



INDIA/BANGLADESH

“Trigger Happy”

Excessive Use of Force by Indian Troops
at the Bangladesh Border

HUMAN
RIGHTS
WATCH





**“Trigger Happy”
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at the Bangladesh Border**

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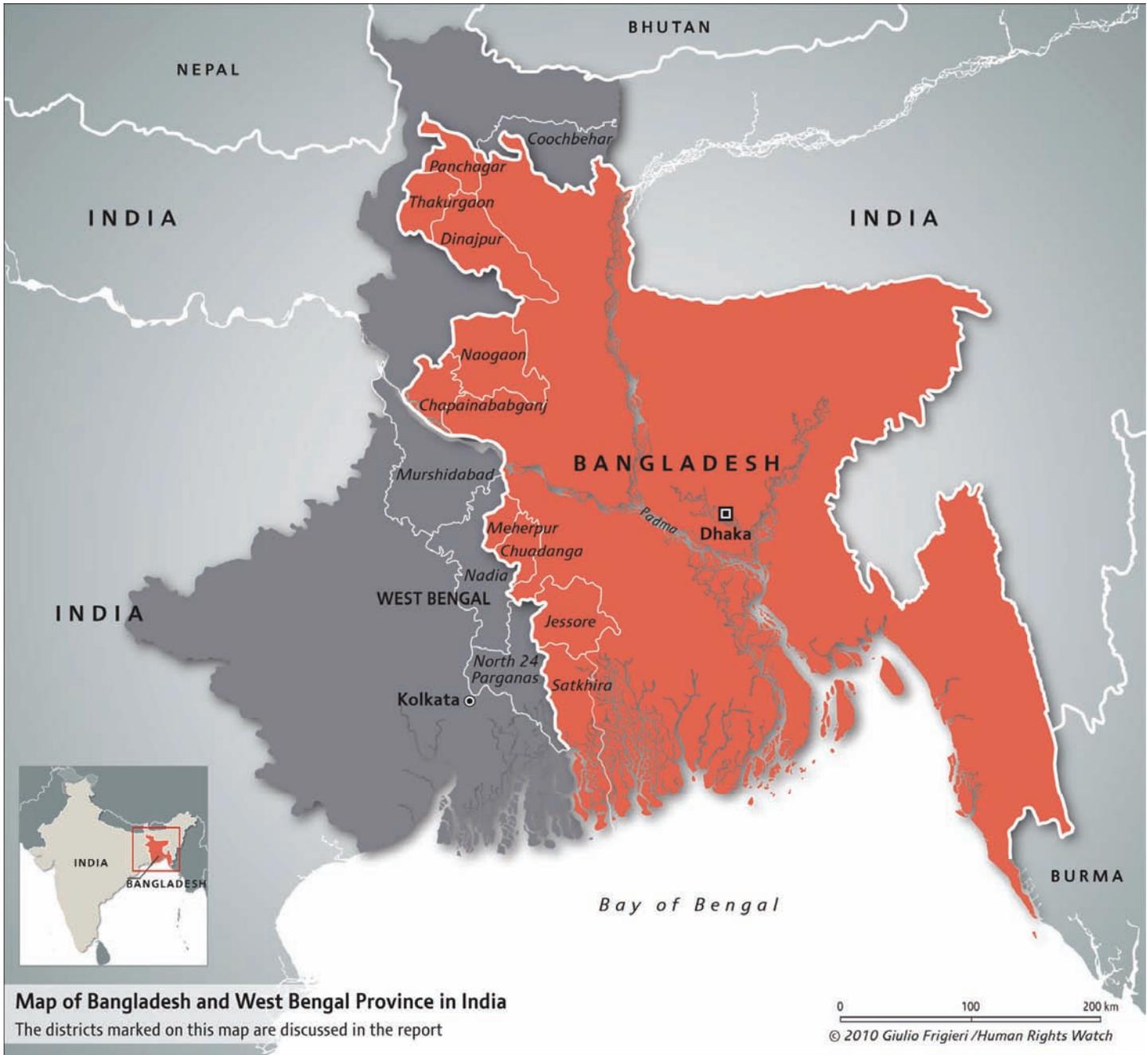
Map of India and Bangladesh	1
Map of Bangladesh and West Bengal Province in India	2
Summary	3
Key Recommendations	8
Methodology.....	10
I. Background: Risk of Attacks by Border Guards	12
Border Guards	13
Crimes in Border Areas	17
Problems for Border Residents	19
II. Excessive Use of Force and Indiscriminate Killings by the BSF.....	21
Attacks on Bangladeshi Nationals	22
<i>Killing of Farid Hossain.....</i>	<i>22</i>
<i>Killing of Shyamol Karmokar.....</i>	<i>23</i>
<i>Killing of Nazrul Islam.....</i>	<i>24</i>
<i>Killing of Shahidul Islam.....</i>	<i>26</i>
<i>Killing of Monirul Islam.....</i>	<i>27</i>
<i>Killing of Shafiqul Islam.....</i>	<i>28</i>
<i>Killing of Abdur Rakib, a 13-year-old boy.....</i>	<i>29</i>
<i>Indiscriminate Shooting at Nazrul Islam and Anwar Hossain.....</i>	<i>30</i>
<i>Injuries to Rumi Akhter Nipa, a 12-year-old girl.....</i>	<i>31</i>
Attacks on Indian Nationals.....	32
<i>Killing of Basirun Bibi and Baby Ashique</i>	<i>33</i>
<i>Killing of Atiur Rahman</i>	<i>33</i>
<i>Killing of Shahjahan Gazi.....</i>	<i>35</i>

<i>Killing of Noor Hossain, a 17-year-old boy</i>	36
<i>Killing of Shyamsundar Mondal</i>	37
<i>Killing of Sushanta Mondal, a 13-year-old boy</i>	38
<i>Killing of Abdus Samad</i>	39
<i>Killing of Sanjit Mondal, a 17-year-old boy</i>	41
<i>Killing of Shibajit Mondal</i>	41
<i>Killing of Peparul Seikh, a 16-year-old boy</i>	42
<i>Indiscriminate Shooting of Mrityunjoy Mondal</i>	43
III. Torture and Ill-Treatment of Border Residents	45
Torture and Ill-Treatment of Bangladeshi Nationals	46
<i>Death due to Torture of Hasnat Halsham Innu, a 15-year-old boy</i>	46
<i>Torture of Motiar Rahman</i>	47
<i>Torture of Kamrul Islam and Aktarul, a 17-year-old child</i>	48
<i>Torture and Killing of Abdul Jalil</i>	49
Torture and Ill-Treatment of Indian Nationals	51
<i>Beating of Mainul Islam, a 14-year-old boy</i>	51
<i>Torture of Nirsingha Mondal</i>	52
<i>Beating of Taibul Rahman</i>	53
<i>Beating of Indrajit, Sanjit, and Surajit Mondal, two of them children</i>	55
<i>Mistreatment of Halima Bibi and her Daughter Kulduma Khatun</i>	56
<i>Ill-Treatment of Tutan Sheikh, Khalil Sheikh, and Hasibul Shiekh, a 14-year-old boy</i>	57
IV. Recommendations	58
Annex I: Alleged Killings of Bangladeshi Nationals by the BSF	61
Annex II: Alleged Killings of Indian Nationals by the BSF	77
Acknowledgements	81

Map of India and Bangladesh



Map of Bangladesh and West Bengal Province in India



Summary

This report documents a pattern of grave abuses by India's Border Security Force (BSF) against both Bangladeshi and Indian nationals in the border area along India's 2,000 kilometer long international frontier with Bangladesh in West Bengal state. The abuses include cases of indiscriminate killing and torture.

Most of the abuses documented in this report are related to efforts by the Indian government to deal with cross-border smuggling, particularly cattle-rustling. However, as this report shows, the abusive methods used by the BSF are disproportionate to the problems that the Indian government faces on its eastern border. Numerous ordinary Indian and Bangladeshi citizens resident in the border area end up as the victims of BSF abuses, which range from verbal abuse and intimidation to torture, beatings, and killings. Furthermore, because of the near total absence of effective accountability mechanisms for abuses carried out by members of the BSF, even the most serious abuses by border guards go unpunished. This sends a clear message that the Indian government finds such abuses acceptable.

The border area between India and Bangladesh is heavily populated and acutely poor. Many farmers on both sides of the border have also lost their farms and livelihoods to river erosion. Illegal cross-border activities, such as cattle-rustling, and trafficking in persons and narcotics, have flourished. In several of the cases documented in this report, victims were beaten up or killed while smuggling cattle across the border at night. Others were tortured or killed merely on suspicion of being involved in cattle-rustling. Children, reportedly employed by smugglers to reduce the risk of detection, are among the victims whose cases are documented below.

Several survivors and eyewitnesses of attacks allege that the BSF engaged in indiscriminate shooting without warning. Seventeen-year-old Bangladeshi Shyamol Karmokar sneaked into India to visit relatives. On January 26, 2010, he decided to return to Bangladesh with the assistance of cattle-rustlers. Mohammad Zahid, who had agreed to bring Shyamol back to Bangladesh, said that they were detected by the BSF close to the border. Instead of attempting to arrest them, BSF officers immediately opened fire. Shyamol was killed.

Torture is also rife. On January 25, 2010, Motiar Rahman, a Bangladeshi national strayed across the border while cutting grass, a common mistake since there are no clear markers. According to Motiar Rahman, he was captured by two BSF soldiers:

They blindfolded me and took me to the BSF camp. I thought that the BSF were going to kill me. After reaching the camp, the BSF personnel removed the blindfold and tied me to a tree. They left me there for over 15 hours, until 11 p.m. at night. Then they gave me some food. But once I had finished my meal, the BSF started torturing me. I was beaten severely with a bamboo stick on my back and feet by the same soldier who brought me the food. I was kicked several times and as a result started bleeding from my penis. Another soldier started beating me on my head with a bamboo stick. This went on for at least 45 minutes... The BSF men jumped on my chest, and kicked me on my head and face with their boots.

Indian villagers residing in the border areas also accuse the BSF of not just indiscriminate shooting, but unprovoked beatings. Indian national Halima Bibi said her 12-year-old daughter was slapped and beaten by three BSF personnel on September 5, 2009 outside their home close to the border with Bangladesh. When Halima Bibi protested, she was verbally abused with sexual insults.

Nirsingha Mondal, from India's Murshidabad district, said that on May 10, 2009, he had gone out as usual in the morning to collect firewood for cooking. He was dragged into a nearby BSF camp by two soldiers, who beat him up and accused him of stealing flowers from their garden.

The Indian government says it is seeking to contain the smuggling and mass economic migration from Bangladesh. In recent years, India has also alleged that separatist militants in its northeastern states find sanctuary in Bangladesh and cross into India to perpetrate terrorist attacks. However few of those killed by the BSF have ever been shown to have been involved in terrorism. In an effort to secure the border the Indian government is constructing a large 3,200 kilometer fence. But in densely populated areas of the border, where land is cultivated right up to the international boundary, the border fence is already exacerbating the problems faced by residents of the border areas.

The BSF justifies the killing of suspected smugglers by claiming that they were evading arrest, or that its personnel had to fire in self-defense. But suspicion of a crime or evasion of arrest cannot alone justify the use of lethal force. In fact, even India's domestic laws which allow "all means necessary" in case a person attempts to use force to resist arrest, specifically forbid causing the death of a person who is not accused of an offense punishable by death or a life term.

In all the cases we investigated, the alleged criminals were either unarmed or armed with only sickles, sticks, and knives, which suggest that in shooting victims, the border guards are likely to have used excessive force. In a number of cases, the victims were shot in the back, suggesting that they were running away. In others, injuries indicate the person was shot at close range, with witnesses often alleging that the person was tortured and killed in BSF custody. Other victims appear to have fallen victim to bullets because they were too close to the border.

When someone is killed during a BSF operation, the BSF is required to file a report with the police. In such cases the BSF usually justifies the killing by accusing the victim of obstructing a public servant while performing his duties, unlawful assembly, or attempted murder. In none of the cases investigated by Human Rights Watch did the BSF show that it had recovered lethal weapons or explosives that could pose an imminent threat of death or serious injury that might justify killings in self-defense.

The Bangladeshi authorities have repeatedly complained about the rampant killing of its nationals by the BSF, as have human rights groups in both countries. Odhikar has documented cases of nearly a 1000 Bangladeshi nationals that have been killed by BSF over the last decade. Describing the BSF as “trigger happy,” Bangladesh Home Minister, Sahara Khatun, said in May 2010 that she would again ask New Delhi to stop these incidents.

Despite these strong comments from Khatun, the Bangladesh Rifles (BDR), which is responsible for guarding the border from the Bangladeshi side and reports to the Bangladeshi Home Ministry, often fails to defend the rights of Bangladeshi citizens. The BDR is deployed to contain the smuggling of weapons, explosives, and narcotic substances including Phensedyl, a cough syrup that is banned in Bangladesh, but commonly used as a recreational drug. However, the Indian border authorities complain that their Bangladeshi counterparts do not do enough to prevent illegal cross-border smuggling.

In researching this report, the Bangladeshi human rights organization Odhikar and Human Rights Watch interviewed several BDR officials about Bangladeshi victims. In most cases, if the BSF presented evidence of smuggling, the BDR did not complain about Bangladeshi nationals being killed. For instance, with respect to the killing of Shyamol Karmokar, the BDR Camp Commander at Wahedpur border, Subedar Sirajul Islam, said that while his death was “unfortunate and sad,” the BSF had opened fire believing him to be a cattle trader because he was with a group of rustlers. “Thus there was nothing wrong with the fact that the BSF has shot him.”

In March 2010, BDR chief Maj. Gen. Mainul Islam, explaining that there was a history of “people and cattle trafficking during darkness,” said of the killings: “We should not be worried about such incidents.... We have discussed the matter and will ensure that no innocent people will be killed.” During an official visit to Bangladesh in September 2010, Raman Srivastava, Director General of the BSF, responded to Bangladesh’s complaints that the BSF were killing “innocent, unarmed” Bangladeshi civilians by saying: “We fire at criminals who violate the border norms. The deaths have occurred in Indian territory and mostly during night, so how can they be innocent?”

These comments suggest that officials of both governments believe that it is legal to use lethal force against those suspected of being engaged in smuggling or other illegal activities. This amounts to a de facto shoot-to-kill policy for smugglers, and violates both national and international standards on the right to life and the presumption of innocence which are applicable in India and Bangladesh.

The BDR raises serious concerns with the BSF only when cases of indiscriminate firing lead to the death of villagers not involved in smuggling. For instance, on March 13, 2009, a BSF trooper got into an argument with a boy fishing in a lake, barely 20 meters from the international border. According to eyewitnesses, when the altercation became heated, the soldier opened fire, hitting two boys who were grazing their buffaloes nearby. Thirteen-year-old Abdur Rakib was shot in the chest and died instantly. Mohammad Omar Faruq, 15, was injured and later described the indiscriminate firing. A flag meeting was held between the BDR and the BSF the next day to discuss the incident. The BSF initially tried to insist that the victims were illegal cattle traders, but the BDR personnel presented witness accounts countering this version. Some villagers who were present during the flag meeting said that the BSF eventually apologized and promised that the soldier responsible would be punished. It is not clear if any disciplinary action was taken.

Members of the BSF are described by local residents as unsympathetic, aggressive, and violent. This may be explained by the fact that many are deployed to the region after difficult and tense tours of duty on the India-Pakistan border in Kashmir. Human Rights Watch researchers witnessed BSF troopers shouting at villagers, calling them names, and often making them wait for hours as each person was searched and signed as they crossed BSF outposts, to reach their fields or homes which adjoin the border.

To prevent the accidental shooting of villagers, an informal curfew is imposed on both sides of the border at night. But the restriction of movement after dark causes numerous difficulties. In India, the BSF patrols are deployed in posts a few kilometers inside Indian

territory. They restrict access to areas beyond the outposts, effectively cutting people off from their farms or markets. To prevent infiltration by Bangladeshi nationals, the BSF require residents to surrender their identity or citizenship cards when they cross the border outposts and to claim them on return. Mithoo Sheikh, a young man in Murshidabad, said that there are long queues as the BSF checks each identity:

Sometimes by the time we get to the field it is noon. And we have stop work by 4 p.m. because they stop us from returning after dark. The BSF does not understand cultivation problems. We cannot water our fields at noon. Sometimes we only get water at night, but they will not let us remain in the field. If we disobey, we get beatings or they file false charges... We are treated as outsiders in our country.

The police are unwilling to lodge complaints against the BSF. When Tutan Sheikh, an Indian national, complained to the police that he and his brothers were subjected to unprovoked beatings by the BSF, he was told by the police officer on duty that the BSF trooper had committed no crime since the BSF was there to “beat the people.” In another case, after Indian national Noor Hossain was killed by the BSF, police told family members who wanted to lodge a complaint: “Why do you bother? What will happen to the BSF? Nothing can happen to the BSF. The BSF will say that the ... border area is under their control.”

The Indian NGO Banglar Manabadhikar Suraksha Mancha (MASUM), one of Human Rights Watch’s partners in researching this report, has repeatedly approached the courts, the National Human Rights Commission (NHRC), the National Minorities Commission, the National Commission for Scheduled Castes and Scheduled Tribes as well as the National Commission for Protection of Child Rights, to hold abusers accountable. None of the cases raised have been brought to a satisfactory conclusion. According to Kirity Roy, who heads MASUM, “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.” No verdicts were made public.

According to the Bangladeshi authorities, India has never provided details of any BSF personnel who have been prosecuted for human rights violations. Until India ends its legal protection of security forces and civilian officials implicated in criminal offenses, a culture of impunity will prevail and abuses will continue.

The BSF, which has a long record of severe human rights abuses and members of India’s other security forces, are exempt from criminal prosecution unless specific approval is

granted by the Indian government to undertake a prosecution in a particular case. This legally sanctioned impunity is even included in a new bill to prohibit torture under consideration in the Indian parliament. The bill, as presently drafted, will require approval from the central or a state government for a court to have jurisdiction over an offense committed by a public servant.

BSF personnel are in theory liable to be produced before an internal court for making false accusations, or for “disgraceful conduct of a cruel, indecent or unnatural kind.” Although the BSF 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 a BSF member was convicted of a crime for a human rights abuse at the India-Bangladesh border. It is time for the Indian government, which claims to follow the rule of law and respect basic rights, to take strong steps to end abuses and hold those responsible to account.

Key Recommendations

- The Indian government should publicly order the Border Security Force (BSF) and other security forces to abide by the United Nations Basic Principles on the Use of Force and Firearms by Law Enforcement Officials. This requires officials to apply, as far as possible, non-violent means before resorting to the use of force and firearms. Even in self-defense, intentional lethal use of firearms may only be made when strictly unavoidable in order to protect life. International law also requires security forces to give a clear warning of their intent to use firearms, and sufficient time to surrender.
- Given the continuing 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 prosecuted in civilian courts. In cases of abuses against Indian and Bangladeshi nationals, the police must register complaints filed against the BSF. Guidelines as laid down by the National Human Rights Commission to investigate all cases of deaths in armed encounters should be applied to the BSF.
- The Indian government should establish an independent and impartial commission of inquiry into serious violations of international human rights law by the BSF. The government should invite both Indian and Bangladeshi nationals to submit evidence and bring complaints to such a commission. The inquiry should be time bound and transparent, and should have the ability to provide protection to witnesses.
- The Indian government should repeal all legal provisions that require approval of the executive branch for prosecutions against members of the security forces to proceed, including in article 197 of the Criminal Procedure Code. Similar provisions in the

Indian Prevention of Torture Bill currently in front of the Indian parliament should be deleted. Such provisions provide effective immunity to the security forces and violate the principles of equality under the law enshrined in both the Indian Constitution and international law.

- The UN Department of Peacekeeping Operations should inform the Indian government that those BSF personnel responsible for human rights violations should be excluded from peacekeeping duties.
- The Government of India and Bangladesh should agree upon the request of the special rapporteur on extrajudicial, summary, and arbitrary executions to visit the country, pending since 2000 for India and since 2006 for Bangladesh. The Special Rapporteur should also include in his program, visits the border areas between India and Bangladesh.

Methodology

Human Rights Watch teams worked in Bangladesh and India to document allegations of human rights violations by border guards. We initially investigated both the Indian and Bangladeshi border forces, but we found that virtually all serious allegations of torture and killings were against the Indian Border Security Forces (BSF).

Human Rights Watch interviews were conducted in collaboration with two local NGOs: Banglar Manabadhikar Suraksha Mancha (MASUM), based in Kolkata, and Odhikar, based in Dhaka. The primary investigations in a number of cases documented in this report were carried out by MASUM or Odhikar.

MASUM conducts regular fact-finding missions to investigate abuses by the BSF in West Bengal state and submits its reports to concerned Indian national commissions for further action. While headquartered in Kolkata, MASUM maintains field-based staff members who assist affected families to register police complaints and seek the intervention of the courts to force investigations. MASUM works with community leaders, local politicians, and media to ensure better protection of human rights. Many of the victims and their families told Human Rights Watch that it is because of MASUM's advocacy that the BSF and police have, in some cases, been responsive to their complaints. For instance, in at least three cases, the BSF asked victims, or their family members to testify in the internal courts of inquiry. In some cases, senior officials have also visited victim families after allegations of abuse.

Odhikar is a Dhaka-based human rights monitoring group that collates information about human rights violations from media reports and also its network of local human rights defenders. It also conducts some fact-finding missions. It submits updated information on human rights issues to the authorities and to the media, and has long campaigned for an end to BSF abuses against Bangladeshi nationals. Odhikar's advocacy on this issue has contributed to force the Bangladeshi government to take up these problems in their bilateral meetings with India. For this project, Odhikar worked with Human Rights Watch to interview victims, family members, eyewitnesses, police, and members of the Bangladesh Rifles (BDR) to investigate allegations of killings and torture by the BSF.

