

A Report



Research on the Humanitarian Aspects
along the
Indo-Bangladesh Border

*Organized by Calcutta Research Group
In collaboration with The International Committee of the Red Cross*



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**RESEARCH ON THE HUMANITARIAN ASPECTS
ALONG THE
INDO-BANGLADESH BORDER**

**Calcutta Research Group
International Committee of the Red Cross**

Research on the Humanitarian Aspects of the Situation along the Indo-Bangladesh Border

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BACKGROUND INFORMATION

The Mahanirban Calcutta Research Group also known as CRG has been consistent in its contribution to the body of knowledge in Border Studies, in particular the Bengal-Bangladesh Border. This project is a collaborative effort by CRG and The International Committee of the Red Cross (ICRC). Earlier studies undertaken by CRG on Border studies have defined borders as not only markers of territories but as a separate space with life. In order understand the formation of the State system in South Asia, it is imperative to study the partitions in the eastern and western parts of the erstwhile united India which has given birth to three states – India, Pakistan, and Bangladesh. The borders dividing these countries are markers of past bitter history, current separate, distinct, and independent existence, and the sign of the territorial integrity of these states. The bitterness of the past, the lack of mutual confidence at present, the security concerns of all these states, at the same time the existence of thousand and one linkages make the South Asian borders unique. While the Indo-Pakistan border (including the Line of Control) is in the eye of world attention, therefore closely monitored, the border in the East – Indo-Bangladesh border – remains neglected in terms of attention. Military security dominates over human security in the border region. As a result of this, States often forget that borders are not only lines to be guarded, they are also lines of humanitarian management, because borders are not lines but borderlands – that is to say these are areas where people live, pursue economic activities, and lead civilian lives attuned to the realities of the borders. Human security in the borderlands would mean first security of the civilian population along the borderlines. Details of CRG’s research on Borders in South Asia could be found at – http://www.mcrgh.ac.in/Border/Border_Events.html.

With a focus on the West Bengal Bangladesh Borderland, this project aimed at studying the following aspects of enquiry through three case studies:

- (a) Many immigrants are prima facie accused of illegal entry and do not get due recourse to law;
- (b) The border security forces on both sides engage in forcible push-backs – extreme harsh methods of deportation resulting in loss of limbs, lives, money, and dignity;
- (c) The daily economic activities of segments of population like fishermen fishing in river-borders are hampered greatly resulting in sustained distress;
- (d) Long and undue detention at jails and sub-jails;
- (e) Rampant sexual abuses, and killings in no man’s land by border guards;
- (f) Undue harassment of immigrants on the suspicion of being terrorists;
- (g) Extortion of money of the ordinary people allegedly working as part of smuggling;
- (h) Distress of inhabitants of border enclaves;
- (i) Boundaries running through villages and consequent harassment of villagers;
- (j) Fencing and electrifying the fence with high voltage;
- (k) Forcibly stranded people on the no-man’s land as security forces on both sides refuse to accept them;

- (l) Communalisation of border villages and subsequent killings of apprehended immigrants;
- (m) Shifting river-borders
- (n) Different types of boundaries in different sectors (river, village, train line, no natural demarcation, hills, etc.
- (o) Existence of stateless population
- (p) Widespread trafficking in labour, sex, animals, and goods

On the basis of the above mentioned situations a one day workshop was proposed by the Calcutta Research Group (CRG) to The International Committee of the Red Cross (ICRC). It was suggested that the workshop would try to engage experts in the field, government representatives, the scholarly community, human rights activists, select member of the media (particularly local media), and other members of the civil society towards awareness building on the humanitarian needs for victims of border violence and formulation of appropriate policies. The workshop would thus focus on a policy formulation exercise on the basis of a wide ranging dialogue. With this aim, the workshop will seek to inquire into the entire situation of border violence on the basis of three studies on:

- (a) Border violence and civilian life around West Bengal-Bangladesh border
- (b) People in Indo-Bangladesh Enclaves - Vulnerability, Security of Life, Rights, and Justice,
- (c) Women in Prisons - Dignity, Rights, and Justice.

The drafts of these studies will be discussed at the workshop, which would intend to:

- (a) Trace the historical perspective of the current situation;
- (b) Take note of the geo-political segments of the border (North Bengal, South Bengal, enclaves etc.);
- (c) Analyze the situation of women in prisons;
- (d) Realities of push-back;
- (e) Trafficking;
- (f) Policy suggestions.

The workshop would result in a set of policy recommendations, media awareness, publications and a further research agenda for other bordering States in India.

Research Undertaken

Three extensive field works on Enclaves, Border Violence and Bangladeshi women in Prisons were done under this project, synopses of which are covered in a separate head in the following pages.

CHHITMAHAL: THE DEFACTO STATELESS OF THE INDO-BANGLA BORDER

Atig Ghosh

Chhitmahal and Discourses on it

The numerous Indo-Bangladeshi enclaves, which are sprinkled along the international border of Bangladesh and India, are collectively known as *chhitmahal* and constitute a bizarre political geography. Most of these enclaves are in the Cooch Behar and Jalpaiguri districts of West Bengal, India, and in the Kurigram, Nilphamari, Lalmonirhaat and Pachagarh districts of Bangladesh. In his magisterial study of the enclaves of India and Bangladesh, Brendan R. Whyte tells us there are exactly 198 enclaves in total — 106 Indian enclaves in Bangladesh and 92 Bangladeshi enclaves in India. These totals, for Whyte, include three Indian and 21 Bangladeshi counter-enclaves inside the exclaves of the other country and one Indian counter-counter-enclave inside a Bangladeshi counter-enclave.¹ In an article that has now attained the status of a standard reference, Willem van Schendel mentions 197 enclaves which “looks like a group of islands of unequal size,” and produces a map to substantiate his claim.²

Arindam Kumar Sen confidently asserts that “there are, at present, 130 Indian enclaves in Bangladesh (20,957.07 acres in total); likewise, there are 95 Bangladeshi enclaves in India (12,289.37 acres in total).”³ In Sen’s estimate, then, there are no less than 225 enclaves covering an area of 33,246.44 acres. If the estimates of Whyte and van Schendel differ in number by one enclave, Sen’s estimate exceeds theirs by more than 25 enclaves. What further complicates the exercise is the fact that the Indian government and its Bangladeshi counterpart will concede no more than 162 enclaves in total — although there is no clarity on how and why this number has been fixed upon — and the Indian news media at large has accepted this.⁴

Knottier is the problem of calculating the number of enclave-dwellers. Van Schendel does not attempt a methodical headcount. Whyte is cautious: “With no census conducted in the enclaves since 1951, the population of the enclaves has been the subject of increasingly exaggerated estimates, but this study [Whyte’s book] has shown that figures for Indian and Bangladeshi exclaves of about 12,000 and 10,000 respectively in 1951 are likely to have risen to no more than 30,000 and 25,000 by 1991, and are still certainly less than 100,000 in total today.”⁵ Combining the approximate estimates of population given by those who had come to settle on the Indian mainland from Indian enclaves in Bangladesh, the number of subjects who paid land revenue to the king of Cooch Behar and the partial data that the enclave-dwellers produced by conducting amateurish micro-censuses of their areas of residence in 1996-97, Sen provides the guesstimate that more than 100,000 people lives in the enclaves.⁶ Therefore, Sen, writing in 2003, and Whyte, writing in 2004, arrive at contradictory — almost opposite — conclusions.

However, the situation has changed since. In July 2011, India and Bangladesh started conducting a joint census of the enclaves.⁷ In the process, the Joint Boundary Working Group counted 51,590 people in enclaves on both sides of the border and claimed to have given house numbers to all residents.⁸ This figure completely belies what would now seem to be the over-exaggerated academic estimates. However, the census figures have not been universally accepted, least of all by the Bharat-Bangladesh Enclave Exchange Coordination Committee (BBEECC), an organization fighting for the rights of enclave-dwellers.⁹ BBEECC Assistant Secretary Diptiman Sen Gupta declared: “In the 37 enclaves in the Dinhata subdivision alone, the headcount is 23,552, according to our report dated June 28, 2010, that we submitted to the government. It is absurd to believe that the total is 51,000 across all enclaves.”¹⁰ In BBEECC’s estimation, around 113,000 people reside in the Bangladeshi enclaves in India and around 186,000 live in those in Bangladesh. It is clear, then, that none of the parties involved in the effort to count heads know with certainty how many people live in the enclaves; we may not be even close to an accurate estimate. About 17 years back, on March 20, 1995, the then Union External Affairs Minister Pranab Mukherjee (who is now the union finance minister) had said on the floor of parliament by way of answering Question No. 809 that “[T]he [Indian] government has no dependable data on the population of the enclaves.”¹¹ Mukherjee’s confession in 1995 seems to still hold true.

From the point of view of human-rights violation, the number of enclaves or the dwellers therein should not matter. However, an exercise in enumeration is never useless, simply because states have a pervasive tendency to think in terms of numbers. Perhaps, the framers of law and makers of policy are shaken out of their paralytic complacency only when huge numbers are forced upon them: this might explain why the BBEECC must insist on almost 300,000 enclave-dwellers in sharp contrast to the official number of 51,000. Further, at least in this particular case, the number game is important, if for nothing else, then to iterate the already axiomatic: the fecklessness with which the two states of India and Bangladesh have dealt with the lives of the enclave-dwellers. But, what was it that brought things to such a pass?

Legally Stateless?

Mid-1950s onwards international bodies were busy forging and implementing laws to deal with the figure of the stateless person. The two milestone international conventions that have attempted to define the status and rights of stateless individuals and groups, sometimes, though not necessarily, in contradistinction to the refugee, in fact, took place in this period: the 1954 Convention relating to the Status of Stateless Persons¹² and the 1961 Convention on the Reduction of Statelessness.¹³ As of December 8, 2013, there were 79 state parties to the convention of 1954¹⁴ and 55 state parties to the 1961 convention.¹⁵ India and Bangladesh are party to neither. Yet, the conventions, insofar as they provide, a working frame for identifying and addressing statelessness, provide us an important legal *entrée* into the problem of the enclave-dwellers. Further, they help us engage with and interrogate the activism of Indian and Bangladeshi governments, or the lack of it, in comparison to how other states in the world have gone about addressing statelessness.

To begin with, however, one needs to establish if, from the legal point of view, the people of the *chhitmahal* qualify as stateless. The International Law Commission

observes that the definition of a stateless person contained in Article 1(1) of the 1954 Convention is now an integral part of customary international law. Both the 1954 Convention and the 1961 Convention exclusively deal with the issue of statelessness. Both these legal instruments explain statelessness predominantly in two ways: *de jure* and *de facto*.¹⁶ While defining a stateless person as a person who is not considered a national by any state under the operation of its law, Article 1 of the 1954 Convention generally equates the term with *de jure* statelessness. The issue at stake in Article 1 is not whether the individual has a nationality that is effective or not, but whether the individual has a nationality or not in the first place. Although the line between being recognized by law as a national but not being treated as such, on the one hand, and not being recognized as a national at all, on the other, may be fine, the two problems are nevertheless conceptually distinct: the former is connected to the rights that are attached to nationality, whereas the latter problem is connected with the right to nationality itself.

De facto stateless persons, in contrast, are persons who are outside the country of their nationality and hence are unable — or, for valid reasons, are unwilling — to avail of the protection of that country. Protection in this sense refers to the right of diplomatic protection, exercised by the state of nationality in order to remedy an internationally wrongful act against one of its nationals, as well as diplomatic and consular protection and assistance generally, including repatriation. This situation may be evidenced in practice by, for instance, the refusal of the country of nationality to allow him or her to return home, even though it still recognizes the individual as a national. In such a situation, the person may also fall under the definition of a ‘refugee’ depending on the circumstances and refugees are indeed the numerically most important category of *de facto* stateless persons.

As we have seen, the two legal instruments made to address statelessness — the 1954 Convention and the 1961 Convention — have an inherent limitation. In spite of increasing encouragement from the international humanitarian organizations to accede to these conventions, the number of state parties remains low and India and Bangladesh are among the non-signatories. However, these two documents are not the only sources of international norms relating to statelessness. The Hague Convention of 1930, the Universal Declaration of Human Rights of 1948, the Convention on the Elimination of All Forms of Discrimination Against Women in 1979, the Convention on the Rights of Child in 1989 and the European Convention on Nationality in 1997 are some of the major attempts at reducing statelessness. Although it may be important to plead for accession to both the instruments of 1954 and 1961, this is not a necessary precondition for action against statelessness and it is important to develop an understanding of the other legal tools that are available. Such is the case because, conceptually, the idea of the state — and by that logic, ‘nationality’ and ‘citizenship’ — cannot be dissociated from the idea of statelessness. ‘Nationality’ and ‘citizenship’ are two words most commonly used to describe the same phenomenon: the legal bond of membership between an individual and a state. Nationality is an attribute that can be given only by a sovereign entity or the state and states are responsible for protecting the fundamental rights of everybody on their territory including those of stateless persons. Thus, for all activities relating to statelessness, the states are indispensable actors. If a person is stateless, then by the same token she is without nationality and citizenship.¹⁷

Viewed in the light of the above elaboration, the residents of the Indo-Bangladeshi *chhit-s* are victims of *de facto* statelessness. It is true that in terms of legal

straitjackets and definitional imperatives, it may seem that the enclaves are still part of the territory of the mainland state and, as such, the prerequisite for *de facto* statelessness (being outside country of nationality) is not met. In theory and in terms of public opinion, they are citizens or nationals of either India or Bangladesh (previously East Pakistan). However, due to the gradual tightening of national territoriality in the early 1950s, they have in practice been rendered *de facto* stateless. Having said this, it must also be mentioned that the enclave-dwellers belong to the somewhat rare group of *de facto* stateless people who are not, at the same time, refugees: for, they live in little ‘islets’ of land that legally belong to the mother country but are completely cut off from it and surrounded by a foreign country. No benefits of citizenship, of belonging to a state, are available to these people at all.

The Case of Kuchlibari in Particular

Van Schendel is of the opinion:

Although there is a small literature on enclaves, it has no connections to the new literature on nations and nationalism. Most writings on enclaves treat these as geographical curiosities, or as problems of state sovereignty, international law, and efficient administration. ...The literature on enclaves is highly statist. It contains very little information on how social life in enclaves evolves, what identities are created by enclave people, or their ways of coping with ideologies of the nation and citizenship.¹⁸

While admitting the value of such an argument, it has also to be emphasized that nothing in the nature of a pure statist narrative exists; it is invariably shot through — is shaped — by the narratives from below, that is the narratives of the people at large. The state may be mostly an abstraction that plans, legislates, governs, even oppresses, from faraway centres of power, especially when viewed from the perspective of the borders. Yet, it is run by governments which have to seek mandate when their terms end. Mayamana Khatun of the Poaturkuthi enclave, with whom our deliberations had commenced, assumes importance in this context. Khatun was not born in an enclave. It was only through marriage that she came to reside in one and gained first-hand experience of the disenfranchisement faced by the people of the *chhit*-s. She had to, for instance, give birth to both her children at home “because the doctors at a hospital in official India refused to admit us. They said they could not treat us because we are not Indians.”¹⁹This may have caused her enough grief and anger for her to have contested the 2011 assembly polls as a candidate from the Dinhata seat.²⁰

However, the backing she received from the BBEECC had also mattered. Now, BBEECC has been fighting for the rights of the enclave dwellers for some time. It has primarily been insisting that the rapid and effective exchange of enclaves be implemented; while such an exchange is underway, the committee demands that the state government grant “housing, food, water and nationality” to “those living in the Indian enclaves situated in Bangladesh.”²¹ The BBEECC is not a voice in the wilderness. Under the capable leadership of its assistant secretary, Diptiman Sen Gupta, it has been able to mobilize the enclave dwellers and has been organizing a number of hunger strikes in the enclaves as well as in Dinhata town to put pressure on the powers that be.²² Also, Sen Gupta is not a person without considerable political traction in the area.

