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Eduard JORDAAN

Singapore Management University, [ejordaan@smu.edu.sg](mailto:ejordaan@smu.edu.sg)

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## South Africa and Sexual Orientation Rights at the United Nations: Batting for Both Sides

Eduard Jordaan<sup>a,b</sup>

<sup>a</sup>School of Social Sciences, Singapore Management University, Singapore, Singapore; <sup>b</sup>Department of Political Studies and Governance, University of the Free State, Bloemfontein, South Africa

### ABSTRACT

In 2011 South Africa led the UN Human Rights Council to adopt the first-ever UN resolution on sexual orientation. In 2014, South Africa was the only African state to support the follow-up to the 2011 resolution. These actions create the impression that South Africa is strongly committed to the international advancement of sexual orientation rights. However, this article scrutinises South Africa's actions on sexual orientation rights at the UN for the period 1995–2015 and will demonstrate South Africa's inconsistency, its frequent failures to support sexual orientation rights internationally, and its various actions against the advancement of these rights. The article sets South Africa's behaviour on sexual orientation rights against broader questions of the place of human rights in South African foreign policy and South Africa's international leadership.

### Introduction

At the 1995 United Nations (UN) Women's Conference in Beijing, South Africa came out strongly against discrimination on the basis of sexual orientation (Girard 2004, 341). When various African delegations confronted South Africa about raising the topic of sexual orientation, South Africa brushed them off with the explanation that the country's constitution prohibited discrimination on the basis of sexual orientation (Member of South African delegation to Beijing, Interview, 20 May 2014). In June 2011, South Africa led the UN Human Rights Council (HRC) to adopt resolution 17/19, 'Human rights, sexual orientation and gender identity' (UNHRC 2011a), the first-ever UN resolution on sexual orientation. Before the resolution, South Africa had to withstand scathing criticism from other African countries, and the spokesperson for the African Group even had to be called to order for his claim that 90% of South Africans did not support their country's resolution (Nigeria 2011). Mauritius was the only African state – out of 13 – to vote for resolution 17/19.<sup>1</sup> In the Third Committee of the UN General Assembly (GA), the biennial resolution on extrajudicial, summary or arbitrary executions has for years been a battleground over sexual orientation rights. In November 2012, in response to a motion from the United Arab Emirates to remove the terms 'sexual orientation and gender identity' from the resolution (UNGA 2012a, 2012b), South Africa spoke and voted for retaining the words (UNGA 2012c). In September 2014, the HRC adopted a second resolution on sexual orientation and gender identity (SOGI), resolution 27/32 (UNHRC 2014a). South Africa was the only African state to vote for the resolution and against the seven hostile amendments that preceded the final vote.

The examples above seem to bookend two decades of courageous and committed South African effort against discrimination and violence against lesbian, gay, bisexual, and transgender (LGBT) persons. During the adoption of resolution 17/19, the South African ambassador spoke as if democratic South Africa's foreign policy had always been true to the belief 'that no one should be subjected to discrimination or violence based on their sexual orientation or gender identity' (South Africa 2011b). However, close observers of human rights and sexual orientation matters at the UN, in this case the Coalition of African Lesbians (CAL), noted that prior to resolution 17/19 South Africa had for years held 'troubling and inconsistent positions' on SOGI issues (HRW 2011a). For CAL, resolution 17/19 was a reorientation and held the promise that South Africa might provide 'sustained progressive leadership' on the issue (HRW 2011a). On the face of it, South Africa's support for the aforementioned 2014 SOGI resolution suggests that South Africa had maintained its progressive stance after resolution 17/19.

Very little has been written about South Africa's positions on SOGI at the UN, and what exists usually focuses on specific events or votes, leaving the frequency and extent of South Africa's 'inconsistent and troubling' positions prior to resolution 17/19 unarticulated. There has also been very little coverage of South Africa's record after resolution 17/19, with the little that exists focusing on South Africa's failure to organise an African workshop on SOGI, the significance of which will be explained in a later section, and uncertainty about how South Africa was going to vote on the September 2014 SOGI resolution (Sonke Gender Justice 2014; Thamm 2014).

This article examines democratic South Africa's positions on the theme of human rights and sexual orientation at the UN. The focus falls on important nodes in the struggle over sexual orientation rights at the UN since South Africa's democratisation: the 1995 Women's Conference in Beijing; resolutions related to the Special Rapporteur on extrajudicial, summary or arbitrary executions; Brazil's 2003 draft resolution on sexual orientation, and various events in the HRC after March 2011. Author interviews with diplomats, activists and international civil servants familiar with SOGI issues at the UN,<sup>2</sup> as well as other sources such as UN records, news reporting and NGO statements, are harnessed to present a thorough view of South Africa's commitment, or lack thereof, to SOGI-related human rights at the UN.

Beyond bringing to the fore an issue that has received little attention, an examination of South Africa's record on SOGI is also important because it is part of the broader question of the place of human rights in South African foreign policy. Mandela (1993, 88) famously declared that human rights would guide South Africa's future foreign policy. Although human rights were soon demoted (Jordaan 2012; Smith 2015; Zondi 2009), South African policy documents and policy-makers have continued to proclaim their centrality to South African foreign policy. (Alden and Schoeman 2013, 116; Ebrahim 2014; Fransman 2012; South Africa DIRCO 2013, 4; Smith 2016), as have academic observers. Brysk (2009, 171, 196), for instance, regards South Africa as a 'principled exporter of human rights'. In a review of South Africa's foreign policy, a group of respected commentators found little fault with the content of South Africa's international positions on human rights – it is motivated by an 'ethical rationale' – but rather identified the foreign ministry's clumsy public relations and engagement with the international media as the problem (Le Pere 2008, 16–17).

However, by the late 2000s, such affirmative assessments of the place of human rights in South African foreign policy have become hard to sustain (Bischoff 2009; Jordaan 2010). In 2009 Kenneth Roth, executive director of Human Rights Watch, pointed out that because of South Africa's foreign policy positions, some so out of date that not even China or Russia were using them anymore, the human rights community had come to regard South Africa as a 'huge disappointment and no longer an ally' (US Government 2009a). South Africa's record on human rights subsequent to Roth's intervention has remained poor (Jordaan 2016, 25; Killander 2016, 49; Smith 2016, 18). In a review of South Africa's actions on the HRC from 2006 to 2012, Jordaan (2014a, 92) concludes that, despite the occasional exception, South Africa is a defender of oppressive governments and an obstacle to the international advancement of human rights (also Jordaan 2014b, 2015). This has continued to be the case since South Africa re-joined the HRC in 2014 (Allison 2014). As the Economist (2015) recently summed it up, South Africa's human rights foreign policy is 'clueless and immoral'.

These general assessments of human rights in South African foreign policy have paid almost no attention to sexual orientation issues.<sup>3</sup> The inclusion of SOGI matters stand to influence our assessment of South Africa's human rights foreign policy, for better or for worse. Incorporating SOGI matters in such an evaluation seems particularly relevant as resolution 17/19 marked a turning point. In the context of a discussion of this resolution, held in September 2011, the director-general of Department of International Relations and Cooperation (DIRCO), Jerry Matjila, acknowledged that South Africa had previously failed to protect human rights in the country's foreign policy. This omission, Matjila promised, would be changed: diplomats were reminded that 'the Bill of Rights is your Bible' (Fabricius 2011). Furthermore, South Africa's leadership on resolution 17/19 allowed the country to cast itself as a moral actor committed to doing the 'right thing' even at the cost of good relations with allies (Fabricius 2011). South Africa's contribution on resolution 17/19 also changed the perception of civil society, with the human rights community again regarding South Africa as a viable international partner (HRW 2011a). Finally, resolution 17/19 also pointed to improved relations with the West, at least on the HRC. Prior to this June 2011 resolution, South Africa had only once voted with the bulk of the Western countries – in June 2006 – on an issue on which the HRC was substantially split (Jordaan 2014b, 247).

What will surface, in terms of South Africa's commitment to SOGI rights, is that after the 1995 UN Women's Conference in Beijing until before the HRC's June 2011 session the overall pattern is of South Africa's weakening support for SOGI rights at the UN to a point where the country becomes an opponent of these rights. Resolution 17/19 marked a sharp change of direction. This new course was sustained until the end of 2012, but in 2013 South Africa's commitment began to waver until it reached the low of South Africa voting in favour of an anti-SOGI resolution at the June 2014 session of the HRC.

An investigation of South Africa's SOGI positions at the UN is important, secondly, for allowing us to assess South Africa's international leadership. Expectations of leadership are presents in characterisations of South Africa as an 'emerging state', an 'emerging power', a 'Southern power' (Cooper and Flemes 2013; Heine 2010), a 'rising power' (Ebert and Maurer 2013), and an 'emerging regional power' (Alden and Vieira 2005, Nel 2010). According to Alden and Schoeman (2013, 111), South Africa is a leader of Africa, 'a credible leader of the South', and 'capable also of global leadership'. Moreover, the

regular characterisation of South Africa as a 'middle power' (Hamill and Lee 2001; Jordaan 2012; Schoeman 2000; Van der Westhuizen 1998, 2013) is meant to draw attention to South Africa's prominence in trying to solve global problems and conflicts, as well as the country's tendency to act as a mediator, catalyst, facilitator, manager or bridge-builder when addressing international problems (Cooper, Higgott, and Nossal 1993, 24–25; Neack 2013, 58).

With a constitution that was one of the first to outlaw discrimination on the basis of sexual orientation, while simultaneously enjoying close links with Africa and the rest of the Global South, South Africa has been well placed to act as a mediator between international opponents and proponents of SOGI rights. However, after a forceful performance at the 1995 Beijing conference, South Africa showed little interest in leading on SOGI. Only in December 2010 in the GA did South Africa step up. Three months later, South Africa launched an initiative, but it took the form of an anti-SOGI resolution and ended in failure. Another three months later, South Africa led the HRC to adopt resolution 17/19, which mandated an Office of the UN High Commissioner for Human Rights (OHCHR) report and a panel discussion thereof. These mandated tasks were completed in March 2012. Further action on SOGI depended to a great extent on South Africa, the recognised leader on SOGI at the HRC, but its leadership withered into inaction and unreliability.

Before proceeding, it will be helpful to ask what motivates South Africa's SOGI positions at the UN. South Africa's considerable inconsistency on the issue, which will be demonstrated, suggests that various factors are at work. South Africa's inconsistency also takes a number of explanations off the table. The various sharp, quick turns in South Africa's SOGI positions over a period of 20 years mean that South Africa's international positions cannot be explained as a reflection of changes in domestic law and policy, which have gradually become more progressive (HRW 2011b). It is also not helpful to separate the Mandela, Mbeki and Zuma eras in terms of their SOGI positions. During the Mandela's presidency, South Africa strongly supported human rights related to sexual orientation at the Beijing Conference, but during his tenure there were hardly any events where this commitment could play out; the topic of sexual orientation began to come up more frequently in the 2000s (International Commission of Jurists 2007). Under Mbeki and Zuma, South Africa often strayed from supporting SOGI rights, but South Africa's inconsistency under both Mbeki and Zuma makes it difficult to distinguish these two presidencies on SOGI matters.

