

Death on the Indo-Bangla Border Threatening to Regional Peace: A Critical Appraisal

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Abstract: Unfortunate death on cross border is today's debatable concern. Especially, the killings that take place in the border parts is a massive violation of human rights. Every country should provide fundamental protection to its citizen by law, under which they can secure their basic fundamental rights. Bangladesh is such a country itself. However, the innocent killings that occur in the Indo-Bangla border, force people to think, are they actually safe in their own country? Who will give them protection in such cases? There is no proper implementation of law in those areas and that is why external border security force often takes the chance of immense killing. Key concentration of this article is to show how the massive killings take place in the Indo-Bangladesh border due to the lack of proper implementation of law and bilateral agreements between India and Bangladesh with justified arguments. This article also identifies the effective measures to handle threat factors to ensure justice for all those ordinary Bangladeshi peoples residing in Indo-Bangla border area who are affected by Indian border security force in unjustified way.

Keywords: *Border Killing, Regional Peace, Regional Conflict, Indo-Bangla Treaty, Security Force.*

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I. INTRODUCTION:

Bangladesh and India share a border of 2,429 miles.¹ The Bangladeshi geographical divisions of Dhaka, Khulna, Rajshahi, Rangpur, Sylhet, and Chittagong, along with Indian states of West Bengal, Assam, Meghalaya, Tripura, and Mizoram are situated along the border.² India has assembled the Indo-Bangladeshi barrier which is 3,406 kilometer (2,116 miles) and a fence of hooked wire and concrete just beneath 3 meters in height and is mend to stop trespass and the smuggling of weapons and narcotics.³ During the second half of the twentieth century, civil society organizations and international bodies took renewed-interest in promoting equity and harmony in society by protecting the basic civil, political, economic, social, and environmental rights of all people. For them, human progress can only be attained if the civil and political rights of individuals and groups are established and protected.⁴ Development will undoubtedly falter if people are not liberated from poverty, education, health, safety, a clean, protected environment, and empowered to represent and speak for themselves which include all alienable human rights.⁵ Nonetheless, Bangladesh facilitates its citizens with the same fundamental protections. The Constitution of Bangladesh, reflecting the people's commitment to safeguard human rights, is based on the Universal Declaration of Human Rights.⁶ The Constitution pledges eighteen fundamental civil and political rights, including equality before law, right to life and personal liberty, safeguards as to arrest and detention, freedom of assembly, freedom of occupation, protection in respect of trial and punishment, rights to property, etc.⁷ The same safeguard applies in Indo-Bangla border as if it shares a long fence border and people living in those areas require protection to life. But unfortunately, the killing that is going on these border areas is a total violation of human rights. Lack of strong laws or peace treaties concerning

¹Violations in the border area, Odhikar <<http://odhikar.org/violations-in-the-border-area/>> last accessed on 07 November 2019, time 13:20 p.m.

² Ibid

³ Ibid

⁴ Zafarullah, Habib Mohammad and Rahman, Md. Habibur, "Human Rights, Civil Society and Nongovernmental Organizations: The Nexus in Bangladesh", (2002) 24 *PROJECT MUSE* which was last accessed on 01st November 2019 at about 6.40 pm <<http://muse.jhu.edu/journals/hrq/summary/v024/24.4zafarullah.html>>

⁵ Ibid

⁶ Ibid

⁷ Ibid

Bangladesh and India can be the reason behind this. Increasing innocent killings in these zones need an eternal solution to this and apt laws ought to be implemented.

II. RATIONALE AND OBJECTIVES OF THE STUDY:

The key objective of this article is to ensure the regional peace and to reduce the regional conflicts between Indo-Bangla border areas. To achieve the key objective, this article concentrates on the following objectives: -

- i.** To evaluate the existing Indo-Bangla treaties concerning regional peace and security in border.
- ii.** To find out the reasons of unjustified border killings by external armed forces.
- iii.** To raise justice in favour of the unfortunate Bangladeshi victims against external extra judicial killings and torture in Indo-Bangla border.
- iv.** To make recommendations be inserted in future friendly Indo-Bangla agreement in protecting secured and friendly border.

III. RESEARCH METHODOLOGY:

The present study is an outcome of amalgamation of various types of work: Methodologies for this research study include qualitative as well as to some extent quantitative data processing technique for data collected from publications of concerned authorities, available books, research studies, articles on related topic, key note paper presented in conference, news paper reporting, internet.

