

Human Rights at International Borders

Course materials

Human Rights at International Borders

Course materials

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Human Rights at International Borders

[Location, date]

Sample Agenda

Facilitators may want to add time for a group photo and/or any administrative tasks they need to attend to.

DAY 1

0800-0830	Registration
0830-0930	Introductory session Welcoming remarks, introductions, course overview
0930-1030	Session 1: Introduction to human rights Session 1.1: Human rights
1030-1100	Session 1.2: Gender, migration and human rights
1100-1115	<i>Coffee break</i>
1115-1230	Session 1.3: Human rights at international borders
1235-1300	Session 1.4: Key human rights principles at international borders
1300-1400	<i>Lunch</i>
1400-1445	Session 1.5: Human rights of border officials and institutional accountability
1445-1530	Session 2: Migrants in vulnerable situations at international borders Session 2.1: Migrants in vulnerable situations
1530-1545	<i>Coffee break</i>
1545-1630	Session 3: Ensuring human rights in interception, rescue and immediate assistance Session 3.1: Human rights considerations in interception, rescue and assistance
1630-1715	Session 3.2: When and how may force be used at international borders?
1715-1730	Day 1 evaluation

DAY 2

0900-0930	Recap of day 1
0930-0945	Session 4: Ensuring human rights-based screening and interviewing at international borders Session 4.1: Screening and interviewing
0945-1045	Session 4.2: Key human rights considerations and practical measures for screening and interviewing
1045-1100	<i>Coffee break</i>
1100-1200	Session 4.3: Exercise (role play): Screening at the border
1200-1300	Session 4.4: Practical steps to ensure human rights-based and gender-sensitive interviews

1300-1400	<i>Lunch</i>
1400-1500	Session 4.4: Exercise (role play): Interviewing at the border
1500-1515	<i>Coffee break</i>
1515-1615	Session 4.5: Exercise (brainstorming): Considerations when screening or interviewing migrants in potentially vulnerable situations
1615-1630	Day 2 evaluation

DAY 3

0900-0930	Recap of day 2
0930-1015	Session 5: Avoiding detention and inadequate conditions of detention Session 5.1: Immigration detention Session 5.2: Key human rights considerations regarding immigration detention
1015-1115	Session 5.3: Protecting human rights in the event of immigration detention
1115-1130	<i>Coffee break</i>
1130-1220	Session 5.4: Situations of vulnerability and immigration detention
1220-1300	Session 6: Human rights-based return Session 6.1: Return in the context of migration Session 6.2: Key human rights considerations relating to return
1300-1400	<i>Lunch</i>
1400-1450	Session 6.3: Practical steps to protect human rights in the return process
1450-1515	Session 7: Wrap up of training course Session 7.1: Key learning points/messages of the training course Session 7.2: Exercise (reflection): Putting learning into practice
1515-1545	Closing remarks and distribution of certificates Day 3 evaluations

Human Rights at International Borders

Glossary

Asylum seeker

An asylum seeker is any person who is seeking protection as a refugee but whose claim has not been finally determined.¹

Border authorities / officials

Border guards, consular and immigration officials, border police, staff at border detention facilities, immigration and airport liaison officers, coast guard officials and other front-line officers and staff performing border governance roles.²

Child

Under international human rights law, a child is anyone below the age of 18.³

Diplomatic assurances

In the context of the transfer of a person from one State to another, diplomatic assurances refer to assurances by the receiving State that the person concerned will not be subjected to torture or cruel, inhuman or degrading treatment or punishment, persecution, or other serious human rights violations, or transferred to another country where they would risk such violations. Diplomatic assurances generally take the form of non-binding memorandums of understanding.⁴ See also *Non-refoulement*.

Due process

Rights and procedures related to ensuring that the administration of justice is independent and effective. This includes putting in place laws, processes or other measures to ensure that every individual is treated fairly, reasonably and that arbitrariness is avoided. Any limitations imposed on the human rights of an individual must be based in law, necessary and proportionate.

Enforced disappearance

The arrest, detention, abduction or any other form of deprivation of liberty by agents of the State or by persons or groups of persons acting with the authorization, support or acquiescence of the State, followed by refusal to acknowledge the deprivation of liberty or concealment of the fate or whereabouts of the disappeared person, which places such a person outside the protection of the law.⁵

Foreign terrorist fighter

The Security Council defines “foreign terrorist fighters” as “individuals who travel to a State other than their States of residence or nationality for the purpose of the perpetration, planning or preparation of, or participation in, terrorist acts or receiving of terrorist training, including in connection with armed conflict.”⁶ Note that experts caution that this definition could lead to an individual being defined as a “terrorist” without due process.

Gender

¹ See OHCHR and Global Migration Group, *Principles and Guidelines, supported by practical guidance, on the human rights protection of migrants in vulnerable situations*, 2018, p. 11. Available at www.ohchr.org/EN/Issues/Migration/Pages/VulnerableSituations.aspx.

² OHCHR, *Recommended Principles and Guidelines on Human Rights at International Borders*, para. 10(d).

³ Convention on the Rights of the Child, art. 1.

⁴ Committee against Torture, general comment No. 4 (2017) on the implementation of article 3 in the context of article 22, para. 19.

⁵ International Convention for the Protection of All Persons from Enforced Disappearance, art. 2.

⁶ Security Council resolution 2178 (2014), preamble, also paras. 5 and 6(a).

Gender refers to the socially constructed identities, attributes and roles of persons in relation to their sex and the social and cultural meanings attached to biological differences based on sex. The understanding of those socially constructed identities, attributes and roles varies across societies, communities and groups, and over time. This often forms the basis of hierarchical relationships and an unequal distribution of power and rights, affecting all members of society, favouring men and boys, and disadvantaging women and girls, as well as LGBTI and non-binary individuals. Gender may describe binary categories of men or women as well as people who have non-binary gender identities. An inclusive framing of genders as women, men, girls, boys and individuals who identify with other identities by centring self-identification allows for the inclusion of trans people who identify within binary genders, cisgender people, as well as individuals who identify outside the binary. When individuals or groups are perceived as not “fitting” within established gender norms, they often face stigma, discriminatory practices or social exclusion.⁷

“Sex” versus Gender”: Most people have a biological sex of either male or female attributed to them when they are born, based on physiological and anatomical features. Gender refers to the social and cultural meanings attached to biological differences based on sex; those meanings vary across societies, communities and over time. See also [Gender identity](#).

Gender identity

Gender identity refers to a person’s deeply felt and experienced sense of their own gender. Everyone has a gender identity that is part of their overall identity. A person’s gender identity is typically aligned with the sex assigned to them at birth; such persons are described as cisgender. However, a person can have a gender identity that is different from the sex that they were assigned at birth; such persons are described as transgender.⁸ In this training course, we will use the term “trans” to refer to persons who identify with a gender that is different from the sex they were assigned at birth.⁹ “Trans” is an umbrella term used to describe individuals with a wide range of identities, whose sense of their own gender is different from the sex that they were assigned at birth. Those individuals do not constitute a homogenous group: there are diverse identities, and trans persons have different views, experiences and needs. Some seek surgery or take hormones to bring their bodies into alignment with their gender identities. Gender identity is distinct from sexual orientation and sex characteristics.¹⁰ See also [Intersex, Sexual orientation](#).

Gender stereotype/stereotyping

A gender stereotype is a generalized view or preconception about attributes or characteristics that are thought to be possessed or the roles that are or should be performed by members of a particular social group. Gender stereotyping refers to the practice of ascribing to an individual specific attributes, characteristics or roles by reason only of their membership in the social group of a particular gender – e.g., application of a stereotypical belief to an individual by reason only of their membership in the social group of women or men. A gender stereotype is harmful when it limits the individual’s capacity to develop their personal abilities, pursue their professional careers and make choices about their lives. Gender stereotyping can result in violations of human rights.¹¹

Human rights defender

⁷ See OHCHR, *Integrating A Gender Perspective into Human Rights Investigations: Guidance and Practice*, 2018, HR/PUB/18/4 (Advance version), p. 7.

⁸ OHCHR, *Living free and equal: What states are doing to tackle violence and discrimination against lesbian, gay, bisexual, transgender and intersex people*, 2016, p. 18.

⁹ Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity, A/73/152, para. 5.

¹⁰ OHCHR, *Living free and equal*, p. 18.

¹¹ OHCHR commissioned report, “Gender stereotyping as a human rights violation”, October 2013, p. 9. Available at www.right-to-education.org/sites/right-to-education.org/files/resource-attachments/OHCHR_Gender_Stereotyping_as_HR_Violation_2013_en.pdf. See also www.ohchr.org/EN/Issues/Women/WRGS/Pages/GenderStereotypes.aspx; and www.ohchr.org/EN/Issues/Women/WRGS/Pages/WrongfulGenderStereotyping.aspx.

A human rights defender is someone who, individually or with others, acts to promote or protect human rights.¹² An individual or group does not need to self-identify as a human rights defender to be one. It includes humanitarian and human rights workers who are involved with providing assistance, including rescue, to migrants as well as advocating for their rights.

Immediate assistance

Provision of assistance to any person in distress at sea, land, or air borders, regardless of the nationality or status of the individual(s) or the circumstances in which they are found. It encompasses provision of initial medical or other care and delivery to a place of safety. Assistance must be provided unconditionally, where necessary taking priority over border control or police or other enforcement procedures.¹³

Immigration detention

Immigration detention is any deprivation of liberty for the purposes of border and migration governance. Deprivation of liberty includes “any form of detention or imprisonment or the placement of a person in a public or private custodial setting which that person is not permitted to leave at will by order of any judicial, administrative or other authority.”¹⁴ It could occur in various places, such as at land and sea borders, in “international zones” at airports, on islands, on boats or in closed camps.

Interception

All measures taken by a State or States, outside or within their national territory, to prevent further movement of individuals or groups of individuals for law enforcement purposes, including examination of their documentation and their vehicles/vessels, or for counter-terrorism purposes. In the context of cross-border movement, interception may involve measures to prevent or interrupt the movement of persons without the required documentation.¹⁵ See also [Pushback](#), [Pullback](#).

International borders

The politically defined boundaries separating territories or maritime zones between political entities/States and the areas where political entities exercise border governance on their territory or extraterritorially. They include land checkpoints, border posts at train stations, ports and airports, immigration and transit zones, the high seas and neutral, buffer or disputed areas (so-called “no-man’s land”) between border posts, as well as embassies and consulates.¹⁶

Intersex

An intersex person is born with physical or biological sex characteristics, including the sexual anatomy, reproductive organs, hormonal patterns and/or chromosomal patterns, that do not fit the typical definitions of male or female. Those characteristics may be apparent at birth or emerge later in life, often at puberty. Being intersex relates to biological sex characteristics and is distinct from a person’s sexual orientation or gender identity.¹⁷ Some States have passed legislation to amend sex markers on the birth certificates and official documents, including passports, of intersex persons.

Interview (at the border)

¹² See Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, 1998, General Assembly resolution 53/144 art. 1.

¹³ OHCHR and Global Migration Group, *Principles and Guidelines on the human rights protection of migrants in vulnerable situations*, 2018, Principle 4, Guideline 4.

¹⁴ Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment, art. 4(1) and (2).

¹⁵ There is no internationally agreed definition of interception. The definition used in this guide builds on a working definition proposed by the Office of the United Nations High Commissioner for Refugees (UNHCR). See Executive Committee of the High Commissioner’s programme, 18th Meeting of the Standing Committee, *Interception of Asylum-Seekers and Refugees: The International Framework and Recommendations for a Comprehensive Approach*, 2000, EC/50/SC/CPR.17, para. 10.

¹⁶ OHCHR, *Recommended Principles and Guidelines on Human Rights at International Borders*, para. 10(b).

¹⁷ OHCHR, *Living free and equal*, p. 18.

For the purposes of this training course, the interview is the second step at an international border after an individual has been screened. The interview is usually a short verbal interaction between an individual and a border official that can serve to provide more information about the individual's situation, immigration status, vulnerability, protection needs and/or security risk. The interview enables the border official to make appropriate referrals. See also [Screening \(at the border\)](#).

Law enforcement officials

Law enforcement officials are all officers of the law, whether appointed or elected, who exercise police powers, especially the powers of arrest or detention. The definition of law enforcement officials shall be given the widest possible interpretation.¹⁸ For example, it includes military authorities or State security forces in countries where they exercise police powers, whether or not they are uniformed. Law enforcement officials are required to fulfil the duty imposed upon them by law at all times, by serving the community and by protecting all persons against illegal acts, consistent with the high degree of responsibility required by their profession. Service to the community is intended to include particularly the provision of services of assistance to those members of the community who by reason of personal, economic, social or other emergencies are in need of immediate aid.¹⁹

Migrant

There is no agreed definition of “migrant” under international law. For the purposes of this Trainer's Guide, the term “migrant” refers to any person who is outside the State of which he or she is a citizen or national, or, in the case of a stateless person, his or her State of birth or habitual residence. The term includes migrants who intend to move permanently or temporarily, and those who move in a regular or documented manner, as well as migrants in irregular situations.²⁰ OHCHR uses the umbrella term “international migrant” to include a number of more precisely defined groups of people, including the specific legal categories “migrant workers” and “refugees”. See also [Refugee](#).

Migrant worker

A “migrant worker” is defined in international human rights law, as “a person who is to be engaged, is engaged or has been engaged in a remunerated activity in a State of which he or she is not a national”.²¹

Migrants in vulnerable situations

Migrants are in vulnerable situations when they are unable to effectively to enjoy their human rights and are at increased risk of human rights violations or abuse.²² There is no legal definition of “vulnerable situations”, or of the term “vulnerability”, although it is widely used across human rights, criminal justice, human security and other areas. Vulnerability can be understood as referring to the multiple and intersecting forms of discrimination, inequality and structural and societal dynamics that lead to diminished and unequal levels of power, choice and enjoyment of human rights and increase the risk of an individual being subjected to human rights violations.²³ Migrants in vulnerable situations may need specific human rights protection because of the situations they left behind, the circumstances in which they travel, the conditions they face on arrival, or because of discrimination based on personal characteristics, such as age, gender identity, disability or health status.

¹⁸ Guidelines for the Effective Implementation of the Code of Conduct for Law Enforcement Officials, Economic and Social Council resolution 1989/61, annex, sect. I.A, para. 2; see also UNODC, *Compendium of United Nations Standards and Norms in Crime Prevention and Criminal Justice*, 2016, p. 286.

¹⁹ Code of Conduct for Law Enforcement Officials, 1979, General Assembly resolution 34/169, art. 1 and Commentary.

²⁰ OHCHR, *Recommended Principles and Guidelines on Human Rights at International Borders*, 2014, footnote 2.

²¹ International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, art. 2(1).

²² OHCHR and Global Migration Group, *Principles and Guidelines on the human rights protection of migrants in vulnerable situations*, p. 5. The term “migrants in vulnerable situations” does not include refugees, and is without prejudice to the protection regimes that exist under international law for specific legal categories of non-nationals, including refugees, asylum seekers, stateless persons, trafficked persons and migrant workers.

²³ *Ibid.*, p. 6.

Mixed migration

There is no agreed definition of “mixed migration”. The term describes the reality of movements of people with varying protection profiles, reasons and needs, including refugees, asylum seekers and other migrants, including those who are in an irregular situation, trafficked persons, unaccompanied and separated children. They all move along the same routes, use the same transport or means of travel, often in large numbers.²⁴

Non-refoulement

Under international human rights law, the prohibition of refoulement entails the obligation not to extradite, deport, expel, return or otherwise remove a person, whatever their status, when there are substantial grounds for believing that the person would be at risk of being subjected to torture or cruel, inhuman and degrading treatment or punishment, persecution or other serious human rights violations, either in the country to which they are to be transferred or removed (direct refoulement), or in a third country of further transfer (indirect or chain refoulement) where there would be a real risk of such violations.²⁵ Under international human right law the prohibition of refoulement is absolute.

Place of safety

Following rescue or interception, migrants should be disembarked or transferred to a place of safety. A place of safety is a location where rescue operations are considered to end; the rescued persons’ safety of life is no longer threatened; basic human needs, such as food, shelter and medical needs, can be met; and transportation arrangements can be made for the rescued persons’ next or final destination.²⁶ There is no agreed definition of “place of safety”, but it should be understood as a place where a person’s physical needs are met and where their human rights are protected, including the right to adequate food, water, health and shelter and protection from onward refoulement.

Profiling

Profiling refers to the extrapolation of information about a person, based on certain characteristics, to establish whether or not they are likely to pose a security or other risk. Profiling is generally defined as the systematic association of physical, behavioural or psychological characteristics with particular offences and their use as a basis for making law-enforcement decisions. Profiles can be *descriptive*, that is, designed to identify those likely to have committed a particular criminal act, and thus reflecting the evidence the investigators have gathered concerning this act; or *predictive*, that is, designed to identify those who may be involved in some future or as-yet-undiscovered crime.²⁷ Profiling should not be undertaken on the basis of disproportionate surveillance or generalizations based on prohibited grounds, such as race, ethnicity, religion or national origin. Profiling must strictly comply with the principles of necessity, proportionality and non-discrimination, and should be subject to close judicial scrutiny and periodically reviewed.²⁸

Pullback

Pullback operations are designed to physically prevent migrants from leaving the territory of any given State, or to forcibly return them to that territory, before they can reach the jurisdiction of their destination State. Pullbacks could happen at the instigation and on behalf of destination States

²⁴ OHCHR, Situation of migrants in transit, A/HRC/31/35, para. 10.

²⁵ See, inter alia, Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, art. 3; International Covenant on Civil and Political Rights, art. 7 International Convention on Enforced Disappearances, art. 16. Under international refugee law, the principle of non-refoulement is found in the 1951 Convention relating to the Status of Refugees, art. 33(1).

²⁶ International Maritime Organization (IMO), UNHCR, International Chamber of Shipping (ICS), *Rescue at Sea: A Guide to Principles and Practice Applied to Refugees and Migrants*, 2015, p. 13.

²⁷ Special Rapporteur on countering terrorism, A/HRC/4/26, para. 33.

²⁸ OHCHR, *Human Rights, Terrorism and Counter-terrorism*, Fact Sheet No. 32, 2008.

desiring to prevent migrant arrivals without having to engage their own border authorities in unlawful pushback operations (indirect arrival prevention).²⁹ See also *Interception*.

