

Bangladesh-India Land Boundary Agreements, 1974-2015: Context, Correlations and Territoriality

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Abstract

Bangladesh and India share 4096.7 km. land boundary, which was drawn between India and the eastern part of Pakistan (East Bengal) by the Radcliffe Award during the partition of 1947. This boundary became the Bangladesh-India boundary after the liberation of Bangladesh in 1971. Therefore, the Pakistan-India land boundary disputes over the un-demarcated boundary, adverse possessions and enclaves transformed into Bangladesh-India ones. These land boundary disputes witnessed one summit-level agreement between Pakistan and India and three summit-level agreements between Bangladesh and India. However, the land boundary disputes were eventually resolved under the land swap deal of 2015. This striking background led to the question as to why these issues were hung up for 68 years, what contexts led to several summit-level agreements on the same issues, and what were the correlations among the agreements. Against this background, this article attempts to shed light on how India, being the big neighbour, dominated the entire trajectory of the land boundary disputes and how it changed its agreed positions from one agreement to another. However, the main objective of this article is to see whether India's territoriality towards its border with Bangladesh was gradually transformed into the pattern of a zero-sum game during the period from 1974 to 2015, and what was the corresponding territoriality of Bangladesh.

Key words: Land boundary, enclaves, adverse possessions, agreement, border guidelines, context, correlation, territoriality

Prelude

Through India's generous support in the Liberation War of Bangladesh in 1971, a strong relationship was built between these two countries at the outset. It is memorable that after the historic speech of Sheikh Mujibur Rahman on 7 March 1971, which was an implicit declaration of the independence of Bangladesh, the Parliament of India adopted a resolution on 11 March 1971 in favour of the Liberation War of Bangladesh. The resolution stated in part, "This House records its profound conviction that the historic upsurge of 75 million people of East Bengal

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[Bangladesh] will triumph. The House also wishes to assure them that their struggle and sacrifices will receive the wholehearted sympathy and support of the people of India”.¹ Subsequently, Indian Prime Minister Indira Gandhi paid a state visit to Bangladesh just three months after its liberation, which was the first-ever visit of any Head of Government to independent Bangladesh. This visit was concluded by signing the “Treaty of Friendship, Cooperation and Peace” on 19 March 1972 (referred to as Friendship Treaty). Thus, the initial bilateral relations were set based on reciprocal respect for each other’s territorial integrity, sovereignty, and shared interest.

Though the initial bilateral relations were set for mutual interest, there were some inborn disputes over the land boundary between these two countries, which Bangladesh inherited from Pakistan. Bangladesh and India share a 4096.7 km land boundary, which was drawn between India and the eastern part of Pakistan (East Bengal) by the Radcliffe Award during the partition of 1947. After the liberation of Bangladesh in 1971, the East Pakistan-India boundary became the Bangladesh-India boundary. It is pertinent to note that three areas of disputes arose out of the provisions of the Radcliffe Award, such as the un-demarcated land boundary, enclaves, and adverse possessions. Remarkably, these disputes were resolved in the “Agreement between India and Pakistan on Border Disputes (East Pakistan), New Delhi, September 10, 1958” (referred to as Nehru-Noon Agreement), which India could not execute due to political confrontations and legal wrangles. Subsequently, with the independence of Bangladesh, the Nehru-Noon Agreement became outdated. However, soon after the independence of Bangladesh, the outstanding land boundary disputes drew the attention of both governments. Consequently, the “Agreement between the Government of the People’s Republic of Bangladesh and the Government of the Republic of India Concerning the Demarcation of the Land Boundary between India and Bangladesh and Related Matters” (referred to as Land Boundary Agreement) was signed on 16 May 1974 in New Delhi. It may be pointed out that the Prime Ministers of the two countries decided to append their signatures to the agreement underlining the importance sought to be given to the agreement by both nations.

In both countries, the Land Boundary Agreement of 1974 faced writ petitions in the court against ceding territories. In Bangladesh, the Supreme Court dismissed the case shortly after a few hearings. Subsequently, the Bangladesh government ratified the

¹ Quoted in *The Bangladesh Times*, 19 June 1974.

agreement through an amendment of its constitution on 23 November 1974² and carried out its tasks under the agreement in the same year. However, in India, the petitions against the agreement took 16 years to get dismissed. The Calcutta High Court had a verdict in favour of leasing the Tin Bigha Corridor to Bangladesh under the agreement, which was challenged in the Supreme Court of India. The Supreme Court of India also ruled in September 1990 that the Tin Bigha Corridor could be leased out without ratifying the agreement in the parliament. The Supreme Court also asked the government to implement the agreement as early as possible.³

Ironically, even after the discharge of the case by the Supreme Court of India in 1990, the agreement was hung up until 2015. Eventually, after many bilateral negotiations vis-à-vis confrontations in domestic politics, the government of India succeeded in implementing the Land Boundary Agreement of 1974 in 2015 under two new summit-level agreements, i.e. the Protocol of 2011 and the Land Boundary Agreement of 2015. However, the hang-up of the agreement for 41 years (1974-2015) was the source of escalating tensions between Bangladesh and India. It is remarkable that as a big neighbour, India dominated the entire trajectory of the land boundary disputes and changed its agreed positions from one agreement to another. This striking background led to the question as to why these issues were hung up for 68 years, what contexts led to several summit-level agreements on the same issues, and what were the correlations among the agreements. Therefore, the main objective of this article is to see whether India's territoriality towards its border with Bangladesh was gradually transformed into the pattern of a zero-sum game during the period from 1974 to 2015, and what was the corresponding territoriality of Bangladesh.