IV. KEY FACTORS OF AGGRESSIVE ATTITUDE OF EXTERNAL BORDER SECURITY FORCE OVER BANGLADESHI ORDINARY CIVILIANS IN BORDER IN SPITE OF EXISTING INDO-BANGLA TREATIES AND UNDERSTANDINGS:

Domestic laws that protects individual's basic rights and among these rights, right to life is the most fundamental. As Bangladesh shares a long fence border with India and conflict in these areas increasing highly, the protection by law should come into force in those areas more. Normally this kind of border securities are ensured under International Laws which prohibits killing innocent people between border areas, human trafficking, smuggling and many more which directly links to the universal protection of human rights. As Bangladesh and India, both member states of the *United Nations Universal Declarations of Human Rights, 1948*⁸, the people living in the border of Bangladesh and India is protected under this declaration and killings and torture of ordinary people without proper judicial proceedings for illegal crossing border or smuggling and trafficking between those border areas is not legally justified. The killing of innocent people in Bangladesh border is increasing day by day. No proper initiatives have been taken by the both Governments to reduce the number of killings in those areas. It is true that the constitution of Bangladesh and international law give protection to the people of border area but there is no proper implementation of those laws and that is why the border area killings are increasing day by day. The number of killing rate is so high there that the innocent people fear to live on those particular areas. They cannot even live a normal life out there visualizing what would happen to them in the next day. Sometimes the violation increases so much that they forced to leave their homes forever. Bangladesh recently signed a treaty⁹ with India of desiring to make more effective the cooperation of the two countries in the suppression of crime by making further provision for the reciprocal extradition of offenders improve their border relations. On October 23, 2013, the long-awaited extradition treaty between India and Bangladesh came into force and the treaty was signed on January 28, 2013 and was approved by both the cabinets of Bangladesh and India in the same month.¹⁰ Bangladesh and India should try to execute a similar treaty which will only deal with the border peace issue. There is enough space for both the countries to bring border killing question into their concerns they have already signed a treaty to improve their inner relation. A number of cases, including the Felani murder case, have established that the external border security force is involved in flouting human security. Any treaty alone may not ensure human security in these areas until or unless such border killings are stopped. No treaty or agreement can bring peace unless both countries border security forces cooperate with their complete willingness. It is similarly true in terms of extradition treaty between India and Bangladesh,¹¹ the treaty has come into force, the level of cooperation between these

⁸ *United Nations Universal Declarations of Human Rights, 1948*, adopted by United Nations General Assembly on 10th December 1948, 999 *U.N.T.S.* 302 (entered into force on March 23, 1976)

⁹ *TREATY BETWEEN THE THE REPUBLIC OF INDIA AND PEOPLE'S REPUBLIC OF BANGLADESH RELATING TO EXTRADITION*, Bangladesh-India, Signed 28th January 2013, (entered into force 23rd October 2013) <<http://www.satp.org/satporgtp/countries/bangladesh/document/papers/IBT13.pdf>> last accessed on 15 November 2019, time 16:30 p.m.

¹⁰ Ibid

¹¹ Noor, Mohammad Sarker, "Implementing Indo-Bangladesh extradition treaty", (5 December 2013) *The Financial Express* <<http://www.thefinancialexpress-bd.com/2013/12/05/7294/print>> last accessed on 10 November 2019, time 16:30 p.m.

