

Hope in the case of Rizana Nafeek

This is the edited text of a statement issued by the Asian Human Rights Commission: AHRC-STM-258-2008

To the recipients of communications through the Asian Human Rights Commission network, Rizana Nafeek is a familiar name. The 17-year-old girl from a poor family from a conflict ridden area with a passport indicating her age as 18 arrived in Saudi Arabia as a domestic helper. Within two weeks this young girl was accused of the murder of an infant which she denied, claiming that the death was the result of accidental choking. However, by the time the news reached the outside world she had already been sentenced to death by beheading by a Saudi court and she had only 20 days remaining to make an appeal. The BBC Sinhala Service broadcast this news and expressed the fear that, like four Sri Lankans who had been beheaded earlier, she might face a similar fate.

At this stage the Asian Human Rights Commission wrote twice to the Sri Lankan Foreign Ministry urging intervention to provide legal assistance to the girl. However, it was then learned that it is not the policy of the Sri Lankan Foreign Ministry to provide financial assistance for legal fees. On this basis the Asian Human Rights Commission launched an appeal for raising SR 150,000 which amounted to around USD 40,000 as legal fees for a very competent legal firm, Al Shammary. With the quick responses received from local as well as outside sources the appeal was launched in the nick of time and the death sentence was suspended until the final hearing of the appeal.

Due to the untiring efforts of Al Shammary the case was taken up and the Supreme Council sent the case back to the original court of Dawadami. During these proceedings it was discovered that the person who authenticated Rizana's alleged confession was not a qualified translator and may not even have known the Tamil language properly. As the case proceeded with the likelihood that the court may quash the earlier sentence, the happy news has reached us that the parents of the deceased baby may take steps to forgive Rizana, which according to Saudi law brings the matter to an end.

Mohammad Rasooldeen who has reported this case regularly has published the following article on October 5 (<http://www.arabnews.com/?page=1§ion=0&article=115125&d=5&m=10&y=2008>):

Nafeek case: Father willing to forgive Md Rasooldeen | Arab News

RIYADH: The Kingdom's Human Rights Commission will attempt to persuade the mother of an infant who died in the care of a Sri Lankan woman hired as a house cleaner but given nanny duties to cease pursuit of the death penalty.

The father, according to the mediators, has expressed his desire to forgive the maid.

HRC President Turki Al-Sudairy conveyed the latest information in this much-publicized case to Sri Lankan Ambassador Abdul Ageed Mohammed Marleen at a recent meeting at the HRC headquarters in Riyadh.

Al-Sudairy said that HRC officials met the father, Naif Jiziyan Khalaf Al-Otaibi, and he expressed willingness to pardon 20-year-old Rizana Nafeek. However, the mother still claims her private right in the case and is not ready to forgive the maid.

Al-Sudairy told Marleen that the HRC will meet the father and mother together and persuade them to pardon the maid at the next hearing on Nov. 5 before a judicial tribunal headed by Chief Justice Sheikh Abdullah Al-Rosaimi.

The local court in Dawadmi found Nafeek guilty in June 2007. Since then her appeals process has bounced a number of times between the local court and the Supreme Judicial Council via the Cassation Court. Her case is still in this appeals process after the Hong Kong-based Asian Human Rights Commission retained legal representation for Nafeek, with the help of contributions from the Lankan community in Saudi Arabia.

Prior to the first verdict that sentenced her to death, Nafeek did not have any legal representation. Nafeek allegedly signed a confession, but her lawyers argue that the confession was made under duress and, more importantly, Nafeek had no access to a translator during the initial questioning after she was arrested in 2005. Confessions are typically written in Arabic and signed by fingerprint.

It later came to light that Nafeek was recruited illegally as a minor and trafficked to Saudi Arabia on a forged passport.

Her birth certificate says she was 17 at the time she began working for the Saudi family, but her passport states she was not a minor at the time.

It is illegal to bring in foreign workers to Saudi Arabia under the age of 18. An unscrupulous recruitment agent in Colombo may have committed the forgery, thus violating Sri Lankan law and engaging in the trafficking of minors and racketeering. Nobody has been named a suspect in this crime.

Putting to death a person who committed a crime under the age of 18 would violate Article 37 of the UN Convention of the Rights of the Child that Saudi Arabia voluntarily signed in February 1996.

Marleen said he told Al-Sudairy that whenever there are trials involving Sri Lankan nationals, it is absolutely necessary for Sri Lankan Embassy officials to know the progress of the case in order to avoid “misrepresentations and misgivings.”

Embassy officials should be allowed as observers at the hearings, he added, pointing out that an official representative of the Sri Lankan government was not allowed to be present at Nafeek's hearing at the Dawadmi court.

“An effective mechanism must be in place to ensure that the arrests of Sri Lankan nationals are reported to the embassy on a priority basis so that we can provide consular assistance to the detained (suspect),” Marleen told Arab News.

Meanwhile, in a letter addressed to her parents, Nafeek said that this would be her last Eid in the Kingdom since she would either be released and sent home or executed before Eid 2009.