Pushback

Pushback operations are proactive operations that aim to physically prevent migrants from reaching, entering or remaining within the territorial jurisdiction of the destination State (direct arrival prevention measures). They can take place at sea, where they involve the interception of vessels carrying migrants inside or outside territorial waters and may be followed by immediate return to their port of origin or may leave migrants adrift. They can also happen on land at or close to an international border. Pushbacks usually involve the threat or use of force by border officials to prevent migrants from approaching or crossing the border, or to intimidate those who have successfully crossed the border, before returning them to the country of departure. Pushbacks render screening for protection needs summary or non-existent.³⁰ See also *Interception*.

Readmission agreements

Readmission agreements are bilateral agreements that allow States to return migrants to a “safe” country – not necessarily the migrant’s country of origin – which, in turn, is obliged to accept (readmit) the returnees. Decisions to return migrants that are taken on the basis of readmission agreements can risk violating the prohibition of collective expulsions or the principle of non-refoulement if they do not integrate an individualized assessment of each migrant’s situation.³¹

Reasonable accommodation

Reasonable accommodation refers to adjustments made in a system to accommodate or make the same system fair for an individual based on a proven need, such as physical or mental health needs, religious freedom or disability status. The duty of reasonable accommodation in relation to the human rights of disabled individuals requires, for example, “necessary and appropriate modification and adjustments not imposing a disproportionate or undue burden, where needed in a particular case, to ensure to persons with disabilities the enjoyment or exercise on an equal basis with others of all human rights and fundamental freedoms”.³²

Refugee

A refugee is a person who, owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his or her nationality and is unable or, owing to such fear, is unwilling to avail himself or herself of the protection of that country; or who, not having a nationality and being outside the country of his or her former habitual residence as a result of such events, is unable or, owing to such fear, is unwilling to return to it.³³

Rescue

Operation to retrieve persons in distress, provide for their initial medical or other needs, and deliver them to a place of safety at all international borders.³⁴

Return

An umbrella term to refer to all the various forms, methods and processes by which migrants are returned or compelled to return to their country of origin or of habitual residence or a third country.³⁵

²⁹ Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, A/HRC/37/50, para. 54.

³⁰ *Ibid.*, para. 49.

³¹ *Ibid.*, para. 44.

³² Convention on the Rights of Persons with Disabilities, art. 2.

³³ Convention relating to the Status of Refugees, art. 1.A(2).

³⁴ International Convention on Maritime Search and Rescue, Annex, Chapter 1, para. 1.3.2.

³⁵ OHCHR and Global Migration Group, *Principles and Guidelines on the human rights protection of migrants in vulnerable situations*, pp. 16–17.

Returns may thus include deportations, expulsions, removals, rejections at the border, extraditions, repatriations, handovers, transfers or other types of return as defined in different national legal frameworks and practices. In practice, returns are often characterized as either “forced” or “voluntary”, though the reality is often less clear-cut. For the purposes of this training course, the use of the term “return” provides no determination as to the degree of voluntariness or compulsion in the decision to return, nor of the lawfulness or arbitrariness of the return.

Search

A search is the act by which a law enforcement official or any person authorized by the law, inspects an individual and the area immediately within that person’s control, including clothes, any objects being carried, or a vehicle, for a legitimate law enforcement purpose.³⁶

Sexual and gender-based violence

The term “sexual and gender-based violence” is used to emphasize the element of sexual violence while acknowledging that it is also part of the broader term “gender-based violence”. Gender-based violence is violence directed towards, or disproportionately affecting, someone because of their gender or sex. Understood as one form of gender-based violence, sexual violence encompasses acts of a sexual nature perpetrated against one or more persons or that cause such person or persons to engage in an act of a sexual nature by force, or by threat of force or coercion, such as that caused by fear of violence, duress, detention, psychological oppression or abuse of power, against such person or persons or another person, or by taking advantage of a coercive environment or such person’s or persons’ incapacity to give genuine consent. Forms of sexual violence include rape, attempted rape, sexual mutilation, forced sterilization, forced abortion, forced prostitution, trafficking for the purpose of sexual exploitation, child pornography, child prostitution, sexual slavery, forced marriage, forced pregnancy, forced nudity and forced virginity testing.³⁷

Screening (at the border)

Screening is the initial interaction between border officials and arriving or departing individuals for the purposes of immigration control, border governance, risk assessment and preliminary identification of persons in vulnerable situations. See also [Interview \(at the border\)](#).

Sexual orientation

Sexual orientation refers to a person’s physical, romantic and/or emotional attraction towards other people. Everyone has a sexual orientation, which is integral to a person’s identity. Sexual orientation is distinct from gender identity and sex characteristics.³⁸ See also [Gender identity](#), [Intersex](#).

Smuggling of migrants

Smuggling of migrants occurs when an individual – the smuggler – engages in obtaining entry into a country for a person who is not a national or permanent resident of that country through irregular channels, and does so intentionally and for the purpose of obtaining a financial or other material benefit.³⁹

³⁶ United Nations, CTITF and OHCHR, *The Stopping and Searching of Persons in the Context of Countering Terrorism* (updated 2nd ed.), Basic Human Rights Reference Guide, 2014, para. 4; OHCHR and UNODC, *Resource book on the use of force and firearms in law enforcement*, 2017, p. 135; International Committee of the Red Cross (ICRC), *To Serve and to Protect: Human rights and humanitarian law for police and security forces*, (2nd ed.), 2014, p. 303.

³⁷ OHCHR, *Integrating a Gender Perspective into Human Rights Investigations*, pp. 7, 9.

³⁸ OHCHR, *Living free and equal*, p. 18.

³⁹ The agreed definition of smuggling of migrants is “the procurement, in order to obtain, directly or indirectly, a financial or other material benefit, of the illegal entry of a person into a State Party of which the person is not a national or a permanent resident.” See Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention Against Transnational Organized Crime (Smuggling of Migrants Protocol), art. 3(a).

Statelessness

A stateless person is defined in the 1954 Convention relating to the Status of Stateless Persons as “a person who is not considered as a national by any State under the operation of its law.”⁴⁰

Stigma

Stigma means marking with shame, disgrace, discredit or disapproval. It involves penalizing, humiliating or ostracizing individuals, groups or communities for bringing shame to or “transgressing” the standards of their community or society. Stigma may be associated with migration in a several ways, some gender related. For example, a migrant may fear criticism and stigma if returned to their community before having fulfilled expected remittances. That may be associated with the gender stereotyped role of men as primary providers, for example, but it may also apply to women or child migrants. Stigma associated with actual or imputed sexual autonomy or sexual violence is socially and culturally constructed around gender dominance and inequality. Such stigma leads to the creation, condoning or compounding of social exclusion for those who are, or are perceived to be, sexually active or victims and survivors of sexual violence.

Terrorism

There is no internationally agreed definition of “terrorism”. The United Nations Global Counter-Terrorism Strategy⁴¹ states that “acts, methods and practices of terrorism in all its forms and manifestations are activities aimed at the destruction of human rights, fundamental freedoms and democracy, threatening territorial integrity, security of States and destabilizing legitimately constituted Governments”. The Strategy emphasizes that “terrorism cannot and should not be associated with any religion, nationality, civilization or ethnic group.” Terrorism threatens the dignity and security of human beings everywhere, endangers or takes innocent lives, creates an environment that destroys the freedom from fear of the people, jeopardizes fundamental freedoms and aims at the destruction of human rights.⁴²

Torture

Torture is defined as “any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity. It does not include pain or suffering arising only from, inherent in or incidental to lawful sanctions.”⁴³

Trafficking in persons

Human trafficking has a three-part definition covering the act, means and purpose of trafficking. For adults, all three elements must be met; for children, only the act and purpose elements are necessary. The “act” of trafficking in persons refers to the action that the trafficker takes, that is, “the recruitment, transportation, transfer, harbouring or receipt of persons”. The “means” describes how the act is achieved, that is, “by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person”. The “purpose” in all cases of human trafficking is exploitation. Exploitation⁴⁴ is not

⁴⁰ The International Law Commission considers the definition in article 1 (1) of the 1954 Convention as forming part of customary international law (see A/61/10, chap. IV, para. 49). See also UNHCR, *Handbook on Protection of Stateless Persons: Under the 1954 Convention relating to the Status of Stateless Persons*, 2014.

⁴¹ See General Assembly resolution 60/288.

⁴² OHCHR, *Human Rights, Terrorism and Counter-terrorism*, Fact Sheet No. 32, pp. 7–8.

⁴³ Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, art. 1.1.

⁴⁴ The agreed definition of “exploitation” is “the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability

fully defined but includes “at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs.” In the case of a child, trafficking is “the recruitment, transportation, transfer, harbouring or receipt of a child for the purpose of exploitation”.⁴⁵

Use of force

Use of force refers to the use of physical means that may harm a person or cause damage to property. Physical means include the use of hands and body by law enforcement officials; the use of any instruments, weapons or equipment, such as batons; chemical irritants, such as pepper spray; restraints, such as handcuffs; dogs; and firearms. The actual use of force has the potential to inflict harm, cause (serious) injury, and may be lethal in some instances.⁴⁶

Xenophobia

There is no agreed definition of xenophobia in international law but it can be understood as attitudes, prejudices and behaviour that reject, exclude and often vilify persons, based on the perception that they are outsiders or foreigners to the community, society or national identity.⁴⁷

or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs.” See Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime (Trafficking in Persons Protocol), art. 3(a).

⁴⁵ Trafficking in Persons Protocol, art. 3 (a) and (c).

⁴⁶ OHCHR and UNODC, *Resource book on the use of force and firearms in law enforcement*, p. 1.

Human Rights at International Borders

People Bingo

Find as many people as possible answering **YES** to any of the statements in the boxes.

Write the person's name/initial or ask them to sign in the boxes to which they can answer 'Yes'.

USUALLY STAYS UP VERY LATE	LIKES CHOCOLATE	TRAVELLED FOR MORE THAN 2 HOURS TO BE HERE	CAN PLAY A MUSICAL INSTRUMENT	WEARS GLASSES
HAS MORE THAN ONE SIBLING	DOES NOT DRINK COFFEE	READS THE NEWSPAPER EVERY DAY	HAS CHILDREN	LIKES SINGING
IS WEARING A WATCH	REGULARLY PLAYS A SPORT	LIKES TO COOK	WAKES UP VERY EARLY	HAS LIVED IN ANOTHER COUNTRY
PREFERS READING TO WATCHING TELEVISION	LIKES VEGETABLES	LOVES DANCING	HAS MET A CELEBRITY	CANNOT RIDE A BICYCLE
HAS A PET	HAS TAKEN DRAMA CLASSES	IS WEARING ORANGE	LIKES SPICY FOOD	PREFERS TRAINS TO AEROPLANES

Human Rights at International Borders

YES/TRUE and NO/FALSE cards



Human Rights at International Borders

Universal Declaration of Human Rights – Summary of rights

- Article 1 Right to equality
- Article 2 Freedom from discrimination
- Article 3 Right to life, liberty, personal security
- Article 4 Freedom from slavery
- Article 5 Freedom from torture and degrading treatment
- Article 6 Right to recognition as a person before the law
- Article 7 Right to equality before the law
- Article 8 Right to remedy by a competent tribunal
- Article 9 Freedom from arbitrary arrest and exile
- Article 10 Right to a fair public hearing
- Article 11 Right to be considered innocent until proven guilty
- Article 12 Freedom from interference with privacy, family, home and correspondence
- Article 13 Right to freedom of movement in and out of one's country
- Article 14 Right to asylum from persecution in other countries
- Article 15 Right to a nationality and freedom to change it
- Article 16 Right to marriage and a family
- Article 17 Right to own property
- Article 18 Freedom of belief and religion
- Article 19 Freedom of opinion and information
- Article 20 Right of peaceful assembly and association
- Article 21 Right to participate in Government and in free elections
- Article 22 Right to social security
- Article 23 Right to work and to join trade unions
- Article 24 Right to rest and leisure
- Article 25 Right to adequate living standard (including health, food, clothing, and housing)
- Article 26 Right to education
- Article 27 Right to cultural, artistic, scientific life
- Article 28 Right to a social and international order in which one's rights and freedoms can be fully realized

For the full text of the Declaration, see www.standup4humanrights.org/en/declaration.html.

Human Rights at International Borders

Core international human rights treaties

International human rights law - core treaties	[State] [√/S/ No]
International Convention on the Elimination of All Forms of Racial Discrimination (ICERD)	
International Covenant on Civil and Political Rights (ICCPR)	
International Covenant on Economic, Social and Cultural Rights (ICESCR)	
Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)	
Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT)	
Convention on the Rights of the Child (CRC)	
International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (ICMW)	
International Convention for the Protection of All Persons from Enforced Disappearance (CPED)	
Convention on the Rights of Persons with Disabilities (CRPD)	
Optional Protocol to the Covenant on Economic, Social and Cultural Rights (ICESCR-OP)	
Optional Protocol to the International Covenant on Civil and Political Rights (ICCPR-OP1)	
Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty (ICCPR-OP2)	
Optional Protocol to the Convention on the Elimination of Discrimination against Women (OP-CEDAW)	
Optional protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict (OP-CRC-AC)	
Optional protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography (OP-CRC-SC)	
Optional Protocol to the Convention on the Rights of the Child on a communications procedure (OP-CRC-IC)	
Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (OP-CAT)	
Optional Protocol to the Convention on the Rights of Persons with Disabilities (OP-CRPD)	
Regional human rights treaties	[State]
Title	
Title	

Key: [√] State party

[S] Signatory

[No] No action

Human Rights at International Borders

Description of the core human rights treaties

International Covenant on Economic, Social and Cultural Rights

Establishes that States shall protect the rights of all individuals—regardless of citizenship—to work, just and favourable conditions, an adequate standard of living, good health, and other economic, social and cultural rights.

The Optional Protocol enables the Committee on Economic, Social and Cultural Rights – the treaty monitoring body – to receive and consider communications from individuals.

International Covenant on Civil and Political Rights

Establishes, among others, rights to freedom of speech and association, religion and conscience, right to liberty and security of person, to remedy, to participation in political life, to family life, to be registered at birth; forbids the discrimination between nationals and non-nationals with narrow exceptions for political rights that are explicitly guaranteed to nationals, and freedom of movement.

Optional Protocol 1 enables the Human Rights Committee – the treaty monitoring body – to receive and consider communications from individuals; Optional Protocol 2 is aimed at the abolition of the death penalty.

International Convention on the Elimination of Racial Discrimination

Prohibits all discrimination on the basis of race, colour, descent or national or ethnic origin; allows distinctions to be made between nationals and non-nationals, provided this does not result in discrimination against any particular group and does not affect equal enjoyment of rights guaranteed to all persons under the relevant international human rights instruments.

Convention on the Elimination of All Forms of Discrimination against Women

Defines what constitutes discrimination against women and sets up an agenda for national action to end such discrimination – importantly addresses the responsibility of the State in relation to protection from private actors – including within family relationships.

The Optional Protocol enables the Committee on the Elimination of Discrimination against Women – the treaty monitoring body – to receive and consider communications from individuals.

Convention against Torture and Other Cruel, Inhuman or Degrading Treatment and Punishment

Prohibits all forms of torture and ill-treatment; also the refoulement of any person to another State where there are substantial grounds for believing that he or she would be in danger of being subjected to torture. The Convention also enables the Committee Against Torture – the treaty monitoring body – to receive and consider communications from individuals.

The Optional Protocol mandates the Subcommittee on Prevention of Torture to establish a system of regular visits to places where individuals are deprived of their liberty, in order to prevent torture and other cruel, inhuman or degrading treatment or punishment.

Convention on the Rights of the Child

Defines a child as anyone under 18 year of age; establishes that all children within the jurisdiction of a State party shall have the right to a name and to acquire a nationality; also provides that States parties shall ensure the implementation of those rights, in particular when the child would otherwise be stateless; all policies and practice concerning the child should be guided by the “best interest” of the child as the primary consideration.

There are three Optional Protocols: on the involvement of children in armed conflict; on the sale of children; on a communications procedure.

International Convention for the Protection of All Persons from Enforced Disappearance

Prohibits enforced disappearances of any person for any reason and under any circumstances whatsoever; defines such actions as a crime against humanity. The Committee on Enforced Disappearance – the treaty monitoring body – may consider complaints from individuals.

Convention on the Rights of Persons with Disabilities

Protects and promotes the rights and dignity of persons with disabilities; reiterates full equality under the law; includes specific obligations for States parties to ensure that the rights enshrined in other United Nations conventions can be fully realized for persons with disabilities.

The Optional Protocol enables the Committee on the Rights of Persons with Disabilities – the treaty monitoring body – to receive and consider communications from individuals.

International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families

Protects the rights of all migrant workers and members of their families without distinction to sex, race, colour, language, religion or conviction, political or other opinion, national, ethnic or social origin, nationality, age, economic position, property, marital status, birth or other status; during the entire migration process of migrant workers and members of their families, including preparation for migration, departure, transit and the entire period of stay and remunerated activity in the State of employment as well as return to the State of origin or the State of habitual residence.

Human Rights at International Borders

Key concepts

HUMAN RIGHTS – KEY CONCEPTS

Human rights are:

- Universal* Human rights are the same everywhere and for everyone.
- Interdependent* The improvement of one right facilitates advancement of the others.
- Indivisible* The implementation of all rights simultaneously is necessary for the full functioning of the human rights system.
- Inalienable* Your rights cannot be taken away, except in specific situations and according to due process.

The following principles apply across human rights law and practice:

- Equality* “All human beings are born free and equal in dignity and rights.” (Universal Declaration of Human Rights, art. 1)
- Non-discrimination* This principle is cross-cutting in all human rights and prohibits any direct or indirect distinction, exclusion, restriction or preference or other differential treatment on the basis of a list of non-exhaustive categories such as sex, race, colour, nationality, and so on.

Accountability has three elements:

- Responsibility* Those in positions of authority have clearly defined duties and performance standards, enabling their behaviour to be assessed transparently and objectively.
- Answerability* Public officials and institutions provide reasoned justifications for their actions and decisions to those they affect.
- Enforceability* Public institutions have mechanisms in place to monitor the degree to which public officials and institutions comply with established standards, impose sanctions on officials who do not comply, and ensure that appropriate corrective and remedial action is taken when required.

