

INTERNATIONAL COURT OF JUSTICE

THE JADHAV CASE

**THE REPUBLIC OF INDIA v. THE ISLAMIC REPUBLIC OF
PAKISTAN**

REJOINDER OF THE ISLAMIC REPUBLIC OF PAKISTAN



17TH JULY 2018

EXHIBIT

VOLUME 1: ANNEXURES 1 – 39

Jadhav Case (India v Pakistan)

Rejoinder on behalf of the Islamic Republic of Pakistan

Index of Annexures

(1) VOLUME 1 (ANNEXURES 1 – 39)

| <u>ANNEX</u> | <u>DESCRIPTION</u> |
|--|---|
| COURT PROCEDURE | |
| <i>CORRESPONDENCE CONCERNING FURTHER PLEADINGS</i> | |
| 1 | 19/12/2017 – India’s letter to the Court regarding further pleadings |
| 2 | 05/01/2018 – Pakistan’s letter to the Court regarding further pleadings |
| 3 | 10/01/2018 – India’s further letter to the Court regarding further pleadings |
| 4 | 15/01/2018 – Pakistan’s further letter to the Court regarding further pleadings |
| 5 | 17/01/2018 – Court’s Procedural Order authorising further pleadings |
| 6 | 05/06/2018 – <i>Note Verbale</i> from Pakistan’s Ministry of Foreign Affairs to the High Commission of the Republic of India in Islamabad requesting India’s confirmation of the accuracy of the contents of the Reply |
| 7 | 27/06/2018 – <i>Note Verbale</i> from India’s Ministry of External Affairs to the High Commission of the Islamic Republic of Pakistan in New Delhi failing and/or refusing to answer the queries raised in Pakistan’s <i>Note Verbale</i> dated 5 June 2018 |
| <i>ARTICLE 63 NOTIFICATION</i> | |
| 8 | 20/11/2017 – Court’s notification under Article 63 of the Statute of the Court in respect of the VCCR 1963 |
| 9 | 18/01/2018 – Court’s notification under Article 63 of the Statute of the Court in respect of the Optional Protocol |
| FACTUAL BACKGROUND | |
| <i>FAMILY VISIT</i> | |
| 10 | 24/12/2017 – <i>Note Verbale</i> from Pakistan’s Ministry of Foreign Affairs to the High Commission of the Republic of India in Islamabad regarding the Family Visit |
| 11 | Curriculum Vitae of Dr. Uwe Johannes Nellessen |
| 12 | 22/12/2017 – Independent Medical Report |

| | |
|---|--|
| 13 | 25/12/2017 – India’s and the Family’s express written consent for security measures during the Family Visit |
| 14 | UK Ministry of Justice: ‘Management of Security at Visits’ |
| THE PASSPORT ISSUE | |
| <i>LETTERS FROM PAKISTAN TO INDIA ON THE PASSPORT ISSUE AND INDIA’S PURPORTED RESPONSES</i> | |
| 15 | 11/12/2017 – <i>Note Verbale</i> from India’s Ministry of External Affairs to the High Commission of the Islamic Republic of Pakistan in New Delhi |
| 16 | 19/01/2018 – <i>Note Verbale</i> from Pakistan’s Ministry of Foreign Affairs to the High Commission of the Republic of India in Islamabad |
| 17 | 11/04/2018 – <i>Note Verbale</i> from India’s Ministry of External Affairs to the High Commission of the Islamic Republic of Pakistan in New Delhi |
| 18 | 16/04/2018 – <i>Note Verbale</i> from Pakistan’s Ministry of Foreign Affairs to the High Commission of the Republic of India in Islamabad |
| 19 | 03/05/2018 – <i>Note Verbale</i> from Pakistan’s Ministry of Foreign Affairs to the High Commission of the Republic of India in Islamabad |
| <i>INDIAN JOURNALISTS SEEKING ANSWERS TO PASSPORT ISSUE</i> | |
| 20 | 05/01/2018 – Mr. Chandan Nandy’s article in <i>The Quint</i> entitled ‘ <i>Two Ex-RAW Chiefs Did Not Want Kulbhushan Jadhav Recruited As Spy</i> ’ |
| 21 | 06/01/2018 – media reports from <i>NewsLaundry</i> (an Indian digital media portal run by the founding editor of <i>India Today</i> , one of India’s leading news magazines/television news channels) and <i>OpIndia.com</i> (an English-language Indian blog owned by the Swarajya media group) that Mr. Chandan Nandy’s article had been retracted |
| 22 | Mr. Chandan Nandy’s LinkedIn profile |
| 23 | Description of <i>The Quint</i> |
| 24 | 11-15/01/2018 – media reports from <i>LatestLaws.com</i> (an Indian website commenting on legal news in India) and <i>NewsLaundry</i> that a criminal complaint for sedition under Section 124A of the Penal Code of India was filed against Mr. Chandan Nandy and <i>The Quint</i> for his “ <i>anti-national article</i> ” |
| 25 | 31/01/2018 – Mr. Praveen Swami’s article in <i>Frontline</i> entitled ‘ <i>India’s secret war</i> ’ |
| 26 | 03/02/2018 – Mr. Praveen Swami’s Twitter post of comments concerning him being made on a public forum following the publication of his <i>Frontline</i> article |
| 27 | Mr. Praveen Swami’s LinkedIn profile |
| 28 | 02/02/2018 – Article published by ‘Nithesh S’, a journalist at <i>OpIndia.com</i> , criticising journalists for publishing articles about this matter that are contrary to the Government of India’s position |
| 29 | 03/02/2018 – Government of India’s Official Spokesperson dismissed Mr. Swami’s article as “ <i>concocted and mischievous</i> ” |
| 30 | 02/05/2011 – <i>Times of India</i> article entitled ‘ <i>Fingerprint scanner at</i> |

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| | <i>airport to check illegal migration'</i> |
| 31 | Iranian Ministry of Foreign Affairs visa application website providing specifications for the submission of passport copies and other documents required for an Iranian visa |
| PAKISTANI HIGH COURT / SUPREME COURT REVIEW JURISDICTION | |
| <i>'Muhammad Imran' (case name: Muhammad Ayaz v The Superintendent District Jail, Timergara and others)</i> | |
| 32 | 25/05/2017 – Judgment of the Chief Justice of the Peshawar High Court in the case of 'Muhammad Imran' |
| <i>'Fazal Rabi' (case name: Fazal Ghaffoor s/o Abdul Manan, father of Fazal Rabi "Convict", R/o Mohallah Barpalo Road, Saugar, Tehsil Matta, District Swat v Federation of Pakistan through Ministry of Interior and others)</i> | |
| 33 | 20/09/2016 – order of Chief Justice of the Peshawar High Court continuing the 29 August 2016 stay order issued in respect of the death sentence in the case of 'Fazal Rabi' |
| 34 | June 2017 – 'Fazal Rabi' petition seeking leave to appeal to the Supreme Court of Pakistan against the judgment of the Peshawar High Court |
| 35 | 19/07/2017 – Supreme Court stay order in respect of 'Fazal Rabi' |
| <i>'Shafaqat Farooqi' (case name: Muhammad Liaqat v The State and others)</i> | |
| 36 | 2017 – 'Shafaqat Farooqi' petition seeking leave to appeal to the Supreme Court of Pakistan against the judgment of the Lahore High Court |
| 37 | 22/01/2018 – Supreme Court stay order in respect of 'Shafaqat Farooqi' |
| <i>'Burhan-ud-Din' (case name: Umardaraz son of Muhammad Ayaz R/o Nazakay Tehsil Salarzai Bajaur Agency v Secretary Defence, Federation of Pakistan through Pak Secretariat, Islamabad and others)</i> | |
| 38 | 08/05/2018 – 'Burhan-ud-Din' petition before the Peshawar High Court |
| 39 | 09/05/2018 – Peshawar High Court stay order in respect of 'Burhan-ud-Din' |

17th July 2018



149617

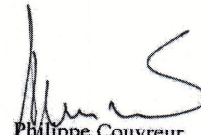
19 December 2017

Sir,

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With reference to the Jadhav Case (India v. Pakistan), I have the honour to transmit to you herewith a copy of a letter from Dr. Deepak Mittal, Agent of the Republic of India, dated 19 December 2017 and received in the Registry today under cover of a letter of the same date from Ms Kajal Bhat, Co-Agent of the Republic of India. By his letter, he stated that the Government of India, referring to Article 45, paragraph 2, of the Rules of Court, requests the Court to authorise the submission of a Reply by India and a Rejoinder by Pakistan. The Government of India further requests that a period of three months be granted for the preparation of each of these pleadings

Accept, Sir, the assurances of my highest consideration.



Philippe Couvreur
Registrar

H.E. Mr. Ashtar Ausaf
Agent of the Islamic Republic of Pakistan
before the International Court of Justice
Embassy of Pakistan
The Hague

cc: Dr. Mohammad Faisal
Co-Agent of the Islamic Republic of Pakistan
before the International Court of Justice
Embassy of Pakistan
The Hague



3/5
विदेश मंत्रालय, नई दिल्ली
MINISTRY OF EXTERNAL AFFAIRS
NEW DELHI

COPY

December 19, 2017

JADHAV CASE (INDIA v. PAKISTAN)

Sir,

I acknowledge the receipt of your letter No. 149608 dated 13 December 2017 and the Counter Memorial filed by the Islamic Republic of Pakistan in Jadhav Case (India v. Pakistan) on 13 December 2017 before the International Court of Justice.

On behalf of the Republic of India, I have the honour to convey that for a variety of reasons, it would take time to analyse and respond to the Counter-Memorial presented by Pakistan. The Counter-Memorial is of considerable size and contains voluminous documents. It also raises issues of fact and law that may not necessarily have been anticipated by India and considered in the Memorial filed by India. Thus, India seeks an adequate opportunity to respond to these issues in a considered manner. India, accordingly, requests the Court to authorise submission of Reply by India and Rejoinder by Pakistan under Paragraph 2 of Article 45 of the Rules of the Court. India further requests that three months may be allowed to each side to submit Reply and Rejoinder.

Please accept, Sir, the assurances of my highest consideration.

(Dr. Deepak Mittal)
Agent of the Republic of India
before the International Court of Justice

To,

Mr. Philippe Cuvreur
The Registrar
International Court of Justice
The Hague, Netherlands



MINISTRY OF FOREIGN AFFAIRS
ISLAMABAD

No. Ind(I) 5/20/2018

Dated 5 January, 2018

The Registrar,
International Court of Justice
Peace Palace
2517 KJ The Hague
Netherlands
Telephone: +31 (0) 70 302 23 23
Telefax: +31 (0) 70 364 99 28
Website: www.icj-cij.org

Dear Sir,

On behalf of the Islamic Republic of Pakistan ("Pakistan"), I have the honour to acknowledge receipt of the following:

- i. Letter No. 149607 dated 13 December 2017 acknowledging receipt of Pakistan's Counter Memorial by the ICJ
 - ii. Letter No. 149617 dated 19 December 2017 attaching a copy of the letter sent to the Registry by the Agent of the Republic of India ("India"), requesting the Court to authorise the submission of a Reply by India and a Rejoinder by Pakistan in the Jadhav Case (India v. Pakistan) and, further, requesting a period of three months for each side to submit these further pleadings.
2. Pakistan notes that India had initially sought 6 months for the filing of the Memorial and Counter-Memorial respectively. In the event, the parties were provided with 3 months each in this regard.
3. Pakistan reiterates its concern that there should not be any undue delay in the consideration and determination of this matter, especially in view of the fact that India itself sought to persuade the Court that this matter was one of extreme urgency when applying for provisional measures. Pakistan, therefore, maintains its request for expedition accordingly.

India's request for a further round of pleadings:

4. India has stated that the Court should authorise the submission of further written pleadings following the Counter-Memorial submitted to the Court by Pakistan on 13 December 2017:

"for a variety of reasons, it would take time to analyse and respond to the Counter Memorial... [it] is of considerable size and contains voluminous documents. It also raises issues of fact and law that may not necessarily have been anticipated by India and considered in the Memorial filed by India".

5. Pakistan notes that the submission of replies and/or further written pleadings in proceedings before the Court will only be authorized if they are "*necessary*", as stipulated in Article 45, paragraph 2, of the Rules of Court and Article 43, paragraph 2, of the Statute of the Court.

6. In *Fisheries Jurisdiction (Spain v Canada)*, by an Order dated 8 May 1996, the Court declined to authorise the submission of further written pleadings on the basis that it was "*sufficiently informed, at this stage, of the contentions of fact and law on which the Parties rely*".

7. Pakistan understands that no further rounds of pleadings were sought or authorised in the *LaGrand* or *Avena* cases. Moreover, India has at all times characterised its position in fact and law as being clear and compelling.

8. Furthermore, Pakistan notes that the key arguments identified in the Counter-Memorial have previously been raised by it at the Provisional Measures Hearing on 15 May 2017 (as stated in paragraph 6 of the Counter-Memorial).

9. Pakistan, therefore, respectfully considers that India, in addition to being aware of the facts relied upon by Pakistan in its Counter-Memorial, has been aware of (and thus was able to anticipate) the key legal arguments presented in Pakistan's Counter-Memorial for at least seven months.

10. Pakistan respectfully observes that India's vague assertions regarding "*the need to take time to analyse and respond*", the size of the Counter-Memorial and exhibits thereto are not of themselves justification for a further round of pleadings. In this regard almost all of the exhibits comprise extracts from decisions of the Court, academic writings and publically available materials concerning the Vienna Convention on Consular Relations 1963.

11. Furthermore, the assertion that the Counter-Memorial raises issues of fact and law not necessarily anticipated by India is vague, and fails to identify any specific


issue of fact or law in this regard, as should have been done to justify a further round of pleadings and the concomitant delay.

12. In light of the above, Pakistan considers that the Court is, following receipt of the initial written pleadings, sufficiently informed of the contentions of fact and law relied upon by India and Pakistan. Pakistan therefore respectfully invites the Court to consider that the submission of further written pleadings in this case is not necessary.

13. Nevertheless, and without prejudice to the foregoing, in the event that India is further and clearly able to particularise the basis for its request for a further round of pleadings, within a shorter time frame, in the interests of ensuring a full and fair process, Pakistan may be amenable to acceding to a further round of pleadings should the Court also consider this to be necessary.

Accept, Sir, the assurances of my highest consideration.

Regards,



(Dr. Mohammad Faisal)
Co-Agent of the Islamic Republic of Pakistan



333
3/11

Dr. Kajal Bhat
Counsellor(Legal)



EMBASSY OF INDIA
Buitenrustweg 2
2517 KD The Hague
Tel: 0031-70-310 2120
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No. HAG/POL/443/1/2017

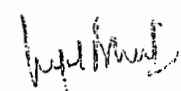
10 January 2018

Excellency,

With reference to your letter no. 149623, I have the honour to transmit the message received from the Agent of the Republic of India in response to Pakistan's objections to our request for a second round of written pleadings in the matter of Jadhav Case (India v. Pakistan) before the International Court of Justice.

Accept, Sir, the assurances of my highest consideration.

Yours Sincerely


(Kajal Bhat)

Mr. Philippe Couvreur
Registrar
International Court of Justice
Peace Palace, 2517 KJ
The Hague



विदेश मंत्रालय, नई दिल्ली
MINISTRY OF EXTERNAL AFFAIRS
NEW DELHI

332
4/11

January 10, 2018

JADHAV CASE (INDIA v. PAKISTAN)

Sir,

On behalf of the Republic of India ("India"), I acknowledge the receipt of your Letter No. 149623 dated 5 January 2018 attaching a copy of the letter sent to the Registry by the Co-Agent of the Islamic Republic of Pakistan ("Pakistan") in response to India's request for a second round of written pleadings in the *Jadhav Case (India v. Pakistan)*.

2. Pakistan has for the first time in its Counter-Memorial set out its defence and in doing so has raised various issues of fact and law. It has submitted voluminous documents in support. It has raised issues that far transcend the confines of the Vienna Convention on Consular Relations, 1963 ("Vienna Convention"), apart from making serious allegations against the Republic of India.

3. India, therefore, seeks an opportunity to respond to these issues in accordance with Article 45 paragraph 2 of the Rules of Court.

4. Prior to its Counter-Memorial, Pakistan had, through Counsel, at the hearing for the Indication of Provisional Measures made submissions, which touched upon certain issues such as those relating to espionage. As these found no resonance in the brief Order Indicating Provisional Measures, Pakistan has now sought to develop various legal theories to use this as a defence against the violation of the provisions of Vienna Convention, apart from making allegations of

(33)
5/11

fact which are false. India would seek an opportunity to deal fully with all these matters.

5. They have made allegations of failure to respond to requests for legal assistance, and have sought to develop legal theories as a defence around these allegations. These allegations of fact and submissions of law would have to be fully rebutted.

6. An illustrative list of such new factual allegations and legal assertions is attached to this letter as **Appendix A**.

7. India had raised serious concerns about the violation of human rights, in addition to the continued violation of the Vienna Convention rights of the Indian national Mr. Kulbhushan Jadhav. It seeks an opportunity to place on record recent developments including details of the meeting held on 25 December 2017 followed by the release of yet another video recording of a coerced statement by Mr. Jadhav.

8. India notes that in the *Fisheries Jurisdiction Case (Spain v. Canada)*¹, cited by Pakistan in its letter dated 5 January 2018, the Court was concerned with the question of the jurisdiction of the Court to entertain the dispute. In that context the Court held that, "at this stage" it was sufficiently informed of the contentions of fact and law "with respect to its jurisdiction" in the case and presentation of other written pleadings "on that question" does not appear necessary.

9. India submits that as a matter of practice, "the second round of written pleadings is still the norm in cases on the merits, as there is always an argument to be made that certain points which are still in

¹ Fisheries Jurisdiction Case (Spain v. Canada), Order of 8 May 1996, ICJ Reports 1996 p 58

dispute between the parties need further elaboration, that there are new developments in the case since the filing of the first round of pleadings and that new information and documents are to be presented to the Court."²

10. The time to be allowed also depends on the nature of the issues raised and which require to be dealt with in the Reply. For Example, in *Aerial Herbicide Spraying (Ecuador v. Colombia)*³, the Court allowed Ecuador's request for a time-limit of ten months to submit a Reply, in view of the amount of documentation annexed to Colombia's Counter-Memorial even though Colombia did not consider a second round of pleadings as necessary.

11. At the other end of the spectrum are cases where the facts stated and the legal submissions in the Memorial and Counter-Memorial are sufficient to enable this Court to decide the issues that arise.

12. In *LaGrand* and *Avena* the parties did not seek a further round of pleadings and there was no occasion for the Court to refuse or authorize the same.

13. In matters of procedure, analogy of other cases is of limited value. What is of significance is that the Republics who are parties to the case get a full opportunity to address all issues.

14. In the long Counter-Memorial Pakistan has made allegations of fact, most of which will be challenged in Reply. If it becomes necessary, India also has the right to seek further information.

² The Statute of the International Court of Justice, A Commentary, Second Edition, Edited by Zimmermann, page 1107

³ *Aerial Herbicide Spraying (Ecuador v. Colombia)*, Order of 25 June 2010, ICJ Reports 2010, p. 207

329
7/11

"...Article 49 of the Court's Statute contains what has been called the 'central prerogative' of any international court or tribunal to participate in hearings before it. It must be read in conjunction with Article 62(1) of the Court's Rules which states that ' the Court may at any time call upon the parties to produce evidence or to give such explanations as the Court may consider to be necessary for the elucidation of any aspect of the matters in issue, or may itself seek other information for this purpose.'"⁴ India, therefore, reserves its right to make a request seeking disclosure of further information, if necessary.

15. There being provisions both in the Statute and Rules of Court, parameters for the necessity would depend on individual case and the requirement of the requesting party.

16. Pakistan in its letter dated 5 January 2018 to the ICJ has suggested in the alternative that *"in the event that India is further and clearly able to particularize the basis for its request for a further round of pleadings, within a shorter time-frame, in the interest of ensuring a full and fair process, Pakistan may be amenable to acceding to a further round of pleadings should the Court also consider this to be necessary"*. It is noted that having levied allegations against India, Pakistan is attempting to prevent an effective rebuttal by India by suggesting *"shorter time-frame"*, which is plainly unreasonable.

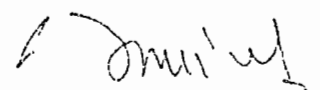
17. India, therefore, seeks a sufficient opportunity to respond to the Counter-Memorial filed by Pakistan and accordingly reiterates its request to the Court made in its letter dated 19 December 2017 to authorize submission of a Reply by India under Article 45 paragraph 2 of the Rules of Court. It is further reiterated that sufficient time of

⁴ Fact-Finding before the International Court of Justice, James Gerard Donovan, 2016, page 10

328
8/11

three months be given to enable it to put in an effective rebuttal to the allegations, some of which are almost scurrilous, for which purpose India also has to gather data and material from various sources.

Please accept Sir, the assurances of my highest consideration.



(Dr. Deepak Mittal)

**Agent of the Republic of India
before the International Court of Justice**

To,
**Mr. Philippe Cuvreur
The Registrar
International Court of Justice
The Hague, Netherlands**

327
9/11

APPENDIX A

- 1) In Part II commencing on page 10, Pakistan has set up allegations of fact in relation to Jadhav. Pakistan relies upon Jadhav's confession. It is India's case that the confession is false and is testimony to the treatment meted out to prisoners in Pakistan. Jadhav's misfortune is that he has been used as a tool of the Pakistani propaganda system. India would place on record similar attempts made by Pakistan to malign India's reputation as a counterblast to the increasing global recognition of Pakistan's conduct in harbouring terrorists and promoting terrorism. The Counter-Memorial sets out multiple confessions. A reading of the confessions establishes that it is designed to support the false allegations being levelled by Pakistan against India in relation to its own internal disturbances.
- 2) Pakistan had consistently refused to make available any of the records relating to the purported trial of Jadhav. They have now filed some material which needs to be examined and responded to. India reserves its right to seek further material and information.
- 3) India has pointed out the imposition of death penalty awarded by Tribunals following procedures which do not satisfy the minimum standards of due process. In defence Pakistan has sought to make allegations in relation to award of death penalty in India and India's opposition to certain resolutions in the United Nations. This would have to be explained in its context to expose the misleading suggestions being made by Pakistan.
- 4) At page 37 under the heading "Abuse of Process" Pakistan has set out a defence which finds no reflection, in any event in any

specificity, in its submissions in the course of the hearing at the time of consideration of India's request for provisional measures. There are allegations of fact suggesting suppression of material facts.

- 5) It has also, in paragraph 170, set up factual and legal allegations in support of its plea of abuse of rights. This has to be fully rebutted by India by placing the correct facts, and pointing out the falsehoods in Pakistan's narrative.
- 6) The issue relating to the mutual legal assistance request – as characterised by Pakistan – is a new issue which unsurprisingly was not raised nor pleaded at the hearing of the application for provisional measures. This will have to be fully pleaded by India.
- 7) At page 53, Pakistan seeks to set up yet another defence based on the principle of "*ex turpi causa*". It makes 10 pages of legal submissions on this issue.
- 8) All these issues are purportedly advanced as preliminary issues (paragraph 220). The case on merits begins thereafter.
- 9) The first plea on merits is that an individual arrested against whom there are allegations *prima facie* of espionage, cannot be given the benefit of the Vienna Convention. 15 pages of material purportedly relevant for the construction of the Vienna Convention are to be found from page 79 to 94 including some historical material and travaux préparatoires which are cited in support of this proposition

- 10) The second plea is that India has allegedly failed to establish the nationality of Jadhav.
- 11) The third difference is raised on the basis of the Bilateral Treaty and its implications upon the Vienna Convention.
- 12) The next section deals with relief and makes elaborate submissions of law on why the relief cannot be granted. It has a significant section of the Pakistan law and court system and on the basis of which India's allegations as to absence of due process are challenged. This will require a full reply.



MINISTRY OF FOREIGN AFFAIRS
ISLAMABAD

No. Ind(I)-5/20/2018

Dated: 15th January 2018

The Registrar,
International Court of Justice,
Peace Palace
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Telefax: +31 (0) 70 364 99 28
Website: www.icj-cij.org

Dear Sir,

On behalf of the Islamic Republic of Pakistan ("Pakistan"), I have the honour to acknowledge receipt of your letter No. 149636 dated 10th January 2018 attaching a copy of a 5 page letter ("the letter") (and 3 page Appendix) (together referred to herein as "the Explanation"), sent to the Registry by the Agent of the Republic of India ("India") on the same date, re-iterating the request to the Court to authorize the submission of a Reply by India and a Rejoinder by Pakistan in the *Jadhav Case (India v. Pakistan)* and, further, requesting a period of three months for each side to submit these further pleadings.

2. Pakistan notes that the 8 page Explanation (with respect) is repetitive and vague. The Explanation fails, inter-alia, to identify any issue of fact or law (whether new or otherwise) which India could and should, in fairness, otherwise have already addressed in its Memorial.
3. Pakistan further observes (with regret and dismay), that India seeks to characterize the contents of the Counter-Memorial as "*false*" (letter/ paragraph 4), and "*scurrilous*" (Appendix/paragraph 17). Pakistan respectfully rejects such assertions, and will not be provoked to respond in this regard.

India's justification for further pleadings:

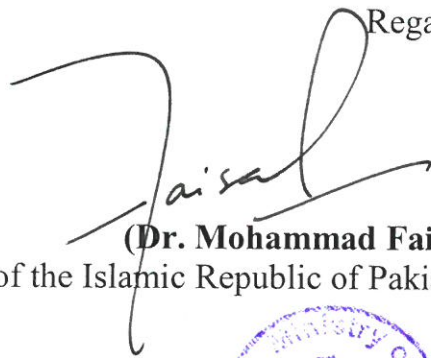
4. The purpose of pleadings is to crystallize the position of the parties, and to communicate succinctly, yet clearly and comprehensively, the issues of fact and law in dispute between the parties, so that the Court is able to consider and adjudicate upon the same.
5. For Pakistan's part, despite the extreme urgency generated by India, and only being able to instruct its Counsel on Friday 12th May 2017, Pakistan availed itself of the opportunity to "flag" all its key arguments in writing and orally on 15th May 2017. Indeed, this appears to be accepted by India in the Explanation (paragraph 4 of the letter). As such, India cannot be "taken by surprise" by the contents of the Counter-Memorial - on the contrary.
6. Moreover, Pakistan fully recognized that the Court was not in a position to consider, let alone to determine the said key arguments in the context of an application for Provisional Measures. Nevertheless, in the interests of fairness and expedition, Pakistan identified the said points of fact and law precisely so as to enable India to address them in its Memorial, and thus ensure that unnecessary delay did not occur.
7. Pakistan will not re-iterate the observations already made in this regard, and it believes that the interests of justice or fairness are not served by allowing the adjudication of this matter to be unreasonably delayed yet further.
8. Whilst not seeking to rebut each and every element of the Explanation, by way of example, at all material times (and certainly since 15th May 2017 at the very least), India's failure to (i) establish the Indian nationality of Commander Jadhav; (ii) failure to respond to Pakistan's request for mutual legal assistance; (iii) use/abuse of the provisional measures process and India's conduct in this context; (iv) Pakistan's reference to the 2008 Agreement between India and Pakistan, and (v) relief and remedies available in such cases (with reference to the *Le Grand* and *Avena* cases) are all matters that India should already have dealt with in its Memorial.
9. Furthermore, Pakistan notes (i) the time that was available to India from 25th March 2016 to make its application for provisional measures on 8th May 2017; (ii) the time thereafter until 13th September 2017 that was available to India to prepare its Memorial (in the light not least of the issues of fact and law "flagged"

by Pakistan on 15th May 2017), and (iii) the passage of 1 month since the Counter-Memorial was served on 13th December 2017.

10. Moreover, when properly examined, the Counter-Memorial and exhibits thereto are wholly responsive to the Memorial and the contentions of fact and law advanced therein.
11. Thus, India is, in essence, now seeking a further opportunity (if not a second chance) to supplement its Memorial, in respect of facts and matters that it should already have addressed.
12. However, without prejudice to the foregoing, with due deference to the Court and so as to eliminate any scope for complaint or grievance (however unfounded in this regard), Pakistan would respectfully consent to a further round of pleadings, which permits 2 months to India to serve its Reply and Pakistan 2 months thereafter for a Rejoinder.
13. Furthermore, Pakistan would respectfully invite the Court to set down the matter for hearing as soon as possible after the aforesaid period of time has elapsed, and would envisage that 3 days apportioned evenly between the parties should suffice.

Please accept, Sir, the assurances of my highest consideration.

Regards,



(Dr. Mohammad Faisal)

Co-Agent of the Islamic Republic of Pakistan



INTERNATIONAL COURT OF JUSTICE

YEAR 2018

2018
17 January
General List
No. 168

17 January 2018

JADHAV CASE
(INDIA *v.* PAKISTAN)

ORDER

Present: President ABRAHAM; Vice-President YUSUF; Judges OWADA, TOMKA, BENNOUNA, CANÇADO TRINDADE, GREENWOOD, XUE, DONOGHUE, GAJA, SEBUTINDE, BHANDARI, ROBINSON, GEVORGIAN; Judge ad hoc JILLANI; Registrar COUVREUR.

The International Court of Justice,

Composed as above,

After deliberation,

Having regard to Article 48 of the Statute of the Court and to Articles 44, 45, paragraph 2, 48 and 49 of the Rules of Court,

Having regard to the Application filed in the Registry of the Court on 8 May 2017, whereby the Republic of India (hereinafter “India”) instituted proceedings against the Islamic Republic of Pakistan (hereinafter “Pakistan”), concerning alleged violations of the Vienna Convention on Consular Relations of 24 April 1963 “in the matter of the detention and trial of an Indian National, Mr. Kulbhushan Sudhir Jadhav”, sentenced to death in Pakistan,

Having regard to the request for the indication of provisional measures submitted by India on 8 May 2017 and to the Order by which the Court indicated provisional measures on 18 May 2017,

Having regard to the Order dated 13 June 2017, whereby the President of the Court fixed 13 September 2017 and 13 December 2017 as the respective time-limits for the filing of a Memorial by India and a Counter-Memorial by Pakistan,

Having regard to the Memorial and the Counter-Memorial duly filed by the Parties within those time-limits;

Whereas, by a letter dated 19 December 2017, the Agent of India indicated, *inter alia*, that the Counter-Memorial of Pakistan raised “issues of fact and law that may not necessarily have been anticipated by India and considered in the Memorial filed by India”; whereas he further stated that the Government of India, referring to Article 45, paragraph 2, of the Rules of Court, requested the Court to authorize the submission of a Reply by India and a Rejoinder by Pakistan; and whereas the Agent indicated that India requested that each Party be granted a period of three months for the preparation of its pleading;

Whereas, by letter dated 5 January 2018, the Co-Agent of Pakistan stated, *inter alia*, that the Government of Pakistan considered that “the Court [was], following receipt of the initial written pleadings, sufficiently informed of the contentions of fact and law relied upon by India and Pakistan” and that the submission of further pleadings in the case was not necessary; whereas the Co-Agent further stated that,

“[n]evertheless, and without prejudice to the foregoing, in the event that India is further and clearly able to particularise the basis for its request for a further round of pleadings, within a shorter time frame, in the interests of ensuring a full and fair process, Pakistan may be amenable to acceding to a further round of pleadings, should the Court also consider this to be necessary”;

Whereas, by letter dated 5 January 2018, India, in light of the views expressed by Pakistan, was invited to furnish the Court with any further observations that it may wish to make by 10 January 2018; and whereas by letter of the same date Pakistan was informed that it would have the opportunity to provide any comments it may wish to make on those observations by 15 January 2018;

Whereas, by letter dated 10 January 2018, the Agent of India reiterated its position that Pakistan, in its Counter-Memorial, had for the first time “set out its defence and in doing so ha[d] raised various issues of fact and law”; whereas he further stated that Pakistan, in particular, was seeking to develop various legal theories as a defence against violations of the Vienna Convention; whereas the Agent of India stated that the allegations of fact and submissions of law made by Pakistan in its Counter-Memorial “would have to be fully rebutted”; whereas the Agent indicated further that India also sought an opportunity to place on record recent developments in the case; and whereas, finally, the Agent reiterated India’s request that the Court authorize the submission of a Reply and that a period of three months be granted for the preparation of that pleading;

Whereas, by letter dated 15 January 2018, the Co-Agent of Pakistan submitted that India still failed to identify any issue that could not have been addressed in its Memorial and that it was “in essence, now seeking a further opportunity (if not a second chance) to supplement its Memorial, in

respect of facts and matters that it should already have addressed”; whereas the Co-Agent stated in his letter that India could not be taken by surprise by the content of the Counter-Memorial, since Pakistan had already presented its key arguments during the proceedings on provisional measures despite of the urgency and short notice; whereas the Co-Agent added that the interests of justice and fairness would not be served by delaying the adjudication of the case yet further; whereas the Co-Agent nevertheless indicated that “with due deference to the Court . . . Pakistan would respectfully consent to a further round of pleadings, which permits two months to India to serve its Reply and Pakistan two months thereafter for a Rejoinder”;

Taking into account the views of the Parties and the circumstances of the case,

Authorizes the Republic of India to submit a Reply and the Islamic Republic of Pakistan to submit a Rejoinder;

Fixes the following time-limits for the filing of those pleadings:

17 April 2018 for the Reply of the Republic of India;

17 July 2018 for the Rejoinder of the Islamic Republic of Pakistan; and

Reserves the subsequent procedure for further decision.

Done in English and in French, the English text being authoritative, at the Peace Palace, The Hague, this seventeenth day of January, two thousand and eighteen, in three copies, one of which will be placed in the archives of the Court and the others transmitted to the Government of the Republic of India and the Government of the Islamic Republic of Pakistan, respectively.

(Signed) Ronny ABRAHAM,
President.

(Signed) Philippe COUVREUR,
Registrar.



MINISTRY OF FOREIGN AFFAIRS
ISLAMABAD

No. Ind(I)-5/20/2018

June 05, 2018

The Ministry of Foreign Affairs of the Islamic Republic of Pakistan presents its compliments to the High Commission of the Republic of India in Islamabad and has the honour to refer to the Reply filed on 17 April 2018 by India in the *Jadhav Case (India v Pakistan)* before the International Court of Justice.

Pakistan also has the honour to refer to India's *Note Verbale* dated 25 May 2018 responding to Pakistan's *Note Verbale* of even number dated 16 May 2018, in which India has conveyed its view that "any issue pertaining to the submissions before the Court should be dealt in accordance with appropriate processes available in that forum".

Pakistan is in the process of preparing its Rejoinder which is to be filed on or by 17 July 2018. In the light of the contents of the Reply, Pakistan requests that India confirms whether the contents of the Reply are in all material respects accurate (or to draw Pakistan's attention to any material inaccuracies). Furthermore, for the avoidance of any doubt, Pakistan requests India to confirm whether its leading Counsel, Mr. Harish Salve SA, reviewed or approved the Reply as filed.