Seeing South Africa's actions on SOGI as reflective of broader historical trends does not take us very far. To be sure, the growing international recognition of LGBT rights helped South Africa to get resolution 17/19 adopted. Brazil failed to have a weaker sexual orientation resolution adopted in 2003, but South Africa's frequent flip-flopping meant that at time it also acted against broader historical trends. Rather, it seems as if events in the UN, whether scheduled or ad hoc, were more significant spurs to action.

South African diplomats cite their country's history and its constitution as the inspiration for their support for SOGI rights (South Africa 2014). However, South Africa's unevenness on and frequent failure to support SOGI rights mean that foreign policy-makers frequently ignored the country's historical and constitutional dictates. Moreover, at times South Africa used a reference to its liberal constitution to obscure its support for an illiberal position (South Africa 2010a).

South Africa's inconsistency and the lack of a clear long-term policy on SOGI it implies make the country's specific SOGI stances relatively sensitive to influence from those close

to the issue. Specific South African diplomats are one such source, as are other South African ministries. Civil society has also tried to shape South Africa's actions on SOGI, although with mixed success (Girard 2004, 347). Moreover, pro-SOGI civil society is not monolithic, a fact South Africa has exploited to its own advantage.

Two further factors feature. The 'anti-imperialist' tenor of South African foreign policy has frequently been noted (Jordaan 2010; Nathan 2005; Zondi 2009). On resolution 17/19 and other pro-SOGI initiatives, South Africa stood on the same side as Western states, a rare event on the HRC (Jordaan 2014b, 247). On the HRC, Western states often regard South Africa as an 'unfriendly' delegation and as having the wrong friends (Allison 2014; Donahoe 2013; US Government 2009b; Western diplomat, Interview, February 14, 2014). South Africa's anti-imperial proclivities and the country's sense that its purpose is to defend the developing world on occasion shine through in the country's treatment of SOGI matters.

A final factor concerns South Africa's relations with Africa. As voting records and speeches show, at the UN the majority of African states oppose linking sexual orientation with human rights. On SOGI, South Africa faces a choice: support the human rights of LGBT persons in UN forums or maintain good relations with African states. On SOGI, South Africa has been under pressure from African states to eschew progressive positions. After resolution 17/19 South Africa suffered isolation from the African Group and 'lost' some allies (Fabricius 2011), which echoes Smith's broader claim that '[p]erhaps the strongest influence on South Africa's human rights stance is its troubled relationship with the rest of the African continent' (Smith 2016, 20). At the same time, pressure out of Africa is not inescapable. Moreover, African states do not form a monolithic bloc. In a study of South Africa's record on the HRC, Jordaan (2014a, 101–109) points to numerous instances of other African countries acting in a more pro-human rights way than South Africa. This means that South Africa has room for manoeuvre. The same applies to SOGI. The discussion below will indicate a number of examples of other African states at times adopting more pro-SOGI positions than South Africa, as well as of South Africa acting in a more pro-SOGI way than a majority of African states. Therefore, while resistance from some African states helps to explain cases of South Africa's anti-SOGI behaviour, it does not explain it fully.

## **The 1995 UN Women's Conference in Beijing**

In the first years of its democracy, South Africa strongly supported the international protection of rights related to sexual orientation. The UN Fourth World Conference on Women, held in Beijing in September 1995, was significant because it is where the 'first open discussion of the issue [of sexual orientation] in the UN' took place (Bunch and Fried 1996, 202). In a plenary address, a South African representative of the Lesbian Caucus, an advocacy alliance, spoke about the discrimination lesbians face and called for the recognition that 'discrimination based on sexual orientation is a violation of basic human rights' (Ditsie 1995). During the ensuing debate, the Holy See, some Catholic and Islamic countries, and various African countries (including Benin, Cote d'Ivoire, Senegal, Sudan and Uganda) opposed the mention of sexual orientation. However, South Africa was one of more than 30 countries to support the mention of sexual orientation, with South Africa making 'a particularly strong appeal' to end all

discrimination and to include 'sexual orientation' in the conference's final document (Girard 2004, 340).

An important part of the Beijing Conference was the lengthy process to produce a document on the rights of women, the Beijing Declaration and Platform for Action. The 39th session of the UN Commission on the Status of Women, held in New York during March–April 1995, was the final preparatory meeting for the Beijing Conference. The New York meeting had been preceded by five regional conferences (Otto 1995, 289). The European regional conference was the only one to include a reference to 'sexual orientation' in the document it brought to New York (UNCSW 1995; also Otto 1995, 289), but at the New York meeting South Africa added its voice to those who wanted to include reference to sexual orientation (Sanders 1996, 90). Although bracketed, meaning there was still no consensus on the text, the draft Beijing Platform for Action contained four references to sexual orientation (UN 1995d).

At the Beijing Conference, during negotiations on the final document, discussions on sexual *rights* proceeded along one track, and discussions of sexual *orientation* along another, separate track (Girard 2004, 337). Most African states strongly supported the notion of sexual rights given the continent's severe problems with HIV-AIDS and violence against women (Klugman 2000, 152). What was to become paragraph 96 of the Beijing Platform was adopted a few days before the end of the conference (Girard 2004, 338). According to paragraph 96, the 'human rights of women include their right to have control over and decide freely and responsibly on matters related to their sexuality' (UN 1995a, 36). South Africa strongly supported the inclusion of sexual orientation in the Beijing platform and understood the above-quoted part of paragraph 96 to include 'the right to be free from coercion, discrimination and violence based on sexual orientation' (UN 1995a, 171). However, other African states did not understand the text in this way (Girard 2004, 338). The adoption of paragraph 96 required 'obfuscation' of the sexual orientation aspect (Klugman quoted in Girard 2004, 338), because, had it been explicitly interpreted as freedom from discrimination on the basis of sexual orientation, African countries (excluding South Africa) would have withdrawn their support (Klugman 2000, 159).

Rights regarding sexual orientation thus received some coverage under the umbrella of sexual rights, but there were also direct negotiations about sexual orientation. These were still taking place on the final night of the conference, but, in the end, all references to the term were removed. South Africa wanted to retain the references (Otto 1995, 289) and thus issued, along with a number of other countries, an interpretative statement to say that they understood the reference to discrimination against women of 'other status', in paragraph 46 of the Beijing Declaration and Platform for Action (UN 1995b), to include discrimination on the basis of sexual orientation (Otto 1996, 26).

Despite the deletion of explicit reference to sexual orientation, the wording of paragraph 96 is regarded as a victory for lesbian women. In the years that followed the Beijing Conference, there was a strong conservative pushback at the UN against the sexual rights provisions in the Beijing Platform. At the 5-year and 10-year follow-up meetings to the Beijing Conference, women's groups could do little more than 'hold the line on the modest language won in the 1990s' (Corrêa, Petchesky, and Parker 2008, 164). At the five-year review conference, held in New York in 2000, conservatives kept the phrases 'sexual orientation' and 'sexual rights' out of the Conference outcome

document. However, South Africa was among those who exerted 'strong pressure' to retain language such as 'and other status' and 'full diversity of women's conditions and situations' in order to cover sexual orientation. Moreover, South Africa also helped to ensure that the language from Paragraph 96 that covered sexual orientation remained in the outcome document (Girard 2000). At the 10-year review conference, South Africa's foreign minister did not explicitly mention sexual orientation, but nevertheless spoke of the importance of a 'focus' on the sexual rights of women (Dlamini-Zuma 2005).

The 1995 Women's Conference in Beijing marks a high point in South Africa's defence of sexual orientation rights. In light of South Africa's waning willingness to push for or simply support sexual orientation rights during the 2000s, it helps to note that the Beijing conference took place in the heady atmosphere of South Africa's recent democratisation and the triumph of human rights over apartheid. Indeed, at Beijing, South Africa saw itself as 'carrying the flag for human rights' (Member of South African delegation to Beijing, Interview, 20 May 2014). As noted in the introduction, South Africa's initial commitment to a human rights-centred foreign policy soon gave way and South Africa became 'just another country' (Vale and Taylor 1999, 630).

### **Resolutions on the special rapporteur on extrajudicial, summary or arbitrary executions**

The special procedures system is central to the UN's work on human rights (Piccone 2012, 4–5). This mechanism entails the appointment of experts or groups of experts to investigate the human rights situation in a specific country or on a specific theme. The issue of sexual orientation has increasingly appeared in the reports and communications of various special procedures, such as mandates addressing arbitrary detention, racism, forced disappearances, human rights defenders, the right to health, judicial independence, torture, violence against women, the right to adequate housing, the right to education and a few others (ARC International 2011a, 5–6).

One special procedures mandate, the Special Rapporteur on extrajudicial, summary or arbitrary executions, has been a focal point for disagreements in the UN over sexual orientation. Resolutions on this mandate have been the only UN resolutions, except for the two SOGI resolutions that followed later, that mention the term 'sexual orientation' (ISHR 2012). While special procedures reports had begun to mention violence and discrimination against sexual minorities in the mid-1990s (International Commission of Jurists 2007), the 1999 report of the Special Rapporteur on extrajudicial, summary or arbitrary executions was a landmark for devoting a section to 'the right to life and sexual orientation', and for special rapporteur expressing 'deep concern' over various reports 'of persons having been killed or sentenced to death because of their sexual orientation' and speaking out against the criminalisation of matters related to sexual orientation (UNCHR 1999, 26; see also UNCHR 2000a, 21–22). Resolutions on extrajudicial, summary or arbitrary executions are tabled in two UN human rights forums: the GA Third Committee and the UN Commission on Human Rights (CHR)/HRC.<sup>4</sup> Mention of 'sexual orientation' can be found in CHR resolutions, but in HRC resolutions the term does not appear explicitly, but refers to GA resolutions that do contain the term (UNHRC 2008; UNHRC 2011b).



