

# Inside Africa's War on Terror

War on Terror Detentions in the Horn of Africa



**CAGEPRISONERS**

May 2006

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Picture on cover page of the diary of Safia Benaouda written on toilet paper during her incarceration in Ethiopia – Cageprisoners and Reprieve, 05/04/2007

## INTRODUCTION

The internecine conflict in the Horn of Africa continues to rage between the Union of Islamic Courts and their opponents, which include Somali opposition, the Ethiopian military and worryingly, the US government. Hostilities have entered a disturbing new phase in this most beleaguered and impoverished part of the world: the War on Terror, extraordinary rendition and arbitrary detention.

Cageprisoners is alarmed by Guantánamo-style prisons being set up and utilised in the Horn of Africa after documenting a series of abductions in which men, women and even children were unlawfully detained. The seizure of civilians, the usage of converted metal shipping containers as holding cells and summary court hearings used to charge those rendered to Ethiopia as 'illegal combatants' bears particular resonance with the notorious 'processes' established and practiced in Guantánamo Bay.

With the release of several European citizens, including four Britons and a Swede, evidence is fast surfacing which points directly to foreign involvement in the interrogation process. Recurrent and consistent allegations of gross human rights violations, including torture, have been made by the returnees, as well as scores of people interviewed in proximity to the conflict zone.

The Horn of Africa, already plagued by decades of war, famine, exodus, drought and unimaginable poverty is undoubtedly susceptible to exploitation by powerful nations. The US-led War on Terror has already demonstrated – in countries like Pakistan and Afghanistan - how people in developing nations can be lured by promises of pecuniary bounties to 'hand over' terrorism suspects. It is paramount that the international community recognises this danger and acts now before we find more Bagram and Guantánamos in the Horn of Africa.

**[Moazzam Begg – Spokesman, Cageprisoners]**

### **Cageprisoners**

Cageprisoners was formed in October 2003 as a human rights organisation with the sole purpose of raising awareness of the plight of the prisoners in Guantánamo Bay and other detainees held as part of the 'War on Terror'.

The organisation works by attempting to provide a comprehensive resource of information on Guantánamo Bay and other detainees to the public and professionals in order to ensure that their plight is continually highlighted and never forgotten and to act as a voice for the voiceless.

By bringing together sources from all media outlets around the world, lawyers, activists and families of the detainees are often able to use the website as a one-stop resource for all aspects of detentions in the 'War on Terror'.

## BACKGROUND

### Detentions in Kenya

During the main period of detentions, the grassroots Kenyan organisation Muslim Human Rights Forum managed to gain access to many of those who had been detained under accusations of terrorism and supporting the Union of Islamic Courts in Somalia. 16 prisons were used by the Military and the ATPU to hold and interrogate the 148 known individuals detained. The prisons included:

Jama Kenyatta International Airport Prison, Inland Container Depot Police Station, Langata Police Station, Kasarani Police Station, Kilimani Police Station, Shaurimoyo Police Station, Kileleshwa Police Station, CID Headquarters, Karen Prison, Hardy Police Station, Rongai Police Station, Gigiri Police Station, Spring Valley Police Station, Ruai Police Station, Garissa Police Station and Hulugo Police Station.

The conditions in Kenya were far from acceptable as many of the detainees were kept in inhumane conditions. Little mercy was given by the Kenyan captors who did nothing to help the children who were being kept in the prisons. Safia Benaouda was witness to treatment of the American children who were being held without their parents or support from the US Embassy,

*Rahma the four-year-old had a distended tummy. Her eyes were distant. She looked as though she was in another world. She looked at you and just looked through you. Her mum had died, her dad had gone and her brother had gone. She was just there with her little sister, Sumayyah, the baby. Because we were sleeping on cement in the cell, it was so cold. We were grown-ups, but the children looked horrible in the mornings. They were so cold, their noses were running and were sneezing. We were afraid they would get pneumonia. The baby had a bad nappy rash. She was bleeding with big blisters. They all had bad diarrhoea. We were begging the interrogators to give them medical attention. They did not care at all. We felt so horrible. One day Sumayyah was screaming so much because she was in so much pain.<sup>1</sup>*

The American children were not the only ones to be held prisoner at the hands of the Kenyans, Speaking to Cageprisoners the mother of four-year-old Hafsa Swaleh Ali about the way they treated her daughter and the way it has scarred her,

*Since our release Hafsa has developed a cough which she doesn't seem to be able to shake. She has trouble sleeping and gets up at night out of fear. Whenever Africans walk the streets wearing uniforms, she runs to me and hides because she is scared of them. She doesn't want to go to Nairobi at all as she remembers what happened to her there. They had interrogated Hafsa and she remembers that – they even asked her if she knew where her father was.<sup>2</sup>*

The British citizens who being held in Kenya were abused from the very start of their arrest by the Kenyan military who beat them up as they loaded them into trucks. The

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<sup>1</sup> Statement of Safia Benaouda to Cageprisoners and Reprieve in Stockholm, Sweden 05/04/2007

<sup>2</sup> Statement of Fatima Ahmed Abdur Rahman to Cageprisoners and Reprieve in Mombasa, Kenya 02/03/2007

continually threatened the men, especially Reza Afsharzagaden who was told twice that he would be taken into the desert and shot.