He is the son of the famous Dipak Sen Gupta, the politician we have already discussed, and this explains why Khatun chose to be a candidate of IPFB. It also explains why a political heavy-weight like Muhammad Fazle Haque had been troubled by a person who was after all a candidate representing approximately 300,000 people spread over four assembly constituencies in Cooch Behar, many of them without voting rights (that is, if we accept the BBEECC's estimates). Haque had initially objected to her candidature saying she was a resident of an enclave in Bangladesh. However, her papers were found to be valid. Khatun's decision to participate in the electoral process to alleviate the life conditions of the enclave-dwellers — and the insecurity, however inconsequential in degree it may be, it caused the high and mighty — typically demonstrates how discourses of the state get crosshatched with experiences of daily disenfranchisement. Statist activity cannot be delinked from a telling of these experiences.

As we have seen in some detail, the two governments of India and Pakistan/Bangladesh came to a series of understandings to effect the exchange of enclaves. But none ever got beyond paperwork and diplomatic pleasantries. In the meanwhile, the people had to survive — make sense of their survival, devise strategies of survival. In the process, the people in the enclaves were confronted with a slew of identity options; none of them felicitous, but such were the choices. Van Schendel has identified at least three such self-reckoning strategies of the *de facto* stateless people of the enclaves. Two of them, he argues, are transterritorial: the enclave-dweller could think of herself as a citizen of the patron state. Conversely, a Bangladeshi Hindu could identify with India and an Indian Muslim could identify with Bangladesh. This he calls 'proxy citizenship' which was often induced by the ideological goading of the mainland nation-states. This latter claim however does not fit neatly with the evidence collected over time. In fact, van Schendel himself finds a Muslim interviewee residing in an Indian enclave, Md. Bokhtaruddin, who describes how Pakistan had disowned him and his community after 1947. Suspended in this void, the third available identity option was, of course, one of belonging to the enclaves. This is not transterritorial but locally rooted and the one which forms the ideological anchor for bodies such as the BBEECC.²³ However, identity as a claim-making device can only be effective when it has numerical, economic and political teeth. The residents of the enclaves, separated by swathes of foreign, often hostile, territory, with no health, education, civic and administrative guarantees, could hardly make such identity claims effectively.

Add to this the atmosphere of coiled tension that often erupts into violent engagements. It is inarguable that the quantum of violence has dwindled since Bangladesh came into being. However, it has hardly disappeared. The examples are legion. Resisting the ghoulis temptation to inventory the macabre, I would limit myself to one example from either side. In May 2000, a Hindu girl from India eloped with a Muslim youth from South Moshaldanga, a Bangladeshi enclave in India. On May 11, a crowd of Indians entered the enclave and looted five houses. A week later, the enclave was once more invaded by hundreds of Indians who set fire to fifty-five houses, wounded ten people and abducted four, and looted cattle and valuables. Jitendra Nath Roy, 65, of Balapara Khagrabari, the largest Indian enclave in Bangladesh, reports, "They [Bangladeshis] used to loot our grain silos and rob our cattle by day. When night fell, we would all go and hide in the forests. When they came to rob us during night, they beat up the men and tortured the women."²⁴

From the interviews quoted by van Schendel and Sen, another recurrent source of conflict seems to be the attempt of enclave-dwellers to visit nearby markets or avail of other basic facilities. It has to be borne in mind that the predominant occupation of these people is agriculture. Only six or seven out of every 100 people here are landless. In every enclave there are a number of santhals or mundas. They comprise the bulk of the landless population. Most others are middle peasants. Many of them lease land from big peasants to cultivate it under the *barga* system. Up till the 1940s, tobacco was an important crop in this region. However, the lack of modern tobacco-processing technology in this part — especially in East Pakistan — led to the decline in the cultivation of this crop. This has not been a major setback, for the soil here is extremely fertile. Sen's respondents told him, they had never seen urea with their own eyes yet the per-acre yield of *aman* paddy in this region is 18 quintals.²⁵ If one compares this with the fact that the average per-acre yield of *aman* paddy in West Bengal, facilitated by advanced farming technology, is 12.67 quintal, then we get a grasp of how fertile this region must be.²⁶ If the yield is bounteous, then the enclave-dwellers must participate in the local markets regularly to earn a decent livelihood. However, their political situation turns such an economic logic on its head: what should have proven profitable for them turns out to be a source of great distress and harassment. For an enclave resident, it is a daily ordeal to eke out a living. "Going to the marketplace to sell anything is a difficult job," says Syed Ali, 41, from the Mashaldanga enclave. "The customers know us by face and force us to charge less as we are outsiders. Besides, extortionists threaten to get us arrested as Bangladeshis under the Foreigners' Act, 1946," he says.²⁷

Many of the Muslim respondents also spy a communal pattern to the arrests. Mohammad Mansur Ali Mian, 76, of Poaturkuthi enclave, is convinced there is a communal angle to the arrests and the extortion. He is seconded by Ahamed Ali Mian, 67, a retired primary school teacher. "Most extortionists are Hindus. Also, since 1947, there has not been a single case of a Hindu being arrested," says Ahamed.²⁸ Rana Mukherjee, the Deputy Superintendent of Police (Crime), Cooch Behar district, however, refuses to take such a charge seriously. He argues that if such is indeed the case then it "is because the enclaves have a 92 per cent Muslim population." Even if this were true, one cannot write off the possibility of communal targeting in an area which has seen intense activity of the religious right at least since 1982. Mukherjee, however, does not deny that the enclaves, which are beyond the jurisdiction of the local police, may have become safe havens for cross-border smugglers. "Even if we have information on opium cultivation and livestock smuggling in these areas, we will not be able to crack the cases," says Mukherjee.

It is Mukherjee's identification of livestock smuggling as a critical problem that may particularly give us a lead into the nature of communal mobilization in the area. When I took the road to Kuchlibari, across the Tin-Bigha Corridor, what struck me were the long lines of cows marching languidly, as only herbivores can, along the entire length of the journey — literally hundreds of cows. The city slicker that I am, I put it down to a general picture of rural India and as a historian of nineteenth-century Jalpaiguri, I further tried to intellectualize my observation by reading into it an affinity to cows continuing as a cultural vestige of the *moishal-s* in the area. Of course, I was being inane, as I soon discovered talking to the members of the Farmers' Club at Dhaprahahat.²⁹ The heads of the club told me over cups of syrupy slush that passed as tea that the sight was in no way common. It was specific to the area where livestock smuggling was

rampant. Cows were illegally taken across the border to Bangladesh to be slaughtered, especially during Islamic festivals when the demand for the animal peaked. I was not taken in that easily. How could smuggling be carried out in broad daylight under the nose of the BSF-BDR personnel? They carried forged documents, I was told. This was still more unconvincing. If such a forgery was an open secret, then the security personnel surely would have done something about it. Or else, there could be two possibilities: the government/security personnel actively colluded with smugglers, or the herders were plying an honest trade. The former, I was told emphatically, was not the case; but all the same, these were smugglers. A little peeved, I decided to address the elephant in the room: What if it was proven beyond all conceivable doubts that this was a perfectly legal trade, would the Farmers' Club still oppose it? A pregnant silence followed. When at last the secretary of the club spoke, he answered in the affirmative. They could not after all allow *cows* to be slaughtered. I had overstayed my welcome. I left.

Returning to the issue of violence, it should be said that, from all accounts, it seems that the quotient of violence perpetrated against the residents of the enclaves was evenly matched in both countries. However, some very perceptive fieldworkers have told me that their extensive travels in the enclaves on both sides have convinced them that the Bangladeshis are harsher in their treatment of the enclave population than their Indian counterparts. Now, this is a very dangerous argument to make: fuel for the hate politics of extremist groups. But one sees why otherwise perceptive researchers would draw such conclusions. When I reached Kuchlibari in Mekliganj block, Cooch Behar, for my fieldwork, *prima facie* what struck me was the ease and comfort the people of the enclaves radiated. They were very happy in India, they said unanimously.

Shambhunath Chowdhury, 44, a resident of the Dhabalsuti Chhit Mirgipur of Bangladesh, declared that if the exchange of enclaves took place following the Singh-Hasina Agreement, he will not leave for Bangladesh. He is a shop-owner and I was buying cigarettes from him. Changing tack, I insisted that they could not be that happy after all, what with statelessness and disenfranchisement. But he would not be budged. "All of us have Electoral Photo-Identity Cards and ration cards. We are happy here," he argued. But, my importunate inquiry continued, till the irritated Chowdhury told me that there was no longer a way to find out which part was Bangladesh and which India in the Dhabalsuti Chhit Mirgipur area. "You are standing in Bangladesh, for instance, and my shop is in India," he shot back. Startled, I handed him a five-rupee note in Bhutanese currency that the bus conductor had given me, reaching out over the counter and across an international border. Muhammad Belal Hussain, 51, who has all his land in a Bangladeshi enclave, too, echoed Chowdhury. He would not leave. My insistence on the woes of statelessness, in fact, made me the target of friendly jibes. A few of us — residents of *chhit* and mainland alike — were playing football on the grounds of Upanchowki High School. The ball went over the hedge into the adjoining paddy fields. As I moved to retrieve the ball, my comrades shouted: "That's Bangladesh. Don't go in without having sought Sheikh Hasina's permission. You might end up stateless."

The examples of xenophobic violence detailed above militate against such jolly instances of belonging. Accepted *prima facie* and outside their historical context, they may be misleading. In the case of Dhabalsuti Chhit Mirgipur, for instance, a violent history of forcible expulsion in 1955, one could suggest, may have left only those who wanted to remain, to belong unconditionally. A horde of mainland Hindus had, in 1955,

demanded “the blood of Muslims” and driven almost all dissenters into Bangladesh or the Bangladeshi enclave of Dahagram-Angorpota nearby.³⁰ But for other Bangladeshi enclaves in the region the tenor is similar and they do not necessarily have the same historical background. Conducting his interviews sometime before September, 2011, Partha Dasgupta found that feelings of insecurity were not strong enough for residents of enclaves in India to want to be part of Bangladesh if given a choice during the proposed swap. Mohammad Ali, 75, of Batrigachha enclave told him, “We have lived here for generations and will never be part of Bangladesh.” Mansur Ali Mian, who has never resorted to using a fake identity, echoed Ali: “We consider ourselves Indian and will never leave the country. We are an integral part of India.” The septuagenarian added, “I only hope I become an Indian again before I die.”

In these cases, one feels, a careful audition of what the respondents say holds the key. Gobinda Chandra Das, Kailash Roy, Ashwini Roy, Pramathesh Chandra Roy and Muhammad Jaleel of the Khamcharhat *chhit* had agreed to talk to me. They were repeating the same saga of belonging and happiness: they would not leave for Bangladesh when the exchange happened. However, as dusk gathered in eldritch anticipation, they were all of a sudden speaking of their collective insecurity. “We will not go. But, those in the Indian enclaves in Bangladesh would come. The government has promised to settle them. Where will the government settle them? There is no land but that of ours.” The Heimlich pleasures of the hearth had slipped surreptitiously into the Unheimlich fear of the Other. The tenuous belonging and wilful oblivion was slipping in the face of the proximate possibility of dislocation. The Indians may come to claim their ‘rightful place’; what would the Bangladeshis do? The Stockholm Syndrome, so to speak, was imploding, when suddenly the group as if collectively snapped back into confidence. “But these governments will never reach an agreement; they never have,” they chuckled in self-assurance.

One needs to turn their confident statement into a question: Will these governments actually never reach an exchange agreement? Not even after the Singh-Hasina Agreement of September, 2011? Not in spite of the relentless demand and growing clout of the BBEECC in the Dinhat block of Cooch Behar? Going by historical track record, they would not — not India more than Bangladesh. The historical jingoism of the right-wing apart, recently another factor has cropped up to collude against an amicable exchange: the growth of tea gardens in the area. The enclaves, and their attendant instability in national space, have meant that land has been sold dirt cheap here, sometimes at as little as Rs8,000 per acre, as most of my respondents told me. Major big-business players have bought land and started plantations. More of their ilk are on their way. An eco-tourism resort of the GBC Enterprises Limited has come up a stone’s throw away from the Tin-Bigha Corridor which offers leisure walks through tea gardens, a modern saloon and massage parlour. If one provisionally accepts Giorgio Agamben’s contention that attributes a determined character to the state and a determining power to the economic forces of capitalism that conditions particular forms of the state,³¹ then the neo-liberal Indian state is unlikely to rip through the tightening tangles of big investment. In fact, post-liberalization, it never has. But, I offer this only as a possible outcome. Who knows, the nation-state may still surprise us and Agamben.

Notes

¹ Brendan R. Whyte, *Waiting for the Esquimo: An Historical and Documentary Study of the Cooch Behar Enclaves of India and Bangladesh*, Research Paper 8, School of Anthropology, Geography and Environmental Studies, University of Melbourne, 2004, p. 194. Note: Whyte's book is particularly useful for its exhaustive annexure; almost all official and semi-official documents as well as the propaganda pamphlets of political parties that have originated after 1947 are represented here. They are the unabridged reproduction of the original documents and I have often referred to them without acknowledging my debt to Whyte. As such, I take the opportunity here to apologize for the lapse. Fortunately, Whyte's book can be downloaded for free at: http://dtl.unimelb.edu.au/R/RMLYH2U45FV5PF1U6XV5I3D1FPLQGG3JGJG6MGGSFSL8K16NDH-01756?func=dbin-jump-full&object_id=66438&cpds_handle=GUEST [Accessed October 17, 2011]. Documents not available in Whyte have been attached at the end of this section of the report.

² Willem van Schendel, "Stateless in South Asia: The Making of the India-Bangladesh Enclaves", *The Journal of Asian Studies*, 61:1, 2002, p. 117.

³ Arindam Kumar Sen, *Nei-Manusher Panchali: Chhitmahal Shamashya, Manabadhikarer Lojja* [Chronicles of Absent-Humans: The Chhitmahal Conundrum, Shame of Human Rights]. Kolkata: Bharatiya Chhitmahaler Chhinnamool o Adhibashi Nagorik Adhikar Shurakkha Shamiti, 2003, p. 4. Since Sen gives no citation to corroborate his claim, one assumes that his estimate is based on the fieldwork he conducted between 1998 and December 2002, in the course of which he interviewed 9,755 displaced families scattered over North Bengal. See, "Bhumika" [Introduction] to the article cited above. An English version (though not an exact translation) of this article was published a year later: AK Sen, "The Inside and Outside of a Border" in *The Line Between: The Experience of Partitions and Borders*. Kolkata: Seagull Art & Media Resource Centre Publication, 2004.