To shed light on the changing nature of India's territoriality toward its border with Bangladesh and the corresponding territoriality of Bangladesh, this article analyses the context and correlations of the land boundary agreements based on ground reality. In doing so, extensive fieldwork has been carried out in the borderlands of Bangladesh using qualitative research tools such as observation, in-depth interviews and focused group discussions (FGDs). Oral history has been a key tool for studying the perception of the borderland communities about the changing nature of India's territoriality. Context analysis methodology has been used to investigate the land boundary agreements between Bangladesh and India case by case. Each agreement has been contextually interpreted to see how domestic politics often led India to

² *The Constitution of Bangladesh* [Third Amendment] Act, 1974, [Act No. LXXIV].

³ *The New Nation*, 28 March 1992; *The Telegraph*, 28 March 1992.

depart from its agreed position from one agreement to another. Moreover, the border guarding forces of Bangladesh and India signed the Border Guidelines in 1975, which materialized the territoriality on the ground. However, the Border Guidelines were replaced by the Coordinated Border Management Plan (CBMP) in 2011. Hence, the correlations between these two have been observed to see the changing nature of India's territoriality towards its border with Bangladesh.

Conceptual Framework

The relationship between Bangladesh and India seems complex because both governments maintain that their relationship is of mutual trust, friendship and cooperation, which is not evident in the management of their land boundary. However, many critics argue that the relationship between Bangladesh and India often suffers from trust deficits. It is viewed by some scholars that India's territoriality has been gradually getting the nature of a zero-sum game leading to the trust deficit between the two countries, which is often reflected in the land boundary agreements.

The word 'territoriality' refers to the monopolization of space by an individual or group. However, territoriality is the pattern of behaviour of a state related to the defense of its territory. It is a particular mechanism of a state, employed in a political frontier within which its border lies. The whole process and action through which a state constructs and maintains borders can be called territorialization. In most cases, states employ 'territoriality' as "a spatial strategy" to "affect, influence, or control resources and people by controlling area" in the borderlands.⁴ It means that territoriality is a product of social context. Looking at the land boundary of India, which it shares with several countries, one can see that it has developed different strategies for managing its border with different neighbouring countries. Thus, based on bilateral relations and social contexts of different borders, graduated territoriality was developed by India, such as a 'soft' or open border with Nepal and Bhutan, a 'hard' or war-driven militarized border with Pakistan, and a frightening fenced border with Bangladesh.

Borders must be continuously "maintained and socially reproduced through particular practices and discourses", which emphasise the 'other'.⁵ However, emphasising the 'other' itself is a source of conflict. Whether employed by peaceful

4 Robert D. Sack, "Human Territoriality: A Theory", *Annals of the Association of American Geographers*, Vol. 73(1), 1983, pp. 55-74.

5 James Anderson and Liam O'Dowd, "Borders, Border Regions and Territoriality: Contradictory Meanings, Changing Significance", *Regional Studies*, Vol. 33(7), 1999, pp. 593-604.

or violent means territoriality is inherently conflictual.⁶ John Agnew argued, “There is an essential conflict of interest between states in which one state’s gain is always another state’s loss unless, in more liberal and idealist accounts, the states can negotiate a temporary regime of cooperation over their antagonistic interests.”⁷ In reality, “territoriality actively encourages the zero-sum-game characteristic of national and border conflicts”.⁸ Thus, “border even between friendly states can be a site of quite considerable violence”⁹, as in the case of Bangladesh and India.

Context of the Land Boundary Agreements

The Indo-Pakistan and Indo-Bangladesh land boundary disputes witnessed one international tribunal (Bagge Awards, 1950), four summit-level agreements, i.e. the Nehru-Noon Agreement of 1958, the Land Boundary Agreement of 1974, the Protocol of 2011, the Land Boundary Agreement of 2015, and two ‘Terms of Lease’ of the Tin Bigha Corridor in 1982 and 1992. All these agreements were concluded on the same issues, namely the un-demarcated boundary (approximately 6.1-kilometre), adverse possessions and enclaves. Now, the question is why these issues were kept unresolved for several decades. The second question is why several summit-level agreements were required to resolve these issues. In this regard, it is pertinent to note that with time changes, the context of the issues mentioned above also changes. Moreover, with all progress remains a problem in Bangladesh-India relations that when there is a change of government in either country, the territoriality in the Indo-Bangladesh border also changes. However, the contextual trajectories of the land boundary agreements between Bangladesh and India are discussed below.

