

Profile: ‘Keep Your Eyes off My Thighs’: A Feminist Analysis of Uganda’s ‘Miniskirt Law’

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Introduction

On February 6, 2014, Uganda’s President Yoweri Museveni signed the Anti-Pornography Act (APA) into law. This single stroke of the presidential pen signalled a redeployment of women’s bodies as a battlefield for cultural-moral struggles, and an eruption of new frontiers in sexual political tensions in the country. Plans to draft the law date back to 2005, when the Minister of Ethics and Integrity at the time, Nsaba Buturo, set off alarm bells by announcing that the “vice of miniskirts” had taken hold of society to the extent of distracting mentally-weak male drivers on Ugandan roads!¹

State moral panics over women’s dress, thickly layered with cultural and spiritual references, are by no means new in postcolonial Africa. They usually peak during times of socio-economic crises (Decker, 2014; Jones and Jones, 1999). Reports are rife in cities across Africa of marauding vigilante groups of self-proclaimed ‘moral police’ stripping women naked in public spaces.² Several postcolonial dictatorships on the continent passed codes that censored women’s sartorial choices: Uganda’s Idi Amin legislated against women wearing shorts, hot pants, slacks, low-necked garments or miniskirts (defined as any dress with a hemline that rose “5.08 centimetres above the upper edge of the patella”);³ in Kamuzu Banda’s Malawi, the Decency in Dress Act of 1973 also imposed a dress code forbidding women from wearing miniskirts and trousers. Most of these laws were uprooted by the ‘winds of change’ that swept across the continent in the 1990s and shone a constitutional spotlight on women’s rights. In 2008, however, the Nigerian government unsuccessfully attempted to introduce a similar law, which was thwarted by feminist groups (Bakare-Yusuf, 2009).

Feminist scholarship has shown that constructions of nationhood and national identity involve specific notions of womanhood, and implicate women's bodies (Moghadam, 1994; Yuval-Davis, 1997). In Uganda, through dress, and ostensibly in the national interest, women are symbolised as the nation's honour, decency and respectability. Such imposed images of womanhood have triumphed in many postcolonial projects aimed at enhancing national identity, while shifting attention away from undemocratic governance (Decker, 2014). Yet, within the rich diversity of African traditions, public semi-nakedness was not necessarily linked to immorality. Indeed, even today, in many parts of rural Africa, women go about their daily routines with unclothed torsos, and without anyone eroticising their bodies.

The idea of objectifying women as sexual bodies and 'seeing' their nakedness as immoral was mostly introduced to Africa through the Abrahamic religions of Christianity and Islam (Bakare-Yusuf, 2009; Tamale, 2014). Morally neutral female nakedness was burdened with 'shameful sexuality' in a way that male bodies were not; a moral link between the woman's body, purity and chastity was constructed. Hence, the logic that women's 'seductive bodies' had to be covered in public to protect men from 'impure thoughts' and the corruption of their morals (Eilberg-Schwartz and Doniger, 1995). Today, most women practice self-regulation in conforming to the prescribed bodily script, but many also transgress against it (Bordo, 1989).

Uganda's 1995 Constitution declared the full advancement, protection and empowerment of women, and in the decades that followed, women enshrined a legacy of gender activism. Such developments provoked a socio-cultural backlash, however. The backlash has manifested as a resurgence of various forms of fundamentalisms, including cultural and religious, and has often been expressed through political agendas. Whenever women assert their collective power and their identity as autonomous social subjects, calls for moral regeneration and the protection of 'traditional cultural values' take centre stage; women have to be reined back into the sphere of male dominance and control. It is against this backdrop that the APA was added to Uganda's legislative agenda.

On the Vexed Term, 'pornography'

The link between religious fundamentalism and the APA is clearly seen in the personalities of its primary architects, Nsaba Butoro and Simon Lokodo, the two successive ministers who held the cabinet portfolio of Ethics and

Integrity during the drafting and passing of the Bill. While Butoro is a self-proclaimed born-again Christian, Lokodo, his 2009 successor, is a Catholic priest. The main arguments that these men made in support of the Bill were that pornography offends public morality and fuels sexual violence against women and girls.⁴

Despite the claim that the bill was intended to protect women, the chauvinist and misogynistic impulses that lay behind it were not difficult to unravel. Two of the glaring deficiencies of the Bill are its vague definition of the term pornography, and its failure to delineate the parameters of this offence. The original bill defined pornography thus:

...any *cultural practice*, radio or television programme, writing, publication, advertisement, broadcast, upload on internet, display, entertainment, music, dance, picture, audio or video recording, show, exhibition or any combination of the preceding that depicts

- (a) A person engaged in explicit sexual activities or conduct;
- (b) *Sexual parts of a person such as breasts, thighs, buttocks or genitalia*;
- (c) Erotic behaviour intended to cause sexual excitement; or
- (d) Any indecent act or behaviour tending to corrupt morals

[Emphasis added]

