a joke.

Chiu 2013

Stigmatization on the basis of religion or family values remains profound for some people. Employment opportunities are often limited outside of the informal economy; access to education and services may be compromised; and violence remains part of everyday lives. One news report suggests that “[a]t least 50 transgender or gender nonbinary individuals have been murdered across the archipelago since 2010 – but the real death toll is likely much higher” (Fuller Project 2021) and details challenges for accessing justice. These issues are also addressed in the *Philippine LBT Coalition Report for 64th Session of CEDAW* (EnGendeRights et al. 2016), including the lack of diverse SOGI inclusive legislation and barriers to recourse for GBV survivors.

2.4 COUNTRY OF ORIGIN: VIET NAM

Article 16 of Viet Nam’s 2013 Constitution states that “Everyone is equal before the law” and that “No one shall be discriminated [against] in their political, civil, economic, cultural and social life”. Vietnamese CSO the Institute for Studies of Society, Economy and Environment (iSEE) notes that the Civil Code (Amended) 2015 and the Law on Gender Equality 2006, among other laws, also contain commitments to non-discrimination for all (Huy and Phuong 2016, 25), even though they specifically do not mention SOGIE. Same-sex acts between consenting adults are not criminalized in Viet Nam.

The *Being LGBTI in Asia: Viet Nam Country Report* notes the following: “The year 2012 marked a turning point for the LGBT community in Viet Nam with media exposure, prominent and positive events, and support from the public and government” (UNDP, USAID 2014d, 6). Previously, the dominant view of diverse sexual orientation and gender identity in modern Viet Nam was that it represented a “social evil” or sickness, partly due to the government officially designating it so in 2002, partly due to normative social and cultural values (especially around families), and dominant medical views. The shift in attitude from 2012 onward is significant, but progress remains incremental. Social attitudes remain influenced by many of the pre-2012 factors; some changes in legislation have lacked substance;

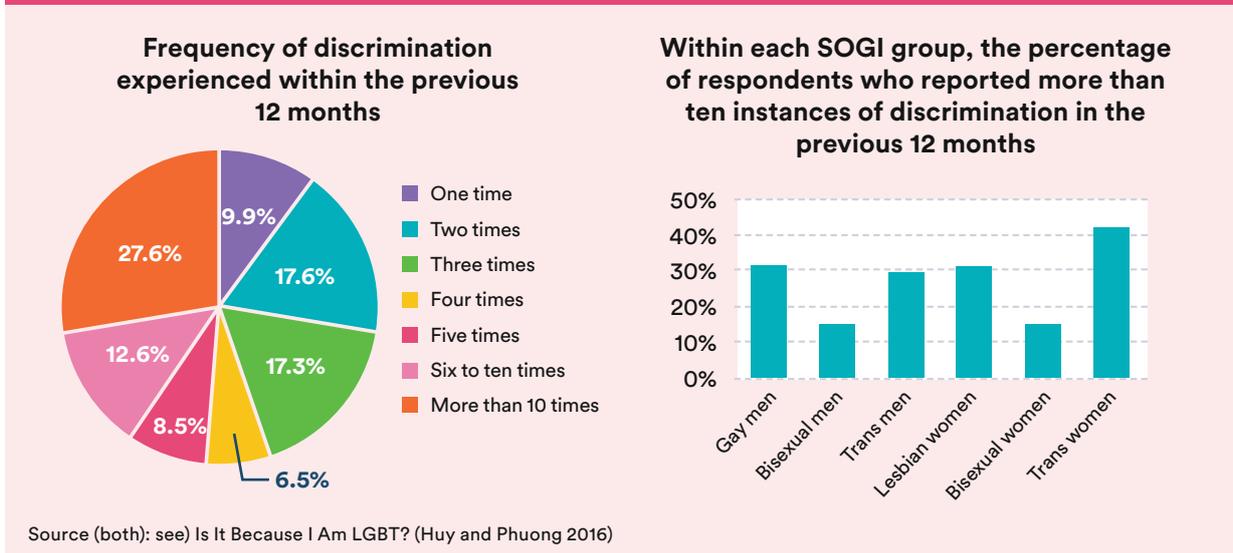
and discrimination remains a major issue across many aspects of life for people with diverse SOGI. However, in the years since 2012 (a year in which Viet Nam’s first Pride parade was held) there has been a sense that positive change is possible. Other public events have occurred without government disruption or with government support, including pride at work events. Reports on recent domestic legislative change suggests that the Viet Nam Government has made concessions on SOGI, but in ways that have had limited impact to date. Analysis in *The Rainbow in Context* report indicates that, while the 2014 Marriage and Family Law removed the prohibition on “two people of the same sex” getting married, this was only a partial recognition of marriage equality. The same law provided that “the State shall not recognize marriage between persons of the same sex”, meaning that, while it was no longer illegal to go through the process of getting married, there was little hope of gaining access services or rights afforded to heterosexual marriage couples (ASEAN SOGIE Caucus 2017, 30).

The iSEE report *Is It Because I Am LGBT?* reports that “Family, schools, workplaces are the environments where discrimination most occurs against LGBT people” (Huy and Phuong 2016, 14). Summarizing survey results, iSEE reports the following:

Forcing to change appearance, gestures (62.9 per cent) and scolding, pressuring (60.2 per cent) are the most common abuses that LGBT people are subject to in their families. The acts of violence such as being confined, [held], forced or suggested to leave their families, battered were experienced by about 13–14 per cent of the total survey respondents. The discriminatory acts primarily aim to prevent the disclosure of information about the LGBT family members, to attempt changing the sexual orientation and gender identity of LGBT persons with medical, spiritual, or living style intervention, and to inhibit their intimate relationships. One fifth of LGBT people were forced to visit the doctor, a quarter of them were subject to forced marriage with those they do not desire. Transgender group has a highest experience rate in all discriminatory acts compared to the homosexual and bisexual groups, particularly in acts such as forcing to visit the doctor (29.3 per cent), to change their appearance, gestures (85.9 per cent) and other pressures to their romantic relationship (35.0 per cent).

(Huy and Phuong 2016, 46)

→ Figure 3. Reported frequency of discrimination



A 2017 iSEE Report stated that only 2 per cent of the respondents who experienced discrimination in the previous 12 months reported this to authorities. Key reasons for not reporting included the following (Huy 2017, 6): viewing the incident as minor or too frequently occurring an issue to report (63.7 per cent); not believing that the incident would be resolved (46.7 per cent); embarrassment and reluctance to disclose potentially compromising information about themselves (26.3 per cent); and fear of reaction from the police (17.7 per cent).

Several studies have explored the prevalence of discrimination, violence and harassment perpetrated against young people with diverse SOGI in Viet Nam's education system, as well as the longer-term consequences of those experiences when seeking employment later in life. These studies suggest that verbal harassment is more common than physical harassment, although the more detailed 2016 UNESCO study also reports high levels of physical violence.⁶ The most recent education sector research is the Human Rights Watch report *My Teacher Said I Had A Disease*, which highlights underlying factors that contribute to the normalization of discrimination, harassment, and violence against young people with diverse SOGI. One factor has been the absence of SOGI within the SRHR⁷ or other aspects of curriculum, creating an information vacuum which compounds societal views of SOGI diversity as a "diagnosable, treatable, and curable mental health condition is pervasive in Vietnam" (HRW 2020, 13).

The *Being LGBTI in Asia: Viet Nam Country Report* states that stigmatization of and discrimination towards LGBT people are common at the workplace. Transgender people in particular, because their gender identity and expression are often more physically visible, are usually discriminated against and rejected by potential employers." (UNDP, USAID 2014d, 25) While Viet Nam's Labor Code prohibits discrimination on grounds including gender, race, social strata, marital status, belief or disability, this

does not specifically extend to sexual orientation or gender identity (OHCHR 2018; UNDP 2014). However, one study "involving more than 2,000 self-disclosed LGBTIQ persons across Viet Nam revealed that almost 30 per cent of respondents were disqualified from jobs due to their SOGIESC. Meanwhile, around 33 per cent to almost 50 per cent of the respondents encountered negative comments and behaviour from their colleagues, superiors and clients" (OHCHR 2018, 38).

2.5 COUNTRY OF DESTINATION: THAILAND⁸

Many of the migrant workers with diverse SOGIE interviewed for this project viewed Thailand as more accepting of people with diverse SOGIE than were their countries of origin. The visibility of trans and gender diverse people in Thailand is one reason why the country has a reputation for being relatively open to people with diverse SOGIE.

The 2019 UNDP report on LGBT tolerance in Thailand noted that the reality is more complex. From a survey of more than 2,000 participants in the country, the report notes that "while non-LGBT respondents have favourable attitudes towards LGBT people, they have less favourable attitudes towards LGBT people as workers, students, family members and social acquaintances" (UNDP 2019, 37). Some positive changes had occurred for people with diverse SOGIE, including removal of pathologizing language for military service exemptions and inclusion within groups that qualify for support under the Social Welfare Promotion Act. However, when it came to work, the report noted that

⁶ This study also reports relatively high levels of physical violence for non-LGBT students, although considerably less so than for LGBT students. Different studies may use different definitions of violence, have different thresholds for reporting, and apply different methodologies, which may make people feel more or less safe in reporting violence.

⁷ HRW notes that a new Certificate of Secondary Education (CSE) curriculum developed by the Ministry of Education and Training with UN support does include SOGI. As of this writing, the curriculum had yet to be rolled out.

⁸ Although Thailand is both a sending and receiving country, in this report Thailand is mainly considered as a country of destination for migrant workers with diverse SOGIE.



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...employment opportunities for LGBT people may be limited by stigma, discrimination and health disparities... [O]ne-quarter of non-LGBT respondents felt that being LGBT was reasonable grounds for discrimination in work settings, and another 11.5 per cent were undecided. The belief that LGBT people should not be allowed in the workplace results in decreased employment opportunities for LGBT people.

UNDP 2019, 69

Thailand adopted its Gender Equality Act (BE 2558 [2015]) in 2015. This legislation includes some protection for trans and gender-diverse people. A UNDP report on legal gender recognition noting that the Gender Equality Act aims to offer protection “whether the person is male, female or a member of a ‘sexual diversity group’”, and defines gender discrimination so as to include those with “a different appearance from his/her own sex by birth” (UNDP 2018, 28). This UNDP report, *Legal Gender Recognition in Thailand: A Legal and Policy Review* notes that in the Thailand context this includes gender identity as well as gender expression. Based on “unofficial commentary” from a government official cited in the UNDP report, however, it seems

that the Gender Equality Law does not address or protect people with diverse sexual orientation. As the report notes, given public confusion between trans women and gay men in Thailand, this may result in protection gaps, and issues may also arise due to the use of identities or terms that express a diverse mix of gender and sexuality. While the implementation mechanisms for the Gender Equality Act could bind government agencies as well as private businesses and individuals, the UNDP report notes that the impact of those implementation mechanisms is a work in progress. When Thailand adopted its 2017 Constitution, the accompanying “intentions” document did not include clarifications inclusive of people with diverse SOGIESC, unlike the parallel document accompanying the 2007 Constitution (Kaleidoscope 2021; UNDP 2018). In other respects, there have been improvements, including removal of pathologizing and derogatory language to describe people with diverse SOGIESC (UNDP and ILO 2018).

The UNDP report *Tolerance but Not Inclusion* is based on surveys of people with diverse SOGIESC and other people in Thailand. It reported that most non-LGBT respondents supported LGBT equality rights, including rental and property rights, access to training and employment services, and access to social services and benefits. On the other hand,

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people with diverse SOGIESC reported perceiving higher levels of stigma. For example, 59 per cent reported that in Thailand they were considered “not normal”, and almost one third of all LGBT people say they often pretend to be straight to be accepted. On the subject of violence, the report found the following:

Over half, 53 per cent, have been called names and made fun of and 39 per cent of all LGBT people have experienced this often. Sixteen per cent have been sexually assaulted; 10 per cent experience sexual assault often ... Transgender women and bisexual men report higher rates of discrimination than other LGBT subgroups. Research in schools has also revealed substantial issues with discrimination, violence, and harassment.

UNDP 2019, 42

A scoping review, conducted in 2020, found that individuals of diverse SOGIE face multiple forms of exclusion and discrimination in the country:

This paradox between Thailand’s international reputation and the lived experience of many LGBT+ people in Thailand can perhaps be explained by the ambivalence of the Thai public towards LGBT+ rights. Although nearly 70 per cent of the general population report having positive attitudes towards LGBT+ individuals, only 40 per cent indicate support for equal rights and more inclusive policies.

Newman et al. 2021, 14–15

A 2018 World Bank study found that nearly a quarter of Thai LGBT employees had been told not show or mention their LGBTI status. Similar findings were reported by a detailed ILO PRIDE report (Suriyasarn 2015), with contributing factors including societal

discrimination; limited access to training and job opportunities; being stereotyped into low-wage and higher-risk work; lack of appeal mechanisms; and police harassment of transgender sex workers. Although Thailand ratified the ILO Convention on Equal Remuneration, 1999 (No. 100), and the Convention on Discrimination (Employment and Occupation), 2017 (No. 111), implementation of these instruments needs to be strengthened. One UNDP/ILO report found that Thailand has “no employment-related law in Thailand [that] directly mentions sexual orientation, gender identity or expression, or sex characteristics”⁹ (UNDP and ILO 2018, 34), and another report suggested that “workplace equality policies are not inclusive of LGBT issues” (UNDP 2019, 70). This includes a lack of gender quality policies, and less evidence of gender diversity training. Of relevance to this report is the following:

... a significantly lower share of LGBT respondents reported having received gender diversity training, 10.3 per cent, than non-LGBT respondents, 26.5 per cent. The findings indicated that, compared to the rest of the population, if LGBT respondents received training on diversity, they may not have perceived that the training provided was inclusive of SOGI issues.

UNDP 2019, 70

One problematic tendency is to assume that gender training or awareness somehow covers the diversity of SOGIE. Gender programmes can indeed be inclusive of SOGIE, but only with significant modifications and additions. Chapters three and four further investigate these issues.

⁹ There have been some efforts towards gender inclusion. As the 2018 reports notes, Labour Protection Act B.E. 2541 (1998), No. 2 Amendment B.E. 2558 (2008), which covers workers in the private sector, prohibits sexual harassment against all workers including men. The Civil Service Regulation on Sexual Harassment dated 29 September 2010 prohibits sexual harassment against civil servants or civil service employees without specifying the sex or gender of the victims. The Ministry of Labour Regulation on Thai Labour Standards, Social Responsibility of Thai Businesses B.E. 2547 (2007) prohibits discrimination against workers on the basis of sex as well as “personal sexual attitude”.



CHAPTER 3: WORK JOURNEYS

This chapter focuses on the experiences of migrant workers with diverse SOGIE. It begins with lived experience of migrant workers with diverse SOGIE, discussing the following factors:

- their motivations and push factors for becoming migrant workers; and
- why they chose their specific countries of destination, including how they were recruited and what support they did or did not receive prior to departure.

The chapter then moves on to lived experience of transit among documented and undocumented migrant workers, and to exploring the following aspects of world of work in countries of destination:

- experiences of migrant workers with diverse SOGIE of workplaces and employers;
- changes in quality of life and earnings;
- attitudes and behaviours of fellow migrant workers;
- tactics for navigating through life and surviving discrimination, violence and harassment; and
- options for accessing services such as healthcare.

The stories then turn back to countries of origin, as migrant workers with diverse SOGIE re-establish themselves and make use of their earning and skills, but also re-adjust to societies and life-contexts in which they may again experience fewer freedoms.

While much of the chapter presents fragments of stories organized by journey stages and themes, it is also important to trace narratives across lives. Migrant workers with diverse SOGIE do not just experience life as fragments – these fragments add up over the course of lives and develop deeper meanings as people make sense of their lives. To reflect this more complex reality, this chapter ends with three longer narratives drawn from interviews. Stakeholders who have some understanding of the life-courses of people with diverse SOGIE are more likely to understand how and why migrant workers with diverse SOGIE have specific needs, and how and why migrant workers with diverse SOGIE make certain choices.

3.1 COUNTRY OF ORIGIN AND IN TRANSIT

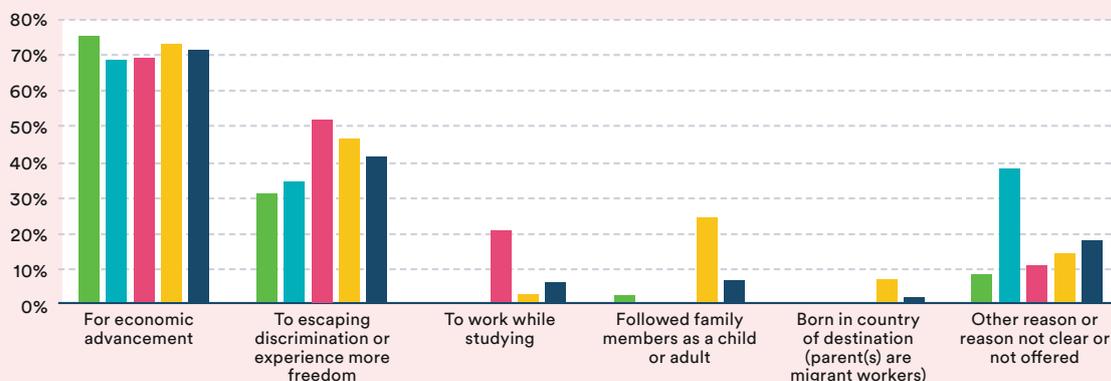
3.1.1 MOTIVATIONS OF MIGRANT WORKERS WITH DIVERSE SOGIE

What leads people with diverse SOGIE to explore labour migration as an alternative to continuing to live and work within their own community, in more familiar circumstances alongside family and friends? Among the many reasons, two emerged as clear frontrunners:

- Economic advancement is a motivation held in common with many other migrant workers. This featured in stories recounted by 72 per cent of migrant workers with diverse SOGIE overall, and consistently across the country groups. Of this group, 65 per cent recounted experiences in which they achieved economic goals.
- The second-most common motivation – escaping SOGIE-related discrimination and seeking freedom – featured in stories recounted by 41 per cent of migrant workers with diverse SOGIE overall. Within this group the most common sources of discrimination or constraints on freedom were families and society as a whole.

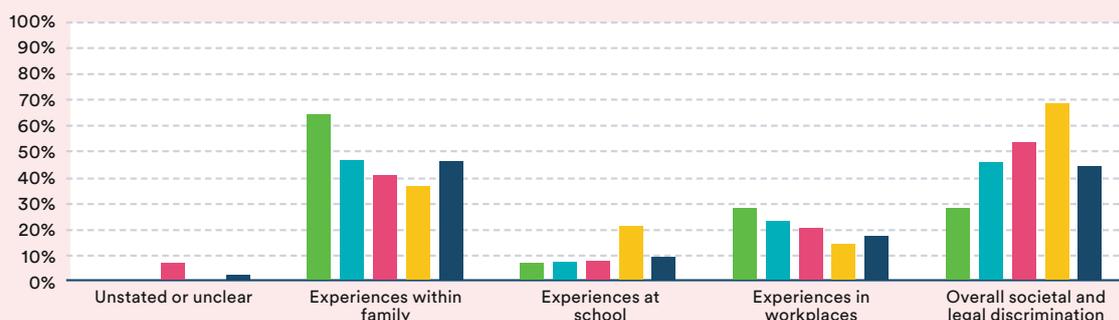
→ **Figure 4 Push/pull motivations to migrate abroad for work**

Motivations for being a Migrant Worker



Motivations (and individual may have more than one)	Country of Origin Cambodia	Country of Origin Philippines	Country of Origin Viet Nam	Country of Destination Thailand	Overall
For economic advancement	76%	69%	69%	73%	72%
To escaping discrimination or experience more freedom	31%	34%	52%	46%	41%
To work while studying	0%	0%	21%	2%	6%
Followed family members as child or adult	2%	0%	0%	24%	7%
Born in country of destination (parent(s) are migrant workers)	0%	0%	0%	7%	2%
Other reasons or reason not clear are not offered	9%	38%	10%	15%	18%

If motivation is to escape discrimination or experience more freedom, the sources of discrimination or constraints were:



If motivation is to escape discrimination or experience more freedom, the sources of discrimination or constraint were:	Country of Origin Cambodia	Country of Origin Philippines	Country of Origin Viet Nam	Country of Destination Thailand	Overall
Unstated or unclear	0%	0%	7%	0%	2%
Experiences within family	64%	46%	40%	37%	46%
Experiences at school	7%	8%	7%	21%	9%
Experiences in workplaces	29%	23%	20%	14%	17%
Overall societal and legal discrimination	29%	46%	53%	68%	45%

■ Country of Origin Cambodia
 ■ Country of Origin Philippines
 ■ Country of Origin Viet Nam
 ■ Country of Origin Thailand
 ■ Overall

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Aside from the two most popular motivations, some migrant workers with diverse SOGIE travelled initially for study and then transitioned into migrant work, while others migrated with their parents or as part of a family unit, or had been children of migrant workers born in their parent's country of destination. One migrant worker, a trans man from the Thai/Myanmar border region crossed into Thailand to undertake migrant work to avoid being kidnapped and forced to take part in armed conflict:

Aside from there is no job in Myanmar for me, the conflict between Myanmar government and ethnic minority was very severe ... I dressed like a man which exposed myself to risk of getting caught by the militants. They might make me join them.

Trans man, country of origin [COO] Myanmar

Focusing on those who expressed economic motivations, some migrant workers were clear that their identity as a person with diverse SOGIE was not part of their decision-making process:

Buddhism teaching mentioned that being a poo mae [a local negative term in Myanmar for trans women and masculine-presenting women in Myanmar] was a curse. So I cannot express who I am. My parents did not except. They said 'being a man is good but why don't you like it? Why do you choose to be poo mae? However, it was not the reason why I migrated. It is because I needed money and want to be rich.

Trans woman, COO Myanmar

Before I left the Philippines, I had a good-paying job, but my mother envied my cousins working abroad who were successful already. I followed my mother and went to HK to work as a domestic worker.

Cisgender lesbian, COO the Philippines

I didn't even look up the LGBT community in Japan. My main goal was to just earn money, and if there was any other need I would use a dating app.

Cisgender gay man, COO Viet Nam

However, for others the desire for economic advancement sat alongside the desire for greater freedom of self-expression:

The first thing I wanted is to have a stable income to support myself. It would be great if I can find a partner to support me through the hardship there. And of course, I wanted to be able to live freely and express myself.

Gay man, COO Viet Nam

Digging deeper into the stories shared by migrant workers with diverse SOGIE, it became clear that economic advancement as motivation was linked to discrimination and constraints imposed because of their SOGIE:

→ **Educational opportunities.** Some people with diverse SOGIE were not prioritized by parents for school attendance, and some who did attend school experienced bullying from students and teachers, which could lead to lower educational attainment or early dropping out. This could have long-term impacts on the careers and earning potential available to them.

I was a tomboy at a very young age. My parents did not like it. Teachers and friends at school often shamed me for my dressing up. I did not wear a bra. I got caned and looked down upon. I then dropped out from school. So, I migrated to Thailand using a border [crossing] because I got shamed and bullied. I was not able to stand it anymore. I did not want to see the face of people who were bad to me.

Tom, COO Myanmar

My dad did not like me being transwoman. He kicked me when I acted like a woman. At the school as well, my friends and teacher often blamed me for being like this. I worked in an office as an assistant. It was the colleagues at the office who often teased me: “Why are you trans?” “Being trans you need to have a lot of money for taking care of guys” “This life of yours is wasted because of being like this.”

Trans woman, COO Myanmar

→ **Unsupportive families.** Nearly half (49 per cent) of migrant workers had either not told their family (primarily out of fear of disapproval) or recounted that their families were partially or fully against their diversity of SOGIE. Among those whose stories included family discrimination, 36 per cent were transgender and gender diverse people. Discrimination from family members was also especially significant for migrant workers who were gay men (32 per cent of mentions) and lesbian women (25 per cent of mentions); their stories included family discrimination more commonly than workplace or general societal discrimination. This might reflect the fact that many gay and lesbian people do not share their diversity of SOGIE in public, and their status is not necessarily casually visible to community members. Within the more intimate family context, on the other hand, their SOGIE might be harder to hide. As noted in the country briefs, families often exert great pressure on gay or lesbian people to enter heterosexual marriages in order to produce children and to avoid bringing shame to families. Unsupportive families can create many challenges for people with diverse SOGIE, creating an unstable environment as they grow up, providing less support for continuing schooling, and contributing to social isolation.

My parents thought I made my sibling gay. Then I left home and lived apart from my family. After I heard that jobs are available in Thailand, I decided to migrate to support my living.

Lesbian, COO Cambodia

My family tried to talk me out of [migrant work], they were worried when I decided to go to Thailand because they were afraid that I would make a full transition to being a female. We don't talk together that much, and now that I'm back in Viet Nam I still don't live with them.

Trans woman, COO Viet Nam

The Philippines is a strongly Christian country, so the family is not extremely open in terms of sexual diversity and relations. I need to go to a place where I can be the woman that I am and where I can further my visions and my goals in life.

Trans woman, COO the Philippines

My parents are dead. My uncle forced me to get married with a straight man. I do not love him. I left home quickly after wedding ceremony.

Trans man, COO Cambodia

→ **Unsupportive workplaces.** Employers may choose not to employ people with diverse SOGIE or, if they are employed, these workers may experience harassment from other workers, or discrimination from employers who do not promote them or who exploit their vulnerability. This was a particularly strong factor among transgender people, whose stories accounted for 85 per cent of the mentions of workplace discrimination.

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It's very hard in Viet Nam to find a stable job being open as a transgender woman. Your identification doesn't match your appearance. You can't work in the government. So, you have to work in the private sector, and they don't have any protection for LGBT people.

Trans woman, COO Viet Nam

The LGBT community was labelled as weak and girlish ... I was working as a tour guide in a company ... my boss did not promote me because I am from the LGBT community ... I talked many times to my manager about equal job opportunities, but he ignored me.

Trans woman, COO Viet Nam

[In the Philippines], if you apply as a service crew or manager – those types of jobs – right at the start they would say, “Oh ,you're short-haired, you're transgender” or “You're a trans man, sorry we don't hire those types of preferences here.” Here in the Philippines, even if you have good credentials or you came from a good school, they don't matter if you're LGBTQ. They say, “We don't allow that because you will be representing the company and representing the company means ...” those kinds of things.

Transman, COO the Philippines

→ **Societal attitudes.** These factors are often conditioned by societal attitudes towards people with diverse SOGIE, and hinder their ability to live their lives or fulfil obligations:

My parents told me to marry, as it was time. My older sister lived with me from childhood until I grew up. She saw me and explained to my parents. My mother was quiet. There was no problem. The problem is people around me: neighbours and relatives. They try to provoke me, but I don't retaliate or respond.

Lesbian, COO Myanmar

→ **Greater opportunity for personal transformation.** Many people with diverse SOGIE also hoped that migrant work would take them to places where they could be themselves, or pay for aspects of gender transition that they could not afford if they stayed in their country of origin:

When I was small, I already liked the Western culture ... I read about Western life in the magazines and the idea to leave my village for a Western country already cultivated in my mind since then ... I told my mom that I would never stay in my hometown when I grew up.

Transwoman, COO Viet Nam

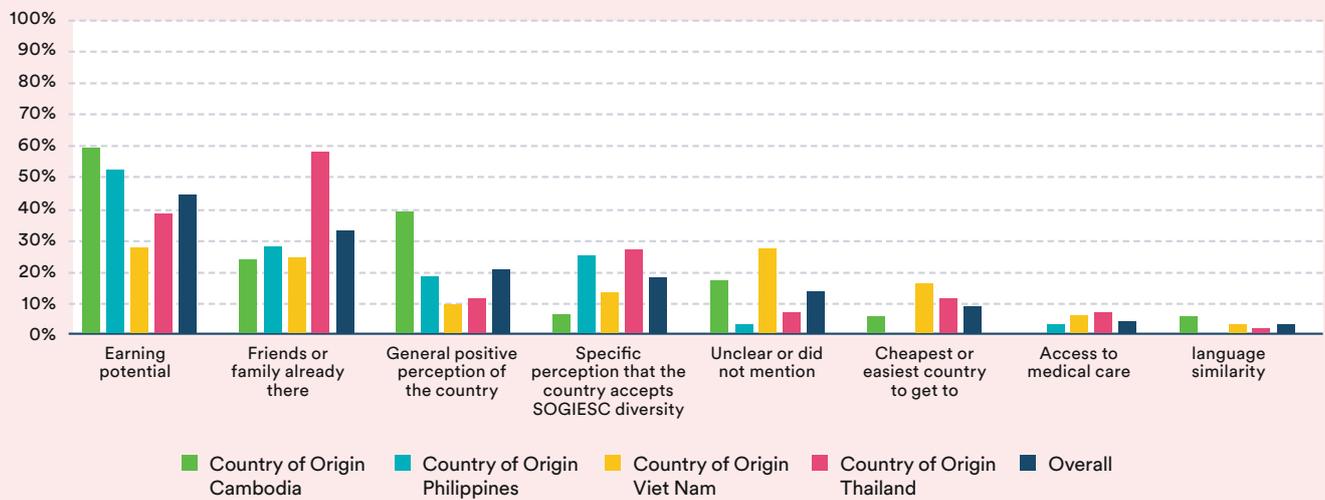
I realized that no matter how much I tried in this city, I would never be able to live with my real sexual orientation. Therefore, I always dreamed of going to another place to live happily.

Gay man, COO Myanmar

[I will] save money during migration for surgery including [gender confirmation surgery] and cosmetic ...

Trans woman, COO Cambodia

→ Figure 5a. Choosing a country of destination



3.1.2 FACTORS IN CHOOSING A COUNTRY OF DESTINATION

Consistent with the motivation of economic advancement, the reason most often cited for choice of country of destination is the actual or perceived potential to improve earnings. Also important is whether family or friends are already in the country of destination and can assist with finding work and settling in. These motivations are common to many migrant workers.