Altogether MASUM, Odhikar, and Human Rights Watch interviewed over 100 individuals, including victims, witnesses, human rights defenders, journalists, law enforcement officials, and members of the BSF and BDR. We have listed all the cases documented by Odhikar and MASUM since 2007 in an annex to the report.

The principle aim of the investigations was to determine whether there was a pattern of serious abuse. The interviews were conducted in Bengali. Human Rights Watch has Bengali speaking staff. Our NGO partners provided translations when needed.

I. Background: Risk of Attacks by Border Guards

India and Bangladesh share an international border of 4,095 kilometers (2,545 miles).¹ Several Indian states, including West Bengal, Assam, Meghalaya, Mizoram, and Tripura, adjoin a total of 28 Bangladesh districts at the border.² Drawn by the British in 1947, there is little geographical or ethnic logic to the border. The populations on both sides share cultural, linguistic, religious, economic, and, crucially, kinship ties.

This report primarily looks at the international border in West Bengal state, which comprises about half of the total India-Bangladesh border. On the Indian side, we examine cases from the districts of Murshidabad, Nadia, Coochbehar, and North 24 Parganas. In Bangladesh, we look at cases in the districts of Jessore, Satkhira, Naogaon, Chapainababganj, Chuadanga, Meherpur, Thakurgaon, Kurigram, Panchagar, and Dinajpur.

In West Bengal, just one of the five Indian states that share a border with Bangladesh, the Banglar Manabdhikar Suraksha Mancha (MASUM), a non-governmental organization based in India, has investigated at least 61 killings by India's Border Security Force (BSF) since 2007; many other Indian nationals were killed in the remaining four states. That trend is reflected by Odhikar, a Bangladesh human rights monitoring group, which has documented that at least 315 Bangladeshi nationals were killed by BSF, all across the border with India since 2007.³ According to the BSF, a total of 164 Indian nationals and 347 Bangladeshi nationals have been killed in BSF firing since 2006.⁴ The Indian government insists that in recent years, it has ordered the BSF to exercise restraint.

Many Bangladeshis seek to cross the border into India in order to visit relatives.⁵ Many others are driven by harsh economic realities. India offers better employment opportunities for cheap labor, and so hundreds of thousands of Bangladeshi nationals cross into India annually to seek temporary jobs. Some also choose to settle in India.⁶

¹M. Afsarul Qader, "Management of Bangladesh-India Border," *Bangladesh Institute of International and Strategic Studies*, unpublished document, <http://www.biiss.org/aqader.pdf> (accessed November 29, 2010).

²West Bengal has a border length of 2216 km; Tripura, 856 km; Meghalaya, 443 km; Mizoram, 318 km and Assam, 263 km. "Fencing and Floodlighting of Borders," Report of the Ministry of Home Affairs, <http://mha.nic.in/pdfs/Fencing.pdf> (accessed November 29, 2010).

³Please see full list of cases in the Annex.

⁴Numbers provided by Indian government sources.

⁵Centre for Civil Society, "Indo-Bangladesh fence issue," <http://www.ccsindia.org/nolandsmen/> (accessed November, 2010).

⁶Rita Afsar, "Population Movement in the Fluid, Fragile and Contentious Borderland between Bangladesh and India," July 2008, http://archiv.ub.uni-heidelberg.de/savifadok/volltexte/2008/143/pdf/Afsar_PopulationMovement_2008.pdf, (accessed November 30, 2010).

The border area is densely populated, occupied primarily by farmers and landless peasants. But a growing population, poor irrigation, flooding, and continuous river erosion, are undermining the ability of farmers on both sides of the border to make a living. Smuggling, cattle-rustling, and human trafficking are all on the increase in the border region.⁷ India also remains concerned about insurgent groups operating from within Bangladeshi territory. In March, BDR chief Maj.Gen Mainul Islam, promised to take action, saying: “My government has a big responsibility to ensure the security and development of the people. We have no time and space to harbor terrorists on our land.”⁸

India’s principle objectives on the Bangladesh border are to contain the unauthorized influx of Bangladeshi economic migrants; to prevent the smuggling of narcotics, fake currency, cattle; and to inhibit the intrusion of militants into Indian territory.⁹ The Bangladeshi authorities’ main aims are to control the smuggling of weapons, explosives, and narcotic substances, including Phensedyl, a cough syrup that is illegal in Bangladesh but commonly used as a “recreational” drug.¹⁰

Border Guards

The Border Security Force (BSF) is deployed on the Indian border while the Bangladesh Rifles (BDR) protects the border in Bangladesh.

The BSF was established on December 1, 1965 to protect India's land border during peace time and to prevent transnational crimes.¹¹ It is a central government force under the administrative control of the Ministry of Home Affairs.¹² With about 220,000 personnel, it is currently among the world’s largest border forces.¹³ Its peace time duties include preventing trans-border crimes such as smuggling, and preventing unauthorized entry and exit from India.¹⁴ In addition to guarding the border, over the last two decades the BSF has also been

⁷Ibid.

⁸Sheeraj Gudi, “Bangladesh will not be used for terror activities: BDR Chief,” ANI, March 11, 2010, http://www.thaindian.com/newsportal/india-news/bangladesh-will-not-be-used-for-terror-activities-bdr-chief_100333193.html (accessed November 29, 2010).

⁹V.K. Shahshikumar and Arijit Sen, “Indo-Bangladesh border sealed? It’s a big joke,” *CNN-IBN*, February 11, 2009, <http://ibnlive.in.com/news/indiabangladesh-border-sealed-its-a-big-joke/85092-3.html> (accessed November 29, 2010).

¹⁰“BSF, BDR to check cross-border movement of criminals, insurgents,” *Times of India*, March 12, 2010, <http://timesofindia.indiatimes.com/india/BSF-BDR-to-check-cross-border-movement-of-criminals-insurgents/articleshow/5673243.cms> (accessed November 29, 2010).

¹¹Border Security Force, “BSF Acts and Rules,” http://www.bsf.nic.in/act_rules/bsfAct&Rules.pdf (accessed November 29, 2010).

¹²Mallika Joseph, “Profile of Indian Paramilitary Forces- Border Security Force,” *Institute of Peace and Conflict Studies*, January 31, 2002, <http://www.ipcs.org/article/military/profile-of-indian-paramilitary-forces-ii-border-security-force-686.html> (accessed November 29, 2010).

¹³Border Security Force, <http://bsf.gov.in/default.aspx> (accessed November 29, 2010).

¹⁴Border Security Force, <http://sb.bsf.gov.in/history.htm>, (accessed November 29, 2010). The BSF tasks are listed as:

used as a counter-insurgency force to combat the secessionist militant campaign in the state of Jammu and Kashmir.¹⁵

In West Bengal, the BSF has no counter-insurgency responsibilities. But villagers living in the border areas complain that they often find the BSF to be unsympathetic and violent.¹⁶ They say that BSF personnel often do not speak or understand the local languages, and treat everyone with suspicion and aggression. This may partly be explained by fact that many are deployed to West Bengal after difficult and tense tours of duty at the India-Pakistan border.

On several occasions, Human Rights Watch researchers witnessed BSF soldiers shouting at villagers, calling them names, and making them wait for hours as they were searched and their details recorded as they crossed border outposts. E.N. Rammohan, a former head of the BSF, said that it was always difficult to operate in heavily inhabited areas: “To operate successfully, a border force needs a corridor that has no habitation. In West Bengal, I had recommended that all these villages be re-sited so that these problems for civilians don’t occur.”¹⁷ Some villagers too, said they would prefer to have the BSF operate at the border itself. “The BSF should shift their posts to a few yards from the actual border, not be here, in our villages,” said an Indian man who was beaten up while bringing grain from the market and accused of smuggling.¹⁸

BSF personnel are not accountable to the local administration, the police, or to human rights institutions. The police, in fact, often refuse to register complaints against the BSF. 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. Authorities say that BSF personnel are prosecuted by internal courts, where the hearings and verdicts are not public.¹⁹ Not surprisingly, this deeply flawed system of accountability has failed to serve as effective deterrence against human rights violations.

(a) Peace time: Promote a sense of security among the people living in the border areas; Prevent trans border crimes, unauthorized entry into or exit from the territory of India; Prevent smuggling and any other illegal activity;
(b) War Time: Holding ground in less threatened sectors; Protection of vital installations; Assistance in control of refugees; Anti-infiltration duties in specified areas.

¹⁵In his “Message from the Director General,” Raman Srivastava described the new role of the BSF: “In addition to being a veteran of border security, the BSF is a frontline Counter-Insurgency Force, and has contributed to taming virulent insurgencies in different parts of India. Today, the chief business of the BSF is Border Security and Counter-Insurgency.” <http://bsf.nic.in/message.htm> (accessed November 29, 2010).

¹⁶Human Rights Watch group interviews with villagers in Murshidabad district, May 2010.

¹⁷Human Rights Watch interview with E.N.Rammohan, former BSF director general, New Delhi, October 24, 2010.

¹⁸Human Rights Watch interview, details withheld, May 5, 2010.

¹⁹Under the Border Security Force Act and BSF Rules, offenses by members of the force are examined by the Staff Court of Inquiry and those found responsible face trial by a Security Force Court.

The BSF has been accused of human rights violations in other parts of India where it operates. But there is very little information available on whether those responsible are properly prosecuted and punished. While the Indian government often claims that the National Human Rights Commission (NHRC) acts as a watchdog, the Commission cannot independently investigate allegations against federal forces including the BSF. Soon after the NHRC was formed, it did try. After 37 people were killed by the BSF in October 1993 in Jammu and Kashmir, the NHRC sent notices to the Home Ministry.²⁰ Based on the government's report, the NHRC then recommended immediate interim compensation to the victims' families and said that, apart from disciplinary proceedings under the Border Security Force Act, there should be parallel criminal prosecution proceedings. The government provided compensation, but said criminal proceedings were not necessary because the BSF was conducting its own internal trial in the Staff Court of Inquiry.²¹ However, the government refused to provide the NHRC with transcripts of the trial. The NHRC was, therefore, unable to vouch for the fairness of the proceedings. According to press reports, all those charged with murder were acquitted.²²

In a meeting with Human Rights Watch, Sunil Krishna, Director General (Investigation) at the NHRC, said that the Commission did receive a number of complaints about BSF operations at the Bangladesh border.²³ "We have questioned the BSF, but usually they say that the forces challenge smugglers and they are killed when they try to run away. However, I agree that if there are killings, it is highly disproportionate to the crime."²⁴ While the NHRC cannot independently investigate allegations against the BSF, it can recommend compensations and also prosecution. However, it is rare that members of the BSF face trial in a civilian court.²⁵ Victim families thus seldom know if justice has been done because proceedings of the internal courts are not made public. According to Kirity Roy, who heads MASUM, "As the de facto complainant, we were never summoned to appear or depose before any inquiry

²⁰On October 22, 1993, at least 37 people were killed when personnel from the 74th Battalion Border Security Force (BSF) opened fire to disperse more than ten thousand people marching on the National Highway in Bejjbehara in Jammu and Kashmir.

²¹National Human Rights Commission, Annual Report, 1993-94, Annexure V.

²²Human Rights Watch, "Everyone Lives in Fear," *Patterns of Impunity in Jammu and Kashmir*, September 2006, <http://www.hrw.org/en/node/11179/section/1>.

²³The NHRC says it has received 30 complaints against the BSF lodged by MASUM on behalf of the complainants. In 14 of these the matter was closed after an investigation. In four, further information is awaited from the complainants. In 10 of these investigations are still going on. Two cases could not be traced. MASUM, however, says that according to its own records, it has sent 150 complaints to the NHRC since the beginning of 2007. Of these, MASUM says responses are still being sought in 98 cases, while 29 cases have been closed.

²⁴Human Rights Watch interview with Sunil Krishna, Director General (Investigation), National Human Rights Commission, New Delhi, October 22, 2010.

²⁵In February 2010, charges were brought against a BSF constable and his superior officer, in a case involving the death of a teenager in Jammu and Kashmir. See "Arrest a First Step for Accountability," Human Rights Watch news release, February 11, 2010, <http://www.hrw.org/en/news/2010/02/11/india-kashmir-arrest-step-accountability>.

conducted by the BSF. However, we are aware that in some cases, family members or victims did appear before the BSF court of inquiry.”²⁶

The BSF says that most of the civilians killed by its personnel are smugglers, cattle-rustlers, or others gaining unauthorized entry.²⁷ The BSF also points out that it has a duty to prevent illegal activities.²⁸ 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: “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 rampant, he said: “The deaths have occurred in Indian territory and mostly during night, so how can they be innocent?”²⁹

The Bangladesh Rifles (BDR) is also an armed border security force. It reports to the Minister of Home Affairs, but its commanding officers are drawn from the Bangladesh Army.³⁰ The force has a total strength of roughly 67,000 personnel across Bangladesh.³¹ Unlike the BSF, the BDR is not under pressure either to restrain the migration of its people into India or to restrict the smuggling of cattle or rice. Its primary concern is to stop the inflow of the cough syrup Phensedyl and other drugs. In the September 2010 meeting between the BSF and BDR, while the BSF demanded action against militant camps, the BDR asked India to shut down illegal factories near the border that were manufacturing Phensedyl.³²

²⁶Information provided by MASUM to Human Rights Watch, October 30, 2010.

²⁷Julfikar Ali Manik, “The Red, Dotted Line,” *Outlook*, September 11, 2006, <http://www.outlookindia.com/article.aspx?232444> (accessed November 29, 2010).

²⁸Border Security Force, <http://bsf.nic.in/introduction.htm>, Peace Time Duties include: Promote a sense of security among the people living in the border areas. Prevent trans-border crimes, unauthorized entry into or exit from the territory of India. Prevent smuggling and any other illegal activity.

²⁹“Bangladesh Urged to Dismantle insurgent groups’ camps: BSF chief,” IANS, September 27, 2010, http://www.thaindian.com/newsportal/uncategorized/bangladesh-urged-to-dismantle-insurgent-groups-camps-bsf-chief_100435589.html (accessed November 29, 2010).

³⁰In February 2009, BDR personnel rebelled against their army bosses. Fifty-five army officers and 19 others were killed. After the rebellion, a new bill has been proposed by the government that changes the name of the force to Border Guards Bangladesh (BGB) and introduces the death penalty for mutiny. Anand Kumar, “The BDR Mutiny: Mystery Remains but Democracy Emerges Strong,” *Institute for Defence Studies and Analyses*, October 2009, www.idsa.in/system/files/jds_3_4_akumar.pdf (accessed June 23, 2010). See also “Bangladesh: Hundreds Held One Year After Massacre,” Human Rights Watch news release March 17, 2010, <http://www.hrw.org/en/news/2010/03/17/bangladesh-hundreds-held-one-year-after-massacre>; “Bangladesh: End Custodial Deaths of Massacre Suspects,” Human Rights Watch news release, April 24, 2009, <http://www.hrw.org/en/news/2009/04/24/bangladesh-end-custodial-deaths-massacre-suspects>; “Bangladesh: Investigate Torture Allegations,” Human Rights Watch news release, March 25, 2009, <http://www.hrw.org/en/news/2009/03/25/bangladesh-investigate-torture-allegations>.

³¹“About Us,” *Bangladesh Rifles*, <http://www.bdr.gov.bd/index.php?node=node/about>.

³²Bangladesh Urged to Dismantle insurgent groups’ camps: BSF chief,” IANS, September 27, 2010, http://www.thaindian.com/newsportal/uncategorized/bangladesh-urged-to-dismantle-insurgent-groups-camps-bsf-chief_100435589.html (accessed October 28, 2010).

The BDR has occasionally been accused of seriously abusing smugglers and cattle-rustlers who fail to pay the expected bribes. For example on August 17, 2010, Rashidul Islam, 27 years old, was, according to family members and villagers, picked up by a BDR patrol near the Mogholhat border area in Lalmonirhaat and beaten to death on the river bank. His body was then thrown into the river. His father alleged that the incident might have been related to an altercation with the BDR over non-payment of bribes. The company commander of Mogholhat camp said Rashidul Islam jumped into the river to evade arrest when BDR chased him and other members of a smuggling ring.³³

While BDR is primarily responsible for border security, it regularly assists the police and other law enforcement agencies with riot and mob control. It has on several occasions been accused of using excessive force in breaking up demonstrations.

Since the BSF outposts are usually located almost 10 kilometers away from the actual border line, Indian villagers who cross into their farmlands beyond are often at risk of arrest or abuse by the BDR. For instance, MASUM has documented the case of two Indian nationals, Haider Ali and Aptar Sarder, residents of Murshidabad district, who were beaten severely by BDR troopers in September 2009.³⁴

Both the Indian and the Bagladeshi border forces accuse each other of corruption. The BDR alleges that drug smugglers receive BSF protection, while the BSF, in turn, says that the BDR provides cover to cattle-rustlers and criminals, leaving it to the BSF to contain such activities on their own.³⁵ The reality is that some officials, border guards, and politicians on both sides are almost certainly involved in the smuggling. A senior BSF official admitted as much to Human Rights Watch: “There are a lot of people involved, including our chaps. That is why only these farmers, with one or two cows are caught, not groups that ferry large consignments of cattle or drugs.”³⁶

Crimes in Border Areas

Migration of Bangladeshi nationals into India is common. Millions of Bangladeshis are alleged to be living illegally in India.³⁷ This is a source of serious political tension, with

³³“Smuggler beaten to death by BDR,” *Daily Star*, August 20, 2010, <http://www.thedailystar.net/newDesign/news-details.php?nid=151457> (accessed November 29, 2010)

³⁴MASUM, “Fact-Finding Report: Abduction of Haider Ali and Aptar Sarder by personnel of the Yusufpur BDR camp in Rajshahi,” Murshidabad, September 27, 2009.

³⁵Julfikar Ali Manik, “The Red, Dotted Line,” *Outlook*.

³⁶Human Rights Watch interview, New Delhi, details withheld.

³⁷Ramtanu Maitra, “India’s Ticking Immigrant Time Bomb,” *Asia Times*, January 14, 2005, http://www.atimes.com/atimes/South_Asia/GA14Dfo5.html (accessed November 29, 2010).

hardline Hindu political groups claiming that influx of Muslim Bangladeshis could alter the country's demography.³⁸ Every year, thousands of women and children are also trafficked into India from Bangladesh, and then sold into brothels in Mumbai, Delhi, and Kolkata or sent to Pakistan and the Middle East. Others end up as domestic labor.³⁹

Smuggling is an important source of livelihood for many in the West Bengal border area. The cough syrup Phensedyl, other drugs, and rice are among the most common items smuggled into Bangladesh. But the most lucrative is the cattle trade. Some estimates suggest that as many as 20,000-25,000 animals enter into Bangladesh through West Bengal daily.⁴⁰ While the cross-border trade in cattle is illegal in India, sales of Indian livestock in Bangladesh are legal and taxable, and in fact the BDR often facilitates the cattle trade.⁴¹

The cattle-rustlers are well-organized. But the traders themselves are rarely the ones in the BSF's line of fire. It is the local villagers, paid a small fee by the smugglers to ferry the cattle across the border, who suffer the most serious consequences for their involvement in this business. For them smuggling is often the only means of livelihood since there are few employment opportunities in the area. In several cases of killing and torture documented in this report, the victims were engaged in cross-border cattle-rustling. However, in other cases, villagers had simply mistakenly crossed the border since there are no clear markers.

In an effort to contain the problem of illegal immigration, trafficking, smuggling, and the infiltration of militants, India has embarked upon constructing a fence inside its border. Over 2,500 kilometers of fencing has been completed.⁴² Border posts are set up at intervals of 4.5 kilometers which will be shortened to 2.9 kilometers once the fencing is completed.⁴³

³⁸Anand Kumar, "Illegal Bangladeshi Immigration: People Take the Mantle when the Government gives up," Paper No. 1391, South Asia Analysis Group, <http://www.southasiaanalysis.org/%5Cpapers14%5Cpaper1391.html> (accessed November 29, 2010). Also see Pratul Nikam, "Bangladeshi InfiltrationInfiltration," Sangh Parivar, April 12, 2009, <http://www.sanghparivar.org/forum/bangladeshi-infiltration> (accessed November 29, 2010).

³⁹Trafficking of women has been widespread because of poverty, unemployment, women and children's subordinate status in society, violence against women and discriminatory laws and practices in society. Many women who are trafficked never return to Bangladesh because of the stigmas attached. See, Government of the People's Republic of Bangladesh: Ministry of Home Affairs, "Bangladesh Country Report on Combating Trafficking in Women and Children," February 15, 2007, http://www.mfa.go.th/fhpworkshop/doc/bestpractices/Bangladesh_country_report.pdf (accessed June 25, 2010), and ICDDR,B: Centre for Health and Population Research, "Trafficking of Women and Children in Bangladesh," 2001, http://www.usaid.gov/bd/files/trafficking_overview.pdf (accessed June 25, 2010).

⁴⁰Delwar Hussian, "Life and death in the Bangladesh-India margins," *Open Democracy*, March 2, 2009, <http://www.opendemocracy.net/article/life-and-death-in-the-bangladesh-india-margins> (accessed November 29, 2010).

⁴¹"BDR shields cattle smugglers," *The Telegraph*, August 3, 2006, http://telegraphindia.com/1060803/asp/northeast/story_6561840.asp (accessed November 29, 2010)

⁴²Over 2500 km of fencing has been completed. Report of Ministry of Home Affairs, "Fencing and Floodlighting of Borders," Report of Ministry of Home Affairs, <http://mha.nic.in/pdfs/Fencing.pdf> (accessed May 20, 2010).

