The Daily Star
FOUNDER EDITOR
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DHAKA FRIDAY SEPTEMBER 11, 2020, BHADRA 27, 1427 BS

A monumental verdict for human rights and dignity

First battle won in the war against torture and custodial death

IN what is now a landmark case, a Dhaka court on Wednesday gave the first ever verdict in a lawsuit filed under the Torture and Custodial Death (Prevention) Act 2013. Six years after Ishtiaque Hossain Jonny was tortured to death in police custody (in 2014), the court sentenced three of the accused policemen to life imprisonment and two others to seven years in jail. The court also fined the three policemen Tk 1 lakh each and the two others Tk 20,000 each, in default of which they will have to serve a few months in prison—besides ordering the three main accused to pay Tk 2 lakh each to the plaintiff as compensation. Although no amount of monetary compensation can ever make up for the loss of a human life, this does set an encouraging precedent for the victims' families.

While reading some of the horrific details of Jonny's torture at the hands of the policemen, the judge could not resist but call it "heinous". And it becomes even more frightening once we take into account the fact that several rights organisations in their presentation to the UN's Committee against Torture last year alleged that 348 prisoners had died in jail custody in Bangladesh, since the anti-torture and custodial death law was enacted in 2013.

That is by no means a small number. Moreover, the fact that custodial deaths have continued to pile up year after year, even after the enactment of the act, gives the impression that it has hardly deterred certain law enforcers from overstepping any and all boundaries of legality and civility—to the point where, in some cases, they are alleged to have brutally tortured people to death. And it is quite clear why they remained undeterred; it is because despite the law being passed, there has been zero enforcement of it (until the recent verdict), and we have scarcely seen any action taken against law enforcers accused of such serious crimes.

Following numerous instances of custodial deaths, the authorities—whether they be politician, or members of the law enforcing agencies—have, in fact, come out with sweeping denials of any wrongdoing by the law enforcers accused, oftentimes without conducting any investigation. And in the few instances that investigations do occur, they are rarely, if ever, carried out independently or transparently.

Even in the case of Jonny's torture and death at the hands of these crooked cops, justice was extremely difficult to get. Due to his relentless pursuit of justice, Jonny's brother had to withstand six years of intimidation and threats—aimed at him and his family—from the same policemen that had tortured his sibling to death. However, by braving these hurdles and more, Jonny's family has achieved something quite spectacular, according to eminent jurists and rights activists, and we hope that will indeed be the case.

Not only does this case demonstrate just how big the hurdles still are on the road to attaining justice for victims of custodial torture and death in Bangladesh, but also that they are not impossible to overcome. At the same time, we must again remind the authorities that it is the duty of the state to remove such barriers to justice and that any failure to do so is unacceptable.

Hopefully, this verdict will not only give other victims of similar dehumanising/murderous treatment the legal basis to get justice going forward, but also provide them the courage needed to pursue it.

Titas Gas must compensate Narayanganj mosque blast victims

And those responsible must face justice for their negligence

WE appreciate the High Court's directive to Titas Gas Ltd to give Tk 5 lakh as initial costs in seven days to each family of the Narayanganj mosque blast victims, who died and suffered burn injuries. The court also issued a rule asking the government authorities and Titas Gas to explain why the authorities of Titas Gas should not be directed to give Tk 50 lakh to each of the families. The court came up with the order and rule following a writ petition that sought its directive to the Titas Gas authorities to compensate the victims.

As of now, twenty-eight people have died and several others who sustained burns in the blast are passing their days in agonising pain. The families of the victims want justice for losing their loved ones in an incident that could have been easily avoided if Titas Gas authorities fixed the leaky pipes on time. Reportedly, Titas officials not only ignored the request of the mosque committee members to check the leaky gas lines, but also demanded bribes for doing the job. As their negligence has apparently caused this tragedy, they should be held to account.

We will know more about the reasons for this deadly blast once the probe committees complete their investigations and submit their reports. The court also said it will hear the rule after the committees submit their reports on the incident. We hope to get some positive directives from the court in dealing with such cases of negligence.

It goes without saying that as the HC has directed Titas to compensate each victim of the explosion, they must comply with the order, and soon. We hope Titas will be made to pay more in line with the HC rule going forward, as more findings come to the surface. While giving compensation to the victims is an important way to hold Titas officials accountable for their negligence, it is also important that those responsible for the incident face justice as their inaction has caused the tragedy.

Justice for Jonny: Ending impunity for custodial torture at last

'JUSTICE' IN PRACTICE

TAQBIR HUDA

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.

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

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 demanded 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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With Covid-19 hitting the poorest hardest, we must help them recover

SYED BASHER

ON May 23, 2020, *The Economist* magazine ran a story about the impact of Covid-19 on the poor people, with a title that anyone would have thought impossible just a few months ago: "Covid-19 is undoing years of progress in curbing global poverty." Before the coronavirus crisis, the number of extremely poor people was falling globally. Now it is rising again, and fast. The reversal of past gains in poverty reduction caught most low-income countries in a dangerously unprepared situation.

In Bangladesh, the situation was no different. Just before the Covid-19 outbreak, the Bureau of Bangladesh Statistics (BBS) published a report suggesting that both headline poverty and extreme poverty fell in the country at the end of the 2018-19 fiscal year. But the optimism did not last long. In an August 2020 report, the BBS revealed that between July 2019 and June 2020, the national poverty rate rose by 9 percent (from 20.5 percent to 29.5 percent). Put differently, some 4.45 million more people were pushed into poverty within a year. Needless to say, the Covid-19 pandemic has accelerated poverty.

