

Forum: Human Rights Council HRC 1

Issue: Protecting human rights at border crossings

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Introduction

In recent decades, border crossings have become focal points of humanitarian, political, and legal debate. With increasing migration flows driven by conflict, poverty, climate change, and persecution, the treatment of individuals at international borders has come under intense scrutiny. Border zones are often spaces of vulnerability, where fundamental human rights—such as the right to seek asylum, freedom from arbitrary detention, and protection from inhumane treatment—are at heightened risk of violation.

The challenge lies in reconciling the sovereign right of states to regulate their borders with the international community's responsibility to uphold universal human rights standards. Reports of excessive use of force by border security, the separation of families, lack of access to asylum procedures, and discriminatory practices highlight the urgency of addressing this issue. Furthermore, the rise of advanced surveillance technologies and externalized border controls raises new questions about accountability, transparency, and the balance between security and human dignity.

Definition of Key Terms

Border Crossing:

The act of moving from one sovereign state into another through an official entry point (e.g., airport, land checkpoint, seaport) or unofficial route (e.g., unmonitored rural areas). Ex. *Migrants crossing from Mexico into the United States either through legal checkpoints or irregular desert routes.*

Asylum Seeker:

An individual who has applied for protection as a refugee but whose claim has not yet been decided. They remain in a legal state of uncertainty until their case is processed.

Example: A Venezuelan citizen applying for asylum status upon arriving in Spain is considered an asylum seeker until their claim is approved or denied.

Refugee:

A person who, according to the 1951 Refugee Convention, is outside their country of origin due to a

well-founded fear of persecution based on race, religion, nationality, membership of a particular social group, or political opinion.

Example: Syrians who fled the civil war and sought safety in Turkey or Germany are classified as refugees.

Non - Refoulement:

A principle of international law that prohibits states from returning individuals to a country where they face threats to life, freedom, or persecution. This is a cornerstone of refugee protection.

Example: A state cannot deport an Afghan asylum seeker back to Afghanistan if they risk persecution from the Taliban.

Pushback:

The practice of forcibly returning migrants across a border without assessing their asylum claims or protection needs, often using violence or intimidation.

Example: Reports accuse Greek authorities of pushing migrant boats back into Turkish waters without processing asylum requests.

Detention (Migration-related):

The deprivation of liberty for migrants or asylum seekers, usually in specialized facilities, while their legal status is determined. Conditions vary widely, and indefinite detention is a human rights concern.

Example: Migrants in Australia have been held for extended periods in offshore detention centers on Nauru and Manus Island.

Irregular Migration:

The movement of people across borders outside legal or regulated entry channels, such as without visas, documentation, or through unofficial crossings.

Example: Migrants from Central America traveling through Mexico to reach the U.S. without visas are considered irregular migrants.

Humanitarian Corridor:

A safe and legal route established to allow vulnerable populations to cross borders securely, often facilitated by international organizations.

Example: During the Syrian conflict, humanitarian corridors were set up to allow civilians to leave besieged cities and access aid in neighboring countries.

Background Information

International Legal Framework

The international framework for migration is fundamentally underpinned by the right to seek asylum, a critical principle guaranteed under the 1951 Refugee Convention and reinforced by subsequent international agreements. In this context, it is essential to recognize that, as emphasized by sources like UNHCR spokesperson Shabia Mantoo, international law makes clear that seeking asylum is not an illegal act. This right is inextricably linked to and protected by the principle of non-refoulement, which, as noted by organizations like Amnesty International, prohibits states from returning individuals to territories where they would face persecution, torture, or other serious human rights abuses.

Furthermore, the treatment of individuals at borders is governed by overarching human rights standards. The right to life, liberty, and security, as articulated in instruments like the International Covenant on Civil and Political Rights (ICCPR), is paramount, requiring that all individuals be treated with dignity and humanity. As clarified by the Office of the High Commissioner for Human Rights (OHCHR), this means that any deprivation of liberty at borders must be lawful, necessary, proportionate, and non-discriminatory, with arbitrary detention being strictly prohibited. Closely related to this is the entitlement to due process, which ensures that each migrant's or asylum-seeker's case must be assessed individually and in accordance with the law. This individual assessment is a key reason why collective expulsions—the practice of turning away groups without such scrutiny—are prohibited under international human rights standards (OHCHR).

Finally, the entire framework mandates that particular attention must be given to the protection of vulnerable individuals, such as children, pregnant women, persons with disabilities, and victims of trafficking or violence. International law emphasizes that for groups like unaccompanied or separated children, their status as children must be the primary consideration, meaning they should not be treated first as migrants and must be provided with appropriate care and guardianship.

Common Human Rights Issues at Borders

Despite the existence of international legal frameworks, human rights violations at border crossings remain widespread. Reports from human rights organizations consistently draw attention to serious abuses, including the practice of pushbacks—where individuals are forcibly and often violently expelled without any assessment of their need for protection (ECCHR). Such measures not only deny people due process but also breach the fundamental principle of non-refoulement (FRA). Equally troubling is the systematic denial of access to asylum, which prevents individuals from exercising their right to seek international protection (ENNHRI).