In the light of the need to serve the Rejoinder on or by 17 July 2018, India's response to these two queries would be appreciated on or by 21 June 2018.

The Ministry of Foreign Affairs of the Islamic Republic of Pakistan avails itself of this opportunity to renew to the High Commission of India the assurances of its highest consideration.

**High Commission of the Republic of India
Islamabad**





विदेश मंत्रालय, नई दिल्ली
MINISTRY OF EXTERNAL AFFAIRS
NEW DELHI

No.17/01/2018

The Ministry of External Affairs, Government of the Republic of India presents its compliments to the High Commission of the Islamic Republic of Pakistan in New Delhi and has the honour to refer to the Ministry of Foreign Affairs of Pakistan's Note Verbale No. Ind(I)-5/20/2018 dated 05 June 2018, regarding the Reply filed by India on 17 April 2018 in the Jadhav Case (India v Pakistan) ("Case") before the International Court of Justice ("the Court").

In this context, the Ministry wishes to reiterate that the Case is *sub judice* before the Court and any issue in relation to the submissions should be addressed in accordance with the Rules of the Court. Further, the details of the preparation/review process leading to the final submissions is purely internal to the Government of India. The queries raised by Government of Pakistan, therefore, are inappropriate and irrelevant.

The Ministry of External Affairs, Government of the Republic of India avails itself of this opportunity to renew to the High Commission of the Islamic Republic of Pakistan in New Delhi the assurances of its highest consideration.

**June 27, 2018
New Delhi**



**The High Commission of the Islamic Republic of Pakistan
New Delhi**

483 $\frac{02}{02}$

29/08



149418

COPY

20 November 2017

Sir,

With reference to the Jadhav Case (India v. Pakistan), I have the honour to inform Your Excellency that, pursuant to the instructions of the Court under Article 43, paragraph 1, of the Rules of Court, I have addressed to parties to the Vienna Convention on Consular Relations the notification provided for in Article 63, paragraph 1, of the Statute of the Court. I attach for your information a copy of this communication.

Accept, Sir, the assurances of my highest consideration.

Philippe Couvreur
Registrar

H.E. Mr. Ashtar Ausaf
Agent of the Islamic Republic of Pakistan
before the International Court of Justice
Embassy of Pakistan
The Hague

cc: Dr. Mohammad Faisal
Co-Agent of the Islamic Republic of Pakistan
before the International Court of Justice
Embassy of Pakistan
The Hague

COPY

20 November 2017

Excellency,

I have the honour to refer to the Application filed in the Registry of the Court on 8 May 2017, whereby the Government of the Republic of India instituted proceedings against the Islamic Republic of Pakistan in the Jadhav Case (India v. Pakistan). The text of the said Application is available on the website of the Court (www.icj-cij.org).

Article 63, paragraph 1, of the Statute of the Court provides that:

“Whenever the construction of a convention to which States other than those concerned in the case are parties is in question, the Registrar shall notify all such States forthwith.”

Further, under Article 43, paragraph 1, of the Rules of Court:

“Whenever the construction of a convention to which States other than those concerned in the case are parties may be in question within the meaning of Article 63, paragraph 1, of the Statute, the Court shall consider what directions shall be given to the Registrar in the matter.”

./.

On the instructions of the Court, given in accordance with the said provisions of the Statute and the Rules of Court, I have the honour to notify your Government of the following.

In the Application in the above-mentioned case, the Republic of India alleges, inter alia, that the Islamic Republic of Pakistan breached Article 36, paragraph 1, of the Vienna Convention on Consular Relations of 24 April 1963. It would appear, therefore, that the construction of that Convention may be in question in this case.

Your country is included in the list of parties to the Vienna Convention on Consular Relations. The present letter should accordingly be regarded as the notification contemplated by Article 63, paragraph 1, of the Statute. I would add that this notification in no way prejudices any question of the possible application of Article 63, paragraph 2, of the Statute, which the Court may later be called upon to determine in this case.

Accept, Excellency, the assurances of my highest consideration.



Philippe Couvreur
Registrar



COPY

Le 20 novembre 2017

Excellence,

J'ai l'honneur de me référer à la requête, déposée au Greffe de la Cour le 8 mai 2017, par laquelle le Gouvernement de la République de l'Inde a introduit une instance contre la République islamique du Pakistan dans l'affaire Jadhav (Inde c. Pakistan). Le texte de ladite requête est disponible sur le site Internet de la Cour (www.icj-cij.org).

Le paragraphe 1 de l'article 63 du Statut de la Cour dispose que

«[L]orsqu'il s'agit de l'interprétation d'une convention à laquelle ont participé d'autres Etats que les parties en litige, le Greffier les avertit sans délai».

Le paragraphe 1 de l'article 43 du Règlement de la Cour précise en outre que

«[L]orsque l'interprétation d'une convention à laquelle ont participé d'autres Etats que les parties en litige peut être en cause au sens de l'article 63, paragraphe 1, du Statut, la Cour examine quelles instructions donner au Greffier en la matière».

/.

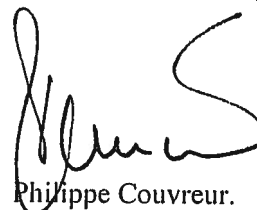
Sur les instructions de la Cour, qui m'ont été données conformément à ces dispositions de son Statut et de son Règlement, j'ai l'honneur de notifier à votre Gouvernement ce qui suit.

Dans sa requête en l'affaire susmentionnée, la République de l'Inde soutient notamment que la République islamique du Pakistan a violé le paragraphe 1 de l'article 36 de la Convention de Vienne sur les relations consulaires du 24 avril 1963. Il semble, dès lors, que l'interprétation de cette Convention pourrait être en cause en l'affaire.

Votre pays figure sur la liste des parties à la Convention de Vienne sur les relations consulaires. Aussi la présente lettre doit-elle être regardée comme constituant la notification prévue au paragraphe 1 de l'article 63 du Statut. J'ajoute que la présente notification ne préjuge aucune question concernant l'application éventuelle du paragraphe 2 de l'article 63 du Statut sur laquelle la Cour pourrait par la suite être appelée à se prononcer en l'espèce.

Veuillez agréer, Excellence, les assurances de ma très haute considération.

Le Greffier de la Cour,

A handwritten signature in black ink, appearing to be 'Philippe Couvreur', written in a cursive style.

Philippe Couvreur.



149729

18 January 2018

Sir,

With reference to the Jadhav Case (India v. Pakistan) and to my letter No. 149418 dated 20 November 2017, I have the honour to inform Your Excellency that, pursuant to the instructions of the Court under Article 43, paragraph 1, of the Rules of Court, I have addressed to the parties to the Optional Protocol to the Vienna Convention on Consular Relations concerning the Compulsory Settlement of Disputes the notification provided for in Article 63, paragraph 1, of the Statute of the Court. I attach for your information a copy of this communication.

Accept, Sir, the assurances of my highest consideration.


Philippe Couvreur
Registrar

H.E. Mr. Ashtar Ausaf
Agent of the Islamic Republic of Pakistan
before the International Court of Justice
Embassy of Pakistan
The Hague

cc: Dr. Mohammad Faisal
Co-Agent of the Islamic Republic of Pakistan
before the International Court of Justice
Embassy of Pakistan
The Hague

149730

COPY

18 January 2018

I have the honour to refer to the Application filed in the Registry of the Court on 8 May 2017, whereby the Government of the Republic of India instituted proceedings against the Islamic Republic of Pakistan in the Jadhav Case (India v. Pakistan). The text of the said Application is available on the website of the Court (www.icj-cij.org).

Article 63, paragraph 1, of the Statute of the Court provides that:

“Whenever the construction of a convention to which States other than those concerned in the case are parties is in question, the Registrar shall notify all such States forthwith.”

Further, under Article 43, paragraph 1, of the Rules of Court:

“Whenever the construction of a convention to which States other than those concerned in the case are parties may be in question within the meaning of Article 63, paragraph 1, of the Statute, the Court shall consider what directions shall be given to the Registrar in the matter.”

/.

On the instructions of the Court, given in accordance with the said provisions of the Statute and the Rules of Court, I have the honour to notify your Government of the following.

By my letter No. 149421 dated 20 November 2017, I made the notification contemplated by Article 63, paragraph 1, of the Statute with respect to the Vienna Convention on Consular Relations of 24 April 1963. It now appears that the construction of the Optional Protocol to the Vienna Convention on Consular Relations concerning the Compulsory Settlement of Disputes may also be in question in the case.

Your country is included in the list of parties to the Optional Protocol to the Vienna Convention on Consular Relations concerning the Compulsory Settlement of Disputes. The present letter should accordingly be regarded as the notification contemplated by Article 63, paragraph 1, of the Statute. I would add that this notification in no way prejudices any question of the possible application of Article 63, paragraph 2, of the Statute, which the Court may later be called upon to determine in this case.

Accept, Excellency, the assurances of my highest consideration.

Philippe Couvreur
Registrar



MINISTRY OF FOREIGN AFFAIRS
ISLAMABAD

No. IND(I)-5/20/2017

The Ministry of Foreign Affairs of the Islamic Republic of Pakistan presents its compliments to the High Commission of the Republic of India in Islamabad and with reference to the latter's Note Verbale No. ISL/103/14/2017 dated 24 December 2017 regarding the visit and meeting of the mother and wife of Commander Jadhav with him on humanitarian grounds has the honour to state:

- a) The flight details of the mother and wife of Commander Jadhav have been noted.
- b) The Indian request about media interaction is duly noted.
- c) The Indian Deputy High Commissioner, Mr. J.P. Singh shall be the only Indian diplomat/official to accompany the wife and mother of Commander Jadhav, from the time of their arrival till departure. The pass for access to Rawal Lounge (for departure) will be issued to him accordingly.

As conveyed earlier:

- d) No other diplomat/official of the Indian High Commission (even those holding an airport pass) would be permitted entry into Benazir Bhutto International Airport, Islamabad during the entire duration of the visit.
- e) The family of Commander Jadhav will be travelling in Government of Pakistan's Bullet proof vehicle for ensuring their safety and security.

As verbally conveyed earlier, the meeting between Commander Jadhav and his wife and mother would be duly recorded. As mentioned earlier, this visit is being permitted on humanitarian grounds. We expect India to respond in the same spirit.

The Ministry of Foreign Affairs of the Islamic Republic of Pakistan avails itself of this opportunity to renew to the High Commission of India the assurances of its highest consideration.



High Commission of the Republic of India,
Islamabad.

☎+971 4389 0000 ✉ info@sghdubai.com (<mailto:info@sghdubai.com>)

Opening Hours: Sat - Thu 8:00 am - 8:00 pm / Friday 9:00 am - 5:00 pm

DR. UWE JOHANNES NELLESSEN

**Experience :**

More than 24 years

Language Known:

English, German

Nationality :

German

Book An Appointment (<http://www.sghdubai.ae/eng/book-an-appointment>)

DR. UWE JOHANNES NELLESSEN

Specialist Orthopaedic Surgeon

About Dr. Uwe Johannes Nellesen

Dr. Uwe Nellesen started his working career May 1993 as an Assistant in the Department of Trauma- and Orthopedic Surgery, Ev. Hospital Dinslaken, under the patronage of Drs. Podlatis and Schmitz. All treatments of arthroplasty of the shoulder, hip, and knee inclusive revisions and all treatments for trauma surgery were performed. Rotation to the Department for General, Visceral-, Vascular-, and Thorax- Surgery, Ev. Hospital Dinslaken under HOD Dr. Kuhlmann. Intensive training in vascular surgery wound defect strategies and general surgery esp. gastric banding in obesity.

From 2000 – 2002 Working as a German Facharzt in the Department for Trauma- and Orthopedic Surgery Unfallkrankenhaus Berlin Marzahn under Prof. Ekkernkamp. At this Trauma level, all treatments up to polytrauma Dr. Nellesen could work in. All kinds of nailing systems, vacuum systems, flaps for wound defects were performed.

From 2002 – 2005 Dr. Nellesen worked as a Consultant in the Department of Trauma-, Plastic-, and Orthopedic Surgery St. Marienhospital Mülheim/Ruhr under HOD Dr. Elenz. The main working field was arthroplasty, esp. computer navigation in total knee replacement. At this time, Dr. Nellesen was a member of the scientific board of Orthopedics at European Surgical Institute, ESI Hamburg to teach Computer Assisted Surgery CAS.

From 2005 – 2008 Vice Chief in the Department of Trauma, Plastic, and Orthopedic Surgery AKH Viersen under HOD Dr. Peter Königs.

From 2008 – 2013 Owner and Medical Director of Orthopedic Department of the Kennedy-Klinik Essen GmbH. In this Clinic, Dr. Uwe Nellessen treated professional athletes from National female football Team Germany, professional musical dancers and performed about 400-day cases surgeries per annum.

Area of Interest

- ▶ Computer Navigation in TKR
- ▶ Revision Arthroplasty
- ▶ Complication Management for mal-united, non-united and septic fractures
- ▶ Correction osteotomies in deformities

Qualification

- ▶ German Facharzt for Trauma Surgery 2002
- ▶ German Facharzt for Surgery 2000
- ▶ German Facharzt for Emergency Medicine 1995
- ▶ Member of German Association of Surgery DGCH
- ▶ Member of German Association of Traumatology DGU
- ▶ Member of German Association for Sports Medicine DGSP

Location



Al Barsha 3 Hessa Street
Sheikh Zayed Road
Opposite American School of Dubai
P.O.Box No. - 391093, Dubai, UAE
Toll Free No. 800SGHUA(744823)
Landline : +971 4389 0000
Email : info@sghdubai.com

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Newsletter Signup



MEDICAL REPORT
KHULBHUSHAN JHADAV

Saudi German Hospital Dubai

Dr. UWE Johannes Nellesen

Senior Consultant : Trauma , Plastic & Orthopedic Surgery

Date: 22.12.2017

Patient: Mr. Kulbhushan Jhadav **Age:** 48 Years **Sex:** Male

Full Medical Evaluation of Mr. Kulbhushan Jhadav

Born 15.04.1969

Medical History:

No fractures, no major injuries

2012 viral related bilirubinaemia conservative treated

Family History:

Father HBP, Stroke, Asthma

Mother without medical issues

Medical Examination:

48 year old alert and orientated gentleman, 177cm high, 67kg weight with a BMI of 21.4. Symmetric, equipped muscle structure. In stand, axial spine with horizontal shoulder girdle. Parallel pelvic ring. Front bending with finger-ground distance of 15cm.

Cervical and thoracal rotation normal. No sensomotoric disorders. Lumbar spine axial, no scoliosis, no lordosis, no sensomotoric disorders. All different gaits possible. Symmetric reflexis. No Babinski.

Normal excursion of thorax. Sonor sounds. No abnormal heart sounds. Abdomen soft without any resistance.

Both upper limbs show normal range of motion in all sequent joints. The muscle and joint circumferences are equal.

Both lower limbs also show normal range of motion in all sequent joints. No valid differences in circumferences. For detailed measurement, look at the filled report sheeds.

All cognitive functions are normal.

Medical Tests:

ECG: Sinus-Tachycardia 98BPM

Ultrasound abdomen: Normal

X-ray Chest: Symmetric ventilation of both lungs, normal heart size ✓

Lab Test: Normal blood cell counts, Normal liver and renal function, no

Hepatitis, no HIV, normal sugar levels

Urin Analysis: Normal counts

Al Bashra-3, Hessa Street, Sheikh Zayed Road Opposite American School of Dubai

PO Box No 391093, Dubai, UAE , Toll Free No 800SGHUA(744826) , Landline: +971 4389 0000 , Email : info@sghdubai.com



Saudi German Hospital Dubai

Dr. UWE Johannes Nellesen

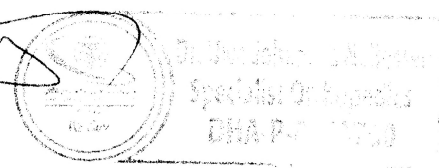
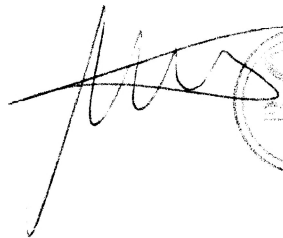
Senior Consultant : Trauma , Plastic & Orthopedic Surgery

Date: 22.12.2017

Summary:

Mr. Kulbhushan is in excellent healthy condition. His BMI is ideal for his height. The musculo Skeletal system is symmetric well equipped. No functional deficits, normal strength. The Neuronal system is normal.

Islamabad 22.12.2017



Al Bashra-3, Hessa Street, Sheikh Zayed Road Opposite American School of Dubai

PO Box No 391093, Dubai, UAE , Toll Free No 800SGH UAE(744826) , Landline: +971 4389 0000 , Email : info@sghdubai.com



Name:

Aktenzeichen:

Untersuchungstag:

Standbein: ☐ rechts☒ links**Messblatt für untere Gliedmaßen (nach der Neutral - 0 - Methode)****Hüftgelenke:**

Streckung / Beugung (Abb. 1 a und 1 b)

Abspreizen / Anführen (Abb. 2)

Drehung auswärts / einwärts (Hüftgelenk. 90° gebeugt) (Abb. 3)

Drehung auswärts / einwärts (Hüftgelenk gestreckt) (Abb. 4)

Rechts

Links

| | | | | | |
|----|---|-----|----|---|-----|
| 5 | 0 | 130 | 5 | 0 | 130 |
| 30 | 0 | 20 | 30 | 0 | 20 |
| 50 | 0 | 40 | 50 | 0 | 40 |
| 66 | 0 | 50 | 60 | 0 | 50 |

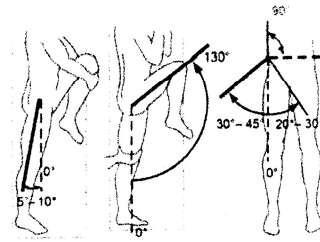
Abb. 1a
Abb. 1b

Abb. 2

Kniegelenke:

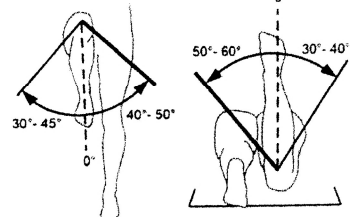
Streckung / Beugung (Abb. 5)

| | | | | | |
|---|---|-----|---|---|-----|
| 0 | 0 | 135 | 0 | 0 | 135 |
|---|---|-----|---|---|-----|

Obere Sprunggelenke:

Heben / Senken des Fußes (Abb. 6)

| | | | | | |
|----|---|----|----|---|----|
| 20 | 0 | 40 | 20 | 0 | 40 |
|----|---|----|----|---|----|

Drehg. ausw./einw.
Abb. 3Drehg. ausw./einw.
Abb. 4**Untere Sprunggelenke:**

Gesamte Beweglichkeit (Fußaußenrand heben Abb. 7 a / senken Abb. 7 b) (in Bruchteilen der normalen Beweglichkeit)

| | |
|---|---|
| 5 | 5 |
|---|---|

Zehngelenke:

(in Bruchteilen der normalen Beweglichkeit)

| | |
|---|---|
| 5 | 5 |
|---|---|

Umfangmaße in cm:

20 cm ob. innerer Knie-Gelenkspalt

10 cm ob. innerer Knie-Gelenkspalt

Kniescheibenmitte

15 cm unterhalb innerer Gelenkspalt

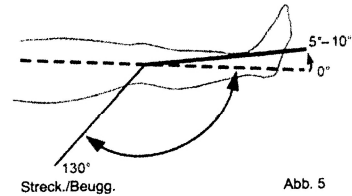
Unterschenkel, kleinster Umfang

Knöchel

Rist über Kahnbein

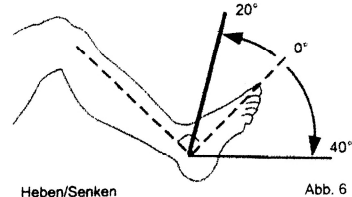
Vorfußballen

| | |
|----|----|
| 44 | 44 |
| 40 | 40 |
| 36 | 36 |
| 33 | 33 |
| 19 | 19 |
| 24 | 23 |
| 23 | 24 |
| 21 | 21 |



Streck./Beugg.

Abb. 5



Heben/Senken

Abb. 6

Beinlänge in cm:

Vorderer oberer Darmbeinstachel - Außenknöchelspitze

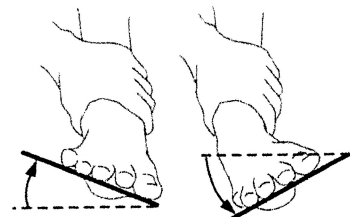
| | |
|----|----|
| 95 | 95 |
|----|----|

Stumpflänge in cm:

Sitzbein - Stumpfende

Innerer Knie-Gelenkspalt - Stumpfende

| | |
|--|--|
| | |
| | |

Abb. 7 a
Außenrand hebenAbb. 7 b
Außenrand senken

Name: Kulbhushan
 Untersuchungstag: 22.12.2017

Aktenzeichen:

☒ Rechtshänder ☐ Linkshänder

Messblatt für obere Gliedmaßen (nach der Neutral - 0 - Methode)

Schultergelenke:

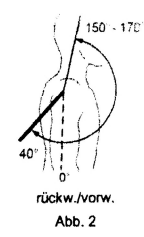
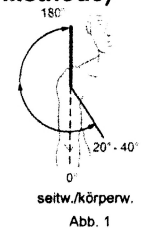
Arm seitwärts / körperwärts (Abb. 1)

Arm rückwärts / vorwärts (Abb. 2)

Arm auswärts / einwärts drehen (Oberarm anliegend) (Abb. 3)

Arm kopfwärts / fußwärts (Oberarm 90° seitwärts abgehoben) (Abb. 4)

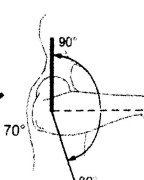
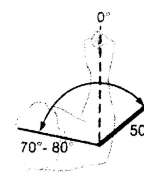
| Rechts | | | Links | | |
|--------|---|-----|-------|---|-----|
| 180 | 0 | 30 | 180 | 0 | 30 |
| 40 | 0 | 150 | 40 | 0 | 150 |
| 50 | 0 | 70 | 50 | 0 | 70 |
| 90 | 0 | 30 | 90 | 0 | 30 |



Ellenbogengelenke:

Streckung / Beugung (Abb. 5)

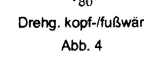
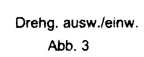
| | | | | | |
|---|---|-----|---|---|-----|
| 0 | 0 | 150 | 0 | 0 | 150 |
|---|---|-----|---|---|-----|



Unterarmdrehung:

auswärts / einwärts (Abb. 6)

| | | | | | |
|----|---|----|----|---|----|
| 90 | 0 | 90 | 90 | 0 | 90 |
|----|---|----|----|---|----|



Handgelenke:

handrückenwärts / hohlhandwärts (Abb. 7)

speichenwärts / ellenwärts (Abb. 8)

Fingergelenke:

Abstände in cm:

Fingerkuppe von der queren

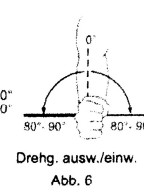
Hohlhandbeugefalte (Abb. 9)

Fingerkuppe von der verlängerten

Handrückenebene (Abb. 10)

| | | | | | |
|----|---|----|----|---|----|
| 40 | 0 | 50 | 40 | 0 | 50 |
| 30 | 0 | 40 | 30 | 0 | 40 |

| II | III | IV | V | II | III | IV | V |
|----|-----|----|---|----|-----|----|---|
| 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |



Daumengelenke:

Streckung / Beugung:

Grundgelenk

Endgelenk

Abstreizung (Winkel zwischen 1. und 2. Mittelhandknochen)

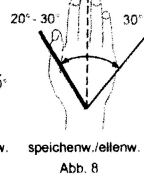
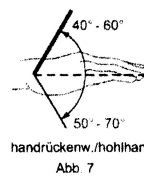
In der Handebene (Abb. 11)

Rechtwinklig zur Handebene (Abb. 12)

| | | | | | |
|----|---|----|----|---|----|
| 0 | 0 | 60 | 0 | 0 | 60 |
| 10 | 0 | 70 | 10 | 0 | 70 |

| | | | | | |
|---|---|----|---|---|----|
| 0 | 0 | 50 | 0 | 0 | 50 |
| 0 | 0 | 60 | 0 | 0 | 60 |

| II | III | IV | V | II | III | IV | V |
|----|-----|----|---|----|-----|----|---|
| x | 7 | 7 | x | x | 7 | 7 | x |



Ankreuzen, welche Langfingerkuppen mit der Daumenspitze erreicht werden können

Handspanne:

Größter Abstand in cm zwischen Daumen- und Kleinfingerkuppe

Umfangmaße in cm:

(Hängender Arm)

15 cm oberhalb äußerem Oberarmknorren

Ellenbogengelenk

10 cm unterhalb äußerem Oberarmknorren

Handgelenk

Mittelhand (ohne Daumen)

Armlänge in cm:

Schulterhöhe / Speichenende

Stumpflängen in cm:

Schulterhöhe / Stumpfende

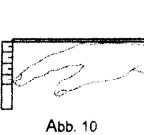
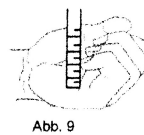
Äußerer Oberarmknorren / Stumpfende

| | |
|----|----|
| 22 | 22 |
|----|----|

| | |
|------|----|
| 31 | 31 |
| 26.5 | 27 |
| 26 | 26 |
| 15 | 15 |
| 19.5 | 20 |

| | |
|----|----|
| 59 | 59 |
|----|----|

| | |
|--|--|
| | |
| | |



Last: *patient XYZ.*
First: *Mr. KS Thadav*

ID:
DOB:
Age: *47*
Sex: *M*

21-Dec-2017 04:06:06 Vent Rate: 93 BPM
P-R-T axes: 82 83 76 PR int: 16ms
QRS dur: 96ms QT/QTc: 352/403ms
Avg RR: 64bpm QTcB: 435ms QTcF: 408ms

21-Dec-2017 04:06:06

Sinus Tachycardia

↓ aVR

II

↓ aVL

III

↓ aVF

II

↓ V1

↓ V2

↓ V3

↓ V4

↓ V5

↓ V6

11100073988

IDC ISLAMABAD

Site = 0 Cart = 0

Version 1.00.21 Sequence 408205 25mm/s 10mm/mV 0.05-40 Hz



Patient XYZ.
Mr. KS Thakur.
21 Dec 2017

V/s Abd & pelvis

Within Normal limits, Liver, spleen, gb, Kid.
No Renal or gall stone
Identified. No ascites.
Urinary bladder suboptimally
filled.

Dr. Imad ul Rehman
Radiologist

21-Dec-2017 5:45:51 pm



ISLAMABAD DIAGNOSTIC CENTRE (PVT) LTD.

IMAGING & LAB SERVICES

10-A, F-10/1, Road No. 10, Islamabad, Pakistan. Tel: +92-312-363-2100. Fax: +92-312-363-2101
 Email: info@idc-pvt.com, lab@idc-pvt.com



Name: Mr. K S Jhadav

Age/Gender: 48 yr(s) / M

Ref. By: Respected. Dr

Visit Date: 21-Dec-2017 5:02 pm

Final Report

Report Date: 21-Dec-2017 5:24 pm

| Test Name | Results | *Last Available Results | Unit | Reference Ranges |
|--------------------------------|-------------|-------------------------|--------|------------------|
| Clinical Pathology | | | | |
| Urine Routine Examination | 21-Dec-2017 | | | |
| <u>Physical Examination</u> | | | | |
| Color | Yellow | | | |
| Appearance | Clear | | | Clear |
| <u>Chemical Examination</u> | | | | |
| Specific Gravity | 1.030 | | | 1.003 - 1.025 |
| pH | 5.5 | | | 4.5 - 7.5 |
| Protein | Negative | | | Negative |
| Glucose | Negative | | | Negative |
| Ketone | Negative | | | Negative |
| Billirubin | Negative | | | Negative |
| Hemoglobin | Negative | | | Negative |
| Urobilinogen | 3.4 | | Umol/L | 3 - 25 |
| <u>Microscopic Examination</u> | | | | |
| W.B.C./HPF | 1-2 | | | 0 - 5 |
| R.B.C./H.P.F. | 1-2 | | | 0 - 3 |
| Epithelial Cells | NIL | | | 0 - 10 |
| Crystals | NIL | | | Nil |
| Casts/LPF | NIL | | | Nil |

Please Note: Tests are performed on state - of - the - art Automatic Urinalysis System (FUS 2000) from DIRUI Industrial Co., Ltd.



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and does not require manual signatures

MAIN LAB
OPEN
24/7
HOURS

CONSULTANT PATHOLOGISTS

Major (R) Dr. Aftab Ahmad Khan
FRCR, FRCR, FRCR, FRCR, FRCR

Dr. Nageem Asif
FRCR, FRCR, FRCR, FRCR, FRCR

Dr. Waheed Arif
FRCR, FRCR, FRCR, FRCR, FRCR

Dr. Farooq Ali
FRCR, FRCR, FRCR, FRCR, FRCR

Dr. Khuram Ahmad
FRCR, FRCR, FRCR, FRCR, FRCR

Dr. Ali Murtaza
FRCR, FRCR, FRCR, FRCR, FRCR

Dr. Samir
FRCR, FRCR, FRCR, FRCR, FRCR

Dr. Syed Samir
FRCR, FRCR, FRCR, FRCR, FRCR

Dr. Anwar Raza
FRCR, FRCR, FRCR, FRCR, FRCR

Dr. Raza Raza
FRCR, FRCR, FRCR, FRCR, FRCR

Ref. By: Respected. Dr

Report Date: 21-Dec-2017 5:25 pm

Please Note: Test (s) are performed on state - of - the - art BC-5000, automated 5 part hematology analyzer from Mindray Diagnostics.



Clinical Pathologist
M.B.B.S., M.C.P.S. (Gen. Pathology)

OPEN
24\7
HOURS

CONSULTANT PATHOLOGISTS

De Koning and Albrecht

Q. How many times have you been married?

IMAGING & LAB SERVICES

Journal of Management Education 36(7) November 2012
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Ref. By: Respected. Dr

Report Date: 21-Dec-2017 5:26 pm

Serology

0.08

S/CO

0.51

S/CO

0.05

S/CO

U.S.A.



Clinical Pathologist
M.B.B.S., M.C.P.S., (Pathology)

OPEN
24\7
HOURS

Dr. Khurshid Ahmad

D. Forked Amulet.

Report Date: 21-Dec-2017 5:26 pm

Reference Ranges

Renal Function Tests

| | | | |
|---------------------|------|-------|---|
| Blood Urea | 15 | mg/dL | 10 - 50 |
| Blood Urea Nitrogen | 07 | mg/dL | Adults: 8 - 20 Infant upto 1 Y: 4 - 19 Children: 5 - 18 |
| Creatinine (Serum) | 0.92 | mg/dL | Male: 0.7 - 1.2 Female: 0.5 - 0.9 |
| Uric Acid | 6.9 | mg/dL | Male: 3.4 - 7.2 Female: 2.4 - 6.2 |



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and does not require manual signatures

CONSULTANT PATHOLOGISTS

Dr. Khurshid Ahmad

Dr. Barbara Khoury

MAIN LAB
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24\7
HOURS

Name: Mr. K S Jhadav
Age/Gender: 48 yr(s) / M
Ref. By: Respected. Dr

Visit Date: 21-Dec-2017 5:02 pm

Final Report

Report Date: 21-Dec-2017 5:26 pm

Test Name

Results

***Last Available Results**

Unit

Reference Ranges

Chemistry

Liver Function Tests

21-Dec-2017

| | | | |
|-----------------------------|------------|--------------|---|
| Total Bilirubin | 1.0 | mg/dL | Adults: 0.2 - 1.1 Neonates: <12.0 |
| S.G.P.T. (ALT) | 13 | U/L | 9 - 40 |
| S.G.O.T. (AST) | 20 | U/L | 9 - 40 |
| Alkaline Phosphatase | 73 | U/L | Adults: 30 - 115 Upto 15 Years: < 345 15 - 17 Years: < 463 |
| Gamma GT | 50 | U/L | Male: < 55 Female: <38 |

Please Note: Test (s) are performed on the state - of - the - art ARCHITECT MODULAR C18200 from Abbott Diagnostics, U.S.A



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and does not require manual signatures

MAIN LAB
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CONSULTANT PATHOLOGISTS

Major (R) Dr. Aftab Ahmad Khan
The Director
National Institute of Health
F-77, Islamabad

Dr. Naghmi And

Dr. Shahzad Azam

Dr. Fayyaz Ali

Dr. Khورشید Ahmad

Dr. Ali Murtaza
MBBS, MRCP, FRCP
FRCR, FRCR, FRCR

Dr. Jernillo

Dr. Umwa Sarwar

D. Amber River

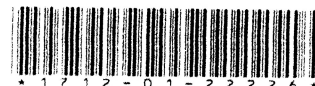
Dr. Farhad Khajepour
Associate Professor
School of Mechanical Engineering
Georgia Institute of Technology

21-Dec-2017 5:45:22 pm



ISLAMABAD DIAGNOSTIC CENTRE (PVT) LTD.

IMAGING & LAB SERVICES



Name: Mr. K S Jhadav

Age/Gender: 48 yr(s) / M

Ref. By: Respected. Dr

Visit Date: 21-Dec-2017 5:02 pm

Final Report

Report Date: 21-Dec-2017 5:26 pm

| Test Name | Results | *Last Available Results | Unit | Reference Ranges |
|-----------|---------|-------------------------|------|------------------|
|-----------|---------|-------------------------|------|------------------|

Chemistry

21-Dec-2017

| | | | | |
|-------------------|-----|--|-------|--|
| Glucose (Fasting) | 74 | | mg/dL | 60 - 110 |
| HbA1C | 4.9 | | % | < 7.0 American Diabetes Association (ADA) recommendations for Glycemic Goal: Less Stringent: <8% General: <7% More Stringent: <6.5% |

Mean Glucose Levels for specified HBA1C Levels:

| HBA1C % | Mean Plasma Glucose |
|---------|-------------------------|
| 6 | 126 mg/dl (7.0 mmol/l) |
| 7 | 154 mg/dl (8.6 mmol/l) |
| 8 | 183 mg/dl (10.2 mmol/l) |
| 9 | 212 mg/dl (11.8 mmol/l) |
| 10 | 240 mg/dl (13.4 mmol/l) |
| 11 | 269 mg/dl (14.9 mmol/l) |
| 12 | 298 mg/dl (16.5 mmol/l) |

Note: A calculator for converting HBA1C results in estimated Average Glucose (eAG), in either mg/dl or mmol/l, is available at <http://professional.diabetes.org/eAG>

These estimates are based on American Diabetes Association Guideline data of about 2700 glucose measurements over 3 months per A1C measurement in 507 adults with type1, type2, and no diabetes. The correlation between A1C and average glucose was 0.92.

