

Saudi Arabia: Will she be stoned to death? - Sri Lankan woman found “guilty of fornication”

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A verdict of death has once again been delivered in the great Kingdom of Saudi Arabia, and this time it was rather a question of morality than that of murder. The unnamed Sri Lankan woman has been found guilty of fornication and has therefore been sentenced to be stoned to death. Such is the infamous Shari’a law applied in Saudi Arabia.

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Once again the victim of the archaic and rather ruthless laws of Saudi Arabia was a female housemaid. Of course, there is another Sri Lankan male involved in the scenario too, but he was unmarried and therefore escaped with a 100 lashes. The former was a married woman hailing from Maradana and worked as a housemaid in Riyadh, Saudi Arabia. She was having a furtive affair with the unnamed Sri Lankan youth until they had both got caught.

Although little is known of the surrounding circumstances of how she got caught, there is much to be spoken as to why she was sentenced. Unbeknownst to most housemaids who choose to travel to Saudi Arabia, the laws of the country can be ruthless in the event of misbehaviour and once found guilty there is no turning back.

Previously, the archaic laws of Saudi Arabia had come under heavy criticism in Sri Lanka following the infamous case of Rizana Nafeek, the woman who was beheaded in 2013. Even prior to that, in 2009 two Sri Lankan housemaids were sentenced to death by stoning after being found guilty of adultery.

Capital Punishment

Capital punishment is a formal phrase meaning the death penalty. It is not endemic to Saudi Arabia, and is prevalent in as many as 36 countries across the globe. As much as Sri Lankans may denounce such sentencing, capital punishment is also availed in Sri Lanka for various offences including

murder, abetment of suicide, treason, manufacture of drugs and use of guns for murder, robbery or kidnapping.

However, the reason why Saudi Arabia is the target of vituperative condemnation is its wider array of offences that may result in the death penalty. Even worse, the executions are carried out in public. It is only one of four countries to carry out executions in public, the others being Iran, North Korea and Somalia. As according to Amnesty International, in 2015 alone, the country has carried out 151 executions so far.

The Saudi laws enable the death penalty for a wide variety of offences. These are aggravated murder, murder, manslaughter, terrorism related offences, rape, robbery, arson, burglary, drug trafficking, drug possession, adultery, sodomy, treason, espionage, disloyalty in the military, recidivist alcoholism, practising witchcraft and sorcery and even apostasy.

The death penalty applies mandatorily for many of the offences on the list, and can be carried out in two forms. The first form is the most common punishment where the convict will be walked with his or her head covered to a public square and beheaded with a sword.

Thereafter the punishments are announced. The second form of capital punishment is known as Rajm where the convicts are buried chest deep in a pit, and thereafter stoned by persons present until they die. Rajm is a punishment afforded only for those who commit adultery.

The Basis of the punishments

The Saudi Arabian law is based on a modified Islamic Shari'a law. The basis is derived from Islamic jurisprudence but the standard of application varies. There are three methods incorporated in the legal system to determine the application of the death penalty. They are known as the Hudud, Qisas and Ta'zir punishments.

Hudud punishments are derived directly from the Qur'an and also include punishments for adultery, sodomy and apostasy. Qisas punishments are retaliatory or vengeful punishments availed to the victim or the family of the victim. This is often applied for murder, or bodily harm if the victim survives and occasionally, if the family of the victim approves, could be exchanged for Diyya or blood money as compensation and clemency. Ta'zir includes the other forms of punishment imposed as domestic legislation in Saudi Arabia.

The standard of proof, in general, is that there should be four male witnesses or two females for every female witness giving evidence. Any less than four, and the witnesses can be found guilty of slandering and sentenced to a punishment of 80 lashes. In any case, the Qur'an only specifies a punishment of 100 lashes to fornicators and adulterers while the only evidence of the application of Rajm is in the Hadiths.

Even still, the Islamic application of stoning to death is disputed and debated among various scholars.

It is often very difficult to prove adultery or fornication due to the strict requirement of four witnesses. However, in this particular case, the process of conviction became much easier because the woman confessed to committing adultery and enabled the Saudi Courts to evade the general strict requirement of four witnesses. This makes it rather difficult to defend her in the Saudi Courts.

The Sri Lankan response

In response to the conviction, Minister Thalatha Athukorala had claimed that it was going to be an uphill task freeing the woman because she had pleaded guilty.

