

Sehnsucht?

Survival and Resilience in the Indo-Bangladesh Enclaves

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Men are conditioned beings because everything they come in contact with turns immediately into a condition of their existence. The world in which the vita activa spends itself consists of things produced by human activities; but the things that owe their existence exclusively to men nevertheless constantly condition their human makers. In addition to the conditions under which life is given to man on earth, and partly out of them, men constantly create their own, self-made conditions, which, their human origins notwithstanding, possess the same conditioning power as natural things. Whatever touches or enters into a sustained relationship with human life immediately assumes the character of a condition of human existence. This is why men, no matter what they do, are always conditioned beings. Whatever enters the human world of its own accord or is drawn into it by human effort becomes part of the human condition.

—Hannah Arendt¹

An introductory anecdote

Who remembers Mayamana Khatun of Poaturkuthi in Cooch Behar? Not many; not many even in North Bengal, perhaps, where the district of Cooch Behar is situated [4.1]. To refresh memory, Khatun, a 29-year-old mother of two, had filed her nomination papers from the Dinhata assembly constituency of Cooch Behar in 2011. She was contesting as a candidate of the Indian People's Forward Bloc (IPFB), or the Janabadi Forward Bloc in Bengali, which had emerged through a split in the All-India Forward Bloc (AIFB). Heavy-weight leaders of the AIFB had gone over to the new party. Among them, were Jayanta Roy, the former AIFB Rajya Sabha member; Chhaya Ghosh, former West Bengal minister of agriculture; Amar Roy Pradhan, the AIFB MP from the Cooch Behar parliamentary constituency who had won a record eight times between

¹*The Human Condition*, Chicago: University of Chicago Press, 1989, p. 9

1977 and 1999;² and Dipak Sengupta, the AIFB MLA from the Sitai assembly constituency of Cooch Behar who had won four times between 1977 and 1991.³ It would seem therefore that such a haemorrhage would affect the AIFB (and the Left Front of which it is a part) adversely electorally in North Bengal, especially when we consider the fact that, ahead of the 2006 legislative election, IPFB reached an alliance with the Congress, the other major player in the district.

However, that was never the case. The Left Front, along with the AIFB, continued to hold sway in the district, particularly in the four assembly constituencies — Mekliganj, Sitalkuchi, Sitai and Dinhata — which share the border with Bangladesh and, as such, are critically important for the purposes of the present report [4.2]. In fact, in Mekliganj — a constituency which will be given particular importance in the present report — the AIFB has never been defeated since 1962 barring the single term of the Congress MLA Madhu Sudan Roy between 1972 and 1977.⁴ Even in the historic 2011 assembly elections, which resulted in a landslide victory for the Congress-Trinamool Congress alliance and the end of the 34-year-long Left Front rule in the state, the Left Front did considerably well in these constituencies. The Congress-Trinamool Congress candidates won in Sitalkuchi and Sitai but only by a whisker while Dinhata elected the AIFB candidate by a huge margin.⁵

² Cooch Behar Parliamentary Constituency, West Bengal, Party-wise comparison since 1977, Election Commission of India, http://www.eci.nic.in/eci_main/electionanalysis/GE/PartyCompWinner/S25/partycomp01.htm [accessed on February 29, 2012]

³ Sitai Assembly Constituency, West Bengal, Party-wise comparison since 1977, Election Commission of India, <http://eci.nic.in/archive/ElectionAnalysis/AE/S25/Partycomp06.htm> [accessed on February 29, 2012]

⁴ Mekliganj Assembly Constituency, West Bengal, Party-wise comparison since 1977, Election Commission of India, <http://eci.nic.in/archive/ElectionAnalysis/AE/S25/Partycomp01.htm> [accessed on February 29, 2012]; For 1962, 1967, 1969, 1971 and 1972, see the “Statistical Reports of Assembly Elections” on the relevant years for West Bengal, Election Commission of India, http://eci.nic.in/eci_main1/ElectionStatistics.aspx [accessed on February 29, 2012]

