



Written by [Malik Ayub](#) on February 1, 2011

# Public Voice of Pakistan Denies Immunity for Raymond Davis

“Raymond Davis must be tried under Pakistani laws,” stated the nearly unanimous voice of Pakistanis as the masses express their anger and grief over the killing of two Pakistani nationals (whom they believe innocent) by Raymond Davis, a member of the U.S. embassy’s technical administrative staff in Lahore, the second largest city of Pakistan.

In the latest move followed by the orders of Chief Justice Lahore High Court, Justice Ijaz Ahmed Chaudhry on Tuesday ruled out the possibility of handing over the American accused of murder to the United States by putting his name on the Exit Control List (ECL).



The United States has made repeated requests for the release of Davis, who says he acted in self-defense in the killing two Pakistani nationals. According to February 2 court proceedings, a lawyer filed a petition in the Lahore High Court under the interest-at-large to block any move to hand over Raymond Davis to the United States. Chief Justice Lahore High Court Ijaz Ahmed Chaudhry said:

I am restraining him [from being handed over to United States authorities]; whether he has or does not have [diplomatic] immunity will be decided by the court.

An order is being issued to put his name on the Exit Control List. The case is adjourned for 15 days.

Representing the government of Pakistan in Lahore High Court, Deputy Naveed Inayat Malik requested the court to give time to the Pakistani Foreign Minister to determine whether or not the accused man has diplomatic immunity. According to Washington, Davis is a member of the U.S. embassy’s “technical administrative staff,” and therefore eligible for “full criminal immunity,” U.S. State Department spokesman Philip Crowley stated,

Raymond Davis cannot be lawfully arrested or detained in accordance with the Vienna Convention. He had every reason to believe that the armed men meant him bodily harm. And minutes earlier, the two men, who had criminal records, had robbed money and valuables at gunpoint from a Pakistani citizen.

On Monday, when the U.S. congressional delegation met with President Asif Ali Zardari, he spoke to them straightforwardly about the case. Presidential spokesman Farhatullah Babar stated after the meeting:

The Congressmen raised the matter of Raymond Davis, involved in the killing of Pakistani nationals in Lahore, with the president.

The president said that he appreciated their concerns but the matter was already in the court and it



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would be better to wait for the legal course to be completed.

The U.S. delegation was comprised of Representatives Darrell Issa (R-Calif.), Todd Platts (R-Pa.), Jason Chaffetz (R-Utah), Stephen Lynch (D-Mass.), Brian M. Higgins (D-N.Y.), and Raúl L. Labrador (R-Idaho).

Stephen Engelken, Deputy Chief of Mission to Islamabad; Thomas A. Alexander, Senior Counsel (Majority) Committee on Oversight; Adam Fromm, counsel (Majority) Director of Member Services; and Scott Lindsay, Counsel (Majority) Committee on Oversight, were also present.

The issue of Raymond Davis is getting serious in the political and public circles of Pakistan. The media is highlighting it and the analysts are trying to link the Davis case with that of Dr. Aafia Siddiqui, who was sentenced by a U.S. federal court to 86 years in prison (effectively a life sentence) by federal judge Richard Berman in Manhattan on September 23, 2010, following a one-hour hearing in which she testified.

Because of immense public pressure, the Pakistani politicians seem helpless to grant immunity and favor to Raymond Davis. The Chief Minister of Punjab, Mian Sehbaz Sharif, has stated that no foreign pressure will be accepted in the case of Davis and the matter will be decided by the federal government of Pakistan. He observed that the matter is *sub-judice*, adding that any question of immunity must be decided by the federal government and the Foreign Office of Pakistan. He refused to comment further on the investigation mechanism, saying the matter is in the hands of the court.

The Pakistani people have taken a hard stance on the issue of Raymond Davis, believing that he should be treated according to Pakistan penal code and given the death sentence, because he killed two Pakistani citizens. Ijaz Ahmed, a common citizen of Islamabad, stressed:

He should not be given any kind of immunity and favor as we want to see him [hang] till death.

He is the murderer of two innocent Pakistani people and should be dealt [with] according to the Pakistani law, in which a murderer, if proved, will be sentenced to death.

The Civil Society in Pakistan has already announced their concerns that if the United States increases pressure on the Pakistani government to release Davis, it will cause extreme protests among the Pakistani people. In view of this risk, the Pakistani authorities have beefed up the security around Davis.

There is precedent in which the United States didn't recognize the diplomatic immunity of a foreign diplomat involved in a crime while in service in the United States. In the 1997 case, Gueorgui Makharadze, the Georgian ambassador in Washington, had killed an American teenager in a road accident. Then-U.S. president Bill Clinton had flatly refused to grant diplomatic immunity to Makharadze, who was sentenced to 21 years by a U.S. court. In a tit-for-tat response, in 1999, the Georgian government refused immunity to an American diplomat, Loren Wille, after he killed a Georgian translator in a road accident. Wille was sentenced to 10 years in jail.

According to the Vienna Convention on Consular Relations 1963 Article 53:

Beginning and end of consular privileges and immunities:

1. Every member of the consular post shall enjoy the privileges and immunities provided in the present Convention from the moment he enters the territory of the receiving State on proceeding to take up his post or, if already in its territory, from the moment when he enters on his duties with the consular post.



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2. Members of the family of a member of the consular post forming part of his household and members of his private staff shall receive the privileges and immunities provided in the present Convention from the date from which he enjoys privileges and immunities in accordance with paragraph 1 of this article or from the date of their entry into the territory of the receiving State or from the date of their becoming a member of such family or private staff, whichever is the latest.
3. When the functions of a member of the consular post have come to an end, his privileges and immunities and those of a member of his family forming part of his household or a member of his private staff shall normally cease at the moment when the person concerned leaves the receiving State or on the expiry of a reasonable period in which to do so, whichever is the sooner, but shall subsist until that time, even in case of armed conflict. In the case of the persons referred to in paragraph 2 of this article, their privileges and immunities shall come to an end when they cease to belong to the household or to be in the service of a member of the consular post provided, however, that if such persons intend leaving the receiving State within a reasonable period thereafter, their privileges and immunities shall subsist until the time of their departure.
4. However, with respect to acts performed by a consular officer or a consular employee in the exercise of his functions, immunity from jurisdiction shall continue to subsist without limitation of time.
5. In the event of the death of a member of the consular post, the members of his family forming part of his household shall continue to enjoy the privileges and immunities accorded to them until they leave the receiving State or until the expiry of a reasonable period enabling them to do so, whichever is the sooner."

In response to the Davis incident, the [The United States Embassy in Pakistan](#) posted several press releases on its website, including "[U.S. Embassy Calls for Release of American Diplomat.](#)"

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*Graphic: Website of the U.S. Embassy in Islamabad, Pakistan*



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