Human Rights at International Borders

Recommended principles and guidelines on human rights at international borders

OHCHR, *Recommended Principles and Guidelines on Human Rights at International Borders*, 2014 (www.ohchr.org/Documents/Issues/Migration/OHCHR_Recommended_Principles_Guidelines.pdf) sets out 3 principles and 10 guidelines.

Recommended principles on human rights at international borders

- Principle A: The primacy of human rights
- Principle B: Non-discrimination
- Principle C: Assistance and protection from harm

Recommended guidelines on human rights at international borders

- Guideline 1: Promotion and protection of human rights
- Guideline 2: Legal and policy framework
- Guideline 3: Building human rights capacity
- Guideline 4: Ensuring human rights in rescue and interception
- Guideline 5: Human rights in the context of immediate assistance
- Guideline 6: Screening and interviewing
- Guideline 7: Identification and referral
- Guideline 8: Avoiding detention
- Guideline 9: Human rights-based return or removal
- Guideline 10: Cooperation and coordination

Human Rights at International Borders

Case A – At the border

INSTRUCTIONS

Read the case assigned to your group.

1. What human rights issues can you identify in the case? List at least four.
2. What gender-specific concerns can you identify in the case?
3. Do you think these individuals would/should be treated differently depending on their gender?
4. What can border officials do to protect the human rights identified?

Kai, 17 years old, and Sammy, 22 years old

My cousin Sammy and I left our country together. At home we are very poor and there is a lot of violence. I loved school but the gang members in the neighbourhood said that “real men” should work. We decided we should make a better life for ourselves away from that place. My father moved to Syldavia two years ago to work and a year after, my mother was killed as a bystander in a shoot-out.

For a few months, we have been travelling on buses and by foot, crossing a number of countries to try and join my father in Syldavia. One night, border security officials raided the farm we were sleeping in. I was able to escape but they arrested and detained Sammy. Sammy was forced to work while in detention and, only after paying a bribe to a guard, he managed to escape.

We are at the border now, and I am working to earn enough money to pay the expensive fees the smugglers demand so they will take us to Syldavia. It would be too dangerous to go on our own, people have been kidnapped and have died in the desert. I have been working long hours in a local restaurant and have been burnt by the fires of the oven several times. I haven't been able to get treatment for my wounds because I am afraid that they will report me to the immigration officers who will then deport me.

Sammy hasn't been able to work and is still very shaken from the time in detention and sometimes depressed; I am afraid to ask what happened there.

Human Rights at International Borders

Case B – At the border

INSTRUCTIONS

Read the case assigned to your group.

1. What human rights issues can you identify in the case? List at least four.
2. What gender-specific concerns can you identify in the case?
3. Do you think these individuals would/should be treated differently depending on their gender?
4. What can border officials do to protect the rights identified?

Amodita, 20 years old, and Ichanga, 23 years old

My village in Cordinia has been affected by drought since before I was born. The harvests from the land our family owned steadily decreased, without enough to sustain and feed everyone. In addition, my father has fallen ill and his medical treatment is very expensive. When I married Ichanga, we started saving so we could move elsewhere and support my family.

A friend of the family knew an agent who arranged documents for us to get to Elbonia and we set off by bus. The agent told us the journey would take three days, travelling through the neighbouring country of Liberto to Elbonia. I was five months pregnant when we left.

About two hours after crossing the border into Liberto, immigration officers stopped our bus. Ichanga was standing in the back while someone had offered me their seat in the front. The officials boarded the bus and ordered Ichanga and another man to get off. I tried to join him, but the officials made me stay on the bus. After about 20 minutes, Ichanga was still not back and the bus left.

I started shouting and protesting, but they would not stop to let me get off. I was very distressed because I did not know what to do and could not speak the language; I started to get severe cramps. When we finally got to the border of Elbonia, another woman helped me walk to the border office. There were no women officers to speak to; the male officers examined my documents but said I could not enter, because I did not have the right papers.

At this point, all I wanted was to see a doctor, as the pain was unbearable, but the officers said this was not possible because I had tried to enter Elbonia irregularly.

Human Rights at International Borders

Session 1: Introduction to Human Rights Summary

Human rights are:

- Expressions of human dignity;
- A set of agreed values/norms reflecting the principles of dignity, equality and freedom;
- Legal standards and agreements – international and regional;
- Inherent to individuals, and primarily define the relationship between the individual and the State.

Key points about the human rights framework:

International human rights law establishes rights holders (individuals) and duty bearers (States):

- Duty bearers (State actors) are expected to fulfil their responsibility towards rights holders;
- Rights holders (individuals) claim their rights from duty bearers and hold them accountable.

International human rights law:

- Establishes States' obligations towards *every* person;
- Obligates all Government actors to protect human rights;
- Obligates States to protect all persons under their territorial jurisdiction and effective control;
- Holds States responsible for human rights abuses committed by private actors, including businesses.

Legal human rights sources that have been negotiated and adopted by States

- Charter of Human Rights
- Universal Declaration of Human Rights;
- Nine core international human rights treaties;
- Regional human rights treaties.

States can **restrict** certain rights as long as all of the following requirements are met. The restriction must be:

- *Lawful* – it must have a clear legal basis;
- *Justified to achieve a legitimate aim* – on grounds that are set out in the relevant provisions in international human rights law;
- *Necessary* – based on an objective assessment that the limitation meets a pressing social need, and is necessary to achieve the legitimate aim;
- *Proportionate to the aim* – as the least restrictive measure available, carefully tailored to achieve the stated objective, and not arbitrary, unfair, or based on irrational considerations;
- *Non-discriminatory* – it must not distinguish between different groups of people, affect groups differently without reasonable or objective justification, or be disproportionate. If a measure is discriminatory, it is not compliant with international human rights law.

Some human rights – including the right to be free from torture and other forms of cruel, inhuman or degrading treatment or punishment – can never be restricted.

The **right to due process** is necessary for the realization of human rights and requires that appropriate laws, legal processes and other measures be in place to ensure that every individual is treated fairly. The right to due process by all migrants, regardless of their status, should be protected and respected in all areas where the State exercises jurisdiction or effective control. That includes the right to an individual examination, the right to a judicial and effective remedy, and the right to appeal.

A **focus on gender** is intrinsic to a human-rights based approach because the historically unequal power relations between genders mean that individuals may experience human rights and human rights abuses differently on account of their gender. Those differences are often tied to societal gender roles and may require specific measures so that everyone can enjoy their human rights without discrimination. *Gender analysis* is an integral part of a human rights-based approach, making visible the many ways that gender affects human rights.

- Migration is not a gender-neutral phenomenon. Many migrants experience differential access to regular migration channels and labour sectors, forms of abuse and the consequences of those, and how they are perceived by the authorities, because of their gender.
- Perceptions, assumptions and stereotypes about gender may affect border officials' approach to migrants crossing borders. This is not beneficial to migrants' rights or to border management or counter-terrorism work.

Three key human rights principles relating to border security and management:

Principle A: The primacy of human rights

- The primacy of human rights calls for rights to be at the centre of all border governance measures.

Principle B: Non-discrimination

- The principle of non-discrimination requires that migrants are protected against any form of discrimination at borders.

Principle C: Assistance and protection from harm

- This principle means that human rights obligations must take precedence over law enforcement and migration management objectives.

Avoid harmful language:

Avoid using the term "illegal" in referring to migrants or migration – no human is illegal.

Calling migrants or migration "illegal" is stigmatizing and incorrect because migration is not a crime under international law. Border crossing is generally an administrative issue – therefore, unauthorized entry, the attempt to enter in an irregular manner, or irregular stay in general, should not be considered a criminal offence.

Human rights of border officials

- Border officials are rights-holders and duty-bearers
- Border officials have all human rights.

The State is obliged to protect and fulfil the rights of border officials. This includes ensuring safe working conditions and providing an environment (including adequate facilities, resources, training etc.,) in which border officials are able to carry out their duties and responsibilities in a human rights-based manner.

Gender-responsive approaches to border management are critical for ensuring a rights-based response and increasing effectiveness. Border facilities should be staffed with sufficient numbers of qualified personnel with gender balance, across roles and levels. To support this, authorities

need gender-responsive operational policies, protocols and procedures throughout the work of border officials, including standard operating procedures (SOPs), and to ensure there are adequate facilities for border officials of all genders.

Accountability

- A human rights-based approach seeks to establish accountability between duty-bearers and rights-holders;
- Implementing the principle of accountability at international borders requires the creation of effective and independent gender-responsive mechanisms to oversee the enforcement of migrants' human rights, hold perpetrators of human rights violations accountable, and provide effective remedies for anyone whose rights have been violated;
- There are a number of options for such mechanisms, singly or in combination, including an independent review board, a ministry, the judiciary, an ombudsperson, etc.

Human Rights at International Borders

Session 2: Migrants in vulnerable situations at international borders Summary

Many migrants fall outside specific legal categories, such as “refugee” or “trafficked person”. The routes that migrants take, means of transportation, and even their intended destination can change at different phases along the migration trajectory and migrants often pass in and out of various legal categories as they move. An individual’s need for protection can change – often dramatically – in the course of their journey. We need to understand the protection gaps experienced by migrants who do not fit the criteria of such categories, but who are nonetheless in need of human rights protection. The framework of vulnerable situations offers a way to identify these protection needs.

Situations of vulnerability

- May cause an individual to *leave their country of origin* – e.g., persecution, conflict, natural disaster, results of slow-onset climate change, human rights violations;
- May occur *during transit*, at the international border, or at destination – e.g., sexual and gender-based violence, abusive smuggling, arbitrary detention;
- May be linked to an *individual’s identity* or circumstance – e.g., children, persons with disabilities, persons with acute or chronic health conditions, gender identity, sexual orientation.

This is not the same as a gender analysis of migration; gender does not itself constitute a vulnerable situation. However, since gender informs migrants’ experiences – driving migration, during the journey, one of multiple marginalizations – gender discrimination may interrelate with factors to create vulnerable situations for migrants of any gender.

Migrants in vulnerable situations

Are persons who are unable to effectively enjoy their human rights and at increased risk of violations and abuse.

- They are entitled to call on a State’s heightened duty of care;
- It is important to identify individuals in vulnerable situations in order to understand what specific protections they are entitled to and refer them to the appropriate services;
- Although a migrant who is in or has experienced a vulnerable situation may fall outside the specific legal category of “refugee”, it is especially important to ensure that their specific human rights protection needs are met;
- An individual’s need for human rights protection can change in the course of their journey or over time;
- It is important to recognize that even in vulnerable situations migrants exercise autonomy and make their own decisions.

Common considerations for individuals in vulnerable situations

- They may or may not have physical signs of injury:
Other indicators of trauma include impaired memory, difficulty focusing, inability to trust, tendency to startle easily, excessively anxious and avoidant, nightmares and inability to sleep, headaches, loss of appetite and digestive problems. Note too that not all migrants who are in or have experienced vulnerable situations will show signs of being traumatized;
- They may not volunteer information on or may be reluctant to discuss their experiences;
- They may have certain needs, such as medical care, including for sexual and reproductive health needs:

- Undertake sensitive inquiry that is gender and age-responsive to avoid generating unnecessary distress and re-traumatizing;
- Migrants should be individually assessed on arrival at international borders, without discrimination or prior assumptions.

Human Rights at International Borders

Key steps for interception, rescue and immediate assistance

Human rights-based planning and preparation for interception, rescue and immediate assistance

Clarify the objective and assess the risk

- Determine the objective of the operation, assess what human rights could be at risk, and the available options for achieving the objective while minimizing the risk;
- Identify places of safety and safe ports.

Plan the methodology

- Decide on the methodology, including how to avoid dangerous interceptions and ensuring that the minimum necessary force is used, if any;
- Coordinate with other agencies, especially in the preparation of assistance and to ensure that effective and safe referral pathways are in place. Such agencies may include national protection bodies, international organizations and civil society organizations.

Prepare the team and equipment

- Ensure the appropriate number and type of personnel (including gender balance), necessary transportation, emergency health equipment, food and water supplies;
- Provide and maintain rescue beacons along dangerous migration routes so that migrants whose lives and safety are in danger could signal for help and be rescued.

Interception

Avoid dangerous interception methods

- Avoid interception measures that could pose a risk to the safety and lives of individuals or officials at borders. Such measures could amount to violation of the principle of non-refoulement and prohibition of collective and arbitrary expulsions. For example, land or sea pushbacks, handovers, trailing migrants for days until they are intercepted, or rejecting migrants at the border.

Ensure the safety of officials and others

- The safety of border officials and others assisting in the interception/rescue must come first as a general rule;
- Search intercepted persons for potential weapons or other harmful objects in their possession: All searches of individuals should be conducted with respect for their inherent human dignity and privacy. Searches should only be conducted by officials of the same gender as the individual being searched; trans or non-binary travellers/migrants who are to be searched should be able to choose the gender of officials who will conduct the search.

Identify persons in vulnerable situations

- Inquire about and identify persons who are at imminent risk of death or are severely injured, as well as pregnant or nursing women, girls and other individuals who may not identify as women, children, older persons, persons with disabilities, and other persons in vulnerable situations;
- Look for signs that would indicate a need for medical care, including urgent psychosocial assistance and activate safe effective and appropriate established referral pathways.

Rescue

Prioritize saving lives and ensure the human rights, safety and dignity of all persons rescued

Rescue at sea – particular legal requirements:

- Ships shall proceed instantly to the rescue of all persons in distress at sea, without regard to the circumstances in which they were found, unless the rescue operation may endanger the lives of crew members or the ship itself;
- Rescued migrants should be taken to places of safety and offered immediate assistance;
- Disembarkation should be swift and should not lead to indirect or chain refoulement.

Immediate assistance

Provision of immediate assistance should be considered and included in the planning and preparation process.

Provide immediate assistance

- Provide assistance where necessary, including at or near places of rescue or interception, or disembarkation;
- Provide medical care, adequate food and water, blankets, clothing, sanitary items, and opportunity for rest.

Provide individual health and medical screening

- Provide urgent medical care as required to preserve life or avoid irreparable harm to health, including gender-specific health care services;
- Provide individual medical and health screening with respect for migrants' autonomy, right to privacy, and their informed consent;
- Competent medical personnel should be present at the point of rescue, interception or disembarkation to undertake screenings and refer persons for further medical action.

Provide temporary accommodation compliant with human rights standards

- Migrants should not be held in temporary accommodation for any longer than is strictly necessary to verify identity or other essential information and to organize transfers or referrals as appropriate;
- All temporary reception facilities should be age-, disability-, and gender-sensitive and comply with international human rights standards, with adequate space, nutritional and culturally appropriate food, clean water, sanitation, adequate medical care and access to legal aid;
- Women and men should be housed separately, unless they are in family groups; and children should not be housed with unrelated adults. In gender-segregated housing, trans migrants should be housed with migrants of the gender with which they self-identify.

Cooperate with other bodies

- In providing assistance, including national protection bodies, international organizations and civil society organizations.

Provision of information

- Provide migrants with accessible information about their rights, including the right to consular assistance, access to health and medical care, asylum processes or other protection alternatives, the process to access legal aid, details of organizations that provide such services;

- The information should be in a language that the recipients understand and in accessible formats.

Special considerations

Protect the right to privacy and the right to security of persons

- Any photographs, declaration, personal data and belongings of migrants should not be taken or used, unless it is necessary and proportionate to a legitimate purpose in accordance with international human rights law;
- Ensure that individuals are not filmed or photographed by journalists without their informed consent, out of respect of their privacy and for their safety.

Gender considerations in interception, rescue and assistance

- All arrival points/reception facilities should provide space, support and provisions required by migrants of different genders (e.g., safe and adequate sanitary facilities, gender-segregated shelter – except where families want to stay together).

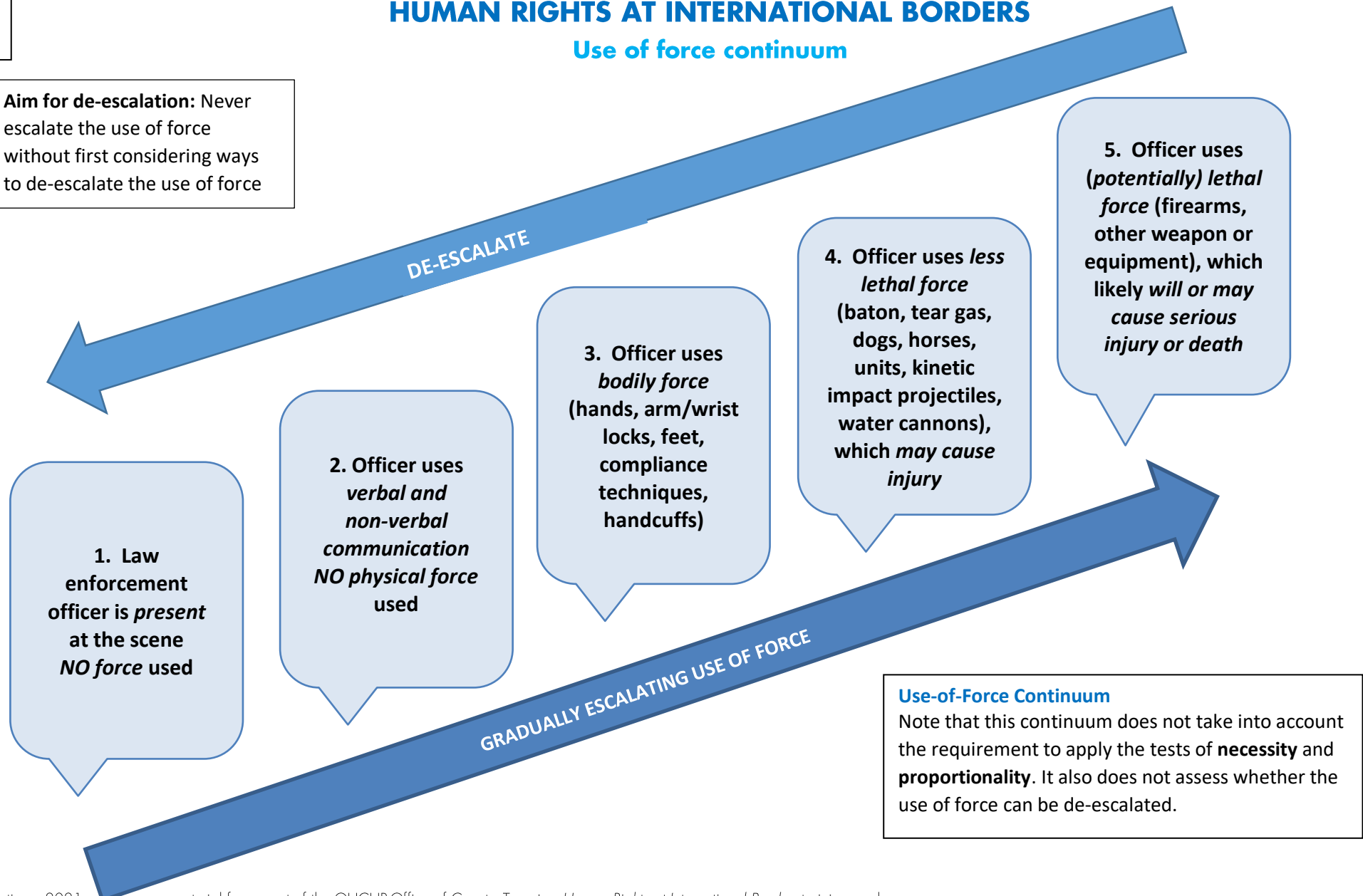
Missing or deceased migrants

- Provide contact points for families looking for missing migrants and keep them informed on the status of the search;
- Facilitate the dignified and respectful recovery, identification and transfer of the remains of migrants who have died during their journey.

