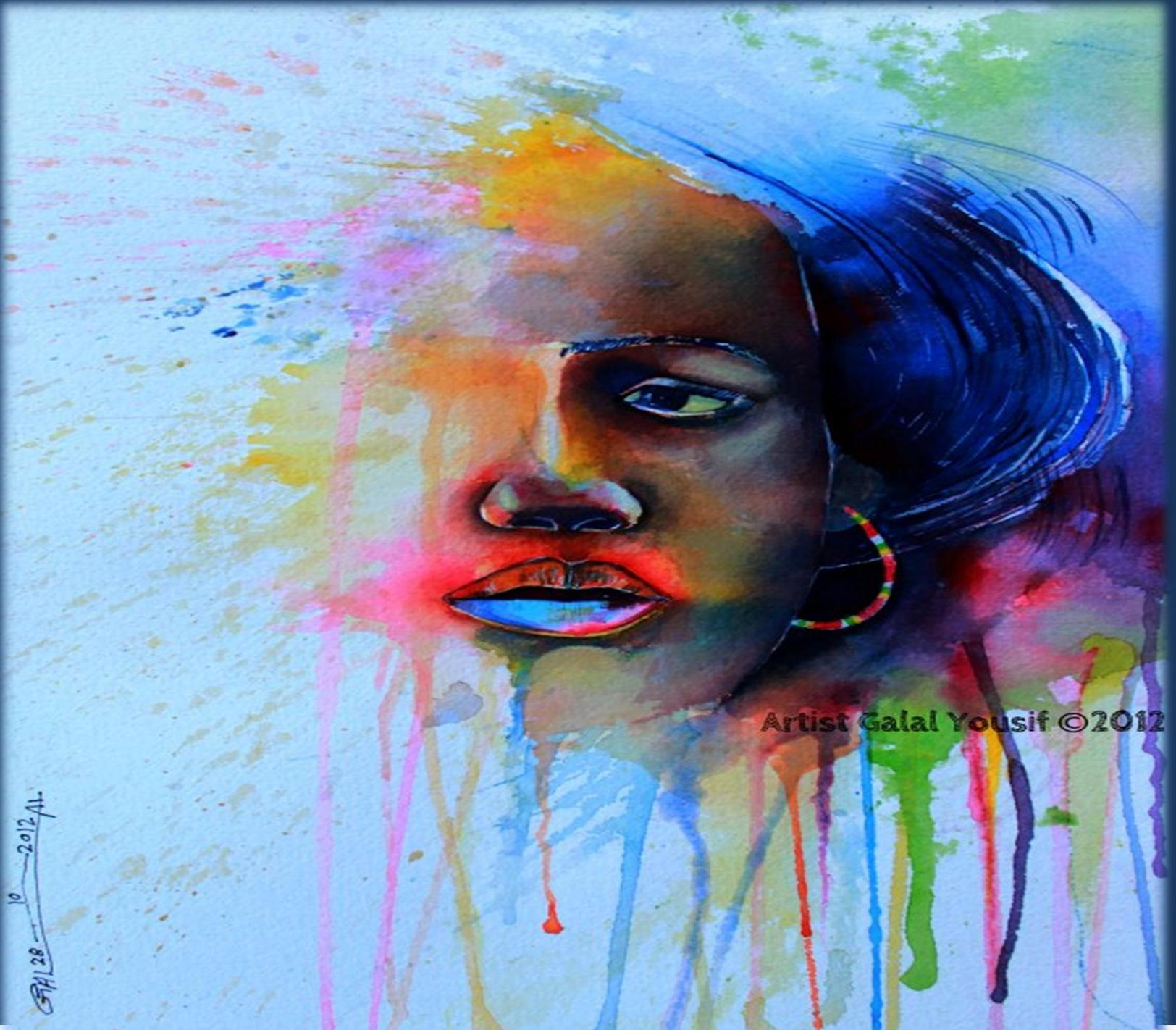




**Strategic Initiative for
Women in the Horn of Africa**

SIHA

Human Rights Conditions of Female Detainees and Prisoners in Sudan



Several human rights groups have highlighted their concerns of ill treatment, torture and incommunicado detention in Sudan. Detainees and prisoners are at high-risk of torture and ill-treatment by authorities, prison guards, police and military. Although the human rights of detainees of both genders are being violated, this brief is specifically aimed at raising awareness around the dire situation of women detainees and prisoners in Sudan. It will inform and influence the public discourse and policy reform on the Public Order Laws (POL), as well as provide recommendations to contribute to the improvement of the legal protection and physical/psychological well being of women detained/imprisoned under the Public Order Regime (POR) and Women Human Rights Defenders (WHRDs).