⁵ At Dinhata, Udayan Guha of AIFB defeated the independent candidate Dr Muhammad Fazle Haque by 30,026 votes. At Sitalkuchi, Hiten Barman of Trinamool Congress defeated Communist Party of India (Marxist)’s (CPI(M)’s) Biswanath Pramanik by a slender margin of 257 votes, even though Barman had for decades been a front-line AIFB leader who, sensing the impending change in political dispensation, had timely shifted loyalty. At Sitai, Congress’s Keshab Chandra Ray fared no better than Barman and defeated AIFB’s Dipak Kumar Roy by 1,577 votes. For Dinhata see, Constituency: Dinhata, West Bengal Assembly Election 2011, Empowering India, <http://www.empoweringindia.org/new/constituency.aspx?eid=736&cid=7> [accessed on February 29, 2012]; for Sitalkuchi see, Constituency: Sitalkuchi, West Bengal Assembly Election 2011, Empowering India, <http://www.empoweringindia.org/new/constituency.aspx?eid=736&cid=5> [accessed on February 29, 2012]; for Sitai see, Constituency: Sitai, West Bengal Assembly Election 2011, Empowering India, <http://www.empoweringindia.org/new/constituency.aspx?eid=736&cid=6> [accessed on February 29, 2012].

Mayamana Khatun's chances of winning from Dinhata were non-existent. She was pitted against veritable political titans. The frontrunner was Udayan Guha of the AIFB whose father Kamal Guha, while he lived, was the undefeatable AIFB MLA from Dinhata, elected in 1962 and 1967 and then continuously from 1977 till 2001, no matter which party he represented (in 1996 he represented the break-away group, Forward Bloc (Socialist)) or whom he contested against.⁶ The AIFB MLA of Sitai, Dipak Sen Gupta, was brought over to Dinhata to fight against Guha in 1996 and was defeated. Sen Gupta again took his chances in 2001, this time as a Trinamool candidate, and lost yet again, after which he went over to the IPFB.

Udayan Guha's chief opponent was Muhammad Fazle Haque contesting as an independent candidate. He had been the Congress MLA from Sitai for four consecutive terms between 1967 and 1972 and then got re-elected to the seat again as an independent candidate in 1996 and as a Congress candidate in 2006.⁷ In this marathon of mammoths, Khatun should not have even got a mention in the media. Yet, she succeeded in grabbing not inconsiderable media attention.⁸ The novelty factor that got her media coverage at the hustings was the fact that she was the only electoral candidate of post-colonial South-Asian history who hailed from one of the Indo-Bangladeshi enclaves or *chhit*-s, as they are called in Bengali. Khatun's case deserves closer attention; therefore, we will have to return to her later. As of now, let us begin by considering the categories of critical concern involved in a discussion of the Indo-Bangladeshi enclaves.

Chhitmahal

⁶ For 1962 and 1967, see the "Statistical Reports of Assembly Elections" on the relevant years for West Bengal, Election Commission of India, http://eci.nic.in/eci_main1/ElectionStatistics.aspx [accessed on February 29, 2012]; Dinhata Assembly Constituency, West Bengal, Party-wise Comparison Since 1977, Election Commission of India, <http://eci.nic.in/archive/ElectionAnalysis/AE/S25/Partycomp07.htm> [accessed on February 29, 2012].

⁷ For 1967, 1969, 1971 and 1972, see the "Statistical Reports of Assembly Elections" on the relevant years for West Bengal, Election Commission of India, http://eci.nic.in/eci_main1/ElectionStatistics.aspx [accessed on February 29, 2012]; Sitai Assembly Constituency, West Bengal, Party-wise comparison since 1977, Election Commission of India, <http://eci.nic.in/archive/ElectionAnalysis/AE/S25/Partycomp06.htm> [accessed on February 29, 2012]

⁸ See, for instance, Arpita Chakraborty, "She's the reason for Bangla enclave on Bengal poll map", *The Indian Express*, April 17, 2011.

The numerous Indo-Bangladeshi enclaves, which are sprinkled along the international border of Bangladesh and India, are collectively known as *chhitmahal* and constitute a bizarre political geography. Most of these enclaves are in the Cooch Behar and Jalpaiguri districts of West Bengal, India, and in the Kurigram, Nilphamari, Lalmonirhaat and Pachagarh districts of Bangladesh. In his magisterial study of the enclaves of India and Bangladesh, Brendan R. Whyte tells us there are exactly 198 enclaves in total — 106 Indian enclaves in Bangladesh and 92 Bangladeshi enclaves in India. These totals, for Whyte, include three Indian and 21 Bangladeshi counter-enclaves inside the exclaves of the other country and one Indian counter-counter-enclave inside a Bangladeshi counter-enclave.⁹ 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.¹⁰ The map, reproduced here [Map 4.3], 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.”

