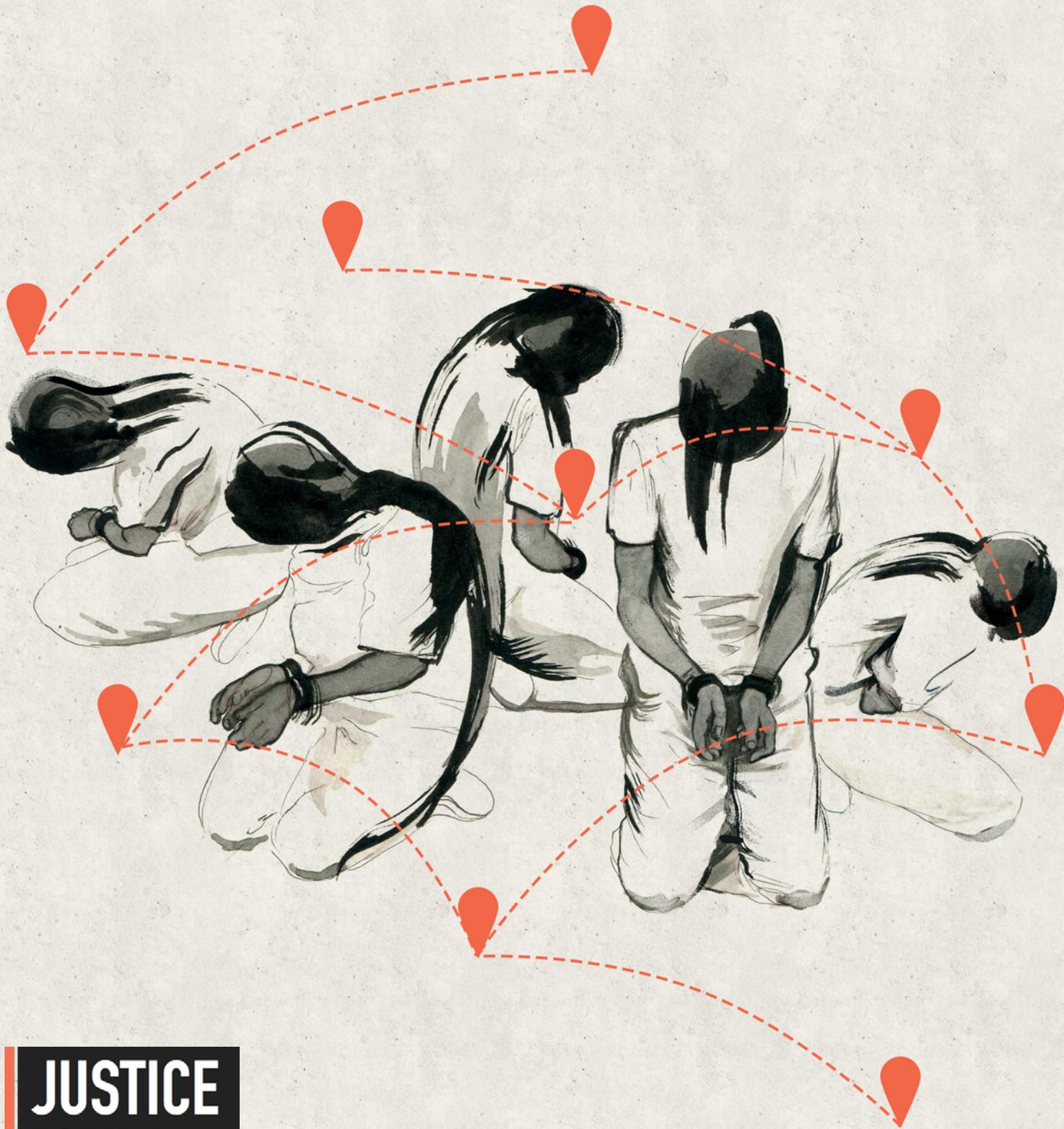


EAST AFRICA RENDITIONS

REPORT TO ACCOMPANY DATA MAP



**JUSTICE
FORUM**



DATA MAP

Our new “Data Map” presents a living archive of hundreds of renditions involving the East and Horn of Africa and Indian Ocean, carried out by the US and partner states in the region over the past twenty years, in the name of counterterrorism.

