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ANNEXES

Annex 1

Mohammed Ajmal Mohammad Amir Kasab v State of Maharashtra, Supreme Court of India, Criminal Appeal No. 1899-900 of 2011

Full judgment available at: <http://supremecourtfindia.nic.in/jonew/judis/39511.pdf>

the judgment and order passed by the trial court in all material aspects: it sustained the appellant's conviction and confirmed the punishments given him by the trial court, but at the same time it did not interfere with the acquittal of the other two accused.

5. From the judgment of the High Court two appeals have come to this Court: one is a jail appeal by *Kasab* and the other is by the State of Maharashtra. The State's appeal seeks to challenge the acquittal of the other two accused by the trial court and affirmed by the High Court. The other two accused are impleaded in the State's appeal as Respondents No. 1 and 2. *Kasab* was unrepresented in the appeal preferred by him from jail and this Court, therefore, appointed Mr. Raju Ramachandran, senior advocate, assisted by Mr. Gaurav Agrawal, to represent him. He was thus able to get legal assistance of a standard and quality that is not available to a majority of Indian nationals approaching this Court against their conviction and sentence.

6. We may also state here that since it is a case of death sentence, we intend to examine the materials on record first hand, in accordance with the time-honoured practice of this Court, and come to our own conclusions on all issues of facts and law, unbound by the findings of the trial court and the High Court.

Annex 2

Mohd. Arif v Registrar, Supreme Court of India & Others, Supreme Court of India, Writ Petition (Crl). No. 77 of 2014

Full judgment available at:

<http://supremecourtfindia.nic.in/jonew/ropor/rop/all/117868.pdf>

Sunder @ Sundarajan ... Petitioner

Versus

State by Inspector of Police & Others ... Respondents

WITH

WRIT PETITION (CRIMINAL) NO.108 OF 2014

Yakub Abdul Razak Memon ... Petitioner

Versus

Registrar,
Supreme Court of India & Others ... Respondents

AND

WRIT PETITION (CRIMINAL) NO.117 OF 2014

Sonu Sardar ... Petitioner

Versus

Union of India & Others ... Respondents

J U D G M E N T

R.F. Nariman, J.

1. This group of petitions has come before the Constitution Bench by a referral Order dated 28th April, 2014. In each of

them execution of the death sentence awarded to the petitioners has been stayed. Two basic issues are raised by counsel appearing for the petitioners, (1) the hearing of cases in which death sentence has been awarded should be by a Bench of at least three if not five Supreme Court Judges and (2) the hearing of Review Petitions in death sentence cases should not be by circulation but should only be in open Court, and accordingly Order XL Rule 3 of the Supreme Court Rules, 1966 should be declared to be unconstitutional inasmuch as persons on death row are denied an oral hearing.

2. Leading the arguments on behalf of the petitioners, Shri K.K. Venugopal, Senior Advocate appearing in Writ Petition (Crl.) No.137 of 2010 made a fervent plea that death sentence cases are a distinct category of cases altogether. According to the learned counsel, the award of the death penalty is a direct deprivation of the right to life under Article 21. The right to liberty under Article 21 is a facet of the core right to existence itself, which, if deprived, renders all liberty meaningless. This right is available as long as life lasts. [See: Sher Singh v. State of Punjab, (1983) 2 SCC 345 at para 16; Shatrughan Chauhan

Annex 3

Translated Transcript of CNN News 18 interview of Mama Qadir, a Baloch Human Rights Activist (telecasted on 18 January 2018)

Translated transcript of CNN News 18 interview of Mama Qadir, a Baloch Human Rights activist
[telecasted on 18 January 2018]

Question 1 (News 18): Welcome to you to CNN News 18. Firstly, please tell us what is your name and what is the name of your organization or group?

Answer (Qadir Baloch): My name is Mama Qadir and my tanzeem's name is 'Voice for Baloch Missing Persons' of which I am the Vice-chairman.

Question 2 (News 18): So you are a Baloch?

Answer (Qadir Baloch): Yes, I am a Baloch.

Question 3 (News 18): What do you work as, in Balochistan?

Answer (Qadir Baloch): We work for the missing Balochis, those who are kidnapped and killed for raising voice for freedom. Pakistan's ISI, MI (Military Intelligence) and FC (Frontier Corps) pick Balochis, they are taken to secret cells where they are tortured and murdered. Their bodies are abandoned in valleys or on top of mountains. There are 28 districts in Balochistan and we have coordinators working in each one of them who keeps track of missing and kidnapped Balochis.

Question 4 (News 18): So you are basically working for missing Balochis? Now tell me what happened with Kulbhushan Jadhav?

Answer (Qadir Baloch): I remember very clearly about Kulbhushan Jadhav. Our coordinator works in that area. Kulbhushan Jadhav was kidnapped from Iran, Chabahar by Mullah Omar, a Balochi Irani. He works for ISI in Balochistan. ISI gave him crores of rupees and asked him to kidnap and hand over Kulbhushan Jadhav to them. So he along with his men in a double door pick-up van which we refer to as Vigo, abducted Jadhav. He was blind folded and his hands and legs tied. He was kidnapped from Iran and brought to Mashkel. It is a district bordering Iran and Pakistan, where they finally handed over Kulbhushan to ISI. News spread that a RAW agent was caught and that Kulbhushan Jadhav was seen and working in Balochistan.

Question 5 (News 18): So there is no relation between Kulbhushan and Balochistan?

Answer (Qadir Baloch): Kulbhushan has never even come to Pakistan nor has he seen Balochistan. He was kidnapped through Mullah Omar and brought in Mashkel.

Question 6 (News 18): Who is this Mullah Omar?

Answer (Qadir Baloch): He works for ISI. He kidnaps Balochis as well. He has murdered several Balochis.

Question 7 (News 18): Does he do this for money?

Answer (Qadir Baloch): Yes. The task of kidnapping Jadhav was given to him specifically and he was promised a lot of money.

Question 8 (News 18): When did you get to know about this?

Answer (Qadir Baloch): The moment Jadhav was brought to Balochistan the news spread all across that he was a RAW agent and has been caught by ISI. When we inquired about his whereabouts none in Balochistan were aware of any of his activities in Balochistan earlier. As and when there is a missing Balochi either kidnapped or killed we maintain records on a daily basis. Kulbhushan has never come to Balochistan nor has he crossed Iran. He was kidnapped by Mullah Omar on behest of ISI and was handed over to ISI.

Question 9 (News 18): Your group did a rescue attempt against Mullah Omar and his group?

Answer (Qadir Baloch): Yes, he absconded from Balochistan and now he lives in Karachi, Malir and works for ISI. Our people who are fighting in the hills have attacked him thrice; he has always been saved even though his men have been killed.

Question 10 (News 18): How much money did ISI give this man to kidnap Jadhav?

Answer (Qadir Baloch): I have not seen by myself but I have heard it is around 4-5 crores of rupees.

Question 11 (News 18): What happened after kidnapping?

Answer (Qadir Baloch): He was first brought to Mashkel and then taken to Quetta and then to Islamabad.

Question 12 (News 18): So you have no doubts in the fact that Kulbhushan Jadhav was doing his private business in Iran and was kidnapped from Iran and brought to Balochistan?

Answer (Qadir Baloch): I have no doubts. He has never crossed the border to Balochistan. Even our coordinators have researched if he has been to Mashkel or Gwadar or Turbat earlier. There has been no evidence.