⁴ Partha Dasgupta, "In a state of limbo", *India Today*, September 30, 2011; Nishit Dholabhai, "Choice of state for enclave residents", *The Telegraph*, August 25, 2011; Subrata Nagchoudhury, "No no-man's land: PM and Hasina mark border", *Indian Express*, September 7, 2011; Caesar Mandal, "Census begins in enclaves to recognize 'stateless' people", *Times of India*, July 17, 2011; "Enclave members begin indefinite hunger strike", *The Bengal Post*, March 13, 2012. A rare exception is Arpita Chakraborty's article "She's the reason" in *The Indian Express* which gives the number of enclaves as 198; journalists in the early years after independence, too, had a figure around 197 in mind. Niranjana Majumder, for instance, writing for *The Statesman* on May 1, 1965, famously wrote: "Surgeons have been known absent-mindedly to leave behind in the belly they had cut open for an appendix or an ulcer, an old swab or a towel. Sir Cyril Radcliffe, Chairman of the Boundary Commission in 1947, left a mere 123 Indian enclaves in East Pakistan and 74 Pakistani enclaves in India, which have in recent weeks been the cause of some belligerency."

⁵ Whyte, *Waiting for the Esquimo*, p. 194.

⁶ Sen, *Nei-Manusher Panchali*, p. 5.

⁷ Mandal, "Census begins".

⁸ Dasgupta, "In a state of limbo".

⁹ We will have the opportunity to return to the BBEECC in greater detail when we take up Mayamana Khatun's case later.

¹⁰ Reported in Dasgupta, "In a state of limbo".

¹¹ Amar Roy Pradhan, *Rule of Jungle*, Kolkata: Published by Sanchayita Roy Pradhan, 1995, p. 2.

¹² The Convention was adopted by the United Nations Conference on the Status of Stateless Persons, held at the Headquarters of the United Nations in New York from September 13-23, 1954. The Conference was convened pursuant to resolution 526A (XVII) of April 26, 1954, of the Economic and Social Council of the United Nations. For the Final Act, recommendation and

resolution adopted by the Conference, see United Nations, *Treaty Series*, vol. 360, p. 117. Also see, Annexure 2.

¹³ The Convention was adopted and opened for signature by the United Nations Conference on the Elimination or Reduction of Future Statelessness, convened by the Secretary-General of the United Nations pursuant to General Assembly resolution 896 (IX) of December 4, 1954. The Conference met at the European Office of the United Nations at Geneva from March 24 to April 18, 1959, and reconvened at the Headquarters of the United Nations at New York from August 15-28, 1961; C.N.472.2011.TREATIES-2 of 19 July 2011 (proposal of corrections to the original text of the Convention (Spanish version) and to the certified true copies). Also see, Annexure 3.

¹⁴ United Nations Treaty Collection, Chapter V: Refugees and Stateless Persons, 3. Convention relating to the Status of Stateless Persons

http://treaties.un.org/pages/ViewDetailsII.aspx?src=TREATY&mtdsg_no=V~3&chapter=5&Temp=mtdsg2&lang=en#1 [accessed on March 12, 2012]

¹⁵ United Nations Treaty Collection, Chapter V: Refugees and Stateless Persons, 4. Convention on the Reduction of Statelessness,

http://treaties.un.org/pages/ViewDetails.aspx?src=TREATY&mtdsg_no=V-4&chapter=5&lang=en [accessed on March 12, 2012]

¹⁶ It is important to note that *de facto* statelessness is not referred to in the 1961 Convention nor in the 1954 Convention, but in the Final Act of the 1961 Convention. In the present paper, *de facto* statelessness is *legally* referred to in accordance with the working definition of the term as set out in the UNHCR's guidelines. However, it is never discussed as completely divorced of its lived, human dimension.

¹⁷ I am greatly indebted to Samir Kumar Das and Anasua Basu Raychaudhuri for helping me understand the basic structure of international law on statelessness and its applications.

¹⁸ Van Schendel, "Stateless in South Asia", p. 116.

¹⁹ Chakraborty, "She's the reason".

²⁰ Again to preempt juristic nitpicking, it may be argued that the doctors are not the competent authority from the perspective of determining how each state recognizes those residing in their enclaves under the operation of their respective laws. The rebuttal to this question is commonsensical: the 'competent authorities', whichever animal these may be, do not live in the enclaves and share the lived horror of the people therein.

²¹ Diptiman Sen Gupta quoted in "Enclave members".

²² "Enclave dwellers want to meet Didi [Mamata Banerjee]", June 27, 2011, <http://coochbeharcalling.blogspot.in/2011/06/chhitmahal-enclave-dwellers-demand.html> [accessed on February 29, 2012]; "Enclave members".

²³ Van Schendel, "Stateless in South Asia", *passim*.

²⁴ The cases have been quoted from Van Schendel, "Stateless in South Asia" and Sen, *Nei-Manusher Panchali*.

²⁵ Sen, *Nei-Manusher Panchali*, p. 6.

²⁶ Report of the Director of Agriculture, Evaluation Wing, quoted in Sen, *Nei-Manusher Panchali*, p. 6.

²⁷ Reported in Dasgupta, "In a State of Limbo".

²⁸ *Ibid*.

²⁹ The nonprobability sampling strategy deployed in conducting the interviews at Mekliganj is one of purposive sampling. However, it has to be admitted that given the gender of the interviewer and the nature of society and religion in the enclave area, the interviewer found it difficult to interact with women. Almost always, the men stepped forward to answer the questions I put to women, or to participate in conversations I attempted to initiate with women, and the women gladly allowed this. Does such a male bias of the interviews camouflage the reality of existence in

the *chhit*-s? It surely does: at least in the sense that it dilutes, or renders comparatively mild, the experience of statelessness. Given the persisting patriarchal nature of our society, the enclave women are at least doubly marginalized — in terms of being stateless, of course, but also in terms of being ‘a woman’ in a male-normative society. Mayamana Khatun’s case therefore assumes even greater significance in this context.

³⁰ Van Schendel, “Stateless in South Asia”, p. 131.

³¹ For an elaboration of the proper role of politics in contemporary life, see Giorgio Agamben, *Means Without End: Notes on Politics* (Theory Out of Bounds Series, volume 20), translated by Cesare Casarino and Vincenzo Binetti, Minneapolis: University of Minnesota Press, 2000; and *The Coming Community*, translated by Michael Hardt, Minneapolis: University of Minnesota Press, 1993.

ON THE EDGE: WOMEN- LIFE AND CONFINEMENT

Sucharita Sengupta

Imagining a world without boundaries is impossible especially when marking and securitizing boundaries constitute the heart of international relations and politics. People in the peripheries or migrants are ignored mostly but the undeniable truth is that they are important to understand the core of nation formation in South Asia¹. The study of nation no longer assumes a crucial place of significance, instead, ‘governing the mobile’ and messy flow of population has become the centre of our political understanding². “This is linked with a broader context, i.e. the processes of globalisation. It is now increasingly being argued that capitalism and the processes of globalisation will give rise to new global geographies and increase all manner of links (cultural, political, economic, informational) across boundaries”³. A crucial question in studying the cross border migration between India and Bangladesh, can be whether migration in this specific historical and geographical context could ever be ‘free’? There is always some kind of a force either in form of ethnic violence, domestic tensions or sheer economic compulsions that propel continuous movement of people across the Bengal Borderland⁴. Drawing from a point made by B.S.Chimni at a Conference in Cairo in 2008 and expanded further by Ranabir Samaddar⁵, it can be argued that migration is almost never ‘voluntary’ or ‘free’ and the margin between people willing to cross the border and forced to do so often gets annihilated.

Prison as a space in this paper is used as a prism through which I try to understand the porous, precarious, mobile and dynamic nature of a borderland and the flows- both human and goods across it specifically in context of the West Bengal-Bangladesh border along with the inadequacy of the law to address the heterogeneity of the influx.

This paper studies four Correctional Homes in this context- Balurghat District Correctional Home (South Dinajpur District), Behrampur Central Correctional Home (Murshidabad District), Dumdum Central Correctional Home (Kolkata) and Alipore Women Correctional Home (Kolkata). These homes have the maximum number of inmates who are Bangladeshi nationals- both men and women. We have interacted with around fifty persons in the four correctional homes from which some select narratives are used in this paper for the present purpose.

Nature of Flows; and Commonly used Routes

There are many ways and routes through which people from Bangladesh come to India among which the commonly used routes as revealed by the women inmates interviewed at the Alipore Women Correctional Home and Dumdum Central Correctional Home are indicated in Map I below.



Map I: Bangladeshi Migration through Barisal, Faridpur, and Jessore to Bongaon (Benapole) and through Barisal Faridpur, Jessore, Satkhira (by launch) to Basirhat, Taki and Hingalganj.

The routes generally used by inmates who are arrested and kept at Balurghat and Behrampur Correctional homes are indicated in Map II below.



Map II: Bangladeshi Migration through Dhaka, Chapai, Nawabganj to Jalangi
Women who cross the Bengal border to come to West Bengal without proper documents are mainly helped by agencies operating at the border. There is even provision for making false documents like fake passports and visas. In this way, many women who cross the border are made to believe that crossing the border, even without valid documents is easy and smooth. Many of these women thus regularly cross the border without documents until they get caught. As says Rita Mondal⁶ (20 yrs, Bengali Muslim, place - Dumdum Correctional Home) that her original home is in Khulna and she works in a Brick factory in Delhi. She has crossed through Basirhat several times before without any problem but this time in her own words, “I was never caught before because the money paid to the security at the border was satisfactory. This time also I paid to the middle man Rs. 5000 but still I have been caught, I don’t know why”.

There are mainly four types of flows or reasons for which people come over to India from Bangladesh. – a) To visit relatives on the other side of the border b) For medical purposes or work c) For political disturbances; and particularly for women- d) Trafficked in name of work or marriage. d) Violence and Trafficking of Sex, labour and Goods:

Trafficked women, mostly minor ageing below 18 yrs constitute the largest percentage of women who are jailed. Shahnaj Khatun⁷ is just one among hundred others who have crossed the border only to find further confinement in a correctional home in an alien land. Shahnaj hails from Chittagong and had to take up work as a domestic aid at her a very tender age after her father died in order to support her mother, three sisters and two little brothers. She worked in two to three houses and received 300-500 Rs per month which was very little to support the family; therefore managing the family was becoming a daunting task. One of the owners where she worked was kind. He was a regular to India and told her she could earn a lot more if she comes here. With new dreams towards a better life she set out with her *malik* (owner). Completely illiterate, she hardly knows what a border is and could not tell us which border she crossed to reach Kolkata. Her ordeal started once she reached Kolkata. Her malik sold her for Rs 20,000 to a man who brought her to a house where several women stayed, including many from Bangladesh. She was told by another young girl, “*kharap kaj hoe ekhane*” (dirty things happen here in name of work). She stayed here for two months, which was nothing short of hell to her. For each night, she was paid Rs 7000 but she was not given any money. From Kolkata Shahnaj was taken to a brothel in Delhi where she stayed for more than a year. One day, when she was commuting from Delhi to another unknown destination with other women from the Delhi home, she was caught by the Police and taken to custody as she is an illegal migrant from Bangladesh. She was first taken to Durgapore jail, then one year in Asansole jail and finally in Alipore. She has been booked under the Foreigners Act and her prison term is for three years. Breaking down occasionally while she was talking, Shahnaj looked tired and fragile. It is not difficult to guess the amount of physical and mental pain that she has suffered each day after she left Bangladesh, her home. She now craves to back to her Ammu (mother).

The everyday hardship or violence faced by women like Shahnaj is not hard to imagine. According to a report, girls from Bangladesh are largely trafficked for sex work and most of them are aged below 18. The most popular trafficking route employed by traffickers is Dhaka-Mumbai-Karachi-Dubai. A lot of women who work in the Garments industry in Dhaka are victims of trafficking. They are also often sexually

exploited by the owners of these industries. The poor work conditions in these industries coupled with meager salary makes it easy for girls working in garments to become an easy prey to offers like good job or marriage. The garment industry is crucial for the economy of Bangladesh and it employs around 4 million people annually of which 90% percent are young women below 19 years of age⁸. Most garment factories are situated in Dhaka and the pay scale is around 7000-8000 per month which is often not sufficient for the women working there. The opportunity to get better pay in another country therefore is alluring for them which is used as a dope by the middlemen to traffic them.

In another instance, Yasmin was brought by her friend who works as a sex worker in a brothel in Hyderabad. Till landing to India by using the Bongaon- Basirhat area, Yasmin says, she was totally unaware of where she was being taken to. Once she started seeing through the truth, she confided to the officials in the Border Security Post of the Benapol border near Bongaon. She thought she would be released but she was instead processed under the Foreigners Act and sent to jail custody despite the fact that the prison officials also believe her.

Flow of goods and smuggling is also rampant in the border in particular Cattle smuggling as cows are illegally being stolen to Bangladesh. The cross-border flow of capital and illicit trade is facilitated by a strong network of agencies or middle men operating at the border. The smuggling of Phensedyl, is also a popular item of smuggling. The usual suspects are the persons living nearest to the zero point of the border. Often without concrete evidences the Border Security Forces (BSF) interrogates the people there. Testimonies of violence are many, countless in fact.

The Confined Lives- Rights and Problems: (Section I)

The line between a legal migrant and an illegal migrant often gets blurred in the context of the Bengal-Bangladesh cross border migration. There are zones which belong to the Indian Territory but inhabited by Bangladeshi people and vice – versa. For instance, *Char Meghna*, a place in Murshidabad belongs to Bangladesh officially but people of Indian nationality stay there. Similarly *Jamalpur* is another place in Murshidabad which belongs to the Indian Territory but Bangladeshi nationals live there. The uniqueness of the Bengal Bangladesh border lies here. More than diving geographical territories, it has divided relations, homes, and hearts. All of a sudden people found themselves being called as “foreigners” in their own land. Either they have to accept their belonging to another country now or they leave. In cases like this, the border gets subverted. Simply put, to cross an international border without a permit is considered illegal and any attempt in this regard is an offence punishable under the Indian Penal Code. While talking to the women in the correctional homes one cannot help but wonder whether even after so many years of partition of the Indian Territory the absence of the legal implications of the “border” is deliberate. Flows across the Bengal-Bangladesh border are as normal as the border itself as for the people in both sides of the border “affinal ties remain”. Securitization of the border through passport and visa was introduced in 1949 and 1952 respectively. The more the eastern part of the border has been securitized, the more it has given rise to incidents of violence and illegality like smuggling and trafficking of women and children across the border.

It is very difficult to get the exact figures of illegal immigration from Bangladesh to India. One way of doing so could be to study the number of Bangladeshi nationals in prisons of Bengal. A local vernacular from the border area reports in January 2014 that prisons in West Bengal are increasingly being flooded with people from Bangladesh, in particular the prisons of Dumdum in Kolkata and Balurghat in South Dinajpur which have the maximum number of Bangladeshi nationals. As a result of this increase in number, the prisons are even having space crisis. The capacity of all correctional homes in West Bengal is 20 thousand inmates, while figure in 2013 was 23,000 inmates including the Bangladeshi Nationals. The news article also presents a rough data of Bangladeshi nationals arrested from July – December 2013:

July – 3500

August- 3700

September- 3400

October – 3800

November – 4000

December – 3700 (In 2011 and 2012 Bangladeshi nationals were at least less by 1500-2000.