Migrant workers relied largely on word of mouth from those who had returned or on the popular media.

“I only watched some Boys Love movies¹⁰ from Thailand, and I felt they were very open.

Gay man, COO Myanmar

→ Figure 5b. Choosing a country of destination

Factors in choice of Country of Destination	Country of Origin Cambodia	Country of Origin Philippines	Country of Origin Viet Nam	Country of Destination Thailand	Overall
Earning potential	60%	53%	28%	39%	45%
Friends or family already there	24%	28%	24%	59%	34%
General positive perception of the country	40%	19%	10%	12%	20%
Specific perception that the country accepts SOGIESC diversity	7%	25%	14%	27%	18%
Unclear or did not mention	18%	3%	28%	7%	14%
Cheapest or easiest country to get to	7%	0%	17%	12%	9%
Access to medical care	0%	3%	7%	7%	4%
language similarity	7%	0%	3%	2%	3%

¹⁰ Boys Love is a genre of homoerotic literature and films. Originating in Japan, many series are now produced in Thailand, and appeal to an audience beyond people with diverse SOGIE.

The extent to which migrant workers with diverse SOGIE had a genuine choice in the country of destination available to them, varied significantly. Migrant workers with diverse SOGIE from Cambodia were all travelling to Thailand, including those using regular and irregular pathways. Those from Myanmar – based on word of mouth from people who had returned from Thailand and on fear that some brokers in China engaged in human trafficking – also expressed a clear preference for Thailand over other options including China. In one migrant workers' FGD from Viet Nam, cisgender gay men described using recruitment services introduced to them by their families or acquaintances, and of going through the process alongside migrant workers without diverse SOGIE. In these cases, neither their families nor the recruitment agencies knew they were gay. These workers went to countries including the Republic of Korea, Japan and Taiwan (China) as part of more structured programmes that sometimes involved higher-paying professional work:

It felt safer to express myself when in Taiwan. In Viet Nam, I was feeling scared and wondering what they would do to me if they do not accept me. But when I was in Taiwan, I was protected by the laws and felt more comfortable.

Gay man, COO Viet Nam

Transgender women from Viet Nam often preferred Thailand, believing they were more likely to be accepted there and more likely to have access to medical services. Migrant workers with diverse SOGIE from the Philippines travelled to the most diverse range of countries, from the Arab States to East Asia, with many taking work at sea, as crew on ships.

3.1.3 RECRUITMENT, SUPPORT AND DOCUMENTATION

Of the 147 migrant workers who took part in the research, on average, 27 per cent were undocumented during their time as migrant workers; in the Cambodia group, this undocumented status was higher (53 per cent). This undocumented group, all travelling to Thailand, shared stories of clandestine border crossings involving overcrowded vehicles, travelling for long periods at night and through remote areas to avoid border authorities. Fewer participants from Viet Nam (28 per cent) travelled undocumented, to some extent reflecting their broader range of destinations than those travelling from Cambodia. Participants from the Philippines reported the highest level of documentation. Some migrant workers with diverse SOGIE initially travelled undocumented and subsequently legalized their travel, while others changed their official status, for example those who travelled initially as students before taking up work opportunities. Among the sample migrant workers with diverse SOGIE, 59 per cent reported using the services of an agent, broker or recruiter. However, this survey did not distinguish between licensed recruiters and unlicensed agents and brokers. Both licensed and unlicensed intermediaries were mentioned in interviews and stories, sometimes in combination (for example, an unlicensed broker who channelled potential migrant workers to a licensed recruiter).

Migrant workers with diverse SOGIE reported positive or neutral experiences with unlicensed brokers.

I don't have any problems with my broker. I talked to him, and he arranged my trip to Thailand.

COO Cambodia

Recruitment brokers do not care about LGBT, they care about money.

COO Cambodia

Some transgender people sought out unlicensed brokers who were aware of their specific needs.

You need to find a broker who has credibility to avoid the risk of scams. You need someone who understands that transgender women like us have some struggles like finding a suitable job, or [taking care of] our health, or the fact that our identifications doesn't match our appearance. Luckily Thailand is like a heaven for transgender people, so I didn't run into much trouble with my legal documents.

Trans woman, COO Viet Na

In one case, a transgender woman who had been a migrant worker herself had returned to her country of origin and became a broker for other transgender women. Her service provision for other transgender people came to draw heavily on her own experiences. However not all recruiters were respectful towards people with diverse SOGIE. One transgender person from Cambodia reported the following:

A recruitment agent [licensed agent] bullied me. He said what can I do when I look not like a man or a woman. Then laughed.

Trans man, COO Cambodia

None of the migrant workers who took part in the research reported engagement with official Migrant Worker Resource Centres (MRCs) when making their migration decision; most relied upon informal sources for information or advice. Many cited information gleaned from returning migrant workers, family members or the media. Many participants were disappointed at the lack of information and pre-departure support that addressed issues of concern for people with diverse SOGIE. One participant who attended pre-deployment training reported the following:

There was no mention about LGBTI people in Malaysia by the teachers. I had to look it up on the internet to find out that [people in Malaysia] are very discriminatory towards LGBT people.

Gay man, COO Viet Nam

One Filipino migrant worker described the advice that she and a friend received at a Pre-Departure Orientation Seminar (PDOS), a compulsory process for migrant workers leaving the Philippines:

[My friend] was told by PDOS that in case you're LGBT, you should hide your sexuality.

Their laws are strict about this. It was true because that's really how it was when I got there. The more you show that you're like that, the more they'll make you uncomfortable. When I first went there, I hid my sexuality, even with my co-workers. Although they probably had an idea already, I wasn't too up front about it. It was also because during that time, I myself was not sure yet of my sexuality. Since [my country of destination] was a Muslim country, PDOS told me that I should not express my sexual orientation. It was haram or forbidden. The penalties are harsh for LGBT members.

Some respondents proposed that there should be information available on topics including local diverse SOGIE communities and organizations in countries of destination, administrative procedures that migrant workers need to go through, access to support services, and access to healthcare (including access to HIV testing/treatment and hormones used by trans people where continuity of medical care is essential). One suggestion from migrant workers was to ensure that this kind of information is bundled with other mainstream information resources, so that people with diverse SOGIE are informed through generally available materials and do not have to seek specific support or identify themselves as people with diverse SOGIE.

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I want more information to be made available to LGBT people. It would be great if it can be included in the general information for migrants, because a lot of LGBT people don't come out publicly.

Gay man, COO Viet Nam

There weren't any issues regarding paperwork, but there was just something that affected my confidence. When I registered for my ID and visa, people could see that I looked like a guy, but when my name was announced I felt embarrassed. Everyone stared at me.

Trans man, COO Viet Nam

3.1.4 DISCRIMINATION, VIOLENCE AND HARASSMENT DURING TRANSIT

Either during pre-departure processes or while in transit, 27 per cent of migrant workers with diverse SOGIE reported that they experienced discrimination, violence or harassment. The perpetrators were predominantly police and border officials (in 76 per cent of cases).

Once I went to Immigration, the security guard there talked to me very badly asking why I dressed up like this, laughing.

Trans woman, COO Myanmar

The first time I left for Taiwan, I was detained and questioned by Immigration officers.

Trans woman, COO the Philippines

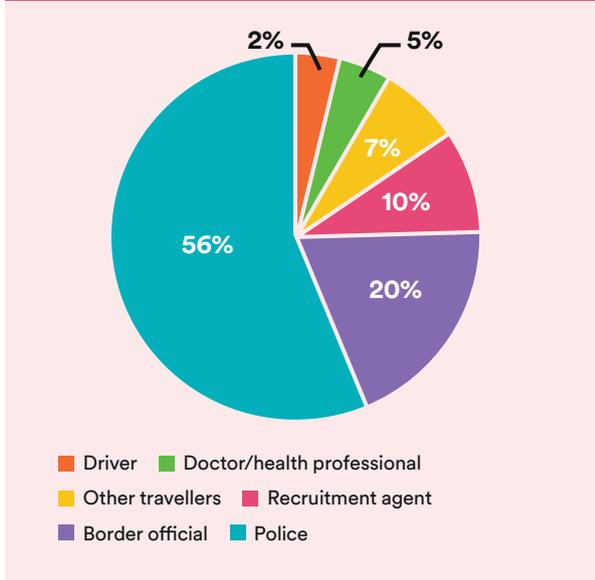
Once the civil servant staff taking care of the work permit process asked me to retake my picture because the picture first sent didn't [appear to] match with my gender marker. I needed to cross the street to take a picture at a shop. They made me wear a bob-style hair wig to look like people who work in the civil service sector.

Tom, COO Myanmar

He asked me to meet their officer, who asked me: Are you a transgender? I said yes, I am! Then he asked me to provide sexual pleasure for him before taking me back to the border [crossing]. He wanted to have sex with no condom; he made me take all my clothes off, he sucked my breast and then, luckily, I could leave there because another person knocked on the door for an urgent task.

Trans woman, COO Cambodia

→ **Figure 6. Reported agents of discrimination while in transit**



The instances ranged from public embarrassment, apparently deliberate profiling, over-policing, and harassment to rape at a Thai border post.

Transit discrimination, violence or harassment was mentioned more frequently by transgender people or people with gender expression that made their diverse SOGIE visible (for example, a Tom with masculine gender expression). Some trans women reverted to “cross dressing” as men, as the gender marker on their identification documents could not be changed and, if they crossed the border as trans women, they feared drawing attention from border officials. Several migrant workers with diverse sexual orientations noted that they were able to avoid discrimination, violence or harassment in transit as their diversity of SOGIE was not apparent from their appearance.



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3.2 IN COUNTRY OF DESTINATION

3.2.1 EARNINGS, WORKPLACES AND EMPLOYERS

Positive economic outcomes for migrant workers with diverse SOGIE were readily apparent in many stories. 63 per cent of research participants reported that they could meet their basic needs and save or remit money while in their country of destination. Economic outcomes recounted in stories included building sufficient savings to open businesses in countries of origin, purchasing land for housing, obtaining skills and experiences that would enhance employment opportunities, and contributing to family economic well-being through remittances. Among those who sent remittances back, 43 per cent reported that these economic contributions improved their relationships with their families, helping to dispel negative stereotypes of people with diverse SOGIE as failures or burdens:

“ Ever since I came here, I expressed myself more, I talked to my mom more, and she could understand me better. She didn’t complain about me anymore, before she was sad... Now it’s better than when I was at home. ... I do send a part of my salary back home... When I was in Viet Nam my mom was worried about my future, my salary. When I came here, I could save more, so mom trusted me more, she wasn’t as worried.

Trans man, COO Viet Nam

Some of those who saved, rather than sending remittances, also felt that it would change future family relationships for the better:

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I went to Japan with the purpose of earning money. With this money I can open a small restaurant in Viet Nam with my boyfriend. Also, I think if I have something to show, I would be able to come out to my family better.

Gay man, COO Viet Nam

However, increased family acceptance due to remittances sometimes dissipated when migrant workers with diverse SOGIE returned home.

Some migrant workers with diverse SOGIE travelled from Cambodia, the Philippines or Viet Nam to countries of destination with laws that criminalize same-sex sexual acts between consenting adults, and in which penalties include death or jail terms in excess of ten years. In these contexts, migrant workers with diverse SOGIE took extreme care to avoid being “outed” to authorities or to fellow workers or in social situations. In countries that do not criminalize aspects of diverse SOGIE lives, the experiences and concerns focused on institutional or personal bias.

The 147 migrant workers with diverse SOGIE worked in many different countries, industries and workplaces, and their stories reflected a wide range of experiences. Some migrant workers with diverse SOGIE travelled for a specific contract, completed that work, and returned. Some re-migrated after a first migrant work experience. Others had very diverse experiences of work and workplaces:

My friend got me the first job at the doll factory. Later, I changed to work at the lamp factory, and there, the employer was very kind to me and took me to Bangkok for helping in their shop. I can also speak a bit English. After that, I moved back to Chiang Mai due to the economy under military government. I worked in the shop, but it went not very well. So, I changed and continue working as housemaid until now.

Trans woman, COO Myanmar

Some participants wished for greater flexibility to choose industries or jobs than migrant work policies allowed:

As we hold this document, we are allowed to do only some certain job such as housemaid, servant, in construction and fisheries. I want to work in the beauty salon, but I was not allowed. At the construction site, the employer asked me whether I wanted to do male or female tasks. I chose to do male tasks even though I perceived myself as a trans woman because I would get paid more.

Trans woman, COO Myanmar



Nevertheless, the migrant workers with diverse SOGIE surveyed and interviewed for this report worked in many different sectors, including hospitality, retail, construction, domestic work, manufacturing, food processing, agriculture and other sectors. Only limited patterns were discernible when comparing SOGIE identities, work sectors and experiences. While some trans and gender-diverse migrant workers were in the adult entertainment sector, many were employed in other sectors. Construction was favoured by some trans men and toms, as they wished to undertake work associated with men, but people with other SOGIE also worked in construction. Male migrant workers with diverse SOGIE from the Philippines were more likely to take jobs at sea, while Filipino women with diverse SOGIE were among those who did domestic work; but others from the Philippines took other work. Many migrant workers with diverse SOGIE cycled through jobs relatively quickly, including trans women who were somewhat more likely to change jobs because of poor working conditions or harassment.

There were positive experiences in workplaces, where migrant workers with diverse SOGIE felt respected, or were happy that fears of worse treatment had not come to pass:

My employers and colleagues know. My employers have no problem. They like me because I work like a man. My body isn't equivalent to a man's, but I can do what they want. My friends can accept but sometimes they tease or scold. I am not hurt or angry because I can take it. I respond to them directly that I am a tom, so what's the problem.

Tom, COO Myanmar

But there were also counterexamples, with 40 per cent of migrant workers with diverse SOGIE reporting workplace discrimination, violence or harassment in their country of destination.¹¹ The most frequent perpetrators were fellow workers (35 per cent), closely followed by employers (31

per cent), and then clients or customers (27 per cent). Police or similar authorities comprised 7 per cent of perpetrators of discrimination, violence or harassment.

One trans woman recounted the struggle and emotional costs of negotiating for acceptance:

I told them on the phone that I am a transgender woman, they said okay, ... there will not be any discrimination, but they will talk with their boss about my situation. [P]eople started to mention discussions about whether to let me be a woman at work ... I felt horrible and cried a lot after getting my haircut. I still remember crying all evening, because my hair means a lot to me. The next day, the HR manager told me that the hair was not short enough, and told me to go cut it again ... The fact that there has to be conversations to let me be myself at work, that's when I thought to myself there's something wrong here ... After that the director allowed me to be open about myself at work. Before the meeting, me being transgender was this horrible secret that only the director and the managers know about...

Trans woman, COO Viet Nam

Some noticed behaviour in their workplaces that made them pull back from starting such negotiations:

I also didn't want to come out to my Japanese management. They didn't say that they discriminate (against LGBT people) but during everyday conversations they still used slurs (in Japanese). My Vietnamese manager also used slurs.

Lesbian, COO Viet Nam

¹¹ People with diverse SOGIE sometimes experience sufficient violence, harassment, or discrimination in their lives, that lower levels of these can become "usual" or "expected". Other people with diverse SOGIE may withhold information about violence, harassment, or discrimination as they feel a sense of shame, or that tragically, they in some sense "deserve" such treatment. And at times, trauma associated with violence, harassment or discrimination may also result in reluctance to disclose in surveys, focus group discussions or interviews. For these reasons, the reported 40 per cent figure could be significantly higher in reality.

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And others entered into negotiations only to have their confidences betrayed:

My identity was first kept secret, then made known to everyone who worked with me.

Trans man, COO Viet Nam

There were also terrible experiences of violence, especially in work contexts with added vulnerability for migrant workers, for example domestic work with in-home accommodation.

The male employer was approaching me saying that he wanted to “try” with butch lesbian. He came to my bedroom and harassed me. I tried to report this to his wife but she did not believe and was angry at me ... After the harassment by the employer, I don’t know what to do. I called my friend and asked her to pick me up. After that, I reported to the police and the case was taken to the court. I went through everything by myself. They asked me if I have the evidence, I said I did not. They suggested me to go to the hospital to get medical proof that I was raped, but I did not, because it was costly and I didn’t have money. As a result the employer did not plead guilty. I got sentenced to prison ... because the wife of the employer sued me for accusing her husband (maybe the defamation and false accusation). ... The second time I got harassed by another employer. I received a contact from my friend. I called and it is actually the contact of person from HRDF [Human Rights and Development Foundation, an organization that operates Migrant Worker Resource Centres in Thailand]. They gave me advice and helped me to get checked up in the hospital. This time I won the case and got compensation. It was about 100,000 baht.

Tom, COO Myanmar

Other workplaces limit opportunities to engage with society outside:

Since I suffered from rape, I had this idea that nobody would believe me ... I had a friend who was a Filipino nurse, and I was able to ask for help. She’s the only one who believed what happened since I told her about it when I got my ear checked out. There were no organizations or support group that I can access because the workplace was situated in one compound, and we were not allowed to go out. Any connection would just be from the Philippines, and I can’t tell anyone because I was ashamed. I didn’t have the strength to tell anyone except for the Filipino nurse that helped me.

Bisexual man, COO Philippines

Migrant workers with diverse SOGIE who undertake sex work or entertainment industry work also reported vulnerability to violence and harassment by clients, fellow workers and employers. They reported wage theft or poor conditions, and avoided accessing services for fear of increasing their visibility to authorities. They often faced over-policing and poor treatment from authorities, and sometimes adopted such tactics as frequent moves between countries, all of which undermined their safety, dignity and prospects for economic advancement.

There are both good and bad [clients]. There is abuse... I do this work only because I need to. There is no one doing this job and who is happy. Because there are difficulties at home, I have no choice. Also, I am a foreigner. I don’t have a work permit. I am not a man or a woman. It is difficult to find jobs.

Trans woman, COO Cambodia

A trans woman from the Philippines, who also did sex work, shared her experience of violence:

One of my worst experiences as a migrant worker was when I was raped in Malaysia by a supposed client. I did not seek assistance after the incident for fear of being imprisoned or deported. After these experiences, I told myself that I should be more vigilant, especially when I'm with my clients. I learned the hard way that LGBTQ+ individuals in countries like Malaysia could not get any help from the authorities, especially with the nature of my work and status as an undocumented migrant worker ... I feel that my experience was not as bad as my friends' experiences.

Trans woman, COO the Philippines

Overall, unsafe or abusive work conditions were reported by 20 per cent of the migrant workers with diverse SOGIE. Examples of underpayment, withholding of wages or receiving lower wages were sometimes related specifically to SOGIE, but at other times involved the intersection of SOGIE and gender (for example, a lesbian who received lower wages because she was also a woman), or was more likely to be explained by other factors such as conditions or treatment based on ethnicity or attitudes towards migrant workers in general.

3.2.2 ATTITUDES AND BEHAVIOUR OF FELLOW MIGRANT WORKERS

For migrant workers seeking to escape from discrimination in their countries of origin, one of the hardest experiences was experiencing discrimination from other migrant workers. The impact of this lateral discrimination, violence or harassment between migrant workers of the same country of origin or ethnicity is profound. Migrant workers with diverse SOGIE may be limited to work options alongside migrant workers from their country or ethnic group, may be obliged to use migrant worker accommodation with those migrant workers, and may have limited social networks outside of their linguistic or ethnic group.

This was particularly common for migrant workers from Myanmar.

When I joined the society of people from Myanmar in Thailand, there were people looking down on me both in front of my face and gossiping. People who hung out with me were also shamed. Women who dated me also got shamed. They asked why she was going out with a tomboy [me]. She was also asked dirty questions.

Lesbian, COO Myanmar

Migrant workers from Cambodia and Viet Nam reported similar experiences:

Co-workers are always insulting me at work. They ask me "why you love women?" I always eat food alone and try to stay away from them.

Lesbian, COO Cambodia

Some Vietnamese still made gossip about me. So, I felt like it was more of the same (to what I experienced in Viet Nam). Back at home I could hide in my own house, it felt safe there. But here I felt like I had no one to rely on, nowhere to hide.

Gay man, COO Viet Nam

Migrant workers' living quarters were sometimes places of fear or violence. One trans woman and a *tom* from Myanmar recalled the following incidents:

I was an employee and men had to live with men, and women with women. At that time, I still dressed like a man. I stayed with men. My colleagues would drink and became wild, so they tried to rape me, but it was unsuccessful as there were many people staying together. Sometimes, I couldn't go to a toilet alone. They would take a peek when I showered.

Trans woman, COO Myanmar

A very beautiful but heavy jacket:

The experiences of migrant workers with diverse sexual orientation, gender identity and expression in South-East Asia

I used to work in the construction site being dressed like a man and expressing myself as very masculine. I worked on all men's tasks, such as lifting buckets full of cement. ... I lived in the same accommodation with men also. ... Men there questioned and made fun of my identity. One day, a male colleague threatened that he would abduct and rape me ... Then, after that, there was a day that male colleagues hung out, gambled, and got drunk. The one who threatened me was very drunk and tried to do what he said to me. He came to my room, but I kicked his penis, and he got pain. After that incident, no one dared to bother me again and left me alone.

Tom, COO Myanmar

The challenge for a lesbian migrant worker from Viet Nam was finding a space where she could meet her girlfriend:

Privacy can be a bit difficult, as I'm living in a shared house with three rooms, but I have a roommate. When we want to be alone, I go to her house, or we get a hotel room.

Lesbian, COO Viet Nam

Many of the Filipino migrant workers who identified as men took work at sea, a different kind of restricted environment. One migrant told researchers the following:

I found out that there were people with us on the ship who did not like people who were open about their sexuality ... So, I had to act as if I really didn't know myself. I closed myself off.

On his second trip, he was sexually harassed and assaulted.

After my [first] contract ended, I went on board again, and that time, there was someone who boarded the ship who was also like me but was of a higher rank. While working, that officer kept on calling me to his office. I was really closed off during that time, but he still noticed me. That officer told me, "You tell me what your orientation is." I couldn't speak because I was afraid the whole ship would find out. I told him, "If you don't mind, sir, "I'll just go to work because that's my personal thing." That's when it happened. I went back to work, and I was still thinking about it. And then something happened. I don't want to remember it because I have already conquered that [through trauma recovery]. That's the worst thing that happened to me, which is why I didn't want to go aboard a ship again. This was also why I decided to accept the work in [the Republic of Korea]. I said to myself, 'Why are they like that to me? We're all people just trying to work.' After my stint on that ship, my work in [the Republic of Korea] went well. It was a recovery stage for me. I was able to do whatever I wanted, things that my parents didn't allow me to do ... without me pretending to be someone else.

Gay man, COO Philippines

Another Filipino migrant who worked at sea spoke of a macho *barako* culture of masculinity among seafarers. While that sometimes led to antagonism toward "the soft demeanour of gay men", it also led to some of these men being propositioned for consensual sexual activity. For others, seafaring was a personal as well as literal journey:

It was in 2009 that I truly started to explore my sexuality. I was on board a ship, so we got to go to different places, met other people, have better internet connections, and have access to lots of information. It was then that I went on a same-sex date. I was more comfortable to meet with men. My family and co-workers are not aware of my sexual orientation. I only told a few of my trusted friends that I'm gay but my gender expression is masculine. I also did not want any advances from my colleagues once they find out about my sexuality.

Gay man, COO Philippines

Another Filipino migrant worker reported that Hong Kong can be a more accepting environment. Migrant workers in Hong Kong, including migrant workers with diverse SOGIE, had engaged in organizing and mutual support. Some of the limited literature on South-East Asian migrant workers with diverse SOGIE focuses on these experiences.

At the very least, here in Hong Kong, you are free to move. The Filipinos here are more accepting of our gender and sexual orientation compared to those in the Philippines. Filipinos here are accepting of same-sex couples.

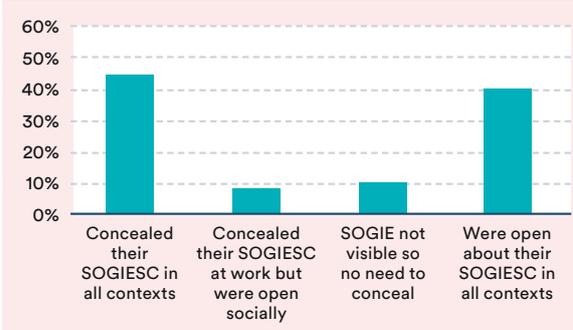
Lesbian, COO the Philippines

3.2.3 CONCEALMENT, WITHDRAWAL AND JUSTICE

Migrant workers with diverse SOGIE deployed various strategies to avoid discrimination, violence and harassment. These strategies included hiding their SOGIE, avoiding contact with other people or not reporting discrimination, violence and harassment for fear of provoking worse. The perceived need to adopt these strategies indicates the depth of perceived risk, however the strategies themselves often had further consequences such as reinforcing social isolation.

Concealment or non-disclosure of SOGIE was a feature of 76 per cent of stories recounted by migrant workers. Among those with diverse SOGIE, 46 per cent actively concealed their SOGIE all of the time, 8 per cent actively concealed within workplaces but not in all social situations, and a further 9 per cent recounted that they did not need to actively conceal, as their SOGIE was generally not visible or identifiable to others. Only 42 per cent of those who discussed this issue recounted being open about their SOGIE in their country of destination.

→ Figure 7. Differing practices of SOGIE concealment



Since I was desperate to work abroad and earn bigger, I decided to hide my sexuality, my being gay.

Gay man, COO Philippines

The way I talk – it sounds gay, charot [an LGBT slang expression] – and I only pretend [by changing voice] when I talk to people of other nationalities. When I attend interviews here in Sharjah, I really pretend because I feel like it will really affect me.

Gay man, COO Philippines

A very beautiful but heavy jacket:

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I didn't even think about coming out during my time there. My work environment was very rigid, people didn't tend to talk to each other outside of conversation about work. I was afraid that people would hate me or treat me differently, and it would affect my job there. ... I think not coming out is very normal. In a new environment you would have to build like a shell to protect yourself. You need to do a good job at work and not make any mistake, so I think if I were to come out, they would not react positively, and it would harm me.

Gay man, COO Viet Nam

Stories from migrant workers with diverse SOGIE in Thailand included significantly lower levels of concealment, and included accounts of “coming out”, and of people who enjoyed access to services such as healthcare that they would not have had in Cambodia or Viet Nam. While this reflected a greater level of openness to diverse SOGIE in Thailand, it might also partially reflect sampling bias.¹²

Other respondents noted during interviews the various ways in which their employers had power over their lives. This included needing employers to arrange visits to medical clinics and to provide housing. Employers could end arrangements at will or report workers to authorities. Not knowing how an employer would respond to diversity of SOGIE, or suspecting that they would respond badly, were powerful reasons to remain silent. However, adopting such a strategy can involve ongoing anxiety that you will accidentally reveal your true self.

Of course I was anxious, even though I didn't come out. It's like putting on a very beautiful but heavy jacket every time I go to work. I had to hide myself all the time, I would get scared every time somebody mentioned LGBT stuff. I would be sad, or I thought randomly thought that somebody was talking about me behind my back.

Bisexual man, COO Viet Nam

The same migrant worker also recalled the fear experienced when seeking intimacy:

There was one guy from Bangladesh that I had sex with occasionally during my time there. I didn't even know if he was a LGBT person or not, and I think he guessed that I am gay. We were both not out, so the experience was very secretive. He was so scared all the time, and we only met at night up on the rooftop. He would come up first, I would come up a little later. I remembered being so scared of other people seeing us.

Bisexual man, COO Viet Nam

Hiding relationships can involve taking on emotional burdens:

¹² Lower levels of concealment in the data for migrant workers with diverse SOGIE in Thailand may have resulted in people who concealed their SOGIE, and didn't come forward to be part of interviews or FGDs. While this could have also impacted data from Cambodia, the Philippines and Viet Nam, the impact was likely to be higher in the Thailand data collection, since migrant workers with diverse SOGIE often do not engage with diverse SOGIE organizations in Thailand. Consequently, research participants in Thailand were more likely to be people who were known to be out through other channels. Samples in the other research countries, on the other hand, were more likely to include migrant workers engaged through diverse SOGIE CSO networks but who were not “out”. It is not possible to quantify this effect specifically or in relation to other factors that may also effect data. There are many complications when undertaking research with people with diverse SOGIE. While good research design can address some, others are harder to solve. This report specifies those limitations in such situations.

“ The workers at my place are very polarized about LGBTI issues. Even though there were a lot of LGBTIQ people coming to the restaurant, I never dared to show myself or be affectionate with my partner. I was scared of losing my job and my income ... Having to hide my partner affected my emotions a lot ... My friend who helps students settling in, [she] and her partner, are out. I’ve seen people look at her weirdly and with judgement when seeing her with the partner. I felt uncomfortable and weak at the time, and felt like I wouldn’t be able to defend myself if I were to come out.

Lesbian, COO Myanmar

Withdrawal and invisibility also emerged as survival tactics after experiencing discrimination, violence or harassment:

“ My boss raped me. I just keep silent because I don’t want my family members who work with my boss to know that I am gay. Also, I don’t want my boss to kick out my family members.

COO Cambodia

“ When we have bullying or face any problems, we stay calm. Staying calm is the best choice for safety.

COO Cambodia

In this context, staying calm meant not reporting or seeking assistance for fear of provoking further actions by the same perpetrators, or due to fear that getting police or others involved would create new problems because of discriminatory attitudes within organizations that should be available to help. For others who were also undocumented, reporting raised further risks:

“ There is a person who used shoes to hit me, and I was bloody on my head. However, I just keep silent because I can’t report to polices when I am an illegal migrant. To stay safe, just stay calm.

COO Cambodia

Fear of sharing these aspects of their lives also extended to engaging with migrant worker-focused organizations:

“ I both don’t want to know and am afraid to learn about those organization. The reason is that I want to keep my life closed and don’t want people to know about me and my type of work.

