

Detainee's Sworn Statement – ISN 561

I am not an enemy of the United States of America. I am against the Pakistanis. I think they sold me to you and all of these wrong accusations were made by the Pakistanis.

The Pakistanis trained all the people who are going to Afghanistan to fight. You can believe me or not, Pakistanis are training Al Qaeda and the Taliban and then sending them to Afghanistan. My guilt was to defend Afghanistan. We did not want the interference of the Pakistanis in Afghanistan. This was my sin. Afghanistan has a dispute w/ Pakistan over the border for the past 110 years and we were trying to resolve the dispute.

I built lots of schools in Afghanistan, but the Taliban took them away from us. At that time, I was living in Pakistan as a refugee. About these accusations, I'd like to talk to you about them. Please provide me with the charges and I'll talk to you one by one.

Tribunal President: Translator, please pass the translated copy back and forth.

Translator: I could read the charges one by one and he can respond.

Tribunal President: If that's acceptable to the Detainee.

Detainee: Before this, I'd like to say something. Being fair, please bring any witnesses you have. I believe you don't have any witnesses. You believe what the Pakistanis told you.

Tribunal President: The Recorder, who is the representative of the government, has brought no witnesses to testify against you.

Detainee: The Recorder told you that in a later session she wanted to present the secret documents to you. This is not lawful. If she has any secret documents against me, she should give them to you now.

Tribunal President: Unfortunately, classified information, which we will have access to later on, is not available to you to view. We do not have authority to change that.

Detainee: Then, if you want to decide on the secret documents that I do not have access to, it is unfair.

Tribunal President: This is not a judicial process or a court of law. We are not here to punish you. This is a non-judicial hearing. We've come here today with an open mind; we have not seen any evidence or been made aware of any information or history about you.

Detainee: In the beginning, you said you were here to decide if I am an enemy combatant or if I'm against the United States of America. That is a punishment.

Tribunal President: We are here to see if you have been properly classified as an enemy combatant. We will hear your testimony, the testimony of your previously approved witness and the unclassified summary of evidence, which you'll have an opportunity to address and tell us your story. Because of reasons of national security, we will go into a closed session and review any classified information concerning your status. Only then will we make a decision if you've been properly classified as an enemy combatant.

If we determine you have not been properly classified, you will be released to your home country as soon as arrangements can be made. If we determine you've been properly classified, you'll be eligible for an Administrative Review Board at a later date. That board will review whether you still represent a threat to the United States or its allies, or if there are any other reasons or factors that would bear the need for continued detention.

I will address those items again later on in this proceeding, so you have a full understanding of the process today as well as what lies ahead.

Detainee: If you are fair to me today...I want to tell you I am innocent and I've done nothing wrong. If you decide I am guilty of the charges, then it will be written in the history.

Tribunal President: Are you ready to begin your statement?

Detainee: Yes, please read it.

- **3(a)1 The Detainee voluntarily traveled to Afghanistan in August 2001.**

Afghanistan is my country. I'm not guilty if I go to Afghanistan. I went there to work on mining and I also built a school for girls. I also had land in Afghanistan that I wanted to go check on.

Afghanistan is my country and it is no sin to go to Afghanistan. The Arabs and the Pakistanis, who didn't have anything to do in Afghanistan...you released them.

The Detainee asked the Translator if he told the Tribunal Members that he released them? The Translator said yes.

Tribunal President: I have no information about those Detainees. I'm concerned about you today.

- **3(a)2 The Detainee was a member of Jamaat ud Dawa il al Quran al Sunnat (JDQ).**

At the time of the Russian war I was with them. That was 16 years ago. The Pakistanis handed me over to you because of this charge.

I've provided lots of evidence against the JDQ to your interrogators. I told them all about the JDQ. Sixteen years ago, I was working in publishing with the Jamaat ud Dawa il al Quran al Sunnat. I had a newspaper.

Personal Representative: I would like to add some things about 3(a)1 that we covered. Previously he mentioned that the Taliban was opposed to his school.

Detainee: Yes. We built the school in hiding; the Taliban didn't know about it.

Personal Representative: The Detainee also said that the JDQ was training the Pakistani Intelligence agents at the time.

Detainee: They said I have a connection with this organization. I did not receive any training.

Personal Representative: Yes. Further, at the time, there was no connection with the JDQ and Afghanistan.

Detainee: At the time of the Russians, we had the communist regime in Afghanistan. JDQ existed to work against the communist regime, but they were always looking forward to the Pakistani interest. At that time, I believed the JDQ was helping Afghanistan, but when I understood they were helping the Pakistanis, I left.