Question 13 (News 18): Is it easy for a foreign national to enter Balochistan or are they instantly recognized by authorities?

Answer (Qadir Baloch): Of course, even the local people when they visit the Dargah in Gwadar they are checked for documents by the ISI and Frontier Corps check-posts. In such a case, how can they miss a foreigner's presence?

Question 14 (News 18): So why does ISI say that he was caught in Balochistan?

Answer (Qadir Baloch): That is a blatant lie. As I have already mentioned to the media including BBC, he is neither a RAW agent nor was in Balochistan or has anything to do with Balochis.

Question 15 (News 18): Does Pakistan's ISI on a usual basis resort to kidnapping?

Answer (Qadir Baloch): I can bring many first hand witnesses who can vouch for this kind of a behavior by ISI. Pakistan's ISI, Military Intelligence and Frontier Corps employs these tactics on a routine basis. Around 40,000 to 45,000 Balochis have been missing so far. My own Son Jaleel Reiki was picked up from home on 13 February 2009 at daytime at 3 o'clock by ISI in two pick up vans. After 3 years, we found was his bullet riddled body.

Question 16 (News 18): What do you think will happen to Kulbhushan Jadhav? Will he be killed?

Answer (Qadir Baloch): I am ready to witness in any court of law that Kulbhushan Jadhav is innocent and has no contacts with Balochistan or any Balochi.

Certificate

It is hereby certified that the above translated transcript is accurate.



Dr. Deepak Mittal
Agent of the Republic of India

Annex 4

Report on the visit of the family members of Shri. Kulbhusan Sudhir Jadhav to Pakistan on December 25, 2017



J.P. Singh
Deputy High Commissioner
Tel: 0092-51-2833279 (O)

भारत का उच्चायोग इस्लामाबाद
 HIGH COMMISSION OF INDIA, ISLAMABAD

26 December 2017

Subject: Report on the visit of family members of Shri Kulbhusan Sudhir Jadhav to Pakistan on December 25, 2017.

Dear Sr. Mittal,

I was deputed by the Ministry to accompany the family members of Shri Kulbhusan Sudhir Jadhav (KJ) to Pakistan for their meeting with KJ as offered by Pakistan. The family members included KJ's mother Mrs. Avanti Jadhav and wife Mrs. Chetana Jadhav.

2. Travel details: The family members of KJ and I travelled to Islamabad as per following schedule:

Sunday, 24 December 2017

Dep: New Delhi 2025 hrs. by AI-995 (Air India)

Arr: Dubai 2245 hrs.

Monday, 25 December 2017

Dep: Dubai 0645 hrs. by EK-612 (Emirates)

Arr: Islamabad 1050 hrs.

Dep: Islamabad 1815 hrs. by WYo346 (Oman Air)

Arr: Muscat 2035 hrs.

Tuesday, 26 December 2017

Dep: Muscat 2310 hrs. by AI-974 (Air India)

Arr: New Delhi 0345 hrs.

3. 'Modalities and common understanding' as agreed upon with the Pak Ministry of Foreign Affairs on the proposed meeting: The Govt. of Pakistan offered to arrange a meeting of KJ's mother and wife with KJ on 25 December 2017 at the Ministry of Foreign Affairs in Islamabad on 'humanitarian grounds' and as per 'Islamic traditions'. During various preparatory meetings with Dr. Muhammad Faisal, Director General (South Asia) & Spokesperson, Pakistan's Ministry of Foreign Affairs (our focal point of contact), who is also the Pakistan's 'Agent' at the International Court of Justice, following modalities on the visit were agreed upon by both sides:

(a) The meeting would take place on the premises of Pakistan Ministry of Foreign Affairs.

(b) There would be a 'comprehensive security check with full dignity'.

- (c) One Indian diplomat would be present at 'all the times including during the meeting'.
 - (d) The Govt. of Pakistan vide its Note Verbale No.Ind(I)-5/20/2017 dated December 08, 2017 assured to safeguard their safety, security and freedom of movement whilst on its sovereign territory.
 - (e) There would be no media interaction with the family members. The Pakistan Govt. would ensure that Pak media was kept at a safe distance both for security reasons and to avoid undue harassment of the family members.
 - (f) The following people would attend the meeting: KJ + mother + wife + Indian diplomat + one officer from Pak Foreign Office + one lady officer from Pak security.
 - (g) The meeting would take place in a room in which KJ would sit on one side and the rest of the participants will be on the other side of the glass panel.
 - (h) The duration of the meeting would range from 15 minutes to 1 hour.
 - (i) The family members would interact with KJ through an audio system or through microphone on real time basis.
 - (j) No one else would speak/interact during the meeting.
 - (k) Meeting would be recorded by video cameras and still photographs would be captured.
4. The following requests from the Indian side were not agreed to by the Pakistan Government despite of repeated requests:
- (a) Use of Indian High Commission's bulletproof diplomatic vehicles: The Indian side requested that the family members should be allowed to travel in Indian High Commission's vehicle during their brief stay (5-6 hours) in Islamabad. We had requested this for the safety and security and ease in movement of KJ's family members. However, the Pak Govt. did not accept the request and insisted that the family members and Indian diplomat would have to travel in Govt. of Pakistan provided vehicles only during all the movements in Pakistan.
 - (b) Indian woman officer to accompany family members from the Indian side: The Indian side requested the Govt. of Pakistan through a Note Verbale to allow one lady officer from the Indian Ministry of External Affairs to accompany the family members from Delhi on their visit to Pakistan. The request for a lady officer was made as the mother and the wife (both females) were visiting Pakistan for the first time. Given the nature of the visit and hostile narrative created by Pakistan on Shri Kulbhushan Sudhir Jadhav, the family members were frightened and reluctant to visit Pakistan. The lady officer from the Indian Ministry of External Affairs would have provided them comfort and facilitated their movement at

various points, including during security checks. Despite our repeated requests made to Pakistan, the Govt. of Pakistan did not accept this request.

5. Visit to Islamabad: We arrived at the Islamabad Airport at around 11.00 a.m. by Emirates flight No.612 on 25 Dec. 2017. We were received by Ms. Fareha Bugti, Director, Pakistan Ministry of Foreign Affairs, along with security officials and two cameramen at the aircraft tarmac itself. We were escorted to airport lounge where all immigration formalities were completed. The two cameramen covered our arrival and transport from aircraft to airport lounge. After completion of immigration formalities, we were taken in a security convoy from airport to the Indian High Commission. All our movements were filmed by Pak media present at various points on the way from Airport to the High Commission. We stayed at the High Commission for at least 30-40 minutes to freshen up and change of clothes. From the High Commission, we went to Pakistan's Ministry of Foreign Affairs in the same convoy for the meeting.

6. When we reached the Foreign Office, a large contingent of Pak media personnel was present to cover arrival of the family members. Instead of stopping our vehicle at the main gate of the building, the vehicle was deliberately stopped in front of the media and the family members were made to walk in front of media before entering the main building. This was deliberately preplanned to ensure that the family members were paraded in front of Pak media. Pak media personnel present there became hostile and started heckling the family members. Media persons present shouted, screamed and addressed the mother and the wife as the mother of a *qatil* (murderer) and wife of a terrorist, etc.

7. Similarly, when we came out of the Foreign Office building after the meeting, we were deliberately made to stand in front of the media and arrival of the vehicle was deliberately delayed. The Pak media persons again harassed and heckled the family members and addressed them by derogatory statements. The family members got scared and were visibly frightened. All this was widely covered by Pakistan media and could be easily verified in various media clips.

