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**West Bengal-Bangladesh
Borders: Humanitarian Issues**

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West Bengal-Bangladesh Borders: Humanitarian Issues

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2015

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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 enclaves 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 The map hardly lives up to any standard of cartographic clarity and van Schendel, perhaps realizing this lacuna, quickly adds, “[P]ositions and sizes [of the enclaves] are approximate since no map of the enclaves has ever been published.”³ All claims to contemporary accuracy are thereby candidly abandoned.

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).”⁴ 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.⁵

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.”⁶ 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

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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.⁷ 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.⁸ 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.⁹ 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.¹⁰ 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.”¹¹ 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.”¹² 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?

A History of Disenfranchisement

The word *chhit* ordinarily invokes a number of senses in Bengali. It may mean a fragment, a piece or portion (as of a cloth); it may mean a drop or a blob (as of ink); alternately, when used to describe a person, it suggests eccentricity — that the person thus described is dotty.¹³ The appositeness of the first two senses of the word in describing the enclaves is self-evident. However, the third sense is also not wide of the mark. It is rumoured that the enclaves came into being when the king of Cooch Behar and the Mughal *faujdar* of Rangpur used land in high-stake chess games in the seventeenth century — an eccentric origination surely. Even if one considers the claim made in such a fantastic story to be misleading, it has to be admitted that the enclaves represent a markedly unusual example of political and human geography.

The elusive — almost illusive — nature of the enclaves as seen in the accounts detailed above has ceaselessly invoked another metaphor among commentators: the metaphor of the sea. The *chhitmahal* is a landlocked *archipelago* which strives to create *isthmuses* with the mainland to allow the

episodic, tide-like *flows* of the enclave-dwellers going about their quotidian business, failing which, it is feared, *waves* of people fleeing the enclaves may crash upon the mainland.

That the *chhit*-s paid taxes to one state but were surrounded by the territory of another state, however, did not render them intractable to the revenue collectors of pre-colonial and colonial South Asia. Then, as van Schendel correctly says, “[s]overeignty was expressed not so much in terms of territorial contiguity as in terms of jurisdiction and tax flows.”¹⁴ In other words, the overarching anxiety, so to speak, about territorial contiguity comes with decolonization and what can be described as the birth of the modern nation-state.

When the British withdrew in 1947, it left behind the princely state of Cooch Behar wedged between India and East Pakistan. Two years later, Maharaja Jagaddipendranarayan merged his state with India. The first section of the “Cooch Behar Merger Agreement” of August 28, 1949, stated that all land under the jurisdiction of the king of Cooch Behar would become part of the Indian nation.¹⁵ As a result, the pieces of land belonging to Cooch Behar but surrounded by East Pakistan technically became Indian territory and the people residing therein, at least in theory, became Indian citizens. The land belonging to the Rangpur zamindar but surrounded by Cooch Behar, similarly, became Pakistani territory and the residents therein, Pakistani citizens. However, in reality, history followed a more dubious trajectory.

The ambition of the modern nation-state to produce gaunt, clear-cut borders was belied in the fastnesses of North Bengal. The Boundary Commission somewhat hurriedly ‘drew’ the border between India and East Pakistan basing itself on district maps rather than field surveys.¹⁶ Presence of patchwork jurisdiction further complicated, and ultimately scrambled, the border-drawing exercise in the north. The patchy and amorphous ‘border’ that emerged therefore was more in the nature of a ‘frontier’. Attempts to tame this obstreperous frontier were at the root of the production of a stateless population in North Bengal.

The first such attempt came only in August 1950.¹⁷ It was agreed that district officials would be allowed to visit enclaves if they had a photograph identity card and if their visit was announced no less than a fortnight in advance by telegram. They would then be escorted back and forth across foreign soil. Police officials could also visit the enclaves, provided they wore uniforms and went unarmed. Only mustard oil, kerosene oil, sugar, matches, cloth, medicine, and medical appliances could be moved between mainland and enclaves. This meant that commodities could be imported to the enclaves but local produce — especially jute, paddy and tobacco — could not be exported to the mainland.¹⁸ What this in effect meant is that the government continued to control, in however tenuous a manner, the enclaves for the purposes of revenue farming and administration while the people were cut off from their livelihoods. Yet, paradoxically, they were expected to cough up the taxes. The precariousness notwithstanding, one can argue that the enclave-dwellers continued to be citizens of either India or Pakistan — even though the bureaucratic and administrative traffic turned out to be slow, intermittent and often in the teeth of noncooperation of the host state.¹⁹ At this time, citizens of East Pakistan needed no travel documents to visit India, and vice versa.

This changed in 1952 when the two governments agreed to introduce passports and visa controls.²⁰ The agreement, as if in a fit of forgetfulness, failed to mention the inhabitants of the enclaves. This was the apical moment of territorial closure. That is, if a person of, say, an Indian enclave in Bangladesh wanted to obtain passport and visa for free movement, she had to illegally trespass into Bangladeshi territory; if the person managed to reach a border outpost undetected, she had to be admitted illegally into Indian territory, for she carried no identification proof, and then travel hundreds of kilometres to the nearest consulate. If all this resulted in the issuance of a passport and a visa, then the person could return to the enclave only till the visa expired. Then she had to

repeat the illegal procedure all over again. Marooned in their enclaves, sometimes only a few hundred metres away from their mother countries, the people could not leave without infringing the laws of both countries. For the people in the counter-enclaves, the infringement of law and the consequent criminalization was fourfold. For state officials wishing to visit their enclaves, visas were now required. This created a new obstacle in the enclave hurdle race. By the mid-1950s, both states had largely given up trying to establish their authority and to collect taxes in enclaves. On paper, the enclave-dwellers remained citizens of one or the other country; but in fact they were rendered stateless.²¹

Legally Stateless?

It is a curious coincidence that mid-1950s onwards was also the time when 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 Persons²² and the 1961 Convention on the Reduction of Statelessness.²³ As of December 8, 2013, there were 79 state parties to the convention of 1954²⁴ and 55 state parties to the 1961 convention.²⁵ 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 *chhitmabal* 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*.²⁶ 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.²⁷

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.

Nation and its Responsibilities

We have seen that in the incunabula of nationhood, India and East Pakistan had tried to maintain *status quo* by ensuring the ‘right’ of passage between the enclaves and the mother countries. Such attempts came to grief due to the disingenuousness at the grass-roots level and misdirected and haphazard policy decisions at the apex. They resulted in *de facto* statelessness. However, while maintaining *status quo* remained the predominant mood in government circles in the late 1940s and early 1950s, the realization that such an endeavour may prove unworkable was crystallizing. In 1950, the chief secretaries of East Bengal and West Bengal “agreed to recommend to their respective Governments that in the interest of administrative convenience the question of exchange of these enclaves should be considered at a very early date. For this purpose the two Governments should exchange their preliminary suggestions with a view to a detailed joint examination and possibly also a joint local inspection at a later date.”²⁸ However, three years passed and concrete steps were yet to be taken.²⁹ This in a way set the mood of statist activism vis-à-vis the enclaves for good, a mood that has ever since been marked by procrastination and vacillation.

After much deliberation, Indian Prime Minister Jawaharlal Nehru and his Pakistani counterpart Malik Sir Feroz Khan Noon ultimately agreed, for the first time, “to an exchange of enclaves of the former Cooch Behar State in Pakistan and Pakistan enclaves in India” in 1958. Known as the Indo-Pakistan Agreement of September 10, 1958 (together with the Joint Communiqué or the Nehru-Noon Agreement of September 12, 1958), it also stated in Section 2 Clause 10 that “exchange of old Cooch Behar enclaves in Pakistan and Pakistan enclaves in India [will be made] without claim to compensation for extra area going to Pakistan.”³⁰ In other words, India would not receive compensation for the extra area going to Pakistan. However, the agreement was never implemented. The alleged pro-Pakistan bias of the agreement polarized public opinion in India and the oppositional parties seized the opportunity to brand it an unconstitutional act. An appeal case was fought up to the Supreme Court of India, stalling any exchange for years. By the time the apex court decided to dismiss the appeal, India and Pakistan were on the brink of the 1965 war. Relations between the two countries did not thaw after this till the break-up of Pakistan in 1971 and the birth of Bangladesh. As such, the exchange of the enclaves was also put on the backburner.

With the birth of Bangladesh (and India’s aggressive midwifery, so to speak, in the process), the possibility of an amicable exchange once again presented itself. Prime ministers Indira Gandhi and Sheikh Mujibur Rahman of India and Bangladesh respectively met in New Delhi over May 12-16, 1974, and agreed to exchange the enclaves as soon as possible. An agreement was signed on May 16, 1974, which came to be variously known as the Indira-Mujib Pact, the Land Boundary Agreement or the Delhi Treaty.³¹ It was specified how the remaining sectors of the boundary were to be demarcated. After demarcation, strip maps were to be prepared and signed by plenipotentiaries, so that transferral of adversely held areas could take place by a target date of December 31, 1975, and six months after signature of remaining areas. Apart from setting a deadline (although one which was never met), Article 3 of the agreement also specified that the residents of the transferred territory were to have the right to remain *in situ* as the nationals of the country obtaining their land — a component that became a standard detail of all bilateral agreements which followed.

This agreement was ratified by the parliament of Bangladesh but was not tabled in the Indian parliament. Like its controversial precursor, the Nehru-Noon Agreement, the Indira-Mujib Pact, too, failed to take off. Ever since, the prompt and amicable exchange of the enclaves has been a standard item on the agenda — almost a ritual talking point — between the two countries, the recent high-profile avatar of which was the meeting at Dacca of the prime ministers of India and Bangladesh — Manmohan Singh and Sheikh Hasina respectively — in September, 2011. Once again the commitment to speedily exchange the enclaves following the blueprint laid down in 1974 was reaffirmed but no definite deadline was specified in the ‘Protocol to the Agreement between India and Bangladesh concerning the demarcation of the land boundary between India and Bangladesh’, September 06, 2011 [See Annexure 4]. As such, it seems likely that this agreement too, like its illustrious predecessors, will remain a dead letter.