countries would ultimately decide the effectiveness and durability of the agreement and as a big, powerful and influential neighbor, India has the major responsibility to make the treaty effective because this killings in Bangladesh border is a clear violation of United Nations Universal Declaration of Human Rights.¹² Bangladesh Government also failed to secure its border citizens life because the native laws have no proper implementation. Though the constitution of Bangladesh includes protection by law and right to life for every citizen including border areas, the killings of innocent people has not been stopped yet. It is the first and foremost duty of each Government to take proper initiatives to stop the killings in border areas. India is a decidedly powerful country and Bangladesh shares land as well as maritime border with India in almost all its sides whereas India shares the border of a number of its intensive security zones, Seven Sisters, with Bangladesh.¹³ Although two neighboring countries share huge land and maritime borders, geographically India has a clear advantage over its counterpart as physically Bangladesh is almost surrounded by India.¹⁴ As most of the time Indian Government supports Bangladesh Government in many cases and Bangladesh is dependent continuously in India over many issues, the Government of both countries always wanted to maintain a sound relation with each other. But the frequent killings took place in border areas, in most of the cases both Governments go on silent. Initially, when border killing in unjustified legal way come to pass, the victim's family went to the nearby police station to lodge a case but it turn into impossible to file a complaint against the external border security force as we do not have the territorial jurisdiction. In this situation, both governments should enter into these matters and find a possible way out through the diplomatic politics. Unfortunately, to some extent, instances of external border security forces shooting, killing, torturing and abducting unarmed Bangladeshi civilians in the border areas violate international norms and treaties. Members of that forces also illegally enter into the territory of Bangladesh and attack people residing along the border, shoot, destruction of valuable household property, kidnap Bangladeshis for unjustified blames and allegations of smuggling and illegal border crossing. According to the Memorandum of Understanding and related treaties signed between India and Bangladesh, if citizens of the two countries illegally cross the border, it would be considered trespass and as per Memorandum of Understanding, those persons should be handed over to the civilian authority.¹⁵ Nevertheless, it is often noticed that external border security force has been violating treaties by shooting in unjustified way at anyone seen near the border or anyone trying to cross the border, which is a clear violation of international law and human rights.¹⁶ Kurity Roy is a researcher in the "Trigger Happy" project.¹⁷ She said: "*As the de facto complainant, we were never summoned to appear or depose before any inquiry conducted by the BSF. However, we are aware that in some cases, family members or victims did appear before the BSF court of inquiry and No verdicts were also made public*".¹⁸ According to the Bangladeshi authorities, India has never provided details of any border security force personnel who have been prosecuted for human rights violations and if this legal protection of security forces and civilian officials implicated in criminal offenses continues, a culture of impunity will prevail and abuses will continue.¹⁹ That armed personnel are in theory liable to be produced before an internal court for making cruel, indecent or unnatural kind of behavior, although they claims that these courts are routinely used to prosecute those that commit crimes or violate the Border Security Force Act, there are no publicly known cases in which their any member was convicted of a crime for a human rights abuse at the India-Bangladesh border.²⁰ BSF personnel are not answerable to the local administration and the police, in fact, often refuse to register complaints against the BSF.²¹ Under India's Border Security Force Act, BSF personnel cannot be prosecuted in civilian courts without approval from the federal home ministry, permission that is seldom granted, but the authorities say that BSF personnel are prosecuted by internal courts, where the hearings and verdicts are not public.²² This deeply blemished system of liability has failed to serve as operative pre-emption against human rights violations. In talks between the BSF and the BDR, held on March 9, 2010, both sides

¹² Ibid

¹³ Ibid

¹⁴ Ibid

¹⁵ Supra note.1

¹⁶ Ibid

¹⁷ "Trigger Happy"-Excessive Use of Force by Indian Troops at the Bangladesh Border (December 2010) Odhikar<<http://1dgy051vgyxh41o8cj16kk7s19f2.wpengine.netdna-cdn.com/wp-content/uploads/2010/12/publication-Trigger-Happy-border-violence-2010-eng.pdf>> last accessed on 07 November 2019, time 13:30 p.m.

¹⁸ Ibid

¹⁹ Ibid

²⁰ Ibid

²¹ Ibid

²² Ibid

agreed to contain violent attacks on civilians.²³BSF Director General Raman Srivastava said: “*We have agreed to ensure that no innocent civilian is shot by the troops. We have no reason to fire at innocent civilians*”. After signing a Joint Record of Discussions,²⁴ the Director General of BDR Major General Mainul Islam, who led the Bangladeshi team at the talks, said: The Indian side clearly conveyed to us that they would maintain zero tolerance to killing of innocent Bangladeshis at the borders. However, Bangladesh also accepted in this context that it too “needs to motivate its people” not to undertake any illegal act across the border.²⁵ But still such kinds of border killings in Bangladesh India border has not been stopped. It is high time for the Indian government, as they claim to follow the rule of law and respect basic rights, to take strong steps to end such kinds of killings in Bangladesh India border. The United Nations Basic Principles on the Use of Force and Firearms by Law Enforcement Officials calls upon officials to apply, as far as possible, nonviolent means before resorting to the use of force and firearms.²⁶ Even in self-defense, intentional lethal use of firearms is permitted only when strictly unavoidable in order to protect life and officials are required to exercise restraint and act in proportion to the seriousness of the offence.²⁷ The external border security force seems to be out of control with orders to shoot any suspect but in most of the operations they ignore the most basic rule of law, the “presumption of innocence”.²⁸ No one is obligatory to be punished until and unless he is proved guilty and they have no right of punishing people before the trail. Approximately ignorant observers in Bangladesh have often lifted the idea of presenting a case before the International Court of Justice as the consensus-based nature of the jurisdiction of the ICJ but this would not be possible.²⁹ The jurisdiction of the ICJ can only be invoked in this matter³⁰ if, (a) both parties agree or (b) there is a compromiser clause in a treaty providing for jurisdiction or (c) both parties accept the optional clause on jurisdiction in the ICJ statute. The first option is irrelevant as India is improbable to acquiesce to the jurisdiction of the ICJ in this matter and the second option would not apply as there is no treaty between India and Bangladesh containing a compromiser clause on this matter and finally, the third option would not apply as although India accepted the optional clause on jurisdiction of the ICJ in 1974, the declaration accepting the optional clause explicitly excludes ‘disputes with the government of any state which is or has been a member of the Commonwealth nations’ from its scope.³¹ As Bangladesh is a member of the Commonwealth, this optional clause would prevent Bangladesh from exploring this avenue.³²

