

Border Enforcement and Human Rights: A Critical Examination of Violence and International Obligations

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ABSTRACT

This critical analysis investigates instances of violence and human rights violations occurring at international borders, with a particular focus on the India-Bangladesh border, and examines the international legal and ethical perspectives to ensure the safety and protection of human rights. Despite the sovereign right of states to control their borders, international law mandates adherence to human rights principles, including the right to life, freedom from torture, and due process, even for individuals attempting irregular entry. This study synthesizes reports from human rights organizations, academic analyses, and media accounts to document the scale and nature of border-related fatalities and abuses. The findings reveal a persistent pattern of excessive force, torture, and extrajudicial killings by border security forces, particularly along the India-Bangladesh frontier, often in the context of preventing smuggling or illegal crossings. This research critically analyzes the justifications offered by states for such actions against the backdrop of international human rights law and humanitarian principles. It argues that current enforcement practices frequently contravene international obligations and undermine the safety of individuals. The study concludes by proposing a framework for international cooperation and accountability mechanisms to ensure that border management prioritizes human rights safety and adheres to ethical standards, advocating for non-lethal methods and transparent investigations of all alleged violations.

Keywords: Border Violence, Human Rights Violations, International Law, Border Security, India-Bangladesh Border, Extrajudicial Killings, Torture, Migrant Safety.

INTRODUCTION

International borders, while defining state sovereignty, are also zones of intense human interaction, movement, and, unfortunately, often conflict and human rights abuses [1]. The management of these borders, driven by concerns over national security, illegal migration, and illicit trade, frequently involves the deployment of armed forces and the implementation of stringent enforcement measures [2]. While states possess an inherent right to control their borders, this right is not absolute and must be exercised in full compliance with international human rights law and humanitarian principles [3]. Instances of excessive force, torture, and extrajudicial killings by border security forces against individuals attempting to cross borders irregularly have become a grave concern globally, raising serious questions about state accountability and the safety of human rights [4].

The India-Bangladesh border, one of the longest and most densely populated land frontiers in the world, serves as a

particularly stark example of these challenges [5]. Despite efforts to resolve historical disputes and enhance bilateral cooperation, this border has gained notoriety for its high number of fatalities and allegations of human rights violations [6, 7]. The complex dynamics of cross-border smuggling, human trafficking, and irregular migration contribute to a volatile environment, often leading to violent encounters between border security forces and civilians [8, 9]. Reports from human rights organizations consistently highlight patterns of indiscriminate killings and abuse by border officers, raising alarms about the adherence to international standards of force and due process [10, 11].

This critical analysis aims to comprehensively examine the phenomenon of violence and human rights violations occurring at international borders, with a specific focus on the India-Bangladesh border. It seeks to document the nature and scale of these abuses, analyze the international legal and ethical frameworks that govern border

management, and critically assess the extent to which state practices align with these obligations. The study will explore the justifications often put forth by states for the use of lethal force and evaluate them against international human rights instruments. Ultimately, this research endeavors to propose pathways for enhancing human rights safety at borders, advocating for accountability mechanisms and the adoption of practices that prioritize human dignity and the right to life, even in challenging enforcement contexts.

Literature Review

The concept of borders has evolved from mere geographical demarcation to complex zones of interaction, security, and human rights challenges [12]. While states maintain sovereign rights over their territories and the control of entry and exit, international law imposes clear obligations to respect, protect, and fulfill human rights within their jurisdiction, including at their borders [13]. This includes the right to life, freedom from torture and cruel, inhuman or degrading treatment, and the right to due process, irrespective of an individual's migratory status [14].

The India-Bangladesh border, spanning over 4,000 kilometers, is characterized by its porous nature, shared cultural heritage, and significant cross-border movement, both legal and illegal [5]. Historical land disputes have largely been resolved through agreements like the Land Boundary Agreement [15], fostering a degree of cooperation [16]. However, the border remains a flashpoint for various illicit activities, including cattle smuggling, drug trafficking, and human trafficking, contributing to frequent clashes between border security forces and individuals involved in these activities [17, 18]. Human Rights Watch (2010) and other reports have consistently documented instances of killings and torture by the Indian Border Security Force (BSF) along this border, raising serious concerns about excessive force [10, 1].

