

RENMUN VII

Peace in Permanence



March 5-6, 2022

Chair Report

Procedure Overview

1. Presentation of case

The Presidency presents the case to the court by reading out the stipulations.

2. Opening speeches

A 1 minute speech is made by all participants, detailing their background, stance, and solution to the case.

3. Presentation of memoirs

The Applicant and Respondent present their evidence packet to support their stance. This is followed by the Judges' questioning in the form of POIs.

4. Unmoderated caucus

Judges discuss their ideas on the case. At the same time, the Applicant and Respondent writes charges.

5. Deliberation

Judges re-examine the arguments and evidence presented, deliberate and form a verdict. Applicants, Respondents and Judges will make speeches debating on each charge.

6. Judgement

The verdict is read in full to the advocates and the case closes.

Chair Introduction

Greetings delegates! We are Charlie Lam, a Y12 student at Island School, and Kristen Poon, a F5 student at St Paul's Co-educational College.

Welcome to the International Court of Justice.

The ICJ is one of the six principal organs of the United Nations, and has been operating since 1946. Acting in accordance with international law, the ICJ serves to settle bilateral disputes and give advisory opinions on other UN organs. The rulings and opinions of the ICJ are the primary sources of international law, so Judges have the responsibility of coming to well grounded conclusions.

In RENMUN, the ICJ is a council geared towards experienced delegates, so Judges will be expected to consider international treaties, legal precedents and evidence packets presented by both the Applicant and Respondent. Further, the ICJ is a very debate-driven committee. Judges, Applicants and Respondents should defend their case to the best of their ability, while critically evaluating contrasting perspectives and arguments.

That being said, we are extremely excited to hear your ideas about the topics. We hope that this experience will not only improve your MUN skills, but increase your knowledge of global politics and events. If you have any questions or uncertainties, please do not hesitate to contact either of us! Looking forward to two days of fruitful debate and productive discussions!

Cheers,

Charlie Lam & Kristen Poon

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Jadhav (India v. Pakistan)

On 8 May 2017, India filed an Application against Pakistan, stating a violation of the Vienna Convention on Consular Relations of 24 April 1963. The case concerns Kulbhushan Jadhav, an Indian national, who was arrested, detained and sentenced to death by the Pakistani government.

The Pakistani government accused Mr. Jadhav of spying for India's intelligence agency, the Research and Analysis Wing. Subsequently, he was arrested in the Pakistani province of Balochistan. India claimed that Pakistan failed to contact them about the detention of Mr. Jadhav, and that consular officers were denied access to him.

On the day the Application was filed India sent a request for the Court to direct Pakistan to "take all measures necessary to ensure that Mr. Kulbuushan Sudhir Jadhav is not executed." The Court passed this order to Pakistan on 18 May 2017.

Key Terms

Term	Definition
Vienna Convention on Consular Relations	An international treaty that defines the framework for consular relations between sovereign states. Article 36 protects an individual's access to their consulate in a foreign country.
Research and Analysis Wing	The foreign intelligence agency of India. Mr. Jadhav was accused of being involved in the organization.
<i>Restitutio in integrum</i>	Restoration of an injured party to the situation had no injury been sustained.
Balochistan insurgency	Revolt by Baloch nationalists in Pakistan, which Mr. Jadhav has been accused of funding.
Consul	An official appointed by a state to live in a foreign country and protect the state's citizens and interests there.

Background Information

Kulbushan Jadhav varies according to different sources. According to Pakistani media, Kulbushan Jadhav joined the Indian National Defence Academy in 1987. He was inducted into intelligence operations in 2003, and has been propping up Baloch separatists since 2013. Pakistan accused Mr. Jadhav of being involved in Indian-sponsored terrorism, a claim which India firmly denies. Indian sources recognise Jadhav as a former naval officer who ran a business in Iran before his arrest.

On 3 March 2016, Kulbushan Jadhav was arrested by Pakistani officials. According to India, consular access was denied more than 16 times during Mr. Jadhav's detainment. Mr. Jadhav was not informed of his lawful right and remedy. Further, the Indian consulate claimed that adequate information about Mr. Jadhav's detention was not provided without delay. All this is a violation of Article 36 of the Vienna Convention on Consular Relations. India condemns the unlawful abuse of power by the Islamic Republic of Pakistan.

For the purposes of a fair trial, the accused have a right to legal representation. The lack of access to his consulate meant that Mr. Jadhav was unable to properly defend himself. As a result, India maintains that any charges filed against him, as well as statements collected during his period of detainment, must be revoked and disregarded. Other remedies that India may request include a suspension of Mr. Jadhav's death penalty, a declaration that Pakistan acted against international law and the deportation of Mr. Jadhav back to India.

In response, the Respondent claims that the Vienna convention of Consular Relations does not have the jurisdiction to cover cases of espionage and terrorism due to the urgency and severity of such crimes. According to Pakistani media, India provided resources for Mr. Jadhav to engage in espionage and terrorism. These allegations have not been responded to, supporting the dismissal of the Application. In addition, Pakistan cites a bilateral agreement between India and Pakistan from 2008. It states that in cases of "arrest, detention or sentence made on political or security grounds", states are free to rule on cases at their own discretion. Judges must decide whether this treaty is valid.