One wonders why the exchange of enclaves, in spite of highest-level agreements, has never been implemented. Is it a matter of simple administrative fecklessness or is there a deep and deliberate rationale guiding action or the lack of it? Since Bangladesh actually ratified the 1974 agreement in parliament, it is only justified that one looks more critically at India’s sincerity. And, perhaps, it is possible to find an explanation for the decades-long stasis by way of understanding India’s somewhat oversensitive national ego. The fact that any exchange of the enclaves will necessarily mean that Bangladesh gains more land from India than the other way round, given that Indian enclaves are more numerous than Bangladeshi enclaves, has rankled the jingoistic pride of certain political groups in India, especially those of the religious right. Further vitiating the mood of

the oppositional parties, of which the religious right has overtime become a key component, are two major issues, one old and one relatively new. Curiously enough, the geographical foci of both the issues are located in the hook of Cooch Behar comprising the assembly constituency of Mekliganj, which is bifurcated into the two administrative blocks of Haldibari and Mekliganj by the river Tista.

The older issue of acrimony may be termed the 'Berubari affair'. Berubari is not an enclave but a small area of disputed land held by India on its border some kilometres away from the right bank of Tista in the Haldibari block of Cooch Behar [4.3]. The Agreement relating to Border Disputes (East Pakistan), September 10, 1958, decided to divide Berubari "to give half the area to Pakistan, the other half adjacent to India being retained by India." The southern half of Berubari was to "be exchanged along with the general exchange of enclaves and will go to Pakistan."³² This decision was met with extreme resistance from the oppositional parties in India which saw this as an attempt of the government to give away what they considered to be lawfully Indian territory. The reason for the delay in exchange in the first phase was at least partly because the exchange was linked to the Berubari affair.³³

The more recent bone of contention that has partly held up exchange and poisoned ground-level relations between the two countries relates to the *chhit* Dahagram-Angorpota, located on the left bank of Tista in the Mekliganj block [4.4, 4.5]. Though, the controversy regarding this enclave is being described here as one of recent provenance, it too goes back in a way to the first years of independence. Dahagram-Angorpota is the largest Bangladeshi enclave in India, almost touching its mainland. To the east it has the natural boundary of the immense and treacherous Tista river and almost cuts off a portion of Indian territory (Kuchlibari of the Mekliganj block) from the rest of India. Pakistan (before the formation of Bangladesh) had initially and publicly claimed that this *chhit* was connected to it, but in 1953 found out that it had based its claim on a faulty map.³⁴

In fact, Dahagram-Angorpota was separated from the Pakistan mainland by about 85 metres of Indian territory that later came to be known as the Tin-Bigha (One-Acre) corridor. What made this enclave's situation somewhat unique is that from the beginning the state was present in it. Pakistani policemen were stationed there with the permission of the Indian authorities, and without permission when no 'route permit' was given. As a result, whenever the relation between the two countries became tense, its effect was immediately felt in Dahagram-Angorpota. For example, during the Rann of Kutch dispute in 1965 on the other side of India,³⁵ Pakistan alleged that Indian troops were being amassed around Dahagram, and that they had entered the enclave and occupied it. India denied these charges, complained about the heavy concentration of Pakistani troops along the border facing Dahagram and accused Pakistan of expelling Hindus from the enclave.³⁶ Soon fighting broke out in the area, resulting in heavy casualty on both sides and the evacuation of border villages. Jingoistic claims were made on both sides: Pakistan decried deliberate Indian aggression while the Indian government assured parliament that "not an inch of our territory" would be allowed to fall into Pakistani hands.³⁷ However, ceasefire was negotiated two weeks later, India issued permits to Pakistani officials to visit Dahagram and some four thousand enclave people returned to their heavily damaged homes.³⁸

After Bangladesh was formed, it seemed that the precarious situation of Dahagram-Angorpota was on the verge of being resolved: a faith that was emboldened by the Indira-Mujib Pact of 1974. In an attempt to achieve two goals by a single stroke of diplomacy, Bangladesh agreed to give up its claim to half of Berubari and four *chhit*-s, a total of 18.13 square kilometres, in return for being allowed to retain Dahagram-Angorpota, a total of 18.68 square kilometres. India agreed to lease Bangladesh an access corridor, 178x85metres, through uninhabited paddy-fields at the narrowest point between Dahagram and Bangladesh — that is, the famous Tin-Bigha Corridor. On

paper what seemed to be a possible amicable settlement, however, turned out to be a much-contested issue around which muscular claims of Hindu nationalism congealed in India. Precisely which side proposed this arrangement remains obscure, although it seems most likely to have been an Indian offer. The Indian White Paper on Tin Bigha said that India proposed it to Bangladesh,³⁹ while BJP broadsheets (that is, the religious right) attacking the Tin Bigha transfer suggest Bangladesh initiated the idea.⁴⁰

Be it as it may, when nothing transpired on the front of exchange post-1974, separate negotiations were commenced whereby a curious arrangement was arrived at in 1982⁴¹ but not enforced till 1992.⁴² India and Bangladesh agreed to open the Tin-Bigha corridor intermittently during the day (it was to remain open every alternate hour) while it would remain closed during the night. This arrangement, once implemented, conferred upon Dahagram-Angorpota the dubious honour of being the only part-time enclave in the world. However, the Singh-Hasina Agreement last year did away with this elaborate, and hence somewhat cumbersome, arrangement and opened the corridor permanently, thereby making the enclave a curious form of pene-enclave or 'prorruption' which is now connected to the mainland by an 'isthmus' of permanently accessible foreign land. The enforcement of the arrangement did not go unopposed by the religious right. In 1992, inflammatory speeches were made by BJP against the enforcement of intermittent passage, which was portrayed as a measure that would undermine security and cut off Kuchlibari.⁴³ The opposition of the BJP has continued down the years up to the permanent opening of the corridor last year and thereafter. It may be argued, then, that the controversy about Dahagram-Angorpota, linked to the question of the overall transfer of enclaves as it is, has in the recent years impeded the process of peaceful exchange.

However, merely apportioning blame to the Berubari affair in the initial decades and the Dahagram-Angorpota controversy in the later decades may not fully explain why the two states have failed to implement the exchange of enclaves, despite successive commitments to do so over the years. To understand the full implication of this failure one will have to delve into the human dynamics of the region.

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.⁴⁴

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.”⁴⁵This may have caused her enough grief and anger for her to have contested the 2011 assembly polls as a candidate from the Dinhat seat.⁴⁶

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.”⁴⁷ 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 Dinhat town to put pressure on the powers that be.⁴⁸ 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.⁴⁹ 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 ghoulish 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.”⁵⁰

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.⁵¹ 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.⁵² 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.⁵³

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.⁵⁴ 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 Dhaphrahat.⁵⁵ 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.⁵⁶ 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,⁵⁷ 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.

Conclusion

The states of India and Bangladesh cannot grasp the everyday experience of living in an enclave — its textures and tangles — if they keep their noses buried resolutely in the ever-accumulating paper trail of bilateral agreements that fail. The letter of the law creates categories that are engaged with and transformed creatively as part of the people’s lived world. Such quotidian negotiations have produced in Cooch Behar a vast array of experiences of territorial belonging that range from what the legislators understand as an enclave to what is described as mainland. In the process, both have been reworked and redefined, at least in terms of how people have coped over the years with such abstract legal categories. A simple rendition of the *chhitmahal* as a landlocked archipelago of enclaves obfuscates these myriad spatial configurations and strategies that have emerged in the area over 60-

odd years since partition. Not every bit of non-enclave border territory is settled in terms of belonging to a country: the case of Berubari demonstrates this. Then there are, as we have seen, counter-enclaves; that is, enclaves completely enclosed by another enclave. Shalbari, the second largest Indian enclave, for instance, encloses four Bangladeshi exclaves. There is also a globally-unique counter-counter enclave; the largest Indian exclave, Balapara Khagrabari, embodies one Bangladeshi exclave, Upanchowki Bhajni, which itself embodies an Indian exclave called Dahala Khagrabari, thus making the last one a counter-counter enclave. Then, there existed until very recently arguably the world's only part-time enclave, Dahagram-Angorpota, which after September, 2011, has assumed the dubious character of a pene-enclave or prorruption. Pene-enclaves are, however, not unknown to the residents of the area, though they have curiously escaped academic as well as journalistic scrutiny. One example of a pene-enclave that immediately comes to mind is Kalsi para (or simply Kalsi), the Muslim-majority Indian prorruption into Bangladesh located in Kuchlibari. Though all my respondents pointed out that it is not a *chhit* technically, they unanimously concurred that the life conditions there best represent what is normally considered to be the life conditions in an enclave: it has no electricity; no healthcare; it is cut off from the mainland by a towering barbed-wire fence — itsheavily guarded, solitary gate open only during the day; a BSF camp is located within it which keeps a close watch on activities of its residents. When I went to speak to the residents of Kalsi, a BSF *jawan* was deputed to follow me around. Then there are the elusive enclaves. My respondents were mostly at a loss to point out where exactly a *chhit* commenced and where it ended. They continuously bickered over the coordinates of enclaves. If someone declared a particular hedge as the beginning of a *chhit*, then the next person contradicted him and pointed out a windbreak of trees in the distance as the place where it really began. My plucky companion Shyamal, 21, who drove me around the area for ten days, would then tell me in private on our way back that ‘these villagers’ knew nothing. Actually the *chhit* in question began where the cows were grazing. Which cows, I wondered to myself? There are cows all around. In this sense, the cartographic bickering that has gone on between the state governments are not very unlike what the people do on the ground. All this is not to say the *chhit* — the reality of it as a territorial entity and issue of international dispute — is a myth, but that the conduct of everyday life at the border will be rendered impossible if one were to be continuously acutely conscious of its impedimental existence; hence, perhaps, the subconscious suppression of its solidity.

That is to say, there are borders in the mud that may prove elusive and there are borders in the mind that are terrifying. The *chhit*, in this latter sense too, exists. There is always the fear of imminent foreignness: the scary prospect of being prosecuted as trespassers by the national selfish giants. Between the polarities of law and crime, we know, there is the immense range of quasi-legality, compromise, necessary illegality, malfeasance, petty crimes, and so on, and obviously the people of the enclaves have liberally made use of these strategies to survive.

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&pds_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 Ibid, fn 9.

⁴ Arindam Kumar Sen, *Nei-Manusher Panchali: Chhitmabal Shamashya, Manabadbikarer Lojja* [Chronicles of Absent-Humans: The *Chhitmabal* 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.

⁵ 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. Niranjan 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."

⁶ Whyte, *Waiting for the Esquimo*, p. 194.

⁷ Sen, *Nei-Manusher Panchali*, p. 5.