In the CHR, the term 'sexual orientation' first appeared in the resolution on extrajudicial, summary or arbitrary executions in 2000. The resolution expressed 'concern' over the killing of persons 'because of their sexual orientation' (UNCHR 2000b). The 2000 resolution was adopted by consensus. However, the next year, Finland, introducing the draft resolution, removed the reference to sexual orientation and replaced it with a reference to killing committed 'for any discriminatory reason', most likely to ensure that the resolution was adopted by consensus (UNCHR 2001, 13). However, in 2002, the term 'sexual orientation' reappeared, the sponsors of the resolution now willing to forego a consensual adoption of the resolution. The 2002 draft resolution called for proper investigations into cases where people had been killed because of their sexual orientation and asked the special rapporteur to pay specific attention to such cases (UNCHR 2002a). Pakistan proposed removing the 2 references to sexual orientation, but its proposed amendment was defeated 28–15 (9 abstentions). South Africa was one of six African countries to abstain.<sup>5</sup> The resolution was then adopted, with South Africa voting in favour (UNCHR 2002b, 481–482). In 2003, the draft resolution again contained a reference to sexual orientation. Pakistan requested a separate vote on the paragraph that contained the reference (UNCHR 2003a). The paragraph was retained by a vote of 27–10 (15 abstentions). South Africa was one of nine African countries to abstain. The resolution was then adopted, with South Africa voting in favour (UNCHR 2003b, 407–408). In 2004, the pattern repeated itself (UNCHR 2004, 412–414). In 2005, Pakistan returned to trying to delete the reference to sexual orientation through an amendment. However, Pakistan's amendment was rejected in a close vote (25–20, 7 abstentions). South Africa abstained on the amendment, but voted for the resolution, which was adopted (UNCHR 2005, 14–18).

The term 'sexual orientation' first appeared in the biennial GA resolutions on extrajudicial, summary or arbitrary executions in December 2002. The 2002 resolution reminded governments to effectively protect the right to life of all persons under their jurisdiction and to 'promptly and thoroughly' investigate, among others, 'all killings committed for any discriminatory reason, including sexual orientation' (UNGA 2003). Since 2002, the inclusion of the term 'sexual orientation' has constantly come under challenge through proposals in the GA Third Committee to remove mention of sexual orientation. These challenges are typically voted down, but in November 2010 a hostile amendment was successful in a Third Committee vote, only for the term to be restored one month later during a vote in the full GA.

South Africa's voting record in the GA on amendments to delete the reference to sexual orientation has been erratic. In 2002, South Africa was one of the 13 African countries to abstain, whereas 15 African countries voted to retain the reference, and 16 mostly Islamic African countries voted for deletion (UNGA 2002, 21–22). In 2004, South Africa was 1 of 9 African countries to abstain, whereas 10 voted to retain the reference and 19 voted to remove it (UNGA 2004, 20–21). In 2006, the African Group voted very differently, with 20 voting to retain the reference (including South Africa), 12 abstaining, and only 8 voting to remove the reference (UNGA 2006, 22). In 2008, the bulk of the African Group went the other way, as 28 African states (including South Africa) voted for removing the reference, 13 abstained, and only 3 opposed removal (UNGA 2008, 20–22). In November 2010, South Africa and 39 other African states were among those that succeeded in removing the term 'sexual orientation' in Third Committee vote.<sup>6</sup> South Africa argued that the African Group's proposal to replace the words 'any discriminatory reason, including

sexual orientation' with 'discriminatory reasons on any basis' provided 'comprehensive non-discrimination' (UNGA 2010a). South Africa further employed one of the standard arguments used by states hostile to sexual orientation rights, namely that there was no international agreement on the definition of 'sexual orientation'. South Africa called for a formal process to define the term and to establish how it fitted into international human rights law (UNGA 2010a). However, when, in December 2010, the United States proposed reinserting a reference to sexual orientation, South Africa changed sides and voted in support of reinsertion. Only 4 other African countries supporting reinserting the term, 29 were opposed and 10 abstained (UNGA 2010b, 19–20).<sup>7</sup>

South Africa's support for reinserting the term was grudging. South Africa lamented that the issue remained controversial and divisive, for which it 'partly' blamed Western states, specifically, 'for to the manner in which delegations have raised it in connection with all the different agenda items related to human rights' (UNGA 2010b, 16). Furthermore, South Africa's explanation of its about-turn was full of misrepresentation. South Africa repeated the claim that the African Group's amendment in November 2010 'was broad enough to not require specifying sexual orientation over the numerous other possible grounds for discrimination'. South Africa went on to say that the US's proposed reinsertion of the words 'sexual orientation' had 'nothing to do' with the amendment South Africa had supported in November 2010 (UNGA 2010b, 16). This is blatantly false: on both occasions the issue was whether to include a reference to sexual orientation. In December 2010, South Africa was willing to vote for the US amendment because it sought 'to provide a very significant protection to a category of people who are killed because of their sexual orientation' (UNGA 2010b, 16). Such protection is indeed what the November 2010 draft resolution was after.

In both 2012 and 2014, South Africa opposed the removal of the reference to 'sexual orientation' and gender identity. In 2012, South Africa and 5 other African states opposed removing the phrase, while 14 African states favoured removal and 19 abstained. South Africa also spoke up, stressing the vulnerability of sexual minorities (UNGA 2012c). In 2014, the African Group moved in a regressive direction during the vote on whether to remove the SOGI reference. South Africa stood firm as one of only 2 African states to oppose removing the reference, while 25 favoured removal and 10 abstained.

The discussion above demonstrated that up to 2005, South Africa failed to support SOGI rights in the GA and CHR. Opposition to the issue in the late 2000s, in turn followed by strong support for SOGI in 2012 and 2014, followed South Africa's supportive vote in 2006. This section further drew attention to various instances in the GA of other African states being more supportive of sexual orientation rights than South Africa. Finally, this section showed South Africa's haphazardness. On the same issue, South Africa abstained in 2004, voted in favour in 2006, voted against in 2008 and November 2010, and voted in favour in December 2010 and in 2012 and 2014.

## **Brazil's resolution**

In 2003, Brazil tabled the resolution 'Human Rights and Sexual Orientation' in the CHR, the first-ever UN draft resolution on sexual orientation. The resolution framed sexual orientation in terms of the Universal Declaration of Human Rights, expressed 'deep concern' about violence against persons because of their sexual orientation, called on states to

protect and promote the human rights of all persons regardless of sexual orientation, and asked relevant special procedures mandate holders and the High Commissioner for Human Rights to pay attention to rights violations based on sexual orientation (UNCHR 2003c). While the resolution led to increased mobilisation at the UN in support of the issue, opponents also mobilised (Girard 2004, 345–346, 353; Karsay 2014, 8), with polarisation the result. Although there was no vote on whether to adopt the resolution, there were three votes on attempts to thwart discussing the resolution. South Africa abstained on two of these votes and once voted with opponents of the resolution.

Brazil tabled its resolution on sexual orientation unexpectedly, leaving supportive states and civil society groups to scramble to its side (Garvey 2010, 670). Although 26 other states rushed to co-sponsor Brazil's draft resolution, it met with stern opposition, primarily from the Holy See and the Islamic bloc, but also from African countries (Girard 2004, 343–344). Opponents of the resolution tried to avoid discussing the matter. When the resolution was due for debate, on 24 April 2003, Pakistan proposed to end discussion of the resolution. Pakistan's no-action motion was defeated 24–22 (6 abstentions), with South Africa abstaining. A stalling tactic followed: five Islamic countries each proposed extensive amendments to Brazil's resolution (UNCHR 2003d). The Libyan chairperson then cited a shortage of time and proposed discussing the amendments at the CHR's next meeting. Following a dispute over procedure, the matter was put to a vote, with Brazil and other states friendly to the resolution in favour of continuing the debate. However, it was decided, by a vote of 26–21 (6 abstentions) to postpone the discussion, with South Africa joining Islamic and other African countries in favour of postponement (UNCHR 2003e, 12–14).

On the morning of 25 April, the last day of the CHR's annual session, the matter was postponed until the afternoon. Brazil acquiesced in the postponement, but noted that it thought the previous day's manoeuvring had been designed to avoid discussion of the draft resolution (UNCHR 2003f, 2). When the resolution was finally considered late that afternoon, the discussion was again ensnared in procedural debate. At 6 pm, the chair proposed postponing consideration of Brazil's resolution to the 2004 session of the CHR. Brazil and its allies opposed postponement, but lost the vote 24–17, with South Africa and 9 other countries abstaining (UNCHR 2003g, 16–18). The failure to vote on the resolution was a significant defeat because, according to some calculations, if a vote on the resolution had taken place it might have passed with one vote (Girard 2004, 344–345).

At the CHR's 2004 session, Brazil announced that it would not be tabling the resolution. In the interim, Brazil had come under severe pressure from the Holy See, which had mobilised domestic opposition to the issue, and the Organisation of Islamic Cooperation (OIC), which had threatened to boycott a trade summit between South American and Arab countries that Brazil was planning to host (Girard 2004, 347). South Africa was approached, in light of its constitution and its strong performance in Beijing, to take over the resolution, but declined (Girard 2004, 347). With no state willing to take up the resolution at the 2005 session of the CHR, the draft resolution expired (Girard 2004, 350).

## **The sixteenth session of the HRC**

The preceding discussion was not arranged according to a strict timeline, but it can be seen that by 2010 South Africa had moved away from the international commitment to the rights of sexual minorities it had shown in Beijing in 1995. In the 2000s, South

Africa typically declined to speak or vote in support of the rights of LGBT persons, while mild opposition to the cause marked the last years of the decade. South Africa's two votes, in 2008 and 2010, to remove the term 'sexual orientation' from the GA resolutions on extrajudicial, summary or arbitrary executions testify to this tendency, but there are also other examples. In 2010, the Special Rapporteur on the right to health recommended to the HRC the decriminalisation of consensual same-sex conduct and the repealing of laws that discriminate on the basis of SOGI (UNHRC 2010a, 8). The African Group refused to endorse the report and rejected the link between the decriminalisation of sexual orientation and the right to health. The African Group further criticised the special rapporteur for failing to address various other health problems in Africa as well as the health aspects of the Millennium Development Goals (MDGs) (Nigeria 2010). Cloaking its statement in a reminder that its constitution prohibits discrimination based on sexual orientation, South Africa nevertheless aligned itself with the African Group's statement. South Africa then merely 'noted' the special rapporteur's recommendations, confirmed its commitment to the 'sovereign equality of all states', and spoke about what the report should have included (reference to the MDGs and a discussion of marginalised groups other than LGBT persons) (ISHR 2010; South Africa 2010a).

Another example relates to Durban process on racism. During negotiations on the draft outcome document for the 2009 Durban Review Conference, a follow up to the World Conference on Racism, Racial Discrimination, Xenophobia and Related Intolerance (WCAR) held in Durban in 2001, South Africa opposed the inclusion of language on SOGI (Sheill 2009, 319). Although the Durban Declaration and Programme of Action (DDPA) addressed discrimination related to gender, debt bondage, human trafficking, sexual exploitation, persons with disabilities and persons living with HIV/AIDS (UN 1995c), South Africa maintained that 'sexual orientation and discrimination ... goes beyond the framework of the (2001) Durban Declaration' (UN Watch 2009). In June 2010, the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance stated that 'the identity of each individual is made up of a multitude of components, such as gender, age, nationality, profession, sexual orientation, political opinion, religious affiliation and social origin' (UNHRC 2010b). Citing the DDPA, South Africa responded that the special rapporteur's claim 'demeans the legitimate plight of the victims of racism' (South Africa 2010b), a response ARC International, an LGBT rights advocacy organisation, characterised as South Africa hitting 'a new low' (Fabricius 2010). In fact, a lower low was soon to follow.