Context of the Land Boundary Agreement of 1974

The initial disputes on the India-East Bengal border were resolved in the Bagge Awards of 1950. The rest of the disputes were resolved in the Nehru-Noon Agreement of 1958, which India could not execute apparently because of legal wrangles and the opposition of the provincial government of West Bengal. History attests that the border issues were deliberately kept alive during the Pakistan period. On the contrary, the governments of Bangladesh and India felt the urge to resolve the land boundary disputes at the earliest possible time. At this end, Bangladesh Prime

⁶ *Ibid.*

⁷ John Agnew, “The Territorial Trap: The Geographical Assumptions of International Relations Theory”, *Review of International Political Economy*, Vol. 1(1), 1994, pp. 53-80.

⁸ James Anderson and Liam O’Dowd, *Op cit.*

⁹ Willem van Schendel, *The Bengal Borderland: Beyond State and Nation in South Asia*, Anthem Press, (London 2005), p. 3.

Minister Sheikh Mujibur Rahman paid an official visit to New Delhi from 12 to 16 May 1974. The entire gamut of the bilateral relations was covered in this summit meeting and at the end, the Land Boundary Agreement was signed on 16 May 1974.

Hang up of the Land Boundary Agreement of 1974

The foresightedness of the governments of Bangladesh and India led to the signing of the Land Boundary Agreement of 1974, which provided detailed guidelines for an amicable resolution to the land boundary disputes. However, the political scenario in Bangladesh radically changed after the assassination of Sheikh Mujibur Rahman on 15 August 1975. This assassination “transformed what promised to be an amicable relationship into an essentially adversarial relationship. The following military regimes seemed to have believed that India was a hostile neighbour rather than a prospective friend...India became equally recalcitrant and eventually indifferent in its approach towards resolving mutual problems”.¹⁰ The foreign policy of the first military regime of Bangladesh, led by Ziaur Rahman (1975-81), kept India away from Bangladesh. The stubborn unwillingness of Indira Gandhi to maintain bilateralism with the military regime of Bangladesh was equally responsible for keeping away from each other. However, when Morarji Desai succeeded Indira Gandhi in 1977, Ziaur Rahman tried to improve relations with India. Eventually, a 5-year interim agreement on the Ganges water sharing was signed in November 1977, which expired in 1982 without being renewed. Yet, “the respite in the Indo-Bangladesh relations proved rather temporary as with the return of Indira Gandhi to power in January 1980” as “she remained as uncompromising as ever” with Zia’s regime.¹¹ The second military regime led by H. M. Ershad (1981-90) did not see any significant change in the relations with India set during Zia’s regime. Instead, the erection of the border fence by India led to bilateral rhetoric.

Though democracy was restored in Bangladesh in 1991, the first BNP-led Government (1991-1996) was viewed by India as of anti-Indian spirit. Even though Prime Minister Khaleda Zia visited New Delhi in 1992, tensions in bilateral relations continued. As a whole, from 1975 to 1996, “Bangladesh’s approach was derived, in part, from the nature of its adversarial domestic politics where confrontation with India was seen as a point of differentiation with the political forces who were seen as

¹⁰ Rehman Sobhan, “Restoring Commonsense into Indo-Bangladesh Relations (Part I): Graduating diplomacy and politics into the 21st century”, *The Daily Star*, Dhaka, 5 September 2011.

¹¹ A. S. Bhasin, *India-Bangladesh Relations: Documents 1971-1994*, Volume One & Two, Siba Exim Pvt. Ltd, (New Delhi 1996), p. ci.

Pro-Indian”.¹² Under these circumstances, the Land Boundary Agreement of 1974 was sent to the back burner for four decades.

Context of the Land Boundary Agreement of 2015

The relations between Bangladesh and India began to improve when Awami League leader Sheikh Hasina came to power in 1996. Notably, a significant policy change occurred in Bangladesh on the India issue during the first tenure of Sheikh Hasina’s government (1996-2001). In reciprocity, India also changed its stance towards Bangladesh. Though no remarkable progress in implementing the Land Boundary Agreement of 1974 was made several other outstanding issues including the water-sharing issues of the Ganges River were resolved. After signing the Ganges Water Sharing Treaty in 1996, the second breakthrough was made by Sheikh Hasina when she assumed office in 2009 for the second term. Sheikh Hasina’s visit to New Delhi in 2010 was the ice-breaker in Bangladesh-India relations. This summit was indeed a determined step towards the revitalization of the relationship. In this summit, several initiatives were taken to implement the long-pending Land Boundary Agreement of 1974.