#### Interrogations by US Agencies:

Safia Benaouda and the group she was arrested with had been interrogated by US Military personnel who had been with a contingent of Kenyan soldiers. The US Military however were not the only agency present in Kenya. Mohammed Ezzouek describes how he was kept in a prison with the US citizen Daniel Maldonado until 29<sup>th</sup> January 2007 when the FBI had arrived to take Daniel away – the agents called him ‘B-Town’ possibly due to his origin being from Boston. Mohammed Ezzouek was later taken to another prison in a more affluent area of Kenya where he met the American citizen Amir Mohammed Meshal who had been brought there by the FBI.

#### **Rendition to Somalia**

On 20<sup>th</sup> January 2007 the Kenyan authorities without giving any access to lawyers, transported 33 individuals many of whom were Kenyan nationals to Somalia. This rendition flight was the first amongst a series of flights that resulted in the transportation of 63 individuals to the custody of the Somali Transitional Federal Government as combatants. A report released by Cageprisoners on 22<sup>nd</sup> March 2007 published the flight manifests procured by Muslim Human Rights Forum highlighting the fact that nationals from at least 16 states had been transferred<sup>3</sup>.

#### **Detentions in Somalia**

The Kenyans lying to the many of those they transported to Somalia managed to move them to airplanes explaining to the men that everyone was being moved to Mombasa in order to face trial – the women were told nothing about where they were going. The detainees only realised the truth of their rendition on noticing or overhearing that they had been sent to Baidoa or Mogadishu. Mohammed Ezzouek, one of the four British men to be sent to Somalia commented in his detention that he could see a sign-posting which stated that they were in Baidoa thus realising his location. The conditions in the prison were horrendous as he describes,

*We all filed down into an underground cell. It was pitch black. There were water bottles down there to pee into. The floor was dusty and dirty. There were rats and cockroaches. It did not smell good. Where the bottles were it smelled like a very dirty toilet.<sup>4</sup>*

The British found that their time in Somalia had been relatively smooth compared to the treatment of the other detainees due to the British consulate sending an official to take them home from Somalia. None of the other detainees were given the opportunity to have their consular officials meet them to have them returned back to their countries of origin.

Other detainees sent from Kenya had been taken to a detention facility in Mogadishu rather than Baidoa. Speaking to Cageprisoners, Kamilya Tuweil described her ordeal as

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<sup>3</sup> The flights manifests of the renditions can be found in the following report:  
<http://www.cageprisoners.com/download.php?download=549>

<sup>4</sup> Statement of Mohammed Ezzouek to Cageprisoners and Reprieve in London, UK 14/02/2007

she realised that she was about to be rendered to Somalia despite never having been to the country,

*When we arrived after the plane journey, they took me down from the plane, they untied my blindfold. I found there were women and children on one side and men on the other side of the plane. They were saying, "they are taking us to Mogadishu". The Kenyans who bought me there were still here. I was crying and screaming and telling them to let me go as I had my passport and that I was from Dubai and they should send me back. One man tried me to keep me quiet by saying, "you are coming with us."... In total there were 22 women and children. Apart from me and another lady, everyone else was 3 -8 months pregnant.<sup>5</sup>*

Safia Benaouda was among the same group as Kamilya and was able to confirm the conditions of the prison,

*The detention facility in Mogadishu was a storage room and near the airport. When we got of the plane I saw a lot of Ethiopian soldiers. We recognised we were in Mogadishu. The Kenyans had told the men before we came to Mogadishu that we were going to Mombasa to the court, but that was not the case. The men were blindfolded but we women were just tied from behind... They told us women to look the other way. We were not allowed to see where they were going, and we thought at that point they were going to be shot. They took us to a little hole in the ground, and that was our cell. It was dark, with no windows. We slept on cement and a bit of cardboard on that.<sup>6</sup>*

The detention period in Somalia was not without incident as interrogations took place against some of the detainees, especially Halima Badrouline, Safia Benaouda, two Ethiopian women and one Sudanese. As according to the statements of Kamilya, all of these women were at different stages of their pregnancies and made to suffer interrogations and poor treatment despite their condition. Safia states, *"I was early in my pregnancy and feeling sick. Bugs and stones and sand were in the food."<sup>7</sup>*

## **Rendition to Ethiopia**

*As the war was ongoing between Somalia and Ethiopia, we could hear bombs and guns. After 10 days the Ethiopian government people took us elsewhere saying they would take us to the place where we could "get our rights." In these 10 days they interrogated us. The interrogators were Ethiopian and Somali. The interrogators were all men.<sup>8</sup>*

On the morning of 5<sup>th</sup> February 2007 all those being held in Somalia by the TFG and Ethiopian forces were put on a plane which flew them to a place where they could 'get their right', they were flown to Addis Ababa.

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<sup>5</sup> Statements of Kamilya Tuweil to Cageprisoners and Reprieve in Sharjah, Dubai 09/04/2007

<sup>6</sup> Statement of Safia Benaouda to Cageprisoners and Reprieve in Stockholm, Sweden 05/04/2007

<sup>7</sup> Statement of Safia Benaouda to Cageprisoners and Reprieve in Stockholm, Sweden 05/04/2007

<sup>8</sup> Statements of Kamilya Tuweil to Cageprisoners and Reprieve in Sharjah, Dubai 09/04/2007

## Detentions in Ethiopia

On landing in Ethiopia it was clear to the detainees that the Ethiopian guards were clearly agitated by the presence of foreigners in their custody and the possibility of international scrutiny over their detention. The humane treatment only lasted so long according to Safia who stated,

*One of the women could hear during the night that the Ethiopians were calling us names and were upset that they were the ones who were bad in the media. I guess because of that they were afraid to treat us too bad. With time they became harsher and harsher. People started to forget about us and not care about us.<sup>9</sup>*

Kamilya Tuweil described the cells the men and women were imprisoned in as being 8 feet by 8 feet in which at least four women would share the space along with their children. This included a lady who had been eight months pregnant and was rushed to hospital at one stage due to experiencing labour pains.