In March 2011, at the 16th session of the HRC, South Africa tabled a 'very destructive' and 'extremely troubling' text (ARC International 2011b; Western diplomat, Interview, 14 February 2014), draft resolution 16/L27, on sexual orientation (UNHRC 2011c). The decision to present the draft resolution came from the mission in Geneva (African diplomat, Interview, 12 March 2014), and reflected the influence of one particular South African diplomat (below ambassadorial level) (Human rights activist, Interview, 20 February 2014). Draft resolution 16/L.27 tried to confine discussion of sexual orientation to a working group whose job it would be to define this 'new concept' and its place in international human rights law. Moreover, this working group would be 'the single modality and framework ... within which all the deliberations on sexual orientation including other initiatives and action shall be undertaken', which meant that discussion of sexual orientation could not take place throughout the UN system until the working group had finished its work (ARC

International 2011c). The resolution set no deadline, so to get a sense of its potential duration one might compare it to the UN Working Group on Indigenous Populations, as noted by an African diplomat (Interview, 21 March 2014), which was in operation for 25 years.

Draft resolution 16/L.27 was an effort to arrest two ways in which sexual orientation was increasingly being linked to human rights at the UN. The first of these, and the more immediate reason for South Africa's tabling of draft resolution 16/L.27, was a joint statement, read by Colombia on behalf of 85 states, during the sixteenth session of the HRC (Human rights activist, Interview, 20 February 2014). The Colombia statement expressed concern about violence and other human rights violations committed against persons because of their SOGI and called on states to end to such violations (ARC International 2011d).

After the failure of Brazil's 2003 resolution on sexual orientation to get off the ground, states began to use joint statements to draw attention to and express concern over violence against persons on the basis of sexual orientation and to build a foundation for a future SOGI resolution (Karsay 2014, 8). The Colombia-led statement was the fourth in a series of similar joint statements. The 2005 statement was made on behalf of 32 states, the 2006 statement on behalf of 54, and the 2008 statement on behalf of 66. South Africa was not a signatory to the first three statements – six African countries signed the 2008 statement – but it did explain, limply, that, while not a signatory to the 2008 statement, it supported it (South Africa DIRCO 2009).

The second factor that prompted South Africa to table draft resolution 16/L.27 was its unhappiness that references to sexual orientation were beginning to appear in various aspects of the UN's work. In December 2010 in the GA, South Africa, in a complaint directed at Western countries, asserted that the 'campaign by some delegations to insert this issue into different draft resolutions in spite of its sensitive nature does not help the cause at all' (UNGA 2010b, 16). This, South Africa maintained, was a problem because there was no agreed upon definition of sexual orientation and although the notion enjoyed recognition within South Africa, it lacked the same recognition internationally (UNGA 2010b, 16). The purpose of draft resolution 16/L.27 was therefore to define sexual orientation and clarify its 'scope and parameters in international human rights law' (UNHRC 2011c).

South Africa's draft resolution was not only destructive in content; it was also tabled in 'bad faith' (Western diplomat, Interview, 14 February 2014). Breaking with expected HRC practice, South Africa did not hold any open consultations on the draft resolution it was planning to table, but instead held closed discussions with the African Group. South Africa submitted its draft three minutes before the deadline, catching many delegations by surprise (Western diplomat, Interview, 14 February 2014).

Neither the opponents nor the proponents of sexual orientation rights supported South Africa's initiative. Initially, South Africa wanted to submit draft resolution 16/L.27 on behalf of the African Group, the unedited draft resolution still had 'On behalf of the African Group' typed at the top where it had been crossed out by hand and 'South Africa' written in its place.<sup>8</sup> During South Africa's early discussions with African delegations in Geneva, South Africa found them 'happy' with the text that was to become draft resolution 16/L.27. However, after these initial discussions, African delegations received instruction to not even raise the issue of sexual orientation at the HRC and to withdraw their sponsorship of the draft resolution (African diplomat, Interview, 12 March 2014). Islamic states told

South Africa to leave the sexual orientation issue to the West (Fabricius 2011). Among the supporters of SOGI rights, various Western countries delivered demarches to Pretoria to object to draft resolution 16/L.27 (Western diplomat, Interview, 14 February 2014), while the United States threatened to submit a rival resolution (ISHR 2011). Furthermore, criticism from civil society organisations, which expressed their dismay to South African officials in both Geneva and Pretoria, was telling (Human rights activist, Interview, 19 February 2014)

Isolated, South Africa deferred its draft. South Africa also announced that it would sign the Colombia statement (South Africa 2011a), although it was only doing so under duress (African diplomat, Interview, 12 March 2014). Draft resolution 16/L.27 represents a failure of South African leadership and a clear attack on human rights.

## **Resolution 17/19**

The evidence presented above demonstrated South Africa's inconsistent positions on SOGI rights at the UN as well as its declining support for these rights, reaching its nadir with the tabling of draft resolution 16/L.27 in March 2011. After the deferral of draft resolution 16/L.27, South Africa performed a staggering about-turn, in the space of three months going from leading an effort to obstruct SOGI rights to leading a resolution to advance these rights.

South Africa returned to the HRC's 17th session with a more open and consultative approach and a more progressive draft resolution. The pro-SOGI lobby was still worried about certain elements of South Africa's new text (e.g. it still wanted to create a working group) (UNHRC 2011d), but these were eventually excised from the draft. As South Africa steered the resolution through the HRC, it faced strong opposition from much of the African Group. Egypt tried to disrupt the first informal consultation on the resolution, while Nigeria, as coordinator of the African Group and therefore chair of the Group's meetings, obstructed discussion of the matter during Group meetings (African diplomat, Interview, 12 March 2014). South Africa received requests from African and Islamic countries to withdraw its resolution up to the last day of the 17th session (African diplomat, Interview, 3 March 2014). Before the vote on the resolution, the Nigerian ambassador, speaking for the African Group, said it 'grieved his mind' that no other African country was with South Africa on this issue (Nigeria 2011). Nevertheless, the HRC adopted resolution 17/19, with Mauritius voting in favour, Burkina Faso and Zambia abstaining, and the other 10 African countries voting against. Most SOGI activists at the UN consider resolution 17/19 to be the most significant SOGI-related achievement at the UN to date (Karsay 2014, 9).

South Africa's new progressive approach represented a clear departure from its positions over the preceding decade, but after the deferral of draft resolution 16/L.27, South Africa had only two options: a full withdrawal of the resolution, which would have resulted in a loss of face, or tabling a new progressive text; the African Group's refusal to support draft resolution 16/L.27 put paid to another regressive resolution. As South Africa considered what to do prior to the HRC's 17th session, Ambassador Matjila was influential in pushing for returning with a progressive resolution (African diplomat, Interview, 12 March 2014). During the HRC's 17th session, Matjila also played an essential role in guiding Resolution 17/19 towards adoption (Western diplomat, Interview, 20

February 2014). Although Matjila initially did not realise the extent of SOGI-based violence and discrimination, he had a 'genuine commitment' to oppose such abuses (Human rights activist, Interview, 20 February 2014).

## **After resolution 17/19**

Resolution 17/19 may have been a major feat, but South Africa recognised that it had 'ruffled the feathers' of other African countries (Fabricius 2011). After resolution 17/19, South Africa therefore went 'to extraordinary lengths to engage other African countries' (Radcliffe in Gevisser 2012). However, repairing relations was not that easy. For instance, Senegal's statement on behalf of the 'majority of the member states of the African Group' during the panel discussion in March 2012 of the High Commissioner's report remained critical of South Africa (Senegal 2012). South Africa's approach after resolution 17/19 was to pursue leadership on SOGI *as well as* smooth relations with the African Group. South Africa tried to reconcile these seemingly incompatible goals by emphasising dialogue, education, engagement and non-confrontation. However, as this section will demonstrate, by mid-2013, South Africa again began to display the uneven and questionable support for SOGI rights that had been evident before resolution 17/19. Moreover, South Africa retreated from leadership on SOGI, sometimes acted against the advancement of SOGI rights, and generally obstructed progress on the issue in the HRC.

After the completion of the tasks set by resolution 17/19, South Africa proposed, in June 2012, and as a first step, the holding of SOGI workshops in all five the UN regions before April 2013. The second stage was to be 'a decision or resolution within the Council', which 'should not be contingent on the timetable of regional meetings' (South Africa 2012). Significantly, by this time, Abdul Minty had replaced Jerry Matjila as ambassador. Many in Geneva saw Minty as less committed to SOGI than his predecessor (Human rights activist, Interview, 19 February 2014; Human rights activist, Interview, 20 February 2014; Western diplomat, Interview, 20 February 2014).

In April 2013, South Africa and Norway hosted a conference in Oslo to summarise the preceding regional workshops. However, at the Oslo conference it emerged that there had been no African workshop. It was assumed that South Africa was organising it (Human rights activist, Interview, 18 February 2014), but the failure to hold a meeting in Africa was never publicly explained. According to one African diplomat, the problem was funding. Norway had offered to pay, but their money was unacceptable since it would have looked like the West promoting its values in Africa. Apparently, South Africa could not find the money because the financial year was already underway and such a workshop had not been budgeted for (African diplomat, Interview, 12 March 2014). A second problem to emerge in Oslo was South African anger at Norway which South Africa saw as 'crossing its tracks' (Western diplomat, Interview, 14 February 2014). Specifically, Norway wanted the summary workshop to be seen as part of an 'Oslo process' (African diplomat, Interview, 12 March 2014). Thirdly, there were already signs of disagreement over how to proceed. The UN Assistant Secretary-General for Human Rights outlined two possible paths:

Should we back off and until we have consensus among states or at least a broader acceptance that LGBT rights violations require a response? Or should we press on in spite of the

controversy, laying out the facts, drawing attention to the suffering, the violence and the discrimination that continues day after day? (Šimonović 2013, 39)

In their combined concluding summary, the two chairs of the meeting – Norway and South Africa – mentioned only the creation of ‘a relevant mechanism, at the appropriate time’, but it was clear that Norway wanted this mechanism to be created soon (Saetre 2013, 3).

Before the June 2013 session of the HRC there was clamour for a follow-up SOGI resolution (Pillay 2013, 32). There were also expectations that South Africa might present such a resolution, but South Africa quashed these before the session. There could be no resolution, South Africa maintained, until there had been an African workshop. One week into the session, South Africa called a meeting in which it stressed the need for more dialogue, leaving Western and Latin American states very frustrated (Human rights activist, Interview, 18 February 2014). South Africa drew on a disagreement among civil society groups over whether to push for special procedures mechanism on SOGI or whether to follow, as CAL (2013) proposed, ‘an incremental approach’ based on dialogue and the provision of technical assistance to justify its own inaction (Human rights activist, Interview, 20 February 2014). South Africa stated that the African workshop was to take place before the end of 2013, with a concluding conference in Geneva in early 2014, but gave no indication of when there would be a new HRC resolution (Human rights activist, Interview, 20 February 2014). One reason for South Africa’s caginess was that it was planning to stand in the elections for Council membership in November 2013 (Human rights activist, Interview, 20 February 2014). A palpable commitment to the international promotion of LGBT rights before the membership vote, such as hosting a regional workshop or sponsoring a resolution on the topic, would have put South Africa at a disadvantage (Western diplomat, Interview, 14 February 2014; Human rights activist, Interview, 20 February 2014).

