

# KENYA/ETHIOPIA/SOMALIA

## Horn of Africa: unlawful transfers in the 'war on terror'

***"I was never told why I was held, we never got to know what was going to happen to us, it was an eternal waiting."***

A woman held incommunicado in Kenya and Ethiopia for more than three months

At least 85 men, women and children were unlawfully transferred from Kenya to Somalia and then onward to Ethiopia in January and February 2007. Arrested while trying to escape from war-torn Somalia, they became victims of rendition – transferred in secret from one country to another outside any legal process. Amnesty International believes that most are still arbitrarily detained in Ethiopia.

At least 140 people were arrested by Kenyan authorities between 30 December 2006 and February 2007 as they tried to enter Kenya from Somalia. They were held without charge in several police stations in Nairobi and in Jomo Kenyatta International Airport. They were allowed no contact with their relatives. If they wanted to claim asylum they could not, as they were denied access to UNHCR or any asylum procedure.

After weeks in Kenyan custody, 85 detainees were unlawfully transferred – without recourse to any legal process – to Somalia and then on to Ethiopia. The Ethiopian authorities have acknowledged detaining only 41 people, leaving the whereabouts of 40 others who were unlawfully transferred unclear. In addition, 27 detainees do not appear on any of the passenger lists of unscheduled flights from Nairobi to Mogadishu and Baidoa in Somalia; their whereabouts since their arrest in Kenya also remain unknown.

Amnesty International is concerned that some or all may be detained secretly in Ethiopia.

### Detentions in Kenya

In Nairobi, most detainees were denied access to relatives and to lawyers. Several were questioned – their interrogators included US agents. Only one detainee was charged.

Some detainees were allegedly beaten by the Kenyan police and were made to undress before being photographed. Women, some of them pregnant, reported being held in the same cell as men. All were made to sleep on a cement floor, with no mattress or covering.

Many detainees were in poor health when they reached the Kenyan border after enduring a difficult journey, but they were not given access to adequate medical care in custody.

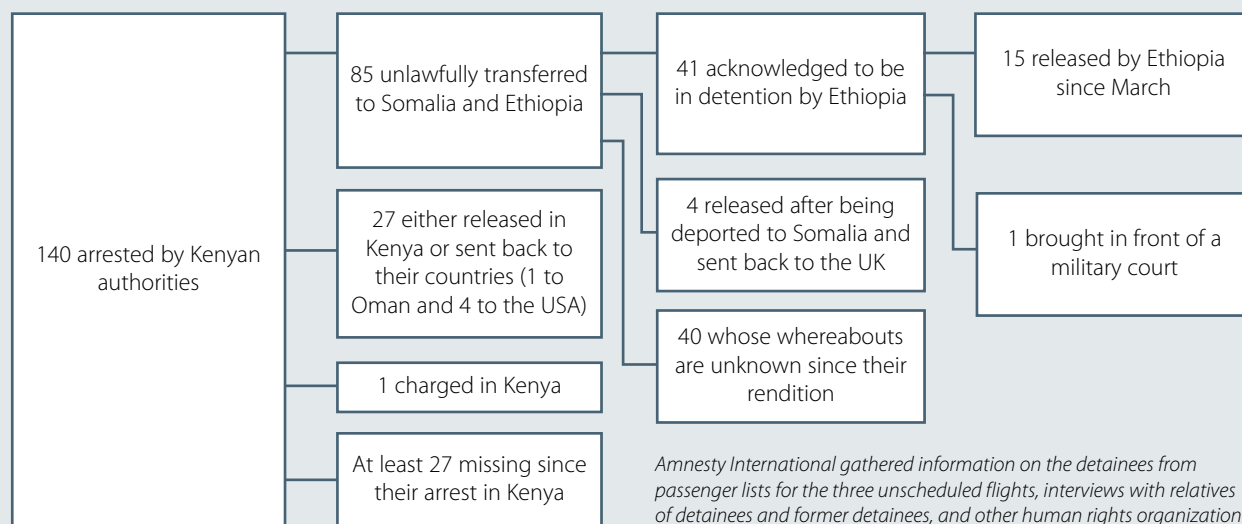
#### Who was arrested?