⁸ Mandal, "Census begins".

⁹ Dasgupta, "In a state of limbo".

¹⁰ We will have the opportunity to return to the BBEECC in greater detail when we take up Mayamana Khatun's case later.

¹¹ Reported in Dasgupta, "In a state of limbo".

¹² Amar Roy Pradhan, *Rule of Jungle*, Kolkata: Published by Sanchayita Roy Pradhan, 1995, p. 2.

¹³ *Samsad Bengali-English Dictionary*, Kolkata: Sahitya Samsad, 1988

¹⁴ Van Schendel, "Stateless in South Asia", p. 119.

¹⁵ For the text of the "Cooch Behar Merger Agreement" see Durgadas Majumdar, *Koch Bihar: West Bengal District Gazetteer*, Calcutta: West Bengal Government Press, 1977, pp. 40-42.

¹⁶ Joya Chatterji, "The Fashioning of a Frontier: The Radcliffe Line and Bengal's Border Landscape, 1947-52", *Modern Asian Studies*, 33:1: 185-242.

¹⁷ *Decisions taken at the 17th Chief Secretaries' Conference held at Dacca on the 29 and 30 August, 1950*; in Government of East Bengal, Home [Political], Confidential records, B. Proceedings [hereafter abbreviated as CR; these records, available at the National Archives of Bangladesh, are quoted from van Schendel, unless specified otherwise.] Overtures to facilitate communication between the enclaves and their mother countries had started in 1947, but had come to nought. See, for example, *Decisions taken at the Chief Secretaries' Conference held at Calcutta on the 7-9 April, 1949, Sixth Conference*: 5; in: CR 3C1-4/50 [September 1961].

¹⁸ *taken at the 17th Chief Secretaries' Conference held at Dacca on the 29 and 30 August, 1950*: 4; in: CR 3C2-5/50 [2237-55, March 1953]

¹⁹ See van Schendel, "Stateless in South Asia", p. 124.

²⁰ “Pakistan o Bharater Maddhye Jatayater Janye Passport o Visa Niyamabali” [Rules for the Issuance of passport and Visa for travelling between Pakistan and India], Ministry of Foreign Affairs and Commonwealth Relations, Government of Pakistan, Dacca: 1952.

²¹ Jurists may question the basis of this assertion. The test of being stateless, they may argue, is whether the mainland state considers inhabitants of the enclaves to be. There does not appear to be evidence that Indian or Bangladesh did not consider inhabitants of their respective enclaves not to be their citizens; not the difficulty of such inhabitants to procure nationality documentation. However, in the introduction to this volume, it has been already argued that statelessness is not merely a legal problem; it is most importantly a human problem.

²² 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.

²³ 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.

²⁴ 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=mtds_g2&lang=en#1 [accessed on March 12, 2012]

²⁵ 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]

²⁶ 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.

²⁷ 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.

²⁸ *Decisions taken at the Chief Secretaries’ Conference held at Calcutta on the 21 and 22 April 1950, Fourteenth Conference: 4*; in: CR 26A-1/50 [1050-69, December 1952]; cf. CR 31-68/52 [102-6, January 1954]

²⁹ “Short Comment on Enclaves”, *Amrita Bazaar Patrika*, February 15, 1953.

³⁰ See, Agreement relating to Border Disputes (East Pakistan), September 10, 1958;

<http://www.mea.gov.in/mystart.php?id=53051914&pid=&flg=1&sz=b> [accessed on February 29, 2012]; also, see A. Appadorai, *Select Documents on India’s Foreign Policy and Relations, 1947-72*, Delhi: Oxford University Press, 1982, pp. 96-103; Shreedhar and John Kaniyalil, *Indo-Pak Relations: A Documentary Study*, New Delhi: ABC Publishing House, 1993, pp. 6-9, 149.

³¹ For the text of the agreement, see Whyte, *Waiting for the Esquimo*, Appendix 1-41, pp. 378-380.

³² See Section 2 Clause 3 of the 1958 Agreement;

<http://www.mea.gov.in/mystart.php?id=53051914&pid=&flg=1&sz=b> [accessed on February 29, 2012].

³³ “Protest by All-India Convention”, *The Statesman*, December 11, 1960; “Appeal Dismissed in Berubari Case”, *The Statesman*, August 12, 1965; Dinesh Chandra Jha, *Indo-Pakistan Relations (1960-65)*, Patna: Bharati Bhawan, 1972, pp. 170-74; Saroj Chakrabarty, *With Dr B.C. Roy and Other Chief Ministers: A record up to 1962*, Calcutta: Benson’s, 1974, pp. 402-4, 470-73.

³⁴ CR 1B2-28/52 (85-89, July 1955), cf. CR 1B2-3/53 (2057-84, January 1955)

³⁵ Jha, *Indo-Pakistan Relations*

³⁶ “Unprovoked Attack by East Pakistan Forces”, *The Statesman*, March 19, 1965.

³⁷ “Uproar over Firing on Border”, *The Statesman*, March 20, 1965; “Situation worsens on Border”, *The Statesman*, March 29, 1965.

³⁸ “Cease-fire on Border from Today, Chief Secretaries likely to Meet on April 9”, *The Statesman*, March 31, 1965; “Shooting stops on Border. Pakistan Officials given Visas for dahagram”, *The Statesman*, April 1, 1965; “East Pakistan Police enter Dahagram Today. Evacuees also to Start Returning”, *The Statesman*, April 2, 1965.

³⁹ Government of India, *Tin Bigha — A Proper Perspective*, New Delhi, 1992. Attached to this document is a map of Dahagram-Angorpota, with an inset of Tin Bigha itself.

⁴⁰ “People betrayed in Tin Bigha”, pamphlet published by Paras Dutta, General Secretary, BJP West Bengal, Kolkata, 1992; “Resist Tin Bigha Transfer”, pamphlet published by Tapan Sikdar, President, Dr Debabrata Singha, Vice-President, Paras Dutta, General Secretary, Smt. Sati Roy, Secretary, “on behalf of BJP West Bengal”, Calcutta, 1992.

⁴¹ “Tin Bigha Lease Terms Agreement”, October 7, 1982; for the text see Whyte, *Waiting for the Esquimo*, Appendix 1-43, pp. 382-83.

⁴² “Tin Bigha Lease Modalities”, March 26, 1992; for the text see Whyte, *Waiting for the Esquimo*, Appendix 1-44, p. 384.

⁴³ See Whyte, *Waiting for the Esquimo*, pp. 135-159.

⁴⁴ Van Schendel, “Stateless in South Asia”, p. 116.

⁴⁵ Chakraborty, “She’s the reason”.

⁴⁶ 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.

⁴⁷ Diptiman Sen Gupta quoted in “Enclave members”.

⁴⁸ “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”.

⁴⁹ Van Schendel, “Stateless in South Asia”, *passim*.

⁵⁰ The cases have been quoted from Van Schendel, “Stateless in South Asia” and Sen, *Nei-Manusher Panchali*.

⁵¹ Sen, *Nei-Manusher Panchali*, p. 6.

⁵² Report of the Director of Agriculture, Evaluation Wing, quoted in Sen, *Nei-Manusher Panchali*, p. 6.

⁵³ Reported in Dasgupta, “In a State of Limbo”.

⁵⁴ *Ibid*.

⁵⁵ 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.

⁵⁶ Van Schendel, “Stateless in South Asia”, p. 131.

⁵⁷ 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 *

“Imagine there’s no countries it isn’t hard to do, nothing to kill or die for and no religion too, imagine all the people living life in peace”

-From a song by John Lenon-

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, determining the legality of it and separating the alien from the citizen have 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. Although transnational population flow/migration/forced migrations as categories are distinct but the difference in their meaning often gets blurred in practice. They can neither be branded as fixed or watertight categories nor situations of exception or banality specifically in the context of South Asia. To stress on the bit of exception following Agamben would therefore mean ignoring concrete colonial and post-colonial conditions in countries like India where conditions of exception are integral to the socio-political history of this region⁴. At this juncture a crucial question could be invoked in studying the cross border migration between India and Bangladesh, that is, can 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 Borderland⁵. Thus drawing from a point made by B.S.Chimni at a Conference in Cairo in 2008 and expanded further by Ranabir Samaddar⁶ the point being made is 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. This paper aims to unravel the vulnerability of women migrants across the Bengal-Bangladesh border who knowingly or unknowingly, illegally, have crossed the demarcation line between the two territories and have landed in many prisons in this side of the border. Mostly economic migrants, these women hail from a very low economic background devoid of any formal education.

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 the Bengal borderland and the flows- both human and goods across it specifically in context of the West Bengal-Bangladesh border. Drawn arbitrarily

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on a paper, this particular borderland has never been passive since its birth; rather it has a very vibrant space along with a strong parallel economy. Although a vast array of literature exist on the Bengal Borderland, the legal dimension of crossing it, in particular the forced uniformity or adhocism of law for all “illegal immigrants” from Bangladesh have not been discussed at length. Often asylum seekers are convicted under the same law, discussed below. There are two ways of coping with the border –one living on it and the other living along or with it⁷. The second part is relevant for the present exercise as the snippets of narratives discussed in the following stanzas are of women who do not live on the borders but for whom borders are central to their existence. For many of them the Border is not a demarcating line, rather it spells hope and promises freedom on the other side of the fence. This paper thus proposes to look at the precariousness of the borderland and civilian lives shaped by it through a frigid space. Prisons or correctional homes in this research talk about women who do not necessarily live in the Bengal borderland but whose lives are none the less shaped by it. The more the border has been secured, the more insecure their lives have become.

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). The purpose of choosing these correctional homes is deliberate. These homes have the maximum number of inmates who are Bangladeshi nationals- both men and women. An exact figure of cross border migration is very difficult to attain. At best an approximation could be done through studying the situation of the correctional homes and numbers of arrests made. 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. The paper in a nutshell would try to look into the following research enquiries:

- (i) The nature of cross border population flows, mainly from Bangladesh to West Bengal.
- (ii) The question of legality, illegality and detention of ‘illegal migrants’ in Bengal jails and Sub-jails – violation of dignity, rights and justice of the detainees. (This is dealt in Two sections)
- (iii) The question of identity and negotiations.

The first attempts to map the nature of cross border population flow through the study of the aforesaid correctional homes, the second deals with problems that the women inmates face in the prisons and the third dwells with how the eastern part of the border is important for shaping frontiers of new identities- how borderlands are markers of multiple/merged identities, religion and nationality; how borders constantly negotiate between communities and new identities are evolved through this⁸.