At the HRC’s June 2013 session, the disagreement between Norway and South Africa over how to advance the SOGI matter came into the open. Norway had approached Brazil and South Africa to make a joint statement on SOGI before the plenary of the HRC. South Africa drew up the first draft, but Norway dismissed this as ‘weak’ and declared itself unwilling to agree to South Africa’s incremental approach (African diplomat, Interview, 12 March 2014). Astonishingly, South Africa, the leader on SOGI, did not join the Norway’s SOGI statement, which it made on behalf of 33 countries, mostly from Latin America and the West. Norway cited the conclusions of the Oslo conference in April 2013, which South Africa had co-chaired (Norway 2013a, 5), specifically the ‘need to integrate the issues systematically in the work of the United Nations, through the establishment of a relevant mechanism, at the appropriate time’ (Norway 2013b). Norway’s statement did not go beyond the April 2013 statement by the Norwegian and South African co-chairs; the crucial parts were lifted almost verbatim, yet South Africa responded angrily.

In its reply, South Africa addressed Norway directly, an act deemed ‘almost offensive’ by HRC standards (Western diplomat, Interview, 20 February 2014). South Africa (2013) explained that it could not join the Norwegian statement because of a ‘difference of opinion between those who feel the need to adopt immediate measures and those that need to promote further interaction and cooperation on how we move forward in a progressive and systematic manner’. In other words, South Africa was now retreating



from what it had endorsed two months before (South Africa 2012). As for the elusive African workshop, recall that in June 2012 South Africa (2012) had said that further action in the HRC should not depend on when the regional meetings were held. However, now South Africa (2013) seemed to be doing just that, stating that it 'is of the firm belief that Africa's views need to be heard'. To make this happen, 'South Africa is committed to the convening of the African Regional Workshop and a High-Level Seminar in Geneva in order to share experiences and promote cooperation' (South Africa 2013). South Africa did not commit to any dates and steered clear of any mention of a resolution. By insisting on an African workshop, South Africa was in effect making a case to put the fate of a future SOGI resolution in the hands of African states, many of which were opposed to a workshop and resistant to SOGI rights.

The HRC's June 2013 session demonstrated South Africa's isolation and brought to the fore disagreements over how to proceed on the SOGI issue. However, the pro-SOGI camp could not simply jettison South Africa. There was wide agreement among civil society and pro-SOGI delegations a non-Western state should lead on SOGI, but it was also known that no developing country was willing to take over from South Africa (Human rights activist, Interview, 29 May 2015). Moreover, as an African country, South Africa was the perfect advertisement for the universality of SOGI rights (Western diplomat, Interview, 20 February 2014). Moreover, by giving the impression that it was poised to do what it has promised, South Africa extended others' patience. During a meeting between Argentina, South Africa and an LGBT advocacy group during the September 2013 session, South Africa said that there would be an African regional meeting in December 2013 and a high-level concluding meeting in Geneva early in 2014. Significantly, South Africa said it intended to bring a resolution at the March 2014 session and, when asked, said that this was indeed their official position. However, by mid-November 2013 South Africa was saying that organising the African workshop before the year's end would be tough (Human rights activist, Interview, 18 February 2014).

At the HRC's March 2014 session, with the African workshop still not held, South Africa did not table a resolution on SOGI as it previously said it would. During the 'high-level segment' of the session, South Africa's foreign minister delivered a statement. The original written version of her speech said, 'South Africa is committed to host[ing] the African regional seminar focusing on the plight of the LGBT during the first half of this year' (quoted in DeBarros 2014). However, the minister left out this part when she spoke, an omission that was put down to a lack of time, but really because she had wanted the details of this workshop to be more concrete before making a public commitment (African diplomat, Interview, 12 March 2014). The online version of her speech was eventually changed and the commitment to a regional workshop deleted (Nkoana-Mashabane 2014).

The March 2014 session took place at a time of heightened persecution of LGBT persons in Nigeria, Russia, Uganda and elsewhere (Amnesty International 2014; Elder 2013; Hazlewood 2014). During the high-level segment, 12 countries mentioned the plight of LGBT persons, with some criticising the 'hateful laws' in the aforementioned countries (ARC International 2014b, 9). South Africa's foreign minister, her country supposedly the leader on SOGI, said nothing on the matter because such 'confrontation' was beyond the pale. One reason why South Africa did not table a SOGI resolution in March 2014 was because South Africa did not want it to be seen as a reaction to Uganda's persecution

of LGBT persons (Human rights activist, Interview, 5 March 2014; African diplomat, Interview, 12 March 2014).

## **The 26th session of the HRC**

By mid-2014, South Africa's failure to organise the African regional workshop, its unrealised promises of a new SOGI resolution, South Africa's failure to speak out against repression against sexual minorities, its latterly added insistence that a new SOGI resolution was dependent on the holding of an African workshop, and its withdrawal from the 'Friends of SOGI' group of delegations in Geneva raised serious doubts about South Africa's leadership and its commitment to advancing SOGI rights through the UN. Then, during the HRC's June 2014 session, South Africa firmly supported an initiative Human Rights Watch (2014b) described as 'an insidious attempt to undermine the universality of human rights, and specifically the rights of women and LGBT people'. At issue was Egypt's 'Protection of the family' draft resolution (UNHRC 2014b). In defining the family, the sponsors deliberately excluded language from previous UN documents that recognised 'that in different cultural, political and social systems, various forms of the family exist' (ISHR 2014a). The concern among LGBT groups was that Egypt's narrow definition of the family would be used in later negotiations to deny LGBT couples certain rights (Feder 2014). Before the vote on Egypt's draft resolution, which was co-sponsored by 66 states 'including the whole African Group' (Egypt 2014), European and Latin American states tabled an amendment to include the recognition of various family forms (UNHRC 2014c). However, before a debate and a vote on the amendment could take place, Russia proposed a summary end to the discussion. Russia's no-action motion won 22–20 (6 abstentions), with South Africa voting with Russia. The unamended anti-LGBT resolution was then adopted 26–14 (6 abstentions), with South Africa voting in favour (ISHR 2014b).

## **The 27th session of the HRC**

At the start of the September 2014 HRC session, after more than three years without a new SOGI resolution, Chile, Colombia and Uruguay announced that they would table such a resolution (UNHRC 2014d). Would South Africa support it? South Africa's behaviour since June 2011, especially its anti-SOGI vote in June 2014, suggested that it would not. On the other hand, the new draft resolution was clearly intended as a follow up to resolution 17/19. Various journalists and activists picked up on South Africa's ambivalence (Human Rights Watch 2014a; Sonke Gender Justice 2014; Thamm 2014). South Africa gave no indication of its intentions. Consider the strange case of ambassador Minty, going to an 'informal' (a meeting where diplomats work on the details of a resolution) on the new SOGI text. It was highly unusual for ambassadors to attend 'informals', made more so by Minty not saying a word or giving any indication how South Africa was planning to vote (Western diplomat, Interview, 27 May 2015).

As it turned out, South Africa voted for the resolution and also opposed the seven hostile amendments brought against it. However, those votes are not proof of South Africa's strong support for SOGI rights. The original draft asked the High Commissioner to report biennially on violence and discrimination on the basis of SOGI. South Africa

was one of the states that successfully lobbied for a weakening of this requirement (China and India also did) (Interview, Latin American diplomat, 29 May 2015), with the result that the final resolution only asked for a once-off report. Furthermore, after the vote, South Africa included a parting shot at Western states, claiming that ‘the spirit of this resolution is in stark contrast to the unhelpful and divisive use of development aid by some countries as a means to shift policies and laws in a select number of countries’ (South Africa 2014).

## **The 29th session of the HRC**

By June 2015, South Africa had fallen out of the leadership on SOGI, demonstrated weakening support for the cause, and returned to the inconsistency that marked its positions prior to resolution 17/19. One piece of inconsistency was to follow, albeit this time in favour of SOGI rights. At the June 2015 HRC session, South Africa’s opposed the ‘Protection of the family’ resolution, which South Africa had supported the year before. According to one observer, South Africa reversal was the result of input from the South Africa’s Department of Social Development (Davis 2015). As in 2014, the 2015 draft resolution excluded language that recognised the diversity of family forms (UNHRC 2015a). In response, South Africa, alongside Brazil, Chile and Uruguay, proposed adding language that recognised that ‘in different cultural, political and social systems, various forms of the family exist’ (UNHRC 2015b). South Africa’s amendment was met with a motion to end debate on this amendment. SOGI rights opponents won by a single vote. The resolution was adopted by a vote of 29–14 (4 abstentions, which South Africa, in a strong statement in support of SOGI rights, voted against).

## **Conclusion**

This article has presented South Africa’s positions on SOGI at the UN. How does the inclusion of these facts affect our general assessment of South Africa’s human rights foreign policy? The first few years of the Mandela presidency were when South Africa was most committed to the international advancement of human rights. South Africa’s strong pro-human rights contribution at the 1995 Beijing’s Women’s Conference provides one more piece of evidence to confirm this view. The 2000s were a time when the place human rights in South African foreign policy were diminished to such an extent that a columnist in the Washington Post described South Africa as a ‘rogue democracy’, a country that devalues and weakens the freedoms of others (Gerson 2008). Apart from a 2006 vote in the GA, South Africa’s actions during this period, which culminated in the March 2011 attack on sexual orientation rights in the HRC, deserve the Washington Post’s severe judgement. South Africa’s central role in leading the UN to adopt its first-ever SOGI resolution in June 2011 is a highlight of South Africa’s recent human rights diplomacy as well as of human rights at the UN. South Africa’s recent human rights foreign policy comes out looking less dismal once we take into account the country’s leadership on resolution 17/19.

South Africa’s contradictory behaviour subsequent to resolution 17/19 complicates an assessment of this period. On the negative side, South Africa voted for the June 2014 anti-SOGI ‘Protection of the family’ resolution, lobbied for the watering down of the 2014 SOGI resolution, failed to criticise regimes that persecute LGBT persons, and

dragged its feet while leader on SOGI. On the positive side, and with the exception of the 2014 'Protection of the family' resolution, South Africa voted in support of the pro-SOGI options whenever these came up in the GA and HRC. South Africa's post-resolution 17/19 record thus left room for improvement, but it was nevertheless positive compared South Africa's general human rights foreign policy over this period. It seems likely that these two trajectories – moderately strong support for SOGI rights and faltering international support for human rights in general – will continue on their parallel and contradictory paths. What also seems likely, based on evidence over more than 20 years, is that South Africa will continue to behave inconsistently on the theme of sexual orientation and human rights.

