

**BEFORE THE AFRICAN COMMISSION FOR HUMAN & PEOPLES' RIGHTS**

**49th ORDINARY SESSION: APRIL-MAY 2011**

**COMMUNICATION NO. 383/2010**

In the matter between:

**MOHAMMED ABDULLAH SALEH AL-ASAD**

and

**DJIBOUTI**

---

**DECLARATION OF MOHAMMED ABDULLAH SALEH AL-ASAD**

---

I, Mohammed Abdullah Saleh al-Asad of Al-Ghaydhah, Al-Mahra Governorate, Yemen hereby declare that:

1. I am 51 years old and am a citizen of Yemen, where I was born in Haswayn, Al-Mahra Governorate in 1960. I presently live in Al-Mahra Governorate, Yemen with my wife, Zahra Ahmed Mohamed, and my six children.
2. In the early 1980s, I travelled with a Yemeni passport from Aden, Yemen to Arusha, Tanzania to visit my father and uncle for approximately two months and returned to Yemen by way of Kenya. In 1985, I went back to Tanzania to live there. Because the communist government in power in Yemen at the time had strict policies regarding travel permits, I had to be smuggled out of Yemen by car and then travelled onwards using my Yemeni passport. I obtained a fraudulent Tanzanian birth certificate and passport in order to be able to make a living and own land in Tanzania. This first Tanzanian passport was stolen, along with my Yemeni passport. I obtained a replacement for my Tanzanian passport, which I later renewed twice when it expired.
3. In Dar es Salaam, I had a business called the Al-Asad Trading Company with the office on the ground floor of a building I owned and lived in. My family and I lived on the first floor, and I rented the second, third and fourth floors to my wife's family and other tenants.

#### **The Al-Haramain Islamic Foundation in Tanzania**

4. In the early to mid 1990s, a Tanzanian real estate agent came to my place of business with a group of people and told me that they wanted to rent an apartment of mine. Among this group was a man who was in charge of the Al-Haramain Islamic Foundation and a colleague of his. When these men approached me about renting the apartment, all I knew about them was that the Al-Haramain Islamic Foundation was a Saudi Arabian charitable organization that had money to pay rent.
5. In 1994, I leased Floor No. 3B of my building to one of these men for the use of the Foundation for a term of twenty-four months. This lease was renewed a few times in the years that followed. Soon after the first lease was entered into, I was asked to become a trustee of the Al-Haramain Islamic Foundation in Tanzania. I understood that Tanzania required that two Tanzanians had to sign in order to register the organization. My name was listed in order to register the organization since I had a Tanzanian passport. I agreed to be one of four trustees of the branch of the Al-Haramain Islamic Foundation in Tanzania.
6. I was not given anything in return for agreeing to be a trustee of the Al-Haramain Islamic Foundation in Tanzania. In this capacity, I sometimes signed papers when the Foundation conducted business, including dealings such as building a mosque or buying land. I agreed to register my name as trustee because I thought the Al-Haramain Islamic Foundation would do charitable activities in Tanzania such as providing food for the needy who were breaking the Ramadan fast. I also thought that helping with such charitable acts would enhance my social standing in Tanzania because I was helping Tanzanians in need.

7. I was not an employee of the Al-Haramain Islamic Foundation, and I never had the time to do any voluntary work with the Al-Haramain Islamic Foundation in Tanzania because I was too busy with my own work, which was the source of my and my family's income. Eventually, the Al-Haramain Islamic Foundation stopped renting space in my building and instead moved somewhere else in Dar es Salaam. In either the late 1990s or 2000, the Al-Haramain Islamic Foundation moved its office to Tanga, Tanzania.
8. I believe that the business relationship I had with Al-Haramain in Tanzania may have been the reason I was secretly detained. I learned after my release from detention that on January 22, 2004—nearly a month after my disappearance—the United States Department of the Treasury designated Al-Haramain Islamic Foundation branches in Indonesia, Kenya, Tanzania, and Pakistan as organizations engaging in or supporting terrorist activities. In announcing the designation, the U.S. Secretary of the Treasury announced that these four branches of Al-Haramain supported acts of terror “by exploiting countless individuals who believed that by supporting Al-Haramain, they were, in fact spreading good will to many in need of a helping hand.” See *Prepared Remarks of Treasury Secretary John Snow to Announce Joint U.S. and Saudi Action Against Four Branches of Al-Haramain in the Financial War on Terror, JS-1107, 22 January 2004* [Exhibit G]. I believed that by renting office space to the Foundation, I was helping a charitable organization. If the Al-Haramain Islamic Foundation engaged in other types of activities, they were kept secret from me and I was not aware of them.