HUMAN RIGHTS AT INTERNATIONAL BORDERS

Use of force continuum

Aim for de-escalation: Never escalate the use of force without first considering ways to de-escalate the use of force



Human Rights at International Borders

Core considerations concerning the use of force

The use of force by border officials should be exceptional. Law enforcement officials, including border officials, must meet the principles of legality, precaution, necessity, proportionality and non-discrimination when using force. The sixth principle – accountability – comes into play once the decision to use force is made.

- **Principle of legality:**
 - According to the rules and regulations adopted by the State, which are compliant with relevant international norms and standards;
 - Only for legitimate purposes.

- **Principle of precaution:**
 - Take all necessary precaution to avoid or at least minimize the risk of recourse to force and to minimize the severity of any injury that may be caused.

- **Principle of necessity:**
 - Use of force is only necessary when non-violent means remain ineffective or without any promise of achieving a legitimate law enforcement objective;
 - Always use the minimum necessary force, if any;
 - Temporary requirement: stop as soon as the objective is achieved or when it becomes clear that it cannot be met;
 - Related to the legality element: the use of force can be necessary only when a legitimate objective is being pursued.

- **Principle of proportionality:**
 - Sets a ceiling on the use of force based on the threat posed by the person targeted;
 - Type and level of force applied and the resulting harm must be proportionate to the threat;
 - If the harm caused by the use of force outweighs the advantages of its use (the achievement of the objective), the use of force becomes disproportionate, and therefore unlawful;
 - If (potentially) lethal force is to be used, the proportionality requirement can be met only if such force is applied in order to save life;
 - Related to the necessity element: the necessity requirement will never justify the use of disproportionate force.

- **Principle of non-discrimination**
 - Prohibition of direct or indirect discrimination based on a person/group's race, colour, national, ethnic or social origin, language, sex, religion, political or other opinion, descent, birth, caste, age, disability, health status, migration status, sexual orientation, gender identity, or other grounds;
 - Must also be an integral component of every assessment of necessity and proportionality of the use of force to avoid excessive or arbitrary force being used against a person out of prejudice or with discriminatory intent.

- **Principle of accountability**
 - To ensure that systems and mechanisms are in place to hold border officials accountable for their actions, including any decision to use force.

- **Use of force continuum**
 - Always aim for de-escalation;
 - Prioritize verbal and non-verbal communication.

- The use of torture is **NEVER** lawful, necessary, or proportionate, and is therefore prohibited.

See also *Key steps for interception, rescue and immediate assistance* and the *Use of force continuum*

Human Rights at International Borders

Screening role play (migrants) – Migrant profiles overview

<i>Personal information</i>	<i>Country issuing passport</i>	<i>Documentation status</i>	<i>Notes</i>
Name: Vanessa Sex: F Age: 20	Ambrosia	False	
Name: Abouna Sex: F Age: 32	Arcadia	OK	Also has a return ticket in 2 weeks' time. She has only the very minimum required finances.
Name: Fatima Sex: F Age: 24	Costaguana	None	[included for info, does not need a passport]
Name: Prajid Sex: M Age: 24	Carombya	OK - but no valid visa	Passport has many recent stamps from other countries in the region, indicating a long transit.
Name: Maia Sex: F Age: 19	Molvania	Forged	
Name: Alan Sex: M Age: 25	Arcadia	OK	
Name: Kim Age: 22	Zuy	None	[included for info, does not need a passport]
Name: Zara Sex: F Age: 15	Ambrosia	Fake	
Name: Ivan Sex: M Age: 19	Carombya	OK	

Human Rights at International Borders

Screening role play (migrants) – Migrant stories

Vanessa

20 year-old woman from Ambrosia.

Her documents are false.

Other information: she says *“I am a refugee and I’m 8 months pregnant”*.

Abouna

32 year-old woman from Arcadia

Documents in order, including a return ticket (with a return date in two weeks’ time); she has only the very minimum required finances.

Other information: she says *“My situation back home is impossible. I am desperate. There, I cannot get a job and my mother is very sick. I do not know anyone in Arcadia”*.

Fatima

24 year-old Indigenous woman from Costaguana.

Has no documentation.

Other information: Fatima is a member of one of the indigenous peoples of Costaguana. Does not speak the majority language of Costaguana. She indicates through gestures, etc., that she does not want to go back to Costaguana.

Prajid

24 year-old man from Carombya.

Passport in order, but no valid visa.

Other information: His passport has many recent stamps from other countries in the region, indicating a long transit. He has wound marks on his arms and neck.

Maia

19 year-old woman from Molvania

Travelling on forged documentation.

Other information: She does not easily answer questions. She looks tired, as well as highly anxious. She carries a copy of a contract to work as a secretary for a senior executive. She says she is accompanied by a man who has already gone through screening.

Alan

25 year-old man from Arcadia

Documents are in order.

Other information: Part of his name appears on a terrorist watchlist. Alan is a very common name in Arcadia.

Kim

Individual from Zuy, age 22

Other information: Kim departed from Zuy without the government's permission. Kim shows signs of severe abdominal pain.

Zahra

15 year-old girl from Ambrosia

Travelling on false papers.

Other information: Says she does not know where her parents are.

Ivan

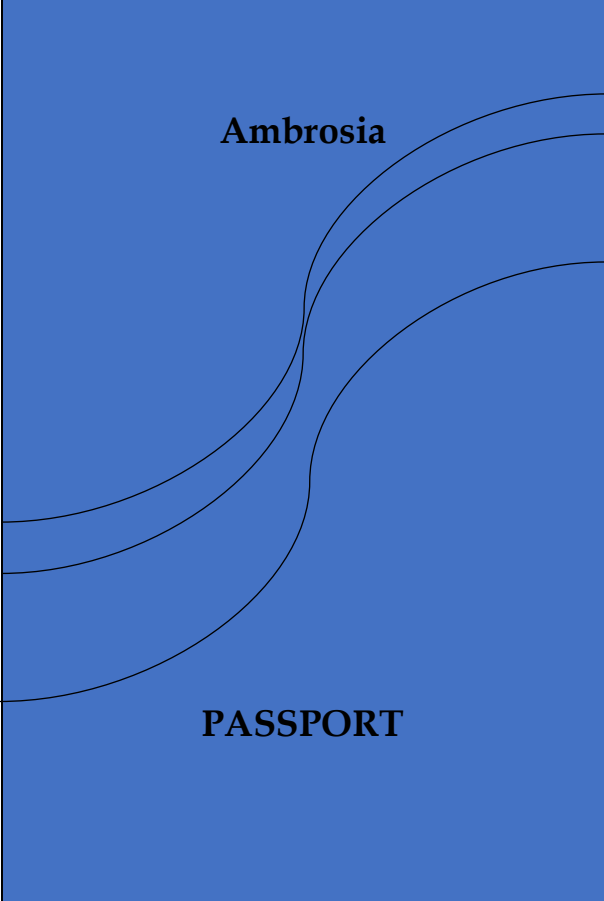
19 year-old man from Carombya

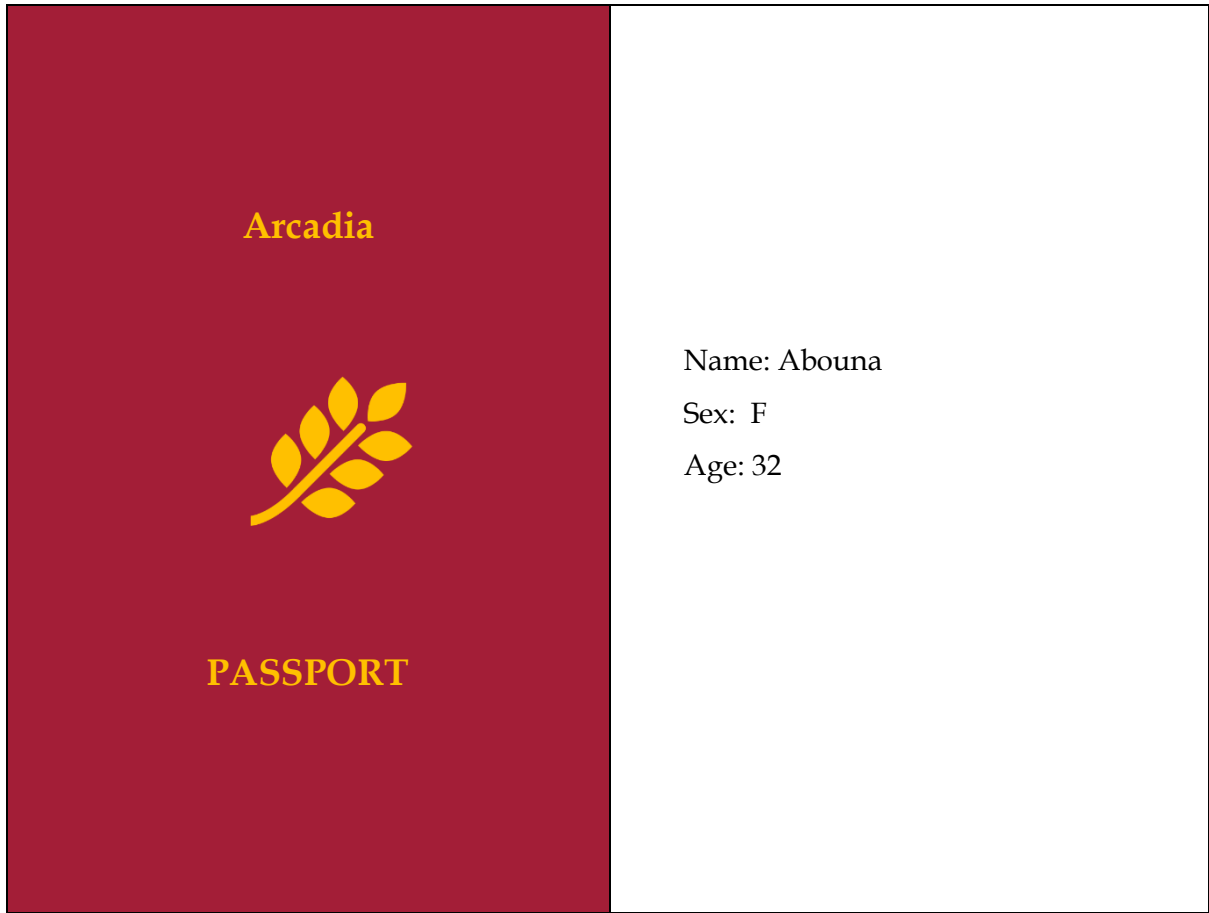
Documentation seems to be in order.

Other information: He struggles to speak and appears to have a mental or intellectual disability. He is travelling with a cousin aged 32 years.

Human Rights at International Borders

Screening role play (migrants) – Passports, other documents

<p>Ambrosia</p>  <p>PASSPORT</p>	<p>Name: Vanessa Sex: F Age: 20</p>
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Carombya