Despite being well placed to exercise leadership on SOGI matters at the UN, South Africa only stepped into such a role in early 2011. A few comments are in order. South African leadership on resolution 17/19 was a major accomplishment, but this success had its roots in a South African miscalculation and an attempt to suppress human rights; it was hardly the outcome of a long-term vision. Second, frequently in discussions of South African foreign policy, South African leadership is viewed as a good in itself with little attention to the content of the initiative. South Africa's draft resolution 16/L27, an anti-human rights action, is a reminder that not all leadership is morally worthy. Perhaps it is also necessary to reflect on the morality of other aspects of South Africa's international leadership, such as its association with the Global South. Finally, on SOGI, South Africa displayed typical middle power leadership by acting as catalyst, mediator and bridge-builder. Draft resolution 16/L.27 was intended to strike a balance between South Africa's constitutional provisions and the African Group (African diplomat, Interview, 12 March 2014), while a central aim of South Africa's June 2012 SOGI plan was to reduce polarisation over the issue. However, South Africa largely failed to accomplish such middle power goals. On draft resolution 16/L.27, South Africa ended up isolated and had to withdraw its initiative. Resolution 17/19 was adopted in a charged atmosphere, while the panel discussion of the report commissioned by resolution 17/19 saw a walk out from Islamic countries. South Africa's plan after resolution 17/19 to reduce polarisation and opposition to SOGI made little headway. The result for South Africa was paralysis, isolation and eventual retreat from leadership. These failures should give pause to those confident of South Africa's ability to be a global leader.

## Notes

1. South Africa could not vote because it was not a member of the HRC at the time.
2. Interviews took place between February and May 2014 and in May 2015.
3. Brief mentions of sexual orientation and human rights in discussions of South African foreign policy can be found in (2013); Jordaan (2014a, 116–117) and Jordaan (2015, 476–477). For overviews of human rights in South African foreign policy, see Barber (2004), Brysk (2009), Graham (2013), Smith (2015, 2016).
4. The HRC replaced the CHR in 2006.
5. The CHR had 53 members, 15 from the African Group.
6. No African countries opposed the amendment, while only 2 abstained. The overall vote on the amendment was 79–70 (17 abstentions).
7. The vote on the amendment was 93–53 (27 abstentions).
8. HRC Extranet, OHCHR. A password is needed, available at <http://www.ohchr.org/EN/HRBodies/HRC/Pages/HRCRegistration.aspx>.

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## References

- Alden, C., and M. Schoeman. 2013. "South Africa in the Company of Giants: The Search for Leadership in a Transforming Global Order." *International Affairs* 89 (1): 111–129.
- Alden, C., and M.A. Vieira. 2005. "The New Diplomacy of the South: South Africa, Brazil, India and Trilateralism." *Third World Quarterly* 26 (7): 1077–1095.
- Allison, S. 2014. "South Africa's Strange Bedfellows at the UN's Human Rights Council." *Daily Maverick*, May 22. Accessed 22 March 2015. <http://www.dailymaverick.co.za/article/2014-05-22-analysis-south-africas-strange-bedfellows-at-the-human-rights-council/#.VwpYXfmGPIV>.
- Amnesty International. 2014. *Uganda: President Museveni Signs Anti-Homosexuality Bill*. Accessed 10 August 2014. <http://www.amnesty.org/en/news/uganda-anti-homosexuality-bill-2014-02-24>.
- ARC International. 2011a. *The UN Special Procedures: A Guide for Sexual Orientation and Gender Identity Advocates*. Accessed 13 May 2014. <http://arc-international.net/wp-content/uploads/2011/08/arc-guide-special-procedures.pdf>.
- ARC International. 2011b. *Sixteenth Session of the Human Rights Council*. Accessed 23 May 2014. <http://arc-international.net/global-advocacy/human-rights-council/hrc16>.
- ARC International. 2011c. *Seventeenth Session of the Human Rights Council*. Accessed 24 May 2014. <http://arc-international.net/global-advocacy/human-rights-council/hrc17>.
- ARC International. 2011d. *Joint Statement: Ending Acts of Violence and Related Human Rights Violations Based on Sexual Orientation and Gender Identity*. Accessed 5 July 2014. <http://arc-international.net/global-advocacy/human-rights-council/hrc16/joint-statement>.
- ARC International. 2014b. *Report on Sexual Orientation and Gender Identity Related Issues at the 25th Session of the UN Human Rights Council*. Accessed 5 July 2014. [http://arc-international.net/wp-content/uploads/2014/02/HRC25-Report\\_ARC20141.pdf](http://arc-international.net/wp-content/uploads/2014/02/HRC25-Report_ARC20141.pdf).
- Barber, J. 2004. *Mandela's World: The International Dimension of South Africa's Political Revolution 1990-99*. Oxford: James Currey.
- Bischoff, H. P. 2009. "Reform in Defence of Sovereignty: South Africa in the UN Security Council, 2007–2008." *Africa Spectrum* 44 (2): 95–110.
- Brysk, A. 2009. *Global Good Samaritans: Human Rights as Foreign Policy*. New York: Oxford University Press.
- Bunch, C., and S. Fried. 1996. "Beijing 95: Moving Women's Human Rights from to Centre." *Signs: Journal of Women in Culture and Society* 22 (1): 200–204.
- Coalition of African Lesbians (CAL). 2013. "The 10th May Statement on Sexual Orientation and Gender Identity." Accessed 10 April 2016. [http://www.cal.org.za/new/?page\\_id=967](http://www.cal.org.za/new/?page_id=967).
- Cooper, A., and D. Flemes. 2013. "Foreign Policy Strategies of Emerging Powers in a Multipolar World: An Introductory Review." *Third World Quarterly* 34 (6): 943–962.
- Cooper, A., R. Higgott, and K. Nossal. 1993. *Relocating Middle Powers: Australia and Canada in a Changing World Order*. Vancouver: UBC Press.
- Corrêa, S., R. Petchesky, and R. Parker. 2008. *Sexuality, Health and Human Rights*. London: Routledge.
- Davis, R. 2015. "This Time South Africa Held Its Own at the UN." *Daily Maverick*, July 6. Accessed 2 March 2016. <http://www.dailymaverick.co.za/article/2015-07-06-analysis-this-time-south-africa-held-its-own-at-the-un/#.VwtMdfI96Um>.

- DeBarros, L. 2014. "South Africa to Host African Seminar on LGBTI Rights." *Mamba Online*. Accessed 12 July 2014. <http://www.mambaonline.com/2014/03/10/sa-to-host-african-seminar-on-lgbti-rights>.
- Ditsie, P. B. 1995. "Statement of the International Gay and Lesbian Human Rights Commission." *United Nations Fourth World Conference on Women*, Accessed 20 May 2014. <http://www.un.org/esa/gopher-data/conf/fwcw/conf/ngo/13123944.txt>.
- Dlamini-Zuma, N. 2005. *Statement at the Beijing + 10 Conference, Forty-Ninth Session of the Commission on the Status of Women*. Accessed 8 May 2014. <http://www.dfa.gov.za/docs/speeches/2005/dzum0309.htm>.
- Donahoe, E. 2013. *A Look Back: Eileen Donahoe Reflects on her Five-Year Term*. Accessed 15 March 2016. <https://www.youtube.com/watch?v=q1XieYM1kY>.
- Ebert, H., and T. Maurer. 2013. "Contested Cyberspace and Rising Powers." *Third World Quarterly* 34 (6): 1054–1074.
- Ebrahim, E. 2014. *Public Lecture: Twenty Years of South African Involvement in Conflict Resolution*. University of Pretoria, 24 February. Accessed 15 March 2016. <http://www.dfa.gov.za/docs/speeches/2014/ebra0224.html>.
- Economist. 2015. *Clueless and Immoral*. Accessed 2 April 2016. <http://www.economist.com/node/21663226>.
- Egypt. 2014. *Statement to the UNHRC*. Accessed 6 October 2014. <http://webtv.un.org/search/ahrc26l.20rev.1-vote-item3-38th-meeting-26th-regular-session-human-rights-council/3643916728001?term=26th%20regular%20session%20human%20rights%20council&sort=date&page=3>.
- Elder, M. 2013. "Russia Passes Law Banning Gay 'Propaganda'." *Guardian*. Accessed 6 October 2014. <http://www.theguardian.com/world/2013/jun/11/russia-law-banning-gay-propaganda>.
- Fabricius, P. 2010. "SA Fails to Back UN Effort to Protect Gays." *Independent Online*. Accessed 21 May 2014. [http://www.iol.co.za/news/politics/sa-fails-to-back-un-effort-to-protect-gays-1.487793#.U4WJA\\_mSyCk](http://www.iol.co.za/news/politics/sa-fails-to-back-un-effort-to-protect-gays-1.487793#.U4WJA_mSyCk).
- Fabricius, P. 2011. "Human Rights Top SA's Foreign Policy." *Independent Online*. Accessed 28 July 2014. <http://www.iol.co.za/the-star/human-rights-top-sa-s-foreign-policy-1.1135404?ot=inmsa.ArticlePrintPageLayout.ot>.
- Feder, L. 2014. "UN Human Rights Council Adopts Resolution on 'Protection of the Family'." *Buzzfeed*, 26 June. Accessed 3 April 2016. <http://www.buzzfeed.com/lesterfeder/un-human-rights-council-adopts-resolution-on-protection-of-t#1wvts8z>.
- Fransman, M. 2012. *Address at a Reception Hosted by Human Rights Watch*, 17 October. Accessed 17 March 2016. <http://www.dfa.gov.za/docs/speeches/2012/frans1017.html>.
- Garvey, T. 2010. "God v. Gays? The Rights of Sexual Minorities in International Law as Seen Through the Doomed Existence of the Brazilian Resolution." *Denver Journal of International Law and Policy* 38 (4): 659–685.
- Gerson, M. 2008. "The Despots Democracy." *The Washington Post*. Accessed 3 April 2016. <http://www.washingtonpost.com/wpdyn/content/article/2008/05/27/AR2008052702556.html>.
- Gevisser, M. 2012. "Towards a Progressive Culture." *Mail and Guardian Online*. Accessed 22 July 2014. <http://mg.co.za/article/2012-03-16-towards-a-progressive-culture>.
- Girard, F. 2000. "Beijing Plus Five: Sexual and Reproductive Rights Are Here to Stay." *International Women's Health Coalition*. Accessed 15 April 2014. [http://iwhc.nonprofitsoapbox.com/110congress/youngadolescents/index.php?option=com\\_content&task=view&id=2627&Itemid=824](http://iwhc.nonprofitsoapbox.com/110congress/youngadolescents/index.php?option=com_content&task=view&id=2627&Itemid=824).
- Girard, F. 2004. "United Nations: Negotiating Sexual Rights and Sexual Orientation." In *Sex Politics: Reports From the Front Lines*, edited by R. Parker, R. Petchesky, and R. Semper. Sexuality Police Watch. Accessed 15 August 2014. <http://www.sxpolitics.org/frontlines/book/pdf/sexpolitics.pdf>.
- Graham, S. 2013. "South Africa's Voting Behaviour in the United Nations, 1994–2008." Unpublished Doctoral Dissertation. University of Johannesburg: Johannesburg.
- Hamill, J., and D. Lee. 2001. "A Middle Power Paradox? South African Diplomacy in the Post-Apartheid Era." *International Relations* 15 (4): 33–59.
- Hazlewood, P. 2014. "Nigeria's Anti-Gay Law 'A Licence to Violence'." *Mail and Guardian Online*. Accessed 15 August 2014. <http://mg.co.za/article/2014-01-15-un-activists-challenge-nigerias-anti-gay-law>.

