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#WeBelongAfrica



# Ten Years of Resolution 275: Advancing LGBT+ Rights in Africa

## Meeting Report

28-29 August 2024

Johannesburg, South Africa

#WeBelongAfrica brings together multiple initiatives that enable inclusive, just, affirming, safe, productive and fulfilling lives for all people in Africa, irrespective of sexual orientation, gender identity, gender expression or sex characteristics, and irrespective of HIV status or risk.

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## Acronyms

African Commission	African Commission on Human and Peoples' Rights
CAL	Coalition of African Lesbians
ECOWAS	Economic Community of West African States
LGBT+	lesbian, gay, bisexual, transgender and intersex
UNDP	United Nations Development Programme
MP	Members of Parliament
NHRIs	National human rights institutions
NANHRI	Network of African National Human Rights Institutions
PAI	Pan Africa ILGA
Resolution 275	Resolution on Protection against Violence and other Human Rights Violations against Persons on the basis of their real or imputed Sexual Orientation or Gender Identity
SSMPA	Same-Sex Marriage Prohibition Act
UPR	Universal Periodic Review

## Background

Ten years ago, the African Commission on Human and Peoples' Rights (African Commission) adopted Resolution on Protection against Violence and other Human Rights Violations against Persons on the basis of their real or imputed Sexual Orientation or Gender Identity (Resolution 275). Resolution 275 was the first time the African Commission affirmed the rights of lesbian, gay, bisexual, transgender and intersex (LGBT+) Africans in a resolution.

To commemorate the ten-year anniversary of the adoption of Resolution 275, United Nations Development Programme's (UNDP's) WeBelongAfrica programme in partnership with Synergia, Pan Africa ILGA (PAI), Network of African National Human Rights Institutions (NANHRI), the Centre for Human Rights at the University of Pretoria, and the Southern African Liaison Office (SALO) hosted a multi-country meeting on 28-29 August 2024 in Johannesburg, South Africa.

## Objectives of the workshop

- Commemorate the adoption of the first ever human rights resolution recognizing LGBT+ persons in Africa and affording them due protections through African human rights mechanisms.
- Celebrate the progress made, including amplifying positive country stories about progress made against Resolution 275's obligations and celebrate the resilience of the African sexual and gender minorities communities, their activists, and allies for promoting LGBT+-affirming law reform and repeal of criminalizing laws on consensual same-sex conduct and/or diverse gender expression and identity.
- Identify and discuss the challenges in implementing Resolution 275 in Africa, and opportunities offered by Resolution 275 in the journey towards achieving inclusion and equality in Africa.
- Identify key priorities and formulate strategies for advancing the rights of LGBT+ persons in their countries.
- Create alliances and solidarity networks within country delegations, and at the regional level, to overcome challenges as well as to build support for LGBT+ people in these countries.
- Strengthen the network of LGBT+ and allied human rights activists advocating for human rights and inclusion of LGBT+ people and equip them with concrete tools to assist them in implementing Resolution 275 at national level.
- Facilitate meaningful interactions and cooperation amongst LGBT+ civil society representatives, and with their governments counterparts to ensure the no one is left behind including LGBT+ persons.

## Anticipated outcomes

1. A meeting report consolidating multi-country successes, challenges and lessons learned.
2. Stronger relationships amongst country delegations to support progress on LGBT+ inclusion.
3. Increased understanding of what skills, knowledge, and resources are needed to enhance engagement and coalition building towards national and regional LGBT+ inclusion and gender diversity.
4. Increased understanding of the country contextual forces driving the anti-gender/LGBT+ opposition movement.

5. Draft country plans (for each country delegation) and a regional plan outlining priority action to support the African Commission in the protection and promotion of human rights without discrimination including on the basis of imputed or real sexual orientation and gender identity status or identity.
6. Increased awareness and support for Resolution 275, progress made in the past 10 years, challenges to its implementations and of potential opportunities.

## Participants

The meeting was attended by over 100 people from over 20 African countries, two Commissioners of the African Commission, a former Commissioner of the African Commission and representatives from government, regional and international civil society organizations, inter-governmental organizations and development partners. Most country delegations included a representative from the government, the national human rights institution and civil society.

*The final agenda is provided in Annex 1.*

## Session 1: Opening Session

The speakers discussed the significance of Resolution 275 in protecting rights of LGBT+ persons across Africa. Dr. Amitrajit Saha, Manager HIV and Health Group, UNDP emphasized that LGBT+ issues are fundamentally human rights issues and that Resolution 275 is especially important now due to increased stigma and violence against LGBT+ people, and new health crises like monkeypox. Commissioner Remy Lumbu, chairperson of the African Commission, reflected on the progress made since the resolution's adoption, citing South Africa as a model, but acknowledged ongoing challenges, including confusion between intersex and LGBT+ identities. In particular, Commissioner Lumbu noted the following:

- He acknowledged the collaborative efforts that led to the adoption of Resolution 275, highlighting the crucial role played by civil society organizations in pushing for its adoption. He admitted that, for parts of the African population, Resolution 275 was difficult to accept due to deeply rooted cultural and societal opposition to LGBT+ issues. However, he stressed the importance of Resolution 275 as a protective measure for persecuted groups, urging countries to adopt non-discriminatory laws that safeguard the rights of all individuals, including LGBT+ people.
- He celebrated the progress made since the resolution's adoption, noting that Africa was no longer "on the red light" when it comes to human rights for LGBT+ communities. He pointed to South Africa as an exemplary case from which other African nations could learn, especially in terms of legal frameworks and promoting social acceptance of LGBT+ individuals. He encouraged the dissemination of knowledge from South Africa's experience to other parts of the continent.
- He also highlighted the additional resolutions adopted by the African Commission, such as Resolution 552, which protects the rights of intersex persons, and emphasized the need for clarity between intersex and LGBT+ identities. He acknowledged that there is often confusion between these two groups, which sometimes hinders the effectiveness of protections for both. He urged a greater understanding and more specific protections tailored to the needs of intersex people.
- He also touched on the issue of observer status within the African Commission, addressing the controversy surrounding the withdrawal of observer status for the Coalition of African Lesbians (CAL). He emphasized that while the African Union may criticize certain decisions, it does not have the authority to overturn the resolutions of

the African Commission, underscoring the independence of the Commission. He encouraged CAL and other organizations to reformulate their language and reapply for observer status, reinforcing the need for continued engagement with the African Commission.