8. During our departure from the airport, when we got down from the vehicle, around 20-25 Pak media persons ambushed us and tried to pressurize the family members to make a statement to the effect that they accepted KJ as a terrorist and that he had planned attacks and killed thousands of people in Pakistan. I had to literally hold the hands of the family members and escort them through the crowd and media personnel to enter the airport building. All this happened despite of the fact that there was a prior agreed understanding that media would be kept at a distance for security reasons and to avoid harassment of family members. All this happened in front of Ms. Fareha Bugti, Director, Pakistan Ministry of Foreign Affairs.

9. Meeting at the Foreign Office: At the Foreign Office, we were received by Dr. Muhammad Faisal, DGSA and Spokesperson. Dr. Faisal asked us to sign a 'Declaration Form' stating that we were not carrying any weapon or recording material with us. I objected to Dr. Faisal stating that he never told us about this requirement to sign Declaration Form in our series of preparatory meetings. When Dr. Faisal insisted on signing this declaration for security reasons, we signed the declaration forms in good faith. I was then taken for a comprehensive security check. While there was an

understanding that the security check of the diplomat would be simple as I was the diplomat posted in Pakistan, the Pak security personnel conducted a complete security check, removed all metallic items, removed religious chain around my neck and replaced my shoes, etc.

10. Thereafter, the two ladies were taken to another room for security check. Surprisingly, the two ladies were taken to the meeting room directly after security check through a separate door without informing me. It was only after sometime when I enquired about the ladies, I got to know that the ladies have already been taken to the meeting room and the meeting had started without my presence or my knowledge. When I objected this to Dr. Faisal, I was then taken to the meeting room. I strongly protested to Dr. Faisal that this was contrary to the agreed understanding and the assurances given by the Pakistan Govt. that the Indian diplomat would be present 'all the times' including in the meeting with the family members.

11. Following incidents were departure from our prior agreed understanding with the Govt. of Pakistan:

- (a) Presence of Indian diplomat: It was formally agreed by the Govt. of Pakistan through Note Verbale (No.IND(I)-5/20/2017 dated 24 Dec 2017) that the Indian diplomat would be present all the time including in the meeting. However, the meeting started without the information and presence of the Indian diplomat. The Indian diplomat was taken to the meeting only after protesting and raising the issue with the concerned Pakistan officials.
- (b) Format of Meeting room (containerized room): In our preparatory meetings, the Govt. of Pakistan had informed that there would be only one partition and two chambers in the meeting room. However, just before the meeting, Dr. Faisal informed that there would be three chambers and two glass partitions. However, he left no room for any further discussion on this format.
- (c) Dr. Faisal informed that on the left most chamber, KJ will be present; mother + wife + Pak Foreign Office officer + Pak security officer would be present in the middle chamber; and that the Indian diplomat will be present in the right most third chamber. I protested this with Dr. Faisal and noted that this was a surprise element and it was never agreed upon. I told him that it was not as if the meeting room was prepared overnight. The Pak side should have informed us about this arrangement even a day before in the meeting with the Indian High Commission officers at a preparatory meeting with Dr. Faisal on Dec 24 evening. I told Dr. Faisal that since they did not allow my mobile phone also in the Foreign Office, I could not discuss this issue with anyone in India or at the High Commission. I strongly protested on this issue.
- (d) Security Check: While the Govt. of Pakistan had assured a 'security check with full dignity', the Pak security official removed all the ornaments and bangles including *mangalsutra* and *bindi* which are of immense religious sensitivity in Indian society and a symbol of a married woman. Not only this, the security people asked them to remove clothes. The mother who wears traditional Indian attire (*saree*) was forced to wear a Pakistani suit salwar. I came to know about

this change of clothes only after the meeting as they were taken directly to the meeting place from the security check without informing me. I protested on this inhuman security check-up to Dr. Faisal and noted that we were never informed about such a humiliating and hostile security check.

- (e) The security people kept the shoes of the wife and did not return even after the meeting. The wife had to return to India without her shoes. The shoes of the wife were kept for some mischievous reasons. I protested this with the security people as well as with Dr. Faisal. I insisted that at least shoes be returned after the meeting has taken place. This intrusive and hostile security check by Pak authorities was not at all 'with dignity' or as per Islamic traditions as promised by the Pak Govt.
- (f) Media coverage: It was agreed that media would not be allowed close access both for security reasons as well as to avoid harassment of the family members. However, the Pak media, as per preplanned strategy, was not only allowed close access on a number of occasions but was also allowed to heckle and harass the family members with offensive and abusive language.
- (g) During the meeting, I was locked in the meeting room (third chamber) from outside by Pak security people in violation of the established norms of conduct towards the diplomatic representatives. This was a humiliating experience as how come a diplomat be locked from outside by security people.

12. Protests lodged with the Pak side: During our visit to the Ministry of Foreign Affairs on Dec. 25 for the meeting, I lodged strong protest with Dr. Muhammad Faisal, DGSA and Spokesperson on the following issues which were as a result of severe breach of trust and ground rules of the meeting by Pakistan:

- (i) I protested on signing the security Declaration Form;
- (ii) I protested when the meeting started without my presence;
- (iii) I protested on the format of the meeting and against 3 chambers and 2 glass partitions of the meeting room which was contrary to what was agreed upon (2 chambers and 1 glass partition);
- (iv) I protested on hostile, undignified and humiliating security check of the two ladies, including on removing and replacing of saree (Indian clothes), *mangalsutra* and *bindi*;
- (v) I protested on not returning the shoes of the wife after the meeting;
- (vi) I protested outside the Foreign Office after the meeting when we were kept waiting for the vehicle in front of hostile Pak media which made abusive and false allegations.

13. Motivation of the Pak Govt. behind this meeting: The Pakistan Govt. in its various press releases emphasized that they had arranged this meeting on 'humanitarian grounds'. However, the way the meeting was conducted, it showed that the meeting was organized merely to register its point and bolster its case at the International Court of Justice (ICJ), and to project a 'human face' of Pakistan. The meeting was also organized to create a media hype to project 'KJ as a terrorist' and 'India as a terror sponsoring State'.

14. Appearance of Shri Kulbhushan Jadhav: While I could not hear the conversation of KJ and family members because of two glass partitions, the physical appearance, gestures and body language of KJ indicated the following:

- a) KJ's face was looking puffy and swollen;
- b) KJ was very hyperactive in the meeting and was dominating the family members throughout the meeting;
- c) It seemed as if KJ was not in his senses and was under the influence of something.

15. KJ's video released by Pak side after the meeting: In a released video of KJ after few days of the meeting, KJ accused the Indian diplomat of shouting at KJ's family members and that the diplomat brought family members from India under pressure and beaten them all the way in airplane. However, It was a tutored video. The very fact that this allegation on Indian diplomat was illogical and factually incorrect, which could be verified from the family members; it proved that all other KJ's videos released by the Pak side on earlier occasions were also tutored and misleading.

16. Overall environment: While the Govt. of Pakistan in its various correspondences, the last one in No.Ind(I)-5/20/2017 dated December 23, 2017, conveyed that the "Pakistan permitted this meeting purely on humanitarian grounds", the overall environment created by the Pakistan Govt. was not only hostile and suffocating but even inhuman.