Gay man, COO Viet Nam

For people with diverse SOGIE, these issues sit on top of other reasons, including language, ethnicity or employer recrimination, for not engaging with specialist service providers, support organizations or unions.

“ I never called because I feel things will pass. There are no big problems, and I am not Thai so if I demand my rights then there would be a problem, so I don’t want to associate with any organizations.

Lesbian, COO Myanmar

“ For any issues in my life I would just deal with things myself – it’s faster and less of a hassle that way, especially things regarding my orientation.

Gay man, COO Viet Nam

On the other hand, there were examples of self-organization on the part of people with diverse SOGIE:

I actually created a “LGBT people in Taiwan” group on Facebook ...We don’t know any LGBT-friendly facilities here yet; we just share our personal stories here, or if someone needs help they ask ... Around the Lunar New Year we organized a get-together.

Trans man, COO Viet Nam

Others reported using dating apps such as Blued to seek both information and companionship. Language differences in countries of destination, however, limited the use of such apps to arrange physical meetings.

3.2.4 ACCESS TO HEALTHCARE

Whether in countries of origin or countries of destination, people with diverse SOGIE experience significant gaps in access to healthcare. People with diverse SOGIE may struggle to access either general healthcare provided in non-discriminatory and dignified ways, or healthcare for specific issues related to their SOGIE.

Many reports highlight challenges for people with diverse SOGIE in accessing general healthcare provided by general practitioners, medical clinics, or hospitals, among them the following (Yarwood et al. 2022):

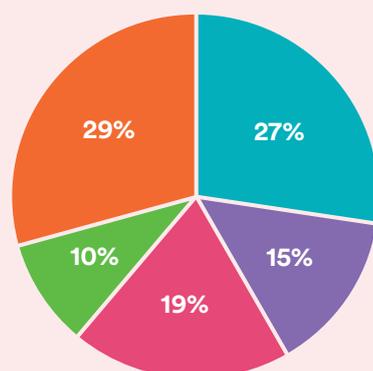
- discrimination from staff or other patients;
- reason to doubt that data collected will be treated confidentially;
- inappropriate questions or procedures based on normative assumptions, for example a lesbian who is forced to undergo pregnancy tests despite reporting no sexual activity with men;
- relegation to wards that do not align with their gender identity, where they may feel the quality of care they receive is compromised as a result.

Furthermore, people with diverse SOGIE often have special healthcare needs, for example access to hormones for transgender people, or access to HIV/AIDS prevention and treatment programmes. In some

countries these services may be very limited, forcing transgender people to access hormones through black markets and to self-administer injections, or to travel outside of their country for access to surgery associated with transition.

In addition to these challenges, in some countries diversity of SOGIE is associated with mental illness, and a diagnosis of mental illness may be required for gender transition. Further, medical staff often receive little or no training with respect to patients with diverse SOGIE and their specific healthcare needs.

→ **Figure 8. Access to healthcare: All participants**



- Had access to all the healthcare they needed
- Had access to most of the healthcare they needed
- Had access to some of the healthcare they needed
- Could not access to the healthcare they needed
- Unclear or didn't mention healthcare

Together, all these issues generate a significant lack of trust and bespeak a lack of adequate service delivery.

Accessing appropriate healthcare in countries of destination was one factor in choice of country, especially for transgender people:

“ In Thailand, friendly medical services are easier to find than in Viet Nam. Their doctors are very experienced with LGBT patients, and I used their services in administering the hormone monthly. I did this twice or three times per month, but didn’t have any checkup before or during the treatment.

Trans woman, COO Viet Nam

The lack of information about inclusive diverse-SOGIE healthcare in countries of origin was reported as a pre-migration information gap:

“ The need for healthcare, STIs [sexually transmitted infections] testing, hormone treatment for gay men or trans women is very high. I wish there were some kind of information about how friendly the services are in China where I’m coming to so I can prepare myself.

Gay man, COO Viet Nam

Almost 30 per cent of migrant workers reported not being able to access some or all the healthcare they needed in their country of destination. The extent to which SOGIE was a contributing factor was not always clear in the stories recounted to researchers, as discrimination against migrant workers in general or discrimination based on ethnicity were also factors. Trans women and trans men tended to raise healthcare access issues more frequently. Some chose to avoid the health system, relying upon self-diagnosis, self-sourced medications, and administering medications such as hormones themselves. Trans men noted that it was more difficult for them to maintain hormone regimes. Reasons included the following: medical staff having (even) less experience providing medical support for trans men than they did for trans women; trans men having less extensive community support networks; and receiving less support from HIV/AIDS service providers and other CSOs that were more attuned to working with trans women:

“ I searched all over the place for them [LGBT-friendly healthcare facilities], but there were none ... I don’t know where to have my regular check-ups, and now the pandemic is getting worse so I’m reluctant to come to the hospital. If I get COVID it will affect my work, it’s just a lot. I would really like to find a community group; I’m trying hard to find it so I have a place to talk about my gender dysphoria and other obstacles that I have. I cannot return to Viet Nam... I know where to access [transgender] healthcare services in Viet Nam, but not here. I had meetings and hangouts with LGBT people in the same city. Many of them are gay and lesbian people, who don’t use T [testosterone] so they don’t know about my situation. I knew some trans women who had undergone surgery, but they also hadn’t used T so they couldn’t understand and help me.

Trans man, COO Viet Nam

There were also positive experiences accessing healthcare in Malaysia and Thailand, for example where trans women took hormones bought on the black market to medical centres and received assistance from staff in administering them.

“ They examined me and gave me advice, showing me the needed [male hormones] level to transition and which medications to use. Overall, they were very willing to help, using gestures and pictures to show me [how to overcome language difficulties].

Trans man, COO Viet Nam, COD Malaysia

Others experienced hostile treatment from medical staff:

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“The first time and the first clinic (I would not say the name), I went to check. I didn’t know about them before, but they [said] to me, instead of [asking] my occupation, “You are scared that you will have [the HIV] virus. Why do you do this job?” and I was shocked. “You never knew who I was, my job, and you thought I was like this. Why are you [behaving like that]?” And I felt bad. I asked why they asked me like this. They said, “Oh you’re not Thai.” I said “Yeah, I’m from Cambodia.” Then they said “Ok, sorry.” It didn’t matter, but I wanted to know why they asked me like this. Then they said, “Oh, because everybody here sells sex.” I said “It was not wrong you asked me like this, but you need to know the person you asked. At least you know how to respect humans. We are humans. We feel pain.”

Trans woman, COO Myanmar

As Thailand was the principal country of destination for this study, the healthcare findings need to be viewed with an understanding of the Thailand health system. Migrant workers usually have access to some level of healthcare through a card system, and employers may also organize healthcare. Migrant workers with diverse SOGIE using Thailand’s golden card¹³ sometimes received a different standard of service:

“The staff at the sector ... talked to us better and similar to others, while the staff taking care of gold card [patients] talked to me badly. They raised their voices and felt bothered to explain the processes.

Gay man, COO Myanmar

Accessing healthcare in some countries of destination can be dangerous for people with diverse SOGIE. Two migrant workers from the Philippines who worked in the Gulf States reported that they contracted HIV through unprotected sex.

One had their HIV status discovered through a routine company blood test, and the other said this:

“My mistake was I went to a public hospital ... My employer said, “I already know because [the hospital] called me before they called you.” Although it was not clear to me whether [the result] was positive or not, I already knew after he told me that. Within 24 hours, my employer processed everything: he bought a ticket for me, he cancelled my iqama [residence permit], and he went with me to get everything fixed until 3 am. He supported me and did not leave me alone.

Gay man, COO the Philippines

Both workers counted themselves lucky that their employers expedited their departure from their countries of destination. With consensual same-sex sexual acts criminalized, they feared that they would be detained if they remained:

“I know what will happen if I go there: I will be shackled, there will be police. I could already feel that that’s what’s going to happen. They will treat me like a criminal ... I already had the idea that this [was how I was going to be treated] because something like this already happened – someone got arrested.

Gay man, COO the Philippines

¹³ The card provides low-cost universal health coverage.

3.3 RETURN, RE-INTEGRATION AND RE-MIGRATION

Many migrant workers with diverse SOGIE move from job to job in their countries of destination, delaying their return home. Those respondents who had returned to countries of origin offered various reasons: some missed family; others had achieved their objectives; some no longer felt migrant work offered freedoms or opportunities that they had hoped it would; and some no longer had work or a valid visa. Although researchers collected the data during the COVID-19 pandemic, COVID-19 did not feature prominently among reasons for return, nor were there many stories involving troubles returning home during this crisis.

Some migrant workers with diverse SOGIE reported a need for more support with finding jobs upon their return, while others felt that savings and skills acquired during migrant work gave them an advantage in setting up small businesses or obtaining work. Many did not return for long, taking up other work opportunities in the same country of destination, and others re-migrated after initial return. In this respect, return for migrant workers with diverse SOGIE may have much in common with return for other migrant workers.

Two issues specific to return were apparent, both related to the primary motivations for people with diverse SOGIE to undertake migrant work:

- For some who migrated partly or wholly to escape discrimination or gain new freedoms, return placed them back in those same contexts they had sought to leave:

I went out to get some things the first day back and suddenly felt everybody looking at me. I knew that feeling before, people just look at me weirdly without making direct eye contact. I got a panic attack, and after that realized I was not as ready to go back to Viet Nam as I thought.

Trans woman, COO Viet Nam

I follow news from the capital that there are some rights of persons with SOGIESC, but it doesn't cover the whole country. My home is in the countryside. Education and information is limited. It is better in big cities. If they can make people open up or know about persons with SOGIESC, then it would be better so people will look at us less because we are just humans like them, not bad. I want them to know LGBTQI+ persons more.

Lesbian, COO Myanmar

Return may also mean return to a longer-term reality where law and policy invalidate one's identity:

I do not want to go back to the Philippines because it's more problematic for a trans woman like me. I still plan to go to Europe and study psychology or anthropology or international studies. I want to go to Europe to have my gender marker changed into a woman and be recognized as a woman.

Trans woman, COO the Philippines

As noted earlier, remittances created opportunities for some migrant workers with diverse SOGIE (a) to have more open and respectful communication with family members; (b) to challenge stereotypes of people with diverse SOGIE as burdens or failures; or (c) to reduce pressure to enter heterosexual marriages:

Before, they wanted me to marry and have a family. Now, I could earn. It was very different. They won't say. Before they always talked about marriage. I am an adult and can send remittances, so they are quiet now.

Lesbian, COO Myanmar

Others felt that financial independence would allow them to make a point:

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I want to go home. After the time working here, I want to save money then come back home and open a business of my own. I want to prove to people that gay is normal like everyone.

Gay man, COO Viet Nam

I know that my family can accept so if we do a business there and become successful, firstly we might have to put up with pressure, then people might look at us another way. When we speak, people might listen. We might be another voice that persons with [diverse] SOGIESC can live like normal people and become successful. If we can do it, we can become successful. I think like this and will prove it.

Lesbian, COO Myanmar

However, for others, the pressure to conform returned soon after they did:

While I was there I just put it off by saying to my mom that I wanted to focus on earning money, and that after I had a stable job I would think about marrying. When I got back, at first they were so happy, but then when they noticed I hung out with a lot of guys, my mom started asking questions. She once went to my room and cried and asked me what was wrong with me, why I was not dating any girls.

Tom, COO Myanmar

Or they found that other family members had taken their money:

I came back because I saved money to build a house. [Now] I have nothing because my mom took a loan to help her relative and did not let me know. Then when she passed away all of our properties and land certificates are credits that we need to sell for paying debts. I lost everything without knowing.

Tom, COO Myanmar

I request that our community does not discriminate, sees our value, and has a soft heart. My younger brother got sick and needed money, so I transferred for him. Then [after I returned to Cambodia] when I couldn't earn money, he started to look down on me. I needed money to travel back to Thailand, but he stopped my mom from borrowing money to help me.

Lesbian, COO Cambodia



3.4 JOURNEYS AS PART OF LIFE COURSES

The previous sections have drawn on interviews and FGDs to explore aspects of the migrant work experience for people with diverse SOGIE at different stages in their journeys. This approach has limitations, however. Specifically, it fails to capture the whole migrant work journey as experienced by a single person. The following three stories provide insights into how such journeys can affect personal life courses.

→ Narrative 1. (in respondent's own words)

After graduating, finding work was very hard, and I wanted to go abroad to earn money to help my family. There was someone in Hanoi that I knew who gave me a slot to migrate to Malaysia for \$712.

I thought a lot of where to go, because it would be a new chapter in my life. I looked up Ireland, where they are very open with the LGBT community, or Germany, where I have some family members, and the culture is very different there. At that time, the cost of going to Germany was about VND 200 million [about \$8,600], which I would have had to borrow from somebody else ... I ended up choosing Malaysia because it was cheaper.

I was independent from a very young age, so I didn't hesitate to go to Malaysia to work. If there was any fear, it was that I wouldn't be able to communicate with other people because I had only three months to learn the language. Also, I was afraid that I didn't know all the things I should know about their culture. There was no mention of LGBTI people in Malaysia by the teachers. I had to look it up on the internet to find out that Muslim people are very discriminatory towards LGBT people.

There were a lot of LGBT people at work, from Indonesia, the Bangladesh, Viet Nam ... There was one guy from Bangladesh that I had sex with occasionally during my time there. I didn't even know if he was a LGBT person or not, and I think he guessed that I am gay. We were

both not out, so the experience was very secretive. He was so scared all the time, and we only met at night up on the rooftop. He would come up first, I would come up a little later. I remembered being so scared of other people seeing us.

Of course, I was anxious, even though I didn't come out. It's like putting on a very beautiful but heavy jacket every time I go to work. I had to hide myself all the time, I would get scared every time somebody mentioned LGBT stuffs. I would be sad, or I thought randomly thought that somebody was talking about me behind my back.

There were a lot of things people said casually that made me really upset, such as they would ask whether other people had a wife, or they would ask why I hang out with other guys a lot. I just tried my best to avoid those interactions and keep my relationship with them very casual.

Even if the pay of other places is better, you can't quit working at that place, because they will notify authorities. I once saw polices burst into a restaurant to arrest some migrant workers there, and they had to jump out of the window to escape.

I remembered afternoons during the summer, I would go down to the courtyard to sit alone, and I would cry to myself because I missed home, I was worried because I had to send money back soon, I was scared that they would not allow me to work there for another year. I thought of how my family is doing back home, how was my grandmother's health, my nieces and nephews are growing up and going to school.

There should be a hotline to provide direct support in case of abuses or rapes. Through this hotline people can get support and consulting, especially people in foreign countries without any support network.

→ Narrative 2. (in respondent's own words)

I didn't have a job in Cambodia, as I dropped out of school in grade 11. I followed a friend who said there was a job in Thailand for transgender people.

My parents told me to cut my hair short, be a

man to find a wife and get a job and tried to change me into a straight guy. They said they want to have grandchildren. Alongside my parents, my brother is very nasty. He hit me, corrected me to act manly, keep my hair short and not being a feminine during high school. "I'm scared of my brother, but no matter how hard he hit me, I could not change myself.

I have a transgender friend who advised me to work at a construction site where I was sent and placed. I went through a broker and arranged the trip for 2,000 [Thai] baht [about \$60].

Before leaving for Thailand, I was really scared of trafficking, what Thailand looks like, afraid of being arrested for illegal migration, so very worried about living. However, after coming to Thailand, I did not face many problems and was able to survive.

I worked at the construction site, which did not require high skills, and I also worked as a sex worker for extra money. It was not difficult to make money.

Fortunately, I didn't get discrimination at work from my employers [in Thailand]. My boss does not seem to care about gender at work, just [that] I fulfilled the job. I am notified in advance to not come to work or stay hidden if the authorities are about to inspect illegal workers.

Unfortunately, at a construction site, group of Myanmar workers who worked at the same building followed when a group of trans women were walking back from the local market. They intended to rape us, and I was kept running till reaching a safe place, but my trans friend was raped by them.

I never have gotten any organization and services support besides purchase pills at a small shop. I don't know what services are available to TG [transgender] like me. I have never heard of any kind of union.

Now my parents and siblings agreed with what I want to do and stopped forcing me to cut my hair short or marry a woman to start a family. They said that I was mature and confident, that I could earn an income and live a better life, as well as support my family. People in the village still discriminated against transgender people, [return would have been easier if] villagers accepted and were open to transgender people.

→ Narrative 3. (constructed from interviews)

This migrant worker felt that because of her gender expression, it was hard to gain employment in the Philippines, despite having a degree. She had an opportunity to work in the government service, but felt that the dress code – which forced her to wear a traditional woman's uniform – was at odds with being herself as a lesbian. This prompted her to look for work abroad.

"We always try to prove to them that we can also do what others can do. That's where our knowledge and our personality and our identity [as a person with diverse SOGIE] interacts. I always remind myself that I can do better than them. I can do things better than them.

"When I opened up about my identity, my relationship with my family worsened. For eight years, I did not talk to them and did not want to show myself until I had something I can be proud of."

At that time, her mother did not accept her being a lesbian. Her relationship with her family improved after she went to work in Hong Kong. As the eldest child, she became the breadwinner and was supporting the family.

She explained that Hong Kong (China) was the second place that she worked, after an earlier period in Taiwan (China). However, she chose to work in Hong Kong because Taiwan was not as open to people with diverse SOGIESC at that time. Her friend, who was already working in Hong Kong told her things were more open there. "At least there were anti-discrimination and protection laws in Hong Kong, so this really motivated me to choose Hong Kong."

She explained that some of her expectations were met while the others were not. She said that termination of contracts was rampant in Hong Kong, and that employers could get around anti-discrimination and protection laws, and protecting migrant workers with diverse SOGIE is still to be fulfilled by the agencies. However, [she also said], "At the very least, here in Hong Kong you are free to move. The Filipinos here are more accepting of our gender and sexual orientation compared to those in the Philippines. Filipinos here are accepting of same-sex couples."



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She shared the following pre-migration experience: “I was separated from other women. There were five of us, but I was the only one separated. I was always separated and was always last in queue because I am a lesbian. It happened pre-departure, and that’s the procedure laid out by the agency.”

Upon arrival in Hong Kong, her agency instructed her to “dress up like a girl” because that’s what her employers were expecting.

One day when she tried to use a public toilet, the cleaners pushed her away, cursed her because they thought she is a man. Her worst experience was when a woman in the queue called a police officer to remove her from a line to use a toilet. “When they were pushing and pulling me out of the line, I really had to urinate, and the queue was too long.” She had to explain to the police that she wasn’t a man, and that she was indeed a woman queuing in that line. The police officer had to check me in a private place to know if I was telling the truth that I am a woman.

She sought help from the Philippine Consulate, only to be told she should be a woman so that she wouldn’t encounter similar incidents in the future. She was disappointed with how the consulate handled her situation, adding that the consulate had previously been

unsupportive. “During the 12 June Independence Day celebration, we also wanted to celebrate as people with different SOGIESC. They really did not accept us wearing a *barong tagalong* [traditional Filipino men’s wear]. They told us to not attend the celebration if we were wearing that.” She shared that she had been rejected four times for employment and lost one job because of being a lesbian. She explained that it was difficult for an employer to hire her, especially when there were kids in the household. For almost two years she tried to hide her sexual orientation.

“I tried to forget my identity just to keep my job. Fortunately, I am accepted by my current employer, and I don’t have to pretend anymore. My employer knows who I am, and I am accepted for what I am.”

Ultimately, however, her expectation of having more opportunities in Hong Kong compared to the Philippines had been met. Until COVID-19, she was able to work enough to send remittances to her family back in the Philippines. “Then the prices of consumer goods increased because of COVID-19, while our salary has not. Right now, the job does not sustain my economic needs.”



CHAPTER 4:

SUPPORT FOR MIGRANT

WORKERS WITH DIVERSE

SOGIE IN CAMBODIA,

THE PHILIPPINES,

THAILAND AND VIET NAM

In addition to interviews with migrant workers, the four national research teams in Cambodia, the Philippines, Thailand and Viet Nam also interviewed staff from Migrant Worker Resource Centres (MRCs), CSOs that assist migrant workers, staff from workers’ organizations, and government officials. Aside from these stakeholders with the labour rights sector, the national research teams also interviewed representatives of diverse SOGIE-focused CSOs.

The following sections provide insights into the dynamics between different stakeholders and migrant workers with diverse SOGIE, and the capabilities that those stakeholders have or need. The overall picture, however, is clear: organized support for migrant workers with diverse SOGIE is extremely limited.

4.1 POLICY AND SERVICE PROVISION

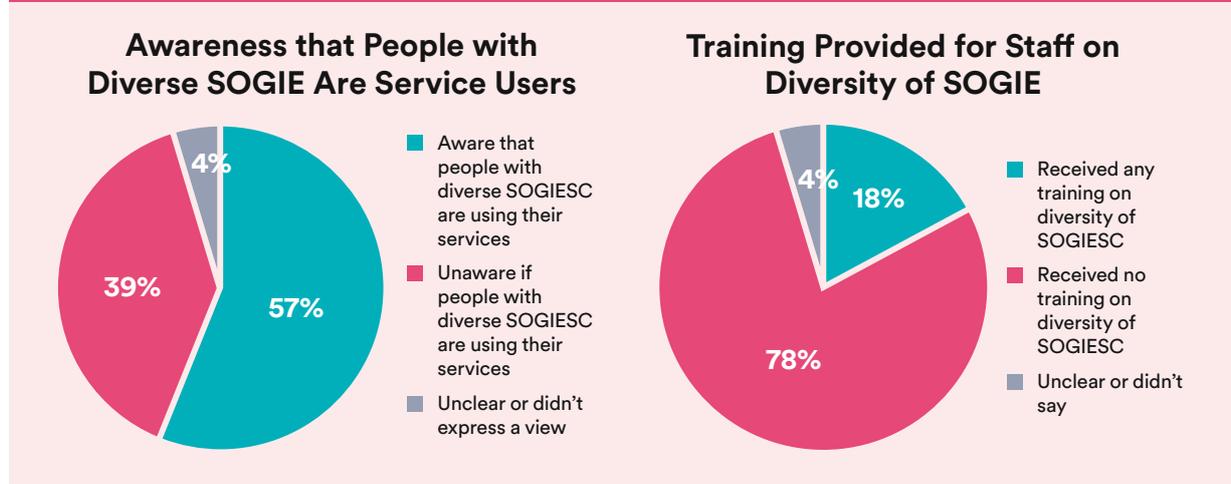
A variety of organizations provide support for migrant workers in both countries of origin and countries of destination. These include MRCs and services provided by a range of government and by non-government organizations that support migrant workers through such thematic lenses

as labour rights, women’s rights, and youth participation.

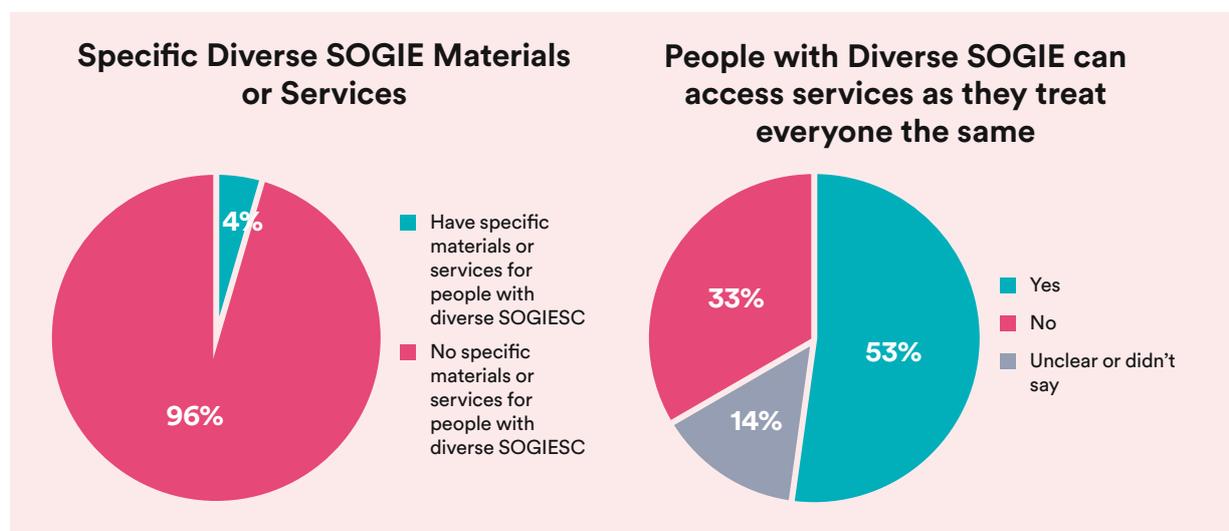
As of this writing, 53 MRCs provided specialized support for migrant workers in nine countries across South-East Asia.¹⁴ The resource centres were variously managed by a range of government institutions, workers’ organizations and CSOs. The key informant interviews for this project involved representatives from MRCs operating in Thailand, Viet Nam and Cambodia.

Feedback from representatives of MRCs and other organizations in Cambodia, the Philippines, Thailand and Viet Nam suggested that more than half of these organizations were aware that people with diverse SOGIE might be among users of their services. Just 4 per cent of the organizations, however, had any specialist materials or services designed to target the needs of people with diverse SOGIE or to address accessibility challenges for people with diverse SOGIE. Only 18 per cent of those organizations provided any form of training on diversity of SOGIE. This lack of training combined with the lack of evidence regarding the lives of migrant workers with diverse SOGIE may help explain why most organizations felt that people with diverse SOGIE could access existing services that were “available for everyone”.

→ **Figure 9. Needed from service providers: more SOGIE-specific awareness, training, materials and services, and access for migrant workers with SOGIE**



¹⁴ As of late 2021, there were 53 MRCs supported by the ILO in South-East Asia. Other UN agencies, such as the IOM also support MRCs.



While the information in the sections below draws on country-level interviews with government and non-government organizations, reference has also been made to policy and practice resources produced by international and regional organizations.

A review of a sample of these documents revealed that only few address diverse SOGIE in any way, or in any detail. This includes guidance produced for trainings or resources intended for migrant workers. MRCs provided labour migration-related information and services, including legal assistance, to potential, current and returnee migrant workers in countries of both origin and destination, where they served "... as a focal point for migrants and potential migrants to obtain accurate information and counselling on safe migration and rights at work, countering misleading information provided by some unscrupulous brokers, agencies and employers" (ILO and Australian Aid 2013).

While the mandate of the MRCs is to support and serve all migrant workers without discrimination, MRCs are well placed to recognize that effective service provision for and outreach to different groups of migrant workers may require different strategies. For example, the *Running an Effective Migrant Resource Centre: A Handbook for Practitioners* (Pillinger 2015) contains a detailed chapter on running an inclusive and gender-sensitive MRC for women, men, families and children and for people with disabilities. However, the document does not mention migrant workers with diverse SOGIE. Likewise, the *Monitoring and Evaluation Guide for Migrant Worker Resource Centres* (Harkins and

Fisher 2018) notes that "a key strategy for MRCs to monitor progress on gender equality is through collection of disaggregated data for women and men". While sex-disaggregated data is valuable, the MRCs could be supported, where possible, to go beyond the gender binary. Gender diversity, or gendered aspects of sexual orientation, have an impact on the labour migration experiences of individuals; migrant workers may need services and information (as well as support to access these services) that acknowledges and includes their diverse SOGIE needs. The reflections, including evident interest, of some MRC coordinators and service providers on providing regarding information and services for migrant workers with diverse SOGIE are noted below.

Similarly, many countries of origin require departing migrant workers to receive pre-departure information trainings to prepare them for their time abroad. The curricula are designed by state authorities, and can include information that is specific to the country of destination. The *Pre-departure Training Curriculum: Viet Nam to Malaysia Participant Guide* (ILO 2014), which was prepared by the ILO at the request of Viet Nam, provides information on labour migration processes and procedures that apply to all migrant workers, including information about laws and culture in the country of destination. While there is information about HIV, there is no mention of the particular information and access needs of people with diverse SOGIE in that context. The guide goes on to provide contact details for organizations that provide

assistance to migrant workers. Diverse SOGIE organizations are not included, since the directory focuses on information about organizations that provide assistance to migrant workers, yet their inclusion can be a positive, given that they may be seen as a safer space for people with diverse SOGIE.

On the other hand, progress is also being made with including diverse-SOGIE migrant workers in research and policy documents. These includes high-level guidance such as the *Integrated Strategy on Fundamental Principles and Rights at Work 2017–2023* (ILO 2019), *Information Paper on Protection against Sexual Orientation, Gender Identity and Expression and Sexual Characteristics (SOGIESC) Discrimination* (Thomas and Weber 2019), research and projects within the Pride at Work programme (Suriyasarn 2015, ILO 2019), and inclusion of SOGIE within training documents such as *Organizing Women Migrant Workers: Manual for Trade Unionists in ASEAN* (ACTRAV and Safe and Fair, 2021). The Office of the High Commissioner for Human Rights (OHCHR) has also issued guidance in the form of the *Standards of Conduct for Business: Tackling Discrimination against Lesbian, Gay, Bi, Trans, and Intersex People*, including information for employers to prevent, address and eliminate discrimination, violence and harassment against LGBTI workers (Tripathi et al. 2017).

Gaps remain to be filled, however, and governmental and non-governmental organizations should continue working together to address diverse SOGIE inclusion across all aspects of policy and practice.¹⁵

4.1.1 COUNTRY OF ORIGIN: CAMBODIA

Migrant Worker Resource Centres (MRCs)

In Cambodia, several MRCs are managed through Provincial Departments of Labour and Vocational Training (PDOLVT) while others are managed by CSOs and labour organizations. Four government and three non-government representatives from six of the MRCs were interviewed by the research

team. None of the MRCs reported having specific resources or support available for prospective or returned migrant workers with diverse SOGIE. As with MRCs in other countries, the view was advanced that their general services could be used by people with diverse SOGIE:

We don't have [anything] specific on SOGIESC migrants, but we provide to people in general. We don't discriminate against SOGIESC migrants.

