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Issue Brief

India-Pakistan Relations: Another Sour Affair

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On April 10, 2017, Pakistan awarded death sentence to Indian spy agent Kulbhushan Yadhav through Field General Court Martial (FGCM) under Pakistan Army Act for his direct involvement in subversive activities in Balochistan and Karachi.



Kulbhushan Sudhir Yadhav alias Hussein Mubarak Patel was detained in March 2016 during a Counter-Intelligence Operation from Mashkel area of Balochistan for his involvement in "spying" and "subversive activities" in Pakistan.¹

Strongly reacting to the verdict, Indian Foreign Secretary S. Jaishankar handed over a demarche to Pakistan's High Commissioner Abdul Basit and said that if Pakistan hanged alleged Indian spy Kulbhushan Yadhav, it will be considered "a case of premeditated murder".² Also, India decided not to release about a dozen Pakistani prisoners, who were to be repatriated on April 12.³

Pakistan had handed over a dossier containing evidence of Indian subversive activities within its territory, to United Nations (UN) Secretary General Antonio Guterres in January 2017.

Despite evidences and confessions by Kulbhushan, India denied that he was in any way connected to the government and called the proofs presented as "baseless accusation". Kulbhushan, on the other hand, himself confessed that the Indian intelligence agency RAW had tasked him to carry out "criminal and anti-national" activities in Pakistan.

Current circumstances do entail a question whether Kulbhushan will actually be hanged? In the light of facts, not a single agent found guilty was convicted in Pakistan except Sheikh Shamim in 1999. Kulbhushan is not the first RAW agent caught plotting in Pakistan, though he is potentially the most significant. Prominent among dozens of Indian agents caught in Pakistan earlier were Ravindra Kaushik, Sarabjit Singh, Kashmir Singh, Ramraj, Gurbaksh Ram, Vinod Sawhney, Jaswant Singh, Veena, wife of

¹ Press Release, *Inter Services Public Relations*, April 10, 2017

² Pakistan says will hang 'spy' Kulbhushan Jadhav, India calls sentencing pre-meditated murder, *Hindustan Times*, April 11, 2017.

³ Jadhav's sentencing: India won't release Pakistani prisoners, *The Times of India*, April 10, 2017.

Devut, Seema and the list goes on. All of these agents acquired proper cultural training before entering Pakistan.

Indian anger towards the latest development and terming it as "premeditated murder ... without observing basic norms of law and justice" is quite senseless. Pakistan is not signatory to any international law that binds Pakistan to give access to any spying agent to other country. In the past, India has also denied access to Pakistan in case of Ajmal Kasab on similar grounds. In Kulbhushan's case, for future course of action, he still has 40 days to file an appeal against the FGCM verdict in the Army's court of appeal. If the appeal court maintains the FGCM decision, Kulbhushan would have another chance to seek mercy from the army chief and the president of Pakistan. Also, he can approach the high court if he believes that due process was not observed during his trial and his fundamental rights as an accused were not fulfilled.⁴

However, as stated earlier, the confession of Kulbhushan overshadows the preceding cases. So what makes Kulbhushan so big and consequential?

A significant factor is that Yadav is an active Indian serving naval officer. Also, the timing is paramount. It comes when relations between the two countries have plummeted since 2015. There have since been repeated outbreaks of cross-border firing, injuries and deaths. The sentence also coincided with reports of a retired Pakistan Army officer, Lt Col Mohammad Habib who has gone missing in Lumbini, Nepal.

This brings about another question: Will the Kulbhushan affair further sabotage the already strained relations between Pakistan and India? Regardless of which way this case eventually goes, the Kulbhushan affair will bring about a tit-for-tat response from India. Existing disposition, both in India and Pakistan, provide plentiful evidences that inflexible attitude accompanied by harsh animosity is likely to persist for some time. India will certainly up the pressure to avert the verdict and sully Pakistan's image in every possible way.

Regardless of the international pressure, India and Pakistan are in another round of vicious acrimony, and if the verdict against Kulbhushan is carried out, it may have serious consequences for the already strained ties between the two nations.

⁴ Pakistan sentences Indian spy Kulbhushan Jadhav to death, *Dawn*, April 11, 2017.