The Data Map can be accessed through our website at www.justiceforum.org. This report summarises key information in the Data Map.

STATS

The map charts 165 cases of rendition between the mid-1990s and the present. These cases involve 491 individual transfers (many prisoners were transferred multiple times), across 56 different detention sites.

In total 22 states are implicated in these cases. East African states involved in these renditions include: Kenya, Uganda, Ethiopia, Tanzania, Somalia and Djibouti.

Other states involved in these renditions include: South Africa, Malawi, United States and United Kingdom.

METHOD

The Data Map was developed by Justice Forum and incorporates research by us as well as partner organisations. Our research has involved field trips to Kenya, Djibouti, Somalia, Tanzania, and the United States. We have interviewed victims of rendition, and reviewed hundreds of flight logs, interviews, legal documents, and unclassified government documents. As well as primary source material, we have also included cases cited in credible secondary source documentation from publications by regional and international human rights organisations, and media articles. We would particularly like to recognise the work of Reprieve, The Muslim Human Rights Forum, Cage, HAKI Africa, and the Open Society Justice Initiative.

BACKGROUND

Over the past twenty years, at least 165 individuals have been transferred, with no judicial oversight, throughout East Africa and to locations such as the United States mainland, Afghanistan and Guantanamo Bay.

The Data Map charts a series of phases of counterterrorism rendition operations involving the East and Horn of Africa. It shows how US-led renditions in the region started in the mid-1990s with the renditions of Embassy Bombings suspects, and have continued in a variety of forms through to the present day.

PRE-9/11 RENDITIONS

US-led counterterrorism renditions began in the mid-1990s under President Clinton. During the second half of August 1998, two suspects later convicted of offences related to the Embassy Bombings, **Sadek Odeh** and **Mohammed al-Owahili**, were held in extra-judicial FBI custody in Kenya, and transferred with no extradition or other judicial process from Kenya to the US mainland for prosecution.

Former US Ambassador to Kenya Johnnie Carson has commented:

Because of the close co-operation between US and Kenyan authorities, the Kenyan government did not seek to detain [Embassy Bombings suspects] Sadek Odeh and al-Owahili or put them on trial in Kenya. Acting with virtually no legal precedent or formalities, Kenyan officials waived all local legal and extradition procedures and released the suspects directly into US custody. Fearful that Kenya might be subject to future terrorist reprisals, Kenyan officials agreed to turn the suspected terrorists over to American authorities to prevent Kenya from becoming involved in what would be a long, complex and sensitive judicial procedure".¹

The seeds of a now normalized practice of rendering terror suspects in and around East Africa were therefore sown at this time, under US pressure on Kenyan authorities to turn over Embassy Bombing suspects to them, with no extradition procedures or any other form of judicial oversight, in contravention of Kenyan and international law.

¹ Johnnie Carson, Kenya: *The Struggle Against Terrorism*, (found in Robert L. Rotberg, *Battling Terrorism in the Horn of Africa*, World Peace Foundation (2005), p181.

CIA RENDITION

From late 2001 until late 2006, the CIA operated a “rendition, detention and interrogation” (RDI) programme for terror suspects involving secret transfers, extra-judicial detention in CIA-run “black sites” in numerous countries, and deliberate application of coercive treatment and torture. This programme as it manifested in the East and Horn of Africa included collaborating with Somali warlords to capture people who were then rendered to Djibouti, Afghanistan and other locations. Cases featuring in the Data Map from this era include **Suleiman Abdallah Salim, Gouled Hassan Dourad, Mohamed al-Asad, and Mohamed Ali Isse.**

Despite the December 2014 release of the [US Senate Intelligence Committee Report On CIA Detention](#) (a heavily redacted summary of a much longer – and still secret – report), East African states’ roles in these programmes have not yet been fully revealed or publicly understood. In general, the roles of partner states in the CIA programme are not fully explored in the Senate Committee Report. For example, our research suggests that Djibouti was almost certainly used as a rendition hub and temporary detention location for individuals who were to be taken out of the region for detention by the CIA. Whilst Djibouti does feature in the report as a location for the capture of some prisoners, its full role has not yet been revealed.