Nature of Flows and Commonly Used Routes

There are many ways and routes through which people from Bangladesh come to India among which the popular commonly used routes by the women who are kept in Alipore Women Correctional Home and Dumdum Central Correctional Home are as follows –

Barisal – Faridpur – Jessore to Bongaon (Benapole) and through Barisal – Faridpur – Jessore - Satkhira (by launch) to Basirhat, Taki and Hingalganj then cross the border. Another option is Barisal - Jessore- Benapole by bus and then cross the border. (Map 1, below, indicates the routes through a red line).



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

Women who are caught in the Benapole Border and areas in Bongaon, Basirhat and adjoining areas are kept in mostly Alipore and Dumdum Correctional Homes. However, inmates are transferred regularly from one prison to the other. Mostly inmates from Krishnanagar and Bongaon correctional homes are sent to Alipore and Dumdum. While under trials are kept in Alipore, convicts are transferred to Dumdum as it is a Central Correctional Home with more space and amenities. Infact, all Release Prisoners of Bangladesh who are also called “Jaan-Khalash” in the common parlance are sent from Alipore to Dumdum right after their period of conviction ends because it is from Dumdum that the repatriation process of these women takes place.

The routes generally used by inmates who are arrested and kept at Behrampore Correctional homes are through Dhaka – Chapai - Nawabganj to Jalangi. (Map II, below, indicates this through a red line)



Map II: Bangladeshi Migration through Dhaka, Chapai, Nawabganj to Jalangi

Here also, a similar procedure takes place. Women from Malda, Coochbenar and Balurghat prisons are generally sent to the Behrampore as it is a Central Correctional home. The Balurghat district jail is very small in terms of capacity and hence no Bangladeshi convicts are kept here. After trial period, as soon as confinement starts, the women from Balurghat are sent to Behrampore so these two homes work closely with each other. The repatriation process too takes place from Behrampore. The four correctional homes studied for the present purpose have people coming from mainly Jessore, Chittagong, Khulna, Faridpur, Barisal and Dinajpur districts of Bangladesh and the transit point they mainly use is Dhaka. Due to the porous nature and absence of a clear cut demarcation of the border between the two Bengals there are many entry points through which the cross border flows take place. It is also natural that people are mainly caught from those points in the borderland which are the busiest in terms of trade between the two countries as border policing and securitizing it through proper mechanism becomes the priority of all states. 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. There apparently is no harm in this particularly when for these middle men, crossing the Bengal-Bangladesh border are like a daily routine. Even when some of these women know it is illegal to migrate from one country to the other without valid documents, they still do so because they are *told* this won't cause them anything, that there is an unwritten agreement of the agents/dalal in colloquial parlance who help them to cross the border with the Border Security Forces regarding this. Many of these women thus regularly cross the border without documents until they get caught. As says Rita Mondal⁹ (20 yrs, Bengali Muslim, place - Dum Dum 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”. This is the common practice highlighted by women who regularly cross the border through middle men in order to work here. They pay a sum which ranges anything from 3000 – 10,000 Rs to cross the border- apparently a sum within which they could easily get access to legal documents. On asking why don’t they make a passport which would cost them much less, the prompt reply that Rita gives is “It takes a lot of time and then we never had any problem before. Only this time my luck did not favour me”. The Chief Officer of the Balurghat District Correctional Home, Souvik Sarkar has something interesting to say in this matter. According to him, “illegal infiltration across the Border is huge. The number is impossible to guess and only two percent gets caught, that too because in some areas there is an understanding between the Border Security Force (BSF) and the agencies that some cases would be handed over to the BSF deliberately”. This statement is corroborated by almost all women in Alipore Correctional Home who claim they are innocent and the “agents” have deliberately handed them over to the Police or BSF for reasons unknown to them. Bangladeshi nationals are mostly caught while commuting from one place to the other, especially in railway station, in trains or while commuting from the Borderland to areas they aim to go. A large number of Bangladeshi women work in the garments factories of Hyderabad, Brick factories in Delhi and in Mumbai and construction work in Gujarat.

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 – quite a few women addressed in the four homes said they have come to visit relatives here. For some, their daughters were married in India and they were coming to visit them with the help of agents who have not briefed them about legal documents needed to cross the border. b) For medical purposes or work - There was a cancer patient whom we met in Dumdum Correctional Home. She had come for her treatment here but she has been put behind bars for illegally crossing the border. Her medical reports and case history testified her words. Even the prison authorities requested us to make arrangements for her release as her lawyer is unable to do anything. c) For political disturbances; and particularly for women- d) trafficked in name of work or marriage.

I decided to address the elephant in the room that is the issue of trafficking in a separate stanza. Cross Border trafficking is not new and has been detailed in many works till date however what is interesting here is that trafficked women, mostly minor ageing below 18 yrs constitute the largest percentage of women who are jailed. Shahnaj Khatun¹⁰, although the name does not really matter nor is it important as her story is not unique, is just one among hundred others who have crossed the border only to find further confinement in a correctional home in an alien land. For women like Shahnaj the notion of ‘freedom’ has forever remained elusive. Economic compulsions coupled with the prospect of a better life compel them to move out and step toward an unknown destiny. For some, the land is not alien; rather it is just a deal gone wrong. Shahnaj hails from Chittagong and says her age is nineteen although she hardly looks sixteen. Her home for the last month is the Alipore Women Correctional Home at Kolkata. Shahnaj 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. Shahnaj was happy. 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). Shahnaj cried, begged for freedom, but she was beaten up mercilessly, was forced to change into strange dresses that the other women in the home were wearing and lockup up in a room. 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). On asking whether she would ever come back to India, with a whisper and tears in her eyes she says “I don’t ever want to do this work again, never wanted to do. I don’t even like to stay here in jail either. I just want to go back but I don’t know what to do once I am back in my home. I do not even know whether I would ever be able to go back as I don’t know the way back...” her voice trails off here.

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. Way back in 2004, the report says, around 200-400 women and children were trafficked to India each month totalling to approximate 10,000-15,000 annually. This number had increased manifold now at an alarming rate. One of the major reasons for this could be allotted to the collapse of the garment industry, one of the major sources of income in Bangladesh, more aptly Dhaka. In fact 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 meagre 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 age¹¹. 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.

For instance, Saukina¹², aged 18 years have come from Gopalganj to India. She used to work in a garments shop in Dhaka. At the age of 12 she was married off by her step mother. Her father Siraj Mollah is a farmer in Gopalganj. She fled from her husband’s house one day after her husband remarried and she was made to do the daily household chores. A kind owner of garments factory gave her shelter in Dhaka, where she started working as a domestic aid. Gradually she learned stitching and works of embroidery and soon got a job in the shop of her owner, however she was paid very poorly. At this juncture, her husband started to visit her regularly. Her husband offered to start life with her afresh in India where work opportunities at garments were much better with a better pay package. Saukina believed him a second time and made the gravest mistake of her life. She left job with Sabuj Miyan, her husband and crossed the Benapole border through Bongaon. Once in India, they boarded a train towards Mumbai (she can’t recall from which station) when for the first time she became suspicious of the place where she was being taken to. There were other girls as well

and two Indian men accompanying them to Mumbai. In midway, the whole group was arrested and booked under the 14(a) Foreigners act. Sabuj through his influences got himself released after shelling out Rs 50,000 as bail fee. Saukina's case was tried in Basirhat Police Station and she has already spent a year and five months in jail but till now her charge sheet is due because her case partners are not making their appearances in court. Case partners are the persons with whom Saukina was caught by the police. The norm is all persons caught together should be produced together in court for trial and even if anyone does not appear before on the day when the court has summoned them for trial then the case gets deferred. What happens often in cases like Saukina's is that the middle men or traffickers easily get themselves released either by paying hefty amounts or through connections and once they are out of the police custody they generally return back to Bangladesh or go under cover deliberately making themselves untraceable. Cases therefore remain pending.

In another instance, Yasmin was brought by her friend who works as a sex worker in a brothel in Hyderabad. Till landing in 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 sent to jail custody despite the fact that the prison officials also believe her. Her story ofcourse was vehemently denied by her case partner (the woman who brought her to India) who said Yasmin was lying completely and she has voluntarily come with her. In another case, Champa hailing from Faridpur was sold to a brothel in Orissa when she was just a child of 12. Since then she has lived in India. Now she is eighteen and while returning to her home in Bangladesh, atleast that is what she tells us, she was caught by the police and taken to jail custody under the passport act for using a fake passport.

Flow of goods and smuggling is also rampant in the border in particular Cattle smuggling as cows are illegally being stolen to Bangladesh. "While the formal trade relations are beginning to emerge from its nascent stage, illegal trade along the border has been thriving for long. The meat industry and Bangladesh's thriving leather industry is booming due to cattle smuggling from India at a throw-away price"¹³. 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. Farid Mondal, a resident of Hatkhola village- a bordering land in the district of Nadia says their area is inhabited by Muslims. Hatkhola is a border between Nadia district in West Bengal and Munshipur in Bangladesh. People in the Hatkhola village are always looked as suspects whenever any unnatural incidence takes place particularly due to clichéd perceptions of terror links with islamophobia. Instances of harassment of the locals there have increased manifold with the incident of Khagragarh bomb blast. Mondal was attacked brutally one day by some BSF while on his way back home from the field where he works as a farmer. In his own words, "the BSF asked me to give them the names of persons involved in cattle and goods smuggling. I said I do not know. On hearing this, they dragged me to their camp, I managed to escape somehow". The next day they came to my house bringing seven more jawans with them, beat me mercilessly, my wife was also attacked. Both of us were hospitalized later by the locals in a nearby hospital in Chapra. I broke my leg and we are yet to recover from the mental trauma and pain". At the time of this interview, BSF Battalion 119 was posted there. Some neighbours of Mondal also narrated incidents like these that they face on a regular basis. They believe it is also because they are a minority that instances of violence are so many in their locality.