The data of this year is tabled below:

Bangladeshi National (BDN) Population in the Concerned four Correctional Homes of West Bengal from June 2014 to January 2015													
Name of Correctional Home	Month and Year	No. Of BDN Convict		No. Of BDN Under Trial Prisoners		No. Of BDN Jan Khalash		No. Of BDN Children		Total		Grand Total	% of females
		M	F	M	F	M	F	M	F	M	F		
Alipore Women C.H.	01.06.2014	0	7	0	25	0	3	2	1	2	36	38	95
	01.07.2014	0	9	0	19	0	4	1	1	1	33	34	97
	01.08.2014	0	9	0	17	0	2	1	0	1	28	29	97
	01.09.2014	0	10	0	18	0	2	1	0	1	30	31	97
	01.10.2014	0	9	0	15	0	0	1	0	1	24	25	96
	01.11.2014	0	7	0	29	0	3	6	2	6	41	47	87
	01.12.2014	0	10	0	43	0	3	7	4	7	60	67	90
	01.01.2015	0	5	0	8	0	1	1	2	1	16	17	94
Dum Dum Central C.H.	01.06.2014	298	31	249	48	504	68	25	48	1076	195	1271	15
	01.07.2014	267	19	272	60	269	41	17	40	825	160	985	16
	01.08.2014	249	19	352	70	118	39	26	47	745	175	920	19
	01.09.2014	249	37	352	73	332	55	28	50	961	215	1176	18
	01.10.2014	163	27	293	43	189	58	20	40	665	168	833	20
	01.11.2014	194	12	304	71	183	25	29	44	710	152	862	18
	01.12.2014	342	16	485	57	244	36	55	42	1126	151	1277	12
	01.01.2015	431	22	354	49	311	49	66	55	1162	175	1337	13

Berham pore Central C.H.	01.06.2014	153	30	8	2	90	5	10	10	261	47	308	15
	01.07.2014	200	35	16	3	16	0	1	7	233	45	278	16
	01.08.2014	194	37	15	2	39	0	11	11	259	50	309	16
	01.09.2014	178	37	18	3	62	2	11	11	269	53	322	16
	01.10.2014	243	41	16	4	32	0	12	13	303	58	361	16
	01.11.2014	258	42	28	4	56	1	2	6	344	53	397	13
	01.12.2014	282	44	38	4	68	2	3	7	391	57	448	13
	01.01.2015	234	29	38	4	68	2	5	6	345	41	386	11
Balurgh at District C.H.	01.06.2014	146	7	174	35	0	0	11	8	331	50	381	13
	01.07.2014	118	3	155	21	0	0	10	7	283	31	314	10
	01.08.2014	121	4	129	19	0	0	10	7	260	30	290	10
	01.09.2014	154	5	158	29	0	0	10	8	322	42	364	11
	01.10.2014	107	2	154	27	0	0	7	5	268	34	302	11
	01.11.2014	110	2	238	34	0	0	10	7	358	43	401	11
	01.12.2014	73	2	263	33	0	0	9	5	345	40	385	10
	01.01.2015	88	2	280	36	0	0	9	6	377	44	421	10

Source: ADG & IG of Correctional Services, Directorate of Correctional Homes, Govt. Of West Bengal¹⁰

Note: Percentage data are rounded off

The total number of Convicts, under trail persons and children in all correctional homes of West Bengal are tabled below:

Bangladeshi National (BDN) Population in All Fifty Eight Correctional Homes of West Bengal from June 2014 to January 2015												
Month and Year	No. Of BDN Convict		No. Of BDN Under Trial Prisoners		No. Of BDN Jan Khalash		No. Of BDN Children		Total		Grand Total	Percentage of Females
	<i>M</i>	<i>F</i>	<i>M</i>	<i>F</i>	<i>M</i>	<i>F</i>	<i>M</i>	<i>F</i>	<i>M</i>	<i>F</i>		
01.06.2014	752	83	1464	203	681	78	61	78	2958	442	3400	13.00
01.07.2014	819	73	1429	179	313	47	41	64	2602	363	2965	12.24
01.08.2014	801	80	1427	181	192	43	64	79	2484	383	2867	13.36
01.09.2014	818	107	1434	209	434	63	64	81	2750	460	3210	14.33
01.10.2014	775	87	1224	162	254	65	51	65	2304	379	2683	14.13
01.11.2014	783	71	1695	235	261	35	59	70	2798	411	3209	12.81
01.12.2014	936	83	1787	237	330	46	83	67	3136	433	3569	12.13
01.01.2015	1037	71	1628	191	444	56	93	78	3202	396	3598	11.01

Source: ADG & IG of Correctional Services, Directorate of Correctional Homes, Govt. Of West Bengal (Data collected on 25.02.2015)

The study of these figures offers an interesting dimension that while in adults men are migrating more, just the reverse is occurring in case of children which could mean that young girls are more prone to trafficking or economic hardships compel their families to give them away either in marriages or as child labourers in exchange of money. Infact age is an issue of contention for Bangladeshi women who are in prison as most of the women there are below eighteen years but they claim they are either eighteen or above eighteen either because they are taught so or because they are unaware of their age and taking that opportunity the officials while filing charge sheets deliberately make them adults to avoid responsibility. The space crunch is further aggravated by the fact that the released prisoners of Bangladesh are not being repatriated in time and hence even after release many are staying back for an indefinite period. One of the major problems that the women in these correctional homes face is the issue of children, especially minor, who are brought to India by their parents. When the parents are arrested and sent to judicial custody, the children above 6 years are presented in front of the Child Welfare Committee and Juvenile Justice Board and then sent to children homes, separated from their parents.

Law/ Repatriation/Push Back –Myths/reality: Section II

In general, the first thing that the Prison authorities tell people who want to visit or interact with inmates from Bangladesh is that they are all booked under the section 14 of the Foreigners Act, either 14(a), 14 (b). It is true that the general trend for persons of Bangladesh who are caught for illegally entering into the Indian Territory without having valid documents like a valid passport or visa are booked under the aforesaid acts [14 (a) or (b)] and the confinement period is minimum two years. The term extends to some more months if the detainee is unable today the stipulated fine. However, before the amendment of the section 14 in 2004 the terms of confinement used to be longer. Again, even after the act was passed in 2004, the practical application had taken time to be implemented and often the difference in terms varying from person to person has not been justified. The case of Bhaduribala (40) for instance, has already spent 7 long years in Behrampur Central Correctional Home. She doesn't even know when they would be released and whether at all they could go back to their home together.

There is a lack of uniformity or adhocism as to the charges under which women from Bangladesh are booked. However there are some exceptions too where in Bangladeshi nationals have been booked under other IPC Acts. It is interesting to note in this context the case of Lisa Begum whose age is 21. She along with her two sisters were taken to Hasnabad Police Station as they were caught after crossing the Basirhat-Bongaon Border and then sent to the Dumdum Central Correctional Home. They were booked under the IPC 363, 365 and 366 B along with 14(a) and 14(b) of the Foreigners Act. The section 363 of the IPC says, "Punishment for kidnapping—whoever kidnaps any person from 1[India] or from lawful guardianship, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine"¹¹ and according to the IPC 365, "Whoever kidnaps or abducts any person with intent to cause that person to be secretly and wrongfully confined, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine"¹². Section 366-b of the Indian Penal Code says that "Whoever imports into 2[India] from any country outside India

3[or from the State of Jammu and Kashmir] any girl under the age of twenty-one years with intent that she may be, or knowing it to be likely that she will be, forced or seduced to illicit intercourse with another person, shall be punishable with imprisonment which may extend to ten years and shall also be liable to fine.¹³

It is evident from their story that the sisters have been trafficked from Bangladesh in all probability to be sold for flesh trade. But the problem is; only the sisters have been caught while the middleman who has brought them has managed to escape. As a result their case is remaining pending and the charge sheet is also not being prepared and instead of returning safely to their home, the girls are suffering, spending their days in prison, away from home, in an alien land. They are unaware the cases under which they would be tried or what could be their prison term. Questions that raises rightfully here are who are at guilt here - are these girls, young and naïve, unaware of an impending danger, solely on the basis of trust have crossed the border are at fault or the system which victimizes them.

There are at present 58 correctional homes in West Bengal and three types of Bangladeshi nationals in any correctional home- Under trial, Convict and Released Prisoner or what is in colloquial parlance known as 'Jaan-Khalash'. The capacity of Central correctional homes is the most compared to district or sub jails and hence they house most number of convicts. In North Bengal, Behrampur Central Correctional Home has most number of convicts both in terms of Indian and Bangladeshi nationals and in case of the South- it is the Dumdum Central Correctional home which has the maximum number of convicts. The figures of inmates in correctional homes change every day. Approximately, in the month of November, Alipore Women Correctional home had 18 under trial women and 5 release prisoners, Dumdum had 2509 Indian inmates and 400 Bangladeshi nationals, Behrampur – 245(Male) and 37 (women) Bangladeshi nationals and Balurghat – Bangladeshi nationals- 272 (male) and 35 (Female), Myanmari Nationals – 8 Women (undertrial) It is imperative to mention here that Bangladeshi under trails and released prisoners are much more in number in all these four correctional homes than the number of convicts. It is because barring a few exceptions, almost all Bangladeshi nationals caught for trespassing illegally across the border are booked under the Foreigners Act and mostly all under trials are convicted for a period of two years (and two year two months incase the detainee is unable to pay the fine fixed by the court) which is the stipulated minimum punishment for persons booked under the Foreigners Act. Hence the common practice is that, by the time the term of conviction is announced by the court; the person concerned has already spent that period in prison or is nearing the completion of the term. So, for most Bangladeshi nationals, the status of 'under trial' changes to 'released prisoner' instead of 'convict'. Once a person becomes a release prisoner, i.e, his/her period of confinement comes to an end, the process of repatriation starts. The entire process of repatriation is long, tedious and lengthy which I would explain in the following stanza.

According to the West Bengal Correctional Service ACT 1992, "Rehabilitation assistance" means financial or any other assistance given to a released prisoner for the purpose of his rehabilitation into the society as an ordinary citizen"¹⁴ – For Women inmates of Bangladesh this rarely takes place. Rather the fate of a release prisoner of Bangladesh is full of uncertainty. There is confusion even among jail authorities regarding the exact process of repatriation of the inmates. The myth is, 'Push back'- a colloquial term used to define the process of literally pushing back people of Bangladesh

back to their home from the Indian Territory does not exist anymore. Reality is however otherwise, and extremely harsh. In course of my various rounds of discussion with the prison authorities in all the four homes that we visited, everyone from the superintendant to the welfare officer admitted that Repatriation, i.e, the official procedure to send back a person back to Bangladesh happens rarely and instead what takes place is deportation or pushback.

Merged Identities/Nationalities/Statelessness

The vulnerability of the Bengal-Bangladesh Border gets even clearer with a visit to the Balurghat Correctional Home in South Dinajpur, a place very low in development, poor transportation and remote in terms of accessibility. South Dinajpur is basically a part of the West Dinajpur district which has been created out of the erstwhile Dinajpur District during the partition of India in 1947. The rest of the Dinajpur District is now in Bangladesh. With partition suddenly the region was divided into two countries but the socio-cultural similarities across the border could hardly be over emphasized. It is surrounded from three sides by Bangladesh, one side by Malda and one by North Dinajpur. As a result, the nearest border point of South Dinajpur – Hili- is an important point of trade between the two countries. According to a local news report of Balurghat¹⁵, Dakshin Dinajpur is surrounded by Bangladesh on three sides and it is here through which infiltrators enter and the crux of the story is that mainly Rohingya Muslims enter through this border apart from regular Bangladeshis. The Rohingyas are basically inhabitants of the Arakan province of Myanmar and were compelled to flee their home following a series of civil wars¹⁶. They are basically now a stateless community within Myanmar as per a citizenship law in 1982. The Hilly border is very important because it is through here that Rohingyas are entering into India through Bangladesh- mainly Chittagong and Cox's Bazar. The following map (Map III) highlights the route mostly used by them to enter India. Although the UNHCR has been issuing Refugee Cards to the Rohingyas in order to give them the Refugee Status, they are being arrested and put behind bars for illegal infiltration. The major problem is that there is a general lack of awareness among the authorities concerned regarding the policy to be followed in case of Rohingyas. Often the persons who are caught do not even divulge their true identity and declare themselves as Bangladeshi thinking that might go in their favour. According to a news report, a person was arrested recently for being suspected as a terrorist as he could speak seven different languages. However, on being caught he said that he was a Rohingya and after police interrogation declared himself to be a resident of Kolkata.¹⁷ Another report stated of an increasing involvement of school students and youth in illegal business in the border areas, particularly in Dhalpara Pagyul and in other villages under Hili Gram panchayat.¹⁸

At the time of this research Balurghat Correctional Home had 8 Rohingya Women officially¹⁹. The eight women have come together in a group of 20 from Fanshi, Quarbil, Bali Bazar, Bugrishaw and Bohbazar areas of Rakhine District, Myanmar²⁰. All of them – Noorjahan, Nurkalima, Belma, Mumtaz Begum, Samjhu Nahar, Manohara, Mabilia Khatun and Fatema Khatun said they were compelled to flee for mass violence that was unleashed on them from a long time. Repatriating them is difficult. Most of them claim their nationality as Bangladeshis but the difference in linguistic and cultural

traits gives them away easily. Therefore even after a Rohingya becomes a Jaan khalash, he/she suffers in prisons till a decision is reached



Map III: Rohingya Migration from Myanmar to Hili through Cox's Bazar, Chittagong, Feni, Dhaka, Jamalpur, Lalmonir Haat, and Dinajpur.

The Way Forward?

The multifarious problems of the border make it difficult to arrive at any decision regarding the prison inmates, to distinguish between immigrants and trafficked victims especially among women and to facilitate a speedy deportation. The most important problem remains the separation of children from their mothers. Living on the margins is not easy, as a population that lives on the edges is fated to be subjugated and marginalized by the state apart from being constantly viewed as suspects or criminals. Often, the implications of criminality, the intimidating silence and penetrative gaze of the border forces are much more subjugating than any physical form of violence. Interesting here is how women are learning to negotiate with these by juggling multiple identities and turning victimhood as a weapon of survival.

Notes

¹ Ranabir Samaddar, 'the spectre facing the nation' in *The Marginal Nation: Transborder Migration From Bangladesh to West Bengal*, New Delhi: Sage, 1999, p.44.

² Ranabir Samaddar, “Returning to the Histories” in *Economic and Political Weekly*, 10 January 2015, p.49.

³ Anssi Paasi (1998) Boundaries as social processes: Territoriality in the world of flows, *Geopolitics*, 3:1, 69-88,

⁴ By Bengal Borderland I mean the West Bengal-Bangladesh border

⁵ This has been mentioned and further explained by Sandro Mezzadra in “The Proliferation of Borders and the Right to Escape” in *Refugee Watch: A South Asian Journal on Forced Migration*, 41, Kolkata: Mahanirban Calcutta Research Group, June 2013.

⁶ Interview taken in November 2014 in Dum Dum Central Correctional Home, North 24 Parganas, West Bengal.

