



UNITED NATIONS  
OFFICE OF COUNTER-TERRORISM  
UN Counter-Terrorism Centre (UNCCT)



# HUMAN RIGHTS AND SCREENING IN BORDER SECURITY AND MANAGEMENT

## The UN CTITF Working Group on Human Rights and the Rule of Law

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### Pocketbook for Field Screening

**T**his Pocketbook is an initiative of the Counter-Terrorism Implementation Task Force (CTITF) Working Group on Protecting Human Rights while Countering Terrorism. This Pocketbook, and a sister Handbook, aim to assist Member States in strengthening the protection of human rights in border security and management in the context of counter-terrorism, especially in the screening of individuals at borders. The Pocketbook further aims to raise awareness of officials engaging in screening on a daily basis.

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# Introduction

The importance of border security and management measures has been increasingly recognized in global counter-terrorism efforts. Screening procedures at borders play an important role in identifying and intercepting individuals suspected of travelling to participate in terrorist acts. Prevention of terrorist acts and safeguarding the security of the public is an important obligation of States.

At the same time, international law also obliges States to respect and protect the human rights of every individual while taking measures to counter terrorism. This Pocketbook does not deal directly with screening for vulnerability. However, immigration and security screening

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measures must also provide adequate safeguards for individuals requiring international protections, such as refugees, in an effective, transparent and fair manner.

This Pocketbook seeks to assist officials at border and reception areas to be human rights conscious while screening individuals for security purposes to better comply with their obligations under international human rights law. While the sister publication “Handbook” goes into the detail of applicable international legal standards, this Pocketbook aims to summarize 10 key principles in a user-friendly manner. For further discussion of each principle, including questions to be asked to better follow the principles, the readers are encouraged to refer to the Handbook.

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# Primacy of Human Rights



**H**uman rights are guaranteed by international law. The law places obligations on States to respect, protect and fulfil human rights for all persons when managing

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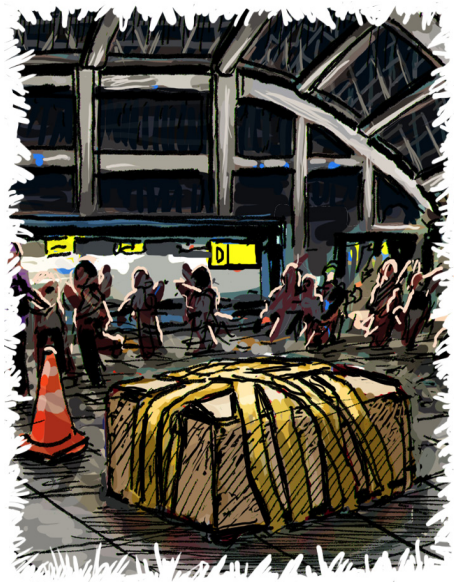
and securing their borders. Human rights obligations are not optional. Human rights apply to every person. States' human rights obligations are often reflected in national laws and constitutions. **Border officials are responsible for putting human rights obligations into practice. Human rights should be at the heart of all their actions.**

Some human rights are particularly relevant at borders:

- Everyone has the right to be treated with dignity.
- Everyone has the right to enter their own country and to leave any country including their own.
- Everyone has the right not to be returned to a place where there is a risk of persecution or other serious harm.
- Everyone has the right to be treated as an individual in a transparent process based on law.

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# Security and Human Rights



**M**ost individuals who cross borders do not pose a security threat, wherever



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they are coming from and whatever their reason for travelling. They should not be treated with suspicion.

Protecting the lives and security of the public by taking steps to prevent terrorist acts is a part of a State's international obligation to protect human rights.

Individuals who travel to plan, prepare, participate in or perpetrate terrorist acts or to provide or receive terrorist training pose a serious security risk.

Screening for security risks potentially helps to prevent the entry into, or transit through, the territory of your country by such an individual. This is key to protecting lives.

