



*American Model United Nations*  
**International Court of Justice**

1 IN THE INTERNATIONAL COURT OF JUSTICE

2 THE REPUBLIC OF INDIA,

3 APPLICANT

4 V.

5 THE ISLAMIC REPUBLIC OF PAKISTAN,

6 RESPONDENT

7 MEMORIAL OF THE ISLAMIC REPUBLIC OF PAKISTAN

8 COMES NOW the Islamic Republic of Pakistan and for their Memorial to the Court states the following:

9 STATEMENT OF LAW:

- 10 1. “The Anti-Terrorism Act (ATA), Pakistan’s primary anti-terrorism legislation, was promulgated in 1997. The  
11 legislative intent underpinning the ATA was to increase the power of law enforcement agencies to prevent and  
12 investigate terrorism and create special courts to expedite trials of terrorist suspects.” This act supports the  
13 ability to remove individuals believed to be a terrorist.

14 STATEMENT OF FACT:

15 On 3 March 2016 Mr. Kulbhushan Sudhir Jadhav was arrested on suspicion of espionage and terrorism.  
16 He was arrested while attempting to cross the border from Balochistan to Pakistan. On 25 March 2016, India was  
17 informed of the arrest, but was unable to go through with consular access to Jadhav. India attempted to meet Jadhav  
18 who was in Pakistan custody. Due to the nature of the crime an investigation took place. On 23 January 2017,  
19 Pakistan requested India’s assistance in the FIR No. 6 of 2016 investigation. The request pertained to a criminal  
20 complaint registered against a supposed Indian National on 8 April 2016. The charges of terrorism were included  
21 in the investigations against National Security Adviser Ajit Doval and then chiefs of Intelligence Bureau and the  
22 Research and Analysis Wing.

23 On 3 February 2017 India protested against the continued denial of consular access. In the same manner  
24 that the applicant insisted this was a matter of great urgency, Pakistan could not help but do what was immediately  
25 necessary to ensure the national safety of its inhabitants. Pakistan is under threat by the presence of Jadhav. In  
26 the letter that India received was also an admission of guilt. India raised the concern of Jadhav’s safety, and stated  
27 that Jadhav was pressured to confess. Jadhav was allowed counsel when India was going to cooperate on the  
28 investigation. On 10 April 2017, the spy was tried through Field General Court Martial (FGCM) under Pakistan  
29 Army Act and awarded the death sentence. General Qamar Javed Bajwa has confirmed his death sentence awarded  
30 by FGCM.

31 Whether the verdict declares Pakistan guilty or not, it holds great implications on whether each state has  
32 the right to condemn under their respective law on national security.

33 STATEMENT OF JURISDICTION:

- 34 1. Under article 1 of the Compulsory Settlement of Disputes Vienna 1963, “*dispute arising out of the interpretation*  
35 *or application of the convention shall lie within the compulsory jurisdiction of the International Court of*  
36 *Justice.*” The exchanges between India and Pakistan regarding the present situation have caused nothing but  
37 grief on either side. With the intent to follow the law it would be wise to consult a third party that is reputable  
38 and fair. No entity demonstrates this more than the international community, the international court of justice  
39 specifically.
- 40 2. Pakistan acknowledges and respects the applicant’s decision to apply for International Court of Justice coun-  
41 sel on the events that took place between our respective states beginning in March 2016 with the arrest of  
42 Kulbhushan Jadhav. It would be in the best interest of sovereign states that this matter is resolved peacefully.

43 ARGUMENTS:

- 44 1. Referring to the 2004 Avena judgment, Pakistan claimed that the court had made an observation on the need  
45 for Mexico to prove the nationality of 52 persons. Commander Jadhav entered Pakistan in possession of an  
46 authentic Indian passport clothed with a false Muslim identity.
- 47 2. Jadhav was in custody in obligation to prevent genocide (Article I) which has an extraterritorial scope.
- 48 3. India is more developed than Pakistan. Economically speaking India has more loss if this appeal were to be in  
49 favor of Pakistan.
- 50 4. Pakistani people were forcibly removed from their home lands in India and forced to move to what is now  
51 Pakistan.
- 52 5. Samjhauta attacks in 2001 killing 43 pakistani citizens.

53 SUMMARY AND REQUESTS:

54 Acknowledging that India believed that this situation involving Jadhav was a matter of great urgency.  
55 Pakistan requests that there is acknowledgement that every sovereign state has the right to prosecute and take  
56 action against any individual from other states that comes into another state with the intention of deliberately  
57 causing harm through direct or indirect means on the behalf of another state.