- In closing, he stressed that the African Commission must continue to listen to diverse perspectives regarding Resolution 275, as the journey to full LGBT+ equality is ongoing. He reiterated that despite opposition, Resolution 275 remains a key instrument in advancing the rights of LGBT+ people in Africa, and everyone must contribute to its implementation. The progress made, though significant, is fragile, and it is critical to protect the advances achieved thus far while pushing for further changes across the continent.

Adv. Pansy Tlakula highlighted the important role civil society organizations play in implementing Resolution 275 and outlined several recommendations for civil society to ensure the implementation of the rights of LGBT+ people and implement Resolution 275:

- Organizations with observer status should use opportunities to speak about violence and discrimination against LGBT+ persons during African Commission sessions.
- Civil society organizations should proactively submit shadow reports when the African Commission examines state reports, highlighting LGBT+-related violence and discrimination.
- Civil society organizations should identify cases from countries that have accepted the jurisdiction of the African Court on Human and Peoples' Rights, and submit those cases to the Court, using Resolution 275 in their arguments.
- Organizations like the NANHRI should apply for an amicus curiae position at the African Court.
- She stressed that without active efforts, Resolution 275 risks remaining on paper without real impact.

Hon. Ronald Lamola, Minister of International Relations and Cooperation in South Africa, via video emphasized respecting individual identity and human dignity, while Dra. Ana Celeste Januario, Secretary of State for Human Rights of Angola, via video shared Angola's commitment to integrating non-discrimination into national law. Gilbert Sebihogo of NANHRI called for national human rights institutions to foster understanding and monitor Resolution 275's implementation.

## **Session 2: Setting the Scene: Reflections—the Journey to Resolution 275**

### **Moderated Panel Discussion: What is Resolution 275?**

Laura Arudi from NANHRI provided an overview of the obligations under Resolution 275. In particular, Arudi highlighted the following key obligations:

- Protect human rights defenders and civil society organizations from criminal prosecution, reprisals and stigma.
- Enact and effectively implement laws prohibiting and punishing violence targeting people on the basis of their real or imputed sexual orientation and gender identities.
- Properly investigate and effectively prosecute perpetrators and establish effective judicial procedures that protect the victim.

- The Resolution includes a do no harm principle

## **Moderated Panel Discussion: The adoption of Resolution 275 and the decade that followed**

Monica Tabengwa from **UNDP** discussed the challenges that LGBT+ organizations, such as the CAL, faced in engaging with the African Commission. CAL sought observer status to advocate for LGBT+ rights at the continental level since national governments often failed to protect individuals from violence and discrimination. Despite initial success in obtaining observer status, the decision faced backlash from the African Union. Many civil society organizations defended CAL's observer status, protesting political interference. Tabengwa emphasized that even small progress matters and urged governments to continue advocating for LGBT+ rights. She acknowledged that not all government officials were against LGBT+ rights, with some risking their positions to support the cause.

John Jeffery, **Former Deputy Minister of Justice and Constitutional Development, South Africa** highlighted the South African government's strategy in promoting LGBT+ rights, noting their focus on using Resolution 275 rather than the Human Rights Council's resolution from Geneva. This approach avoided framing LGBT+ rights as a Eurocentric initiative. He drew parallels between South Africa's LGBT+ equality struggle and its fight against apartheid, emphasizing that non-discrimination, including on sexual orientation, was central to the African National Congress's principles. Jeffery suggested that Resolution 275 created a useful framework for protecting LGBT+ people, but urged delegates to assess its implementation and identify areas for improvement.

Stefano Fabeni from **Synergia** explained that the decision to focus on violence against LGBT+ people was strategic since it was hard for anyone to disagree with protecting individuals from violence. Gathering data was a significant challenge, but a report from the Centre for Human Rights at the University of Pretoria helped highlight the widespread violence. He described a "traffic light" system used to gauge the stance of African Commission members on LGBT+ rights. Civil society and the African Commission worked closely to draft key articles of the resolution. He also discussed the backlash against CAL's observer status in 2018 but emphasized that despite opposition, there was still room to push for LGBT+ rights within the African Commission.

In the **discussion**, several strategies were identified to continue implementing Resolution 275. These included encouraging supportive states to be more vocal, using periodic reviews of countries by international bodies, identifying champions within governments and religious circles, and documenting violations. Courts were also seen as key defenders of LGBT+ rights, so efforts to sensitize judges were highlighted. Participants emphasized the importance of building coalitions across borders, naming and shaming violators, and maintaining a cautious approach in regions where safety concerns for LGBT+ people are high. Despite opposition growing more organized, activists were encouraged to adapt quickly and continue advocating for change.

## **Session 3: Progress Made-Thematic Panels**

### **Moderated Panel Discussion: Decriminalisation**

During the thematic panel on decriminalization, representatives from Botswana, Lesotho, Mozambique, and Seychelles shared their experiences on decriminalizing same-sex sexual

relations in their respective countries. Successful strategies identified by all four countries was the importance of strategic partnerships, including amongst civil society and between civil society and government and taking an incremental approach to decriminalization.

**Lesotho** highlighted the progress it made through amending labor laws and inheritance laws to be inclusive of all genders. The country is also focusing on education, ensuring that intersex children feel safe and included at school. A key lesson was the importance of inclusion, as Lesotho works with civil society organizations, parliamentarians, and the LGBT+ community to drive further reforms, such as constitutional changes to prevent criminalization of homosexuality. The emphasis was on using incremental actions to eventually decriminalize same-sex sexual relations.

**Botswana** successfully decriminalized same-sex sexual relations in 2019 through strategic litigation. Botswana's High Court ruled that transgender persons could change their gender marker and activists used Resolution 275 in enabling this change. Lessons learned included the importance of strategic partnerships, working with the interreligious council, and building intersectionality to advance LGBT+ rights. Further, Botswana also took an incremental approach to eventually advocating for decriminalization.