PASSPORT

Name: Prajid

Sex: M

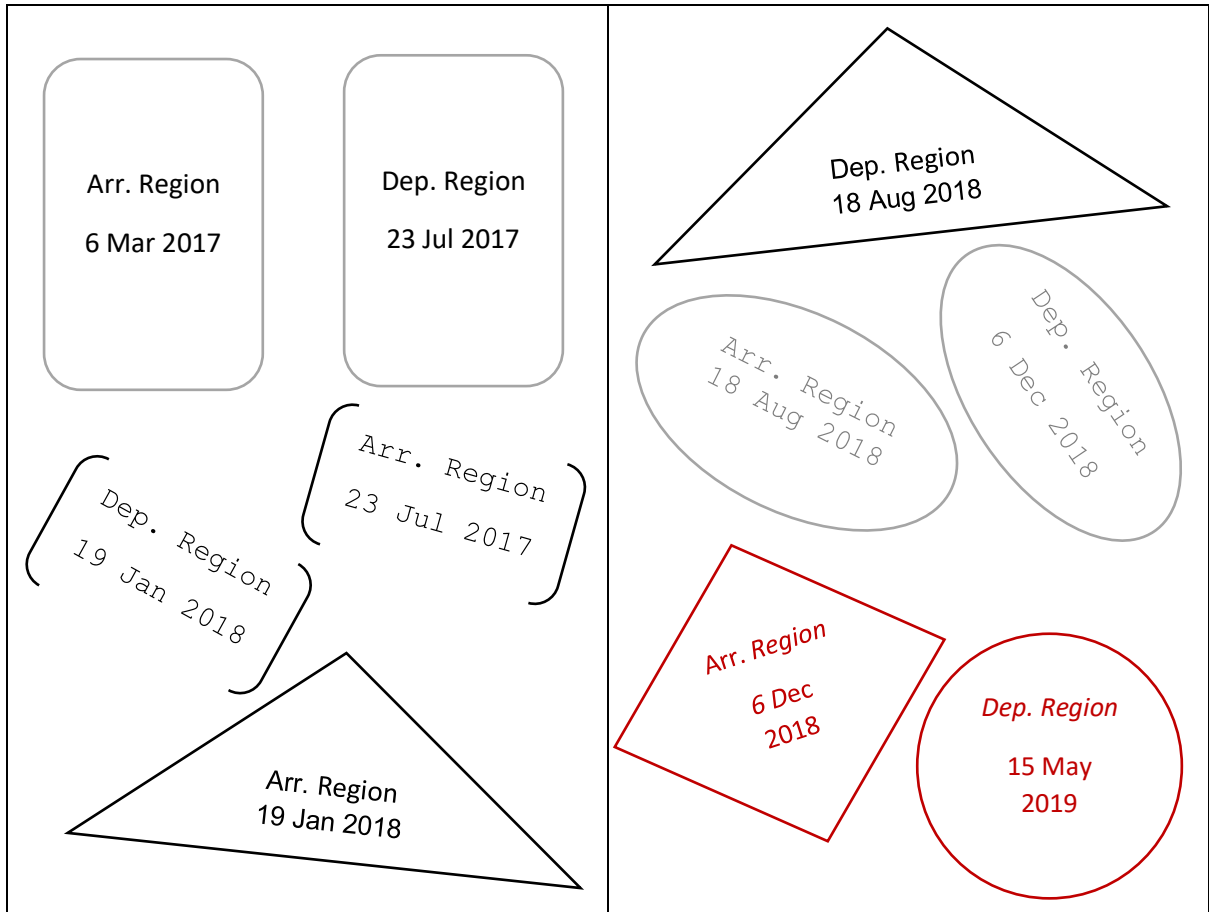
Age: 24

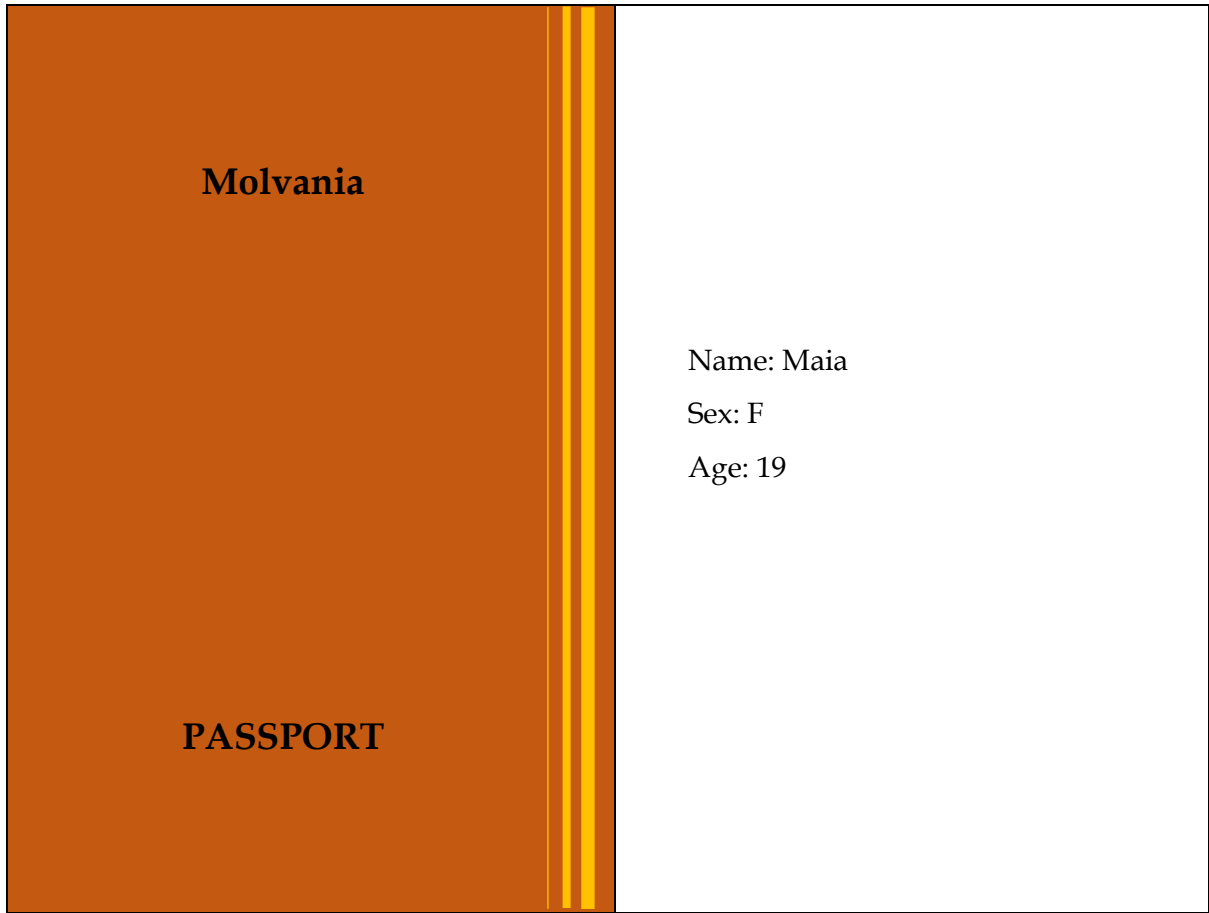
Arr. Region
4 Dec 2016

Dep. Region
19 Jan 2017

Arr Region
19 Jan 2017

Dep. Region
6 Mar 2017





Arcadia

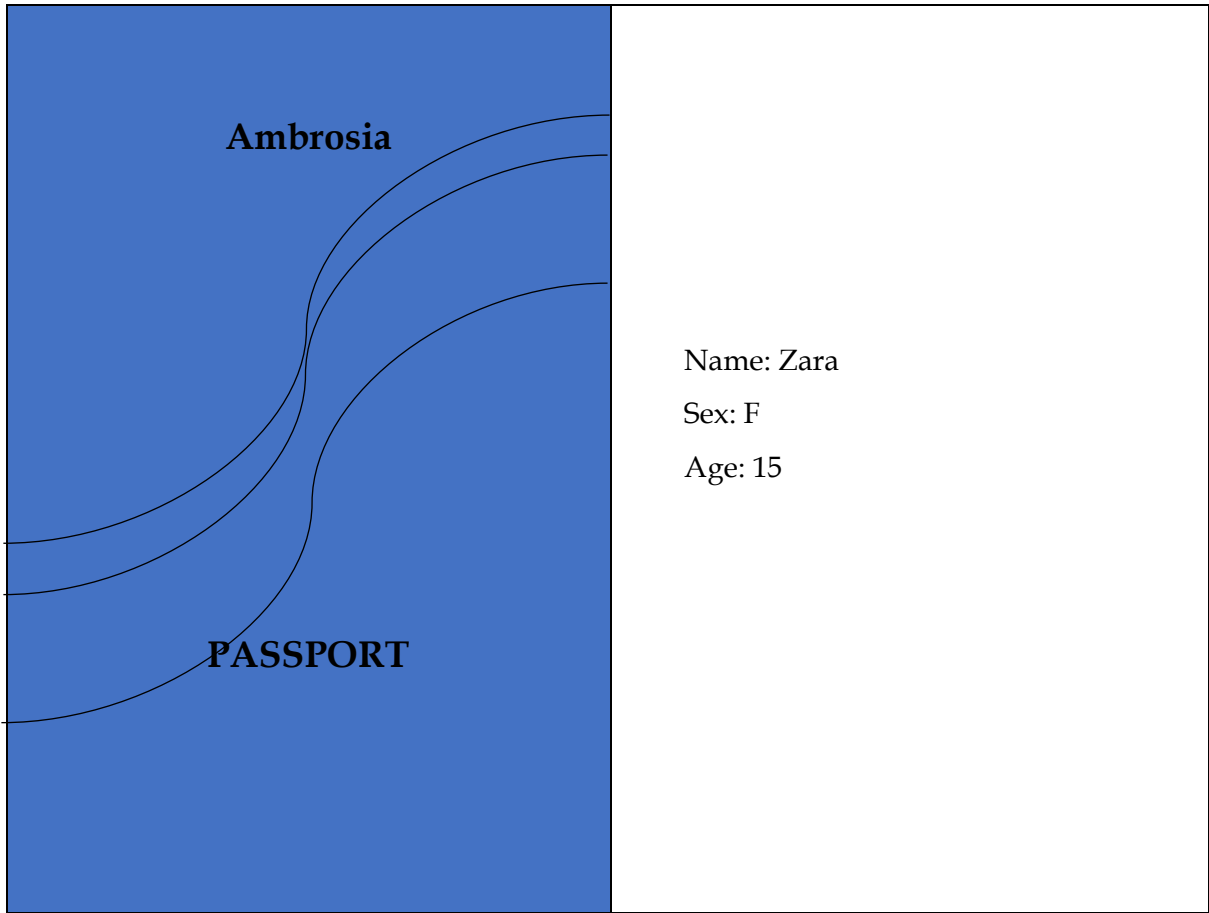


PASSPORT

Name: Alan

Sex: M

Age: 25



Carombya



PASSPORT

Name: Ivan

Sex: M

Age: 19

Human Rights at International Borders

Screening role play (border officials) – Incident reporting sheet

BORDER SCREENING / INCIDENT REPORT

BORDER POST

OFFICER'S ID

DATE

1. Family name / given name(s):
2. Date of birth:
3. Nationality:
4. Personal documentation:
 - Valid
 - Not valid
 - Unclear
5. Incident (please indicate how you became aware or noticed the incident)
6. Proposed action to be taken:
 - Admit for entry
 - Deny entry
 - Reason for denial:
 - Refer to secondary screening
 - Refer to child protection
 - Refer to asylum screening
 - Refer to health screening
 - Refer to screening for trafficking in persons
 - Refer to the police/security (suspected security risk)
 - Other – please state:
7. Additional comments / other information:

Human Rights at International Borders

Screening role play (border officials) – Background and watch list

Background on border post

This border post sees a large number of crossings daily for a range of purposes, including commerce, business, transit and tourism. In recent days, concerns have arisen that a terrorist sleeper cell has been activated in neighbouring Arcadia. There has been no intelligence about members of this cell having attempted or planning to cross into [*border official's country/fictitious country*].

Since the beginning of the year, there have also been an increasing number of interceptions of individuals traveling with forged identification documents or attempting to cross the border without the appropriate visa.

Terrorist watch list

- Alan Borodi, male, 29 years, Ambrosia
- Alan Ijon, male, 35 years, Ambrosia
- Alan Ginla, male, age unknown, Costaguana
- Alana Hina, female, 25 years, Arcadia
- Breen Jbel, female, 20 years, Arcadia
- Grendi Olden, male, 19 years, Arcadia
- Mike Sjögren, male, 60 years, Golnis
- Olmi Triz, male, 27 years, Golnis

Human Rights at International Borders

Key steps for interviewing

Preparing for the interview

(a) *Select the interviewer and venue*

- The interviewer should be the same gender as the interviewee, but, if possible, give the migrant the choice;
- A child protection officer should be present for any interview of a child migrant, and the space should be child-friendly;
- The interview should take place in a private and secure location.

(b) *Gather information about available resources*

- Know the support and referral pathways available and be able to use referral mechanisms, including for the asylum procedure and other protection avenues.

(c) *Prepare the questions for the interview*

- Be prepared to ask all questions that may indicate possible immediate needs (e.g., medical care);
- Questions should be sensitive to gender, age and other grounds of discrimination to reveal violations and specific human rights protection needs that might otherwise remain invisible.

(d) *Select and brief an interpreter, if required*

- Ensure that the interpreter and the interviewee can understand each other;
- The interpreter needs to be unprejudiced and impartial;
- The interpreter must be trustworthy and competent, and not add any interpretation or information of their own;
- Ensure that the interpreter's involvement will not unduly influence, endanger or harm the interviewee.

(e) *Be mindful of factors that may affect communication*

- Focus on the individual:
 - Banish stereotypes, biases, discrimination in relation to age, gender, culture, sexuality, religion, personal history, etc.;
- Be ready with measures for migrants in vulnerable situations, such as child interviewees, trauma survivors.

(f) *Deciding not to proceed with the interview* – at any stage of the process

- If the interviewee is not fit to be interviewed or there is a risk of possible further traumatization;
- The interest of the interviewee should always be the priority.

Beginning the interview

- Identify yourself: name and official function;
- Explain the purpose of the interview and the roles of any other staff who may be present. Let the interviewee know that they can request changes (e.g., gender of the interviewer, the interpreter, etc.);
- Explain how the interview will be recorded, who will have access to the recording of the interview, and how confidentiality will be maintained; obtain informed consent for the recording;
- Establish a rapport with the interviewee;
- Provide information about the process in a language understood by the interviewee:
 - Identification and referral procedures;
 - Rights and obligations during the procedure, including the right to lawyer and legal advice;
 - Possible consequences of not complying with the procedure;
 - Available remedies.

Conducting the interview

- Adopt an open and non-threatening manner:
 - Encourage free narrative: allow the migrant to give their account freely and uninterrupted in their own words;
 - Use a mix of open-ended (requiring a description/explanation) and closed questions (yes/no/specific answer);
 - Active listening: pay close attention and repeat the interviewee's narrative to confirm understanding;
- Identify any situations of vulnerability.

Concluding the interview

- Go over the interview content with the migrant and invite them to provide any additional information/points;
- Explain the next steps in the process, e.g., how long before a decision is made;
- If necessary, provide information as to where the migrant can obtain support:
 - In a language the migrant understands;
 - Up-to-date information on organizations providing legal and other support;
- Ask if the interviewee has any questions.

See *Session 4 summary* for information on gender-sensitive screening and interviewing.

Human Rights at International Borders

Interview role play (migrants) – Migrant profiles

<p>Boy from Zembla</p> <ul style="list-style-type: none"> - Does not know where his parents are - Is terrified of firearms and military uniforms - Carries a military identification card - 15 years of age 	<p><i>Not allowed to say:</i> how old he is</p>
<p>Woman from Ambrosia</p> <ul style="list-style-type: none"> - 79 years of age - Has diabetes - Has difficulty walking - Has taken a long journey with multiple stops 	<p><i>Not allowed to say:</i> that she has diabetes</p>
<p>Girl from Carombya</p> <ul style="list-style-type: none"> - 17 years of age - Was raped during her journey and is in early stages of pregnancy - Wants to join her older brother in Europe but does not know his address 	<p><i>Not allowed to say:</i> that she was raped and is pregnant</p>
<p>Man from Zuy</p> <ul style="list-style-type: none"> - 45 years of age - Has multiple sclerosis - His child was drowned during their sea journey - Displaying signs of trauma 	<p><i>Not allowed to say:</i> that his child drowned during the journey</p>
<p>Boy from Costaguana</p> <ul style="list-style-type: none"> - 7 years of age - Traveling with guardian - Malnourished, hungry 	<p><i>Not allowed to say:</i> that his guardian is not giving him any food</p>

Human Rights at International Borders

Interview role play (border officials) – Interview reporting sheet

INTERVIEW REPORT

BORDER POST
OFFICER'S ID
DATE

1. Family name / given name(s):
2. Date of birth:
3. Nationality:
4. Health needs:
5. Human rights needs:
6. Refer to:
7. Other comments / additional information:

Human Rights at International Borders

Interview role play (border officials) – Brief

All the migrants screened this morning have been referred to an interview because they did not present valid documentation.

Adolescent boy/young adult from Zembla

- Does not know where his parents are
- Carries a military identification card

Older woman from Ambrosia

- Has difficulty walking
- Has taken a long journey with multiple stops

Older girl/young woman from Carombya

- Wants to join her older brother in Europe, but does not know his address

Middle-aged man from Zuy

- No further information available

Boy from Costaguana

- Traveling with guardian
- Under 10 years of age

Human Rights at International Borders

Interviewing migrants in vulnerable situations

Some individuals will need specific human rights protections because of the situations they left behind, the circumstances in which they travelled or the conditions they face on arrival or because of personal characteristics such as their age, gender identity, disability or health status. It is important to ensure that their specific human rights protection needs are met.

Border officials should be aware of the possible concerns and be able to refer individuals who may be at particular risk of human rights violations and abuse to the relevant authorities who will undertake an accurate identification and referral.

See also *Session 2 summary*, which focuses on migrants in vulnerable situations.

This handout provides a few examples of what to keep in mind when interviewing migrants in vulnerable situations. The sample situations of vulnerability are addressed here as single issues, but the reality is often more complex. An individual's needs can change during the course of their journey. A migrant may experience a range of situations simultaneously or at different stages of their migration, as everyone has different elements to their identity and may experience a range of human rights violations in the course of their migration.

Refugees

- May not express their desire to apply for refugee protection;
- Provide information on the right to claim asylum and how to access the asylum procedures;
- Asylum claimants should be referred to the specific process to be registered and assessed by experts and officials specialized in asylum assessment;
- Provide documentation to refugee claimants certifying their status as applicant for refugee protection and provide referrals to the next steps in the asylum process;
- Persons who face a serious threat to their life, physical integrity or freedom in their country of origin as a result of persecution, armed conflict, violence or serious public disorder must not be returned to their country or to a transit situation/country where they may face such risks or be returned (principle of non-refoulement);
- Do not seek to contact refugee/asylum claimants' national authorities as that could endanger them or their friends and family in the country of origin, among other things.

Survivors of torture and trauma

- Recognize that the experience of torture dehumanizes the person and can make it difficult for survivors to engage, especially with authority figures, who they may associate with their torturers;
- Avoid asking questions that can generate unnecessary distress and retraumatization;
- Refer to qualified professionals, such as medical and psychosocial services;
- Survivors of torture and those who may be at risk of torture or other serious human rights violations must not be returned to their country or to a transit situation/third country where they may face such risks or be returned (principle of non-refoulement);

Survivor of sexual and gender-based violence or other violent crime

- Rape and other forms of sexual and gender-based violence are frequently documented in relation to women, girls and trans individuals, but men or boys may also experience such violence;
- Shame and associated trauma can make disclosure of such experiences very difficult; establish trust and assure confidentiality and a supportive environment;
- The interviewer could limit the migrant's ability to relate their experience; offer migrants the option of being interviewed by an official of the same gender or of their choosing;
- Bear in mind that such violence could constitute torture.

Victim of trafficking in persons

- Could be any age and any gender – man, woman, child or trans person;
- Trafficked persons have been recruited, coerced or deceived into exploitation; they could be in any labour sector or any area of exploitation, such as organ trafficking;
- Migrants may be arriving at the border with their traffickers; interview all parties separately to give the person an opportunity to disclose if they are being threatened or under duress;
- The safety of the trafficked person should be the priority; avoid generating unnecessary distress, retraumatization or further harm from traffickers and associated persons.

Persons with disabilities

- Not all disabilities are visible;
- Ensure interview facilities and processes are accessible to migrants with disabilities on an equal basis with others
- Focus on the individual's needs (e.g., provide sign-language interpreters, materials in Braille, wheelchair-accessible spaces, etc.);

Children

- A child is anybody below the age of 18
 - When in doubt, treat a person who may be a child as a child;
 - Interviews of children should be limited to gathering basic information about the child's identity;
- A trained childcare worker or child protection officer should be present when a child is being interviewed;
- The best interests of the child must be the primary consideration in all decisions;
- Unaccompanied or separated children should be referred to child protection agencies as soon as they are identified as such.

Older persons

- May be in a vulnerable situation depending on the length or difficulty of their journey; their mental and physical condition; their dependence on the family with whom they are travelling; or they may have had care responsibilities for grandchildren and other relatives;
- Focus on the individual's physical and mental well-being; support their capacity to perform day-to-day tasks independently; and any specific health-care needs.

Women

- Are not inherently vulnerable; not all women migrants will be in vulnerable situations;
- However, recognize that women do face disproportionate risks of human rights abuses owing to gender discrimination;
- Women are active, equal and autonomous rights holders, even if they are in vulnerable situations;
- Respect women as independent decision-makers, including when travelling with male family members; seek to build a rapport with them and do not treat them like children.

Persons in vulnerable situations owing to their sexual orientation and/or gender identity

- May be reluctant to be openly identify their sexual orientation or gender identity for fear of legal, economic, social, familial or community repercussions;
- Differences in legal recognition of diverse gender identities in identity papers may cause discrepancy between self-identity and documented identity;
- Respect the individual's gender identity; do not express any judgement about the person's sexual orientation or gender identity either through comments or body language;
- Use the name and pronoun that the individual wishes to be used.

Human Rights at International Borders

Session 4: Ensuring human rights-based screening and interviewing at international borders

Summary

Key human rights considerations for screening and interviewing at the border

1. Determine each individual's situation and reason for entry/departure

- A rights-based approach means recognizing every person as a rights holder and ensuring that their human dignity is respected;
- Ensure the right to due process, including individual assessment:
 - States are obligated to guarantee the right to due process wherever they have jurisdiction or effective control;
- Screen adult family members separately;
- Provide information on rights, procedures and process at the border;
- Everyone has rights, even those considered a potential risk: individuals suspected or convicted of involvement in terrorist acts or other crimes are entitled to respect for, protection and fulfilment of their human rights; and access to due process and effective remedy in cases of human rights violations.

2. Identify individuals who may be in situations of vulnerability

- Screening processes must not be discriminatory;
- Identify those who may be at particular risk of human rights violations and abuse:
E.g., victims of trafficking, unaccompanied/separated children, survivors of torture or trauma, refugees, persons with disabilities, victims of sexual and gender-based violence;
- Be aware of such vulnerabilities and refer individuals who may be at particular risk of human rights violations and abuse through safe, effective, appropriate and gender-responsive referral pathways to the relevant specialized authorities who will carry out an accurate identification and further referral as necessary; follow-up, monitoring and evaluation should be ensured, always with the informed consent of the individual.