An investigation carried out by SIHA Network, in Omdurman Prison-Dar Al-Teebat, documented the severe conditions women detainees and prisons are subjected to. The main findings are outlined below:

- **Biased enforcement:** Women, particularly those from poor and marginalized communities, are disproportionately targeted for arrest under the Public Order Regime (POR) and Sudan Criminal Act.
- **Rampant sexual violence:** In detention centers and even in prison, sexual violence perpetrated by police, soldiers, and others in authority is rampant and is met with impunity.
- **Differential treatment:** Human rights violations are normalized within detention centers and prisons in Khartoum and severity of abuse appears to be rooted in racial, social, and economic status.
- **Targeting invisible labor:** Women who work in the informal sector tend to be targeted for arrest under the POR.
- **Economic exploitation and corruption:** Fines and bribes levied by POR police and judges constitute a significant source of income and enable the POR to control and oppress poor people.



The Public Order Regime has a devastating effect on women generally and women from low-income communities in particular. Detention can be avoided when bribing authorities and/or police. However, this option is not available for large proportions of women across Sudan. Those that are marginalized and economically disadvantaged are at an increased risk to be insulted physically and verbally, because of the inability to financially bribe the police. The majority of the prisoners are charged under the POL, and alcohol sellers represent the majority of prisoners/detainees. As the majority of these alcohol sellers are female, human rights groups have observed that there is an increase in women being detained. Disturbingly most female detainees have experienced sexual and/or verbal insult.

Omdurman Prison is a Federal Prison where women from all over Sudan are transferred. Within greater Khartoum, around 15 detention facilities further exist, for detainees accused under the POL. After being detained, most of the women are transferred to Omdurman Prison or other prisons within Sudan, while awaiting charges. According to the 1991 Criminal Act of Sudan, any accused person can be detained for a maximum of 24 hours in jail, after which either the detention duration is renewed up to 72 hours, or the accused person gets transferred to to prison while awaiting trial. The reality is however far different, as in many instances detainees stay for as long as several months in jail.

Trial standards present flaws, as most of the time, the accused is charged at the first session without presentation of lawyers, and the witnesses presented are the police that had previously captured the accused. This presents a clear bias in favour of the state. Although the Sudanese Criminal Code Law (3) declares that the court must recruit a lawyer for the accused in cases where the punishment may reach 10 years, life imprisonment, or stoning, etc, this does not always happen, opposing international standards and the right to fair trial.

According to Mr. Subair, a human rights lawyer:

“Most women in Omdurman prison do not have lawyers representing them, stating various reasons among financial barriers and lack of awareness regarding trial standards.”

The capacity of Omdurman Prison is designed for 500 women. However, reports indicate since 2011, the number of inmates almost doubles the orginally intended capacity. Jails across Sudan are

“These two girls, as they said to me, were in jail for 25 days and never met a judge or an executor. When I asked them why, neither of them had a concrete answer regarding the cause of their wait nor did they know how much longer their stay in jail will extend. All they said was that every day the police promised them they will be allowed to meet a judge by tomorrow. During my first and last night in jail I discovered that these two girls were daily raped by police, and for that they don’t want them to go to court or prison.”

often overcrowded with up to 50 persons in one cell, whereas the average capacity is for between 5-10 persons. These conditions have severe impacts on sanitation and hygiene for the detained. Research suggests that overcrowded detention facilities have major impacts on the spread of communicable disease such as tuberculosis among others. For instance, according to *Alwan Daily Newspaper*, there are only 16 toilets for 965 women in the prison.

The biography of Dr. Amal Gabaralla, previous detainee in Omdurman prison for women in 1992, mentioned that most of the women prisoners were from Darfur, Nuba Mountains, and South Sudan, and that their main crimes were making and selling alcohol, sex work, attempt of sex work, and adultery. By 2015, 23 years later, no remarkable change occurred in the prisoners' demographic; only the fact that women from South Sudan became foreigners. News reports indicate that alcohol selling and making is the main charge of the majority of women in prison; 427 out of 965 prisoners were alcohol dealers, representing about 45% of the total number of prisoners. Moreover, between 1992 and 2015, women from South Sudan represented the majority of prisoners according to the testimony of the manager of Omdurman Prison, stating clear bias in regard to ethnicity, and citizenship.

