

# Diplomatic duplicity

BY C. CHRISTINE FAIR, FEBRUARY 18, 2011

LAHORE -- This much is clear about the latest convulsion in U.S.-Pakistan relations: an American man, operating under the name of Raymond Davis, shot and killed two men in Lahore in the populous province of the Punjab. After the event, an "emergency vehicle," presumably from the U.S. consulate, rushed to rescue Davis and careened into a crowd. The as yet unidentified driver of the rescue vehicle [killed a third person](#). Davis is currently being held in Pakistani custody in Lahore. He has been added to Pakistan's [exit control list](#) while his status is being determined in Pakistan's courts, which precludes his exit from the country.



The U.S. government maintains a simple account: he was an employee of the U.S. consulate in Lahore who shot two men in self defense. Since he has "diplomatic immunity," he should be released under the Vienna Convention immediately. [President Obama](#) has himself argued that he should be released for these reasons. Concurrent with Obama's appeals for the man's diplomatic immunity, [U.S. Senator John Kerry](#) travelled to Pakistan this week to resolve the ever more complicated row. With such high-level demands, the very credibility of the U.S. presidency is at stake. This is not lost upon Pakistan or its citizens.

Pakistan has its own stylized, yet starkly divergent, account from that heard in the United States. Whereas Raymond Davis is a niche topic of the chattering classes in Washington D.C. in the United States, he is the mainstay of conversation across all stratum of Pakistani society and has become a national obsession in Pakistan's print and television media. Pakistanis have [called](#) for the hanging of Davis in public rallies.

From the Pakistani viewpoint, the "facts" are far less clear. Davis was first described in peculiar, ambiguous terms as a "U.S. consulate employee." He was driving his own unarmored vehicle and carrying a gun. Most diplomats in Pakistan -- American or otherwise -- now travel in armored cars. They certainly do not drive their own cars, and they generally don't carry guns.

Despite Pakistanis' assertions that he is a spy, he does not have the profile of a bona fide operative of the Central Intelligence Agency. CIA case managers are well-trained and are unlikely to conduct themselves as Davis did. However, some [U.S. officials concede](#) that he is likely a security contractor with ties to the American intelligence apparatus. This is consistent with his resume.

Speculation is rife in both countries that this dispute over Davis may come down to a showdown between Pakistan's intelligence agency, the ISI, and American intelligence agencies. Both Pakistani and American analysts have told me that the two men shot likely were Davis's Pakistani intelligence detail or perhaps informants or operatives gone sour.

### **The view from Pakistan: "Raymond Davis kaun hai?" *Who are you?***

The Pakistani press raises different issues that generally are not raised in the United States and reflect the conspiracy theories that grip many Pakistanis. First, Pakistani officials doubt that Raymond Davis is the true name of the man in question. A [Pakistani barrister, Iqbal Jafree](#), suggested that Davis came to Pakistan using a fake name. If this is the case, he has argued that another legal case may also be registered against him. He further asserted that "...the U.S. authorities also have acknowledged Davis is not his real name." My examination of the U.S. press has not revealed that this possibility has been suggested.

Second, while some diplomats may be authorized to carry legal firearms, Pakistani observers claim that Davis's possession and use of a firearm was [illegal](#) under Pakistani laws. This reinforces Pakistan's vexation with what they perceive as U.S. impunity and further outrages Pakistanis who embrace various conspiracy theories about Blackwater/Xe Services and its ilk running around Pakistan, whose activities are shrouded in complete opacity. These conspiracy theories are given ballast by the actual presence of people like Raymond Davis: an ostensible "security contractor" of some variety adds "ghee" to this fire.

Third, the Pakistani media -- as well as some international media -- dilate upon the reports that he got out of his vehicle and shot his victims [in the back](#). U.S. courts would likely reject claims of self defense if an alleged victim shot his purported assailants in the back. However, U.S. officials privately note that the individuals fled after the first shot was fired from a frontal position, thus negating the claims that Davis first fired into their backs.

Fourth, further fuelling Pakistan's deepest suspicions are the reports in the Pakistani media that a camera was recovered from Davis upon his arrest. His camera reportedly contained "[photos](#) of the strategic Balahisar Fort, the headquarters of the paramilitary Frontier Corps in Peshawar and of Pakistan army bunkers on the eastern border with India were found in the camera." Pakistani media outlets have made these photos [available to the public](#). It remains to be confirmed that these videos and photos were actually recovered from Davis's camera, much less what his intentions were in taking these images if he actually did so. However, many Pakistanis accept the authenticity of the footage and its worrisome implications as a matter of fact.

Fifth, the U.S.'s central claim that Mr. Davis has diplomatic immunity is fundamentally contested in Pakistan. Some of my contacts here in Lahore claim that he was not issued a visa on a diplomatic passport and thus the ex post facto claims to diplomatic immunity is a *legal*, not diplomatic affair.