During the visit, we (family members + myself) felt as if we were caged and were taken from place to place in a public show. The whole visit looked like a big media circus. We were paraded before the media as if we had committed some crime and were criminals. Each and every movement and even body postures were captured by official and private media present at all the places. This aggressive coverage by media created a psychological pressure on the family members. This was further made worse by intrusive & humiliating security check. All this frightened the family members and one could see fear in the eyes of the family members.

17. Feedback from the family: According to family members, KJ was looking different as if he was under the influence of something. KJ was not behaving normal. His face was puffy. He was very dominating, did most of the talking and did not give much chance to the family members. Family was expecting that KJ would talk about other family members including his children; however, KJ did not even once enquire about them. It seemed he was sent with the following agenda:

- a) To confess before the family members. He repeated most of the things which he had already said in various tutored videos released earlier by the Pak side.
- b) To force/convince the family members to make media statement and declare KJ as an Indian spy before the world. KJ dominantly spent almost 10 minutes in the meeting to convince them to make statement before the media. As all the released tutored KJ's videos have no legal value, Pakistan's idea was to secure a statement from his family members, which could strengthen the Pak's narrative and case at the ICJ.

Yours sincerely,

With regards,



(J.P. Singh)

[Camp: New Delhi]

Dr. Deepak Mittal,
Joint Secretary (PAI),
Ministry of External Affairs,
New Delhi.

Annex 5

***Note Verbale* issued by Pakistan on 8 December 2017**

ANNEX 5

MINISTRY OF FOREIGN AFFAIRS
ISLAMABAD

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

December 08, 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 dated 13 November 2017, has the honour to repeat its offer as stated on 10th November 2017 and as requested by the Government of India, extend the same to the mother of Commander Kulbhushan Jadhav, so as to enable a visit by his wife and mother on humanitarian and compassionate grounds. A diplomatic officer of the Indian High Commission in Islamabad may accompany them whilst they are in Pakistan.

The concerns of the Islamic Republic of Pakistan, as well as facts and matters drawn to the attention of Indian authorities since 25th March 2016 too continue to be maintained.

In this regard the Islamic Republic of Pakistan will accordingly extend courtesy to the mother and wife of Commander Kulbhushan Jadhav and take such measures as are available to safeguard their safety, security and freedom of movement whilst on its sovereign territory.

The modalities of their visit to Commander Kulbushan Jadhav will be arranged by the authorities of the Islamic Republic of Pakistan.

The visit may take place on 25 December 2017 and if the aforementioned matters are agreed in principle then we can finalize the visit and its modalities accordingly.

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

High Commission of the Republic of India
Islamabad



Annex 6

***Note Verbale* issued by India on 11 December 2017**



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

Annex 7

***Note Verbale* issued by India on 13 December 2017**



भारत का उच्चायोग, इस्लामाबाद
HIGH COMMISSION OF INDIA
ISLAMABAD

No.ISL/103/14/2016

The High Commission of India in Islamabad presents its compliments to the Ministry of Foreign Affairs of the Government of the Islamic Republic of Pakistan and with reference to latter's Note Verbale No. Ind (I)-5/20/2017 dated December 8, 2017 regarding Indian national Mr. Kulbhushan Sudhir Jadhav, has the honour to convey that the wife and the mother of Mr Jadhav have agreed to visit Pakistan to meet Mr Jadhav on 25 December 2017.

2. The High Commission has the further honour to convey that it is the understanding of the Government of India that, as requested in the High Commission's Note Verbale No. ISL/103/14/2017 dated 13 November 2017, the Government of Pakistan has also extended sovereign guarantee that the authorities of the Islamic Republic of Pakistan shall ensure that the mother and the wife of Mr Jadhav shall not be questioned, interrogated or harassed during their stay in Pakistan. Further, it is also the understanding that the diplomat of the High Commission of Indian in Islamabad will not only be allowed to accompany the mother and the wife of Mr. Jadhav during their stay in Pakistan, but also shall be allowed to be present in the meeting with Mr. Jadhav.

3. The esteemed Ministry is requested to kindly confirm the above understanding so as to finalize the visit and its modalities.

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



Islamabad, 13 December 2017

Annex 8

***Note Verbale* issued by Pakistan on 20 December 2017**

MINISTRY OF FOREIGN AFFAIRS
ISLAMABAD

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

December 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 Government of India's requests mentioned in the High Commission's Note Verbale No. ISL/103/14/2016, dated 13th December 2017, and the verbal request of the Indian Deputy High Commissioner in Islamabad, has the honour to reiterate its concurrence to the Indian requests, as already conveyed through Ministry's Note Verbale of even number dated 8th December 2017.

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

High Commission for the Republic of India,
Islamabad.



Annex 9

***Note Verbale* issued by Pakistan on 23 December 2017**

ANNEX 9

MINISTRY OF FOREIGN AFFAIRS
ISLAMABAD

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

December 23, 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 13 November 2017 and this Ministry's response dated 8 December 2017 regarding the visit of the wife of Commander Jadhav to meet him has the honor to underscore:

- a. Pakistan permitted this meeting purely on humanitarian grounds.
- b. In the same spirit, Pakistan accepted the Indian request to allow the mother of Commander Jadhav to accompany the wife.
- c. Pakistan also permitted an Indian diplomat of the Indian High Commission in Islamabad, to accompany the visitors, including during the meeting, as further requested by India.
- d. Pakistan also assured the extension of all necessary courtesies to the visitors and measures to safeguard their safety and security as requested by India.

In the similar vein, Pakistan reiterated its concurrence to the repeated Indian requests of the same (verbal and written – NV ISI/103/14/2016 dated 13 December 2017, wherein India also conveyed agreement to the visit of the wife and mother to meet Commander Jadhav on 25 December 2017). Despite no further information/details, including their travel itineraries, being shared by India to date, the Pakistan High Commission in New Delhi issued 3 days visas for the visitors on 20 December 2017. Pakistan in the spirit of openness also indicated its willingness for media interaction of both the mother and wife of Commander Jadhav with Pakistani, international and some Indian media.

It is regrettable that no further details (the name of the Indian diplomat accompanying the visitors, and even basic essential travel details, including itineraries of the visitors vital for arranging the visit), have been shared to date indicating that the Government of India is not keen about the visit. This is in stark contrast with India's earlier requests in this regard.

The Ministry of Foreign Affairs of the Islamic Republic of Pakistan has the further honor to stress that Pakistan would be compelled to interpret any continued prevarication/delay by India, as India backing out of its prior agreement to the visit.

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



Annex 10

***Note Verbale* issued by India on 24 December 2017**



भारत का उच्चायोग, इस्लामाबाद
HIGH COMMISSION OF INDIA
ISLAMABAD

OLC

ISL/ /103/14/2017

The High Commission of India to Pakistan presents its compliments to the Ministry of Foreign Affairs, Government of the Islamic Republic of Pakistan and, while referring to their *Note Verbale* No. Ind (I)-5/20/2017 dated December 23, 2017 regarding the visit and meeting of the mother and wife of Mr. Kulbhusan Jadhav with him on humanitarian consideration, has the honour to state the following:

- a) The family members of Mr. Jadhav will arrive at Benazir Bhutto International Airport by EK-0612 at 1050 hours on December 25, 2017. They will leave the same day by flight No.WY-0346 at 1815 hours.
- b) The proposal of the Pak side to have media interaction is not agreed to. Media may kindly be kept at a distance to ensure security of the family members and avoid any harassment to them.
- c) The Indian diplomat accompanying the family members during their visit and meeting with Mr. Jadhav will be Deputy High Commissioner Shri J.P. Singh.
- d) To facilitate the family members during their arrival and departure, following officer and officials from the High Commission may be allowed to visit Rawal Lounge:
 - i. Shri Avinash Kumar Singh, Second Secretary
 - ii. Shri Vikas Nagia, Staff Member
 - iii. Shri Sunil Kumar, Staff Member
- e) Vehicles and respective chauffeurs for above:
 - i. QL 123 [CD 27 41]: Shri Rajveer
 - ii. QL 309 [CD 27 43]: Shri D. Brahma
- f) Airport passes for facilitating the access of Indian officers and officials to Rawal Lounge may kindly be issued.

g) The Government of India reiterates its request to allow the family members of Mr. Jadhav travel in High Commission's vehicle during their visit.

