

Open letter to the U.S. and Heads of African State and Governments

Friday, 1 August 2014

Dear Excellencies,

Next week President Obama will host the U.S. – Africa Leaders’ Summit (henceforth the Summit) in Washington, D.C. Although this summit mainly focuses on trade and investment in Africa, the theme is “Investing in the Next Generation” and a number of signature and side events have been organized which appear to acknowledge the role of civil society, women and youth in the development of Africa. In the run-up to this Summit, we the undersigned civil society organizations, call on you to ensure that serious consideration is given and firm commitments are made to ensuring an enabling environment for the participation of civil society, women and youth in Africa’s development.

Opening up of space for civil society

Given the stated importance of safeguarding civic space in order to spur social entrepreneurship, civic innovation, and development, it is regrettable that civil society is not formally participating in the Summit. At a minimum the U.S. and African leaders should make firm commitments to the opening up of civic space and publicly condemn all forms of suppression of civil society voices in Africa.

Space for civil society in many countries is shrinking. Many governments are using a combination of direct threats, oppressive laws and state policies to undermine the work of independent media, human rights defenders, and others seeking to peacefully express their views.

In countries such as Angola, Egypt, Ethiopia, Mozambique, Sudan, Swaziland, and Uganda the response to peaceful demonstrations has often been excessive use of force by state security forces against demonstrators and their arrest in a manner which violates their right to freedom of expression, to peacefully demonstrate and to participate in public affairs. In other countries, such as Burundi, the government has repeatedly prevented civil society organizations from holding peaceful marches and demonstrations.

Harassment, threats, unlawful arrests, and politically motivated prosecutions of human rights defenders, as well as journalists, anti-corruption campaigners, and others have become an alarming, regular feature of too many countries in Africa. Restrictions have been imposed on human rights groups in countries such as Ethiopia, Equatorial Guinea and Sudan.

The shrinking of civic space has included the use of criminal laws - especially criminal defamation, insult and publication of false news laws retained by most African countries - to suppress freedom of expression. In many African countries individuals and journalists are unable to freely express themselves within the limits of the law without facing the possibility of criminal sanction. A case in point is the recent conviction and two-year prison sentence in Swaziland of a lawyer, Thulani Maseko and magazine editor, Bheki Makhubu, on charges of contempt of court for writing and publishing articles that were critical of the Chief Justice. In

Angola, Manuel Nito Alves, who was 17 years old at the time of his arrest, is facing criminal defamation charges for commissioning the printing of T-shirts with words deemed to be offensive to the President, while Angola's most prominent anti-corruption activist, Rafael Marques de Morais, is currently facing nine defamation lawsuits brought by prominent government or military officials. In Mozambique, academic economist, Carlos Nuno Castel-Branco, is facing criminal charges for having made a post on Facebook criticizing the governance of the current President of the Republic of Mozambique, Armando Emilio Guebuza. In Egypt two Al Jazeera journalists were sentenced to seven years' imprisonment, and another to ten years, after they were found guilty of "reporting false news" following the coup that removed President Mohamed Morsi in June 2013. In Burkina Faso, Lohé Issa Konate, an editor, was convicted on charges of defamation, public insult and insulting a magistrate for articles alleging corruption of the State Prosecutor. He was sentenced to a year in prison, fined US\$ 12,000 and his newspaper was shut down for six months.

Such criminal sanctions for defamation restrict the space for individuals to freely express criticism of government authorities, hold them accountable and thus contribute to Africa's development.

Restrictive media legislation, overbroad counterterrorism laws, as well as vague charges of endangering public security, are also increasingly used as tools to unduly limit freedom of expression, media freedom and peaceful demonstrations. Ethiopia's prosecution of dozens of individuals, including at least 20 journalists and bloggers under its anti-terrorism law, has been a particularly sinister misuse of domestic legislation. More often, countries seeking to limit independent media introduce specific legislation on the media, freedom of information, or public order that can have negative impact on the media, as in Burundi, Zimbabwe, Uganda, the Gambia, and South Africa. Sudan continues to restrict the media by imposing strict red lines, and authorities routinely shut down newspapers and censor articles or confiscate print runs. South Sudan, currently mired in renewed conflict, has permitted its security organs to routinely harass and detain journalists who report critically of the government.