V. RECENT ADVERSE TRENDS AND UNCERTAINTIES IN INDO-BANGLA BORDER THROUGH EXTERNAL BORDER SECURITY FORCES:

Human Rights Watch said, the government of India should undertake an immediate criminal investigation into fresh allegations of killings, torture, and other abuses by the BSF at the border with Bangladesh.³³In December 2010, Human Rights Watch released a report called “Trigger Happy” which focuses on extrajudicial killings, arbitrary detention, torture, and ill treatment by the BSF.³⁴ Previously, the BSF has killed Indian and Bangladeshi nationals and after the release of the report, Indian authorities assured Bangladeshi officials that these killings would be stopped and the Government declared that it would order limitation and encourage the use of rubber bullets instead of more lethal ammunition which are welcomed by Human Rights

²³ Ibid

²⁴ Ibid

²⁵ Ibid

²⁶ Ibid

²⁷ Ibid

²⁸ Fundamental principle under which every defendant who enters a criminal trial is presumed to be innocent under common law system (prevalent in the UK, USA, British Commonwealth, and some other countries). This presumption remains valid until he or she is proven guilty in the due process of law. It is the prosecutor's (government's) burden to prove guilt beyond a reasonable doubt, the defendant is under no obligation to prove his or her innocence except in the rebuttal of the evidence presented <<http://www.businessdictionary.com/definition/presumption-of-innocence.html>> last accessed on 04 November 2019, time 15:30 p.m.

²⁹ Islam, Md. Rizwanul, “*Are BSF members above the law?*” (14th September 2013) NEW AGE

<http://newagebd.com/old_archives/detail.php?date=2013-09-14&nid=65112>

³⁰ STATUTE OF THE INTERNATIONAL COURT OF JUSTICE, INTERNATIONAL COURT OF JUSTICE

<<http://www.icj-cij.org/documents/?p1=4&p2=2&p3=0>> last accessed on 20 November 2019, time 14:30 p.m.

³¹ Ibid

³² Ibid

³³ India: New Killings, Torture at Bangladeshi Border(25 July 2011) HUMAN RIGHTS WATCH <<http://www.hrw.org/news/2011/07/24/india-new-killings-torture-bangladeshi-border>> last accessed on 12 November 2019, time 15:30 p.m.