Representative of a CSO-managed MRC

None of the government-run centres reported receiving training on diversity of SOGIE, while only one of the non-government-managed centres reported receiving one training workshop that included SOGIE from an INGO project partner. All of these respondents, however, including the government representatives, were keen to take part in training on SOGIE issues facing migrant workers:

We never get trainings on SOGIESC migrants. We are happy to get such trainings so we can understand their feelings and their voices and their problems. I think that it is so important to raise awareness more on SOGIESC migrants.

Representative of a government-managed MRC

Several representatives noted that their MRCs had partnerships with women-focused CSOs, but none of the MRCs had partnerships with diverse SOGIE CSOs. The representatives felt that such partnerships would be important for making change.

Other CSOs

Researchers interviewed women-focused CSOs in Cambodia that provided services to migrant workers, as well as organizations more broadly focused on development activities. Most of these CSOs reported that they knew or suspected that people with diverse SOGIE used their services. However, these CSO programmes did not

¹⁵ Where governments are involved in developing materials, the views of a particular government may influence the materials. Additionally, where there are safety concerns, some information may be better provided through other channels.

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specifically address people with diverse SOGIE or their issues, and people with diverse SOGIE who used the services rarely revealed this information to CSO staff or other participants in CSO activities. Those CSOs that claimed awareness of participants with diverse SOGIE were making that assessment based on reactions from other participants or their perceptions of people with diverse SOGIE:

My programme works on men and woman in general. I don't know if they are SOGIESC migrants. I think that SOGIESC migrants do not disclose to us.

They do not disclose their identity. There are participants from women and men. We never receive SOGIESC migrant cases [specifically]. I noticed [one person] when they came to get our service, he tried to hide his identity to be masculine and I saw participants laugh at him.

They participated in the programmes, but tried to hide their identity to avoid discrimination. Anyway, they come up with problems, but not about their sexuality or orientation. In the community, there is no SOGIESC migrant association or group. They just come individually.

Representatives of three Cambodian CSOs

All the CSOs expressed interest in providing more specialized services for the safety and protection of the migrant workers with diverse SOGIE, with most suggesting that diverse SOGIE issues be mainstreamed within their programmes, while others suggested standalone programmes. The CSO representatives proposed measures to assist their organizations to meet diverse SOGIE needs including training, funding, programme design and policy support. However, some also noted the importance of a combined bottom-up and top-down process, involving migrant workers with diverse SOGIE in programme design and having national-level policy and support for the programmes:

I already have policy to promote women and children, but I don't have for SOGIESC migrants. I think we should have a mechanism to support them. It should be a mechanism to build CSO capacity to work on SOGIESC migrants. It should have a budget to work with the ministry also, because ministries are influential.

There is already participation from SOGIESC migrants, but we should have networks or communities of SOGIESC migrant to mobilize people to act on this issue and integrate with my programmes.

There should be research findings on SOGIESC migrants for policymakers and relevant stakeholders, or there could be a curriculum or lessons for CSOs on SOGIESC migrants.

We should take the research findings [for example this report] for analysis and later identify action plans to solve problems. There should be workshops with SOGIESC migrants on the project design. To do this well, there should be a national support policy or mechanism first. Without support from the national level, it is hard to implement the project.

Views from Cambodian CSOs

Addressing the need for national policy and mechanisms is likely to involve review of many aspects of government and private sector policy and practice. As an example only, the 2020 [Code of Conduct for Cambodian Private Recruitment Agencies](#) was designed for reasons that included the need to “improve the experiences of Cambodian migrant workers overseas, by protecting and promoting their rights ...” (ACRA and MAC 2020, Introduction). Developed with the assistance of the Ministry Labour and Vocational Training and the ILO, the document addresses many issues related to labour migration experience including non-discrimination and labour standards, fees, contracts, pre-departure briefings, data privacy, and work conditions in countries of destination grievance mechanisms. In several places it also

highlights the need to address the specific concerns of women migrant workers. However, it is written in binary gender language, referring only to men and women, and makes no mention of migrant workers with diverse SOGIE. While this is only one policy and guidance document among many, it provides an example of where relevant stakeholders within the migration system could make explicit their commitment to safe and fair treatment of migrant workers with diverse SOGIE.

Other government programmes

Following its third universal periodic review (UPR) in 2019, the RGC officially accepted recommendations for the inclusion of SOGIESC in three areas: (a) to amend the constitution to enable legal marriage equality for same-sex couples; (b) to introduce an anti-discrimination law that explicitly prohibits discrimination on the basis of SOGIESC; and (c) to introduce legislation for the legal gender recognition for trans persons (ASEAN SOGIE Caucus 2021). The new National Policy on Labour Migration 2019–2023 is the first government policy that explicitly states that the term “all migrant workers” includes “women, men, and LGBT+ migrant workers” (MoLVT 2018).

In addition to the Department of Labour and Vocational Training staff who manage the government-run MRCs (see above), researchers also interviewed a senior official from the Cambodian Ministry of Women’s Affairs (MoWA). This ministry engages with the Department of Labour and Vocational Training, ILO and other stakeholders to address issues faced by WMWs. The senior official believes that MoWA services are used by migrant workers with diverse SOGIE:

“ I think that they may come to use our service, but they may not disclose their identity because our society does not accept them. We don’t know who they are. I focus on the service for women and girls... I don’t mind if they are lesbian or whatever to receive the service.

However, there are no specific or targeted services for migrant workers with diverse SOGIE. MoWA does not have a diverse SOGIE focal point, and the senior official reported that they would like

training but “we never received training on LGBTQ+ issues”. While Cambodia’s Neary Rattanak V (the Fifth Strategic Plan for Gender Equality and the Empowerment of Women) mentions SOGIESC and the National Action Plan to Prevent Violence Against Women 2019–2023 (NAPVAW III), the senior official noted that they needed funding to implement diverse SOGIESC components of those plans. The official expressed keen interest in the research, suggesting a national workshop to develop recommendations and actions on diverse SOGIESC inclusion.

4.1.2 COUNTRY OF ORIGIN: THE PHILIPPINES

Migrant worker support organizations

Researchers in the Philippines interviewed representatives of significant non-government migrant worker support organizations. The first CSO, below, provided a range of training, service delivery and research programmes, and engaged with seafarers’ organizations, which is significant for this report since many of the Philippines participants who identify as men took work at sea. They had not received any trainings regarding SOGIE. While they worked on gender-responsive programmes, these did not specifically address diverse SOGIE issues. A representative of the CSO discussed the limited support available for migrant workers with diverse SOGIE.

“ Right now I am not aware of any specific programmes for LGBTQ migrant workers, but if they are distressed OFWs [overseas foreign workers], they can go through normal channels. I am aware that there are particular aspects to their experience because of their sexual orientation, so when I interview them, for example, those should be covered too, but here ... I don’t see any CSOs who really provide LGBTQ-sensitive and comprehensive responses to distressed OFWs.

As with CSOs in other countries, they noted that migrant workers with diverse SOGIE were often not out to their families or feared community

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stigmatization. As a result, those normal channels were often inaccessible to them. The CSO representative suggested that more effective service delivery for migrant workers with diverse SOGIE was likely to come hand in hand with greater community acceptance and networks:

“We must raise the awareness of the community, and this must be part of discussions so OFWs will feel that there is a support group that can listen to them [with some understanding of] the particularities of the discrimination and abuses they faced because of their sexual orientation. ... We can hold workshops that have a specific focus on LGBTQ migrant workers and are attended by those belonging to this community. We will try to reach out to local groups, especially LGBTQ groups, on how to make this happen.

A second CSO also provided a range of services including direct support for migrant workers, research, policy and advocacy. As a member of a regional network of women’s rights organizations, they had received some training and took part in discussions that addressed SOGIE issues. Although there were organizations that conducted SOGIE information campaigns, the representative noted that this was different from integrating a SOGIE lens into concrete programmes:

“Admittedly, the level of awareness is very limited regarding SOGIE and LGBTQ rights. our part, we only had an introduction, and we still have to incorporate them to the programmes in a comprehensive way in our community organizations as [we do youth issues] in community Anak-OFWs.¹⁶

They also highlighted the need to work on community support, saying that community partners may say that they accept people with diverse SOGIE, but continue to discriminate against them or exclude them. Their representative described the impact

on men with diverse SOGIE who experience sexual violence as migrant workers:

“We have had four cases of rape of male OFWs in the Middle East. They expressed difficulty in pursuing a court case because of so many reasons. Nobody will believe that they were raped. Second, they feel that their manhood is disrespected or degraded by the fact that they were raped. [One of them] approached the embassy in Riyadh specifically, and eventually he was repatriated. The case was not lodged in the POLO (Philippine Overseas Labor Office). Another person said that it is really difficult if you were sexually raped ... in a foreign country because launching a complaint will entail going through a lot of layers, social structures that are not supportive of them. The problem with these cases is that LGBT members, or these men, will not pursue their cases. The four individuals I mentioned to you? None of them pursued cases. What they addressed was just the non-payment of their wages, instead of really pursuing a legal case on account of sexual abuse ... They come home to the Philippines, and sometimes it takes months or even years for them to really come out and talk about what happened to them.

At least one other Filipino CSO reported referring diverse SOGIE cases to the Center for Migration Advocacy (CMA). However, one told researchers that CSOs did not have specific SOGIE programmes, and he was unsure if or how to incorporate diverse SOGIE issues:

¹⁶ Programmes focused on young people. “Anak-OFW” refers to the dependent children of overseas Filipino workers (OFWs).

“The question is how we can do this, given that there is no specific organization for migrant workers who are also members of the [diverse SOGIESC] community. And how we can focus on these issues, given the many other things we are also involved in. ... If [LGBTQ organizations] already cannot focus on this group [migrant workers], what more for us? Our engagement [with migrant workers of diverse SOGIESC] is more on the individual level: we know of union leaders who are LGBTQ members, LGBTQ migrant workers, but we have no engagement with anyone on the organizational level.”

Another CSO offers training on gender, but covers issues facing lesbians and other people with diverse SOGIE “only in passing”.

A representative from a CSO that supports domestic workers spoke of multiple cases of discrimination and mistreatment of Filipino domestic workers with diverse SOGIE, especially in the Gulf States. One case involved a lesbian domestic worker who was passed from employer to employer, experienced abuse and a rape attempt, and returned to the Philippines emaciated – but only after she had settled a debt with her employment agency. As noted by other organizations, a lack of training meant that diverse SOGIE issues were often left unaddressed.

Government programmes

A key agency for Filipino migrant workers is the Overseas Workers Welfare Administration (OWWA) of the Philippines Department of Labor and Employment. The OWWA provides support for Filipino migrant workers, including support for employment, remittances, legal affairs, and accessing social security. A senior OWWA official told researchers that a foundational challenge was that OWWA did not distinguish migrants with diverse SOGIE from other workers in its database:

“It would be a challenge to start without proper data. How many welfare cases are issues about illegal termination or unfounded allegations? OWWA has to look deeper into it to check if the case is an LGBTQ case. Looking back, our data is just either male or female; we do not distinguish who among these cases are LGBTQ.”

Given that the OWWA holds no data on diversity of SOGIE, there appears to be little or no means to establish whether OWWA services and programmes are accessible to, or are meeting the needs of, migrant workers with diverse SOGIE. The senior official acknowledged that, “Maybe the special programmes or services for them were not yet reported. Maybe we should be conscious about how far they have accessed services.”

The senior official noted that the OWWA did not have a specialist position for diverse SOGIE support: “We’re not aware if other agencies or if DFA [Department of Foreign Affairs] is into it or DOLE [Department of Labour and Employment] is into it. We don’t have an LGBTQ champion yet.” However, that official emphasized that, while the OWWA did not have any specific programmes, services or policies for migrant workers with diverse SOGIE, they implemented their programmes without discrimination on the basis of age, race or gender.

At this stage, OWWA is reliant on having people with diverse SOGIE raise pertinent cases, rather than OWWA setting the agenda. The OWWA has received some training from the Filipino CSO ACHIEVE on gender sensitivity and how to handle LGBTQ cases under health issues, repatriation and reintegration. However, the senior official suggested that continuing and deeper orientation on LGBTQ issues is needed, and that this report might fruitfully recommend the development of such specialist training modules. Such support might allow the OWWA to cascade diverse SOGIE awareness training to other partners and community members, something that was not happening at that time:

Personally, I am aware. But I don't know about their needs, or proper programmes and policy development to meet them. I might make mistakes because of my ignorance, since I don't know about their spectrum. The minimum we could do is to build and have better understanding and acceptance in order to properly address their issues.

A hurdle identified by the OWWA – and in a separate interview with a MFA representative – is that migrant workers with diverse SOGIE were often reticent about filing complaints in countries of origin or about seeking official government support. The interviewees attributed this to fear of stigma, and the potential for further discrimination. The OWWA noted that it had investigated some cases of people with diverse SOGIE having their employment terminated, and while it did turn out that these dismissals were because of discrimination, it was hard to prove, since the people with diverse SOGIE involved would not speak openly about it. This recalls the strategies of concealment and withdrawal discussed in chapter three (above), and will be addressed again in the analysis of ways forward in chapter six.

4.1.3 COUNTRY OF ORIGIN: VIET NAM

Migrant Worker Resource Centres (MRCs)

Researchers interviewed staff from two MRCs in Viet Nam. Each provides support to migrant workers from their provinces through such activities as information sessions and consultations with groups of migrant workers or individuals. They also support job searches, matching worker needs, experience and skill levels with appropriate companies. They sometimes also assist migrant workers with procedures such as getting health check-ups, passports, or other legal documents. The MRCs connect with potential migrant workers at local job fairs, and work closely with the Department of Labour to engage with unemployed people whose

requirements for receiving unemployment benefits included consultations with MRCs.

The two MRC representatives had heard of people with diverse SOGIE through the media, but neither recalled ever supporting migrant workers with diverse SOGIE in particular.

To be honest, I only know of LGBT people through the media. I don't really know a lot of specifics about them, and I haven't had the chance to learn more about that.

Viet Nam MRC-1

I have never run into LGBT people when working at the MRC, so I don't actually know what to do differently in those situations. I think that I would prioritize the information that we usually provide to any other migrant workers, because I think their need for jobs would be similar to other people.

Viet Nam MRC-2

Neither MRC had heard of their respective subnational diverse SOGIE organizations, and neither representative had received training on SOGIE diversity:

There should be trainings for people who work directly with the migrant workers on LGBT issues. They need to know about the terminology and what those terms mean. However, I think the number of LGBT people is very low here; I think they live mainly in big cities. ... But the trainings would still be useful in case we actually run into LGBT people when providing service, so the service providers will know what to say.

Viet Nam MRC-2

Both these MRCs are based in small- to mid-size provincial capitals, with populations in the hundreds of thousands. The suggestion that people with diverse SOGIE reside only in larger cities is mistaken: they also live in smaller cities, larger towns and rural

areas. And while some may migrate internally to the larger cities, many will remain in closer proximity to family or familiar surroundings.

Of note also is the idea that training could focus on terminology. While respectful use of terms is important, knowledge-building could also extend to issues that people with diverse SOGIE may experience, and to what resources, support or referrals migrant workers with diverse SOGIE might need. The temptation to tack a short section on SOGIE terminology onto existing training should be resisted as insufficient in itself.

4.1.4 COUNTRY OF DESTINATION: THAILAND

Migrant Worker Resource Centres (MRCs)

A staff member at a Thai organization that manages an MRC felt that their organization had made progress on accepting non-binary gender pronouns, but needed to develop broader policies for diversity of SOGIE:

It is challenging because [the organization] has no clear policy. Sometimes we have cases or participants and, if we don't know if they are LGBTs or not, then we might not behave correctly. Even though we may know, some staff may not consider this issue. I see this as a sensitive topic because each person does not have equal understanding about it.

Representative, Thai MRC-1

As an example, they noted that some staff might understand that trans women were women, but others might talk about trans women in ways that exclude them from women-focused programmes. They also noted that their organization has policies with respect to other people who may be marginalized, and that similar steps could be taken on SOGIE:

For example, for children's issues, we have policy on child protection and we have to sign. It describes management and procedures when you work with children.

Representative, Thai MRC-1

Representatives of some migrant worker service providers and migrant workers-focused CSOs noted that it was difficult for service providers and CSOs to engage and provide support migrant workers with diverse SOGIE who chose invisibility as a safety mechanism:

We can't identify if they don't open up to us or say to us that they don't like working in construction. They are never open with us. We also have never asked directly. ... They are men with soft personality, but we are not sure if they are [people with diverse SOGIESC]. In construction, we can't identify their SOGIESC or their needs [so] we don't work on that.

One dimension of this is the impact of lateral discrimination, violence and harassment between migrant workers of the same ethnic group. Comments from migrant worker service providers and migrant workers-focused CSOs reinforced the views of migrant workers with diverse SOGIE regarding attitudes and behaviour of fellow migrant workers (section 2.3.2, above):

Especially if you are Shan, they would be very careful because they are afraid that we would see them that they are men and like this. They are afraid we can't accept them. ... They think by themselves that the group will not accept them, or will not bring them to do activities, or people in group would divide them. They have these concerns that they [self-stigmatize].

Representative, Thai MRC

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They are thought to be possessed by ghosts. Like it is a form of stigmatization that being LGBT is a sin in their community. ... They believe in merit and demerit Buddhism [in which being a person with diverse SOGIESC is a form of punishment for acts in a previous life].

Representative, Thai MRC

Some interviews – including with another organization that managed a MRC in Thailand – became journeys in themselves. As the interview unfolded, and the organization’s staff member was guided through a series of issues, complexities emerged that were not apparent in their responses to early questions. In this case the answer to the first question reflected the view that people with diverse SOGIE could access services, even though the organization did not have a specific focus on diversity of SOGIE:

In our work, we don’t specifically identify this group in our target groups. Mostly we work on the basis of occupation, sex (male/female), and age (children). But we hardly specify genders. However, we don’t discriminate, don’t restrict or tell anyone what to say or what to wear. We don’t discriminate in our work. Persons with SOGIESC can express fully. We don’t have problems with that.

Representative, Thai MRC-2

In situations where they were able to identify that a service user was a person of diverse SOGIE, the staff member noted that they could refer them through local networks that include diverse SOGIE-specific organizations. They explained that their engagement with people with diverse SOGIE primarily occurs through HIV/AIDS service provision (see also section 4.1.4, below):

Volunteers would help identify which bars their friends work[ed] in, [and we] would approach gradually. They provided knowledge on HIV, TB, prevention, and distributed condoms. From that, migrants would assess themselves whether they had risks. If migrants were willing to have a HIV test, [we] would then provide it.

Representative, Thai MRC-2

The staff member suggested that the duration of stay for migrant workers with diverse SOGIE may be a significant factor in whether engagement is possible:

For those who... work, find money, send money home, and [then] go home, they don't care to open up definitely. In their community, they don't come out for sure. Those who have been in Thailand for a long time, studying in Thailand, working in different jobs, having wider experience, then they would come out. There are two kinds.

Representative, Thai MRC-2

This is consistent with some views expressed by migrant workers with diverse SOGIE, including those who were specific about migrating for economic advancement, and who viewed suppressing their SOGIE as a price that had to be paid in a world in which they were heavily marginalized. It is also consistent with the reality that it may take migrant workers with diverse SOGIE some time to feel sufficiently safe to open up, even if migrant worker-focused CSOs take significant steps to be more accessible. There are also many migrant workers with diverse SOGIE who churn through jobs in their country of destination, or who re-migrate, staying in the migrant work system for longer periods. But regarding these issues, the staff member questioned the interviewer:

Why do they have to open up? What for? Because they don't want to open up. They don't need to open up. After they open up, what is there to make their life better?

Representative, Thai MRC-2

This prompted the interviewer to share some of the lived experienced already gathered through the project, which led to something of a revelation for the staff member from this organization which manages a MRC:

Actually, what we haven't worked on is SOGIESC-based discrimination at the workplace... We don't know what they want besides minimum wage, safety, and some things like this.

Representative, Thai MRC-2

Over the course of the interview, the staff member journeyed from initial statements that people with diverse SOGIE could access any services, to questions about why they would want to, to the realization that there were many things their organization did not know. Another interview with a staff member from an organization that manages an MRC had a similar moment of revelation about specific needs of migrant workers with diverse SOGIE:

They might have different needs from Thai LGBTs. Like for me, if you had not asked then I would never have thought whether LGBT migrants have special needs, different from straight men and women. I am not sure. I think there must be an activity to inquire [about]their needs.

Representative, Thai MRC-1

This interview journey is one that research team members have come across in other projects. It reflects the fact that these issues often go undiscussed within organizations that make assumptions about inclusivity. A positive feature of having such discussions is the forum they provide

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for expressions of human curiosity and generosity of spirit, as in the cases cited here.

Neither of the organizations mentioned above provided staff with training on diversity of SOGIE. One organization noted that their staff undertook gender training, but not training on SOGIE issues. The other noted that they had no internal training on this topic, but would be happy to attend a workshop. One of these two organizations noted training that supported MRCs and other organizations to develop their own context-driven programme changes would be preferable to overly restrictive top-down approaches:

I think maybe building foundations to understand rights is more important than forcing us to follow something ... People working in CSOs tend to understand the society already, and if we add this knowledge [on SOGIESC] then I think it is not difficult to understand. I think there should be trainings to provide understanding rights, then push it to organizational policies.

Representative, Thai MRC-1

Other CSOs

One organization that supports migrant workers in the construction industry proposed the following:

There are men with femininity working with others, as well as women with masculinity working with others. They might tease each other, sometimes so much that some are disturbed and file charges. But there is not much like this.

Through their membership of the Women Workers Unity Group, they said that they engaged in activities and discussions about that diversity of SOGIE, for example as part of International Women's Day events. While their organization respects people's rights to be who they are, they saw that the lives of migrant workers with diverse SOGIE involve "a lot of conditions and limitations", and that migrant workers with diverse SOGIE experience more and

different limitations than Thai people with diverse SOGIE.

One youth-focused organization shared some ways that it had been able to engage with migrant workers with diverse SOGIE. This engagement had started with workshops on sexual health. Staff members of the organization had not undertaken training on diversity of SOGIE, but were able to draw upon training in empowerment, power structures and gender inequality. Volunteer staff also came from different language and cultural backgrounds. When they suspected that a person with diverse SOGIE was part of a group they would follow-up individually, "to not make students feel uncomfortable, but to support them to be what they are, so they are comfortable and confident. For example, with their hair and clothing we are quite open. If some teachers don't understand, we will talk [with them]." Separately, migrant workers with diverse SOGIE who were interviewed noted these freedoms, but still felt there was discrimination and stigma in the classes.

Interviews with migrant workers who undertake sex work and other adult entertainment work confirmed that they were among the most marginalized migrant workers: they were often undocumented; they were often transgender or gender-diverse people who might have fewer options for work or extensive histories of harassment; their work involved risk of harassment and abuse from clients; working conditions could be poor and job security low; they might be targeted by law enforcement for their work and their undocumented status; and they might be less likely to report abuse, seek support or use medical services for fear of exposing themselves to further discrimination or arrest.

Two organizations reported that those working in the adult entertainment sector in Thailand had been badly affected by COVID-19:

“Migrants working in host bars and the entertainment sector are affected directly. At first, no one was prepared. Suddenly work was suspended, or some employees were laid off. Because they were engaged casually, they had no salary. They didn’t have worker status.”

Regarding their HIV/AIDS testing programmes, these organizations said they did not have sufficient funds from donors to extend this work to international migrant workers generally. They provided the service to some people without funding or, in one case, were able to negotiate with a donor to extend services to non-Thais even though their original grant and reporting was for Thai nationals only.

Another organization that was interviewed supported sex workers specifically, including migrant workers from Cambodia, the People’s Democratic Republic of Laos, Myanmar, and Viet Nam, providing them with support preventing or treating HIV/AIDS, to arrange healthcare where possible, and to support safe travel. Through connections gained at regional and global HIV/AIDS conferences, they were able to assist sex workers with safely returning to their countries of destination. This organization argued that migrant workers should have access to protection and services regardless of their work sector or undocumented status:

“We need to see them as humans and allow them to access healthcare services. There are cases where drunk Thai men harassed Laotian and Burmese transwomen. ... If they are allowed to come to Thailand, even without documents, when something happens then they should be able to access rights to protect themselves, without seeing their reports of being raped being looked at differently because they are undocumented or sex workers.”

The support offered by this organization is life saving:

“[Our] Pattaya team just found one transgender woman who crossed into Thailand to do sex work with no documents. During COVID-19, there is no job. She cannot take care of herself and cannot return home. She is positive for HIV and we found that she is in a critical condition laying in her room.”

However, their work in areas such as safe travel arrangements to countries of origin occurs in a policy and support vacuum:

“There are no policies to support us. There are no policies [the] Thai government with such countries or MOU or anything to support us in this. So, it [comes down to] the personal relationships that we know [with] people and using this kind of relationship to mobilize.”

After more than 15 years, they now had relationships with hospitals and within government agencies to advance cases where individuals or other organizations might not have success. They also pointed out that their ability to engage with sex workers with diverse SOGIE resulted from intentional strategies. One was that their staff included people from different countries, immediately overcoming language and cultural barriers. Second, they had staff who were people with diverse SOGIE, and who “were themselves targeted populations before, and we developed them to become staff so they could understand well themselves”.

Government departments

Researchers received written responses to questions from representatives of four departments and offices within Thailand’s Ministry of Labour: the Department of Employment, the Department of Skill Development, the Department of Labour Protection and Welfare (DLPW) and the Social Security Office. The responses emphasized that the Ministry of Labour provided non-discriminatory services that people with diverse SOGIE should be able to use. The responses also identified gaps such as lack of training; lack of research to inform service design; and lack of specialist diverse

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SOGIE staff or focal points. They also expressed enthusiasm for filling those gaps and improving service delivery for migrant workers with diverse SOGIE. There were some assumptions that migrant workers with diverse SOGIE could use the same services and processes as other migrant workers. Several departments were aware of and highlighted the relevance of Thailand's Gender Equality Act, although as discussed earlier, the scope of that law is limited, and its implementation is only nascent.

The agency which works on management of employment of foreign workers and overseas employment administration has never received a training on the matter... Inserting SOGIESC content in such project trainings would be a good entry point for non-discriminatory practice towards migrant workers with diverse SOGIESC.

Government department

The Gender Equality Act (BE 2558 [2015]) is the legislation which extends protection to a "person having different gender expression from their sex assigned at birth", and prevents unfair discrimination on the basis of sex. The law provides protection from discrimination in every aspect, including issues related to employment and recruitment.

Government department

SOGIESC migrant workers experience violence, harassment and discrimination on the basis of their SOGISC at every level. If the migrant workers faced such issues, they could request for help as [the department] provides services, gives advice, and receives requests.

Government department

[The department] is glad to collaborate with researchers or other agencies to have training course on SOGIESC issues, identities or communities. [Such] knowledge can be a way to develop the department in the future.

Government department

A representative of the Ministry of Social Development and Human Security (MSDHS) also provided written responses, also showing some awareness of the issues raised in this report:

LGBT migrant workers tend to be at greater risk of being exposed to abuse; harassment; discrimination; exploitation such as unequal pay; refusal to employ; and inappropriate verbal and non-verbal interaction with such migrant workers.

Responses to other questions again emphasized the existence of the Gender Equality Act, and that staff had taken part in a course on the right to equality, sexual orientation, gender identity and expression: capacity building to work under gender equality Act BE.2558 of the MSDHS, developed by the Department of Women's Affairs and Family Development, the MSDHS, and the World Bank. Such responses noted that people who had been mistreated could "hand in the complaint in person at the Department of Women's Affairs and Family Development, or through letter, email, and phone call". However, it was also noted that the Department of Women's Affairs and Family Development "does not have missions that are directly related to migrant workers".

While the responses overall were thoughtful, enthusiastic and demonstrated some awareness of key issues, it was also clear, upon comparing responses, that there is a gap between the realities described by migrant workers with diverse SOGIE in Thailand, and the services and capacities of service providers.

4.2 WORKERS' ORGANIZATIONS

The ILO's learning guide notes the following:

Collective bargaining has the potential to significantly improve the lives of LGBTIQ+ persons. Through influencing changes in employment benefits and policies, LGBTIQ+ workers can move from having their needs ignored and marginalized to being more fully included, not just in the workforce but in society more broadly. LGBTIQ+ work-related issues are as varied as the communities themselves and include such things as better means and measures to prevent and address violence and harassment, equitable recognition of partners and families, and the ability to safely transition without fear of losing a job.

ILO 2022, 56

Migrant workers with diverse SOGIE who took part in this study did not mention workers' organizations as a source of support, and were often even unaware of their existence or role. In interviews, two Thai union representatives noted the many challenges in engaging and building trust with migrant workers. Many migrant workers reported the following difficulties: they feared that employers would monitor and punish workers who took part in union activities; union officials did not speak languages used by migrant workers; and migrant workers might feel that Thai workers and officials looked down upon them. There are also legal limitations on union organizing of migrant workers in Thailand. Thai union officials noted that, when considering migrant workers with diverse SOGIE, additional factors exacerbated the above-noted challenges. These included concerns held by those migrant workers that they would be discriminated against by other people in unions or that, because of their diverse SOGIE, they were especially vulnerable to employer recriminations.