Reference:

The Journal of Clinical and Applied Research and Education; Volume 38, Supplement 1, January 2015; American Diabetes Association.

Please Note: Test (s) are performed on the state - of - the - art ARCHITECT MODULAR Ci8200 from Abbott Diagnostics, U.S.A

Note: This is a digitally verified report and does not require manual signature



Dr. Shafaq Hammad

Clinical Pathologist
MBBS, MCPS (Pathology)OPEN
24/7
HOURS

CONSULTANT PATHOLOGISTS

Major (R) Dr. Aftab Ahmad Khan

Dr. Naqas Asif

Dr. Saadia Asim

Dr. Farzana Ali

Dr. Khuram Akmal


Dr. Ali Murtaza

Dr. Jamila

Dr. Umma Farwa

Dr. Anwar Aliyari

Dr. Farhat Khuram

| | | | | | |
|------------|----------------|-------------|-------------|--|---------------------|
| Name | Mr. K S Jhadav | | |  * 1 7 1 2 - 0 1 - 2 2 2 7 6 * | |
| Age/Gender | 48 yr(s) / M | MRN | B-2-14732 | | |
| Ref. By | Respected. Dr | Report Date | 21-Dec-2017 | | |
| | | | | Reg. Date | 21-Dec-2017 5:02 pm |

X-RAY CHEST

TECHNIQUE: Postero-anterior DR (Direct Digital Radiography) projection of chest is submitted.

REPORT:

No active parenchymatous lung lesion seen.

Apices and CP angles are clear.

The cardiac size is normal.

Bony thorax appears intact.

IMPRESSION:

**No significant abnormality detected.
Please correlate clinically.**

Transcribed by Abdul Jalil



Dr. Kamil Shujaat

Consultant Radiologist
MBBS, FCPS

For referring physician and/or to furnish a second opinion, hard copy images have been handed over to patient. Radiology image interpretation may vary from radiologists to radiologist. Repeat study with variable radiation dose, position, contrast or additional viewing on other modality before and after clinical correlation may be needed. For any query or confusion, don't hesitate to contact our reporting doctor or diagnostic center.

Note: This is a digitally verified report and does not require manual sign-off.

Page 1 of 1

CONSULTANT RADIOLOGISTS

Dr. Nabil Khamis

Dr. Sanyal Kuma

Dr. Sachin K. Kulkarni

D: Agente fiscaal

Dr. Hassan Soleim

Dr. Saeed Ahmad

Dr. MASON DUNN

D. Madsen and A. Anand

On Acid Storage

2. *Abstract* (100 words)

$$\mathbb{C}_{\mathbb{R}}^n = \{z \in \mathbb{C}^n \mid \bar{z} = z\} \cong \mathbb{R}^n \subset \mathbb{C}^n = \mathbb{A}^n_{\mathbb{C}} \subset \mathbb{A}^n_{\mathbb{R}}.$$
[illegible]

POLYMER LETTERS

$$f_{\text{eff}} = \int_{\text{sub}} \frac{1}{2} \rho \mathbf{v} \cdot \mathbf{v} dV = \frac{1}{2} \rho \langle v^2 \rangle$$
$$(11) \quad \hat{P}^2 = \hat{P} + \hat{Q}^2, \quad \hat{Q}^2 = \hat{Q} \hat{Q}^* + \hat{P}^2.$$
$$f(x) = \frac{1}{2} \left(\frac{1}{x} + \frac{1}{x^2} \right) \quad \text{for } x \in \mathbb{R} \setminus \{0\}$$
[illegible]

-- CARDIOLOGISTS

Q: Are you a member of any other organizations?

$$\int_0^{\infty} f(x) dx = \lim_{n \rightarrow \infty} \sum_{k=0}^{n-1} f\left(\frac{k}{n}\right) \frac{1}{n} = \lim_{n \rightarrow \infty} \frac{1}{n} \sum_{k=0}^{n-1} f\left(\frac{k}{n}\right)$$

Dr. S. G. 1048 AT, 1947-1948.

12345678910111213141516171819202122232425262728293031323334353637383940414243444546474849505152535455565758596061626364656667686970717273747576777879808182838485868788899091929394959697989910010110210310410510610710810911011111211311411511611711811912012112212312412512612712812913013113213313413513613713813914014114214314414514614714814915015115215315415515615715815916016116216316416516616716816917017117217317417517617717817918018118218318418518618718818919019119219319419519619719819920020120220320420520620720820921021121221321421521621721821922022122222322422522622722822923023123223323423523623723823924024124224324424524624724824925025125225325425525625725825926026126226326426526626726826927027127227327427527627727827928028128228328428528628728828929029129229329429529629729829930030130230330430530630730830931031131231331431531631731831932032132232332432532632732832933033133233333433533633733833934034134234334434534634734834935035135235335435535635735835936036136236336436536636736836937037137237337437537637737837938038138238338438538638738838939039139239339439539639739839940040140240340440540640740840941041141241341441541641741841942042142242342442542642742842943043143243343443543643743843944044144244344444544644744844945045145245345445545645745845946046146246346446546646746846947047147247347447547647747847948048148248348448548648748848949049149249349449549649749849950050150250350450550650750850951051151251351451551651751851952052152252352452552652752852953053153253353453553653753853954054154254354454554654754854955055155255355455555655755855956056156256356456556656756856957057157257357457557657757857958058158258358458558658758858959059159259359459559659759859960060160260360460560660760860961061161261361461561661761861962062162262362462562662762862963063163263363463563663763863964064164264364464564664764864965065165265365465565665765865966066166266366466566666766866967067167267367467567667767867968068168268368468568668768868969069169269369469569669769869970070170270370470570670770870971071171271371471571671771871972072172272372472572672772872973073173273373473573673773873974074174274374474574674774874975075175275375475575675775875976076176276376476576676776876977077177277377477577677777877978078178278378478578678778878979079179279379479579679779879980080180280380480580680780880981081181281381481581681781881982082182282382482582682782882983083183283383483583683783883984084184284384484584684784884985085185285385485585685785885986086186286386486586686786886987087187287387487587687787887988088188288388488588688788888989089189289389489589689789889990090190290390490590690790890991091191291391491591691791891992092192292392492592692792892993093193293393493593693793893994094194294394494594694794894995095195295395495595695795895996096196296396496596696796896997097197297397497597697797897998098198298398498598698798898999099199299399499599699799899910001001100210031004100510061007100810091010101110121013101410151016101710181019102010211022102310241025102610271028102910301031103210331034103510361037103810391040104110421043104410451046104710481049105010511052105310541055105610571058105910601061106210631064106510661067106810691070107110721073107410751076107710781079108010811082108310841085108610871088108910901091109210931094109510961097109810991100110111021103110411051106110711081109111011111112111311141115111611171118111911201121112211231124112511261127112811291130113111321133113411351136113711381139114011411142114311441145114611471148114911501151115211531154115511561157115811591160116111621163116411651166116711681169117011711172117311741175117611771178117911801181118211831184118511861187118811891190119111921193119411951196119711981199120012011202120312041205120612071208120912101211121212131214121512161217121812191220122112221223122412251226122712281229123012311232123312341235123612371238123912401241124212431244124512461247124812491250125112521253125412551256125712581259126012611262126312641265126612671268126912701271127212731274127512761277127812791280128112821283128412851286128712881289129012911292129312941295129612971298129913001



DECLARATION

236

I J.P. Singh
of Republic of India

confirm and declare that I am not in possession on my clothing or person of any surveillance or recording device. I also confirm that I am not carrying any item which can be used as a weapon. I consent to the security checks being conducted by Pakistani Authorities:

Signature: J.P. Singh

Dated: 25 December 2017

Witness - 1: Khayal Muhammad (India-II) Paul

Witness - 2: Jamal Nasir (India-I) J25/12

DECLARATION

234

I AVANTI S. JADHAV
of Republic of India

confirm and declare that I am not in possession on my clothing or person of any surveillance or recording device. I also confirm that I am not carrying any item which can be used as a weapon. I consent to the security checks being conducted by Pakistani Authorities.

Signature: Asjadhar

Dated: 25 December 2017

Witness - 1: Khayal Muhammad (AD-India-11) @Kil

Witness - 2: Jamal NASTR J

235

DECLARATION

I CHETNA K. JADHAV
of Republic of India

confirm and declare that I am not in possession on my clothing or person of any surveillance or recording device. I also confirm that I am not carrying any item which can be used as a weapon. I consent to the security checks being conducted by Pakistani Authorities.

Signature: Chetana K. Jadhav

Dated: 25 December 2017

Witness - 1: Khayal Muhammad (AD-India-11) Kail

Witness - 2: Tamir Nasir. (AD-India-I)
Tamir

UNCLASSIFIED



**Ministry of
JUSTICE**

National Offender
Management Service

| National Security Framework VISITS FUNCTION Management of Security at Visits | | | Ref: NSF 10.1 |
|---|--|-------------|---------------|
| This instruction applies to : | | Reference : | |
| Prisons | | PSI 15/2011 | |
| Issue Date | Effective Date | Expiry Date | |
| 01/04/2011 | 01/04/2011 | 01/04/2015 | |
| Issued on the authority of | NOMS Agency Board | | |
| For action by | All staff responsible for the development and publication of policy and instructions. Governors/Directors of Contracted Prisons, Heads of Groups. In this document, the term Governor also applies to Directors of Contracted Prisons. | | |
| For information | All staff in NOMS HQ and prison establishments. | | |
| Contact | Guy Woollven, Security Policy Unit guy.woollven@noms.qsi.gov.uk 0300 047 6207 | | |
| Associated documents | Related Specification Related Operating Models Related Direct Service Costs and Assumptions Related Cost Spreadsheets See: http://www.justice.gov.uk/about/directory-services.htm | | |
| Audit/monitoring : | | | |
| Compliance with this instruction will be monitored by Audit and Corporate Assurance and through internal self-audit. | | | |
| Introduces amendments to the following documents : - | | | |
| This PSI replaces elements of the National Security Framework (PSO 1000) within Function 2 (Accounting and Control) and the Category A annex and will form part of a new visits function. Other related documents are: PSO 3601 - Mandatory Drug Testing The supply reduction good practise guide | | | |
| The follow documents are cancelled: | | | |
| PSO 3610 – Measures to Deal with visitors and prisoners who smuggle drugs through visits PSI 40/2008 – Guidance on closed visits | | | |

UNCLASSIFIED

CONTENTS

Hold down "Ctrl" and click on section titles below to follow link.

| Section | Title | Applicable to |
|---------|---|---|
| 1 | Executive summary | All staff involved in the management and supervision of visits. |
| 2 | Operational Instructions Chapter 1 : Controlling who visits <ul style="list-style-type: none"> Visitor recognition Arrangement to safeguard visiting children Acceptable forms of identification The management of visitors to Category A/High Risk prisoners Chapter 2 : Visits Management and Control <ul style="list-style-type: none"> The control of visits Supervision of visits Room surveillance Acceptable behaviour Chapter 3 : The Application and Management of Closed Visits and Visitor Bans <ul style="list-style-type: none"> Summary Applying closed visits to prisoners Length of closed visits periods for prisoners Application of further closed visits, whilst a prisoner is already on a closed visits regime Reviewing closed visiting arrangements Management of Closed Visits Appeals Enforcement of ban and identification of visitors Prisoner Transfer Bullying/Coercion Suicide and self harm Incentives and Earned Privileges Scheme Categorisation and Allocation Banning Visitors Assisted Prison Visits Annex A: Acceptable forms of identification Annex B: Measures to tackle drug smuggling through visits – Model Notices <ul style="list-style-type: none"> Prisoners Visitors Model letters | |

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1. **Executive summary**

Background

- 1.1 Visits are an important part of the rehabilitation of prisoners, allowing them to gain professional advice/support and enabling them to maintain family contact(s). *The decision to allow any visit must be balanced against the need to maintain security and keep prisoners in lawful custody. This instruction sets out the minimum measures to maintain security at visits.*

Desired Outcomes

- 1.2 The service supports the maintenance of security, order and public protection including preventing prisoners from escaping.
- 1.3 All processes support the discharge of Prison's responsibility to safeguarding children.
- 1.4 Personal property, not permitted within the prison can be securely stored and illicit items disposed of.
- 1.5 The visits booking process supports the maintenance of security and public protection.

Application

- 1.6 This PSI is applicable to all prison establishments and those staff who may come into contact with visitors.

Mandatory Action

- 1.7 *All instructions included in the National Security Framework (NSF) are mandatory. The NSF incorporates mandatory requirements derived from specifications relevant to its specific policy areas. This PSI incorporates mandatory requirements derived from the Visits specifications, which are highlighted in the shaded boxes.*
- 1.8 *Governors and Directors of contracted prisons must ensure they have local security strategies in place which are in accordance with the instructions set out in this PSI.*

Resource Impact

- 1.9 There may be some resource implications for establishments in updating local security strategies to ensure that they are in line with the requirements set out in this PSI.

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OPERATIONAL INSTRUCTIONS

Text in shaded boxes indicates specification requirements within the "Visits" specification.

Chapter 1 – CONTROLLING WHO VISITS

Social visits are conducted in a manner which ensures:

- Opportunity for reasonable physical contact. (Though closed visits may under some circumstances be necessary)
- Maintenance of security
- The safeguarding of children
- Public protection

The identity and authority of a visitor to enter or leave the prison is established before movement takes place.

- 1.1 *Staff must allow only authorised social and professional visitors to visit prisoners. The entry procedures applying to visitors must be clearly set out within the establishment's Local Security Strategy (LSS).*
- 1.2 *For convicted prisoners, staff must ensure that only those visitors with a valid Visiting Order (VO) are allowed a social visit with a prisoner. The VO must include the details of any children under the age of 18 who are accompanying the visitor(s). PSI 16/2011 Visits: Providing Visits and Services to Visitors. And PSI 34/2010 HDC Accommodation and Support Service - Change of Contract.*
- 1.3 Prison Rule 71 (YOI Rule 75(1) requires that visitors will submit to a search, be photographed and, where available, provide a personal electronic biometric as part of the entry procedures for visits. Refusal to comply with this requirement could result in either the cancellation of the visit or a closed visit at the Governor/Directors discretion. Any electronic system holding photographs or biometrics has to be operated and managed in compliance with PSO 9020 Data Protection 1998, Freedom of Information (FOI) 2000 and Environmental Regulation 2004 and PSO 9025 HMPS Archiving, Retention and Disposal Policy .

Visitor Recognition

The identities of all visitors are recorded and retained.

- 1.4 Any electronic or manual system holding photographs or biometrics has to be operated and managed in compliance with PSO 9020 Data Protection 1998, Freedom of Information (FOI) 2000 and Environmental Regulation 2004 and PSO 9025 HMPS Archiving, Retention and Disposal Policy.

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Establishments are aware of the identity of prisoners and visitors due to participate in a visit and information is shared to ensure a safe and efficient visit.

- 1.5 Since the Learmont report of 1995, it has been good practice for all establishments to have a visitor recognition scheme in place to aid staff in preventing prisoners from attempting to escape by posing as visitors leaving the prison. The Learmont report (recommendation 10) made it mandatory for all establishments that held Category A prisoners to operate such a system.
- 1.6 A visitor recognition scheme might consist of staff either physically marking the visitor on entry by some means not easily imitated by visitor or prisoner (e.g. ultraviolet stamping), or making a descriptive record of the visitor on entry (photograph, digital or video image, biometric measurement(s)) and comparing this record with the person seeking to leave. NSF 12 – Category A and Restricted Status Prisoners - Reviews of Security Categories PSI 03/2010.

Arrangement to safeguard visiting children

- 1.7 Convicted prisoners identified as presenting a risk to children will normally receive visits only from their own children and their siblings, and unaccompanied children under the age of 18 will not normally be allowed to visit such prisoners. The Public Protection Manual sets out measures to take when dealing with prisoners who pose a risk to children. *Risk assessment procedures must involve prison offender managers and where appropriate, a MAPPA assessment, and the local Police Intelligence Officer (PIO).*
- 1.8 *Gate staff, or other staff receiving visitors, must be made aware of the names of any children who are allowed to visit these prisoners and any other restrictions that may be in place.*
- 1.9 *Visits by children to convicted prisoners identified as presenting a potential risk to children must be closely supervised, and staff must intervene when any child is actively considered to be at risk.*

Acceptable forms of identification

- 1.10 *All visitors to prisons, other than accompanied children under the age of 16, whether visiting for social, professional or official purposes, must be required to prove their identity at the gate. Details of acceptable forms of identification for domestic and professional visitors are given at [Annex A](#).*
- 1.11 If in doubt, staff may telephone the visitor's employer (e.g. solicitors office, barrister's chambers, probation department) to check the visitor is bona fide. The telephone number should be obtained from a verifiable source (e.g. Law Society website, phone book or directory enquiries, not from the visitor).

The Management of visitors to Category A/High Risk Prisoners

There are checks on the approved visitor status of visitors to Category A prisoners.

- 1.12 Visitors to Category A or prisoners deemed to pose a high security risk must be registered on the Approved Visitors scheme (AVS) and comply with its security requirements. NSF 12 – Category A and Restricted Status Prisoners - Reviews of Security Categories PSI 03/2010

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- 1.13 *Photographs of all approved visitors must be held at the Gate, and the visitor checked against that photo. Any radical change of appearance will require the visitor to provide an updated image.*

Chapter 2 – VISITS MANAGEMENT AND CONTROL

A strategy, including searching, is in place to prevent unauthorised articles entering or leaving the prison during visits.

- 2.1 *The Local Security Strategy must include guidance on searching prisoners, visitors and vehicles. Policy guidance may be found in NSF 3.1 - Searching of the Person (PSI 48/2010) and NSF 3.2 - Cell Area and Vehicle Searching (PSI 49/2010). All searching must be carried out in accordance with searching policies as laid out in the NSF.*

All visitors are made aware of those articles not permitted to be brought into the prison.

- 2.2 *Visitors must be clearly informed of those articles that are prohibited from being brought into and/or possessed within the establishment **before** they visit the prison. Any guidance issued with visiting orders should clearly set out the potential penalties for ignoring this guidance. Details may be found within **NSF 6.3 - Conveyance and Possession of Prohibited Items and Other Related Offences**” (to be Published).*

The control of visits

- 2.3 *The LSS must set out the security procedures to ensure prisoners are prevented from escaping during a visit*
- 2.4 *Governors/Directors must ensure that their Local Security Strategies contain guidance for staff involved in the management and supervision of visitors and visits on the following;*

- *Their powers of search.*
- *Searching procedures.*
- *The use of technical aids to assist with searching procedures.*
- *The establishment's visitor recognition systems.*
- *Procedures to preserve evidence in the event of an incident.*
- *Local Contingency plans.*
- *Arrangements for visitor exit arrangements.*

- 2.5 *When making arrangements for visits, prison management and staff must seek to monitor visitor rooms closely, searching before and after the visit where necessary – Arrangements should also be in place to search prisoners and visitors entering and leaving visits rooms to:*

- *reduce the risk of escape or other security breach in the visits room by controlling who visits the prisoner, and by conducting visits in a secure manner; and*
- *prevent as far as possible the passing of unauthorised articles by maintaining good order and supervision wherever visits take place.*

Prisoners are identified and accounted for prior to the commencement of and at the conclusion of a visit.

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- 2.6 *Arrangements must be in place to identify and account for prisoners both before and after visits. Where appropriate, Governors have the discretion to require prisoners to wear distinctive clothing to aid staff.*

Supervision of visits

Visits can be monitored and reviewed during and following a visit.

- 2.7 *Local Security Strategies should include arrangements to manage, monitor, and review any visits to prisoners.*

Room Surveillance

- 2.8 *The LSS must set out the security procedures to ensure Systems are in place to prevent passing of unauthorised articles during visits*

- 2.9 Governors/Directors should ensure that the following are in place;

- *Social visits take place in full view of staff. The designated Visits Manager's workstation must be on a raised platform so they can easily oversee the whole visits room at all times when seated.*
- *Prison management must decide the ratio of fixed to mobile posts within the visits room according to local circumstances and staff requirements.*
- *In the case of high and exceptional risk prisoners, the visits room must be equipped with CCTV, recording either full time or multiplex.*
- *If it is decided to target a visit prior to it taking place, consideration must be given to obtaining a directed surveillance authorisation Function 4 - Communication and Surveillance*

A strategy for the supervision of visits areas that remains proportionate to the risk assessed, is agreed, documented, and followed.

- 2.10 *Prison Management must set out a policy to cover the supervision of visits. It must address the following issues:*

- *Prison management must ensure that all young adult offenders, and particularly those aged under 18 years old, are protected from becoming the target of attention from a visitor who poses a risk to children. Visits by children to convicted prisoners identified as presenting a potential risk to children must be closely supervised, and staff must intervene when any child is actively considered to be at risk.*
- *A system to prevent prisoners leaving the prison with visitors. This may include use of a visitor recognition system (physical marking of visitors e.g. ultraviolet stamping, or making a descriptive record of the visitor on entry e.g. photograph, video image, biometric measurement) and comparing this record with the person seeking to leave.*
- *The arrangement of furniture so as to enable appropriate levels of supervision by staff.*
- *The use and positioning of CCTV cameras and fixed furniture (mandatory in the High Security Estate).*
- *Staff must always search the visits room before allowing any prisoners to enter.*
- *A local policy for searching toilets before and after visits. Where prisoners and visitors share toilet facilities, and use the toilet during the visit, the toilet must*

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always be re-searched before the visit is allowed to continue. Local Searching Strategies must include provision for the random searching of shared lavatories following use by a prisoner or visitor during a visit - NSF 3.2 - Cell Area and Vehicle Searching (PSI 49/2010).

- *The number of visitors that can be accommodated per prisoner.*
- *The type of clothing that convicted prisoners must wear (e.g. prison issue or own clothing).*
- *Social visits may only take place where staff can see them.*
- *Official visits may take place out of hearing of, but in sight of staff, who must satisfy themselves that no unauthorised articles are passed.*

2.11 *Prison management must ensure that there are local procedures and guidance in place for staff managing and supervising visits and that staff in the relevant functions understand the policy on visits* PSI 16/2011 Visits: Providing Visits and Services to Visitors and they are fully briefed in:

- *supervising visits;*
- *visitor recognition systems;*
- *powers of search;*
- *searching procedures;*
- *prohibited items in prison;*
- *use of technical aids;*
- *preservation of evidence; and*
- *acceptable behaviour in the visits area;*
- *banned Visitors; and*
- *use of Closed Visits.*

Acceptable Behaviour

2.12 Reasonable physical contact between prisoner and visitors should be permitted, subject to security considerations and any public protection measures that may be in place. A notice should be clearly displayed advising prisoners and visitors of any local policy regarding physical contact and the consequences of non-compliance. PSI 16/2011 Visits: Providing Visits and Services to Visitors.

2.13 When it is necessary, visits may take place in a special or closed visiting room or a similar closed environment. In certain circumstances it may be necessary to impose restrictions or the level of physical contact between the prisoner and their visitor(s). The reason for any variation from local policy should be explained to both prisoner and visitor unless to do so would compromise the gathering of intelligence.

Chapter 3 – **THE APPLICATION AND MANAGEMENT OF CLOSED VISITS AND VISITOR BANS**

Summary

- 3.1 Closed visits ^{note1} may be imposed as administrative measures where necessary for the grounds specified in Prison Rule 34(3) (YOI Rule 9(3)). A ban on a visitor may only be imposed if the grounds within Prison Rule 35A(4)/YOI Rule 11(4) are satisfied:
- In the interests of national security;
 - for the prevention, detection, investigation or prosecution of crime;
 - in the interests of public safety;
 - for securing or maintaining security or good order and discipline in the young offender institution;
 - for the protection of health or morals;
 - for the protection of the reputation of others;
 - for maintaining the authority and impartiality of the judiciary; or
 - for the protection of the rights and freedoms of any person.
- 3.2 In the majority of cases these measures will be imposed to prevent the smuggling of contraband through visits. In which case:
- Closed visits should be imposed where there is an identified risk of smuggling prohibited items (List A, B or C items ^{note2}) through visits (see paragraphs [3.7](#) to [3.9](#)).
 - Banning visitors for the smuggling of prohibited items (normally List A or B items) should only occur if they are found to be engaging in this activity (see paragraphs [3.36 to 3.38](#)).
- 3.3 *Closed visits and visitor bans both engage ECHR Article 8 (Right to private and family life) and as such (a) cases must be considered on an individual basis; (b) any decision to impose closed visits or bans must be proportionate to the risk they are meant to be reducing and (c) any measures imposed must be reviewed on a regular basis (see paragraphs [3.10 to 3.11](#) & [3.16 to 3.17](#))*
- 3.4 Closed visits and visitor bans may, in the first instance, be imposed for up to three months duration. Governors/Directors may impose closed visits/bans for shorter or longer periods if they feel the circumstances warrant this. *Closed visits must not be based on a prisoner's visits entitlement for a particular period, nor continue indefinitely until a specific number of visits have been forfeited (see paragraphs [3.18 to 3.21](#))*
- 3.5 *Governors/Directors must ensure that prisoners and/or visitors are informed of the sanctions that may be put into place in the event of any suspected or proven inappropriate behaviour during visits (see [Annex B](#) for model notices). Options include:*
- banning visitors;
 - placing a prisoner on closed visits;
 - adjudication (for prisoners); PSO 2000 Adjudications
 - detention and possible arrest (Visitors). Link here to NSF 3.1 - Searching of the Person (PSI 48/2010)

¹ The term "closed visits" as used here applies to any form of visit where the prisoner and visitor are prevented from having any form of physical contact and prevented from passing any item. This is most often achieved with a physical screen or barrier but may also be achieved through strict supervision in a "non-contact" visit.

² See PSO 1100 – Conveyance of unauthorised items and other related offences

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- 3.6 Powers to impose restrictions on visits and visitors are set out in Prison Rules 34 (Communication) and 73 (Visitors) (YOI Rules 77 Visitors).

APPLYING CLOSED VISITS TO PRISONERS

- 3.7 Closed visits are an administrative measure, not a punishment. As such, they can be applied regardless of whether or not a prisoner has been charged at adjudication with smuggling prohibited items through a visit. Care should be taken to ensure the notification of closed visits is quite separate from any adjudication procedures. Administrative measures may be applied using evidence which equates to a “balance of probabilities” rather than the “beyond reasonable doubt” test for adjudications.
- 3.8 Closed visits should be applied where prisoners are proved or reasonably suspected of involvement in prohibited item smuggling through visits, or are considered to pose a reasonable risk of involvement: or when the application of closed visits is otherwise necessary for the grounds specified at [3.1](#) above.
- 3.9 Closed visits will usually be applied in cases involving the smuggling of any prohibited item - List A, B or C ^{note2} - provided that the guidance below on proportionality and management of closed visits is followed. Whilst smuggling items such as weapons, drugs and mobile phones present clear threats to the prison, isolated examples of smuggling of list C items such as food and books, are unlikely, without other aggravating factors, to be of sufficient threat to warrant the imposition of closed visits.
- 3.10 Establishments should be able to demonstrate that in deciding to apply closed visits they: (a) have taken into account all the individual circumstances of the case; (b) have acted proportionately; and, (c) have kept the requirement for the closed visit under review. *In applying closed visits establishments must consider the following:*
- *type of prohibited item suspected of being smuggled and the threat it poses to the establishment;*
 - *any previous history of involvement with that item, i.e. pattern of drug use as demonstrated by MDT, evidence from prisoners security file, etc;*
 - *whether this is an isolated example or a repeat offence;*
 - *analysis/use of intelligence or incidents indicating patterns of misuse of drugs or use/trafficking of mobile phones, or other contraband, derived either from visits or from behaviour in the prison;*
 - *CCTV evidence or actual possession of prohibited items on a post-visit search;*
 - *correspondence/telephone monitoring evidence of attempted or actual smuggling through visits;*
 - *finds from cell searches; and,*
 - *the prisoner’s index offence and criminal record.*
- 3.11 A single positive MDT should not necessarily be taken to provide sufficient evidence of smuggling of drugs or of a risk of the prisoner being persuaded to smuggle. Given the need for proportionality, where failed MDTs are the only factor, closed visits should normally be imposed only after repeated MDT failures, rather than after just one failed MDT unless there are other aggravating factors.

Length of closed visits periods for prisoners

- 3.12 *Closed visits must be applied for a specific period of time for which a prisoner is considered to be at risk and not for a specific period’s entitlement or a set number of visits.* This is the case whether the prisoner is convicted or remand. Some prisoners may choose to take no visits or fewer visits whilst under closed visiting conditions. Their statutory visits order entitlement should not be affected.

Application of further closed visits, whilst a prisoner is already on a closed visits regime

- 3.13 If a prisoner is already on a period of closed visits, and a further incident occurs, indicating they still pose a risk of smuggling prohibited items (and are likely to when those closed visits end), the prison may wish to impose a further period of closed visits. This is acceptable, given that the prisoner poses a renewed risk.
- 3.14 *The prisoner must not, however, be expected to complete the initial period of closed visits before starting the second period.* For example, if a prisoner is placed on three months closed visits in January (to end in April), and then in February there is a further incident indicating continued risk and a further three months of closed visits are imposed, this second closed visits period should commence immediately and run concurrent with the remaining period of the first. The prisoner would therefore end his closed visits in May, and not in July.
- 3.15 If the prisoner was required to serve closed visit periods consecutively, there would be a strong likelihood that the period for which he/she remained on closed visits would bear little relation to the actual risk posed. This would not be a proportionate response to risk.

Reviewing closed visiting arrangements

- 3.16 The decision to place a prisoner on closed visits should not be the end of the process. *Prisons must be alive to the possibility that circumstances can alter, rendering the closed visits no longer necessary or proportionate.* Examples may include:
- Prisoner completes a drug treatment programme and there are clear indications that they no longer pose a risk of smuggling drugs; or
 - Prisoner has had negative MDTs and there are no indications of drug abuse or drug dealing activity.
- 3.17 *All prisoners on closed visits must be reviewed every month to assess whether there is a continuing need for closed visits. The level of risk must be reassessed using criteria such as those mentioned in paragraph 3.10.* If during the original prescribed period of closed visits (normally 3 months) there is further evidence that the prisoner is still at risk, an additional period of closed visits may be applied in line with paragraph 3.13-3.14, above. *Such closed visits must continue to be subject to a monthly reassessment of risk.*

Management of Closed Visits

- 3.18 Closed visits for smuggling should normally be used in the following circumstances:
- (a) For visitors who are found to be smuggling prohibited items or identified as at risk from doing so.*
- 3.19 After the expiry of any visiting ban: a period of three months closed visits will normally be appropriate, though Governors have discretion to vary this according to what is felt necessary.
- 3.20 In cases where a ban was found to be inappropriate: the period of closed visits will normally correspond with the length of ban that would have been imposed plus any further period deemed necessary.
- (b) For prisoners found or believed to be involved in smuggling prohibited items.*

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- 3.21 Irrespective of any visitors banned or put on closed visits, the prisoner will normally need to take visits in closed conditions as a precautionary measure to prevent the passing of drugs or other prohibited items by either the suspected visitor or any other visitor whom the prisoner may seek to persuade to supply prohibited items. It is for the Governor to decide the period of the closed visit, but it will normally be for at least three months unless there are other factors that would suggest a lower or higher period.

Appeals

- 3.22 For prisoners, appeals against the decision to ban a visitor, to impose closed visits or to apply any other restriction should be dealt with through the normal Request and Complaints arrangements. In the case of bans and closed visits Governors should expedite appeals to ensure that they are resolved within a month of the original imposition of the ban or closed visits. If, in the light of an appeal, it is considered that the ban should not have been applied, the number of visits lost (if any) should be reinstated.
- 3.23 For visitors, the model letters at [Annex B](#) invite the visitor to write to or telephone the Governor if they consider that the decision to ban is unacceptable. Governors should review the decision to ban and the duration of any ban imposed and should give the visitor a reply in writing. If the Governor does not wish to rescind or amend the initial decision the matter should be referred to the Deputy Directors of Custody (or Director of High Security Prisons) for a final decision.

Enforcement of ban and identification of visitors

- 3.24 Governors should ensure that there are arrangements for the effective enforcement of the ban. It is important that the policy is seen by prisoners and visitors to be applied effectively and fairly. If banned visitors are able to circumvent the bans imposed problems will result. Governors should therefore satisfy themselves that they have effective arrangements for;
- recording decisions to ban or impose closed visits (this should normally be recorded on NOMIS);
 - identifying visitors who are banned;
 - preventing them from visiting during the period of the ban, and
 - ensuring that visitors who have been banned are not prevented from, resuming visits after completion of the ban.
- 3.25 Those attempting to circumvent the ban will normally be banned for a further month.

Prisoner transfer

- 3.26 When a prisoner transfers within the period for which he or she is subject to closed visits, or for which a visitor to that prisoner is banned, the Governor of the sending establishment should ensure that relevant information is passed on with the prisoner.
- 3.27 The receiving prison should ensure that any restrictions on the prisoner are maintained for the remainder of the period for which they were due to apply at the originating prison.
- 3.28 The ban imposed on a visitor by the Governor of a prison is valid for that prison only. The Governor of the receiving establishment should normally therefore impose a ban on the visitor for the remaining period of the ban imposed by the Governor of the sending establishment. The duration of the ban may not be increased for any reason arising out of the original incident - that is, the new Governor may not give a longer ban just because he or she thinks the previous Governor gave too short a ban.

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- 3.29 APVU will ensure that assistance to visitors who have been banned is terminated for the period of the ban.

Bullying/Coercion

- 3.30 There is a risk that prisoners who want prohibited items brought in (and their *visitors*) will pressurise other prisoners and their visitors to carry the drugs for them and therefore to carry the risk of suffering these sanctions. *Staff should be aware to this possibility and the Governor must decide if, on the balance of probabilities, individual cases of this type of coercion qualify as 'exceptional circumstances' such that a restriction is not warranted. In these circumstances governors should instead investigate what support and/or protection can be offered to the prisoner to prevent further pressure and coercion.*

Suicide and self harm

- 3.31 The prospect of losing visits for a period may, for some prisoners, increase the risk of self harm or suicide. Governors should take such concerns into account in deciding whether to apply a ban and in deciding the duration of the ban. If Governors consider that the prospect or experience of a ban will significantly affect the risk of self harm or suicide they should consider applying closed visit conditions instead.
- 3.32 Where a prisoner is already on open ACCT, serious consideration should be given as to whether a ban will have a deleterious effect upon the prisoner. Governors should also take account of any known previous history of self harm and the significance of the visitor(s) in reducing the risk of self harm.