³⁴ Ibid

Watch.³⁵Whereas, the number of deaths owing to shooting has considerably diminished in 2011, the Bangladeshi non-governmental organization named Odhikar has documented at least 17 alleged killings of Bangladeshis by the border force since January and local people also experienced several cases of deaths as a result of severe beatings by the BSF.³⁶On June 30, BSF forces killed Mizanur Rahman (25). According to Odhikar, he had slipped into India along with four other cattle rustlers, when border guards intercepted them.³⁷The others escaped, but the soldiers allegedly beat Rahman to death and dumped his body into the Saniyazan River³⁸. On April 18, 2011, border force soldiers killed Rekatul Islam, 17, as he and his accomplice, Mohammad Shahdat Hossain, Odhikar, tried to smuggle cattle across the border. Shahdat said they were stopped by BSF soldiers as they tried to cross the border with 10 cows. Shahdat was injured but escaped.³⁹ Local police forces rarely register complaints against border security, encouraging the victims to drop their cases as nothing will come of it.⁴⁰ One victim told Human Rights watch that the police informed him that the border forces had committed no crime since they were there to beat the people.⁴¹ The violence is routine and arbitrary. Alauddin Biswas described to Human Rights Watch the killing of his 24-year-old nephew, who was suspected of cattle rustling, by Indian border guards in March 2010.⁴² He said, “*The BSF had shot him while he was lying on his back. They shot him in the forehead. If he was running away, he would have been shot in the back. They just killed him*”. The BSF claimed self-defense, but no weapons were recovered.⁴³ Nazrul Islam, a Bangladeshi, was luckier as he was headed to India to smuggle cows back to Bangladesh.⁴⁴ He said, “*At around 3am we decided to cross the Indian border, as soon as the BSF saw us, they started firing without warning. Islam was shot in his arm, but survived*”.⁴⁵India's Border Security Force (BSF), has carried out a practice which is known as “A shoot-to-kill policy”⁴⁶even on unarmed local villagers. Over the past 10 years Indian security forces have killed almost 1,000 people, mostly Bangladeshis and no one has been prosecuted for any of these killings, in spite of evidence in many cases that makes it clear the killings were in cold blood against unarmed and defenseless local residents.⁴⁷Outrageously, some Indian officials endorse shooting people who attempt to cross the border illegally, even if they are unarmed and more shocking is the lack of interest in these killings by foreign governments who claim to be concerned with human rights.⁴⁸When a single killing by US law enforcement along the Mexican border makes headlines, the killing of large numbers of villagers by Indian forces has been almost entirely ignored.⁴⁹India has the right to impose border controls but India does not have the right to use lethal force except where strictly necessary to protect life and yet, some Indian officials openly admit that unarmed civilians are being killed.⁵⁰ The head of the BSF, Raman Srivastava, says that people should not feel sorry for the victims, as these individuals were illegally entering their territory, often at night, they were not innocent and thus were a genuine target.⁵¹Though India is a state with functional courts, he apparently believes the BSF can act as judge, jury and executioner⁵² and that is why they ignore many victims, such as a 13-year-old named Abdur Rakib, who broke no law and was killed simply because he was near the fence and sadly, Bangladeshi border officials have also suggested that such killings are acceptable if the victim was engaged in smuggling.⁵³For instance, the recent Wiki Leaks report about endemic torture in Kashmir highlights⁵⁴, Indian soldiers and police habitually commit human rights violations shorn of any costs. This needs permission by a senior Indian official for the police to even begin an investigation into a crime committed by a member of the

³⁵ Ibid

³⁶ Ibid

³⁷ Ibid

³⁸ Ibid

³⁹ Ibid

⁴⁰ Ibid

⁴¹ Ibid

⁴² Adams, Brad, “*India’s shoot-to kill policy at Bangladesh border*”, (23 January 2011) the guardian <http://www.theguardian.com/commentisfree/libertycentral/2011/jan/23/india-bangladesh-border-shoot-to-kill-policy>, last accessed on 17 November 2019, time 13:30 p.m.