⁴³"Indo-Bangla border to be fenced by March 2010: BSF chief (Lead)," *Thaindian News*, November 24, 2009, http://www.thaindian.com/newsportal/uncategorized/indo-bangla-border-to-be-fenced-by-march-2010-bsf-chief-lead_100279489.html#ixzzovoGTpzhM (accessed November 29, 2010).

A number of Indian and Bangladeshi nationals remain in jails on the other side of the border, arrested for the violation of the Foreigners Act, when they crossed the border. Some, convicted for smuggling or trafficking, have already served their term. The Bangladeshi and Indian authorities are yet to develop a mechanism that can facilitate the return of their nationals.⁴⁴

Problems for Border Residents

On the Indian side of the border, BSF guards restrict access through the fence, which has effectively cut off some Indian border residents from their farms or markets. In order to prevent infiltration by Bangladeshi nationals, the BSF obliges residents to surrender their identity or citizenship cards when they cross the border outposts and to claim them back on their return. Even in the border area in Murshidabad district, where the riverine plains are impossible to fence, residents have to surrender their papers at the BSF border outpost before crossing to the areas adjoining the border.⁴⁵

The district administration or the BSF arbitrarily determine the timings for entry and exit, controlling the access of farmers to their own land. Many villagers complain that there is little consideration for agrarian needs, and that the BSF violate their freedom of movement. Mithoo Sheikh, a young man in Murshidabad said that there are long queues as the BSF checks each identity:

Sometimes by the time we get to the field it is noon. And we have to stop work by 4 p.m. because they stop us from returning after dark. The BSF does not understand cultivation problems. We cannot water our fields at noon. Sometimes we only get water at night, but they will not let us remain in the field. If we disobey, they beat us and file false charges...We are treated as outsiders in our own country.⁴⁶

The failure by BSF personnel to respect rural habits and customs often causes grievances and conflict. Arguments can often have deadly results, as in the case presented below of

⁴⁴Currently, it is estimated that atleast 2,500 Bangladeshis are in Indian jails. Among them at least 567 have already served their term. The majority of the Bangladeshis have been imprisoned because of their 'illegal immigrant' status. In November 2010, in response to a writ petition filed by lawyer Shahidul Islam, the High Court asked the Bangladeshi Government to provide information regarding legal aid and consular assistance to Bangladeshi nationals, determine scheme to assist in the release and repatriation of prisoners, and conduct regular meetings with Indian authorities to determine the names and particulars of Bangladeshi nationals. According to Bangladeshi Voluntary Group Right Jessore, at least 48 Indian nationals are awaiting repatriation after having served their term in the Jessore Central Jail.

⁴⁵"India Bangla border: Fencing forces thousands in no man's land," *Press Trust of India*, January 31, 2010, <http://www.hindustantimes.com/Indo-Bangla-border-Fencing-forces-thousands-in-no-man-s-land/Article1-503736.aspx> (accessed November 29, 2010).

⁴⁶Human Rights Watch interview with Mithoo Sheikh, Murshidabad, May 5, 2010.

Basirun Bibi and her six-month-old grandson who were killed when the BSF opened fire after an altercation with villagers at Dakshin Dhadial village in Coochbehar district.

In talks between the BSF and the BDR, held on March 9, 2010, both sides agreed to contain violent attacks on civilians. BSF 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.”⁴⁷ After signing a Joint Record of Discussions, 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.”⁴⁸ However, Bangladesh also accepted in this context that it too “needs to motivate its people” not to undertake any illegal act across the border.

⁴⁷“BSF, BDR to ensure innocent civilians not shot on border,” *Press Trust of India*, March 10, 2010, <http://beta.thehindu.com/news/national/article236606.ece> (accessed November 29, 2010)

⁴⁸“No more killing of ‘innocent’ by BSF,” *The Daily Star*, March 9, 2010, <http://www.thedailystar.net/newDesign/news-details.php?nid=129333> (accessed November 29, 2010).

II. Excessive Use of Force and Indiscriminate Killings by the BSF

The Indian Border Security Force (BSF) justifies the killing of suspects by claiming that they were evading arrest, or that they had to fire in self-defense. However, in the cases investigated by Human Rights Watch, the alleged criminals were armed with nothing but sickles, sticks, and knives, commonly carried by villagers in the area. The police reports filed by the BSF seldom mention injuries received by the BSF's own personnel which suggest that the border guards may have used lethal force instead of attempting arrest. In a number of cases, the victims were shot in the back, indicating that they may have been shot while running away. In others, injuries indicating victims were shot at close range, support allegations that they may have been killed while in custody.

Section 46 of India's Code of Criminal Procedure states that it is permissible to use "all means necessary" when a person attempts forcibly to resist arrest, but it also clearly forbids causing the death of a person who is not accused of an offence punishable by death or a life term.⁴⁹ Cattle-rustling is not such an offense. In other words, under domestic law, while authorities may use force to detain such a suspect, they cannot use lethal force to do so. However, no international law or standard permits the use of lethal force on the grounds that a person is suspected of a crime that carries life imprisonment or the death penalty. BSF members violate domestic and international laws when killing Indian and Bangladeshi nationals.

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, non-violent means before resorting to the use of force and firearms. Even in self-defense, intentional lethal use of firearms is permitted only when strictly unavoidable in order to protect life. Officials are required to exercise restraint and "act in proportion to the seriousness of the offence."⁵⁰

A former BSF official told Human Rights Watch that about a decade ago orders were handed down to shoot at suspected smugglers at the Bangladesh border. The official said that the

⁴⁹Code of Criminal Procedure, 1973, Section sec 46, <http://www.vakilno1.com/bareacts/CrPc/s46.htm> (accessed June 10, 2010). (1) In making an arrest the police officer or other person making the same shall actually touch or confine the body of the person to be arrested, unless there be it submission to the custody by word or action. (2) If such person forcibly resists the endeavour to arrest him, or attempts to evade the arrest, such police officer or other person may use all means necessary to affect the arrest. (3) Nothing in this section gives a right to cause the death of a person who is not accused of an offence punishable with death or with imprisonment for life.

⁵⁰Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, adopted by the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Havana, 27 August to 7 September 1990, U.N. Doc. A/CONF.144/28/Rev.1 at 122 (1990).

assumption underlying the policy was that it would deter such illegal activities. However, he agreed that those orders, instead of serving as deterrence, are now causing deaths.⁵¹

Attacks on Bangladeshi Nationals

According to Odhikar, between 2000 and September 2010, over 930 Bangladeshi nationals were killed in the border area by the Indian BSF, including at the international frontier in the state of West Bengal where we did our research. Below are some recent cases that were investigated by Odhikar in collaboration with Human Rights Watch for this report.⁵² These cases provide evidence of the BSF's failure to use proportional force to address the alleged crimes.

Killing of Farid Hossain

Farid Hossain was a rickshaw puller from Sharialjot village in Panchagar district of Bangladesh. On February 5, 2010, according to his wife Rina Khatun, the 23-year-old father of two left home at around 11:30 p.m. On February 6, 2010, at around 8 a.m., she heard from other villagers that Farid had been killed by the BSF during the night.⁵³ Rina's brother-in-law Faruq said a man collecting stones near the river Mohananda had been told by the BSF that a man named Farid Hossain from the Sharialjot village had been shot inside Indian territory, and asked him to inform the family.

According to Mohammad Zahir, a cattle-rustler, Farid had offered to go bring a cow from India. Zahir, Farid, and five others crossed over through the Kazipara border by cutting the border fence constructed by the Indians.⁵⁴ They then went to Haptia village near the Indian Haptia BSF camp:

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.⁵⁵

On February 6, at 7:40 p.m., the BSF handed over Farid's body at a flag meeting.⁵⁶ Mohammad Niyat Ali, an older relative of Farid Hossain, attended the meeting. The BSF said that an

⁵¹Human Rights Watch interview with former BSF official, details withheld.

⁵²We list a fuller list of all cases documented by Odhikar since 2007 in Annexure I.

⁵³Odhikar interview with Rina Khatun, Sharialjot, Panchagar, March 23, 2010.

⁵⁴Odhikar interview with Mohammad Zahir, Mohananda River (Bangladesh side), Panchagar, March 24, 2010.

⁵⁵Ibid.

⁵⁶Flag meetings are held regularly between the BSF and BDR forces deployed on the ground for operational reasons or to explain actions that might otherwise lead to tensions.

autopsy had been conducted, and provided the report which said there were bullet wounds to the chest. The Bangladesh police then handed the body over to the family for burial.

Niyat Ali suspected that Farid had been tortured because there were injuries and broken bones.⁵⁷ However, Odhikar 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.

The BSF Camp Commander, Nirodh Kumar, allegedly told the BDR that six or seven persons were seen cutting the border fence. When the BSF chased them, the group scattered and ran away. While the others escaped, Farid hid in a tea garden. The BSF used a trained dog to track Farid down. The soldiers shot him as he tried to evade arrest.

Killing of Shyamol Karmokar

Naren Karmokar, a resident of the border village of Bishroshiya in Chapainababganj district, said that his 17-year-old son, Shyamol, wanted to visit his aunt who lives in Malda, India. However, since the family could not afford a passport, there was no legal way to enter India.

On January 24, 2010, Shyamol left home without informing his family. The next morning, at around 10:30 a.m., Naren Karmokar received a call from Shyamol, who said that he had crossed illegally into India, but had not yet reached his aunt's house:

Everyone in the family was worried... We were relieved to receive his call. I told him to come back without visiting his aunt. I also told him to return alone, and warned him not to take any help from cattle traders. Shyamol called me on January 26 to say that he would be back the next day and that he had found a Bangladeshi who would help him. At around 3:30 a.m., I heard gun shots near the border and immediately became anxious about Shyamol. Around 5:30 in the morning, Zahid came to our house and told me that Shyamol had been shot dead by the BSF.⁵⁸

When Naren received Shyamol's body from the BDR on January 29, he saw that his son had been shot three times, in the abdomen, chest, and neck.⁵⁹ According to Mohammad Zahid, who was helping Shyamol cross the border, the BSF opened fire without warning:

⁵⁷Odhikar interview with Mohammad Niyat Ali, Sharialjot, Panchagar, March 23, 2010.

⁵⁸Odhikar interview with Naren Karmokar, Bishroshiya, Chapainababganj, February 24, 2010.

⁵⁹Ibid.

I work with Abdul Mannan and Milon at a rice mill in Bangladesh, but sometimes we also work in the cattle business. That day we were bringing two cows to Bangladesh. I had told Shyamol to meet us near the border, and at around 3:30 a.m. we started the journey to Bangladesh. We had two cows with us. Milon, who was the lineman, arrived an hour earlier. Soon after we reached near the border area, the BSF spotted us and immediately opened fire. Shyamol fell on the ground, while Mannan and I ran away. I don't know what had happened to Shyamol after that... Once we entered into Bangladesh, I went to Shyamol's house with Mannan to inform his father.⁶⁰

A flag meeting was held on January 28, 2010, when the BSF handed over the body to the BDR. Odhikar spoke to Subedar Sirajul Islam, the BDR Camp Commander at Wahedpur about the death of Shyamol Karmokar. He stated that in their investigation they found that Shyamol was a barber who hitched a ride back home with cattle traders. The BSF claimed at the meeting that they had assumed Shyamol was smuggling cows into Bangladesh. For that reason, according to the BDR Commander, the BSF was justified in shooting him.⁶¹

The local police said that Shyamol was killed when the BSF opened fire upon a group of cattle-rustlers to which he did not belong. "It is one of the most unfortunate incidents that happened in this area. This boy was innocent but was shot just for walking with cattle traders," said Yameen Ali of the Shibganj Police Station.⁶²

Killing of Nazrul Islam

Around 5 a.m. on January 22, 2010, Nazrul Islam, a 40-year-old laborer from Baribaka village in Meherpur district was shot and killed by the BSF as he tried to cross the border fence between India and Bangladesh.

In the evening of January 21, Nazrul Islam had told his wife, Surjan, that he planned to help some cattle traders bring cows from India to Bangladesh. Before dawn the next morning Surjan and other villagers heard shots being fired near the border. Surjan told Human Rights Watch that she immediately suspected that her husband had been shot. Five months earlier, another cattle-rustler had been killed by the BSF. One of the villagers confirmed shortly

⁶⁰Odhikar interview with Mohammad Zahid, Bishrosiya, Chapainababganj, February 24, 2010.

⁶¹Odhikar interview with Subedar Sirajul Islam, Wahedpur BDR camp, Bishrosiya, Chapainababganj, February 24, 2010.

⁶²Odhikar interview with Yameen Ali, Shibganj police station, Chapainababganj, February 24, 2010.

afterwards that her husband had been killed close to Nabin Nagor village.⁶³ When Mohammad Ershad, a cousin, heard about the killing, he went to the area and saw Nazrul Islam's body tangled in the barbed wire of the border fence.⁶⁴

Surjan said that Nazrul used to work as a day-laborer. But since the money he made was not enough to support his wife, two daughters, and an elderly mother, he also took to cattle-rustling to pay off debts and the mortgage on their land.⁶⁵ According to Nazrul Islam's son, Tutul, his father used to cross the border three or four times a month to smuggle cattle, and was able to make about 500 to 1000 taka (USD 7-14) each trip.⁶⁶ Nazrul Islam had apparently gone that morning as well, but had been spotted by the BSF and shot.

On January 23, the 92nd Battalion of the BSF handed over Nazrul's dead body to members of BDR's 32nd Battalion. According to a BDR commander, two bullets hit Nazrul in the abdomen after he was caught in the barbed wire on his way back to Bangladesh.⁶⁷ The investigating police officer at Meherpur district police station, however, told Human Rights Watch that Nazrul was hit with one bullet fired from a distance.⁶⁸ An autopsy was conducted, and the report issued by Meherpur general hospital in Bangladesh states that Nazrul died from "hemorrhage and shock as a result of gunshot injury which was ante-mortem and homicidal in nature."⁶⁹

While Nazrul's family members told Human Rights Watch that he was operating together with others the night he was killed, no villagers were able to identify anyone who had witnessed the killing.⁷⁰ The police was also unable to find anyone who was present.

According to Subedar Habibur Rahman, Company Commander of the Buripotia BDR camp, a flag meeting was organized with the BSF on January 22, 2010. The BSF claimed that the deceased, Nazrul Islam, was a cattle trader, returning from India with a cow and that he had cut a section of the fence and was trying to push the cow through. BSF also mentioned that Nazrul's body was trapped in the fence and that they had recovered a cow from the spot.⁷¹

⁶³Human Rights Watch and Odhikar interview with Surjan, Baridhaka, Meherpur, February 12, 2010.

⁶⁴Human Rights Watch and Odhikar interview with Mohammad Ershad, Baridhaka, Meherpur, February 12, 2010.

⁶⁵ Human Rights Watch and Odhikar interview with Surjan, February 12, 2010.

⁶⁶Human Rights Watch and Odhikar interview with Tutul, Baridhaka, Meherpur, February 12, 2010.

⁶⁷Human Rights Watch and Odhikar interview with BDR commander, BDR camp, Rahman, February 13, 2010.

⁶⁸Human Rights Watch and Odhikar interview with investigating police officer, Meherpur district police, February 12, 2010.

⁶⁹Post-mortem report signed by Dr. Mizanur Rahman of Meherpur General Hospital, January 24, 2010.

⁷⁰Human Rights Watch and Odhikar interview with Nefazudin, Baridhaka, Meherpur, February 12, 2010.

⁷¹Human Rights Watch and Odhikar interview with Sudebar Habibur Rahman, BDR camp, Sakolia village, Chuadanga district, February 12, 2010.

Killing of Shahidul Islam

Shahidul Islam, 37, was shot and killed by BSF along the Kazipur border in Meherpur district in the early hours of January 15, 2010.

According to his wife Kamala Khatun, Meherpur district resident Shahidul Islam had spent three years in an Indian prison, detained on charges of cattle smuggling.⁷² He was released in November 2009, and returned to work as a laborer in Kazipur village where he lived with his mother, wife, and two daughters.

On January 14, 2010, Shahidul left home at 4 p.m. saying that he would be back by dinner time. However, Kamala was not surprised when Shahidul did not return as promised because he was often not back until midnight. The next morning, Kamala heard that her husband had been killed by the BSF during the night. She was told that her husband was shot near the Kazipur BDR camp about 1.5 km from their village.⁷³

There are different accounts as to exactly when Shahidul was killed. Villagers interviewed by Human Rights Watch say they heard gunshots in the border area around 9 p.m. on January 14.⁷⁴ However, according to the records of a nearby BDR camp, no gunshots were fired until 4:30 a.m. on January 15.⁷⁵

At a flag meeting between the Kazipur BDR camp and Fulbari BSF camp held on January 17, 2010, the BSF handed over Shahidul's body and allegedly told BDR officials that he was shot while smuggling cattle. The BDR camp commander told Odhikar that Shahidul was a criminal who had been released from an Indian jail just a few weeks ago.⁷⁶ Shahidul was buried by his family the same day. Family members and police told Human Rights Watch that Shahidul had been shot with one bullet in the abdomen. Family members also say that the body had several bruises and broken bones and that there was a wound at the back of the head.⁷⁷ However, the investigating police officer, Osman Goni, said that the inquest found that he had been shot in abdomen, but did not find any signs of torture.⁷⁸

⁷²Human Rights Watch and Odhikar interview with Kamala Khatun, Kazipur, Meherpur, February 13, 2010.

⁷³Ibid.

⁷⁴Human Rights Watch and Odhikar interview with Shahdeen Ali and other Kazipur villagers, Kazipur, Meherpur, February 13, 2010.

⁷⁵Human Rights Watch and Odhikar interview with BDR 32nd battalion members, Kazipur BDR camp, Meherpur, February 13, 2010.

⁷⁶Human Rights Watch and Odikar interview with BDR commander, Kazipur BDR camp, Kazipur, Meherpur, February 13, 2010.

⁷⁷Human Rights Watch and Odikar interview with Shahidul's family members, Kazipur, Meherpur, February 13, 2010.

⁷⁸Human Rights Watch and Odhikar interview with Sub-Inspector Osman Goni, Ganni Police Station, Meherpur, February 13, 2010.

Odhikar and Human Rights Watch have not been able to obtain further details as to the exact circumstances of Shahidul's death. The killing took place at night at a place located 1.5 kilometers from the nearest settlement. The BDR, police, and villagers all say that there were no witnesses on the Bangladeshi side of the border.

Killing of Monirul Islam

It appears that Monirul Islam, 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 said that on January 8, 2010, his son Monirul worked in the field with him and had dinner with him. At around 9 p.m. Abdul Kaiyum then went to bed. He now assumes that his son then secretly went out to meet cattle-rustlers.⁷⁹ Abdul Latif, 21, one of those who were with Monirul on the night of the incident, said:

Some of us including Monirul crossed into India around midnight to bring cows. We entered into 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... Later the BSF tried to fetch Monirul's body and take it back to India. But in the meantime, a lot of villagers had already gathered around, and the BSF had to go back, leaving Monirul's body.⁸⁰

Major Nazrul Islam, BDR commander of the 29th Battalion posted at the Shing Nagar border 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.⁸¹

Constable Yameen Ali said that 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.⁸²

⁷⁹Odhikar interview with Abdul Kaiyum, Tarapur Munnapara, Chapainababganj, February 25, 2010.

⁸⁰Odhikar interview with Abdul Latif, Tarapur Munnapara, Chapainababganj, February 25, 2010.

⁸¹Odhikar interview with Maj. Nazrul Islam, 29th battalion commander, Shing Nagar border, February 25, 2010.

⁸²Odhikar interview with Constable Yameen Ali, Shibganj Police Station, Chapainababganj, February 25, 2010.

Killing of Shafiqul Islam

At around 4 p.m. on January 1, 2010, 27-year-old Shafiqul Islam, a resident of Sheetalpur village in Satkhira District, crossed into India with some others to bring cattle. On January 9, while they were swimming a river to cross back into Bangladesh, they were allegedly spotted by some BSF guards, who chased them on a speedboat. While his accomplices were able to escape with the cattle, they say that they saw Shafiqul caught by the BSF.

One of the witnesses, Shahadat, met his mother-in-law, Masura Begum, on his return and asked her to inform Shafiqul Islam's family of his death. He told Masura Begum that BSF personnel from Barunhat Camp stabbed and killed Shafiqul Islam and threw his body in the river.⁸³

According to Masura Begum, the men were crossing the Kalindi River at night with the cows when the BSF gave chase to them in a patrol boat. Shahadat left the cows in the water and hid in the bushes at the river bank. He saw BSF guards chase Shafiqul and heard him shout a few times as the BSF kicked him. He saw some BSF guards stab Shafiqul with a knife. They were swearing in Hindi. Later the BSF threw him in the river and left the scene on their boat. Shahadat and his accomplice then went back, picked up the cows, and swam into Bangladesh.⁸⁴

Shafiqul's mother, Saleha Begum admitted that cattle traders used to pay Shafiqul 2500-3000 taka [USD 35-40] to ferry cows from India into Bangladesh:

Shafiqul and Shahadat of Khainja village and another person were bringing some cows from India. Even though I repeatedly told him not to go, Shafiqul left the house that day and crossed the Kalindi River. Shahadat and the other person were able to return alive with cattle from India on January 9, 2010, but my son did not come back alive....When Masura Begum told me of my son's death, I began looking for Shafiqul's body in the Kalindi River. On January 13, a woman from Uksa village told me that Shafiqul's body was lying on the bank of the river adjacent to the BDR camp at the Uksa border. I went there with Shafiqul's wife Anjuara... After recognizing Shafiqul's body, I sent Anjuara to the Uksa BDR camp to inform them.⁸⁵

⁸³Odhikar interview with Masura Begum, Shamostopur, Satkhira, February 20, 2010.