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”¹⁴. 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 nationality of prison inmates. 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 Dum Dum in North 24 Parganas 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 (2014-'15) 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
Berhampore 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
Balurghat 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 Bengal ¹⁵

Note: Percentage data are rounded off

The total number of Convicts, under trial 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
	M	F	M	F	M	F	M	F	M	F		
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. This could mean two things, either young girls are being mostly trafficked or sent or sold by their families for an earning. In fact 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 sheet deliberately make them adults to avoid responsibility. Children and adolescents below eighteen are supposed to be sent to Homes' run by various nongovernmental organizations instead of prisons. Also the total number of Bangladesh nationals has remained same more or less as compared to the last year. 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. According to the newspaper report stated above, the Jail minister Ajij Safi has said that steps are being taken to timely repatriate the prisoners in consultation with the Deputy High Commissioner of Bangladesh. According to another official of the Jail Directorate, the neighbouring country is not much willing to take back ten released prisoners and hence a long detention for them is becoming a norm¹⁶. A look at the annual figures of deportation of Bangladeshi nationals gives a clear picture¹⁷:

2011- 773,
2012- 1826,
2013- 3127,
2014- 2424

And 2015 – 267 (till January).

These are the annual figures of deportation while the figures of immigration each month are more than the annual figures. So where are the others disappearing? Either they are not being repatriated/ deported or they are being pushed back unofficially, the records of which are not available at the Correctional Home Directorate.

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. While this could have been a positive step this causes a lot of worry and anxiety to the women concerned because for some of them they don't get to see their children for long, even after their conviction ends! Adding more to the misery is the fact that the mothers and their children are not repatriated together. Often the women go back to their home place but children are left behind because of the long process of repatriation which I have explained in a following stanza. The homes where these children are mostly kept are Kishalaya Home, Sneha, Sahid bandana Smriti Abas, Ananda Ashram and Malda District Shelter Home among others.

The Welfare Officers of Dumdum, Behrampur and the Superintendent of Balughat Correctional Home also expressed their worry and concern about this problem as this is causing mental trauma to most women in the respective correctional homes who have come with their children.

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). The case files shown to us by most of the interviews also testify this. The Foreigners Act was introduced to the constitution of India in 1946 and later amended in 2004. The Original Act lays down in detail as to who a foreigner is and the general procedure that a foreigner has to follow in order to enter India. In a nutshell the act says, A foreigner “(a) shall not enter India or shall enter India only at such times and by such route and at such port or place and subject to the observance of such conditions on arrival as may be prescribed; (b) shall not depart from India, or shall depart only at such times and by such route and from such port or place and subject to the observance of such conditions on departure as may be prescribed; (c) shall not remain in India or in any prescribed area therein ;... (e) shall comply with such conditions as may be prescribed or specified- (i) requiring him to reside in a particular place; (ii) imposing any restrictions on his movements; (iii) requiring him to furnish such proof of his identity and to report such particulars to such authority in such manner and at such time and place as may be prescribed or specified;”¹⁸. The section 14 of the act had laid down the penalties and said any person contravening the provisions of this act shall be liable to a period of “imprisonment for a term which may extend to five years and shall also be liable to fine”¹⁹. The problem with the section 14 of this act prescribing penalty was an absence of clarity, probably for which this section was amended in 2004 through the Foreigners (Amendment) Act. The Amended act says that the earlier section 14 of the Act would have to be substituted with the new section 14. According to the amended section, a person who is not a citizen of India could be penalized if he/she “remains in any area in India for a period exceeding the period for which the visa was issued to him; does any act in violation of the conditions of the valid visa issued to him for his entry and stay in India or any part there under.”²⁰ The penalty for this would

remain five years along with fine like the original section of the act and section 14 (a) which is applied for Bangladeshi nationals in prisons in West Bengal, penalizes whoever – “(a) enters into any area in India, which is restricted for his entry under any order made under this Act...without obtaining a permit from the authority, notified by the Central Government in the Official Gazette, for this purpose or remains in such area beyond the period specified in such permit for his stay; or (b) enters into or stays in any area in India without the valid documents required for such entry or for such stay, as the case may be, under the provisions of any order made under this Act... shall be punished with imprisonment for a term which shall not be less than two years, but may extend to eight years and shall also be liable to fine which shall not be less than ten thousand rupees but may extend to fifty thousand rupees.”²¹. Section 14 (b) penalizes any person who is using a forged passport. It says, “Whoever knowingly uses a forged passport for entering into India or remains therein without the authority of law for the time being in force shall be punishable with imprisonment for a term which shall not be less than two years, but may extend to eight years and shall also be liable to fine which shall not be less than ten thousand rupees but may extend to fifty thousand rupees”²².

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 had come with her two children who were little kids when they came and have now grown into adults and live in homes assigned to keep Bangladeshi children who have come with their parents to West Bengal. Bhaduribala is a Hindu who, as she claims, was forced to leave her country, more precisely Sankarpur Village in Dinajpur, to come to her relatives place in India owing to political unrest in Bangladesh. She had paid a sum of Rs 5000 to her lawyer and yet - she grumbles with tears in her eyes – no progress has been made in her case. She has last seen her daughter who stays in ‘Sahid Bandana Smriti Abas’ in Coochbehar six years ago. Her son stays in Balurghat home and was last brought to see her four years back. Bhaduribala is happy that her children unlike her is getting education in the homes they are residing but the fact that she can hardly get to see her children adds to her misery. She doesn’t even know when they would be released and whether at all they could go back to their home together. Questions like if they are not able to go back to Bangladesh then where could they get shelter, worries her a lot. Almost all Bangladeshi inmates in prisons of West Bengal are victims of administrative apathy. In a news article in 2012, a similar situation was reported. It says how Rangabala Sarkar (84), a resident of Sirajgunj in Bangladesh has not been released despite getting a bail in 2009. According to the report, as many as 592 Bangladeshi inmates have been suffering in several jails in West Bengal, including 112 children. As per data received till 2011, total number of released Bangladeshi prisoners (jaan khalash) was 480, under trial persons – 776 and convicts – 792. Lack of a speedy and short process of repatriation on both sides of the border is the main cause behind the suffering of many innocents in the prisons of both countries²³.

There is a lack of uniformity or adhocism as to the charges under which women from Bangladesh are booked. For instance, the cases of Yasmin and Champa briefed above were booked under the Foreigners Act although there were clear evidences of them being trafficked victims. 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. She has come to India with her two sisters who are aged 19 and 18 respectively and all the three sisters have been 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”²⁴ 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”²⁵. 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.”²⁶

The sisters hail from Mirpur, Dhaka. They have already spent two months in the Dumdum Central Correctional home under an ambience of anxiety and sorrow. They do not know the cases under which they have been booked. All they could tell us was “we came to India because our sister also stays here, in Bangalore and regularly visits us in Bangladesh. We had no clue regarding the procedure to come here and came with her husband. Clearly, 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 (under trial) 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"²⁷ – 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. Let us now have a close look at the two systems.

Repatriation is an indeed long process where governments of both the countries are involved in securing the return of a migrant/infiltrator. On May 2014, the West Bengal Government has set up a Task Force to repatriate victims of trafficking to Bangladesh²⁸. In another recent meeting, the government has agreed upon the process of repatriation that should be applied for mainly women and children of Bangladesh, especially children, who are much more prone to be victims of trafficking. According to the Operational Guidelines on rescue and repatriation of women and children, especially the victims of trafficking back to their homeland a task force has been created. This task Force would monitor the process of repatriation of rescued women and children safely back to their country of origin. The procedure is explained through a number of steps:

- a) The Victim- be it a child or a woman after being rescued by the Police or Border Security Force (BSF) or any Non- Governmental Organisation (NGO) has to be thoroughly and carefully interrogated so as to differentiate between a victim and a trafficker. [Vide Ministry of Home Affairs Advisory dated 1-5-2012 No. 14051/14/2011-FVI).
- b) Since children are even more vulnerable and prone to being victims of trafficking they are in need of extra care and protection (CNCP) as defined in the Juvenile Justice, Care and Protection of Children Act, 2000, they would be first placed before the Child Welfare Committee (CWC) and sent to the government or home run by any NGO.
- c) This point is most important as the guideline says, if a foreign child is found to be the victim of trafficking then he/she should not be prosecuted under the Foreigners Act (MHA's advisory dated- 1.5.2012) and to be placed in children's home within one week.
- d) A request would be sent to the respective State Task Forces Secretariat for the address verification of the trafficked person in country of origin with copies to relevant authorities like – District Superintendent of Police, District Magistrate, Director of Social welfare, Women and Child Development and the West Bengal Task Force Secretariat, with all documents relating to the case confidentially.
- e) After this is done, the State Task Force Secretariat would send a request for identity and address verification of the concerned person, with necessary documents to Branch

- Secretariat of Ministry of External Affairs (MEA) at Kolkata through the Home (Foreign & Non Residential Indian²⁹) section, with intimation to the National Task Force at the MHA.
- f) The State Task Force as well as the National task Force will regularly review the progress regarding the identity/ address verification.
 - g) The Bangladeshi Deputy High Commission (BDHC) would expedite family tracing and inform back within 45-60 days. Or the Bangladesh High Commission might also issue temporary travel documents. The entire set of travel documents would then be sent to the State Home Department with intimation to the State Task Force. The State Home Department (F&NRI) would have to issue a no-objection certificate to facilitate the return of the trafficked person. The shelter home-in charge has to also issue a release order which has to be submitted to the West Bengal task Force Secretariat, after which the home in charge would keep the trafficked victim ready with all relevant documents required during departure like case file, case history etc. In the meantime the West Bengal task Force Secretariat would consul with the counterpart Task Force or NGO as nominated by the Task Force in Bangladesh for the safe homecoming of the trafficked victim.
 - h) In case of children, after all the above steps are done, the Director of Intelligence Bureau (DIB) in consultation with the BSF, West Bengal Task Force Secretariat and selected NGO would make arrangement for the transportation of the child along with the case file to Border for repatriation by land. The child would be handed over by eh BSF to the Border Guards of Bangladesh (BGB), in the presence of the BSF & NGOs of both sides.

The time taken for this entire process for return and closing of file should take around 21 weeks as per the Order³⁰. However, how far this has been implemented by the concerned officials is debatable. In particular, for women who are in correctional homes this system of repatriation has taken place very rarely. This is the ideal process in which the persons should be sent back to their home but this hardly has been a practice till now. With a few exceptions, the norm has mostly remained a horrible system of forcefully sending them back to their homeland mainly during nights. As the Welfare Officer of Behrampore, S. Mali says, “the unofficial system that takes place is push back. A report of Released Bangladeshi prisoners is submitted by the Jail Superintendent to the nearest Border Security Force. The BSF then gives a date when the police visit the jails to transfer the released prisoners to the BSF. From this point the women are left on their own to go back. Implementation of the proper process of repatriation also becomes difficult as people who cross the border illegally are generally people without resources, belonging to very low economic background and are mostly uneducated, as a result of which authentication of their identity is very difficult to prove. The release prisoners who are ready to be sent back from judicial custody are taken to the nearest border check posts by the police and then handed over to the BSF. There is an understanding between the BSF and the BGB that the whole operations of sending back the released prisoners would take place in absence of the BGB, so that an official seal on the whole process could be denied.