CASE STUDY – SULEIMAN ABDALLAH

Suleiman Abdallah is a 40 year-old Tanzanian man who was abducted by Somali warlords in 2003 and sold to the CIA as a “terror suspect”. Suleiman was rendered to Kenya, Djibouti and finally Afghanistan where he spent over five years in secret US prisons before being released without charge or trial, and returned to his home in the Indian Ocean island of Zanzibar. In the years since his release, Suleiman has worked hard to rebuild his life.



In December 2015, Suleiman and a group of other plaintiffs lodged a case in the US against two psychologists who they allege were architects of the CIA’s “enhanced interrogation” torture programme. The plaintiffs founded their case substantially on an unclassified summary of a report by the Senate Intelligence Committee on CIA Detention (“the Report”), released in December 2014. The Report stated that:

*CIA personnel, aided by two outside contractors, decided to initiate a program of indefinite secret detention and the use of **brutal interrogation techniques** in violation of U.S. law, treaty obligations and our values.*

In April 2016, a federal judge ruled that the case could go ahead. This is the first time since 9/11 that a case on behalf of US torture victims has been allowed to move forward.²

² Salim et al v Mitchell et al, *In the United States District Court for the Eastern District of Washington* (Civil Action No. 2:15-CV-00286).

US MILITARY RENDITIONS

As well as the CIA, the US Department of Defence has also conducted unlawful interstate transfers of hundreds of individuals since late 2001. Djibouti, which hosts a US AFRICOM base at Camp Lemonier, has also played a significant role in US Military operations involving terror suspects. **Abdulmalik Mohamed's** is an example of a US military rendition involving Camp Lemonier in Djibouti.

CASE STUDY – ABDULMALIK MOHAMED

Abdulmalik Mohamed is a Kenyan national, a Luo, originally from Kisumu in western Kenya. Abdulmalik was captured by Kenyan Anti-Terrorism Police



in Mombasa in March 2007. In unclassified statements, Abdulmalik has described being held incommunicado and abused by Kenyan police for several weeks in Mombasa and Nairobi, before being handed to US personnel at an airport.

Abdulmalik was then taken to Guantanamo Bay, via secret detention in Djibouti and Afghanistan. Abdulmalik remains detained at Guantanamo

Bay, held without charge. The US has no plans to prosecute Abdulmalik, so he remains held in a legal limbo.

Abdulmalik currently has a constitutional case pending in the Kenyan courts, asserting that his capture, detention and rendition to US custody with no judicial oversight by Kenyan police officers was a violation of his constitutional rights.

DECENTRALISED, OUTSOURCED RENDITIONS

Since at least 2007, in line with wider US policy, US-led renditions and detentions involving East Africa have followed a pattern of decentralisation and outsourcing, with regional states increasingly conducting operations in partnership or with close involvement of foreign states, in particular the US and to some extent the UK. In 2007, Kenya was implicated in a mass rendition operation: *the 2007 Border Operation*.

CASE STUDY – THE 2007 BORDER OPERATION

The Border Operation is the name given to a set of mass detentions and renditions occurred in the weeks following the US/Ethiopian invasion of Mogadishu in late 2006. As war broke out, in January and February 2007, hundreds of Somalis and foreigners who had been living in Somalia during the reign of the Union of Islamic Courts fled towards the Kenya/Somali border. At the border, Ethiopian and Somali ground troops with American air support funneled those fleeing towards a small segment of the border, where most of them were then captured.