⁸⁴Ibid.

⁸⁵Odhikar interview with Saleha Begum, Sheetalpur, Satkhira, February 20, 2010.

Mosammat Fatema Begum, who found Shafiqul's body, said that it was nude, with a black tube around the chest. There were cuts on the left cheek and on the feet.⁸⁶

Sub-Inspector Abdul Huq recovered Shafiqul's body on January 13, 2010. It was sent for autopsy on the following day and then handed to the family for burial. The police officer said that Shafiqul, a cattle-rustler, was swimming back to Bangladesh holding the tail of a cow, and wearing a tube around his chest, when members of the BSF ran a speedboat over him. Shafiqul's body was cut by the blades of the speedboat.⁸⁷ He said that although the police did investigate the death, the Bangladesh police had no authority to bring charges against the BSF.

Killing of Abdur Rakib, a 13-year-old boy

Abdur Rakib, aged 13, was also killed inside Bangladeshi territory. On March 13, 2009, a BSF trooper had an argument with a boy who was fishing in the Dohalkhari Lake, barely 20 meters from an international border. The soldier opened fire, and hit two other boys who were grazing their buffaloes nearby. Abdur Rakib was shot in the chest and died instantly. Mohammad Omar Faruq, aged 15, was injured. He said:

I had taken our three buffaloes for grazing in the field. This field was about 50 yards from the border. It is a common grazing ground and a lot of other boys were feeding their buffaloes in the same field. There is a lake called Dohalkhari about 30-40 yards from that field towards the border. A young boy was catching fish in the lake. Everything was going on as usual when I heard a sound coming from the lake. A BSF soldier was standing at the border and loudly talking to the boy who was catching fish. It seemed that he wanted the boy to give him some free fish. This went on for about half-an-hour and it started to become very heated. I thought that the BSF soldier might be drunk.... Soon they started to verbally abusing each other and then the BSF pointed a gun at the boy. The boy ran and the soldier started to shoot. I think maybe about seven to ten rounds were fired... I was hit on the right hip and fell down. Everyone else around me was running to hide, leaving their buffaloes... I crawled to a paddy field and waited for help.⁸⁸

⁸⁶Odhikar interview with Mosammat Fatema Begum, Uksa, Satkhira, February 20, 2010.

⁸⁷Odhikar interview with Sub-Inspector Abdul Huq, Kaliganj Police Station, Satkhira, February 20, 2010.

⁸⁸Odhikar interview with Omar Faruq, Horitokidanga, Naogaon, February 26, 2010.

Toriqul Alam, 22, who was working on his farm nearby, heard the gunshots and then saw Omar Faruq crying and crawling away. He and some others ran to pull him to safety. Toriqul Alam says that he also saw that Abur Rakib was lying on the ground, dead.⁸⁹

Mohammad Abu Bakar, Rakib's uncle, also witnessed parts of the incident. He was irrigating his fields when he heard gunshots. He ran to a paddy field nearby to hide after hearing the first shot. From there, he saw that his nephew had been shot by a BSF soldier. Later, he saw the soldier, a black cloth covering his face, carrying a gun in his right hand, dragging Rakib's lifeless body by his right leg through the field over a culvert on the Indian side. The soldier then walked two buffaloes close to the border so that it appeared that they were brought from India. After that, he made a call on his mobile phone. A little later, Abu Bakar saw about a dozen BSF personnel arrive in a van, who took Abdur Rakib's body away.⁹⁰

A flag meeting was held between the BDR and the BSF on March 14, to discuss the incident. The BSF tried to insist that the victims were illegal cattle traders, but the BDR personnel presented witness accounts countering this version. Some villagers who were present during the flag meeting said that the BSF eventually apologized and promised that the soldier responsible would be punished.⁹¹ There is no information on any action taken.

Abdur Rakib's body was handed over to the BDR after an autopsy in India. Omar Faruq was taken to hospital.

Indiscriminate Shooting at Nazrul Islam and Anwar Hossain

Nazrul Islam, a 34-year-old rickshaw puller from Panchagar district, said he occasionally supplemented his income through cattle smuggling. On January 5, 2010, he left his home in the evening, telling his wife that he was going to ferry some cows back from India. He met up with several others but when they reached the border, they found a heavy BSF presence patrolling in the area. So they decided to wait, only setting out around 3 a.m. the following morning. They were very close to the Haptia camp of the BSF, but failed to notice some soldiers who were hidden in the field:

As soon as the BSF saw us, they started firing without warning. On that night, the BSF shot at least 30 rounds. I had never experienced such firing from the BSF before. Hearing the gunshots, all of us ran to save our lives. I was

⁸⁹Odhikar interview with Toriqul Alam, Horitokidanga, Naogaon, February 26, 2010.

⁹⁰Odhikar interview with Mohammad Abu Bakar, Sonadanga, Naogaon, February 26, 2010.

⁹¹Odhikar interviews with Md. Abu Bakar and Atiq Hasan, present during the flag meeting, Sonadanga, Naogaon, February 26, 2010.

running towards India. I got shot in my right hand....I went directly to an Indian cattle trader's house. The BSF was looking for me... I called my cousin who lives in India... He came and took me home and a local doctor put a bandage on my wound.... The next day, I went to Shiliguri.⁹²

Shiliguri is a town in West Bengal and Nazrul Islam was admitted into a hospital. He remained in the hospital for several days but had to flee once a doctor discovered that he was a Bangladeshi national and started demanding bribes, threatening to inform the BSF. On January 21, 2010, he finally managed to contact some cattle traders who helped him cross back into Bangladesh.

Anwar Hossain had also run once the BSF opened fire. He was injured in his right palm. Anwar and two others managed to hide in tea estates until they were able to contact an Indian cattle trader who helped him find a doctor to clean the wound and provide medicine. The BSF managed to track them down at the cattle trader's house on January 8, but they escaped and eventually returned to Bangladesh.⁹³

Injuries to Rumi Akhter Nipa, a 12-year-old girl

On October 4, 2009, Rumi, a resident of Nawdapara village in Kurigram district, ate her usual meal of rice and vegetables at around 8 a.m. and then went to school at 9 a.m. According to the 12-year-old, when she reached school in the morning, none of her classmates were present. The teacher asked her to go fetch her friends so that classes could start. It was Ramadan,⁹⁴ so the girls had probably been delayed.

Rumi found her friends at a pond near the border, between international pillars no. 1063 and 1064. They were bathing in the pond. Rumi's maternal aunt Rubi, whose house is in that area, was also present. Rumi said:

My friends Sheuli, Mina, Mousumi, Shilpi, and couple of other classmates and friends were bathing in the pond. My aunt Rubi, whose house is in that area, was there as well. On our way back to the school, suddenly I felt as if I had been hit by a stone. It was tingling, sharp pain on my right thigh. When I told my aunt about the stone, she brushed it off saying that it was nothing serious. But soon my dress started to turn crimson. My aunt

⁹²Odhikar interview with Nazrul Islam, Dorjibari, Panchagar, March 25, 2010.

⁹³Odhikar interview with Anwar Hossain, Dorjibari, Panchagar, March 25, 2010.

⁹⁴Ramadan is the month the Quran was revealed. Muslims fast from sunrise to sunset during this sacred month.

became a little worried and she checked my thigh and screamed, “You have been shot.”⁹⁵

Rubi called out to her son Faruk who was working nearby. He had heard the shots earlier, but he thought the sound had come from the Indian side of the border. He rushed when his mother called him, and found his cousin, Rumi, had fallen down, with her clothes drenched in blood. He immediately looked across the border, but he could see no BSF personnel there. He then rushed Rumi to the hospital.⁹⁶

According to Subedar Abul Kalam Azad, the BDR first learned of the incident when they saw a group of angry villagers at the hospital where Rumi had been brought. The villagers said that two rounds were fired by the Shapara BSF members at Chadnichawk on the Indian side of the border into Nawdapara on the Bangladeshi side.⁹⁷

Outraged by this apparently indiscriminate shooting, the BDR contacted Shahpara BSF camp. Two flag meetings were held. On October 5, 2009, in the morning at 10 a.m, there was a meeting of camp level officials. On October 7, at 11 a.m. there was a meeting of Battalion commanders. At the flag meetings, the BSF apologized profusely for the incident. On October 7, at the commander level meeting, BSF Commander Brajesh, who was in charge of the 151 Battalion of Shahpara Camp apologized again and said that the person or persons responsible would be identified and punished.⁹⁸

Attacks on Indian Nationals

According to MASUM, hundreds of Indian nationals have been killed by the BSF inside Indian territory, including in West Bengal state where we conducted our investigations. These are some recent cases that were investigated by MASUM in collaboration with Human Rights Watch for this report. These cases provide evidence that the BSF, in addition to its attacks on Bangladeshi citizens, is responsible for grave human rights violations against Indian nationals. The cases also show that there is no accountability for these abuses.

⁹⁵Odhikar interview with Rumi Akhter Nipa, Roumari Upazila Health Complex, Nawdapara, Kurigram, March 1, 2010.

⁹⁶Odhikar interview with Faruk, Nawdapara, Kurigram, March 1, 2010.

⁹⁷Odhikar interview with Subedar Abul Kalam Azad, Shapahar Police Station, Naogaon, February 26, 2010.

⁹⁸Ibid.

Killing of Basirun Bibi and Baby Ashique

On May 4, 2010, Basirun Bibi and her six-month-old grandson were killed when the BSF opened fire at Dakshin Dhadiyal village in Coochbehar district. The BSF opened fire after an altercation with the villagers.

The violence occurred due to ongoing tension between villagers and BSF personnel because of the border fencing by Indian authorities. As already noted above, because the fence is several kilometers inside Indian territory, villagers often have to pass through to access their land. The BSF requires them to submit their identity cards at the border post if they want to approach the area beyond the fence, towards the border. The cards are restored once they cross back. This is to prevent illegal immigration by Bangladeshi nationals.

Early in the morning on the day Bibi and Ashique were killed, a villager named Salam Ali submitted his papers and signed his name in the BSF register before taking his cattle for grazing beyond the fence. But personnel belonging to the BSF's 113th Battalion later asked him to return, saying that permission had been revoked. Salam Ali was joined by other villagers who all gathered to protest against the BSF's restrictions. There was a scuffle. A BSF officer then ordered that his men open fire to contain the protesters in what appears to be disproportionate use of lethal force. Six persons were injured by bullets. Basirun Bibi was shot in the chest, while her grandson was shot in the head. Both were taken to the hospital along with others injured in the firing. Ashique was dead on arrival, while Basirun Bibi later died in hospital.⁹⁹

Two cases of unnatural death were registered at the Tufanganj police station. A police complaint was also lodged against the BSF by Salam Ali. The BSF, in turn, have lodged a complaint of rioting against the villagers at the same police station. MASUM has filed a written complaint to the NHRC but as of this writing is yet to receive a response.¹⁰⁰

Killing of Atiur Rahman

Atiur Rahman, a businessman of Puthiya (Jamtala) village, had gone to visit his aunt who lives close to the Indo-Bangladesh border on March 21, 2010. He was accompanied by his cousin, Rahabul Sheikh. They were returning at around 9 p.m. when they were stopped by two BSF soldiers, both from the E Company of the 105th Battalion. While Rahabul Sheikh managed to run away, Atiur Rahman was shot dead. Marks on his body suggested that he

⁹⁹MASUM, fact-finding report, Coochbehar, May 14, 2010.

¹⁰⁰MASUM, written complaint to NHRC, May 15, 2010.

had been beaten before he was shot. The body was recovered near the Bangladesh border in Murshidabad district.¹⁰¹

That night, according to Atiur's father, Mesher Ali: "We heard that someone had been shot. It was still before the call for morning prayers. We were worried, so I sent my other son to check... My son saw the body. It was his brother."¹⁰²

The BSF initially refused to let family members view the body. But later, when they were finally permitted, they saw that Atiur Rahman had been brutally tortured, his arms twisted and broken. His uncle Alauddin Biswas, who saw the body as the police removed it, said that Rahman must have been shot point-blank in his forehead, as he lay on the ground. The bullet had pierced his head and was recovered from where it was embedded below in the soil. He was also shot in the abdomen. Alauddin Biswas said:

I went to see the body. It was lying 5-6 kilometers away from our house. There were police and politicians. We all saw that the BSF had shot him while he was lying on his back. They had shot him in the forehead and the bullet had pierced through and was lying a few inches inside the ground. If he was running away, he would have been shot in the back. They just killed him... We have no idea why he was killed... We know about the curfew. People are not allowed to roam around after dark. But why did they have to kill him? They could have arrested him if they thought he was a smuggler.¹⁰³

The Company Commander of the BSF's 105th Battalion stated in his complaint to the police that, while on patrol:

Constable Sunil Kumar observed 10-15 smugglers along with about six cattle heads coming from the India side and going towards the Bangladesh side. He also saw a shadow of a smuggler nearby as such he physically apprehended him. The remaining smugglers tried to free the apprehended smuggler by attacking and encircling patrolling party and they managed to get him free. They also tried to snatch Constable Sunil Kumar's weapons, however, they could not do so. The patrolling party challenged the smugglers to stop but the smugglers [sic] party threatened and encircled the patrolling party. During the

¹⁰¹MASUM, fact-finding report, Murshidabad, April 16, 2010.

¹⁰²Human Rights Watch interview with Meher Ali, Murshidabad, May 3, 2010.

¹⁰³Human Rights Watch interview with Alauddin Biswas, Murshidabad, May 3, 2010.

course of fighting Constable Sunil Kumar sustained minor injuries on his right arm and left leg. The butt of his rifle suffered damage by the *dah* [scythe] of the smuggler. Sensing imminent danger to his own life and in self-defense of his life, Constable Sunil Kumar fired two rounds from his rifle.... Resultantly ... Atiur Rehman ... sustained bullet injuries on his forehead and back and died on the spot. There are no reports of casualties or injuries of other smugglers or any BSF personnel. On firing, the remaining smugglers along with the cattle heads ran towards Dihipara village in India¹⁰⁴

Atiur Rahman's father has lodged a murder complaint against the police, citing bullet injuries that show that his son was lying on his back on the ground when he was shot, and that there were injuries on the body resulting from the torture that was inflicted before he was killed. No investigation has followed.

Killing of Shahjahan Gazi

Eighteen-year-old Shahjahan Gazi, of 24 North Parganas district, was involved in smuggling. On November 10, 2009, he left his home, telling his family that he was going away to work. The next morning, he turned up, badly injured, at the home of Panchanan Sarkar, who lives at the edge of the border in Dobila.

Shahjahan told Sarkar that he was caught by BSF personnel at around 1:30 a.m. He said he was beaten mercilessly, and the soldiers probably left him thinking he was dead. But he regained consciousness and managed to drag himself to the nearest house. By that time, other villagers had gathered at Sarkar's house and they arranged for a vehicle to take Shahjahan to the hospital. However, before they could leave, at around 11 a.m., some BSF personnel arrived and said that they would arrange for Shahjahan's treatment and took him into custody.¹⁰⁵

The villagers, meanwhile, informed Shahjahan's family and they rushed to the district hospital in Basirhat. They found that the BSF had already reached the hospital at around 1:30 p.m. and that Shahjahan was dead when the BSF brought him in.

Since Shahjahan was alive when handed into BSF custody, the villagers went to the police station to file a murder complaint. The police lodged a First Information Report (FIR)¹⁰⁶ based on a

¹⁰⁴BSF complaint lodged at Raghunathgunj Police Station, Murshidabad, March 22, 2010.

¹⁰⁵MASUM, fact-finding report, 24 Parganas North, November 13, 2009.

¹⁰⁶The First Information Report is lodged by the police after initial findings based on a complaint suggest the need for further investigation.

complaint filed by Afsar Gazi, Shahjahan's father. According to the FIR, the BSF—instead of heading to the hospital—took Shahjahan to the Dobila camp, where he was beaten to death.¹⁰⁷

However, when MASUM contacted the Investigating Officer Kartik Chandra Mandal, a sub-inspector at the Swarupnagar police station, he said that he contacted the BSF, but could not verify the identity of the personnel who may have been responsible. He also admitted that he was helpless and could not take any action against the BSF.¹⁰⁸ At the inquest, it was revealed that the postmortem conducted by government doctors had found severe injuries on the victim's arm and back.

Because Shahjahan was Muslim, MASUM also lodged a written complaint with the National Minorities Commission.¹⁰⁹ As of this writing, there has been no progress in this case.

Killing of Noor Hossain, a 17-year-old boy

Noor Hossain, 17, was killed on the banks of River Padma by BSF personnel on September 1, 2009. MASUM investigations revealed that the boy, a resident of Brahmaottar village in Murshidabad district, belonged to a very poor family and used to engage in cattle smuggling.¹¹⁰

Witnesses said that when they heard loud voices and shouting, they ran to the river. They saw that Noor Hossain was being beaten mercilessly by BSF personnel and lay groaning on the ground, pleading for his life.¹¹¹ But the BSF kept hitting him, and then fired two shots. Said his uncle Mustafa Sheikh:

We did not even know he had gone out. We thought he was sleeping.... At around 10:45 p.m. or so, I heard gun shots. I thought to myself, 'They have gone and killed someone again.' Around half an hour later, maybe around 11:15 or so, there was a sound again. That is when they shot at it his body. After he had died, they shot him in the back... The bullet exited from the side, not through his body.... Then we heard people calling out.... They said that Noor Hossain had been killed. I ran, but the soldiers would not let us go near....

¹⁰⁷Based on Afsar Gazi's complaint, the Swarupnagar Police Station lodged case no. 304/09 under section 302 of IPC on November 11, 2009.

¹⁰⁸MASUM interview with Sub-Inspector Kartik Chandra Mandal, Swarupnagar Police Station, November 13, 2009.

¹⁰⁹MASUM letter to National Minorities Commission, November 23, 2009. On file with Human Rights Watch.

¹¹⁰MASUM, fact-finding report, Murshidabad, September 5, 2009.

¹¹¹MASUM, Fact-Finding Report: interviews with witnesses Mustafa Sheikh, Mukul Sheikh, Israil Sheikh, and Sabirun Islam, Murshidabad, September 2, 2009.

When finally the police arrived, they let us go near. I saw marks on him. He had been badly beaten.¹¹²

The next morning, the body was sent for autopsy. The BSF lodged a police complaint and submitted farming implements, sticks, and two cows that were recovered near the body. P. Bodhra, a Company Commander in the BSF's 105th Battalion told the police that that Noor Hossain, a smuggler, had been killed by BSF personnel.¹¹³

On September 5, MASUM staff accompanied Noor Hossain's father and brother, Jerman and Salim Sheikh, to the police station to lodge a complaint. Police officer Kanun Mondal read the report, but returned it to Salim Sheikh saying that he could not take any steps against the BSF. The Sheikhs waited for two hours until the Officer-in-Charge, Dulal Biswas, turned up at the police station. The complaint was handed to Dulal Biswas. He read the whole report and then rebuked Noor Hossain's relatives, saying that the boy had been justifiably killed by the BSF when he was caught smuggling.¹¹⁴

Mustafa Sheikh told Human Rights Watch that the police have recommended the family stop pursuing the case. "They say, 'Why do you bother? What will happen to the BSF? Nothing can happen to the BSF. The BSF will say that the 24 kilometer border area is under their control.'"¹¹⁵

MASUM repeatedly asked the police about their investigation into BSF excesses in this case, but to no avail. The group then sent a written complaint to the National Commission for Protection of Child Rights, but is yet to receive a response.¹¹⁶

Family members said that they have never been summoned to testify before a BSF court of inquiry, which indicates that no internal investigation was done to check if the soldiers had deliberately killed someone in their custody.

Killing of Shyamsundar Mondal

Shyamsundar Mondal was killed on August 22, 2009, in Murshidabad. The BSF claimed that its personnel based in the Rajanagar camp had shot and killed him in an encounter with smugglers at around 7 p.m. at Dadur Ghat, on the banks of the Padma River.

¹¹²Human Rights Watch interview with Mustafa Sheikh, Murshidabad, May 6, 2010.

¹¹³MASUM, fact-finding report, the BSF lodged a police complaint on September 2, 2009.

¹¹⁴MASUM, fact-finding report, Murshidabad, September 5, 2009.

¹¹⁵Human Rights Watch interview with Mustafa Sheikh, May 6, 2010.

¹¹⁶MASUM letter to the National Commission for Protection of Child Rights, October 7, 2009. On file with Human Rights Watch.

The family had lost their land due to erosion, and Shyamsundar Mondal, according to his family members, had apparently taken to cattle smuggling to earn a living. According to eyewitnesses who were with Mondal but did not wish to be identified, BSF personnel from the 191st Battalion caught the smugglers while they were taking the cows into Bangladesh and immediately opened fire without warning. One of the bullets struck Shyamsundar in the back, and he instantly fell down. His associates, believing him to be injured, first started dragging him along as they escaped. But later, realizing that he was dead, they left his body in a jute field and ran away.¹¹⁷

The police, along with family members, recovered the body on August 23, and it was taken for autopsy. The police registered a case of unnatural death. On the same day, S.R. Chowdhury, the Assistant Commandant of the BSF, filed a police complaint against 40 to 45 unknown smugglers and said that two rounds had been fired to stop them in their activities.¹¹⁸ The BSF also handed over four buffaloes that had been seized during the operation.¹¹⁹

When Ramesh Chandra Mondal, the father of the victim, initially told the police that he wanted to lodge a complaint against the BSF for killing his son, the officer at the Raninagar police station said that it would be of little use, since Shyamsundar was killed while committing a crime. However, with the assistance of MASUM, Mondal did lodge a written complaint, saying that his son was shot without warning by BSF soldiers, citing the bullet injury which suggested that the victim was not in an attacking position when he was shot.¹²⁰ The police registered a criminal case, but as of this writing, there has been no investigation or arrest.¹²¹

MASUM sent a complaint to the NHRC, but is yet to receive a response.¹²²

Killing of Sushanta Mondal, a 13-year-old boy

According to Panchanan Mondal, his 13-year-old son, Sushanta Mondal, was brutally killed by the BSF on July 13, 2009. Sushanta lived with his family in a village almost adjacent to the Bangladesh border in Murshidabad district. The village, called Borderpara, sits on the Padma river, and that day, Sushanta, along with his friends, Prosenjit and Pintu Mondal,

¹¹⁷MASUM, Factfinding report, Murshidabad, August 26, 2008.