Reports indicate a significant number of fatalities along the India-Bangladesh border. Odhikar, a Bangladeshi human rights organization, documented 607 Bangladeshi deaths by the BSF and Indian "miscreants" over a seven-year period (2000-2006) [19]. Reuters reported 59 killings in just six months in 2008 [20]. The Dhaka Tribune noted a threefold rise in border killings in 2019 [21]. More recent annual human rights reports continue to highlight these violations, with Odhikar's 2022 report documenting ongoing abuses [22, 23]. These deaths often occur in the context of preventing illegal entry or smuggling, leading to allegations of extrajudicial killings and a lack of accountability [24, 25].

International perspectives on border security emphasize the need for human rights-compliant enforcement. The UN Basic

Principles on the Use of Force and Firearms by Law Enforcement Officials stipulate that force should only be used when strictly necessary and to the extent required for the performance of their duty, with lethal force being an extreme measure only permissible when there is an imminent threat to life [26]. Despite these guidelines, border security forces in various contexts, including the US-Mexico border, have faced similar accusations of excessive force and lack of accountability, leading to significant numbers of migrant deaths [27, 28, 29].

The challenges at the India-Bangladesh border are compounded by various factors, including the socio-economic disparities between the two countries, which drive irregular migration, and the complex interplay of security concerns and human rights [30, 31]. While both countries have expressed commitments to better border management and facilities [32, 33], the issue of border killings remains a persistent point of tension and a subject of critical analysis [7, 34]. This study builds upon this existing literature by critically analyzing the justifications for violence against the backdrop of international human rights law and proposing concrete measures to enhance human rights safety at borders.

METHODOLOGY

This critical analysis adopted a qualitative, desk-based research methodology, drawing upon a comprehensive review of existing literature, reports, and legal frameworks. The approach was designed to provide an in-depth understanding of the complex issue of border violence and human rights violations, particularly focusing on the India-Bangladesh border.

Research Design A critical interpretive research design was employed. This design allowed for the examination of the underlying power dynamics, justifications, and implications of border enforcement practices on human rights. It involved synthesizing information from diverse sources to construct a nuanced argument about the challenges and potential solutions.

Data Sources The study utilized a wide range of publicly available data sources, including:

- **Human Rights Reports:** Reports from reputable international and national human rights organizations (e.g., Human Rights Watch, Odhikar) that document border killings, torture, and other abuses [1, 10, 19, 22, 23].
- **Academic Literature:** Scholarly articles, journals, and books on international human rights law, border

security, migration studies, and South Asian geopolitics [2, 12, 13, 14, 26, 30, 31, 56].

- **Government and Inter-governmental Reports:** Official statements, policy documents, and reports from governmental bodies and inter-governmental organizations related to border management, security cooperation, and human rights [3, 15, 16, 32, 33].
- **News Media and Investigative Journalism:** Reports from credible news outlets and investigative journalists that provide accounts of border incidents and their human impact [7, 17, 18, 20, 21, 24, 25, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46].
- **International Legal Instruments:** Key international human rights treaties and principles (e.g., Universal Declaration of Human Rights, International Covenant on Civil and Political Rights, UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials) [13, 14, 26].

Data Collection Procedure Data collection involved a systematic search and retrieval of relevant documents from online databases, institutional archives, and organizational websites. Keywords used for the search included "border violence," "extrajudicial killings," "human rights violations," "India-Bangladesh border," "border security force," "migrant deaths," "torture," and "international law." The collection process was iterative, with initial findings guiding further searches for more specific or corroborating evidence. Care was taken to prioritize reports from credible and well-regarded sources.

The collected data were subjected to a critical discourse analysis and thematic analysis:

- **Critical Discourse Analysis:** This involved examining the language, narratives, and justifications used by state actors and security forces regarding border enforcement, particularly concerning the use of force. It sought to uncover underlying assumptions, power dynamics, and potential biases in official discourse.
- **Thematic Analysis:** Recurring themes related to the nature of violations (e.g., types of force used, victim profiles), the justifications provided (e.g., self-defense, preventing crime), the impact on human rights, and international responses were identified and analyzed.
- **Legal Framework Analysis:** The study systematically analyzed the relevant international human rights laws and principles, comparing state practices and justifications against these established norms. This involved identifying instances where

state actions appeared to contravene international obligations.

- **Case Study Approach (Implicit):** While not a formal comparative case study, the focus on the India-Bangladesh border allowed for a detailed examination of specific incidents and patterns of violence within a particular context, drawing broader lessons applicable to other border regions.

The analysis aimed to synthesize the diverse information to build a coherent argument about the systemic nature of border violence, its human rights implications, and the imperative for international action and accountability.

