

A Full Circle

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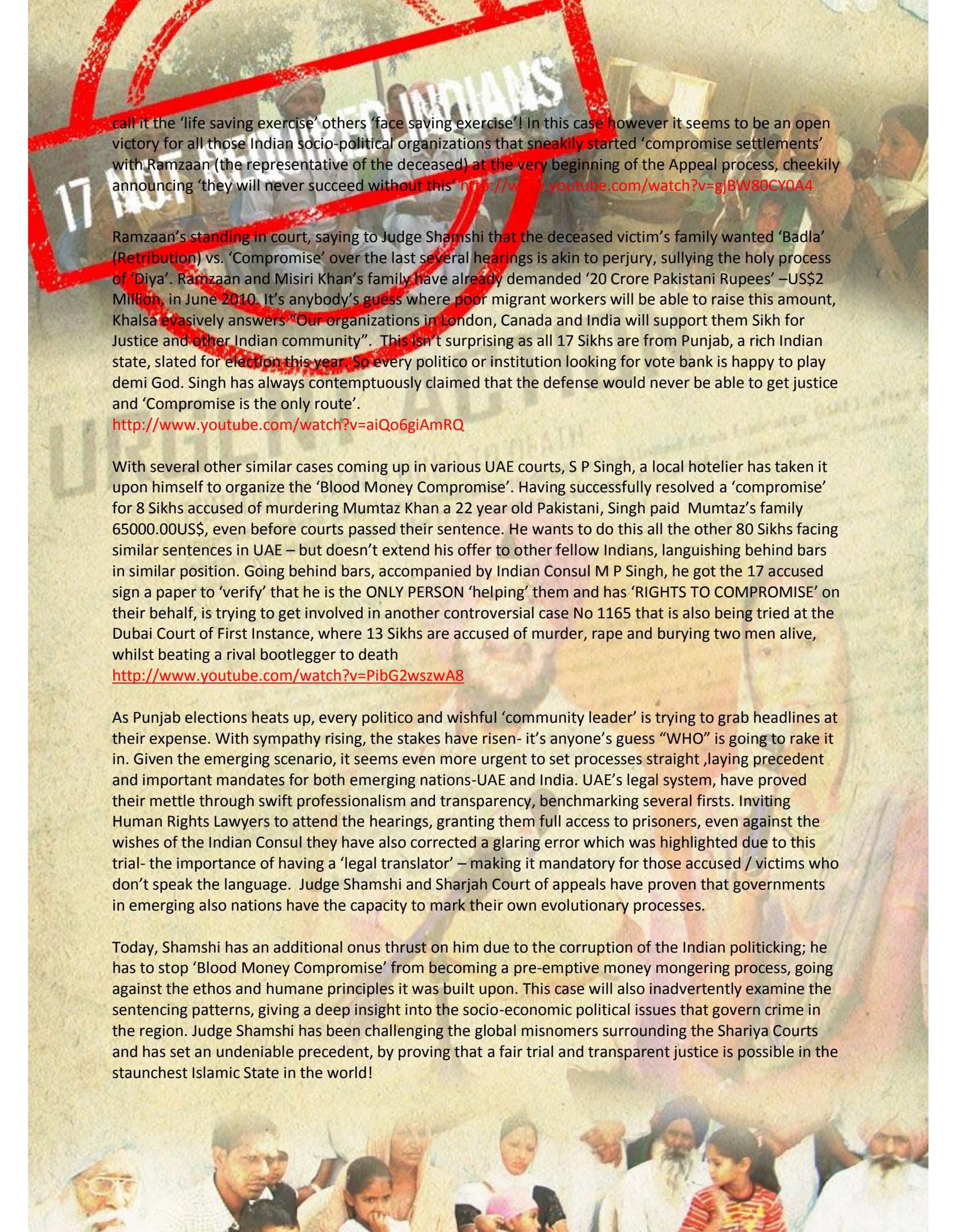
It's almost ten months since Sharjah Courts commenced the appeal process against the death sentence of 17 Indians, accused of murdering 1 Pakistani in January 2009. Today, almost two years later, it's seems like this case taken a 360Degree circle and is back to the very point it commenced from. With no defense in place, no strategy planned by the defense team, Judge Shamshi has had to ask Ramzaan (the official representative of the deceased Misiri Khan) to reach a 'blood money compromise' with the 17 accused or their representatives. This spurred the local journalists to suggest that he has offered an official reprieve. This sparked off hope in the hearts of their 17 families, even though the reality is starkly different.

Accepting such a compromise means that 17 accused not only accept their guilt, but subsequently agree to "buy their freedom" as the local press keeps accusing them. Blood Money or Diya, is an amount allocated under the Shariya law to be paid to the deceased's family in return for a pardon. But in this case it has taken sinister overtones. From the first appeal hearing, a political poker game has been played out after every trial; the jackpot is the highest 'life or death'. Be it in UAE or Punjab, this process started with self servicing individuals / institutions bargaining on behalf of the 17accused and their families. Refusing to be being pawns, the family members found strength in numbers and have said they prefer to keep their faith in the Sharia Courts instead; challenging this quagmire in their naïve manner.

