

9. Border Guards

Key definitions: who are the border guards and what makes them different from other security providers?

“Border guards” is an umbrella term that refers to security forces tasked with ensuring the security of the borders of a country. They have a responsibility to ensure a smooth and orderly movement of people and goods across borders according to national laws, while also policing trans-border crime or threats to national security. They typically confront security challenges, such as trafficking in illegal goods like weapons or drugs, and apprehend people who may pose a threat to national security such as through transnational organized crime.

Different countries organize their border forces in different ways. Border guards may consist of military forces, civilian law enforcement agencies, para-military or dual-status forces, or the responsibilities for border security may be shared among a mixture of security and non-security institutions. In some countries, border guards are a military force in their own right and are managed by the ministry or department of defense in the same way as the armed forces, or as a service branch of them. As a military force, they can be activated to defend the border in cases of war or conflict. In some places, responsibility for border security is assigned to a dual-status gendarmerie-style police force, which is also a paramilitary force and may also fulfill other missions in law enforcement. In other cases, border guards are purely civilian law enforcement agencies responsible exclusively to the ministries that control internal civilian policing, such as interior, home affairs or justice. In most cases, border guard forces are organized on a centralized national basis and work in close cooperation with the foreign authorities that police the borders they share. Border guards police points of entry across land, sea and air, and often have an important role in surveillance of terrain and people. They sometimes function as a coast guard, or share functions with coast guards that have other responsibilities.

Border guards are often responsible for controlling immigration by ensuring that people hold the correct permissions to enter or leave a country for the purposes they have declared. In such cases border guards may assess the veracity and validity of documents such as passports, or the validity of permits and visas, although responsibility for migration decisions may be made by separate authorities such as foreign affairs or immigration departments. Border guards may or may not perform customs functions, which focus on the collection of taxes, duties and tariffs related to the movement of goods across borders. Border guards also have a role in protecting against threats to public health and the environment, whether by cooperating with other agencies or through direct responsibility.

Key issues for reporting on border guards

Securing the border effectively? Border control requires both surveillance of vast territorial areas and large numbers of people and goods seeking to cross over. Identifying and apprehending criminals and criminal activities at borders is especially important in countering transnational organized crime. Illegal trafficking in people as well as internationally prohibited goods, such as arms, ammunitions, narcotics and wildlife, is often a source of revenue that fuels conflict and insecurity in the countries of origin, transit, and destination. This trade often involves extensive corruption and border crossings are often points of particular vulnerability: measures must be in place to protect the integrity of border guards, including public complaints mechanisms when the public is subjected to inappropriate behavior. The work of border guards is critical in ensuring prohibited goods and vulnerable people do not leave a country or enter it by illegal means. Often border guards will be keen to announce when they succeed in interdicting illegal goods and apprehend criminals or traffickers and this may be a “good news” story worthy of media coverage, even if the same questions about effectiveness should still be asked.

→ **Journalists can ask:**

- ✓ How effective are border guards in countering the operations of transnational organized crime at the borders?
- ✓ How effective are border guards in preventing illegal goods from entering the country?
- ✓ How is information on security threats and responses at the border tracked and what is disclosed to the public?
- ✓ What measures are in place to protect border security and what parts of the security sector are involved besides border guards?
- ✓ Is a network of checkpoints and strategies for control fit for purpose given the resources available?
- ✓ What measures are in place to prevent corruption at border crossings?
- ✓ What measures for complaints and oversight are in place?
- ✓ Is border surveillance sufficient to cover large areas while also respecting the privacy and dignity of the population?
- ✓ Are there weaknesses in territorial surveillance?
- ✓ What conditions for international cooperation are in place and how do they affect national policies and cooperation?
- ✓ Are policies in place to ensure the rights of people of all genders and identities are respected at borders?
- ✓ How are border communities affected by the work of border guards?
- ✓ What are the experiences of people whose work involves regular border crossings or the passage of goods?
- ✓ What do experts among civil society and within government make of the effectiveness of border security?

Keeping the dangerous people out? Border guards are responsible for preventing people who pose a threat to national security from entering a country, and fulfilling this mission may be part of their role in scrutinizing the permissions that people hold to cross borders. Yet in these situations, mistakes have been made whereby suspects have been falsely identified as posing a threat to national security, wrongfully detained, sometimes ill-treated, and also transferred to other national authorities who have abused their human rights. National legislation to protect against threats of violent extremism is sometimes overzealously applied in violation of rights. In some cases, border guards have applied discriminatory practices in profiling, violated rights to privacy, detained people arbitrarily, and used force illegally, including torture or sexual and gender-based violence. Viable legal frameworks ensuring states meet their international human rights obligations must be in place to ensure that borders do not become grey zones where national protections for human rights do not apply. Balancing the right to free and safe passage with reasonable measures to protect national security and public safety can be a delicate mission for border guards and one which benefits from media scrutiny.

→ **Journalists can ask:**

- ✓ Are border guards respecting the legitimate intent of laws for national security protection?
- ✓ Are national legal frameworks intended to protect human rights applied at the border in a way that meets international obligations and standards?
- ✓ Are intrusive surveillance or illegal profiling tactics used to identify suspects?

