

ICJ Verdict on Kulbushan Jadhav

Why in news?

- The International Court of Justice (ICJ) has directed Pakistan to review Kulbushan Jadhav's conviction and, until then, put his death sentence on hold.
- The court has also asked Islamabad to allow New Delhi consular access at the earliest.

Who is Kulbushan Jadhav?

- Kulbushan Jadhav, 49, was arrested in Pakistan allegedly in March 2016.
- He was sentenced to death on charges of espionage and terrorism in April 2017.
- Pakistan alleges that Jadhav is a serving Indian naval officer, who was tasked by the Indian intelligence agencies to destabilize Pakistan.
- India, however, claims that Jadhav is a former Indian naval officer.
- He was running a business in Iran from where he was kidnapped and shown to have been arrested in Baluchistan.
- India also maintains that he had no links with the government.

What was the contention?

- Despite repeated attempts, Pakistan had denied India consular access to Jadhav under Article 36 of the Vienna Convention on Consular Relations.
- [The convention deals with the arrest, detention and trial of a foreign citizen. Click [here](#) to know more.]
- India tried initiating legal proceedings against Pakistan before the ICJ for the violation of the convention on providing for consular access.
- However, Pakistan had argued that the International Court of Justice had no jurisdiction in this case.
- Later, the ICJ rejected Pakistan's argument in this regard.
- The court said it could hear the case because it involved an alleged violation of one of the clauses of the Vienna Convention.
- Notably, both Pakistan and India have ascribed to the convention and its interpretation falls under the ICJ's purview.
- The ICJ also directed that meanwhile, Pakistan should take all measures to ensure that Mr Jadhav is not executed till the final decision of the court.

- The court also said Pakistan should inform it of all measures taken in implementation of the order.
- However, this was a preliminary ruling and all issues were open for adjudication at the final stage. Click [here](#) to know more

What is the current ICJ verdict?

- Pakistan must undertake an “effective review and reconsideration of the conviction and sentence” of Kulbhushan Jadhav.
- Pakistan is under an obligation to inform Jadhav of his rights.
- It should also provide Indian consular officers access to him in accordance with Article 36 of the Vienna Convention on Consular Relations.
- [ICJ noted that Pakistan deprived India of the right to communicate with and have access to Kulbhushan Jadhav, to visit him in detention and to arrange for his legal representation.]
- However, ICJ rejected India’s call on annulment of military court decision convicting Kulbhushan Jadhav, his release and safe passage to India.
- Pakistan had argued that India had failed to prove Jadhav’s nationality.
- However, ICJ said that it was satisfied that the evidence was sufficient to be certain of Jadhav’s Indian nationality.
- ICJ noted that there was a three-week delay in informing India about Jadhav’s arrest on March 3, 2016.
- This has led to a breach of Pakistan’s obligations under the convention.

What is the significance?

- The International Covenant on Civil and Political Rights (ICCPR) recognises the right to an effective defence against criminal charges, and to a fair and impartial trial.
- By denying consular access, Pakistan has stood in gross violation of both the Vienna Convention and the ICCPR.
- There is also a concern over Pakistan’s sponsorship of terrorist activities along the Iran-Pakistan border.
- Given all these, the present ICJ verdict constitutes a major diplomatic and legal victory for India.
- Significantly, India has rightly chosen to go the ‘international way’ by fielding a formidable legal team led by the jurist, Harish Salve.
- India has been demonstrating the significant synergy between various stakeholders in this case.
- In all, India’s more successful legal journey to the ICJ must now reshape New Delhi’s approach to similar potentially difficult situations.

Source: Indian Express, The Hindu

Quick Fact

International Court of Justice

- The International Court of Justice (ICJ) was established in 1945 after half a century of international conflict in the form of two World Wars.
- The ICJ functions with its seat at The Hague, Netherlands.
- It has the jurisdiction to settle disputes between countries and examine cases pertaining to violation of human rights.
- It adjudicates cases according to the tenets of international law and is the judicial arm of the United Nations.
- ICJ is different from the ICC (International Criminal Court) which is a permanent tribunal created to prosecute individuals for genocide, crimes against humanity, war crimes and the crime of aggression.
- While ICJ is the primary judicial organ of the UN, the ICC is legally and functionally independent from the UN.