### Torture in Ethiopia:

After some time the women were moved into a building to be detained while eight solid metal cages were constructed. It was in to these cages that the men were soon shifted, very much reminiscent of the cages of Camp X-Ray in Guantánamo Bay. The treatment of the detainees was well below accepted standards as access to medical aid was denied to all with the exception of painkillers once in a while. Munir Awad was suffering from diarrhoea and was bleeding from his stomach; however he was denied the help he needed, he was able to convey this to his wife as they were given 20 minutes to speak one another before her release.

The Ethiopian guarding were holding the detainees due to suspicion that they had been involved with Al Qaeda operations in the Horn of Africa and also for being involved with the Union of Islamic Courts in the war with Somalia. However Safia was clearly told by Munir that the torture they suffered was not at the hands of the Ethiopians, but rather at the hands of the foreign interrogators, particularly the American interrogators who were given unequivocal access to the detainees. By the time Safia was able to see Munir, it was clear that the men had a much more difficult time than the women,

*I saw marks around my husband's neck he told me that they had strangled him and tortured him he said. He said they were not allowed to eat, that he was made to stand up all day. Over and over they asked "are you a terrorist", they beat him up. I could see deep scars on his hands and ankles from handcuffs.<sup>10</sup>*

Safia had seen the marks of this torture at a court where some of the detainees had been taken in order to be brought before three judges and prosecutors. They were told that they were in the court for the court to take their names and details and for the prosecutors to explain that they were being held as illegal combatants or prisoners-of-war and some as 'another' category. At no point were any of the detainees given the right to representation to make any appeal or help them understand the proceedings. The lack of due process and access to independent lawyers once again resonates

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<sup>9</sup> Statement of Safia Benaouda to Cageprisoners and Reprieve in Stockholm, Sweden 05/04/2007

<sup>10</sup> Statement of Safia Benaouda to Cageprisoners and Reprieve in Stockholm, Sweden 05/04/2007

strongly with the way in which those caught up in the War on Terror elsewhere in the world have been denied access to any of the safeguards of due process.

Safia clarified, *"The Ethiopians would hit the detainees if they had a 'bad day' but otherwise would not hurt them much more than these random beatings. However, the torture was clearly being planned and orchestrated by the Americans or other western interrogators, as it was only them who were doing any of the interrogations. It was only westerners who were interrogating me while I was in Ethiopia and according to all the info i got from others who were interrogated, it was only westerners interrogating them too, never Ethiopian."*<sup>11</sup>

Despite being accused of being involved in the conflict in Somalia, the detainees being interrogated have not been questioned about their involvement in Somalia and why they were there as much as they were about their activities and those of others in their countries of origin. Particularly it seems where foreign intelligence/security services were involved, questions of activity relating to domestic activities were asked.

#### Interrogations by US Agencies:

American presence in the Ethiopian prison was particularly highlighted by Safia Benaouda who noticed that certain detainees were questioned for much longer periods than other detainees and who subsequently reported American involvement. However even though others were not questioned by the US, they had their DNA and fingerprints taken by an agent who claimed to be a specialist in DNA. The agent made a point to tell Safia that his colleague was doing similar tests and taking data from those being held in Somalia.

The equipment used was quite advanced as the fingerprints were fed straight into a computer without the need for any ink. The US agent took mouth swabs from all the detainees and it was reported by the women that even the seventh month old baby had her mouth swabbed and fingerprints taken.

#### Interrogations by Foreign Agencies:

The interrogations that took place against the foreign nationals were unfettered in their access. Foreign agents from around the world were given the right to come and to interrogate to any extent. Safia particularly noticed the treatment of Halima Badrudine Hussein whose husband was wanted by the US. Safia commented,

*After a few weeks they started to interrogate Halima. She was really destroyed after that. Several times a week they took her. They took her around fajr [pre-dawn prayer] and would keep her until night time. Sometimes her children went with her. She told us that it was Americans, French, Italians, Swiss, Israelis and later on the Libyans. She had lived in Pakistan before and they also came.*<sup>12</sup>

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<sup>11</sup> Statement of Safia Benaouda to Cageprisoners and Reprieve in Stockholm, Sweden 05/04/2007

<sup>12</sup> Statement of Safia Benaouda to Cageprisoners and Reprieve in Stockholm, Sweden 05/04/2007



## Internment of Somali refugees

During a research mission to Kenya in March 2007, Cageprisoners and Reprieve travelled close to the Somali border in the North-East of Kenya to understand how the war in Somalia and the War on Terror have affected their lives. While in Dadaab Refugee Camp, the camp leaders explained their plight in painful detail. Despite having been refugees in Kenya for 17 years, the war in Somalia had clear effects on their lives. Meeting with the camp Chairman, he explained,

*We used to move between ourselves, but after the war in Somalia which are not party to, the closest to which we are is 200km at the border. The government of Kenya has put the restriction on us that we cannot move from one camp to another, we cannot trade between ourselves, we cannot travel to see our relatives in other camps. We are in a large prison. This is an abuse of human rights – it is just like Guantánamo Bay.*

Without any ability to move outside the small refugee camps they exist in, the Somali refugees have been effectively interned for the simple fact that they are Somali and thus considered to be a threat to the Kenyan government. The practical internment that these refugees live through provides them no access to any support or help in any form, they are forced to fend for themselves through whatever difficulty they might have. Speaking to Halima Ma'ala Abdi, the Chairwoman of the camp described their difficulty in getting medical assistance,

*We have elderly and the sick, and if you want to take them to the hospital – as the medication here is not enough, you cannot move. We need more food, we cannot collect food from the cities. We do not have enough to survive. When we try and sneak through the checkpoints to get food, a heavy fine is imposed on us to pay. The Kenyan government takes us to court, but we cannot pay as we are refugees and have no money. They fine us heavily. We have to rot in jails – when we come out we are sent back to this jail.*

The difficulty of their situation is highlighted by the tragic death of a young child on 14<sup>th</sup> October 2006. Abdillahi Isaack Ali described how his son Ahmed Mahmoud Mohammed was stung by a poisonous snake on 13<sup>th</sup> October only to die in the refugee camp due to the blanket refusal by the government to allow any movement of any of the refugees beyond their location.