⁷ Interview taken on 14 November, 2014 in Alipore Women Correctional Home, Kolkata, West Bengal.

⁸ <http://www.ibtimes.com/despite-low-pay-poor-work-conditions-garment-factories-empowering-millions-bangladeshi-women-1563419> in *International Business Times*, accessed on 15 December 2014.

⁹ Ranabir Samaddar, *The Marginal nation: Transborder Migration From Bangladesh to West Bengal*, New Delhi: Sage, 2007, p.106.

¹⁰ Data collected from the Directorate of Correctional Services, Department of Correctional Administration, Govt. of West Bengal on 25.02.2015.

¹¹ <http://indiankanoon.org/doc/619940/> accessed on 17 December 2014.

¹² <http://indiankanoon.org/doc/886598/> accessed on 17 December 2014.

¹³ <http://indiankanoon.org/doc/1371751/> accessed on 17 December 2014.

¹⁴ “The Calcutta Gazette – Extraordinary, Published by Authority, Part III – Acts of West Bengal Legislature, Government of West Bengal, Law Department, Legislative Notification’ available in http://wbcorrectionalservices.gov.in/pdf/service_act_1992.pdf accessed on 20 December 2014.

¹⁵ Dakshin Dinajpur Barta, 15 September, 2014

¹⁶ Subir Bhaumik, “The East Bengali Muslims in Assam and Rohingyas of Myanmar: Comparative Perspectives of Migration, Exclusion, Statelessness” in *Refugee Watch: A South Asian Journal on Forced Migration*, 41, June 2013.

¹⁷ ‘*Satti bhasba jana Yusuf Islam ke Balurghat theke greptar*’, *Antah Salila Falgu*, 2 November 2014.

¹⁸ ‘*Bidyalyer chhatra o kom boyeshi chhelera chokarbarer sathe jarito*’, *Antah Salila Falgu*, November, 2014.

¹⁹ The research was conducted on the 4th and 5th of December 2014, the official entry was given till 4th December. On 5th, five more women were brought but that was not updated officially at time of this research.

²⁰ This data was given to us by the Balurghat District Correctional Home authorities.

THE CASE OF INDO-BANGLADESH BORDER

Paula Banerjee

This paper written in the context of Indo-Bangladesh border discusses how this region becomes the epicentre of insecurity and how any efforts to securitise the region actually leads to growing violence and insecurity of the local people. Their presence in the border areas is not meant to be a challenge to the nation form, but it inevitably becomes one. Therefore, border people are often seen as aberrations and as instrument of subversion threatening national sovereignty. The significant way to control state borders is still considered to be violent administrative interventions even by otherwise well intentioned people. State violence leads to other forms of violence and suspicions of violence. Thus, in border areas no one is above suspicion.

Discursive Border

The report *Trigger Happy* was jointly prepared by Human Rights Watch, MASUM and Odhikar, a pro-human rights organisation from Bangladesh. The report chronicles the excessive use of force by BSF in manning the Indo-Bangladesh border. The report contends that survivors and eyewitnesses of attacks allege that the BSF engages in and initiates, without warning, indiscriminate shooting. A poignant account is that of a seventeen year old boy called Shyamol Karmakar. He had sneaked into India from Bangladesh to visit his relatives. On 26th January 2010 he decided to return home. Feeling insecure about crossing the border by himself, he decided to join cattle rustlers who were taking two cows across the border. On seeing Shyamol with some cattle the BSF opened fire. The rustlers who were experienced in crossing the border escaped, but Shyamol died. His dead body was returned to his hapless father. The report also discusses how BSF unleash torture on the border people. They do not spare even children. "Members of the BSF are described by local residents as unsympathetic, aggressive, and violent. This may be explained by the fact that many are deployed to the region after difficult and tense tours of duty on the India-Pakistan border in Kashmir."¹ But many BSF personnel in their conversation with us said that they preferred their duty in Kashmir.²

Once the report got published it immediately attracted the attention of a vast community of human rights activists and media from all over the world. In one response Major General Rafiqul Islam, chief of the Bangladesh Border Guards, called on the BSF to respect the right to life and said that individuals "must be treated as innocent unless and until he or she is proved to be a criminal or an offender." BSF Director-General Raman Srivastava, in turn, promised "to maintain utmost restraint on the border" and also provide troops 'with non-lethal weaponry'.³

Many national media reacted to this report. A Hindu correspondent Annanya Dutta asked the Additional Director General B.D.Sharma for his reaction to the term

“trigger happy.” Sharma, refuting claims that the BSF was a “trigger-happy force,” said: “We do our work in a professional manner and will continue to do so.”⁴ Meenakshi Ganguly, the Director of South Division HRW, countered in another newspaper that even if people smuggle cattle, "or any other goods, the offence does not amount to killing. There should be punishment commensurate to the crime and the people should be brought to the magistrate. The standing procedure of BSF - shoot-to-kill - should be changed."⁵

In another report entitled *The Rugged Road to Justice: A Social Audit of State Human Rights Commission in India*, Vol. II, by HRLN, the violence in the border got extensively reported.⁶ The testimony of a torture victim, Mr. Ajber Ali Seikh, reminded one of the HRW report: “I went to visit my agricultural land alone. Suddenly three constables of 90 Battalion BSF and DIB of 10 point camp approached me. They assumed that I was a smuggler and tied me up using rope and tortured me severely. I was kicked mercilessly and beaten with bamboo sticks for a long time. Under this relentless attack I lost consciousness and also began to urinate blood. I was then scalded with boiling water.” Mr. Seikh was produced before a magistrate only after six days, which itself is illegal.⁷ Human rights reports talk about the victim-hood of people caught in the borders. However, whether it is local pamphlets, national newspapers, scholarly works or dissertation the first question that everyone has to grapple with is the story of incursion/infiltration and demographic change.

Story of Population Movement in Bengal

The reality is that from the beginning of the twentieth century migration in large numbers was happening from the east to the west in the context of Bengal. If one compares the percentage of population growth and density of population of West Bengal to that of India as a whole, one notices that on an average migration into West Bengal is greater than to that of the whole of India. It is true that growth of population is not dependent on migration alone, but even today when there is a noticeable dip in birth rate in Bengal the percentage of population growth remains increasing. Therefore, there is no denying the fact that migration is happening and in fairly large numbers. What needs to be understood from the table below is that this has been happening from the 1940s and so is not a recent phenomena.

Table 1: Percentage of Population Growth

Place	1911	1921	1931	1941	1951	1961	1971	1981	1991	2001	2011
INDIA	5.75	-0.31	11.00	14.22	13.31	21.51	24.80	24.66	23.5	21.54	17.64
WEST BENGAL	6.85	-2.91	8.14	22.93	13.22	32.8	26.87	23.17	24.74	17.77	13.93

Source: Compiled from the Census of India

The density of Bengal’s population was higher than that of India. Therefore, there was pressure of land even before 1947. That pressure on the land has been steadily rising from the 1920s. We can make an attempt at getting closer to the truth by looking at the percentage of population growth in the different districts of West Bengal.

Table 2: Comparative Study of Density of Population

Place	1901	1911	1921	1931	1941	1951	1961	1971	1981	1991	2001
INDIA	77	82	81	90	103	117	192	177	216	274	338
WEST BENGAL	193	205	199	215	264	299	394	504	615	767	903

Source: Compiled from the Census of India

The state of West Bengal has 16 major districts of which 3 are further subdivided into two. Of these 8 are bordering Bangladesh. These include the 24 Parganas (North and South), Nadia, Murshidabad, Malda, Kolkata, Dinajpur (North and South), Jalpaiguri and Cooch Behar. Let us now study the history of population growth in all the districts of West Bengal.

Table 3: Decennial Population Growth Rate in Districts of West Bengal⁸

District	1951-61	1961-71	1971-81	1981-91	1991-2001
Bankura	26.17	22.02	16.93	18.12	13.79
Burdwan	40.64	27.06	23.46	25.13	14.36
Birbhum	36.55	22.80	18.01	21.94	17.88
Darjeeling	35.90	25.16	31.02	26.91	23.54
Howrah	26.51	18.58	22.74	25.77	14.60
Hoogly	39.02	28.72	23.86	22.43	15.72
Jalpaiguri	48.27	28.76	26.55	36.44	21.52
Kolkata	8.48	7.57	4.96	3.13	4.11
Malda	30.33	31.98	26.00	29.78	24.77
Medinipur	29.26	26.89	22.39	23.57	15.68
Murshidabad	33.46	28.57	25.49	28.20	23.70
Nadia	49.81	29.91	33.29	29.95	19.51
Puruliya	16.33	17.86	15.65	20.00	13.96
24 Parganas	40.84	34.53	27.10	21.02	21.87
Dinajpur	35.51	40.50	29.31	30.05	26.12
Cooch Behar	52.45	38.67	25.28	22.55	14.15

The next table (No. 4) portrays that there is a decline in population growth even in the border district in the last decade. Unlike popular perception, the largest number of population movement happened before, during, and in the immediate aftermath of the Radcliff partition. Even in the 1970s when Bangladesh was born there were less people crossing borders. Among the border districts the one exception is Kolkata. In real terms Kolkata's total population is so high that it cannot be solely attributed to cross border migration. As for the rest of the border states the decennial population growth in all of them is less than that of 2001 as table no. 4 portrays.

Table 4: Population and Decennial Growth in Border Districts 2001-2011

Border District	Population 2001	Population 2011	DG 91-01	DG 01-11
24 Parganas (N)	8934286	10082852	23.69	12.86
24 Parganas (S)	6906689	8153176	20.85	18.05
Cooch Behar	2479155	2822780	19.19	13.86
Dinajpur (N)	2441794	3000849	28.72	22.90
Dinajpur (D)	1503178	1670931	22.15	11.16
Jalpaiguri	3401173	3869675	21.45	13.77
Malda	3290468	3997970	24.78	21.22
Murshidabad	5866569	7102430	23.76	21.07
Nadia	4604827	5168488	19.54	12.24
West Bengal	80176197	91397736	17.77	13.93

Source: Census of India 2001 and 2011

When one looks at the percentage of growth of both Muslims and Non-Muslims as presented in Table 5, it is true that in Bengal the growth rate of Muslims is higher than the non-Muslims; however, that rate is hardly alarming if one looks at the total population and Muslim growth rate over the years.

Table 5: Percentage of Growth of Population in Border Districts of WB between 1991-01

Border Districts	Muslims	Non-Muslims	Total
24 Parganas (S)	34.2	11.5	20.8
24 Parganas (N)	23	22.6	22.7
Nadia	21.9	18.8	19.5
Murshidabad	28.4	16.4	23.8
Malda	30.7	19.4	28.7
Kolkata	19	0.7	03.9
Dinajpur	31.9	22.7	26.1
Jalpaiguri	31.3	20.4	21.5
Cooch Behar	18.5	12.8	14.2
Total	25.9	15.3	17.8

Source: Census of India 2001

There is a charge that is often brought against Bangladesh and that is Hindu's are forced to move out. But Indian records show that Muslims are also entering into India and probably that is one of the reasons for growing consternation of the Hindu right-wing leadership. But as we have stated earlier, in the districts where there is a high concentration of Muslim presence the Muslims have lived there long before partition. Demographically, after 1947 there was a shift in West Bengal in that many Muslims left so when there is an increase in Muslim population the ultra nationalists often scream of "infiltration". But when one looks at the percentage of growth of Muslim population in the last half a century it is not remotely dramatic as table 6 portrays.

Table 6: Rise in Percentage of Muslim Population in WB between 1951-2001

Year	Percentage of Muslim Population
1951	19.85
1961	20.00
1971	20.46
1981	21.52
1991	23.61
2001	25.25

Source: Census of India 1951 - 2001

It is true that the Muslim population increased over the last fifty years in the bordering state of West Bengal but as yet there is no cause for alarm in that as table 6 shows. There is hardly any new trend in the influx of Bangladeshis in the last 2-3 decades which is considered as most problematic and leading to violence. We found that there is little change in the patterns in migration but what has changed is the level of violence that these migrants face while crossing over to India. The vulnerability of these migrants make it possible for two states to treat this movement as an aberration and cause for spreading violence. This violence is multiplied by the presence of lawless vagrants and gangs that feed on the insecurity of these people and in the garb of giving them protection from state machineries they multiply the violence that is perpetrated on the already vulnerable migrants.

Border Security and Securitising the Border

From the Indian side rethinking about the border began after the Sino-Indian border war in 1962 when militarisation or the spectre of military unpreparedness loomed large on the minds of the Indian leadership battered by the experiences of Chinese challenge to the border.⁹ followed by India-Pakistan conflict of 1965 and post-Nehruvian configurations new thinking on the border was evolving. The Border Security Force (Hereafter BSF) was formed on 1 December 1965 to securitise the border areas of India. The BSF Act stated that it was created “for the constitution and regulation of an Armed Force of the Union for ensuring the security of the borders of India.”¹⁰ When the BSF was introduced it had only 25 battalions. Between 1965 and 2014 the BSF has increased from their strength of 25 battalions to 175 battalions. That itself is a testimony to an administrative vision that considers population flow as an aberration. However as one observer remarks this is a border through which so much passes every day, “people, a shared language, cattle, garlic, saris, spices, cough syrup, metal utensils....For those whose lives unfold around zero line it will take a lot more than barbed wire and a border security force over 240,000 strong,” to keep them from crossing.¹¹

The stated role of the BSF is two-fold with wartime and peace time activities. They include:¹²

(a) Peace time

1. Promote a sense of security among the border population.

2. Prevent trans-border crimes, unauthorized entry into or exit from the territory of India.
3. Prevent smuggling and other illegal activities.
4. In the last few years the BSF has, in addition to its duties, been deployed for counter insurgency and internal security duties also.

(b) War Time

1. Holding ground in less threatened sectors.
2. Protection of vital installations.
3. Assistance in controlling refugees.
4. Anti-infiltration duties in specified areas.