- Heine, J. 2010. "Will They Have Table Manners? The G20, Emerging Powers and Global Responsibility." *South African Journal of International Affairs* 17 (1): 1–11.
- Human Rights Watch. 2011a. "Historic Decision at the United Nations." Accessed 6 October 2014. <http://www.hrw.org/news/2011/06/17/historic-decision-united-nations>.
- Human Rights Watch. 2011b. "We'll Show You You're a Woman: Violence and Discrimination Against Black Lesbians and Transgender Men in South Africa." Accessed 2 April 2016. <https://www.hrw.org/report/2011/12/05/well-show-you-youre-woman/violence-and-discrimination-against-black-lesbians-and>.
- Human Rights Watch. 2014a. "South Africa's Worrying Prevarication on LGBT Rights." Accessed 6 October 2014. <http://www.hrw.org/news/2014/09/22/south-africa-s-worrying-prevarication-lgbt-rights>.
- Human Rights Watch. 2014b. "South Africa Takes a Step Backwards." Accessed 2 March 2016. <http://www.hrw.org/news/2014/07/07/south-africa-takes-step-backwards>.
- International Commission of Jurists. 2007. "Sexual Orientation and Gender Identity in Human Rights Law." Accessed 5 March 2016. <http://icj.wpengine.netdna-cdn.com/wp-content/uploads/2006/10/sexual-orientation-gender-identity-law-UN-human-rights-system-publication-2006.pdf>.
- International Service for Human Rights (ISHR). 2010. "Council Debates Decriminalisation of Consensual Sexual Conduct." Accessed 13 May 2014. <http://www.ishr.ch/news/council-debates-decriminalisation-consensual-sexual-conduct>.
- ISHR. 2011. "South Africa Tables Historic Resolution on Sexual Orientation and Gender Identity." Accessed 7 April 2014. <http://www.ishr.ch/news/south-africa-tables-historic-resolution-sexual-orientation-and-gender-identity>.
- ISHR. 2012. "Governments Condemn Extrajudicial Executions in Seminal UN Vote." Accessed 17 June 2014. <http://www.ishr.ch/news/governments-condemn-extrajudicial-executions-seminal-un-vote>.
- ISHR. 2014a. "Urgent Action Needed on Needed on Harmful 'Protection of the Family' Resolution." Accessed 5 October 2014. <http://www.ishr.ch/news/urgent-action-needed-harmful-protection-family-resolution>.
- ISHR. 2014b. "States Silence Debate on Family Diversity at the Human Rights Council." Accessed 5 October 2014. <http://www.ishr.ch/news/states-silence-debate-family-diversity-human-rights-council>.
- Jordaan, E. 2010. "Fall from Grace: South Africa and the Changing International Order." *Politics* 30 (S1): 82–90.
- Jordaan, E. 2012. "South Africa, Multilateralism, and the Global Politics of Development." *European Journal of Development Research* 24 (2): 283–299.
- Jordaan, E. 2014a. "South Africa and the United Nations Human Rights Council." *Human Rights Quarterly* 36 (1): 90–122.
- Jordaan, E. 2014b. "South Africa and Abusive Regimes at the United Nations Human Rights Council." *Global Governance* 20 (2): 233–254.
- Jordaan, E. 2015. "Rising Powers and Human Rights: The India-Brazil-South Africa Dialogue Forum at the UN Human Rights Council." *Journal of Human Rights* 14 (4): 463–485.
- Jordaan, E. 2016. "South Africa's Human Rights Voting Record in the United Nations." In *Shifting Power and Human Rights Diplomacy: South Africa*, edited by D. Lettinga, and L. van Troost, 25–32. Netherlands: Amnesty International.
- Karsay, D. 2014. "How Far Has SOGII Advocacy Come at the UN and Where Is It Heading? ARC International." Accessed 27 February 2016. <http://arc-international.net/wp-content/uploads/2013/09/How-far-has-SOGII-for-web.pdf>.
- Killander, M. 2016. "The Role of Human Rights in South Africa-EU Relations." In *Shifting Power and Human Rights Diplomacy: South Africa*, edited by D. Lettinga, and L. van Troost, 43–50. Netherlands: Amnesty International.
- Klugman, B. 2000. "Sexual Rights in Southern Africa: A Beijing Discourse or a Strategic Necessity?" *Health and Human Rights* 4 (2): 144–173.
- Le Pere, G. 2008. *South Africa's Participation in the System of Global Governance*. Pretoria: Institute for Global Dialogue. Accessed 2 April 2016. [http://www.thepresidency.gov.za/docs/reports/15year\\_review/irps/global\\_system.pdf](http://www.thepresidency.gov.za/docs/reports/15year_review/irps/global_system.pdf).

- Mandela, N. 1993. "South Africa's Future Foreign Policy." *Foreign Affairs* 72 (5): 86–97.
- Nathan, L. 2005. "Consistency and Inconsistencies in South African Foreign Policy." *International Affairs* 81 (2): 361–372.
- Neack, L. 2013. *The New Foreign Policy: Complex Interactions, Competing Interests*. Lanham: Rowman and Littlefield.
- Nel, P. 2010. "Redistribution and Recognition: What Emerging Regional Powers Want." *Review of International Studies* 36 (4): 951–974.
- Nigeria. 2010. "Statement to the UNHRC." Accessed 28 June 2014. <http://www.un.org/webcast/unhrc/archive.asp?go=100604>.
- Nigeria. 2011. "Statement to the UNHRC." Accessed 24 April 2014. <http://www.un.org/webcast/unhrc/archive.asp?go=110617>.
- Nkoana-Mashabane, M. 2014. "Statement to the High-Level Segment of the Twenty-Fifth Session of the UNHRC." Accessed 17 July 2014. <http://www.dfa.gov.za/docs/speeches/2014/mash0304.html>.
- Norway. 2013a. "Co-Chairs Summary of Conclusions, Republic of South Africa and Norwegian Ministry of Foreign Affairs." International Conference on Human Rights, Sexual Orientation and Gender Identity, Summary and Toolkit. Accessed 15 March 2016. <http://geneva.usmission.gov/wp-content/uploads/2013/06/SOGI-conference-summary-and-toolkit.pdf>.
- Norway. 2013b. "Statement to the UNHRC." Accessed 2 April 2016. <http://arc-international.net/wp-content/uploads/2013/05/Item-8-GD-Norway-and-others.pdf>.
- Otto, D. 1995. "Not in My Country." *Alternative Law Journal* 20 (6): 288–290.
- Otto, D. 1996. "Holding Up Half the Sky, But for Whose Benefit? A Critical Analysis of the Fourth World Conference on Women." *Australian Feminist Law Journal* 6 (1): 7–28.
- Piccone, T. 2012. *Catalysts for Change: How the UN's Independent Experts Promote Human Rights*. Washington: Brookings Institution Press.
- Pillay, N. 2013. "Video Message: International Conference on Human Rights, Sexual Orientation and Gender Identity, Summary and Toolkit." Accessed 15 March 2016. <http://geneva.usmission.gov/wp-content/uploads/2013/06/SOGI-conference-summary-and-toolkit.pdf>.
- Saetre, H. 2013. "Introduction: International Conference on Human Rights, Sexual Orientation and Gender Identity, Summary and Toolkit." Accessed 15 March 2016. <http://geneva.usmission.gov/wp-content/uploads/2013/06/SOGI-conference-summary-and-toolkit.pdf>.
- Sanders, D. 1996. "Getting Lesbian and Gay Issues on the International Human Rights Agenda." *Human Rights Quarterly* 18 (1): 67–106.
- Schoeman, M. 2000. "South Africa as an Emerging Middle Power." *African Security Review* 9 (3): 47–58.
- Senegal. 2012. "Statement to the UNHRC." Accessed 15 September 2015. <http://www.unmultimedia.org/tv/webcast/2012/03/panel-discussion-sexual-orientation-and-gender-identity.html>.
- Sheill, K. 2009. "Human Rights, Sexual Orientation, and Gender Identity at the UN General Assembly." *Journal of Human Rights Practice* 1 (2): 315–319.
- Smith, K. 2015. "South Africa, the BRICS and Human Rights: In Bad Company?" In *New South African Review 5: Beyond Marikana*, edited by D. Pillay, G. M. Khadiagala, P. Naidoo, and R. Southall, 268–283. Johannesburg: Wits University Press.
- Smith, K. 2016. "South Africa's Past, Present and Future Foreign Human Rights Policy and Diplomacy." In *Shifting Power and Human Rights Diplomacy: South Africa*, edited by D. Lettinga, and L. van Troost, 17–24. Netherlands: Amnesty International.
- Sonke Gender Justice. 2014. "Sonke Urgently Calls on South Africa to Vote Yes on UN Resolution." Accessed 23 September 2014. <http://www.genderjustice.org.za/news-item/sonke-urgently-calls-south-africa-vote-yes-un-resolution-address-discrimination-violence-lgbti-gender-nonconforming-people/>.
- South Africa. 2010a. "Statement to the UNHRC." Accessed 28 June 2014. <http://www.un.org/webcast/unhrc/archive.asp?go=100604>.
- South Africa. 2010b. "Statement to the UNHRC." Accessed 19 May 2014. <http://www.un.org/webcast/unhrc/archive.asp?go=100616>.
- South Africa. 2011a. "Statement to the UNHRC." Accessed 21 July 2014 <http://www.un.org/webcast/unhrc/archive.asp?go=110322>.