Even as secluded as they are though, the refugees were of detentions taking place by the Kenyan government of people from their own communities. Halima Ma'ala explained,

*We are aware of a number of people who were sent back to Somalia over claims of terrorism by the Kenyans. We had very many people who came from the war to seek refuge, but they were turned back forcefully – without giving them any help. There were other people who were taken to Nairobi, they were trying to seek refuge but they were called terrorists and arrested. We were aware of this and feel bad about it happening.*

One young Somali claimed further, *“The Somalis [Transitional Federal Government] have killed out livestock and many other human beings. They are claiming that they were looking out for Al Qaeda cell groups – we have evidence that those people they killed are innocent people.”*<sup>13</sup>

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<sup>13</sup> Statements of Somali Refugees to Cageprisoners and Reprieve in Dadaab, Kenya 06/03/2007

## APPLICABILITY OF THE GENEVA CONVENTIONS

From the moment the renditions began from Kenya to Somalia, violations of international humanitarian law began. According to the Geneva Conventions, forcible transfers are totally illegal. Article 49 of the fourth Geneva Convention, although applying to an occupation situation covers the general prohibition on refolement to regions of instability such as those transfers from Kenya to war-torn Somalia. Article 49 reads,

*Individual or mass forcible transfers, as well as deportations of protected persons from occupied territory to the territory of the Occupying Power or to that of any other country, occupied or not, are prohibited, regardless of their motive.<sup>14</sup>*

This is further reinforced through Article 44 which states,

*In applying the measures of control mentioned in the present Convention, the Detaining Power shall not treat as enemy aliens exclusively on the basis of their nationality de jure of an enemy State, refugees who do not, in fact, enjoy the protection of any government.<sup>15</sup>*

The above articles relate to those individuals that are civilians as they come under the protections of the convention on the protection of civilians. Thus the provisions would strongly apply to the Kenyan government over the rendition of the children who were transferred without any thought to their status as refugees. However the detention of those in Ethiopia has been very much placed in the context of the international War on Terror.

The statement of Safia Benaouda points heavily to the use of terminology that has come straight from the US war on Afghanistan and the subsequent transfers to Guantánamo Bay. The Ethiopian court told those being held that they would be charged as 'illegal combatants', 'war prisoners' or 'other' category.

The terminology being used by the Ethiopians is very much steeped in that which is used during a conflict situation, and they have proceeded to treat those detained in such a way. With any conflict, the *Jus in Bello* is automatically brought into force and with it all of the applicable laws under international humanitarian law.

Regardless of whether or not there is even a legally valid concept as 'illegal combatant', the Third Geneva Convention does not allow for any kind of assumption to be made as to the status of an individual or groups of individuals, rather Article 5 states,

*Should any doubt arise as to whether persons, having committed a belligerent act and having fallen into the hands of the enemy, belong to any of the categories enumerated in Article 4, such persons shall enjoy the protection of the present Convention until such time as their status has been determined by a competent tribunal.<sup>16</sup>*

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<sup>14</sup> Article 49, Geneva (IV) Convention Relative to the Protection of Civilian Persons in Time of War

<sup>15</sup> Article 49, Geneva (IV) Convention Relative to the Protection of Civilian Persons in Time of War

<sup>16</sup> Article 5, Geneva (III) Convention Relative to the Treatment of Prisoners of War

A competent tribunal must be convened by the Ethiopians to ascertain the nature of those people that are held under their custody, but further they should be affording the full protections of the Geneva Conventions until a time when that has taken place. Even if the Ethiopians are able to prove that some of those detained took part in the hostilities, the protections of the Geneva must be implemented. Article 13 of the third Geneva Convention,

*Prisoners of war must at all times be humanely treated. Any unlawful act or omission by the Detaining Power causing death or seriously endangering the health of a prisoner of war in its custody is prohibited, and will be regarded as a serious breach of the Present convention. In particular, no prisoner of war may be subjected to physical mutilation or to medical or scientific experiments of any kind which are not justified by the medical, dental or hospital treatment of the prisoner concerned and carried out in his interest. Likewise, prisoners of war must at all times be protected, particularly against acts of violence or intimidation and against insults and public curiosity. Measures of reprisal against prisoners of war are prohibited.<sup>17</sup>*

Although Ethiopia has not signed nor ratified an equivalent to the Convention against Torture (CAT) – the norm against torture has been internationally recognised as having the status of customary international law which can be traced through the Geneva Conventions, Universal Declaration of Human Rights, Covenants on Civil, Political and Economic Rights and CAT. Ethiopia must fulfil its obligations under CAT to ensure that those held within its custody are not abused in any way. From the testimonies uncovered from those held in the Ethiopian prison, it is clear that there has been torture at the hands of the interrogators.