- **3(a)3 Jamyat-u-Dawa-al-Quarani (JDQ) conducted training with several types of weapons in the Abdullah Abu Masood camp.**

Yes, this is correct, but what would I do about it?

Personal Representative: The Detainee further said that he did not participate in any training.

- **3(a)4 The JDQ is a militant religious school which trains students in military camps as well as classrooms. The JDQ has a militant wing and an assassination wing.**

This is completely true. They killed many people and they were trying to kill me, but it's not up to me. This organization has animosity towards me.

- **3(a)5 The Detainee reportedly was an Al Qaeda point of contact in Herat, Afghanistan.**

This is a completely wrong accusation. I will speak about this little by little, so the translator can translate.

First, this is the difference between the first and fifth charge. The first charge mentioned that I traveled to Afghanistan in 2001. The fifth accusation means that I was in Herat or Afghanistan. How could that be possible?

To be honest, I've never been to Herat. One time I traveled to Afghanistan. When I was a little boy, I went to Pakistan and lived in Pakistan as a refugee.

If this accusation was true, I'd have an office in Herat and the office and the office would have lots of neighbors and lots of people would know about it. If you have any witness, please present them.

May I talk more?

Tribunal President: By all means, certainly.

You have the Governor of Herat with you here in the camp. He was a representative of the Afghanistan government in Herat. You could ask him if I was in Herat or if he has any knowledge of me having an office in Herat.

Tribunal President: I believe this is the witness that will appear today, is that correct?

Personal Representative: Yes, sir. The Detainee also mentioned that he never had any connection with Al Qaeda or the Taliban, let alone traveling to Herat.

Yes, sir. I was about to say that. I am the enemy of the Taliban and Al Qaeda. The Pakistanis who handed me over to you didn't have anything against me. They had to make up wrong accusations.

Of course, if they told you that I was their enemy, you wouldn't capture me. If they tell you that I was your enemy, they have to make this up.

I never had any connection with the Taliban and Al Qaeda. These accusations are completely wrong.

From the day I was born until today, if you can prove that I went to Herat one day, then I am guilty as charged.

I've been here for the past three years and one month. All I want from you is to be fair with me.

Tribunal President: We have taken an oath to do just that, to be fair and to carry out our responsibilities.

Thank you, this is my hope too. I've been oppressed. You can ask the interrogators; I've been working for your government. I've provided them with lots of information and they will tell you that I did not lie to them even once.

My brother was here; he was released. He was brought with the same charges. Why was he released? The interrogators told me that me and my brother would be released soon. I'm surprised to come to this Tribunal.

Tribunal President: I'm sorry, I can't answer that. I don't know what the situation was with your brother. I only know what is here on the table in front of me. You are here today and we will carry out our responsibilities as assigned in this Tribunal.

I was arrested by the Pakistanis before the fall of the Taliban. I was arrested by the Pakistanis and I was interviewed by American officials in Pakistan. The American was sitting like you [translator, sitting to the left of the Detainee] and the Pakistani ISI, which is the Inter Security Intelligence Forces of Pakistan, were sitting on the other side of me.

The Americans told me they did not capture me and they didn't have anything against me. They said the ISI captured me. The American official said they didn't have anything against me; they did not capture me and I was captured by the ISI and that I was free from them [America], but they [ISI] have you.

After that, I was held for two months and twenty days in their detention, so they could make wrong accusations about me and my brother, so they could sell us to you.

When I was in jail, they said I needed to pay them money and if I didn't pay them they'd make up wrong accusations about me and sell me to the Americans and I'd definitely go to Cuba. I can tell you that if I had bribed them, I wouldn't have come here.

The people you need were hidden by the Pakistanis. The innocents were sold to you by the Pakistanis. I have a lot to say, but I don't want to take your time. I think the statement I presented to you is enough. If you could make your judgment based on this statement...it is up to you.

Tribunal President: We will take everything into consideration as we begin our determination of whether you've been properly classified as an enemy combatant. Does this conclude your statement at this time?

Detainee: Yes.

The Personal Representative had no questions for the Detainee, but requested the witness.

The Tribunal President advised that there were a few questions to ask first and then the witness will be brought in.

Tribunal Members Questions to the Detainee

Q: Good morning.

A: How are you?

Q: Very well, thank you. We have some things we'd like to clarify about the story you told us today. The first point, where it says that you traveled to Afghanistan, obviously you were in Pakistan at the time. How long had you lived there?

