

The ICJ and Jadhav: What say Pakistan?

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Its position emanates in good measure from its primary aim to project India as the villain of bilateral peace



Misplaced hope He's a pawn in the neighbourhood games Vivek Bendre Vivek Bendre

For Pakistan, the verdict of the International Court of Justice is bad news. India has asked the ICJ for "immediate suspension of the sentence of death" to Kulbhushan Jadhav and to restrain "Pakistan from giving effect to the sentence awarded by the military court".

What options does Pakistan have now?

Various scenarios

First, it could ignore the verdict. Second, it could postpone the execution and continue the case with the ICJ until the final verdict. Third, it could allow consular access to Jadhav and in the process, allow him to seek clemency and grant it. Fourth, there could be an extra-judicial killing within the prison, as happened with Sarabjit Singh.

Will Pakistan adhere to the ICJ verdict, but continue arguing the case? Most likely. Keeping Kulbhushan Jadhav alive and projecting him as a symbol of India abetting terrorism within Pakistan would yield more rewards for Islamabad and Rawalpindi, than executing him.

During the last few years, Islamabad has been on an offensive to counter India's position that Pakistan has been the sole source of state-supported terrorism against India and Afghanistan. There have been concerted efforts to link India and Afghanistan as a source of instability and terrorism within Pakistan. Altaf Hussain was projected as an Indian agent and the Pakistani Taliban was linked to intelligence agencies in India and Afghanistan. The recent arrest and the media space received by Ehsanullah Ehsan, former TTP spokesman could be seen as a part of this project.

The campaign though aimed at a domestic audience within Pakistan, later expanded to convince the

international community as well.

Jadhav's capture and his alleged confession go well with the Pakistani narrative. Islamabad would want to use him further to expand this narrative and project to India as the villain of bilateral peace. Second, acceding to ICJ's interim verdict would also help pressure India in any future complaints that Pakistan would make in the same court. It would give Islamabad a platform to internationalise the 'Kashmir issue'.

Will Pakistan execute Jadhav? Less likely. Besides, any such move will bring international criticism against Pakistan. Can Pakistan afford it in the present juncture? No, unless, there is a civil-military divide within Pakistan on this issue in which the latter feels that there is an understanding between the political establishment led by Nawaz Sharif and India.

A section within Pakistan alleges a conspiracy with Sajjan Jindal meeting Nawaz Sharif in end-April. The fact that there was an immediate attack on Indian soldiers at the Line of Control (LoC) could be interpreted as a move by the establishment to upset any Indo-Pak rapprochement following Jindal's Pakistan visit.

Jadhav was not convicted by the mainstream judicial process. He was tried and convicted as a terrorist by the establishment through the military court. It is plausible that the establishment could go ahead without consulting the civilian leadership and execute Jadhav.

However, keeping in mind that it is the establishment that has been using the alleged linkages of Altaf Hussain, Kulbhushan Jadhav and now Ehsanullah Ehsan as a media exercise, it would draw more mileage for the khakis to keep Jadhav alive. Since there is already a debate within Pakistan blaming the political leadership for their failure at the ICJ, it would suit the military narrative that it has captured an Indian terrorist alive and got a confession, but is unable to execute because of the civilian failure.

Will Pakistan provide access to Jadhav and grant him amnesty later? Less likely. Given the attention this case has attracted within Pakistan, and at bilateral and now international levels, this option is less likely.

Such a process also means a better Indo-Pak rapprochement that is also acceptable to every actor within Pakistan. Though there is a clamour for restarting bilateral dialogue within Pakistan, when it comes to brasstacks, they are likely to backtrack. Otherwise, why should a meeting between Jindal and Sharif be interpreted as a conspiracy? Neither is the current Indian establishment too keen to restart a bilateral process.

Will Jadhav meet the same end as Sarabjit ? Unlikely. Sarabjit Singh was accused as an Indian spy and given the death sentence in 1991. Subsequent governments postponed the execution. Asif Zardari as president commuted it to a life sentence; however, Sarabjit was attacked by fellow prisoners at Lahore jail in April 2013, leading to his being killed.

Given the international attention that the Jadhav case has already attracted, any extra-legal killing would

bring negative attention and negate the larger Pakistani objective of exploiting the Jadhav case and projecting India badly.

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(This article was published in the Business Line print edition dated May 25, 2017)

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