It is imperative that Ethiopia complies with its obligations under the third and fourth Geneva Conventions to provide the full protection due to those that are being detained. If the Ethiopians allow for the detentions to continue then they could be found to have committed 'grave' or 'serious' breaches under Article 147 of the fourth Geneva Convention.

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<sup>17</sup> Article 13, Geneva (III) Convention Relative to the Treatment of Prisoners of War

## DETAINEES IN ETHIOPIA

### Swedish Nationals and Residents

There are currently two Swedish nationals, one Swedish resident, the wife of a national and their children remaining in the Guantánamo style prison in Ethiopia. Flight manifests uncovered by Muslim Human Rights Forum in Kenya indicate that all of the individuals had been detained in Kenya and rendered from there to Somalia. Confirmation of their further rendition to Ethiopia has been given through the statement of Safia Benaouda who was present with them in the Ethiopian prison.

The Swedish Foreign Ministry has already declared that it will represent the interests of its citizens and residents in trying to secure their release and return back to Sweden.

#### 1. Munir Awad and Safia Benaouda

Munir Awad and his fiancé of Safia Benaouda travelled to Dubai in late 2006 for an extended holiday. Wanting to spend two weeks in another Muslim country the couple made a plan to go to Somalia for a two week holiday to experience another Muslim country. Safia recounts,

*I love to travel and I was excited about visiting Somalia as it was a new Muslim country and I wanted to see what that was like. Unfortunately Somalia was not at all as I had expected it to be, and I did not like it there. I don't think the Somalis like white people and I felt uncomfortable being white there. We did not even stay for two weeks in Mogadishu as we had intended... We were disappointed and we wanted to go home but we could not because that was when the trouble started.<sup>18</sup>*

Making their way back to Dubai on 24<sup>th</sup> December 2006, the Ethiopian army launched its attack on Somalia by bombing the international airport. International flights were immediately cancelled forcing all foreign nationals looking to leave the country to look for alternative arrangements to leave. The Swedish Foreign Ministry immediately issued notices and advised for all Swedish nationals to find embassies in Kenya or Ethiopia. Families rang their loved ones and explained the advice given. Munir and Safia heeding the advice made their way to the Somali-Kenyan border to find the Swedish Embassy fearing to go to Ethiopia due to their hostility against the Islamic government.

Somalis began to offer help to foreigners for a fee in order to escort them to the Kenyan border and to safety. The couple taking the opportunity travelled with their guides to Kismayo where many other foreign nationals had also be brought by similar guides as they all prepared to cross into Kenya to escape the fighting. Munir went with a group of men towards Kenya as Safia travelled with a separate group of women. They were both arrested on arriving in Kenya in different groups. Safia explained how there were *3 US soldiers (wearing US military badges and uniform) and 10 Kenyan soldiers* who arrested her group of women and children on the Somali-Kenyan border.

Safia and Munir were once again reunited in Mogadishu and then later in Ethiopia, however they were not allowed to speak to one another or meet at any point in Ethiopia until the time that Safia was released to return to Sweden. Munir did not fare well in the Ethiopian prisons as when she was finally given the opportunity to meet him before her departure, she saw the signs of beatings and torture at the hands of the American interrogators. He explained to her that they were giving him a hard time.

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<sup>18</sup> Statement of Safia Benaouda to Cageprisoners and Reprieve in Stockholm, Sweden 05/04/2007

## 2. Osman Ahmed Yassin and Family

Having been detained on the Somali-Kenyan border in Hulugo, Osman Ahmed Yassin a Swedish citizen, his wife and two children were all rendered from Kenya to Somalia and finally to Ethiopia. Osman is being kept in conditions in Ethiopia which are tantamount to torture and cruel and inhumane degrading treatment. According to Safia Benaouda, he had been tortured more than most and even though the signs were quite evident, Swedish intelligence in Ethiopia did not question him about the marks.

The Kenyan Embassy however has continually claimed that it had no knowledge of any Swedes present in Kenyan prisons, however according to reliable sources in Sweden, the Swedish Ambassador to Kenya met with Osman while he was being held in Nairobi. Officers from the Embassy further went into the prisons and provided him with toothbrushes, soap and vitamins and agreed to meet him the next day, however they claim that he had been moved when they came the next day. The Embassy has continually stated that it had no knowledge of Swedish citizens being held in Kenya nor that they would be rendered to Somalia.

## 3. Youssef El Haitali

Youssef El Haitali is a Swedish resident married to a Swedish citizen. They had travelled abroad together with their two young children in order to settle in the Arab world to look for work. On 18<sup>th</sup> December 2006 Youssef left his family in Dubai in order to explore the possibility of moving the family to Somalia however was unsure of the safety of the country and thus wanted to assess the situation there first.

When he arrived the Union of Islamic Courts was still very much in control, however everything changed on the 24<sup>th</sup> December 2006 when Ethiopia invaded Somalia. Following directions from the Swedish government to go to a neighbouring country with a Swedish embassy, Youssef went to Kenya where like so many others he was detained.

On 27<sup>th</sup> January 2007 Youssef managed to make a phone call from Mogadishu to his wife when he explained that he was in a jail at the airport and needed help to be returned to Sweden. The next time his wife heard from him was 1<sup>st</sup> February 2007 when he explained that prisoners were being transferred and that he was afraid they would do the same to him. It was not until the 7<sup>th</sup> February 2007 that the Swedish Ministry of Foreign Affairs confirmed to her that he had indeed been moved to Ethiopia and they were waiting for confirmation by the Ethiopian government of that fact.