Across the world, workers' organizations have increasingly been expressing their solidarity

with moves to protect workers with SOGIE from discrimination and violence in the world of work, and have been proving a key source of support for migrant workers and workers with diverse SOGIESC (ITUC 2019, 2021). In the lead-up to the adoption of C.190, the ILO documented the roles and actions being taken by trade unions. Titled *Violence and Harassment against Women and Men in the World of Work: Trade Union Perspectives and Action*, this ILO report notes both the harms posed to LGBT workers due to homophobic and transphobic attitudes and the absence of anti-discrimination legislation on grounds of sexual orientation and gender identity; and documents the efforts being made by workers' organizations to combat violence and harassment against LGBT workers through advocacy, campaigns and collective bargaining. (Pillinger, 2017)

In 2021, the Council of Global Unions (CGU) adopted the Global Unions Solidarity Charter for LGBTI Workers¹⁷ to ensure that workplaces are free from discrimination and harassment for all workers (Global Unions n.d., 2021). The International Trade Union Confederation (ITUC) has also been clear in its campaign materials and guidance to its members that gender-based violence in the world of work includes violence against workers with diverse SOGIESC (ITUC n.d./a, n.d./b).

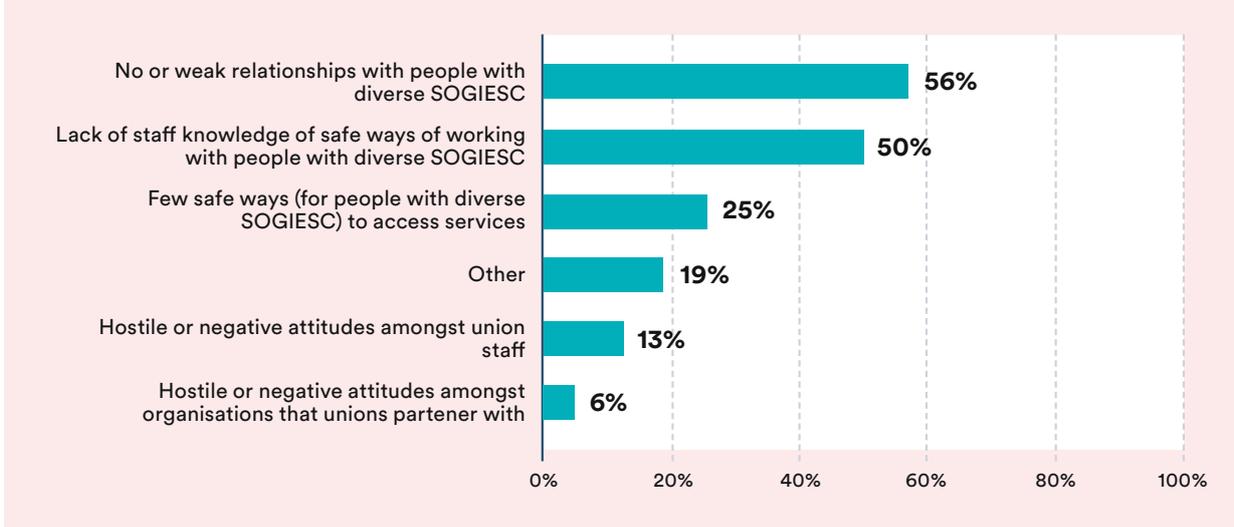
Such support has not been very visible in ASEAN countries. For example, in a previous survey of 400 Indonesian labour union members, more than 65 per cent reported being uncomfortable working with an LGBT supervisor or co-worker, and 77 per cent believed that same-sex relationships were wrong (ILO 2016). In speaking to the researchers, one ITUC Asia-Pacific (ITUC AP) interviewee held that, due to lack of knowledge on the issues of migrant workers with diverse SOGIE, some unions could be less willing than others to engage with the issue and that more could be done to increase the awareness of workers' organizations. This was also reflected in the results of a survey of ITUC-AP members conducted as part of this study (see figure 10, below). Half of those surveyed agreed that the key barriers for people with diverse SOGIE accessing union services were knowledge gaps and lack of networks with SOGIE supporting organizations.

¹⁷ They have also compiled a brochure of best practices and case studies of trade unions fighting for LGBTI workers (Global Unions 2021).

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→ **Figure 10. Reported Barriers to diverse SOGIE migrant workers accessing union membership (perceived by ITUC-AP representatives)**



One diverse SOGIE group that engages with labour rights issues in the Philippines made the following observation:

There’s a tendency to think that when you’re in a union you fight for equal rights, but there’s not that expanded vision yet [that is, unions could lobby for other rights]. Why can’t unions lobby for other rights? ... Collective bargaining agreements between unions, associations and employers are focused on practical economic things that apply for everyone, but there’s no consideration for the added challenges of, say, a trans worker. We see the labour [rights movement] space in general being very patriarchal. If queer workers are going to negotiate with their employers they need to be backed up by a union.

One challenge noted by this organization was the lack of existing research on labour experiences of people with diverse SOGIE. Another was that structural discrimination tended to push people with diverse SOGIE into the informal economy, where trade unions had limited outreach and membership. They also argued that solidarity was a two-way street; if workers’ organizations could do more to support the rights of people with diverse SOGIE at the workplace, then diverse SOGIE CSOs could also be doing more to support the rights of workers:

We do think the workers’ unions should push queer organizations to pick up their issues as well. While we see unions as a channel for queer people’s concerns and issues, queer organizations should also be a channel for workers’ issues. This is what we see as genuine solidarity building – being invested in each other’s victories. If a group could sponsor this, starting dialogues between queer organizations and labour organizations, this would already go a long way.

At a broader level, legal restrictions in many ASEAN countries on the freedom of association and collective bargaining for all migrant workers present a key barrier for trade unions trying to engage with migrant workers with diverse SOGIE, especially in countries of destination. In such circumstances, the ratification of ILO Conventions Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) and Right to Organise and Collective Bargaining Convention, 1949 (No. 98) is encouraged, as this represents a fundamental step in protecting the rights of all migrant workers, including those with diverse SOGIE. Ratification of the Violence and Harassment Convention, 2019 (No. 190) is also encouraged, since it addresses violence and harassment (including gender-based violence and discrimination) in the world of work.

4.3 CSOS SUPPORTING PEOPLE WITH DIVERSE SOGIE

CSOs that provide support to people with diverse SOGIE, or diverse-SOGIE CSOs, operate at regional, national or subnational levels across South-East Asia. Key regional organizations include the Asia Region of the International Lesbian, Gay, Bisexual, Trans, and Intersex Association (ILGA), the Asia Pacific Transgender Network (APTN), the Asia Pacific Coalition on Male Sexual Health (APCOM), Equal Asia Foundation, and ASEAN SOGIE Caucus, and provide a range of advocacy, movement building, research, policy, and programmes services. Two of these organizations were included among the KILs, and while both had some engagement with labour migration issues – for example through support for HIV services that migrants could use – neither reported labour migration as an existing core issue or reported significant engagement with regional labour rights organizations or processes.

Within each of the project countries and other countries in South-East Asia, a small number of diverse-SOGIE CSOs operate with national reach, while varying numbers of smaller diverse-SOGIE CSOs and less formal organizations and networks extend their activities sub-nationally. Many of these national and subnational organizations have limited staff and resources, often relying upon volunteers for many activities.

Across South-East Asia, the operating environment for national and subnational diverse-SOGIE CSOs varies significantly, ranging from relatively supportive environments to countries where aspects of SOGIE are criminalized, or where CSOs may be harassed or where SOGIE are subjected to extensive community stigmatization.

Domestic organizations often focus on community education, service provision and advocacy. While this work often includes livelihoods issues, and can include intra-country migration, only one of the diverse-SOGIE CSOs interviewed in Cambodia, the Philippines, Thailand, and Viet Nam said they worked with diverse-SOGIE community members' experiences of international labour migration issues.

This Cambodian organization described its activities as ad hoc:

We do ad hoc activities on legal and counselling by using phone calls and social media, and have connection with SOGIESC atcount[ries] of destination. If SOGIESC migrants need support, we transfer the case to NGOs in Cambodia that work specifically on the issue.

While other CSOs noted that they would always try to help if a migrant worker came to them, the usual practice suggested otherwise:

There is no organization dedicated to supporting LGBT migrant workers. People must look for information through their personal network, or on the internet, without any guidance.

One representative of a subnational LGBTIQ+ CSO in Viet Nam was aware of people from their area who migrated internationally for work, and of the challenges that they had experienced:

They run risks of getting abused, tricked, or robbed by other people... They usually don't report it to the authorities because of the language barrier and the fear of being outed to other people. LGBT people who want to go work abroad don't have a lot of options to choose from. This will lead to some of them fall into scams or human trafficking. Accessing medical services is also challenging, as people from rural areas have less information and are not aware of their healthcare needs. They are also very afraid to go to hospitals, due to the fear of being outed and the language barrier. Even in cases where there is translation support, they still must communicate with their doctors privately. If this goes on, they would get even more stresses and sometimes would develop mental health issues. For some, their lives are just work and then going back to their places to sleep.

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However, a subnational diverse-SOGIE CSO in Viet Nam noted the following:

Capacity building for [migrant worker-focused] CBOs is also necessary, because my group can only provide support on issues related to healthcare.

Several organizations stated that diverse-SOGIE CSOs could not and should not be expected to fill policy, service or advocacy gaps in the protection of the rights of migrant workers with diverse SOGIE. They did express the view, however, that they could perform the following services: assist those labour migration and labour rights sector organizations to develop capacity to work on these issues; to refer people with diverse SOGIE to the relevant service provider if appropriate; and to be part of a chain of accountability involving affected people with diverse SOGIE. Even this would require investment in diverse-SOGIE CSOs operations such as the following: training on labour migration issues and how support is provided; staff and core operational costs; and development of regional networking between nationally focused CSOs.

One Vietnamese organization noted that they faced challenges engaging with or supporting Vietnamese workers with (a) pre-departure information about labour rights issues in other countries; or (b) information while they are in their country of destination. This was likely to require regional networking between national organizations or involvement of regional diverse SOGIE organizations:

[Our] priority is the Vietnamese LGBT community... so we prefer the model of a regional information-sharing mechanism where everyone in the region can benefit from.

Issues raised by a migrant worker in their country of destination may require a domestic diverse-SOGIE CSO in that country to contact a counterpart diverse-SOGIE CSO in that person's country of origin, as well as migrant worker-focused CSOs in the country of destination. The pressure on diverse-SOGIE CSOs to develop these new capabilities would be reduced if migrant worker-focused organizations that

have existing regional or cross-border relationships develop the capability to work on diverse-SOGIE issues. However, there would still be a need for diverse-SOGIE CSO participation in regional policy, practice, training and advocacy forums in the migrant work and labour rights sectors, to have input into ways of working and to act as an accountability mechanism.

Diverse-SOGIE CSOs also highlighted the need for inclusive risk assessments. This was especially the case when considering support options for undocumented migrant workers with diverse SOGIE, who could easily be targeted by authorities if their presence became known in the course of providing assistance. At the time of writing, 69 countries still criminalized consensual same-sex sexual acts, and in many other countries law enforcement agencies used other laws – including laws against impersonation, loitering or pornography – to selectively target people with diverse SOGIE. One option could be prioritization of services accessed remotely:

LGBT migrant workers will face the risks if they come out to seek support services from the local government... Thus, CBOs can work together to create support-service mechanisms via hotlines and so on.



CHAPTER 5: MIGRANT WORKERS WITH DIVERSE SOGIE AND GLOBAL RIGHTS, MIGRATION AND DEVELOPMENT FRAMEWORKS

5.1 SOGIE IN HUMAN RIGHTS FRAMEWORKS AND INTERNATIONAL LABOUR STANDARDS

5.1.1 HUMAN RIGHTS FRAMEWORKS

SOGIE as a ground for protection within the human rights system has been heavily contested since the early 2000s. Woven through that contestation, however, is clear movement toward increased protection on the basis of SOGIE.¹⁸

The most obvious developments are in resolutions of the Human Rights Council, which, beginning in 2011, have recognized sexual orientation and gender identity as protected characteristics of rights holders. While sex characteristics are not included in those resolutions, in 2020 and 2021 groups of States highlighted the need for sex characteristics to be a protected characteristic. Since 2016, the UN Human Rights Council (HRC) has also appointed an Independent Expert on Protection against Violence and Discrimination Based on Sexual Orientation and Gender Identity (HRC resolution 32/2, 30 June 2016) who is mandated to “explore ways to better protect persons who suffer from violence and discrimination on the basis of their sexual orientation or gender identity (OHCHR 2016, renewed 2019 and 2022). Alongside these measures, there have been reminders that the Universal Declaration of Human Rights includes all human beings, including a statement by then UN Secretary-General Ban Ki-moon that article 1 included “All human beings – not some, not most, but all. No one gets to decide who is entitled to human rights and who is not” (Ki Moon 2012). In addition, public advocacy such as the **UN Free & Equal campaign**, led by the UN OHCHR, worked to raise global awareness on equal rights and fair treatment for LGBTI people (UN Free & Equal n.d.).

A wealth of research and advocacy has informed those developments. Key among these is the 2006 Yogyakarta Principles (YP). Acknowledging that “the international response to human rights violations based on sexual orientation and gender identity has been fragmented and inconsistent”, the YP have identified universal human rights principles for duty bearers, principles that apply to all persons regardless of their actual or perceived sexual orientation or gender identity. The YP are an articulation of existing international human rights law, State practice, and the actual lived experience of LGBTI people. In 2017, the supplementary “YP plus 10” was adopted, identifying additional protection principles, bringing the total to 38, based on developments in international human rights law and improved understanding of SOGIESC issues, especially those regarding gender expression and sex characteristics. While the principles only have the status of soft law, as of this writing they had already influenced several key court cases in South Asia.

None of the international human rights Conventions explicitly mention SOGIE as specific grounds for protection. Nevertheless, signs point to growing acceptance of SOGIE as a ground for non-discrimination, the evidence including the following: (a) mentions in committees charged with monitoring Conventions; (b) reports produced by Special Rapporteurs and the SOGI Independent Expert within the Special Procedures Mechanism of the Human Rights Council; and (c) increased mentions of SOGIESC in Universal Periodic Reviews processes. The core human rights treaties and the ILO Discrimination (Employment and Occupation) Convention, 1958 (No. 111), hereafter C.111, have provided a largely common approach to understanding non-discrimination and equal protection. Article 1(1)(a) of C.111 defines discrimination as “Any distinction, exclusion or preference made on the basis of race, colour, sex, religion, political opinion, national extraction or social origin, which has the effect of nullifying or impairing equality of opportunity or treatment in employment or occupation”. Article 1(1)(b) allows for the possibility for additional grounds for

¹⁸ Among other sources, this section draws on the *ILO Information Paper on Protection against Sexual Orientation, Gender Identity and Expression and Sexual Characteristics (SOGIESC) Discrimination* (Thomas and Weber 2019), which notes the clear trend of expanding protection for people with diverse SOGIESC.

protection from discrimination after consultation with workers and employers' representative organizations.

The absence of SOGIE-specific protection, however, has not presented an impenetrable barrier for advocates of including SOGIE within non-discrimination measures. Instead of introducing new language to Conventions, there has been extensive interpretation of existing grounds of "sex" and "other status" to include people with diverse SOGIE. For example, the Human Rights Committee first recognized that "sexual orientation" is included in the definition of "sex" in the International Covenant on Civil and Political Rights (ICCPR) in 2002, and in further observations has asserted that SOGIESC characteristics are included in references to 'other status'. In its General Comment No. 20 on non-discrimination, the Committee on Economic, Social and Cultural Rights (CESCR) noted the following: ¹⁹

“Other status” as recognized in article 2, paragraph 2, includes sexual orientation. States parties should ensure that a person’s sexual orientation is not a barrier to realizing Covenant rights, for example, in accessing survivor’s pension rights. In addition, gender identity is recognized as among the prohibited grounds of discrimination, for example, persons who are transgender, transsexual or intersex often face serious human rights violations, such as harassment in schools or in the workplace.

The UN Special Rapporteur on the human rights of migrants has also addressed SOGIESC issues, noting the following:

Within international human rights law, there is a well-established framework to promote respect for sexual orientation and gender identity. Consistently, human rights treaty bodies have affirmed that sexual orientation and gender identity, including gender expression, are prohibited grounds for discrimination, just like race, sex or religion... Research has demonstrated that migrants who are members of the lesbian, bisexual, transgender and intersex community often experience discrimination and stigmatization from both their own communities and from mainstream culture, in both their countries of origin and destination and along the migratory route. Those negative experiences may be compounded for transgender persons. (UNHRC 2019, paras 69, 71)

Some regional human rights mechanisms have also progressed in recognizing SOGIESC as grounds for non-discrimination. This is most apparent in the African regions, Americas, and Europe. It is least apparent in Asia and the Pacific, where there is no regional, independent, inter-governmental human rights body with the status of the human rights mechanisms in those other regions. As noted by a regional diverse-SOGIE CSO:

¹⁹ Committee on Economic, Social and Cultural Rights, General Comment No. 20: Non-discrimination in economic, social and cultural rights (art. 2, para. 2, of the International Covenant on Economic, Social and Cultural Rights), 2 July 2009 (E/C.12/GC/20).

LGBTIQ issues have been framed as a destabilizing force which unjustly interferes in national and regional dynamics and constitutes a political assault on the sovereignty of ASEAN member-states, and in the experience of some countries has been used as a scapegoat to rally popular support for conservative political groups. The regional human rights mechanisms, though relatively young in the ASEAN system, have progressed slowly and are constrained by provisions that keep them tied to the interests of individual member-states, lest actions are interpreted, in the words of AICHR’s [ASEAN Intergovernmental Commission on Human Rights] mandate, as “external interference, subversion and coercion”. (ASEAN SOGIE Caucus 2017, 19)



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At the national level, research shows great variation in the inclusion of SOGIE in non-discrimination and enabling legislation. As a guide to the range of views, some 69 states (as of December 2020) criminalized consensual same-sex sex acts between adults, while others specifically included SOGIE within anti-discrimination legislation. In South-East Asia, some States had enacted laws that protected people with diverse SOGIE and ensured equal treatment. For example, in 2015 Viet Nam lifted the ban on same-sex marriage, allowing many same-sex couples to plan for wedding ceremonies. In Thailand, where same-sex relationships were decriminalized,

... the constitutional prohibition of sex discrimination has been considered to cover SOGIE. The Constitutional Drafting Assembly’s Intentions of the Constitution provides that the differences on the ground of sex in section 30(3) refer not only to the differences between men and women, but also to the differences between individuals of “sexual identity, gender or sexual diversity that is inconsistent with their birth”. It states that these differences are not specifically prescribed because the term “sex” is already inclusive of them, and, thus, there shall be no discrimination against these individuals (ILO 2019, 24).

As discussed in chapter two, the 2017 Thailand Constitution was not accompanied by that “Intentions” document, although its existence in the recent past remained significant. In the Philippines, lawmakers at the municipality level had enacted laws that protected people with diverse SOGIE. Nationally, a SOGIE Equality Bill that would explicitly protect people with diverse SOGIE had passed the House of Representatives, but, as of the time of this writing, it was pending clearance from the Senate (see chapter two, above) before it could be signed into law.

In relation to non-discrimination and the protection of rights at work, the reports of the UN SOGI Independent Expert have highlighted major gaps in workplace protections, stating the following:

Discrimination and abuse based on sexual orientation, gender identity and gender expression takes place in all regions, in all stages of the employment cycle (hiring, advancement, training, compensation and termination), and in the implementation of benefits throughout (CCPR/C/89/D/1361/2005, paras 7.2–7.3). LGBT workers widely reported being unfairly denied training and job advancement opportunities, as well as promotions... In the absence of such laws, employers may be able to fire or refuse to hire or promote people simply because they are perceived to be LGBT or gender diverse (see A/HRC/19/41). (UNGA 2019, paras 11–12)

The Committee on the Protection of the Rights of All Migrant Workers and Their Families (CMW) had not yet issued clear guidance on the incorporation of SOGIESC in non-discrimination obligations of States in relation to migrant workers. However, in the Joint General Comment No. 3 issued together with the Committee on the Rights of the Child (CRC), the CMW recognized that the principle of non-discrimination applied to all children in the context of migration (migrant children or children of migrants) regardless of their gender identity or sexual orientation (CMW and CRC 2017). In the CMW's recent reviews of state reports, the specific vulnerabilities and concerns of LGBTIQ migrant workers had also been raised. For example, the issue of police violence and harassment against LGBT migrant workers was mentioned in the Committee's recent Concluding Observation for Argentina (CMW 2019a). Meanwhile, in their Concluding Observation on Guatemala, the Committee expressed concern over reports of "discriminatory attitudes on the part of some public officials, the mistreatment of women and lesbian, gay, bisexual, transgender and intersex persons" which goes against the non-discrimination principle (CMW 2019b).

These developments are recounted here to highlight the trend toward expanding rights to include people with diverse SOGIE. While activists seeking diverse SOGIE inclusion would often like to see more regular and specific references to SOGIE, the pragmatic path of including SOGIE in the interpretation of Conventions or legislation has provided a path forward. This is significant for the topic of migrant workers with diverse SOGIE, especially in South-East Asia, where there is limited formal recognition of or support for SOGIE rights.

5.1.2 INTERNATIONAL LABOUR STANDARDS

ILO international labour standards apply to all workers, unless they specify otherwise. C.111 applies to all workers, including migrant workers, in all sectors of the economy, and provides explicit protection against discrimination based on sex under article 1(1)(a). In its comments over the years, the Committee of Experts on the Application of Conventions and Recommendations (CEACR)²⁰ has addressed the importance of gender within the application of the ground of sex, and has stated that under C.111 sex discrimination includes distinctions based on biological characteristics, as well as unequal treatment arising from socially constructed roles and responsibilities assigned to a particular sex (gender) (ILC 2012, para. 782).

In addition to the seven grounds explicitly prohibited under article 1(1)(a), C.111 provides for the possibility, when applying the Convention, for additional grounds to be determined by Member States after consultation with representative employers' and workers' organizations, where such exist, and with other appropriate bodies, when applying the Convention (Art.1(1)(b)). Where Member States, after consulting workers' and employers' organizations, have determined that certain SOGIESC aspects will be included in their national legislative frameworks on equality and non-discrimination, the CEACR can then monitor the application of these measures in

²⁰ The CEACR's opinions and recommendations are non-binding, being intended only to guide the actions of national authorities. They derive their persuasive force from the legitimacy and rationality of the Committee's work based on its impartiality, experience and expertise. The Committee's technical role and moral authority is well recognized, particularly as it has been engaged in its supervisory task for more than 90 years, by virtue of its composition, independence and working methods built on continuing dialogue with governments taking into account information provided by employers' and workers' organizations. This has been reflected in the incorporation of the Committee's opinions and recommendations in national legislation, international instruments and court decisions (CEACR 2022, para. 23).

relation to SOGIESC discrimination, in the context of C.111.

By 2012, the CEACR noted a clear trend in national legislation and policies towards the inclusion of a broad range of prohibited grounds of discrimination, including sexual orientation and gender identity first under Article 1(1)(b) and more recently discrimination based on sexual orientation and gender identity was addressed under Article 1(1)(a) in a few number of countries.²¹ CEACR comments reflect a number of different SOGIESC grounds contained in national legislation or policy, among them gender reassignment, gender expression and sex characteristics.²²

In relation to the application of C.111 to migrant workers, the CEACR has noted

...Convention No. 111 applies to all workers, nationals and non-nationals, in the countries which have ratified it, and the Committee has noted that migrant workers in an irregular situation should enjoy protection against discrimination with respect to the grounds set out in that Convention. Xenophobia against non-nationals, and in particular, migrants, constitutes one of the main sources of contemporary racism, and the Committee has emphasized the importance of specific steps being taken against social and cultural stereotypes that contribute to discrimination against migrants (CEACR 2016, paragraph 290)

While C.111 does not refer explicitly to violence and harassment, over the years the CEACR has expressed the view that sexual harassment, as a serious manifestation of sex discrimination and a violation of human rights, was to be addressed within the context of the Convention (ILC 2012, paras 789–794). It formulated extensive comments on both quid pro quo and hostile work environment types of sexual harassment and specified, in a General Observation, the following:

... definitions contain the following key elements: (1) (quid pro quo): any physical, verbal or non-verbal conduct of a sexual nature and other conduct based on sex affecting the dignity of women and men, which is unwelcome, unreasonable, and offensive to the recipient; and a person's rejection of, or submission to, such conduct is used explicitly or implicitly as a basis for a decision which affects that person's job; or (2) (hostile work environment): conduct that creates an intimidating, hostile or humiliating working environment for the recipient (CEACR 2002).

Furthermore, in a recently adopted General Observation on discrimination based on race, colour and national extraction, the CEACR had the opportunity to address racial harassment (CEACR 2019).

C.190 and its accompanying R.206 create a framework to prevent, remedy and eliminate violence and harassment in the world of work. C.190 provides the first international definition of “violence and harassment” in the world of work (art. 1(1)(a)), which refers to “a range of unacceptable behaviours and practices, or threats thereof, whether a single occurrence or repeated, that aim at, result in, or are likely to result in physical, psychological, sexual or economic harm, and includes gender-based violence and harassment”. “Gender-based violence and harassment” is further defined as “violence and harassment directed at persons because of their sex or gender, or affecting persons of a particular sex or gender disproportionately, and includes sexual harassment” (art. 1(1)(b)). Moreover, the Convention includes the specific recognition of the right of everyone to a world of work free from violence and harassment, and sets out the obligation to respect, promote and realize this right (art. 4(1)). While C.190 does not explicitly mention people with diverse SOGIE, it recognizes that promoting equality at work and tackling intersecting and multiple discrimination

²¹ The comments can be found in [NORMLEX](#).

²² The Report of the CEACR “[Application of International Labour Standards 2022. Report of the Committee of Experts on the Application of Conventions and Recommendations](#)”. International Labour Conference 110th Session 2022 contains details on the Committee's comments to States on international labour standards, including C111 in 2021.



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are key elements of any approach to preventing and ending violence and harassment. Article 6 of C.190 provides that “[e]ach Member shall adopt laws, regulations and policies ensuring the right to equality and non-discrimination in employment and occupation, including for women workers, as well as for workers and other persons belonging to one or more vulnerable groups or groups in situations of vulnerability that are disproportionately affected by violence and harassment in the world of work”.²³

Furthermore, R.206 specifically invites Member States “to take legislative or other measures to protect migrant workers, particularly women migrant workers, regardless of migrant status”, from violence and harassment in the world of work (para. 10) and “to ensure that measures to prevent violence and harassment do not result in the restriction of the participation in specific jobs, sectors or occupations, or their exclusion therefrom, of women and the groups referred to in Article 6 of the Convention” (para. 12).

ILO research indicates that “personal characteristics, such as race or ethnicity, disability, sexual orientation and gender identity, HIV/AIDS status or family responsibilities may make individuals or groups more exposed to the risk of violence and harassment (ILO 2021). It also notes legal developments that

have increased protection for people with diverse SOGIESC in Brazil, Canada, Japan and the United States since 2017.

Other relevant ILO Conventions and Recommendations that include sex as a ground for non-discrimination, that include “all migrant workers”, or that mention aspects of SOGIE include the following:

- The Migration for Employment Convention (Revised), 1949 (No. 97), hereafter C.097. Article 6 provides for no less favourable treatment for migrant workers than for national citizens regarding pay and working conditions, union membership, accommodation, social protection, taxation, and legal remedies. It includes “sex” among the grounds for non-discrimination: “Each Member for which this Convention is in force undertakes to apply, without discrimination in respect of nationality, race, religion or sex, to immigrants lawfully within its territory, treatment no less favourable than that which it applies to its own nationals in respect of the following matters” (art. 6(1)). The Convention requires ratifying States to facilitate international migration for employment by establishing and maintaining a free assistance and information service for migrant workers and taking measures against misleading propaganda relating to emigration and immigration. It includes provisions on appropriate medical services for migrant workers and the transfer of earnings and savings.
- The Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143), hereafter C.143, addresses a wide range of issues impacting migrant workers and their families, and obliges States to prevent and remedy abusive conditions and to enable equality of opportunity and treatment.²⁴ C.143 does not provide a list of grounds for non-discrimination, but it establishes the general obligation to respect the fundamental

²³ According to paragraph 13 of R. 206, “[t]he reference to vulnerable groups and groups in situations of vulnerability in Article 6 of the Convention should be interpreted in accordance with applicable international labour standards and international instruments on human rights”.

²⁴ C.143 also extends the scope of equality of treatment between legally resident migrant workers and national workers beyond the provisions of C.097 to ensure equality of opportunity and treatment in respect of employment and occupation, social security, trade union and cultural rights, and individual and collective freedoms for persons who, as migrant workers or members of their families, are lawfully within the territory of a ratifying State. It also requires ratifying States to facilitate the reunification of the families of migrant workers legally residing in their territory.

rights of all migrant workers. According to article 1, each Member “... undertakes to respect the basic human rights of all migrant workers.” The accompanying Migrant Workers Recommendation, 1975 (No. 151), hereafter R.151, provides extensive further detail on equality of opportunity and treatment and social services provisions.

- With regard to sexual orientation and labour rights: the Private Employment Agencies Recommendation, 1997 (No. 188), hereafter R.188; the HIV and AIDS Recommendation, 2010 (No. 200), hereafter R.200; and the Employment and Decent Work for Peace and Resilience Recommendation, 2017 (No. 205), hereafter R.205, make references to sexual orientation as a basis of protection from discrimination. R.200 specifically mentions “migrant workers” as a group that should be protected from HIV-related discrimination. R.205, para. 7(f) provides that Member States should take into account “the need to combat discrimination, prejudice and hatred on the basis of race, colour, sex, religion, political opinion, national extraction, social origin, disability, age or sexual orientation or any other grounds”.

The CEACR has maintained its views that

...the [migrant workers] instruments retain their relevance, for all migrant workers, irrespective of gender, origin, skill and status. Migrant workers continue to require specific protection to ensure that their rights are respected; the need to address irregular migration is increasing in importance; and the potential for international cooperation between countries of origin, transit and destination has been stated numerous times by governments and social partners. Moreover, the need for cooperation between governments and social partners, as set out in the instruments, is key to good governance of labour migration as a whole (CEACR 2016, paragraph 654)

5.2 THE MIGRATION-DEVELOPMENT NEXUS

The 2013 Declaration of the High-level Dialogue on International Migration and Development was a key milestone in situating migration within global approaches to sustainable development, recognizing, as it does,

... the important contribution made by migrants and migration to development in countries of origin, transit and destination, as well as the complex interrelationship between migration and development.

