

The Concourse in Court

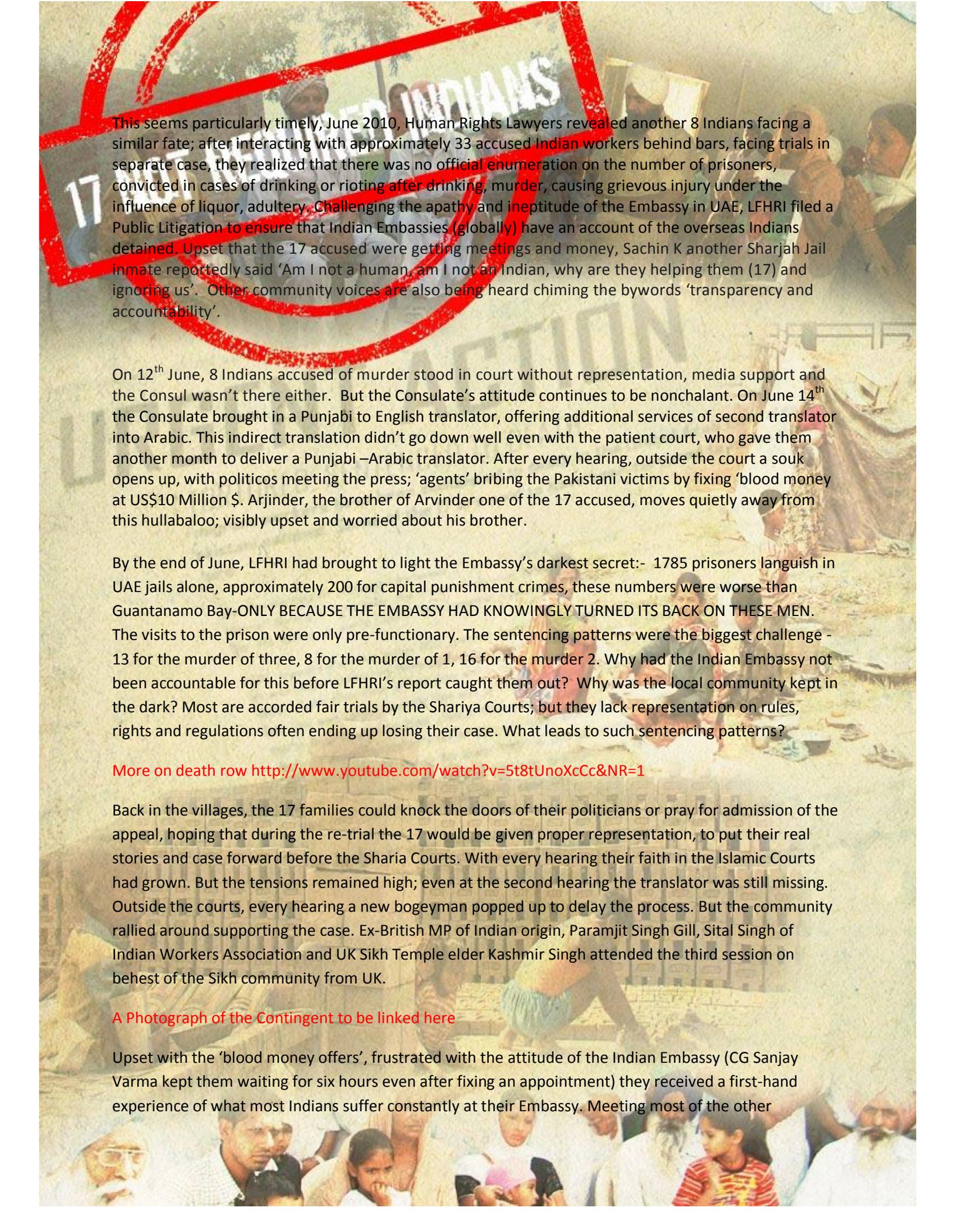
By Soniya Kirpalani

The Shariya Court of Sharjah is always busy; but trials no matter how serious, have a lone bailiff, a policeman a few reporters, witnesses, accused and the presiding judges, the prosecutor and sometimes a 'defense lawyer'. But since May 19 2010, the flurry of activity is unprecedented. Adding to the pressure the court is under, the number of policemen on duty was quadrupled. With five defense lawyers, three presiding judges, one prosecutor, two assisting advocates, two human rights lawyers, twenty to thirty media personal, plethora of Punjabi cousins both from the accused and victims side, it's a proper circus. The only constant is the lone bailiff, the 17 accused and the still-missing interpreter. Witnessing this impact in real time reveals the complexity of challenging a system in a highly controversial case.