During the second reading of the Bill in parliament, MPs flagged the absurdity of including “cultural practice” in the definition of pornography, citing traditions such as dances and circumcision ceremonies that might fall into the category, and citing the example of the Karimojong people who never cover their breasts. The chair of the Committee on Legal and Parliamentary Affairs got his proverbial knickers in a twist defending the paradoxical tensions between culture and pornography, and the committee was forced to omit “cultural practices” from consideration. The new definition of pornography which was eventually passed in the APA is:

...any representation through publication, exhibition, cinematography, indecent show, information technology or by whatever means, of a person engaged in real or stimulated explicit sexual activities or any representation of the sexual parts of a person *for primarily sexual excitement*. [emphasis added]

The committee chair explained that the key to interpreting what amounts to pornography lay in the intention of the offender, i.e., if the intent was “primarily to arouse sexual excitement.”⁵ Several MPs challenged him: “I would like to find out from the chairman... how they would measure sexual

excitement, for example, when a lady is in a miniskirt and she is not intending to arouse the interest of anybody. I think it is very difficult to measure sexual excitement according to the behaviour or activities of someone.”⁶

One can easily see the danger of such a subjective standard for determining pornography, in a context where women’s bodies have been eroticised and constructed as inherently provocative objects. If a society has already reduced a woman to eroticised body parts, isn’t her very being immutably doomed by this new law? A law that allows an prejudiced standard of provocation to be imposed on the subject being gazed upon, and further permits the enforcing authority to presume to know this subject’s intent, is extremely problematic. It violates the basic constitutional rights of women.

Indeed, such ambiguity and vagueness have resulted in the APA being dubbed the ‘Miniskirt Law,’ despite the fact that the term ‘miniskirt’ is not mentioned anywhere in the text. This misreading and *gendering* of the law is the popular interpretation of its prohibition of “any representation of the sexual parts of a person for primarily sexual excitement.”⁷ Of course, the reference to “*breasts, thighs, buttocks or genitalia*” in the original draft did not help with the lingering association of the law with women, not men. The misreading was also fuelled by Father Lokodo’s remarks on what his ministry (pun intended) planned to do: “Anything related to indecent dressing, exposing certain parts of the anatomy of a person, I call it pornographic and therefore condemn it... when you go indecently on the streets of Kampala you’ll become... a cinema.”⁸ Later he added: “If you are dressed in something that irritates the mind and excites other people, especially of the opposite sex, you are dressed in wrong attire [so] please hurry up and change.”⁹

In sum, the vague definition of pornography supplied by the APA lacks the certainty required of a criminal offence under the Ugandan Constitution. What, for example, amounts to ‘indecent’? Failure to provide an explicit definition of the elusive term ‘pornography,’ opens it up to the unsatisfactory ‘I know it when I see it’ standard.¹⁰

The Pornography ‘Axe’ Falls

As soon as the APA was signed into law, several vigilante groups made up largely of young men started publicly undressing women around the country who they perceived to be contravening the law.¹¹ Police officers also started ordering women on the streets to return home and ‘dress decently.’ There was

even a case in which a magistrate summarily sentenced two women in her courtroom to a three-hour confinement for wearing miniskirts.¹² Ironically, the law that was passed ostensibly to protect women from violence was fuelling it. It emboldened Ugandans to abuse women's rights. The already appropriated feminine body was turned into a site for further socio-political contestation.

Infuriated women's rights activists, most clad in miniskirts, protested against such actions, their indignation expressed in placards with messages such as: "Don't sexualise *my* body," "Give us maternal health care; don't undress us on the street!", "Keep your eyes off my thighs and fix the economy", "Thou shall not touch my mini-skirt", "My body, my closet, my money, my rules."

Enforcement of the APA spiralled into further abuses, with several cases of Internet sex tape exposures of female celebrities. In late 2014, the jilted lover of singer Desire Luzinda was allegedly responsible for uploading nude photographs of her and a sex tape. The material went viral on social media platforms. Instead of invoking the APA to protect these sexual violations against Luzinda, Father Lokodo ordered the police to arrest her for having committed the offence of pornography.¹³ Although the arrest was never effected, the case vividly demonstrated how the dragnet provisions under the APA could lead to grave injustice: Luzinda was *the victim* of a violent cybercrime whose rights to privacy and freedom of expression had been violated through a breach of trust, and yet was being treated as the criminal. A similar fate befell news anchor Sanyu Mweruka, who was also subjected to state interrogation and threats of prosecution under the APA.¹⁴ The political agenda behind these cases was to represent the female body as erotic and degenerate, an instrument threatening to pollute social morality, hence necessitating social control. Such actions fuelled moral panics and social insecurities, effectively distracting the disgruntled public from the inefficiencies in the state's systems of governance.

