
From: Huma Abedin

RELEASE IN PART B6

Sent: 2/21/2011 12:41:01 PM +00:00

To: H <HDR22@clintonemail.com>

Subject: Gilani letter

if you are ok, we will autopen and send out.
Prime Minister Gilani
Pakistan

Dear Mr. Prime Minister:

The United States deeply regrets the tragic events in Lahore on January 27, 2011. We understand the sorrow felt by the families of the three Pakistani citizens who died, and we are keen to work with your government and the Punjab provincial authorities to settle the issues that this incident has raised. This is the right thing to do. At the same time, we expect that you will exercise leadership at this critical hour.

As we proceed, however, we must not allow this incident to sidetrack the tremendous progress we have made in our bilateral relationship over the last two years. For us, the relationship with Pakistan is one of the most important bilateral relationships we have in the world. Our two countries have a long tradition of working together, and we now must work together to bring peace to Afghanistan, to set Pakistan's democracy on secure and prosperous foundations, and to combat the terrorist movements that threaten us both.

Even as we do so, however, we must bear in mind that there are issues at stake that go beyond the scope of our purely bilateral relations. The 1961 Vienna Convention on Diplomatic Relations protects diplomatic personnel of all countries around the world. It is based on 500 years of international tradition, and it is vital to the conduct of normal diplomatic relations among states. Neither the United States nor Pakistan can compromise on the need for respect for diplomatic immunity without putting our diplomatic staff around the world at risk.

I understand that questions have been raised about the status of Raymond Davis, who is at the center of this case. I would like to state clearly why the requirements of the Vienna Convention mandate Mr. Davis's immediate release.

Under Article 7 of the Vienna Convention, the United States, like all sending states, is entitled to "freely appoint the members of the staff to the mission," as we did Mr. Davis. As a duly appointed member of the staff of the mission, Mr. Davis has privileges and immunities in Pakistan under international law, Vienna Convention Art. 39(1), as he has been assigned as a member of the staff of the U.S. diplomatic mission in Pakistan.

Under the Convention, Mr. Davis's detention and the criminal proceedings against him in Pakistan are illegal. As a member of the administrative and technical staff, Mr. Davis does not hold all of the privileges and immunities that a diplomatic agent enjoys. There is no doubt, however, that administrative and technical staff members such as Mr. Davis enjoy both "immunity from the criminal jurisdiction of the receiving State" and inviolability from "any form of arrest or detention," pursuant to Vienna Convention Article 37(2).

Article 44 provides that the receiving State must facilitate the departure of a person enjoying privileges and immunities. While Article 9 of the Convention permits the receiving State to declare such a person *persona non grata* or not acceptable, the individual's privileges and immunities stay in effect for a reasonable period to allow departure from the country. Pakistan has not exercised its rights under Article 9, but even if it did, it would have to permit Mr. Davis to depart.

Accordingly, Pakistan is obligated under the Vienna Convention to recognize Mr. Davis's privileges and immunities in Pakistan as the consequence of his assignment as a member of the staff of the U.S. diplomatic mission in Pakistan. I would like to reaffirm to you that the United States respects the law and Pakistan's sovereignty, and we expect all representatives of our government to respect the laws of our host nation. We are cognizant of the Vienna Convention's provision that those enjoying privileges and immunities have a duty to respect local law, and we will redouble our efforts to ensure that our embassy personnel are aware of and conform their behavior to local law. I assure you that it is the practice of the U.S. government to conduct criminal investigations of these types of incidents, and we intend to follow that practice here, considering all the facts and relevant laws.

Nonetheless, protections for the diplomatic personnel of states are fundamental and essential to the conduct of diplomatic relations among all sovereign states. Our two countries, like all nations, share a common interest in ensuring that these rules are strictly observed, even in the most difficult of situations. Pakistan's current inaction puts it in danger of a grave and almost unprecedented breach of these rules. I urge you to take all necessary steps to end the illegal detention and criminal proceedings against Mr. Davis and to provide for his safe exit from the territory of Pakistan, consistent with the provisions of the Vienna Convention. At that point, we can focus on the work before us: going beyond this tragic incident and turning to the true task of building strong ties between Pakistan and the United States, to the benefit of all.

Sincerely,
Hillary Rodham Clinton

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