Potential Clashes

Location of arrest

According to the Pakistani government, Mr. Jadhav was arrested on 3 March 2016 during a counterintelligence raid. He was arrested in Mashkel, an administrative division on the border between Iran and Pakistan. Mr. Jadhav was then brought to Islamabad for interrogation. It can be argued that this justifies the arrest of Mr. Jadhav, as the detainment of foreign spies is necessary to protect national security. However, India maintains that Mr. Jadhav was abducted from Iran by Jaish ul-Adl, a jihadist military group, and handed over to the Pakistani government.

Article 36 of the Vienna Convention on Consular Relations

The Indian government alleged that they were not informed of Mr. Jadhav's detention in a timely manner. This is a violation of Article 36 of the Vienna Convention on Consular Relations. In addition, Mr. Jadhav had not been informed of his rights to contact consular officers, and said officers were denied access to him while he was detained. The lack of access to his consulate rendered Jadhav unable to arrange for legal representation. This can also be considered a violation of the International Covenant on Civil & Political Rights.

Restitutio in integrum

India contended that they were entitled to *restitutio in integrum*. That is, to stop Pakistan from putting their convictions in effect. The government of Pakistan is to reconsider the charges of Mr. Jadhav. This has been met with fierce opposition by the Pakistani government, as they believe there is overwhelming evidence that support Mr. Jadhav's charges of espionage and terrorism. On the other hand, some Indian politicians, such as Vikram Sood, argue that the charges against Mr. Jadhav are baseless.

Protection against Espionage

Pakistan argues that the arrest is justified because Mr. Jadhav was furthering Indian-sponsored terrorism in Pakistan. Allegedly, his job was to destabilize Pakistan by fueling separatists movements. Balochistan home Minister Sarfraz Bugti said that Mr. Jadhav was involved in financially supporting militants. Further, he alleged that Mr. Jadhav admitted to this during his interrogation. Indian author and journalist Hussain Zaidi also supports this claim.

Legitimacy of Confession Video

A video confession by Mr. Jadhav was made public by the Pakistani government. In the video, he admitted that the Research and Analysis Wing, which he was working for, was involved in destabilizing Pakistan. Whether this statement was coerced is hotly contested. In addition, it can be argued that, even if India engaged in espionage, a violation of the Vienna Convention cannot be justified in this case.

Key Stakeholders

Stakeholder	Involvement with the Issue
India	By filing an Application, the Indian government aims to protect the rights of Mr. Jadhav, an Indian national. The Indian government seeks to amend the charges against Mr. Jadhav and prevent his execution.
Pakistan	The Pakistani government was accused of illegally arresting and detaining an Indian national. They allegedly violated international law by failing to inform or give access to Mr. Jadhav's consulate.

Past Actions

Before reaching out to the International Court of Justice, India and Pakistan failed to reach a consensus on the Jadhav case. According to Indian media, India had sought consular access to Jadhav since March 2016. This has been repeatedly denied by the Pakistan government.

In May 2017, India filed an Application to the ICJ to annul Jadhav's death sentence. In response, the ICJ ordered Pakistan to suspend Jadhav's execution until a verdict is delivered. India and Pakistan filed written materials to the ICJ in April 2018 and July 2017 respectively. In February 2019, India, once again, urged the ICJ to dismiss all Pakistani rulings against Jadhav. Pakistan then asked the ICJ to "dismiss or declare inadmissible" India's request. The final verdict of the ICJ was declared in July 2019.

Timeline

3 March 2016	Arrest of Mr. Jadhav.
24 March 2016	Pakistani military establishments accused Jadhav of being a spy and illegally crossing over from Iran. Meanwhile, a video of Mr. Jadhav confessing to the allegations against him was made public.
10 April 2017	The Indian foreign ministry announced that Jadhav had been “kidnapped last year from Iran.” Jadhav was sentenced to death by the Pakistan Court.
8 May 2017	India filed an Application against Pakistan through the ICJ. Further, India filed a Request to halt the execution of Mr. Jadhav.
26 Dec 2017	Mr. Jadhav spoke to his wife and mother, as well as consulate representatives for the first time in 22 months.
5 Jan 2018	Pakistan publicised a video of Mr. Jadhav, where he claimed, on camera, that he had not been tortured. In the video, he also accused an Indian diplomat of “yelling” at his mother and wife after meeting with him.
18 Feb 2019	Public hearings of the case commenced.

Guiding Questions

- Was Article 36 of the Vienna Convention on Consular Relations violated by Pakistan? If so, how should transgression be rectified?
- Do countries have a right to arrest and detain spies? In periods of crisis, is it justified to withhold information about prisoners? Does the tense relationship between India and Pakistan justify the alleged covertness?
- Where was Mr. Jadhav arrested? How did this affect the outcomes of the case? What evidence supports either claim?
- To what extent should the safety of foreigners take precedence over national security?
- Was the sentence awarded by the Pakistan Court illegal?
- Does Jadhav's confession video confirm instances of espionage by the Indian government? Is this enough to justify isolating Mr. Jadhav from his consulate?
- How will certain judgements set precedents, either positive or negative, for future cases?

Bibliography

- [Jadhav \(India v. Pakistan\) | International Court of Justice](#)
- [Kulbhushan Jadhav latest news, photos & videos](#)
- [RAW agent reveals, more spies present to destabilize Pakistan](#)
- [Kulbhushan Jadhav Kidnapped From Iran, No Evidence Against Him, Says India](#)
- [An analysis of the Kulbhushan Jadhav case \(India v. Pakistan\) - iPleaders](#)
- [A timeline of the Kulbhushan Jadhav case | Deccan Herald](#)