

Sudanese woman risks flogging for refusing to pull up headscarf

Tuesday 1 October 2013, by [HAJ-OMAR Dalia](#) (Date first published: 17 September 2013).

As activist and engineer Amira Osman prepares to go on trial on Thursday, Dalia Haj-Omar looks at the Public Order laws punishing Sudanese people for 'indecent' clothing and behaviour.

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Sudan's Public Order Law (POL) is making headlines after female activist and engineer Amira Osman was arrested on August 27 in Jebel Awliya, a suburb of Khartoum, for refusing to pull up her head-scarf. Amira is now facing trial for "indecent conduct" under Article 152 of the Sudanese penal code, and risks being punished with flogging and/or bail. Her next trial is scheduled for September 19.

In a calculated act of defiance against one of Africa's most oppressive regimes, Ms. Osman recorded a video [1] where she described the demeaning manner in which she was treated by Public Order Police (POP) and invited Sudanese citizens (men and women) to attend her trial, saying: "if you think that the Public Order Law is against you, come to Jabel Awliya's Court...and let's put the Public Order Law on trial".

The first session of her trial was on September 1 [2]. It was attended by almost 100 regular citizens, civil society members and women's rights activists. The trial was postponed when the judge did not show up due to sickness.

Osman's trial is reminiscent of the POL case of Sudanese journalist Lubna Hussien, who captivated national and international attention in July 2009 when she and 12 other women were arrested in a restaurant in Khartoum for wearing trousers [3].

Public order laws or social control laws?

Sudan's POLs date back to 1983. They were referred to back then as the September Laws, imposed by the authoritarian regime of President Jafaar Numeiri. He introduced Sharia corporal punishments (hudood) for acts such as consuming alcohol, stealing, gambling or mixing between the sexes. These laws fueled the national discontent that led to the uprising that toppled Numeiri in April 1985.

When the current regime took power in 1989 following a military coup, it introduced an extensive array of Public Order Laws. With the intention of creating an Islamic State, the National Islamic Front (as it was called back then) initiated a detailed "Civilization Project" that reached into every aspect of Sudanese social life, and placed restrictions on long entrenched traditional norms such as

private parties with music, mixing between the sexes and the making and consumption of alcohol.

However, no other aspect of the Public Order Regime has altered the daily lives of Sudanese women like Article 152 of the Criminal Act of 1991 that says: “(1) Whoever commits, in a public place, an act, or conducts himself in an indecent manner, or a manner contrary to public morality, or wears an indecent, or immoral dress, which causes annoyance to public feelings, shall be punished, with whipping, not exceeding forty lashes, or with fine, or with both; (2) The act shall be deemed contrary to public morality, if it is so considered in the religion of the doer, or the custom of the country where the act occurs.”

Human rights lawyers have consistently pointed out that Article 152 is vague and does not define what is meant precisely by indecent clothing or indecent behaviour. It thus leaves a lot to be interpreted by POP and the judges in the Public Order Courts.

Prominent human rights lawyer Nabeel Adeeb recently commented in an op-ed that, “what is seen by me as indecent attire may be seen by someone else as decent” [4]. He adds that from a religious perspective it’s hard to impose one uniform on women because it depends on their personal understanding of their faith. “Judges should not be god’s representatives on earth.” he says. Society’s understanding of “decent” attire is a constantly shifting concept, and Sudan’s diversity makes this even more complex and a matter that should not be decided in the courts. “It is an issue left to families and religious leaders, because it is linked to education and upbringing and not the law,” he concludes.

Poor and fleeing women targeted

No national statistics are available to shed light on how many women or men around Sudan are impacted by the Public Order Regime, however in 2008 the head of the Public Order Police in Khartoum said that in that year 41,000 persons were stopped under Article 152 and signed promissory documents “not to wear indecent clothing” [5].

Most POL cases are processed quickly in Public Order Courts without the presence of lawyers, with no due process and with judges who lack proper legal training.

Women’s rights activists who have been fighting this law for years point out that the stigma associated with being arrested by POP drive many women, who are less knowledgeable about their rights and more concerned about their reputation, into accepting summary trials in Public Order Courts where they are often flogged and/or have to pay a bail .

The women most impacted by the POL are not the urban educated women like Amira and Lubna, but rather the thousands of women fleeing conflicts and hard conditions in other regions such as the Nuba Mountains and Darfur, and who have to support their families by working in Khartoum’s informal sector selling tea, food or making a local millet-based beer called marisa.

Monim Adam, a human rights lawyer, says: “in most cases these women cannot afford the bail that can go up to \$200, and they end up serving prison terms of up to one month. Many of them also endure sexual harassment that goes as far as rape, from the Public Order Police officers who have limited oversight”.

A prominent case [6] that’s also running in the courts right now is that of Nuba Mountains woman Awadiya Ajabna [7]. She was shot dead in March 2012 when she interfered as the POP were harassing her brother outside their family home, accusing him of being drunk. Ajabna died hours

after POP fired shots that also injured her mother and sister.

This is not the first documented case of death at the hands of POP, as in 2010 a tea lady, Nadia Saboon was fleeing what is referred to as a Kashaa (a raid or sweep) by the POP. Saboon fell on a piece of metal and died due to the injury sustained. Raids and confiscations of the equipment of tea ladies by POP are a common practice in Khartoum, and it is done under the premise of “preserving the appearance of the public domain”.

Sudan has undergone severe limitations on fundamental rights after the separation of South Sudan in July 2011. In the last two years the Islamist regime of Omer Al Bashir has clamped down on freedom of the press [8], freedom of association and assembly, by closing newspapers and pro-democracy civil society organizations [9], and violently clamping down on peaceful protest [10].

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P.S.

* XIndex, Tuesday, October 01, 2013:

<http://www.indexoncensorship.org/2013/09/sudanese-woman-risks-flogging-refusing-pull-headscarf/>

Footnotes

[1] <http://www.youtube.com/watch?v=8RROXvfBecE>

[2] <https://www.youtube.com/watch?v=lQlzT3Sb6fc>

[3] See on ESSF (article 29894), [I'm not afraid of being flogged. It doesn't hurt. But it is insulting'](#).

[4] <http://www.sudaneseonline.com/arabic/الاحتجاجات-في-الخرطوم-31187/الاحتجاجات.html>

[5] <http://www.aawsat.com/details.asp?section=4&issueno=11203&article=529842&search=الاحتجاجات#UksRFxao9Bu>

[6] <http://sudantribune.com/spip.php?article48030>

[7] <http://www.girifna.com/4971>

[8] <http://www.girifna.com/5570>

[9] <http://www.girifna.com/7598>

[10] <http://www.girifna.com/6257>