The specific activities of BSF often involves them in violent altercation with the local population. According to a BSF officer who wishes to remain anonymous the following are the challenges faced by the BSF in the Indo-Bangladesh border:¹³

1. Porosity of the border
2. Unfenced riverine areas
3. Presence of Enclaves
4. Habitation upto zero line
5. Armed Miscreants
6. Cattle Smuggling
7. Human Trafficking
8. Drug Trafficking
9. False allegation of HR violation
10. Lack of support from local population
11. Delay in response from BGB for repatriation

As for the quantum of actual work, rather than mere surveillance, that is being carried out by the BSF that is leading to violent exchanges in the border areas we have the evidence from none other than the IG of South Bengal who is on record that between January and March 2014, his people apprehended 912 traffickers, 190 infiltrators, 24,850 cattle that were being smuggled to Bangladesh, Rs. 871,43,982 worth of smuggled goods and Rs. 19,14,62,166 worth of illegal currency notes.¹⁴ For the year 2013 the IG of North Bengal writes that they apprehended smugglers carrying 3,09,401 worth of Bangladeshi currency, Rs. 51000 counterfeit Indian money, 60,562 bottles of cough syrup, 9531 smuggled cattle and 119 Indian traffickers and 222 Bangladeshi infiltrators. Further, in an operation on 13 July 2013 the members of BN 66 (B) company caught two smugglers with 2330 gms of heroine and in another operation on 5 December the members of BN 75 (B) caught a smuggler with 700 gms of gold.¹⁵

Violence seems to have become part of the everyday lives of the border areas as much as due to illegal activities and also due to the way security forces such as BSF and BDR/BGB operate. Often there are exchanges between the BSF and the BDR/BGB. One of the worst of its kind happened in the Boraibari incident of 18 April 2001 when 16 BSF mem were not only killed but their bodies were mutilated and some of these bodies were returned to the Indian side tied to a pole like animal carcass. The same moth there is evidence of about 32 civilians being killed by largely BSF firings.¹⁶ This

brought the tension between the two groups to popular knowledge. This incident was elaborately reported in the media. As a consequence the media started bringing out reports on the antipathy that existed between BSF and BDR over a stretch of border that was considered peaceful by popular imagination and government rhetoric. The media soon recounted that this incident was not an aberration but the rule. One media reported: "Border skirmishes are not unusual here. So much so that there had been 53 clashes between members of the Bangladesh Rifles and the Indian Border Security Force in the last 16 months; they have become so routine that the officials have trouble keeping track of the exact count."¹⁷

In 2005 in another incident between the two forces a BSF officer was killed due to firing by BDR.¹⁸ In 2007 in one such incident "one person was killed and another seriously injured when a scuffle over cattle smuggling led to a exchange of fire between the BSF and Bangladesh Rifles (BDR) at Jamalpur border in South Dinajpur district."¹⁹ At that time this stretch of the border was under the command of BN 115. To reduce the level of animosity BFS and BGB began regular talks. In 2013 they began joint patrolling of the border in the Benapole-Jessore check point. It was reported that "the decision to hold joint border patrol came from several meetings of officials of the Foreign and Home Ministries of the two countries, apparently intended to restore peace along the borders and maintain friendly relations between the two countries."²⁰

Violence in the border remain unabated because of BSF's contentious relations with the local people. When interviewed the Officer in Charge of Chapra Police Station in Nadia confessed that on an average there is 1 FIR per day against BSF by the local people.²¹ Similar situation was also found in the Jalagi Police Station of Murshidabad.

Border in the Eyes of the Border People

Mohammad Ali Halshana, son of Nashkar Ali and Luftfa Halshana of Hatkhola village, police Station Chapra in Nadia district, is eighteen years of age. He is studying hard for his Class XII examination. Last year he wanted to give the exams and he had prepared himself well but on the last day of filling up forms his father could not come up with the money. Both he and his mother cried some because after all he would have been the first high school graduate from his family. His brother Abdul Latif, only a few years older than him, placated him by promising that somehow money shall be made available for his examination next year. Abdul Latif knows what a difference it will make if Mohammad is able to escape the penury, drudgery and daily humiliation of life in a border village. One day, if Mohammad gets a good job, perhaps even he can go to the city.

It is the 7th of November and the weather has gotten far better after the oppressive summer and autumn heat. This year his father and brother have come up with the money to pay for his exams. It is just after 10 in the morning. His older brother left for their small plot of land way early. After all a farmer starts at the crack of dawn. When Mohammad's mother came and complained that there is no vegetable at home and what will she give to Abdul Latif and his father once they come home after their back breaking labour in the field. After all the vegetable market was not far off. It was right by the BSF camp. Mohammad did not want to get up from his studies but this much he had to do for the family.

Mohammad picked up the bag and started walking towards the market when all hell broke loose. The BSF men were chasing cattle hustlers. Mohammad did not know what to do. If he tried to run away the BSF might label him as another cattle hustler. Everything was happening so quickly and then suddenly he felt an acute pain in his eye. He lost consciousness on the spot. When he woke up he was in a hospital and his right eye was bandaged. He was informed that his local village hospital was inadequate and could not give him the treatment he needed. His father and brother decided to sell a part of the land for his treatment.

By the end of November the family spent some 1 lakh 70 thousand on Mohammad's treatment. They could save one eye but not both. His hopes of giving the exam are dashed. He is now an handicapped person. His family has no money and whatever land they owned is sold off or heavily mortgaged. Abdul is working in someone else's field. The entire family is devastated.

When Sania's wedding to Fikarul was fixed there were a number of controversies. Sania was a high school graduate and Fikarul was not. This is now an emergent truth in most villages of Bengal. Not only was Sania pretty and far more educated than Fikarul she could also manage to speak in English. Further, Fikarul lived in the notorious Hatkhola village. But Sania's parents went ahead with the match because Fikarul came from land and money. Most men in their village owned motorbikes and so did Fikarul. So that need not be given in the dowry.²² On 11.03.2014 at about 9.30 pm special patrolling/ambush party of BOP Mahakhola led by Shri Nagmani Singh, Assistant Commandant, along with 11 other BSF men spotted a group of "smugglers/miscreants were moving forward towards IBB road/fence with cattle heads from India side in alignment of BP No. 93/3-R, distance from International Boundary (IB) appx 700 Mtrs and from BOP Mahakhola appx 1.2 km."²³ On spotting the miscreants the BSF fired 2 stun grenades. But that did not deter the miscreants. They started attacking the BSF by pelting stone. In self defence and fearful of the threat to the troops the BSF fired two rounds from PAG ostensibly from a safe distance. They later went to the spot to see if anyone was injured with the intention of hospitalising them but found only 14 cattle heads instead. The BSF also lodged an FIR to this effect No. 176/14 dated. 12/3/2014. So the "allegations levelled against BSF are not found to be substantiated."²⁴

The story we pieced together from talking to Sania and the villagers of Hatkhola was slightly different. Fikarul was coming from Chapra in his motorbike at night when he saw the BSF and the cattle smugglers fighting in a field near the village Kalibari. Seeing this he decided to run. On seeing him fleeing the BSF shot at him repeatedly and left in the field to die from where the villagers rescued him. We decided to follow this case in the Chapra police station. We were told that a majority of the people in Hatkhola were in cohort with Bangladeshi cattle smugglers. When asked about Fikarul the police said the BSF has lodged at least 5 FIR's against him for aiding and abetting cattle rustler.

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Hatkhola it was obvious to us was a much maligned village but what about other border villages in other border districts. Let us take the case of a Saheb SK, Md. Shariful Islam and Lal Chand SK of Murshidabad. They were 20 years, 19 years and 18 years of age respectively. The FIR lodged against them by BSF stands like this: It is submitted that on 23/08/2013 at about 0220 Hrs. SPL Camp QRT, ACP No. 3 and ACP No. 3D party with the help of HHTI ACP observed that Approx 05 to 06

suspicious cattle smugglers with 10 cattles tried to cross towards Bangladesh side taking the advantage of high flood water near ACP No. 3 and 3D. SPL Camp QRT immediately rushed to the spot and challenged them to stop but they did not pay any attention and aggressively and Forcibly tried to assault then with 'Dah and Lathi'. Apprehending serious danger to the life of BSF personnel No. 94254366 CT JagmalSingh fired 01 round MBC through TSG. No any (sic) injury of own troops and smugglers noticed. After blast the cattle smugglers retreated and escaped. SPL Camp QRT party apprehended three (03) cattle carrier.²⁶

We spoke to the lawyer of the three men who informed us that the men caught were not the original cattle smugglers. Habitually BSF personnel open fire at cattle smugglers calling it an act of self defence. When the smugglers disappear they randomly pick up boys from the border areas and beat them up. If their families own any cattle then those are seized. Everyone living in border villages of Nadia and Murshidabad either are themselves abused by the BSF or know of any close friends or relatives who have been abused by the security forces. They are often targeted if they are Muslims and have so linkages with Muslim organizations or Madrasas.²⁷

From our field work we came to know that at least 6-7 boys have been killed in each border villages over the last one decade in Nadia alone. Mutual suspicion is on the increase. No one is willing agree to bury the hatchet. Hatred is so intense that in places we were reprimanded that we went to the other side to talk first. People want to share their experiences as they find it unbearable. People are often confused by this business of legal status. They want to know who is a citizen and who is not. Does a ration card mean citizenship? Is having a BPL card enough? Why are papers unable to save them from arbitrary violence? Does it mean nothing to be a citizen?

Border Women: Issues of Mobility and Violence

Taslina Khatun, a Bangladeshi inmate of Alipur jail was sentenced for twenty five days for crossing the border illegally. She was caught under the Passport Act. Although her sentence was for such a short term she has been languishing in the jail for over one year. This is nothing exceptional and most inmates have said that this is a common procedure. When asked about this delay Taslima philosophically stated that "I will have to eat jail rice as long as the Lord has ordained it for me."²⁸ Taslima does not fit the usual profile of inmates most of whom are younger and have clearly come for work. She is over fifty years of age. She has only one daughter living in India and the rest are all in Bangladesh. When asked about the short span of her sentence she said her son in law, who is a civil engineer, spent a lot of money on her case. This was another perception that the inmates shared and that is without money or someone to champion their case they are doomed.

There are cases where women who are brought from Bangladesh to the metropolitan towns in India face tremendous brutality. That this is a region of extreme insecurity for men and women crossing the border has been dramatically portrayed by the now famous case of one Jayanti Bala Das of Bangladesh.²⁹ In January of 2003 five Bangladeshi nationals, of whom two were minor children crossed the Indo-Bangladesh border and entered India. The Border Security Force (BSF) arrested them from a Baro Bridge across the Ichhamati River. The area in which the incident took place is under the jurisdiction of the Basirhat police station in the North 24 Parganas. The Bangladeshi

nationals including one Jayanti Bala Das were all taken to the Soladana BSF camp at around 5 pm. On the same night (10 January 2003) one BSF personnel allegedly raped Jayanti Bala. Thereafter these “infiltrators” were put in a small boat with holes and efforts were made to push them back. Allegedly when the boatman refused to go he was threatened on the point of gun. The boat capsized in the middle of the river and only Jayanti Bala and her one-year-old son could save themselves. On 13 January the villagers of Bagundi, who had given her shelter, handed Jayanti over to the police of Basirhat. She was charged under section 14 of the Foreigners Act. On 21 January a dead body was found in the Brick kiln Canal in South Basirhat. The man was identified as Jayanti’s husband Basudev.³⁰ On 27 January the SDJM of Basirhat issued warrants against five BSF men. In July Jayanti was handed over to the Sromojibi Mahila Samity for safe custody and on 15 September 2003 a writ petition was filed on her behalf.³¹

Jayanti’s case reflects the situation of women who are trying to cross the border. Their status of being a foreign born woman increases their vulnerability. No one is willing to shoulder any responsibility for these women. The state that they leave is glad to get rid of them and the state that they enter finds them unwanted. Often these women are trafficked into India. Yet these women would do anything for saving the skin of those who trafficked them. Is it because of intimidation? Or is it perhaps a sense that these people are their final recourse? They will help them to come back again when they are pushed back into Bangladesh.³² When women are able to prove that they have been trafficked the law clearly says they should not be booked under Foreigners Act. Yet from our jail visits we find that is exactly what has been happening.

Conclusion

The broader motif that is ever present in the theme of borders is that it foregrounds themes of alien-ness and difference and therefore it involves questions of security frontally. It deals with issues of security of the body, food security, insecurities over resources, and other political and economic security issues including the ones that one gets from institutions, governments, laws machinery of order, family networks, hospitality of host societies etc. These are all traditional security issues. But any study of borders also requires the non-traditional approach because that is necessary for understanding the notion of people’s security, differentiating it from the notion of the security of the state. It also entails an understanding that security is not a homogenous concept and within the secure circle there can be insecure spaces. All questions of borders at the end become questions of security and questions of governance as well. Population movements are inevitably related to politics of territoriality and politics of insecurity. For governance one needs fixed populations and therefore a primary strategy of governance is the strategy to stabilize population and make it “secure” by creating what it considers stable bodies. Yet borders are symbols to the contrary. In its effort to create stable bodies the state employs every means of control including military means. Therefore the migrant body encourages the state to employ all means of control whether they are just or otherwise. If the means are unjust then over a period of time there is increased resistance against such means of control. So if migrant bodies are markers of control these are also markers of resistance to control. Any resistance calls forth greater efforts of control. The medium of control changes over time but control necessitates control of bodies. Bodies might change but violence remains as constant in governance

of borders. Border people bears the mark of violence that is perpetrated in the border areas

Control of the alien bodies of migrants as well as of border people has taken many different forms. High voltage fencing, pushback and stopping “hoards” at zero point are all part of these efforts to control alien bodies. All these measures are considered essential for ensuring security. The fear of border people, both migrants and non-migrants in South Asia is exacerbated as non-migrants are also considered as harbingers of different kinds of threat to security of the nation. Sometimes even if holders of Indian voter id or other security papers they are considered harbingers of aliens and therefore threatening to the security of the nation.³³ Those in governance try to ensure security of the nation by making migrants and the places they chose to traverse insecure including threat to public health. Therefore those who govern feel compelled to securitize migration and the space that they find themselves in. By securitizing migration and concomitantly the border areas through which they migrate they create micro insecurities that increase vulnerabilities of the marginal population. Thus migration attracts the attention of governing agents who try to securitize migration to ensure national security. This in turn creates micro insecurities that result in a regime of violence.

It needs to be clarified that this entire paper is not merely to portray the vulgar reality of violence unleashed by the borders or by migration or population flows in South Asia but to understand that this is not exceptional to either South Asia or the developing world. It is a reality that is seen through history and across the world. After all we are all products of migration and can be considered as border people one way or another and since South Asian borders today inevitably finds a dyad in violence lets cease this moment to understand that the problem of borders can only be addressed through the political and dialogic process of mutual exchange.

Notes

¹ Idid, p. 6.

² SM from Bn 26 in conversation with the author on 29 November 2015 reported that “Kashmir border is a better place.” Interview taken in Jalangi, Murshidabad.

³ Rediff.com, 14 June 2012, <http://www.rediff.com/news/special/no-end-to-brutality-by-bsf-at-indo-bangla-border/20120614.htm>, accessed on 16 November 2014,

⁴ Ananya Dutta, “BSF to Adopt Schools in Border Areas,” *The Hindu*, 1 February, 2013, <http://www.thehindu.com/todays-paper/tp-national/bsf-to-adopt-schools-in-border-areas/article4367380.ece>, accessed on 18 November 2014.

⁵ “Trigger Happy BSF Shot 1000 People at Indo-Bangla Border: Repor,” *The Indian Express*, Kolkata, 11 December, 2010.

⁶ Harsh Dhobal, Mathew Jacob, Anupam Kishore eds., *The Rugged Road to Justice: A Social Audit of State Human Rights Commission in India*, Vol. II (New Delhi, HRLN, 2013).

⁷ Ibid, Section, West Bengal, p. 61.

⁸ Compiled from Statistical Abstracts West Bengal 94-95, Presented in Sutapa Paul, “Illegal Immigration: East Bengal in West Bengal,” *India Today*, 14 January 2014, <http://indiatoday.intoday.in/story/east+bengal+in+west+bengal/1/126587.html> accessed on 14 October 2014,

⁹ For an extensive discussion on this see Paula Banerjee, *when Ambitions Clash: Indo-US Relations 1947-1974* (Delhi, South Asia Publishers, 2003).

¹⁰ The Border Security Force Act, 1968 (BSF Act), No. 47 of 1968, 2 September 1968, Ministry of Law, GOI, New Delhi. p. 2.