3. Provide relevant information

- Provide migrants with targeted, gender-responsive/child-sensitive, accessible and comprehensive information and legal guidance on their rights and obligations, as necessary;
- Provide individuals seeking asylum or who may otherwise require human rights protection with information on the relevant procedures;
- Provide children with child-friendly information in age-appropriate language and formats;
- Provide individuals who are denied entry/departure with information on the reasons for the refusal, and on their right to challenge the decision before a court or other independent and effective authorities, orally and in writing.

4. Avoid discriminatory profiling

- *Profiling* entails using information about a person to establish whether or not they are likely to pose a security or other risk: e.g., using travel records to countries in protracted conflict situations to decide that a person is a terrorist;
- Any profiling must meet the tests of legality, necessity, proportionality and non-discrimination;
- *Direct discrimination* – refusing entry or assessing an individual’s security risk based purely on factors such as nationality, religion or ethnic origin, without any objective justification is discriminatory: e.g., when border officials’ questions to migrants focus on their religious beliefs, whether they pray frequently, etc.;
- *Indirect discrimination* – profiling based on factors that will have a particular prejudicial impact on people of certain ethnic, religious or national origins may be discriminatory;
- Profiling in the context of *counter-terrorism* work should be based on intelligence, in conjunction with observational techniques and behavioural analysis; it should be applicable to all travellers or conducted on a genuinely random basis;
- *Gender stereotyping* – profiling based on gender stereotypes, such as assuming that women are inherently vulnerable, can have the effect of restricting women’s rights to freedom of movement and mobility in the name of taking action against human trafficking; or considering men and adolescent boys from conflict areas or States with a record of gang activity as a security threat;
- Some *terrorist-profiling* practices are discriminatory because they equate gender inequality with persons of a certain race, national or ethnic origin or religion, and assume that men from those groups are more likely to be terrorists;
- *Health screenings* must be human rights-compliant, and intended to identify those needing health care or short-term close monitoring; health screening should not be used to limit the right of entry unless there are serious threats to the health of the population or to individuals.

5. Respect the right to privacy

- The collection of data at borders (particularly biometric data) should be conducted under judicial or executive authorization and meaningful independent oversight; it should be proportionate to a legitimate aim, obtained lawfully, be accurate and up-to-date, stored for a limited time and disposed of safely and securely;
- States are obliged under international human rights law to afford the same privacy protection for nationals and non-nationals and for those within and outside their jurisdiction.

Collecting and storing data

- Limit storage duration to the time necessary to achieve a legitimate aim;
- Ensure confidentiality in data handling, ensuring a high level of data security to prevent unauthorized access, loss or damage;
- Dispose of data securely and safely.

Handling personal property

- Personal items – such as travel and identity documents, documents authorizing entry, stay, residence or establishment in the territory, work permits, money, mobile phones, or personal documentation – should be confiscated only when authorized by law, in clearly defined and limited circumstances;
- Provide receipts for all confiscated property and return confiscated items as soon as possible.

Searches

- Should be conducted in line with international human rights law: legality, necessity, proportionality and non-discrimination;
- Respect the inherent human dignity and privacy of the individual being searched;
- Ensure age and gender sensitivity; women should be searched only by women border officials; trans or non-binary individuals should be allowed to choose the gender of official carrying out the search.

6. Do no harm

Make every effort to avoid causing harm:

- Be aware that a person may be in a vulnerable situation and require specific attention;
- Be able to refer individuals who may be at particular risk at the border to the relevant authorities who will undertake an accurate identification and referral; e.g., survivors of torture, or sexual and gender-based violence, children, persons with disabilities;
- Be aware that interviews that incite recalling traumatic experience may lead to re-traumatization and further distress; avoid such questions to the extent possible and seek assistance from specialists in the referral process.

Gender-sensitive screening and interviewing

- Ensure that screening and interviewing of women and girls is conducted by women officials; trans or non-binary individuals should be allowed to choose the gender of the official conducting the screening or interview, and in particular any searches;
- Communicate with women migrants separately from male family members; ensure that women also have direct access to information and that it is not mediated through a male family member; respect women as independent decision-makers, including when they are travelling in a family group;
- Ensure that services/facilities – such as medical care, nursing space – are available for pregnant or nursing women, girls or other individuals who may not identify as women;
- Banish gender stereotyping, homophobic, transphobic or gender-based discrimination when screening and interviewing.

Avoiding stress, vicarious trauma and burn-out

- Secondary trauma is quite common among persons who work intensively with traumatized individuals:
 - Symptoms may include fatigue, depression, loss of compassion, nightmares related to trauma material, feelings of helplessness, rage, physical symptoms such as headaches, abdominal discomfort;
- Measures and practices that acknowledge secondary trauma without judgment should be in place to help border officials deal with the symptoms:
 - E.g., regular mandatory time off, rotation through different types of work, professional support systems.

See also *Key steps for interviewing* and *Interviewing migrants in vulnerable situations*.

Human Rights at International Borders

Detention scenarios

SCENARIO A, ARCADIA

In Arcadia, recently many people have been crossing the border irregularly. The immigration authorities have decided that, in order to register the migrants and decide on what happens next, they will accommodate the migrants in a large reception centre.

The centre is an old warehouse where beds have been placed in the large hall for people to sleep. During the day, people can move around the centre, but they cannot leave the premises. Because some people have tried to leave the centre in the past, the authorities have installed high fences with barbed wire around the warehouse.

NGOs and the human rights ombudsperson have reported that they are unable to make contact with migrants inside the centre.

SCENARIO B, ELBONIA

In Elbonia, crossing the border or staying in the country irregularly is considered a criminal offence in national law. Migrants who are apprehended without the correct documentation are in prison, where they are held in closed cells that they sometimes have to share a cell with criminal detainees.

As a special consideration, they are allowed to spend up to two hours a day in the courtyard.

SCENARIO C, ZUY

In Zuy, the law on unaccompanied children requires the State to take measures to protect children, including identifying a legal guardian.

Children are housed in designated shelters while waiting for a foster family to be identified.

The shelters are surrounded by a closed perimeter fence, and the children cannot leave, even to attend school.

When the shelters are too full, some children are taken to police cells.

Human Rights at International Borders

Detention standards and conditions

Immigration detention should be a measure of last resort

Everyone has the *right to liberty*. The right:

- Establishes a presumption against immigration detention in law;
- Prohibits arbitrary detention;
- Requires that any deprivation of liberty comply with due process and fair trial rights.

Immigration detention constitutes deprivation of liberty

The deprivation of liberty:

- Must not be mandatory or arbitrary;
- Must be individualized, necessary and proportionate to legitimate aim based in law:
 - Factors to be considered include impact of detention on physical and mental health, ability of the State to implement return decisions, etc.;
- Should only be considered when no alternatives are available and for the shortest period of time; consideration of alternatives should be part of an overall assessment of the necessity, proportionality of any detention and its duration;
- Children should never be detained on the basis of their or their parents' migration status;
- May constitute discrimination if a specific group of migrants is targeted, and is therefore prohibited.

Alternatives to detention

- Must be made available and sought to ensure that detention/deprivation of liberty is an exceptional measure of last resort;
- Should not be considered if there is no justification for detention in the first place; the migrant should be released;
- Should be non-custodial, community-based, and fully respect the human rights of the migrant: e.g. accommodation in open centres or at a designated place with humane conditions;
- Must not depend upon the ability of the individual to pay; reviewed by a judicial authority; may include reporting at regular intervals to the authorities; release on bail or other securities.

Procedural safeguards

Provision of information

- The migrant should receive information, orally and in writing, and in a language that they can understand, about the grounds for their detention, their rights, including the right to seek asylum, and the procedures to challenge and to have the lawfulness/arbitrariness of their detention reviewed by a judicial authority.

Legal counsel and legal aid

- Migrants have the right to the assistance of legal counsel at any time during their detention, and at no cost if they do not have the means to pay, including through access to free and effective legal aid;

- They should be informed of that right, and in principle be able to choose their lawyer.

Remedy, including compensation

- Any person whose rights have been violated, including the right to be free from arbitrary detention, has a right to an effective remedy.

Judicial review

- Prompt initial review – Any detained person should be brought promptly (**within 48 hours** for an adult; **within 24 hours** for a child) before a judicial or other independent authority to have the lawfulness of their detention reviewed;
- Periodic reviews – After the initial review of the lawfulness of detention, the necessity for the continuation of detention should be **regularly and periodically reviewed** by a court or an independent body. Without periodic reviews, keeping a migrant in detention is arbitrary and therefore in breach of their human rights;
- Any deprivation of liberty must comply with **due process and fair trial rights**. The right to habeas corpus is a judicial remedy that entails the right to take proceedings before a court to challenge the lawfulness of detention, and to be released if the detention is not lawful.

Consular assistance

- Migrants have the right to communicate with the authorities of their country of origin, if they wish to.
- Provide access to information on consular assistance, contact information, access to telephones and other means for the purpose of making such contact;
- However, to avoid putting the migrant at risk, consular officials should only be contacted if requested by, and with the free, informed consent of, the person concerned.

Contact with the outside

- The migrant has the right to make regular contact with/receive visits from relatives, friends, religious/humanitarian groups, civil society;
- Facilitate communication by telephone or the Internet, where possible.

Administrative nature of immigration detention

- Facilities should be clearly and officially designated and legally recognized as places of immigration detention.
- Such detention should not be punitive in nature and the non-criminal status of migrants must be respected;
- Migrants should be separated from convicted persons or detainees awaiting criminal proceedings.

Maintain a register

- Keep an up-to-date register of names and locations of individuals being detained;
- Make the register readily available and accessible to those concerned, including relatives and legal counsel.

Conditions of detention

Safe environment

- Ensure that detention does not place individuals at risk of violence, ill-treatment or physical, mental or sexual abuse;
- Provide alternatives to detention when physical and mental security cannot be guaranteed in detention – e.g., for LGBTI persons, or persons with disabilities.

Adequate standard of living

- Provide adequate sanitation, food, water, bedding, clothing, healthcare, space, light, heating and ventilation, recreation and exercise, and facilities for religious practice.

Adequate medical and health care

- Provide unconditional access to adequate medical and health care to detained individuals, including access to sexual and reproductive health services;
- Health care should be provided by qualified staff whose primary role is to ensure the health of migrants in detention; such care should be age, gender, culturally and linguistically appropriate.

Complaint mechanism without reprisals

- Detained individuals have the right to submit complaints about the treatment they receive – including torture or other ill-treatment – to the authorities responsible for the administration of the detention and to higher authorities. Border officials should also have access to mechanisms to report any abuses they witness, including by colleagues;
- Ensure prompt, independent, thorough, confidential and impartial investigation of any allegations of ill-treatment of a detainee.

Independent monitoring

- Facilitate independent monitoring and evaluation at places of immigration detention by allowing relevant organizations and officials to access detainees and places of detention, including national preventive mechanisms, national human rights institutions, international organizations, parliamentarians, civil society organizations, among others;
- Ensure migrants' right to contact such organizations, without fear of any retribution.

See Session 5 summary

Human Rights at International Borders

Case A – Detention

INSTRUCTIONS

Read the case assigned to your group.

1. What human rights issues are experienced by the person(s) in detention? List at least four.
2. What should/could have been done differently to take the situations of vulnerability into account?
3. What gender-specific concerns can you identify in the case?
4. What steps could officials take to mitigate the issues?

Kai, 17 years old, and Sammy, 22 years old

Kai: A few days ago, the smuggler took us to the border area and told us to run across a dry stream until we reached the other side in Syldavia. There was another person waiting for us and he was paid to drive us onwards. However, on the way a group of immigration officials stopped us and immediately brought us to an immigration detention centre.

We are held with so many people in the same cell. It is very dirty and hot; many people have diseases. Most people seem much older than us and they often harass us. I'm worried about Sammy. After his last experience in detention, he cannot sleep at night and has lost a lot of weight. He is gay and we do not feel safe.

We saw a judge some days ago, but the only question he asked is how we managed to cross the border. He did not even ask our age or why we were trying to reach Syldavia. I want to speak to someone to get advice on what to do but I have no idea how or whom I should contact. Some men tried to assault my cousin and I'm not sure how long we can stand up against them. We tried to get help from the guards, but they did not do anything but laugh.

Human Rights at International Borders

Case B – Detention

INSTRUCTIONS

Read the case assigned to your group.

1. What human rights issues are experienced by the person(s) in detention? List at least four.
2. What should/could have been done differently to take the situations of vulnerability into account?
3. What gender-specific concerns can you identify in the case?
4. What steps could officials take to mitigate the issues?

Amodita, 20 years old, and Ichanga, 23 years old

Ichanga: The immigration officials took me off the bus and brought me to a small room where they started questioning me about a terrorist cell LIBERTA that opposes the Liberto ruling party. They seemed unsatisfied with my answers that I did not know anything. They started shouting at me to tell the truth. Then they brought me to another room where two persons who appeared to be military staff resumed the interrogation. They were very intimidating and threatened they would lock me up for life if I did not admit my connections to LIBERTA.

After what seemed like many hours of threats and shouting, they locked me in the room and left. I have been in this room for a few days now. There is no bed, I lie on a thin mattress on the floor. They give me a little food sometimes and water once a day, but I have not been able to call anyone. I am worried about Amodita and whether she is ok.

Amodita: The official explained to me that attempting to enter Elbonia irregularly was a criminal offence in Elbonian law and that therefore I would be arrested and prosecuted. He called one of the private security guards to transfer me to the nearest holding facility. I felt very weak and the pain was not easing, I told them I was pregnant and needed to see a doctor, but they said I could not. The male security guard proceeded to do a security check despite me asking for a female guard – they said borders are not places for women.

The security guard then shackled me at the hands, legs and belly, placed me in the car and drove off. I was sweating profusely but did not receive any water. Finally, we arrived at a large facility where the guards immediately brought me to a cell that was overcrowded with many other women and girls. I learned later that some were convicted of criminal activities. I was still not able to see a doctor but they showed me a mattress on the floor where I could lie down.

That night I started bleeding heavily, so they finally let me see the facility's doctor. But he said it was normal and dismissed me. The guards also refused to give me enough sanitary towels, telling me I could buy more myself but I did not have any money. After three days of heavy bleeding, I fainted. They brought me to a clinic of some sort where the doctor informed me that I had had a miscarriage.

Human Rights at International Borders

Session 5: Avoiding detention and inadequate conditions of detention

Summary

There are five key elements relating to the right to liberty at international borders.

1. Immigration detention should be a measure of last resort

- Everyone has the right to liberty, regardless of migration status, reasons for migrating, or how they have moved:
 - States should establish a *presumption against immigration detention* in law;
- Detention may be used only when it is determined in each individual case to be *necessary* and *proportionate* for a *legitimate purpose* defined by law, at the moment of the decision.
- Detention must be reviewed regularly to determine continued necessity. Migration detention policies and procedures must not be discriminatory;
- Alternatives to detention must first be reviewed to ensure that any detention is an exceptional measure of last resort.

2. Immigration detention should not be mandatory or arbitrary

- International human rights law prohibits unlawful or arbitrary deprivation of liberty:
 - The *prohibition of arbitrary detention is absolute*
it cannot be suspended even in a state of emergency; it is a non-derogable norm of customary international law;
- Arbitrary detention can never be justified, including for any reason related to national emergency, public security, or in response to large movements of migrants or asylum seekers; prolonged detention is more likely to become arbitrary;
- The prohibition extends to all areas under the effective control of a State, both territorially and extraterritorially;
- Automatic and/or mandatory detention in the context of migration is arbitrary and a violation of human rights; it does not comply with the test of proportionality as it does not allow for an individualized assessment of the situation of each migrant.

3. Detention of children for immigration purposes is prohibited

- Detention of children for migration-related purposes is never in the best interests of the child:
 - Immigration detention of children *always constitutes a violation* of the rights of the child
- Children should never be detained on the basis of their or their parents' migration status;
- There is no justification for detaining a child with their parents in immigration detention; that would constitute arbitrary detention;
 - Alternatives to detention must be applied to *the entire family*.

4. “Protective” detention is not appropriate

- Detaining an individual with the intention of protecting them from violence or other risks is a breach of international human rights standards;
- Protective detention is highly gendered in its reach, remit and application: it is more frequently applied to women and girls;
- Detaining a migrant who is in a vulnerable situation for their own protection is not a suitable response;
- Detention intensifies existing vulnerable situations and therefore puts the migrant at risk of further abuse, which, in some cases, may amount to torture or ill-treatment.
→ *Refuges or open shelters would be the appropriate solution* for migrants who cannot move onwards from the border.

5. Ensuring adequate conditions and dignity of the person

- Humane treatment and respect for the dignity of a detained person are a fundamental and universally applicable rule, forming a norm of customary international law applicable to all States;
- Detention conditions include providing for the needs and protecting the human rights of detainees, and adherence to the agreed minimum international standards,* and all other relevant international standards;
- Clearly designated facilities must be used for immigration detention; it constitutes administrative detention and should not be punitive in purpose or effect; it is not a criminal penalty;
- Ensure adequate material conditions (food, water, hygiene/sanitation – including sanitary towels provided free of charge and without stigma for those who need them –, accommodation, clothing, bedding, assurance of safety and security of person);
- Women and men must be detained separately, unless they belong to the same family; detention must not put migrants at risk of violence – the chosen gender identity and accommodation preference of trans detainees should be taken into account and they should be able to appeal the placement decision.

Special considerations for migrants in vulnerable situations in detention

- Migrants in vulnerable situations should benefit from *particular scrutiny of the decision to detain them, and alternatives should be made available.*

Survivors of torture, trauma and violence, including sexual and gender-based violence

- Detention can aggravate or cause mental health issues, trauma, depression, anxiety or aggression, and have other physical, psychological and emotional consequences;
- Provide initial and periodic assessments by qualified medical personnel of detainees’ physical and mental state;
- In case of detention of survivors of violence, including sexual and gender-based violence or other violent crime:
 - Ensure their safety in detention, especially if the perpetrator is/could be in the same facility;
 - Provide appropriate medical advice and counselling, including sexual and reproductive health information and services;
 - Provide physical and mental health care, psychosocial counselling and support, and legal aid.

* See the United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules); and the United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (the Bangkok Rules).