¹¹ 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).”¹² In Sen’s estimate, then, there are no less

⁹ 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/RMLYH2U45FV5PF1U6XV5I3D1FPLOGG3JGJG6MGGSFSL8K16NDH-01756?func=d-bin-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.

¹⁰ Willem van Schendel, “Stateless in South Asia: The Making of the India-Bangladesh Enclaves”, *The Journal of Asian Studies*, 61:1, 2002, p. 117.

¹¹ Ibid, fn 9.

¹² Arindam Kumar Sen, *Nei-Manusher Panchali: Chhitmahal Shamashya, Manabadhikarer Lojja* [Chronicles of Absent-Humans: The *Chhitmahal* Conundrum, Shame of Human Rights]. Kolkata: Bharatiya Chhitmahaler Chhinnamool o Adhibashi Nagorik Adhikar Shurakkha Shamiti, 2003, p. 4. Since Sen gives no citation to corroborate

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.¹³

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."¹⁴ Combining the approximate estimates of population given by those who had come to settle on the Indian mainland from Indian enclaves in Bangladesh, the number of subjects who paid land revenue to the king of Cooch Behar and the partial data that the enclave-dwellers produced by conducting amateurish micro-censuses of their areas of residence in 1996-97, Sen provides the guesstimate that more than 100,000 people lives in the

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.

¹³ 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."

¹⁴ Whyte, *Waiting for the Esquimo*, p. 194.

enclaves.¹⁵ 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.¹⁶ 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.¹⁷ 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.¹⁸ 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.”¹⁹ 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.”²⁰ 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

¹⁵ Sen, *Nei-Manusher Panchali*, p. 5.

¹⁶ Mandal, “Census begins”.

¹⁷ Dasgupta, “In a state of limbo”.

¹⁸ We will have the opportunity to return to the BBEECC in greater detail when we take up Mayamana Khatun’s case later.

¹⁹ Reported in Dasgupta, “In a state of limbo”.

²⁰ Amar Roy Pradhan, *Rule of Jungle*, Kolkata: Published by Sanchayita Roy Pradhan, 1995, p. 2.

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?

On the tracks of 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.²¹ 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,

²¹*Samsad Bengali-English Dictionary*, Kolkata: Sahitya Samsad, 1988

“[s]overeignty was expressed not so much in terms of territorial contiguity as in terms of jurisdiction and tax flows.”²² 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.²³ 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.²⁴ 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.

²² Van Schendel, “Stateless in South Asia”, p. 119.

²³ 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.

²⁴ Joya Chatterji, “The Fashioning of a Frontier: The Radcliffe Line and Bengal’s Border Landscape, 1947-52”, *Modern Asian Studies*, 33:1: 185-242.

The first such attempt came only in August 1950.²⁵ 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.²⁶ 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.²⁷ 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.²⁸ 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

²⁵ *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].

²⁶ *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]

²⁷ See van Schendel, "Stateless in South Asia", p. 124.

²⁸ "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.

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.²⁹

Stateless in law

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 Persons³⁰ and the 1961 Convention on the Reduction of Statelessness.³¹ As of December 8, 2013, there were 79 state

²⁹ 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.

³⁰ 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.

³¹ 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

parties to the convention of 1954³² and 55 state parties to the 1961 convention.³³ India and Bangladesh are party to neither. Yet, the conventions, insofar as they provide, a working frame for identifying and addressing statelessness, provide us an important legal *entrée* into the problem of the enclave-dwellers. Further, they help us engage with and interrogate the activism of Indian and Bangladeshi governments, or the lack of it, in comparison to how other states in the world have gone about addressing statelessness.

To begin with, however, one needs to establish if, from the legal point of view, the people of the *chhitmahal* qualify as stateless. The International Law Commission observes that the definition of a stateless person contained in Article 1(1) of the 1954 Convention is now an integral part of customary international law. Both the 1954 Convention and the 1961 Convention exclusively deal with the issue of statelessness. Both these legal instruments explain statelessness predominantly in two ways: *de jure* and *de facto*.³⁴ 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

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.

³² United Nations Treaty Collection, Chapter V: Refugees and Stateless Persons, 3. Convention relating to the Status of Stateless Persons

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

³³ 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]

³⁴ 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.

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.³⁵

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.

What about the nation's responsibility towards its people?

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

³⁵ 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.