**Seychelles** decriminalized sodomy in 2017 after advocacy efforts that engaged interfaith organizations in the predominantly Christian country. The media played a vital role in raising awareness. Currently, the National Assembly is working on an amendment to the Penal Code to address hate crimes. The key lesson was the importance of inclusivity and listening to different community perspectives. Activists used Resolution 275 in their advocacy efforts on decriminalization.

**Mozambique** decriminalized consensual same-sex relations through revising its Penal Code. The government has been proactive in promoting LGBT+ rights, supported by high-level officials such as the Minister of Justice, who published a book advocating for these rights. Mozambique emphasized the importance of partnerships between government and civil society. Lessons learned included the need for continuous dialogue and inclusivity across different stakeholders.

## **Moderated Panel Discussion: Enacting protective laws**

The panel discussion on enacting protective laws for LGBT+ persons highlighted experiences from Angola, Cape Verde, Mauritius, and South Africa, emphasizing both legislative successes and ongoing challenges in implementing protective laws.

In **Angola**, decriminalization of same-sex relations was influenced by global campaigns to stop violence against LGBT+ individuals and civil society raising the profile of LGBT+ people to increase society's awareness of individual LGBT+ people. In addition, Angola is a very cultural, religious country and civil society had to consider all aspects associated with culture and religion. For instance, in Angola, a man may have different families with different children, but they have equal rights. Activists asked why not the same for LGBT+ people. However, implementation of these protective laws remains weak, and LGBT+ people still face significant violence.

In **Cape Verde**, the government decriminalized consensual same-sex relations in 2004, following broad public involvement. Subsequent amendments, such as introducing aggravated sentences for homophobic murders and anti-discrimination provisions in housing, reinforced these protections. Education campaigns in schools are part of the strategy to combat violence and discrimination.

**Mauritius'** legal progress started with the Workers' Rights Act in 2012, prohibiting workplace discrimination based on sexual orientation. Companies, specifically those with ties to Western countries, implemented this amendment in their policies. Though the government was not as supportive, the corporations were which helped. Further, the government remains slow in implementing court rulings, such as the Supreme Court's decriminalization of same-sex relations. Resolution 275 did not directly influence the formulation of these protective laws, but it created the framework for the changes.

In **South Africa**, the Hate Crimes Bill was the result of coordinated efforts between civil society and government to address violence against marginalized groups, including LGBT+ persons. South Africa has a robust legal framework protecting the rights of LGBT+ people. However, implementation remains a major issue, especially in ensuring adequate judicial impartiality and consistent law enforcement. There is a need for greater coordination and greater cooperation between government and civil society.

During the **discussion**, participants stressed the importance of using existing laws effectively while advocating for new ones. They also discussed the role of the judiciary, the limitations of international and regional resolutions like Resolution 275, and the need for strategic litigation and activism to drive legislative and social change.

## **Moderated Panel Discussion: Inclusion and social norms**

The panel discussion on inclusion and social norms explored the efforts of Namibia, Kenya, and Côte d'Ivoire in advancing LGBT+ rights, highlighting legal victories, ongoing advocacy, and the challenges posed by societal norms. The discussion emphasized the role of civil society in driving change through strategic litigation, coalition-building, and engaging diverse stakeholders to foster greater inclusion.

In **Namibia**, despite strides towards decriminalizing same-sex sex, civil society had to rely on litigation rather than legislative action. A proposed law decriminalizing same-sex sex was shelved by Parliament, prompting LGBT+ advocates to pursue legal challenges. A multi-pronged strategy was employed, including the use of the Afrobarometer, which showed 68% tolerance for LGBT+ people in Namibia; looking at other issues beyond health and HIV, such as abortion and how it affected young women and girls to build more diverse coalitions; and using the public hearing processes of the standing Parliamentary Committees to raise human rights concerns. This effort led to successful rulings in the High Court, such as the decriminalization of sodomy and recognition of foreign same-sex marriages for immigration purposes. Despite these victories, the journey is ongoing, with the government appealing the decriminalization of same-sex sexual relations to the Supreme Court.

In **Kenya**, while there have been positive rulings, such as the right to change gender markers on school certificates and the finding that anal examinations are unconstitutional, the High Court upheld the criminalization of same-sex relations in 2019, citing a lack of sufficient data. Lessons learned from the ruling is that there is a need for more data on LGBT+ and more directed advocacy. Since then, civil society has worked to gather evidence and build alliances with other marginalized communities, particularly around sexual and reproductive health rights, and with other stakeholders. There has been a growing intersectionality in the movement, with LGBT+ organizations building relationships across various communities. With international support, including from the UNDP, LGBT+ organizations have gained allies among Members of Parliament.

In **Côte d'Ivoire**, same-sex relations are not criminalized, and the legal framework offers some protection through constitutional non-discrimination clauses and criminal code provisions. A recent draft bill aimed at protecting LGBT+ rights faced strong opposition from religious

groups. Advocacy in Côte d'Ivoire includes engaging with religious and cultural leaders and facilitating dialogue between LGBT+ communities and Members of Parliament (MPs). The National Human Rights Commission has played a key role in building relationships with MPs, making them champions for LGBT+ rights over time. The Ivorian legal framework is a valuable tool for advancing the rights of LGBT+ individuals, despite ongoing societal resistance.

The session concluded with a discussion on positive approaches to changing social norms and recommendations for advancing LGBT+ rights. Key suggestions included forming a coalition to share best practices, reviewing the risks of current methods like registering LGBT+ organizations under different labels, and recognizing the realities on the ground, such as the vibrancy of LGBT+ organizations in Kenya despite hostile norms. Participants emphasized the importance of engaging national institutions for advocacy, submitting shadow reports, and exercising patience and diplomacy. Additionally, they highlighted the need to be mindful of potential violent backlash, as seen in Namibia, where even legal victories have led to increased violence and insecurity for activists.