UNGA 2013

The Declaration also commits to “promote and protect effectively the human rights and fundamental freedoms of all migrants”, with due regard to social, economic, and environmental concerns. The Declaration lists some “vulnerable” groups, including women and girls, young people and people who experience racism as migrants, but does not present an exhaustive list.

The next step in the realization of a migration-development nexus was the inclusion of migration, and labour migration specifically, within provisions of the Sustainable Development Goals (SDGs). The SDGs make no specific mention of diversity of SOGIE in the wording of any of the goals, targets and indicators, but have stressed inclusivity and the principle of leave no one behind (LNOB):

LNOB compels us to focus on discrimination and inequalities (often multiple and intersecting) that undermine the agency of people as holders of rights. Many of the barriers people face in accessing services, resources and equal opportunities are not simply accidents of fate or a lack of availability of resources, but rather the result of discriminatory laws, policies and social practices that leave particular groups of people further and further behind.

UNSDG n.d.

Since the SDGs have to be operationalized and implemented at the country level, this leaves national advocates to ensure that the inclusive language that refers to “all people” is actualized in practice, and that people with diverse SOGIE are included in local actions. Thus far, SDG-driven data collection and reporting provides little or no tangible evidence regarding the development situation of people with diverse SOGIE.

Three of the SDGs are relevant for this report and for migrant worker stakeholders:

SDG 5.2: Eliminate all forms of violence, including trafficking, against women and girls in the public and private spheres.

“Women and girls” includes lesbian, bisexual, transgender, queer and other women and girls, including those who may use other terms for their identity. All women and girls should be able to live their lives free from violence. Yet, as the accounts shared in earlier chapters report, many examples of violence, among them the following: frequent experiences of live-in domestic workers assaulted by employers; migrant workers harassed in employer-provided housing; and workers harassed while performing their work and when in the community. Forced labour and trafficking in persons data rarely include LGBTIQ+ people, but as a marginalized group with limited access to justice, they are subject to significant risk of trafficking.

The interviews with migrant worker-focused organizations showed that these organizations had

little engagement with migrant workers with diverse SOGIE, and lacked the capacity or resources to support them. It is not possible to provide survivor-centred care for people with diverse SOGIE if the latter do not trust service providers, and if those service providers have limited awareness of issues faced by people with diverse SOGIE and little or no training in working with people with diverse SOGIE.

SDG 8.8: Protect labour rights, and promote safe and secure working environments for all workers, including migrant workers, in particular women migrants.

Many respondents reported that their working environments were unsafe and insecure, and that they experienced violence and harassment from employers, other employees, fellow migrant workers, and customers. Often they felt they had little access to remedies through official channels, relying instead on support from other people with diverse SOGIE, or adopting the strategy of merely trying to stay calm and quiet. While it is understandable that these workers might choose to stay quiet for fear of secondary discrimination and loss of work, this hardly represents a “choice”. So, while some migrant workers had positive experiences in their workplaces, for those that did not, labour rights protection was missing.

SDG 10.7: Facilitate orderly, safe, regular and responsible migration and mobility of people, including through implementation of planned and well-managed migration policies.

Interviews with migrant worker-focused organizations revealed that most of these organizations had neither the training nor the resources to provide safe and relevant support for migrant workers with diverse SOGIE. In turn, the migrant worker respondents noted a lack of access to information they needed to make informed choices regarding countries of destination and to prepare themselves for life in those countries. Some reported that they were harassed by border officials.

These data suggest that migrant workers with diverse SOGIE may not often did not experience orderly, safe or regular labour migration. The marginalization that the research participants experienced in their

countries of origin could create a pressure to migrate as the only option available to them, while simultaneously limiting the range of work they could access and the channels through which they could move.

Better integration of people with diverse SOGIESC into planned and well-managed migration policies could enhance both social cohesion and economic outcomes.

Global Compact for Safe, Orderly and Regular Migration

The Global Compact for Safe, Orderly and Regular Migration (OHCHR 2018b) acknowledges the obligation “to respect, protect and fulfil the human rights of all migrants”, but does not explicitly mention diversity of SOGIESC, nor does the parallel Global Compact on Refugees (UNHRC 2018).

Both compacts adopt a binary conception of gender, likely in order to make the instruments more amenable and likely to achieve broader consensus with states parties which do not recognize other identities on the gender spectrum. Neither of the documents include any consideration of LGBTQI+ people on the move, despite the evidence that many who may migrate to seek safety and freedom from persecution based on their sexual orientation and/or gender identity and expression (UNHCR, 2015). This fails to address the legal obligations of States with respect to protecting the human rights of LGBTQI+ people which include protecting individuals from homophobic and transphobic violence. While the compacts recognize the right to family life, family unity, and family reunification, they do not recognize the various forms of families that exist and who may build their lives transnationally.

Hennebry and Petrozziello 2019

The Global Compact itself provides no clear guidance on the extent to which SOGIESC could be part of the gender-responsive approach to policy and

programmes frequently cited in the Compact. However, some guidance is emerging on how migrant workers with diverse SOGIESC need to be included in gender-responsive migration governance. For example, *Policies and Practice: A Guide to Gender-Responsive Implementation of the GCM* (UN Women 2021) provides guidance to policymakers on the gender-responsive implementation of the GCM, which recognizes and addresses “the different experiences, needs and vulnerabilities faced by women, men, girls, boys and gender non-conforming migrants at all stages of migration while upholding their human rights, promoting their empowerment and advancing gender equality”. The guide, which provides a checklist of actions for each GCM objective to support the development of gender-responsive migration policies, specifically notes the need to ensure the inclusion of LGBTQI+ people in policy-framing and implementation. The IOM’s *Gender and Migration Data: A Guide for Evidence-based, Gender-responsive Migration* also makes the case for sex and gender-disaggregated migrant data collection (Hennebry et al. 2021).

Gender is often perceived in terms of binaries and, even then, there are gaps in protections for the rights, concerns, and needs of women migrant workers throughout the migration cycle. Safe and fair migration includes the right to decent work; safe working environments; and equal access to opportunity and information for all migrant workers. Given those requirements, policymakers and practitioners need to reflect on how a framework for including SOGIE diversity can be effectively identified or asserted in the migration-human development nexus.



CHAPTER 6: ANALYSIS AND FINDINGS

6.1 SYNTHESIS OF PREVIOUS RESEARCH AND ANALYSIS

Overall, the literature review found a paucity of policy- and practice-oriented research that focuses on the experiences of low-wage migrant workers with diverse SOGIE or, within broader research on low-wage labour migration, that addresses issues relevant for people with diverse SOGIE issues.

Most research on diverse SOGIE and employment, including the extensive work of the ILO Promoting Rights, Diversity and Equality in the World of Work (PRIDE) initiative, gathers data from all wage levels. Neither of the ILO PRIDE country reports for South-East Asia (Indonesia and Thailand) addresses issues for migrant workers in any specific detail. However, both of these reports and the ILO PRIDE global reports are essential background reading for understanding the pervasive discrimination that acts as a push factor for migrant workers with diverse SOGIE.

In exploring the world of work experiences of Thai people with diverse SOGIE, the Thailand ILO PRIDE report also provides insights on the world of work that migrant workers with diverse SOGIE, whose country of destination is Thailand, will experience (see also chapter three, above). Also of general relevance is the growing literature proposing a correlation between higher levels of diverse-SOGIESC inclusion and national economic growth (Badgett et al. 2017; Badgett 2020). This research provides positive incentives for countries of both origin and destination to address discrimination faced by people with diverse SOGIE in the world of work.

Significant global advocacy activity is also apparent at the intersection of business and human rights, including rights of people with diverse SOGIE. The joint UNDP/ILO report *LGBTI People and Employment: Discrimination Based on Sexual Orientation, Gender Identity and Expression, and Sex Characteristics in China, the Philippines and Thailand* notes that “[t]he few workplaces in Asia that have LGBTI-inclusive policies see positive impacts. The higher number of protective policies correlates with less experience of

workplace discrimination in all three countries and higher levels of reported job satisfaction by LGBTI people” (UNDP and ILO 2018, 10). Such initiatives are often restricted, for now, to workplaces of international businesses. For example, 2018 research by the Philippine LGBT Chamber of Commerce, for the Corporate SOGIE Diversity and Inclusiveness (CSDI) Index, noted that only foreign companies in the Philippines had established measures to address diverse SOGI inclusion (Asia Society n.d.).

Research on low-wage migrant workers

The Institute of Development Studies (IDS) Sexuality, Poverty and Law Programme produced some of the limited research that specifically addresses low-wage migrant workers with diverse SOGIE. Across 15 countries, IDS researchers found that “the effects of social, economic and political marginalization can “force people to move either within their country or overseas. People can also choose to migrate for strategic reasons to counteract existing marginalization, moving to more accepting locations where they can economically contribute to families remotely and express their identities freely” (Wood 2016, 1).

IDS also carried out a study of the Philippines. Similar to the migrant workers’ experiences described in chapter two (above), the IDS report includes a story of a trans woman who was harassed at airport Immigration because their identification documents still listed her as a man, and respondents who

“... used to work as teachers in the Philippines but opted to work as domestic workers in Hong Kong. One left the country because of school-based discrimination and the other because her family refused to support her decision to pursue what could have been a prestigious military career, a profession traditionally considered masculine in the Philippines, and instead encouraged her to seek greener pastures in Hong Kong.

GALANG and IDS 2015,16

Co-authored with the Philippines diverse-SOGIE CSO GALANG,²⁵ the report highlights heteronormativity within the Migrant Workers and Overseas Filipinos Act of 1995,²⁶ the legal framework for overseas foreign workers (OFWs) as a source of indirect discrimination:

The gender-neutral legal definition of the term “migrant worker” downplays the fact that OFWs from certain segments of society do not have equal access or opportunity to work as migrant workers, by virtue of their economic or political position. It maintains and reinforces the general notion of work, or “productive work” which is often seen as a male domain. While all migrant workers are subject to precarious conditions and rendered vulnerable, women migrant workers face further discrimination and exploitation on the basis of their sex, and some women are further persecuted for their non-traditional SOGIE. As the law on migrant workers lacks a view on sexuality and gender, there may be a constricted or narrow interpretation of labour and social laws, multilateral conventions, declarations and bilateral agreements pertaining to the rights of migrant workers.

GALANG and IDS 2015, 10–11

Despite the many challenges, this IDS/GALANG report also highlights the positive outcomes that can emerge from partnerships between diverse-SOGIE CSOs and labour sector organizations. Through a partnership between GALANG and the government vocational training provider Technical Education and Skills Development Authority (TESDA) Women’s Center, four women with diverse SOGIE took part in an industrial plumbing course, two of whom quickly became migrant workers in Dubai due to “demand for female utility workers in the Middle East ... because of strict cultural norms about maintaining female-only spaces”. However, the report suggested that, despite this positive example of the commitment made by

the TESDA Women’s Center to select trainees solely on competency grounds, trans men, and lesbian and bisexual women with masculine gender expression, were unlikely to gain employment because of the strict policing of gender norms in industries such as hospitality. This point was extended in *Making It Work: Lesbian, Bisexual and Transgender Women’s Economic Empowerment in the Philippines*. This report includes recommendations on safe pathways to relevant work:

Improve the rights of migrant LBT women workers by ensuring safe and legal migration pathways leading to quality employment opportunities for migrant workers, including through strengthened collaboration between DOLE, the Philippine Overseas Employment Administration, civil society (including LBT and migrant workers’ groups), recruiters, employers and host country governments, among others.

Sarwar 2020, 72

And it recommends supporting closer working relationships between diverse-SOGIE CSOs with labour rights and migrant labour stakeholders:

Develop strategic alliances between diverse movement actors with a role in furthering LBT women’s economic empowerment, including LGBT organizations and movement actors, trade unions and other worker groups (including those for informal and self-employed workers), women’s rights organizations and migrant rights groups, to share expertise and learning, as well as to identify common priority areas for joint initiatives, including advocacy at all levels (including towards national government, regional development councils, and local government) and capacity-building.

Sarwar 2020, 73

²⁵ Within diversity of SOGIE, GALANG focuses on lesbian and bisexual women and trans men. For more information see <http://www.galangphilippines.org>. (*Galang* is a Tagalog word meaning “respect”).

²⁶ Migrant Workers and Overseas Filipinos Act of 1995 (Republic Act No. 8042), as Amended by Republic Act No. 10022.

This call for alliances recalls interviews with Filipino organizations in chapter four, which resonate with the following reflection on how migrant workers with diverse SOGIE so easily fall through the gaps between migrant worker organizations that have little or no structured engagement with people with diverse SOGIE and diverse-SOGIE organizations that have little or no structured engagement with migrant workers:

The question is how we can do this given that there is no specific organization for migrant workers who are also members of the [diverse SOGIESC] community, and how we can focus on these issues given the many things we are also involved in... If [LGBTQ organizations] already cannot focus on this group [migrant workers], what more us? Our engagement [with migrant workers of diverse SOGIESC] is more on the individual level: we know of union leaders who are LGBTQ members, LGBTQ migrant workers, but we have no engagement with anyone on the organizational level.

Overall, the project literature review found limited evidence of labour rights violations experienced by migrant workers with diverse SOGIE being addressed by the migrant worker rights' movement. One exception, despite the doubt expressed in the previous quotation, was again connected to the Philippines, which one key informant suggested was not a coincidence. Arguably, queer migrant discourse instead tends to be

... dominated by the Filipinos ... Queers from other countries don't tend to reach out. A lot of the time I listen to migrant workers from the Philippines, and their narrative of rights is very different. That sensitivity needs to happen. The others tend to be a lot quieter.

Several ethnographic studies have explored community support and leisure groups formed by lesbian and bisexual women and trans men who

are migrant domestic workers from Indonesia and the Philippines working in Hong Kong (Sim 2010; Lai 2018, 2020, 2021). The key organizations that have taken this approach – the Filipino Lesbian Organization (FILO), and Filguys Gabriela-HK (both affiliated with Gabriela-National Alliance of Filipino Women in South East Asia) – were established with the vision of eliminating discrimination on the basis of SOGIE and of protecting the rights of Filipino migrant workers. These groups have played a role in Hong Kong (China)-based activism to promote the rights of the broader community of people with diverse SOGIE; taken part in the LGBT Migrants Pride Parade; provided shelter services for migrant workers with diverse SOGIE in distress; and been active in broader advocacy for migrant worker rights, thus creating a broad alliance between the domestic activities of these two movements (Lai 2018, 2020, 2021). The groups created inclusive slogans such as “Rise with Pride, Rise for Justice” and “Pride of Integrity and Humanity” that strategically refer to both the rights of migrant workers and the rights of persons with diverse SOGIESC (Lai 2018).

Lai also explores the associated bi-directional flow of ideas between activists and organizers in the Philippines to Hong Kong. The Hong Kong circumstances, including the history of migrant worker activism there, is not necessarily replicated in other contexts. In some countries where diversity of SOGIE is not accepted, furthermore, it would be especially difficult for migrant workers with diverse SOGIE to organize. Even in the Hong Kong context, Lai (2020, 2021) noted that the presence of many Indonesian migrant workers with diverse SOGIE had not led to the same level of organizing or engagement with the broader migrant labour movement. However, as a case study, Hong Kong provides a strong basis for migrant labour and labour rights stakeholders to support and fund engagement between migrant labour and diverse SOGIE organizations. Inspiration could be taken from the 2018 Asia Pacific Pride in the Humanitarian System consultation, held in Bangkok. This event, co-organized by six diverse-SOGIE and humanitarian organizations,²⁷ involved four days of training, learning and strategizing between diverse-SOGIE CSO activists, staff of humanitarian and

²⁷ The 2018 Asia Pacific Pride in the Humanitarian System consultation was co-organized by APCOM, Asia Pacific Transgender Network (APTAN), ASEAN SOGIE Caucus, Edge Effect, International Planned Parenthood Federation (IPPF) and UN Women.

disaster risk reduction organizations, and donors (Devakula et al. 2018).

The structural challenges addressed by the Pride in the Humanitarian System consultation were not dissimilar to the challenges identified in this report. People with diverse SOGIE had specific needs in disaster and conflict situations that were partly attributable to systemic discrimination across their life-courses. These needs, however, were rarely reflected in humanitarian needs assessments. This is due to a number of factors: humanitarian organizations generally do not provide training or adapt tools that were inclusive of people with diverse SOGIE; global frameworks in the humanitarian sector are not specifically inclusive of people with diverse SOGIE; there remains a lack of partnerships between humanitarian organizations and diverse-SOGIE organizations; and there is insufficient impetus and funding from donors to drive change.

Two years later, *The Only Way Is Up*, the follow-up report to Pride in the Humanitarian System, highlighted both the ongoing challenges and initiatives that were started by the consultation (Dwyer 2021). In the light of these activities, effective diverse SOGIE inclusion in labour migration can be informed by acknowledging: the significant value of bringing together actors who might otherwise rarely cross paths; the need to provide financial and technical support for diverse SOGIE CSOs to engage in thematic issues; and the need, if structural reform is to be achieved, for purpose and resilience among development-sector organizations and governments.

Forced migration in humanitarian contexts is one of the few areas of consistent and deepening inclusion of people with diverse SOGIE. A recent literature review observed that the “[h]ealth and safety of LGBTQI+ migrants or migrants who are of diverse sexual orientation, gender identity or expression (SOGIE) remains an under-studied area, particularly for the period during transit from their place of origin to destination” (Yarwood et al. 2022, 1). Reviewing 20 studies from 2020–21 alone, the authors found five common themes associated with SOGIE health and well-being: (a) daily exposure to discrimination, violence and harassment; (d) coping, social support and resilience; (c) access to services; (d) mental

health; and (e) physical and sexual health” (Yarwood et al. 2022, 1).

UN agencies, including the United Nations Refugee Agency (UNHCR) and the International Organization for Migration (IOM), have undertaken research, developed training and coordinated with INGOs and community-based CSOs. Continuing the theme of cross-organizational dialogue, the UNHCR and OHCHR organized a multi-week virtual Global Roundtable on Protection and Solutions for LGBTQI+ People in Forced Displacement (UNHCR 2021). A review of the discussions and recommendations of the Global Roundtable indicates a long journey before support for refugees and asylum seekers becomes genuinely diverse-SOGIE inclusive. While global frameworks for addressing forced migration are not the same as those for addressing labour migration, there is some crossover in experiences of people with diverse SOGIE who are migrating for varying reasons and in varying contexts, as well as crossover in terms of the challenges facing stakeholders.

For example, the IOM’s *Gender and Migration Data: A Guide for Evidence-Based, Gender-Responsive Migration Governance* notes the following:

While there is much research on migration, return and reintegration focusing on women, there is little on the experiences of LGBTQI+ people (Hennebry et al. 2021, 5) and “migration data on lesbian, gay, bisexual, transgender/gender-diverse, intersex and queer (LGBTQI+) people are rarely disaggregated based on their specific needs and challenges”.

Hennebry et al. 2021, 16

Some academically-focused literature is of relevance to policy and practice. For example Carrillo and Fontdevila explored the experiences of Mexican immigrants (rather than migrant workers) with diverse SOGIE living in a middle-class neighbourhood of San Diego, in the United States of America. While San Diego’s community of people with diverse SOGIE were provided opportunities for self-actualization and exploration of gender and sexuality that some immigrants did not have in Mexico, the authors urged

policymakers to “avoid viewing LGBT immigrants from countries such as Mexico as a monolithic group, in terms of either their sexualities pre-migration or the changes that they experience after migrating” (Carrillo and Fontdevila 2014, 933). Rather than migration to the United States of America being understood as a simplistic process of liberation, they suggested a more complex interaction existed between the range of potential gender and sexual identities in Mexico and in countries such as the United States of America, where identity formation continued to play out in different ways. Ahmad exploring the experiences of Pakistani labour migrants in European countries, lamented that (2009, 309):

... discourse on international labour migration [has] tended to reflect a series of reductive assumptions about the motivations, experiences and practices of workers who cross borders from the global South as asexual accumulators of capital, driven by little other than a narrowly defined, “rational” commitment to the material betterment of themselves and their kin.

Ahmad (2009, 310) emphasized that migrant labourers are:

... only rarely discussed as complex social beings, willing and able to experience the full range of human emotions the rest of us take for granted. Love, sexual desire and romantic sentiments, in particular, remain largely taboo.

This recalls stories recounted in chapter two (above), in which migrant workers with diverse SOGIE sometimes struggled to balance their desire to be whole people with their fears of discovery – their identity being the “beautiful but heavy jacket” of the report title. It also recalls motivations that include self-actualization and the joy in statements such as that of a trans woman from Myanmar working in Thailand:

In the past, I had to sneak at putting some makeup on, but did not dress up in women’s clothes. However, when I lived a in border area, I expressed myself more. Then I moved to Chiang Mai, where I can fully express myself.

Other analysts of the development sector have observed that sexuality, rarely part of development discourse, was overtly included only in the context of danger (for example, sexual abuse or sexual health problems), or else was simply considered irrelevant:

Others see “sexuality” as about sex, and see sex as something private, embarrassing, outside the scope of development intervention. Other still see “sexuality” as being about something that’s positively frivolous, when compared to urgent problems such as hunger or climate change. Few recognize the connections that exist between sexuality and all of development’s sectors, or the extent to which sexuality, like gender, affects much more of our lives than our sex lives.

If sexuality in general is not or cannot be discussed, it is unsurprising that diverse forms of sexuality have not figured positively in research, policy and practice. Taking this synthesis of existing research and analysis full circle, some observers proposed that something more has been more going on beneath the surface:

Sexuality may be missing from development institutions’ policies, but it is far from absent in development practice. As many contributors to this special issue suggest, heteronormativity lies at the heart of the mismatch between the way the development industry operates and the professed concern of many of the organizations that are part of the industry with poverty reduction and human rights.

Cornwall et al. [eds] 2011, 1–18

Key themes of this study include addressing heteronormativity, as well as cisnormativity and

gender binarism, the underpinnings for both direct and indirect discrimination experienced by migrant workers with diverse SOGIE (see chapter one, above). The need to work with migrant workers as whole people, and as agents rather than victims, is essential whether they are also people with diverse SOGIE or not. Economic motivations were clearly reported by migrant workers with diverse SOGIE in the data collected for this report, and for that reason the analysis and findings in this chapter start – but do not finish – there.

6.2 FINDINGS: WHAT'S DIFFERENT OR NOTABLE FOR MIGRANT WORKERS WITH DIVERSE SOGIE?

Economic motivations and benefits of labour migration for people with diverse SOGIE

A triple win. The success of labour migration is said to involve a triple win, in which migrant workers gain opportunities and income they would not necessarily have in their country of origin; countries of destination gain the value of labour provided by motivated migrant workers; and countries of origin benefit through remittances from migrant workers and from the enhanced skills and opportunities that migrant workers may also bring home. The evidence from chapters two and three suggests that labour migration involving people with diverse SOGIE has been beneficial:

- Migrant workers with diverse SOGIE recounted stories in which their desire for economic advancement was overwhelmingly their top priority. Of the research respondents, 72 per cent reported economic motivations for entering migrant work. And in choosing countries of destination, the potential for highest earnings drove that choice more than any other factor.

- People with diverse SOGIE worked alongside other migrant workers in their countries of destination, and were highly motivated to work. They recounted working in a wide range of industries, including hospitality, retail, adult entertainment, manufacturing, construction and agriculture. Overall, there was little correlation between SOGIE identity and work sector. Some trans and gender-diverse people worked in adult entertainment, while others worked in other sectors. In their countries of destination, the majority also reported that their quality of life was higher than in their own countries.
- Most migrant workers with diverse SOGIE told researchers that they were able to earn enough money to live in their country of destination and also save money or remit money to their families. Savings provided opportunities for some to open businesses in their countries of origin or to purchase land for housing. Stories included skills development and work experiences that would enhance employment opportunities upon the workers' return. For some, remittances to families contributed to increased acceptance of their SOGIE diversity, although the strength and longevity of this effect was variable.

This suggests that migrant work by people with diverse SOGIE has had significant benefits for migrant workers, for their countries of origin, and for their countries of destination. Alongside their international human rights commitments towards the protection and promotion of the rights of all people, States and other stakeholders such as employers', and workers' organizations, and civil society in both countries of origin and destination need to pay more attention to this group of migrant workers and to amplify the outcomes. They should ensure that workers' paths into migrant work are well supported; their time as migrant workers is positive and productive; and their return and reintegration translates into sustainably productive and dignified lives.

→ **Finding 1.** Labour migration can have significant long-term economic benefits for people with diverse SOGIE

Economic advancement is the key motivation for many people, including those with diverse SOGIE, to enter migrant work. For those who have a choice of destination country, perceived highest potential for earning is also a key factor in making that choice. Most of the research participants had had a positive economic experience, earning enough to live and either save or send remittances. Migrant workers with diverse SOGIE also reported skills development and work experiences that could enhance future employment opportunities in their countries of origin. Upon return, savings provided opportunities for some of these workers to open businesses in countries of origin and to purchase land for housing.

→ **Finding 2.** The economic benefits of labour migration can improve personal well-being and family acceptance of people with diverse SOGIE.

By demonstrating capacity to earn, save and contribute economically to families, migrant workers with diverse SOGIE sometimes both improved their sense of self-worth and gained greater acceptance from their families. Remittances contributed to family economic well-being. However, that increased acceptance effect can wear off quickly once remittances stop, and if other income is not forthcoming.

Labour migration as a choice rather than a necessity

Diverse SOGIE-specific complexities. While the economic benefits are real, excessive focus on that aspect of migrant work may obscure the complexity that discrimination, violence and harassment can bring to the stories of migrant workers with diverse SOGIE. While many migrant workers pursue economic motivations, and while many low-wage migrant workers have limited earning opportunities in their country of origin, the systemic discrimination experienced by people with diverse SOGIE has unique dimensions that require specific attention from both government and non-governmental organizations.

Factors underlying migrant workers' economic motivations.

Pervasive discrimination and consequent economic and social precarity provide the underlying context for economic motivations among migrant workers with diverse SOGIE. This includes discrimination within families. In some cases, this leads people with diverse SOGIE to distance themselves from their families and to fend for themselves without the benefits of family support mechanisms. In other cases, it motivates them to prove to their families that people with diverse SOGIE can be successful, rather than the inevitable failure and burden they are often stereotypically made out to be.

Discrimination at school was another common feature of the stories, potentially limiting opportunities for successful livelihoods later in life. Discrimination when applying for work, lack of promotional opportunities, and poor treatment in workplaces all featured within stories told by these workers.

Such specific locations for discrimination sit within a broader societal context, including lack of access to dignified and relevant healthcare, access to justice, and participation in daily life.

Second-most prevalent motivation to migrate.

Here there is an intersection with the second-most prevalent motivation for people with diverse SOGIE to enter migrant work: the opportunity to live with greater freedom and dignity. In this respect there is continuity between the stories recounted by the migrant workers who took part in this research, and the challenges outlined in the country briefs for Cambodia, the Philippines and Viet Nam. While there have been positive developments, there remains a very long way to go in each of these countries before people with diverse SOGIE are protected by law and have equal access to protections and opportunities. This does not represent an attempt to create a hierarchy of oppression, with people with diverse SOGIE necessarily more deserving of focus than other marginalized groups. Indeed, many people with diverse SOGIE are also part of other marginalized groups. For example, lesbians, toms, trans and other women with diverse SOGIE also experience discrimination as women. It is rather an attempt to bring visibility to diverse SOGIE, which

often goes unrecognized or unaddressed within many development programmes.

→ **Finding 3.** The economic and social precarity of people with diverse SOGIE risks establishing labour migration as a necessity for this group, rather than a right.

Pervasive discrimination experienced by people with diverse SOGIE within families, neighbourhoods, schools, workplaces, public service organizations and society-in-general often frustrates efforts of people with diverse SOGIE to live productive and dignified lives in their country of origin. Non-discrimination and equal opportunities in the world of work would reduce the pressure on them to overcome their economic precarity through migrant work. Increased family and societal acceptance of and respect for themselves and their relationships would reduce pressure on people with diverse SOGIE to – however perversely – “buy” that acceptance and respect through migrant work.

6.3 SELF-EXPRESSION AS A MOTIVATION AND BENEFIT

The desire for freedom, to escape discrimination and to live as their true selves was the other significant motivation for people with diverse SOGIE to enter migrant work.

Labour migration creates opportunities for some people with diverse SOGIE to accomplish these ends (among others):

- explore their whole identities;
- escape family and societal pressures to suppress their identities or to enter into heterosexual marriages;
- experience life as a person with diverse SOGIE in countries where their identities are less stigmatized, and where possibilities such as same-sex marriage are legal; and
- gain access to diverse-SOGIE-affirming healthcare.

For some migrant worker respondents with diverse SOGIE, these ambitions were realized. While identity

formation is a more complex and multi-factorial process than simply absorbing foreign cultures, some experiences were genuinely life-changing. For others, experiences in transit and in countries of destination limited these opportunities. Many of the workers who took part in this study experienced discrimination, violence and exclusion from authorities, fellow migrant workers and employers. Some became isolated and hid their identities, limiting opportunities to interact with other people with diverse SOGIE in countries of destination. On return to their countries of origin, some of these workers faced the reality that increased freedoms they experienced abroad might vanish on return, with family or societal pressure to conform to heterosexual, cisgender, and binary norms.

→ **Finding 4.** Self-expression is a common and legitimate motivation for people with diverse SOGIE to enter migrant work, and should also be supported by labour migration stakeholders.