March 29<sup>th</sup> the death sentence awarded to 17 Indians for the murder of 1 Pakistani opened up a legal concourse in UAE, which we are following through the contradictory views of Navkiran Singh (human rights lawyer) vs. Mohammed Salman (Arab legal counsel retained by Indian consulate). This is revealing the world's most secretive legal system- the Shariya System- and its rather unique manner of meting out justice. Watching both sets of actively building up a defense, giving us rare insights into the completely different values and systems upheld by the judiciary system of Islamic law that are very much in tandem with human rights laws, especially in its protection of victims and its punishments of perpetrators. The very first learning curve for me is the way the appeal has gone so far.

Amidst great hue and cry the appeal was filed by April 7<sup>th</sup>. May 19<sup>th</sup>, the first day of the appeal hearing, against the order of the court of First Instance that had cited the Shariya principles before allocating the death sentence to 17. The appeal has commenced in the High Court- governed by the Federal Legal System. Everything is on tenterhooks between the appeals-until judgment- a process that takes 12 months to expedite. The court conduct, on the first two hearings was completely transparent, presiding Judge Younus Al Reda, seemed truly humane as he handled the accused standing in the docks. Realizing that the accused couldn't communicate in the language of the court he postponed the hearing to June 16<sup>th</sup>- he asked the Indian Consul, to provide legal interpretation from Punjabi (the language spoken by the 17 accused) into Arabic -(the Court language).

Human Rights Lawyers, Navkiran Singh and Yadhvinder Dhillon shocked everyone by approaching the bench; asking judge for access to the accused. Presenting their hugely controversial 'Fact Finding Reports' report that alleges misconduct during the investigative processes to the presiding Judge Al Reda; they were pleasantly surprised when the Courts was completely open to all discussions and even gave access to LFHRI to meet the prisoners. But the Indian Embassy contested this vehemently suggesting that LFHRI was 'playing with religious sentiment and politicking'. The humaneness of Shariya court vs. autocratic demands by the Indian Consul puts a question mark on the Embassy's intent. Even the Human Rights Lawyers and Amnesty International made a positive comment on the intent of the Sharjah Court and since then they have continued to attend every hearing, determined to create a change, to hold the Indian Consulate for its Indian oversea citizen.



This seems particularly timely, June 2010, Human Rights Lawyers revealed another 8 Indians facing a similar fate; after interacting with approximately 33 accused Indian workers behind bars, facing trials in separate case, they realized that there was no official enumeration on the number of prisoners, convicted in cases of drinking or rioting after drinking, murder, causing grievous injury under the influence of liquor, adultery. Challenging the apathy and ineptitude of the Embassy in UAE, LFHRI filed a Public Litigation to ensure that Indian Embassies (globally) have an account of the overseas Indians detained. Upset that the 17 accused were getting meetings and money, Sachin K another Sharjah Jail inmate reportedly said 'Am I not a human, am I not an Indian, why are they helping them (17) and ignoring us'. Other community voices are also being heard chiming the bywords 'transparency and accountability'.

On 12<sup>th</sup> June, 8 Indians accused of murder stood in court without representation, media support and the Consul wasn't there either. But the Consulate's attitude continues to be nonchalant. On June 14<sup>th</sup> the Consulate brought in a Punjabi to English translator, offering additional services of second translator into Arabic. This indirect translation didn't go down well even with the patient court, who gave them another month to deliver a Punjabi –Arabic translator. After every hearing, outside the court a souk opens up, with politicians meeting the press; 'agents' bribing the Pakistani victims by fixing 'blood money at US\$10 Million \$. Arjinder, the brother of Arvinder one of the 17 accused, moves quietly away from this hullabaloo; visibly upset and worried about his brother.