“50% of the prisoners are foreigners, and most of them from South Sudan. These Southern women come to the prison with clear strategy to have three meals, and if they are pregnant to have medical support when they give birth.”

The use of torture across Sudan is endemic. Sudanese authorities use torture, physical abuse and other forms of ill-treatment to intimidate and silence perceived political opposition, human rights defenders, women, political and other social activists, internally displaced persons (IDPs) and students are particularly vulnerable to torture and ill-treatment. “Torture and police brutality have become one of the most effective tools used by the government to maintain the regime in the face of growing public dissent,” said rights lawyer Salih Mahmoud Osman.

Sexual violence ranging from threat of rape to actual rape by soldiers, security forces and prison wards, is endemic in Sudan's detention facilities and demonstrates the clear gender bias of the Sudanese regime towards the rights of women. Sexual harassment and other forms of sexual assault have turned into a measure of the strategic crackdown on women, whereas generally perpetrated by security forces with impunity.

“I spent one month in Jail in Khartoum Bahri Shambat, and during the day I cleaned the jail, while at the night I was raped by police.”

Additional layers of discrimination and vulnerability presented when looking at tribal affiliation, social and economic status, and type of crime the detainees are charged for or inherit. Ethnic and racial factor, largely contribute to vulnerability, with POR, specifically targeting those hailing from Nuba Mountains, Darfur or South Sudan or those who are internally displaced. Ethnicity again, plays an important role in physical and sexual patterns of abuse, as the below quotes demonstrates:

“They said ‘you are just a Nuba woman, you are worthless and we will rape you’ and they touched me all over my body,”

Articles 152-155 of 1991 Criminal Act of Sudan directly target women’s way of dressing, attitudes, behaviors, and livelihood, presenting a clear gender bias towards women as no similar laws apply to men. Women of marginalized communities, such as those working in the informal sector, IDPs, amongst others are exposed to an additional layer of vulnerability as they lack financial means to pay bribes, which increases their likelihood of ending up in detention. Women from the middle-class are therefore found to be at lesser risk of ill-treatment, as corruption in Sudan among authorities and security forces continues to be widespread. Women charged under the POL are sentenced to flogging and fines and if they failed to pay the fine, a prison sentence will be enacted. The use of corporal punishment, is incompatible with Article (5) of the African Charter on Human and People’s Rights on the Prohibition of Torture and Cruel, Inhuman and Degrading Treatment, as well as with Article (3) of the Sudanese Constitution.

The lack of awareness, evolving around ‘rights’, plays an important part, as many of the detained or imprisoned women are unaware of their own rights and regulations and laws that govern detention facilities. Widespread fear of repercussions limit those speaking out on their experiences of ill-treatment in jail/prison. Additionally, for those hailing from South Sudan, Ethiopia or Eritrea, their silence might be further complicated through uncertainty of how speaking out could affect their legal rights of being in Sudan.

Recommendations

Strategic Initiative for Women in the Horn of Africa calls upon:

The Sudanese government to:

Abolish the use of corporal punishment, inclusive of lashing, flogging and death by stoning, given their incompatibility with Article 5 of the African Charter on Human and People's Rights on the Prohibition of Torture and Cruel, Inhuman and Degrading treatment, as well as Article 3 of the Sudanese Constitution.

Reform or repeal laws that unfairly punish women and girls; these include the public morality and adultery provisions in the criminal code and local ordinances codifying public morality laws.

Ratify the Convention against Torture and other Cruel, Inhuman or Degrading and Treatment or Punishment and its Optional Protocol, which allows independent, international experts to conduct regular visits to places of detention,

Ratify the Convention on the Elimination of All Forms of Discrimination against Women without reservation, thereby accepting the internationally accepted minimum standards pertaining to women's human rights and the Protocol to the African Charter on Human and People's Rights on the Rights of Women in Africa.

Increase access to justice to ensure survivors of sexual violence have access to justice; investigate all alleged abuses including obstruction of access to justice, and hold those responsible to account as well as provide access to justice and uphold the values of Article 34 of the Sudanese Constitution which provides for fair trial and women's access to justice.

Implement public health strategies to prevent bad hygiene standards and spread of diseases. Special support must be given to those with children and pregnant women.

Civil society to:

Provide psycho-social support for the women showing symptoms of trauma and psychological stress as it is crucial for the immediate well-being of those who experience torture and ill-treatment.

Work strategically with UNHCR and other organizations to assess the eligibility for refugee status and other protection mechanisms for foreigners in prison like Southern Sudanese, Ethiopian, and Eritrean refugees.



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