¹¹ "Passing Through: India's Border Fence With Bangladesh,"

http://www.elizabethrush.net/http___elizabethrush.net/Photography/Pages/Passing_through__Indias_border_fence_with_Bangladesh.html accessed on 15 September 2014.

¹² BSF website, http://sb.bsf.gov.in/index_files/aboutus.htm, accessed on 28 November 2014.

¹³ Informal discussion with BSF personnel in Karimpur on 12 July 2012.

¹⁴ "IG's Column," *Bagher Garjan*, A magazine of BSF in South Bengal Frontier, January to March 2014, p. 3.

¹⁵ "IGs Column," *Uttar Banga Prabari*, A magazine of BSF North Bengal Frontier, July to December 2013, p. 2,

<http://nb.bsf.gov.in/magazine/FTR%20Mag%20Jul%20to%20Dec%202013.pdf> , accessed on 30 October 2014.

¹⁶ Harinder Baweje, Shishir Gupta and Wasbir Hussain, "Bordering Truth: Barbaric Killing of BSF Jawans puts India-Bangladesh Relations Under Surveillance," in *India Today*, 7 May 2001, <http://indiatoday.intoday.in/story/barbaric-killing-of-bsf-jawans-puts-india-bangladesh-relations-under-severe-strain/1/233646.html> , accessed on 7 November 2014.

¹⁷ Bibhu Prasad Routray, "Border Clash Between India and Bangladesh: Analysing the Bangladeshi Reaction," *Bangladesh*, Articals, Institute of Peace and Conflict Studies, New Delhi, 11 May 2001, <http://www.ipcs.org/article/bangladesh/border-clash-between-india-and-bangladesh-analysing-the-bangladeshi-reaction-494.html> , accessed on 8 November 2014.

¹⁸ "BSF Officer Killed as BDR Opens Fire," in *The Hindu*, 18 April, 2005, Front Page, <http://www.thehindu.com/2005/04/18/stories/2005041805211300.htm> , accessed on 7 November 2014.

¹⁹ "One Dead in BSF-BDR Clash," *Webindia*, Malda, 16 January 2007,

http://news.webindia123.com/news/ar_showdetails.asp?id=701161039&cat=&n_date=20070116 , accessed on 8 November 2014.

²⁰ "BGB-BSF Begin Jt Patrol Along Benapole Border to Check Killing," *risingbd.com*, 22 January 2013, <http://www.risingbd.com/mobile/english/detailsnews.php?nssl=869> , accessed on 9 November 2014.

²¹ Interview with the OC of Chapra PS, Nadia, 23 November 2014.

²² Interview with Sania and Fikarul Halshana on 23 November 2014 in Hatkhola, Nadia.

²³ Letter by PS Dhiman, DIG (OPS) Ano to NHRC., 21 July 2014, UO No. BSF/SEC/OPS/HR Cell/ dated 21 July 2014.

²⁴ Ibid.

²⁵ Author's interview with the OC of Chapra PS on 23 November 2014.

²⁶ First Information Report No. 489113, Raninagar Police Station, dated 23 August 2013 under IPC sections 188/186/203/379/411/413/414, General Diary Reference Entry No. 1087.

²⁷ Interview with Rana Mahanto, Lalbagh, Murshidabad on 29 November 2014.

²⁸ Interview with Taslima Khatun on 14 October 2014, in Women's Correctional Home in Alipur, Kolkata.

²⁹ The case is registered in the Basirhat police station on 13 January 2003, under section 376 (B)/280 of the Indian Penal Code.

³⁰ *Ananda Bazar Patrika*, 14 January 2003.

³¹ "News From The Indo-Bangladesh Border," *Refugee Watch* 19 (August 2003) p. 2.

³² Interview with Lisa in Behrampur Jail on 28 November 2014.

³³ Refer to the case of Mati Mondal and Ors Vs. The State of West Bengal 31 March 2014 where it was ruled that sheltering Bangladeshi infiltrators is a non bailable crime for Indians. Indian Kanoon - <http://indiankanoon.org/doc/52481464/> , accessed on 17 September 2014.

A REPORT ON A ONE DAY WORKSHOP ON 'BENGAL-BANGLADESH BORDER: HUMANITARIAN ISSUES'

The workshop on *Bengal-Bangladesh Border: Humanitarian Issues* was organized by the Mahanirban Calcutta Research Group (CRG) with support of the International Committee of the Red Cross (ICRC) on 17 December 2014 at Swabhumi, Kolkata. The Workshop centered around three paper presentations followed by a round table discussion on the aforementioned theme.

The day commenced with an introductory note from three speakers – Prof. Samir Kumar Das (Prof. of Political Science and Dean of Faculty of Arts, University of Calcutta), Ms. Mary Wertz (Head of Regional Delegation, ICRC) and Ms. Indrani Sinha (Executive Director, Sanlaap), respectively. The inaugural session was chaired by Dr. Ranabir Samaddar (Director, Calcutta Research Group). The Chair started the session by commenting on the focus of the workshop, which was primarily to discuss three study papers from the collaborative research project between CRG and ICRC. He then invited the speakers to commence the programme.

Prof. Samir Kumar Das began by extending a warm welcome to all present. He said that he had been thinking about the way in which CRG had contributed to the body of knowledge in border studies and that he felt that Dr. Ranabir Samaddar's *Marginal Nations* was not only a landmark but also a pathbreaker in the field of border studies. Borders have emerged as more than just thin lines separating two territories, but it is actually a land-borderland. A borderland is conceived as a space between two nation states where there are dynamics unique and intrinsic to borderlands themselves. This was a major departure from traditional border studies. Within CRG, work had been done on the Sino-Indian border by Dr. Paula Banerjee and on the Pakistan-Indian border by Prof. Sanjay Chaturvedi. He further pointed out that articulation of borderland leads to the formulation of political subjects—who are not necessarily subject of either of the two nation states. Further, the survivors' livelihood depend on the border but also involves constant crossings of border. He ended by asking what policy could resolve such dilemmas.

The next speaker was Mary Wertz, who detailed ICRC's work in the region (2014 was the centennial year of ICRC, which was established during the World War I), discussed conflicts in the borders and commented on how people living in the borders live and lead unique lives. To establish that borders are also sites of conflict and violence, she gave the examples of fishermen caught in foreign waters or people who unknowingly stray into the territories of other countries are imprisoned. The fates of such people are decided by political actors and many don't survive. Families often, in her experience, receive the news of their deaths with relief as it is better than endless waiting. Humanitarian concerns are considerable in such cases, particularly the perilous boat journeys by immigrants in Asia Pacific. Lack of documentation often means virtual exile in another country and severing of links with family back home. Increasingly, state apparatuses are enacting stricter border controls invoking state sovereignty and security.

Insecurity faced by such migrants further compels them to take bigger risks that directly plays into hands of traffickers. ICRC tries to re-establish links between detainees and their families. She pointed out that the illusion of global communication collapses when one looks at detainees and forced migrants who often completely lose all connections with their loved ones, especially in situations of conflict. She also detailed ICRC's work in helping such people in conflict times and areas.

Ms. Indrani Sinha, began by saying that it's a common belief that borders are there for our protection; however, when there's an aspiration for a better life on the other side of the border, these aspirants become victims. This brutal reality needs to be looked into. Humanitarian aspects are of importance as are issues of human rights. Knowing one's rights is imperative; however, it is also true that in reality these rights are not guaranteed. She informed all about how Sanlaap works with both Nepal and Bangladesh and while the former has an open border the latter has closed borders with India and this causes all sorts of difficulty. She then went on to speak about the crossings across these borders of the Rohingya people. While the adults, when apprehended are taken to correctional homes, segregated according to gender, the children are taken to shelters. In this manner the entire family is split although they came as a family with an aspiration of refuge. And no one has clear directions on how to act and what the protocols are entailed. Sanlaap has done a study with UNICEF in the Jammu and Delhi camps of Rohingya refugees and also given a copy of their report to UNHCR.

Dr. Ranabir Samaddar, Director of MCRG, concluded the session by adding that CRG looks forward to sharing their study with all the stakeholders and audience present at the workshop.

The Second session of the day began with a paper presentation from Dr. Atig Ghosh (Assistant Professor of History, Visva-Bharati University), entitled, "Survival and Resilience in the Indo-Bangladesh Enclaves". His paper was based on intensive field study on enclaves in Cooch Behar like the Dahagram-Angarpota enclave, Berubari enclave and a few others. His paper highlighted that though experiencing socio-sexual violence at an everyday level, the people in the borders aspire to integrate. Thus, border becomes coterminous with aspiration. The political economy of the margins further limits the movement, dreams and goals of the people in the enclaves. His paper brought to the fore the idea of 'normalization of exception'. While concluding, he stated that the idea of resilience could be linked to the violent normalization of exception and the enclaves are also a part of the changing political economy. Enclaves, he pointed out act as a source for cheap labour for the mainland, thus the existence of such vulnerability benefits the mainland and hence are sustained. He also pointed out that while discussing enclaves, the failure of negotiations have to be taken into account as violent oscillations between hope and despair takes place.

Prof. Samir Kumar Das as Chair of the session, commented that in enclaves there's normalization of exception. Also, according to the Oxfam report, the concern should not be so much on the exchange of people as facilitating movement through creation of corridors. He mentioned a few books of interest in this regard, such as, Amar Ray Pradhan's *Jibon Nadir Banke Banke*. These books show everyday coping mechanisms of people. A few pertinent questions were also raised by him: would linking enclaves with the corridors mean that the seclusion would be lost? To the officials, enclave is an exception, but Ghosh's paper suggested that enclaves had a normalizing

effect. How did this sudden change take place? Is it because of globalization? He further pointed out that the political economy has to be addressed more strongly along with the invisibility factor as the truth is that people had always known how to cross borders.

Mr. Rajat Roy, Senior Journalist and the first discussant of the paper, stated how in the early days the newspaper reports covering the issue of these enclaves would have a pro-state stance. The enclaves were represented as contested spaces and the reports only looked at the state's perspective--whether the state was India or Bangladesh. The people themselves, living in these enclaves remained invisible in the media reports. Currently the state position is that there are about fifty five thousand people living in these enclaves whereas BBEEC claims that it's over one lakh. Mr. Ro asserted that the question of ethics should be brought into the broader discussions. It's not a question of just legality but also rights ensured in the constitution and rights that derive from morality. In the current discussion of rehabilitation, issues of costs are paramount and questions of ethics are missing. The question of 'ought' should be replaced by 'right' of the asylum seekers. He pointed out that the paper could look into how these people are entitled to protection by the states and that it's their right. The question of ethics and care becomes more important than what the state ought to do.

The second discussant of the session was Mr. Soumen Nag, author and eminent expert on North-Bengal, spoke about his firsthand experience of visiting such enclaves and the situation of people living in them. He said that these enclaves in North Bengal do not match with enclaves in any other part of the world as these are not just political enclaves but also has certain historical and geographical dimensions. The boundary created by the Radcliffe commission was done without having a single cartographer on board. Coohbehar was a princely state which did not immediately merge with India upon independence. This has added to the travails of the people in this borderland. Professor Nag feels human rights is the ability to defend one's cultural and other identities; however, there exists a pathetic violation of human rights in these enclaves. The enclave people are at the mercy of the mainland, especially for their livelihoods, as they have to come and take up jobs like plying rickshaws in the mainland. He also gave many instances of how livelihoods of people depend on crossing the border and how lives are rendered precarious as a result of this. Even home ministry does not have correct data on population in the enclaves. He concluded with the call to urgently settle the issue on humanitarian grounds.

After this the chair opened the floor to questions. Mr. S. Ramaswamy commented on the parasitic and vulture-like treatment of enclave dwellers by mainlanders. Dr. Ranabir Samaddar elaborated further on the point raised by Mr. Rajat Roy in his discussion about the ethical question. He said that the failure of negotiations between the two states should be taken seriously because no solution has been arrived at it even after over 60 years of post-partition. There's need to assess the reasons of this failure and maybe start accepting the idea that such enclaves must be treated as the commons. Dr. Iman Mitra asked whether there are instances where the people from the enclaves are coming to Calcutta for livelihood. He felt that concealing identity in Calcutta might be more difficult than in any other part of India. Dr. Kirity Roy pointed out that in the slums of Delhi where Bangladeshis/Bengali-speaking Muslims live, there are repeated police raids. He also pointed out that the difference between open and closed borders was also based on which had a Hindu neighbouring state and which had a Muslim neighbouring state. Further, the terminology used is 'enclaves' whereas really

looking at the kinds of exclusionary practices prevalent in these sites they should instead be called 'exclaves'.

The next paper was presented by Ms. Sucharita Sengupta, Research Assistant, CRG. She began her presentation by stating that her paper entitled "Living on the edge: Women, Life and Confinement," aims to unravel the vulnerability of Bangladeshi women languishing in the correctional homes in Kolkata and other parts of West Bengal. It also aims to explore the notion of justice and freedom for these women. Her paper highlighted four correctional homes in this regard which have the maximum number of persons from Bangladesh, sometimes almost equal to Indian inmates leading to a crisis in space. She reported that correctional homes in Dumdum and Alipore are flooded with inmates from Bangladesh. This throws up questions on the nature of population flow, legality and illegality of migration and questions related to what drives these women, mostly from a low economical background, to cross the border for an unknown territory. These women are compelled to cross the border and enter India due to various reasons, such as political disturbances, better employment opportunities, medical treatment, and to visit relatives. In the last segment of her presentation she discussed the procedural difficulties of repatriation. Instead of repatriation which is a very long process, the authorities generally adopt the method of push backs. While discussing this, she also mentioned the vulnerability of the Bengal-Bangladesh border pointing out the case of Rohingya muslims, inhabitants from Myanmar who have fled from their homes due to extreme violence in the 1990s. As a result they are coming in huge numbers through the Bengal Border to India and landing up in prisons. They cannot be even repatriated because they are considered as stateless.

At the end of her presentation, Ms. Anita Sengupta, Fellow, Maulana Abul Kalam Azad Institute of Asian Studies, Kolkata and also the chair of the Session, pointed out that institutional factors have been brought into Sucharita's narrative, as far as cross border migration and Bangladeshi women in correctional homes is concerned.

The first discussant of the session Ms. Ruchira Goswami, Assistant Professor of National University of Juridical Sciences describing Sucharita's paper as a draft presentation pointed out that these women live on the edge of life and confinement. Therefore life and confinement are counterpoised. It was suggested that it would be good if the paper also highlighted in more detail the lives of these women before confinement. Also, the question of class regarding flows could be incorporated in the paper. Fourthly, the paper has mention of the fact that borders are constantly negotiated and new identities are evolved, this issue needed to be more developed. Ms. Goswami asked the researcher whether it is possible to humanize migration as a process where the problem is the absence of substantive law and lack of humanization of legal process, therefore humanization cannot be done from outside. Sixthly, Ms. Goswami contended that age is a difficult determinant in most cases and it is mostly decided on the spot. Lastly, she argued that one needs to question what is the meaning of jail for these women, confinement or a safe custody measure? This is significant as after repatriation one needs to know the nature of freedom they are entering into. Ms. Goswami wanted the researcher to reflect more on the point she has already touched upon in the paper, i.e, whether these women are really free ever.