Hundreds, possibly thousands of Somalis were reportedly turned back into the warzone. Ethiopian and Kenyan military personnel detained over 100 foreigners in a series of locations in Kenya and along the Somali border area. Many were then rendered back into the Somali warzone and on to secret detention in Ethiopia. A series of habeas petitions by the

Muslim Human Rights Forum in Kenya succeeded in obtaining flight logs of over 60 prisoners rendered from Kenya to Somalia in January and February 2007.

In 2013, in a judgement from the Kenya High Court, eight Kenyan Rendition victims were awarded damages from the Kenyan Government.³

³ See Petition No. 822 of 2008, *in the High Court of Kenya at Nairobi, Constitutional and Judicial Review Division*, <http://kenyalaw.org/caselaw/cases/view/89752/>

RENDITIONS UNDER OBAMA

Under President Obama, a return to something like the pre-9/11, so-called “renditions to justice” in the US has been bolted on to new, diffused models of detention to create a new form of rendition and detention practice. Cases in this category include **Mahdi Hashi** and **Mohamed Warsame**.

We do not have a detention facility in the Africa Command area of responsibility. There have been some instances where such individuals (i.e. terrorist suspects) have been held aboard a US ship awaiting final determination as to where that individual would then be transferred. Again, each case is a little bit different depending on the nationality of the individuals involved, but that is probably in the near term about the best solution we have at present is aboard a U.S. ship until such time as a longer term detention decision is made.⁴

CASE STUDY – MAHDI HASHI

Mahdi Hashi was born in Somalia in August 1999. He came to the UK with his family in 1995 and was granted British citizenship in 2004. Around 2009 or 2010, Hashi travelled to Somalia where he married and settled.



In mid-2012, Hashi’s family in the UK received a letter from the UK Home Office saying that Hashi’s British citizenship had been revoked for reasons related to national security. In mid-2012, the family heard via a former prisoner that Hashi was being held in Djibouti. Around October 2012, Hashi was secretly issued with an indictment by federal court in New York. On 14 November 2012, Mahdi Hashi was transferred with no judicial oversight from Djibouti to the US. On 29 January

2016, Hashi pleaded guilty to several terrorism charges and was sentenced to 7 years in prison. Mahdi Hashi remains detained under “special administrative measures” in the US. The appeal against the deprivation of his British citizenship is due to be heard in October 2016 in the Court of Appeal of England & Wales.

⁴ General Carter Ham, Senate Committee on Armed Services, *Hearing to Receive Testimony on U.S. European Command and U.S. Africa Command in Review Of The Defense Authorisation Request For Fiscal Year 2013 And The Future Years Defense Program*, 1 March 2012.

RENDITIONS OUT OF CONTROL

And as the War on Terror proceeds through its second decade, its motifs of violent exclusion and exceptionalism to international law have found a natural home in the East African political environment, intermixing with and catalysing a situation whereby systemic violations are now routinely being carried out by regional states against “othered” ethnic, religious and political groups, in the name of counterterrorism and national security.

As counterterrorism concerns in Kenya have increased in the years since 2007, so too has systemic discrimination by the government against Somali refugees and asylum seekers. On 2 April 2014, the Kenyan government launched what it called “Operation Rudisha Usalama” (Restore Peace), a large-scale counterterrorism operation which involved the apprehension of more than 4,000 people, mainly from the Somali community, in the first few weeks of April alone. Security forces turned on Somali refugees in Nairobi, announcing that for reasons of “national security”, all urban refugees were to be relocated to camps unless they agreed to a “voluntary” return.

On 9 April 2014, in the first of many mass transfers, the Somali embassy in Nairobi confirmed that Kenya had deported 82 Somalis to Mogadishu. Justice Forum has been tracking the fate of Somali refugees and asylum seekers who were returned to Somalia. These transfers are not included in our East African Renditions Data Map - we will be publishing the results of this new research soon.

Thank-you for reading this far. We hope our East African Renditions Data Map will aid public understanding and serve as a living, public record of rendition operations as they continue to develop in this region.

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