The 140 people arrested included nationals of at least 17 countries: Canada, Eritrea, Ethiopia, Kenya, Oman, Rwanda, Saudi Arabia, Somalia, Sudan, Syria, Sweden, Tanzania, Tunisia, United Arab Emirates, USA, UK and Yemen

Some were residents of foreign countries, including two Somali women resident in the UK, both about six months pregnant at the time of their arrest, and a Tunisian national resident in France.



## What has happened to the people arrested trying to enter Kenya?



## Transfers and detention in Ethiopia

A total of 85 detainees were unlawfully transferred to Somalia on three chartered flights, on 20 and 27 January and 10 February. They were held for some days in Mogadishu and Baidoa, then sent to Ethiopia outside of any legal process.

Amnesty International believes the detainees are being held in the police's Central Investigation Bureau in Addis Ababa, also known as Maikelawi, and possibly in the airforce base in Debre Zeit, south-east of Addis Ababa and the military base at Jijiga, near the border with Somalia.

Some detainees were paraded on Ethiopian television in April, apparently to show that they had not been ill-treated. Two Eritrean detainees were also shown on television and accused of being Eritrean soldiers.

After publicity about their cases, the detainees were allowed access to their embassies (although some refused this because of their opposition to their government).

In response to an Urgent Action appeal by Amnesty International, the Ethiopian authorities said that 29 detainees would be freed and the remainder brought to court. They did not state what the charges would be or where the detainees were

being held. In March the Ethiopian authorities acknowledged detaining 41 people, and in April and May, 15 of the 41 detainees were released. Only one of those detained is known to have been brought to court – he faced a military tribunal.

While in custody in Ethiopia, the detainees were questioned by US agents. Most had their fingerprints and photographs taken. Former detainees have alleged that several were tortured or otherwise ill-treated in detention. Those still held have no access to a lawyer or to their families.

## Releases

Of the 140 people arrested, 27 were freed in Kenya or sent back from Kenya to their countries. Four British nationals were sent back to the UK from Baidoa, Somalia on 13 February, and were soon released without charge by the UK authorities. In April and May, 15 detainees, mostly women, were released in Ethiopia.

## Caught up in the conflict

In December 2006, conflict broke out in Somalia between the militias of the Council of Somali Islamic Courts (COSIC) and Ethiopian troops supporting the Transitional Federal Government (TFG) of Somalia. After several days of fighting in Mogadishu, which COSIC had taken over



from an alliance of warlords in June 2006, the COSIC militias were defeated.

In January 2007, Ethiopian troops and the TFG entered Mogadishu and US and Ethiopian forces carried out several air strikes in south-western Somalia. Ethiopian forces continued their ground operations in the region well into March 2007, with the stated purpose of "rooting out" any remnants of COSIC and possible al-Qa'ida fighters.

Fighting has continued, with Ethiopian troops opposing both COSIC and clan-based armed groups. Hundreds of civilians have been killed and about 340,000 people have fled from Mogadishu.

On 3 January 2007, the Kenyan government closed the border with Somalia, citing "security concerns". It deployed troops and a counter-terrorism unit to reinforce the regular border police and stop anyone crossing the border.

## Women behind bars

Halima Badrudine Hussein and Sophia Abdi Nasir were among at least 13 women unlawfully transferred to Ethiopia. Many had their children with them and some were pregnant. Two reportedly gave birth in custody in Ethiopia.

Many of these women were held solely because they are family members of suspected members of al-Qa'ida or of the Council of Somali Islamic Courts (COSIC).