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



Islamabad-December 24, 2017

**Ministry of Foreign Affairs
Government of the Islamic Republic of Pakistan
Islamabad**

Annex 11

Note Verbale issued by Pakistan on 24 December 2017



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.

Annex 12

***Note Verbale* issued by India on 27 December 2017**



विदेश मंत्रालय, नई दिल्ली
MINISTRY OF EXTERNAL AFFAIRS
NEW DELHI

No. J/411/08/2016

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 with reference to the meeting of the Indian national Mr. Kulbhushan Jadhav with his wife and mother on 25 December 2017 in Islamabad, has the honour to note with regret that the Pakistan side conducted the meeting in a manner which violated the letter and spirit of the understandings reached prior to the meeting with regard to the modalities and format. This included:

- (i) The Pakistani press was allowed on multiple occasions to approach family members closely, harass and hector them and hurl false and motivated accusations about Shri Jadhav. This was despite a clear agreement that the media would not be allowed close access;
- (ii) Under the pretext of security precautions, the cultural and religious sensibilities of family members were disregarded. This included removal of *mangal sutra*, bangles and *bindi*, as well as a change in attire that was not warranted by security;
- (iii) The mother of Shri Jadhav was prevented from talking in their mother tongue (Marathi), although this was clearly the natural medium of communication. While doing so, she was repeatedly interrupted by the Pakistan official present in the meeting and eventually prevented from proceeding further in this regard;
- (iv) Deputy High Commissioner of India was initially separated from family members who were taken to the meeting without informing him. The meeting was started without his presence

and he could join only after pressing the matter with concerned officials;

- (v) During the meeting, Deputy High Commissioner of India was locked from outside in violation of the established norms of conduct towards the diplomatic representatives. He had to forcefully raise the matter with the concerned security personnel to come out;
- (vi) The car for the wife and family of Mr Jadhav and accompanying Indian diplomat was delayed after the meeting exposing them to harassment by the media. This could have been easily avoided, including by allowing Indian High Commission vehicle as was requested before the meeting;
- (vii) The conversation between Mr. Jadhav and his mother and wife was deliberately made audible to the officials of the Republic of Pakistan sitting in the room in gross violation of their privacy.

The Government of India regrets that though the offer to arrange a meeting between the mother and wife of Mr. Kulbhushan Jadhav with him was portrayed as a humanitarian gesture, the events that occurred were a grave infliction upon them and upon Mr. Kulbhushan Jadhav and a serious violation of their human rights. Contrary to the assurances, the overall atmosphere of the meeting was intimidating in so far as the family members were concerned.

The mother and wife have conveyed that Mr. Kulbhushan Jadhav appeared under considerable stress and was speaking in an atmosphere of coercion. As the meeting evolved, it was clear to them that his remarks were tutored by his captors and designed to perpetuate the false narrative of his alleged activities. His appearance also raised questions of his health and well being.

The Government of India wishes to convey that the manner in which the meeting was conducted and its aftermath makes it clear

that it was an attempt by the Government and authorities of the Islamic Republic of Pakistan to bolster a false and unsubstantiated narrative in violation of human rights of Mr Jadhav, his wife and his mother. The Government of India also wishes to place on record its serious concern about the physical and mental well being of Mr Kulbhushan Jadhav; his treatment by the Pakistan authorities and the measures being adopted in gross violation of his basic human rights and the minimum standards of due process universally recognised in the International Law including the protection against all forms of torture and coercion.

The Ministry also notes that for some inexplicable reason, despite her repeated requests, the shoes of the wife of Shri Jadhav were not returned to her after the meeting. The Pakistan authorities are cautioned against any mischievous intent in this regard.

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.



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

Annex 13

Statement by the External Affairs Minister, Government of India (EAM) in Rajya Sabha on the meeting of the family of Mr. Kulbhushan Jadhav with him and the situation arising from there (28 December 2017)

**STATEMENT BY EAM IN RAJYA SABHA ON THE MEETING OF
THE FAMILY OF Mr KULBHUSHAN JADHAV WITH HIM AND
THE SITUATION ARISING FROM THERE**

28 December 2017

Hon'ble Chairman,

I rise to apprise the House of recent developments pertaining to Shri Kulbhushan Jadhav, an Indian national in the illegal custody of Pakistan. As the House is aware, his mother and wife met him on 25 December 2017 in Islamabad. The meeting was arranged through diplomatic channels.

2. In April 2017, I had made a statement in this House underlining the Government's determination to do everything possible to ensure Shri Jadhav's well-being and secure his release from illegal detention. Since then, the House is aware that we approached the International Court of Justice and obtained provisional measures that stayed the execution of the death sentence that was passed on Shri Jadhav through a farcical Pakistani military court process. While the imminent threat to Shri Jadhav's safety was averted as a result, we are now engaged in seeking a permanent relief, based on stronger arguments, through the legal avenue offered by the International Court of Justice.

Hon'ble Chairman,

3. I had also conveyed that we were in constant touch with the family at this difficult time. It was, therefore, natural that we took up the cause of family members who sought access to Shri Jadhav with a view to ascertaining his well-being for themselves. These efforts were pursued persistently through diplomatic channels. As a result, this month, the Pakistani authorities

consented to a meeting between Shri Jadhav and his mother and wife.

4. While the meeting could have been a step forward, it is a matter of great concern that there was departure from the agreed understandings between the two countries in the conduct of this meeting. The emotional moment between a mother and her son, and a wife and her husband after a period of 22 months, was misused by Pakistan as an instrument to further its propaganda. The Ministry of External Affairs has stated our position in this regard publicly day before yesterday. Our concerns arising from this meeting were conveyed to Pakistan through diplomatic channels yesterday. I would like to highlight a few of them in this House:

- (i) There was a clear agreement that the media would not be allowed close access to the mother and wife of Shri Jadhav. However, not only the Pakistani press was allowed to approach family members closely, but the family members were also harassed through use of offensive language by the media. The Pakistani media hurled false and motivated accusations about Shri Jadhav;
- (ii) Under the pretext of security precautions, even the attire of the family members was changed. Mr Jadhav's mother, who wears a *Sari* only, was instead given *Salwar* and *Kurta* to wear. *Bindi*, bangles and *mangal sutra* of the wife were removed;
- (iii) The mother of Shri Jadhav wanted to talk to her son in mother tongue Marathi, as this is clearly the natural medium of communication between a mother and son. However, the mother of Shri Jadhav was not allowed to

speak in Marathi. While doing so, she was repeatedly interrupted by the two Pakistani officials present in the meeting. When she persisted, the intercom was closed and she was prevented from proceeding further with the conversation in Marathi;

- (iv) The family members were taken for the meeting through a separate door without informing the Deputy High Commissioner of India, who had accompanied the family members for this meeting. Consequently, he could not see that the family members were being taken for the meeting after changing their attire and removing their *bindi*, bangles and *mangal sutra*. Otherwise he would have objected then and there. The meeting was started without his presence and he could join only after pressing the matter with concerned officials;
- (v) The car for the family of Mr Jadhav and accompanying Indian diplomat was delayed after the meeting so as to give another opportunity to the media to harass them;
- (vi) The shoes of the wife of Shri Jadhav were removed before the meeting and she was given slippers to wear to the meeting. The shoes were not returned to her despite her repeated requests after the meeting. The Pakistan authorities have been cautioned against any mischievous intent in this regard through a Note Verbale yesterday.