¹¹⁸Police complaint lodged by S. R. Chowdhury, Assistant Commandant, BSF at Raninagar Police Station, Murshidabad, August 23, 2009.

¹¹⁹Ibid.

¹²⁰Police complaint by Ramesh Chandra Mondal, father of the victim, Raninagar Police Station, Murshidabad, August 25, 2009.

¹²¹MASUM interview with Samit Talukdar, sub-inspector of police, Raninagar Police Station, investigating officer in both the criminal cases i.e. case no. 486/09 dated August 23, 2009 based on the BSF complaint and case no. 492/09 dated August 25, 2009 based on complaint by Ramesh Chandra Mondal, father of the victim, Murshidabad, October 21, 2009.

¹²²MASUM letter to the National Human Rights Commission, October 21, 2009. On file with Human Rights Watch.

went to swim in the river. Several other villagers were also there at the time, and they later informed Panchanan Mondal of his son's death.

My son had gone to the river as usual along with his two friends. Some BSF personnel approached them on a speed boat and attacked the boys without any provocation. While the other boys managed to swim away, my son could not get away. The BSF men kept circling my son with their boat, and probably injured him with the propellers. I think they did it deliberately.... He eventually drowned. We tried to rescue his body, but in vain. However, his dead body emerged out of water on July 14, at around 12 a.m. I, along with other villagers, refused to hand over the body for post-mortem until the police lodged a complaint against the BSF personnel.¹²³

After calming the protesting villagers, the police took the body and sent it for autopsy. However, despite promising to investigate the role of the BSF, the police took no action against them. "It was evident from the injuries on my son's dead body that his death occurred due to injuries inflicted upon him by the BSF speed boats. Yet, no one is willing to bring those BSF personnel perpetrators to justice," said Mondal.¹²⁴

Killing of Abdus Samad

Saying that they suspected 35-year-old Abdus Samad of smuggling, several BSF personnel, led by Commander P. Vodra, forcibly entered his mud hut in the village of Biswanathpur in Murshidabad district on May 5, 2009. Abdus Samad did not live in the village, but worked as a day-laborer in Kolkata. However, he had come home after his wife delivered twin sons, to help take care of the family. Rimi Bewa, his wife, said that the BSF soldiers were harsh and abusive:

We were asleep when the BSF came at around 3 a.m. We have a broken door. We heard footsteps. They entered through the door. One of them kicked me and asked, 'Where is your husband?' They kicked me and used verbal abuses.... My husband woke up and immediately the BSF personnel started to beat him in front of our children with rifle butts, boots, and sticks. Then they tied his hands on his back and dragged him outside the house, still beating him... I was scared and ran after them pleading that they stop beating my husband, but they ignored me. Hearing me screaming, some neighbours came out of their house. They also asked those BSF personnel to

¹²³MASUM interview with Panchanan Mondal, Murshidabad, July 14, 2009.

¹²⁴Human Rights Watch interview with Panchanan Mondal, Murshidabad, May 4, 2010.

stop. The men threatened them too with their guns. We saw him being dragged off. He was shouting. He was bleeding.¹²⁵

Abdus Samad's body was later found in the field and was taken to the BSF camp. Next morning, Rimi, accompanied by her husband's brother Abdul Hakim and a village council leader, went to the police to complain about the assault, abduction, and killing of Abdus Samad. The police initially refused to register a complaint against the BSF and only complied when village leaders intervened. Later, the police informed the family that the BSF had registered a complaint with the police, claiming that he was arrested for trafficking heroin, and had died in custody because he had suffered a heart attack.¹²⁶

The BSF apparently tried to persuade the local hospital authorities to support their claim of a heart attack. However, Dr. Goutam Ghosh, superintendent of the hospital told MASUM: "I had prepared myself to conduct the post-mortem but after observing few abnormalities, injuries on the body, I decided not to proceed with the post-mortem."¹²⁷ He sent the body instead for autopsy by more senior doctors at the Behrampore New General Hospital.

Mr. P. Vodra, the BSF Commander, who according to eyewitnesses was present when Abdus Samad was detained, later told MASUM:

Abdus Samad was arrested with heroin near the Indo-Bangladesh border by constables Prahlad Roy and Ran Riyauddin. He was transferred to the Ramnagar BSF Camp as their camp didn't have adequate facilities in which to detain a person. However, Samad became ill in custody as was duly treated at the Ramnagar camp and referred to Bhagabangola Hospital. I don't have any knowledge how he died.¹²⁸

Rimi Bewa insists that the BSF is always abusive, and they had no reason to suspect her husband. "My husband did not even live in the village," she said:

He worked as a migrant laborer... The BSF is like this. They come and always ask who does cattle smuggling. They abuse the women. People go to defecate in the fields. But in the evening, after 7 p.m. the BSF is patrolling

¹²⁵Human Rights Watch interview with Rimi Bewa, Murshidabad, May 3, 2010.

¹²⁶MASUM, fact-finding report, Murshidabad, May 12, 2009.

¹²⁷MASUM interview with Dr. Gautom Ghosh, Bhagabangola Hospital, Murshidabad, May 9, 2009.

¹²⁸MASUM interview with P. Vodra, DMC, BSF Border Outpost Camp, Murshidabad, May 9, 2009.

and they stop us. They want shops to shut. They beat us up, and say, ‘we have the power to do so.’ This BSF abuse has ruined our peace of mind.¹²⁹

Killing of Sanjit Mondal, a 17-year-old boy

Sanjit Mondal was cycling back to his house on March 24, 2009, when he was asked to stop by BSF soldiers. According to his father, Bhabani Mondal, the soldiers from the 105th Battalion of the BSF then beat up the 17-year-old and shot him in cold blood in front of numerous witnesses:

It must have been about 6 p.m. in the evening. The BSF is always there, because we live close to the border. My house is on the main path, so I saw the BSF pass by like every other day, from our front door. My son had gone to the shop close by. He was coming back when the BSF asked him to stop. ‘Come here,’ they said in Hindi. My son said, ‘I have to go. I have to feed the cattle.’ At this soldiers started beating him. My son was shouting, ‘Why are you hitting me? I am not a thief.’ This was happening in the village. Someone came running and told me, ‘BSF is beating your son.’ I ran out. He was just 10 yards away. In front of me, I saw the soldier shoot my son... We were standing there in shock. The soldiers told everyone to go inside, warning, ‘We will shoot anyone who comes out.’ I went to the house.... An officer, may be the commander, came and they dragged my son off the road. Then they surrounded my house. We were very scared. They called me out. The police was also there. They said, ‘Your son is a thief...’ I have 39 cows. What is the need for my son to be a thief? They just left his body lying by the street. They refused to let me move it.¹³⁰

MASUM lodged a complaint to the Governor of West Bengal, the National Commission for Protection of Child Rights, the Director General of the BSF, and the District Magistrate and Superintendent of Police in Murshidabad. It has not received a response from any of them.

Killing of Shibajit Mondal

Shibajit Mondal, a 28-year-old resident of Char Rajanagar village in Murshidabad, was smuggling cattle around midnight on March 14, 2009. According to his associates, four soldiers of the BSF’s 90th Battalion came upon the smugglers. Without warning they started

¹²⁹Human Rights Watch interview with Rimi Bewa, Murshidabad, May 3, 2010.

¹³⁰Human Rights Watch interview with Bhabtani Mondal, Murshidabad, May 4, 2010.

shooting at them. Shibajit Mondal and his associates were not carrying any weapons and thus did not pose a threat to the life or safety of the BSF soldiers.¹³¹

Shibajit Mondal was shot in the abdomen and brought to the Raninagar police station before being taken to the Behrampore New General Hospital. He was later transferred to a bigger hospital in Kolkata where he died of his injuries on March 30, 2009. The police registered the incident as a case of unnatural death, and investigations showed that Shibajit had been shot in an armed encounter with the BSF. Mondal's family members filed a murder complaint against the BSF, but no investigation followed.¹³²

MASUM also sent a written complaint to NHRC.¹³³ Based on its complaint, the NHRC sent a notice to the central Home Ministry which has operational control over the BSF. In June 2010, MASUM received a communiqué from an Under Secretary of the Home Ministry stating that a copy of a report from the BSF had been submitted to the NHRC on May 19, 2010. However, the NHRC has since not taken action or responded directly to MASUM.¹³⁴

Killing of Peparul Sheikh, a 16-year-old boy

Peparul Sheikh, a resident of the village of Chakmathura in Murshidabad district, was shot dead by three BSF personnel of the 90th Battalion on February 19, 2009. Sixteen-year-old Peparul was with his cousin Aminul Islam when they saw the BSF constables helping smugglers push through some 30-40 cows into Bangladesh. Fearing that this large herd of cattle would damage the standing crop in the field, the two boys tried to chase the cattle away. Atahar Rahman, Aminul Islam's father, said:

We have some farming land near the border and have to take BSF permission to go to the fields and tend our crops. That day my son Aminul Islam and his cousin Peparul Sheikh went to the farms in the evening. At around 9 p.m., my son said that they noticed that some smugglers along with three BSF constables were trying to smuggle 30-40 cattle to Bangladesh through a border outpost which is situated in our farming land. This kind of smuggling is quite regular in those areas. However, the two boys were scared that our crops would be seriously damaged due to the movement of cattle, so they tried to chase the cows away.

¹³¹MASUM, fact-finding report, March 15, 2009; International Secretariat of the World Organization Against Torture (OMCT), Case IND 231009, "Killing/ Lack of a proper investigation/ Risk of impunity," October 23, 2009.

¹³²MASUM, fact-finding follow up, Murshidabad, September 7, 2009.

¹³³MASUM, written complaint to NHRC, October 12, 2009. On file with Human Rights Watch.

¹³⁴Letter from Home Ministry, Government of India, June 2, 2010. On file with MASUM.

But that meant that they had interfered with the smuggling. Those BSF personnel and smugglers ignored the boys and accomplished their job.¹³⁵

According to Atahar Rahman, as soon as the cattle had been smuggled safely across the border, the BSF personnel started chasing the boys. While Aminul managed to flee, he saw his cousin Peparul being caught by the soldiers who beat him with their rifles, boots, and wooden sticks. Then one of the soldiers shot the teenager in the chest. When the family later saw the body, they found that the bullet had been shot at such close range that it went through his body and entered several centimetres deep into the soil.¹³⁶

The next day, Atahar Rahman went to the police to report the murder of his nephew by the BSF, but they refused to lodge a complaint. When MASUM contacted the BSF, an officer said that Peparul was a cattle smuggler and on the day of incident, a cow was also seized from him.¹³⁷

Indiscriminate Shooting of Mrityunjoy Mondal

Mrityunjoy Mondal, a resident of Char Rajpur Paschim Colony in Murshidabad, had stepped out into the fields to defecate in the early hours of June 23, 2009. Mrityunjoy Mondal said:

Smugglers often operate in this area to take cattle through the border. That day, two BSF constables were chasing some smugglers. I saw them run through the road next to my house and hide. It was dark, so I could not see where they had gone after they ran past me. The BSF men were angry, I think, because the smugglers had got away. They started shooting. One bullet hit the tree next to me, and the other struck me in the arm. I fell down unconscious.¹³⁸

Mrityunjoy said he does not remember what happened next, but his father, Shyamcharan Mondal told MASUM that his son was dragged by BSF constables towards the border to falsely claim that he was injured while engaged in smuggling. Mrityunjoy received injuries in his arm, and his eye was also damaged because of the attack.¹³⁹

The BSF did not bother to check Mrityunjoy's identity and simply assumed him to be a smuggler.¹⁴⁰ Assistant Commandant Bijoy Chowdhury of the Rajanagar BSF Camp told

¹³⁵MASUM interview with Atahar Rahman, Godagarie, Murshidabad, February 21, 2009.

¹³⁶Ibid.

¹³⁷MASUM phone interview with BSF officer Kalita, Singpara Border Outpost, March 31, 2009.

¹³⁸Human Rights Watch interview with Mrityunjoy Mondal, Murshidabad, May 4, 2010.

¹³⁹MASUM interview with Shyamcharan Mondal, Murshidabad, June 29, 2009.

¹⁴⁰Ibid.

MASUM: “Mrityunjoy Mondal was associated with smugglers and on the date of the incident about 15-20 smugglers attacked the constables of the BSF outpost with sharp cutting weapons. Then constable Mr. Pappu Kumar fired at Mr. Mrityunjoy and consequently he was injured.”¹⁴¹

The family tried to file a police complaint, but the police have refused to investigate the incident.

¹⁴¹MASUM interview with Bijoy Chowdhury, Assistant Commandant, BSF, Rajanagar, June 29, 2009.

III. Torture and Ill-Treatment of Border Residents

Both MASUM and Odhikar have also documented repeated allegations of abuse and torture by the Border Security Force (BSF). These abuses range from intimidation and verbal abuse to beatings and electric shocks, sometimes resulting in deaths.

The BSF ignores procedural safeguards designed to prevent torture and other mistreatment of persons in custody. Although Indian law requires that everyone taken into custody must be produced before a magistrate within 24 hours, this rule is usually ignored. The Supreme Court has stated that Article 21 of the Indian Constitution protects individuals from any form of torture or cruel, inhuman, or degrading treatment.¹⁴² The Indian Penal Code forbids causing “hurt” or “grievous hurt” and prescribes prison terms and fines for officers found guilty of torture.¹⁴³ The Criminal Procedure Code requires a magisterial inquiry into any death in custody.¹⁴⁴ The Prevention of Torture Bill, 2010, was passed by the Lower House in parliament on May 6, 2010 and has now been submitted to a parliamentary committee for review.¹⁴⁵

Torture is also banned by international law. The 1948 Universal Declaration on Human Rights states: “No one shall be subjected to torture, or to cruel, inhuman or degrading treatment or punishment.”¹⁴⁶ The Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Convention against Torture), the most detailed expression of the international community’s censure, makes it compulsory for state parties to make torture, attempts to torture, and complicity and participation in torture, criminal offenses under their national laws.¹⁴⁷

¹⁴²See D.K. Basu v. State of West Bengal, 1996. This landmark judgment by the Supreme Court led to what is commonly known as the eleven-point “Basu guidelines” to prevent the widespread use of torture in custody. Article 21 of the Indian Constitution on the “protection of life and personal liberty” states that “No person shall be deprived of his life or personal liberty except according to procedure established by law.”

¹⁴³Indian Penal Code, 1860, secs. 330 and 331, http://www.indialawinfo.com/bareacts/ipc.html#_Toc496765205 (accessed November 29, 2010).

¹⁴⁴Criminal Procedure Code, 1973, sec. 176, <http://www.indialawinfo.com/bareacts/crpc.html> (accessed November 29, 2010).

¹⁴⁵The Prevention of Torture Bill, 2010, <http://prsindia.org/uploads/media/Torture/prevention%20of%20torture%20bill%202010.pdf> (accessed November 29, 2010). The passing of the bill is a step towards the ratification of the UN Convention against Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment.

¹⁴⁶Universal Declaration of Human Rights (UDHR), adopted December 10, 1948, G.A. Res. 217A(III), U.N. Doc. A/810 at 71 (1948), article 5.

¹⁴⁷Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment defines torture as: “Any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity.”

Torture and Ill-Treatment of Bangladeshi Nationals

Research carried by Human Rights Watch and Odhikar reveals that Bangladeshi nationals are sometimes subjected to torture and ill-treatment if they are apprehended crossing into India. Some victims are actually involved in illegal trade. But because the border is not clearly demarcated, many cross the border by mistake.

Death due to Torture of Hasnat Halsham Innu, a 15-year-old boy

Hasnat Halshan Innu, a 15-year-old boy living in Sakolia village in Chuadanga district in Bangladesh, was allegedly arrested and tortured by BSF in Rangarputa on January 21, 2010. He died two weeks later, apparently as a result of injuries sustained while in the detention of BSF.

Sakolia village is located next to a river which serves as the border between India and Bangladesh. Momin Halshan, the brother of Hasnat, told Human Rights Watch that on the afternoon of January 21 his brother crossed the shallow river in order to fetch some of the family's ducks that had swum over to the Indian side. As Hasnat approached the Indian riverbank, he was arrested and detained by BSF. After an hour in BSF's detention, Hasnat was released. When he returned to the Bangladeshi side of the river he collapsed and was taken by his father to the family home. Hasnat had at that point no visible injuries or bruises. But according to what he told family members, he had been brutally tortured. His brother Momin Halshan recalled:

I work in the fields, and therefore was not present when the incident took place. But I heard at around 3 p.m. that my brother had been arrested by the BSF. When I got home, my brother told me about his arrest and the ill-treatment that he suffered.... When Hasnat was carried home from the bank of the river, there were no bruises or visible or external injuries on his body. But he complained of excruciating pain all over and was very weak. He gave a shocking description of the torture carried out on him.... After Hasnat was arrested by the BSF officials, his hands were tied and he was gagged. At first he was beaten with bamboo sticks on the feet. Then a couple of BSF soldiers jumped on his chest and loin. He was beaten on the hip and from the description he gave it seems his anus was violated with a bamboo stick. Later his hands were tied with two ropes and his arms pulled from opposite sides. In that position the BSF dragged him forward until he collided with a stump of a tree.¹⁴⁸

¹⁴⁸Human Rights Watch and Odhikar interview with Momin Halsham, Thakurpur BDR camp, Sakolia, Chuadanga, February 13, 2010.

As he was in severe pain he was taken to Chuadanga district hospital the same evening.¹⁴⁹ A nurse at the hospital's general ward told Human Rights Watch that Hasnat complained about pain all over the body, and especially in the chest.¹⁵⁰ He remained in that hospital for 12 days. He had trouble breathing, vomited blood, and constantly complained of pain.

According to Dr. Latifur Rahman, his doctor, Hasnat complained of extreme pain and could not sleep at night. There were a few bruises on his feet and legs. As he suffered from chest pain, an X-ray was taken which showed dried blood and accumulated water in his lungs. Doctors operated, making an incision under his right arm to remove the blood and water. They found the area to be infected as well, but it is unclear if this was due to his torture injuries.¹⁵¹ When his condition did not improve, he was referred to the Dhaka Medical College Hospital where he was taken on February 2, 2010. However, he was declared dead upon arrival.

Subedar Nazrul Islam, who is in charge of the Thakurpur BDR camp, said that Hasnat was captured by BSF when he crossed the river to bring his ducks back and was released an hour later. There was no flag meeting held between the BDR and BSF regarding the capture and alleged torture of Hasnat. BDR confirmed that while there was no visible injury on victim's body, they heard from family members that he had been brutally tortured by the BSF.¹⁵²

Torture of Motiar Rahman

On January 25, 2010, at around 7:30 a.m., Motiar Rahman, resident of Kadamtala village in Jessore district, went to cut grass from a field near the border. Since there are no clear markers, it is easy to stray across the line. Motiar says he may have mistakenly crossed into India:

After about 15 minutes, two BSF soldiers captured me. They blindfolded me and took me to the BSF camp at Angrail. It took about 15 to 20 minutes to reach. At that time I thought that the BSF men were going to kill me. After reaching the camp, they took off the blindfold and tied me to a tree which was just beside the camp. They left me there until 11 p.m. at night. Then I was given *daal* [lentils] and rice. But when I finished eating, the BSF started torturing me. I was beaten severely with a bamboo stick, on my back and feet by the same soldier who brought me the food. I was kicked several times and as a result started bleeding from my penis. At this point another BSF soldier

¹⁴⁹Human Rights Watch and Odhikar interview with BDR 35th Battalion member, Thakurpur camp, February 13, 2010.

¹⁵⁰Human Rights Watch and Odhikar interview with Viva Lahari, Chuadanga district hospital, Chuadanga, February 13, 2010.

¹⁵¹Odhikar phone interview with Dr. Latifur Rahman, Chuadanga district hospital, Chuadanga, February 18, 2010.

¹⁵²Human Rights Watch and Odhikar interview with Subedar Nazrul Islam, Thakurpur BDR camp, Sakolia, Chuadanga, February 13, 2010.

started beating me on my head with a bamboo stick. This torture went on for at least 45 minutes. The BSF men jumped onto my chest, and kicked me on my head and face with their boots. I think I collapsed and became unconscious due to severe torture.¹⁵³

Motiar said that he was given breakfast in the morning of January 26 and was then left tied to the tree for the whole day. At around the same time as the previous night, the BSF started torturing him again. They kicked his arms and ears.