RESULTS

The critical analysis of border violence and human rights violations, with a focus on the India-Bangladesh border, revealed a persistent and alarming pattern of abuses, often justified by states under the guise of security and border control.

Scale and Nature of Violations the India-Bangladesh border stands out for a significant number of fatalities and allegations of severe human rights abuses. Reports from human rights organizations consistently document:

- **Extrajudicial Killings:** Numerous instances of alleged extrajudicial killings by border security forces (primarily the Indian Border Security Force - BSF) were identified [1, 10, 19, 22, 23, 40, 41, 42, 43, 44, 45, 46]. These often occur in situations involving alleged smuggling or illegal crossings, where lethal force appears to be used disproportionately and without adherence to principles of necessity and proportionality. Specific incidents include deaths from firing by BSF [34, 35, 36, 38] and alleged torture leading to death [37, 39].
- **Torture and Ill-treatment:** Beyond fatalities, reports detail widespread allegations of torture, physical abuse, and degrading treatment of individuals apprehended at the border [1, 10, 37, 39]. These abuses often occur during detention or interrogation, violating international prohibitions against torture.
- **Indiscriminate Use of Force:** The use of force, including firearms, often appears indiscriminate, affecting not only those directly involved in illicit activities but also innocent civilians residing near the border [10].
- **Lack of Accountability:** A pervasive theme across the literature is the significant lack of accountability for alleged violations. Investigations into border killings

are often perceived as inadequate, and prosecutions of border security personnel for human rights abuses are rare, contributing to a climate of impunity [1, 10].

Justifications for Violence and Their Critical Assessment

States, particularly India in the context of the India-Bangladesh border, often justify the use of force by border security forces based on:

- **National Security:** The need to prevent illegal migration, cross-border terrorism, and illicit trade (e.g., cattle smuggling, drug trafficking) is frequently cited as a primary justification [2, 17, 33].
- **Self-Defense:** Border security forces often claim that lethal force is used in self-defense against attacks from smugglers or "miscreants" [38].

However, a critical assessment of these justifications against international human rights law reveals significant discrepancies:

- **Proportionality and Necessity:** International human rights law, particularly the UN Basic Principles on the Use of Force and Firearms, mandates that lethal force should only be used when strictly unavoidable to protect life and only as a last resort [26]. The high number of fatalities, often in contexts not involving an immediate threat to the lives of border guards, suggests a consistent failure to adhere to principles of proportionality and necessity.
- **Due Process:** The alleged extrajudicial nature of many killings bypasses due process, denying individuals the right to a fair trial and undermining the rule of law.
- **Human Rights Obligations:** Even in the context of preventing illegal entry, states are bound by international human rights obligations to treat all individuals with dignity and respect, prohibiting torture and arbitrary deprivation of life [13, 14].

International Perspectives and Gaps in Protection

International bodies and human rights advocates consistently call for greater adherence to human rights standards at borders. However, significant gaps in protection persist:

- **Limited International Oversight:** While international human rights mechanisms exist, their ability to effectively monitor and enforce compliance at borders is often limited by state sovereignty and lack of access.
- **Bilateral Diplomacy Over Accountability:** Bilateral discussions between India and Bangladesh often prioritize border management and trade issues over concrete accountability for human rights violations, leading to a perpetuation of the problem [16, 32].

- **Focus on Irregular Entry as Criminal Act:** The dominant discourse often frames irregular entry as a purely criminal act, rather than a complex issue potentially driven by humanitarian concerns or economic necessity, thereby justifying harsher enforcement measures [48, 49, 50, 51, 52, 53].

The results underscore that the current approach to border enforcement, particularly along the India-Bangladesh border, frequently prioritizes security objectives over fundamental human rights, leading to a tragic loss of life and widespread abuses.

DISCUSSION

The findings of this critical analysis unequivocally demonstrate that border enforcement, particularly along the India-Bangladesh frontier, is frequently characterized by violence and serious human rights violations. The persistent pattern of alleged extrajudicial killings, torture, and indiscriminate use of force by border security forces stands in stark contrast to international human rights obligations and principles. This situation is not unique to the India-Bangladesh border, as similar concerns have been raised about other heavily militarized borders globally, including the US-Mexico border [27, 28, 29, 57, 58, 59].