Incentives and Earned Privileges Scheme

- 3.33 *Administrative decisions taken under local Incentives and Earned Privileges schemes which affect movement between privilege levels must be based on an assessment of a pattern of behaviour.* These are quite separate from decisions taken through the formal discipline system which punishes specific instances of offending against the Prison and YOI rules.
- 3.34 Anti-social behaviour such as the smuggling of drugs and other prohibited items should be a key *criterion* in any local Incentives and Earned Privileges scheme and incidents of drug smuggling must be taken into account during the periodic assessments of a prisoner's suitability to remain on a particular privilege level, or progress to a higher level. An individual incident of misbehaviour such as drug smuggling would not necessarily, of itself, warrant a downgrading in privilege level. But a particularly serious offence (or a number of less serious incidents), would be more likely to result in such a change. (Detailed guidance on the operation of the IEP scheme and considerations to be taken into account in allocating prisoners to different privilege levels is contained in PSI 10/2011 Residential Services and PSI 11/2011 Incentive and Earned Privileges

Categorisation and Recategorisation

- 3.35 When the prisoner's categorisation or allocation needs to be reviewed the history of smuggling of prohibited items may be one factor in determining the prisoner's control needs and consequent allocation **NSF Function 1 (PSI xx/2011 Categorisation and Recategorisation of Adult Male Prisoners and PSI xx/2011 Categorisation and Recategorisation of Women Prisoners and PSI xx/2011 Categorisation and Recategorisation of Young Adult Male) – (To be Published).**

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BANNING VISITORS

- 3.36 Prison Rules 73 and 35A(4) and /YOI Rules 11(4) and 77 allow the Governor, acting on authority delegated from the Secretary of State, to prohibit social visits (other than those ordered by the independent Monitoring Board) to a prison or a prisoner for a specified period. But this power has to be exercised in a reasonable manner in order to be lawful.
- 3.37 *If visitors are found to be smuggling drugs, mobile phones or any other List A or B prohibited item that may cause a significant threat to the safe running or general security of the prison, then a ban must be the normal response.* This is the case whether the visitor is a family member, friend, or other social visitor. It is not generally appropriate to impose bans on visitors for List C prohibited items unless these are other serious aggravating factors. *The ban must normally be of at least three months. It is for the Governor to decide whether a longer or shorter ban is appropriate in all the circumstances.*
- 3.38 *Visitors must be banned for the smuggling of prohibited items only if they are found to be engaging in this activity: for example the visitor is:*
- *caught in possession of drugs during a search;*
 - *caught in possession of a mobile phone during a search and the prison have reason to believe that the visitor was deliberately trying to smuggle the phone to the prisoner;*
 - *seen passing an item believed to be prohibited to the prisoner who is subsequently either found in possession of the item on leaving visits or unable to give a satisfactory account of what was passed , and*
 - *a prisoner is found in possession of a prohibited item and either the prisoner or the visitor admits this visitor supplied it (and there is no reason to believe otherwise).*
- 3.39 *Visitors must not be banned purely on the basis of an indication by a drug dog (though this may be reasonable grounds for a search without consent or a closed visit for that particular visit – NSF 3.1 - Searching of the Person (PSI 48/2010) or on the basis of intelligence alone, unless that intelligence contains clear and persuasive evidence of smuggling or racketeering.*
- 3.40 In exceptional circumstances, the Governor has discretion not to impose a ban. It will be appropriate to exercise this discretion in the following circumstances:
- If a ban would cause disproportionate harm to the prisoner's or visitor's right to a family life (protected by the European Convention on Human Rights (ECHR) Article 8) ^{note3}.
 - If a ban would cause disproportionate harm to the rights of the prisoner's child or children to access to a parent (UN Convention on the Rights of the Child, Article 9 (3)) ^{note4}.
 - If the prisoner is a young person and a ban would cause disproportionate harm to his or her right of access to a parent.

³ Everyone has the right to respect for his private and family life, his home and correspondence. There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law, for the necessary in a democratic society in the interests of national security, public safety or the economic well being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights of freedom and others.

⁴ UNCRC, Article 9(3):

States Parties shall respect the rights of the child who is separated from one or both parents to maintain personal relations and direct contact with both parents on a regular basis, except if it is contrary to the child's best interests

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- For exceptional compassionate or other grounds.
- 3.41 Examples of where a ban might cause disproportionate harm to a prisoner's right to a family life might be if the visitor concerned was the only family member who visited the prisoner. *If a three month ban is not appropriate, the Governor must consider a shorter ban. If this too would cause disproportionate harm to the prisoner's right to a family life, the Governor must consider closed visits instead of a ban.* The length of the ban in relation to the length of the prisoner's sentence is relevant here: a three month ban would encompass the whole period of imprisonment of a person serving six months.
- 3.42 Examples of a ban that might cause disproportionate harm to a child's right of access to a parent might be if the banned visitor were the person who normally brought the prisoner's children to visit, and there seemed little prospect of anyone else doing so. *The Governor may find it useful in these circumstances to talk to Social Services, and to consider what other arrangements might be made to allow the children to visit without the offending person; if this is not possible and is not appropriate, the Governor must consider closed visits.*
- 3.43 *For a young person whose parent is caught smuggling in drugs, Governors must again weigh up all the circumstances before deciding whether a ban (of any length) is appropriate. If a ban is not appropriate, the Governor must consider closed visits.*
- 3.44 Governors will also need to have regard to the risk of self harm or suicide. If either the prospect of a ban or its likely effect when in place would increase the risk of self harm or suicide Governors should consider imposing closed visits rather than a ban.
- 3.45 These circumstances are most likely to arise with prisoners who are already known to be at risk, and during the 30 days after first reception.
- 3.46 *However, it must be remembered that in most instances a prisoner who has a banned visitor will continue to receive visits from other visitors and, unless his or her visits entitlement is affected by a change in IEP level, may receive more frequent visits from some of those other visitors.*
- 3.47 Longer than normal bans might be appropriate:
- where it is already the policy at the prison to apply a ban longer than 3 months as a norm;
 - where a visitor has been caught twice or is caught again following the end of one period of ban;
 - if the visitor has sought to circumvent a ban (in which case a further ban of one month will normally be added);
 - if the visitor is known to be seriously involved in drugs trafficking, or
 - if the drug passed is a Class A drug or is in large quantity.

Assisted Prison Visits

- 3.48 APVU will ensure that assistance to visitors who have been banned is terminated for the period of the ban.

Acceptable forms of Identification - Members of the general public

Visitors may identify themselves using one of the following:

- passport, including foreign passports, and time expired passports where the photograph is still recognisable;
- C identity card;
- driving licence;
- benefits book;
- senior citizen's public transport photo pass issued by local authority;
- employer's or student ID card but only if this clearly shows the name of the visitor and the employer or educational establishment, and has a photograph or signature which can be compared with the visitor's appearance or signature, and if the Foreign Nationals identity card

If the visitor is unable to produce one of the above, staff may accept combinations of two or more of the following:

- birth/marriage certificate;
- cheque book or credit/debit card (counts as one: do not accept as two);
- employer's pass or ID or student ID card not acceptable under 4vi above;
- young person's 'proof of age' card;
- trade union or National Students' Union membership card;
- rent book;
- foreign identity or residents' card (other than EC ID cards acceptable in their own right);
- expired documents from the above lists that appear satisfactory in other ways;
- and
- ID card from a recognised prison visitors' organisation (e.g. New Bridge); the name on the card may differ from that on the VO, but provided the visitor has other identification to back up the ID card, and provided staff have no reason to doubt their bona fides, then this will form acceptable identification, and
- Citizen Card.

Staff retains discretion to accept any other forms of identification, singly or in combination, that clearly identify the visitor in a satisfactory way.

Acceptable forms of identification – Professional visitors

The following documents are examples of forms of acceptable identification for professional visitors;

1. Members of either House of Parliament: Houses of Parliament ID card;
2. Legal advisers: identity card issued by firm/chambers, or introductory letter on headed letter paper of firm/chambers;
3. Police, UK Border Agency and HM Revenue & Customs officers: warrant card;
4. Probation officers: probation department ID card;
5. Staff from other prisons, HQ or Home Office staff: Ministry of Justice, Prison Service, or Home Office photo security pass;
6. Consular officials: consular ID card;
7. Other public officials: departmental or local authority pass or ID card (but only if it shows the name of the visitor and the name of the department or local authority);
8. Social workers identification cards :

UNCLASSIFIED

9. Researchers: Security Photo pass or official letter (*visits must be pre-arranged*),
and
10. NHS photographic identification badge/card. Independent sector healthcare
photographic identification badge/card.

Measures to tackle drug smuggling through visits – Model Notices**Prisoners****How these measures will affect you:**

With effect from 1 April 1999 the following measures apply to prisoners the prison through visits.

- If you are found with drugs in possession in the visits room or immediately after a visit, you will be liable to adjudication, carrying a wide range of penalties, including up to 42 additional days to be served in prison.
- If you are found with drugs in possession in the visits room or immediately after a visit, or if we have reasonable grounds to suspect you of smuggling drugs through visits, you will be liable to the following:
 - closed visits for all visits for a minimum period of three months visits entitlement
 - additional drug urine tests;
 - additional searching; and
 - smuggling incidents are liable to be taken into account when Incentives and Earned Privilege (IEP) status, categorisation or allocation are reviewed.

These measures are at the Governor's discretion and may be appealed through Request and Complaints procedures.

If you are being pressured to bring drugs in, *you* can [add local anti-bullying arrangement]

How they will affect your Visitors

You should be aware that any person caught bringing drugs into the prison or handing them over in visits will normally be banned from the prison for at least three months. This means they will not be able to visit you for at least three months. After this they will normally have to visit you in closed conditions for a further three months. They will also be targeted for searches.

It is also our policy to call the police and to press for charges of possession with intent to supply and/or offences of conveying into prison of unauthorised articles. Please do not put your visitors in this position by asking them to bring contraband into the prison for you or anyone else.

Whether or not a ban or closed visits are imposed, and for how long, are matters for the Governor to decide. Although the Governor will normally impose these, [he/she] may take into account all the circumstances of the case, including the nature of your relationship with the visitor, in reaching a decision.

If you feel the ban on your visitor will cause you serious problems, you can take the matter up through, the request and complaints procedure. Your visitor can appeal the ban by contacting the Governor with reasons.

Visitors**Measures to tackle drug smuggling through visits**

It is an offence to bring drugs into prison. Prison Rule 71 requires all visitors to submit to a search as part of the prisons entry procedures. This may consist of a rub-down search by staff and/or the use of a passive search dog. Please be aware that the following action may be taken;

- A passive dog indication on its own can lead to a closed or non-contact visit being immediately implemented.

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- If you are found to have brought drugs into the prison or handed them over to a prisoner, we will call the police, and we will press for charges of possession with intent to supply. This can result in a prison sentence.

From 1 April 1999, additional measures will apply.

If you are found in possession of drugs, or if you are caught passing drugs to a prisoner, you will be liable to the following:

- reported to the police with a view to prosecution for possession of drugs with intent to supply;
- banned from the prison. You will normally be banned for at least three months. This means you will not be able to visit any prisoner here. If the prisoner you were visiting moves the ban will normally follow to the new prison;
- after the ban, to have your visits in closed or non-contact conditions. This will normally be for a further three months. This means you will not be able to touch the prisoner and there may be a glass screen between you.
- searched every time you visit until we are satisfied you are no longer a risk.

Whether to ban you or impose closed visits, and for how long, are matters for the Governor. You can appeal the decision by writing to or telephoning the Governor.

You should also be aware that prisoners found to be involved in smuggling drugs through visits are treated very firmly. Drug smuggling can result in disciplinary proceedings, which carry a wide range of penalties, including up to 42 additional days to be served in prison. It can also result in closed visits, additional urine tests, extra searches (which may be full searches), and it can affect what privileges they are allowed, their security category, and what prison they are sent to next.

Please do not put your friend or loved one in this position by agreeing to requests to bring in drugs, and never bring drugs as a present.

If you or the prisoner you are visiting are being pressurised to bring drugs in, you can speak in confidence to staff at the visitors' centre [delete if does not apply] or [add local arrangements for reporting bullying etc.]

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Model letters to visitors who are banned from the prison, and warning letters

Letters imposing bans must be copied to the Assisted Prison Visits Unit

Visitor found to be carrying drugs

On [date] you visited [name of prisoner], a prisoner at this prison,

On that occasion you [were found to be in possession of drugs / passed drugs to [name of prisoner]

Drugs cause many problems in prisons. We need to protect prisoners from drugs and the problems they cause. We need to do all we can to stop prisoners getting hold of them.

Because of this, I have decided that you should not visit the prison for [three months.]

You will not be allowed into the prison until [date].

After that, you may start visiting again [but you will have to take the visits in closed or non-contact conditions for a further [three months]. This means you will not be able to touch the prisoner and there may be a glass screen between you. This will last until [date].

You will be searched every time you come to visit until we are satisfied you are no longer a risk.

If I find you have tried to come into the prison while banned, I will add an extra [month] to the ban.

If there are special reasons I do not know about which you think mean you should not be banned, please write to me and I will reconsider. If you would find it hard to write a letter, please phone the following number.

Letter to multi-prisoner visitor found to be smuggling where exceptionally no ban is imposed on visits to one of the prisoners

On [date] you visited [name of prisoner], a prisoner at this prison.

On that occasion you [were found to be in possession of drugs I passed drugs to [name of prisoner]

Drugs cause many problems in prisons. We need to protect prisoners from drugs and the problems they cause. We need to do all we can to stop prisoners getting hold of them.

Because of this, I have decided that you should not visit the prison for [three months.], except to see [name of excepted prisoner] [I am making an exception for that prisoner because].

But you will have to take these visits in closed or non contact conditions. This means you will not be able to touch the prisoner and there may be a glass screen between you, These restrictions will last until [date] I After that, you may start visiting again[, but you will have to take them in closed or non-contact conditions for a further [three months]. This will last until [date].

You will be searched every time you come to visit until we are satisfied you are no longer a risk.

If I find you have tried to visit other prisoners while banned, I will add an extra [month] to the ban.

UNCLASSIFIED

If there are special reasons I do not know about which you think mean you should not be banned, please write to me and I will reconsider. If you would find it hard to write a letter, please telephone the following number:

Warning letter to visitor found to be smuggling where exceptionally no ban is imposed

On [date] you visited [name of prisoner], a prisoner at this prison.

On that occasion you [were found to be in possession of drugs / passed drugs to [name of prisoner]

Drugs cause many problems in prisons. We need to protect prisoners from drugs and the problems they cause. We need to do all we can to stop prisoners getting hold of them. Because of this, I would normally ban you for [three months.]. However, [because *****], I have decided to make an exception in your case.

However, you will have to take your visits in closed or non contact conditions for [six months]. This means you will not be able to touch the prisoner and there may be a glass screen between you.

These restrictions will last until [date]

You will be searched every time you come to visit until we are satisfied you are no longer a risk.

If there are special reasons I do not know about which you think mean you should not be subject to these arrangements, please write to me and I will reconsider. If you would find it hard to write a letter, please telephone the following number.



विदेश मंत्रालय, नई दिल्ली
MINISTRY OF EXTERNAL AFFAIRS
NEW DELHI

No. J/411/04/2017

The Ministry of External Affairs, Government of the Republic of India presents its compliments to the High Commission of the Islamic Republic of Pakistan in New Delhi and has the honour to refer to the Notes Verbale No. Ind (I)-5/20/2017 dated 30 August 2017 and 26 October 2017 of the Ministry of Foreign Affairs of the Islamic Republic of Pakistan regarding request for assistance in so-called 'investigations' in the case of Indian national Mr. Kulbhushan Sudhir Jadhav.

In this context, the Ministry of External Affairs of India has the honour to draw attention to the Note Verbale No. J-411/8/2016 dated 19 June 2017 issued by the Ministry and further convey that the Ministry of Foreign Affairs of Pakistan's Note Verbale dated 31 May 2017 has already been replied to and does not merit any further comment. The Notes Verbale dated 30 August 2017 and 26 October 2017 of the Ministry of Foreign Affairs of Pakistan are yet another step in the same direction of propaganda. The Government of Pakistan has acted in brazen violation of its obligations under the Vienna Convention on Consular Access 1963 and has violated the rights of the Republic of India and of Mr. Jadhav.

The Government of India finds it ironical that the Government of the Islamic Republic of Pakistan in its Notes Verbale dated 30 August 2017 and 26 October 2017 seeks to invoke the UN Security Council Resolution 1373 (2001) which obliges States to afford measures to deal with the menace of terrorism, a subject matter where Pakistan has and continues to violate international and humanitarian laws. India has on more than one occasion sought cooperation of Pakistan in investigation of acts of terrorism including terrorist attacks in Mumbai (2008) and on Air Force Base in Pathankot (2016) where clear evidences of planning, support and launch of attacks into India from

Pakistan, have been provided. The Government of Pakistan's response has always been far short of its obligations under international law generally, and specifically under the resolution which it seeks to cite in its Notes Verbale of 30 August and 26 October 2017.

The Ministry further regrets to note that the 'requests' made by the Government of Pakistan by way of its Notes Verbale of 30 August 2017 and 26 October 2017 are farcical attempts at propaganda and endeavour to distract from its own violations including its acts and omissions which are the subject matter of the proceedings before the International Court of Justice. The "requests" did not furnish any evidence whatsoever, and in fact did not even makeover to India the charge sheet and the evidence that must have been filed against Mr. Jadhav. All that the Government of Pakistan has done so far is to repeatedly demand an explanation, as it were, from India in respect of a purported document that looks like a passport, and which, on the allegations made by Pakistan is clearly a forgery. It is also surprising that on one hand the Government of Pakistan has raised questions on the provenance of the document that looks like passport and on the other seeks explanations from India in relation to the same document. Beyond this, and apart from the patently doctored confessional videos, different versions of which have been aired, there is not a scintilla of evidence provided by the Government of Pakistan.

The Ministry of Foreign Affairs of Pakistan in its Notes Verbale seeks to characterize its request as one for "mutual legal assistance". The Ministry of External Affairs has the honour to remind the Government of Pakistan that such requests are made under Mutual Legal Assistance Treaties and that there is no such treaty between India and Pakistan. Further, requests under such treaties have to be made bonafide for investigation. It is necessary to furnish all such information as may be sought by the receiving country to satisfy itself that the request is worthy of credence. In the present case, the letters which have been characterized as the requests for mutual legal assistance, are no more than attempted propaganda and have been suitably responded to from time to time. These communications do not satisfy the standards that requests for Mutual Legal Assistance need

to satisfy and would not have been worthy of a response even if there was such a Treaty.

The UN Security Council Resolution 1373 (2001), in paragraph 3, calls upon States to exchange information in accordance with international and domestic law, and to cooperate, particularly through bilateral and multilateral arrangements and agreements, to prevent and suppress terrorist attacks and take action against perpetrators of such acts. Pakistan is unable to cite any bilateral or multilateral Treaty on the basis of which it asserts the right, as it were, to demand explanations from another sovereign State. The suggestion that India has violated any provision of the Security Council Resolution has no merit.

The other new feature of the Ministry of Foreign Affairs of Pakistan's Note Verbale dated 26 October 2017 is a suggestion that India seek extradition of Mr. Jadhav. India has no reason to allege that Mr. Jadhav has committed any crime for which he is to be tried in India. On the contrary Mr. Jadhav, an Indian national, has been illegally detained by Pakistan, denied his rights under the Vienna Convention as well as under various human rights covenants and principles of international law that have recognized the need to protect human rights even of those accused of heinous crimes. The only thing worthy of notice is the clumsy contradictions in Pakistan's stance. The Note Verbale of 26 October 2017 states that all these "requests" are being made while continuing to maintain a challenge on the ground that India has failed to establish the nationality of Mr. Jadhav. The Government of India has the honour to draw attention to all the hitherto communications from the Government of Pakistan from the time of Mr. Jadhav's illegal detention have clearly stated that he is an Indian national. The challenge to the proceedings in the International Court of Justice on the ground that India has not proved Mr. Jadhav's nationality border on the absurd.

In view of the above, the documents sent along with Ministry of Foreign Affairs of Pakistan's Note Verbale of 30 August 2017 are returned herewith.

The Ministry of External Affairs, Government of the Republic of India avails itself of this opportunity to renew to the High Commission of the Islamic Republic of Pakistan in New Delhi the assurances of its highest consideration.

December 11, 2017
New Delhi

**The High Commission of the Islamic Republic of Pakistan
New Delhi**



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MINISTRY OF FOREIGN AFFAIRS
ISLAMABAD

No. Ind(I)- 5/20/2018

The Ministry of Foreign Affairs of the Islamic Republic of Pakistan presents its compliments to the High Commission of the Republic of India in Islamabad and has the honour to refer to the letter from India's Ministry of External Affairs (reference No. J/411/04/2017) dated 11 December 2017.

The Ministry of External Affairs in essence advances four contentions (each addressed in turn below):

- (A) India considers Pakistan's invocation of UN Security Council Resolution 1373(2001) in the case of Commander Kulbhushan Sudhir Jadhav "*ironical*"
- (B) India considers the passport in Commander Jadhav's possession to be "*clearly a forgery*"
- (C) India considers that the lack of a Mutual Legal Assistance Treaty between India and Pakistan means that India does not have to assist Pakistan or answer the legitimate questions posed by Pakistan in respect of Commander Jadhav
- (D) Commander Jadhav is not considered to have committed any crime for which he is to be tried in India

Furthermore, India has again purported to return the Request for Mutual Legal Assistance (the "Request") sent by Pakistan to India on 23 January 2017 in respect of the investigation of the offences committed by Commander Jadhav.

Addressing each contention in turn in summary herein below, and without prejudice to Pakistan's position as repeatedly stated otherwise:

- (A) **India considers Pakistan's invocation of UN Security Council Resolution 1373 (2001) in the case of Commander Kulbhushan Sudhir Jadhav "*ironical*"**

Pakistan respectfully observes that the response provided by India does not address the failure on the part of India to provide mutual legal assistance as

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requested, pursuant to its mandatory international law obligations. Pakistan invites India to fully explain its position in this regard.

(B) **India considers the passport in Commander Jadhav's possession to be "*clearly a forgery*"**

Pakistan invites India to provide full particulars of the basis upon which it contends that the passport is a forgery, including but not limited to:

- (i). Full details of any investigations carried out (when, by whom and the outcome) to ascertain when and how Commander Jadhav came into possession of the Indian passport (according to India a forged document and thus a "purported Indian passport") number L9630722 issued on 12 May 2015 in the name of 'Hussein Mubarak Patel' ("the Passport")
- (ii). Full details of any investigations carried out (when, by whom and the outcome) as to how the Passport was generated, by whom, where and when
- (iii). Full details of any investigations carried out (when, by whom and the outcome) as to the identity in which the Passport was issued including but not limited to:
 - (a). Is there someone called 'Hussein Mubarak Patel' – if so, what is his date of birth, place of birth, residence, occupation?
 - (b). If such a person exists, does he hold a valid Indian passport? If so, when was such a passport first issued?
 - (c). If there is no one on any official records (including birth certificate registry) in India by the name of 'Hussein Mubarak Patel' (please confirm), what steps have been taken (when and by whom) to investigate how this identity was used by Commander Jadhav?
- (iv). Is it India's contention that the use of a "*clearly forged*" document (which India's contentions must entail is a forged Indian passport) is not a criminal offence in India?

- (v). Is it India's contention that the use of a false identity *per se* or within a "*clearly forged*" travel document/passport is not a criminal offence in India? 227
- (vi). What are the main evidential and factual reasons for India to contend that the Passport is "*clearly a forgery*" as opposed to an authentic Indian passport?
- (C) India considers that the lack of a Mutual Legal Assistance Treaty between India and Pakistan means that India does not have to assist Pakistan or answer the legitimate questions posed by Pakistan in respect of Commander Jadhav

India is invited to address in full detail why it considers that international law and State practice supports its contentions in this regard.

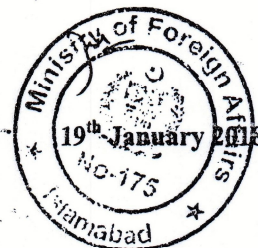
- (D) Commander Jadhav is not considered to have committed any crime for which he is to be tried in India

Pakistan notes the statement made by India in this regard, notwithstanding Commander Jadhav's possession and use of (according to India) a "*clearly forged*" travel document.

Pakistan reiterates that it does not consider that the purported return of the Request in any way excuses the failure on the part of India to comply with its international obligations. To facilitate India's compliance the Request is provided again.

The Ministry of Foreign Affairs of the Islamic Republic of Pakistan avails itself of this opportunity to renew to the High Commission of India the assurances of its highest consideration.

High Commission of the Republic of India,
Islamabad.



Copy to:- Pakistan High Commission, New Delhi 3

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विदेश मंत्रालय, नई दिल्ली
MINISTRY OF EXTERNAL AFFAIRS
NEW DELHI

No. J/411/8/2018

The Ministry of External Affairs, Government of the Republic of India presents its compliments to the High Commission of the Islamic Republic of Pakistan in New Delhi and has the honour to refer to the Notes Verbale No. Ind (I)-5/20/2018 dated 19 January 2018 of the Ministry of Foreign Affairs of the Islamic Republic of Pakistan regarding the request for assistance in so-called 'investigations' in the case of the Indian national Mr. Kulbhushan Sudhir Jadhav.

In this context, the Ministry has the honour to draw attention to its earlier Note Verbale No. J -411/8/2016 dated 19 June 2017 and Note Verbale No. J/411/04/2017 dated 11 December 2017 vide which the Ministry has replied to the same Request that is aimed at propagating falsehood and propaganda by Pakistan in the matter. It is reiterated that:

- (i) the fact that the Indian passport bearing name 'Hussein Mubarak Patel' allegedly recovered from Mr. Jadhav during his apprehension "was patently false" was originally mentioned in the Ministry of Foreign Affairs of Pakistan's Note Verbale dated 31 May 2017 and is not an assertion made by India. Pakistan alleges that this passport was "recovered" from Mr. Jadhav. However, Pakistan has failed to provide any particulars of the evidence against Mr. Jadhav. The conduct of Pakistan establishes that all these allegations are false and an attempt at spreading disinformation. While the record of the Trial is not made available, his alleged "confession" has been already released to the media. Like the alleged "confession", India also rejects

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all allegations of his being in possession of a forged passport as alleged by Pakistan;

- (ii) What is ironical is that Pakistan, who has and continues to violate international humanitarian law; has itself failed in fulfilling its obligations under the international law, including the specific UN Security Council Resolution it seeks to cite, and in affording/creating measures to deal with the menace of terrorism;
- (iii) Pakistan seeks to characterise its Request as 'mutual legal assistance', while it itself has fallen short in putting in place a legal framework of Mutual Legal Assistance in criminal matters, including by not ratifying the SAARC Convention on Mutual Assistance in Criminal Matters, 2008. It had also not responded to India's initiative to enter into a bilateral Mutual Legal Assistance Treaty in criminal matters. Pakistan seeks to find legal obligations in the UN resolution akin to those in a Mutual Legal Assistance Treaty (MLAT) and thereby seeks to create a one sided regime in which it is entitled to demand cooperation without committing itself to a MLAT. Besides, Pakistan's request is facially yet another attempt at propaganda rather than a serious investigation;
- (iv) Pakistan invites India to conduct an investigation into the allegations relating to the forged passport. These investigations would have to commence by first examining the provenance of the allegations, which in turn would require India to conduct an investigation into the conduct of the Pakistan officials who allegedly "apprehended" Mr. Jadhav including into all related facts and circumstances. It would thus require the investigation of the entire incident to understand the circumstances in which Mr. Jadhav who was kidnapped in Iran, ended up in Pakistan. The invitation by Pakistan to answer questions, premised on the truth of their allegation that Mr. Jadhav was carrying such a

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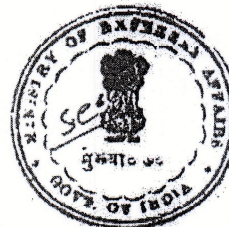
passport, and that he was responsible for such a forgery, is mischievous and yet another measure of propaganda.

This Ministry urges the Government of Pakistan to not make farcical attempts for furthering its propaganda on baseless allegation and distract from its own violations including its acts and omissions which are the subject matter of the proceedings before the International Court of Justice. It is reiterated that the Government of Pakistan has acted in brazen violation of its obligations under the Vienna Convention on Consular Relations, 1963 and has violated the rights of the Republic of India and of Indian national Mr Kulbhushan Sudhir Jadhav.

In these circumstance, the original documents sent along with the Ministry of Foreign Affairs of Pakistan's Note Verbale dated 19 January 2018 are returned herewith.

The Ministry of External Affairs, Government of the Republic of India avails itself of this opportunity to renew to the High Commission of the Islamic Republic of Pakistan in New Delhi the assurances of its highest consideration.

April 11, 2018
New Delhi



**The High Commission of the Islamic Republic of Pakistan
New Delhi**



MINISTRY OF FOREIGN AFFAIRS
ISLAMABAD

No. Ind(I)-5/20/2018

The Ministry of Foreign Affairs of the Islamic Republic of Pakistan presents its compliments to the High Commission of the Republic of India in Islamabad and has the honour to refer to the Note Verbale No. J/411/8/2018 dated 11 April 2018 of the Ministry of External Affairs of the Republic of India.

Pakistan notes, but does not accept that the contents of the Note Verbale of the Government of India provide any explanation or justification in respect of the serious issue concerning the possession, by Commander Kulbushan Sudhir Jadhav, of an authentic Indian passport (number L9630722) bearing the (false) name 'Hussein Mubarak Patel' ("the Passport").

Indeed, the Government of India has sought to obfuscate the very simple question – is it (in the Government of India's view) an authentic Indian passport document or a forged Indian passport document?

A copy of the Passport was sent to India by Pakistan on 23 January 2017 and is again attached.

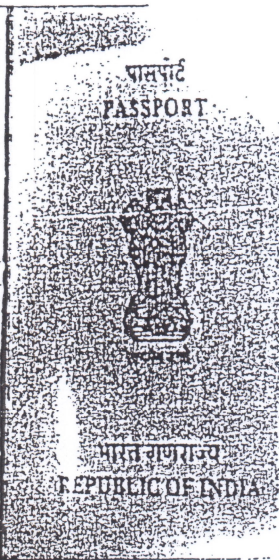
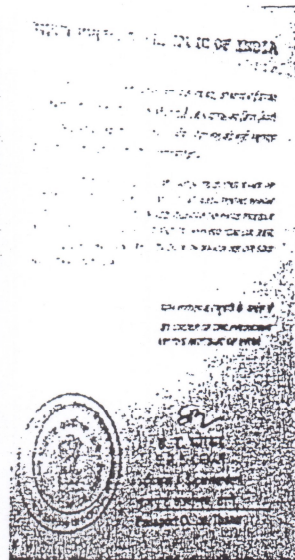
An eminent independent expert has examined the Passport and confirmed that it is an authentic Indian passport.

Pakistan expects the Government of India's substantive position to be made clear in its Reply to be served on 17 April 2017. The questions, as stated above, should be capable of substantive and detailed answer by the Government of India. The Government of India's continued unwillingness to do so, can only lead to negative inferences as to the role of the Indian authorities in this regard.

The Ministry of Foreign Affairs of the Islamic Republic of Pakistan avails itself of the opportunity to renew to the High Commission the assurances of its highest consideration.



The High Commission of the Republic of India,
Islamabad



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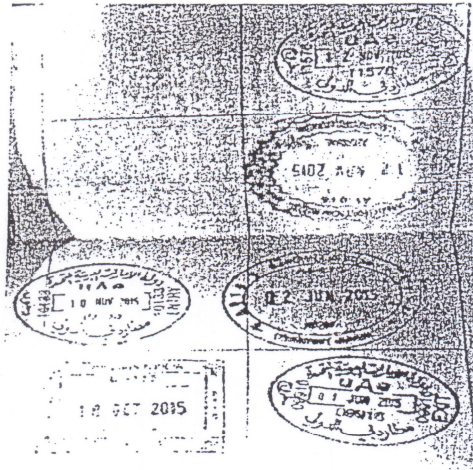
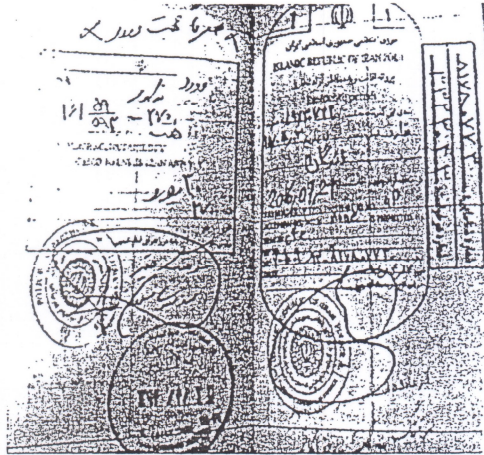
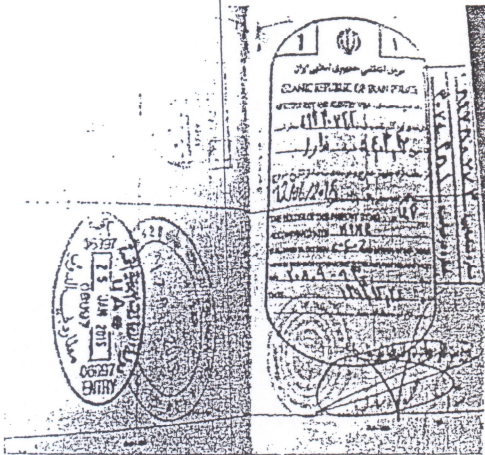
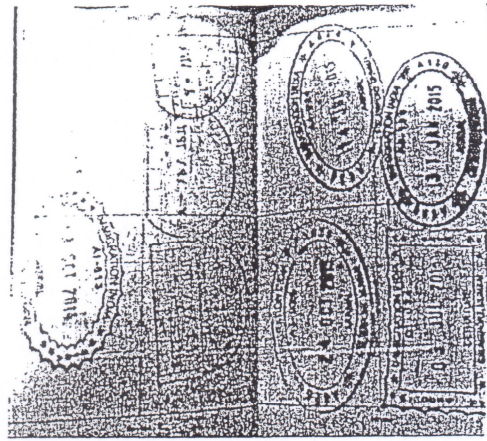
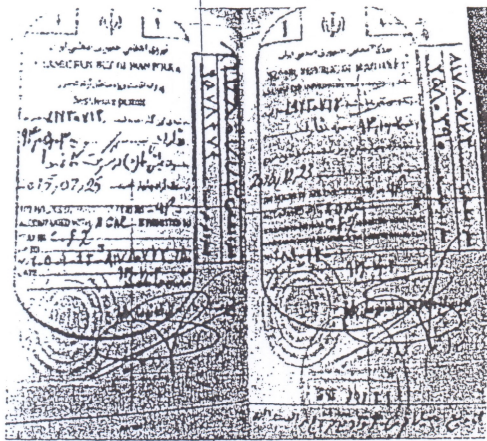
No. of entries: ONCE Duration of stay: 30 Days Pass: L 9630722

11/08/2014 Until 10/10/2014 Acc NONE

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The Ministry of Foreign Affairs of the Islamic Republic of Pakistan presents its compliments to the High Commission of the Republic of India in Islamabad and has the honour to refer to Note Verbale No. J/411/8/2018 dated 11 April 2018 comprising 3 pages ("the Note") of the Ministry of External Affairs of the Republic of India regarding Pakistan's continued request for India's assistance in investigations relating to Commander Kulbushan Sudhir Jadhav (also known as 'Hussein Mubarak Patel').