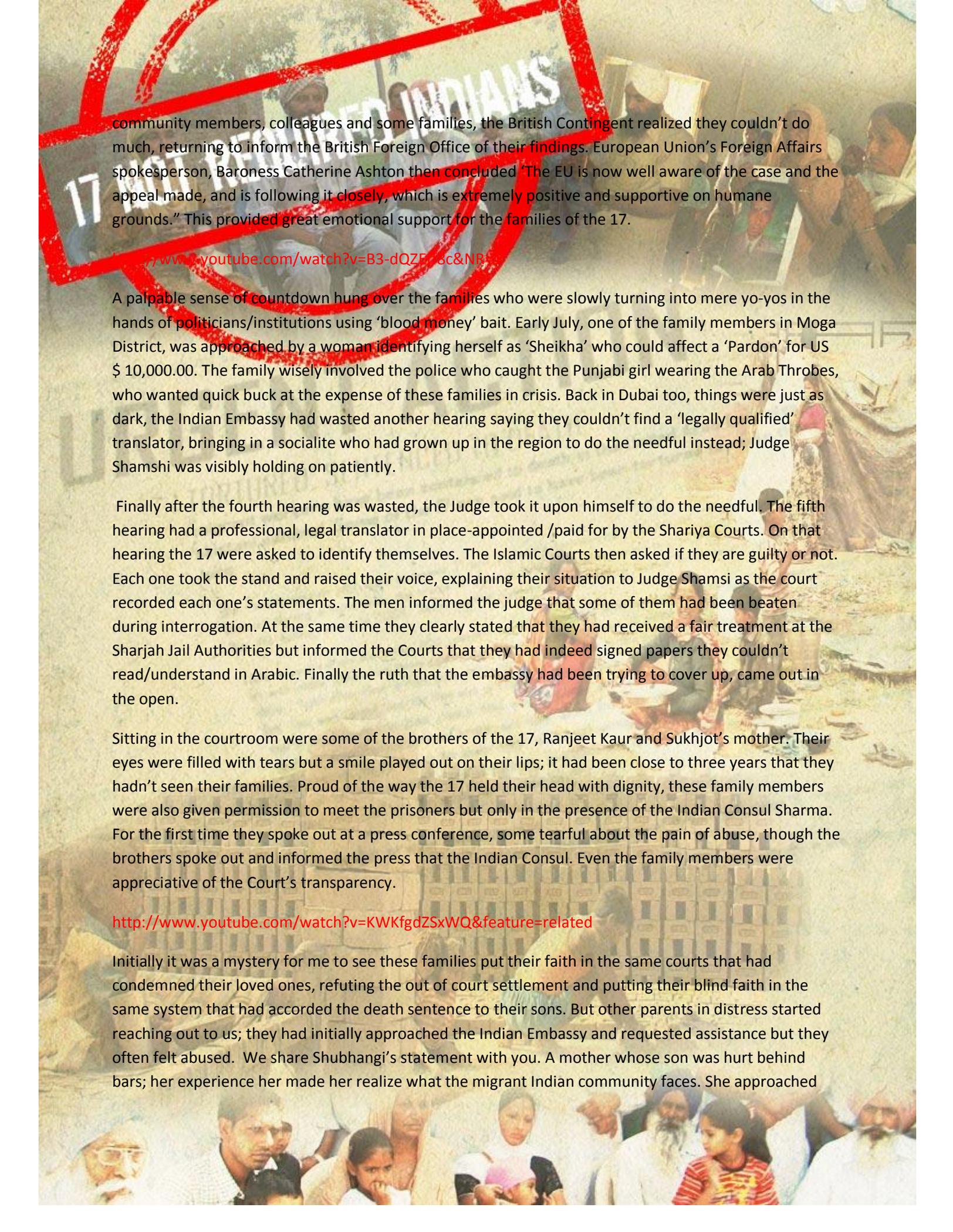
By the end of June, LFHRI had brought to light the Embassy's darkest secret:- 1785 prisoners languish in UAE jails alone, approximately 200 for capital punishment crimes, these numbers were worse than Guantanamo Bay-ONLY BECAUSE THE EMBASSY HAD KNOWINGLY TURNED ITS BACK ON THESE MEN. The visits to the prison were only pre-functionary. The sentencing patterns were the biggest challenge - 13 for the murder of three, 8 for the murder of 1, 16 for the murder 2. Why had the Indian Embassy not been accountable for this before LFHRI's report caught them out? Why was the local community kept in the dark? Most are accorded fair trials by the Shariya Courts; but they lack representation on rules, rights and regulations often ending up losing their case. What leads to such sentencing patterns?

More on death row <http://www.youtube.com/watch?v=5t8tUnoXcCc&NR=1>

Back in the villages, the 17 families could knock the doors of their politicians or pray for admission of the appeal, hoping that during the re-trial the 17 would be given proper representation, to put their real stories and case forward before the Sharia Courts. With every hearing their faith in the Islamic Courts had grown. But the tensions remained high; even at the second hearing the translator was still missing. Outside the courts, every hearing a new bogeyman popped up to delay the process. But the community rallied around supporting the case. Ex-British MP of Indian origin, Paramjit Singh Gill, Sital Singh of Indian Workers Association and UK Sikh Temple elder Kashmir Singh attended the third session on behest of the Sikh community from UK.