The double standards in enforcing the APA are on public display every day. Even as women were hounded by the law, several tabloid newspapers like *Red Pepper* and its sister publications, *Hello Uganda*, *Kamunye* and *Entatsi*, made (and continue to make) millions from publishing pictures of semi-naked women for the prurient consumption of their male readership. The silence of Father Lokodo on the tabloids points to a patriarchal *modus operandi* that allows the heterosexist capitalist state to commodify and pornify women's bodies while negating their agency to make sartorial choices.

What APA Portends for the Future of Women's Rights

The upsurge of sexual harassment and a *de facto* dress code on Ugandan women in the wake of the APA have raised several gender and human rights concerns (Oloka-Onyango, 2014). Linking the APA to a miniskirt ban and to the targeting of women was inevitable, given the gendered subtexts that had been constructed as far back as the Bill's initial formulation in 2005. The 'mob undressing' and sex tape sagas that followed the passing of the Bill must be viewed within the wider context of violence against women. Unfortunately, for the majority of Ugandan women, violence is not an isolated act but a fact of life. The 2006 Uganda Demographic and Health Survey (UDHS) revealed that up to 60 percent of women in the country aged 15 and above had experienced gender-based violence (UBOS, 2007).

The objectifying language contained in the definition of the term 'pornography' in the APA, particularly the phrase, "representation of the sexual parts... for primarily sexual excitement" clearly targets women's sexualised bodies. Men's bodies do not fit the sexualised script, and that is why women invariably became the target of mob undressing.

The threat of the APA continues to hang like a Damocles sword over the heads of Ugandan women. A likely future target of its discourse will be sex workers, who already face untold harassment, including being classified as "idle and disorderly" persons (Tamale, 2009).¹⁵ This is why sex work organisations have joined other human rights defenders to challenge the legality of the APA in the Constitutional Court.¹⁶ The law is a direct violation of Ugandan women's rights to bodily integrity, privacy, equality and non-discrimination. But the petition also challenges the economic inequality and control perpetuated by the APA. When women's bodies move from the 'private' sphere of the home to the 'public' arena of the market, they are inscribed with a sexual/morality marker to be regulated and controlled by laws such as the APA.

Endnotes

- 1 See "Uganda Seeking Mini-Skirt Ban," <http://news.bbc.co.uk/2/hi/7621823.stm> [last accessed December 5, 2015].
- 2 E.g., see Sara Malm, "Woman is Stripped and Beaten by Group of Men Because She Was 'Tempting Them' by Wearing a Miniskirt in Kenya," *Mail Online*, November 17, 2014, available at: <http://www.dailymail.co.uk/news/article-2837884/Kenyans-march-against-attacks-women-mini-skirts.html> ; Alexandra Stonehouse,

“Policing Sexuality in Africa: The Namibian Mini-Skirt Ban,” *Sister Namibia*, 24 July 2014, available at <http://sisternamibia.com/2014/07/24/short-story/> [last accessed 21 December 2015].

- 3 See Section 1(ee) of the now repealed Penal Code Act (Amendment) Decrees of 1972-1974.
- 4 See Official Hansard, 19 December 2013.
- 5 See Hon. Stephen Tashobya in Official Hansard, 19 December 2013.
- 6 See Hon. Gilbert Olanya in Official Hansard, 19 December 2013.
- 7 See for example, Jimmy Senteza, “Language in the Law Against Pornography is Vague,” *New Vision*, 4 March 2014.
- 8 See “Ethics Minister Proposes Law to Ban Miniskirts,” available at: <https://www.youtube.com/watch?v=jCuxFJipQUk> [last accessed 16 August 2014].
- 9 See Francis Kagol and Priscilla Alinda, “Women Face 10 Years Over Dressing,” *New Vision*, 19 February 2014 at p.7.
- 10 This famous declaration was made by the US Supreme Court Justice Potter Stewart in the case *Jacobellis v. Ohio* 387 US 184 (1964) after admitting failure to define the term pornography.
- 11 See Yazid Yolisigira, “Mob Undresses 10 People Over Indecent Exposure,” *Daily Monitor*, 26 February 2014 at p. 26; Tina Musuya, “Activist Vows to Wrestle Anti-Porn Law,” *Daily Monitor*, 28 February 2014 at p.22.
- 12 See Malik Fahad Jingo, “Women Get Three-Hour Jail Term for Wearing Miniskirts” *Daily Monitor*, 7 March 2014.
- 13 See Ronald Musoke, “What the Desire Luzinda Nude Photos Say About Us,” *The Independent*, 14–20 November 2014 at p.14–17.
- 14 See Sylvia Tamale, “Sex Tapes are Part of Pervasive Levels of Violence Against Women,” *Daily Monitor*, 10 February 2015.
- 15 Because it is next to impossible to successfully prosecute sex workers under the prostitution laws of the land, most are charged with the broad and well-worn crime of being “idle and disorderly” under section 167 of the Penal Code Act.
- 16 Decision on the case, *Center for Domestic Violence Prevention & 8 Others v. Attorney General* [Const. Petition No. 13 of 2014] was still pending at the time of publication of this article.

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