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Justice for Jonny: Ending impunity for custodial torture at last



Family members of Ishtiaque Hossain Jonny (not in the picture), who died in police custody in February 2014, show signs of victory after a Dhaka court delivered a verdict that found three police officers guilty, on September 9, 2020. Photo: Collected

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On Wednesday, the Metropolitan Sessions Judge's Court in Dhaka **found** three police officers guilty of custodial torture in what is the first known judgment under the Torture and Custodial Death (Prevention) Act 2013. The three police officers were sentenced to life imprisonment, fined Tk 1 lakh each, and notably, ordered to pay Tk 2 lakh each to the plaintiff as compensation.

On February 9, 2014, Ishtiaque Hossain Jonny and his brother Imtiaz Hossain Rocky were attending a *holud* ceremony when Jonny came across two drunk men (Sumon and Russell) sexually harassing a group of women on stage, and decided to confront them. The confrontation led to an exchange of blows, as Jonny had to physically force the harassers off the stage. Sumon and Russell then left the event, only to come back with a group of twenty-five police officers who violently arrested Jonny, and his brother Rocky, and dragged them to Pallabi Police Station.

That would turn out to be the last night of Jonny's life. A battered and bruised body was taken to a hospital the next day, where he was pronounced dead. Rocky was "lucky" enough to get out of

police custody alive, more than a week later, but did not want to let his brother's death go unanswered for. After much struggle, Rocky was finally able to file a case under the then new Torture and Custodial Death (Prevention) Act, seeking justice for the murder of his brother. So determined was he to seek justice for his brother that he did not even think to seek justice for himself, for he too was tortured by the police and it would have been covered by the 2013 Act.

Rocky and his family, in their quest for justice, have had to face overwhelming odds: they were threatened, intimidated, harassed, and impleaded in counter cases. On March 9, 2014, Rocky faced the first challenge when the Dhaka Medical College Hospital declared Jonny's death as arising from natural causes, and not from torture. The 2013 Act, unfortunately, entrusts police with investigation primarily, rather than mandating judicial investigation from the outset, despite obvious concerns about neutrality. Nevertheless, it does provide for judicial investigation if the complainant can show plausible bias to the court, as Rocky was eventually able to. On August 7, 2014, the Sessions Judge's Court ordered the Chief Metropolitan Magistrate to carry out a judicial investigation by appointing a Metropolitan Magistrate. On November 13, 2014, the Metropolitan Magistrate submitted the report and found evidence against Sumon and Russell, and three police officers: SI Jahidur Rahman, ASI Rashedul Hasan, and ASI Qamruzzaman Mintu.

Therefore, it is important to remember that had Rocky been unable to secure a judicial investigation, which is treated as optional under the law, the case may never have gone past the investigation stage.

In January 2018, the police officers filed a petition to quash the proceedings, alleging that it was groundless. That is when Rocky approached BLAST for legal assistance, as he had exhausted his own resources in fighting the prolonged legal battle so far. The police officers' attempt was successful in delaying the process, since in March 2019 the High Court Division stayed the case for six months. Nevertheless, in February 2019, the High Court rejected their petition and ordered trial to be concluded within 180 days. The 2013 Act for its part requires all trials to be completed within 180 days since the date of complaint, but does not specify what happens if the court is unable to do so, as in Jonny's case, where it took over 2,300 days instead.

In June-July 2019, we, at the Human Rights Forum Bangladesh (HRFB), brought Jonny's case to the attention of the UN Committee Against Torture through the [stakeholders' submission](#) in the UNCAT's last reporting cycle. Jonny's was the only known case of the 2013 Act being put to test.

However, Jonny's is not the only known case of torture by SI Jahidur Rahman. He has also been accused of detaining the late Mahbubur Rahman Sujon, his wife and their five-year-old son on the night of July 13, 2014, while raiding their house in South Dhaka. He, along with other police officers, beat up Sujon in front of his family and later took them all to Mirpur Police Station where his wife and son were placed in a separate cell while Sujon was taken to a bathroom. There, they reportedly "dipped his head into a bucket full of water and beat him up with an iron rod indiscriminately." Sujon, like Jonny, did not make it through that night at the police station. Sujon's wife later disclosed to the press that SI Jahidur had been "demanding a handsome amount of money from Sujon since 2012."

Jonny's case is significant for many reasons but for now, we can look at only two. Firstly, it is the first case to show that our law against custodial torture has more than a theoretical existence and has, for the first time in the seven years since it was passed, granted justice to those it was meant to protect. Interestingly, the 2013 Act was placed before parliament eleven years ago today, on September 11, 2009, by Saber Hossain Chowdhury, MP, who, as a victim of custodial torture himself, was determined to get the law passed. In 2013, the parliament finally passed the law, thereby finally giving effect to the UN Convention Against Torture 15 years after acceding to the Convention. The Convention primarily obliges states to criminalise torture and all other forms of cruel, inhuman and degrading treatment, and put in place an effective legal framework that allows victims to seek justice.

The 2013 law has been subject to resistance from the outset. In January 2017, police officers demanding that the 2013 Act be scrapped, when the prime minister attended the Police Welfare Parade at Rajarbagh Police Lines. Thankfully, their attempts to get the law repealed have been unsuccessful so far.

Secondly, Jonny's case illustrates an oft-forgotten aspect of the justice system: that perpetrators of rights violations must not only be punished, but that the victims of rights violations must also be compensated. Although the compensation amount under the 2013 Act, by being capped at Tk 2 lakh for custodial death, remains shamefully minimal, at least it is treated as mandatory, which remains rare for other offences in our country. Nevertheless, under the UN Convention Against Torture, the state too has an obligation to provide compensation to the victims, especially when perpetrators of the torture were public officials.

We salute the bravery of Rocky and his family and hope that all past, present and future victims of custodial torture will draw courage from their victory to also seek justice for the wrong they've

been subjected to. We salute the immense bravery of Rocky and his family for putting their own lives at risk in seeking justice against the very people who are its gatekeepers. While there is every possibility that the convicted will most certainly exhaust their rights to appeal and attain other procedural safeguards—and many challenges lie ahead—it is nevertheless an important victory for now.

We should remember Jonny not only as a victim, but also as a hero: for standing up for what is right, and then having to pay for it with his life.

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