- South Africa. 2011b. "Statement to the UNHRC." Accessed 5 March 2016. <http://www.un.org/webcast/unhrc/archive.asp?go=110617>.
- South Africa. 2012. "Concept Paper on Follow-Up to Human Rights Council Resolution 17/19." Accessed 20 August 2014. <http://arc-international.net/wp-content/uploads/2013/01/South-Africa-Concept-Note-SOGI-Regional-Meetings.pdf>.
- South Africa. 2013. "Statement to the UNHRC." Accessed 20 August 2014. <http://arc-international.net/wp-content/uploads/2013/05/Item-8-GD-South-Africa1.pdf>.
- South Africa. 2014. "Statement to the UNHRC." Accessed 7 October 2014. <http://webtv.un.org/search/item8-explanation-of-votes-42nd-meeting-27th-regular-session-human-rights-council/3808532186001?term=human%20rights%20council>.
- South Africa DIRCO. 2009. "Statement on Sexual Orientation." Accessed 17 July 2014. <http://www.dfa.gov.za/docs/2009/sa0108.html>.
- South Africa DIRCO. 2013. *Strategic Plan 2013-2018*. Pretoria: Government Printers.
- Šimonović, I. 2013. "Statement: International Conference on Human Rights, Sexual Orientation and Gender Identity, Summary and Toolkit." Accessed 15 March 2016. <http://geneva.usmission.gov/wp-content/uploads/2013/06/SOGI-conference-summary-and-toolkit.pdf>.
- Thamm, M. 2014. "Crucial Sexual Orientation and Gender Identity Resolution." *Daily Maverick*. Accessed 6 October 2014. <http://www.dailymaverick.co.za/article/2014-09-23-crucial-sexual-orientation-and-gender-identity-un-resolution-sas-vote-will-lead-the-way-but-what-will-it-be/#.VDNyPPmSyCk>.
- UN. 1995a. *Report of the Fourth World Conference on Women. A/CONF.177/20/Rev.1*. Accessed 17 August 2014. <https://www.un.org/womenwatch/daw/beijing/pdf/Beijing%20full%20report%20E.pdf>
- UN. 1995b. "Beijing Declaration and Platform for Action." Accessed 2 May 2014. <https://www.un.org/womenwatch/daw/beijing/pdf/BDPfA%20E.pdf>
- UN. 1995c. *Declaration and Platform for Action, World Conference Against Racism, Racial Intolerance, Xenophobia and Related Intolerance*. Accessed 17 May 2014. [http://www.un.org/en/durbanreview2009/pdf/DDPA\\_full\\_text.pdf](http://www.un.org/en/durbanreview2009/pdf/DDPA_full_text.pdf).
- UN. 1995d. *Draft Platform for Action A/CONF.177/L.1*. Accessed 17 August 2014. <http://www.iisd.ca/4wcw/dpa-000.html>.
- UN Watch. 2009. *Despite US Engagement, UN's Durban II Racism Conference Says No Way to Gay Rights*. Accessed 5 May 2014. <http://blog.unwatch.org/index.php/2009/02/18/despite-us-engagement-uns-durban-ii-racism-conference-says-no-way-to-gay-rights/>.
- UNCHR. 1999. *Report of the Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions. E/CN.4/1999/39*. Accessed 17 January 2017. [http://www.europarl.europa.eu/meetdocs/2004\\_2009/documents/dv/droi\\_090121\\_9srapun/DROI\\_090121\\_9SRapUNFR.pdf](http://www.europarl.europa.eu/meetdocs/2004_2009/documents/dv/droi_090121_9srapun/DROI_090121_9SRapUNFR.pdf).
- UNCHR. 2000a. *Report of the Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions. E/CN.4/2000/3*.
- UNCHR. 2000b. *Resolution: Extrajudicial, Summary or Arbitrary Executions. E/CN.4/RES/2000/31*.
- UNCHR. 2001. *Summary Record of the Seventy-Second Meeting of the Fifty-Seventh Session of the Commission on Human Rights E/CN.4/2001/SR.72*.
- UNCHR. 2002a. *Resolution: Extrajudicial, Summary or Arbitrary Executions E/CN.4/RES/2002/36*.
- UNCHR. 2002b. *Report on the Fifty-Eighth Session of the Commission on Human Rights E/CN.4/2002/200*.
- UNCHR. 2003a. *Resolution: Extrajudicial, Summary or Arbitrary Executions E/CN.4/RES/2003/53*.
- UNCHR. 2003b. *Report on the Fifty-Ninth Session of the Commission on Human Rights. E/CN.4/2003/135*.
- UNCHR. 2003c. *Draft Resolution: Human Rights and Sexual Orientation E/CN.4/2003/L.92*.
- UNCHR. 2003d. *Amendments to UNCHR Draft Res 2003/L.92 E/CN.4/2003/L.106-110*.
- UNCHR. 2003e. *Summary Record of the Sixty-First Meeting of the Fifty-Ninth Session of the Commission on Human Rights E/CN.4/2003/SR.61*.
- UNCHR. 2003f. *Summary Record of the Sixty-Second Meeting of the Fifty-Ninth Session of the Commission on Human Rights E/CN.4/2003/SR.62 (in French)*.
- UNCHR. 2003g. *Summary Record of the Sixty-Third Meeting of the Fifty-Ninth Session of the Commission on Human Rights E/CN.4/2003/SR.63*.

- UNCHR. 2004. *Report on the Fifty-Ninth Session of the Commission on Human Rights E/CN.4/2004/127*.
- UNCHR. 2005. *Summary Record of the Fifty-Sixth Meeting of the Sixty-First Session of the Commission on Human Rights E/CN.4/2005/SR.56 (in French)*.
- UNCSW. 1995. *Preparations for the Fourth World Conference on Women: Action for Equality, Development and Peace E/CN.6/1995/5/Add.4*. Accessed 17 August 2014. <https://www.un.org/documents/ecosoc/cn6/1995/ecn61995-5add4.htm>.
- UNGA. 2002. *Seventy-Seventh Plenary Meeting of the Fifty-Seventh Session of the General Assembly A/57/PV.77*.
- UNGA. 2003. *Resolution: Extrajudicial, Summary or Arbitrary Executions A/RES/57/214*.
- UNGA. 2004. *Seventy-Fourth Plenary Meeting of the Fifty-Ninth Session of the General Assembly A/59/PV.74*.
- UNGA. 2006. *Eight-First Plenary Meeting of the Sixty-First Session of the General Assembly A/61/PV.81, at 22*.
- UNGA. 2008. *Seventieth Plenary Meeting of the Sixty-Third Session of the General Assembly A/63/PV.70*.
- UNGA. 2010a. *Press Release, General Assembly Will Hold 'World Conference on Indigenous Peoples' in 2014 Under Terms of Resolution Recommended by Third Committee*. Accessed 23 May 2014. <http://www.un.org/News/Press/docs/2010/gashc3997.doc.htm>.
- UNGA. 2010b. *Seventy-First Plenary Meeting of the Sixty-Fifth Session of the General Assembly A/65/PV.71*.
- UNGA. 2012a. *Amendment to Draft Resolution A/C.3/67/L.36. A/C.3/67/L.68*.
- UNGA. 2012b. *Report of the Third Committee A/67/457/Add.2*.
- UNGA. 2012c. *Press Release, G.A., General Assembly Will Condemn in Strongest Terms Use of Extrajudicial Executions, Demand States End Practice, Under Terms of Text Approved by Third Committee GA/SHC/4059*.
- UNHRC. 2008. *Resolution: Mandate of the Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions A/HRC/RES/8/3*.
- UNHRC. 2010a. *Report of the Special Rapporteur on the Right of Everyone to the Enjoyment of the Highest Attainable Standard of Physical and Mental Health A/HRC/14/20*.
- UNHRC. 2010b. *Report of the Special Rapporteur on Contemporary Forms of Racism, Racial Discrimination, Xenophobia and Related Intolerances A/HRC/14/43*.
- UNHRC. 2011a. *Resolution: Human Rights, Sexual Orientation and Gender Identity. A/HRC/RES/17/19*.
- UNHRC. 2011b. *Resolution: Mandate of the Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions A/HRC/RES/17/5*.
- UNHRC. 2011c. *Draft Resolution: The Imperative Need to Respect the Established Procedures and Practices of the General Assembly in the Elaboration of New Norms and Standards and Their Subsequent Integration into Existing International Human Rights Law A/HRC/16/L.27*.
- UNHRC. 2011d. *Draft Resolution: Human Rights, Sexual Orientation and Gender Identity A/HRC/17/L.9*.
- UNHRC. 2014a. *Resolution: Human Rights, Sexual Orientation and Gender Identity A/HRC/27/32*.
- UNHRC. 2014b. *Draft Resolution: Protection of the Family A/HRC/26/L.20.Rev.1*.
- UNHRC. 2014c. *Amendment to HRC Draft Res 26/L.20.Rev.1 A/HRC/26/L.37*.
- UNHRC. 2014d. *Draft Resolution: Human Rights, Sexual Orientation and Gender Identity A/HRC/27/L.27*.
- UNHRC. 2015a. *Draft Resolution: Protection of the Family A/HRC/29/L.25*.
- UNHRC. 2015b. *Amendment to Draft Resolution A/HRC/29/L.25 A/HRC/29/L.37*.
- United States Government. 2009a. *Human Rights Watch Criticises South Africa's Foreign Policy Confidential cable*. July 9. Accessed 3 April 2016. [https://wikileaks.org/plusd/cables/09PRETORIA1392\\_a.html](https://wikileaks.org/plusd/cables/09PRETORIA1392_a.html).
- United States Government. 2009b. *Assessment of US Entry into the HRC: Twelfth Session. Confidential Cable*. Accessed 4 April 2016. [https://search.wikileaks.org/plusd/cables/09GENEVA880\\_a.html](https://search.wikileaks.org/plusd/cables/09GENEVA880_a.html).
- Vale, P., and I. Taylor. 1999. "South Africa's Post-Apartheid Foreign Policy Five Years on – From Pariah State to 'Just Another Country'?" *The Round Table* 88 (352): 629–634.
- Van der Westhuizen, J. 1998. "South Africa's Emergence as a Middle Power." *Third World Quarterly* 19 (3): 435–456.
- Van der Westhuizen, J. 2013. "Class Compromise as Middle Power Activism? Comparing Brazil and South Africa." *Government and Opposition* 48 (1): 80–100.

Zondi, S. 2009. "Human Rights Principles in South African Foreign Policy: Response to Kenneth Roth." Institute for Security Studies. Accessed 1 April 2016. <https://www.issafrica.org/uploads/24JUN09HRINSAREPORT.PDF>.

#### *Interviews*

Western diplomat. Interview conducted 14 February 2014.

Human rights activist. Interview conducted 18 February 2014.

Human rights activist. Interview conducted 19 February 2014.

Human rights activist. Interview conducted 20 February 2014.

Western diplomat. Interview conducted 20 February 2014.

African diplomat. Interview conducted 3 March 2014.

Human rights activist. Interview conducted 5 March 2014.

African diplomat. Interview conducted 12 March 2014.

Member of South African delegation to the Fourth UN World Conference on Women in Beijing.

Interview conducted 20 May 2014.

Western diplomat. Interview conducted 27 May 2015.

Human rights activist. Interview conducted 29 May 2015.

Latin American diplomat. Interview conducted 29 May 2015.