### **Apprehension in Dar es Salaam, Tanzania**

9. At the time I was disappeared, my business was doing quite well. Besides owning the building, I also owned land in Mtwara and had been granted permission to start a new business. I earned enough to pay the daily wages of two workers and an assistant who worked for me full-time. I was well-known in my area for treating people with integrity and transparency.
10. On 26 December 2003 at around 9:00 pm, I was informed that two police officers had come to my building and wanted to speak with me.
11. I was about to have dinner with members of my wife's family, including my brother-in-law, my wife's brother-in-law, and my wife's uncle. My children were at their grandparents' on the fourth floor at a children's birthday party.
12. I went downstairs thinking it was a routine procedure and encountered two men who asked me to give them my mobile phone and wanted to see my passport. We went upstairs where I gave them my mobile phone and told them that the passport was downstairs in my office. I got my Tanzanian passport and gave it to them. The men were speaking Swahili and appeared to be Tanzanian.
13. They blindfolded me and bound my hands. When we left the office, they abruptly put me into a car. I was taken to a flat where I was questioned for around four to five hours. They asked me when I entered Tanzania, where I lived, and how I had obtained a Tanzanian passport. I signed an interrogation record which they read out to me, though I

was not given the opportunity to review the record. They then cuffed me, blindfolded me, and took me to the airport. It was around 2:00 or 3:00 am.

### **Transfer out of Dar es Salaam, Tanzania**

14. At the airport, I was placed on a small plane. I had to bow my head a little to enter. They sat me down in a passenger seat, and the plane took off. I asked them, "Where are you taking me?" One of my guards responded, "We can't tell you. We are just following orders. We have nothing to do with this. People in charge know where we are taking you. We are just following orders." I remained blindfolded and handcuffed throughout the whole flight. I heard people in the front of the plane speaking English, but I was too upset to pay any more attention to my surroundings. I was flown out of Dar es Salaam around dawn on 27 December 2003.
15. I later learned that my family was told nothing; they had no idea where I was or why I had been taken away. Later, I found out that two Tanzanian newspapers, Guardian and Daily News, reported me as having been deported from Tanzania. See Henry Lyimo, Guardian, *Yemenis, Italians Expelled*, 30 December 2003 [Exhibit H] and Roderick Ndomba, Daily News, *Dar Departs 2,367 Aliens*, 30 December 2003 [Exhibit I].
16. In response to a *habeas corpus* petition brought by my father while I was missing, the Tanzanian government stated in a court filing that I departed from the United Republic of Tanzania to Djibouti on a TanzanAir plane with registration number 5H-TZE on 27 December 2003. A Departure Declaration Card, which the Tanzanian authorities submitted to the High Court of Tanzania on 30 June 2004, reflects this information. See The United Republic of Tanzania Departure Declaration Card, 27 December 2003 [Exhibit A]. Although this card states that I was departing for Djibouti, I was in fact not told where I was being sent.

### **Secret Detention in Djibouti**

17. After the plane landed, I was carried off and put into a car, still handcuffed and blindfolded. The car drove for about twenty to thirty minutes to a detention facility. I had no idea where I was. All I could tell was that the air temperature was similar to Tanzania.
18. Once we arrived at the facility, I was taken into a room, my handcuffs were removed, and the door was locked. I was still blindfolded and was left standing. I was scared and did not move. Somebody shouted in Arabic "Sit!" which I did. I took the blindfold off. The room was dirty, old and had no furniture. There was nothing in it except bits of cardboard box on the floor. I was in this room for about ten minutes before they took me to a different room which was a little bigger and cleaner. This room was bare, except for an old sponge mattress, a toilet, a tap, and a plastic water basin I would use for washing. There were two high-up windows that opened to the outside, and a window on the iron door.