While economic reasons are a vital motivation, not all of the motivations for people with diverse SOGIE to enter migrant work revolve around monetary gains. Having the opportunity to form a coherent and positive sense of self as a human is among our most basic rights, and immersion in other social and cultural contexts can provide powerful supportive factors. Labour migration stakeholders that avoid heteronormative, cisnormative and binary assumptions, and that practise non-discrimination and equal treatment for all migrant workers, can mitigate factors that obstruct this process. However, increased acceptance and respect for people with diverse SOGIE in countries of origin may also reduce pressure to develop this sense of self in foreign countries.

Pre-migration information and support

Few migrant workers with diverse SOGIE who took part in this study accessed services provided by MRCs or felt they had received useful information or support before beginning their journeys. The few who went through pre-departure training either reported that no information was provided on issues relevant for migrant workers with diverse SOGIE, or

else that they were advised they should keep their diversity of SOGIE to themselves.

Interviews with the staff of service providers in countries of origin, while stating that the services they provided were for all migrant workers without exception, revealed the following obstacles: limited awareness of factors that might make services or support in countries of origin less accessible for migrant workers with diverse SOGIE; and limited capacity and referral networks to address their needs.

Legislation and government policy that regulated labour migration tended to use neutral language such as “migrant worker”, but did not mention specific groups (such as migrant workers with diverse SOGIE). This could help create a context in which people with diverse SOGIE would be overlooked by organizations or staff who were unaware of diverse SOGIE-specific issues or ill-equipped to address them.

Information about countries of destination that people with diverse SOGIE sought but often did not find related to (a) information on community attitudes and safety; (b) access to healthcare; and (c) ways of connecting with local diverse SOGIE communities or support organizations. One suggestion from a former migrant worker with diverse SOGIE was to mainstream information for people with diverse SOGIE alongside other information resources, as this would allow people with diverse SOGIE to access information without having to ask or expose their identities. Mainstreaming information within existing information products or training courses might have the added benefit of reducing other migrant workers’ misinformation regarding diversity of SOGIE or their tendencies to stigmatize these people.

Some migrant workers with diverse SOGIE chose countries of destination because of information from family or friends, or because they had contacts and networks in those countries. However, information from within informal networks was not always reliable. Those who did not have even that option often relied upon rumours or media reporting, and might have become more reliant on unlicensed intermediaries and vulnerable to exploitation.

→ **Finding 5.** Migrant workers with diverse SOGIE are poorly served by legislation, policy and practice of labour immigration stakeholders in countries of origin.

Consequences of law, policy and service gaps potentially increase the risk of harm to migrant workers, and diminish their prospects for successful migrant work experiences.

Discrimination, violence and harassment in transit and in countries of destination

The prevalence of discrimination, violence, and harassment in the world of work varied widely depending on SOGIE identities, countries of destination, and occupational sectors.

One third of participants reported discrimination in their workplace, with common perpetrators being other workers, employers or clients. Unsafe and abusive work conditions were reported by fewer than one fifth of migrant workers who took part in interviews and FGDs. Higher levels of workplace violence, harassment and unfair conditions were apparent among the following groups: (a) migrant workers with visible diversity of SOGIE, predominantly trans and lesbians with normatively masculine gender expression, and transgender and gender diverse people; (b) those working in the entertainment sector; (c) those whose work involved isolation, for example providing in-home services or working at sea; and (d) those obliged to share accommodation with other migrant workers. Examples provided by participants included violent and distressing experiences, including rape.

Legal systems and operation of the justice sectors in countries of destination could impose significant negative impact on migrant workers with diverse SOGIE. Challenges varied by country, but could include the following: criminalization of same-sex acts; selective policing of people with diverse SOGIE through laws on impersonation or loitering or pornography; absence of SOGIE in anti-discrimination provisions of constitutions and laws; and the real or perceived threat of secondary discrimination from police, Immigration or other authorities when seeking redress for discrimination or violence.

These factors also created challenges in transit. The interviews and other studies with migrant workers with diverse SOGIE indicated that transgender and gender-diverse people with identification documentation that did not match their gender presentation faced greater risk of discrimination and violence at Immigration checkpoints, as well as more generally in the world of work in countries of destination.

Migrant workers who experienced violence, harassment or discrimination overwhelmingly turned to their friends for support through informal networks (whether in person or via social media), and adopted the strategy of “staying silent and staying calm” rather than seeking support. A smaller number went through channels in their workplaces, but very few sought support from migrant worker service providers or migrant worker-focused CSOs, unions or embassies, or from police or other authorities.

This reluctance to seek support from such channels was conditioned by the following: risks of being “outed” through seeking support or reporting incidents, which might lead to job losses; experiences of inaction and secondary discrimination by law enforcement in countries of origin; and suspicions or experiences of poor treatment by law enforcement in countries of destination. These fears were particularly profound for undocumented migrant workers, who feared that seeking assistance as an undocumented migrant worker with diverse SOGIE might result in detention and deportation.

Lack of connection to MRCs and other service providers in countries of destination, or lack of confidence that those organizations would safely and effectively address issues, also contributed to non-reporting. In some countries, presenting to hospitals might trigger discrimination, and could also lead to testing for HIV that might have severe consequences including detention and deportation.

HIV/AIDS service delivery organizations that worked with migrant workers who undertook sex work or other adult entertainment work in Thailand were an exception that proved the rule. There was evidence (ILO 2017) of much better outcomes where those organizations had invested in community engagement with migrant workers with diverse SOGIE; could engage in languages spoken by migrant

workers; and had developed networks of safe service providers (such as medical providers).

→ **Finding 6.** Migrant workers with diverse SOGIE experience significant levels of discrimination, violence and harassment in countries of destination, but often have few options for seeking assistance and for accessing justice.

Labour migration stakeholders can assist migrant workers with diverse SOGIE by learning more about the discrimination, violence and harassment experienced, and about the reasons migrant workers with diverse SOGIE choose to avoid reporting issues or seeking assistance. These workers emphasized the need for information on safety, services and reporting to be part of pre-departure support. Longer-term investments by service providers in training, community engagement, and building trusted referral networks (for example for psycho-social, health and legal aid support) may encourage migrant workers with diverse SOGIE to seek assistance and to generate safer and more effective outcomes. Long-term trust building between government authorities and migrant workers with diverse SOGIE is also important, alongside training for those authorities and firewalls between police and immigration authorities. Collaboration with diverse-SOGIE CSOs is likely to assist these processes, since the workers are more likely to trust other people with diverse SOGIE to address issues in ways that are safe.

Discrimination perpetrated by other migrant workers

Both migrant workers with diverse SOGIE and service providers in countries of destination noted that some of the most impactful discrimination comes from other migrant workers, who bring with them attitudes and behaviours from their countries of origin. Discrimination, violence or harassment on the basis of SOGIE perpetrated by other migrant workers was foremost in many of the workers’ stories, especially those from Cambodia and Myanmar who were working in Thailand. Discrimination, violence or harassment was also experienced by migrant workers in other country contexts, and also while working at sea.

The impact of this lateral discrimination and harassment between migrant workers of the same ethnic group is profound, as migrant workers with diverse SOGIE (a) may have little choice but to live and work with other migrant workers from their ethnic group; (b) often have limited social networks outside of their ethnic group because of ethnic discrimination in countries of destination; (c) are less likely to use and identify themselves to MRCs and other migrant workers support services where they are among migrant workers from their ethnic group; and (d) are often migrating to escape from discrimination and harassment in their country of origin, only to find it follows them through the actions of other migrant workers. These combine to heighten isolation and reduce options for accessing support or seeking redress.

At the same time, “positive outlier” examples were reported, among these a more inclusive Filipino migrant worker community in Hong Kong.

The prevalence and impact of this discrimination on the part of other migrant workers heightens the need for labour migration stakeholders to develop policy and programmes to address this issue in countries of both origin and destination. The absence of diversity of SOGIE in pre-travel training and information is a missed opportunity for advocacy and education with all migrant workers. Careful inclusion of positively framed information could help reduce associated stigma and potentially build greater solidarity between migrant workers. However, this is also likely to require broader advocacy and education campaigns within other contexts in countries of origin, such as in the media, schools and other public service delivery contexts. Service providers in countries of destination could also address diversity of SOGIE in advocacy and education activities for all migrant workers, making a conscious attempt to build safer spaces for migrant workers with diverse SOGIE to access service, even where they might continue to conceal their identities. Developing materials and strategies in countries of origin and countries of destination is more likely to succeed when working with diverse SOGIE CSOs.

→ **Finding 7. Ostracization by fellow migrant workers has deep impacts on migrant workers with diverse SOGIE.**

Migrant workers are often isolated in their countries of destination. When they are also subject to discrimination, violence and harassment by fellow migrant workers, they may have no one to turn to. Labour migration stakeholders can assist migrant workers with diverse SOGIE by encouraging non-discrimination and equal treatment through the following means: policy; practice; guidance for service providers; briefings for migrant workers; education and support activities; and public communications in countries of origin and destination. Closer engagement between labour migration stakeholders and diverse-SOGIE CSOs in countries of origin and countries of destination would enhance the safety and impact of measures taken by those stakeholders, and could improve referral options.

Strategies of concealment and withdrawal

Concealment. Many people with diverse SOGIE do not share this aspect of their lives, withholding the information from family members, friends, colleagues and the world in general. They have many reasons for taking this approach, which is colloquially known as “being in the closet”. In families, institutions, workplaces or societies where stigma towards people with diverse SOGIE is overt, and aspects of diverse SOGIE lives are even criminalized, being in the closet may be the only way to avoid violence, harassment or deprivation of freedoms. Even where stigma is less overt, people with diverse SOGIE may withhold this information because they are not sure how family, friends, colleagues, service providers and others will react. Sharing is a calculated risk.

“Coming out”. Other people with diverse SOGIE may consider this aspect of themselves private, and not something that they should feel compelled to share. When they decide to share this aspect of themselves with others, it is colloquially known as “coming out” (of the closet). Often people with diverse SOGIE may come out to a small and trusted group, carefully curating who knows and who does not. This may be a first step towards being out to the world in general.

The narrative of coming out is a well-established trope, presented as a form of self-realization and a cause for celebration. However, some people maintain multiple personas for extended periods of their life, sometimes never feeling able to be themselves with their families, friends, colleagues or others. While this may work for some people, for others it involves deep feeling of internalized stigma, isolation, and mental health challenges. These are often complex matters for people with diverse SOGIE, who may also live in cultural contexts where the narrative of coming out does not resonate personally. A person should be able to come out without repercussions, but no one should be forced to come out (“being outed” in colloquial terms) or be judged negatively for making that choice.

Almost half of the respondent migrant workers with diverse SOGIE saw concealment of their SOGIE diversity as a necessary sacrifice in trying to ensure that they could keep their jobs and meet their earning objectives without worrying about violence or harassment in workplaces and accommodation; cross borders without being targeted by authorities; avoid differential treatment when accessing healthcare and other services; or being arrested. Concealment was a more viable tactic for some than for others. This was reflected in stories told by migrant workers with diverse sexual orientation, whose gender expression aligned sufficiently with gender-expression norms for their apparent gender that they were assumed to be heterosexual. Other people with diverse SOGIE were more visible to strangers. This included transgender people part way through gender transitions and gender non-binary people whose gender expression drew attention as it did not fit within established binary norms. Some binary transgender migrant workers were not noticed in everyday life,²⁸ but might be outed as trans by their identification documents, as many countries do not permit gender marker changes, or else require trans people to undertake pathologizing, expensive and impractical processes.²⁹ Concealment

was also a less viable tactic for those with diverse sexual orientations who also had diverse gender expression, such as masculine-presenting trans men and lesbians, or gay men who presented with feminine gender expression.

Withdrawal. While concealment increased safety in some contexts, this often came at a cost, as noted above, of internalized stigma, social isolation, and mental health challenges. Additionally, it created barriers to engagement with non-government service providers, workers’ organizations, government departments and other migrant stakeholders about issues or challenges associated with their SOGIE. When concealment did not sufficiently mitigate risk, or when concealment was not an option, migrant workers with diverse SOGIE often used withdrawal as a tactic. Examples of withdrawal in stories recounted by the respondents included not reporting instances of discrimination, violence or harassment to authorities; avoiding participation in activities or support organized by migrant worker service organizations; or not taking part in social life alongside other migrant workers.

Associated stakeholder challenges. Tactics of concealment and withdrawal can create genuine challenges for researchers trying to build an evidence base; developers of policy and good practice who need an evidence base; and service provider organizations seeking to provide support. It may be tempting for labour migration stakeholders to turn away at this point, noting that they would like to help but cannot as it is too hard or risks doing harm. Researchers also noted some views among some interviewees that almost constituted victim-blaming of migrant workers with diverse SOGIE for being hard to reach.

The experience of one organization in a South-East Asian country of destination demonstrates that the process of engagement may remain ambiguous:

²⁸ A binary transgender person is someone who transitions from a woman to a man, or from a man to a woman. When someone transitions and fits in sufficiently that they go unnoticed, they are sometimes said to “pass”. This term, however, is increasingly considered pejorative, as it implies that the trans person is acting, rather than simply being their true selves. Gender transition, while still commonly used as a term to describe social processes and bodily transformations, is also considered inaccurate and pejorative by some trans people. This is because it implies that, for example, a trans man actually was a woman, whereas that trans person’s perspective may be that they always were a man. For this reason, the phrase “gender confirmation” is more accurate than gender transition, and sometimes preferred, since it describes the process from the point of view of the trans person rather than that of an external observer. As with all SOGIE-related terms, if you are engaging with specific person use the terms used by the individual themselves.

²⁹ For example, requiring a diagnosis by a mental health worker, requiring gender confirmation surgery (which may be unaffordable or unavailable), or requiring court orders.

[Our organization is] largely run by gay men and fag-friendly women and has an ethos that is openly friendly to diverse SOGIESC. One of our foundational principles is that we let the worker surface what they think is important. We might at times signal to the migrant worker who is behaviourally possibly queer. I would try to signal to this person that I myself am gay, and this is a gay friendly space. Even within earshot of our clients, the volunteers might actually crack queer jokes so to let people know we're happy to talk about issues of sexuality. Nobody takes the bait. Nobody pulls me aside to say excuse me, can I ask you about something else? Despite our small attempts at indicating this was a gay-friendly space [some would not open up to us]... two workers who were badly injured stayed with us for nearly one year, a long period of medical recovery. In the course of this year they got to know everyone in the organization. When they recovered the two of them sent thank-you notes to the volunteers. We'd long noticed that these two were possibly gay, but they never surfaced the issue. They only wrote thank-you notes to the gay volunteers. but the issue never came up verbally.

In this example, the two people did not come out, and so the organization was limited in terms of the diverse SOGIE-specific support it could provide. The motivations for their decision not to come out remained unclear. It was possible they did not feel the need to, or that, in the context of national law and government policy, they believed any visibility was too high a risk. Nevertheless, this did not constitute a failure. The organization took significant steps to create an environment within which the two people could identify themselves as people with diverse SOGIE, and the organization included staff who were themselves people with diverse SOGIE. That the two workers wrote thank-you notes to the staff suggests the workers understood all of this, and were comfortable enough to access services from this organization. This should be considered a success.

In building connections between migrant worker-focused organizations and diverse-SOGIE organizations to support mutual learning, and to explore and socialize potential referral pathways, one subnational organization in Viet Nam noted that local context and contacts can be crucial for accessing networks within which migrant workers with diverse SOGIE can be engaged:

It's best to have a point of contact. If your project aims to distribute information to potential migrants, you need to find [name of a well-networked LGBTIQ+ person who was a migrant worker] in Hai Phong for example, so they can quickly relay the information to people in the community.

Steps such as these will require dedication, time, and funding. This is more likely to occur where donors are clearer about their expectations of diverse SOGIE inclusion and where specific additional funds are provided for diverse SOGIE inclusion. The least desirable outcome is for service providers and other organizations to be in a position of taking money away from other inclusion objectives to address diverse SOGIE inclusion.

→ Finding 8. Concealment and withdrawal tactics used by migrant workers with diverse SOGIE can have a deeply negative impact on their access to services, their access to justice and their wellbeing.

The use of concealment and withdrawal tactics is itself a sign of how deeply the rivers of stigma and discrimination run. The obligations rest with labour migration stakeholders to be aware of the challenges; to train staff appropriately; to demonstrate creativity in designing engagement methods that do not require individuals to identify or endanger themselves; to challenge the harmful norms or policies or practices that lead migrant workers with diverse SOGIE to remain invisible; to be resilient in the face of the difficulty of this work; and fund this work consistently and at a level necessary to make progress. Do-no-harm principles must be respected, but not used as an excuse for inaction when organizations are well prepared to engage, and incremental steps may be possible.

Access to health services

People with diverse SOGIE reported gaps in access to healthcare even in Thailand, where migrant workers with regular status are able to access healthcare, and which was the most common country of destination. Of the full sample, 29 per cent were unable to access some or all the healthcare they needed, with more migrant workers from Cambodia, Myanmar and Viet Nam reporting difficulties in gaining access. The ability to access safe healthcare, including access to health services relevant to their specific needs, was a factor for some migrant workers with diverse SOGIE in choosing Thailand as their country of destination. In practice, while trans women often felt that medical staff had some awareness of relevant issues, trans men did not agree, and found it harder to access trusted health support. Numerous trans women and trans men accessed hormones from their country of origin or the black market, administering treatment themselves or going to a medical facility to seek support in administering doses.

However, some discrimination targeted people with diverse SOGIE, especially trans women, due to an assumption that they performed sex work, and medical workers stigmatized them on that basis. Medical treatment in some countries may involve HIV tests, and interviews for this study demonstrated that positive HIV tests can have drastic consequences for migrant workers, including detention and deportation.

→ **Finding 9.** Lack of access to healthcare has specific consequences for migrant workers with diverse SOGIE, whether the access issues arise from discrimination on the basis of SOGIE or other characteristics.

Migrant workers with diverse SOGIE who experienced problems accessing healthcare tended to attribute this to discrimination based on ethnicity or their status as a migrant worker, rather than to their diversity of SOGIE. Yet the lack of access to healthcare can have significant and specific consequences for migrant workers with diverse SOGIE even if the discrimination they experience occurred on other grounds. For example, some migrant workers with diverse SOGIE, especially those who regularly use hormone treatments, HIV treatments or PrEP prevention, have specific healthcare needs.

6.4 GAPS IN CAPACITY OF LABOUR MIGRATION STAKEHOLDERS

The literature review and interviews with labour migration stakeholders demonstrated significant gaps in awareness, capabilities, policies and programmes.

Across the labour migration sector, research, policy, advocacy, and service delivery is constrained by the following limitations: inadequate awareness of issues facing migrant workers with diverse SOGIE; insufficient organizational capacity to address those issues; lack of guidance in sector-specific frameworks and policies; and limited programme focus and funding dedicated to protecting or including migrant workers with diverse SOGIE. These gaps reduce potential opportunities to enhance positive aspects of migrant work by people with diverse SOGIE, while negative aspects of diverse-SOGIE migrant work may be exacerbated.

The stories recounted in chapter three took at least two common forms: (a) experiences that impacted migrant workers with diverse SOGIE specifically because of their diverse SOGIE, and that had specific consequences for them; and (b) experiences that impacted a broader cohort of migrant workers, but had specific consequences for migrant workers who had diverse SOGIE. Both forms of discrimination call for responses from labour migration stakeholders, and clearly show that existing policies and programmes are insufficient to address the rights, needs and strengths of migrant workers with diverse SOGIE.

Past experiences of direct discrimination might lead migrant workers with diverse SOGIE to distrust government services, or to avoid participation in services offered by migrant worker-focused CSOs. Additionally, broad services might not address the specific concerns, information or support needs of this group of workers. Governments and other labour sector organizations need to tailor existing services to be safer and more relevant, or to provide additional targeted services. Developing these

A very beautiful but heavy jacket:

The experiences of migrant workers with diverse sexual orientation, gender identity and expression in South-East Asia



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tailored or targeted programmes will require a stronger evidence base; recognition of the diversity within SOGIE experiences; new policy and practice guidance; strengthened staff capacity; and appropriate leverage of existing programmes that provide entry points for engaging with migrant workers with diverse SOGIE.

Many government and non-government organization interviewees expressed the need for more research and data to design safe and effective community engagement strategies, relevant information resources, effective training materials, and other enhanced organizational and sector policy and practice.

Filling this research and data gap is important, and this report goes some way towards doing that. However, other measures are needed, including additional research that focuses on migrant workers with diverse SOGIE, for example in other countries. Research into different work sectors and labour

migration themes needs to include substantive diverse-SOGIE issues. Future research, less hampered by COVID-19, could seek to deepen and broaden learning with migrant workers with diverse SOGIE as researchers of their own lives since participatory methods such as storytelling can provide rich insights, help address safety concerns, and address ethical issues about extractive research. Investigations based on participatory action research could provide a way for people with diverse SOGIE to work with labour migration stakeholders to iteratively design and test inclusive, relevant and safe processes.

In addition to specific commissioned research, there are large gaps in diverse SOGIE inclusion in routine data gathering at national levels. The literature review identified no source of diverse-SOGIE disaggregated data for labour migration in South-East Asia. Much of the available data is either not disaggregated, or disaggregated using only binary gender categories. The SOGI Independent Expert has emphasized that

SOGIE-inclusive data is critical for development outcomes that include people with diverse SOGIE, and that collecting data in safe and effective ways is a State's responsibility:

the principle of due diligence, which requires States to protect those at particular risk of violence and discrimination and to take measures to understand and eliminate cultural stigmatization and other social causes of violence and discrimination, is also part of the basis of the State's responsibility when the State knows, or has reasonable grounds to believe, that abuses are being perpetrated. Disaggregation of data allowing a comparison of population groups therefore forms part of the human rights obligations of States and has become an element of the human rights-based approach to data.

OHCHR 2019, para. 13

Significant safety issues arise when collecting, storing, analysing and sharing data about people with diverse SOGIE. Diversity of gender identity is often more easily accommodated in data collection, given how often gender data is collected. Data on any form of sexuality, on the other hand, is rarely collected and this presents additional challenges. However, increasingly sophisticated guidance on safe and effective ways to collect diverse SOGIE-inclusive data is becoming available, and many of these measures have been included in the report of the SOGI Independent Expert on data collection and management as a means to create heightened awareness of violence and discrimination based on sexual orientation and gender identity (OHCHR 2019).

The experiences recounted in earlier chapters demonstrate that different people with diverse SOGIE experience discrimination, violence, and exclusion in different ways. Intersecting norms, for example, appear where lesbian, bisexual and trans women experience the world both as women and as people with diverse SOGIE. Or if someone comes from a rural area or grew up in a family with limited financial resources, their experiences of their SOGIE might be different than someone who grew up in

an urban area or with greater financial resources. However, in some interviews with migrant worker-focused organizations there was a tendency to use LGBTIQ+ (or a variation thereof) as if it constitutes a singular, cohesive experience of the world. As noted in chapter one, culturally specific terms often combine elements of sexual and gender diversity and include dimensions that lie outside that acronym. By treating all these ways of being in the world as roughly the same, there is a significant risk that some people and their needs will be overlooked.

→ **Finding 10.** Most research on labour migration does not address the diversity of SOGIE, or addresses it only in passing; very little research focuses specifically on the experiences of migrant workers with diverse SOGIE.

Gaps in dedicated research programmes are compounded by gaps in diverse SOGIE inclusion in routine data collection by government and non-government labour migration stakeholders. A stronger evidence base is needed to safely and effectively design, implement and evaluate tailored or targeted programmes for migrant workers with diverse SOGIE, support training curriculum design, and inform law and policy. This evidence base needs to take account of different experiences of SOGIE, and to address different labour migration contexts. While challenges for safe and effective SOGIE-inclusive data collection and management remain, participatory methods and increasingly sophisticated guidance are available to address these issues.

Creating diverse SOGIE-inclusive policy and practice

Deeply engrained and institutionally supported systemic factors, underpinned by gender norms, create various forms of economic, social, and legal "precarity", a term already used in this report and borrowed from the UN Women report *Women Working Worldwide: A Situational Analysis of Women Migrant Workers*:

Labour migration is a complex and fluid process that intersects with governance structures, transnational identities and communities, and socio-cultural norms and practices – all of which are highly gendered and influenced by gendered power relations. Such processes interact with other social, cultural and economic forces at all levels, from the local to the global. Women must navigate not only physical borders and spaces, but also discursive, legal and social bordering practices, which constrain and structure their mobility and work relationships. [Women migrant workers] must cope with gaps in laws based on their gender and occupation; gender-based violence; multiple roles and expectations affected by gender norms; and potential vulnerabilities and rights violations that are heightened by precarious workplaces and non-permanent immigration statuses. (Hennebry et al. 2016, 11)

Much of this resonates with the experiences of migrant workers with diverse SOGIE recounted in chapter two of this report. Their experiences reveal that aspects of governance structures, identities, communities, and norms that might appear neutral in reality reflect both overt and covert biases that work against people with diverse SOGIE. Migrant workers with diverse SOGIE navigate risks to their physical security, navigate laws that persecute them or ignore them, and navigate expectations of who they are, what they can do, and what can be done to them.

While acknowledging that some experiences of women migrant workers and some migrant workers with diverse SOGIE are distinct,³⁰ structural similarities may suggest approaches, designs and tools that can be adapted to work for diverse SOGIE inclusion, and provide labour migration organizations with reassurance that they can address diverse SOGIE inclusion.

Addressing diversity of SOGIE through the lens of gender may be preferable in contexts where more specific SOGIE or LGBTIQ+ framing may be politically difficult or expose participants to stigma. Instead, gender sensitive and gender responsive programming approaches could be reviewed to ensure that trans and gender diverse identities are included, along with an understanding of how trans, lesbians, bakla, gay men and other people with diverse sexual orientations also often have different gendered experiences of the world and of labour migration. This would allow policy and programmes aligned with instruments such as the Global Compact for Safe, Orderly and Regular Migration to be inclusive of migrant workers with diverse SOGIE.

Some government initiatives are opening up to these possibilities. Cambodia's Neary Rattanak V mentions SOGIESC, and the National Action Plan to Prevent Violence against Women (2019–23) (NAPVAW III) is inclusive of lesbian, bisexual and transgender women. For such initiatives to work for women migrant workers with diverse SOGIE, deliberate efforts and allocation of resources for diverse SOGIESC inclusion within programmes such as Cambodia's NAPVAW III are needed (one interviewee suggested that, in the case of NAPVAW III, funding to support diverse SOGIESC inclusion had not materialized). One government interviewee described their programme in the following terms:

I think that they may come to use our service, but they may not disclose their identity because our society does not accept them. We don't know who they are. We focus on the service for women and girls ... I don't mind if they are lesbian or whatever to receive the service.

Legal and policy frameworks such as Thailand's 2015 Gender Equality Act provides some protection from discrimination for some people with diverse SOGIE within a gender framework,³¹ and was raised by several Thai government representatives as the basis for their work on SOGIE inclusion. However as noted earlier, the meaning and application of this law

³⁰ Migrant workers with diverse SOGIE who also happen to be women will often face multiple vectors of discrimination simultaneously.

³¹ Section 3 of the Gender Equality Act defines gender discrimination as "any act or omission of the act which causes division, discrimination or limitation of any right and benefit either directly or indirectly without justification due to the fact that the person is male or female or of a different appearance from his/her own sex by birth".

is open to interpretation, and in practice it may only address gender identity and not sexual orientation.

→ **Finding 11.** Strengthened partnerships with women- and gender-focused organizations and frameworks are one way to leverage existing development programmes for diverse SOGIE inclusion outcomes.

A practical step that could be leveraged relatively quickly is the extension of existing labour migration-focused, gender-responsive policy and programmes to include trans and gender diverse people and to address the gendered experiences of people with diverse sexual orientations. Working on diverse SOGIE inclusion through the gender programmes may also be a safer and less controversial approach in contexts where systemic discrimination precludes more direct programmes. However, extending gender programmes to include SOGIE requires significant technical work and also needs appropriate funding.

Organizations that work on HIV/AIDS prevention and treatment also provide an entry point for engaging with some people with diverse SOGIE. These organizations often have existing community engagement with some people with diverse SOGIE, especially those who are key populations for HIV/AIDS programmes. They often have staff who are trained to engage with people undertaking sex work or adult entertainment work safely and respectfully, and this may extend to training for work with people with diverse SOGIE. This is particularly true for Thailand, the primary country of destination for this study. Through stronger relationships or funded programmes with HIV/AIDS-focused organizations, labour migration stakeholders could seek to support migrant workers with diverse SOGIE who are already clients of these services, or who are more likely to engage with and trust these services. The following was suggested by staff at one MRC in Thailand:

“ I think an entry point to connect is still HIV because it is a risk for MSMs [men who have sex with men] because of the kind of work they do ...When they get a HIV test, they will get personal counselling. They have questions and will feel safe to ask. However, if they attend other activities in other areas of advocacy, they don't dare to come out for sure.

Support for HIV/AIDS-focused organizations is also a way to help provide continuity of medical care for those using PReP or who have ongoing HIV/AIDS health plans. One caution is that key populations for HIV/AIDS programmes often include gay and bisexual men and trans women, but not other people with diverse SOGIE including cisgender lesbian, bisexual women, and other queer women and trans men. There are also many gay and bisexual men and trans women whose migrant work does not involve sex work or the adult entertainment sector. Therefore, engagement with HIV/AIDS focused organizations may be part of a solution, but only alongside other measures.

→ **Finding 12.** Strengthened partnerships with HIV/AIDS-focused organizations are one way to leverage existing development programmes for diverse SOGIE inclusion outcomes.

These organizations provide models for engagement with people with diverse SOGIE and access to community networks among parts of the diverse SOGIE community, especially those that are key populations for HIV programmes.

