



The Honorable Barack Obama
President of the United States
The White House
1600 Pennsylvania Avenue NW
Washington, DC 20500

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Dear President Obama

On behalf of the 700,000 members of Amnesty International USA, I am writing on the occasion of your upcoming visit to South Africa, Senegal and Tanzania to respectfully request that you use your visit to call for greater respect and protection of human rights in those countries and across the African continent. Your visit is a critical opportunity to encourage and challenge leaders in Africa to promote and protect the rights and dignity of their citizens. In particular, I urge you to raise the pressing issues of gender-based violence, discrimination and violence against the lesbian, gay, bisexual, transgender and intersex (LGBTI) communities, and threats to civil society organizations. I hope that in your meetings with civil society in all three countries, you will include groups and organizations representing women and LGBT communities. Please urge the governments of the African Union's member states to meet their obligations to protect the rights of all of their citizens, irrespective of gender, sexual orientation, gender identity or profession.

Mr. President, just a few weeks ago the continent celebrated the 50th anniversary of the founding of the Organization of African Unity (OAU), which was succeeded by the African Union in 1999. Both groups have endorsed the human rights goals embodied in the African Charter on Human and Peoples' Rights and the United Nations Charter, but much work remains to be done. In your address to the Ghanaian Parliament in July 2009 you spoke of the need for good governance and accountable institutions. Your upcoming visit presents an opportunity to urge the governments of the African Union to live up to the aspirations the founders of the OAU articulated in 1963. Africans across the continent must be able fully to enjoy the freedoms and dignity that are inherently theirs.

Gender-Based Violence

Mr. President, during your first term your administration prioritized the promotion and protection of the rights of women. This message of human rights, non-discrimination and governments' responsibility to respect, protect and fulfill the rights of all of their citizens must be shared with and heard by African governments and African people.

Women in Africa continue to face discrimination that limits their access to education, economic opportunity, and health services, and many governments on the continent have failed effectively to address gender-based violence. Armed groups continue to rape women as a deliberate strategy in the Democratic Republic of the Congo, and women face alarming levels of violence in non-conflict situations in South Africa and Kenya. In conflict areas in the DRC, it is women who face the consequences of a lack of accountability, the proliferation of small arms and the political deadlock that enables armed groups to commit rape as standard operating practice. In the case of Kenya, inadequate resources as well as a lack of leadership by the police and government officials contribute to the lack of enforcement of laws criminalizing rape. This leads survivors to underreport attacks.

In addition to urging the leaders of Africa to address the scourge of gender-based violence and the rampant culture of impunity that accompanies it in times of both war and peace, the United States must continue to lead by example. We urge you to push for full and effective implementation of the *U.S. Strategy to Prevent and Respond to Gender-Based Violence Globally (Strategy)* and the *U.S. National Action Plan on Women, Peace and Security (National Action Plan)*. The United States government has a responsibility to ensure that when it provides foreign assistance, its agencies are undertaking all possible steps to prevent and respond to gender-based violence and to be coordinated in these efforts, as mandated by the Strategy. Similarly, as mandated by the National Action Plan, the United States government has a responsibility to empower women around the world as equal partners in preventing conflict and building sustainable peace in countries threatened and affected by war, violence and insecurity. Doing so not only makes countries stronger, but enables women to enjoy the full spectrum of their human rights. We have welcomed your administration's leadership on both the Strategy and the National Action Plan, and we strongly encourage your continued support for these efforts.

LGBT Community

Mr. President, we note that your administration has made the protection of the rights of the LGBT community a priority, including in your memorandum, "International Initiatives to Advance the Human Rights of Lesbian, Gay, Bisexual, and Transgender Persons." We urge you to continue that leadership during your visit to Africa. Members of the LGBTI community across the African continent face grave human rights abuses. These abuses range from discriminatory laws to violence and stigmatization by the communities in which they live. Homophobia and transphobia are all too often accepted and encouraged by laws rendering LGBTI individuals criminals based on their actual or perceived sexual orientation or gender identity. This criminalization leads to countless arrests, appalling intimidation tactics, and hate crimes, including assault and murder.

In Senegal, men are facing harassment, arbitrary arrest, torture and unfair trial because of their suspected engagement in consensual same-sex sexual relationships. Arrests, convictions, harassment, and homophobic discrimination reflect the growing hostility towards LGBTI individuals in this country. Societal homophobia is exacerbated by the penalty of one to five years in prison and a fine for the "crime" of sexual relations between consenting adults of the same sex.