## Session 4: Looking Forward/Improving Implementation of Resolution 275

### Moderated Panel Discussion: Country challenges and road map

The panel discussion on country challenges and roadmaps featured speakers from Togo, Malawi, and Nigeria, who shared their countries' experiences with LGBT+ rights and the obstacles they face. Key themes included the following:

- There is a need for stronger capacity building and visibility through improved advocacy tools, data collection, and documentation of violations.
- Strategic litigation remains crucial, but there is also a pressing need to engage parliaments and regional bodies like Economic Community of West African States (ECOWAS), particularly in countries lacking political will.
- The panel stressed the importance of challenging social norms that frame LGBT+ identities as un-African, advocating for historical education to reshape these narratives.
- The inclusion of LGBT+ communities and other marginalized groups, such as persons with albinism, in advocacy efforts is vital to creating lasting change.

In **Togo**, the government's acceptance of an LGBT+-specific recommendation from the Universal Periodic Review (UPR) marked a step forward for LGBT+ advocacy. However, incidents of violence and disinformation followed soon after, with little government response. Activists in Togo face challenges in fully utilizing Resolution 275 as it is non-binding. Activists need more training and support to leverage the Resolution. Additionally, Francophone Africa faces less visible yet significant issues on LGBT+. However, due to lower participation in LGBT+-related forums from Francophone countries as well as historically less aggressive responses against LGBT+ compared to Anglophone Africa, the issues facing Francophone countries are less visible.

In **Malawi**, in a legal case challenging the constitutionality of laws criminalizing same-sex sexual relations, in which a Commissioner of the Human Rights Commission was a lawyer in his private capacity, the Court found the laws were constitutional arguing that it was Parliament's responsibility to amend them. The case highlights the lack of political will to

address LGBT+ issues. Indeed, the judges in the decriminalization case openly ridiculed arguments for LGBT+ rights. The Human Rights Commission has worked with civil society organizations to counter the Catholic Church's narrative on LGBT+ and has conducted numerous legal clinics around the country. There is a need for the Malawi Human Rights Commission to include the voices of the LGBT+ communities themselves. This is what was done before concerning discrimination against people with albinism with significant success. There is also a need for solidarity statements from other organisations like NANHRI and to engage more with the parliamentarians.

**Nigeria's** 10-year-old Same-Sex Marriage Prohibition Act (SSMPA) has been challenged in 28 legal cases, resulting in the declaration that all provisions except for the prohibition of same-sex marriage were unconstitutional. Despite this progress, arbitrary arrests and detentions of LGBT+ individuals persist. The National Human Rights Commission works with the police to stop such abuses and engages in strategic litigation, including cases where social media is used to target LGBT+ people. The Commission is also navigating the challenges posed by Nigeria's sodomy laws and Sharia courts, which enforce strict penalties, including death in Northern Nigeria. We need to make greater use of regional mechanisms, such as the ECOWAS Court of Justice, explore the possibility of strategic litigation and build the capacity of judges to protect LGBT+ people from discrimination and violence.

The **discussion** that followed highlighted various challenges and potential solutions. In Togo, activists are using Resolution 275 to advocate for LGBT+ rights, but its non-binding nature remains a challenge. In Nigeria, despite the African Charter being domestic law, activists require better capacity for data collection and strategic litigation, especially in light of continued violence against LGBT+ individuals. Across all countries, documenting homophobic violence, challenging anti-LGBT+ narratives, and ensuring the safety of activists remain critical. The panelists also called for the use of legal avenues, such as courts and shadow reports, to push for change, and for greater visibility of Francophone Africa's LGBT+ struggles.

## **Moderated Panel Discussion: Regional institutions & initiatives and South-South learning**

The panel discussion on regional institutions and initiatives and south-south learning brought together participants from civil society organizations, regional human rights entities, and state representatives to discuss the implementation of Resolution 275. The discussion focused on both progress made and areas needing improvement.

Participants emphasized the need for reviewing regional charters and national constitutions to identify gaps in protecting LGBT+ persons, along with enhancing training for both state and non-state actors. They also underscored the importance of civil society organizations in raising awareness and supporting the implementation of Resolution 275, despite the challenges posed by shrinking civic space and linguistic disparities.

Gilbert Sebihogo from **NANHRI** highlighted the need for national human rights institutions (NHRIs) to institutionalize LGBT+ rights within their organizations, provide training for commissioners and conduct research to support evidence-based advocacy. NANHRI is already involved in training judges and parliamentarians on equality. He emphasized the importance of engaging with international and regional processes, such as in the UPR process. He stressed the need for NHRIs to collaborate with civil society and have focal points dedicated to LGBT+ issues within NHRIs.

**Hon. Mudford Mwandenga**, a Commissioner of the African Commission, reinforced that the African Charter mandates the Commission to protect everyone, including LGBT+ people. He provided recommendations for implementing Resolution 275:

- State parties should include their compliance with Resolution 275 in their periodic reports.
- NHRIs should take part in lobbying states when they are before the African Commission.
- NHRIs that are affiliated to the African Commission should report on Resolution 275 as they would any other resolution.
- Civil society organizations--whether they have observer status or not--should raise awareness of Resolution 275.
- Lawyers should take up LGBT+-related cases before the African Commission.
- There is a need for more moral and financial support for LGBT+ advocates/activists.
- The African Commission should ask countries about steps that have been taken to implement Resolution 275 during the dialogue with States during their periodic review.
- The African Commission should continue adopting guidelines and resolutions on LGBT+ matters.

Carlos Idibouo of **Fierté Afrique Francophone** pointed out the disparities in awareness and implementation of Resolution 275 between Francophone and Anglophone African countries, noting that the Resolution has had little impact locally in Francophone nations. He called for efforts to bridge these gaps.

Robert Akoto Amoafa from **Pan Africa ILGA** shared the organization's work in bringing LGBT+ activists to the African Commission and engaging in high-level international forums. ILGA has also formed a group to strengthen civil society participation in the African Commission's processes.

In the **discussion**, participants raised the possibility of creating a "Complete Idiot's Guide to Resolution 275" for broad dissemination focused on providing guidance to young LGBT+ people and developing succinct, practical, country-level intervention guides based on what has been achieved.