### Statements of Swedish Families:

Safia Benaouda, fiancé of Munir Awad –

*I can't do anything without thinking about him. Everything feels horrible. I feel as though, how can I eat, sleep when he is still there. I feel ashamed smiling, doing something nice that I enjoy because he is my best friend. I never ever had a best friend like Munir. He is my first best friend and someone I trust, someone that I share things with and who I know will always be there. He always tells me how I am the biggest gift he has. It makes me feel so special. We are going to have a child and this special bond we have will get even stronger. We are going to be parents together and I want him to come home.<sup>19</sup>*

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<sup>19</sup> Statement of Safia Benaouda to Cageprisoners and Reprieve in Stockholm, Sweden 05/04/2007

Umm Aisha, wife of Youssef El Haitali –

*I've lost the confidence to the Swedish government, it feels like they don't care about him.*<sup>20</sup>

#### Recommendations:

- The Swedish government should make full representation on behalf of those citizens and residents that remain in the prison in Addis Ababa.
- While Osman Ahmed Yassin's wife and children are not Swedish nationals, Osman is. The Swedish government should to all steps to expedite a process of citizenship for the children and mother with the aim to receive the entire family in Sweden.

#### **Kenyan Nationals**

In wide-sweeping arrests across Kenya during January, the Kenyan Anti-Terrorism Police Unit and Military arrested a number of Kenyan nationals whether they had crossed the border from Somalia or not. The wide that was cast resulted in the unlawful detentions and renditions of a number of Kenyan nationals. Although many of them were sent to Somalia, the whereabouts of nearly all are unknown.

The Kenyan government has refused to recognise that any renditions have taken place of Kenyan nationals, this is despite clear evidence of their transfer through flight manifests procured through court proceedings. Public outrage in Kenya has been unable to effect change in the governmental position despite the whereabouts of the rendered men being unknown.

Much like Pakistan, the Kenyan government has been willing to allow for its citizens to be simply rendered without any due process to the territorial jurisdiction of another state and face the very real threat of torture or risk of danger by being sent to a conflict zone.

It is the assertion of Cageprisoners that the Kenyan nationals have been taken to any one of a number military bases being used in Ethiopia by foreign forces as part of the global war on terror.

##### 1. Kenyans rendered to Ethiopia

A set of arrests of foreign nationals coming in from Somalia to Kenya escaping the conflict saw the arrest of Said Hamisi Mohammed on the 4<sup>th</sup> January 2007 in Kiunga. On 20<sup>th</sup> February, Said managed to get a call to his sister Fatima informing her that he had been moved to Ethiopia after having been rendered from Kenya to Somalia. Said was among a group of Kenyans sent on flights to Somalia around the 27<sup>th</sup> January 2007. In his telephone conversation with his sister, Said complained of the brutality of the Ethiopian troops and that they were being beaten.

Abdi Muhammed Abdillahi was arrested in Liboi and transferred to different prisons in Kenya before being rendered to Somalia. Using contacts in Mogadishu, the father of Abdi was able to ascertain that his son had been moved from Somalia to Ethiopia where he is being detained in an unknown prison.

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<sup>20</sup> Statement of Umm Aisha to Cageprisoners and Reprieve in Stockholm, Sweden 06/04/2007

Other Kenyan nationals include the three children Luqman, Asma and Sumaiya Fazul Hassan, who were all rendered to Ethiopia with their mother who is a citizen of the Comoros Islands. The mother and children are being detained in the same prison that Safia Benaouda was released from located in Addis Ababa.

## 2. Kenyans rendered to Somalia

In the arrests that took place in Kiunga on 4<sup>th</sup> January 2007, Bashir Hussein Chirag and Swaleh Ali Tunza were captured by Kenyan military. They were detained in Kenya for a period of time before they were sent to Somalia on 27<sup>th</sup> January 2007 in the rendition flights with the foreign nationals. Also among the group was Salim Awadh Salim who called Muslim Human Rights Forum on a number of occasions from Mogadishu after he had been rendered there.

Other detainees rendered to Somalia with current whereabouts unknown include: Hassan Shaban Mwazume, Saie Khamis Moha, Bashir Hussein Moha, Nasru Tuko, Hussein Ali Said, Tsuma Solomon Adam, Hajir Mohamed Mahamud, Mohamed Abushir Salim, Kasim Musa Mwarusi, Ali Musa Mwarusi, Abdallah Halifan Tondwe, Said Shifa, Salame Ngama, Ibrahim Odhiambo Wajal, Aden Sheikh Abdullah, Yusuf Ali Haitagi.

## 3. Mohamed Abdul Malik Abdul Jabbar

Having been living in Mombasa for four years, upon this arrival from Somalia, Mohammed Abdul Malik was arrested and taken to Rongai police station. Muslim Human Rights Forum to gain a visit to him before orders came to have all contact stopped after he was moved to Hardy police station. On 27<sup>th</sup> February 2007 Abdul Malik was moved to another location.

On 26<sup>th</sup> March 2007 the Associated Press released an article stating that Abdul Malik had been moved Guantánamo Bay. Bryan Whitman, spokesman for the Pentagon, explained that Abdul Malik was a significant threat and thus the decision was made to move him to the base.

Abdul Malik was moved from Kenyan custody to US without any formal process of extradition and has been effectively rendered to Guantánamo Bay along with all the other detainees to have been moved to the base without any due process.