**Effective security screening needs to be properly targeted and evidence-based.**

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# Human Rights and Counter-Terrorism



**H**uman rights are universal, inalienable and indivisible. **Even individuals**

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**suspected or convicted of involvement in terrorist acts are entitled to respect for and protection of their human rights.**

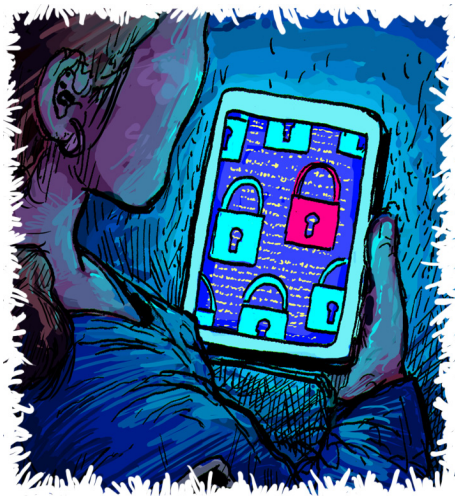
Screening processes at borders may identify individuals suspected of being involved in terrorist activity. This may lead to their arrest and/or detention.

In this case, the arrest or detention must not be arbitrary. The individual must be treated with the upmost humanity, dignity, and respect. They must not suffer torture, inhuman or degrading treatment or punishment. In all cases, individuals must have access to effective remedies for any violation of their human rights because of State actions.

If a potential or imminent security threat is identified through screening processes, any response to that threat must be carefully planned to protect the human rights of suspected individuals, officials, and the public and to minimise any risk to life.

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## Privacy and Data Collection



International law protects the right to privacy. Asking for personal information from individuals going through the border and collecting, processing, and storing that data interferes with their right to privacy.

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## Personal information should only be collected if it is:

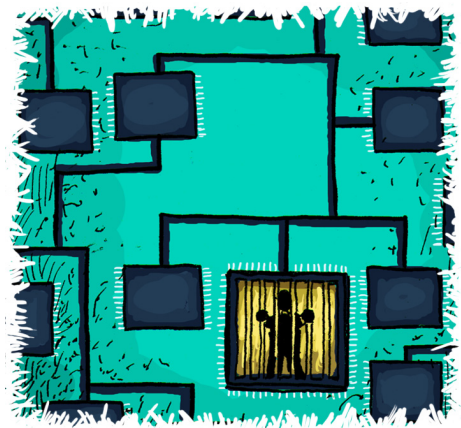
- **Required by law**
- **Justified for a legitimate aim**
- **Necessary and proportionate to needs**
- **Non-discriminatory**

Any information that reveals racial or ethnic origin, political opinions, religious or philosophical beliefs, trade-union membership or concerning a person's health or sex life is particularly sensitive. The following questions help to decide what kind of personal data should be asked to individuals at the border:

- What does the law allow?
- What do you need the information for?
- Which information do you really need given the purpose?
- Is the data particularly sensitive?
- How will you use the information?
- Who will you share the information with?

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## Sharing Data Across Borders



**S**creening for border management and security may include receiving and sharing data across borders. Standards of data protection and privacy laws vary in different countries and regions. Data should only be shared with other countries or organisations where such

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sharing is consistent with national laws and international human rights law.

Information should be included on a database to be shared internationally, but only when it is necessary and proportionate to a lawful purpose.

**Data should not be shared where it would put an individual at risk of human rights abuses. Sharing the data of people who need international protection, such as refugees, may result in the country where they are at risk being notified of their situation or whereabouts. This could put them or their families at serious risk of further human rights abuses.**

If information and data are received from sources outside the country, consideration should be given as to whether the source is reliable and legally based, particularly if there is a risk of political motivation.

## Due Process



**A**ll individuals at international borders have the right to due process. States have obligations to guarantee the right to due process wherever they have **jurisdiction or effective control**, including inside the territory, a transit zone or





screening location in another country.

**Due process includes the right to an individual examination.** This means you need to treat every person as an individual and consider his or her particular circumstances. International human rights law prohibits arbitrary and collective expulsions where people are turned away from the border as a group or because they are perceived to be from a distinct and identifiable group.