On April 24, 2011, Noxolo Nogwaza of South Africa was murdered on her way home from a night out with friends in the town of KwaThema, Gauteng. Noxolo was an activist for LGBTI rights and was a member of the Ekurhuleni Pride Organizing Committee (EPOC), an organization that aims to empower and inform LGBTI people and to combat hate crimes, victimization and injustice through education and awareness-raising activities. Her attacker(s) raped, repeatedly beat and stabbed the 24 year-old lesbian, apparently because of her sexual orientation, before dumping her body in a drainage ditch. Two years later, no progress has been made in the investigation into her murder and her killer(s) remain at large.

Despite having some of the most progressive laws on the continent protecting LGBTI rights, homophobia and hate crimes against LGBTI individuals are common in South Africa, particularly against lesbians and those living in townships and rural areas. Sexual assault

and other physical attacks against LGBTI people are also frighteningly common. In the last five years, there have been at least 10 reported cases of rape followed by murder of lesbian women in townships in different parts of the country.

In 38 other African countries, governments have or are seeking to enact legislation criminalizing men and women for their real or perceived sexual orientation and/or gender identity. In 2012, South Sudan enacted legislation criminalizing same-sex behavior with a sentence of up to 10 years imprisonment. In 2009, Burundi criminalized same-sex relations for men and women by revising the criminal code. In 2011, Nigeria toughened penalties against same-sex conduct and in 2012 Liberia enacted similar provisions. Mauritania, parts of Northern Nigeria, and the southern parts of Somalia and Sudan retain the death penalty for same-sex relations. Similar efforts to seek out and punish member of the LGBTI community have taken place in Cameroon, Malawi, Kenya and Ghana. Cameroon has witnessed an increase in the number and frequency of arrests for “homosexuality.” In Uganda, the government has drafted various bills since 2009 seeking to impose the death penalty for “aggravated homosexuality,” in direct violation of numerous conventions and treaties to which Uganda is a party, including the International Covenant on Civil and Political Rights and the African Charter on Human and Peoples Rights (ICCPR)¹.

These laws, codes, and pending legislation not only represent a failure by governments to protect the rights and lives of their citizens, they have also given the police and security forces permission to harass members of the LGBTI community with impunity and to turn a blind eye when abuses are committed against them by other sectors of society.

Despite this, there are some key opportunities to build upon. Civil society groups are increasingly taking up the issue of pressing their governments to uphold the rights of and protect members of the LGBTI community. There are also some countries that have bucked the alarming trend. In 2004, Cape Verde repealed criminal charges related to same-sex activity. In 2009 Mauritius committed to decriminalizing homosexuality. In 2011 and

¹ Among the rights being violated are the right to life, free expression, assembly and association, the right to privacy, non-discrimination and equality before the law, to a fair trial, the right to the security of person, to marry and found a family and the right to be free of the arbitrary deprivation of liberty.

2012 São Tomé and Príncipe along with the Seychelles in 2012, also committed to decriminalizing homosexuality. In 2010, the new Kenyan constitution which came into effect included positive elements such as the rights to dignity, privacy and to be free from discrimination in addition to enshrining international norms in Kenyan law, all of which could improve the protection of LGBTI rights in Kenya. Some African countries such as Cape Verde, Mauritius, Seychelles, Mozambique, Botswana and South Africa, have enacted legislation to prevent discrimination based on sexual orientation or discriminatory provisions relating to employment laws. In 2012, Malawi's new president Joyce Banda placed a moratorium on all criminal prosecutions of same-sex activity pending debate on the repeal of anti-homosexuality laws. But as underscored by the case of Noxolo Nogwaza, much more is needed than just the passage of new laws.

We urge you to remind government leaders of their obligations under the African Charter, the ICCPR, and their own constitutions to protect the rights of all of their citizens and to repeal laws that specifically target members of the LGBTI community. We also ask you to meet with the LGBTI communities during your visit to let them know that you strongly believe that they are as entitled to enjoy their human rights as any other segment of African society and to show them that they are not alone.