## Session 5: Cooperation and Collaboration

### Moderated Panel Discussion: Effective partnerships and development cooperation

The panel on effective partnerships and development cooperation addressed the advancements in LGBT+ rights, focusing on the roles of South Africa, Sweden, France, and the UNDP. Overall, the panel highlighted the importance of strategic partnerships, evidence-based advocacy, and coalition-building to further LGBT+ rights globally, while countering opposition and disinformation.

In response to why **Sweden** has taken the lead on LGBT+ issues, Elisabeth Hårleman, Director of the Africa Regional Sexual and Reproductive Health and Rights Programme, explained that Sweden considers LGBT+ rights to be fundamental to human rights. Since 2006, Sweden has focused on supporting LGBT+ organizations and human rights defenders. Key factors behind Sweden's success include direct support for civil society organizations, capacity-building for LGBT+ groups and movements, and cross-movement collaboration. Sweden also actively

promotes local ownership, flexibility, and prioritizes listening to its partners. However, with decreasing funding and growing needs, alternative financing, such as engaging the private sector, must be explored.

Discussing **France's** role in advancing LGBT+ rights, Alexandre Brochard, Political Counsellor from the Embassy of France in South Africa emphasized the country's commitment to international obligations. In 2008, France was one of 66 countries to sign the first United Nations General Assembly declaration on gay rights. While there have been positive developments, there has also been significant backlash on LGBT+ issues. Brochard argued that it is time to push for more ambitious measures, starting with a joint statement at the Human Rights Council on decriminalizing same-sex behavior. Additionally, France has appointed a special envoy for LGBT+ rights, tasked with setting standards and strengthening diplomatic engagement on these issues. France has also established a dedicated €2 million fund to support LGBT+ organizations, particularly those excluded from other financing channels. Brochard concluded by noting that this initiative is part of the French government's broader agenda for Africa.

In response to a question about **South Africa's** progress in protecting LGBT+ persons, Zaheer Laher, Acting Deputy Director General, Department of International Relations and Cooperation emphasized that the government's regional and global stance is rooted in its national policies, Constitution, and laws. South Africa has partnered with Brazil and New Zealand at the Human Rights Council to advocate for LGBT+ rights. However, at the moment, it is difficult to build an African group on LGBT+ issues. South Africa was isolated on these issues for a few years, but over the last 10-15 years, there have been gradual changes with some countries joining. This is important as it helps counter the ideology that this is a North-South issue.

Jeffrey O'Malley from the **UNDP** noted that on May 17, 1990, the World Health Organization declassified homosexuality as a disease, despite the fact that over 100 countries still criminalized same-sex activity at the time. Today, that number has decreased to 64, but there is still work to be done. The United Nations has developed a strategy to protect LGBT+ staff from internal and external discrimination. While the strategy initially faced resistance from feminist and women's rights movements, collaboration has grown over time. This is similar to the resistance we see in some NHRIs. There have been successes in regions, such as in the Southern African Development Community, and it is important to build on these successes by developing alliances with other Global South countries that are supportive on LGBT+ issues like Mexico.

During the **discussion**, key points raised included the need for global cooperation, safeguarding human rights language against anti-rights movements, and securing sustainable funding for LGBT+ initiatives. Panelists stressed the importance of research, disaggregated data, and intersectional engagement, while noting that financing for development cooperation is dwindling, making private sector involvement increasingly necessary.

## **Session 6: Cross-Cutting Lessons and Linking Resolution 275 to Other Human Rights Commitments**

### **Presentation: Lessons from monitoring implementation of 275**

- Provided a summary of how the African Commission has used Resolution 275 in its work since its adoption and the extent to which the African Commission has addressed LGBT+ issues in its work in the past decade.
- The African Commission has made significant progress in implementing Resolution 275 and in addressing LGBT+ issues in the ten years since the adoption of Resolution 275. Specific findings included the following:
  - Three new resolutions covering sexual orientation or gender identity
  - Two new general comments compared to zero
  - Nine new concluding observations
  - Seven new guidelines or principles
  - Sexual orientation and gender identity covered in 4 State Reports
  - Six press releases on sexual orientation and gender identity issues
  - This is compared to 0 in all categories in the period between 2008-2014.
- The way forward included the need for improved implementation of Resolution 275; improvement in the engagement of civil society; a reaffirmation by the African Commission on its commitment to Resolution 275 and its implementation; and the need for continued monitoring of Resolution 275 implementation.

*See Presentation: Lessons from monitoring implementation of 275 for more information*

### **Presentation: Lessons from country case studies and regional analysis: linking 275 to broader human rights commitments**

- Detailed the findings from an assessment of the implementation of Resolution 275 in 10 countries—Angola, Cote d'Ivoire, Democratic Republic of Congo, Eswatini, Kenya, Mauritius, Mozambique, Namibia, Zambia and Zimbabwe.
- Looked at five different areas to identify progress: Protective legal and policy environment; effective investigation and prosecution of perpetrators; access to justice; civic space free from stigma, reprisals and criminal prosecutions; and inclusion and changing social norms.
- Key findings include the following:
  - There has been significant progress in the law and policy environment, including decriminalization, prohibition of discrimination on the basis of sexual orientation and gender identity, hate crimes law and inclusion in domestic or family violence laws.
  - Significant small steps that are notable and should not be underestimated, including acceptance of LGBT+-specific UPR recommendations; more allies in government and decision-making positions; inclusion of LGBT+ in decision making processes; stronger, more diverse civil society; holding of gay pride

- parades; breaking out of health space; beating back punitive bills; and registration of LGBT+ civil society organizations.
  - There are gaps in access to justice and effective accountability for perpetrators. Most progress is led by civil society.
  - Mixed progress in ensuring civic space is free from stigma, reprisals and criminal prosecution.
- The way forward includes enacting of protective laws and policies, including anti-discrimination laws and hate crimes and speech legislation, increasing access to justice, and sensitizing key stakeholders. \

*See Presentation: Lessons from country case studies and regional analysis: linking 275 to broader human rights commitments for more information.*

*Country plans for next steps to implement Resolution 275 are provided in Annex 2. =*

## **Session 7: Resolution 275 in the Next 10 Years**

### **Moderated Panel Discussion: Where to from here?**

The final panel discussion on the future of Resolution 275 highlighted both the accomplishments and the challenges ahead in its implementation over the next decade. The discussion emphasized several key points:

- Since the adoption of Resolution 275 a decade ago, there has been progress in protecting LGBT+ communities. However, there are still significant gaps in implementation, including decriminalizing homosexuality, raising awareness, and training. It was acknowledged that these initiatives should have started earlier. Moving forward, States must focus on actions that further support LGBT+ rights.
- While Resolution 275 remains relevant, it needs to be interpreted as broadly as possible to address emerging issues. A review of the Resolution could ensure that it reflects the current needs of the community, but this must be informed by an analysis of evolving trends and challenges over the past decade.
- Predicting the next decade is difficult, but the aim should be to end all violence and human rights violations against LGBT+ people. There is concern that civil society is facing rising anti-gender activism. To remain effective, activists and civil society organizations should focus on advocacy, regardless of whether LGBT+ organizations achieve observer status within the African Commission.
- Commissioners Remy Lumbu and Mudford Mwandega stressed the importance of collaboration and consensus-building to ensure Resolution 275 is fully implemented. They highlighted the need for civil society to push for progress and assured LGBT+ organizations that they would be supported in their efforts to gain observer status.
- The overall sentiment was optimistic but cautious. Participants agreed that relentless advocacy and collaboration are essential for achieving meaningful change within the next decade.

## **Session 8: Closure and Reflections**

In her closing address, Deputy Minister for Women, Youth and Persons with Disabilities, South Africa Hon. Mmapaseka Steve Letsike emphasized the necessity of protecting LGBT+ rights as fundamental human rights across Africa. She praised progress over the past decade, such

as increased decriminalization of homosexuality and the implementation of protective legislation in some African countries. However, she also acknowledged persistent challenges, including areas where homophobic laws, violence, and discrimination remain entrenched, even carrying severe penalties.

Highlighting the historical fluidity of gender and sexual expression in African cultures, Letsike argued that colonial influence largely introduced the stigmatization of LGBT+ identities. She invoked prominent figures like Nelson Mandela, underscoring that the true division in society lies between those who uphold democracy and those who oppose it. Letsike urged African nations to dismantle discriminatory laws, safeguard LGBT+ individuals from violence, and foster inclusive policies that allow full societal participation. She concluded with a call for continued collaboration and introspection, urging African Commission Member States to fully implement Resolution 275 to ensure equality and justice for LGBT+ Africans.

## Annex 1: Agenda

Time	Activity	Moderator
<b>Day one – 28 August 2024</b>		
08:00–09:00	Registration	
<b>Session 1: Opening Session</b>		<b>Session Moderator: Anthony Oluoch</b>
09:00-10.15	Conference moderator’s opening remarks	Anthony Oluoch
	Security briefing	Xoliswa Xesibe, UNDSS
	Welcome	Nelson Muffuh, UN Resident Coordinator TBC
	Opening Remarks	Commissioner Remy Lumbu, ACHPR Chair
	Video welcome from Government of South Africa	Hon Ronald Lamola, Minister of International Relations and Cooperation, South Africa
	Video welcome from Government of Angola	Dra. Ana Celeste Januario, State Secretary, Ministry of Justice and Human Rights, Angola
	Video welcome from Government of Cote d’Ivoire	<b>TBC</b>
	Keynote Address	Gilbert Sebihogo, Network of African National Human Rights Institutions (NANHRI)
	Agenda overview and meeting objectives, including reference to session 7	Priti Patel, UNDP
<b>10:15 – 10:45 Health Break</b>		
<b>Session 2: Setting the Scene: Reflections – The Journey to Res 275</b>		
10:45 – 10:55	<b>Presentation: What is Resolution 275?</b>  Laura Arudi, NANHRI	Moderator:  Robert Amofo, Pan African ILGA (PAI)
10:55- 11:45	<b>Moderated Panel Discussion: The adoption of Resolution 275 and the decade that followed</b>  What is the role of ACHPR in the AU and in the human rights system and how does it relate to other human rights bodies? What catalyzed the Resolution and what was the process to make it happen? What has happened at a regional level	Hon Pansy Tlakula, Former ACHPR Commissioner  Stefano Fabeni, Synergia  Monica Tabengwa, UNDP  John Jeffery, former Deputy Minister of Justice and Constitutional Development, South Africa  Moderator:  Robert Amofo, PAI

	with 275 and ACHPR since that time?		
11:45-12:30	<b>Plenary Discussion</b>		
<b>12:30 – 13:30 Lunch Break</b>			
<b>Session 3: Progress Made - Thematic Panels</b>			
13:30–14:15	<p><b>Moderated Panel Discussion: Decriminalisation</b></p> <p>What progress has been made on decriminalization, in the spirit of Res 275? When has Res 275 itself been explicitly cited or used and how? What has been learned both from the use of 275 and more broadly? How do we draw on those lessons to more effectively drive this work in other countries going forward?</p>	<p>Laone Van Vuuren, LEGABIBO, Botswana</p> <p>Hon. Andy Labonte, M.P. Seychelles</p> <p>Dr. Gizela Pires, National Directorate for Human Rights &amp; Citizenship, Government of Mozambique <b>TBC</b></p> <p>Hon. Mamello Phooko M.P., Lesotho</p>	<p>Moderator:</p> <p>Landilani Banda, University of Pretoria Centre for Human Rights (CHR)</p>
14:15-15:00	<p><b>Moderated Panel Discussion: Enacting Protective Laws</b></p> <p>What progress has been made on enacting protective laws, in the spirit of Res 275? When has Res 275 itself been explicitly cited or used and how? What has been learned both from the use of 275 and more broadly? How do we draw on those lessons to more effectively drive this work in other countries going forward?</p>	<p>Liria de Castro, Arquivo de Identidade Angolana, Angola</p> <p>Hon Carmen Martins, M.P., Cape Verde</p> <p>Dimitry Ahyu, Collectif Arc-en-Ciel, Mauritius</p> <p>John Jeffery, Former Dep Min of Justice, South Africa</p>	<p>Moderator:</p> <p>Priti Patel, UNDP</p>
15:00 – 15:30	Q&A and comments from plenary on both decriminalisation and protective laws		<p>Moderator:</p> <p>Lwazi Somya, SALO</p>
<b>15:30 – 16:00 Health Break</b>			
16:00-16:45	<p><b>Moderated Panel Discussion: Inclusion and social norms</b></p> <p>What progress has been made on promoting inclusion (eg LGBTI data collection, systems to report allegations of human rights violations, legal status for relevant</p>	<p>Koffi Trésor, Ministry of Justice, Cote d'Ivoire <b>TBC</b></p> <p>Junior Safari, National Human Rights Commission, DR Congo</p> <p>Salen Kambinda, Positive Vibes, Namibia</p>	<p>Moderator: Stefano Fabeni, Synergia</p>