5. The mother and wife, after their return, conveyed to me that Shri Kulbhushan Jadhav appeared under considerable stress and was speaking in an atmosphere of coercion. As the meeting evolved, it was clear to them that his remarks were tutored by his captors and designed to perpetuate the false narrative of his

alleged activities. His appearance also raised questions of his health and well being.

Hon'ble Chairman,

6. The meeting of Mr. Kulbhushan Jadhav with his mother and wife was portrayed by Pakistan as a humanitarian gesture. However, the truth is that both humanity and compassion were missing during the meeting that was arranged on humanitarian and compassionate grounds. There was a serious and gross violation of human rights of the family members of Shri Jadhav and an intimidating atmosphere was created for them during this meeting. There are not enough words to condemn the same.

Hon'ble Chairman,

7. I am fully confident that this entire House and through this House, the people of India, strongly condemns, in one voice, the obnoxious behaviour of Pakistan and affirm their solidarity with the Jadhav family.

Annex 14.1

Note Verbale issued by Pakistan on 19 January 2018

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 and with reference to the latter's Note Verbale No. J/411/08/2016 dated 27 December 2017 has the honor to reject the baseless Indian allegations regarding the visit of the mother and wife of Commander Jadhav to meet him, on 25 December 2017.

It is regrettable that India sadly decided to hurl fallacious allegations to distort a compassionate gesture by Pakistan, despite India's own admission that there was a clear understanding and agreement between both the countries through diplomatic channels.

The factual position is as follows:

- i. Commander Jadhav requested a meeting with his wife. This was permitted on purely humanitarian grounds. Pakistan also permitted his mother to accompany the wife on Indian request.
- ii. Again, on Indian request, the visitors were accompanied by the Indian Deputy High Commissioner in Islamabad during the visit. They were treated with dignity and respect. Commander Jadhav's mother thanked Pakistan publicly as recorded by media.
- iii. Commander Jadhav is a convicted Indian spy and terrorist. This was not an ordinary visit but one with grave security implications, as evident by India's own repeated requests. Pakistan assumed full responsibility for the security of the visitors during the visit. The Indian side was formally informed in advance, and they agreed to a comprehensive security check. The visitors and the accompanying Indian DHC also signed a declaration along the same lines.

- iv. Indian allegations and mutation of facts ignore the fact that Commander Jadhav is not an ordinary convict but a spy and a terrorist. The meeting was allowed on compassionate grounds; however, the security dimension could not be ignored. It is regrettable that India has opted to create a fuss about routine SOPs in practice.
- v. The visitors were scanned and requested to change their clothes before the meeting, to ensure both their and Commander Jadhav's security. They were allowed to change into their own clothes after the meeting. The shoes of the wife, which India has focused on unnecessarily, were retained as they did not clear the security check. This was explained to the visitors and the Indian DHC. Equating a security check agreed in advance, to deliberate disrespect for religious/cultural sensitivities is a regrettable distortion of ground realities and facts and serves no purpose, except vitiating the environment.
- vi. India was also informed in advance about the modalities of the visit, including that the meeting would take place across a glass partition. India never requested that the Marathi language be allowed. The meeting was conducted in English / Hindi due to security compulsions. Both Commander Jadhav and his mother are fluent in English. Indian attempts to exploit this have no basis in rationale or logic.
- vii. Pakistan formally proposed that the visitors may interact with the media, including the Indian media, to ensure transparency and openness. However, the Indian side wanted to avoid formal media interaction, which was ensured by Pakistan. As requested by India, the media was kept at a safe distance from the visitors.
- viii. The visitors and the accompanying Indian DHC could have objected or raised any concerns they may have during the visit but opted not to do so. They were also free to call off the visit at any time. They again chose not to do so.
- ix. Pakistan permitted the meeting to extend for 10 additional minutes on the request of Commander Jadhav and consent of his mother in the presence of the Indian DHC.

Pakistan is disappointed at the baseless Indian allegations, (coming about 24 hours after the visit), and politicization of a humanitarian gesture. This is regrettable. As shared in advance with India, the meeting was recorded. Pakistan believes that a peaceful neighborhood is essential for regional stability and progress. Indian allegations only aggravate the tensions and are counterproductive.

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



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

Annex 14.2

***Note Verbale* issued by Pakistan on 19 January 2018**



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

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?
- (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.**



Annex 15.1

***Note Verbale* issued by India on 11 April 2018**

o/c



विदेश मंत्रालय, नई दिल्ली
MINISTRY OF EXTERNAL AFFAIRS
NEW DELHI

No. J/411/5/2018

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 January 19, 2018 with reference to the meeting of the Indian national Mr. Kulbhushan Jadhav with his wife and mother on 25 December 2017 in Islamabad.

The Ministry regrets to note that the Ministry of Foreign Affairs of Pakistan has attempted to present a distorted and fallacious 'position' in the matter. In this context, the Ministry of External Affairs has the following observations to share:

- (i) Pakistan continues to repeat that Mr. Jadhav is an "Indian national", "a spy" and "a terrorist". It is true that he is an Indian national. In fact, it is Pakistan who contests his nationality in pleadings before the International Court of Justice, while asserting it in direct exchanges. This issue needs to be put to rest as India fully accepts that he is an Indian national. The allegations that he is "a spy" and "a terrorist" are entirely false. They are a part of the propaganda that has continued for quite some time now, and are thus not surprising;
- (ii) In the various preparatory meetings held between the Pakistan Foreign Office and the Indian High Commission in Islamabad, it was clearly agreed that there would be a 'comprehensive security check with dignity'. By no stretch of imagination, security check with 'dignity' includes removing clothes and items of cultural and religious sensibilities like Mangalsutra, Bangles and Bindi. The inhuman treatment to the distressed wife and mother violated all norms of international conduct;