A Photograph of the Contingent to be linked here

Upset with the 'blood money offers', frustrated with the attitude of the Indian Embassy (CG Sanjay Varma kept them waiting for six hours even after fixing an appointment) they received a first-hand experience of what most Indians suffer constantly at their Embassy. Meeting most of the other



community members, colleagues and some families, the British Contingent realized they couldn't do much, returning to inform the British Foreign Office of their findings. European Union's Foreign Affairs spokesperson, Baroness Catherine Ashton then concluded 'The EU is now well aware of the case and the appeal made, and is following it closely, which is extremely positive and supportive on humane grounds.' This provided great emotional support for the families of the 17.

<http://www.youtube.com/watch?v=B3-dQZF73c&NR>

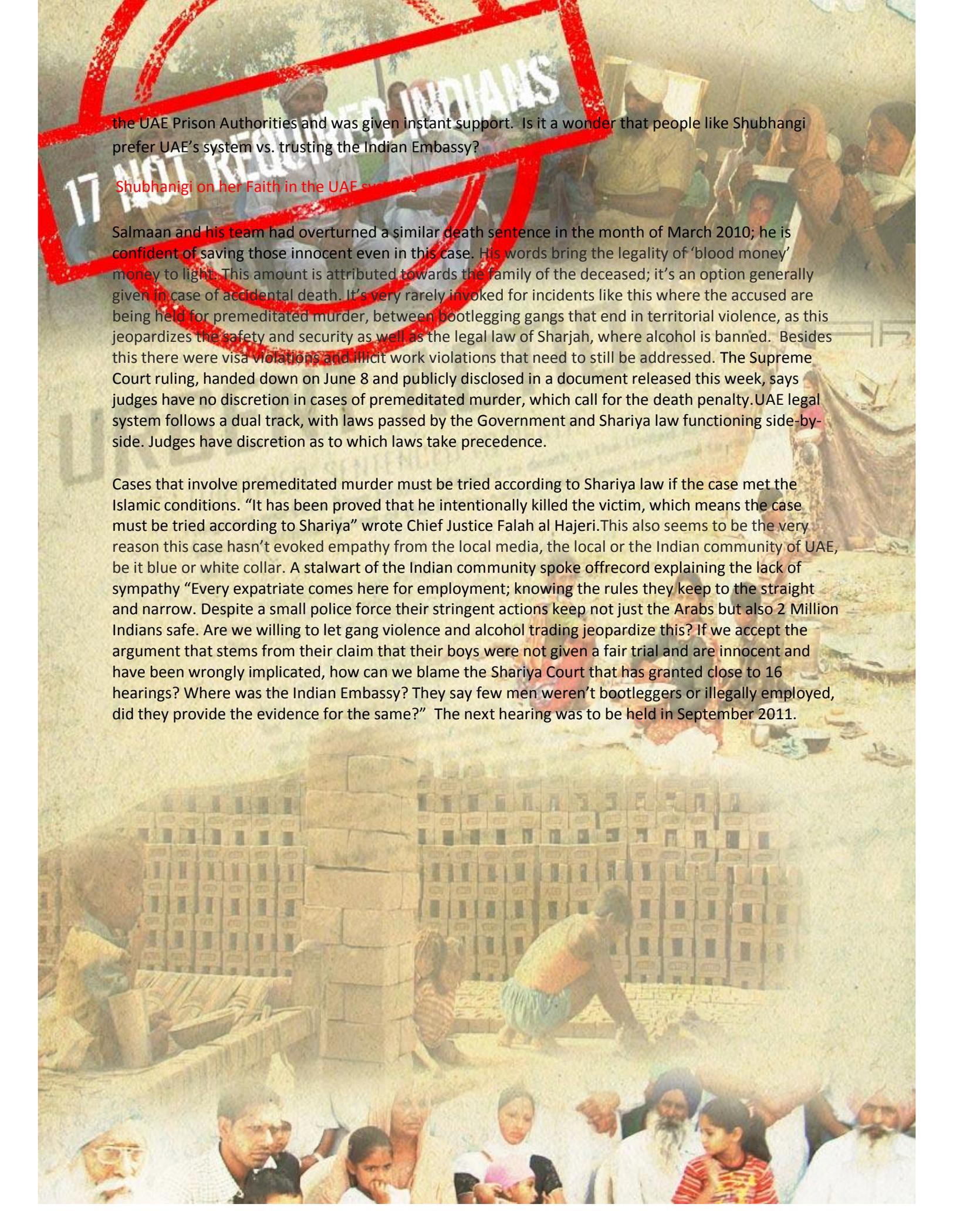
A palpable sense of countdown hung over the families who were slowly turning into mere yo-yos in the hands of politicians/institutions using 'blood money' bait. Early July, one of the family members in Moga District, was approached by a woman identifying herself as 'Sheikha' who could affect a 'Pardon' for US \$ 10,000.00. The family wisely involved the police who caught the Punjabi girl wearing the Arab Throbes, who wanted quick buck at the expense of these families in crisis. Back in Dubai too, things were just as dark, the Indian Embassy had wasted another hearing saying they couldn't find a 'legally qualified' translator, bringing in a socialite who had grown up in the region to do the needful instead; Judge Shamshi was visibly holding on patiently.