On the morning of January 27, he says a senior officer arrived and repeatedly slapped Motiar across his face. At around 9 a.m., he was handed over to the BDR. Later that day, he was taken to the Jessore College Hospital by the police.¹⁵⁴ According to Sub-Inspector Ali Ahmed Masud, Motiar was arrested under the Bangladesh Passport Order, 1973 and a case was filed at the Sharsha Police Station against him for crossing the border.¹⁵⁵

He had been produced before the court on January 28, 2010, and was granted bail the next day. According to his wife Rashida Begum, he was badly injured. She noticed a number of bruises on his back, head, hands, and face. He also had injuries in his groin, leading to occasional bleeding. The family has taken loans to pay for his treatment and defense.¹⁵⁶

Torture of Kamrul Islam and Aktarul, a 17-year-old child

Kamrul Islam, a 38-year-old fisherman and 17-year-old Aktarul, both residents of Jessore district, were caught by the BSF on January 23, 2010. They were returning to Bangladesh from India with four cows. According to Kamrul, he and three others—Aktarul, Jafor and Monir—had gone to India on the night of January 22. When they were returning at 4:30 a.m. on January 23 with the cattle they planned to smuggle into Bangladesh, they noticed that three BSF personnel were sitting in a field at the border:

Seeing the BSF, everyone scattered, but Aktarul and I were caught... The BSF started to beat me with rifles around my neck and head... Nobody wants to be a cattle trader. Only some of us poor villagers are engaged in this business. If we can bring one cow to Bangladesh we get 1,000-2,000 taka

¹⁵³Odhikar interview with Motiar Rahman, Kadamtola, Jessore, February 27, 2010.

¹⁵⁴Odhikar interview with Ali Ahmed Masud, Sharsha Police Station, Jessore, February 27, 2010.

¹⁵⁵Bangladesh Passport Order, 1973, sec. 11(c) says that “whoever fails to produce for inspection his passport or travel document (whether issued under this order or not) when called upon to do so by the prescribed authority shall be punishable with imprisonment for a term which may extend to six months, or with fine may extend to taka two thousand, or both.”

¹⁵⁶Odhikar interview with Rashida Begum, Kadamtola, Jessore, February 27, 2010.

[USD 15-30]. Even the BSF knows that we only do this out of compulsion... But they said that bringing cows into Bangladesh through crop fields destroy the crops of the Indian people... After a while I managed to break free from the hands of the BSF and started to run away. I was afraid that the BSF would shoot me. I was remembering the name of Allah. Allah saved me from the clutches of death that day.¹⁵⁷

Aktarul was less fortunate. He was beaten by the BSF guards and released only after one of the soldiers intervened:

At around 4:30 a.m. when we were returning with four cows through the Putkhali border we noticed three BSF men. The BSF started to chase us, so we ran, leaving the cows behind. But they managed to catch me. BSF asked me what I was doing there. I said that I was cutting grass and showed my *kaste* [curved knife, a traditional grass cutter used in farming] as proof. Hearing this explanation, the BSF soldiers started to hit me on my head with rifles. I was bleeding. They took my knife and asked me if I would ever come back to India. When I said that I would not, one BSF man wanted to make sure, and made cuts on my arms with my own knife. I was beaten more than four times on my head with rifles. This went on for about 15 minutes until one of the BSF men said that since I was only a young boy they should let me go... I crossed the border where a friend, also a member of the cattle trading group, was waiting for me. I reached the Bangladesh side and fell to the ground. I cannot remember what happened after I collapsed, but when I woke up I found myself at home with dressings on my arms and head.¹⁵⁸

Torture and Killing of Abdul Jalil

A 43-year-old rickshaw puller and laborer, Abdul Jalil also used to work with the cattle-rustlers because the family had accumulated a large debt, according to his wife Nasima Begum. On January 20, 2010 at 10 a.m., Jalil left his home saying that he was going to work in the fields and would be back by evening. When he failed to return, Nasima Begum asked her brother Ahmed Ali whether he had seen her husband. Ahmed Ali told her that Jalil was in Putkhali village at his friend Nuruddin's house and they were planning to cross the Ichamoti River to bring cattle back from India.¹⁵⁹ Jalil had a congenitally defective ankle and walked with a limp.

¹⁵⁷Odhikar interview with Kamrul, Shibnathpur Baroputa, Jessore, February 14, 2010.

¹⁵⁸Odhikar interview with Aktarul, Putkhali, Jessore, February 15, 2010.

¹⁵⁹Odhikar interview with Nasima Begum, Shakhariputa, Jessore, February 18, 2010.

Ahmed Ali also joined the group. At around 11 p.m. on January 23, 2010 he and three others including his brother-in-law Abdul Jalil, Nuruddin and Ashadul left for the border:

When we reached the Ichamoti River at around 11:45 p.m. on January 23, 2010, Nuruddin's small boat was tethered at the bank. We crossed the river and reached Angrail village in India at around 1 a.m. From Angrail, we picked up three cows and a calf. The boat was too small for us and the cattle, so Nuruddin took the animals by boat while Ashadul, Jalil and I started walking back to the border. Jalil was walking slightly behind us as he had difficulty in walking. When Ashadul and I reached the bank of the Ichamoti River on the Indian side, two BSF members from Angrail camp spotted us. Seeing the BSF, Ashadul and I ran into a bamboo grove to hide. In the meantime, Jalil reached the bank of the river and was caught by the BSF. When the BSF members saw Jalil, they stopped chasing us.... Ashdul and I saw that the two BSF members were masked, probably because of the cold and were equipped with batons and rifles. After catching Jalil, the BSF beat him badly with their rifles and batons on his neck and head. Jalil was screaming. The BSF officials called the Angrail camp while beating Jalil. About 15 minutes later two motorbikes came to take Jalil and the BSF members. When they were mounting the motorbikes, Jalil was unconscious and two BSF members had to drag him to the motorbike... I think Jalil had perhaps died because he was beaten on his head with rifles and batons.¹⁶⁰

On January 30, 2010 at around 8:30 a.m., Ahmed received a call from his friend Rahman who informed him that some villagers had found a body on the bank of the Ichamoti River. When he reached the spot, he saw that the body had already been recovered by the police with the help of local people. Ahmed identified the body as Jalil's from his damaged ankle and clothes.¹⁶¹ At around 11 a.m., the police took the body to Jessore Medical College Hospital for autopsy.

On February 2, 2010 the body was returned to the family. Ahmed says that he saw injury marks and clotted blood in the ears and head while he was washing the body before burial. There was no sign of any gunshot on Jalil's body.¹⁶² Ahmed's statement was confirmed by Sub-Inspector Ali Akbar, the investigating officer in the case who said that the inquest report showed that there were no gunshot wounds on the body, but that it had many injuries and

¹⁶⁰Odhikar interview with Ahmed Ali, Shakhariputa, Jessore, February 18, 2010.

¹⁶¹The day of the incident Jalil was dressed in a black shirt, knitted sweater, and blue trousers.

¹⁶²Odhikar interview with Ahmed Ali, February 18, 2010.

bruises on the head and right earlobe. He suspected that the body had been in the river for almost a week before it was found.¹⁶³

Torture and Ill-Treatment of Indian Nationals

The BSF often sets up its camps a few kilometers inside the border, and then deploys personnel at various outposts. These outposts are also several kilometers away from the borderline. Access to areas beyond the outpost is controlled by the BSF, which leads to harassment of local villagers. Suspecting villagers of smuggling, the soldiers often examine all bundles and carry out body searches for currency or narcotics. Villagers say they are subjected to near constant verbal abuse and intimidation. For their part, BSF soldiers at border outposts say that they routinely have to deal with cases of attempted smuggling.

Apart from verbal abuse and beatings, there have been several allegations of torture of Indian nationals.

Beating of Mainul Islam, a 14-year-old boy

A resident of Nolbona village in Murshidabad, Mainul Islam, 14, had dropped out of school to work as a daily laborer after the family farm was destroyed by river erosion. He had previously worked at a BSF camp. According to villagers, he also sometimes provided information to the BSF on smuggling activities at the Indo-Bangladesh border near his village.

On March 10, 2010, at about 8 a.m., when Mainul Islam was on his way to a farm, some BSF personnel stopped him. Eyewitnesses told MASUM that he was taken into custody by the BSF Company Commander of the Khoertola Camp. The soldiers tied Mainul's hands behind his back and he was beaten and verbally abused as he was taken away. The witnesses said that they were too frightened to stop the BSF personnel.¹⁶⁴

When Mainul's uncle Sentu Mondal went to the Khoertala BSF camp, Company Commander Amit Kumar said Mainul was caught trying to bribe a BSF official at Outpost No. 1, and would be handed over to the police.¹⁶⁵ In a written complaint to the police, the BSF, however, claimed that Mainul attempted to bribe the BSF guard at Outpost No. 11—a contradiction in their own claims. The BSF also claimed that Mainul had threatened them with complaints to human rights groups.

¹⁶³Odhikar interview with Sub-inspector Ali Akbar, Benapole Police Station, Jessore, February 18, 2010.

¹⁶⁴MASUM, fact-finding report, Murshidabad, March 10, 2010.

¹⁶⁵*ibid.*

Amit Kumar's report to the police said that the BSF had recovered 89 bottles of Phensedyl cough syrup and implicated Mainul in attempting to smuggle them into Bangladesh, where Phensedyl is banned. The BSF also claimed that Mainul was over 18, in an attempt to charge him as an adult.¹⁶⁶

MASUM, during its fact-finding, found several discrepancies in the BSF account. Witnesses saw Mainul being arrested near BSF Outpost No. 4. The Company Commander claimed to Mainul's uncle that he was attempting to bribe a soldier at Outpost No. 1. And in its police complaint, the BSF said that the incident had occurred at Outpost No. 11.¹⁶⁷

Although family members told the police that Mainul was a minor and innocent of the alleged crime, the police kept him in custody for the night. The next morning, he was taken to the hospital. According to his mother Khaleda Biwi, "The police asked Mainul to state his age as 18 years to the doctor in hospital. Although I objected, they did not care."¹⁶⁸

Mainul was produced before a magistrate on March 11, 2010. His lawyer filed a petition providing his school certificate as proof of his age and asked that his case be tried under the Juvenile Justice (Care and Protection of Children) Act, 2000. The magistrate ordered to probe into the matter. Mainul was shifted to Behrampore Central Correctional Home, where he remained until March 22, 2010, when it was established that he was a minor. The court ordered that he be produced before Juvenile Justice Board.

MASUM lodged a complaint with National Commission for Protection of Child Rights, citing violation of Indian child protection laws and pointing out that Mainul did not have the financial means to purchase such a large quantity of Phensedyl.¹⁶⁹ MASUM also filed written complaints to the Inspector General of the Police Administration, the BSF, the District Magistrate, the Superintendent of Police in Murshidabad, and the Principal Home Secretary for the Government of West Bengal. It has not received a response from any of these offices.

Torture of Nirsingha Mondal

Nirsingha Mondal, resident of Khasmohol village in Murshidabad district, said that on May 10, 2009, he had gone out as usual in the morning to collect firewood for cooking. He was in an area close to the Khasmohal BSF camp when two soldiers seized him and dragged him into the camp:

¹⁶⁶Ibid.

¹⁶⁷Ibid.

¹⁶⁸MASUM interview with Khaleda Biwi, Murshidabad, March 11, 2010.

¹⁶⁹MASUM letter to the National Commission for Protection of Child Rights, March 29, 2010. On file with Human Rights Watch.

It was about 9:30 in the morning. I was cutting grass when two men came. They were wearing their uniform trousers, but only had vests on. One of them said, ‘Come here, idiot.’ They took me to the camp, and they started to beat me ruthlessly with sticks and boots. After sometime, when they found me collapsing due to my injuries, they staged a different ploy to fix me. They chopped a few flower plants with my scythe which they had snatched from me earlier, and accused me of sneaking into their camp... I must have been fainting at one point because they poured water on me and even gave me a bidi [rolled cigarette]. Then they beat me again... It was only after other villagers came that they released me.¹⁷⁰

Eyewitnesses Habul Mondal and Badal Choudhury confirmed that Nirisingha Mondal was detained and beaten by BSF personnel without any provocation. Habu Mondal said:

While he was collecting firewood, two BSF personnel forcibly took him inside their camp without giving any reason and started to beat him ruthlessly with bamboo sticks and boots. Nirisingha seemed to fall senseless. Then the BSF jawans took his scythe and cut some flower plants inside the camp to accuse him.¹⁷¹

Though a police officer from the Jalangi police station also arrived at the scene, the BSF personnel refused to admit that they had beaten Nirisingha.

MASUM filed a complaint to the NHRC, but was informed by the commission on September 18, 2009 that the case was closed because the police had already registered a criminal complaint. MASUM responded, pointing out that the Human Rights Protection Act does not bar the Commission from invoking its jurisdiction even when a criminal case had been lodged against the perpetrators.¹⁷² There has been no response from the NHRC.

Beating of Taibul Rahman

On January 8, 2010, at about 4 p.m., Taibul Rahman, who resides just three kilometers from the border in Uttar Dinajpur district, parked his motorbike at a tea shop at the Bindol market. While he was drinking his tea, three BSF soldiers accosted him. The BSF men verbally

¹⁷⁰Human Rights Watch interview with Nirisingha Mondal, Murshidabad, May 4, 2010.

¹⁷¹MASUM interviews with Habul Mandol and Badal Chowdhury, Murshidabad, May 18, 2010.

¹⁷²MASUM, Complaint no. MASUM/NHRC/NM/1624/09, June 15, 2009. Letter to NHRC, case 240/25/13/09-10/OC/SB-2, October 15, 2009. On file with Human Rights Watch.

abused him and accused him of ferrying contraband items on his motorbike. Rahman handed his keys to the soldiers and invited them to search his bike.

When no incriminating items were found on the bike, the soldiers angrily began beating and kicking Rahman, demanding where he had hidden the goods. When Rahman pleaded innocence, witnesses heard the BSF personnel say that since he refused to confess, he would be given the ‘proper treatment’ at the BSF camp. The soldiers then tied Rahman’s arms and legs, tossed him into their vehicle and took him to the Koiladangi BSF Camp.

According to Rahman, after arriving at the camp, the soldiers forcibly dragged him into a room, lay him on the ground with hand and legs tied up, and beat him with wooden batons on his feet, palms, and knee joints. They shouted abuses and asked him to confess, but Rahman insisted that he was innocent. Following over half-an-hour of torture, the soldiers confined him to a room, guarded by two soldiers. At about 11 p.m., four BSF personnel entered the room and again tortured him, demanding a confession.¹⁷³

The next morning, at about 6 a.m., Rahman was dragged out of the room and brought before an officer he later named as Kamresh, who asked him to identify those involved in smuggling. When Rahman once again said that he did not know anything about the smugglers, Kamresh asked the other BSF personnel to hold his arms and legs and started administering electric shocks to his feet, demanding a confession. He was then asked to stand in an open field inside the camp and photographed. He was later also forced to place his thumb prints on a blank sheet.

Then Kamresh asked the other BSF personnel to provide the “best treatment.” Rahman was taken into a room, stripped, and made to lie down on the floor. While some soldiers held him down, electric shocks were administered to his lower abdomen and penis repeatedly. He was threatened with further, more severe torture, if he did not cooperate. By then Rahman says that he was near unconscious with pain. But he pleaded innocence again, and was then beaten some more.

After five hours of this brutal treatment, the BSF personnel decided that Rahman was too badly injured, and brought him to the Raiganj district hospital at about 11 a.m. But he was warned not to speak of the torture to the doctors, and was too frightened to say anything. He was then taken to the police station.

¹⁷³MASUM, fact-finding report, Uttar Dinajpur, February 4, 2010.

At the police station, Rahman told his relatives about the ill-treatment that he had suffered. His family members said that they, together with other villagers, had tried their best to have him released from BSF custody, and had filed a petition to BSF headquarters. Rahman was produced before a magistrate on January 10 and then released on bail. Although Rahman's family members lodged a complaint of torture against the BSF, the police did not take any action. He is still undergoing medical treatment.¹⁷⁴

Beating of Indrajit, Sanjit, and Surajit Mondal, two of them children

The three brothers, Indrajit, Sanjit, and Surajit Mondal, aged 14, 16, and 18, residents of char Durgapur village in Murshidabad were working on the family farm close to the Bangladesh border on the morning of September 14, 2009, when they saw a group of men being chased by troops from the 191st Battalion of the BSF deployed in the area. The suspects managed to escape. Other farmers working in the area saw the BSF soldiers angrily return and arbitrarily beat the three boys. A witness saw Surajit fall unconscious. He then saw the BSF tie a rope around Indrajit's hands and hang him up from a tree before leaving the area.¹⁷⁵

According to the boys' father, Krishna Chandra Mondal, the BSF decided arbitrarily to beat his sons:

The BSF personnel were frustrated because their suspects escaped. They surrounded the boys and without giving any reason, started beating them with rifle butts, kicking and slapping them. There were nine soldiers, and they beat my sons mercilessly. Even as the boys fell down, the BSF men continued to kick them ruthlessly on their chest and other sensitive organs.... On receiving the information, I, with the help of some fellow villagers took the injured boys to Godhanpara primary health centre and was subsequently referred to a bigger hospital in Behrampore... I have spent more than 15,000 rupees [USD \$350] on their treatment. But we have not gotten any justice or any compensation for this barbaric torture.¹⁷⁶

Krishna Chandra Mondal said that villagers living in the border area were often at risk of such beatings by the BSF. "It has become almost regular an affair that we villagers are

¹⁷⁴MASUM, fact-finding report, Belur Sramajibi Hospital, February 4, 2010.

¹⁷⁵MASUM report, Murshidabad, September 24, 2009.

¹⁷⁶MASUM interview with Krishna Chandra Mondal, Murshidabad, September 24, 2009.

physically and mentally tortured by BSF personnel in the name of security of the border area. It has become almost impossible for us to live with dignity as a citizen of this country.”¹⁷⁷

On September 24, 2009, Krishna Chandra Mondal lodged a written complaint at Raninagar police station against the BSF personnel. But to date none of the perpetrators have been arrested.

MASUM lodged a complaint with the National Commission for the Protection of Child Rights, but has received no response.¹⁷⁸ MASUM also filed complaints to the Superintendent of Police, District Magistrate of Murshidabad, the Inspector General of the BSF, and Principal Home Secretary of the West Bengal government. MASUM has not received any response.

Mistreatment of Halima Bibi and her Daughter Kulduma Khatun

Halima Bibi’s family lost their home and farm in 1994 to land erosion. A few years later, a sandy islet, or char, was formed across the river, and the family started residing there. Their home is about 10 kilometres from the border. The BSF has set up an outpost at the village, and according to Halima Bibi, the soldiers are often abusive and rude to the villagers.

On September 5, 2009, Halima’s 12-year-old daughter, Kulduma Khatun was playing with two friends. Three BSF personnel including a sub-inspector and two constables arrived and asked the girls to go inside. When they ignored the orders, the men slapped Kulduma Khatun. When one of her friends protested, a constable beat her with a bamboo stick. While her two friends managed to run away, the BSF personnel started beating Kulduma. Hearing her cries, Halima Bibi ran out. When she protested, the BSF constables were rude and violent:

It was morning, the BSF soldiers were on patrol through our village. My daughter was playing outside with two friends, Sagora Khatun and Jharna Khatun. Suddenly, without provocation, those BSF personnel started thrashing them. I ran out and tried to stop them. So they started to abuse me using terribly filthy words. Then, before leaving the place, they threatened to evict us and demolish our hut, if we complained against them. They also said that they would arrest us by falsely claiming that we are smugglers... The BSF

¹⁷⁷Ibid.

¹⁷⁸MASUM letter to the National Commission for Protection of Child Rights, New Delhi, December 19, 2009. On file with Human Rights Watch.

is always rude to us. Even when we go to visit our relatives and have to pass their post, they are aggressive and contemptuous.¹⁷⁹

Halima Bibi tried to lodge a complaint with the police, but was refused.¹⁸⁰ MASUM sent a complaint to the Principal Secretary (Social Welfare) of the West Bengal government.¹⁸¹ Copies were sent to the West Bengal Commission for Women, the West Bengal Director General of Police, and the District Magistrate and Superintendent of Police of Murshidabad. Based upon inquiries from the West Bengal government, the local administration in Murshidabad conducted an investigation and agreed that the BSF soldiers had threatened Halima Bibi and her daughter, and used foul language.¹⁸² However, no follow-up action was recommended or taken.

Ill-Treatment of Tutan Sheikh, Khalil Sheikh, and Hasibul Shiekh, a 14-year-old boy

On December 12, 2009, Khalil Sheikh, 24, Tutan Sheikh, 20, and Hasibul Sheikh, 14, all residents of Sitanagar village in Murshidabad district, were loading crops into a vehicle after harvest. The farm is located close to the BSF Khasmahal border outpost. A BSF soldier from the post asked the three of them to stop loading the crop. When they did not immediately comply, they began to abuse them verbally. The soldier then delivered his punishment: squatting 50 times while holding their ears. When Tutan Sheikh refused, he was kicked and beaten.¹⁸³

The following day MASUM accompanied Tutan Sheikh to the police to demand appropriate action. However, Tutan Sheikh was informed that the BSF trooper had committed no crime since the BSF was there to “beat the people.”¹⁸⁴ On December 14, 2009, Tutan Seikh sent a written complaint to the superintendent of police of Murshidabad district. To date no investigation has been conducted into the case.¹⁸⁵

¹⁷⁹MASUM interview with Halima Bibi, Murshidabad, September 5, 2009.

¹⁸⁰A first information report (FIR) is a document that should be prepared by the police once they receive information about the commission of a cognizable offense. A FIR is required for the police to initiate an investigation.

¹⁸¹MASUM Letter to the Principal Secretary, West Bengal government, October 19, 2009. On file with Human Rights Watch.

¹⁸²Home Department, Government of West Bengal, inquiry report by SDPO-Domkal, Murshidabad, November 7, 2009.