Individuals at borders also have the right to an effective remedy for human rights violations.

Accessible information should be made available to people about how they can challenge decisions or actions that interfere with their human rights. Helping individuals at borders, including migrants, refugees and asylum seekers, to understand their rights and the procedures and processes is key to guaranteeing the right to due process.

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## Profiling and Non-discrimination



Nationals of different countries may be treated differently in immigration processes. For example, some country nationals require a visa and others do not. But screening to decide whether to refuse entry or assess an individual's security

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risk based purely on nationality, religion, or ethnic origin without any objective justification will be discriminatory.

**Assumptions should not be made about an individual's potential security risk based only on characteristics like nationality, race, ethnic origin, religion, appearance, gender, age etc.**

Racial or ethnic profiling in screening for security risks is not effective. Making assumptions about people based on these factors makes it less likely that you will identify real security risks if they do not fit the stereotype.

Decisions taken on a discriminatory basis without individual consideration are likely to be a violation of human rights. They may be a breach of the prohibition on collective expulsions and may amount to inhuman and degrading treatment.

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## Screening in Person



**B**order authorities may decide who to interview, what questions to ask and how to conduct those interviews.

**Interviews should be carried out with respect for the dignity of the individual. Interviews should be conducted in a language the person understands and in a**

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**safe environment. Gender considerations should be taken into account in the choice of interviewing officials, especially if there are cultural and social sensitivities for women and men.**

Photographs and other biometric data, such as fingerprints or iris scans, are particularly sensitive. Some individuals may refuse to provide such data. Individuals should be able to understand how the data will be used and who will have access to it.

If a person does not want to provide fingerprints or photographs, it should be made clear to them in a language they can understand why the data is requested and what will happen if they do not provide it. Photographs should be taken in a way that respects the culture and religion of the individual concerned. Biometric data should only be taken from children to the extent that it is strictly necessary.

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## Different Needs



**S**ome individuals or groups may have different needs or face different human rights risks. Border officials may need to treat them differently from others to protect their human rights.

Children are more vulnerable to neglect, abuse and exploitation. Some children

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might have witnessed or experienced violent acts. If an individual's age is in doubt, where there is a chance they may be under 18, they should be treated as a child. Information given to children and the way they are treated should be age-appropriate. Children travelling unaccompanied or separated from their family may face greater risk of harm. In such cases, a suitable guardian or adviser should be appointed as soon as the child is identified. **When screening children, the best interests of the child should be the primary concern.**

Screening processes should be gender-sensitive. Pregnant women may have particular needs in the screening process. Women should not be made to feel that they are at risk in the screening process. Other groups that may need special treatment include persons with disabilities, older persons, stateless persons, victims of human trafficking.

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## Refugees, International Protection and Non-refoulement



**R**efugees are fleeing persecution and violence, often including terrorist acts, and should be treated with humanity and respect for their dignity. **The non-refoulement principle under**



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**international law prohibits a State from returning a person to a place where she or he would be at risk of torture or serious human rights abuses.**

Everyone has the right to access fair and efficient asylum procedures to determine their need for international protection. Information on asylum-seekers should not be shared with their country of origin. This could endanger their safety and/or family members remaining in the country of origin.

People who are combatants or who have committed serious crimes, including terrorist acts, are excluded from refugee status. Because of the very serious consequences, decisions to exclude someone should be individually assessed, based on available evidence, and conform to basic standards of fairness and justice in asylum procedures offering appropriate safeguards.

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## Further References

CTITF Working Group on Protecting Human Rights while Countering Terrorism, Handbook on Human Rights and Screening in Border Security and Management ([forthcoming](#)).


CTITF Working Group on Protecting Human Rights while Countering Terrorism, Basic Human Rights Reference Guides, available at [www.un.org/counterterrorism/ctitf/en/uncct/basic-human-rights-reference-guides](http://www.un.org/counterterrorism/ctitf/en/uncct/basic-human-rights-reference-guides)

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