Sheikh Hasina’s visit to New Delhi was followed by Indian Prime Minister Manmohan Singh’s visit to Dhaka during 6-7 September 2011. Manmohan Singh’s visit to Dhaka was expected to be a breakthrough. However, Manmohan Singh could not succeed due to the non-cooperation of West Bengal’s Chief Minister Mamata Banerjee. Nonetheless, the Protocol to the Land Boundary Agreement of 1974 was signed at the Dhaka summit, which directed the demarcation and determination of the un-demarcated land boundary, adverse possessions and enclaves. It is worth mentioning that the disputes over the land boundaries were settled on the ground by this protocol. Thus, a significant development was made towards implementing the agreement. After that, Prime Minister Sheikh Hasina created an atmosphere for intensifying cooperation by addressing India’s security concerns at the border. Narendra Modi’s government adopted the ‘Act East Policy’¹³ for which India needed

¹² Rehman Sobhan, *Op. cit.*

¹³ India’s ‘Act East Policy’ (AEP) concentrate on the extended neighbourhood in the Asia-Pacific region. Under this policy, India has elevated its relations to a strategic partnership with Japan, Indonesia, Vietnam, Malaysia, South Korea, Australia, Singapore and with the ASEAN. India’s north-eastern provinces have been in the priority of AEP, and Bangladesh enjoys its strategic location in this regard. See for details, V. K. Singh, “Act East Policy”, Press Information Bureau (PIB), Ministry of External Affairs, Government of India, 23 December 2015; retrieved from <http://pib.nic.in/newsite/PrintRelease.aspx?relid=133837> (accessed on 20 February 2019).

multi-purpose transit through Bangladesh. Therefore, Sheikh Hasina's government took several joint projects to provide India with transit, which might have helped the long pending land swap deal in 2015.

However, India's policy towards Bangladesh in 2015 would have been motivated by several other reasons and China was at the top of the list. Modi's visit came immediately after the visit of Chinese Vice-Premier, Liu Yangdong in May 2015, when six MoUs were signed. Bangladesh also paid attention to China's 'One Belt, One Road' project, while India gravely suspects it as she felt that "it was a Chinese ploy to encircle and undermine India".¹⁴ Therefore, India needed to dispel the Chinese influence in Bangladesh. In these contexts, Narendra Modi accepted Sheikh Hasina's invitation and visited Dhaka in June 2015, when the Land Boundary Agreement of 1974 was eventually implemented.

Correlations among the Land Boundary Agreements

As discussed earlier, the Indo-Bangladesh land boundary disputes witnessed four summit-level agreements - the Nehru-Noon Agreement of 1958, the Land Boundary Agreement of 1974, the Protocol of 2011 and the Land Boundary Agreement of 2015. Since all the agreements were concluded on the same issues, such as the undemarcated land boundary, adverse possessions and enclaves, they are intricately correlated. For instance, in many cases, the terms of one agreement were taken as the point of departure in a new agreement. However, the correlations among the land boundary agreements will now be discussed case by case.

Correlations between the Nehru-Noon Agreement of 1958 and the Land Boundary Agreement of 1974

The Nehru-Noon Agreement was signed to resolve the land boundary disputes in the India-East Pakistan border, which was not implemented during the Pakistan period. So, after the liberation of Bangladesh, this agreement became outmoded and was replaced by the Land Boundary Agreement of 1974. Therefore, the terms of the Nehru-Noon Agreement were taken as the point of departure in the Land Boundary Agreement of 1974, and thus, this agreement was profoundly correlated to the Nehru-Noon Agreement. Firstly, the exchange of enclaves without claim to compensation for the extra areas going to Pakistan was agreed upon in the Nehru-Noon Agreement of 1958, which was again stipulated in the Land Boundary Agreement of 1974.

¹⁴ Mahmood Hasan, "Modi's charm offensive in Dhaka", *The Daily Star*, 8 June 2015.

Secondly, in pursuance of the resolution to the conflict over Berubari Union No. 12, the Nehru-Noon Agreement directed,

This [Berubari Union No. 12] will be so divided as to give half the area to Pakistan, the other half adjacent to India being retained by India...Pakistan Government agreed that the two chitlands [Dahagram-Angarpota enclaves] of the old Cooch Behar State adjacent to the Radcliffe line should be included in West Bengal, and the Radcliffe line should be adjusted accordingly.

Thus, the Berubari Union was divided, and its southern half was given to Pakistan in this agreement. However, while signing the agreement, the government of India was not cognizant of the fact that most of the residents of the Berubari Union were Hindu refugees who were uprooted from East Pakistan during the partition of 1947. So, if the southern half of Berubari was given to Pakistan those Hindu refugees would have been gravely affected. When the fact was brought to Prime Minister Jawaharlal Nehru's attention, he was much disturbed, which was evident in what he said in the Parliament on 20 December 1960,

I did not realize then that there is a certain human aspect of it...my mind was not applied to it, nor did anybody tell me what the population was and how many people will be affected. Somehow it happened. I am sorry it did not come before me and it was not put before me.¹⁵

Nehru was in a moral bind- on the one hand, there was an international agreement and, on the other a humanitarian issue. Therefore, he tried to resolve this sensitive issue by offering Pakistan in exchange "an equal or about an equal quantum of territory" for the southern half of Berubari. But, Pakistani President Ayub Khan was not only unsympathetic to Nehru's proposal but even condemned Nehru for going back on international agreements.¹⁶ However, neither was the Berubari issue resolved nor was the Nehru-Noon Agreement implemented during the Pakistan period.