1. Reference is also made to:

(a) Pakistan's request for Mutual Legal Assistance dated 23 January 2017 ("the Request") pursuant, *inter alia*, to United Nations Security Council Resolution 1373 (2001) in the case of Commander Jadhav;

(b) Pakistan's letter dated 31 May 2017 to which the Ministry of External Affairs of the Republic of India purported to reply on 9 June 2017 purporting to return the Request;

(c) Pakistan's letter dated 30 August 2017; and

(d) Pakistan's letter dated 26 October 2017.

2. In this context we wish to make the following points. In doing so, we make it clear that the contents of Note Verbale No. J/411/5/2018 ("the Family Visit Accusations Note") are not accepted, nor is it accepted that the 7 page "Secret" Note dated 26 December 2017 written by J.P. Singh (Annex 4 to the Reply) is accurate. Pakistan notes with regret that India persists in exaggeration and the use of inflammatory language.

3. India's assertion in the Note that "*the fact that the Indian passport bearing name 'Hussein Mubarak Patel' allegedly recovered from Mr. Jadhav during his apprehension "was patently false" was originally mentioned in the Ministry of Foreign Affairs of Pakistan's Note Verbale dated 31 May 2017 and is not an assertion made by India*" [Note/page 1/paragraph (i)] is incorrect. In fact, the

7/6

issue of Commander Jadhav holding an Indian passport bearing the patently false name 'Hussein Mubarak Patel' ("the Passport") was raised previously. For example:

- (a) On 25 March 2016, Pakistan notified the P5 States of the arrest of Commander Jadhav by providing a 10-page briefing document which, *inter alia*, included photographs of the Passport;
 - (b) On 23 January 2017, Pakistan sent to India a Request for Mutual Legal Assistance ("the Request"), which included a copy of the Passport, with the name 'Hussein Mubarak Patel' referred to as Commander Jadhav's "*alias*";
 - (c) On 13 April 2017, an Official Spokesperson for India's Ministry of External Affairs, when speaking about Commander Jadhav, referred to "*the question of his so-called fake identity or original Indian passport*";
 - (d) On 14 April 2017, His Excellency Sartaj Aziz, then the Advisor to the Prime Minister of Pakistan on Foreign Affairs, stated in his press statement: "*I would like to ask India why Kulbushan Jadhav was using a fake identity impersonating as a Muslim? Why would an innocent man possess two passports, one with a Hindu name and another with a Muslim name?*"
4. In light of the above, Pakistan respectfully submits that India's characterisation of Pakistan's repeated efforts to obtain India's cooperation regarding the investigation of the Passport as "*aimed at propagating falsehood and propaganda*" [Note/page 1/second paragraph] is manifestly without merit.
5. Pakistan rejects as vague and unparticularised India's assertion that Pakistan "*has and continues to violate international humanitarian law...in affording/creating measures to deal with the menace of terrorism*" [Note/page 2/paragraph (ii)].
6. As regards India's assertion "*Pakistan seeks to find legal obligations in [UNSCR 1373 (2001)] akin to those in a Mutual Legal Assistance Treaty (MLAT) and thereby seeks to create a one sided regime in which it is entitled to demand cooperation without committing itself to a MLAT*" [Note/page 2/paragraph 3], Pakistan respectfully submits that the obligation in Article 2(f) of UNSCR 1373 (2001) is a mandatory obligation incumbent on all UN Member States, including India. Indeed, the lack of a MLAT between India and Pakistan concerning criminal matters is irrelevant in this context and, in any event, plainly does not absolve India of its responsibility as a matter of public international law to assist another

715

UN Member State in the investigation of terrorism under a binding UN Security Council resolution.

7. As regards India's assertion that any investigation by India concerning the Passport "*would have to commence by first examining the provenance of the allegations, which in turn would require India to conduct an investigation into the conduct of the Pakistan officials who allegedly "apprehended" Mr. Jadhav including into all related facts and circumstances*" [Note/page 2/paragraph (iv)], Pakistan respectfully disagrees. Whether the Passport is authentic, and (if so), how and when it was generated are matters which India can or should be able to investigate quickly and easily through its own records.
8. Pakistan requested India to investigate whether the Passport (a copy of which had been provided to India by Pakistan) was authentic or falsified/forged. Such a matter plainly does not require an investigation by India of law enforcement activities by Pakistani authorities inside Pakistani territory. India's excuse in this regard is manifestly without merit and, regrettably, is a further example of India's steadfast refusal to engage with legitimate and genuine requests made by Pakistan in the context of a terrorism investigation. India is simply unwilling to undertake the exercise requested. Pakistan observes that this can only lead to negative inferences as to India's own conduct in this regard.
9. India urges Pakistan "*to not make farcical attempts for furthering its propaganda on baseless allegation and distract from its own violations*" [Note/page 3/first paragraph]. On the contrary, Pakistan's requests of India are neither premised upon baseless allegations nor a distraction. In fact, Pakistan's repeated requests of India are a necessary effort to secure India's cooperation in the investigation of terrorism offences pursuant to international law obligations. Pakistan regrets that India's conduct demonstrates the utmost reluctance to provide Pakistan with any measure of assistance in that regard. With respect, a responsible State which is mindful of its international obligations and which has nothing to hide would be only too willing and able to undertake the very simple and speedy checks as to the background for the Passport.
10. We regret that India, in the Note, has yet to engage with any of the questions that have been raised by Pakistan. This is particularly striking in light of the fact that India has, since Pakistan filed its Counter Memorial on 13 December 2017 (i.e. approximately 4 months prior to the Note being sent by India), been provided with a copy of the independent expert report of Mr. David Westgate who, after conducting a thorough examination of the Passport, concluded, *inter alia*, that the

7/4

Passport is a genuine and authentic Indian travel document that had been frequently presented at immigration counters in India for entry and for exit.

11. Pakistan reiterates that it is incumbent upon the Government of India to explain whether:

(1) Commander Jadhav is indeed Commander Jadhav or 'Hussein Mubarak Patel';

(2) If he is not 'Hussein Mubarak Patel', does such a person exist?

(3) If 'Hussein Mubarak Patel' does exist or does not exist, what attempts has the Government of India made at the very latest since 23 January 2017 to investigate how Commander Jadhav was able to obtain what is now confirmed to be an authentic Indian passport issued by the competent authorities in India?

(4) In the alternative, is it the Government of India's position that Commander Jadhav was in possession of a false and inaccurate document either:

a. because his name is not 'Hussein Mubarak Patel'; or

b. because it is not a passport from the competent Indian authorities?

(5) If that is the case, does the Government of India consider that Commander Jadhav may have committed a crime or crimes under Indian law? If so, what is/are the crimes?

(6) Is possession and/or use of a passport in a false identity not a criminal offence in India? Is India unconcerned to ascertain how an authentic passport was obtained in a false identity and used on at least 17 occasions to enter/exit India through formal immigration channels, as well as obtain visas to travel to other jurisdictions?

(7) What is the actual authentic passport for Commander Kulbushan Sudhir Jadhav (assuming he was issued with a passport)? Please provide full particulars of the date of issue, date of expiry, passport number, place of issue, name and photograph in the actual (presently valid) passport issued to Commander Jadhav if such a document exists.

7/3

12. Whilst it is noted that India describes the Passport as "*clearly a forgery*" [Ministry of External Affairs' Note Verbale No. J/411/04/2017 dated 11 December 2017/page 2/second paragraph], not only is this a bare assertion, no attempt has been made to address the conclusions drawn by Mr. Westgate after a detailed examination of the same, namely that the Passport was "*an authentic Indian passport which...must have emanated from the Indian authorities*" [paragraph 16 of Mr. Westgate's report].

13. The Islamic Republic of Pakistan does not consider that the purported return of the Request in any way excuses the failure on the part of the Republic of India to comply with its international obligations as aforesaid. To facilitate the Republic of India's compliance (even at this juncture) the Request is provided again.

The Ministry of Foreign Affairs of the Islamic Republic of Pakistan avails itself of this opportunity to renew to the esteemed High Commission the assurance of its highest consideration.

High Commission of the Republic of India,
Islamabad.



o/c

Two Ex-RAW Chiefs Did Not Want Kulbhushan Jadhav Recruited As Spy

CHANDAN NANDY | 05.01.18

POLITICS 5 min read

39.6k ENGAGEMENT



0

Even as the controversy – *tamasha*, as it's called in certain intelligence quarters – over Indian 'spy' Kulbhushan Jadhav refuses to die down, it has come to light that two former chiefs of the Research and Analysis Wing (RAW), who headed the organisation sometime over the past 15 years, had put their foot down against recruiting him for operations in Pakistan.

Senior RAW Officers Were Not in Favour of Jadhav

Speaking to **The Quint**, two former RAW senior officers, including one secretary who headed India's external intelligence agency after 2008, said that the "proposal to recruit Jadhav for operations, whatever it's worth, was ridiculous."

i *In any case, a number of RAW sources, some serving and a few who retired over the past seven to eight years, revealed that Jadhav was "not a high-grade" operative with skills that other operatives recruited by the agency in other theatres had and used effectively to obtain intelligence.*



Even as two RAW secretaries refused to hire his services, the proposal to recruit Jadhav for specific assignments was finally acceded to by a chief who headed the intelligence agency a few years ago and was subsequently re-employed (after retirement) in an organisation also involved in collecting intelligence.

This was among a few different attempts to launch renewed efforts to use human sources as "deep penetration" agents in Pakistan, where most intelligence assets, both HUMINT and SIGINT, were wound up during the prime ministership of IK Gujral in the late 1990s.

Evidence That Links Jadhav With RAW

Sources were – understandably – wary about disclosing full details about Jadhav's recruitment. The proposal to hire him on a temporary basis was prepared by his case officer (of the rank of deputy secretary, who is way below in the hierarchy) on the Pakistan desk. One former RAW officer, however, said that "it could be that the desk handling Iran and Afghanistan" was instrumental in recruiting Jadhav.

In any case, the recruitment was approved by a joint secretary as the supervisory officer. The RAW has a special unit which also undertakes parallel operations in certain crucial target countries for which it seeks out its own recruits.

The clearest evidence that Jadhav operated for the RAW came to the fore only after his cover – as a businessman who would frequent Iran, especially Chabahar – was blown and he was captured by the Pakistan, following which a former RAW chief, besides at least two other senior officers, called his Mumbai-based parents to "advise" them to not speak about their son's case to anyone.

The other evidence was the second passport, with the name Hussein Mubarak Patel, that he carried, which shows that it was originally issued in 2003 and was renewed in 2014. The second passport (no L9630722) was issued in Thane on 12 May 2014 and was due to expire on 11 May 2024.

While one passport (no E6934766) is in his name, the second one raises more questions, especially the date of its issue and why he signed as Hussein Mubarak Patel to enter into a property deal (with his mother) in Mumbai where he lived with his parents, wife, and children before he was nabbed by the Pakistan Inter-Services Intelligence (ISI).

[f](#) [t](#)

Born in August 1968, Jadhav did work for the navy but prematurely retired and took to business, which would often take him to Iran. He was spotted as a potential recruit by an undercover RAW officer posted in Iran, who then subsequently shared this with a colleague at the agency's headquarters. This second officer subsequently moved to send overtures to Jadhav, who accepted the terms and conditions.

How Was Jadhav Caught?

The nabbing of Jadhav, on 3 March 2016, itself throws up several questions, especially because Pakistan has maintained a degree of secrecy, if not ambiguity, about it. While the Pakistani intelligence had initially claimed that he was trapped in Saravan on the Iran-Pakistan border, a Baloch leader by the name Sarfaraz Bugti had disclosed at the time that Jadhav was held near Chaman in Balochistan.

The RAW sources, both former and serving, said that Jadhav would “go on assignments off and on” and he would undergo the mandatory “debriefing” each time he returned to India from his “visits to Balochistan” or when he volunteered to share information. He also went through a three-month training programme when he learned methods and means to transmit and/or send information.

However, sources said, Jadhav’s undoing was based partly on his unprofessionalism and partly because he was not a “career spy.” He did the unthinkable – instead of waiting to communicate with his case officer face-to-face, Jadhav would sometimes use “means over the air waves.” The ISI intercepted some of the communications and were also able to pinpoint his location, making it relatively easy for them to track and then nab him, sources said.

Standard Operating Procedure Skipped

“The botch-up was the result of unprofessionalism not only on the part of Jadhav but also his case officer,” one former special secretary, who conducted operations in some parts of West Asia, said. In this context, a former special secretary who handled the Pakistan desk till a few years ago, besides special operations in India’s neighbourhood, said that “Jadhav was no good” as he was “never in the thick of things, although he would claim he knew a lot of things and had sources in Pakistan.”

However, the former special secretary said that while RAW has many flaws, as a “matter of rule and unstated policy” no case officer should attempt to hire the services of an agent whose background in “tradecraft is not sound enough” and who is given to “bragging.”

In Jadhav’s case, while standard operating procedures may have been relaxed while recruiting him, sources said that his incarceration and the ambiguity surrounding his “work” does “have a lot of benefits.”

Several seasoned RAW hands said that while Jadhav's case officer (deputy secretary) and the latter's supervisory officer (joint secretary) recruited him for "reasons best known to them," the standard practice in spycraft would have been to "have a Baloch or a Pakistani national" do the "intelligence gathering job for us." He added that it was "foolish for to set an Indian the task to obtain intelligence from a country as hostile as Pakistan."

Sources said that soon after Jadhav was trapped and caught in March 2016, a few records relating to payments made to him were destroyed, leaving "no trace" of his existence as far the RAW is concerned. But a former agency chief, who retired in the closing years of the previous decade, said, "No professional agency should have recruited him. I cannot even imagine that Jadhav was because it has been a disaster."

He asked pointedly: "Every operation should have an objective. What huge intelligence or foreign policy objective was to be achieved by tasking Jadhav to operate in Balochistan?"

Also Read: [Will India's Raking up of the Shoes Episode Harm Jadhav's Case?](#)

(Breathe In, Breathe Out: Are you finding it tough to breathe polluted air? Join hands with FIT in partnership with #MyRightToBreathe to find a solution to pollution. Send in your suggestions to fit@thequint.com or WhatsApp @ +919999008335)

39.6k ENGAGEMENT



0

The Quint retracts story on Kulbhushan Jadhav

By [NL Team](#) [\(author/nl-team\)](#) [\(author/nl-team\)](#) | Jan 6, 2018



On January 6, less than a day after Raghav Bahl's *The Quint* published a story [titled](https://www.thequint.com/news/politics/two-former-raw-chiefs-did-not-want-kulbhushan-jadhav-recruited-as-spy) (<https://www.thequint.com/news/politics/two-former-raw-chiefs-did-not-want-kulbhushan-jadhav-recruited-as-spy>). 'Two Former RAW Chiefs Did Not Want Kulbhushan Jadhav Recruited As A Spy', the news portal has retracted its article.

The new headline of the story currently states 'The Quint is Rechecking the Kulbhushan Jadhav Story'.

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The story on Kulbhushan Jadhav has been retracted.

The Quint is Rechecking the Kulbhushan Jadhav Story

THE QUINT | 02H 31M AGO POLITICS 1 min read

51.7k ENGAGEMENT        0

(The story on Kulbhushan Jadhav has been retracted. The Quint is rechecking some of the information mentioned in the article.)

The story, which shows engagement of 51.7k, has now been reduced to a one-minute read. The text contains a one-line statement by the news portal which states that the story has been retracted as some of the information mentioned in the article is being rechecked. However, no explanation has been offered as to why the piece was retracted.

Twitterati, including journalists, have not taken kindly to the story. While some have called the story "irresponsible journalism", others have questioned the reasoning behind the publication of such a story.



SamSays
@samjawed65



The Quint has retracted the story. That was quite a shameful hit job harming India's position on Jadhav.

thequint.com/news/politics/...

5:24 AM - Jan 6, 2018



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HindolSengupta ✓
@HindolSengupta



If a story like this has to be retracted and if facts mentioned in it turn out to be incorrect, surely it would be grounds to fire the reporter, no @TheQuint? Journalists should be able to question everything but facts must be correct - that's the least.

thequint.com/news/politics/...

6:21 AM - Jan 6, 2018



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Mohan Sinha
@Mohansinha



I know journalists are supposed to be unbiased and objective, but couldn't they have waited a while? If the intention was to destroy his case they should have handed it over to the Pakistan Embassy gift-wrapped along with a noose for Jadhav.

thequint.com/news/politics/...

6:16 PM - Jan 5, 2018



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As I have said before : Loose lips sink ships. This article damages India's case on Kulbhushan like no other so far.

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Smita Prakash ✓ @smitaprakash

5 Jan

As I have said before : Loose lips sink ships. This article damages India's case on Kulbhushan like no other so far.

thequint.com/news/politics/...

Seema Sirohi





@seemasirohi

Unbelievable. And these are former guys themselves. Is being in the press so important for retired men and women?

9:13 PM - Jan 5, 2018



2



See Seema Sirohi's other Tweets



Rupa Subramanya

@rupasubramanya



"The Quint is Rechecking the Kulbhushan Jadhav Story".

Incredible. thequint.com/news/politics/...

6:06 AM - Jan 6, 2018 · Mumbai, India



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125



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Harini Calamur

@calamur



I am flabbergasted. seriously.

Aren't people bound by the Official Secrets Act even after retirement ?thequint.com/news/politics/...

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22



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Arnav Das Sharma

@arnav_d



You don't need a journalism degree to know that if your reporting endangers lives, then that scoop is not worth it. It's not even a question of nationalism. Just plain basic sense. thequint.com #Quint

8:59 PM - Jan 5, 2018 · New Delhi, India

13 See Arnav Das Sharma's other Tweets



Bhuvan Bagga ✓

@Bhuvanbagga



Shameful, disgusting and irresponsible journalism.

[twitter.com/Bhuvanbagga/st...](https://twitter.com/Bhuvanbagga/status/960000000000000000)

10:26 PM - Jan 5, 2018 · New Delhi, India



3



See Bhuvan Bagga's other Tweets



Kanchan Srivastava ✓

@Ms_Aflatoon



Media reports often cause great international embarrassment to the home governments. But this is really explosive!! Will Jadhav be spared now??

Two Ex-RAW Chiefs Did Not Want Kulbhushan Jadhav Recruited As Spy thequint.com/news/politics/...

11:51 PM - Jan 5, 2018



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1



See Kanchan Srivastava's other Tweets



Abbas Nasir

@abbasnasir59



Quint piece confirming Kulbhushan Jhadav was a Raw spy who operated inside Balochistan too. Does this confirmation mean that stage is being set for a swap? thequint.com/news/politics/...
I wanted to credit the account that first Tweeted this but can't seem to find it.

1:05 AM - Jan 6, 2018



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Saikat Datta ✓
@saikatd



Not linking an article. But it's the kind of irresponsible journalism that gets people killed. What a shame.

7:17 PM - Jan 5, 2018

♡ 70 💬 51 people are talking about this



Arnav Das Sharma
@arnav_d



Shameful, irresponsible reporting from The Quint. In one stroke they have squashed India's efforts to get Kulbhushan Jadhav released to dust. Utterly irresponsible.

8:42 PM - Jan 5, 2018 · New Delhi, India

♡ 23 💬 17 people are talking about this



Responding to Sandip Ghose on Twitter, who questioned the use of unnamed sources in a sensitive story, *The Quint's* Opinion editor and author of the story Chandan Nandy said the world of journalists survives on trusted sources.



Kamlesh Singh | Bana de Lohagarh ✓ @kamleshksingh 5 Jan
Why on earth?

1. Protect identity of those living happy retired lives
2. Don't allow anonymity to a life already in danger
3. Show India as lying to the world while these retired asses won't even show their faces [thequint.com/news/politics/...](https://thequint.com/news/politics/)



GhoseSpot ✓
@SandipGhose



With due respect to @NandyGram find it extremely odd that R&AW Chiefs would speak even off record on such a sensitive issue. #KulbhushanJadhav @TheQuint

8:39 PM - Jan 5, 2018

♡ 9 👤 See GhoseSpot's other Tweets





GhoseSpot ✓ @SandipGhose

5 Jan

Replying to @kamleshksingh

With due respect to @NandyGram find it extremely odd that R&AW Chiefs would speak even off record on such a sensitive issue. #KulbhushanJadhav @TheQuint



Chandan Nandy
@NandyGram



Sandip, the world, especially of journalists, survives on trusted sources.

8:41 PM - Jan 5, 2018

♡ 5 💬 28 people are talking about this



Complaining about the media is easy and often justified. But hey, it's the model that's flawed.

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(2018/05/30/dystopian-times-big-brother-is-watching-you).

Dystopian Times: Big Brother Is Watching You

(2018/05/30/dystopian-times-big-brother-is-watching-you).

In a mythical dimension called Halahala is a great country called Rashtria that darkly mirrors our own. Or is it the other way around?

Appupen ([author/appupen](#)).

May 30, 2018

OPINIONS

The Quint should be ashamed of itself



By **Nupur J Sharma** 

Posted on January 5, 2018

567



It is said that one of the most important pillars of any democracy is the media.

Media that acts as a watchdog, keeping an eye on and bringing the truth to the fore. Upholding the citizen's right to know. In essence, maintaining the very fabric of any free country by democratising information.

Unfortunately, the Indian media spectrum has seemingly developed a penchant for overstepping their bounds, and in the zeal to garner readership, the alternate media seems to have gone a step ahead. Gone are the virtuous protectors of the truth. The knights who fought for the very sanctity of the nation. Today, the Indian media and some of its players have turned into bloodhounds who are worse than the enemy at the gate.

SHARES

The Pakistan intelligence services (ISI) had arrested Kulbhushan Jadhav, an Indian National and ex Navy commander on 3rd March 2016 on Terrorism charges alleging that he was carrying out subversive activities inside Pakistan on the behest of RAW (Indian Intelligence agency). He was arrested from Balochistan during a counter-intelligence operation, as claimed by Pakistan, and was sentenced to death in a field general court martial on April 10th 2017. However, an Ex-ISI officer exposed Pakistan's lie and **confirmed** that Jadhav was abducted from Iran and not from Balochistan, as asserted by India.

Pakistan is a terrorist nation that has vowed to bleed India with a thousand cuts. The abduction of Kulbhushan Jadhav, the lies that surrounded his abduction, the sham of a trial that was given to him by Pakistan, the doctored confessionals and the fantasy theories about him being an Indian spy are methods that Pakistan is using towards that end.

Pakistan, however is a known enemy. What is unknown, is what is most threatening. A glaring example of this debauchery is a portal called 'The Quint'.

'The Quint' today had the temerity to publish an article that could have been easily published in any leading Pakistani newspaper with their reigns in the hands of ISI.

What Pakistan tried to prove with deceit, The Quint has put into words and attributed it to highly placed RAW sources. It published an article not so long ago today, detailing how their sources have confirmed that Kulbhushan Jadhav is an Indian spy, something the Indian Government and the RAW have actively and vehemently denied.

Even as two RAW secretaries refused to hire his services, the proposal to recruit Jadhav for specific assignments was finally acceded to by a chief who headed the intelligence agency a few years ago and was subsequently re-employed (after retirement) in an organisation also involved in collecting intelligence.

This was among a few different attempts to launch renewed efforts to use human sources as “deep penetration” agents in Pakistan, where most intelligence assets, both HUMINT and SIGINT, were wound up during the prime ministership of IK Gujral in the late 1990s.

At the onset itself, the author, Chandan Nandy, not only declared that Kulbhushan Jadhav is an Indian Spy, but that he was a sub par spy used as a source for “deep penetration” in Pakistan. It bodes well to remind here that an ex ISI officer already admitted that India’s stand regarding Jadhav being abducted from Iran and not Balochistan is correct. Calling him a spy is going against the truth and endangering not only his, but India’s security. Calling him a “BAD spy” is psyops 101 where you not only prove that the enemy nation is a liar, but prove that their entire intelligence network is a sham. Begs an

important question – Whose side is The Quint on?

Next, the author proceeds to provide 'proof'.

The clearest evidence that Jadhav operated for the RAW came to the fore only after his cover – as a businessman who would frequent Iran, especially Chabahar – was blown and he was captured by the Pakistan, following which a former RAW chief, besides at least two other senior officers, called his Mumbai-based parents to “advise” them to not speak about their son’s case to anyone.

The other evidence was the second passport, with the name Hussein Mubarak Patel, that he carried, which shows that it was originally issued in 2003 and was renewed in 2014. The second passport (no L9630722) was issued in Thane on 12 May 2014 and was due to expire on 11 May 2024.

According to The Quint and the author, the clearest evidence of Jadhav being an 'Indian Spy' came to light after Pakistan abducted him. I'm not aware of the parallel planet that the author seems to live in, but might I remind him that even Pakistan doesn't take Pakistan seriously, and he is, considering Pakistan's word as the gospel truth against his own nations version of truth.

Perhaps I can try to give the author a basic lesson in counter intelligence. A SPY WOULDN'T TRAVEL INTO ENEMY TERRITORY WITH HIS INDIAN IDENTITY PROOF! At this point, it is needless to go into details of the case since malice can't be countered with facts. But even propaganda must be one at least backed with basic logic, which this piece clearly lacks.

Next, the author talks about how and from where Jadhav was captured.

The nabbing of Jadhav, on 3 March 2016, itself throws up several questions, especially because Pakistan has maintained a degree of secrecy, if not ambiguity, about it. While the Pakistani intelligence had initially claimed that he was trapped in Saravan on the Iran-Pakistan border, a Baloch leader by the name Sarfaraz Bugti had disclosed at the time that Jadhav was held near Chaman in Balochistan.

Here is where the deceit gets worse. Pakistan army claimed that Jadhav was captured while he supposedly crossed over from the Saravan border into Pakistan. And according to Quint, a "Baloch leader" called Sarfaraz Bugti

disclosed that Jadhav was held near Chaman in Balochistan. Firstly, Saravan border is the Iran-Balochistan border. The “Baloch Leader” that the author talks about Balochistan’s Home Minister who obviously answers to Islamabad. What is most intriguing is how Quint considers Pakistan’s version as the gospel truth without mentioning that days later, ex ISI officer confirmed that Jadhav was indeed abducted from Iran and not Balochistan province. Quint also ignores India’s version which was that he was in Iran and not in Balochistan. Again, whose side is The Quint on?

Next, The Quint reveals what this article was really meant to do.

However, sources said, Jadhav’s undoing was based partly on his unprofessionalism and partly because he was not a “career spy.” He did the unthinkable – instead of waiting to communicate with his case officer face-to-face, Jadhav would sometimes use “means over the air waves.” The ISI intercepted some of the communications and were also able to pinpoint his location, making it relatively easy for them to track and then nab him, sources said.

The crux of the matter according to The Quint : *Jadhav wasn’t abducted, he was captured. Jadhav was ‘captured’ because the Indian Spy didn’t know how*

to do his job. The Indian spy was unprofessional. The Indian spy was a novice. In essence, the Indian Intelligence agencies are trash and don't know how to do their job. It might seem like I am paraphrasing some deranged ISI operative, but strangely, I'm only inferring what The Quint seems to implying, that is, *Pakistan is innocent.*

At this point, I would suggest the reader sits down, because the rage might be a little difficult to handle.

However, the former special secretary said that while RAW has many flaws, as a “matter of rule and unstated policy” no case officer should attempt to hire the services of an agent whose background in “tradecraft is not sound enough” and who is given to “bragging.”

In Jadhav’s case, while standard operating procedures may have been relaxed while recruiting him, sources said that his incarceration and the ambiguity surrounding his “work” does “have a lot of benefits.”

Several seasoned RAW hands said that while Jadhav’s case officer (deputy secretary) and the latter’s supervisory officer (joint secretary) recruited him for “reasons best known to them,” the standard practice in spycraft would have been to “have a Baloch or a Pakistani national” do the “intelligence gathering job for us.” He added that it was

Let me paraphrase what the above excerpt says : Jadhav was not sound in statecraft. The RAW was stupid to hire him (considering Quint has already

declared that he is a spy, in tandem with Pakistan) and that India would have been better off had she hired the far superior Baloch or Pakistani nationals to gather information.

This isn't even the worst part. This mysterious source that seems to be vomiting all sorts of rubbish, says, and I quote from the article, "his incarceration and the ambiguity surrounding his "work" does "have a lot of benefits".

Let me say that again : The mysterious source says, and the author writes, that Jadhav's incarceration has a lot of benefits. Well, pardon me if I don't join the party that seems to be taking place at The Quint's office celebrating Kulbhushan Jadhav's incarceration.

Next, the mysterious source through the author has a nugget of wisdom for Indian Intelligence agencies.

**gathering job for us." He added that it was
"foolish for to set an Indian the task to
obtain intelligence from a country as hostile
as Pakistan."**

Mr Ajit Doval certainly needs to pay heed to this fantastic advice. Please don't send spies to hostile nations. Send spies to friendly ones. Maybe to get this author some scotch?

Next, the mysterious source has an intriguing question.

**He asked pointedly: "Every operation should
have an objective. What huge intelligence or
foreign policy objective was to be achieved
by tasking Jadhav to operate in Balochistan?"**

I would like to send a message to this 'anonymous source' through the author of this article, Mr. Nandy. The Prime Minister of India, Mr. Narendra Modi once declared our foreign policy objective from the ramparts of Lal Quilla. Balochistan deserves justice. And we are to believe, that this rambling was the brain wave of some former RAW chief? Because a RAW chief would ask such juvenile questions? Sure!

I am reminded of another article I wrote a while ago about fifth column warfare that is being waged by Pakistan in India. A Pakistan Senate report specifically said that Indian conversation around Balochistan needs to be thwarted. Of course, someone who would take Pakistan's word as the gospel truth would certainly also wonder what might India's foreign policy objective be in Balochistan.

The Quint is a habitual offender. Mr. Nandy was the author who wrote about the supposed surgical strike before the Indian Army came out with the details thereby potentially jeopardising the lives of the soldiers. A journalist of The Quint was being investigated under Official Secrets Act owing to a sting operation that drove a jawan to committing suicide. And now, The Quint has come out, all guns blazing, to exonerate Pakistan, denigrate India and tell the nation to be happy about Jadhav's incarceration.

One wonders, when does this cycle of media deceit end? When does the media take responsibility for their actions? And one also wonders, if the authorities would take any action against this article, the portal and the author for this brazen article that potentially harms India's diplomatic stand and Jadhav's life.

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Chandan Nandy

Senior Assistant Editor at Bennett Coleman and Co. Ltd.
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Political and Opinion Editor

The Quint

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The Quint

The Quint is an Indian news website founded by Raghav Bahl.^[1] The website came under heavy criticism in January 2018 for its reporting in the Kulbhushan Jadhav case.^{[2][3][4]}

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Raghav Bahl

Raghav Bahl is an Indian businessman, a serial entrepreneur, and investor best known for his ownership of several television channels, including TV18 India. He was the Founding/Controlling Shareholder & Managing Director of Network18 Group until the takeover by Reliance Industries Ltd.^[1] He has several successful exits to his credit. Besides founding and scaling Network 18, India's leading media group, Raghav has seeded moneycontrol.com, bookmyshow.com, Firstpost, Yatra, among others. He has also managed long and successful partnerships with some of the world's leading media brands: CNBC, Viacom, BBC, Star TV, A&E, Time Warner, Forbes. Raghav founded The Quintillion Media Pvt Ltd after his exit from Network 18.^[2] He has signed a joint venture agreement with Bloomberg L.P. to launch BloombergQuint.^[3]

Contents

Early life

Career

Writing

Awards

References

External links

Early life

He received his schooling from St. Xavier's School, Delhi. He graduated in Economics Honors from St. Stephens College, and then did a Masters in Business Administration from the Faculty of Management Studies.^{[4][5]}

Career

He began his career as a management consultant with A.F. Ferguson & Co., followed by a stint with American Express Bank, and later moved on to media. Raghav has over 22 years experience in television and journalism.^[6]

He started his career in media in 1985 as a Correspondent and Anchorperson for Doordarshan. He was the Anchorperson and Production Consultant for India's first monthly video news magazine, *Newstrack*, produced by the *India Today* group. From 1991 to 1993, he was the Executive Director of Business India Television and produced the Business India Show and Business A.M. on Doordarshan.

He began TV18 in 1985 and in just 12 years, the company grew from zero revenue, to revenues of Rs 100 crore. In 1999, he launched CNBC-TV18. He was responsible for directing most of the work of TV18 and channels like CNBC-Awaaz, Nickelodeon and Colors. Raghav served as the managing director of TV18 Group till July 2014, after which the

Raghav Bahl



Bahl at Forbes Life India Launch

Alma mater St. Stephen's College, Faculty of Management Studies, University of Delhi

Occupation Formerly Founding/Controlling Shareholder & Managing Director of Network18 group, Now founder The Quintillion Media Pvt Ltd

Spouse(s) Ritu Kapur

Children Tara Bahl, Vidur Bahl

ownership passed to Reliance Industries. He then founded Quintillion Media, a digital startup, along with his wife Ritu Kapur on 8 July 2014.^[7]

Raghav is a member of the World Economic Forum (WEF).

Writing

He has written articles for *The Times of India*, *The Statesman* and *The Pioneer*. He has also authored two books:

- *Superpower? The Amazing Race Between China's Hare & India's Tortoise*
- *SuperEconomies: America, China, India and the Future of the World*

Awards

- In 1994, the World Economic Forum called Raghav a Global Leader of Tomorrow, and he won India's Sanskriti Award for Journalism.
- In 2007, he was named Ernst & Young's Entrepreneur of the Year for Business Transformation.
- In 2008, he won the Indian Telly Award for Lifetime Contribution to Indian Television.
- In 2011, he won the All India Management Association's Media Person of the Year award, as well as the Bombay Management Association's prize for Entrepreneur of the Year.^[8]

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ADVOCATE FILES COMPLAINT AGAINST THE QUINT OVER ITS “ANTI-NATIONAL” ARTICLE KULBHUSHAN JADHAV

January 15, 2018 Latest News 239 Views

January 15,2018:

In his complaint, Advocate Dabas has stated that in calling Jadhav, a Former Naval Officer, a RAW , well as the website have committed a Seditious Act.

Days after The Quint retracted its story on Kulbhushan Jadhav, a Delhi-based lawyer, Pravesh Dabas, has filed a Criminal complaint against online website and its Opinion Editor, Chandan Nandy.