A: We've been living in Pakistan for the past 30 years.

Q: You left Afghanistan as a young boy?

A: Yes.

Q: You said the reason you went to Afghanistan at that particular time was to build a school?

A: I told you three things. I went to check on the schools that I built, work on the mining and to check on the land we have there.

Q: Did you go back and forth from time to time from Pakistan to Afghanistan or was that the only time you did that?

A: I did not travel to Afghanistan during the time of the Communist regime at all. After the fall of communism in Afghanistan, I'd go once or twice a year, or sometimes it would be once in two years.

Q: The Afghans permitted you to do this, or did you have to do it in secret?

A: I was not guilty of any charges. Afghanistan wouldn't want me to go there, but I didn't commit any crime to go there. The Taliban wanted to capture me when I was crossing, but God saved me and I went back to Pakistan.

Q: Why would they want to capture you?

A: Because I was against the Taliban regime.

Q: How would they know this?

A: I was a journalist and was writing against the Pakistanis' policies in Afghanistan. They couldn't capture me in Pakistan because the media is free; you could say or write anything. So, they told the Taliban to capture me.

Q: What they didn't like was that you were criticizing Pakistanis for helping the Taliban?

A: Yes, there is no doubt about this; the Pakistanis created the Taliban

Q: Concerning the JDQ, can you tell us its purpose and why it was formed?

A: At the time of the Russian war there were many different organizations in Afghanistan against the Russians, like Rabbani and many other, plus, JDQ was formed and the leader was (inaudible) Jamil Rahman. I thought, well, the others are doing wrong, so JDQ is probably here to help Afghanistan, that's why I joined.

At that time, I thought this was a new organization formed against the Russians, so I joined. When I found out that JDQ was looking out for the benefit of the ISI, the Pakistani secret police, I left and started writing against them.

JDQ is doing political assassinations in Afghanistan. Three times they attempted to kill me, but God freed me from them and my life was spared.

I thought that since they carried out three assassination attempts on me and hadn't succeeded, they finally had to make up many wrong accusations about me. First, so they could make dollars and second they thought, excuse me, that you are blind and you are going to take the innocent and keep them over here for life.

Q: So, this group operated in Pakistan and Afghanistan?

A: Yes. They also have connections to many different Arab countries. They are working on behalf of the Pakistanis in many different parts of the world.

Q: After the Russian war, they still maintained their existence?

A: Yes, sir. They still exist.

Q: After they were successful in driving the Russians out, what was their purpose after that?

A: They are against the stability in Afghanistan right now, because they are carrying the Pakistani benefit. At one time, they wanted to make Afghanistan a province of Pakistan. I found out about it and I started to write about it.

The Pakistan government doesn't want stability because of the land dispute that we have. If they know we have a stable government in Afghanistan, we would ask for our land. In all of the water we have in Afghanistan goes to Pakistan. Our land is dry and we have lots of drought. If we have a stable government in Afghanistan we would not let it go.

Q: So, since the Taliban represented stability to Afghanistan in its early days, did the JDQ support or oppose the Taliban?

A: In hiding, they were with the Northern Alliance and obviously they were with the Taliban. They were doing it both ways.

Q: Which side did they truly support?

A: Truly, they were with the ISI and with the Taliban.

Q: What do you believe their true attitude was towards the Northern Alliance?

A: They were working to provide secret information about the Northern Alliance to Pakistan. The Pakistani government sent their men into two different opposition groups to cause a fight between the groups, for the benefit of Pakistan.

To tell you the truth, the Northern Alliance did not do anything good for Afghanistan and neither did the Taliban.

Q: So, you believe the JDQ would also be against the current government of Afghanistan that is trying to start new things?

A: No doubt about it.

Q: What is the JDQ's position on the United States?

A: I don't have that much information. I was trying to gather information about them and was only able to gather a little. They were trying to put three agents in American agencies to gather information for the Pakistanis. They traveled to America, but I don't know if they succeeded in this or not.