19. This room became my cell for the next two weeks. At night, mosquitoes came in through the windows, preventing me from sleeping. From my cell, I could hear cars passing, the call to prayer, and children playing. It seemed as though I was in a residential area.
20. For the first couple of days, I sat there in confused isolation. After a few days, the guards gave me a pillow and sheet, which helped a little. The guards spoke to me in Arabic with an East African accent. After about one week, I was given a Qur'an. I was never given a prayer rug and prayed on the rough concrete. They also never gave me a change of clothes. For the whole two weeks, I only had the clothes I was wearing the night I was taken, my pajamas, and a *kanzu* (robe).
21. The only reason I was ever taken out of the cell was to be interrogated. During the first week, I was not interrogated at all and spent the whole time in that room, without being allowed to exercise. In the second week, I was interrogated approximately three times, each time for about an hour.
22. I was interrogated by a white western English-speaking woman and an Arabic-language interpreter. Everyone who came into my cell was dressed in civilian clothes, but the interrogator and translator wore I.D. cards around their necks. There was also a third man who was sometimes present. He looked like he was from the Horn of Africa, and, I believe, told me he was Djiboutian. He would confer with the interpreter whenever it seemed the interpreter did not understand me or my Arabic.
23. The interrogator was bigger than me, overweight, and had short hair. She identified herself as an American, but she did not say which part of the U.S. government she worked with. The interpreter looked Syrian or Lebanese. I asked if he was Arab and he said no.
24. I later learned that the International Committee of the Red Cross (ICRC) reported, based on the statements of other detainees held by the U.S. Central Intelligence Agency (CIA), that the CIA sometimes relied on the national authorities of the country hosting the detention facility to conduct their interrogations of detainees, with the national authorities either acting alone or jointly with U.S. agents. See International Committee of the Red Cross, *ICRC Report on the Treatment of Fourteen "High Value Detainees" in CIA Custody*, 2007, pp. 5-6 [Exhibit J].
25. At the time, I was aware of U.S. counter-terrorism policy and of the Guantanamo Bay detention facility. But I could never have imagined that I would be targeted for such treatment, because I have never been involved in any terrorist activities.
26. During the interrogation sessions, they asked me questions about al-Haramain, about alleged terrorist suspects, and about my relationships with certain people in Tanzania. I had nothing to hide and had never been involved in any terrorist activities, so I told the truth from the very beginning. They said I would be transferred to another place in a few days. I thought this threat was a lie to pressure and scare me during the interrogation. I thought they would return me to Tanzania as soon as they realized that I had not committed any terrorist acts.

27. They would ask me questions and then force me to give short, brief answers. I wasn't allowed to speak otherwise. I tried to speak calmly with them, to ask why they were doing this to me, but the interpreter would shout at me to shut up and order me not to speak. He would sometimes raise his hand at me threateningly to make me stop talking. It was insulting and hurt my dignity, but primarily, I was afraid that the guards would go further and would assault me.
28. At one point, the interpreter got very upset and threatened me, telling me that my children would become orphans. When I answered that they have their mother, he told me, "You and your wife both will be put aside and then they will be orphans." When I heard this, I felt like a dead man. I felt that I was powerless and could do nothing to save myself. I began to believe that this was my destiny.
29. The first time I had a sense of where I was being held was when one of the guards told me I was in Djibouti. The guards all looked like they were from the Horn of Africa and they all dressed in civilian clothing. Also, while I was in the interrogation room I read the name Ismail, written in English letters, under a large official-looking picture of a man who looked like he was from the Horn of Africa. I believe it was a picture of the President of Djibouti. The name of the President of Djibouti (now and at the time of my detention) is Ismail Omar Guelleh.
30. At one point during my detention in Djibouti, I thought I felt an earthquake, but I was not sure. I asked the guard if it was an earthquake. Because he was not allowed to talk to me, he said nothing, but nodded. I subsequently learned that Djibouti is in one of the most seismically active regions of Africa, and that on 4 January 2004—about halfway through my secret detention in Djibouti—there was an earthquake centered on the city of Djibouti of magnitude 5.0. See International Seismological Centre Earthquake Data [Exhibit K].