The second discussant of the session Dr. Maidul Islam, Assistant Professor of the Department of Political Science, Presidency University, pointed out that the issue of infiltration is in the political discourse of the nation today. There has been a

communalization of the issues of infiltration. He too suggested that the researcher reflect upon the question of class in her paper. Also, the paper could highlight institutional roles and whether a dialogue is needed between the two states. The paper should also address the larger question of political economy which would contribute to the theoretical base of the paper. In conclusion, he summed up that struggle is in itself a way of life for these women and the political primacy of such struggle is lost in normative notions of freedom and justice.

During the question and answer session, Ms. Rimple Mehta pointed out that gender based violence was missing from the paper and economic reasons were not sufficient to explain the migration of such women. The term 'jaankhalash' was explained by some members from the audience. Kiriti Roy explained that the term is widely used in the jails of West Bengal, Assam and Bangladesh. It means that after an inmates' term of imprisonment is over, ration is stopped and the inmate lives on the mercy of others. He also laid before us a picture of Ghats in the borderlands controlled by local political leaders, the police and border security forces. Lastly, borders were described as zones of conflict where the MLA's, MP'S etc all have a stake. Dr. Ranabir Samaddar urged the researcher to think as to why we cannot bring into consideration the precarious nature of the border. He mentioned the securitization model of Foucault that could be invoked in the paper. Border is managed by several actors and BSF is only one among them, therefore it is imperative to locate the making of a border and the question of prisons has to be placed in that context. Dr. Paula Banerjee drew the audience to the fact that it is the notion of eternal hope that keeps these women going even amidst a lot of adversities. Mr. Arup Sen pointed out the way law works at the border. Prof. Samir Kumar Das noted that 'Freedom into' and 'Freedom from' are two black and white concepts of the liberal notion of freedom and actually Freedom has to be constantly struggled for.

"Continuum of Violence: The Case of Indo-Bangladesh Border" was the final paper of the day presented by Dr. Paula Banerjee, Associate Professor in South and Southeast Asian studies, Calcutta University. She started by stating that the border is an amorphous region. The challenge of crisscrossing Bengal was huge. This region is especially baffling and handling it is quite uncertain and the pristine truth can hardly ever be found. She then went on to brief some reports from Masum, Adhikar and Human Rights Watch which have helped her in this research. The question of numbers has always haunted research work on the borders. One has to thus ponder upon the question on whether cross border migration signify an imminent demographic change. She thought of looking at the situation from the point of view of securitization. Three distinct groups of people were spoken to: a) correctional homes b) places beyond the barbed wires c) people living on the other side of the barbed wires. She said that it would be best if she narrated what she saw rather than arriving at some pristine truth since the border is so exclusive. Nobody in her view ever talks about the border from a holistic perspective. She cited and shared the story of Mohammad Ali Halsena who comes from a Hat Kholra village which lies a few kilometers away from the border. He was going to appear for his higher secondary exams soon and was therefore considered to be the beacon of life for his family. He got shot in the eye by the border security forces. The boy does not blame anyone, as victimization by the security forces in the border is so commonplace. The boy's parents, however, hope that they will get some justice. The Case of Taslima was another case in point in her presentation. Taslima had

come to India to meet her daughter who has married into a family in India. She was caught by the traffickers and then reported even after paying the traffickers a token sum for her release. She has been in jail for the last two and a half years, even though her jail sentence was to last for only twenty five days. Victims of trafficking are often booked by people in the borders under the Foreigners Act. Dr. Banerjee concluded by stating that the problem with borders is that it is an ever contested field. It is the limit of hope, but it is also the starting point of hopelessness. The whole notion of alien-ness is posited on class, caste and ethnicity. Physically the border is exclusive, but the insecurities that it spreads is universal. Life in the border is about violence; however, it is also about subversion and resistance.

Mr. Anirban Chattopadhyay, Editor of Anandabazar Patrika, the first discussant of the paper noted that the problem in border areas lies in the creation of a particular system. The narratives that have been spoken about by the researcher bring forth an important question, that is, how can the language of violence be transferred into a language of care? Could one possibly imagine the idea of organizations working on one side of the border getting connected with similar organizations working on the other side of the border? One should try to get the security establishments of the two different countries to coordinate with each other better. Unless this is done it is difficult to examine how civil society attempts to change the situation in the border. Finally, when talking about the role of the media, it is important to mention that newspapers and television channels only focus on incidents that sell well in the market. Media aggravates problems rather than providing a solution. However, good stories are capable of being created in order to draw the attention of people to border issues, thus bringing the mainstream media into a process of dialogue. The borderlands are areas where normal people lead normal lives and the abnormality of the border situation should be made known as quickly as possible in order to take adequate solutions to resolve this abnormality.

As another discussant of the session, Dr. Ranabir Samaddar stated that the paper was very detailed. The researcher has catalogued the roles that are played out by people in the border really well. The border is a kind of apparatus that affects subject relations. If the present condition is considered, one can assert that the incident of blast in Burma led to an intensification of security measures around the border area. The border has come to play quite an important role in domestic politics as well. He raised certain questions which could be addressed in the paper like, whether the West Bengal – Bangladesh border is managed in the same way as other borders in South Asia? What are the crucial differences that come to the fore? How does the situation in the border get duplicated internally? He further pointed out that the question of globalization and informal economy can be witnessed in this particular border region. The relation between boundary making exercises and border making exercises also gets solidified. Finally discourse on the border is guided by a family of concepts. The idea of security and the idea of care emerge very prominently. Thus, borders help us to understand many unique truths.

After comments from both the discussants, the chair of the session, Prof. Byasdeb Dasgupta, Professor, Department of Economics, University of Kalyani, commented that informal sector can be construed also as the formal sector and vice versa. One cannot speak in terms of formal or informal in order to understand the border issue. The purpose of any dialogue on the border is to find a solution to the

problem. For this reason the language of the people should be understood. Human angles have to be applied to the process of securitization. A dialogue has to be started with people and organizations at the grassroots level and this should eventually reach the people in power. The political economy of the border is not an abnormal economy, it is a money economy. The geography of space comes into question, something which is absent in the presentation made by the researcher.

The final session of the workshop was a round table discussion on “Experiences of Border Violence: Bengal and Beyond”. There were three participants in this session. The main points from their presentation are highlighted briefly below:

Anjuman Ara Begum, Human Rights Activist, reflected on the Golaghat border in Assam. The border is the site of a Naga and Adivasi community conflict which has been going on for a very long time now. Major violence in the border was witnessed in August 2014. She historicized the border problem by talking about how Nagaland came to be a part of India in 1963 and that several areas in Nagaland are reckoned as disturbed areas by the Indian officials. In 1979 a discussion that was started between the Government of Assam and the Government of Nagaland over the border problem was shifted to Delhi. In 1997 a ceasefire agreement was signed by the Nagas. According to one view, the Nagas essentially hired the adivasis to cultivate their land. Another version however is that, shares from this land were collected and given to the Ahom King at one point of time. In August 2014, a member of the Adivasi community attempted to build a house on land that is contested by the Nagas. Violent attacks were carried out on this adivasi community by the Nagas and as many as ten thousand people were displaced over a span of two to three days. She also said that she was accompanied by policemen dressed in civil clothes to the site of the conflict. In September some victims of this conflict were rehabilitated, but the clashes continue till date. Violence in fact has been occurring on a yearly basis in this border since 1963. There is a complete lack of political will in the border. The role of the media is quite divisive. Police have not bothered to be accountable for the whole crisis in any way whatsoever.

Mr. Choton Das, State Secretary of Bandi Mukti Committee, started by showing a picture of an arrested person: an arrest that completely flouts legal norms. He narrated an incident in Murshidabad where a man was arrested unlawfully on grounds that his daughters received training from terrorists. He and his children are in jail. The rest of the family is being taken care of by the villagers. He talked about another case where two women were unlawfully arrested. These women are under eighteen years of age. Both these cases show that apart from breaking legal norms in general, there is simply no adherence to the Juvenile Justice Act which clearly states that nobody under the age of eighteen can be incarcerated in a prison. He questioned the grounds on which these children are put in jail. On the 29th October of 2014, the Child Rights Commission was approached and a deputation was submitted. None of the official bodies have taken any action so far over fear of being seen as soft towards terrorism. Of the two parties accused, one party has acquired legal help through the assistance of human rights organizations while the other has not. The judge has not inquired into any of the legal loopholes that have been mentioned. In North Bengal, former allies of the government have become victims. Media seldom ever reports on injustices in that region and they are unapologetic about it too.

The last speaker of the day was Mr. Kirity Roy, Secretary of Banglar Manabhadikar Surksha Mancha. He mostly narrated his experiences of border violence.

Through a power-point presentation and he reflected that the state designates the border as a fixed geographical area. He highlighted the problems that the borderlands are mostly characterized by, which are -

1. The border is highly porous.
2. There are three different geographical forms of the said border – land locked areas, water bodies and the land-water areas.
3. Barbed Wire Fencing – in many cases Indian citizens have agrarian land on the other side of the fence which creates major problems with regard to livelihood, health and education.

He also observed that most inhabitants in the border are Muslims and there is a high density of population. Agriculture is the main source of their occupation with very low literacy rate, in particular, Female literacy rate. The number of school drop outs is high as is child labor. Handicrafts and household industries of artisans form the second largest occupation after agriculture. There is also an absence of large scale industries. The BSF camps are inside the villages of inhabitation, something which is highly improper. Also as a result, businesses cannot be run adequately without seeking permission from the BSF. Borders are also marked by a high occurrence of flesh trade and trafficking and often the BSF is involved in this. Extra judicial killings, rape and physical assault in the border are the rule of the day. Judiciary is dependent on the police and the administration. He then suggested some measures that could be adopted like:

1. Border Haats should be started.
2. Victims of river erosion must be compensated and rehabilitated.
3. Border Area Development Program funds and the provision of speed boats can improve the situation.
4. Doctors should pronounce the victims of BSF firing as dead, which they never do. This instead is performed by the village quacks. Doctors, lawyers and police are to be sensitized to the issue in the border.

**WORKSHOP SCHEDULE ON
“WEST BENGAL-BANGLADESH BORDER:
HUMANITARIAN ISSUES”
KOLKATA, 17 DECEMBER 2014**

09.30 – 10.00 am

Introductory Remarks

- **Samir Kumar Das**, Professor, Department of Political Science, & Dean of Arts, University of Calcutta.
- **Mary Werntz**, Head of Regional Delegation, ICRC.
- **Indrani Sinha**, Executive Director, Sanlaap.

Chair: **Ranabir Samaddar**, Director, Calcutta Research Group

10.00-11.30 am

Theme: People in Indo-Bangladesh Enclaves- Vulnerability, Rights and Justice.

- **Speaker: Atig Ghosh**, Assistant Professor of History, Visva-Bharati University and Member, Calcutta Research Group.
- *Chair:* **Samir Kumar Das**, Professor, Department of Political Science, & Dean of Arts, University of Calcutta.
- *Discussants:* 1) **Soumen Nag**, Author and eminent expert on North-Bengal. 2) **Rajat Roy**, Independent Journalist.

11.30-12.00 pm

Tea

12:00- 01.30 pm

Theme: Bangladeshi Women in Correctional Homes.

- **Speaker: Sucharita Sengupta**, Research Assistant, Calcutta Research Group.
- *Chair:* **Anita Sengupta**, Fellow, Maulana Abul Kalam Azad Institute of Asian Studies.

- *Discussants:* 1) **Uttam. K. Ray**, Advocate, High Court ; 2) **Ruchira Goswami**, Assistant Professor, West Bengal National University of Juridical Sciences, Kolkata; **Ashokendu Sengupta**, Educationist and Chairperson, West Bengal Commission for Protection of Child Rights.

01.30-02.30 pm

Lunch

02.30-04.00 pm

Theme: Border Violence and civilian life around Bengal - Bangladesh Border.

- *Chair:* **Byasdeb Dasgupta**, Associate Professor, Department of Economics, University of Kalyani
- *Discussants:* 1) **Sabyasachi Basu Ray Chaudhury**, Vice Chancellor, Rabindra Bharati University and Member, CRG ; 2) **Anirban Chattopadhyay**, Editor, Editorial Pages, Anandabazar Patrika; 3) **Ranabir Samaddar**.

04.00-04.30 pm

Tea

04.30-05.30 pm

**Round Table Discussion
“Experiences of Border Violence: Bengal and Beyond”**

- *Moderator:* **Subhas Ranjan Chakraborty**, Eminent Historian and Member, Calcutta Research Group.
- *Participants:* **Anjuman Ara Begum**, Human Rights Activist, **Choton Das**, State Secretary of Bandi Mukti Committee, **Milan Dutta**, eminent Journalist, **Sujato Bhadra**, eminent Human Rights activist, **Kirity Roy**, Secretary, Banglar Manabhadikar Surksha Mancha,

**WORKSHOP PARTICIPANTS ON
“WEST BENGAL-BANGLADESH BORDER:
HUMANITARIAN ISSUES”
KOLKATA, 17 DECEMBER 2014**

- 1) Amal Sarkar
- 2) Atig Ghosh
- 3) Anita Sengupta
- 4) Arpita Basu Ray
- 5) Amitava Das
- 6) Anjuman Ara Begum
- 7) Anasua Basu Ray Choudhury
- 8) Anindita Ghoshal
- 9) Atri Mitra
- 10) Anirban Roy
- 11) Anirban Chattopadyay
- 12) Byasdeb Dasgupta
- 13) Choton Das
- 14) Deepali ICRC
- 15) Dipyoman
- 16) Garga Chatterji
- 17) Iman Mitra
- 18) Indrani Sinha, Sanlaap
- 19) Kirity Roy
- 20) Madhura Chakroborty
- 21) Madhurilata Basu
- 22) Mary Wentz

- 23) Maidul Islam
- 24) Milan Dutta
- 25) Nilanjan Dutta
- 26) Paroma Sengupta
- 27) Paula Banerjee
- 28) Raghav Bandhopadhyay
- 29) Rajat Kanti Sur
- 30) Ramen Maitro
- 31) Rimple Mehta
- 32) Ranabir Samaddar
- 33) Ruchira Goswami
- 34) Prashanta Ray
- 35) Sabir Ahmed
- 36) Sabyasachi Basy Raychawdhury
- 37) Samaresh Guchhait
- 38) Samir Kr. Das
- 39) Shyamalendu Majumdar
- 40) Soumen Nag
- 41) Subhash Ranjan Chakraborty
- 42) Sucharita Sengupta
- 43) Suchismita Mazumdar
- 44) Uttam Kr. Ray

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The inaugural session - From Left - Mary Wertz, Samir Kumar Das, Ranabir Samaddar and Indrani Sinha



From Left - Ranabir Samaddar - the chair of the session, Anirban Chattopadhyay and Byasdeb Dasgupta- the discussants, and Paula Banerjee, - the paper presenter.



Round table discussion - From Left to Right - Jishnu Dasgupta, Choton Das, Subhas Ranjan Chakraborty and Anjuman Ara Begum.



Byasdeb Dasgupta, Paula Banerjee



Soumen Nag (left) the discussant of the first session and Atig Ghosh, the paper presenter of the session.



Ruchira Goswami (left) - the discussant and Sucharita Sengupta, the presenter of the session.



The audience during one of the sessions