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- Q: Someone apparently has said that you were an Al Qaeda point of contact, and you said that was not true. Do you believe an enemy or the Pakistani government has said this about you?
- A: I believe both are true. My personal enemies are agents of Pakistan, so both of them.
- Q: So, you unfortunately have personal enemies?
- A: Yes, obviously.
- Q: How long were you with the JDQ before you became disillusioned with them?
- A: I can approximate, I may make a mistake, but it was approximately five years. If I was home I could provide you with accurate information because I have the dates in my house.
- Q: When you were writing against the JDQ, what was the newspaper and whom did you write for?
- A: At first, I was providing information to three newspapers and I had three magazines. I published three magazines that belonged to me.
- Q: You were doing this all from Pakistan?
- A: Yes, that's why the Pakistanis didn't let me publish the three magazines anymore.
- Q: People in Afghanistan were also readers of these publications?
- A: Yes, sir. Everywhere.
- Q: You said you owned three magazines that you published yourself, but the Pakistanis stopped publications?
- A: Yes.
- Q: How long did you write these magazines?
- A: I told you I can only give you approximate dates. I've been here for a long time, but approximately four years.
- Q: What period of time? From what year to what year?
- A: I can't recall accurately, but sixteen years ago, when I left the party I started to write against them.

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Q: Late 1980's then?

A: Approximately.

Q: And you were out of the magazine business in the early 1990's then?

A: Approximately.

Q: Is that the same for the newspapers? Were you providing articles for the newspaper during the same time frame, approximately?

A: I was providing articles for the newspapers before that and after that.

Q: Big newspapers?

A: It's in Pakistan, I provided any newspaper I could with the news.

Q: This continued all through the 1990's? 1999, 2000, and 2001?

A: Yes.

Personal Representative: Mr. President, are we talking about the Roman calendar or the Muslim calendar? I want to make sure there is no confusion in months or years.

Detainee: I know the American dates and all of the dates I provided are approximate.

Member: I have the other calendar too, but those years haven't happened yet.

Q: You mentioned that if you had paid money when you were arrested, you might have been let go. However, the Pakistanis were not releasing the names of other people to the United States. What kind of people were they not turning over to the United States?

A: I'm talking about Al Qaeda and the Taliban members.

Q: When you were writing your articles, did you meet with Al Qaeda or Taliban members to gather information and put stories together?

A: No.

Q: How did you get your information?

A: First, I was living in Pakistan and Afghanistan and I was looking at it. Also, I was reading the newspapers and I was listening to lots of people.

Tribunal President's Questions to Detainee

- Q: You had requested a witness from Peshawar, Pakistan. As I indicated earlier, that witness was not able to be produced today.
- A: No problem, the whole world is my witness. The whole world will tell you I'm not guilty of these charges.
- Q: Had this witness been available today, what would he have been able to tell us on your behalf?
- A: He would provide information about the wrong accusations you have against me.
- Q: He would be able to testify to all of the allegations?
- A: Yes, sir. Especially the accusation that I went to Herat. He saw that I was living in Peshawar.
- Q: What was the occupation of the witness?
- A: He was working in the office of the schools I was operating in Peshawar.
- Q: So, you were operating schools as well?
- A: I have provided information to my interrogators and my file that I have eight schools I was running in Afghanistan and in Pakistan. I'd like to ask you a question. If an individual is running eight schools, could they travel to Herat and live and work somewhere else?
- Q: The files you refer to, we haven't seen. Therefore, we didn't know that you were responsible for the administration of eight schools.
- A: No problem, sir. I told you this three years ago when I came here.
- Q: Not to us.
- A: I didn't provide this information to you, but I provided it to the interrogators. Please forgive me. I thought you read my files.
- Q: No, we have not.
- A: Very good.
- Q: You were administering these eight schools, you were running magazines and you wrote articles for the newspapers.

A: Yes.

Q: Was your brother helping you?

A: Yes.

Q: It seems to me that you were fairly financially well off.

A: Not too much, but it was fair.

Q: Couldn't you or your family have been able to raise the money to pay off the Pakistani authorities so you could be released?

A: No, sir. I did not tell you we did not have enough money to pay them off. Why should we pay them off? I did not commit any guilt. Why should I pay? I told them I would not pay them even one Rupee.

Q: So, that's why you did not offer to bribe the authorities?

A: Yes.

Q: Why do you think your brother has been released from Guantanamo and you have yet to be released?

A: I don't know. I don't have this information. The interrogators came to Camp Four and told my brother and I that we would be released very soon. The day my brother left, I have no idea why he went and I was left behind.

Tribunal Members Questions to Detainee

Q: Are you and your brother pretty much the same way, as far as being outspoken and active with education and things of that nature?

A: My brother was a professor at the university, but he helped me. He was a reporter for my magazines. He was interviewing people for my magazines. He was also my partner in the business I was running.

Q: Did you have the same friends and same acquaintances?

A: Are you talking about my brother or other friends?

Q: Your brother. Did you have the same friends, acquaintances and business contacts?

A: Obviously, everyone has his own friends, and even business partners.