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 Balurghat³¹, 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 wars³². 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.³³ 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.³⁴ Smuggling of cow, Phensedyl, spices and drugs like heroin are smuggled rampantly through the Hilly border and women are often used as carriers as says the day Jail super K. Ghosh.

At the time of this research Balurghat Correctional Home had 8 Rohingya Women officially³⁵. The eight women have come together in a group of 20 from Fanshi, Quarbil, Bali Bazar, Bugrishaw and Bohbazar areas of Rakhine District, Myanmar³⁶. All of them – Noorjahan, Nurkalima, Belma, Mumtaz Begum, Samjhu Nahar, Manohara, Mabia Khatun and Fatema Khatun said they were compelled to flee for mass violence that was unleashed on them from a long time. Fresh vethnic violence has erupted since 2001 devastating them. Their children were not allowed to go to Madrassas (educational institutional designed for Muslim children), they were not allowed to pray, not allowed movement. Some of these women have lost their husbands to brutal torture. They have come through Chittagong in Bangladesh, via a long route to reach India in order to go to Jammu where already some of their relatives have settled in the Rohingya camps. Even the Dumdum Correctional home and Behrampur Correctional Home now have a considerable number of Rohingyas and their fate is even graver than the Bangladeshi nationals since they are basically a stateless community. This means that they cannot be repatriated or sent back to their country as the government of Myanmar does not recognize them as citizens and try pushing them to Bangladesh. So 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. On the other hand, there are also instances like that of Mumtaj Begum (30 yrs) who have already spent a year and nine months in confinement in Balurghat. She has four children of all of whom are staying at two homes. Despite serving a prison term of 19 months she still remains an under trial without appearing even once at the court.



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

The Balurghat Correctional Home has however directly made contacts with the Delhi office of UNHCR in order to rehabilitate the Rohingyas in refugee camps particularly those women who already have got refugee cards like Noorjahan. The Jail Superintendent is regularly in touch with the officials concerned in UNHCR, Delhi; the process again takes up a lot of time. The interesting thing is that Balurghat is trying this completely out of their personal initiative. But for the Rohingyas in other prisons, the wait is ceaseless. Some, we are have spent almost two years in prison after release just because a consensus has not been reached regarding where and how they would be resettled.

The Way Forward?

It is very difficult to arrive at any decision as to what could be done. According to a public statement issued by the Amnesty International way back in 2003 states that, no person regardless of nationality or legal status should be subject to arbitrary arrest or detention, i.e., in absence of any recognizable criminal offence no person should be arrested. It also suggests that any person with a contested nationality or who is unable to prove his/her identity shall have full access to an accountable body to establish legal rights. The Amnesty International had urged both the governments of India and Bangladesh to accept this guideline in order to protect the rights of persons who have “illegally” crossed the Bengal-Bangladesh Border. However, still now this has remained only as a suggestion in

papers. The multifarious problems of the border as we could decipher from the above discussion, especially distinguishing immigrants and trafficked victims among women and children, facilitating speedy deportation and particularly addressing the problem of a long separation of children from their mothers even during deportation, offer very few solutions. 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. For women who are trafficked or have crossed the border for economic reasons and then jailed subsequently, extreme sexual and gendered violence is not hard to imagine. Violence for them is not only physical but structural, embedded in the system in general. The entire journey from home to a prison, living under abject uncertainties, not knowing what lie ahead reeks of extreme violence and might spell trauma for most of them for the rest of their lives. Xenophobic violence coupled with sexual violence has become a routine for residents in the Bengal-Bangladesh Borderland. Interesting here is how women are learning to negotiate with these by juggling multiple identities and turning victimhood as a weapon of survival.

Failed state negotiations and inability of officials to table a decision has further aggravated the problem. The precariousness of the borderland coupled with vested interests has normalized the flow of persons and smuggling of goods. Half of the times women who are caught for trespassing through the border are denied justice simply because they do not tell the truth. It is also evident that most of the times they are taught what exactly and how much they should reveal in judicial custodies which makes things only difficult for them. Often there is fear from which these women do not reveal the names of persons who are bringing them here or how they are being brought. They know that they are under constant surveillance since the agents who bring them here get to know eventually what they confess in courts. What are interesting for these women are the constant negotiations that most of them do in order to cross the borders either while entering or while being repatriating by using their body³⁷. They are no longer victims but through different names and forged identities they have found out ways to normalize the abnormal in their lives. Justice and Freedom like all normative concepts are elusive in this context as there has been a long tradition of over 2500 years of disagreement among various philosophers on the very meaning and definition of 'justice' and 'freedom'. I shall argue that even if justice and freedom are elusive, they are necessary for politics and mobilization. In that case, the primacy of politics, political struggle and dialogue between the concerned authorities become pivotal in addressing injustice and unfreedom. To sum up, the Bengal Bangladesh Border is no more a separate space; it has moved right into the heart of the nation state and is encroaching on the space within. Instead of at the periphery it has become central to the shaping of economy and politics of the two states in question. As Van Schendel states in his pivotal work how borderland studies can tell us much about states because borders form a clear link between geography and politics³⁸.

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 Ranabir Samaddar explains this in one of his working papers entitled ‘Forced Migration Situations as Exceptions in History?’

⁵ By Bengal Borderland I mean the West Bengal-Bangladesh border

⁶ 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.

⁷ This has been borrowed from Professor Van der Velde, President, ABS and Associate Professor, Nijmegen Centre of Border Studies, Netherlands, at a conference organized by the Institute of Chinese Studies, Delhi and Association of Borderland Studies (ABS) at Guwahati on 2nd March 2015.

⁸ Paula Banerjee, *Borders, Histories, Existences: Gender and Beyond*, New Delhi: Sage, 2010,

⁹ Interview taken on November 2014 at Dum Dum Central Correctional Home, North 24 Parganas, West Bengal.

¹⁰ Interview taken on 14 November, 2014 at Alipore Women Correctional Home, Kolkata, West Bengal.

¹¹ <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.

¹² Interview taken on 14 November 2014 at Alipore Women Correctional Home, Kolkata, West Bengal.

¹³ “Fudged Frontiers” in *Crossing Boundaries: Cross Border Mobility of Boys between Bangladesh and India – an Explorative Study*, A report by ‘Sanjog’, 2011, p. 11.

¹⁴ Ranabir Samaddar, *The Marginal nation: Transborder Migration From Bangladesh to West Bengal*, New Delhi: Sage, 2007, p.106.

¹⁵ Data collected from the Directorate of Correctional Services, Department of Correctional Administration, Government of West Bengal on 25.02.2015.

¹⁶ Raju Chakraborty reported in an article “Rajyer Jail Gulite Anuprabeshkarir Sankhya Barche” in *Rajyer Mukh*, January 2014.

¹⁷ Data collected from the Directorate of Correctional Services, Department of Correctional Administration, Government of West Bengal on 25.02.2015.

¹⁸ <http://mha1.nic.in/pdfs/The%20Foreigners%20Act,%201946.pdf> accessed on 17 December 2014.

¹⁹ *ibid*

²⁰ <http://indiankanoon.org/doc/1667568/> accessed on 17 December 2014.

²¹ *ibid*

²² *Ibid*

²³ <http://www.humanrightsinitiative.org/chrinews/2012/17052012.pdf> accessed on 17 December 2014.

²⁴ <http://indiankanoon.org/doc/619940/> accessed on 17 December 2014.

²⁵ <http://indiankanoon.org/doc/886598/> accessed on 17 December 2014.

²⁶ <http://indiankanoon.org/doc/1371751/> accessed on 17 December 2014.

²⁷ ‘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.

²⁸ “Task force set up to stop trafficking in girls”, ‘The Hindu’, Kolkata: 25 May 2014 available in <http://www.thehindu.com/todays-paper/task-force-set-up-to-stop-trafficking-in-girls/article6045714.ece> accessed on 20 December 2014.

²⁹ The Foreigners’ & NRI section of the Home Department is primarily an agency of the Home Affairs and Ministry of the External Affairs which is responsible for issuing India-Bangladesh passports to Indian citizens in the State, granting of extension of stay/ visa to foreigners in West Bengal, processing grant of Indian citizenship and deportation of illegal immigrants and repatriation. – available in [http://home.wb.gov.in/wbhome/Download?action=1&alf_path=Documents&alf_f_name=Home\(FNRI\)%20Official%20doc%20incorporated.pdf](http://home.wb.gov.in/wbhome/Download?action=1&alf_path=Documents&alf_f_name=Home(FNRI)%20Official%20doc%20incorporated.pdf) accessed on 03 January 2015.

³⁰ “Operational Guidelines for West Bengal on Rescue, Safe Return & Repatriation of Women & Child Victims of Trafficking & Cross Border Movement from Bangladesh”, received from ‘Sanlaap’- an organization which

helps and aids trafficked women. Sanlaap also helps in the repatriation process of trafficked children from Bangladesh.

³¹ Dakshin Dinajpur Barta, 15 September, 2014

³²Subir 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.

³³‘Satti bhasha jana Yusuf Islam ke Balurghat theke greptar’, *Antah Salila Falgu*, 2 November 2014.

³⁴ ‘Bidyalyer chhatra o kom boyeshi chhelela chokarbarer sathe jarito,’ *Antah Salila Falgu*, November, 2014.

³⁵ 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.

³⁶ This data was given to us by the Balurghat District Correctional Home authorities.

³⁷ *Borders: Frontiers of Identity, Nation and State*, Hastings Donnan and Thomas N Wilson, 2010, Bloosbury Academy.

³⁸ Willem van Schendel, *The Bengal Borderland: Beyond State and Nation in South Asia*, New Delhi: Anthem Press, p.3.

Continuum of Violence: 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 people. They are there sometimes from their own compulsions and at other times historically they found themselves in that space. 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 aberration and instruments for subversion of 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. So much so that in border areas no one is above suspicion be they people living in the border, crossing it or guarding it.

