

# Training course on Human Rights at International Borders

# **Session 4**

# **Ensuring human rights- based screening and interviewing**

# Session 4 content

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- 4.5 Exercise: Interviewing at the border
- 4.6 Exercise: Considerations when screening or interviewing migrants in potentially vulnerable situations

# Session 4 learning objectives

## **After this session, learners will be able to:**

- Articulate the key human rights considerations for screening and interviewing individuals at international borders
- Apply the knowledge acquired in the training course so far in role-play activities on human rights-based screening and interviewing of migrants in vulnerable situations
- Recognize the importance of a gender-responsive approach to screening and interviewing

# 4.1.

## **Screening and interviewing at international borders**

## 4.1.1. What is screening?

- 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
  - in the context of controls at defined border crossings, interception at sea, border areas or designated buffer zones and controls beyond borders (e.g., checkpoints)

# What is screening (contd.)

Screening officials are responsible for identifying any initial indication of irregularity in immigration control, potential security risk and/or human rights protection needs that might necessitate

→ referral to an interview

## 4.1.2. What is interviewing?

The **second step** at the border, after the primary screening, to

- **Obtain more information** concerning the individual's situation and immigration status
- **Identify any situation of vulnerability** and **associated protection needs**
- **Determine any security risk** posed by the person

Based on information gathered, the individual may be referred to relevant experts for a **specialized interview**, e.g., for asylum assessment, age verification, protection determination, identification of trafficked persons, interrogation of criminal suspects, including relating to terrorism.



## 4.1.3. Human rights particularly at risk in screening and interviewing

- (a) Right to equality, non-discrimination
- (b) Right to due process
- (c) Right to freedom of movement
- (d) Right to security of person
- (e) Right to freedom of religion or belief
- (f) Right to privacy
- (g) Right to freedom of expression
- (h) Right to family life
- (i) Right to health
- (j) Rights of the child to have their best interests taken as a primary consideration

# Questions?

# 4.2.

## **Key human rights considerations and practical measures for screening and interviewing**

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

- **Treat every person as an individual** and consider their particular circumstances
- Determine **each individual's situation** and reason for entry or departure
  - Screen each adult family member **separately**
  - Identify and **appropriately refer individuals in vulnerable situations**, including asylum seekers, victims of trafficking, victims of crime and others
- Facilitate access to **due process and effective remedies** in cases of human rights violations

# A human rights-based approach

- Always adopt a human rights-based approach at the border
- Everyone is entitled to respect for, protection and fulfilment of their human rights

Everyone has rights, *even those considered a potential risk*, such as individuals suspected/convicted of involvement in terrorist acts or other crimes.

- There is **no agreed definition of terrorism**
- What might be categorized as terrorism in one country may not be in another

## 4.2.2. Identify individuals who may be in vulnerable situations

→ Identify those who may be **at particular risk** of human rights violations and abuse, such as:

- Unaccompanied or separated children
- Survivors of torture or trauma
- Refugees
- Persons with disabilities
- Victims of sexual and gender-based violence
- Trafficked persons
- ...

# Individuals in vulnerable situations (contd.)

- Individuals arriving at borders have **different experiences** and **needs** or face different human rights **risks**.
  - **Be aware** of those differences
  - **Refer** individuals who may be at particular risk of human rights violations and abuse to the relevant specialized authorities who can undertake and accurate identification and refer to appropriate services.

## 4.2.3. Provide accessible information

All migrants at international borders should have access to and be provided with information on their rights and how to access them.

*To those seeking asylum or who may otherwise require human rights protection, provide specific information on:*

- **Right to claim** asylum, identification as a victim of trafficking, other appropriate protection
- **Access** to fair and efficient procedures
- **Rights** and **benefits** that they may claim



# Provide accessible information (contd.)

*To those denied entry/departure:*

- **Reasons** for exclusion from entry or refused departure
- **Right to challenge** the decision before a court or other independent and effective authority, orally and in writing

*To migrant children:*

- Child-friendly information in age-appropriate language and formats

## 4.2.4. Avoid discriminatory profiling

**Profiling** is the use of information/perceptions about a person to decide whether or not they are likely to pose a security or other risk

- Must comply with the principles of *legality, necessity, proportionality* and *non-discrimination*
- Must **NOT** target individuals based on discriminatory grounds in its *purpose* or *result*

Any adverse decision based on automated or in-person profiling can be challenged by the individual concerned and their right to remedy must be respected.

# Avoid discriminatory profiling (contd.)

## Avoid

### **Direct discrimination:**

treating an individual less favourably than another person in a similar situation

E.g., refusing entry to a country or assessing security risk based purely on **prohibited discriminatory grounds** such as national, ethnic or social origin, sex, gender identity, age, religion without any objective justification

### **Indirect discrimination:**

applying laws, policies that appear to be neutral, but which indirectly and disproportionately affect certain people owing to their personal/ physical characteristics (e.g., ethnicity, nationality, sex, gender identity, religion, age, disability)

E.g., Asking about place of birth may be **indirectly discriminatory** as an indicator of ethnicity.