The minister however claimed that they had taken steps to file for an appeal in the Riyadh Courts. If such an appeal is filed, it is unlikely to succeed due to the already prevailing guilty plea.

However, on a more positive note, a sentence of stoning to death in Saudi Arabia has not been carried out in over a decade.

It appears that the Saudi Government has given in to the international public outrage regarding the brutal nature of the execution, and eventually alternated the punishments.

So the man and the woman who were sentenced to death by stoning in 2009 got lucky and had their sentences alternated to 700 lashes and six years in prison. Yes, 700 lashes are equally tormenting, but at least they escaped with their lives. On these grounds it is possible to presume that the housemaid who pleaded guilty would also have her sentence converted eventually, and return home if she survives the brutality of the lashes.

International Law

“Saudi executes brutally hundreds of deaths each year and nobody bats an eye, yet Sri Lanka defeats terrorism and everybody screams human rights violations.”

This is the most common argument placed regarding Saudi’s barbaric punishments.

It is not that nobody bats an eye, because there is so much outrage expressed everyday regarding the savage nature of Saudi’s criminal law. However, if a comparison be drawn between Sri Lanka and Saudi Arabia in terms of accountability, the situations are different.

A country is only accountable as far as it has ratified a treaty or a convention. In terms of human rights, the accusations fell well within the Geneva Conventions that Sri Lanka has ratified and the racial tensions fell within the jurisdiction of the International Convention on Civil and Political Rights (ICCPR).

In regard to Saudi’s laws, the act of whipping the wrongdoers in public could be deemed an act of torture and falls within the scope of the Convention Against Torture (CAT) and the ICCPR. Now, Saudi has ratified the CAT Convention and therefore makes a mockery of the United Nations (UN) system by ignoring the international calls and continues flogging and torturing law breakers. UN High Commissioner for Human Rights Prince Zeid Ra’ad Al-Hussein also condemned such punishments, but the UN is unable to punish the Member State and hold it strictly accountable, unless it is strictly enforced by the Security Council. At the Security Council, Saudi has many allies including the United States of America.

It is indeed surprising that Saudi, in spite of its repeated violations of human rights and non-ratification of most core conventions, heads the United Nations Human Rights Council (UNHRC) right now.

The world is surely headed in the wrong direction with this attitude towards human rights.

Sri Lanka has nearly 35 per cent of its migrant workers working in Saudi Arabia, and nearly 55 per cent of Sri Lanka’s migrant workers are females.

Over the years, foreign employment has become the most lucrative form of revenue for the country, and therefore it is not much of an option to refuse to send housemaids to Saudi.

However, considering the inconsiderate forms of ill-treatment meted out by Saudi employers and the savage punishments inflicted on law breakers, it is rather imperative that Sri Lanka upgrade the Sri Lanka Bureau of Foreign Employment Act to include various standards. The Minister of Foreign Employment had recently hinted at amendments coming soon to ensure the safety of migrant workers in other countries.

In early 2014, Sri Lanka signed a pact with Saudi Arabia where an agreement was reached where Sri Lankan employees would not have to surrender their passports to their employers, salaries to be remitted directly to the bank accounts and a discretion by the employees whether to continue or stay following the conclusion of two years, among others.

Now, it is imperative that a further pact be reached between the two State parties that the basic human rights would be upheld, and that any Sri Lankan law breaker must be deported to Sri Lanka for an investigation and punishment. The law must also incorporate the International Labour Standards on Migrant Workers and the Convention on the Protection of the Rights of All Migrant Workers and Members of their Families which Sri Lanka has acceded to.

Conclusion

It is indeed unlikely that the Sri Lankan woman would indeed be stoned to death due to the trend developing over the last decade against stoning to death in Saudi Arabia. Nevertheless, the laws are still brutal.

The Sri Lankan Government has little option with so many migrant workers employed in the country bringing in valuable money to Sri Lanka.

However, with Sri Lanka also affording that many workers in Saudi Arabia, Sri Lanka also holds reasonable bargaining power. Sri Lanka must therefore regulate the standards and ensure that migrant workers are safe and secure in the Middle East.

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P.S.

* "Will she be stoned to death?". Ceylontoday, 2015-11-27 02:00:00:
<https://www.ceylontoday.lk/90-110581-news-detail-will-she-be-stoned-to-death.html>

* faizer live.com