Discursive Border

“According to Odhikar, between 2000 and September 2010, over 930 Bangladeshi nationals were killed in the border area by the Indian BSF, including at the international frontier in the state of West Bengal...”¹

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 indiscriminate shooting in the Bangladesh border. BSF is also known to start shooting without any warning.

A very poignant account is that of a seventeen year old boy called Shyamol Karmakar. He was from Bangladesh. He had sneaked into India to visit his relatives. On 26 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 report border villagers. On 5 September 2009 Halima Bibi found BSF jawans slapping her 12 year old daughter. When she protested they started hurling abuse on her. “Members of the BSF are described by local residents as

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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.² But many BSF personnel in their conversation with us said that they preferred their duty in Kashmir.³ The report ended with a dramatic expose. In the annexure there were names of the people killed from both sides from 2007 to 2010. Among Bangladeshi nationals 119 people were listed who were killed in 2007. The 2008 list contained names of 61 people, the 2009 list had 98 names and the 2010 list was only up to June and yet it obtained 37 names. Among Indian nationals in 2007, 23 were killed by BSF, in 2008, there were 16 names, in 2009 there were 20 names and until June 2010 there were 2 names.

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’.⁴

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.”⁵ 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.”⁶

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.⁷ The testimony of a torture victim reminded one of the HRW report. The testimony goes like this: “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.” This was the testimony of Mr. Ajber Ali Seikh. He was produced before a magistrate after six days, which itself is illegal.⁸

Human rights reports talk about the victimhood of people caught in the borders. There the discourse is often about numbers dead or injured and little about border people as agents. The discourse in the leading national newspapers on borders take two prominent lines. It either harps on the quantum of people coming into India or on the role of BSF and border criminals. The border people are discussed only incidentally. Even well intentioned report are premised on this question of illegality. One such example is a story that appeared in *India Today* on 14 January 2011. In this story the author describes the situation thus:

“Several immigrants...have, over time, become naturalised citizens of India. They have ration cards, educational certificates, voter identity cards and even passports. Touts on both sides of the border have been helping immigrants for decades now. ‘Earlier, immigrants had to pay Rs. 1000 to Rs. 2000 per person for each document. We now charge anywhere between Rs. 5000 to Rs. 10000 per document per person,’ says one tout.”⁹

If one looks at newspapers that come out from the border areas the coverage is of a different kind. These papers can hardly be called dailies. Typically they begin abruptly, run for a certain time and stop abruptly. The editors may or may not support a political party or line but usually news is about the everyday lives of the people in the area. Even when they carry news of national/international importance there is usually a local twist. In one such story it is said that: “Even though the barbed wires have managed to divide the two countries they have not been able to divide the hearts of the people of the two countries. The love that people have for each other cannot be stopped by the fence. The two people not only share a language but also their hearts so why this fence? This question was raised by Afsar Sheikh, from Rasikpur village in Nadia, when he came to visit his granddaughter Marufa. Marufa broke down in tears when she first saw her grandfather. She wanted so much to touch him but the fence did not let that happen.”¹⁰

Whether it is local pamphlets, national newspapers, scholarly works or dissertation the first question that everyone has to grapple with is this story of incursion/infiltration and demographic change.

Story of Population Movement in Bengal

“A novel phenomenon of demographic pressure started looming larger and larger on the border region centering around Bangladesh. During the last three decades illegal migration from Bangladesh to India are going on unabated. In Bangladesh era, Hindus are coming as usual like in the days of Pakistan due to religious persecution and political pressure but a new feature also started emerging as people from majority segment (Muslim) for different reasons and purposes started coming to West Bengal. Both the Centre and West Bengal governments were generally aware of this development yet no notable concern was visible...”¹¹

Demography is one of the biggest cause of suspicion and violence. Writings such as the one by Bimal Pramanik are progressively getting more popular in the context of Indo-Bangladesh border. However the reality is that from the beginning of the twentieth century at least 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 in terms of percentage 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 however, needs to be contradicted from the table below is that this has been happening from the 1940s and so it is not a recent phenomena at all.

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 is steadily rising from the 1920s. Although nationalist scholars like Bimal Pramanik would have us believe this is entirely because of migration from Bangladesh, there is however another school of thought. The other school of thought argues that this population growth is largely because of increasing fertility rate with a consequent increase in birth rate and a decrease in death rate. A representative scholar of this school of thought says that: "this unprecedented rate of population growth in West Bengal has been caused due to the drastic decline in mortality without decline in fertility after 1950. The ultimate solution to the growing population therefore, lies in the control of family size."¹² 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 sub-divided 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 Bengal¹³

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

It is true that the border districts have increased their population in a sustained manner from the 1950s. However, some points need to be noted here. The next table (No. 4) portrays that there is a decline in population growth even in these district in the last one 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 in terms of percentage there was less people coming. 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 that 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 but 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 of this country. 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 that in the districts where there is a high concentration of Muslim presence there Muslims lived 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. For example, in Murshidabad, a district considered as contentious the Muslim population grew by 28.4 per cent in the last decade. But in fact in the same period the Christian population more than doubled in Murshidabad itself. Although the percentage of Hindus declined between 1991 and 2001 in real terms their numbers increased by 287881.¹⁴ One also has to remember that from the colonial times Murshidabad is a Muslim stronghold.

As for "infiltration" there are many guesstimates. As one reporter suggests a "United Nations review says that Bangladesh should have had a population of 118 million in 1991, but the National Census reported only 108 million citizens. "According to Bangladesh's Census Report, the country had a population growth of over 2.4 per cent. It saw a decrease of more than six million voters within four years in the 1995 electoral roll. These missing voters and the increased number of voters during this period plus a disfranchised 20 lakh voters have infiltrated into India," says Dr Buddhadeb Ghosh, programme coordinator, Indian Statistical Institute, Kolkata."¹⁵ At this juncture there is another question that rears its head and that is to what extent can we ascertain the actual number of undocumented migrants into India. One way of looking at this is to look at the number of undocumented migrants in the border jails. This number is extremely difficult to arrive at without any doubt because neither the local police station nor the local jails perhaps have the complete data and are also not able to share their data on this.

There are a number of newspapers that have reported on the phenomena of the increasing number of illegal migrants from Bangladesh into India. In January 2014 Hindustan Times reported the following:

The fresh spell of violence in Bangladesh has led to a steep increase in real estate prices in West Bengal, with people from the neighbouring country buying land in the eastern state of India.

A leader of Bengal's ruling party, the Trinamool Congress (TMC), feels this is a "phenomenon the last few generations have never seen". "Many are buying land to settle here in future. This is happening in areas such as Duttapukur, Habra, Basirhat and Bongaon (in North 24-Parganas district). Bongaon is a small town. Now, it has very few empty plots left," said Shankar Adda, a TMC leader.¹⁶

My research portrays however that nothing out of the ordinary is happening here. After garnering evidence from both sides it becomes clear that undocumented migration from Bangladesh to West Bengal is an everyday reality. However it is my contention that this migration between Bangladesh and West Bengal continues on the basis of historical routes established in the colonial period. Also this is not the only form of migration. So there is little reason to treat migrants from Bangladesh as an aberration. Neither are they solely responsible for the increase in density of population of West Bengal. It is true that Bangladesh' endemic poverty and political instability has resulted in out migration. As our research portrays the destination of migrants with resources is not India. Only the very poor or those who have family in India try to cross over.

From the profile of Bangladeshis serving term in Indian jails it is apparent that these people are extremely poor and often illiterate. 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.

The Border

As is stated earlier the border traverses through the nine districts of West Bengal if we keep Kolkata aside for now. These include 24 Parganas (South) and 24 Parganas (North), Nadia, Murshidabad, Malda, Dinajpur (North) and Dinajpur (South), Jalpaiguri and Cooch Behar. The two parts of the 24 Parganas are closest to Kolkata and has a high density of population. In real terms the two 24 Parganas are the most populated districts of West Bengal. In 24 Parganas (N) over 67 percent of the land area is used for agricultural purposes. In the 24 Parganas (S) 39.3 percent of the land area is used for agricultural purposes and only 14.4 percent is used for non-agricultural purposes. In it lies the largest mangrove forest in deltaic Bengal, or the Sunderbans. Bangladeshis caught in this region are transported largely to Alipore Correctional facilities. If we travel north from the 24 Parganas we will reach Nadia.

Nadia has an area of 3927 sq kms having a population of 46,04,827 as per Census 2001. has an area of 3927 sq kms having a population of 46,04,827 as per Census 2001. The density of population in this district is 1173 persons per sq km. Nadia is divided into four subdivisions: Tehatta, Krishnanagar, Ranaghat and Kalyani. Until 2006-7 Nadia had 19 police station but in 2014 the number has gone up to 21. 8 of these are in the Indo-Bangladesh border. 1 police station is an all women station. Other than that in most of the other police station women are employed but largely as sentries. Nadia has 265 kms of international border running through it. This is the Indo-Bangladesh border. People caught crossing this border are often taken to Krishnanagar jail and then to the Dum Dum jail.

Travelling in the northerly direction from Nadia following the Indo-Bangladesh border we reach the district of Murshidabad. Before the advent of the British Murshidabad was the seat of power. Murshidabad is divided into 5 sub-divisions: Sadar, Kandi, Jangipur, Lalbagh and Domkai. There are 26 police stations in Murshidabad. The two most sensitive border areas in Murshidabad are Lalgola and Jalangi. For our purposes Jalangi is particularly important as this is a stretch where there are no barbed wires. This is the area most renowned for “infiltration” by the river route. After Murshidabad if we follow the border we reach Malda. Malda is known not only for its contentious border region but also for another form of violence. Although much is being written on it in the recent years it is most poignantly put by an eminent journalist. He writes: “In the last fifty years 3 Gram Panchayats and its 64 *Mauzas* have been erased from the Governmental documents of West Bengal. According to Government official record these Gram panchayats are ‘non-existent’. Though from the Panchayat records their evidential proof has been removed yet they are very much a part of ever present geographical reality.