# (a) Profiling for counter-terrorism purposes

Should be

- **Non-discriminatory**
- **Based on intelligence**, in conjunction with observational techniques and behavioural analysis
- Applicable to **all travellers** or conducted at **random**

## (b) Gender stereotyping

Some counter-terrorism measures have used gender stereotypes as a proxy for profiling on the basis of race, national or ethnic origin, or religion.

E.g., Asking men their views on women's equality or asking women why they are wearing a veil may be perceived as ways of confirming certain stereotypes

- Such questions are **discriminatory because they equate gender inequality with persons of a certain race, national or ethnic origin or religion** and predict that men from those groups are more likely to be terrorists.

## (c) Health screening

- Must be human rights compliant and aimed at identifying those needing health care or short-term close monitoring
- Should not bar entry to the migrant; serious threats to public health should be dealt with appropriately
- Should be conducted by trained health professionals:
  - Ensuring non-stigmatization and privacy
  - Confidential
  - Voluntary testing
  - Informed consent
  - Adequate pre- and post-test counselling, treatment, care and support

## 4.2.5. Respect the right to privacy

→ Individuals should have an area of autonomous development, interaction and liberty, a “private sphere” with or without interaction with others, free from State intervention and excessive unsolicited intervention by other uninvited individuals.

# (a) Data collection and storage

Must:

- Be **authorized by** accessible and precise **domestic law**, and in line with international human rights law
- Pursue a **legitimate aim**
- Meet the tests of **necessity** and **proportionality**
- Be conducted under judicial or executive authorization and meaningful **independent oversight**.

States are legally obliged to afford **the same privacy protection for nationals and non-nationals** and for those within and outside their jurisdiction.



## (b) Data security

- **Biometric** data requires additional safeguards and protection
- **Ensure security of the data** and the infrastructure that enable processing (incl. collection, storage, sharing and disposal) by State and private actors
- Use personal data only **for the purpose specified** at collection
- Handle data with **confidentiality**, and the utmost security, to prevent unauthorized access, loss or damage
- **Duration of storage should be limited** to time necessary to achieve legitimate aim
- Ensure safeguards for the individual's **access to their own data**

## (c) Handling personal property

- Personal items may be confiscated **only when authorized by law**, in **clearly defined, limited circumstances**
- **Provide receipts** for all confiscated property
- **Return** confiscated items **as soon as possible**

## (d) Searches

Should be conducted:

- In line with **international human rights law** (i.e., for a legitimate purpose, legality, necessity, proportionality, non-discrimination)
- With full **respect for the inherent human dignity and privacy** of the individual being searched
- In an **age and gender sensitive** manner

## 4.2.6. Do no harm

When screening and interviewing at the border,

- Be aware that the individual may be in a vulnerable situation and require specific attention
- Make every effort to **avoid causing harm**
- Be mindful of **gender dynamics** and **cultural norms**
- Make every effort **NOT** to traumatize, retraumatize or cause the individual to feel stigmatized or marginalized

# Do no harm (contd.)

- **Refer individuals** who may be at particular risk of further harm to the relevant authorities who can undertake an accurate identification and onward referral e.g., survivors of torture and/or sexual/gender-based violence, children, persons with disabilities, among others
- Be aware that recalling traumatic experiences may lead to **re-traumatization and further distress**
  - Avoid asking such questions to the extent possible, but rather refer the individual to the appropriate specialists

# Questions?

# 4.3.

## **Exercise (role play): Screening at the border**

# Screening at the border: Instructions

- Each **border screening station** should be staffed by a **border official**
- **Migrants** will queue up to be screened by a **border official**
- **Border officials** will ask questions to **screen** the migrants and fill out their screening report
- Border officials and migrants will receive **documentation/information**:
  - Migrants: migration story and travel documentation,
  - Border officials: screening report, background information/watch list
- You will **be briefed** separately on your roles.

Each screening will take **maximum 3 minutes**. Officers must stop when the bell rings.



# Screening at the border: Debriefing

1. What was your reaction to the exercise?
  - Were there any specific situations that made you feel uncertain or uncomfortable?
  - How did you feel throughout the exercise?
2. What decisions did you make/what action did you take?
  - Why those decisions/actions?
3. What would you do differently, if anything?
4. Did any gender-specific considerations emerge (for border official or migrant)?