In this background, at the request of India, Bangladesh made a significant departure from the Nehru-Noon Agreement and generously ceded the southern half of the South Berubari Union to India. In return, Dahagram-Angarpota enclaves were given to Bangladesh. In this regard, the Land Boundary Agreement of 1974 (Article I, Section 12) directed-

India will retain the southern half of South Berubari Union no. 12 and the adjacent enclaves measuring an area of 2.64 square miles approximately, and in exchange, Bangladesh will retain the Dahagram and Angarpota enclaves. India will lease in

¹⁵ Quoted in A. S. Bhasin, *Op. cit.*, p. cti.

¹⁶ *Ibid.*

perpetuity to Bangladesh an area of 178 metres × 85 metres near Tin Bigha to connect Dahagram with Panbari Mouza (P.S. Patgram) of Bangladesh.

Here, the decision of the Nehru-Noon Agreement was altered for practical reasons and the southern part of South Berubari was given to India in exchange for Dahagram-Angarpota enclaves. As mentioned earlier, South Berubari was inhabited by the Hindu people uprooted from Pakistan during the communal riots, who were not favourably inclined to adopt Bangladeshi citizenship. Likewise, people living in Dahagram-Angarpota, mostly Muslims, were unwilling to adopt Indian citizenship. So, handing over the southern half of Berubari to Bangladesh and Dahagram-Angarpota to India would have displaced the population on both sides, causing humanitarian problems.¹⁷ So, to alter the decision of the Nehru-Noon Agreement of 1958 in the Land Boundary Agreement of 1974 was, however, a better solution regarding the inclination of the inhabitants of Berubari Union and Dahagram-Angarpota enclaves.

Correlations between the Land Boundary Agreements of 1974 and 2015

To complete the demarcation of the land boundary, Bangladesh and India signed a protocol in 2011 corresponding to the Land Boundary Agreement of 1974. On the other hand, the “Letters on Modalities for Implementation of the LBA (Land Boundary Agreement of 1974) and its Protocol” (referred to as the Land Boundary Agreement of 2015) was signed at the Dhaka summit in 2015. It is pertinent to note that the protocol of 2011 provided the demarcation of the un-demarcated borders and the determination of the adverse possessions and enclaves on the ground. In contrast, the Land Boundary Agreement of 2015 provided the modalities of executing the Land Boundary Agreement of 1974 and the Protocol of 2011. However, the correlations among these three agreements are discussed below case by case.

Demarcation of the un-demarcated boundaries

Muhuri River (Belonia) Sector: It is mentionable that the Muhuri *Char* (sandy tracts of land, often created by river erosion) has been the boon of contention between these two countries since the beginning because India and Bangladesh claimed different maps as the basis for demarcation in this area (Figure 1). The dispute started due to the erosion of the Muhuri River on the Bangladesh side, which has created this small landmass on the Indian side.

¹⁷ A. Z. M. Haider, “The Delhi Summit-I”, *Morning News*, Dhaka, 21 May 1974.



Figure 1: Muhuri Char, showing temporary pillars and flags on the boundary line, demarcated in 2015. The temporary Sub Pillar No. 45-S shows the Bangladesh border (inset). The photo was captured during the fieldwork in 2019.

However, the Land Boundary Agreement of 1974 (Article 1, Clause 5) directed, “the boundary in this area should be demarcated along the mid-stream of the course of the Muhuri River (Figure 2) at the time of demarcation. Both governments agreed to raise embankments on their respective side to fix the boundary permanently”. Conversely, the Protocol of 2011 directed,

Boundary in this segment shall be drawn westward from the existing Boundary Pillar No. 2159/48-S along the agreed line as depicted in the index map prepared jointly till it meets the southern limit of the Burning Ghat as shown in jointly surveyed map of Muhuri River area in 1977-78. Thereafter, it shall follow the external limit of the Burning Ghat in south-west direction and then turn northwards along the external limit of the Burning Ghat till it meets the centre of the existing Muhuri River. Thereafter, it shall run along the mid-stream of the existing Muhuri River up to Boundary Pillar No. 2159/3-S. This boundary shall be the fixed boundary. The two governments should raise embankments on their respective sides with a view to stabilising the river in its present course as stipulated in the 1974 Agreement. The parties agree to fencing on “zero line” in this area (Article 2, Clause I).



Figure 2: The Muhuri River, showing its erosion on the Bangladesh side (left side) and sedimentation on the Indian side (right side). The sedimentation on the Indian side has created the Muhuri Char (inset). This photo was captured during fieldwork in 2019.