⁴³ Ibid

⁴⁴ Ibid

⁴⁵ Ibid

⁴⁶ Ibid

⁴⁷ Ibid

⁴⁸ Ibid

⁴⁹ Ibid

⁵⁰ Ibid

⁵¹ Ibid

⁵² ibid

⁵³ Ibid

⁵⁴ Ibid

security forces, such as the BSF but this rarely happens.⁵⁵The response of various government officials to allegations of the practice of shoot-to-kill policy has been confusing. He said,⁵⁶ *“We do shoot illegal border crossers since they are lawbreakers; we don't shoot border crossers; we only shoot in self-defense; we never shoot to kill”*. But there may be a chance for some solution as under pressure, senior Indian officials have uttered repulsion at the behavior of their border security force and thus assured to send new orders to end the shoot-to-kill practice.⁵⁷ They have committed to use nonviolent means to capture illegal border crossers or smugglers where they pose no risk to life but the question is whether this will be interpreted into action on the ground as similar promises of zero tolerance for abuses have been made in Kashmir and elsewhere but have not been fulfilled.⁵⁸ A number of survivors and eyewitnesses of attacks contend that the BSF affianced in unselective shooting without warning.⁵⁹ Seventeen-year-old Bangladeshi Shyamol Karmokar grassed into India to visit relatives and when on January 26, 2010, he decided to return to Bangladesh with the help of cattle-rustlers, Mohammad Zahid who had agreed to bring Shyamol back to Bangladesh, said that they were spotted by the BSF close to the border, in addition to make an attempt to arrest them, BSF officers immediately opened fire and thus Shyamol was killed.⁶⁰The BSF says that most of the civilians killed by its personnel are smugglers, cattle-rustlers, or others gaining unauthorized entry.⁶¹The BSF also points out that it has a duty to prevent illegal activities and during an official visit to Bangladesh and talks between the BSF and the BDR in September 2010, Raman Srivastava, Director General of the BSF, reportedly said in response to allegations that BSF troopers were killing innocent and unarmed Bangladeshi civilians.⁶² He said: *“We have made it clear that we have objection to the word ‘killing, as it suggests that we are intentionally killing people. We fire at criminals who violate the border norms”*. Claiming that smuggling and illegal infiltration was fecund and the deaths have occurred in Indian territory and mostly during night, so how can they be innocent?⁶³Another killing case was the Farid Hossain case. According to Mohammad Zahir, Farid had offered to go bring a cow from India and for that Zahir, Farid, and five others crossed over through the Kazipara border by cutting the border fence and they went to Haptia village near the Indian Haptia BSF camp.⁶⁴ He said: *“While returning, we were chased by the BSF. All of us were able to escape but Farid hid in a tea garden. On February 6, in the morning, I heard that Farid had been shot to death by the BSF. I was summoned by the BDR Camp Commander where I admitted all the facts”*. On February 6, at 7:40 p.m., the BSF handed over Farid's body at a flag meeting and said that an autopsy had been conducted, and the report said that there were bullet wounds to the chest.⁶⁵ The Bangladesh police then handed the body over to the family for burial but his family suspects that Farid had been tortured as there were injuries and broken bones and therefore Odhikar⁶⁶ also interviewed the BDR camp commander Abu Baker Siddique who said that the body had severe scratches all over his face, which had been caused by a dog probably used by the BSF to chase suspects and also The BSF Camp Commander, Nirodh Kumar, allegedly told the BDR that six or seven persons were seen cutting the border fence.⁶⁷ While chasing them, the group scattered and ran away and Farid hid in a tea garden. The BSF used a trained dog to track Farid down and the soldiers shot him as he tried to evade arrest.⁶⁸Another killing case is the killing of Monirul Islam,⁶⁹ a 23-year-old resident of Chapainobabganj district, was killed by the BSF after he had managed to cross back into Bangladeshi territory. Abdul Kaiyum described that his son Monirul worked in the field with him and had dinner with him and at around 9 p.m. and then Abdul Kaiyum then went to bed.⁷⁰ He now assumes that his son then secretly went out to meet cattle-rustlers. Abdul Latif who was with Monirul on the night of the incident,⁷¹ said: *“Some of us including Monirul crossed into India around midnight to bring cows. We entered into*

⁵⁵ Ibid

⁵⁶ Ibid

⁵⁷ Ibid

⁵⁸ Ibid

⁵⁹“Trigger Happy”-Excessive Use of Force by Indian Troops at the Bangladesh Border (December 2010) Odhikar<<http://1dgy051vgyxh41o8cj16kk7s19f2.wpengine.netdna-cdn.com/wp-content/uploads/2010/12/publication-Trigger-Happy-border-violence-2010-eng.pdf>> Last accessed on 13 November 2019, time 16:30 p.m.