Complaint has been filed under Section 124A of Indian Penal Code and has been registered at Bawana Police Station.

Dabas further added that claims made in Article feed into baseless claims made by Pakistan. It states that “Anti-National article was more on the tune of Pakistan’s version on Sh. Kulbhushan Jhadav and contrary to the claim made by Government of India”.

In support of his complaint, he has provided six exhibits including photographs of Nandy’s Twitter account containing The Quint’s article on Jadhav the Government of Pakistan’s official Twitter page “sharing and celebrating the seditious article”.

Dabas stated that the timing of the story was such that it seriously hampers India’s case in International Court of Justice and tarnishes India’s image community. He states that he plans to pursue the case.

With Complaint filed, Police will investigate the matter and evaluate the merit of the complaint to file a FIR.

Dabas stated that in case Police don’t lodge an FIR on his Complaint, he will move the Court.



Delhi lawyer files complaint against The Quint over Jadhav article

By [NL Team](#) [\(author/nl-team\)](#), [\(author/nl-team\)](#) | Jan 11, 2018



Four days after *The Quint* retracted its story on Kulbhushan Jadhav, a Delhi-based lawyer, Pravesh Dabas, filed a criminal complaint against the online website and its Opinion Editor, Chandan Nandy. The complaint filed under Section 124A of the Indian Penal Code has been registered at the Bawana police station.

To
THE SHO
P.S. BAWANA
DELHI.

DATE: 09/01/2018

CRIMINAL COMPLAINT AGAINST

1. CHANDAN NANDY.
OPINION EDITOR, THE QUINT
PLOT NO. 1, 8TH FLOOR, BGR TOWER,
SECTOR 16A, FILM CITY, NOIDA,
UTTAR PRADESH 201301.

2. THE QUINT.
PLOT NO. 1, 8TH FLOOR, BGR TOWER,
SECTOR 16A, FILM CITY, NOIDA,
UTTAR PRADESH 201301.

UNDER SECTION 124A OF INDIAN PENAL CODE.
FOR THE ACTS OF SEDITION.

Respected Sir,



In his complaint, Dabas has stated that in calling Jadhav, a former Naval officer, a RAW agent, Nandy as well as the website have committed a seditious act. He has also stated that the claims made in the article feed into the baseless claims made by Pakistan. It

states that the “anti-national article was more on the tune of Pakistan’s version on Sh. Kulbhushan Jhadav and contrary to the claim made by Government of India”.

In support of his complaint, Dabas has provided six exhibits including photographs of Nandy’s Twitter account containing *The Quint*’s article on Jadhav as well as photographs of Government of Pakistan’s official Twitter page “sharing and celebrating the seditious article”.

Speaking to *Newslaundry*, Dabas said that the timing of the story was such that it seriously hampers India’s case in the International Court of Justice and tarnishes India’s image in the international community. He added that he plans to pursue the case.

With the complaint filed, the police will investigate the matter and evaluate the “merit” of the complaint to file a first information report (FIR).

Dabas said that in case the police don’t lodge an FIR on his complaint, he will move court.

Newslaundry reached out to Nandy, who has declined to comment on the matter.

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THE DYSTOPIAN TIMES

India's secret war



The implications of the questions raised by the Kulbhushan Jadhav case go far beyond Jadhav's fate. It is time India reflects seriously on its expanding programme of covert action and its long-term consequences. By PRAVEEN SWAMI

FOR six hours, the hired car had driven through a forest of shadows, cast by the mountains of Iran's Sistan-Baluchistan province—for generations, a refuge for smugglers, insurgents and spies. Heading towards Saravan, a town of 50,000 some 20 kilometres from the border with Pakistan, the car was carrying a businessman from Mumbai to a meeting. The men he wanted to meet were waiting, but there were others, too: like every spy story, this one ended in betrayal.

India knows something of what happened next: Kulbhushan Jadhav is now on death row, awaiting execution, after a hurried trial by a military court in Pakistan which found him guilty of espionage.

Early in January, Jadhav appeared on Pakistani television, insisting he was still “a commissioned officer of the Indian Navy”—a statement that contradicts the government of India's statements and directly implicates it in his activities.

Precisely who Jadhav was and why he ended up where he did remain profoundly opaque. Basic questions remain unanswered; official documents are sealed. But interviews with over 10 diplomats and intelligence and naval officials from three countries make it clear that the governments of both India and Pakistan have been economical with the truth.

The implications of these questions go far beyond Jadhav's fate, for behind the case lies a secret war that may claim hundreds, even thousands, of lives.

Ever since 2013, India has secretly built up a covert action programme against Pakistan, seeking to retaliate against jihadists and deter their sponsors in the Inter-Services Intelligence (ISI) Directorate. Led by National Security Adviser Ajit Doval, and now by Research and Analysis Wing's (RAW) Anil Dhasmana, the programme has registered unprecedented success, hitting hard against organisations such as the Lashkar-e-Taiba and the Jaish-e-Muhammad. But the story of the man on death row illustrates that this secret war is not risk-free. Lapses in tradecraft and judgment, inevitable parts of any human enterprise, can inflict harm far greater than the good they seek to secure.

Service in the Navy

In principle, there should be no difficulty in settling the truth of the claims that Jadhav still serves with the Indian Navy. The Gazette of India records, among other things, the commissioning, promotions and retirements of military and civilian officials in granular detail. Inducted into the Navy in 1987, with the service number 41558Z, Kulbhushan Sudhir Jadhav would likely have been promoted to the rank of commander after 13 years of service, in 2000.

But the digital archive of the Gazette of India, a public document, has removed all files relating to the Defence Ministry for several months in 2000. Files in subsequent years bear no record of Jadhav's retirement—though the Gazette is far from being immune to errors and omissions.

The government of India has told the International Court of Justice that Jadhav was a retired naval officer—a question that is, in any case, irrelevant to proceedings there— but it has declined to state exactly when he retired.

In response to a written question from this writer, the Naval Headquarters declined to confirm or deny whether Jadhav was a serving naval officer. Instead, it referred this writer to the Ministry of External Affairs. The Ministry, in turn, said it had “nothing to add to whatever is already in the public domain”.

In general, nation states simply deny any ties to individuals arrested for espionage. Thirteen Indians are being held in Pakistan on espionage charges, and 30 Pakistanis are in Indian jails, but in not a single case has either country officially concerned itself with its agent's fate.

Into a grey area

The possibility that Jadhav is still a serving naval officer is precisely what makes this case different. The governments of both India and Pakistan almost certainly know the definitive truth—but only glimpses of it are so far visible outside their vaults.

From the accounts of two separate naval officers who served with Jadhav, it appears the commander's journey into the grey world of the spy began soon after the near-war between India and Pakistan that followed the Jaish-e-Muhammad's attack on Parliament House in 2001—a claim that the officer also made in the first of a series of hastily produced videos of his custodial confessional, possibly given under duress.

Late in 2001, the Navy set up nine naval detachments to monitor the Gujarat and Maharashtra coasts, anticipating the nascent threat to coastal cities from jihadist groups. Intelligence had begun to arrive around that time that the Lashkar was training operatives in marine skills at the Mangla Dam's reservoir in Pakistan-occupied Kashmir. The implications were obvious and the Navy was deeply concerned.

Early on, though, the Navy realised it had one key problem: the absence of an independent intelligence capacity to monitor the organised criminal cartels most likely to serve any terrorist operation across the seas. Jadhav, his colleagues said, volunteered for covert service.

"Few sign up for these kinds of dangers," recalls a senior intelligence official who met Jadhav on one occasion. "His was a choice of exceptional courage."

But there was a catch, a senior naval official recalls. "The commander was insistent that he be allowed to remain on the Navy's rolls to secure his promotion and pay," he said. "The Navy didn't have a system for off-the-books operatives overseas, so this was how it had to be."

To Iran

In December 2003, Jadhav travelled to Iran from Pune on a passport (E6934766) that identified him as Hussein Mubarak Patel. The passport identified "Patel" as a resident of the Martand Cooperative Housing Society in Pune but gave no apartment number. There has been no official investigation into how the passport was issued.

The Pune passport office records show the passport was earlier held by another individual, but the files contain no address. The Indian government has offered no explanation of how this passport was obtained by Jadhav.

Funding for Jadhav's fiction—the term used by spies for their cover identities—was provided by the Naval Intelligence, sources said. Iranian investigations, diplomatic sources said, supported that conclusion, showing Jadhav paid cash to set up the Kaminda Trading Company, which engaged in marine engine repairs.

Later, it operated a dhow called the Kaminda out of the port in Chabahar. Records show that Jadhav's company invited contracts for the supply of gypsum, which India imports for the manufacture of cement. In March 2015, for example, Jadhav looked for partners to enter into an annual contract for gypsum running to March 2016.

In a confessional testimony released by Pakistan's military, Jadhav says he "established a small business in Chabahar in Iran [and] I was able to achieve undetected existence and visits to Karachi in 2003 and 2004".

Tehran's own investigation into the affair, a senior diplomat said, has shown that the Kaminda did little business, leaving a question mark over just why Jadhav stayed on in Iran for so many years. There are no records in Iran, the diplomat continued, to suggest that the Kaminda sought or received bank finance, a normal part of business.

In India, the Jadhav family did not receive regular remittance payments either, a police officer close to Jadhav's father said. The family has repeatedly declined to meet the press.

Expansion of role

In the build-up to 26/11, growing numbers of Indian jihadists were being routed to training camps in Pakistan through Iran's Zahedan: figures like Fahim Arshad Ansari, allegedly among the Lashkar-e-Taiba's top surveillance agents in India, and the fugitive bomb-maker Fayyaz Kagzi. The Baluch insurgency also exploded in 2006. Though Indian intelligence was kept well-informed of events there by its stations in Afghanistan, there was pressure inside the intelligence community to develop better contacts in the region.

To the dismay of Naval Intelligence, two officers said, their new asset in Chabahar soon began to be drawn into counterterrorism work for the Intelligence Bureau (I.B.)—raising fears that the fact that he was still on the organisation's payroll could lead to embarrassment.

Even though Admiral Arun Prakash, Navy chief from 2004 to 2006, resisted the efforts, the sources said, his concerns were overruled by intelligence chiefs desperate for reliable assets in the region.

"The Navy was extremely worried about the possible consequences of the tasks being assigned to Jadhav by the Intelligence Bureau," said one officer. "However, we were basically told that since he was there, that was how it needed to be." Former RAW officials claimed that the push to draw Jadhav into front-line intelligence work was driven by the I.B.'s ambitions to have an independent overseas role. RAW's own intelligence capacities in the region, they argued, were more than adequate to address emerging threats.

I.B. officials who served at the time disputed the claim and pointed to successes that their initiative had registered. In March 2007, for example, eight Pakistani nationals led by the Lashkar operatives Jamil Ahmad Awan and Abdul Majid Araiyan landed near Mumbai. They were presumed to have been tasked with attacking targets in Maharashtra and Gujarat. But the planned attack was penetrated by the I.B. and the terrorists were interdicted.

Either way, the sources said, Jadhav sought to expand his role after 26/11, even drawing up plans to use the Kaminda to stage a reprisal attack on Karachi, should a similar terrorist strike take place again. The idea received no traction but drew the attention of top intelligence officials who were convinced that more covert action was needed to deter Pakistan.

The former naval commander was greeted with consternation at RAW, where he first appeared in 2010, introduced as a former naval officer. Anand Arni, the head of RAW's Pakistan desk, shot down proposals for Jadhav to work with the organisation, sources said, arguing that the naval officer had little intelligence that RAW did not already possess.

"There were, shall we say, some small tests put to him in the course of the four meetings we had," a former RAW officer recalled. "He failed to give us anything particularly interesting."

But small cash payments, the source added, were made to Jadhav by successive RAW chiefs, beginning with K.C. Verma—"a standard practice to maintain a working relationship with potential sources", said an official familiar with the payments.

Interestingly, the payments appear to have continued through the tenures of several spymasters, running from Verma's successor, Sanjiv Tripathi, chief from 2010 to 2012, and Alok Joshi, who led RAW from 2012 to 2014.

Through this entire period, no one appears to have reviewed Jadhav's employment structure—which means he may have remained on the books as a naval officer because of bureaucratic oversight.

RAW routinely employs military officers, but on secondment, and never for front-line operational tasks, thus ensuring that there is a wall between the activities of agents and the government in the event of disclosure.

In a purported confessional testimony, Jadhav says he began working for RAW in 2013, reporting to an officer named Anil Kumar Gupta. There is, however, no officer in the organisation of that name, past or present. In later videos, though, he names RAW chiefs Anil Dhasmana and Joshi.

Perhaps significantly, both Verma and Joshi were former I.B. officers—as is the present National Security Adviser Doval—and may have come across Jadhav's work in the pre-26/11 period.

In 2014, Jadhav obtained the passport (L9630722) he was eventually arrested with in Pakistan, which was issued in Thane. This time, he identified himself as a resident of the Jasdanwala Complex on the old Mumbai-Pune road cutting through Navi Mumbai. The flat, municipal records show, was owned by his mother, Avanti Jadhav. Giving the accurate address on the passport was an extraordinary lapse of professional judgment if Jadhav was, at the time, still in service with an espionage organisation.

"Basically, it makes it impossible for India to deny he is who he says he is, which is a basic element of tradecraft," a RAW official pointed out. "It's criminally irresponsible for a spy's cover identity to be so closely linked to his real life."

Towards betrayal

From 2014 onwards, sources say, Jadhav grew increasingly close to the Karachi-based ganglord Uzair Baluch, once a valued ally for Pakistan's military but forced to flee the country in 2013. Having held an Iranian passport since 1987, Uzair Baluch moved in and out of Chabahar. Living next door to Baluch's nephew, Jaleel Baluch, Jadhav paid cash for information. Pakistani military sources insist that he made at least five deliveries of weapons to Baluch insurgents for RAW after 2014—but, like so much to do with the story, the facts are murky.

An official Pakistani investigation document shows that Baluch, who was provided safe haven by Iran after a falling-out with the ISI, returned the favour by becoming "involved in espionage activities, by providing secret information/sketches regarding Army installations and officials to foreign agents". The material he handed over appears to have been low-grade.

Last year, Uzair Baluch was finally detained in Abu Dhabi, on the basis of an Interpol warrant, and deported to Pakistan. Baluch's interrogation, Pakistani official sources say, eventually led the ISI to the Indian whose operations in Chabahar had gone undetected for over a decade. In April 2017, Uzair Baluch gave testimony in a Karachi magistrate's court, admitting to having been in touch both with Jadhav and Iranian intelligence. His account provides some insight into how the Jadhav story came to an end.

Though Jadhav was accused in the Pakistani media of engaging in acts of terrorism, the secret military court in Pakistan that sentenced Jadhav to death tried him only under the Official Secrets Act. The Act allows the imposition of the death sentence on individuals who pass any "information which is calculated to be or might be or is intended to be, directly or indirectly, useful to an enemy".

Following Jadhav's kidnapping from Saravan, Pakistani sources said, a decision was taken at the ISI Directorate to link him to acts of terrorism. Notably, however, the first of Jadhav's confessional videos, released by Pakistan's military, referred in general terms to acts of terrorism by India but none involving himself. Prime Minister Nawaz Sharif's foreign policy adviser, Sartaj Aziz, told the Pakistani Senate in April 2017 that a dossier prepared by the intelligence services for the government "did not have any conclusive evidence". "What the dossier contained was not enough," he said.

But in a sealed submission to the International Court of Justice, Islamabad named 13 senior Indian officials who it says facilitated Jadhav's operations. In an earlier letter to the Indian government, Pakistan sought "assistance in the investigation process and early dispensation of justice"—invoking India's language in requests on the 26/11 and Pathankot cases.

National Security Adviser Ajit Doval and former RAW chief Alok Joshi, senior government sources said, are among the officials named in both sets of documents—an effort to draw a parallel between the Jadhav case and the involvement of Pakistan's intelligence services in jihadist strikes on India.

"This is an effort to equate acts like 26/11 with Indian covert action," said a former intelligence officer. "The only reason it has traction, though, is because of the opacity around Jadhav's employment status. If he is indeed a serving naval officer, that means there are some serious problems with the infrastructure for our covert action programme, which need addressing."

Perils ahead

In 1948, the United States government created a new Office of Special Projects within the Central Intelligence Agency (CIA) to conduct covert action across the world. The Office's tasks, according to a National Security Council directive, were activities "conducted or sponsored by this government against hostile foreign states or groups or in support of friendly foreign states or groups". In practice, this meant funding anti-communist forces, including former Fascists, in countries like Italy, and even assassinating leaders whom the U.S. found hostile.

There was one key caveat in the directive: covert action had to be "so planned and executed that any U.S. government responsibility for them is not evident to unauthorised persons and that if uncovered the U.S. government can plausibly disclaim any responsibility for them".

Evidence on whether Jadhav is still a naval officer or not remains ambiguous. But the questions that have already surfaced give reason to suppose that his interrogators in Pakistan's ISI have enough material to embarrass India. The foundation of any covert action programme is, after all, plausible deniability.

For Indians, this ought to be an occasion for serious reflection on the country's expanding programme of covert action and the long-term consequences it might have. There has, sadly, been next to no informed political debate on the issue in India, a situation that ought to be of concern to both advocates and critics of covert action. Political consensus, after all, is the bedrock on which countries as diverse as the U.S., the United Kingdom, Israel and Russia have built their covert action programmes. There are precedents for the covert action programme India is now unleashing. Establishment 22, operating under the command of Major General Surjit Singh

Uban, carried out a secret war in what is now Bangladesh. Establishment 22 personnel aided Sikkim's accession to the Union of India; trained Tamil terrorists; and armed rebels operating against the pro-China regime in Myanmar.

In the early 1980s, RAW set up two covert groups, Counter Intelligence Team-X and Counter Intelligence Team-J, targeted at Khalistan groups backed by the ISI. Each Khalistan terror attack targeting India's cities was met with retaliatory attacks in Lahore or Karachi.

"The role of our covert action capability in putting an end to the ISI's interference in Punjab," the former RAW officer B. Raman wrote in 2002, "by making such interference prohibitively costly is little known."

Prime Minister I.K. Gujral ended RAW's offensive operations against Pakistan, and his predecessor, Prime Minister P.V. Narasimha Rao, wound up its eastern operations.

Ever since 26/11, a welter of senior intelligence figures, including former National Security Adviser M.K. Narayanan, are known to have argued for an expansion of RAW's covert offensive capacity to retaliate against the ISI.

Inside the intelligence community, RAW's new offensive operations are reputed to have registered unprecedented success against jihadist groups in Pakistan. The assassination of Lashkar chief Hafiz Muhammad Saeed's security boss, Khalid Bashir, in 2013; the penetration of the Jaish-e-Muhammad's cross-border attack plans; the tit-for-tat arming of Baluch nationalists to retaliate against the ISI's sponsorship of the Kashmir jihad—these have all been attributed, in Pakistan, to RAW's new leadership.

Nations states, almost without exception, use similar covert means to secure ends they cannot legally or ethically defend in public. Such operations allow for the discreet exercise of power, minimising the risks of war, and allow governments room to manoeuvre free of public pressure. Yet, the scholar Alexandra Perina has noted, "the very attributes of these tools that are so appealing present corresponding costs; by taking their conduct out of the public realm, states cede their influence in shaping international public opinion about their conduct, with consequences not only for the legitimacy of their actions but for the law itself".

Moreover, covert action can have unintended consequences. The U.S.' backing of Contra insurgents in Nicaragua aided drug traffickers in its own cities, while its arming of anti-Soviet jihadists in Afghanistan led, inexorably, to 9/11. Its use of proxies to destabilise regimes around the world undermined the norms of the global state system, with dangerous consequences.

Unanswered question

Hence, the Kulbhushan Jadhav case ought to raise questions about whether India's intelligence bosses are devoting the kind of granular attention that the issue requires to insulate the country from the potential risks. The questions over Jadhav's passports, the opacity of his business operations and, most important, the lack of transparency about his connection to the Indian Navy, have all made it difficult for the government of India to dissociate itself from his cause—the usual, necessary fate of the spy. It is also not clear why, if he is indeed a spy, he was not withdrawn after Uzair Baluch's arrest, an elementary precaution.

Perhaps more importantly, there ought to be a serious political debate cutting across party lines on the possible consequences of covert action.

In this case, Pakistani prosecutors may have little to tie Jadhav to actual acts of violence. But lapses, if left unaddressed, could cause significant damage. Global reaction to a future 26/11, after all, might be different were it ever to be demonstrated that India had links to similar acts of terror.

Knowledge of the truth about the Jadhav case, as it emerges, will do little to alter his fate. In a May 18 judgment asking Pakistan not to proceed with Jadhav's execution, the International Court of Justice recorded that "the Vienna Convention does not contain express provisions excluding from its scope persons suspected of espionage or terrorism".

Put simply, Jadhav is entitled under Indian law to the assistance of the Indian government—including legal assistance—irrespective of the nature of his activities in Iran or Pakistan.

The International Court of Justice does not, however, conduct criminal trials; nor can it strike down domestic laws. It will, at most, ask Pakistan to try Jadhav again, this time ensuring that he is allowed to access support from the Indian High Commission in Islamabad. A local court will assess the evidence Pakistan prosecutors bring before it—and that evidence will include the claim, supported by Jadhav's confession, that he was a serving naval officer working as a spy.

Precedents do exist to resolve situations like this. Gary Powers, the pilot of a CIA espionage flight shot down over the Soviet Union in May 1960—and reviled by his colleagues for not committing suicide—was eventually exchanged for the legendary KGB spy Vilyam Genrikhovich Fisher.

In both New Delhi and Islamabad, there are rumours the two capitals are working on just such a deal—possibly involving former ISI officer Lieutenant Colonel Mohammad Zahir Habib, alleged to have been kidnapped by India—or a wider deal, which could see the release of multiple espionage convicts.

Both countries have much to gain from a dispassionate conversation on the case—on the norms that ought to govern covert activity of the one against the other, and on the inexorable consequences of the secret war Pakistan has long run.

For that, the Kulbhushan Jadhav case needs to be elevated above prime-time ranting and opened up for rational discussion.



America's ISIS Jihadists were Largely Duds

A new study shows that the vast majority of Americans who left the United States to become fighters in Syria and Iraq never saw combat and worked in menial positions.

newyorker.com



2

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Praveen Swami @praveenswami · Feb 7

In A First, BJP Opposes Central Law For Jammu and Kashmir



In A First, BJP Opposes Central Law For Jammu an...

It's a role reversal of sorts for the partners of the ruling coalition in Jammu and Kashmir. For the first time the BJP, which has all along opposed special status to J&K, ndtv.com



8

11

Praveen Swami Retweeted



Mohsin Dawar @mjdawar · Feb 6

Masses protesting against the target killing of a young man idris Wazir burnt the offices of Taliban in D.I.Khan. No more patronage, no more good & bad. The deep state will not be allowed any more for their war adventurism.

[#PushtunLongMarch](https://twitter.com/hashtag/PushtunLongMarch)



39

432

608



Praveen Swami @praveenswami · Feb 5

Pakistan seeks details to prove Kulbhushan Jadhav a naval officer when captured



Pakistan seeks details to prove Kulbhushan Jadha...

Pakistan has used its memorial or formal submission to the ICJ to seek information from India that would strengthen its claim that Jadhav was still in service at th...

hindustantimes.com

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Praveen Swami @praveenswami · Feb 5

Um, no—and you could have called if you wanted to know :)

Sagarika Ghose  @sagarikaghose

What? @praveenswami sacked from @IndianExpress ?? Can this be true?
twitter.com/marvisirmed/st...

10 17 73



Praveen Swami  @praveenswami · Feb 4

This Facebook page was inciting terrorism, plain and simple—and its authors ought be prosecuted for exactly that



Hindutva FB page publishes list of 100+ couples in ...

“यह एक सूची है उन हिन्दू लड़कियों के फेसबुक प्रोफाइल की जो लव जिहाद का शिकार हो चुकी है या हो रही है... हर हिन्दू शेर से आग्रह है, इनमे जो लड़के हैं, उनको खोज के शिकार करे” (This ...
altnews.in

6 30 27



Praveen Swami  @praveenswami · Feb 4

Powerful stuff from Abhisar Sharma on the growing ugliness of our civic life, and the media's role in fueling it



How Much More Blood Do TV Anchors Want to See ...

Some TV channels deliberately spread a made-up story of how the Muslims of Kasganj were protesting against the national flag.

thewire.in

5 15 35



Praveen Swami  @praveenswami · Feb 4

Thank you, Shripen. FWIW, I don't object to covert action; just underline the need for great caution in its use

Shripen @Shrivp

Replying to @praveenswami

Your article on KJ in frontline is unbiased. You have stated facts as much as you could get. Only point I disagree is when you object to covert action by intelligence agencies. I applaud you for not reporting as spokesman for GOI or MEA. It requires courage.

5 6



Praveen Swami  @praveenswami · Feb 3

Did someone say debate is dead? Small sample of the Socratic Dialogue sparked off by my story on the Kulbhushan Jadhav case.

SAVIN @SAVINRUNGTA 1h1 hour ago
More
Replying to @AdityaRajKaul @ME_Ahluja and 11 others
Not good enough. Why isn't this wine butchered in broad daylight with the telecast beaming live in Napaakistan

श्री श्रिप @Shrivp 1h1 hour ago
More
Replying to @praveenswami @AdityaRajKaul
While some traitors sell their own for money. By the way, what's the price of your wife Swamy. One night, may be.

TudorBette @hanchuan 2h2 hours ago
More
Replying to @CCChandani @praveenswami
Chetty - is that your name or your father's? @AdityaRajKaul

Shanta Dubey @shantadubey 2h2 hours ago
More
Shanta Dubey Retweeted Aditya Raj Kaul
@praveenswami Pakistani news network were celebrating. Why India have to tolerate Trainers like you? How much ISI paid u? Or paki boss China? Folks when u see this guy on street of India, do justice for sake of kulbhushan & his family.

Tarvam Asl @Bhaskarika 2h2 hours ago
More
Tarvam Asl Retweeted Aditya Raj Kaul
@praveenswami always comes up with fascinating view points like that "Grandmother who crossed over." Story. Sometimes his stories reach Indian newspapers (Straight from GHQ- Rawalpindi) even before Pak PM gets his memo on whom to blame but @ME_Ahluja always as usual

@Gaurakshak Peshwa @RamyY_BRF 2h2 hours ago
More
#Gaurakshak Peshwa Retweeted Aditya Raj Kaul
I request @ME_Ahluja to arrest @praveenswami for spreading fake news to hurt national interests. @SushmaSwami @HMCIndia

GoatPardite @hanchuan 2h2 hours ago
More
Replying to @praveenswami
You are a Pakistani Dolt!

TudorBette @hanchuan 2h2 hours ago
More
TudorBette Retweeted Aditya Raj Kaul
@praveenswami is a scumbag, talk about him, the coward hides and runs to his liberal cabal for support. Can't even stand his own ground

Shivraj @shivraj123 2h2 hours ago
More
Replying to @praveenswami
Praveen, when you come out of AC...one word with which you are called...Ganda Gaddar!

anm @anm9116024 2h2 hours ago
More
Replying to @praveenswami
These scoundrel must be sent to Pakistan!

Tarak Tanti @tarak_tanti 2h2 hours ago
More
Replying to @praveenswami @praveenswami
Coward @praveenswami blocked everyone who raised their voice against him. बंद कर दो जो उसको बोलते थे



14 22 27

Praveen Swami Retweeted



ABC News @ABC · Feb 3

NASA's Curiosity rover captures an incredible panoramic view of Mars from the Gale Crater, showing dunes, buttes and ridges across the Red Planet's surface. abcn.ws/2GLbnq0



324 3.1K 7.0K



Praveen Swami @praveenswami · Feb 3

It's never a problem if Islamabad, or New Delhi, or ganglords or terrorists know what happened: the truth is only dangerous when the people get to hear it. Fortunately, few want to.

swagger @imtyaz1172

Replying to @praveenswami

Both Govts already know the truth, how does Mr swami's article have any bearing on the case, i wonder

2 4 32



Praveen Swami @praveenswami · Feb 3

Fine—then it should be pretty easy to slay my questions with facts, instead of the vulgar ad-hominem claims the MEA spokesperson is making, no?

Evaluator Speculator @MarwarWarrior

Replying to @praveenswami

Although I can't comment on your motives, the story was pretty fact lite and innuendo heavy...

4 3 13



Praveen Swami @praveenswami · Feb 3

In recent years, I have worked for RAW, IB, Mossad and now the ISI. Impressive, no?

FrancescaMarino @francescam63

Please. Accusing @praveenswami to report pakistani propaganda is just ridiculous [twitter.com/adityarajkaul/...](https://twitter.com/adityarajkaul/)

22

18

95

**Praveen Swami** ✓ @praveenswami · Feb 3

Good question. I also note it doesn't actually either answer or deny a single issue I raise in my article

Vipin Narang @NarangVipin

Does the MEA really want to be denying the crux of the story that India has—to its credit—built up a covert action capability? Why would you do that? cc: @praveenswami twitter.com/adityarajkaul/...

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**Praveen Swami** ✓ @praveenswami · Feb 3

Thrilling, narrative-altering news, Aditya. Please do keep me posted as this evolves; will be following you with bated breath.

In response to a media report by Shri Praveen Swami in Frontline on Shri Kulbhushan Jadhav, the Official Spokesperson said:"The report is riddled with factual inaccuracies and presents a false story which is concocted and mischievous. The story relies considerably on the leaked videos of Shri Jadhav released by the Pakistan Govt, and furthers its propaganda. This places a big question mark on the credibility of this story and the intended purpose. The facts on Shri Jadhav remain what we have released in our previous statements. Shri Jadhav is a retired Indian Naval Officer, who was engaged in a business in Iran, and was kidnapped in Iran and produced in Pakistan. We are fighting his case."**Aditya Raj Kaul** ✓ @AdityaRajKaul

#BREAKING: Ministry of External Affairs Spokesperson @MEAIndia hits out at @praveenswami piece on #KulbhushanJadhav in @frontline_india saying that the report furthers propaganda of Pakistan Govt. Big...

48

44

102

**Praveen Swami** ✓ @praveenswami · Feb 2

Jihad decree triggers demands for holy war on Kashmir

**Jihad decree triggers demands for holy war on Kas...**

Efforts by Pakistan's government to dissociate itself from charges of sponsoring terrorism have attracted a hostile response from Islamists

atimes.com

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**Praveen Swami** ✓ @praveenswami · Feb 2

Poland's Holocaust Law Seeks to Weaponize Memory

**Poland's Holocaust Law Seeks to Weaponize Memory**

Some will never stop seeking to whitewash World War II memories, but parliaments should keep out of it.

bloomberg.com

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**Praveen Swami** ✓ @praveenswami · Feb 2

'Humorless Politicians Are the Most Dangerous'

**'Humorless Politicians Are the Most Dangerous'**

Armando Iannucci, the creator of "Veep," answers questions about satire in the time of Trump and his new film, "The Death of Stalin."

theatlantic.com

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16

**Praveen Swami** ✓ @praveenswami · Feb 1

Twitter's greatest contribution to this planet is keeping crazies chained to their keyboards, and thus off the streets

16

135

460

**Praveen Swami** ✓ @praveenswami · Feb 1

Dr. A: as you know from bitter experience, we're dealing not with a political issue, but a psychiatric problem. A

Praveen Swami (@praveenswami) | Twitter
but a psychiatric problem :)

Ayesha Siddiq @iamthedrifter

Replying to @abbasnasir59 @praveenswami

Excellent journalism except that nowhere in the piece does it say that KJ was involved in terrorism in Lahore and other places as reported by Samaa

2 5 14



Praveen Swami @praveenswami · Feb 1

Sweets, @barandbench is a magazine—the Supreme Court isn't on Twitter, but I'm sure they'd be thrilled to receive a letter from you

Sreenivasan @msreeni

@praveenswami u r known by your company & deserves sentence for endangering a life of Pak held Indian @barandbench SC must take voluntarily & @HMOIndia @MEAIndia to help in this process Freedom has limits

2 1 17



Praveen Swami @praveenswami · Feb 1

Turkey's permanent state of emergency is crippling its development, writes Faisal al-Yafai

4 4 4



Praveen Swami @praveenswami · Feb 1

Bonny Brooks, brilliant on the toxic effect of identity politics on our minds



Buy Banned Books - Quillette

What is lost when we insist that literature be 'authentic' and that some portrayals – even journalistic narratives – may only be authored by their real life counterparts? If t...
quillette.com

2 1 6



Praveen Swami @praveenswami · Feb 1

I would never call you a traitor, Murtaza. I might call you a few other things, but never a traitor:)

Murtaza Solangi @murtazasolangi

@praveenswami Glad to know they call you traitor too. We too are called the same on this side. 😊

2 2 14



Praveen Swami @praveenswami · Feb 1

I'm so glad you think—keep at it 🟢 twitter.com/chanakya1798/s...

This Tweet is unavailable.

2 2 18



Praveen Swami @praveenswami · Feb 1

In Frontline magazine, I explore the forest of shadows around the Kulbhushan Jadhav story



India's secret war

The implications of the questions raised by the Kulbhushan Jadhav case go far beyond Jadhav's fate. It is time India reflects seriously on its expanding progr...
frontline.in

39 78 118



Praveen Swami @praveenswami · Feb 1

Gordon Watts, on Japan's grim post-World War II eugenics law, and forced sterilisations



'Eugenics' case highlights dark chapter in Japanes...

Woman's legal battle with Tokyo government over 'forced sterilization' has shades of 'Nazi ideology'
atimes.com

1



Praveen Swami @praveenswami · Feb 1

Obscene: Man pardons daughter's rapist amid victim's protest



Man pardons daughter's rapist amid victim's protest

Rawalpindi-A man pardoned rapist of his 17-year-old disabled daughter in a courtroom amid hue and cry of the victim, informed eyewitnesses and sources on
nation.com.pk

3 3

Praveen Swami Retweeted



Kabir Taneja @KabirTaneja · Feb 1

A very colorful piece by @praveenswami on the entire saga behind Kalbhushan Jadhav, the alleged Indian spy currently on death row in Pakistan. Must read.



India's secret war

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frontline.in

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Praveen Swami Retweeted



Avinash Paliwal @PaliwalAvi · Feb 1

'India's Secret War: The implications of the questions raised by the Kulbhushan Jadhav case go far beyond Jadhav's fate ... for behind the case lies a secret war that may claim hundreds, even thousands, of lives.' Solid piece by @praveenswami



India's secret war

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frontline.in

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Emmanuel Derville @e_derville · Feb 1

Very nice piece by @praveenswami on the curious case of Indian agent K. Jadhav arrested in Pakistan.



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frontline.in

1 9 10



Praveen Swami @praveenswami · Feb 1

Your flowers and chocolate are in the mail

namrata zakaria @namratazakaria

Sorry budget, this is the read of the day twitter.com/praveenswami/s...