It is pertinent to note that as per the joint survey of 2012, the total area of Muhuri Char is 92 acres, of which Bangladesh owned 72 acres and India owned 20 acres.¹⁸ Thus, the long-standing disputes over Muhuri Char were resolved. The land was demarcated with temporary pillars. The temporary pillars were to be replaced immediately by permanent pillars, which did not take place till the fieldwork of this research in 2019. The local people, who owned land in Muhuri Char but did not get access to their land due to the disputes, are now waiting to get access to their land. Mohammad Ibrahim (2019), a landowner in Muhuri Char, says,

I have roughly 3/4 acres of land in the Muhuri Char, which I inherited. Due to the erosion of the Muhuri River, this area became disputed.... After many years of conflicts, skirmishes and negotiations, this area was demarcated in a joint survey in 2012/2013. As a result of the survey, roughly 20% of the char goes to India, and Bangladesh retains 80%. The area is now demarcated, and temporary border pillars have been erected. We have heard that we will be handed over our land after the erection of the permanent pillars...We are eagerly waiting for the access to our land. The governments should give us our land back quickly so that we can cultivate our land for our subsistence.

On the other hand, the long-standing disputes over the demarcation of Lathitilla-Dumabari areas were resolved in the Land Boundary Agreement of 2015 without any significant changes to the terms of the Land Boundary Agreement of 1974.

¹⁸ Subadar Fazlul Huq, the Commander of Mazumdarhaat Border Outpost (BOP), Personal Interview, (interview was taken at the Mazumdarhaat BOP), Porshuram, Feni, 6 April 2019.

Exchange of Territories in Adverse Possessions

The adverse possession referred to the territories of one country beyond its border, which have been the source of conflict between India and Bangladesh since the beginning. However, to resolve the issue, the Land Boundary Agreement of 1974 (Article 2) stipulated the exchange of the adverse possessions in the demarcated borders by 31st December 1975 and in the un-demarcated borders within six months of the signing of the relevant boundary strip maps.

Regarding the citizenship of the people in the territories of adverse possessions, the Land Boundary Agreement of 1974 (Article 3) directed, “When areas are transferred, the people in these areas shall be given the right of staying on where they are, as nationals of the country to which the areas are transferred”. But, by 2015, this became difficult to implement because the circumstances of the adverse possessions changed vividly over the years. It is pertinent to note that people living in the “territories of Adverse Possession were technically in occupation and possession of land beyond the boundary pillars but were administered by the laws of the country of which they were citizens... They had deep-rooted ties to their land, which went back decades and were categorically unwilling to be uprooted”.¹⁹ Therefore, on this point, the Land Boundary Agreement of 2015 departed from the decision of exchanging territories in adverse possession and directed to keep the *status quo* of the adverse possessions in favour of people’s will to remain in the country of their original citizenship. Thus, instead of exchanging territories in adverse possessions as was agreed in the Land Boundary Agreement of 1974, the territorial jurisdictions were exchanged in the Land Boundary Agreement of 2015. Thus, by exchanging territorial jurisdictions in adverse possession, India retained 2777.038 acres of land while Bangladesh retained 2267.682 acres.²⁰

Exchange of Enclaves

Regarding the enclaves, the Land Boundary Agreement of 1974 (Article 1 Clause 12) directed, “the Indian enclaves in Bangladesh and Bangladeshi enclaves in India should be exchanged expeditiously, (except the enclaves mentioned in paragraph 14) without claim to compensation for the additional areas going to Bangladesh”. And, this was executed in the Protocol of 2011 thus: “111 Indian enclaves in Bangladesh

¹⁹ MEA (Ministry of External Affairs), *India and Bangladesh Land Boundary Agreement*, Public Diplomacy Division, (New Delhi 2015); retrieved from http://www.mea.gov.in/Uploads/PublicationDocs/24529_LBA_MEA_Booklet_final.pdf (accessed 23 January, 2019)

²⁰ *Ibid.*

and 51 Bangladeshi enclaves in India as per the jointly verified cadastral enclave maps, signed at the level of DGLR&S, Bangladesh and DLR&S, West Bengal of India in April 1997, shall be exchanged without claim to compensation for the additional areas going to Bangladesh” (Article 2, Clause II). Eventually, the Land Boundary Agreement of 2015 directed, “the Bangladeshi enclaves in India and Indian enclaves in Bangladesh exchanged under the LBA and the Protocol of 2011 shall be stand transferred to the other with effect from the midnight of the ‘Appointed Day’ of July 31, 2015” (Article I). Thus, the long-awaited exchange of enclaves was eventually implemented in 2015.