¹⁸³MASUM report, Murshidabad, January 18, 2010.

¹⁸⁴Ibid.

¹⁸⁵International Secretariat of the World Organization Against Torture (OMCT), Urgent Appeal, Case IND 180110/ IND 180110.CC, January 18, 2010.

IV. Recommendations

To the Indian Government

- Vigorously investigate and prosecute all allegations of grave human rights violations by the BSF, and issue clear instructions to the police to proceed immediately with investigations. Send a strong message to the Border Security Force (BSF) that the perpetrators of grave human rights violations will be held to account and that all members of the security forces must fully cooperate with investigations. Those who fail to do so should face appropriate sanctions such as suspension or dismissal.
- Enact the Prevention of Torture Bill after removing all provisions that grant immunity to government officials from prosecution for criminal acts. Amend the Border Security Force Act to ensure that security forces personnel accused of human rights violations such as torture of civilians can be tried in civilian courts.
- Publicly order the BSF and other security forces to abide by the United Nations Basic Principles on the Use of Force and Firearms by Law Enforcement Officials. This requires officials to apply, as far as possible, non-violent means before resorting to the use of force and firearms. Even in self-defense, intentional lethal use of firearms may only be made when strictly unavoidable in order to protect life. International law also requires security forces to give a clear warning of their intent to use firearms, and sufficient time to surrender.
- Amend Section 46 of the Criminal Procedure Code to make it consistent with the UN Basic Principles so that lethal force may only be used in order to protect life.
- Initiate investigation and prosecution by civilian authorities of BSF personnel of all ranks implicated in serious rights abuses. (The internal justice system has failed to secure accountability or act as deterrence because it continuously fails to prosecute members of the BSF for human rights abuses).
- Instruct the police to register complaints against the BSF in cases of abuses against Indian and Bangladeshi nationals. The police should not refuse on the grounds that it is the responsibility of the BSF internal courts to deal with abuses by the BSF.
- Instruct the BSF to apply guidelines as laid down by the National Human Rights Commission to investigate all cases of deaths during security operations.
- Establish an independent and impartial commission of inquiry into serious violations of international human rights law by the BSF. This inquiry should invite both Indian and Bangladeshi nationals to submit evidence and bring complaints. The inquiry should be time bound and transparent, and should have the ability to provide protection to witnesses.

- Repeal all legal provisions that require approval of the executive branch of government for prosecutions against members of the security forces to proceed, including in article 197 of the Criminal Procedure Code. Similar provisions in the Indian Prevention of Torture Bill currently in front of the Indian parliament should be deleted. Such provisions provide effective immunity to the security forces and violate the principles of equality under the law enshrined in both the Indian Constitution and international law.
- Strengthen the NHRC by amending the Human Rights Protection Act to allow national and state human rights commissions to independently investigate allegations of abuse by members of BSF.
- Publish detailed information on all arrests, prosecutions, and convictions of BSF personnel for human rights violations and release the same information on an annual basis in the future.
- Ensure an effective system of vetting is in place for any members of the BSF who are proposed for promotion and/or for overseas UN peacekeeping duties, or specialized training abroad, to ensure that anyone under investigation for grave human rights violations is banned from travelling abroad.
- Place human rights protection mechanisms for Indian and Bangladeshi border residents at the center of any bilateral dialogue on border issues with Bangladesh.

To the Bangladeshi Government

- Vigorously advocate for an end to abuses by the BSF. The Bangladeshi authorities should not accept the claim that individuals involved in crime are legitimate targets of the use of lethal force or that only people who are “innocent” deserve the protection of the law.
- Publicly order the BDR and other security forces to abide by the United Nations Basic Principles on the Use of Force and Firearms by Law Enforcement Officials. This requires officials to apply, as far as possible, non-violent means before resorting to the use of force and firearms.
- Ensure that individuals or groups based in Bangladesh that are responsible for violent attacks upon Indian nationals are properly identified and prosecuted.
- Place human rights protection mechanisms for Bangladeshi and Indian border residents at the center of any bilateral dialogue on border issues with India.

To the United Nations

- The UN Department of Peacekeeping Operations should ensure an effective system of vetting is in place for any members of the BSF or BDR proposed for overseas UN

- peacekeeping duties, or specialized training abroad, to ensure that anyone under investigation for grave human rights violations is banned from travelling abroad.
- The UN Department of Peacekeeping Operations should inform the Indian government that those BSF personnel responsible for human rights violations should be excluded from peacekeeping duties.
 - The Governments of India and Bangladesh should agree upon the request of the special rapporteur on extrajudicial, summary, and arbitrary executions to visit the country, pending since 2000 for India and since 2006 for Bangladesh. The special rapporteur should also include in his program visits the border areas between India and Bangladesh.

Annex I: Alleged Killings of Bangladeshi Nationals by the BSF

Data and information below was gathered by local human rights defenders of Odhikar and media report scanning by Odhikar. They were documented after cross checking the information.

Since January 2007, Odhikar has documented 315 cases of alleged killings of Bangladeshi nationals by the BSF.

2007					
No.	Date of Incident	Name (Age)	# Killed	District	Place of the Incident
1	1/8/2007	Mosaraf Hossain (30), Islam Uddin (32)	2	Jessore	Benapole
2					
3	1/11/2007	Nito Das (35), Ratan Das (42)	2	Satkhira	Shibnagar
4					
5	1/11/2007	Mehedi Hasan (25)	1	Joypurhat	Pachbibbi
6	1/11/2007	Sanjib Sahara (32)	1	Satkhira	Satkhira
7	1/11/2007	Tarikul Islam (25)	1	Naogaon	Nitpur border in Porsha upazila
8	1/12/2007	Mobarak Ali (35)	1	Panchagar	Tetuliya
9	1/12/2007	Sujol Kanthi (26)	1	Satkhira	Satkhira
10	1/12/2007	Yeakub (10)	1	Panchagar	Tetuliya
11	1/12/2007	Abul Hossain	1	Satkhira	Bhomra, Kaliganj
12	1/12/2007	Mamin Magul (38)	1	Jhenaidah	Maheshpur
13	1/13/2007	Arshad Ali	1	Satkhira	Uksa border in Kaliganj upazila
14	1/15/2007	Nurul Islam (25)	1	Dinajpur	Biral
15	1/18/2007	Anwarul Haque (35)	1	Thakurgaon	Haripur

16	1/20/2007	Rubel (30)	1	Chapainababganj	Polladanga
17	1/24/2007	Emdadul Haque (30)	1	Naogaon	Dhamoirhaat
18	1/26/2007	Abdul Kadir (32)	1	Habiganj	Chunarughat
19	1/30/2007	Abdul Gaffar (25)	1	Naogaon	Poshra
20	2/11/2007	Abdul Karim (25)	1	Lalmonirhaat	Amjal Border
21	2/12/2007	Ishaq Ali (25), Setabul Alam (18)	2	Naogaon	Nitpur border, Porsha upazila
22					
23	2/21/2007	Md. Mansoor Ali (25)	1	Naogaon	Naogaon
24	2/22/2007	Alam (25)	1	Chapainababganj	Shibganj
25	2/24/2007	Jan Mohammad (30)	1	Chuadanga	Damurhuda upazilla
26	3/1/2007	Shafiqul (21)	1	Chapainababganj	Chamusa border
27	3/1/2007	Billal (33)	1	Jessore	Putkhali border, Benapole
28	3/3/2007	Bikash Halder (14), Montu Halder (15)	2	Jhenaidah	Moheshpur
29					
30	3/9/2007	Nur Hossain (30)	1	Thakurgaon	Beurjhari border, Baliadangi
31	3/14/2007	Shamimul Islam (30)	1	Naogaon	Nitpur border, Porsha
32	3/18/2007	Nawsher Ali (22)	1	Satkhira	Hizaldi boder, Kalaroa
33	3/20/2007	Zahur Karikar (40)	1	Satkhira	Kaliganj
34	3/21/2007	Mohimuddin (30)	1	Thakurgaon	Baliadangi
35	3/22/2007	Bazlur Rahman (35)	1	Kushtia	Bilgathua border, Daulatpur
36	3/22/2007	Mozammel Haq (22)	1	Chapainababganj	Kiranganj border, Shibganj
37	3/26/2007	Kasirul Islam (32)	1	Thakurgaon	Kantivita border, Balidangi

38	4/6/2007	Manalata Mandol (37)	1	Satkhira	Bhomra border
39	4/8/2007	Manirul Islam (23)	1	Thakurgaon	Dharmagarh border, Ranishankoil
40	4/17/2007	Unknown	1	Satkhira	Devhata
41	4/22/2007	Moyna Mia (32)	1	Chuadanga	Dhopahali border, Jibonnagar
42	4/28/2007	Mozahar Ali (36)	1	Dinajpur	Enayetpur border, Biral
43	5/2/2007	Ramijuddin (50), Rafiqul Islam (40)	2	Thakurgaon	Chanduria border, Pirganj
44					
45	5/3/2007	Akbar Ali (32)	1	Kurigram	Gayahata border, Roumari
46	5/13/2007	Afsharuddin Kalu (28)	1	Meherpur	Kathuli border, Gangni
47	5/15/2007	Jabiul Islam (25)	1	Lalmonirhaat	Patgram border
48	5/15/2007	Ismail Hossain (45)	1	Jessore	Shalkona border, Sharsha
49	5/21/2007	Abdullah (20), Mamun (28)	2	Naogaon	Poshra
50					
51	5/27/2007	Hefzal Mia (38)	1	Satkhira	Baikali border
52	5/30/2007	Nazrul Islam (30)	1	Satkhira	Kakdanga border, Kalaroa
53	6/14/2007	Babul Biswas (28)	1	Satkhira	Ghona Border
54	6/18/2007	Abdul (35)	1	Kushtia	Daulatpur
55	7/2/2007	Rabiul Islam (35)	1	Lalmonirhaat	Burimari border, Patgram
56	7/8/2007	Abdur Rahman (60)	1	Moulavibazar	Sharifpur border, Kulaura
57	7/9/2007	Shahidul (22)	1	Joypurhat	Nandoil border, Panchbibi
58	7/12/2007	Unknown	1	Jessore	Benapole border

59	7/21/2007	Minhaz (32)	1	Lalmonirhaat	Lohakuchi border, Aditmari
60	7/23/2007	Atiar Rahman (35)	1	Jessore	Benapole border
61	7/23/2007	Shafiq Samad (22)	1	Sylhet	Jaintapur
62	7/30/2007	Zamrul Islam Madal (30)	1	Joypurhat	Panchbibi
63	8/2/2007	Bulbul Mia (27)	1	Satkhira	Toloigachha border
64	8/4/2007	Asadul Dhali (35)	1	Jhenaidah	Joluli border, Moheshpur
65	8/5/2007	Aijuddin (30)	1	Jessore	Benapole border
66	8/5/2007	Munsur Ali Geda (18)	1	Joypurhat	Hatkhola border, Panchbibi
67	8/10/2007	Zia (35)	1	Panchagar	Tentulia border
68	8/15/2007	Azizul Islam (38)	1	Jhenaidah	Moheshpur border
69	8/22/2007	Billu Mia (25)	1	Satkhira	Vomra
70	8/23/2007	Abdul Alim (30)	1	Jessore	Putkhai border, Benapole
71	8/23/2007	Md. Shahidulla (24)	1	Feni	Guthuma border, Paroshuram
72	8/26/2007	Mokarram Ali	1	Naogaon	Sapahar border
73	9/3/2007	Jamirul Islam (22)	1	Joypurhat	Panchbibi
74	9/4/2007	Unknown	1	Jhenaidah	Joluli border, Moheshpur
75	9/7/2007	Ali Hossain (25), Harun Mollah (18)	2	Satkhira	Dudli border
76					
77	9/10/2007	Selim Reza (30)	1	Chapainababganj	Shibganj border
78	9/16/2007	Babul Aktar (28)	1	Naogaon	Sonadanga border, Sapahar
79	9/18/2007	Abdus Sabur (30)	1	Satkhira	Ichhamoti river

80	9/19/2007	Shafiqul Isalm (30)	1	Chuadanga	Medenipur border, Jibonnagar
81	9/20/2007	Abdur Rashid (30) and Gopal Chandra (25)	2	Lalmonirhaat	Hatibandha
82					
83	9/27/2007	Shahjahan Ali (24)	1	Jessore	Benapole border
84	10/2/2007	Saidur Rahman (28)	1	Naogaon	Sonadanga border, Sapahar
85	10/4/2007	Taijur Rahman (32)	1	Panchagar	Atwari border
86	10/4/2007	Anser Ali	1	Naogaon	Sapahar border
87	10/6/2007	Khalid Hossain (25)	1	Satkhira	Kakdanga border, Kolaroa
88	10/14/2007	Nihalu Mohammad	1	Thakurgaon	Dhantola border, Baliadanga
89	10/19/2007	Abdul Mazid (31)	1	Thakurgaon	Fakirganj border, Peerganj
90	10/22/2007	Jahangir Alam Gain (40), Rabiul Islam (28)	2	Satkhira	Ghona & Taluigachhi border
91					
92	10/23/2007	Monjur Hossain (35)	1	Thakurgaon	Kochal border, Ranishankoil
93	10/28/2007	Aminul Islam (35)	1	Chuadanga	Damurhuda, Chuadanga
94	11/2/2007	Tobarak Hossain (40)	1	Naogaon	Bastabar border, Dhamirhat
95	11/6/2007	Jagannath Bagti	1	Moulavibazar	Dobolchora border, Komolganj,
96	11/9/2007	Shah Alam(30)	1	Sunamganj	Tahirpur border
97	11/9/2007	Saheb Ali(25)	1	Jessore	Agrovulot border, Benapole
98	11/10/2007	Mosharaf Hossain (50)	1	Panchagar	Tetulia border
99	11/14/2007	Abdur Rashid (38)	1	Jessore	Sharsha border
100	11/16/2007	Shariful Islam (27)	1	Satkhira	Sokra border

101	11/20/2007	Harikrishan (40)	1	Moulavibazar	Dobolchara's Tripura border, Komolganj
102	11/23/2007	Ripon(25), Alauddin (35) and, Ainal (33)	3	Jessore	Putkhali borber, Benapole
103					
104					
105	11/25/2007	Shah Alam (26), Rubel (17)	2	Jessore	Pota Post border, Sadipur frontier, Benapole
106					
107	11/26/2007	Rafikul Islam (38)	1	Satkhira	Taluigachha border
108	11/26/2007	Mithu (22)	1	Kurigram	Fulbari border
109	11/28/2007	Liton (30)	1	Satkhira	Kushkhali border in Sadar upazila
110	12/8/2007	Rezabul Islam (40)	1	Thakurgaon	Bujrukh border, Haripur
111	12/9/2007	Sukhranjan Mandol (40)	1	Chuadanga	Darshona border
112	12/11/2007	Mosharaf Hossain (45)	1	Jhenaidah	Moheshpur border
113	12/14/2007	Mobarak Hossain (32)	1	Chuadanga	Joynagar border, Darshona
114	12/14/2007	Shafiqul Islam (25)	1	Satkhira	Ichhamoti river
115	12/15/2007	Mohammad Ali Mandol (32)	1	Dinajpur	Rasulpur border, Phulbari
116	12/17/2007	Tobarak Ali (45)	1	Sylhet	Kanaighat border
117	12/22/2007	Unknown	1	Satkhira	Kushkhali
118	12/23/2007	Ebadul Haq	1	Satkhira	Khalisha border, Kushkhali
119	12/31/2007	Bachan (50)	1	Thakurgaon	Haripur border
Total			119		

2008

No.	Date of Incident	Name (Age)	# Killed	District	Place of the Incident
120	1/5/2008	Akhter Hossain (35)	1	Thakurgaon	Ratanai border
121	1/30/2008	Moshir Uddin (27), Shahidul Islam (20) and, Ataur Rahman (26)	3	Thakurgaon	Baliadangi upazilla
122					
123					
124	2/3/2008	Azad Ali (48)	1	Thakurgaon	Dabdaha
125	2/7/2008	Pulin Chandra Singh (25)	1	Thakurgaon	Kantivita border
126	2/13/2008	Joydul Haque (48), Jahangir Alam (35)	2	Dinajpur	Banglabandha border
127					
128	2/18/2008	Birendra Nath (36)	1	Lalmonirhaat	Jawrani border
129	2/22/2008	Kabirul Islam (28)	1	Satkhira	Gunarajpur border
130	2/23/2008	Afajuddin (28), Faruk Hossain (25)	2	Thakurgaon	Mondumala border
131					
132	2/23/2008	Abdul Majed (32), Hasan Ali (30)	2	Satkhira	Rudrapur frontier
133					
134	2/25/2008	Unknown	1	Kurigram	Kurigram
135	2/25/2008	Unknown	1	Jhenaidah	Andulia border
136	3/10/2008	Hasibul Islam (16)	1	Lalmonirhaat	Burimari border
137	3/15/2008	Marak Sangma (35)	1	Sherpur	Sribordi upazila
138	3/24/2008	Haidul	1	Kurigram	Fulbari border
139	3/26/2008	Saidur Rahman	1	Chapainababganj	Sonamasjid frontier
140	3/29/2008	Nanju Mia (23)	1	Dinajpur	Dinajpur border
141	4/18/2008	Aminul Islam (32)	1	Lalmonirhaat	Burimari border

142	4/29/2008	Hafizur Rahman (21)	1	Jessore	Sharsha border, Benapole
143	4/30/2008	Abdul Jalil (40)	1	Thakurgaon	Rautnagar
144	5/15/2008	Naibor (45)	1	Kurigram	Kurigram
145	5/22/2008	Kafuluddin (35)	1	Kurigram	Kurigram
146	5/29/2008	Shahjamal (35)	1	Jhenaidah	Jhenaidah
147	6/6/2008	Mizanur Rahman (40)	1	Chuadanga	Chuadanga
148	6/12/2008	Samaul Islam (25)	1	Jhenaidah	Jhenaidah
149	6/26/2008	Jamal Mondol (28)	1	Jhenaidah	Shyampur border village, Maheshpur upzaila
150	6/27/2008	Mithu (30)	1	Satkhira	Satkhira
151	7/4/2008	Shamsul Alam	1	Naogaon	Near 238 main pillar Sapahar border
152	7/16/2008	Azharul Islam	1	Satkhira	Satkhira
153	7/17/2008	Md Abdul Hannan Sarker (53), Krishnapada Pal (39)	2	Chapainababganj	Roghunathpur of Shibganj
154					
155	7/19/2008	Razaul Islam, Jainal Abedin	2	Jessore	Jessore
156					
157	7/23/2008	Rakibul Islam (35)	1	Chuadanga	Chuadanga
158	7/29/2008	Unknown (35)	1	Thakurgaon	Thakurgaon
159	8/24/2008	Zakir Hossain (28), Unknown	2	Satkhira	Bhatshala, Debhata
160					
161	8/26/2008	Shahabul Islam (25)	1	Jhenaidah	Shyamkur, Moheshpur
162	8/29/2008	Amir Molla (40)	1	Jessore	Agrabhulat border, Sharsha
163	8/27/2008	Ashik Mia (35)	1	Sylhet	Bholaganj border, Companiganj

164	9/8/2008	Rahidul Islam (35)	1	Thakurgaon	Chandail, Haripur
165	9/11/2008	Moksed Ali (35)	1	Dinajpur	Dinajpur
166	9/12/2008	Sultan (22)	1	Naogaon	Naogaon
167	9/26/2008	Shaheed Ali (30)	1	Jessore	Panchabhullat border, Benapole
168	10/2/2008	Altaf Hossain	1	Chuadanga	Chuadanga
169	10/20/2008	Unknown	1	Chuadanga	Chuadanga
170	10/23/2008	Ana Miah (28)	1	Comilla	Comilla
171	10/26/2008	Mashiur Rahman Khokon (33)	1	Satkhira	Satkhira
172	10/29/2008	Jamal Hossain (28)	1	Jhenaidah	Jhenaidah
173	11/8/2008	Anisur Rahman (30)	1	Lalmonirhaat	Kaliganj, Lalmonirhaat
174	11/9/2008	Taizuddin alias Kalu (40)	1	Thakurgaon	Thakurgaon
175	11/16/2008	Mst. Majeda Begum (25), Md. Mamunur Rashid Mamun (8 months), Golam Mostofa (45)	3	Panchagar	Tetulia
176					
177					
178	12/4/2008	Hafizul Islam (22)	1	Satkhira	Satkhira
179	12/10/2008	Hasan Ali (32)	1	Jessore	Benapole
180	12/25/2008	Idris Ali	1	Thakurgaon	Baliadangi
Total			61		

2009

No.	Date of Incident	Name (Age)	# Killed	District	Place of the Incident
181	1/1/2009	Ziarul (18)	1	Thakurgaon	Peerganj
182	1/6/2009	Hablu <i>alias</i> Habil (18)	1	Chapainababganj	Chouka border, Shibganj
183	1/12/2009	Kamal (28)	1	Thakurgaon	Baliadangi
184	Undated	Safiqul Islam	1	Thakurgaon	Baliadangi
185	1/13/2009	Khairul Islam (35)	1	Rajshahi	Matihar
186	1/14/2009	Lalchan (22)	1	Chapainababganj	Gomastapur
187	1/17/2009	Arshadul (30)	1	Thakurgaon	Ranishankoil
188	1/18/2009	Amanullah (27)	1	Jhenaidah	Maheshpur
189	1/19/2009	Jahangir	1	Thakurgaon	Haripur
190	1/19/2009	Haqikul Islam (27)	1	Thakurgaon	Baliadangi
191	1/24/2009	Hossen Ali (35)	1	Thakurgaon	Baliadangi
192	1/25/2009	Nikhil Bishwas (38)	1	Moulvibazar	Juri
193	1/31/2009	Shahin	1	Satkhira	Debhata
194	2/2/2009	Rafiqul (28)	1	Chapainababganj	Chapainababganj
195	2/4/2009	Pagla (50), Unknown	2	Thakurgaon	Baliadangi
196					
197	2/6/2009	Fazlur Rahman (28), Anisur Rahman (25)	2	Thakurgaon	Baliadangi
198					
199	2/8/2009	Abdur Razzak (36)	1	Thakurgaon	Thakurgaon
200	2/16/2009	Unknown, Unknown	2	Satkhira	Satkhira
201					