For example, Halima Badrudine Hussein is the wife of Fazul Abdallah, who is wanted by the USA in connection with the 1998 US embassy bombings in Nairobi and Dar-es-Salaam. She was arrested with her three small children on 7 January and has been held since, although she is apparently not herself suspected of involvement in the bombings.

The arrest and detention of family members as hostages or as proxies for suspects violates the right to liberty and security of the person and the right not to be subjected to arbitrary arrest or detention.

## Bashir Ahmed Maktal

Bashir Ahmed Maktal was born in the Ogaden area of Ethiopia in 1969. He emigrated to Canada in 1991, where he worked as a computer programmer. He became a Canadian national in 1993 and lived in Toronto until 2004, when he moved to Kenya.

Bashir was arrested at Liboi, on the Kenya/Somalia border on 30 December, as he tried to re-enter Kenya. He was detained in Nairobi, and although a lawyer saw him a few times in detention, he was unlawfully transferred to Somalia on 20 January 2007 without any prior notice.

He was subsequently transferred from Somalia to Ethiopia and is held at the Central Investigation Bureau in Addis Ababa, without access to his relatives or to the Ethiopian lawyer his family have hired.



IN

Bashir has reportedly recently come under pressure from the Ethiopian authorities to "confess" on television to involvement with the Ogaden National Liberation Front (ONLF), an armed group fighting for self-determination of the Ogaden area. The Ethiopian authorities have recently admitted that they are holding him, but have stated that he would be given consular access only after his links with the ONLF have been investigated.

## Amir Mohammed Meshal

A 24-year-old US citizen of Egyptian origin, Amir Meshal had been working in Egypt for a year before travelling to Dubai and Somalia in 2006. He was arrested as he sought to cross the Kenya/Somalia border around 24 January 2007 and was detained incommunicado in Nairobi until 10 February. While in Kenya, he was questioned by US agents, who reportedly stated that they did not suspect him of criminal activities.



IN

Amir was unlawfully transferred to Somalia on 10 February 2007 and then to Ethiopia. According to his lawyer, Amir was brought before a military tribunal on 13 April 2007, but was not charged or given access to a lawyer. His family in the USA, who had pressed for his release, was told on 19 April by their Congressman that his return was "imminent".

Amir however remains in incommunicado detention to this day.

## Recommendations:

Amnesty International calls on the **Ethiopian** authorities to:

- ▶ immediately disclose the whereabouts of all detainees;
- ▶ ensure that all detainees are brought before a judicial authority without delay;
- ▶ ensure that all detainees are either promptly charged with a recognizably criminal offence and tried before an ordinary court or else released;
- ▶ end incommunicado detention – allow all detainees immediate and regular access to lawyers, relatives and medical treatment;
- ▶ investigate all reports of torture or other ill-treatment and bring the perpetrators to justice.

Amnesty International calls on the **Kenyan** authorities to:

- ▶ immediately disclose the whereabouts and fate of those who have disappeared after being detained by Kenyan authorities;
- ▶ ensure that all detainees are either promptly charged with a recognizably criminal offence and tried before an ordinary court or else released;
- ▶ not transfer anyone to the custody of another state, or facilitate such transfers, unless the transfer is carried out

under judicial supervision and in line with international standards;

- ▶ not transfer people to states where they could face torture, ill-treatment or other grave human rights violations;
- ▶ ensure that anyone subject to transfer to another state has the right to challenge its legality before an independent tribunal, and to have access to an independent lawyer and a right of appeal;
- ▶ conduct an independent and impartial investigation into the transfers of these detainees and make public its findings;
- ▶ end the practice of incommunicado detention.

Amnesty International calls on the **Somali** authorities to:

- ▶ immediately disclose the whereabouts of any detainees transferred to Somalia from Kenya and still held by the Transitional Federal Government;
- ▶ not transfer anyone to the custody of another state, or facilitate such transfers, unless the transfer is carried out under judicial supervision and in line with international standards;
- ▶ not return or transfer people to states where they could face torture, ill-treatment or other grave human rights violations.

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