Correlations between the Border Guidelines and the Coordinated Border Management Plan

The territoriality of India in its border with Bangladesh in the initial stage was humanistic and friendly to the borderland people. The Border Guidelines of 1975, for instance, set the tune of territoriality in which there were no detrimental provisions for the borderland people of Bangladesh. It is pertinent to note that during the Pakistan period, tensions prevailed on this border, which often victimized the lives and livelihoods of the borderland people. Under these circumstances, Bangladesh and India proceeded to normalise the life and livelihoods of the borderland people at the outset. After that, both governments felt the necessity for coordinated vigilance and joint action against the illegal flow of arms, smuggling and other cross-border crimes. Therefore, a three-day high-level Indo-Bangladesh border conference was held in Kolkata from 21 to 23 April 1975. This conference was concluded by signing the “Joint India-Bangladesh Guidelines for Border Authorities of the two Countries” (referred to as Border Guidelines). In principle, the Border Guidelines were comprehensive dos and don’ts for the border guarding forces of Bangladesh and India.²¹ Though many of the provisions of the Border Guidelines were often violated on the ground, especially by India, the guidelines were very pragmatic, humanistic and dynamic in managing the border and borderland people.

In the summit talks held in New Delhi in 2010, the Prime Ministers of Bangladesh and India directed their governments to cooperate actively on security issues on the border. Subsequently, Bangladesh and India signed the Coordinated Border Management Plan (CBMP) on 30 July 2011. Thus, the Border Guidelines were

²¹ Mohammed Mostafa Faruque, “Outstanding Issues in Bangladesh-India Relations”, Salman Haider (ed.) *India-Bangladesh-Strengthening the Partnership*, CRRID, (Chandigarh 2005), pp. 1-13.

seemingly replaced by the CBMP. Both governments perceived that the CBMP “would enhance cooperation between the border guarding forces, and enable them to manage the identified vulnerable areas to prevent criminal activities, illegal movement and acts of violence”.²²

In principle, there was no difference between the Border Guidelines of 1975 and the CBMP, but surprisingly, no reference to the Border Guidelines was made in the CBMP. What weakness of the Border Guidelines of 1975 made the necessity to sign the CBMP and whether the CBMP was a supplement to the Border Guidelines or a replacement have not been made clear by either government. However, in the border management principles, some significant deviations from the Border Guidelines have been made in the CBMP. Hence, the correlations between these two would help to understand the changing nature of India’s territoriality on its border with Bangladesh.

Firstly, the Border Guidelines of 1975 directed,

After the identifiable boundary line, whether ‘real’ or ‘working’ has been fixed, neither side will have any permanent or temporary border security forces or any other armed personnel within 150 yards on either side of this line [Article 8, Clause c]... if defensive works of any nature, including trenches, exist in the stretch of 300 yards (150 yards on each side of the boundary) these must be destroyed or filled up[Article 8, Clause e].

Also, Article 8 (Clause f) of the Border Guidelines of 1975 directed, “it will be the duty of the border security forces on either side to prevent armed civilians entering the 300 yards stretch of the border”. The 300-yard stretch of the border (150 yards on each side of the boundary line) is referred to as “No Man’s land” (Figure 3). Initially, there were no problems with these provisions of the Border Guidelines of 1975 in either country but problems arose when India took the project of fencing its border in the 1980s. Being abided by the Border Guidelines of 1975, India started erecting fences within its territory beyond 150 yards from the boundary line. However, it was not possible to build the border fence thoroughly beyond 150 yards from the boundary line because there were some sensitive establishments, including temples and other religious institutions within 150 yards from the boundary line at 46 points.²³ For example, a religious establishment was within five yards of the boundary line in the Hilli border. So, if the border fence had been built beyond 150 yards from the boundary line, these Indian establishments would have fallen outside the Indian border fence.

²² The Joint Statement, Dhaka, September 7, 2011.

²³ See for details, Coordinated Border Management Plan (CBMP); retrieved from https://www.hcidhaka.gov.in/pdf/bi_doc/scan0020.pdf

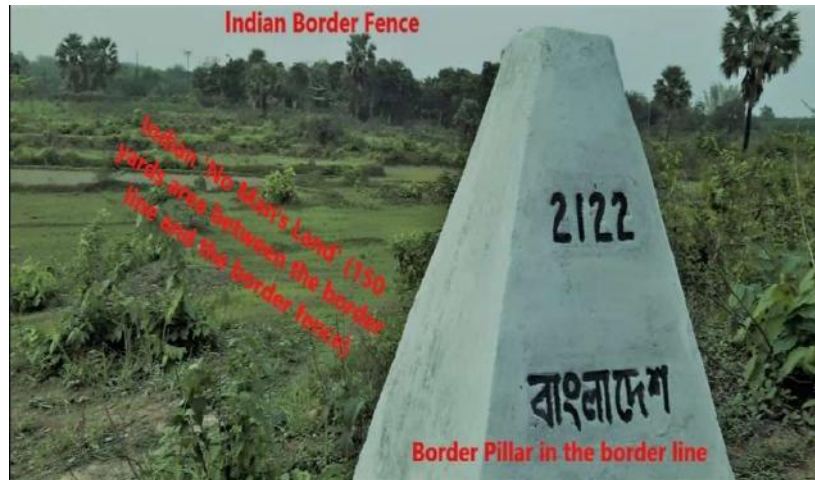


Figure 3: Indian No Man's Land. This photo was captured during fieldwork in 2019.