	CSOs, etc) and positive social norms (government ministers speaking out in public, reminders to not discriminate, etc)? When has Res 275 itself been explicitly cited or used and how? What has been learned both from the use of 275 and more broadly? How do we draw on those lessons to more effectively drive this work in other countries going forward?	Sharlotte Kigezo, NGLHRC, Kenya	
16:45-17:15	Q&A and comments from plenary on inclusion and social norms		
17:15 – 17:20	<b>Closing of the day (Anthony Oluoch)</b>		
17:30 – 19:30	<b>Reception</b>		

<b>Day Two: 29 August 2024</b>			
9:00 – 09:15	<b>Quick reflections on day one invited from the plenary</b>	Moderator: Anthony Oluoch	
<b>Session 4: Looking Forward / Improving Implementation of Res 275</b>			
09:15-10:00	<b>Moderated Panel Discussion: Country challenges and roadmaps</b>  What are the challenges to implementation and country level strategies for progress going forward, what are the gaps, obstacles?	Ahiakou Koami Mawuvi, Afrique Arc En Ciel, Togo <b>TBC</b>  Lloyd Kabara, Ministry of Justice, Zimbabwe <b>TBC</b>  Allan Nsubuga, SMUG, Uganda <b>TBC</b>  Habiba Osman, Malawi Human Rights Commission, Malawi	Moderator:  Laura Arudi, NANHRI
10:00-10:30	Q&A and comments from plenary on challenges and country strategies		
10:30 – 11:15	<b>Regional institutions &amp; initiatives and South-South learning</b> – what has been done, what more can be done/improved to ensure implementation of Res275.	Gilbert Sebihogo, NANHRI  Hon Mudford Mwandenga, ACHPR Commissioner  Carlos Idibouo, Fierté Afrique Francophone  Robert Amofo, PAI	Moderator:  Monica Tabengwa, UNDP
11:15 – 11:45	Q&A and comments from plenary on regional institutions		

	and initiatives		
<b>11:45-12:15 Health Break</b>			
<b>Session 5: Cooperation &amp; Collaboration</b>			
12:15-13:00	<p><b>Moderated Panel Discussion: Effective Partnerships and Development Cooperation</b></p> <p>What are the roles – and what are the limitations – of bilateral donors and multilateral agencies in supporting the use of Resolution 275? How can development partners be more effective in promoting and sustaining inclusion?</p>	<p>Elisabeth Hårleman, Director, Africa Regional SRHR Programme, Sweden</p> <p>Netherlands <b>TBC</b></p> <p>Ambassador Jean-Marc Berthon, France <b>TBC</b></p> <p>Jeffrey O'Malley, UNDP</p> <p>Zane Dangor, Director General, Department of International Relations and Cooperation, South Africa <b>TBC</b></p>	<p>Moderator:</p> <p>Frans Viljoen</p>
13:00 -13:30	Q&A and comments from plenary on partnerships and development cooperation		
<b>13:30 – 14:30 Lunch Break</b>			
<b>Session 6: Cross-cutting lessons and linking Resolution 275 to other human rights commitments</b>			
14:30-14:50	<p><b>Presentation: Lessons from monitoring implementation of 275</b> (Synergia research)</p> <p><b>Presentation: Lessons from country case studies and regional analysis: linking 275 to broader human rights commitments</b> (UNDP research)</p>	<p>Varyanne Sika, Synergia</p> <p>Priti Patel, UNDP</p>	<p>Session chair:</p> <p>Landilani Banda CHR</p>
14:50 – 15:10	Quick country delegation brainstorming at conference room tables		
15:10 – 16:00	<b>Plenary report back</b> – volunteers from individual countries share ideas or plans, first calling on government and parliamentarian reps, then NHRI reps, finally CSO reps		
<b>16:00 – 16:15 Coffee break</b>			
<b>Session 7: Resolution 275 in the next 10 years</b>			
16:15 -17:00	<p><b>Moderated Panel Discussion: Where to from here?</b></p> <p>- What are Commissioners' thoughts on the country report backs and plans?</p>	<p>Commissioner Remy Lumbu, ACHPR Chair</p> <p>Commissioner Mudford Mwandenga, ACHPR</p>	<p>Moderator:</p> <p>Frans Viljoen</p>

	- What are the gaps preventing full implementation, what support is needed, by whom?	Anna Mmolai-Chalmers, Southern Africa Litigation Centre	
<b>Session 8: Closure &amp; Reflections</b>			
17:00 -17:30	<b>Reflections</b>	Rapporteur	Amitrajit Saha, UNDP
	<b>Vote of Thanks</b>	CSO Rep	Busisiwe Nxumalo, SALO
	<b>Closing Remarks</b>	Eminent South African	Edwin Cameron TBC

## Annex 2: Selected country plans on next steps

### Angola

1. Raise awareness of Resolution 275 within the LGBT+ community in Angola.
2. Conduct advocacy with government institutions to ensure compliance with the obligations outlined in Resolution 275.
3. Launch joint campaigns.

### Benin

1. Establish a consultation framework with government and civil society to implement Resolution 275.
2. Collaborate with government and human rights institutions to organize a comprehensive study identifying the root causes of discrimination and stigmatization of LGBT+ people in Benin.
3. Build capacity for leaders on the understanding and use of Resolution 275 for effective advocacy, with a focus on supporting LGBT+ communities.
4. Raise awareness among justice sector stakeholders (e.g., magistrates, judges) about Resolution 275 and provide guidance on using it to address instances of violence.
5. Raise awareness of Resolution 275 among LGBT+ civil society organizations and established institutions.
6. Establish an advocacy committee comprising civil society organizations, the National Human Rights Commission, and the Mediator of the Republic to drive the implementation of Resolution 275.