Very few government, international and national organizations interviewed for this study provided any kind of training for their coordinators or staff on working with people with diverse SOGIE or on the issues that people with diverse SOGIE might face while undertaking migrant work. This, combined with the lack of issue awareness resulting from lack of research and data, ensures that there is no foundation for organizations to undertake diverse SOGIE inclusive initiatives, or to undertake them safely. Effective training could go beyond explaining the meaning of terms in acronyms such as SOGIE or LGBTIQ+. The curriculum could also address

challenges articulated in the lived experiences presented in this report. It could take account of the diversity within SOGIE and its intersections with other forms of marginalization. It could include global standards and provide practical insights into doing diverse SOGIE inclusive work.

Almost without exception, government and NGO interviewees expressed keen interest in participating in such trainings. Working with diverse SOGIE CSOs and relevant technical experts to design and deliver training courses also provides one step toward building more enduring organizational relationships for addressing other labour migration issues. But training alone is not a panacea. It needs to be part of a holistic process of change within organizations to identity and address heteronormativity, cisnormativity and gender binarism in research methods, policy, programme design and evaluation, community engagement and implementation tools.

→ **Finding 13.** The absence of dedicated training on diversity of SOGIE limits the potential for labour migration stakeholders to develop safe and relevant policy and programmes.

Training programmes are often the first step that organizations take, but care is needed to ensure that training is part of broader process of change, and that curricula address specific labour migration issues, do not treat SOGIE or LGBTIQ+ identities homogeneously, are informed by international standards, and are oriented towards practice.

Building partnerships with diverse-SOGIE CSOs and migrant workers

Diverse-SOGIE CSOs have limited engagement with international labour migration issues or stakeholders. By engaging them in regional and national policy forums, research design, training curriculum design and course delivery, safe referral practices, information provision, community engagement and other topics, labour migration stakeholders can tap into extensive experience. This approach is also consistent with the principle of “nothing about us without us”. However, a point clearly made by several organizations is that diverse-SOGIE CSOs cannot and should not be expected to fill policy,

service or advocacy gaps. Just as labour migration sector organizations do not have the capacity to work on diverse SOGIE issues, neither do SOGIE organizations have the capability to address labour migration issues by themselves. Synergies are what is needed. The organizations interviewed expressed the view that diverse-SOGIE CSOs can assist those migrant work and labour rights sector organizations to develop capacity, to refer people with diverse SOGIE if appropriate, and to be part of a chain of accountability involving affected people with diverse SOGIE. This will require investment in diverse-SOGIE CSOs, including technical assistance, staff and core operational costs, and the development of regional networking between nationally focused CSOs. Diverse-SOGIE CSOs in countries of origin will encounter fewer obstacles in developing networks that include migrant workers, while diverse-SOGIE CSOs in countries of destination may face additional challenges in developing these networks, since migrant workers with diverse SOGIE often conceal their identities or withdraw (especially if undocumented), and may speak different languages. The capacity for diverse-SOGIE CSOs to register and organize also varies between countries.

The principle of “nothing about us without us” extends beyond diverse-SOGIE CSOs to migrant workers themselves as stakeholders and agents of change. Far from being passive victims, migrant workers with diverse SOGIE demonstrate resilience and resourcefulness in navigating systems that directly or indirectly discriminate against them. Many of these workers made valuable suggestions during interviews, and could be further engaged in efforts to improve research, policy, advocacy and service delivery. While strategies of concealment and withdrawal limit some engagement, and while there are significant safety issues to mitigate, methods such as participatory action research could provide opportunities for the development of new tactics and strategies that confront the genuine challenges involved in changing policy and practice to be diverse-SOGIE inclusive. This is especially true for migrant workers with diverse SOGIE who have returned to their countries of origin and who may face fewer safety issues.

→ **Finding 14.** Both (a) partnerships between labour migration stakeholders and diverse-SOGIE CSOs and (b) opportunities to engage migrant workers with diverse SOGIE in participatory processes are lacking.

Partnerships with diverse SOGIE CSOs could support diverse-SOGIE inclusion in countries of origin and destination, and across many areas of labour migration. However, these partnerships would need to complement capability building by labour migration stakeholders, rather than present a process of outsourcing. Diverse-SOGIE CSOs would also need technical assistance and financial support to play a greater role. Direct engagement of migrant workers in the design and delivery of programmes about their lives is consistent with the principle of “nothing about us without us”.

Funding targeted and tailored programmes

The positive and negative dimensions of migrant work for people with diverse SOGIE, combined with push factors driven by deep inequalities in many countries of origin, bespeak a genuine need for increased and sustained levels of programmatic funding. However, as one migrant worker-focused organization noted:

“I hardly see any opportunity for funding. If there is a project that donors support directly, that might be possible for us or other organizations to do.”

The limited existing donor funding for diverse SOGIE inclusion tends to focus on civil society movement building, civil and political rights activities, and HIV/AIDS and related SRHR programmes. Support for people with diverse SOGIE within most development sector thematic areas, including economic development programmes, is still nascent. Where diversity of SOGIE is included with Gender Equality and Social Inclusion (GESI) components of thematic programmes, competition for limited funds and staff time is common, and SOGIE often runs a very distant third, behind cisgender, heterosexual, and binary gender programmes, as well as some programmes for people with disabilities. Such potential for

competition between programmes for different marginalized groups is deeply unhelpful. Funding is occasionally available for pilot diversity of SOGIE projects, but these projects are by nature isolated and do not necessarily contribute to broader learning. As another migrant worker-focused organization noted, beyond the practical impacts, the lack of funding has a psychological impact:

“One barrier is that many things are connected to donors. If donors do not consider this, then what we think to happen will not happen because firstly there’s no budget and secondly staff will not think this is important but [just] a small thing. Therefore, donors’ perception towards this is important and affects local NGOs’ work. For example, UN Women has a clear policy, but others might consider [diverse SOGIE] less or none.”

→ **Finding 15.** The absence of specific funding for diverse SOGIE-inclusive service delivery is holding back change, and sending the message that including diverse SOGIE is optional.

Funding combined with monitoring, evaluation, reporting and learning can create a combination of incentives and pressures to advance the inclusion of diverse SOGIE. Dedicated and meaningful levels of funding from bilateral donors, and within the programmes of governments, UN agencies and international NGOs is needed to support increased work levels, and to send a clear message regarding the priority status of inclusion. Wherever possible, funding should flow to organizations that directly support migrant workers with diverse SOGIE, and that adhere to the principle of “nothing about us without us”, that is who work with migrant workers with diverse SOGIE to design and implement programmes.

Developing regional coordination and cross-border support

Addressing diverse SOGIE inclusion in international labour migration requires work across borders. But varying national legal and policy approaches to these issues can complicate efforts to address the needs of

migrant workers with diverse SOGIE. For example, labour migration stakeholders and entities such as embassies may be constrained in some countries, and, in contexts of criminalization and extensive discrimination, migrant workers with diverse SOGIE may also be especially reluctant to engage with such organizations. Even in contexts where countries and regions are more supportive of people with diverse SOGIE, aligning policy and practice might be challenging. Additionally, diverse-SOGIE CSOs that operate on a national or subnational basis may have limited capability to provide support to workers when they travel to countries of destination. Inclusion of diverse-SOGIE issues in regional coordination and planning, and inclusion of regional diverse-SOGIE CSOs within those processes is of critical importance.

→ **Finding 16.** Addressing diverse-SOGIE inclusion in labour migration requires cross-border and regional policy, coordination and service delivery support.

Given the current lack of diverse SOGIE inclusion in labour migration in South-East Asia, there is some urgency in including these issues in regional policy and planning forums, and in ensuring that the voices of diverse-SOGIE CSOs and migrant workers are heard in those forums.

6.5 INCLUSION GAPS IN RIGHTS, DEVELOPMENT, AND MIGRATION FRAMEWORKS

The proceedings of the HRC have specifically included sexual orientation and gender identity as characteristics of rights holders. The growing range of reports by the SOGI Independent Expert are also creating a wealth of human rights-focused findings and recommendations. Additionally, reports by Special Rapporteurs and Independent Experts, and deliberations of committees charged with monitoring key Conventions, reflect the trend towards acknowledgment of SOGIE as a basis for protection from discrimination through its inclusion in the definitions of “sex” and “gender”, through

references to “other characteristics”, and through generally inclusive language such as “all people” or “all migrant workers”. Further insights can be found in the Yogyakarta Principles.

While the 2030 Agenda for Sustainable Development and the SDGs do not specifically mention SOGIE – including in targets relevant for migrant work – there is extensive use of generally inclusive language which applies to people with diverse SOGIE as it does to all other humans. Similarly, applications of global migration frameworks also rely on use of generally inclusive language or extension of gender-responsive strategies to include diversity of SOGIE.

Human rights and labour standards experts interviewed for this study noted the challenges of achieving consensus regarding the addition of specific language on SOGIE to Conventions and standards. The most practical way forward is to rely upon and emphasize that existing Conventions and standards provide ample support for diverse-SOGIE inclusive approaches to labour migration. However, this does not stop States, multilateral organizations and other stakeholders from advocating for more explicit SOGIE inclusion wherever possible.

→ **Finding 17.** SOGIE is not a ground for discrimination.

Sexual orientation, gender identity, gender expression and sex characteristics are not always mentioned directly, yet across human rights, labour rights, and inclusive development standards there is a clear authority and impetus for inclusion of migrant workers with diverse SOGIE in non-discrimination, protection and empowerment strategies for migrant workers. International labour standards apply to all workers, including migrant workers, without discrimination on grounds of gender or sexual identity.



CHAPTER 7: RECOMMENDATIONS

The following recommendations derive from the research conducted for this report, and are intended to strengthen and protect the rights of migrant workers with diverse SOGIE in the ASEAN region, both in countries of origin and in countries of destination.

Policy reform

- 1) Policy reform should reaffirm that human rights principles enshrined in the UN human rights treaties apply to all people. Likewise, ILO standards apply to all workers, including migrant workers, regardless of their personal characteristics.
 - a) Ratify international labour standards and enact their provisions into local law, in particular the following:
 - i) C.087 – Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87)
 - ii) C.098 – Right to Organise and Collective Bargaining Convention, 1949 (No. 98)
 - iii) C.181 – Private Employment Agencies Convention 1997 (No. 181)
 - iv) C.190 – Violence and Harassment Convention, 2019 (No. 190)
 - b) The non-discrimination and inclusion of people with diverse SOGIE as required by international human rights standards, labour rights standards, migration and development standards should be recognized, articulated, and implemented by States in their national policies and labour frameworks.
 - c) Guidance for the protection of migrant workers with diverse SOGIE (in line with international standards) should be included in regional and national labour migration policy discussion and strategy documents; CSOs, migrant workers with diverse SOGIE and their representatives should be engaged in the review and formulation of these strategies and frameworks.
- 2) At the national level, eliminate laws that discriminate against people with diverse SOGIE and eliminate over-policing, while putting in place anti-discrimination provisions and other enabling laws such as those needed to accomplish gender transitions.
 - 3) Review bilateral labour migration agreements and memorandums of understanding (MoUs) to ensure that the needs and concerns of migrant workers with diverse SOGIE are addressed, and that their rights are protected in keeping with international labour and human rights standards.
 - 4) Develop an ASEAN region diverse-SOGIE action plan to guide and advance research, policy, advocacy, and service delivery in the area of labour migration. The action plan should embrace the following goals:
 - a) Emerge through a collaborative process that includes diverse-SOGIE CSOs and voices of migrant workers with diverse SOGIE, along with tripartite constituents and other stakeholders.
 - b) Recognize the many different experiences of people with varying diversity of SOGIE, and those with additional and intersecting factors, especially those who are the most marginalized.
 - c) Affirm the rights of people with diverse SOGIE to migrate for work, and aim to eliminate discrimination, violence and exclusion across the labour migration journey, while addressing discrimination, violence and exclusion within the world of work in countries of origin, such that people with diverse SOGIE have options to attain human security in their own country.
 - d) Prioritize participation of migrant workers with diverse SOGIE in analysis of issues and the design, implementation and evaluation of solutions.
 - e) Be appropriately funded and monitored by a steering group that can provide accountability to migrant workers with diverse SOGIE.

Build connections across labour migration and diverse SOGIE actors and organizations

- 1) Facilitate social dialogue with tripartite constituents and social partners to advance, promote and protect the labour rights of migrant workers with diverse SOGIE.

- 2) Support social dialogue partners, and CSOs who work on labour migration and SOGIE issues, to establish, to the extent they can, collaboration across silos to identify gaps and areas for future partnerships.
 - a) Support and fund diverse-SOGIE CSOs so they can serve in an effective advisory role to labour migration services, fulfilling a community engagement and referral role for migrant workers with diverse SOGIE (for interested CSOs).
- 3) Recognizing that people with diverse SOGIE are often hard to reach in countries of origin and destination, strategies to protect and promote the rights of migrant workers should ensure coverage of all migrant workers including migrant workers with diverse SOGIE.

Knowledge-building and capacity development for key stakeholders

- 1) Reduce knowledge gaps on issues of importance for migrant workers with diverse SOGIE across the world of work through the following measures: (a) conducting further research; (b) developing toolkits and training to support safe and effective research with migrant workers with diverse SOGIE across multiple sectors; (c) using peer researchers and participatory research processes that increase safety, effectiveness and accountability; and (d) finding funding for these initiatives. Research funding is an essential requirement, given the importance of understanding the impact of gender-based discrimination and violence on the lives and well-being of migrant workers of diverse SOGIE.
- 2) The tripartite constituents need to generate evidence and share information among their members, aiming to (a) better understand the needs and concerns of migrant workers with diverse SOGIE; (b) better appreciate the value and benefits of a more diverse and inclusive workforce; (c) provide exchange mechanisms for collective learning; (d) develop guidelines; and (e) showcase good practices.
- 3) Build capacity to work on issues of importance for these migrant workers through dedicated diverse-SOGIE training for organizations involved in research, policy, advocacy, and service delivery for migrant workers. Training should include context-specific aspects of diverse-SOGIE lived experience, and should go beyond the basics of familiarity with terminology to include the different experiences of people with different SOGIE, intersections with other marginalising characteristics, international standards and consideration of issues specific to migrant work.
 - a) For consistency and quality assurance, core training materials should be developed by an organization such as the ILO, with potential for modules to be tailored to local contexts and delivered in partnership with diverse-SOGIE CSOs.
 - b) MRC staff need to improve diverse SOGIE inclusion in their own organizations and build capacity to bring a diverse SOGIE lens to programming and service delivery.
- 4) Encourage workers' organizations to better support migrant workers with diverse SOGIE through measures that include the following:
 - a) a review of internal policies and practices to ensure they are consistent with non-discrimination and inclusion principles;
 - b) training to build the capacity of their leaders, organizers and members to engage with people with diverse SOGIE and to better understand issues experienced by migrant workers with diverse SOGIE; and
 - c) establish closer relationships with diverse-SOGIE CSOs to create safer pathways for people with SOGIE to engage with workers' organizations.
- 5) Train and monitor police and Immigration authorities to encourage respectful engagement with migrant workers with diverse SOGIE, especially in countries of destination and at border crossings, putting into place secure and confidential complaint mechanisms for those cases where their rights are violated.

Inclusive programming, services and information for migrant workers

- 1) Ensure that migrant workers with diverse SOGIE are treated as people with agency, with rich experience of directing their own lives despite structural and systemic discrimination. Where this is safe and relevant, involve these workers in future research, design, implementation and evaluation activities of labour migration programming.
- 2) Gender-responsive programming (design, funding and implementation) should go beyond the gender binary and include diverse genders and sexualities.
 - a) Referral services and service provision for eliminating violence against women, including women migrant workers, should include lesbian, bisexual, transgender, intersex, queer women and girls.
- 3) Support the peer networks among people with diverse SOGIE that can provide emotional and informational support to migrant workers with diverse SOGIE in countries of origin and destination, especially where there is an absence of safe official options.
 - a) Support other organizations that might engage with migrant workers with diverse SOGIE, including women's rights organizations, youth organizations and legal support organizations, along with other social welfare-focused CSOs.
- 4) Operating procedures for all MRCs should enable diverse SOGIE specific support, and consider engaging prospective migrant workers with diverse SOGIE through informal intermediaries and networks.
- 5) Recognizing that people with diverse SOGIE want to undertake migrant work, and that they have a right to migration, ensure that relevant information, support and processes are available in countries of origin, and that these are offered in non-discriminatory and inclusive ways.
 - a) Wherever possible, these services should be provided through existing migrant work-focused services, and in ways that do not require people with diverse SOGIE to identify themselves. For example, the Child Helpline Cambodia hotline's interactive voice response (IVR) allows users to access, in a safe and anonymous manner, counselling and information on safe migration, violence against women, and services available in both destination countries and Cambodia. Users can choose if, when and how they want to reveal their personal information.
- 6) Pre-departure information sessions for all migrant workers must include diverse-SOGIE sensitization to reduce discrimination, and all migrant workers should be capacitated with knowledge regarding available services and helplines in transit countries and in countries of destination that can be accessed to support migrant workers, including migrant workers with diverse SOGIE, who are facing violence and harassment throughout their migration journey.
- 6) Fair recruitment practices grounded in international labour standards ensures respect for, and protection of, the rights of all migrant workers and ensures gender equality for all workers.
 - a) Support and work in coordination with diverse SOGIE CSOs to develop and maintain a register of diverse SOGIE-friendly licensed recruiters, brokers and agents who support fair recruitment based on the ILO General Principles and Operational Guidelines for Fair Recruitment.
 - b) Such initiatives can be made public, and used as a referral resource. For example, this could be linked to the global Recruitment Advisor platform, which supports informed decision-making by potential migrant workers (Recruitment Advisor n.d.).
- 7) To ensure that migrant workers are not criminalized for seeking support, diverse SOGIE-inclusive safeguards are needed between those government authorities responding to discrimination, harassment, violence and exploitation and government authorities responsible for immigration issues.
 - a) Migrant workers with diverse SOGIE who are employed in various entertainment sector roles should be able to access services, in a

safe manner, from organizations focused on sex work and HIV/AIDS key populations. And migrant workers should not be criminalized or penalized for seeking such support. Authorities engaging with migrants workers who undertake entertainment sector work should focus on the rights and wellbeing of these workers, rather than targeting them and pushing their work further underground.

- 8) Scope and establish a diverse-SOGIE migrant work hotline or hotlines, working with diverse-SOGIE CSOs and migrant worker-focused service providers to ensure that the service and information is safe, accessible and relevant.
 - a) Existing referral and information services, hotlines, and one-stop service centres for migrant workers should make provision for migrant workers with diverse SOGIE. Consider training former migrant workers with diverse SOGIE to staff this service.
 - b) Explore potential links with existing resources such the ILO SAF service directories, and adapt these existing resources to be diverse-SOGIE inclusive.
 - c) Support migrant workers with diverse-SOGIE migrant workers in countries of origin and countries of destination with information about health care, especially for those people who use hormones, PrEP, or require ongoing medical support.
- 9) Funding opportunities for labour migration programming should be designed in ways that encourage diverse-SOGIE inclusion, and which clearly articulate expectations that organizations implementing these programmes will ensure the application of the non-discrimination principle and positive inclusion of people consistent with international human rights standards, labour rights standards, migration and development standards.
 - a) Avoid creating competition for limited resources among marginalized groups initiatives.
 - b) Provide dedicated funding for diverse-SOGIE inclusion initiatives.
 - c) Ensure that bilateral funding for development programmes addresses the push factors behind the labour migration of persons

with diverse SOGIE, recognizing that, while people with diverse SOGIE have the right to migrate, they should have the opportunity to attain human security in their own countries.

Advocacy

- 1) Ensure that regional and national advocacy, coordination and capacity-building activities in the area of migrant work include consideration of diverse SOGIE issues wherever relevant, and include the funded presence of CSOs representing people with diverse SOGIE wherever possible. This should include the following:
 - a) Diverse-SOGIE CSO representation in labour migration programmes' advisory committees, for example the SAF Civil Society Organizations (CSO) Reference Group and/or National Project Advisory Committees (NPACs) should include diverse SOGIE CSOs.
 - b) Supplement information outreach and campaigns on labour migration with advice about prejudices and stereotypes regarding migrant workers with diverse SOGIE in countries of origin and destination.
 - c) Work with diverse-SOGIE CSOs and migrant work-focused organizations to amplify the positive impact of migrant workers with diverse SOGIE in their communities and families. Storytelling and other advocacy campaigns can strengthen the remittance/ acceptance dynamic, while contributing to broader social acceptance of people with diverse SOGIE.
- 2) Support and work with migrant workers with diverse SOGIE to develop projects that build empathy and greater respect among other migrant workers. Such activities can include storytelling and short social media video projects as proposed by migrant workers with diverse SOGIE.
- 3) International organizations and funding agencies should, based on their capacity, advocate and support the inclusion of issues, concerns and challenges facing migrant workers with diverse SOGIE in relevant policy forums.

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ANNEXES

ANNEX 1: MIGRANT WORKER PARTICIPANTS AND TOPICS

Information collected regarding migrant workers was limited for reasons of respondent safety and confidentiality. FGDs and key information interviews were semi-structured so as to provide opportunities for migrant workers to highlight issues of importance to them, as well as to share viewpoints and lived experience on issues including the following:

- circumstances in their country that led them to consider migrating to another country;
- factors in the decision to go to a particular country;
- experience of migrating, including use of brokers or other intermediaries, costs, travel arrangements and experiences crossing borders;
- experiences of life (broadly) in the country of destination, and expectations of life in that country prior to arriving compared with actual experiences;
- treatment by employers, customers, other migrant workers and authorities;
- choice of work sectors, experiences and working conditions in different sectors;
- extent to which they could meet basic economic needs of life;
- access to services and support needed to live, including accommodation, health, legal and social;
- who they would turn to for assistance, organizations that they interacted with (including unions, service organizations or others), and how they found out about those organizations;
- experiences with family members in countries of origin while in the county of destination;
- motivations to return to country of origin, including any with relevance to COVID-19;
- experiences upon return, and services needed or accessed on return; and
- recommendations of services that they experienced during their journeys, gaps that need to be filled and their suggestions for addressing those gaps.

CAMBODIA RESEARCH TEAM

Interviews were conducted with 45 migrant workers (CMMW1-45) in individual interviews and FGDs between 20 January 2020 and 4 July 2021.

PHILIPPINES RESEARCH TEAM

Interviews were conducted with migrant workers (PHMW1-32) in individual interviews and FGDs between 18 December 2020 and 9 March 2021.

THAILAND RESEARCH TEAM

Interviews were conducted with migrant workers (THMW1-41) in individual interviews and FGDs between 12 December 2020 and 28 February 2021.

VIET NAM RESEARCH TEAM

Interviews were conducted with 45 migrant workers (VNMW1-29) between 9 January 2021 and 2 March 2021.

ANNEX 2: KEY INFORMANTS AND FGD PARTICIPANTS AND TOPICS

FGDs and KIIs were semi-structured and, to some extent, tailored to the respective organizational role of different stakeholders. Issues explored in these interviews (KIIs) and FGDs included the following:

- extent to which policy, advocacy and service provision organizations have knowledge of the needs of migrant workers, and how that knowledge informs organizational policy and practice;
- extent to which service provision organizations are aware of migrant workers with diverse SOGIE among users of their services; whether they have any dedicated staff to address SOGIE issues; what community engagement strategies they have used; and what pathways migrant workers with diverse SOGIE could use to contact them;
- whether staff policy, advocacy, service provision and other organizations receive training on diversity of SOGIE, and if so on what aspects;
- barriers or challenges for policy, advocacy and service provision organizations to address issues or provide direct services for migrant workers with diverse SOGIE;
- extent to which diverse SOGIE-focused CSOs engage with labour migration issues, labour migration-focused organizations or migrant workers with diverse SOGIE;
- level of participation of migrant workers with diverse SOGIE in membership organizations, and factors influencing recruitment or participation;
- perceptions of and attitudes towards migrant workers with diverse SOGIE among staff of organizations and other migrant workers; and
- thematic or entry points for increasing engagement with migrant workers with diverse SOGIE; any discussions or suggestions about potential for increasing inclusion of migrant workers with diverse SOGIE; and support that might be needed to increase inclusion.

CAMBODIA RESEARCH TEAM

CMKII01 and CMKII04 on 5 March 2021 with FHI360.

CMKII02 on 5 March 2021 with CamASEAN.

CMKII03 on 5 March 2021 with UNAIDS.

CMKII05 and CMKII06 on 5 March 2021 with Love Is Diversity.

CMKII07 on 10 March 2021 with Phnom Srey Organization for Development.

CMKII08 on 10 March 2021 with Legal Support for Children and Women.

CMKII09 on 10 March 2021 with Cambodian Human Rights and Development Association (ADHOC).

CMKII10 on 10 March 2021 with Cambodian Women's Crisis Center.

CMKII11 on 12 March 2021 with Ministry of Women's Affairs.

CMKII12-CMKII16 on 16 March 2021 with Rainbow Community Kampuchea.

CMKII17 on 8 June 2021 with Battambang National Employment Agency.

CMKII18 on 8 June 2021 with Kampot National Employment Agency.

CMKII19 on 9 June 2021 with Battambang Provincial Department of Labour and Vocational Training.

CMKII20 on 9 June 2021 with Prey Veng Provincial Department of Labour and Vocational Training.

PHILIPPINES RESEARCH TEAM

PPKII01 on 25 January 2021 with Action for Health Initiatives Inc (ACHIEVE).

PPKII02 on 10 February 2021 with Overseas Workers Welfare Administration, an agency of the Department of Migrant Workers.

PPKII03 on 10 February 2021 with United Domestic Workers of the Philippines.
 PPKII04 on 18 February 2021 with Mindanao Migrants Center for Empowering Actions, Inc. (MMCEAI).
 PPKII05 on 18 February 2021 with Positibong Marino Philippines, Inc. (PMPI).
 PPKII06 on 19 February 2021 Atikha Inc.
 PPKII07 on 1 March 2021 Progressive Labor Union (in Hong Kong).
 PPKII08 on 4 March 2021 with Department of Foreign Affairs.
 PPKII09 on 10 March 2021 with Center for Migrant Advocacy (CMA).
 PPKII10 on 18 March 2021 LoveYourself Inc.

THAILAND RESEARCH TEAM

THKII01 on 11 January 2021 with Human Rights Development Foundation (HRDF).
 THKII02 on 19 January 2021 with Employer's Confederation of Thailand.
 THKII03 on 25 January 2021 with State Enterprises Workers' Relations Confederation (SERC).
 THKII04 on 26 January 2021 with Service Workers In Group (SWING).
 THKII05 on 29 January 2021 with Empower Foundation.
 THKII06 on 29 January 2021 with M Plus Foundation.
 THKII07 on 29 January 2021 with Sisters Foundation.
 THKII08 on 29 January 2021 with Empower Foundation.
 THKII09 on 29 January 2021 with Asia Pacific Transgender Network (APTN).
 THKII10 on 30 January 2021 with Human Rights Development Foundation (HRDF).
 THKII11 on 1 February 2021 with Thai Trade Union Congress (TTUC).
 THKII12-13 on 4 February 2021 with MAP Foundation.
 THKII14-17 written response received from Division of Gender Equality Promotion, Department of Women's Affairs and Family Development, Ministry of Social Development and Human Security.
 THKII18 on 14 February 2021 with Foundation for Rural Youth (FRY).
 THKII19 written response received from the Social Security Office of the Ministry of Labour.
 THKII20 written response received from the Department of Labor Protection and Welfare, Ministry of Labour
 THKII21 written response received from the Workforce and Entrepreneur Development Division, Ministry of Labour.
 THKII22-23 written response received from the Office for Skill Development, Ministry of Labour.
 THKII24 written response received from the Planning and Information Division, Ministry of Labour.
 THKII25-26 written response received from the Office for Skill Development, Ministry of Labour.
 THKII27 written response received from the Institute for Skill Development, Ministry of Labour.
 THKII28 written response received from the Department of Employment, Ministry of Labour.
 THKII29 on 21 February with Thai Garment Trade Union Thailand.

VIET NAM RESEARCH TEAM

VNKII01 on 1 February 2021 with Got Hong Nghe An.
 VNKII02 on 2 February 2021 with Afamily Thai Nguyen.
 VMKII03 on 2 February 2021 with NYN Thai Nguyen.
 VNKII04 on 23 February with ICS Center.
 VNKII05 on 28 February with ILGA Asia.
 VNKII06 on 5 March 2021 with Rubik Hai Phong.
 VNKII07 on 28 May 2021 with Thanh Hoa Employment Service Centre.
 VNKII08 on 11 June with Phu Tho Employment Service Centre.

BY EDGE EFFECT STAFF

Additional interviews were conducted by Edge Effect staff during inception phase to assist scoping.

Asia Pacific Council of AIDS Service Organisations (APCASO).

Asia Pacific Transgender Network (APTN).

CamASEAN.

Camp Queer.

Empower.

International Trade Union Confederation–Asia Pacific (ITUC-AP).

ILGA Asia.

ILO Thailand.

IOM Thailand.

Legal Support for Women and Children Cambodia (LSCW).

School of Social and Political Sciences, the University of Melbourne.

OutRight Action International..

Sayoni.

SHAPE SEA, Mahidol University.

Sisters Foundation.

Asia Pacific Council of AIDS Service Organisations (APCASO).

Transient Workers Count Too (TWC2).



A very beautiful but heavy jacket: The experiences of migrant workers with diverse sexual orientation, gender identity and expression in South-East Asia

Among the millions of migrant workers who move between countries in South-East Asia and beyond, little is known about the motivations and experiences of migrant workers who are also people with diverse sexual orientations, gender identities and gender expression (SOGIE) including lesbian, gay, bisexual, transgender, and queer people.

This report fills that gap. It draws on surveys and interviews with 147 migrant workers with diverse sexual orientations, gender identities and gender expressions, exploring their experiences across the migrant work journey as they travel from countries of origin such as Cambodia, Myanmar, the Philippines and Viet Nam to work in countries of destination in South-East Asia (especially Thailand), East Asia, and beyond.

The report also explores how labour migration policies and practices can acknowledge or address these experiences while protecting and promoting the rights of migrant workers with diverse SOGIE.



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