Children

- Detention of a child on the basis of their or their parents' migration status is a violation of the child's rights:
 - Detention of children for migration-related purposes is *never in the best interests of the child*
 - Adopt alternative solutions that fulfil the best interests of the child and allow the child to remain with their family and/or guardian in non-custodial, community-based contexts;
 - Ensure that families with children are not detained or separated, but accommodated together in non-custodial and child-friendly housing;
 - Refer children born in detention to an appropriate agency to ensure that they are registered immediately and receive birth certificates.

Women migrants

- Although not all women migrants are in vulnerable situations, it is important to give specific consideration to any detention of women migrants as detention intensifies any existing vulnerable situations and puts individuals at risk of further abuse:
 - Avoid detaining pregnant and nursing women, girls and other individuals who may not identify as women;
 - Do not detain in the name of "protection";
 - Recognize the gender-specific needs of women and girls as well as the significant variations in needs that can exist between different groups of women and girls;
 - Women should be detained separately from men;
 - Ensure the presence of sufficient women staff;
 - Provide appropriate sanitary facilities;
 - Ensure access to sexual and reproductive health-care services.

Lesbian, gay, bisexual, transgender or intersex (LGBTI) migrants

- Places of detention pose particular risks to LGBTI persons, especially trans people:
 - Explore alternative arrangements;
 - Ensure their protection from violence, ill-treatment or physical, mental or sexual abuse;
 - Ensure their access to appropriate medical care and counselling;
 - Ensure any segregation does not have the effect of further marginalizing and stigmatizing LGBTI individuals or putting them at risk of further abuse, including torture or ill-treatment.

Migrants with disabilities

- Ensure detention facilities are built or modified to ensure accessibility so that disabled migrants can access and navigate the building on an equal basis with the other detainees;
- States have a positive legal obligation to provide reasonable accommodation in any particular case to ensure that a person with a disability can enjoy or exercise their rights on an equal basis with others;
- Consider specific measures to prevent all forms of exploitation, violence and abuse of persons with disabilities in detention:

Human Rights at International Borders

Case A – Return

INSTRUCTIONS

Read the case assigned to your group.

1. Focusing on human rights issues relating to return, discuss what went wrong.
2. What considerations should have been taken into account and what measures should have been taken to ensure the return decision and process were human-rights compliant?
3. What gender-specific concerns can you identify in the case?

Kai, 17 years old, and Sammy, 22 years old

One week ago, Sammy and I got given a piece of paper that said we will be sent back to our country. It had no further information about the reasons why we could not stay, when we would be sent back or if there was a way to prevent our return. We were very surprised because we never saw the judge again, so we never had the chance to explain our story.

Even if the treatment and conditions here in detention have been awful and we do not feel safe, I am more terrified about what might happen to us once we are back. In addition to the gangs, I'm also afraid that people back home will think I committed a crime because often the people who get deported are criminals.

My father is desperate; he said he would try to get some help through a lawyer. But a lawyer is expensive and we may be running out of time as the guards said we could be sent back anytime.

This morning, an official told us we should gather our belongings, as we would be returned in the afternoon. I insisted that I could not return; that I was 17 years old and I had no family at home. We also tried to explain that it was dangerous for Sammy to return, but as there were so many people in the cell, we did not feel safe to explain this. The official looked surprised and left and came back with a person who said she was a child protection officer and that she wanted to learn more about our case.

Human Rights at International Borders

Case B – Return

INSTRUCTIONS

Read the case assigned to your group.

1. Focusing on human rights issues relating to return, discuss what went wrong.
2. What considerations should have been taken into account and what measures should have been taken to ensure the return decision and process were human rights compliant?
3. What gender-specific concerns can you identify in the case?

Amodita, 20 years old, and Ichanga, 23 years old

Amodita: I am back in the holding facility. Yesterday an official came to tell me that they could drop the criminal charges against me if I agreed to return voluntarily to my country.

The official explained that I could sign the agreement and then be returned together with others by bus. I told the official this was impossible, because I had nothing to return to, no land, no job, no proper health care, and my family relies on me for support, especially since my father is so ill. Everyone will see me as a failure – I did not get a job, I lost my baby, and they will say I am a woman with loose morals as I will be returning without my husband.

I don't even know where Ichanga is and what has happened to him. No one has had any news from him and I am very worried. I cannot go back!

Ichanga: Yesterday, a man claiming to work for the embassy of my country came to see me. He told me that he could help me go back to my country. I was worried, however, that if I returned, I would be put in prison and tortured. I have heard of cases where people, who were accused of supporting LIBERTA or other terrorist groups, were severely punished and sometimes their families never heard from them again. I told the man I wanted to speak to a judge, but he said that was not his job.

This afternoon some men in military uniforms came into my cell, handcuffed me and brought me to the airport where I was to board the next flight back to my country. When I heard this, I started screaming because I did not want to be returned. Two officials then pushed me to the ground and started punching me.

Human Rights at International Borders

Steps for a human rights-based return

Procedural safeguards

Individual assessment

- An individual assessment must be carried out for each return decision, in accordance with international human rights standards, including the principle of non-refoulement and the prohibition of arbitrary and collective expulsion;
- Ensure individuals are only returned to places that are safe for them; do not return individuals to situations of destitution or inhospitable conditions where their safety or human rights may be threatened (e.g., to a "no-man's land"); returns can create/exacerbate a situation of vulnerability for some migrants (e.g., if they took on debt to cover migration costs, stigmatization that is often tied in with gender norms and roles);
- Ensure thorough assessment of any third country being considered so as to avoid refoulement or other serious human rights abuses;
- Allow the individual to choose the State to which they are to be returned, to the extent possible;
- Check the documentation requirements of the receiving country.

Right to information

- Provide individualized justification of the removal in writing, in a language that the individual concerned understands, and in an accessible format;
- Provide information on the grounds on which the removal orders are based; the execution of removal orders and its timeline; the consequences of non-compliance, as well as remedies available to challenge the removal order; and other information about relevant human rights.

Right to an effective remedy

- Inform the migrant of the intended deportation in a timely manner, and enable them to appear in person before a competent, impartial and independent judicial or administrative body in order to challenge the removal decision, and to exercise their right to make submissions against the return;
- Ensure full facilities for pursuing a remedy against removal so that the right will be an effective one in all circumstances.

Preparing for the return

Competent personnel

- Inform migrants well in advance of the date of return and applicable procedures;
- Ensure that only officials with *competent authority* carry out the return:
 - They have undergone specific training, including relating to the gender-specific needs and human rights of women and girls, measures necessary for implementing the return of migrants who are in vulnerable situations, and avoiding excessive use of force;
- Ensure the presence throughout the journey of at least one official of the *same gender* as the individual who is being returned;
- Include officials who can communicate with the individual in a *language* that they are known to understand;
- Officials implementing the return order should be *identifiable* to the migrant who is being

returned through clearly displayed names or personnel numbers.

Implementing a return order

- Initiate return proceedings only when procedures, including appeal procedures, are completed;
- Implement a return order only in accordance with international law, in safe conditions and with full *respect for the dignity* of the person;
- Only return an individual if they are *medically fit to travel*;
- Return procedures should not be undertaken at all costs; interrupt the process at any point if the rights or safety of the individual or the official(s) would be endangered;
- *Any force should only be used as a last resort* and should be lawful, strictly necessary and proportionate:
 - *Use of restraints should be strictly necessary and proportionate* to actual/reasonably anticipated resistance by the individual being returned;
 - **Never** use the following measures to facilitate the removal process:
 - Any means, coercion, restraint or force likely to obstruct the individuals' nose or mouth;
 - Any means, coercion, restraint or force likely to force the individual into positions that risk asphyxiating them;
 - Non-medically justified measures or treatment (e.g., tranquilizers, sedatives, other medication);
 - Ensure access to adequate food and water, and to bathroom facilities during the return journey.

Special considerations when returning a child

- Children should only be returned when it has been determined that it is in the *best interest of the individual child*
- The child's best interest should be determined through formal, multi-disciplinary and participatory process that takes into consideration family unity, the child's well-being, survival and development, among others;
- All return measures must be conducted in a safe, child-appropriate and gender-sensitive manner. Ensure, prior to the return, that:
 - The appropriate family or guardian has been identified;
 - Satisfactory reception and care arrangements for the child is clear and ascertained; children should never be handed over to border authorities of receiving countries if it is unclear how they will be cared for;
 - A parent, legal guardian, or specialized child protection officer must accompany the child throughout the return process.

When return is not possible

- Appropriate administrative and legislative mechanisms should be in place to grant legal status to individuals who cannot return (e.g., residence permit or special visa);
- Indefinite detention is not an option; alternative measures or release of the migrant should be explored;
- Sustainable solutions for unaccompanied/separated children and children with families may include integration into country of destination/residence, resettlement in a third country or other solution identified on a case-by-case basis.

Human Rights at International Borders

Session 6: Human rights-based return Summary

Key human rights considerations relating to return

1. Principle of non-refoulement

→ *The principle of non-refoulement prohibits States from returning any person under their jurisdiction or effective control, when there are substantial grounds for believing that the person would be at risk of being subjected to torture, or other cruel, inhuman and degrading treatment or punishment, persecution or other serious human rights violations, either in the country to which they are to be transferred/removed (direct refoulement), or in a third country of further transfer (indirect or chain refoulement).*

- Non-refoulement is established in international refugee law and in international human rights law;
- Under international human rights law, it is *an absolute prohibition* and no exceptions are permitted; it unequivocally protects anyone who is at risk, regardless of their status or whether they are considered a danger to the security of the country;
- Chain or indirect refoulement is prohibited: i.e., the transfer of a migrant to a State where there is a risk of further transfer to a place/country where they could be subjected to serious human rights violations; the deporting State must be aware of and take into consideration post-return risk;
- Non-refoulement applies to all persons who are under the jurisdiction or effective control of a State, including extraterritorially (e.g., the high seas, immigration control areas outside of the territory);
- Diplomatic assurances and pushback and pullback measures are examples of practices that pose high risks of violating the principle of non-refoulement;
- In the context of rescue and interception in territorial waters or on the high seas, and in subsequent disembarkation, the principle of non-refoulement requires that migrants are taken only to a place/location where their safety and human rights are no longer threatened and where they will not be subject to chain refoulement.

2. Prohibition of collective expulsion

→ *Collective expulsions are prohibited as a principle of general international law. States are prohibited from returning migrants in a collective manner without examining the individual circumstances of each one, including through a personal interview.*

- The prohibition of collective expulsion requires that States conduct the due process of an individual assessment of each individual case, including any appeal; absence of a reasonable and objective examination of each person's situation renders collective expulsion arbitrary and therefore, prohibited;
- States are required to:
 - Assess each migrant's individual situation, with due diligence and in good faith, and decide each case of expulsion individually;
 - Follow specific procedural rules to ensure that no individual is expelled arbitrarily;
 - Ensure that effective remedies are accessible;

- The prohibition applies to any area over which the State exercises jurisdiction or effective control, including extraterritorially (e.g., interception on the high seas, pushback from sea and land borders);
- Return carried out in the framework of bilateral/multilateral re-admission or other agreements amount to collective expulsion if they do not provide for an individualized assessment of each migrant’s circumstance; such return would be incompatible with the procedural requirements of the prohibition of collective expulsion and the principle of non-refoulement.

3. Voluntary return

- Voluntary return should be promoted in preference to forced return;
- A return can only be considered as “voluntary” if the migrant gives their free and informed consent to return:
 - *Free* from any coercion, such as violence, ill-treatment, actual or implied threat of indefinite or arbitrary detention, or detention in inadequate conditions;
 - *Informed* means that the individual received all relevant information necessary to make the decision; the information should be up-to-date, accurate and objective, including about the places and circumstances to which the person would be returning; it should be provided in good time to allow the migrant to give the options full consideration before reaching a decision or to appeal; information provided only on the form that migrants must sign when they are being returned does not constitute free and informed consent.

4. Sustainable return

While much of the work of ensuring that a return is “sustainable” for the migrant falls outside the remit of the border authorities, there are some steps that border officials can take to protect the human rights of returnees, including:

- Ensuring that the return is carried out in safe conditions and with full respect for the dignity of the individual;
- Mitigating risks of human rights violations that returnees may face in the country to which they are to be returned;
- Preparing a plan for sustainable reintegration of the migrant and continued evaluation of the return, especially when a child is being returned;
- Maintaining the confidentiality of sensitive personal information – such as criminal records, health status, or sexual orientation – in order to protect the life, security and privacy of the migrant(s) and their families upon return.

For the application of due process rights in return procedures, see *Steps for a human rights-based return*.

Human Rights at International Borders

Key learning points/messages

Session 1: Introduction to human rights

- Human rights are inherent and inalienable: all persons at international borders, including migrants, regardless of their status, are entitled to the same human rights.
- States (as duty bearers) have specific obligations towards individuals (the rights holders) under their jurisdiction.
- The right to due process applies in all border governance contexts to ensure that every individual is treated fairly and with respect for their human rights. The tests of lawfulness, necessity and proportionality are crucial in any consideration of limitation to the human rights of individuals at international borders
- Human rights should be at the centre of all border governance measures: migrants must be protected against any form of discrimination, and priority should be given to providing assistance and protection from harm. That means that human rights obligations take precedence over law enforcement and migration management objectives.
- A gender-responsive, rights-based approach to border governance is necessary to account for different experiences, views and needs of both migrants and border authorities, taking into account gender, age and other factors.
- International human rights law and the rule of law are complementary, and both must be respected as they are essential to successful efforts to effectively prevent and combat terrorism.

Session 2: Migrants in vulnerable situations at international borders

- Some migrants will need specific human rights protection because of the situations they left behind; the circumstances in which they travelled; the conditions they face on arrival; or personal characteristics such as their age, gender identity, disability or health status.
- Although a migrant who is in or has experienced a vulnerable situation may fall outside the specific legal category of “refugee”, it is important to ensure that their specific human rights protection needs are met.
- An individual’s need for human rights protection can change in the course of their journey or over time.

Session 3: Ensuring human rights in interception, rescue and immediate assistance

- Border officials play an essential role in protecting the lives and safety of all migrants, including those in vulnerable situations, in interception, rescue and immediate assistance.
- Planning for interception, rescue and immediate assistance is vital.
- Dangerous interception methods must be avoided.
- Any use of force by law enforcement should be exceptional and must meet the requirements of legality, necessity, proportionality, non-discrimination, precaution and accountability.
- The risk of harm must never outweigh the advantage of using force.

Session 4: Ensuring human rights-based screening and interviewing at international borders

- Human rights-based screening and interviewing should always be based on an individualized approach and assessment.
- Avoiding stereotyping and discriminatory approaches is essential for a human rights-based approach and for effective border security and counter-terrorism investigations.
- One of the objectives of screening and interviewing is to identify individuals who may be in vulnerable situations so as to facilitate referral to the appropriate support services.
- The right to privacy should be protected throughout screening and interviewing, including with regard to the collection and storage of migrants' personal data.

Session 5: Avoiding detention and inadequate conditions of detention

- Irregular migration is not a crime; at most, it may be considered an administrative offence.
- Immigration detention should be avoided; it should be an exceptional measure of last resort.
- Regarding children, immigration detention is never in the best interests of the child and is therefore prohibited.
- There are many human rights-based non-custodial alternatives to immigration detention.
- Detention can create, increase or exacerbate situations of vulnerability for migrants.
- Respect for the dignity of detained migrants must be guaranteed.

Session 6: Human rights-based return

- Returns must always be based on an individual assessment of each case.
- No one shall be returned to situations where they may be in danger of being subjected to torture, persecution, or other serious human rights violations.
- States should ensure that returns are lawful and sustainable in order to avoid recurring cycles of insecure and irregular migration that carry human rights risks for migrants.
- Every return must follow due process and procedural safeguards.
- Voluntary return, free from any coercion, should always be promoted in preference to forced return in order to enable migrants to return to their countries with dignity.

Human Rights at International Borders

[Location], [Date]

PRE-COURSE TRAINING NEEDS ASSESSMENT

This questionnaire is intended to give the trainer(s) an idea of participants' prior knowledge and experience and their specific learning needs in relation to upholding human rights at international borders, taking into account that participants may not work in all the areas covered by the training course and the questionnaire.

Please select one answer for each question, unless otherwise directed.