Q: Do you have anything else you'd like to say?

A: No, sir. I don't have anything else to say to you, but I would not be against you. I am a writer and I've written many poems here and I ask for your justice. On the day I am released, I ask for you to provide me the things I wrote here.

The Personal Representative calls, Khirullah Said Wali Khairkhwa, ISN 579

While waiting for the witness, the Tribunal Members had a few additional questions for the Detainee.

Tribunal Members Questions to Detainee

Q: We've only been talking about the JDQ organization. How many other organizations have you belonged to?

A: No others.

Q: The schools you were operating in Afghanistan, were they in Herat Province?

A: No, sir. You didn't understand me when I told you that I did not go to Herat? I provided all of the addresses in my file, and if you'd like, I will provide them again.

Q: Which part of Afghanistan were the schools in?

A: The Provinces of Nooristan and Nangarhar. Jalalabad is the capital of the Province of Nahgarhar.

Q: Was this area on the border of Afghanistan near where you were living at the time?

A: Yes, sir. It is an area next to Peshawar, bordering Afghanistan.

The witness, Khirullah Said Wali Khairkhwa, ISN 579 was sworn.

The Detainee had no questions for the witness.

Personal Representative's Questions to Witness, ISN 579

Q: Can you tell us how you know Abdul Rahim Muslimdost [Detainee]?

A: I met him here, in Camp Four. His brother was with me in Kandahar, and his brother told me he was here.

Q: Can you tell us your previous job in Afghanistan?

A: I was Governor of Herat.

Q: Can you tell us the time period you held that job?

A: Approximately the last two years of the Taliban government.

Q: To your knowledge, was there any Al Qaeda activity in the Herat area?

A: No, sir. I previously said that they did not have any offices and they did not operate in that area.

Q: Is there any way they could have transited the area without you knowing?

A: Herat is not a big province. Everyone knows the people who come over and have offices, but when people come visit Herat and leave, that's a different case.

Q: Have you ever seen Abdul Rahim [Detainee] at any time, in Herat?

A: No.

Tribunal Members Questions to Witness, ISN 579

Q: Good morning.

A: I agree with you.

Q: If there were Al Qaeda activity in Herat while you were Governor, you would know about it?

A: Obviously.

Q: If this man [Detainee] had been serving as a point of contact for them [Al Qaeda], you would know this too?

A: He was living in Peshawar, Pakistan and I was living in Afghanistan. I was governing Herat. That's all I can tell you. Al Qaeda doesn't have any operations or offices in Herat. I met him [Detainee] here and I don't have any more information about him.

Q: Did you ever have conversations about him [Detainee] with his brother?

A: Yes, sir. His brother and I were detained in the same tent in Kandahar.

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- Q: What did you learn about him [Detainee] from his brother?
- A: His brother told me that they were detained for no reason and that some of their enemies gave wrong information and they were detained.
- Q: We learned today that Abdul Rahim is a journalist and a publisher of articles in newspapers and magazines. Are you familiar with any of his work?
- A: No, sir. I am not.
- Q: You have never read any of his publications or articles?
- A: No.
- Q: Today, we also heard of a group called Jamaat ud Dawa il al Quran al Sunnat. Are you familiar with this group?
- A: I have heard the name and that they were operating in the Nangahar Province, but I don't know who the group was led by.
- Q: You did not have any dealings with this group while you were Governor of Herat?
- A: No.
- Q: Are you familiar with this group's position and attitude towards certain individuals or groups in Afghanistan?
- A: As I told you, I've heard the name. I don't know how many people they have. In our area, these kinds of groups don't exist.
- Q: So, these were not people who caused you concern while you were Governor?
- A: No, they didn't exist in that area.
- Q: In Herat, what was going on at the Zarqawi Camp?
- A: Zarqawi? I don't know that. It might be a different name. This name doesn't exist in Herat.
- Q: Were there any military camps in Herat?
- A: At the time of the Taliban, they had their military camps there.
- Q: This being a small area, I figured you'd be familiar with the names of the camps.

A: There's a difference between the camps and the military divisions. Camps are different. The Taliban had military divisions there.

Q: Okay.

A: Camps did not exist in that area. The Taliban had their military divisions around, but if anyone had proved that camps existed in the province, then I am guilty.

Tribunal President: We thank you for your testimony today, and you are excused.

Witness: I thank you very much.

AUTHENTICATION

I certify the material contained in this transcript is a true and accurate summary of the testimony given during the proceedings.



Colonel, U.S. Marine Corps
Tribunal President