Thus, it is natural to ask how the lives of poor Bangladeshis were affected by the coronavirus. To shed light on this question, the Power and Participation Research Centre (PPRC) and BRAC Institute of Governance and Development (BIGD) have conducted a two-round survey with the title "Livelihoods, coping, and support during Covid-19." They have done a commendable job of surveying thousands of low-income households to determine the virus's impact on income, employment, and consumption—three major indicators of vulnerability to multidimensional poverty. The survey also sheds light on coping strategies of households facing an elevated risk.

The survey was conducted on 5,471 households, who are largely considered the poorest since their per capita income ranged from below Tk 2,585 to Tk 3,872 after adjusting for 2020 prices. Between February and April of 2020, the per capita daily income of people living in urban slums declined from Tk 108 to Tk 27 (an 82 percent drop). The decline was relatively higher for households above the poverty line. The income recovered somewhat by June 2020, showing a 43 percent drop in daily income (from Tk 105 to Tk 60) between February and June. Interestingly, daily incomes of households below the poverty line and inhabitants living in the Chittagong Hill Tracks (CHT) have been relatively less affected by the Covid-19 pandemic. One possible explanation for this difference is that the incomes of these households are less correlated with the overall economic activity.

Life at the bottom is very Hobbesian, where people go from having an income to having no income almost overnight. A few days after the lockdown started in late March, those with jobs most vulnerable to coronavirus suffered the biggest income drops. The income of restaurant workers dropped by 99 percent, followed by *bhangari* workers (88 percent) and rickshaw pullers (84 percent). Farmers and RMG workers too suffered income losses, but they were relatively less severe. Alarmingly, the PPRC-BRAC survey shows that non-poor households are sliding down the poverty ladder too.

File photo of women carrying relief supplies provided by the authorities amid the coronavirus in Dhaka. PHOTO: REUTERS

The depth of a crisis is best depicted by the rise of food poverty, when less income often means less food. Between February and June, per capita daily food expenditure declined from Tk 60 to Tk 45 for urban households (a 25 percent drop) and from Tk 52 to Tk 37 for rural households (a 29 percent drop). The rather less contraction in consumption expenditure than income is what the economists call "consumption smoothing," drawing down savings or borrowing money to cover income shortfalls. However, the relative resilience of consumption over income is no sign that all is well. The survey found that in June, between 10 and 15 percent of the extreme poor living in Dhaka's urban slums were eating less than three meals a day. Consumption of meat and milk fell sharply across all income groups, while thanks to the rise in fish production, consumption of fish combined with lentils has been the primary source of nutrition for a good chunk of the population. It is common knowledge that poor people around the world eat badly; the Covid-19 crisis has just heightened food insecurity among the poor.

In normal times, members of a household would work extra hours as a coping tool for lost income. But when restaurants are empty, waiters are unwanted, and foot traffic is down in response to virus infection, the demand for rickshaw pullers and street hawkers shrinks to its lowest level. Amid this chaos, the poorest section of society has been relying upon their savings, borrowing or buying groceries on credits, and most damagingly, cutting down on daily food intake. It is no surprise that, compared to personal coping mechanisms, supports from the social and institutional sources (e.g. help from friend/neighbour, NGO, or government) to attenuate the effect of adverse shocks on food expenditure were limited.

The daily lives of the working poor would be a lot easier had they not have to worry about non-food expenditures before things return to normal. The survey results show that the poor have to equally grapple with the costs of housing, doctors and medicines and utility, among other non-food expenditures. The severity of the chronic disease burden, especially in the CHT, is problematic and demands immediate attention.

Migration as a coping and adaptation mechanism responds to both push and pull factors. In the context of the Covid-19 outbreak, their positions have since been reversed. Between April and June, around 15 percent of households fled Dhaka for another district after losing their income (a push factor), which is one of the many ways to cope with shocks (a pull factor). We had seen what happened to tens of millions of migrant workers in neighbouring India when the Modi government imposed a strict and rather dramatic lockdown on March 24. Fortunately for the poor in Bangladesh, the lockdown here was implemented with less stringent rules.

The survey also questioned respondents about their perception of the decision to withdraw the lockdown. Not surprisingly, over 70 percent of the 5,471 households have a favourable view of the government's decision to lift the coronavirus lockdown. Though it will take longer for life to return to normal, many have become pessimistic about the outlook of future income. The occupation disaggregation indicates that unskilled labourers, small business owners, housemaids, and unemployed workers were the most pessimistic about prospects for their own future.

Overall, the PPRC-BIGD study finds that the economy is still in a fragile recovery phase with symptoms typical of a crisis-struck economy: depressed income, high food insecurity, a large number of vulnerable informal workers, and a lot of new poor. The report makes some specific policy suggestions to restore livelihoods and hope for a life beyond the pandemic.

The best antidote to poverty is a much faster economic growth. For growth to regain pre-crisis level and to continue, Bangladesh needs "the invisible hand of free markets and the visible hand of good governance" (in the words of Amartya Sen). With the right policies, the economy can recover surprisingly fast, but the poorest will need help.

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