Session 1: Introduction to human rights

Q1	Human rights law obligates only the executive branch of the State. Courts and Parliaments are not obligated to uphold human rights.
A1	<input type="checkbox"/> True <input type="checkbox"/> False

Q2	Under international human rights law, States have obligations only towards their citizens.
A2	<input type="checkbox"/> True <input type="checkbox"/> False

Q3	International human rights law allows States to restrict certain rights.
A3	<input type="checkbox"/> Whenever the State decides to do so <input type="checkbox"/> When certain requirements are met <input type="checkbox"/> Neither of the above

Q4	What rights may be especially at risk at international borders? <i>Choose any number of answers.</i>
A4	<input type="checkbox"/> Right to life <input type="checkbox"/> Right to freedom of movement <input type="checkbox"/> Right to family life <input type="checkbox"/> Right to due process <input type="checkbox"/> Right to health <input type="checkbox"/> None of the above

Q5	Because border officials have important responsibilities, including preventing the movement of individuals without proper documentation and detecting transnational organized crimes or the activities of terrorist groups, they do not have to respect human rights all the time.
A5	<input type="checkbox"/> True <input type="checkbox"/> False

Q6	Because the State is responsible for immigration policies, including visa requirements, border officials – who are State actors – can discriminate against people at international borders on any grounds.
A6	<input type="checkbox"/> True <input type="checkbox"/> False

Q7	Women migrants are inherently vulnerable and in need of protection.
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A7	<input type="checkbox"/> True <input type="checkbox"/> False
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Q8	It is not the responsibility of border officials to take into account any gendered impacts of migrants' journeys and experiences.
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A8	<input type="checkbox"/> True <input type="checkbox"/> False
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Q9	Because of their important responsibilities, the State can restrict the human rights of border officials at any time.
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A9	<input type="checkbox"/> True <input type="checkbox"/> False
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Q10	Because border control is the responsibility of the State, the State can decide whether or not to criminalize the crossing of the border without proper documentation.
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A10	<input type="checkbox"/> True <input type="checkbox"/> False
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Session 2: Migrants in vulnerable situations at international borders

Q11	Vulnerable situations that some migrants may face can include: <i>Choose any number of answers</i>
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A11	<input type="checkbox"/> Factors that may have caused them to leave their country of origin <input type="checkbox"/> Factors that may have occurred during their transit / journey <input type="checkbox"/> Factors that may be linked to the individual's identity or circumstances
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Session 3: Ensuring human rights in interception, rescue and immediate assistance

Q12	When intercepting migrants and/or providing immediate assistance, even when there is very limited time to plan and prepare, border officials should analyse all information about the incident and consider various response scenarios.
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A12	<input type="checkbox"/> True <input type="checkbox"/> False
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Q13	In an interception operation, the safety of individuals at international borders should come first before the safety of the border officials.
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A13	<input type="checkbox"/> True <input type="checkbox"/> False
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Q14	Because people decide to cross the border of their own free will, even if they are in danger, border officials have no responsibility to rescue them.
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A14	<input type="checkbox"/> True <input type="checkbox"/> False
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Q15	Ships that encounter migrants at sea can decide whether or not to provide assistance.
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A15	<input type="checkbox"/> True <input type="checkbox"/> False
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Q16	Border officials should provide immediate assistance, such as food, water and medical care, as well
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	as information, after intercepting anybody at international borders.
A16	<input type="checkbox"/> True <input type="checkbox"/> False

Session 4: Ensuring human rights-based screening and interviewing at international borders

Q17	The responsibility of border officials undertaking primary screenings is to identify potential signs of irregular status, vulnerable situations, or security threat. In-depth assessments of such persons should be done by specialized officials.
A17	<input type="checkbox"/> True <input type="checkbox"/> False

Q18	As individuals at international borders have not yet been admitted to the country, they have no rights to due process or individual assessment.
A18	<input type="checkbox"/> True <input type="checkbox"/> False

Q19	Screening should not be discriminatory. Therefore, border officials should not pay attention even if some individuals appear to require special attention, such as medical needs.
A19	<input type="checkbox"/> True <input type="checkbox"/> False

Q20	The importance of border security and management at international borders overrides the right to privacy of individuals crossing the border; border officials are permitted to collect any information they think they need.
A20	<input type="checkbox"/> True <input type="checkbox"/> False

Q21	<input type="checkbox"/> Those who are found to be a potential security threat at international borders should not expect their human rights to be respected, because national security is of paramount importance.
A21	<input type="checkbox"/> True <input type="checkbox"/> False

Q22	Border officials can share the data of migrants/other travellers without restriction.
A22	<input type="checkbox"/> True <input type="checkbox"/> False

Q23	Any migrant wearing a head covering, including in line with religious practice, has to remove it at the request of a border official.
A23	<input type="checkbox"/> True <input type="checkbox"/> False

Q24	When somebody is denied entry at the border, the person has no right to challenge the decision.
A24	<input type="checkbox"/> True <input type="checkbox"/> False

Q25	The responsibility of border officials is to check a person's immigration status, not to worry about
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	the needs of individuals arriving at the border.
A25	<input type="checkbox"/> True <input type="checkbox"/> False

Q26	It is important to obtain as much information as possible about a migrant, therefore border officials should ask about the individual's background, even if it is obviously difficult for them to recount some of their experiences.
A26	<input type="checkbox"/> True <input type="checkbox"/> False

Q27	The preparation for interviewing an individual at the border includes the following steps: <i>Choose any number of answers</i>
A27	<input type="checkbox"/> Choosing the interviewer and the location <input type="checkbox"/> Gathering information about available resources for support, including referral mechanisms <input type="checkbox"/> Preparing questions for the interview <input type="checkbox"/> Preparing an interpreter

Q28	The aim of the interview is to collect information from/about the individual wishing to cross an international border. The individual does not need to know the purpose of the interview.
A28	<input type="checkbox"/> True <input type="checkbox"/> False

Q29	To record the interview, the border official should: <i>Choose any number of answers</i>
A29	<input type="checkbox"/> Explain how the interview will be recorded (e.g., in writing, voice recording) <input type="checkbox"/> Give assurances about confidentiality <input type="checkbox"/> Obtain the informed consent of the interviewee to record the interview <input type="checkbox"/> None of the above

Q30	The assessment of asylum claims must be done by a specialized official.
A30	<input type="checkbox"/> True <input type="checkbox"/> False

Q31	Selection of the interviewer is particularly important when interviewing individuals who may be survivors of sexual violence or other trauma.
A31	<input type="checkbox"/> True <input type="checkbox"/> False

Q32	If a person claims to be 18 years old, even if they appear to be younger, they should be treated as an adult.
A32	<input type="checkbox"/> True <input type="checkbox"/> False

Q33	A group of individuals who claim to be related to each other can be screened together; it is not necessary to screen each person separately.
A33	<input type="checkbox"/> True <input type="checkbox"/> False

Session 5: Avoiding detention and inadequate conditions of detention

Q34	Since non-nationals at international borders do not have the right to liberty, immigration detention can be ordered whenever a border official considers it appropriate.	
A34	<input type="checkbox"/> True <input type="checkbox"/> False	
Q35	The prohibition of arbitrary detention in international law does not apply to immigration detention.	
A35	<input type="checkbox"/> True <input type="checkbox"/> False	
Q36	The longer the duration of immigration detention, the more likely it is to become arbitrary.	
A36	<input type="checkbox"/> True <input type="checkbox"/> False	
Q37	A child should never be detained, even if their family members are.	
A37	<input type="checkbox"/> True <input type="checkbox"/> False	
Q38	The decision to detain someone should be made after consideration of all factors concerning each individual and should always be a measure of last resort.	
A38	<input type="checkbox"/> True <input type="checkbox"/> False	
Q39	An individual's detention should be reviewed promptly – ideally within the first 48 hours or sooner in the case of children. The detention should be reviewed periodically as long as the person is detained.	
A39	<input type="checkbox"/> True <input type="checkbox"/> False	
Q40	It is appropriate to house individuals detained for immigration-related matters in facilities with persons detained for criminal offences.	
A40	<input type="checkbox"/> True <input type="checkbox"/> False	
Q41	The State is obligated to provide the following for detained individuals: <i>Choose any number of answers</i>	
A41	<input type="checkbox"/> Basic sanitation <input type="checkbox"/> Food <input type="checkbox"/> Water <input type="checkbox"/> Bedding <input type="checkbox"/> Clothing	<input type="checkbox"/> Health-care services <input type="checkbox"/> Space <input type="checkbox"/> Light, heating and ventilation <input type="checkbox"/> Recreation and exercise <input type="checkbox"/> Facilities for religious practice

Session 6: Ensuring human rights-based return

Q42	The principle of non-refoulement prohibits the State from returning a person to a country where the person may be subjected to torture or other serious human rights violations, unless the Government of the country provides assurances that there would be no such risk.
A42	<input type="checkbox"/> True <input type="checkbox"/> False
Q43	Returning a couple or family to their country of origin can be decided without separate examination of each individual.
A43	<input type="checkbox"/> True <input type="checkbox"/> False
Q44	A decision by a migrant to return to their country of origin rather than face prolonged detention is a voluntary return.
A44	<input type="checkbox"/> True <input type="checkbox"/> False
Q45	A decision of voluntary return by an individual is valid as long as it is made free of any coercion, although they might not have received all relevant information.
A45	<input type="checkbox"/> True <input type="checkbox"/> False
Q46	When a migrant is ordered to return involuntarily, they should be able to challenge the decision in court.
A46	<input type="checkbox"/> True <input type="checkbox"/> False
Q47	Border officials who are involved in implementing an involuntary return order have no obligation to check the situation of the place to which the migrant is being returned.
A47	<input type="checkbox"/> True <input type="checkbox"/> False
Q48	The border official who is implementing an involuntary return order is responsible for executing the order at all costs.
A48	<input type="checkbox"/> True <input type="checkbox"/> False
Q49	Children should be returned whenever their parents are returned.
A49	<input type="checkbox"/> True <input type="checkbox"/> False
Q50	When returning a migrant is not possible, the individual can be detained until the situation is resolved.
A50	<input type="checkbox"/> True <input type="checkbox"/> False

Thank you

Human Rights at International Borders

[Location], [Date]

EVALUATION FORM – Day 1

Please complete this evaluation form before you leave on day 1. Your feedback is important to us and will assist in the development of ongoing training.

Rate the overall quality of the training and its applicability to your work. Circle or tick your answer to both questions for each session, and provide any additional comments or suggestions, if you wish to do so.

Answer the final questions and provide any other comments, as necessary.

Session 1: Introduction to human rights

Session 1.1: Human rights	How would you rate the content of this training session?				
	<i>poor</i>	<i>fair</i>	<i>good</i>	<i>excellent</i>	
	I will be able to apply what I learned in this training session to my work				
	<i>not at all</i>	<i>very little</i>	<i>some</i>	<i>a lot</i>	<i>everything</i>
Comments:					
Session 1.2: Gender, migration and human rights	How would you rate the content of this training session?				
	<i>poor</i>	<i>fair</i>	<i>good</i>	<i>excellent</i>	
	I will be able to apply what I learned in this training session to my work				
	<i>not at all</i>	<i>very little</i>	<i>some</i>	<i>a lot</i>	<i>everything</i>
Comments:					

Session 1.3: Human rights at international borders	How would you rate the content of this training session?				
	<i>poor</i>	<i>fair</i>	<i>good</i>	<i>excellent</i>	
	I will be able to apply what I learned in this training session to my work				
	<i>not at all</i>	<i>very little</i>	<i>some</i>	<i>a lot</i>	<i>everything</i>
Comments:					
Session 1.4: Key human rights principles at international borders	How would you rate the content of this training session?				
	<i>poor</i>	<i>fair</i>	<i>good</i>	<i>excellent</i>	
	I will be able to apply what I learned in this training session to my work				
	<i>not at all</i>	<i>very little</i>	<i>some</i>	<i>a lot</i>	<i>everything</i>
Comments:					
Session 1.5: Human rights of border authorities and institutional accountability	How would you rate the content of this training session?				
	<i>poor</i>	<i>fair</i>	<i>good</i>	<i>excellent</i>	
	I will be able to apply what I learned in this training session to my work				
	<i>not at all</i>	<i>very little</i>	<i>some</i>	<i>a lot</i>	<i>everything</i>
Comments:					

Session 2: Migrants in vulnerable situations at international borders

Session 2.1: Migrants in vulnerable situations at international borders	How would you rate the content of this training session?				
	<i>poor</i>	<i>fair</i>	<i>good</i>	<i>excellent</i>	
	I will be able to apply what I learned in this training session to my work				
	<i>not at all</i>	<i>very little</i>	<i>some</i>	<i>a lot</i>	<i>everything</i>
Comments:					

Session 3: Ensuring human rights in interception, rescue and immediate assistance

Session 3.1 Human rights considerations in interception, rescue and immediate assistance	How would you rate the content of this training session?				
	<i>poor</i>	<i>fair</i>	<i>good</i>	<i>excellent</i>	
	I will be able to apply what I learned in this training session to my work				
	<i>not at all</i>	<i>very little</i>	<i>some</i>	<i>a lot</i>	<i>everything</i>
Comments:					
Session 3.2 When and how may force be used at international borders?	How would you rate the content of this training session?				
	<i>poor</i>	<i>fair</i>	<i>good</i>	<i>excellent</i>	
	I will be able to apply what I learned in this training session to my work				
	<i>not at all</i>	<i>very little</i>	<i>some</i>	<i>a lot</i>	<i>everything</i>
Comments:					

What did you find *most* useful about day 1 of the training session?

What did you find *least* useful about day 1 of the training session?

What (other) topics would you like to learn more about?

Any other comments?

Thank you

Human Rights at International Borders

[Location], [Date]

EVALUATION FORM – Day 2

Please complete this evaluation form before you leave on day 2. Your feedback is important to us and will assist in the development of ongoing training.

Rate the overall quality of the training and its applicability to your work. Circle or tick your answer to both questions for each session, and provide any additional comments or suggestions, if you wish to do so.

Answer the final questions and provide any other comments, as necessary.

Session 4: Ensuring human rights-based screening and interviewing at international borders

Session 4.1: Screening and interviewing	How would you rate the content of this training session?				
	<i>poor</i>	<i>fair</i>	<i>good</i>	<i>excellent</i>	
	I will be able to apply what I learned in this training session to my work				
	<i>not at all</i>	<i>very little</i>	<i>some</i>	<i>a lot</i>	<i>everything</i>
Comments:					
Session 4.2: Key human rights considerations and practical measures for screening and interviewing	How would you rate the content of this training session?				
	<i>poor</i>	<i>fair</i>	<i>good</i>	<i>excellent</i>	
	I will be able to apply what I learned in this training session to my work				
	<i>not at all</i>	<i>very little</i>	<i>some</i>	<i>a lot</i>	<i>everything</i>
Comments:					

Session 4.3: Exercise (role play): Screening at the border	How would you rate the content of this training session?				
	<i>poor</i>	<i>fair</i>	<i>good</i>	<i>excellent</i>	
	I will be able to apply what I learned in this training session to my work				
	<i>not at all</i>	<i>very little</i>	<i>some</i>	<i>a lot</i>	<i>everything</i>
Comments:					
Session 4.4: Practical steps to ensure human rights-based and gender-sensitive interviews	How would you rate the content of this training session?				
	<i>poor</i>	<i>fair</i>	<i>good</i>	<i>excellent</i>	
	I will be able to apply what I learned in this training session to my work				
	<i>not at all</i>	<i>very little</i>	<i>some</i>	<i>a lot</i>	<i>everything</i>
Comments:					
Session 4.5: Exercise (role play) Interviewing at the border	How would you rate the content of this training session?				
	<i>poor</i>	<i>fair</i>	<i>good</i>	<i>excellent</i>	
	I will be able to apply what I learned in this training session to my work				
	<i>not at all</i>	<i>very little</i>	<i>some</i>	<i>a lot</i>	<i>everything</i>
Comments:					

What did you find *most* useful about day 2 of the training session?

What did you find *least* useful about day 2 of the training session?

What (other) topics would you like to learn more about?

Any other comments?

Thank you

Human Rights at International Borders

[Location], [Date]

EVALUATION FORM – Day 3

Please complete this evaluation form before you leave on day 3. Your feedback is important to us and will assist in the development of ongoing training.

Rate the overall quality of the training and its applicability to your work. Circle or tick your answer to both questions for each session, and provide any additional comments or suggestions, if you wish to do so.

Answer the final questions and provide any other comments, as necessary.

As this is the final day of the training course, please also complete the Overall Course Evaluation.

Session 5: Avoiding detention and inadequate conditions of detention

Session 5.1: Immigration detention and Session 5.2: Key human rights considerations regarding immigration detention	How would you rate the content of this training session?				
	<i>poor</i>	<i>fair</i>	<i>good</i>	<i>excellent</i>	
	I will be able to apply what I learned in this training session to my work				
	<i>not at all</i>	<i>very little</i>	<i>some</i>	<i>a lot</i>	<i>everything</i>
Comments:					
Session 5.3: Protecting human rights in the event of immigration detention	How would you rate the content of this training session?				
	<i>poor</i>	<i>fair</i>	<i>good</i>	<i>excellent</i>	
	I will be able to apply what I learned in this training session to my work				
	<i>not at all</i>	<i>very little</i>	<i>some</i>	<i>a lot</i>	<i>everything</i>
Comments:					

Session 5.4: Situations of vulnerability and immigration detention	How would you rate the content of this training session?				
	<i>poor</i>	<i>fair</i>	<i>good</i>	<i>excellent</i>	
	I will be able to apply what I learned in this training session to my work				
	<i>not at all</i>	<i>very little</i>	<i>some</i>	<i>a lot</i>	<i>everything</i>
Comments:					

Session 6: Human rights-based return

Session 6.1: Return in the context of migration and Session 6.2: Key human rights considerations relating to return	How would you rate the content of this training session?				
	<i>poor</i>	<i>fair</i>	<i>good</i>	<i>excellent</i>	
	I will be able to apply what I learned in this training session to my work				
	<i>not at all</i>	<i>very little</i>	<i>some</i>	<i>a lot</i>	<i>everything</i>
Comments:					

Session 6.3: Practical steps to protect human rights in the return process	How would you rate the content of this training session?				
	<i>poor</i>	<i>fair</i>	<i>good</i>	<i>excellent</i>	
	I will be able to apply what I learned in this training session to my work				
	<i>not at all</i>	<i>very little</i>	<i>some</i>	<i>a lot</i>	<i>everything</i>
Comments:					

What did you find *most* useful about day 3 of the training session?

What did you find *least* useful about day 3 of the training session?

What (other) topics would you like to learn more about?

Any other comments?

Thank you

Name (optional):

Course content and methodology

1. How would you rate?

	Not satisfactory	Somewhat satisfactory	Satisfactory	Very satisfactory
The course content	1	2	3	4
The rhythm/pace of the course	1	2	3	4
The training materials used	1	2	3	4
The handouts/materials provided	1	2	3	4
Opportunities to learn from colleagues	1	2	3	4

Comments:

2. How would you rate?

	Not satisfactory	Somewhat satisfactory	Satisfactory	Very satisfactory
The human rights content of the course	1	2	3	4
Integration of gender through the course	1	2	3	4
Training techniques* used	1	2	3	4
Relevance to border officials' work	1	2	3	4

* These include: small group discussion, case studies, role-play exercises, interactive discussions, trainer's presentation

Comments:

3. Did the course adequately respond to your expectations? Yes No
(please circle)
Please elaborate.

4. Which session did you find *most / least* useful? Please explain why.

5. Is there any topic not included that you would have wished to have addressed in the training course?

6. Are there any changes that you would recommend to make the training course more useful for border officials working at international borders?

Your engagement with, and experience of, the training course

7. Indicate your level of satisfaction with:

	Not satisfactory	Somewhat satisfactory	Satisfactory	Very satisfactory
Your attendance	1	2	3	4
Your commitment	1	2	3	4
Your work	1	2	3	4
The group atmosphere	1	2	3	4

Comments:

Administrative matters

8. How would you rate?

	Not satisfactory	Somewhat satisfactory	Satisfactory	Very satisfactory
Travel arrangements	1	2	3	4
Administrative information prior to the course	1	2	3	4
Training rooms	1	2	3	4

Comments:

9. Any further comments or suggestions?

Thank you