- ✓ What is the fate of people who have been detained at borders or denied entry on the basis of suspected threats to national security?
- ✓ What information is disclosed and what is withheld from the public about detentions made at the border?
- ✓ Who has responsibility for ensuring oversight of these decisions and is this authority exercised actively?
- ✓ How is use of force at the border regulated and is it overseen effectively?
- ✓ What has been the experience of people suspected of or charged with threatening national security?
- ✓ What access do those crossing borders have to national legal remedies and what has been the result of their using them?

Box 21 Practical example: “EU Border Agency Frontex Complicit in Greek Refugee Pushback Campaign”

In recent years, refugees and migrants have arrived at the borders of the European Union (EU) in large numbers and media coverage has revealed cases of mistreatment, abuse of legitimate regulations for political objectives, and violations of rights. In 2020 an international media investigation led by Der Spiegel together with the German public broadcaster ARD, journalist collective Lighthouse Reports, the investigative platform Bellingcat, and Japanese broadcaster TV Asahi, revealed Greek border guards forcing large numbers of refugees back to sea in operations that violate international law. Their research proved for the first time that officials from the European Border and Coast Guard Agency (FRONTEX) knew of illegal practices by Greek border guards and that the agency itself was also at times involved: “Breaking the law has become an everyday occurrence at Europe’s borders, and the EU is allowing it to happen.” This is an example of security sector reporting informing the public of important violations in the mandate and missions of two border guard agencies.

Source: “EU Border Agency Frontex Complicit in Greek Refugee Pushback Campaign”, December 2020, <https://www.spiegel.de/international/europe/eu-border-agency-frontex-complicit-in-greek-refugee-pushback-campaign-a-4b6cba29-35a3-4d8c-a49f-a12daad450d7>

Protecting human rights at the border? People have legitimate and internationally protected rights to flee danger, yet border can be dangerous places, especially for people who may travelling under duress or in irregular situations. The ability of refugees to claim asylum may be limited at a border by border guard forces, either as a matter of national policy or through poor practices and low professional standards. Sometimes legal and legitimate policies or practices have been applied in such a way as to make entry unnecessarily difficult with the intention of creating a deterrent (e.g., laws against smuggling have sometimes been used inappropriately to deter migrants at borders). In extreme cases, border guards may be ordered to use force to repel people from attempting to cross borders, including with orders to use deadly force and in violation of international law and standards. Denying entry can itself be a violation of internationally protected rights, and may leave people stranded without legal status or means of survival in the country they seek to transit. At the same time border crossings are also key to the international trade in people, whether for labor, sexual exploitation, irregular migration, or other purposes. Border guards need to be sufficiently well trained to recognize people who may be in a vulnerable situation and in need of assistance, even when they are unable to ask for help or unaware that they have that option. Policies need to be in place to identify and protect people who may be victims of human trafficking, including provisions that ensure they are not charged with violations of entry or exist regulations.

→ Journalists can ask:

- ✓ Are border guards applying pertinent national and international laws and policies consistently, competently and fairly at border crossings?
- ✓ What legal standards are being applied and they politically motivated?
- ✓ Are there contradictions between national policies for border control and other policy priorities? (e.g., do measures to protect freedom of movement and human rights align with other national, regional or international security priorities?)
- ✓ Are other states, especially neighboring states, ensuring that all border control measures protect the right of all persons to leave any country (including their own) as well as the right to re-enter their own country?
- ✓ Are measures in place to ensure that force is used safely and appropriately at the border?
- ✓ Are adequate complaints mechanisms and legal recourse available to ensure the accountability of border guards?
- ✓ How do border guards ensure the well-being of people in vulnerable situations at the border?
- ✓ What is the estimated and confirmed incidence of human trafficking identified at the border and how have border guards responded to the challenge?
- ✓ Are appropriate policies and practices in place to protect victims of human trafficking identified at the border?
- ✓ What happens to victims and perpetrators of human trafficking identified at borders?
- ✓ What are the experiences of people working as border guards, those crossing borders in irregular or vulnerable situations, those who work as advocates on border issues, and of communities affected by border crossings?

Box 22 Practical example: “Lao and Thai Border Officials Team Up Against Trafficking of Young Women”

In 2015 Radio Free Asia reported on new efforts by border guards in Thailand and Laos to counter the significant challenges of human trafficking affecting the region. The report details efforts by border guards to prevent underage girls being trafficked into Thailand to join the sex industry. It explains how officials introduced new measures to identify potential victims on the basis of age and suspicious behavior (such as travelling alone without financial means or information about their destination or purpose of travel). The report also details procedures for confirming their identity, verifying their documentation, and motive for travel, while also informing them of the dangers of trafficking. The report provides background on the problem of human trafficking in the region referring to the U.S. State Department's annual report on human trafficking, the Lao Ministry of Labor and Social Welfare and Thai immigration officials, as well as Thai media reports. Views and experiences of both Lao and Thai border guards are also reported together with their own statistics about the success of the initiative (e.g., 100 underage girls turned away at the border within the first month of the “crackdown”). This is an example of how reporting on the work of border guards can throw light on larger security challenges affecting the population and hold authorities accountable for delivering results, while also raising awareness among the general public of the potential risks.

Source: “Lao and Thai Border Officials Team Up Against Trafficking of Young Women”, February 2013, <https://www.rfa.org/english/news/laos/border-officials-team-up-against-trafficking-02132015153655.html>