These sanctions run counter to the undertakings of African leaders in terms of the African Charter on Human and Peoples' Rights, as well as the Declaration of Principles on Freedom of Expression in Africa. As part of their commitment to addressing security and development, participants at the Summit must publicly condemn such actions and commit to upholding the right to freedom of expression, association and peaceful demonstration. African leaders should commit to end harassment of human rights defenders and journalists and repeal repressive nongovernmental organization, media and other laws that restrict the rights to freedom of expression, association, and peaceful demonstration.

Elimination of discriminatory laws and practices against women

The U.S. and African leaders should also, in line with the Summit's position on investing in women and in the next generation, take this opportunity to develop concrete steps for the elimination of customary, religious and other laws and practices which inhibit the ability of women and girls to fully participate in public life resulting in their exclusion from economic development opportunities.

African leaders under the auspices of the African Commission on Human and Peoples' Rights have taken steps towards improving the access of women and girls to development opportunities in the form of the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa; as well as the Resolution on Women's Right to Land and Productive Resources. However, throughout Africa women and girls continue to face discrimination and other human rights violations in both law and practice.

In particular, they continue to face discrimination with respect to personal law, including accessing property and inheritance and marriage. These areas of law fall under both customary and statutory law and often contradict each other, and discriminate against women and girls either in the text of the law or in its application. For example, in Lesotho section 10(2) of the Chieftainship Act of 1968 has been interpreted such that only the eldest male is entitled to succeed to chieftainship. If the eldest child is female, she would not be entitled to succeed. Sudan's public order regime, which prohibits "indecent" dress, and its criminalization of "adultery" – which often carry sentences of fines and flogging – are applied disproportionately to women and girls. In Botswana, four sisters were disinherited based on an antiquated application of the customary rule; this case was overturned by the Court of Appeal in Botswana. These discriminatory laws and practices result in increasing women's economic dependence and make them and their children more vulnerable to economic upheaval.

Women and girls are disproportionately and differently affected by armed conflicts in the Democratic Republic of Congo, South Sudan and the Central African Republic. They continue to experience conflict-related sexual violence and do not have access to justice and appropriate health services. At the Global Summit to End Sexual Violence in Conflict African governments made commitments to end impunity for gender-based crimes and to ensure that survivors received services. It is critical that they implement those commitments.

Women continue to be excluded from equal participation in decision making, including in peace negotiations and processes. Women are poorly represented in peace negotiations and processes in South Sudan and the Central African Republic. The failure to ensure women's meaningful and equal participation in negotiations to formulate and implement peace agreements violates their rights to equality and full participation in public life.

The signature event on, "Investing in Women, Peace and Prosperity" promises to underscore the importance of African women's role in economic development and their participation across all sectors of society. As long as discriminatory laws and practices continue in the continent women and girls will not be able to fully carry out this role. African leaders must undertake to set aside all such laws and do away with such practices, as well as outline the concrete steps they are going to take to unlock the potential of women and girls on the continent.

The signature and side events at the summit should not be token attempts to silence groups that are often caricatured as malcontents out to tarnish the image of African leaders. The Summit provides an opportunity for real commitments to be made for all-inclusive, sustainable development in Africa. We urge you to recognize the essential place of human rights in this development program.

We thank you for your consideration.

Sincerely,

Action for Southern Africa (ACTSA)

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Human Rights Watch

International Commission of Jurists (ICJ), Africa Regional Program

International Federation for Human Rights (FIDH)

Lawyers for Human Rights, Regional office

Liga Moçambicana dos Direitos Humanos (LDH), Mozambique

Liga Guineense dos Direitos Humanos (LGDH), Guinea-Bissau

Open Society Initiative for Southern Africa (OSISA)

Southern African Litigation Centre (SALC), South Africa

Swaziland Coalition for Concerned Civic Organizations, Swaziland

Women and Law in Southern Africa (WLSA), Malawi

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