- (iii) The Indian High Commission was never informed in advance that the family members of Mr. Jadhav and the Indian diplomat accompanying them would be required to sign a declaration form. This came as a surprise when Director General, South Asia [DGSA] asked them to sign the declaration form just before the meeting on 25 December 2017. Even in the declaration form there was only a mention of family members and the Indian diplomat not carrying any weapons or recording material. It was nowhere mentioned that there would be a comprehensive security check which would entail removal of clothes, Mangalsutra and Bindi. The Ministry of Foreign Affairs contention that the Indian side were formally informed in advance and they agreed to a comprehensive security check is absurd and factually incorrect;
- (iv) For some inexplicable reason, despite repeated requests and the Indian diplomat strongly raising it with DGSA, the shoes of the wife of Mr. Jadhav were not returned to her. The Ministry of Foreign Affairs' assertion that the shoes were retained as they did not clear the security check and the reasons were explained to the family and the Indian diplomat accompanying, is absolutely incorrect. This act appears to have sinister overtones, since the wife of Mr. Jadhav is also named in the so called "first information report (FIR)";
- (v) Prior to the actual meeting it was informed that there would be a single glass partition in the meeting room with Mr. Jadhav on one side of the partition and the rest of the participants including his family, the Indian diplomat, two lady officers - one from Pakistan Foreign Office and another from security, would sit on the other side. However, just minutes before the meeting the Indian diplomat was informed that there would be two glass partitions resulting in three chambers and that he would be kept in the third chamber. The Indian diplomat had immediately protested to DGSA and noted that it was 'mischievous';
- (vi) Pakistan Ministry of Foreign Affairs' observation that India never requested for Marathi language to be allowed is absurd

because Marathi being their mother tongue was clearly the natural medium of communication between Mr. Jadhav and his family. The Pakistan official repeatedly interrupted them and eventually prevented them from proceeding further in violation of their privacy. This conduct of violation of privacy of a conversation between a mother and wife on the one hand, and Mr. Jadhav on the other, violates all norms of minimum humanitarian standards;

- (vii) The subsequent media reports are telling of the fact that the Pakistan press was not only allowed on multiple occasions to approach the family, but also to harass and hector them and hurl false and motivated accusations against Mr. Jadhav. The same could also be verified with the Pakistan Foreign Office officer Ms. Fareha Bugti, Director (India) who accompanied the family during the visit, particularly during departure from the airport;
- (viii) The Ministry of Foreign Affairs' assertion that the family and the Indian diplomat could have objected or raised any concerns during the visit, is patently false because the Indian diplomat had voiced his concerns and expressed his displeasure at several instances through and after the meeting.

It is further noted, that the Government of Pakistan has wilfully chosen not to respond to the facts and concerns raised by India in its Note Verbale No. J/411/08/2016 dated December 27, 2017 that the car of the family of Mr Jadhav and accompanying India diplomat was delayed and exposing them to harassment by the media; that the conversation between Mr Jadhav and his mother and wife was deliberately made audible to the officials of the Republic of Pakistan in gross violation of their privacy; that the Indian Diplomat was separated from the family members who were taken to the meeting without informing him and meeting started without his presence; and that the Indian diplomat was locked from outside in violation of the established norms of conduct towards diplomatic representatives.

The Government of India once again regrets to note that though the visit and the meeting was professed to be a humanitarian gesture, the inhuman treatment to the distressed wife and mother was a grave infliction on the family members and upon Mr Kulbhushan Jadhav in serious violation of their human rights. The meeting was an attempt by the Government and the authorities of the Islamic Republic of Pakistan to bolster a false and unsubstantiated narrative in violation of the human rights of Mr Jadhav, his wife and his mother. The Government of India reiterates its serious concerns about the physical and mental well being of Mr Kulbhushan Jadhav; measures being adopted by Pakistan authorities in gross violation of his basic human rights and the minimum standards of due process universally recognised in the international law and practice including protection against all forms of torture and coercion.

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**



Annex 15.2

***Note Verbale* issued by India on 11 April 2018**



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

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

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**

Annex 16

Robert Kolb, *The International Court of Justice* (Hart Publishing, 2013), page 947

The International Court of Justice

Robert Kolb



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c) Prohibition of Abuse of Process

The prohibition of abuse of process is only one particular application of the general principle prohibiting the abuse of rights. That principle is applicable, according to varying modalities, both in international law and in systems of municipal law.¹¹² Abuse of process consists in the use by one or more of the parties, of procedural instruments and rights, for reasons that are fraudulent, or designed to cause delay, or simply frivolous; designed to harm the other side or give the abusing party an illegitimate advantage; intended to devalue other pending proceedings or deprive them of their object; intended purely for propaganda purposes; or, generally, for any purpose other than that for which the procedural rights concerned were instituted in the first place. One can add to this list actions based on an intention which is malevolent, or on bad faith.¹¹³

Such abuses cannot be simply presumed to have occurred and nor should they easily be considered to be proven. States are sovereign and accusations that there have been abuses should therefore be made only with great care. Also, the mere exercise of one's rights should not be considered an abuse. There are some situations, however, in which the degree of nuisance caused by a party to the tribunal is such that it can no longer be tolerated. Such activities sap the basis of any common enterprise and endanger the due administration of justice. Given that the principle prohibiting abuse of procedure covers the most varied range of possible situations, it is not helpful to try to define it in the abstract. The best way to examine the question is by illustrative examples, particularly since the whole question is closely bound up with the facts of the particular cases concerned.

The ICJ is frequently faced with allegations that procedural abuses have occurred. However, unlike other international tribunals, the Court has not so far ever had actually to conclude that an abuse has been demonstrated. This restrictive approach by the Court is desirable. It reflects the presumption in favour of the correction of the acts of a sovereign State, and bears witness to the fact that in the course of some 150 cases that have come before the ICJ and the PCIJ, the parties have generally behaved decently. In this regard, States and their counsel are different from the individuals responsible for cases in municipal law. It is very much less usual for States to attempt to cheat or abuse an international tribunal, to whose jurisdiction they have, obviously, consented, and they will certainly not wish to have their prestige damaged, or to find themselves discredited, in the course of such proceedings. Obviously, States do use all available procedural arguments to challenge the Court's jurisdiction, and it often happens that they fail to comply with interim measures. However, such attitudes are not the same as manifest abuses. The most determined (even fierce) exercise of one's procedural rights is not itself enough to constitute an abuse. A failure to comply with interim measures – which a great number of commentators (if not a majority) continued until 2001 to argue were not legally binding – can hardly be considered an abuse either. The practice shows that arguments to the effect that there has been a procedural abuse are themselves generally motivated by a most unwelcome wish to prevent the Court from taking cognisance of a case by arguing for its inadmissibility *in limine litis*.

The ICJ has never rejected the abuse of process concept as such, nor has it denied its applicability to its proceedings. It has confined itself to stating that the conditions for its

¹¹² See Kolb, *La bonne foi en droit international public*, above n 110, 429 *et seq.*

¹¹³ For further details, *ibid*, 637 *et seq.*

Annex 17

***'China Said to Jail Ex-U.S. Attorney'*, New York Times, 20 January 1984**

Also available at:

<http://www.nytimes.com/1984/01/20/world/china-said-to-jail-ex-us-attorney.html>

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CHINA SAID TO JAIL EX-U.S. ATTORNEY

By **RICHARD BERNSTEIN**

Two years ago, Hanson Huang, a Hong Kong-born, Harvard-trained lawyer and a former partner in a major New York law firm, disappeared from his hotel room while on an extended visit to Peking.

Mr. Huang, who had earlier taught law in China, was assumed to be under arrest. But until recently, nothing was known of his fate, either by relatives in Hong Kong and the United States or by friends who knew him at Harvard.

Inquiries made by these friends by mail to the Chinese authorities went unanswered. Members of Mr. Huang's family, hoping that by remaining quiet they might enhance his chances of being released, did not seek publicity for him or petition the Chinese Government for information about him.

Last month, a Chinese-language magazine in Hong Kong, *Pai Shing*, published an article saying that Mr. Huang had been sentenced to 15 years in prison for spying for the United States. There has been no official announcement of this, but a recent visitor to Peking, a Westerner, said Mr. Huang's conviction as a spy had been confirmed to him by Chinese officials. *Others Have Disappeared*

Other Hong Kong Chinese have disappeared in China for periods of a few days to many months, with the assumption that they had been arrested. Last year, for example, Lo Chengxun, editor of *The New Evening Post*, a pro-Communist Hong Kong paper, was arrested while on a trip to China. After several months during which no information about him was released, the editor, who was known in Hong Kong as Lo Fu, was sentenced to 10 years in prison on charges of having spied for the Central Intelligence Agency.