The Indo-Bangladesh border on leaving behind Malda meanders through Dinajpur North and South. Dinajpur (S) is divided into 8 blocks: These are Kushmandi, Banshihari, Harirampur, Gangarampur, Kumarganj, Tapan, Balurghat and Hili. Until 2006 Dinajpur (S) had 8 police stations. There were over 800 police personnel in the district.¹⁷ Dinajpur (N) is further sub-divided into Islampur and Raiganj. It has 10 police stations and for a district population of 30,00,849 there are over a 1000 police personnel. Just north of Dinajpur (N) is Jalpaiguri. This part is known as North Bengal. In the district of Jalpaiguri we have Phulberri which is a fairly new check point for vehicles crossing the Indo-Bangladesh border.

The last district of West Bengal containing the border with Bangladesh is Cooch Behar. Cooch Behar or Coochbehar has 11 police stations. The 5 important sub-divisions of Coochbehar are Mekhliganj, Mathabhanga, Sadar, Tufanganj and Dinhat. For our purposes Dinhat is of particular significance because it is through this region one accesses the chitmahals. Beyond Coochbehar is the state of Assam.

The Indo-Bangladesh border is 4096.7 kms long of which West Bengal contains 2216.7 kms. As I have already pointed out there are a number of check points in this long border. More than 80 percent of the border has already been fenced. Fencing and floodlighting along the border is considered as an essential part of vigilance along the border. In MEA and MOD documents Bangladesh is habitually recognized as a friendly nation. Through the Gede checkpoint in Nadia district runs a train between Bengal and Bangladesh. It is known as the Maitree Express. Apart from Gede the other important transit points are Basirhat in the 24 Parganas, Lalgola in Murshidabad and the by now famous Benepole-Petrapole checkpoints. The border districts are largely agricultural. It is said that the “high degree of occupational dependence on agriculture, especially in terms of agricultural labour and its rapidly declining income share is an indication of a higher incidence of poverty in the countryside.”¹⁸ Table 7 portrays the endemic poverty of the border region.

Table 7: Poverty of Border Districts in West Bengal

Border Districts	Human Poverty Index	Rank in Prosperity
24 Parganas (N)	29.3	11
24 Parganas (S)	41.0	14
Cooch Behar	42.3	13
Dinajpur (N)	51.2	18
Dinajpur (S)	39.0	12
Jalpaiguri	36.3	4
Malda	46.1	10
Murshidabad	47.4	15
Nadia	30.7	6

Source: West Bengal Human Development Report, 2004 and West Bengal Development Report 2010.

Among the border districts only Jalpaiguri and Nadia seem to be faring slightly better in terms of economy. However, their HPI is high. It is my contention that this endemic poverty has given rise to economic marginalisation, insecurity in terms of income generation and morbidity. This has perhaps facilitated the spread of cross border networks of illegal trade. The security forces are seen as both impediments to this trade as well as facilitators in some cases. This has created an atmosphere of suspicion, resulting in increasing violence both covert and overt.

Reports of harassment of our nationals while visiting contiguous Pak villages by the Pak Muslims were also received from Nadia and Cooch Bihar. The tension over forcible occupation of a portion of Fulbari garden road, PS Rajganj Jalpaiguri by the Pak authorities has ceased gradually after our police force took possession of the land claimed by Pak authorities without any assistance. The line of demarcation of the disputed road has been agreed upon by the directors of Land Records and survey of both the states.

The Pak authorities are reported to be not in favour of allowing the Hindus to live in border areas and pressure is therefore being given indirectly through the Ansars to leave the border areas.¹⁹

The 1950s set the tone of what it meant to administer the border land. Even today the main concerns remain with population flow. The fencing is meant to harness that flow. The other area of concern as emerged from the IB files of the 1950s is national security. The fact that remains the main area of concern needs hardly any mention. The ills that plagued the border areas then continue even today. Smuggling, dacoity are all common place in the border areas. The security forces are blamed either for their complicity or their brutal attitude towards the border people when failing to stop these activities that were marked as security hazards.

Incidents of crime in the border areas has remained high from the time of partition as is evidenced from the police files of the time. Even with the new millennium this region has continued to remain crime prone as is evidenced from table 8.

Table 8: Comparison of Types of Offences Committed in a Few Border Districts

Districts	2002	2002	2002	2004	2004	2004	2006	2006	2006
	Murder	Dacoity	Riot	Murder	Dacoity	Riot	Murder	Dacoity	Riot
Nadia	99	18	228	98	7	170	101	14	164
Dinajpur (N)	38	10	48	36	6	17	35	12	35
Malda	50	3	25	63	12	42	62	10	47
Dinajpur (S)	17	2	9	15	2	10	19	0	5
Mrshidabad	127	14	132	99	14	139	77	6	175
Coochbehar	30	5	40	24	0	15	32	2	45

Source: Numbers taken from District Statistical Handbooks of Coochbehar, Dinajpur (N) and (S), Nadia, Murshidabad and Malda, 2007

If one looks at the data on rioting it becomes apparent that the borders have facilitated the threats to become mobile. Borders are then moving inwards. Let us also look at the situation of violent crimes against women and see whether border districts reflect a different reality from the one presented by the mainland.

Table 9: Crimes against Women and Total No. Of Violent Crimes-2012

Districts	Rape	Abduction of Women	Assault on Women with Intent	Cruelty by Husband or relative	Total number of Violent Crimes
24 Parganas (N)	118	338	196	1860	11765
24 Parganas (S)	244	419	83	1666	14370
Birbhum	49	76	87	245	3083
Burdwan	58	65	145	224	4674
Coochbehar	92	169	117	539	3491
Dinajpur (N)	92	258	150	623	5212
Dinajpur (S)	66	107	83	342	2725
Hoogly	68	145	86	1195	6434
Jalpaiguri	163	279	179	1625	7861
Malda	158	189	177	660	5634
Murshidabad	257	464	609	2831	12713
Nadia	174	374	56	1860	11919
Paschim Medinipur	64	115	99	823	5000
Purulia	50	34	64	206	1841

Source: NCRB 2012

It is therefore clear from table 9 that violent crimes against women is higher in these districts. The only crime against women that is universally high is cruelty by husband or relatives. Now that we have one portrayal of the violence let us consider the violence that is leashed to combat this violence.

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.²⁰ 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.”²¹ 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.²² Until 2012 BSF had 79 Bns (with four bns in counter intelligence activities) in the Indo-Bangladesh border of which 38 were in the West Bengal-Bangladesh sector. This is soon meant to become 41 Bns by the end of 2014. In 1965 Calcutta became the headquarters of the Eastern Frontier of BSF. The Shillong Frontier was carved out of the Eastern Frontier in 1971 when it became the West Bengal FTR. This was further sub-divided into the North Bengal and South Bengal FTRs. The North Bengal FTR consisted of 932.39 kms. with responsibility over 33 kms of Dahagram-Angarpota Enclave and the corridor connecting it called the Teen Bigha corridor. On 1 September 2010 a new frontier was carved out of the two Bengal Frontiers called the Malda Frontier. Originally there were 9 bns in the Malda FTR. Two new battalions are added to that number respectively in Farakka and Panjipara.

The stated role of the BSF is two-fold with wartime and peace time activities. They include:²³

(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:²⁴

1. Porosity of the border
2. Unfenced riverine areas
3. Presence of Enclaves
4. Habitation up to 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

To make the border more secure the Department of Border Management was created within the Ministry of Home Affairs in 2004 and the Border Area Program (BADP) was launched. The department is responsible for fencing the border and floodlighting the road. In West Bengal in the first phase 507 km of fence has been constructed. In the second phase another 964 km was sanctioned. The total length of the Indo-Bangladesh border that is to be fenced is 3286.87 kms. The rest of the area cannot be fenced because it is riverine or low lying and also because there are people living within 150 kms. In addition 3663 kms of border roads have been sanctioned and the construction work is almost finished.²⁵ In 2012 there were 802 border outposts with 383 more sanctioned. Other than that the GOI also sanctioned money for floodlighting 1535.31 km of the West Bengal-Bangladesh border. Integrated check posts are also being developed in the border. Much of this is to mitigate violence but somehow the result is diametrically opposite.

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.²⁶ 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.²⁷

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.²⁸ 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.”²⁹

In 2005 in another incident between the two forces a BSF officer was killed due to firing by BDR.³⁰ 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.”³¹ 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.”³²

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.³³ 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 lose. The BSF me 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 is 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 field. The entire family is devastated. Mohammad who was never very vociferous has altogether stopped speaking. He only answers in monosyllable when he does. The family was sure that since the BSF was obviously in the wrong they

would take care of Mohammad but that did not happen. The family complained to the police with little hope of justice. Hopelessness is all that they have now.³⁴ This is not the only case of firing wrongfully. When we visited Hatkhola we found out that there were so many more such cases.

When Sania's wedding to Fikarul was fixed there were a number of controversies. Sonia was a high school graduate and Fikarul was not. This is now an emergent truth in most villages of Bengal. Not only was Sonia pretty and far more educated than Fikarul she could also manage to speak in English. Further, Fikarul lived in the notorious Hatkhola village. But Sonia'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.³⁵ 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."³⁶

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."³⁷

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. The police praised Bn 119, which was infamous in Hatkhola, for their robust action against illegal traders. The police called Bn 119 (G) as a proactive company that was not easy to corrupt. When asked about Fikarul the police said the BSF has lodged at least 5 FIR's against him for aiding and abetting cattle rustler.³⁸

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 cattle 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 them with 'Dah and Lathi'. Apprehending serious danger to the life of BSF personnel No. 94254366 CT Jagmal Singh 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.³⁹

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.⁴⁰

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 now 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.”⁴¹ 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. One such case is that of Hamida, a young Bangladeshi girl, who was brought to India at the tender age of ten. She “suffered a series of brutal rapes at the hands of the man who brought her to New Delhi, along with some of his friends who were Delhi policemen... Only one of the accused men has served jail time.”⁴² 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.⁴³ 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.⁴⁴ 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.⁴⁵

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.⁴⁶ 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

Table 10: Comparative Crime Figure of Chapra PS from 2011 to 2014 (up to 31.03.14)

Year	Robbery	Theft	Murder	Rioting	Arms Act	CAW & Rape	Others	Total
2011	5	40	9	6	26	165	381	662
2012	6	41	6	6	24	165	413	661
2013		27	4	3	9	185	675	903
2014 (upto 31.03.14)		7	3		6	47	166	230

Source: Statistic Collected From Chapra P.S.

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 Indian they are considered harbingers of aliens and therefore threatening to the security of the nation.⁴⁷ 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 find a dyad in violence let us seize this moment to understand that the problem of borders can only be addressed through the political and dialogic process of mutual exchange.

Notes

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