### Statements of Kenyan Families:

Bidi Bwadaheri, mother of Said Hamisi Mohammed –

*The Kenyan government has never told us anything about his arrest – they didn't tell us that he was being held in Kenya, nor that he was sent to Somalia, nor that he was sent to Ethiopia...I feel bad that I cannot see my son – I feel really bad. I wish that if my son has done something wrong, that he should be returned home and charged.<sup>21</sup>*

Millie Mithounie, detained in Kenya and friend of Kamilya Tuweil –

*It is not difficult to get this information out to people – I have it all. If they kill me for speaking the truth then they can kill me – I am not going to compromise. How can I stay silent when my sister is suffering in Somalia? I*

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<sup>21</sup> Statement of Bidi Bwadaheri to Cageprisoners and Reprieve in Mombasa, Kenya 02/03/2007

*want Kamilya back to Dubai so that she can return to her children who are waiting there for her...I really want the world to know the truth of what happened because we are not terrorists. We were only honest – this is because we did not give the \$5000.<sup>22</sup>*

Musa Said Mwarusi, father of the Mwarusi brothers –

*I have heard nothing from the government at all. I cannot say anything about the government because they haven't told me anything – so how can I possibly react to them when they deny knowing anything.<sup>23</sup>*

Recommendations:

- The Kenyan government must make a full, frank and public disclosure regarding the identities and location of all foreign and Kenyan prisoners in its custody or transferred to Somalia, Ethiopia or elsewhere, held or transferred in relation to recent hostilities in the Horn of Africa.
- The Kenyan government should join international condemnation of conditions at Guantánamo Bay and demand the return of their citizen to be tried under its legal citizen and put through a process of extradition if any third party State has a legitimate claim over any of Kenya's citizens.

## **Comorian Nationals**

Halima Badrudine, a citizen of the Union of the Comoros, and her three young children Luqman, Asma and Sumayyah were arrested in the village of Kiunga in Kenya with others on 7<sup>th</sup> January 2007. Halima is the wife of Fazul Abdullah Mohammed, a Comorian and Kenyan national, whom the US have suspected of being behind the 1998 bombings of US Embassies in Nairobi, Dar-as-Salaam and the 2002 bombing of the Paradise Hotel in Kikambala.

Detention in Kenya:

Having left Somalia after the start of the war with Ethiopia, the mother and children tried to flee into Kenya only to be arrested and placed in the Internal Container Depot (ICD) where they were held for three weeks. According to released detainee Halima Hashim who was with the mother and children in the ICD, the Kenyan police had threatened them saying, *"If you do not tell us the truth, we will strangle you."*<sup>24</sup> After their time in the ICD, Halima Badrudine and her children were moved out of the prison only to be told later that they had been put on a rendition flight to Somalia. The rendition was confirmed by Salmin Mohammed Khamis<sup>25</sup> who witnessed they had been taken from the prison on the 27<sup>th</sup> January 2007, corroborated by the flight logs produced by the Kenyan NGO, Muslim Human Rights Forum.

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<sup>22</sup> Statement of Millie Mithounie Gako to Cageprisoners and Reprieve in Mombasa, Kenya 02/03/2007

<sup>23</sup> Statement of Musa Said Mwarusi to Cageprisoners and Reprieve in Mombasa, Kenya 02/03/2007

<sup>24</sup> Statement of Halima Hashim to Cageprisoners and Reprieve in Nairobi, Kenya 01/03/2007

<sup>25</sup> Statement of Salmin Mohammed Khamis to Cageprisoners and Reprieve in Nairobi, Kenya 02/03/2007



### Detention in Somalia and Ethiopia:

The African Express Airways flight that landed in Mogadishu on 27<sup>th</sup> January 2007 carried 35 people including 10 women and 11 children, amongst whom were Halima Badrudine and her children. According to Safia Benaouda, Halima was taken for questioning many times during their brief detention in Somalia.

Once they had been taken to Ethiopia, the process of interrogations continued with both Kamilya and Safia noticing the number of times that Halima Badrudine was taken for interrogations. Safia particularly commented,

*Halima was being interrogated a lot in Ethiopia. Psychologically she was messed up. Her kids were afraid whenever she got interrogated as they would be taken with her, and when they came back they would be afraid to talk to us.<sup>26</sup>*

The abuse did not take place only during the interrogations, Safia also witnessed to the fact that, *"They had hit her and screamed at her in the first weeks in front of her children... She looked just like the men. Depressed, stressed, going out of her mind."<sup>27</sup>*

### Recommendations:

- The Union of the Comoros must immediately take action to make representations on behalf of Halima Badrudine and demand that she be granted access to fair trials with full access to legal representation.
- The Union of the Comoros must also make arrangements for the children to be placed with family members of Halima until a time that she is released.

## **Canadian National**

Bashir Makhtal is a 36-year old Canadian citizen. Bashir is being held incommunicado in the Federal Police Investigation Centre in Addis Ababa, Ethiopia. Originally from Ethiopia, Bashir sought refuge in Canada which was granted in 1991. In 2001 he set up a business in Kenya buying and selling clothing, and was in Somalia on business when the Ethiopians and Americans attacked at the end of 2006. Bashir fled to the Kenyan border where he was arrested with 29 others and brought to a detention facility in Nairobi, where he says he was interrogated by Ethiopian Army Officials. Despite two legal petitions filed challenging his detention and seeking the prevention of his deportation to any country other than Canada, on 20<sup>th</sup> January 2007 Bashir Makhtal was rendered to Somalia and then onto Ethiopia, the country he had fled all those years ago.

### Detention in Kenya:

Having been detained with 29 others on the Somali-Kenyan border, Bashir was taken to Gigri police station in Nairobi. On 15<sup>th</sup> January 2007 he was visited by a Canadian consular official, Kym Henkee-Poole who had managed to convey his situation to his family. The Canadian official told the family that Bashir had been interrogated by the Ethiopian army even while he was in Kenyan custody.