In Mr. Huang's case, very little is known other than the fact of his disappearance in China.

Mr. Huang attended both Harvard College and the Harvard Law School, where, according to Robert McCabe, a lawyer in New York who knew him then, he had a reputation as a firm supporter of the Communist revolution in China. After working for the firm Baker and McKenzie in Chicago and New York, he went to Peking and taught law at Peking University, friends and relatives say. He was also thought to have worked as a consultant to foreign companies wanting to invest in China.

Returned to U.S in '81

Mr. Huang returned to the United States in 1981 and, for a brief period, was a partner at Webster & Sheffield, the firm with offices at Rockefeller Center. William H. Hogeland, managing partner, said the firm was interested in expanding its Asia operations.

"He was very eager and hopeful about getting something going there," Mr. Hogeland said of Mr. Huang. After going to China to prepare for work there for Webster & Sheffield, Mr. Huang abruptly withdrew from the firm, saying he had cancer and would seek treatment in Peking. Two months later, in January 1982, he disappeared.

American lawyers who travel to China said they had asked informally about Mr. Huang but received no information. Mr. Hogeland said his latest information in the case was the article that appeared last month in Hong Kong. "I don't know if the article is correct," Mr. Hogeland said, adding that the firm first heard of Mr. Huang's disappearance in the fall of 1982. "It was a complete shock to me," he added.

Mr. Hogeland said the firm contacted the State Department after learning of Mr. Huang's disappearance. Asked about the matter, State Department officials said that, because Mr. Huang was not an American, no inquiries had been made on his case.

Asked why the Government had taken no official action even after reports appeared that Mr. Huang had been spying for the United States, the officials said the reports were not official and therefore no diplomatic initiative was appropriate.

According to Chinese law and practice, residents of Hong Kong, such as Mr. Huang, are considered Chinese citizens and are under the jurisdiction of the Chinese authorities.

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Annex 18

Luke T. Lee, *Vienna Convention on Consular Access* (A.W. Sijff-Leyden/Rule of Law Press - Durham N.C., 1966), pages 107-108

VIENNA CONVENTION ON CONSULAR RELATIONS

With
Texts and Commentaries on

Vienna Convention on Diplomatic Relations, 1961

United States-Soviet Consular Convention, 1964

Draft European Convention on Consular Functions

by

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Chapter 14

COMMUNICATION AND CONTACT WITH NATIONALS
OF THE SENDING STATE
(Article 36)

Of all the provisions in the Vienna Convention, the one with by far the most tortuous and checkered background is indubitably Article 36 concerning consular communication and contact with the nationals of the sending state. Eliminated altogether at the thirteenth plenary meeting for failure to obtain the requisite two-thirds majority,¹ it was hastily restored in the eleventh hour of the Conference,² and may be regarded as one of the most important contributions to consular law by the Vienna Convention. At the crux of the issue were the duties of the receiving state to permit unimpeded communication between consuls and nationals of the sending state, to inform consuls of the imprisonment or detention within their district of such nationals, and to allow consuls to visit them in prison, custody or detention. These rights of consuls admittedly are basic to their protective functions. Their absence from the text of the Vienna Convention would have left a void somewhat comparable to that of the Geneva Conferences on the Law of the Sea which failed to delimit the width of the territorial sea.³

Although customary international law does not require the receiving state to accord the above triple rights to consuls,⁴ such rights often form the subject of consular instructions⁵ and treaties.⁶ Sometimes they are

¹ The vote was 47 in favor, 24 against, with 4 abstentions. U.N. Doc. A/CONF.25/SR.13, April 17, 1963, p. 7.

² See note 33 *infra*.

³ See Lee, "Jurisdiction over Foreign Merchant Ships in the Territorial Sea," 55 *A.J.I.L.* 77, 96 (1961).

⁴ See Lee, p. 124.

⁵ For citations, see Lee, pp. 116-18.

⁶ The United States, for example, has concluded treaties with the following twenty-eight countries providing for notification to consular officers in the event of arrest of their co-nationals: Algeria, China, Costa Rica, Cyprus, Denmark, Ethiopia, France, Germany, Ghana, Iran, Ireland, Israel, Jamaica, Japan, Korea, Malaya, Muscat, The Netherlands, Nicaragua, Nigeria, Pakistan, the Philippines, Sierra Leone, Tanganyika, Trinidad and Tobago, Uganda, the U.K., and Viet-Nam. See 57 *A.J.I.L.* 411 (1963).

For citations of other treaties bearing upon the rights, see Lee, pp. 118-19, pp. 123-24.

granted by virtue of "international courtesy," induced at least in part by the desire for reciprocity.⁷ But even where these rights are secured by agreement, they are often violated in cases involving charges of espionage.⁸ The recent case of Professor Frederick C. Barghoorn may be cited as an illustration. The Yale Professor, a noted authority on Soviet affairs, was arrested in Moscow at the end of October, 1963, on espionage charges. After some delay, the Soviet authorities notified the United States Embassy of his arrest, but repeated efforts by the Embassy to have the prisoner visited by a consular officer were unsuccessful. This prompted Ambassador Foy D. Kohler to protest the "unjustifiably long period of time between his arrest and notification of the embassy," as well as to demand "immediate access" to Professor Barghoorn. Subsequently, upon the personal intercession of the late President Kennedy, the Yale Professor was freed and expelled from the Soviet Union.⁹

A similar fate greeted Francis Gary Powers, pilot of the ill-fated U-2 reconnaissance plane shot down on May 1, 1960, in the Soviet Union. For more than two months, officials of the United States sought in vain the right to visit him in prison.¹⁰

The Soviet refusals in the above cases were in direct contravention of the 1933 Soviet assurance to the United States concerning the consular right to be notified of the arrest of the national within three days in large centres and seven days in remote areas as well as the right to visit such nationals "without delay."¹¹ The substance of these rights of notification and visitation is reaffirmed in the 1964 Soviet-United States Consular Convention (Article 12).¹² It may be observed that no exception is made to persons charged with espionage activities, whether in the 1933 agreement, the Soviet-United States Convention, or the Vienna Convention.

In the celebrated Wynne Case involving the first Briton ever accused of espionage in the Soviet Union since the Metropolitan-Vickers case involving six British engineers in 1933, the Soviet Government kept Wynne, the Managing Director of the London firm Mobile Exhibitions, Ltd., incommunicado for six months before permitting a British consul to visit him. During that period, he was allowed only a visit by his wife.

⁷ See Lee.

⁸ *Id.* at 125.

⁹ See *New York Times*, November 13, 1963, p. 1, col. 8; November 15, 1963, p. 1, col. 2; November 16, 1963, p. 1, col. 6; November 17, 1963, p. 1, col. 8.

¹⁰ *New York Times*, July 10, 1960, p. 8, col. 3; Lee, p. 125.

¹¹ U.S. For. Rel., "The Soviet Union, 1933-1939," pp. 33-34.

¹² The inclusion of these rights constituted the main bone of contention during the negotiation. See *New York Times*, November 15, 1963, p. 1, col. 2; November 16, 1963, p. 3, col. 1; February 15, 1964, p. 3, col. 5.