# 4.4.

## **Practical steps to ensure human rights-based and gender-sensitive interviews**

## 4.4.1. Exercise (brainstorming): Stages of the interview

- There is a **flip chart** for each stage of the interviewing process: **preparing, beginning, conducting, concluding** the interview
- Work in four groups – one at each flip chart
- Briefly **discuss** the interview stage with your group and **note** your ideas/points/tasks required on the flip chart [**5 minutes**]
- Then **move on** to another flip chart; **read** the notes made by that group; **briefly discuss**; and **add** any other ideas/points relevant to that stage
- **Keep moving on** until you have familiarized yourselves with/ added to all four flip charts

## 4.4.2. Preparing for the interview

Systematic preparation will increase the likelihood of good- quality and effective interviews:

- (a) Select the interviewer and the venue
- (b) Gather information about available resources
- (c) Prepare the questions for the interview
- (d) Select and brief an interpreter, if necessary

→ *Focus on the individual and their experience*

# Preparing for the interview (contd.)

## Focus on the interviewee

- (e) Be mindful of factors that may affect communication, such as stereotyping
  - Adopt techniques and methods that are sensitive to gender, age, children, culture, trauma survivors and migrants who may be in particularly vulnerable situations
- (f) Deciding not to proceed with the interview
  - The interest of the interviewee should be the priority

# Preparing for the interview (contd.)

## Interpreters

(g) Working with interpreters

When preparing an interpreter, ensure that:

- The interpreter and the interviewee **can understand each other**
- The interpreter is **unprejudiced and impartial** (consider gender, ethnicity/nationality, culture, religion)
- The interpreter is **trustworthy** (do background checks) and **competent** (will not give personal interpretation or add information)
- The interpreter's involvement **will not unduly influence, endanger or harm the interviewee** or compromise the interview process

## 4.4.3. The interview

### Beginning the interview

- **Identify yourself** - name and official function (use safeguards, if necessary)
- **Explain the purpose** of the interview and the roles of other personnel who may be present (check that interviewee agrees)
- **Explain how the interview will be documented**, assure confidentiality and obtain informed consent to record it
- **Establish a rapport** with the interviewee (this is crucial)
- **Provide information** about the process, identification and referral procedures, their rights and obligations, legal representation, complaints, remedy and so on

# The interview (contd.)

## Conducting the interview

- Adopt an open and non-threatening manner:
  - Encourage free narrative and use non-specific prompts
  - Use a mix of open-ended (requiring a narrative) and closed questions (requiring yes/no)
  - Engage in “active” listening, paying close attention and repeating parts of the narrative to confirm understanding
- Identify any situations of vulnerability



## 4.4.4. Concluding the interview

- **Go over the interview content** with the interviewee
- **Invite the interviewee** to provide any additional information/points
- Explain **what happens next** (how long for a decision to be made, referrals, rights...)
- Offer **information**, if necessary, **about support/assistance** and where it can be obtained
- Ask if the interviewee has **any questions**

## 4.4.5. Gender-sensitive screening and interviewing

- Ensure women and girls are screened by **women officers**
- Communicate with women **separately from male family members** – respect women as independent decision-makers, even if they are travelling in a family group
- Ensure services/facilities are available for anyone who is **pregnant or nursing** (e.g., medical care, nursing spaces)
- **Banish** any gender stereotyping, homophobic, transphobic, gender-related or other discrimination or assumptions when screening and interviewing

## 4.4.6. Avoiding stress, vicarious trauma and burn-out

- Secondary trauma is common among those 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
- It is important that measures be in place to treat and help officials to deal with symptoms of secondary traumatization, such as:
  - regular mandatory time off; rotation through different types of work; professional support systems

# Questions?

# 4.5.

## **Exercise (role play): Interviewing at the border**

# Interviewing at the border: Instructions

- Each **interviewing station** should be staffed by an **interviewing officer**
- Interviewing officers and migrants will receive **documentation/information**
  - Migrants: migrant profiles
  - Interviewing officers: brief, interview reporting sheet
- You will **be briefed** separately on your roles
- Interviewing officers will **interview** the migrants referred to them from screening to **gather information** on:
  - (a) the person's health and needs;
  - (b) other human rights concerns.
- Based on that information, decide on **follow-up action**, as appropriate.
- Each interview will take **maximum 10 minutes**. Listen for the bell.

# Interviewing at the border: Debriefing

The **interviewer** (border official) and **interviewee** (migrant) should discuss with each other:

1. What challenges did you face?
2. How did you feel (nervous, stressed, uneasy, scared, suspicious)?
3. What did the official do/say to make you feel comfortable/uncomfortable?
4. What did the migrant do/say to make you feel suspicious?
5. What about gender considerations?
6. What could have been done differently?

# Reminder – situations of vulnerability

*Situations of vulnerability* can arise:

- In migrants' **country of origin**
- **During their journey** – in countries of transit, the way in which they travel; their experiences in transit
- On **arrival** or **during their stay** in the country of destination
- Due to **individual/personal circumstance** or element of their identity

→ Such situations may **co-exist** simultaneously, and can **change**

→ Migrants often move in/out of different legal categories and situations of vulnerability during their journey.



## 4.6.

# **Exercise (brainstorming): Considerations when screening and interviewing migrants in potentially vulnerable situations**

# Brainstorming exercise instructions

- Each flip chart is dedicated to an **example of migrants in potentially vulnerable situations**
- Select a rapporteur to take notes and represent the group in plenary
- **Reflect** on the two previous role-play exercises, and
- **Discuss** with your group and note **what considerations** you should take into account in relation to the assigned vulnerability when:
  - (a) screening and
  - (b) interviewingan individual in that particular situation of vulnerability

# Questions?