Finally after the fourth hearing was wasted, the Judge took it upon himself to do the needful. The fifth hearing had a professional, legal translator in place-appointed /paid for by the Shariya Courts. On that hearing the 17 were asked to identify themselves. The Islamic Courts then asked if they are guilty or not. Each one took the stand and raised their voice, explaining their situation to Judge Shamsi as the court recorded each one's statements. The men informed the judge that some of them had been beaten during interrogation. At the same time they clearly stated that they had received a fair treatment at the Sharjah Jail Authorities but informed the Courts that they had indeed signed papers they couldn't read/understand in Arabic. Finally the ruth that the embassy had been trying to cover up, came out in the open.

Sitting in the courtroom were some of the brothers of the 17, Ranjeet Kaur and Sukhjot's mother. Their eyes were filled with tears but a smile played out on their lips; it had been close to three years that they hadn't seen their families. Proud of the way the 17 held their head with dignity, these family members were also given permission to meet the prisoners but only in the presence of the Indian Consul Sharma. For the first time they spoke out at a press conference, some tearful about the pain of abuse, though the brothers spoke out and informed the press that the Indian Consul. Even the family members were appreciative of the Court's transparency.

<http://www.youtube.com/watch?v=KWKfgdZSxWQ&feature=related>

Initially it was a mystery for me to see these families put their faith in the same courts that had condemned their loved ones, refuting the out of court settlement and putting their blind faith in the same system that had accorded the death sentence to their sons. But other parents in distress started reaching out to us; they had initially approached the Indian Embassy and requested assistance but they often felt abused. We share Shubhangi's statement with you. A mother whose son was hurt behind bars; her experience her made her realize what the migrant Indian community faces. She approached



the UAE Prison Authorities and was given instant support. Is it a wonder that people like Shubhangi prefer UAE's system vs. trusting the Indian Embassy?

Shubhanigi on her Faith in the UAE system

Salmaan and his team had overturned a similar death sentence in the month of March 2010; he is confident of saving those innocent even in this case. His words bring the legality of 'blood money' money to light. This amount is attributed towards the family of the deceased; it's an option generally given in case of accidental death. It's very rarely invoked for incidents like this where the accused are being held for premeditated murder, between bootlegging gangs that end in territorial violence, as this jeopardizes the safety and security as well as the legal law of Sharjah, where alcohol is banned. Besides this there were visa violations and illicit work violations that need to still be addressed. The Supreme Court ruling, handed down on June 8 and publicly disclosed in a document released this week, says judges have no discretion in cases of premeditated murder, which call for the death penalty. UAE legal system follows a dual track, with laws passed by the Government and Shariya law functioning side-by-side. Judges have discretion as to which laws take precedence.

Cases that involve premeditated murder must be tried according to Shariya law if the case met the Islamic conditions. "It has been proved that he intentionally killed the victim, which means the case must be tried according to Shariya" wrote Chief Justice Falah al Hajeri. This also seems to be the very reason this case hasn't evoked empathy from the local media, the local or the Indian community of UAE, be it blue or white collar. A stalwart of the Indian community spoke offrecord explaining the lack of sympathy "Every expatriate comes here for employment; knowing the rules they keep to the straight and narrow. Despite a small police force their stringent actions keep not just the Arabs but also 2 Million Indians safe. Are we willing to let gang violence and alcohol trading jeopardize this? If we accept the argument that stems from their claim that their boys were not given a fair trial and are innocent and have been wrongly implicated, how can we blame the Shariya Court that has granted close to 16 hearings? Where was the Indian Embassy? They say few men weren't bootleggers or illegally employed, did they provide the evidence for the same?" The next hearing was to be held in September 2011.