### **Forced Transfer out of Djibouti**

31. After around two weeks in this facility, two guards entered my cell after *maghrib*, the sunset prayer. They looked like they were from the Horn of Africa. They blindfolded me and tied my hands together with a cloth. Next, they put me into a vehicle and we drove off. I spoke to the individuals in Arabic, and they responded, but were not helpful and told me nothing about what was happening. I was very upset and felt tremendous injustice; they made it clear that it would be futile to ask any further questions.
32. After riding in the car with these guards for about twenty or twenty-five minutes, we arrived at an airport, where I was assaulted and experienced very humiliating, painful and terrifying treatment. I was pulled roughly out of the car. I was lifted off the ground and my blindfold was ripped off. I saw about five black-clad individuals whose faces were concealed by balaclavas. They tore off all of my clothing. One shoved a finger into my rectum. They photographed me naked. Then they put a diaper on me and dressed me in a western-style dark-blue short-sleeved shirt, which seemed to have been cut or torn in the front. They also dressed me in dark-blue heavy-fabric calf-length trousers. They plugged my ears with cotton, placed headphones and a hood over my head, and securely

taped the hood. They chained my hands, waist, and feet. I was blind, deaf, and could barely walk. I was in severe pain and felt deeply humiliated and weak.

33. I later learned that this treatment was similar to that experienced by others subjected to extraordinary rendition. The ICRC has reported, based on the statements of other detainees held by the CIA, that detainees held by the CIA experienced a similar procedure before being transferred between detention facilities. The standardized procedure discussed in these reports matches the treatment I experienced before I was taken out of Djibouti. See *ICRC Report on the Treatment of Fourteen "High Value Detainees" in CIA Custody*, p. 6 [Exhibit J]. I was subjected to this exact same treatment several more times when I was transferred from one American secret site to another by the CIA.
34. I have also since learned from memos released by the U.S. Department of Justice's Office of Legal Counsel that it was a standard practice of the CIA to take naked photographs of detainees in its custody before they were transferred. The OLC memos explain that the goal of the transfer procedure was so that "[u]pon arrival at the site, the detainee 'finds himself in complete control of Americans' and is subjected to 'precise . . . almost clinical' procedures designed to underscore 'the enormity and suddenness of the change in environment, the uncertainty about what will happen next, and the potential dread [a detainee] may have of US custody.'" See Department of Justice, Office of Legal Counsel, *Memorandum for John A. Rizzo, Senior Deputy General Counsel, Central Intelligence Agency from Steven G. Bradbury, Principal Deputy Assistant Attorney General, Office of Legal Counsel Re: Application of 18 U.S.C. §§ 2340-2340A to the Combined Use of Certain Techniques in the Interrogation of High Value al Qaeda Detainees*, 10 May 2005 [Exhibit L].
35. This procedure happened very quickly—immediately after I was pulled out of the car—so I am sure the Djiboutian guards who drove me to the airport saw what those men did to me.
36. After experiencing this terrible treatment, I half-walked and was half-carried onto a waiting plane by people holding me on both sides. I was forced to lie on my back on the floor, and then was strapped down around my legs and waist.
37. I learned later on that the ICRC was told in interviews with former CIA detainees that the CIA forced them to lie flat on the floor of planes while they were transported between detention facilities. See *ICRC Report on the Treatment of Fourteen "High Value Detainees" in CIA Custody*, p. 6 [Exhibit J].
38. The position they put me in was very painful. I could not shift my position as I could barely move because of the straps. I have a back injury from before my detention, and I asked to be allowed to change positions to alleviate the pain but the guards did nothing. I even tried using English, pleading "Help me, help me please!" but no one did anything.
39. I was panicked because I had no idea where they were taking me or what they were going to do to me. It was like a nightmare: they were doing all these horrible things to me and I

had not done anything wrong. I was terrified that they would abuse and torture me wherever they were sending me.