⁶⁰ Ibid

⁶¹ Ibid

⁶² Ibid

⁶³ Ibid

⁶⁴ Ibid

⁶⁵ Ibid

⁶⁶ Ibid

⁶⁷ Ibid

⁶⁸ Ibid

⁶⁹ Ibid

⁷⁰ Ibid

⁷¹ Ibid

Bangladesh through the Shing Nagar border around 6:30 a.m., when we discovered that we were being chased by the BSF. At that time, we had already crossed the Chulkani Bil, which is 200 yards inside Bangladesh territory. The BSF started shooting at us from the no man's land. As gunshots were fired, everyone scattered but Monirul fell to the ground. He had been shot in the chest". BSF tried to fetch Monirul's body to India but in the meantime, people gathered around, and they had to go back.⁷² Major Nazrul Islam, BDR commander,⁷³ said that: "On January 9, 2010, BDR was informed by villagers that a body had been found at Chulkani Bil. Monirul's body had a gunshot wound on the left side of his chest. BDR claimed that Monirul was a cattle-rustler". Constable Yameen Ali⁷⁴ said: "On January 9, 2010, the police found that the BSF had shot a villager and the body was found inside Bangladesh. It appeared that the BSF had spotted the cattle-rustlers once the group had already entered into Bangladesh". He confirmed that Monirul Islam was involved with the cattle smugglers.⁷⁵ One of the massive killing cases by BSF in Bangladesh border is the Felani killing case.⁷⁶ The acquittal of the only accused in the Felani Khatun murder case by a special court of Indian border forces creates a place for strong criticism and a number of cabinet members already expressed their resentment at the verdict that acquitted BSF constable Amiya Ghosh of killing Felani, a teenage Bangladeshi girl in Kurigram border on January 7, 2011.⁷⁷ A lot of analysts were also critical about the role of Bangladesh officials, saying they had failed to act sincerely during the trial.⁷⁸ They had hoped that India would set an example by punishing the BSF constable for the killing but it became a mockery of justice as the General Security Forces Court of the Border Security Force in Koch Bihar district of India said that BSF constable Amiya Ghosh was not guilty of shooting Felani as she had crossed into Bangladesh from the Indian side.⁷⁹ The Indian border guards shot dead Felani when she was crossing the border into Bangladesh over barbed-wire fences and the incident had a photograph of Felani being stuck shot dead in the barbed-wire fence caused local and international outcry.⁸⁰ She was one of 214 Bangladeshis killed in the borders between January 2009 and June 2013.⁸¹

VI. RECOMMENDATIONS:

It becomes essential to take various actions and implementations of following recommendations to reduce the issues of extra judicial death on Indo-Bangla border and ensure amicable peaceful environment in border areas:-

- i. Both the Government of India and Bangladesh should introduce an effective accountable mechanism tools to monitor border security forces regularly in considering the bilateral treaty and memorandum of understanding between India and Bangladesh.
- ii. Regular dialogue sessions, awareness creating seminars and workshops in diplomatic level in joint venture of both countries should be organized in order to upgrade and reach the regular memorandum of understanding to overcome future various crisis situations in the Indo-Bangla border areas.
- iii. Both countries should reach a definite point of agreement through a bilateral treaty that must not allow any border security force of each country to open fire first except on the grounds of self-defense.
- iv. Need to immediate introduce the idea of joint court system to settle the cases regarding to the crossing border line issues, smuggling, and other trafficking related offences which should ensure the principles of natural justice during the time of trial of such offences.
- v. The communication at diplomatic level between both countries should be free from bureaucratic redtapism to overcome the frequent crisis situation arises in Indo-Bangla border areas.

⁷² Ibid

⁷³ Ibid

⁷⁴ Ibid

⁷⁵ Ibid

⁷⁶ Nation Disappointed at Felani verdict (8 September 2013) NEW AGE, See at <<http://newagebd.com/detail.php?date=2013-09-08&nid=64386#.U7luUbHy-dU>>

⁷⁷ Ibid

⁷⁸ Ibid

⁷⁹ Ibid

⁸⁰ Ibid

⁸¹ Ibid

- vi. Failure of the BSF's internal justice system to prosecute its own members for human rights abuses personnel of all ranks implicated in serious rights abuses should be investigated by civilian authorities and should be prosecuted in civilian courts.
- vii. Both the government should establish conjointly an independent and impartial commission of inquiry for the border killing of innocent people by any side of border security force.
- viii. The government should invite both Indian and Bangladeshi nationals to submit evidence and bring complaints to such a commission. This should be a time bound inquiry and should have the ability to provide protection to witnesses.
- ix. The UN Department of Peacekeeping Operations could be requested as a co-operation partner to monitor both sides' border security forces.
- x. Need to introduce a new memorandum of understanding between both countries so that the Indian government should publicly order its border security force to abide by the United Nations Basic Principles on the Use of Force and Fire arm.

VII. CONCLUDING REMARKS:

Cross border killing of innocent people in Bangladesh is a massive violation of human rights. It is worth noting that the Indian government and the top brass of their border forces should spend time to assure the effective steps against border killing in their Bangladesh counterparts. However, such steps have been hardly forthcoming thus far. It is also worth noting that the Indian authorities have failed to deliver on its promise of stopping border killings. Our Government should focus more on this situation and thus implement proper laws to improve the border killing statistics. It is time for Bangladesh and India that they should join hands to intensify protests against such flagrant violations of human rights on the border and take effective steps to end border killings.

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