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<sup>26</sup> Statement of Safia Benaouda to Cageprisoners and Reprieve in Stockholm, Sweden 05/04/2007

<sup>27</sup> Statement of Safia Benaouda to Cageprisoners and Reprieve in Stockholm, Sweden 05/04/2007

It was on 17<sup>th</sup> January 2007 that Bashir's Kenyan lawyer filed a petition of habeas corpus seeking his charge or release with a further petition on the 18<sup>th</sup> to ensure that he not be sent to any other country other than Canada. Despite the legal challenges that were placed, on 20<sup>th</sup> January 2007 he got a call to his lawyer telling him that he was being taken to an unknown destination and was being forced onto an African Express Airway plane by an armed guard. Flight manifests show that Bashir was put on a plane destined for Somalia. Later he was transferred from there to Ethiopia where he remains today.

#### Recommendations:

- The Canadian government must make full diplomatic representations on behalf of Bashir to request that he be charged or released.
- If Bashir is suspected of being an unlawful combatant, then he must be given full access to an Article 75 Tribunal as required under the Geneva Conventions with all the elements of open and fair trials.

### **American National**

Amir Mohammed Meshal is a 24 year old American citizen being held in secret detention in Ethiopia. According to press reports, on April 13 2007 Amir Mohammed Meshal was slated to be released but his return to the United States was indefinitely delayed because his name had been placed on a Department of Home and Security "no-fly list" by the F.B.I. Over two weeks later, Amir Mohammed Meshal remains imprisoned in Ethiopia and no commitment has been given to remove his name from the list and bring him home to his family.

#### Detention in Kenya:

On 20<sup>th</sup> January 2007, Amir Mohamed Meshal was detained on the Somali-Kenyan border and then taken into Kenyan custody. While in Nairobi, Amir was questioned several times by the FBI according to witness statements to Cageprisoners and Reprieve.<sup>28</sup> On 6<sup>th</sup> February 2007, Amir's father was paid a visit at his home in New Jersey by the FBI who informed him that his son was being held in Kenyan custody. That same evening the US State Department confirmed his incarceration and stated that they were looking to secure his return to the US.

On 10<sup>th</sup> February 2007, Amir was put on a rendition flight from Kenya to Somalia and subsequently sent to Ethiopia after a matter of days. After a long period of detention in an Ethiopian prison, the Washington Post and New York Times revealed that Amir was slated for release in the second week of April however his return was stopped due to his name appearing on a Department of Home and Security "no-fly list". Amir Mohammed Meshal remains in the Ethiopian prison with no access to lawyers or courts to secure his release and is constantly under the risk of torture.

#### Recommendations:

- The US government must demand the release of Amir who has been cleared of any wrong doing and is being held without being charged with any crime.

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<sup>28</sup> Statement of Mohammed Ezzouek to Cageprisoners and Reprieve in London, UK 14/02/2007

- The US Department of Home and Security should immediately remove Amir Mohammed Meshal's name from the "no-fly list" and facilitate his return to the US. Without the removal of his name, no carrier will allow for Amir's return home.

### **Rwandan Citizen**

Ibrahim Clement Muhubitabo is a 37 year old Rwandan national who had been living in Kenya since after the genocide. He has a wife, Fatuma and three children aged 11, one, and four months, all living in Nairobi. Ibrahim's wife Fatuma says that Ibrahim had found it difficult to get work in Kenya and in Mid-November left for the Middle East via Somalia. When the Ethiopian Army attacked Somalia in December 2006, he fled back to Kenya and was arrested on the border with a group of other people and brought to Kileleshwa police station in Nairobi. Fatuma was able to see her husband in prison several times, and on the last occasion, on 19 January 2007, she was able to bring his last-born child to see him for the first time. The following day when Fatuma came to the police station Ibrahim had disappeared. After a long wait she was finally told that he had been sent to Somalia. Since then Fatuma has not heard any news of her husband. She does not know how she or her three young children will survive as she has no income.

### Detention in Kenya:

Ibrahim Clement Muhubitabo was arrested in late December or early January on the Somali-Kenyan border. He was brought to Kileleshwa police station in Nairobi where he was detained without charge. In January 2007 his wife was able to visit him on a number of occasions, however on 20<sup>th</sup> January when she went to see him he had disappeared. She eventually was informed that he was placed on a rendition flight to Somalia which was later revealed to be an African Express Airways flight. He was subsequently rendered to Somalia from Ethiopia where he is now being held incommunicado and is under serious risk of torture.

### Recommendations:

- The Ethiopian authorities must either charge or release Ibrahim immediately.
- If the Ethiopians plan on charging him as an unlawful combatant, then they must apply the Geneva Conventions and grant him the right of an Article 75 tribunal allowing him full access to a fair and open trial to determine his status as a combatant.
- If released, the Kenyan government has a moral obligation to make representations on behalf of Ibrahim Clement Muhubitabo to have him returned to Kenya, his country of first asylum from the genocide in Rwanda.

## ACKNOWLEDGMENTS

<b>Author</b>	Asim Qureshi	Cageprisoners
<b>Research</b>	Maryam Hassan	Cageprisoners
<b>Thank You</b>	Clara Gutteridge	Researcher, Reprieve
	Safia Benaouda	Victim of rendition to Ethiopia
	Helena Benaouda	Mother of Safia Benaouda
	Kamilya Tuweil	Victim of rendition to Ethiopia
	Mohammed Ezzouek	Victim of rendition to Somalia