### **Subsequent Detention and Interrogation**

40. The flight lasted many hours, with a brief stop of about thirty minutes. On the plane, they clamped something on my finger every once in a while. I learned later on that this may have been a pulse oxymeter, a medical device used for measuring the saturation of oxygen in the blood, which the CIA regularly used to check the status of people it had in its custody. See *ICRC Report on the Treatment of Fourteen "High Value Detainees" in CIA Custody*, p. 22 [Exhibit J].
41. Including Djibouti, I was held in four *incommunicado* prisons around the world. For sixteen months, from 26 December 2003 until 5 May 2005, I was held in secret detention and denied all communication with the outside world. I was never once given access to the ICRC, my family, or legal representation.
42. In these secret prisons, I was horribly abused. I was kept in small cells under constant video surveillance. I was only allowed to shower once a week, chained and in front of a guard. They did not give me thick enough clothing or enough blankets, and I was often very cold. And when they transferred me between sites, I was forced to undergo the humiliating process referred to above in paragraph 32.
43. During this time, I was often subjected to particularly heinous treatment. Throughout the period of my detention in the second facility, for example, I heard horribly loud, constant, thumping music, twenty-four hours a day, seven days a week. I learned later on from published accounts of the ICRC's interviews with other detainees held by the CIA that loud repetitive music was regularly used in CIA detention facilities to systematically deprive detainees of sleep. See *ICRC Report on the Treatment of Fourteen "High Value Detainees" in CIA Custody*, p. 15 [Exhibit J]. They also made it hard to sleep by keeping the light bulb in my cell on at all times.
44. Once during an interrogation period, I did not receive any food for three days and was given only something that tasted like chocolate milk to drink. I learned later on from published accounts of the ICRC's interviews with other detainees that others experienced this practice during the course of their detention by the CIA. See *ICRC Report on the Treatment of Fourteen "High Value Detainees" in CIA Custody*, p. 18 [Exhibit J]. I also recognize this treatment as that described in the Office of Legal Counsel memos as the CIA technique called "dietary manipulation," in which commercial liquid meal replacements, such as Ensure Plus, are given to the detainee instead of normal food as a means of inducing cooperation." See *Memorandum for John A. Rizzo, Senior Deputy General Counsel, Central Intelligence Agency from Steven G. Bradbury, Principal Deputy Assistant Attorney General, Office of Legal Counsel* [Exhibit L].
45. In the sixteen months of my secret detention, I was almost never able to speak to another human being. The guards made all commands through hand gestures. In some of the secret prisons after Djibouti, I met with psychiatrists several times. I felt the purpose of the visits was to gather information about me, but given the isolation I felt from being in

solitary confinement for so long, it was a relief to have a chance to talk to another human being.

46. On 5 May 2005, I was transferred by plane to Yemen ,where I was imprisoned in Yemeni prisons in Sana'a and al-Ghaydhah. On 13 February 2006, I was tried in Yemen for making false statements to obtain my Tanzanian papers and using the forged documents—the only charges ever brought against me since my transfer from Tanzania. I pled guilty, and on 27 February 2006, the judge said that my time in prison, including my time spent imprisoned outside Yemen, was enough to satisfy my sentence, so he ordered that I be released. On 14 March 2006, I was released from detention.

### **Secret, incommunicado nature of my detention in Djibouti**

47. While I was detained in Djibouti, I was never informed of any charges against me, and I was never presented before a court or tribunal. Never did a judge determine the legality of my detention or allow me to challenge my transfer from Djibouti into the hands of the Americans.
48. I was denied access to legal representation and humanitarian organizations, and I was prevented from communicating with my family and friends. I was cut off from all contact except for my jailors and interrogators.
49. At no time did Djibouti inform my family that I was detained in Djibouti. Nor did Djibouti inform my family that I was subsequently forcibly transferred from Djibouti to the custody of the United States.
50. Neither I nor my family had any previous connection with Djibouti. My entire relationship with Djibouti stems from the two weeks I was secretly detained, interrogated, threatened, and forcibly transferred.

### **Confirmation of my account**

51. My story has been confirmed by a number of international organizations, including the United Nations and Amnesty International. See United Nations Human Rights Council, 13<sup>th</sup> Session, *Joint Study on Global Practices in Relation to Secret Detention in the Context of Countering Terrorism*, U.N. Doc. A/HRC/13/42 (19 February 2010), paras.113, 133 [Exhibit.D] and Amnesty International, *United States of America: Below the Radar: Secret Flights to Torture and 'Disappearance,'* 5 April 2006, pp. 9–16 [Exhibit F].
52. My story has also been confirmed by a number of international media sources, including the UK Guardian, Al Jazeera, the New York Times and the Washington Post. See Richard Norton-Taylor, Guardian, *Amnesty Demands Public Inquiry on Rendition Flights*, 5 April 2006 [Exhibit M]; Al Jazeera, *Amnesty Report Probes CIA Jails*, 6 April 2006 [Exhibit N]; BBC, *US 'used Djibouti' in Rendition*, 5 April 2006 [Exhibit O]; Scott Shane and Margot Williams, New York Times, *Yemenis Freed After Transfer From Secret Prisons, Report Says*, 5 April 2006 [Exhibit P]; Josh White, Washington Post, *Prisoner Accounts Suggest Detention At Secret Facilities*, 7 November 2005 [Exhibit Q].