In addition, migrants and asylum-seekers frequently face inhumane and degrading treatment, ranging from

physical abuse and violence to the imposition of harsh, unsafe living conditions by border authorities (ECCHR). Arbitrary detention is also a pressing concern, with many people confined in overcrowded, substandard facilities for prolonged periods, often without proper legal recourse (OHCHR). These practices underscore the gap between international human rights standards and their implementation in border management.

Past international action

International frameworks governing border protection for migrants and refugees begin with the Universal Declaration of Human Rights (1948), which recognizes the right to seek asylum (United Nations, “Universal Declaration of Human Rights”). The 1951 Refugee Convention and its 1967 Protocol form the core of refugee law, defining state obligations and enshrining non-refoulement. The International Covenant on Civil and Political Rights (1966) further prohibits arbitrary detention and inhumane treatment (United Nations, “International Covenant on Civil and Political Rights”).

More recent efforts include the non-binding Global Compact for Safe, Orderly and Regular Migration (2018), while the OHCHR and Special Rapporteurs regularly document rights violations at borders. Despite these measures, enforcement is weak, and many states continue to implement policies that violate their international obligations.

Major Countries and Organisations Involved

UNHCR (United Nations High Commissioner for Refugees):

The leading UN agency for refugee protection, responsible for monitoring compliance with the 1951 Refugee Convention and supporting asylum processes worldwide (UNHCR). Its impact is most visible in its advocacy against unlawful pushbacks and refoulement, as well as in its technical support to states in processing asylum claims. However, its influence is often limited by state sovereignty, meaning its recommendations are not always enforced.

IOM (International Organization for Migration):

Works on safe and orderly migration, supporting both governments and migrants, often managing humanitarian corridors and reintegration programs. The IOM also assists states in improving their border management policies, laws, and operational systems. This includes providing training to border officials on topics such as human rights, data management, and the identification of vulnerable migrants. By strengthening the capacity of governments, the IOM aims to help them manage cross-border movements more effectively while also upholding international law and the rights of migrants (IOM).

OHCHR (Office of the United Nations High Commissioner for Human Rights):

Oversees compliance with human rights treaties and investigates violations at borders (OHCHR, “Human Rights at International Borders”). Its impact is significant in setting international standards and holding states accountable through reporting mechanisms. Still, it lacks direct enforcement power, meaning

its influence depends heavily on international pressure and cooperation.

UNICEF (United Nations Children's Fund):

Protects the rights of migrant and refugee children (UNICEF), particularly those separated from families or detained. Its impact is crucial in shaping child-sensitive policies at borders, such as alternatives to detention for minors. Nonetheless, its work is often constrained by limited resources in areas where migration flows are highest.

ICRC (International Committee of the Red Cross):

Neutral organisation and while does not operate on border crossings themselves, the ICRC ensures the safe passage of humanitarian aid, civilians, and medical personnel. This is exemplified in their work in Israel and the occupied territories, coordinating the transfer of medical patients, facilitated family reunifications, and negotiated humanitarian corridors; the Russia-Ukraine international armed conflict (2022-present), facilitating the safe passage of vulnerable people across international borders in both directions to reunite with families or seek safer areas (ICRC).

NGOs (e.g., Amnesty International, Human Rights Watch, Médecins Sans Frontières):

Monitor, document, and advocate against abuses at borders. Impact is demonstrated through advocacy, direct humanitarian assistance, and by drawing international attention to rights violations. In addition, they also push for the creation and expansion of safe and legal routes for migration and asylum (e.g.). Moreover, their work often highlights the tension between state sovereignty and human rights. A contemporary case involves Gaza's maritime border, where Amnesty International has advocated for humanitarian flotillas, arguing that Israeli interception violates their right to safe passage and international law (Yassine Atoui).

Viable Solutions

A viable strategy for protecting human rights at border crossings must be built upon several interconnected pillars of action. First, this requires strengthening international legal frameworks by ensuring the universal ratification and consistent enforcement of key instruments like the 1951 Refugee Convention, while enhancing accountability for violations of non-refoulement and arbitrary detention. This could be coupled with improved monitoring and oversight, including the establishment of independent human rights monitoring mechanisms at key borders and mandates for states to publish data on border practices to ensure transparency. Simultaneously, it is critical to expand safe and legal pathways by broadening access to humanitarian visas and resettlement programs, and by creating regional agreements for equitable burden-sharing to support frontline states. Further, operational effectiveness depends on comprehensive training for border officials in human rights law and cultural sensitivity, alongside structured cooperation with humanitarian actors to manage vulnerable cases. The use of technology must also be safeguarded through regulations that protect privacy and prevent discrimination, guided by ethical principles and transparency. Finally, the immediate provision of humanitarian assistance—including healthcare, shelter, and legal aid—must be guaranteed through strengthened partnerships between states and NGOs at all

border crossings.

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