However, these interpretations are flawed even if they are widely believed. As one thoughtful Pakistani commentator, [Raza Rumi](#), recently explained

"If the sending state declares someone a diplomat and the receiving state accepts him, *that's* the end of the matter. Those who rant that Davis' visa mentions 'Official Business' and he's a mere contractor need to get their facts right. Pakistan's diplomatic visa does not carry the words 'Diplomatic Visa' imprinted on it. When Pakistani authorities endorse a visa saying 'Official Business' on a diplomatic passport, they recognize that the person is travelling to our country under diplomatic immunity. If he stays here on assignment, he gets a diplomatic ID card with his immunity status printed on its back."

Rumi rightly asks how it is possible that Davis could be in Pakistan for three years if his status were ambiguous. He could have been declared "persona non grata" for his suspicious activities long before the current encounter. These questions have a simple answer: this is an orchestrated media frenzy galvanized by an inflammatory ambiguity deliberately fostered by the Pakistani government.

Finally, if the media spectacle were not provocative enough, the suicide of the widow of one of the slain, Mohammad Faheem, has further inflamed Pakistani sentiments about the case and strengthened their resolve to try Davis as a cold-blooded murderer.

### **The end game**

The Raymond Davis issue is iconic of the challenges of U.S.-Pakistani relations.

In some sense, the Pakistani public has made Davis a public catharsis. He is not the first individual to push the envelope of transparency, much less the legal status of diplomatic immunity. Last summer while I was in Pakistan, a [U.S. embassy employee crushed a Pakistani citizen](#) to death in his vehicle. It was reportedly the third such incident in little more than a week. In 2009, an [allegedly drunk U.S. diplomat](#), ignored a red light and careened his Prado jeep (LG-1) into a fire-brigade vehicle, causing Rs 2.5 million loss (some \$29,000) in damages.

Pakistani anger over Davis is also layered upon simmering anger over the inaccurately [maligned](#) U.S. [drone program](#). Pakistanis prefer to characterize the program as trampling Pakistani sovereignty and are loathe to acknowledge that the program operates with precision, with the Pakistani government's permission, from Pakistani soil and with Pakistani intelligence input.

Davis also outrages Pakistanis because he is not the first "defense" contractor to vex Pakistanis and raise suspicions about their varied activities in the country. The U.S. use of Blackwater/Xe Services to protect DynCorp's construction of a Frontier Corps training facility near Peshawar discomfited residents of the frontier city. Absurdly, [the Pakistani Taliban have been able to exploit these suspicions](#) to blame the firm for terrorist attacks in Peshawar.

Pakistani president Asif Ali Zardari's party, the PPP, has had [internal rifts](#) about how best to [deal with the imbroglio](#). Given Zardari's weak government, the Pakistan Muslim League-Nawaz Sharif (Zardari's Punjab-based political opponents) is taking maximal advantage of his predicament. It can do so safely as the party has no responsibility for actually contending with the explosive bilateral fiasco. The Zardari

government, for now, appears to have outsourced resolution of the awkward situation to Pakistan's activist courts despite the fact that this is a Foreign Office issue -- not that of the courts.

However, Pakistan's activist courts are increasingly making policy rather than merely interpreting Pakistan's laws. More troubling is the potential likelihood that underneath the justice's cloaks is the color of the army's khakis. Indeed, Pakistani observers note that Pakistan's judiciary may have expanded its influence under the protective umbrella of the army's support.

Pakistani author and analyst, [Ahmed Rashid](#), recently noted the "extraordinary cooperation" between the army and justices in recent years. Rashid also observed that the courts are less inclined to pursue the army's alleged human-rights violations. In contrast, cases that undermine and weaken the government occupy prime time at the bench. *If* the army has some influence behind the courts, the fate of Raymond Davis is ambiguous at best given the Pakistani Army's fraught views towards Washington and its intelligence agencies.

Given the legal clarity of the matter, a bothersome question persists: what elements of the Pakistani government are stoking these dangerous, populist sentiments and to what end? Is this yet another signal that Islamabad does not want the strategic relationship that Washington continues to peddle with naïve optimism?

In the end, despite the questionable positioning of Pakistan's judiciary on Pakistan's democratic fabric and the likelihood that Davis' diplomatic status is not a judicial matter, there may be some marginal benefit from this absurd drama.

It is unprecedented that the U.S. government has been compelled to present evidence about the activities of its mission and personnel in Pakistan. The U.S. government will have to present evidence about the nature of the position of Raymond Davis in Pakistan's courts. While this is a tedious and gratuitous predicament, it may be a long overdue occasion to cast much-needed transparency upon the activities of the U.S. government in Pakistan and the nature of its ties to various Pakistani agencies, which may have some complicity in this tragic affair. This may be good for Americans and Pakistanis alike, even if it threatens to further undermine the U.S.-Pakistan relationship.

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