## **My Family's Efforts to Locate Me**

53. After my release, I learned that my family had taken many desperate steps to locate me while I was disappeared. Believing that I had been deported from Tanzania to Yemen, my father searched for me in Yemen. When it became clear that I was not there, he traveled to Tanzania to join my wife and her family in their search for me. When their efforts failed, my father filed a writ of *habeas corpus* in the High Court of Tanzania. On 30 June 2004, the Government of Tanzania told the High Court that they had deported me to Djibouti and filed a departure card reflecting this. See The United Republic of Tanzania Departure Declaration Card, 27 December 2003 [Exhibit A]. The Tanzanian judge dismissed the *habeas* filing on 9 September 2004. In addition to these steps, my wife filed a tracing request for me with the ICRC. See International Committee for the Red Cross Tracing Request, 2 February 2005 [Exhibit R]. Neither effort produced any evidence as to my fate.

## **Effects of Detention**

54. My family and I have suffered immensely as a result of the torture and ill-treatment that I was subjected to during my detention in Djibouti and during my transfer from Djibouti to the custody of the United States, where I was subject to further torture and ill-treatment. The detention—including sixteen months of solitary confinement, starting in Djibouti—was tremendously difficult and debilitating. Though I found some relief in prayer, I constantly worried, and often cried, thinking about my family and their well-being. During the most difficult ordeal in my life, I was deprived of my family, the very people who I would normally turn to for support. My wife was pregnant at the time of my apprehension on 26 December 2003 and had our fifth child while I was in secret detention.

55. The strain of this ordeal has taken a significant psychological and emotional toll on me. Towards the end of my detention, I felt that I had become insane as demonstrated by the fact that I was speaking to myself. At one point they gave me pen and paper, which I used to write Qur'anic verses and common sayings to try to keep myself sane. I still jump to any sudden sounds. And, sometimes I have that feeling that I expect something terrible will happen again. Especially when they ask me questions at the airport, I feel that they may detain me. I still suffer from a number of symptoms from my experience. I lost approximately seventeen kilograms during the course of my detention. I have a three centimeter wide scar on my left leg from the shackles, and my vision is much worse than it was before my detention because of the chronically poor lighting in the secret prisons. Worse than the physical damage is the impact on how I feel on a daily basis. I have lost hope that my life can ever return to normal. I can barely hold myself together when I think about what happened to me.

56. Since my release, I tried in vain to resettle in Tanzania, where I had built my life for over 18 years. At the end of 2008, when it was clear that I wouldn't be able to resettle in Tanzania, my wife Zahra and our five older children moved from Tanzania to Yemen so

that we could live together again. Although the reunion has been positive, our life remains difficult. I worry that my wife and children have suffered much more than I have. Not knowing where your husband or father is, whether he is dead or alive, and why he was disappeared, is a horrible thing to experience.

57. I have been unable to rebuild any successful financial venture comparable to what I had built in Tanzania with years of hard work. Because I was disappeared for so long, debts piled up and I lost my business. I still had my land in Mtwara, but I had to sell it to pay off the debts accrued in my absence. There were times when I couldn't afford to buy my family even basic living necessities. I have lost entirely my previous stature as a businessman and community leader. My business remains in ruins, and I am burdened by debt. I am incredibly humiliated by what has happened to me.
58. My experience was completely unfair. I was a well known merchant and a good person, and I was abused very badly. My secret detention has never been acknowledged by either Djibouti or the United States despite the efforts of my family, and my lawyers, the United Nations, and human rights organizations. This continued denial of my abuse frustrates my ability to regain my life, my community stature, and my sense of justice.

I hereby declare under penalty of perjury that the foregoing is true and correct.

Executed this 15<sup>TH</sup> day of JAN 2011.



---

**Mohammed Abdullah Saleh al-Asad**