4 6



Praveen Swami @praveenswami · Jan 31

Proof that Indian men are a national security threat :)



Air Force Officer Accused Of Leaking Information ...

A senior Indian Air Force officer has been taken into custody after he was accused of passing on classified information to a woman he had reportedly befriended ...
ndtv.com

2 3 5

Praveen Swami Retweeted



Hari Prasad @HariPrasad91 · Jan 31

An important and fascinating read by @praveenswami on #India expanding covert operations against #Pakistan and the case of Kulbhushan Jadhav,



India's secret war

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Ayesha Ray @DrAyeshaRay · Jan 31

This piece by @praveenswami is a must-read.

India's secret war | Frontline



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frontline.in

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Praveen Swami Retweeted



Anita Joshua @anitajoshua · Jan 31

With a detailed backgrounder on #KulbhushanJadhav and India's secret war in

Pakistan, @praveenswami argues for the two countries rationally discussing a prisoner swap instead of leaving it to primetime ranting



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frontline.in

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107

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Paul Staniland @pstanpolitics · Jan 31

"India has secretly built up a covert action programme against Pakistan" by Praveen Swami - India's secret war | Frontline



India's secret war

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frontline.in

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Praveen Swami @praveenswami · Jan 31

In Frontline magazine, I explore the forest of shadows around the Kulbhushan Jadhav story



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frontline.in

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118



Praveen Swami @praveenswami · Jan 28

'It's a Massacre': Blast in Kabul Deepens Toll of a Long War



'It's a Massacre': Blast in Kabul Deepens Toll of a L...

At least 95 were killed and 158 others were wounded when a car bomber drove an ambulance past two checkpoints and detonated explosives.
nytimes.com

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Praveen Swami @praveenswami · Jan 28

Ahmed Ali Fayyaz (@ahmedalifayyaz) unearths new details on the bizarre story of Sadia Sheikh



How Sadia Shaikh took admission in paramedical c...

J&K Police quizzing detained Pune girl's Valley contacts, scanning her call detail record and Facebook/WhatsApp exchanges Ahmed Ali Fayyaz JAMMU: An 18-year-old...
news.statetimes.in

2



Praveen Swami @praveenswami · Jan 28

C Christine Fair (@CChristineFair), bang on target on the Pakistan-US face-off



Pakistan Will Try to Make Trump Pay

The country has banked on being treated as too dangerous to fail. But this time could be different.

[Ashutosh's Crying Face](#) @hamskat 14m14 minutes ago

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Ashutosh's Crying Face Retweeted Aditya Raj Kaul

Proud to be blocked by scumbag [@praveenswami](#)

[Harsh](#) @Harsh15573477 51m51 minutes ago

More

Replying to [@NoOtiyapa](#) [@praveenswami](#)

Swamy may be on ISI parole. Regularly gets funds!

[NAVIN](#) @NAVINRUNGTA 1h1 hour ago

More

Replying to [@AdityaRajKaul](#) [@MEAIndia](#) and 11 others

Not good enough. Why isn't this swine butchered in broad daylight with the telecast beaming live in Napakistan

[श्रेष्ठ भारत](#) @DesiRadical 1h1 hour ago

More

Replying to [@praveenswami](#) [@csharitha](#)

While some traitors sell their own for money. By the way, what's the price of your wife Swamy. One night, may be.

[TudorBeste](#) @harsharam 2h2 hours ago

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Replying to [@CChristineFair](#) [@praveenswami](#)

Chutiya - is that your name or your father's? [@AdityaRajKaul](#)

[Shanta Dubey](#) @momdubey 2h2 hours ago

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[@praveenswami](#) Pakistani news network were celebrating. Why India have to tolerate Traitors like you? How much ISI paid u? Or paki boss China? Folks when u see this guy on street of India, do justice for sake of kulbhusan & his family.

[Tatvam Asi](#) @Brahamyakya 2h2 hours ago

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Tatvam Asi Retweeted Aditya Raj Kaul

[@praveenswami](#) always comes up with fascinating view points like that "Grandmother who crossed over.." Story. Sometimes his stories reach Indian newspapers (Straight from GHQ-Rawalpindi) even before Pak PM gets his memo on whom to blame but [@HMOIndia](#) sleeps as usual

[#Gaurakshak Peshwa](#) @RamaY BRF 2h2 hours ago

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#Gaurakshak Peshwa Retweeted Aditya Raj Kaul

I request [@MEAIndia](#) to arrest [@praveenswami](#) for spreading fake news to hurt national interests. [@SushmaSwaraj](#) [@HMOIndia](#)

[GodParticle](#) @heavensbutcher 3h3 hours ago

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Replying to [@praveenswami](#)

You are a Pakistani Dalla!

[TudorBeste](#) @harsharam 3h3 hours ago

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[@praveenswami](#) is a scumbag, talk about him, the coward hides and runs to his liberal cabal for support. Can't even stand his own ground

[Shivraj](#) @sherShivraj 3h3 hours ago

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Replying to [@praveenswami](#)

Praveen, when you come out of AC ..one word with which you are called....Gandu Gaddar!

[annu](#) @annu91140254 6h6 hours ago

More

Replying to [@praveenswami](#)

These scoundrel must be sent to Pakistan!

[Tarak Tyagi](#) @tarak_tyagi 7h7 hours ago

More

Replying to [@francescam63](#) [@praveenswami](#)

Coward [#praveenswami](#) blocked everyone who raised their voice against him. डूब कर मर जाओ प्रवीण स्वामी

[Mrityunjay](#) @indomitablesoul 9h9 hours ago

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Replying to [@AdityaRajKaul](#)

SS pls, I am blocked by this Paki stooge Praveen Swami

[Suraj](#) @suraj_del 10h10 hours ago

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Journalist
New Delhi, Delhi, India


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
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
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
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
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
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
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MEDIA

Frontline does a Quint and scores big points with Pakistan, cooks up another 'spy story' of Jadhav

By **Nithesh S** 

Posted on February 2, 2018



Frontline, a publication that belongs to 'The Hindu' group has peddled yet another Jadhav 'spy story' in its publication. By attributing the contents of the story to former RAW officials, the journalist Praveen Swami has aided the Pakistani narrative on Kulbhushan Jadhav's alleged espionage activities. A similar attempt was made by The Quint. We had **debunked** their shoddy journalism earlier.

Praveen Swami, a Pakistani sympathiser?

When the Indian navy had destroyed a boat off West coast in Arabian sea, Praveen Swami had written an **article** claiming that the destruction of the terror boat was a drama. He said that the people in the suspicious boat could have been 'small time smugglers.' He writes :

Less than 48 hours after the Coast Guard destroyed a boat it suspected was ferrying explosives and terrorists from Pakistan into Indian waters, new evidence has begun to emerge that those on board might have been small-time liquor and diesel smugglers, ferrying bootleg cargo from the port of Gwadar to other fishing boats which were to have carried it into Karachi's Ketu Bandar harbour.

There is also a suggestion of use of disproportionate force

since the fishing boat did not have an engine capable of outrunning Indian interceptors.

The journalist later **appeared** on a Pakistani Channel called UNewsTV and bashed the Indian Navy officer for destroying the boat. He also entertained the Pakistani journalists comment that the whole act was part of Modi government's marketing propaganda. Swami had leaked a video of a Navy officer's speech to claim that the act of destroying a Pakistani vessel was unnecessary action. The leaked video was also played on the Pakistani channel. Clearly, this journalist seems to love undermining his own country to win some sort of brownie points from folks across the border.

'India's secret war' an article with Pakistani narrative, attributed to dubious 'sources'

The **article** written by Praveen Swami in Frontline cooks up a fresh story about Kulbhushan Jadhav's activities in Balochistan. Invents past 'RAW officials' as sources and questions the rationale of espionage itself. He writes (emphasis added):

Ever since 2013, India has secretly built up a covert action programme against Pakistan, seeking to retaliate against jihadists and deter their sponsors in the Inter-Services Intelligence (ISI) Directorate. Led by National Security Adviser Ajit Doval, and now by Research and Analysis Wing's (RAW) Anil Dhasmana, the programme has registered unprecedented success, hitting hard against organisations such as the Lashkar-e-Taiba and the Jaish-e-Muhammad. But the story of the man on death row illustrates that this secret war is not risk-free. Lapses in tradecraft and judgment, inevitable parts of any human enterprise, can inflict harm far greater than the good they seek to secure.

Swami seems to be saying that India should not take any risk. It should allow its citizens to die in terrorist attacks like they did under UPA. We should just 'live with' terror as per Swami. Everyone knows that risk is an inherent part of life and nations/individuals must take risks for the right cause. Therefore there can't be any second thoughts on lowering India's guard.

Praveen Swami invents a former RAW official to suggest a hypothetical clash of interests between RAW and IB. He says that he was victim of IB's poor judgement and ambition. He writes (emphasis added) :

"The Navy was extremely worried about the possible

consequences of the tasks being assigned to Jadhav by the Intelligence Bureau,” said one officer. “However, we were basically told that since he was there, that was how it needed to be.” Former RAW officials claimed that the push to draw Jadhav into front-line intelligence work was driven by the I.B.’s ambitions to have an independent overseas role. RAW’s own intelligence capacities in the region, they argued, were more than adequate to address emerging threats.

If this supposed former RAW official is so courageous, he must come out of his anonymity and tell the world about the flaws. Why is he hiding? The insinuations of Jadhav’s past through such dubious sources are worrisome because it cannot be verified. These dubious stories also damage the case of Jadhav who is stuck in a Pakistani jail with death hanging over his head.

Praveen Swami also suggests that India’s ‘alleged’ assistance to terror in Balochistan could be ‘equated’ to 26/11. This is reminiscent of the disastrous Sharm-el-Shaik **declaration** under the Manmohan Singh government. Praveen Swami’s journalism is toeing the line of UPA’s Pakistan policy and is opposed to NDA’s handling of security issues. One wonders if he is actually doing UPA’s bidding through his journalism. He writes (emphasis added)

“This is an effort to equate acts like 26/11 with Indian covert action,” said a former intelligence officer. “The only reason it has traction, though, is because of the opacity around Jadhav’s employment status. If he is indeed a serving naval officer, that means there are some serious problems with the infrastructure for our covert action programme, which need addressing.”

Praveen Swami indirectly asks India to admit to Jadhav’s alleged spying activities and negotiate his release. Not surprisingly, Pakistani media has picked up story to support Pakistan military’s narrative. He also talks about ‘rumours’ of an ISI agent caught by India and tacitly asks for his release in exchange for Jadhav. Swami has ended up peddling the exact same narrative that Pakistan wants. Swami writes (emphasis added) :

Knowledge of the truth about the Jadhav case, as it emerges, will do little to alter his fate. In a May 18 judgment asking Pakistan not to proceed with Jadhav’s execution, the International Court of Justice recorded that “the Vienna Convention does not contain express provisions excluding from its scope persons suspected of espionage or terrorism”.

Put simply, Jadhav is entitled under Indian law to the assistance of the Indian government—including legal assistance—irrespective of the nature of his activities in Iran or Pakistan. [..]

In both New Delhi and Islamabad, there are rumours the two capitals are working on just such a deal—possibly involving former ISI officer Lieutenant Colonel Mohammad Zahir Habib, alleged to have been kidnapped by India—or a wider deal, which could see the release of multiple espionage convicts.

Not surprisingly, Pakistani media is picking on his article to further spread Pakistan military's story.

A few days ago, there was a buzz on Social Media that Praveen Swami had left The Indian Express because he wasn't allowed to carry some story that he wanted to carry. After this story appeared in The Frontline, journalist J Gopikrishnan also pointed out that it was this story because of which Swami perhaps quit the Indian Express.

Should media publish information gathered from 'anonymous former officials' which undermine Kulbhushan Jadhav's case at ICJ and international forum? Should 'The Hindu' group entertain this sort of rumour based journalism which asks for a 'hypothetical' ISI spy in India's custody? The government must note this trend in media and enact a tough law against journalists who undermine national interest and wittingly or unwittingly, aid foreign enemies from Indian soil.

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RELATED



Official Spokesperson's response to a media report by Shri Praveen Swami in Frontline on Shri Kulbhushan Jadhav

February 03, 2018

In response to a media report by Shri Praveen Swami in Frontline on Shri Kulbhushan Jadhav, the Official Spokesperson said:

"The report is riddled with factual inaccuracies and presents a false story which is concocted and mischievous. The story relies considerably on the tutored videos of Shri Jadhav released by the Pakistan Govt. and furthers its propaganda. This places a big question mark on the credibility of this story and the intended purpose.

The facts on Shri Jadhav remain what we have released in our previous statements. Shri Jadhav is a retired Indian Naval Officer, who was engaged in a business in Iran, and was kidnapped in Iran and produced in Pakistan. We are fighting his case at the ICJ."



Printed from

THE TIMES OF INDIA

Fingerprint scanner at airport to check illegal migration

TNN | May 2, 2011, 12:19 AM IST

AHMEDABAD: Birds might have a free run at the city airport, but 'kabootars' will now be easily hunted down here. Armed with a fingerprint scanner and an electronic passport reader, Ahmedabad airport, infamous as an easy gateway for people flying with forged documents, pledges to make flying impossible for illegal migrants.

The Bureau of Immigration (BOI) will soon provide the scanner to the Sardar Vallabhbhai Patel International airport. The scanner will record fingerprints of all international flyers flying in or out of Ahmedabad. The scanner, installed at all major international airports, will allow immigration officials to check previous fingerprint details of the flyer recorded at other airports. The electronic passport reader, which was installed recently, can read passports of all countries and ascertain its authenticity.

"After the new international terminal began operational last year, no case of people flying in or out of Ahmedabad with fake documents has been reported, except one case where a Rajasthan-based laborer was deported from Dubai airport. But looking at the notorious history of Ahmedabad airport the new machines were necessary to make it impossible to get away with fake documents," said a senior immigration official at Ahmedabad airport.

City airport authorities have seen many cases where passports, visa stamps, stickers and documents were forged or imposters were sent on original documents. The notoriety of Ahmedabad airport has in the past attracted illegal migrants from different corners of India and even Sri Lanka as an easy gateway to foreign destinations.

"We have had many cases of people flying to Dubai and Singapore from Ahmedabad with fake passports or visas. In few cases

they were deported but many managed to settle there as illegal migrants and were caught when trying to come back," the official said.

In fact, the city airport has seen many cases of people from different states using it as a gateway to fly to foreign destinations on forged documents. The buzz among city immigration officials is high that they might be soon replaced by Foreigners Regional Registration Officers (FRROs). However, there is no official confirmation on the same.

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2. Follow the instructions on each page. Make sure you answer all the questions —if you do not, your application may not be accepted.
3. Your answers must be in English and must use the English alphabet. That means you cannot use letters like ñ, é, ü, or ç. For example, instead of writing "São Paulo," write "Sao Paulo."
4. When you are finished answering all the questions, the program will let you check your answers to make sure they are correct. Please re-read them carefully so you do not make mistakes.
5. Once you have checked your answers, you can submit your application. When you do, you will see an email veification page on your screen where you should enter a verication code. If you are not receive an email containing the verification code, resend verification code. Please pay attention to your email address. You can edit the email address, if you can not access to given email address or it is wrong.
6. By completing email address verification process, you will see a confirmation page on your screen with a barcode. Please print this page by clicking on

print button and write down the Tracking Code displayed on the page. To check your application status, you will need this Tracking Code to continue your application.

Electronically submitting your online application is the FIRST STEP in the visa application process. Some visa applicants will need to attend a visa interview, though some applicants may qualify for a visa without interview. If you have submitted a visa application within 10 days, you should wait until your application pass all required process. By changing your application status, an Status email will be send to your email address. You also can check the applicatin status by accessing the Check Application Status page (</en/request/status/>)

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- Your Nationality;
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- Your Image requirements;
- The embassy or Consulate where you plan to receive your visa.

NOTE:

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4. digital personal photo in accordance with the requirements announced (/en/request/digital_image_requirement/?title_name=photo)
5. digital image of your passport in accordance with the requirements announced (/en/request/digital_image_requirement/?title_name=passport)
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NEW APPLICATION

ELECTRONIC VISA APPLICATION

Passport Copy Requirements

The digital image of your passport is a vital part of your visa application. To learn more, review the information below on how to provide a suitable digital image. The acceptance of your passport copy is at the discretion of the IR.IRAN Embassy or consulate where you apply.

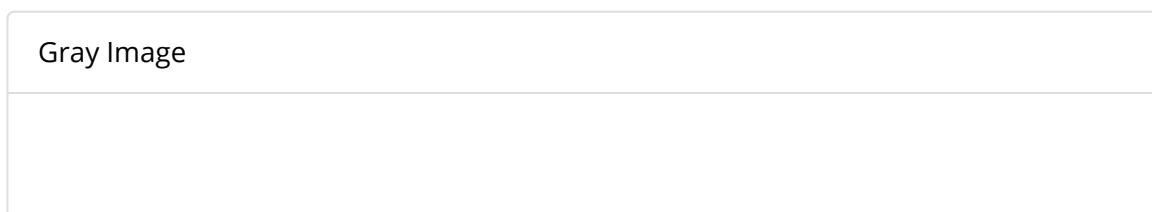
We recommend you use a professional visa photo service to ensure digital image of your passport meets all the requirements.

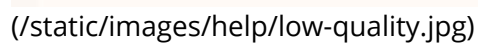
Your digital image of your passport must be:

- In color
- In JPEG (.jpg) file format
- Equal to or less than 500 kB (kilobytes) in file size (less than 10 kB is not accepted)
- Only the first page. full-length images are not acceptable.
- In a rectangular aspect ratio (height must less than width)
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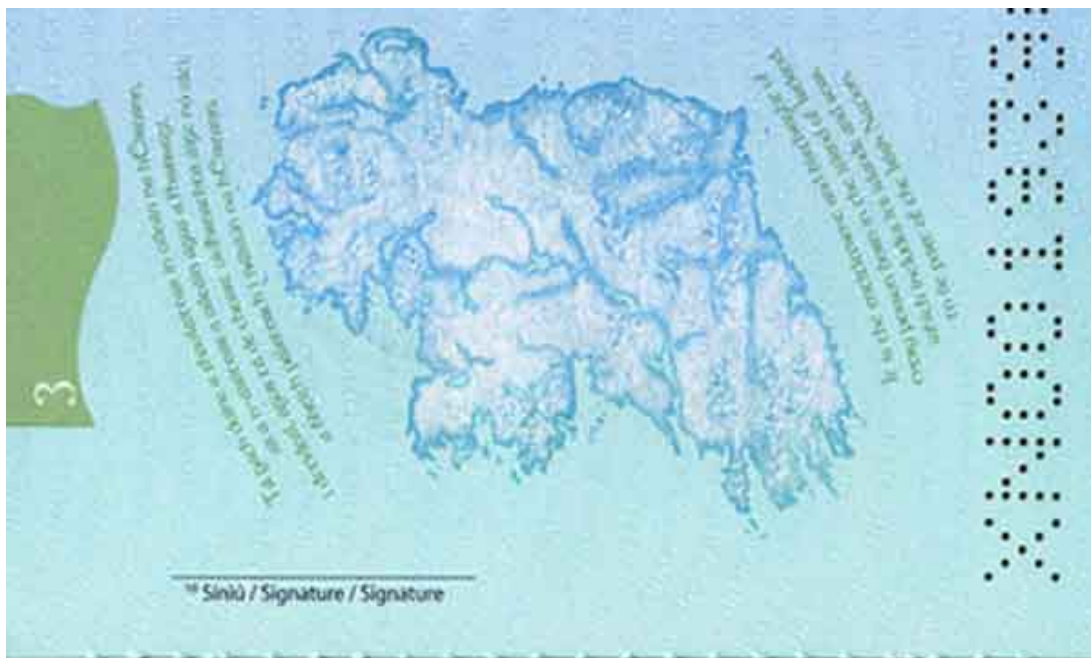


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Judgment Sheet

PESHAWAR HIGH COURT, PESHAWAR

JUDICIAL DEPARTMENT

Writ Petition No.1706-P of 2016

JUDGMENT

Date of hearing 02.03.2017 (Announced on 25.05.2017)

*Petitioner: (Muhammad Ayaz) by M/s Abdul Latif Afridi and
Khalid Anwar, Advocates.*

*Respondents: (The Superintendent District Jail, Timergara
and others) M/s Manzoor Khan Khalil, DAG
and Waqar Ahmad Khan, AAG alongwith Major
Muhammad Tahir and Lt.Col. Kashif, 11
Corps.*

YAHYA AFRIDI, C.J.- Muhammad Ayaz,
petitioner, seeks the Constitutional jurisdiction of
this Court in challenging the conviction awarded to
convict Muhammad Imran, by the Court Martial,
whereby, he was sentenced to death vide order
dated 28.6.2015.

2. The brief and essential facts leading
to the present petition are that convict Muhammad
Imran, being involved in terrorist activities, was
charged and tried by a Court Martial (“**Military
Court**”) under The Pakistan Army Act, 1952 as
amended vide Pakistan Army (Amendment) Act,

2015 (“The Army Act”), for the following charges;

“First Charge.

PAA Section 59

Committing a civil offence, that is to say, designing vehicle for terrorists act, in that he, at Nahaqi (Mohmand Agency) during 2008, alongwith Civilians Musafir and Farhan designed a Shahzore vehicle by fixing improvised explosive device for terrorist attack on Nahaqi Check Post, Mohmand Rifles, Frontier Corps ; and thereby committed an offence punishable under Pakistan Army (Amendment) Act, 2015.

Second Charge

PAA Section 59

Committing a civil offence, that is to say, attacking the law enforcement agency, in that he, at DG-II Check Post (Mohmand Agency), on 29 October 2008, alongwith Civilian Sheraz attacked on the troops of 3 Wing Mohmand Rifles, Frontier Corps, deployed at DG-II Check Post, by firing with Sub Machine Gun; and thereby committed an offence punishable under the Pakistan Army (Amendment) Act, 2015.

Third Charge

PAA Section 59

Committing a civil offence, that is to say, possessing firearm, in that he, at DG-II Check Post (Mohmand Agency), on 29 October 2008, was found in possession of 1x Sub Machine Gun alongwith 4x Magazines; and thereby committed an offence punishable under the Pakistan Army (Amendment) Act, 2015;

Fourth Charge

PAA Section 59

Committing a civil offence, that is to say, possessing explosives, in that he, at DG-II Check Post (Mohmand Agency), on 29 October 2008, was found in possession of 2x grenades; and thereby committed an offence punishable under the Pakistan Army (Amendment) Act, 2015;

3. To the above charges, the accused pleaded *guilty*. However, Military Court did not convict the accused on his said plea of guilt, and directed the prosecution to lead its evidence, as provided under Sub-Rule (4) of Rule 42 of The Pakistan Army Act Rules, 1954 (“**The Rules**”), which reads;-

“A plea of “Guilty” shall not be accepted in cases where the accused is liable, if convicted, to be sentenced to death, and where such plea is made, the trial shall proceed and the charge shall be dealt with as if the plea made was “Not guilty”.

4. Accordingly, the prosecution in support of its case produced as many as seven witnesses, which included Interrogation Officer (**PW-1**); Internment Officer (**PW-2**) who produced internment report; Judicial Magistrate (**PW-5**) who recorded the confessional statement of the convict; an officer (**PW-7**) before whom the accused recorded his inculpatory voluntary statement at the time of recording summary of evidence; and (**PW-3, 4 & 6**) supported the prosecution’s case in their testimony before the Military Court.

5. The Military Court also examined the convict, Muhammad Imran, who once again confessed his guilt, by narrating the entire events and his involvement in the terrorist activities, in terms that:

“I Mohammad Imran son of Abdul Manan joined Harkat-ul-Mujahideen in year 2004. I went to Karachi in year 2005 where I got affiliated with Haqqani Network and got training from its commander Khalifa at Miran Shah in year 2006. In year 2007, I moved to Kurram agency and established a camp at Ghauz Ghari Makbal near Afghanistan border in Upper Kurram. I took part in various attacks across the border in Afghanistan on NATO/Allied troop convoys. In year 2008, I got appointed as commander of Khalifa group in Mohmand Agency. I established my markaz at Lakaro Walikore Qandharo and made a pact with Commander Abdul Wali of Tehreek-e-Taliban Mohammad. I got training of preparation of improvised explosive devices/ suicide jackets at markaz of Taliban commander Abdul Wali. I confess to having prepared a Shahzore vehicle borne improvised explosive that was used on 26 October 2008 at Nahaqi check post suicide attack. I used to roam around in Mohmand agency alongwith my companions brandishing weapons and regularly coordinated my activities alongwith Taliban commander Abdul wali at Mohmand agency. On 29 October 2008, upon reaching DG-II check post, one of the sentries deployed on duty gave signal to our car for stopping. As I and my driver companion were armed with SMG and grenades so I told my companion to speed up the car, while I started firing upon the troops deployed at check post. Upon retaliatory firing by the troops, I got injured at my shoulder while other person alongside me died on spot. During the fire fight, I abandoned the car and ran towards nearby built up area. I tried to avoid capture by taking shelter behind hostage children, but after a prolonged fight my

ammunition ran out and I surrendered to the troops.

(emphasis provided)

6. Valuable arguments of the worthy counsel for the parties heard and the available record of the case thoroughly considered.

7. The worthy counsel for the petitioner raised a *preliminary objection* that with the flux of time, the impugned conviction by the Military Court had lost its legal force, and thus was a nullity in the *eyes* of law. The legal contention of the worthy counsel for the petitioner was that the Military Court had sentenced the convict to death under the provisions introduced in the Army Act through the *Sun Set legislation*, which expired on 7th January, 2017, and thereafter, the sentence of death could not be executed. The worthy counsel placed reliance on *Air League's case* (2011 SCMR 1254). It was further contended that as the matter was still before this Court and the death sentence had not been executed, it was not a *closed* and *past transaction*, so as to rescue the prosecution under section 6 of the General Clauses Act, 1897. In this regard, reliance was placed on *Sheikh Liaquat Hussain's case* (PLD 1999 SC

504), Imran's case (PLD 1996 Lahore 542), Mehram Ali's case (PLD 1998 SC 1445).

8. In response, the worthy Deputy Attorney General vehemently opposed the contention of the worthy counsel for the petitioner by stating that all actions taken, decision passed by the Military Court under the Army Act were protected under section 6 of the General Clauses Act, 1897. In this regard, reliance was placed on Asad Ali's case (PLD 1998 SC 161), Mehram Ali's case and Air League's case *supra*.

9. This contested legal issue does not require a definite finding of this Court in the instant petition, as during the present proceedings, the Parliament introduced the **Constitutional (Twenty Third Amendment) Act, 2017** (“Act of 2017”) and the **Pakistan Army (Amendment) Act, 2017**, whereby the *life* of the Military Courts was extended for a further period of two years from 07.01.2017. The relevant provision of the Act of 2017 so introduced, reads;

“1. Short title and commence.—

- (1) This Act may be called the Pakistan Army (Amendment) Act, 2017.*
- (2) It shall come into force at once and shall be deemed to have taken effect on and from 7th January, 2017.*

(3) *The provisions of this Act shall remain in force for a period of two years from the date of its commencement and shall cease to form part of the Constitution and shall stand repealed on the expiry of the said period."*

10. Accordingly, the *preliminary objection* of the worthy counsel for the petitioner regarding the conviction being without any lawful authority based on the legal premise that the *Sun Set Legislation* had lapsed would be of no legal avail to the convict.

11. During the proceeding of the instant case, the worthy counsel for the petitioner moved an application (C.M.No.1752-P/2016), raising a specific plea that Major Faisal Riaz Kiyani purporting to be a member of the Military Court had raised serious objections to the death sentence awarded to the three specific cases mentioned therein. In response to the said application, the Assistant Judge Advocate General expressly denied the veracity of the said letter and in support thereof filed a personal affidavit.

12. There being contesting assertions of the parties duly supported by affidavits, this Constitutional Court would not enter into resolving

the said issue in the instant constitutional petition.

In this regard, we seek guidance from the judgment of the august Supreme Court of Pakistan in **Ghulam Nabi's case** (PLD 2001 SC 415), wherein it was held that;

“It hardly needs any elaboration that the superior Courts should not involve themselves into evidence. This can more appropriately be done in the ordinary Civil Procedure for litigation by a suit. This extraordinary jurisdiction is intended primarily, for providing an expeditious remedy in a case where the illegality of the impugned action of an executive or other authority can be established without any elaborate enquiry into complicated or disputed facts.”

Similarly, in **Shamim Khan's case** (PLD 2005 SC 792), the Full Bench of the Apex Court has observed that;

“Controversial question of facts requiring adjudication on the basis of evidence could not be undertaken by the High Court under its Constitutional jurisdiction where the material facts were admitted by the respondent, High Court could interfere.”

This was followed by the Apex Court in **Muhammad Sadiq Vs. Ilahi Bukhsh** (2006 SCMR 12) and has held that;

“High Court in exercise of its constitutional jurisdiction is not suppose to dilate upon the controversial questions of facts and interfere in the concurrent findings on such question in the writ jurisdiction but it is settled law that if findings of facts are based on misreading or non-reading of evidence or not supported by any evidence, the High Court without any hesitation can interfere in the matter in its constitutional jurisdiction.”

And finally, the Supreme Court has reiterated the above principles in **Watan Party’s case** (PLD 2012 SC 292).

13. In view of the ‘*ratio decidendi*’ laid down in the above judgments of the apex Court, it is clear that controversies, which are based on contentious disputed fact, should not be entertained and adjudicated in constitutional jurisdiction. Accordingly, the contention of the worthy counsel for the petitioner will not be considered while deciding the instant petition.

14. Now, moving on to the next contention of the worthy counsel for the petitioner

qua the access to the record of the Military Court leading to the impugned conviction. When confronted, the worthy Deputy Attorney General vehemently contested the same and submitted that by allowing free access of the record and that too in an open Court would be against the law and put the *life* of the Presiding Officer, witnesses and counsel representing the parties at peril.

15. In this regard, the attention of this Court was drawn to the procedure endorsed, and adopted by the Apex Court, in case titled, **“Said Zaman Khan Vs Federation of Pakistan & others” (C.P.No.842 of 2016)** wherein, it was held that:-

97.The learned counsels for the petitioners complained of limited access to the record of the proceedings conducted by the FGCM. We cannot ignore the fact that in view of the peculiar nature of the offences for the commission whereof the Convicts have been accused, it was imperative that efforts should be made to ensure the security and safety of the Members of the FGCM, witnesses produced, the Prosecuting and the Defending Officers and the interpreters. Such sensitivity necessitated by the existing extra-ordinary circumstances has been reflected in Section 2-C of the Pakistan Army Act, incorporated through a subsequent Amending Act dated 19.11.2015. In the instant cases through specific Order passed by this Court, all the learned counsels were permitted to examine the record of the proceedings of the FGCM, which has been made available to this Court. It has also been noticed that at no point of time after the confirmation of

the sentence by the FGCM, any application was filed to the Competent Authority for the supply of the copies of the proceedings, if so required, in terms of Rule 130 of the Pakistan Army Act Rules, 1954. Such applications were not even moved during the pendency of the proceedings before the High Courts or even before this Court. In the circumstances, we are not persuaded that any prejudice has been caused to the petitioners, in this behalf.
(emphasis provided)

16. In view of the definite direction rendered by the Apex Court, this Court decided that the record and the proceedings should not be made open to *public*, and that the recorded proceedings leading to the impugned conviction should only be provided to the worthy counsel for the petitioner, and that too after due precautions are taken to ensure that the identity of the witnesses, Presiding Officers and the worthy counsel for the parties in the proceedings challenged before this Court, are not divulged or revealed. As a further precautionary measure, the worthy Deputy Attorney General insisted that the copies of the written notes taken by the worthy counsel for the petitioner during the inspection of the record allowed by this Court be also provided to the prosecuting team. The same being not

prejudicial to the defense of the convict was allowed.

17. Accordingly, the worthy Deputy Attorney General alongwith the official custodian of the record were directed to provide to the worthy counsel for petitioner, the recorded trial proceedings at the Judges' Library, Peshawar High Court, Peshawar. And this Court, ensured that the entire record of the Military Court leading to the impugned conviction had been inspected and examined by the worthy counsel for the convict prior to his addressing legal submissions before this Court.

18. Before this Court considers the merits of the valuable submissions of the worthy counsel for the parties, it would be crucial to first determine the scope of judicial review mandated to this constitutional Court in adjudicating the challenge made to the conviction and sentence awarded to a civilian by a Military Court under the Army Act. This jurisdictional issue has been a matter of great deliberation by the superior Courts of our jurisdiction, which culminated in the decision of the apex Court in **Said Zaman Khan's**

case *supra*, wherein the worthy Supreme Court held that;

“93. It may be noted that the actions complained of can even otherwise be without jurisdiction, a separate and independent ground available to challenge the sentences and convictions of the FGCM, therefore, it must necessarily be examined whether the FGCM had the jurisdiction over the person tried and the offence for which such trial has taken place and to ascertain existence or otherwise of any other defect or a gross illegality in the exercise of jurisdiction denuding the same of validity.

However, we cannot lose sight of the non-obstantive provision {in the Constitution i.e. Article 199(3)} impeding the exercise the powers of Judicial Review by the High Court under Article 199 of the Constitution. Consequently, the boundaries of the available jurisdiction cannot be pushed so as to negate and frustrate the said provision of the Constitution. An exception to the rule barring exercise of jurisdiction cannot be extended so s to defeat and destroy the rule itself. It is by now a well settled proposition of law, as is obvious from the judgments of this Court, referred to and reproduced hereinabove, that the powers of Judicial Review under Article 199 of the Constitution of the Islamic Republic of Pakistan, 1973, against the sentences and convictions of the FGCM is not legally identical to the powers of an Appellate Court. The evidence produced cannot be analyzed in detail to displace any reasonable or probable conclusion drawn by the FGCM nor can the High Court venture into the realm of the "merits" of the case. However, the learned High Court can always satisfy itself that it is not a case of no evidence or insufficient evidence or the absence of jurisdiction.”

(emphasis provided)

19. Keeping the *ratio decidendi* of the aforementioned judgment as our guiding principle,

it would be safe to state that this Court in its constitutional jurisdiction has the legal mandate to positively interfere with the decision of the Military Courts on three fundamental grounds; if the case of the prosecution is based, **Firstly**, on no evidence, **Secondly**, insufficient evidence and **Thirdly**, absence of jurisdiction.

20. Thus, the evidentiary value of the prosecution *evidence* cannot be adjudged by this Court as a *Court of Appeal* and that too on the legal threshold required for conviction of a person on a capital charge under the ordinary criminal law. What this Court has to see is whether the conviction recorded by the Military Court is based on *no* or *insufficient evidence* or *absence of jurisdiction*.