### Botswana

1. Raise public awareness on LGBT+ issues by leveraging media platforms and public discourse to promote inclusivity and challenge stigma.
2. Advocate for the investigation of violence against LGBT+ individuals under the Domestic Violence Act.
3. Protect human rights defenders working on LGBT+ issues, ensuring they are safe from harassment or retribution.
4. Collaborate with religious groups to foster mutual understanding and challenge opposition to LGBT+ rights through constructive dialogue.
5. Submit shadow reports documenting human rights violations and violence against LGBT+ as part of international and regional processes, including before the African Commission, as part of the UPR process and to United Nations treaty bodies.
6. Document and respond to incidents of violence, including hate speech and hate crimes, against LGBT+ communities
7. Advocate for the introduction of hate crime legislation to address and penalize hate speech and violence targeting LGBT+ individuals.

### Cabo Verde

1. Promote understanding among the LGBT+ community of ongoing parliamentary efforts related to LGBT+ rights and reforms.
2. Push for the approval and implementation of an anti-discrimination law that explicitly protects LGBT+ individuals from discrimination.
3. Implement initiatives to enhance the socioeconomic status of the LGBT+ community, providing opportunities for economic independence and addressing barriers to employment, education, and social services.

## **Côte d'Ivoire**

1. Engage religious and traditional leaders to increase their awareness and understanding of Resolution 275, encouraging their involvement in its implementation to promote the protection of LGBT+ rights and reduce discrimination.

## **Democratic Republic of the Congo**

1. Support LGBT+ organizations to register to enable them to operate freely.
2. Raise awareness within communities about the law protecting human rights defenders.
3. Organize training sessions for police officers and judges on human rights, with a focus on sexual orientation and gender identity, to foster fair treatment.
4. Engage all segments of the Congolese population to promote the acceptance of sexual diversity and respect for LGBT+ rights.
5. Popularize and implement Resolution 275 at the national level by conducting awareness campaigns for leaders and documenting cases of human rights violations against LGBT+ individuals.
6. Document human rights violations faced by LGBT+ individuals to ensure accountability, raise awareness, and support advocacy efforts for legal and social reforms.

## **East African Community (Kenya, Uganda and Burundi)**

1. Translate, simplify, and create animated versions of key data to make it easier to understand and use.
2. Diversify the partners who share and utilize this data, incorporating it into press statements and public communications.

## **Liberia**

1. Raise awareness and advocate for the implementation of Resolution 275 among Parliament, traditional leaders, and judicial actors.

## **Mauritius**

1. Provide training on LGBT+ issues to police officers and caregivers to improve their understanding and support.
2. Work on legal reforms to ensure national laws are consistent with the provisions of Resolution 275.
3. Push for the repeal of Article 250 to bring it in compliance with the Supreme Court decision finding criminalization of same-sex sexual relations to be unconstitutional.

## **Malawi**

1. Conduct internal briefings for staff and commissioners at the Malawi Human Rights Commission, followed by collaboration with partners to conceptualize and provide training on Resolution 275, aimed at popularizing it and supporting law reform.
2. Release a statement to raise awareness about Resolution 275, particularly among relevant authorities responsible for its implementation, as many are still unaware of its provisions.

## **Mozambique**

1. Raise awareness of and disseminate Resolution 275 amongst all relevant stakeholders, including government, civil society organisations and academia.
2. Advocate for the domestication of Resolution 275 in legislation and for legislative reforms and inclusive public policies.
3. Provide training on LGBT+ issues to the judiciary and legislators and their staffs to improve their understanding and support of LGBT+ people.

### **Namibia**

1. Launch public media campaigns to promote acceptance and inclusion of LGBT+ people, especially during the 2024 election.
2. Engage parliamentary standing committees to raise their awareness of Resolution 275 and legal gender recognition.

### **Seychelles**

1. Conduct a sensitization campaign on the Hate Speech Bill.
2. Lobby for legal reforms to allow LGBT+ individuals and couples to adopt children.
3. Advocate for amendments to the Civil Status Act to legalize same-sex marriage.

### **South Africa**

1. Promote public awareness of Resolution 275 and its relevance to LGBT+ rights in South Africa, highlighting how individuals can access the African Court and leveraging the hate crimes and hate speech laws to complement its implementation.
2. Advocate for South Africa to ratify the African Court Protocol.
3. Include information on South Africa's compliance with Resolution 275 in alternate reports to international and regional bodies.

### **Togo**

1. Establish a referral mechanism for LGBT+ communities.
2. Engage in advocacy with traditional leaders and authorities, promoting the implementation of Resolution 275.
3. Appropriate the narrative around LGBT+ issues, ensuring that positive, inclusive messaging is amplified in public discourse and through policy initiatives.

### **Zambia**

1. Conduct sensitization campaigns to reduce violence, stigma, and discrimination against the LGBT+ community, and strengthen linkages to anti-gender-based violence services and healthcare. Lobby government to implement such linkages.
2. Enhance health service provision for key populations by improving access to inclusive healthcare and connecting these services with anti-gender-based violence support systems.
3. Lobby the government to implement Resolution 275, advocating for stronger protections and services for LGBT+ individuals in line with international commitments.

### **Zimbabwe**

1. Implement UPR recommendations addressing intersex surgeries, birth registry issues, and violence against women, including lesbian, bisexual and queer individuals.
2. Increase multisectoral collaboration by engaging Parliament, the Zimbabwe Human Rights Commission, civil society organizations, and the Ministry of Justice to advocate for LGBT+ rights.

3. Identify and support LGBT+ champions in Parliament, including the parliamentary standing committees, empowering them to counter the anti-LGBT+ motion and advocate for the application of Resolution 275.
4. Continue monitoring the implementation of Resolution 275 through project 275/275: One Africa, One Resolution.