The justifications offered by states, primarily revolving around national security and the prevention of illicit activities, while legitimate concerns for any sovereign nation, cannot supersede fundamental human rights. The international legal framework, including the UN Basic Principles on the Use of Force and Firearms, clearly stipulates that lethal force is an extreme measure, permissible only when there is an imminent threat to life and no other means are available [26]. The high number of fatalities, often in contexts that do not appear to meet this stringent threshold, strongly suggests a systemic failure to adhere to these principles. The framing of individuals attempting irregular entry as solely "criminals" or "threats" often dehumanizes them, potentially contributing to the disproportionate use of force [48, 49, 50, 51, 52, 53].

The pervasive lack of accountability for alleged violations is a critical factor perpetuating this cycle of violence. When perpetrators are not held responsible, it fosters a climate of impunity, emboldening further abuses [1, 10, 54, 55]. This absence of justice not only denies victims and their families redress but also undermines public trust in state institutions and the rule of law. While bilateral talks between India and Bangladesh aim to improve border

management, the focus often remains on operational aspects rather than robust human rights accountability mechanisms [16, 32].

The complex socio-economic dynamics, including disparities between the two nations, contribute to the pressures driving irregular cross-border movement and illicit trade [30, 31, 33]. Addressing these root causes through development initiatives and legal pathways for migration could significantly reduce the need for irregular crossings and, consequently, the potential for violent encounters. Furthermore, the militarization of borders, while intended to enhance security, can inadvertently escalate tensions and lead to a greater propensity for the use of lethal force.

Moving forward, a shift in paradigm is required, one that prioritizes human rights safety within border enforcement. This necessitates a move away from a purely security-centric approach towards one that integrates human rights principles as foundational to all border management strategies. The emphasis should be on non-lethal methods, de-escalation techniques, and comprehensive training for border security forces on international human rights law and the proportionate use of force. The role of local communities in promoting cross-border cooperation and reducing tensions is also vital [25].

CONCLUSION AND RECOMMENDATIONS

This critical analysis has exposed a deeply concerning pattern of violence and human rights violations at international borders, particularly along the India-Bangladesh frontier. The persistent allegations of extrajudicial killings, torture, and indiscriminate use of force by border security forces represent a profound failure to uphold international human rights obligations. Despite state justifications based on security concerns, the evidence suggests a systemic disregard for the principles of proportionality, necessity, and due process, leading to tragic loss of life and a pervasive climate of impunity. The study concludes that current border enforcement practices frequently contravene international law and undermine the fundamental human rights of individuals.

To ensure human rights safety and adherence to ethical standards in border management, the following recommendations are put forth:

For States Involved in Border Management (e.g., India and Bangladesh):

1. **Strict Adherence to International Human Rights Law:** Ensure that all border security forces are thoroughly trained in and strictly adhere to international human rights law, particularly the UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials. Lethal force must only be used as a last resort, when absolutely necessary to protect life.
2. **Transparent and Independent Investigations:** Establish independent, impartial, and transparent mechanisms for investigating all alleged human rights violations, including killings and torture, at the border. Perpetrators must be held accountable through fair legal processes.
3. **Prioritize Non-Lethal Methods:** Invest in and promote the use of non-lethal methods and de-escalation techniques for border control, ensuring that force is always proportionate to the threat.
4. **Enhance Bilateral Human Rights Dialogue:** Integrate human rights concerns more prominently into bilateral discussions on border management, moving beyond purely security-focused agendas.
5. **Address Root Causes:** Collaborate on initiatives to address the socio-economic disparities and other root causes that drive irregular migration and illicit cross-border activities, thereby reducing the pressures leading to violent encounters.
6. **Facilitate Legal Pathways:** Explore and establish more legal and safe pathways for cross-border movement and migration where appropriate, to reduce the reliance on irregular and dangerous routes.

For International Organizations and Human Rights Bodies:

1. **Strengthen Monitoring and Reporting:** Enhance monitoring and reporting mechanisms on human rights situations at borders globally, providing regular, detailed, and publicly accessible data on violations.
2. **Advocate for Accountability:** Continuously advocate for accountability for human rights violations at borders, supporting victims and their families in seeking justice.
3. **Provide Technical Assistance:** Offer technical assistance and capacity-building programs to states on human rights-compliant border management practices, including training on the use of force and ethical conduct.

For Civil Society Organizations and Researchers:

1. **Continue Documentation and Advocacy:** Maintain efforts to document human rights violations at borders and advocate for policy changes and accountability.
2. **Conduct Impact Assessments:** Undertake rigorous research on the human rights impact of various border enforcement policies and technologies.

By implementing these recommendations, the international community and individual states can work towards transforming borders from zones of violence into areas where security is maintained in full respect of human dignity and fundamental human rights.

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