The terrains at some points of the border were also tricky for erecting fences 150 yards away from the boundary line. For instance, Agartala (the capital city of Tripura State) is very close to the Bangladesh-India boundary line. So, if the border fence had been erected 150 yards away from the boundary line in this area, the densely populated terrain of Agartala city would have fallen outside the Indian border fence. For this kind of practical reason, India sought consent from Bangladesh to erect border fences within 150 yards from the boundary line at 46 points. Against this background, having deviated from the Border Guidelines of 1975, Bangladesh agreed in the CBMP (Article 7, clause d) to allow all developmental works (except for military), including border fences within 150 yards of the borderline, if required. Thus, Bangladesh has allowed India to erect fences at 12 points, having important establishments, including temples. This deviation from the Border Guidelines of 1975 was necessary for addressing the needs on the ground. Following the CBMP, India has erected fences even on the zero line at the Azampur border in Akhaura Upazila of Brahmanbaria District (Figure 4). India has also allowed Bangladesh to build structures within 150 yards at 11 points, including a bridge in Laxmipur, expanding a wall in the Hilli border and the construction of approach roads in Moulavi Bazar and Bhomra.²⁴

²⁴ Rezaul Karim, "High Hopes pinned on PM's India visit", *The Daily Star*, Dhaka, 10 January 2010.



Figure 4: Indian border fence close to the boundary line in the Azampur border in Akhaura Upazila of Brahmanbaria District. This photo was captured during fieldwork in April 2019.

Secondly, the Border Guidelines of 1975 directed, “if nationals of one country ingress the working boundary and enter illegally and commit or attempt to commit an offence, the border security forces would be at liberty to take appropriate action in the exercise of the ‘right to private defence’ preferably without resorting to firing” (Article 8, Clause i). However, it is striking enough to note that nothing is mentioned in the CBMP in this regard amid the frequent killing of unarmed Bangladeshi citizens on the border by the Border Security Forces (BSF) of India.

Thirdly, the Border Guidelines of 1975 directed that “wherever the boundary ‘real’ or ‘working’ runs through the mid-stream of a river, the main channel will be used” by the nationals of both countries. Both countries will adopt coordinated procedures to regulate the traffic and ensure that no people are harassed using the channel (Article 8, Clause h). Ironically, nothing is stipulated in the CBMP in this regard. As a result, the borderland people of Bangladesh have been deprived of access to the bordering rivers for their subsistence. These instances of the deprivation of the borderland people of Bangladesh from their access to the natural resources in the borderland including the rivers demonstrate the zero-sum game nature of India’s territoriality.

Conclusion

As has been discussed in this article, the land boundary disputes, which arose out of the provisions of the Radcliffe Award during the partition of 1947, were resolved in the Nehru-Noon Agreement of 1958. However, India could not execute the agreement. Subsequently, Bangladesh inherited the disputes from Pakistan through

its independence in 1971. Therefore, to resolve the same disputes, Bangladesh and India signed the Land Boundary Agreement in 1974. Ironically, the Land Boundary Agreement of 1974 was also hung up for 41 years (1974-2015) by India after Bangladesh had ratified the agreement through a constitutional amendment and ceded territories to India under the agreement in the same year. Whatever the reasons, India's failure to stand by the Land Boundary Agreement of 1974 could be viewed as negligence towards the norms and practices regarding international agreements. In the end, while executing the Land Boundary Agreement of 1974 in 2015, the government of India changed many terms stipulated in it, which indicates the changing nature of India's territoriality to its border with Bangladesh.

The context and correlations of the land boundary agreements between Bangladesh and India suggest that India, being the big neighbour, dominated the entire trajectory of the land boundary disputes and has changed its agreed positions from one agreement to another. Moreover, India's territoriality to its border with Bangladesh underwent gradual changes in the pattern of zero-sum game, which has been evident in the correlations among the land boundary agreements and the correlations between the Border Guidelines of 1975 and the CBMP of 2011. In localized studies, it is evident that the Bangladesh-India land boundary has been characterized by policy uncertainty and subtle changes in settled issues. For instance, some border haats have been established for the benefit of the borderland people of both countries by the decision of the high contract parties. Ironically, because of high restrictions and lack of necessary flexibility on the ground the border haats have been proved of little or no benefit to the stakeholders. However, the borderland people of Bangladesh have been deprived of their access to natural resources including the rivers for many years. On the other hand, the extra-judicial killing of unarmed Bangladeshi citizens has been a common phenomenon on the Bangladesh-India border. All these reflect the zero-sum-game nature of India's territoriality. On the contrary, the corresponding territoriality of Bangladesh became more and more acquiescent towards India.