21. Even if this Court discards the entire evidence of the prosecution witnesses, the statement of the accused before the Judicial Magistrate and Military Court, duly narrated hereinabove, clearly speaks of his admission of guilt of the charges framed against him. Needless to mention, that prior to making his admission of guilt before the Military Court, the convict had on

three previous occasions admitted his guilt; **Firstly**, before the Judicial Magistrate, while recording his statement under section 164 of Criminal Procedure Code, 1898 (“Cr.P.C.”), **Secondly**, during his period of Internment under section 13 of the Actions (In Aid of Civil Power) Regulation, 2011 and **Thirdly**, during the proceedings of taking summary of evidence under Rule 13 of the Rules.

22. No doubt, the challenge made to the mode, manner and the time of the confessions made by the accused, under the ordinary criminal jurisprudence would seriously diminish the evidentiary value thereof. But in view of the limited scope available to this constitutional Court in evaluating the evidence and the repeated admission of guilt by the accused convict does not warrant interference in the impugned conviction and sentence awarded by the Military Court.

23. As far as the contention of the worthy counsel for the petitioner that the convict was not provided legal representation of his free choice, as was his *Fundamental Right* under Article 10-A of the Constitution of Islamic Republic of Pakistan,

1973 (“**Constitution**”) and Rules 23, 82, 83 and 87 of the Rules, it is noted that this issue was resolved in *Said Zaman Khan’s case* *supra*, by Mr. Justice Faisal Arab in his separate note. It was opined;-

“The Court in its anxiety to ensure that a crime may not go unpunished must not lose sight of the fact that the family members of the accused must be given information of his arrest or detention. If in the present case had there been no categorical admission of guilt by the convicted persons before the Magistrate, retrial would have been the right course to adopt.” (emphasis provided)

24. Thus, in the face of the bold repeated admission of guilt made by the accused, the impugned conviction and sentence does not warrant to be set aside on this ground alone. Moreover, in this regard, it is on record that when confronted, the convict did not oppose or protest the defending officer appointed to represent him before the Military Court under Rule 23 of the Rules.

25. Similarly, it was also argued by the worthy counsel for the petitioner that the prosecution had not obtained the requisite sanction of the Federal Government and that the appeal of the convict has not been considered and decided by the competent authority. In response, the worthy Attorney General produced copies of sanction of the Federal

Government for trial of accused by Military Court, order of Court of Appeal whereby appeal filed by the convict was rejected and orders of confirmation of sentence and rejection of Mercy Petition by the Chief of Army Staff.

26. The worthy counsel for the petitioner further urged the Court that the charges for which the convict was sentenced to death by the Military Court is not an offence punishable to death under the ordinary penal laws of Pakistan. Hence, it was vehemently argued that the sentence of death could not be maintained in the instant case.

27. It is an admitted position that Muhammad Imran *alias* Mansoor son of Abdul Manan is a civilian, who has been charged for four distinct *civil offences*; **firstly** for designing a vehicle for terrorist act and affixing thereon improvised explosive for a terrorist attack, **secondly** for attacking the law enforcing personnel by firing with sub-machine gun, **thirdly** for possessing fire arm and ammunition, and **finally** for possessing grenades (explosive).

28. The two striking features in the above charges are that **firstly** Muhammad Imran is not charged for the death of any person, **secondly** he

was not charged for actually causing an explosion. Keeping in view these two striking features of the charges against Muhammad Imran, let us review the jurisdictional mandate of a Military Court to try a civilian for a *civil offence*, as provided under section 59 of the Army Act. The said provision reads:-

“59.Civil Offences.- (1) *Subject to the provisions of sub-section (2), any person subject to this Act who at any place in or beyond Pakistan commits any civil offence shall be deemed to be guilty of an offence against this Act and, if charged therewith under this section, shall be liable to be dealt with under this Act, and on conviction, to be punished as follows, that is to say,-*

- (a) *if the offence is one which would be punishable under any law in force in Pakistan with death or with imprisonment for life, he shall be liable to suffer any punishment assigned for the offence by the aforesaid law or such less punishment as is in this Act mentioned; and*
- (b) *in any other case, he shall be liable to suffer any punishment assigned for the offence by the law in force in Pakistan, or rigorous imprisonment for a term which may extend to five years or such less punishment as is in this Act mentioned.*

Provided that, where the offence of which any such person is found guilty is an offence liable to Hadd under any Islamic law, the sentence awarded to him shall be that provided for the offence in that law.

(3) *The powers of a Court martial or an officer exercising authority under section 23 to charge and punish any person under this section shall not be affected by reason of the fact that the civil offence with which such person is charged is also an offence against this Act.*

(4) *Notwithstanding anything contained in this Act or in any other law for the time being in force a person who becomes subject*

to this Act by reason of his being accused of an offence mentioned in clause (d) of sub-section (1) of section 2 shall be liable to be tried or otherwise dealt with under this Act for such offence as if the offence were an offence against this Act and were committed at a time when such person was subject to this Act; and the provisions of this section shall have effect accordingly."

(emphasis provided)

29. The bare reading of clause (a) of sub-section (1) of section 59 *ibid* clearly reveals that the quantum of sentence that can be awarded by a Military Court cannot go beyond that prescribed for the said offence under the ordinary penal laws enforced in Pakistan. This crucial issue came up before the Apex Court in **Brig (Retd) F.B.Ali's case** (PLD 1975 SC 506), wherein the Hon`ble Court explained the limited scope of awarding punishments being restricted to clause (a) and (b) of section 59 of the Army Act. The apex Court opined that;

"It is limited to an offence mentioned in clause (d) of sub-section (1) of section 2 of the said Act and its purpose is to make that offence triable under the Army Act as if it was an offence under the said Act and was committed at the time when such person was subject to the said Act. In the case of other civil offences, the provisions of sub-section (1) of section 59 are attracted. This sub-section reads as follows;-

(1) Subject to the provisions of sub-section (2), any person subject to this Act who at any place in or beyond Pakistan commits any civil offence shall be deemed to be guilty of an offence against this Act and, if charged therewith under this

section, shall be liable to be dealt with under this Act, and on conviction, to be punished as follows, that is to say,-

- (a) if the offence is one which would be punishable under any law in force in Pakistan with death or with imprisonment for life, he shall be liable to suffer any punishment assigned for the offence by the aforesaid law or such less punishment as is in this Act mentioned; and*
- (b) in any other case, he shall be liable to suffer any punishment assigned for the offence by the law in force in Pakistan, or rigorous imprisonment for a term which may extend to five years or such less punishment as is in this Act mentioned.*

This section seems to provide that if any person who is or has become subject to the Army Act, commits any civil offence, he shall be seemed to be guilty of an offence against the said Act and, if charged therewith, shall be liable to be tried by a Court Martial subject to the limitations mentioned in sub-section (2) and will be punishable as prescribed in clauses (a) and (b)."

30. This Court has to now consider whether under the ordinary penal laws of Pakistan the offences for which Muhammad Imran has been convicted and sentenced to death carry the capital punishment of death or otherwise.

31. There was no contest except the first charge, which the worthy Deputy Attorney General insisted was punishable with death under the ordinary penal laws. For ease of reference, the said charge is reiterated and it reads;-

"First Charge.
PAA Section 59

Committing a civil offence, that is to say, designing vehicle for terrorists act, in that he, at Nahaqi (Mohmand Agency) during 2008, alongwith Civilians Musafir and Farhan designed a Shahzore vehicle by fixing improvised explosive device for terrorist attack on Nahaqi Check Post, Mohmand Rifles, Frontier Corps ; and thereby committed an offence punishable under Pakistan Army (Amendment) Act, 2015.”

32. Now, when we canvas through the ordinary penal laws relating to explosive and in particular the offence for which the convict was charged in the instant case, our attention is drawn to the provisions of the **Explosive Substances Act, 1908** (“Act of 1908”), and the more recent legislation relating to terrorism, **The Anti Terrorism Act, 1997** (“Act of 1997”). In this regard, let us first review section 3 of the Act of 1908, which was so rigorously relied upon by the worthy Deputy Attorney General, contending that the same to carry the death sentence. The said provision provides;-

“3.Punishment for causing explosion likely to endanger life or property. Any person who unlawfully and maliciously causes by any explosive substance and explosion of a nature likely to endanger life or to cause serious injury to property shall, whether any injury to person or property has been actually caused or not be punished with death or imprisonment for life.”

(emphasis provided)

33. When we read the above provision of law, it is but clear that the condition precedent for saddling the said charge on any person is the very act of explosion, which in the present case is wanting. The charge against Muhammad Imran was not for the act of causing an explosion. In fact, he was charged for planting an explosive device. This act could fall under the offences provided under sections 4 and 5 of the Act of 1908, which at best carry the maximum punishment for life and not death.

34. More importantly, the Act of 1997, a more recent legislation aimed to curb terrorism, specifically provided in section 6 for offences relating to explosives. The said provision reads;-

“Section 6 Terrorism.-
(1) *In this Act, terrorism means the use or threat of action where;*
(a) *the action falls with the meaning of sub-section (2), and*
(b)
(c)
(2) *An action shall fall within the meaning of sub-section (1), if it;*
(a)
(b)
(c)
(d)
(e)
(ee) *Involves use of explosives by any device including bomb blast or having any explosive substance without any lawful justification or having been unlawfully concerned with such explosive.*

35. The punishment prescribed for the above act of *terrorism* relating to explosives under section 6(2)(ee) is provided in section 7 (1) (ff) in terms that;-

“the act of terrorism committed falls under section 6(2)(ee), shall be punishable with imprisonment which shall not be less than fourteen years but may extend to imprisonment for life.”

(Emphasis provided)

36. Thus, what we have are two penal provisions prescribing two distinct punishments for the same offence. Faced with such circumstances, it is by now settled principle of safe administration of criminal justice that the accused is to be charged for an offence carrying a lesser punishment. Moreover, this Court cannot lose sight of the wisdom of the legislature, whereby it, while enacting a law to curb terrorism has expressly provided a lesser punishment for the offence relating to explosive. When faced with these two penal legislations regarding the same offence, the one more recent has to be given precedent and applied.

37. When confronted with the above legal position, the worthy Deputy Attorney General vehemently contended that Muhammad Imran

though not charged for the actual act of explosion, had admitted in his statement that the *Shahzore* he had laden with explosives was used in a terrorist attack causing death to security personnel and hence is criminally liable for the same. This Court is not in consonance with the above contention of the worthy Deputy Attorney General for the simple reason that Muhammad Imran was not charged for causing death to the security personnel, as a result of the explosion. To saddle him with the punishment of death would surely prejudice his defence; an accused cannot be punished for an offence he was not charged for. This cardinal principle of safe administration of justice cannot be lost sight of even in cases tried by the Military Court under the Army Act.

38. In conclusion, keeping in view the limited scope of judicial review mandated to this Court and in the face of the repeated admission of guilt made by the convict, culminating in punishment awarded by the Court Martial, it would not be appropriate for this Court to interfere in the impugned conviction. However, as far as the quantum of sentence is concerned, this Court has

serious reservations for awarding death sentence to the convict for the charges he faced before the Military Court.

38. In view of the above deliberation, this Constitutional Court finds that:-

- (1) The awarded of conviction by the Military Court to Muhammad Imran does not warrant interference by this Constitutional Court, as it is not a case of no or insufficient evidence.
- (2) The sentence awarded to Muhammad Imran *alias* Mansoor son of Abdul Manan, however, warrants interference by this Constitutional Court, as the Military Court lacked legal jurisdiction to award death penalty for the charges like the ones framed upon him.
- (3) The sentence of death awarded to Muhammad Imran *alias* Mansoor son of Abdul Manan and the confirmation thereof passed by the Chief of Army Staff is set aside and the case is remanded back to the Military Court either to revisit the quantum of punishment awarded or to alter the charge

framed against Muhammad Imran and
thereafter proceed against him under the
law.

Accordingly, for the reasons stated
hereinabove, this writ petition is disposed of, in the
above terms.

Announced
Dt.

**-SD-
CHIEF JUSTICE**

**-SD-
J U D G E**

F.Jan/*

3
PESHAWAR HIGH COURT, PESHAWAR

FORM OF ORDER SHEET

Court of.....

Case No.....of.....

| Serial No. of Order of Proceedings | Date of Order of Proceedings | Order or other Proceedings with Signature of Judge |
|------------------------------------|------------------------------|--|
| 1 | 2 | 3 |
| | 20.09.2016 | <p><u>Writ Petition No.3185-P/2016</u></p> <p>Present: Mr. Muhammad Atlas Khan, Advocate, for the petitioner.</p> <p>M/s Manzoor Khan Khalil, DAG and Farhad Ali, Standing Counsel, for the Federation.</p> <p style="text-align: center;">*****</p> <p>Though this and the connected cases, after acceleration from their original dates, have been fixed for hearing today but except this and connected Writ Petition No.2608-P/2016, neither the petitioners nor their respective counsel, have been served, therefore, proceedings in all these cases cannot be conducted today. Hence, the same are adjourned to 29th instant for in-camera proceedings with the direction to the office to issue fresh notices to all the petitioners including their counsel for the date fixed. Identical Writ Petition No.2609-P/2016 be also clubbed with instant matters. In the meantime, the order dated</p> |

Attn:

Aqib Shah Sb

Pl fax this order pl (Sawar)

Order 29-08-2016
in WP-2609/2016

80

(7)

29.08.2016 qua suspension of operation of death sentence, awarded to convict namely, Fazal Rabi, shall remain in the field.

CHIEF JUSTICE
JUDGE

(Fayaz)

22/9/16

IN THE SUPREME COURT OF PAKISTAN
(Appellate Jurisdiction)

CPLA No. _____/2017

Fazal Ghafoor S/o Abdul Manan, father of Fazal Rabi "Convict",
R/o Mohallah Barpalo Road, Saugar, Tehsil Matta, District Swat

.....*Petitioner*

VERSUS

1. Federation of Pakistan through Ministry of Interior, R-Block, Pak Secretariat, Islamabad
2. Chief of Army Staff of Pakistan at GHQ, Rawalpindi
3. Ministry of Defence through its Secretary, Pak Secretariat, Islamabad
4. Director General, Commission of Inquiry on enforced disappearance Directorate General, Civil Defence Building (1st Floor) Mauve Area, Sector G-9, Islamabad
5. Federal Secretary Law, Human Rights & Parliamentary Secretariat, Islamabad
6. Director (Legal) Ministry of Defence, GHQ Rawalpindi
7. Director General, Interior Services Intelligence (Military Intelligence), GHQ, Rawalpindi
8. Govt of Khyber through Secretary, Home & Tribal Affairs, Civil Secretariat, Peshawar

.....*Respondents*

PETITION UNDER ARTICLE 185(3) OF THE
CONSTITUTION OF THE ISLAMIC REPUBLIC OF
PAKISTAN, 1973 FOR LEAVE TO APPEAL AGAINST
THE JUDGMENT DATED 25.05.2017 PASSED BY THE
LEARNED PESHAWAR HIGH COURT, PESHAWAR IN
WRIT PETITION NO. 3185-P/2016

Respectfully Sheweth:

POINTS OF LAW

That the points of law of general public importance arising for determination in this case are as under:-

- A. Whether, the learned High Court, was legally correct and justified in dismissing the Writ Petition filed by the petitioner for reasons stated in the impugned Order?
- B. Whether the reasons stated by the learned High Court in support of its impugned judgment, are legally sustainable?
- C. Whether the accused son of the petitioner has been allowed to engage any defence counsel of his own choice or whether he been provided any defence counsel?
- D. Whether the judgment passed by the learned High Court do not suffer from the defect of misreading and non-reading of the material on record?

- 3
- E. Whether the petitioner or any of her relative has access to any record of so-called trial of her accused son?
 - F. Whether the impugned judgment is not against law?

FACTS OF THE CASE

1. That the real son of present petitioner was charged and tried by a Court Martial (Military Court) under the Pakistan Army Act, 1952 as amended vide the Pakistan Army Amendment Act, 2015. He was charged for occurrences. According to the record of the prosecution the accused pleaded guilty but Court Martial did not convict the accused on his plea of guilty and directed the prosecution to lead its evidence as provided under Rule 42 (4) Pakistan Army Act Rules, 1954. According to the judgment of the High Court prosecution produced five witnesses to prove its case during the trial proceedings but the accused facing trial was neither given any opportunity to engage/be assisted by any Counsel of his own choice; nor was provided any Defence Counsel to defend his case. Even the accused or his any relative had/has no access to the record of the prosecution even till today. At the conclusion of so called one-sided trial the accused/son of present petitioner was

4

convicted and sentenced with Death punishment. But no copy of judgment was provided to him. That the petitioner got the knowledge through daily Jang Rawalpindi dated 17.12.2016.

2. That son of the petitioner has been awarded the Death Sentence. Resultantly the petitioner tried to search the whereabouts of her son from where the news was confirmed. The petitioner then filed Writ Petition No. 4808-P/2016 in the Peshawar High Court, Peshawar assailing the judgment of the Military Court regarding conviction of her son which Writ Petition has been dismissed vide impugned judgment dated 25.05.2017, which impugned Order dated 25.05.2017 is liable to be set aside on the following amongst other

GROUNDS

- a) That the impugned judgment passed by the learned Court below is against law and is liable to be set aside by this Honourable Court.
- b) That the accused has neither been allowed to engage any defence counsel of his own choice; nor has been provided any defence counsel.

5
The accused son of the petitioner or any of his relative has no access to any record of his so-called trial.

- c) That no private persons especially the eye witnesses of the alleged occurrences have ever been produced during the trial as the witnesses to prove the allegations of the prosecution.
- d) That the impugned judgment is based upon presumptions, surmises and conjectures, hence, is untenable in the eyes of law.
- e) That with flux of time the impugned conviction by the Military Court has lost its legal force, hence, is nullity in the eyes of law.
- f) That the FIRs in question, the son of the petitioner has neither been nominated; nor has been identified by any person present at the time of said occurrences; nor any Identification Parade has ever been conducted even during the so-called trial.

PRAYER:

It is, therefore, respectfully prayed that leave to appeal against the impugned Judgment dated 25.05.2017 passed by the learned Peshawar High Court, Peshawar in Writ Petition No. 3185-P/2016, may very graciously be granted.

Drawn & Filed by

Syed Rifaqat Hussain Shah
Advocate on Record
Supreme Court of Pakistan
Islamabad

CERTIFICATE

Certified under instructions that earlier to this no other CPLA was filed by the Petitioner against the impugned judgment of the learned High Court, before this Honourable Court.

Advocate on Record

Dated: 06.2017

IN THE SUPREME COURT OF PAKISTAN
(Appellate Jurisdiction)

PRESENT:

Mr. Justice Ejaz Afzal Khan
Mr. Justice Sh. Azmat Saeed
Mr. Justice Ijaz-ul-Ahsan

Civil Petitions No.2218 & 2219 of 2017

Fazal Ghafoor & Gul Razana

Petitioner(s)

Versus

The State & others

Respondent(s)

For the Petitioner(s) : Syed Rafaqat Hussain, ASC/AOR

For the Respondent(s) : N.R.

Date of Hearing : 19.07.2017.

ORDER

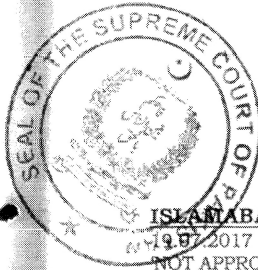
Notice for a date in office. In the meantime, the
petitioners shall not be executed.

Sd/-,J

Sd/-,J

Sd/-,J

Certified to be True Copy



ISLAMABAD, THE

19.07.2017

NOT APPROVED FOR REPORTING

ZR/

Court Associate
Supreme Court of Pakistan
Islamabad

14384/18
GR No: _____ Criminal
Date of Presentation: 31.5.18
No of Victims: 2
No of Police: 2
Requisition Fee Rs: 25.00
Copy Fee Inr: 1.25
Court Fee Stamps: 6.25
Date of Completion of Copy: 31/5/18
Date of delivery of Copy: 31.5.18
Compared by/Prepared by: J. Hameed
Received by: J. Hameed

REGISTERED/AD

C. P. No. 2218&2219/2017-SCJ.

Supreme Court of Pakistan.Islamabad, the 22nd July, 2017**Secretary (AD)**The Registrar
Supreme Court of Pakistan
Islamabad.

AS-1 (Adl)

Sr. JS-4 (Adl)

DS (Coord)

C-57
SCT-231
25/7
Dir Legal1. Syed Rifaat Hussain Shah,
Advocate on Record/ASC (In both cases)
Islamabad.2. The Secretary
Ministry of Interior,
Government of Pakistan, Islamabad.3. The Secretary
Ministry of Defence,
Government of Pakistan, Islamabad.4. The Secretary
Home Department,
Government of KPK, Peshawar, C/o DR(P).5. The Superintendent,
District Jail, Kohat.6. The Advocate General, KPK
Peshawar, C/o DR(P).Subject: CIVIL PETITION NOS. 2218 & 2219 OF 2017.
Fazal Ghafoor father of Fazal-e-Rabbi petitioner in
CP No. 2218/2017. ...Petitioners**Versus.**Federation of Pakistan thr. Ministry of Interior and others.
...RespondentsGul Razana W/o Mian Said Rahcem petitioner in
CP No. 2219/2017. ...Petitioners**Versus.**The State through AG KPK Peshawar and others.
...RespondentsI am directed to enclose herewith a certified copy of the
order dated 19.07.2017 passed in the above cited Civil Petition for
information and necessary action.I am further directed to invite your attention to the
contents of the Court contained in the enclosed order for
IMMEDIATE necessary action.

Yours faithfully,

*ASSISTANT REGISTRAR(CIVIL-II)
FOR REGISTRAR

IN THE SUPREME COURT OF PAKISTAN

(Appellate Jurisdiction)

C.P.L.A. No. ----- /2017

Muhammad Liaquat VS Federation of Pakistan etc

NOTICE

To

1. State
2. Superintendent central Jail Lahore.
3. Federation of Pakistan through Secretary Ministry of Defence, Islamabad.
4. Federation of Pakistan through Secretary Ministry of Law, Justice and Parliamentary affairs, public secretariate Block-Q Islamabad.
5. Ministry of Interior, through its secretary, Secretariat Islamabad.
6. Government of Punjab, through its chief secretary Lahore.
7. Secretary Ministry of Law, Justice and Parliamentary affairs, Government of Punjab, civil secretariat Lahore.
8. Judge Advocate General, GHQ, Rawalpindi.
9. Judge ATC II, Lahore.

Please take notice of my having filed CPLA against the judgment/order dated 13.12.2016 passed by learned Division Bench of Lahore High Court, Lahore in Writ Petition No. 2667/2016, in the Supreme Court of Pakistan.

Syed Rifaqat Hussain Shah
Advocate-on-Record
Supreme Court of Pakistan
Islamabad

IN THE SUPREME COURT OF PAKISTAN
(Appellate Jurisdiction)

PRESENT:

MR. JUSTICE SH. AZMAT SAEED

MR. JUSTICE MAZHAR ALAM KHAN MIANKHEL

CIVIL PETITION NO.98 OF 2017

Muhammad Liaquat ... Petitioner (s)

Versus

The State and others ... Respondent (s)

For the Petitioner (s) : Mr. Laiq Khan Swati, ASC with
Syed Rifaqat Hussain Shah, AOR

Respondent (s) : N.R.

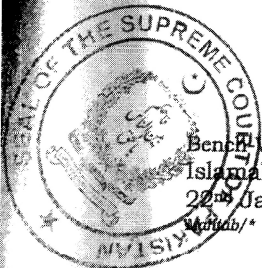
Date of Hearing : 22.01.2018

ORDER

It is contended by the learned counsel for the Petitioner that the Field General Court Martial (FGCM) had no jurisdiction to adjudicate upon the matter. Even otherwise, the impugned judgment of the FGCM suffers from *mala fides*, is without jurisdiction and *coram non judice*. Furthermore, the provisions of the Pakistan Army Act, 1952, have also not been complied with. In the first instance, notice be issued to the Respondents for an early date.

CMA No.338 of 2017:

2. Notice. In the meantime, the sentence of death shall not be executed till further orders.



Bench
Islamabad, the
22nd January, 2018

Sd/-J

Sd/-J

Certified to be True Copy

Court Associate
Supreme Court of Pakistan
Islamabad

سپریم کورٹ آف پاکستان، اسلام آباد

www.supremecourt.gov.pk

نوٹس مع عکس عدالتی حکم برائے تاریخ سماعت مقدمہ

C.P.98/2017

محمد لیاقت بنام سرکار وغیرہ

384/2017
2/2/2018

آپ کو بذریعہ نوٹس ایذا اطلاع دی جاتی ہے کہ درج بالا مقدمہ کی سماعت کے دوران سپریم کورٹ آف پاکستان، اسلام آباد نے مورخہ 22-01-2018 کو درج ذیل حکم جاری کیا ہے:-

"... In the first instance, notice be issued to the Respondents for an early date.
CMA No.338 of 2017:
Notice. In the meantime, the sentence of death shall not be executed till further orders."

384/2017
3/2/18

آپ کو اس ضمن میں مطلع کیا جاتا ہے کہ درج بالا مقدمہ کی آئندہ سماعت سپریم کورٹ آف پاکستان، اسلام آباد میں مورخہ 08-02-2018 صبح 09:00 بجے یا عدالت کی سہولت کے مطابق بعد میں کسی بھی وقت ہوگی۔

مقررہ تاریخ کو اسلام آباد آنے سے پہلے عدالت عظمیٰ کی ویب سائٹ سے کاز لسٹ میں اپنے کیس کی تاریخ سماعت کی تصدیق کر لیں۔

384/2017
3/2/18

آپ کو مزید آگاہ کیا جاتا ہے کہ آپ اپنا اصل قومی شناختی کارڈ عدالت کے احاطہ میں داخلہ اور شناخت کے لئے ہمراہ لائیں۔

اسسٹنٹ رجسٹرار
(فکسچر)

1 name deleted
Send it to S.D. and JAG. Dept. Ch.
24-1-2018 اسلام آباد

بنام:-

C-P-98/17

۱۔ سپرنٹنڈنٹ سنٹرل جیل لاہور معرفت ڈپٹی رجسٹرار لاہور

۲۔ وفاق پاکستان بذریعہ سیکرٹری وزارت دفاع راولپنڈی

۳۔ وفاق پاکستان بذریعہ سیکرٹری وزارت قانون، انصاف و پارلیمانی امور، بلاک۔ کیو اسلام آباد

۴۔ وزارت داخلہ بذریعہ سیکرٹری اسلام آباد

۵۔ حکومت پنجاب بذریعہ چیف سیکرٹری لاہور معرفت ڈپٹی رجسٹرار لاہور

۶۔ سیکرٹری وزارت، قانون، انصاف و پارلیمانی امور حکومت پنجاب سول سیکرٹریٹ لاہور معرفت ڈپٹی رجسٹرار لاہور

۷۔ جج ایڈووکیٹ جنرل، جی ایچ کیو، راولپنڈی

۸۔ سید رفاقت حسین شاہ، اے او آر

894/secy/18
30-1-18

47/D-23/18
1/2/18



W.P.No. _____/2018

Umardaraz son of Muhammad Ayaz
R/o Nazakay Tehsil Salarzai Bajaur Agency

.....Petitioner

Versus

- 1) Secretary Defence Federation of Pakistan through Pak Secretariat, Islamabad.
- 2) Chief of Army Staff Pakistan at G.H.Q, Rawalpindi.
- 3) Additional Chief Secretary FATA, Warsak Road, Peshawar.
- 4) Director General Inter Services Intelligence headquarter Islamabad..... Respondents

WRIT PETITION UNDER ARTICLE 199 OF
THE CONSTITUTION OF ISLAMIC
REPUBLIC OF PAKISTAN, 1973.

Respectfully Sheweth;

- 1) That petitioner is father of convict namely Burhan-ud-Din and is a respectable and law abiding citizen of Pakistan.
- 2) That convict Burhan-ud-Din had been taken into custody by MI 206 from Khar Bajaur Agency on 16.01.2017 and then was shifted to an unknown place by the Security Agency/ Pak. Army.
- 3) That petitioner approached MI 206 and political agency of Bajaur Agency in respect of convict/ detainee but he was not released.
- 4) That on 06.05.2018 through newspaper clipping/ media/ press petitioner came to know regarding confirmation of death sentence of

ATTESTED
EXAMINER
Peshawar High Court
31 MAY 2018

petitioner's son/ detainee/ convict Burhan-ud-Din along with other convicts. (Copy of newspaper clipping is attached as Annexure "A").

- 5) That petitioner's daughter-in-law (wife of detainee) also filed an appeal against the said conviction of detainee/ convict, Burhan-ud-Din to the Chief of the Army Staff/ respondent No.1 but with no response. (Copy of appeal is attached as Annexure "B").
- 6) That petitioner approached central prison Peshawar, Timergara and Swat to know about the whereabouts of the detainee but ignorance was shown by all the mentioned three authorities.

Now the petitioner being aggrieved from conviction/ death sentence of his son approached this hon'ble court in constitutional jurisdiction for redressal of his grievances inter-alia on the following grounds:

GROUND:

- a) That petitioner's son/ convict/ detainee is innocent, falsely implicated and has no nexus with attack on the funeral ceremony of civilian Abdullah and also never remained member of T.T.P. or other prescribed organization.
- b) That awarding of death sentence to son of the petitioner is not only illegal, incorrect, unlawful but also against the clear cut mandate of constitution provided by Article 4 of (right of individual to be dealt in accordance with law of) Article 5 (Loyalty to the State and obedience to the constitution), Article 9 (Right to Life), Article 10-A (Right to Fair Trial) and Article 25 (Equality of citizens).
- c) That even procedure prescribed by the Code of Criminal Procedure Code of conviction or acquittal of an accused which starts from framing of charge, goes through examination, cross examination of witnesses, statement of accused, statement of accused on oath and finally conviction or acquittal of an accused has not been followed.

ATTESTED
EXAMINER
Peshawar High Court

31 MAY 2018

- d) That non-observation of provision of Cr.P.C. and violation of fundamental rights and due processed clause Article 4 of constitution are sufficient grounds for setting aside conviction of detainee/ convict, Burhan-ud-Din and are liable to be acquitted.
- e) That simply on the basis of confession extreme penalty of death cannot be awarded unless and until the same confessional statement has been corroborated by some other tangible evidence.
- f) That detainee has no affiliation neither with Taliban nor with proscribed organization being a respectable, peaceful and law abiding citizen of the country and there is no single evidence which can connect the detainee with commission of offence.
- g) That even family member had no access to the convict Burhan-ud-Din sine 16.01.2017 nor his whereabouts s convict are known to his family and in such circumstances the death sentence neither can be imposed neither can e sustained.
- h) That proceedings before the trial court are not only corum non judice but also based on malafide and against provision of constitution and criminal procedure code.
- i) That the petitioner was already under treatment from a psychiatrist regarding his mental health issues and the petitioner is not sane according to doctor/ psychiatrist. (Copies of the medical reports/ prescriptions are attached as Annexure "C to C/9").
- j) That conviction of detainee by the military court are against law and this hon'ble court has got jurisdiction to intervene in the matter by setting aside the conviction and release of the detainee.

It is, therefore, prayed that on acceptance of this writ petition:-

- 1) Conviction and sentence of petitioner's son may be declared as illegal, corum-non-judice against the provision of constitution, Cr.P.C. and may kindly be set aside.

APPEAL
31 MAY 2018

- 2) Respondent may be directed to release the convict/ detainee being innocent and unlawfully convicted.
- 3) Respondent may further be directed to provide complete record of convict/ detainee before this Hon'ble court for proper adjudication and dispensation of justice.
- 4) Any other relief not specifically prayed for to which the convict/ detainee was entitled may also be granted.

INTERIM RELIEF:

By way of interim relief, the petitioner has a prima facie case and balance of convenience also lies in his favour. So operation of execution of death sentence of convict/ detainee namely Burhan-ud-Din may kindly be suspended till the final decision of instant writ petition.

Dated: 08.05.2018

Petitioner

Through



Zia-ur-Rahman Tajik
Advocate


Supreme Court of Pakistan

CERTIFICATE:

Certified as per information furnished by my client that no such like writ petition has earlier been filed before this Hon'ble Court.

LIST OF BOOKS:

- 1) Constitution of Islamic Republic of Pakistan, 1973.
- 2) Any other law book as per need.



Advocate

ATTESTED

EXAMINER
Peshawar High Court

31 MAY 2018

IN THE PESHAWAR HIGH COURT, PESHAWAR.

W.P.No. _____/2018

Umar DarazPetitioner

Versus

Secretary Defence Federation of Pakistan

through Pak Secretariat, Islamabad and othersRespondents

AFFIDAVIT

I, Umar Daraz, son of Muhammad Ayaz R/o Nazakay Tehsil Salarzai Bajaur Agency (petitioner), do hereby affirm and declare that the contents of the accompanying Writ Petition are true and correct to the best of my knowledge and belief and nothing has been concealed from this hon'ble court.

Identified by:



Zia-ur-Rahman Tajik
Advocate Supreme Court



Deponent

CNIC No.21106-4416523-7



No: 222/17
Certified that the above named person has made an solemnly affirmation before me on the day of May 18, 2018 at Bajaur Agency, Bajaur District, FATA who was identified by Zia-ur-Rahman Tajik.
Who is personally known to me.

ATTESTED
EXAMINER
Peshawar High Court

31 MAY 2018

PESHAWAR HIGH COURT, PESHAWAR.

ORDER SHEET

| Date of Order or Proceedings. | Order or other Proceedings with Signature of Judge or that of parties or counsel where necessary. |
|-------------------------------|--|
| 1 | 2 |
| 09.05.2018 | <p><u>W.P NO-2410-P/2018 with I.R.</u></p> <p><u>Present:</u> Mr. Zia-ur-Rehman Tajik, Advocate, for petitioner.</p> <p style="text-align: center;">* * *</p> <p>Notice be issued to the respondents for 15.5.2018.</p> <p>Syed Qaiser Ali Shah, AAG, and Mr. Mussaratullah Khan, DAG, present in Court in different matters, accepts notice. The office is directed to transmit the entire record to the worthy AAG, and DAG through email. The execution of death sentence awarded to the convict by the Military Court is suspended.</p> <p style="text-align: right;"> CHIEF JUSTICE</p> <p style="text-align: center;">CERTIFIED TO BE TRUE COPY</p> <p style="text-align: center;">EXAMINER Peshawar High Court, Peshawar Authorised Under Article 8.7 of The Qanun-e-Shahadat Order 1984</p> <p style="text-align: center;">31 MAY 2018</p> <p style="text-align: right;"> JUDGE</p> |

(K.AH) (D.B of Mr. Justice Yahya Afridi, C.J, and Mr. Justice Syed Afsar Shah, Judge)

No. 24537

Date of Presentation of Application 31/5/18

No of Pages 20

Copies 10

Present Page 1