Threats to Civil Society

Unfortunately a critical component to enjoying human rights is under increasing threat as governments systematically restrict or shut down the activities of civil society organizations and seek to criminalize and outlaw their existence. In 2009, the Ethiopian government, under the late Prime Minister Meles Zenawi introduced the Charities and Societies Proclamation which put in place severe restrictions on organizations working on human rights and allows for excessive government interference. Human rights defenders risk imprisonment if they violate the law's vaguely defined provisions. The law was used to seize \$1 million in assets from the country's two leading human rights groups and, along with the Anti-Terrorism Proclamation and the Mass Media Proclamation, is a prime example of government initiatives to curtail freedom of expression, association and assembly.

Armed with a web of repressive legislation, governments have harassed, arrested, and detained human rights defenders and thrown scores of journalists into jail or forced them into exile. Similar legislation exists in Zimbabwe, Uganda, Ethiopia and Rwanda, among other places, raising the concern that this model of repression will be copied in various parts of Africa. Since September 2012, a large number of civil society organizations in Zimbabwe have either had their offices raided, their leadership arrested, or both. This concerted effort to intimidate, harass, and threaten mobilization of civil society and human rights defenders is an attempt to prevent civic education before the anticipated presidential and parliamentary elections set for July 31, 2013 through a proclamation issued by President Robert Mugabe.

We urge you to use your trip to reiterate the importance of the human rights enshrined in the African Charter and the International Covenant on Civil and Political rights and to urge African governments to meet their obligations and repeal legislation designed to silence dissent and prevent accountability.

Mr. President, your visits to Senegal, South Africa and Tanzania will allow you to directly address to the positive steps the government of all three countries have made and also encourage them to do more.

The Government of Senegal should be commended for its decision to create, in collaboration with the African Union, a special court to try former Chadian President Hissène Habré. Such efforts to end impunity and establish transparent and accountable governments, even to the level of the head of state, are critical models for the continent as a whole.

At the same time, the current administration of President Macky Sall must be encouraged to repeal the law criminalizing relations between consenting, same-sex adults and prohibit any incitement to discriminate or engage in homophobic violence. The Senegalese authorities should also put an end to the culture of impunity of security forces for human rights violations committed in the last decade.

South Africa has some the strongest laws on the continent in support of human rights and against discrimination against women and members of the LGBT community. South Africa has also taken a significant leadership position, along with Brazil, in promoting international understanding and measures to combat violence against individuals on the grounds of sexual orientation or gender presentation. What appears to be lacking is the political will to establish and maintain effective standards of investigation and for bringing to justice perpetrators of gender-based violence and other acts of gender-based discrimination, whether they be by private citizens or members of security forces. While South African civil society remains active and vibrant, Human Rights Defenders do face various forms of harassment. In addition the Protection of State Information Bill, recently passed by the Parliament could result in lengthy prison sentences for the possession, passing on or publication of classified information, notwithstanding an 'in the public interest' defense.

Mr. President, as the guarantor of Zimbabwe's Government of National Unity, President Zuma is also in a unique position to stand on the side of civil society and insist on their ability to operate unimpeded in Zimbabwe in this time leading up to the election. He is also one of the few voices that can and must speak to the need for conditions, including respect for freedom of expression, association and assembly and the absence of intimidation and violence for the elections in Zimbabwe. This is critical if they are to contribute to improved respect and protection of human rights. President Zuma must call for credible voter's role that has not been manipulated by the government. We also urge your administration to provide support for adequate number of observers from SADCC to monitor the polls and help efforts to help minimize the violence and intimidation that has marred previous elections.

The Government of Tanzania is currently implementing a constitutional review which offers the potential for improved human rights protections and restrictions on state power. Human rights organizations remain concerned about government practices that undermine freedom of expression and assembly and foster a culture of impunity. The government has so far failed to adopt the Freedom of Information Bill 2006 or the Media Services Bill 2007 and journalists continue to face harassment, with several incidents of violence against journalists reported this year.

President Jakaya Kikwete has an opportunity to consolidate and build upon the progress made so far in the constitutional review process by developing laws which guarantee that all Tanzanians will fully enjoy their rights equally.

Mr. President, your visit to Africa may last just a few days. But your words and deeds and the messages they convey will reverberate far longer. We sincerely hope that you will use this visit to recommit the United States to being a force for human rights and human dignity in partnership with the governments of Africa and the African people.

Thank you,



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