202	2/24/2009	Momtaz Uddin Mondol (31)	1	Dinajpur	Dinajpur
203	2/27/2009	Jamal Uddin (35), Unknown	2	Dinajpur	Dinajpur
204					
205	3/1/2009	Khairul Islam (25)	1	Chuadanga	Chuadanga
206	3/4/2009	Madhu	1	Jessore	Benapole
207	3/4/2009	Unknown	1	Satkhira	Satkhira
208	3/5/2009	Samul Islam (50)	1	Panchagar	Tetulia
209	3/9/2010	Moshiar Rahman (32)	1	Jessore	Jessore
210	3/9/2009	Abdul Haq (32)	1	Jessore	Benapole
211	3/10/2009	Basindro Chisim (45)	1	Sherpur	Nalitabari
212	3/13/2009	Johurul Islam (32)	1	Jhenaidah	Moheshpur
213	3/13/2009	Abdul Rakib (13)	1	Naogaon	Sundrail border
214	4/8/2009	Md. Kachhim Uddin (45)	1	Dinajpur	Dinajpur
215	4/23/2009	Rabindranath Mondol (45)	1	Satkhira	Satkhira-Lokkhidari border
216	4/23/2009	Abdul Khalek (28)	1	Jhenaidah	Moheshpur
217	5/1/2009	Kholilur Rahman (43)	1	Satkhira	Kushkhali
218	5/1/2009	Ashidul Islam (25)	1	Lalmonirhaat	Hatibandha
219	5/1/2009	Abdul Kholil	1	Satkhira	Satkhira
220	5/2/2009	Jomirul Islam (30)	1	Chapainababganj	Chapainababganj
221	5/18/2009	Ayub Ali (30), Amirul Islam (27)	2	Kurigram	Roumari
222					
223	5/24/2009	Harunur Rashid (26)	1	Jhenaidah	Jhenaidah

224	5/28/2009	Shofiqul Islam (40)	1	Naogaon	Shapahar
225	6/2/2009	Asadul Haq (38)	1	Satkhira	Satkhira
226	6/10/2009	Shaju (25)	1	Lalmonirhaat	Lalmonirhaat
227	6/10/2009	Unknown youth	1	Satkhira	Satkhira
228	6/12/2009	Saifur Rahman (28)	1	Jessore	Sharsha
229	6/12/2009	Mojibur Rahman (25)	1	Dinajpur	Birampur
230	6/15/2009	Rabiul Islam (20)	1	Dinajpur	Dinajpur
231	6/15/2009	Unknown	1	Satkhira	Satkhira
232	6/18/2009	Selim Islam (35)	1	Lalmonirhaat	Lalmonirhaat
233	6/26/2009	Ali Hossain (24)	1	Jessore	Benapole
234	6/27/2009	Rubel (25)	1	Jessore	Benapole
235	7/6/2009	Mofizul Islam (30)	1	Satkhira	Kolarowa
236	7/9/2009	Sabuj (22), Ahmed (20), Ariful Islam (25) and, Saddam	4	Jessore	Agrobhulot
237					
238					
239					
240	7/11/2009	Omor Ali Gazi (35), Abdur Rahman (20)	2	Satkhira	Satkhira
241					
242	7/12/2009	Yakub Ali (27)	1	Dinajpur	Birampur
243	7/12/2009	Badruzaman (40)	1	Kustia	Kustia
244	7/15/2009	Anwar Hossain (35)	1	Rangpur	Rangpur
245	7/20/2009	Habud Ali (35)	1	Jaypurhat	Panchbibbi
246	7/31/2009	Ligent (25)	1	Chudadanga	Dorshona Nimitola, Chudadanga

247	8/4/2009	Motiur Rahman (26), Subed Ali (27)	2	Chapainababganj	Telkupi border, Shibganj
248					
249	8/6/2009	Mominul Islam (25)	1	Lalmonirhaat	Burimari Border, Patgram
250	8/27/2009	Unknown	1	Dinajpur	Mohonpur Border
251	8/29/2090	Shariful	1	Meherpur	Meherpur
252	8/31/2009	Ershad Ali (32)	1	Jessore	Putkhali border, Benapole
253	8/30/2009	Sariful Islam (30)	1	Meherpur	Ishakhali border
254	9/9/2009	Monir Hossain (24)	1	Chapainababganj Sadar	Poladanga border
255	9/10/2009	Waliur Rahman (20)	1	Lalmonirhaat	Burimari border, Patgram
256	9/12/2009	Ashrafur Islam (40), Mohammad Aminul Islam (30)	2	Dinajpur	Shundra border
257					
258	9/14/2009	Md. Mohsin Ali (18), Ruhul Amin (22)	2	Dinajpur	Tazpur border, Phulbari
259					
260	9/17/2009	Md. Azizar Rahman (35)	1	Dinajpur	Vaigarh Nishibapur village in Birampur upazila
261	9/29/2009	Milan Mia (16)	1	Satkhira	Ghona border of Satkhira
262	9/30/2009	Milan Sarder (28)	1	Satkhira	Satkhira
263	10/15/2009	Ananda Kumar Biswas	1	Meherpur	Meherpur
264	10/16/2009	Abdur Rahim	1	Chapainababganj	Chapainababganj
265	10/18/2009	Bodir Hossain (45)	1	Thakurgaon	Thakurgaon
266	10/18/2009	Tipu Sultan	1	Chuadanga	Goeshpur border
267	10/25/2009	Jahurul Haq (26)	1	Jhenaidah	Moheshpur frontier of Jhenaidah
268	10/25/2009	Habibur Rahman (35)	1	Chapainababganj	Chapainababganj

269	11/6/2009	Monjuara (12)	1	Kurigram	Roumari Border
270	11/11/2009	Abdul Baset (25)	1	Chapainababganj	Chapainababganj
271	11/11/2009	Unknown	1	Chapainababganj	Chapainababganj
272	11/12/2009	Mohammad Ali	1	Lalmonirhaat	Sreerampur Frontier area under Patgram
273	11/12/2009	Habib Gazi (18)	1	Satkhira	Satkhira
274	11/20/2009	Timir (32)	1	Jessore	Benapole
275	12/8/2009	Unknown	1	Satkhira	Bhomra border
276	12/14/2009	Mofiz Uddin (40)	1	Naogaon	Naogaon
277	12/17/2009	Azizul (24)	1	Thakurgaon	Paria border near 388 under Baliadangui upazila
278	12/20/2009	Tapan Kumar Roy (28)	1	Lalmonirhaat	Doikhawa frontier under Hatibandha
Total			98		

2010

No.	Date of Incident	Name (Age)	# Killed	District	Place of the Incident
279	1/2/2010	Shahjahan Ali (25)	1	Lalmonirhaat	Patgram
280	1/9/2010	Hazrat	1	Jessore	Goga Harishchandrapur border, Benapole
281	1/9/2010	Monirul Islam (23)	1	Chapainababganj	Shingnagar border at Shibgonj
282	1/12/2010	Ala (30)	1	Jessore	Daulatpur border, Benapole
283	1/13/2010	Md. Shafiqul Islam (27)	1	Satkhira	Uksa border, Kaliganj
284	1/15/2010	Shahidul Islam (37)	1	Meherpur	Kazipur border in Gangi
285	1/22/2010	Nazrul Islam (42)	1	Meherpur	Khalpar border
286	1/21/2010	Hasnat Halsham Inu (15)	1	Chuadanga	Thakurpur border at Damurhuda
287	1/24/2010	Abdul Jalil (43)	1	Jessore	Putkhali border, Benapole
288	1/26/2010	Humayun Kabir (26)	1	Satkhira	Ichhamati river
289	1/27/2010	Shyamol Karmokar (17)	1	Chapainababganj	Wahedpur border
290	1/30/2010	Unknown youth	1	Satkhira	Kolaria border
291	2/6/2010	Farid Hossain (28)	1	Panchagar	Tentulia Kazipara border
292	2/17/2010	Md. Islam Miah (38)	1	Panchagar	Panchagar
293	2/18/2010	Anwar Hossain (60)	1	Thakurgaon	Thakurgaon
294	2/25/2010	Mukul Mia (28)	1	Chapainababganj	Chapainababganj
295	2/26/2010	Shafiqul Islam (30)	1	Jhenaidah	Baghadanga border, Moheshpur
296	3/3/2010	Abdul Quaium (30), Bodhu	2	Thakurgaon	Ranishonkoli upazila of

297		Mia (32)			Thakurgaon
298	3/4/2010	Ripon Hossain	1	Satkhira	Kolaroa
299	3/23/2010	Monoronjon Mondol (30)	1	Lalmonirhaat	Lalmonirhaat
300	3/23/2010	Tozammel Haq (42)	1	Chapainabaganj	Chapainabaganj
301	4/2/2010	Saiful Islam (28)	1	Satkhira	Boikari border
302	4/12/2010	Habibir Rahman (30)	1	Chapainabaganj	Wahedpur frontier
303	4/26/2010	Shahidul Islam	1	Dinajpur	Birampur
304	5/5/2010	Azad Hossain (30)	1	Chuadanga	Damurhuda
305	5/10/2010	Jamal Uddin (22)	1	Sylhet	Sylhet
306	5/14/2010	Mojibor Rahman (20)	1	Thakurgaon	Thakurgaon
307	5/14/2010	Parul (10)	1	Thakurgaon	Thakurgaon
308	5/22/2010	Afsar Ali	1	Kurigram	Bhurungamari
309	5/30/2010	Ansaful (25)	1	Jessore	Chougacha
310	6/4/2010	Samir (25)	1	Jessore	Benapole
311	6/8/2010	Shamim Hossain (30)	1	Jaipurhat	Halkhola border in Panchbib
312	6/13/2010	Shafiqul Islam (28)	1	Chapainabaganj	Fatepur borders in Shibganj
313	6/13/2010	Motaleb Hossain (36)	1	Naogaon	Chakelam border under Dhamurhut
314	6/21/2010	Robu (40)	1	Chapainabaganj	Chouka border in Shibganj
315	6/21/2010	Bahar Ali (35)	1	Jhenaidah	Chhutipur
		Total	37		

Annex II: Alleged Killings of Indian Nationals by the BSF

Data and information below was gathered by MASUM, and documented after cross-checking the information.

Since January 2007, MASUM has documented 61 cases of alleged killings of Indian nationals by the BSF in West Bengal.

2007						
No.	Date of Incident	Name (Age)	# Killed	District	Village	BSF Outpost/Place of Incident
1	1/4/2003	Babu Mondal (20), Krishna Mondal (22)	2	Murshidabad	Char Majra Diarh	Char Majra Diarh, Plot No. 649
2						
3	4/22/2007	Safiqul Islam (56)	1	Murshidabad	Kaharpara	Outpost No. 7
4	5/2/2007	Ranjit Kumar Biswas (70)	1	Murshidabad	Farazipara	Near Farazipara Border Outpost of 90 Battalion
5	5/8/2007	Panna Seikh (53)	1	Murshidabad	Mohanganj	Outpost No. 2
6	5/18/2007	Ali Hussain Mondal	1	North 24 Parganas	Kalanchi	Near Gobra Bridge
7	6/9/2007	Jahangir Gazi (43)	1	North 24 Parganas	Bemaglini	Near Border Post No.13/4,-R-15 Arshikary Border Outpost
8	6/22/2007	Yudul Sheikh (71)	1	Murshidabad	Mohanganj	Outpost No. 3
9	6/26/2007	Satyen Mondal, Basudeb Mondal (17)	2	Murshidabad	Rajanagar	Area between Rajanagar Border Outpost No. 1 and 2
10						
11	7/4/2007	Vivekananda Biswas (38)	1	North 24 Parganas	Puratan Bongaon	Biswas Para Naka No. 11, Near Ichhamati River
12	7/27/2007	Santosh Mondal (40)	1	Murshidabad	Shipur	300 Meters West Side Harudanga BSF camp 400 MTRS North side from Santosh Mondal's house
13	8/4/2007	Babar Ali (51)	1	Murshidabad	Kaharpara	Outpost No. 1 & 2 Palpara under Kaharpara, company headquarters
14	11/6/2007	Saju Ali Mondal (22)	1	Murshidabad	Kaharpara	Outpost No. 8

15	11/13/2007	Unknown	1	North 24 Parganas	Teulberia	Tetulberia Outpost. No 17
16	11/22/2007	Ainal (28), Alaudin (40), Repon (17)	3	North 24 Parganas	Angrail	Angrail Outpost
17						
18						
19	12/3/2007	Basudeb Sarkar (30)	1	North 24 Parganas	Gobindapur	House of Majhar Fakir Balki
20	12/10/2007	Mr. Bishnu Pada Roy (32)	1	North 24 Parganas	Angrail Uttar Colony	Ramnagar Road
21	12/24/2007	Masadul Seikh (22)	1	Murshidabad	Bamnabad	Outpost No. 4c
22	12/24/2007	Serajul Mondol (14)	1	North 24 Parganas	Harihapara	Near Madhupur Bridge
23	12/28/2007	Kalidas Ghosh (17)	1	North 24 Parganas	Angrail Dakshinpara	Inside the campus of Angrail Bidyamandir High School
Total			23			

2008						
No.	Date of Incident	Name (Age)	# Killed	District	Village	BSF Outpost/Place of Incident
24	1/26/2008	Akbar Seikh (19), Mr. Atahar Seikh (55)	2	Murshidabad	Kaharpara	On plot no. 2958 of Dakshin Maajar Dearh near Outpost No.6
25						
26	2/2/2008	Faruk Biswas (20)	1	Nadia	Hatkhola	In front of the victim's house
27	2/10/2008	Sirajul Seikh alias Siarul Seikh (18), Mr. Ramjan Seikh (18)	2	Murshidabad	Kalbalitala	Kaharpara
28						
29	2/13/2008	Arup Mondal alias Khokan (18)	1	North 24 Parganas	Chhoto Bankra	Near Kojijury camp
30	3/8/2008	Unknown	1	Murshidabad		At Araji Shibnagar near border area
31	4/15/2008	Neel Kumar Mondal (30)	1	Murshidabad	Char Durgapur	Nirmal Char
32	5/4/2008	Safiqul Islam Seikh (26)	1	North 24 Parganas	Taki	Taki
33	6/1/2008	Mofijul Seikh	1	Murshidabad	Kaharpara	At Outpost No.2 and 3, Mohangunj BSF Camp under Kaharpara BSF Camp

34	6/17/2008	Sentu Mondal (19)	1	Murshidabad	Chawk Mathura	On the farming land of Mr. Mondal: Mouza-Udaynarayanpur, J.L. No.12, Dag no.2831/2119. Also at BSF Outpost No.1, Singhpara BSF Camp, Battalion no.90, Company-C
35	7/18/2008	Mr. Rejaul Mondal (30), Mr. Jaynal Mondal (23)	2	North 24 Parganas	Supukar	At Mashampur Border Outpost
36						
37	7/23/2008	Shilajit Mondal (15)	1	Murshidabad	Rajanagar	Char Rajanagar
38	7/26/2008	Sobuj Seikh (32)	1	Murshidabad	Mohanganj	Border Outpost No. 1
39	11/19/2008	Kakali alias Khukuli Khatun (18)	1	Nadia	Hatkhola	In front of the victim's house
Total			16			

2009						
No.	Date of Incident	Name (Age)	# Killed	District	Village	BSF Outpost/Place of Incident
40	1/1/2009	Tutul Seikh (18)	1	Murshidabad	Katlamari	In paddy fields 1.5 km from BSF outpost and 4 km inside the Indian border
41	2/19/2009	Master Peparul Seikh (16)	1	Murshidabad	Chakmathura	At the farming land of Mr. Atahar Rahman, son of late Ajijur Rahman situated at Dag no. 2529
42	3/15/2009	Shibajit Mondal (28)	1	Murshidabad	Char Rajanagar	At Dadur Ghat at Rajanagar
43	3/15/2009	Unknown Bangladeshi	1	North 24 Parganas	Sisutala, Gaighata	At Border Outpost No. 5 at Sisutala
44	3/23/2009	Sanjit Mondal (13)	1	Murshidabad	Natun Rajapur, Nirmalchar	In front of the grocery shop of Mr. Nikhil Mondal
45	4/30/2009	Jabed Ali Mahaldar (27)	1	Murshidabad	Imam Bazar	At Nimtita BSF camp
46	5/5/2009	Abdus Samad (35)	1	Murshidabad	Biswanathpur	(1) In the house of the victim ; (2) Diar Manikchawk Primary School; (3) Ramnagar BOP BSF Camp; (4) Diar Manik Chawk BSF Camp
47	7/2/2009	Dinabandhu Mondal (33)	1	Murshidabad	Harudanga	At BSF tent outpost near BSF Outpost No. 2
48	7/5/2009	Motisir Islam (35)	1	North 24 Parganas	Tarali	At Tarali village

49	7/13/2009	Susanta Mondal (13)	1	Murshidabad	Borderpara	On the river Padma near Borderpara
50	7/14/2009	Mr. Jiarul Seikh	1	Murshidabad	Rai Jyotpara	At the bank of river Jalangi, near Khayertala Border Outpost camp of BSF
51	8/17/2009	Prashanta Mondal (22)	1	Murshidabad	Bairbona	Near Outpost No.1 under BSF Camp of DMC BSF BOP
52	8/22/2009	Shyamsundar Mondal (25)	1	Murshidabad	Char Munshipara	At Dadur Ghat near the bank of River Padma
53	9/1/2009	Mr Noor Hossain (17)	1	Murshidabad	Brahmmotor	NAKA OP-5 of DMC BSF BOP
54	9/28/2009	Surajit Mondal (16)	1	Murshidabad	Mohanganj	Near BSF Outpost No. 3
55	10/25/2009	Unknown, probably Bangladeshi	1	North 24 Parganas	Pathoria	Near the Indo-Bangladesh border fence, Pathoria Border Outpost of BSF Battalion 37
56	10/31/2009	Sukhen Mondal (39)	1	Murshidabad	Char Rajanagar (Paschim Colony)	In the farming land of Mr. Kanai Mondal at Char Katlamari
57	11/4/2009	Harish Chandra Gain (46)	1	North 24 Parganas	Ghojadanga	Near border outpost at Ghojadanga Bridge
58	11/16/2009	Subodh Mondal	1	Murshidabad	Harudanga	At Outpost No. 2
59	12/10/2009	Mr. Sadek Ali Seikh (35)	1	Murshidabad	Khasmahal	On the River Padma near Outpost No. 4 of 10 point of Border Security Force (BSF) Camp at Khasmahal area
Total			20			

2010						
No.	Date of Incident	Name (Age)	# Killed	District	Village	BSF Outpost/Place of Incident
60	3/21/2010	Mr. Atiur Rahman (24)	1	Murshidabad	Puthia (Jamtala)	At Afflux <i>baandh</i> (dam) near Saidapur adjacent to Outpost No. 8 of Bahura BSF camp
61	6/16/2010	Sumanta Mondal (22)	1	Murshidabad	Harudanga	Adjacent to Harudanga outpost no. 8
Total			2			

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Above all Human Rights Watch wishes to express its thanks to the interviewees who spoke out despite considerable personal risk and fear.



(above) The family of Abdus Samad who was killed in BSF custody. Hundreds of Indian and Bangladeshi nationals have been killed due to indiscriminate use of lethal force by India's border guards.

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(front cover) A Border Security Force (BSF) soldier at the Indian-made fence near the Indo-Bangladesh border in West Bengal, November 2006. There have been numerous allegations against the BSF of killings, beatings, and ill-treatment of border residents.

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Over the past decade, hundreds of Bangladeshi and Indian nationals have been killed by India's Border Security Force (BSF), but despite numerous complaints no member of the BSF has been arrested, much less held to account in civilian courts.

The porous 2,000 kilometer border between the Indian state of West Bengal and Bangladesh is densely populated by farmers and landless peasants. Poor irrigation and continuous river erosion has destroyed farms and livelihoods and entrenched poverty. As a result, smuggling of cattle, narcotics, and human trafficking is on the rise.

Both Bangladesh and India have deployed border guards to prevent these activities. Abuses by the BSF and the Bangladeshi border force, the Bangladesh Rifles, are common. However, the BSF is more regularly responsible for serious violations of international law, including torture and the indiscriminate use of lethal force.

"Trigger Happy": Excessive Use of Force by Indian Troops at the Bangladesh Border is based on interviews with over 100 victims, witnesses, human rights defenders, journalists, law enforcement officials, and BSF and BDR members. In addition to impunity for killings, there are frequent and uninvestigated allegations of torture, intimidation and verbal abuse of civilians living near or crossing the border.

The Indian government should immediately revoke shoot on sight orders in the border areas and take strong steps to end legally sanctioned immunity for perpetrators of human rights violations. Police should be instructed to register all complaints against the BSF, and amendments should be made to the Human Rights Protection Act to allow national and state human rights commissions to independently investigate allegations of abuse by the BSF.

The Bangladesh government should vigorously protect the right to life of its citizens, including those who may be involved in illegal trade, and call upon the Indian government to exercise restraint.



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