But with no witness, no defense presented by the 17's lawyers, the Shariya court has been forced to take this recourse. Different it might be; but the Sharjah Court has maintained a transparent and exemplary process whilst cross examination of all key witnesses- forensic experts, top police officials. Judge Shamshi proved that no one is above the court, even if it has led to embarrassing revelations. With the Forensic expert testifying that Misiri Khan, the deceased, had alcohol in his system, he also testified that the blood stains at the crime scene and the vehicle used to transport Khan to hospital matched only to his own blood type as the experts had no instructions for collecting other samples. CID Chief of Sharjah, Lt Colonel Assad from Sharjah, the main investigating officer, didn't mince words when he informed the Courts, that the DVD presented in the lower courts was merely a 're-enactment' of the crime created on the request of the prosecution.

Sans Forensic/ DNA tests linking the 17victims to murder, with no eye witness the case seemed to tilt in favor of the 17. Bindu Chettur confidently announced "It's been very obvious that there were serious flaws in the processes of the Court of First Instance. An earlier hearing concluded my 17 clients were guilty based on the DVD. This we have successfully proven was a prompted exercise on the request of the prosecution." Continuing she said "We have been asking for the murder weapon, but the Court hasn't given it to us so far. The legal principle is that the connection between the weapon, the accused and the offence must always be established by evidence which is lacking in this case. Nobody was identified, no motive is established, there was an abrupt violence and there is no connection between the accused and the crime. Furthermore there is no link between the victims and accused to connect them to the crime this is a predominant factor to establish guilt on the accused."

But can defense be based simply on flaws in the practices / processes or missing DNA samples. Compromise seems to be a mid-path, a reprieve in absence of a coherent defense strategy. Blood Money 'Compromise' is a process whereby which, both parties agree to a said amount, which results in clemency by the family. Then the judge can commute down the sentence to a minimum. Some people



call it the 'life saving exercise' others 'face saving exercise'! In this case however it seems to be an open victory for all those Indian socio-political organizations that sneakily started 'compromise settlements' with Ramzaan (the representative of the deceased) at the very beginning of the Appeal process, cheekily announcing 'they will never succeed without this' <http://www.youtube.com/watch?v=gjBW80CY0A4>

Ramzaan's standing in court, saying to Judge Shamshi that the deceased victim's family wanted 'Badla' (Retribution) vs. 'Compromise' over the last several hearings is akin to perjury, sullyng the holy process of 'Diya'. Ramzaan and Misiri Khan's family have already demanded '20 Crore Pakistani Rupees' –US\$2 Million, in June 2010. It's anybody's guess where poor migrant workers will be able to raise this amount, Khalsa evasively answers "Our organizations in London, Canada and India will support them Sikh for Justice and other Indian community". This isn't surprising as all 17 Sikhs are from Punjab, a rich Indian state, slated for election this year. So every politico or institution looking for vote bank is happy to play demi God. Singh has always contemptuously claimed that the defense would never be able to get justice and 'Compromise is the only route'.

<http://www.youtube.com/watch?v=aiQo6giAmRQ>

With several other similar cases coming up in various UAE courts, S P Singh, a local hotelier has taken it upon himself to organize the 'Blood Money Compromise'. Having successfully resolved a 'compromise' for 8 Sikhs accused of murdering Mumtaz Khan a 22 year old Pakistani, Singh paid Mumtaz's family 65000.00US\$, even before courts passed their sentence. He wants to do this all the other 80 Sikhs facing similar sentences in UAE – but doesn't extend his offer to other fellow Indians, languishing behind bars in similar position. Going behind bars, accompanied by Indian Consul M P Singh, he got the 17 accused sign a paper to 'verify' that he is the ONLY PERSON 'helping' them and has 'RIGHTS TO COMPROMISE' on their behalf, is trying to get involved in another controversial case No 1165 that is also being tried at the Dubai Court of First Instance, where 13 Sikhs are accused of murder, rape and burying two men alive, whilst beating a rival bootlegger to death

<http://www.youtube.com/watch?v=PibG2wszwA8>

As Punjab elections heats up, every politico and wishful 'community leader' is trying to grab headlines at their expense. With sympathy rising, the stakes have risen- it's anyone's guess "WHO" is going to rake it in. Given the emerging scenario, it seems even more urgent to set processes straight ,laying precedent and important mandates for both emerging nations-UAE and India. UAE's legal system, have proved their mettle through swift professionalism and transparency, benchmarking several firsts. Inviting Human Rights Lawyers to attend the hearings, granting them full access to prisoners, even against the wishes of the Indian Consul they have also corrected a glaring error which was highlighted due to this trial- the importance of having a 'legal translator' – making it mandatory for those accused / victims who don't speak the language. Judge Shamshi and Sharjah Court of appeals have proven that governments in emerging also nations have the capacity to mark their own evolutionary processes.

Today, Shamshi has an additional onus thrust on him due to the corruption of the Indian politicking; he has to stop 'Blood Money Compromise' from becoming a pre-emptive money mongering process, going against the ethos and humane principles it was built upon. This case will also inadvertently examine the sentencing patterns, giving a deep insight into the socio-economic political issues that govern crime in the region. Judge Shamshi has been challenging the global misnomers surrounding the Shariya Courts and has set an undeniable precedent, by proving that a fair trial and transparent justice is possible in the staunchest Islamic State in the world!