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.”³⁶ However, three years passed and concrete steps were yet to be taken.³⁷ 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.”³⁸ 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

³⁶Decisions 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]

³⁷ “Short Comment on Enclaves”, *Amrita Bazaar Patrika*, February 15, 1953.

³⁸ 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.

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.³⁹ 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

³⁹ For the text of the agreement, see Whyte, *Waiting for the Esquimo*, Appendix 1-41, pp. 378-380.

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."⁴⁰ 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

⁴⁰ 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].

reason for the delay in exchange in the first phase was at least partly because the exchange was linked to the Berubari affair.⁴¹

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, map 4. 5) 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.⁴²

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,⁴³ 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.⁴⁴ Soon fighting broke out in the area, resulting in heavy

⁴¹ "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.

⁴² CR 1B2-28/52 (85-89, July 1955), cf. CR 1B2-3/53 (2057-84, January 1955)

⁴³ Jha, *Indo-Pakistan Relations*

⁴⁴ "Unprovoked Attack by East Pakistan Forces", *The Statesman*, March 19, 1965.

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.⁴⁵ 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.⁴⁶

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,⁴⁷ while BJP broadsheets (that is, the religious right) attacking the Tin Bigha transfer suggest Bangladesh initiated the idea.⁴⁸

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

⁴⁵ “Uproar over Firing on Border”, *The Statesman*, March 20, 1965; “Situation worsens on Border”, *The Statesman*, March 29, 1965.

⁴⁶ “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.

⁴⁷ 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.

⁴⁸ “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.

in 1982⁴⁹ but not enforced till 1992.⁵⁰ 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.⁵¹ 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 world of the enclaves: the case of Kuchlibari in particular

Van Schendel is of the opinion:

⁴⁹ "Tin Bigha Lease Terms Agreement", October 7, 1982; for the text see Whyte, *Waiting for the Esquimo*, Appendix 1-43, pp. 382-83.

⁵⁰ "Tin Bigha Lease Modalities", March 26, 1992; for the text see Whyte, *Waiting for the Esquimo*, Appendix 1-44, p. 384.

⁵¹ See Whyte, *Waiting for the Esquimo*, pp. 135-159.

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.⁵²

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.”⁵³ This may have caused her enough grief and anger for her to have contested the 2011 assembly polls as a candidate from the Dinhata seat.⁵⁴

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

⁵² Van Schendel, “Stateless in South Asia”, p. 116.

⁵³ Chakraborty, “She’s the reason”.

⁵⁴ 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.

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.”⁵⁵ The BBEECC is not a voice in the wilderness. Under the capable leadership of its assistant secretary, Diptiman Sen Gupta, it has been able to mobilize the enclave dwellers and has been organizing a number of hunger strikes in the enclaves as well as in Dinhata town to put pressure on the powers that be.⁵⁶ 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 identitary 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

⁵⁵ Diptiman Sen Gupta quoted in “Enclave members”.

⁵⁶ “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”.

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.⁵⁷ 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."⁵⁸

⁵⁷ Van Schendel, "Stateless in South Asia", *passim*.

⁵⁸ The cases have been quoted from Van Schendel, "Stateless in South Asia" and Sen, *Nei-Manusher Panchali*.

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.⁵⁹ 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.⁶⁰ 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.⁶¹

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.⁶² Rana

⁵⁹ Sen, *Nei-Manusher Panchali*, p. 6.

⁶⁰ Report of the Director of Agriculture, Evaluation Wing, quoted in Sen, *Nei-Manusher Panchali*, p. 6.

⁶¹ Reported in Dasgupta, "In a State of Limbo".

⁶² Ibid.

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.⁶³ 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

⁶³ 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.

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.⁶⁴ 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

⁶⁴ Van Schendel, “Stateless in South Asia”, p. 131.

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 Dinhata 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,⁶⁵ 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 prurruption. Pene-enclaves are,

⁶⁵ 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.

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 prorraption into Bangladesh located in Kuchlibari [Map 4.5: the bulbous Indian landmass that projects into Bangladesh, north of the Jikabari Border Outpost or BoP1]. 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. In doing so, if these people have normalized their state of precariousness, then it amounts to a psychopathological condition that is best avoided. In this sense, the BBEECC is correct in demanding an immediate and effective exchange of the enclaves. But, in the process of achieving such an exchange — if, that is, the states in question are at all serious about it — they would do well to take into account the way people have recreated their *modus vivendi* in the trackless and patchy border-frontier of India and Bangladesh.

ENDNOTES