

# Litigating SOGIE Cases Before the African Human Rights System:

Asserting Contested Rights in a Shifting Legal Landscape

## Concept Note

**30 APRIL  
2025**

**Time:**  
13:30 – 15:30 (GMT)

**Venue (In-person):**  
Sir Dawda Kairaba Jawara  
International Conference Centre,  
Banjul, The Gambia



## Introduction

Africa continues to witness widespread and systemic human rights violations against individuals on the basis of their real or perceived SOGIE status. These include criminalisation, arbitrary arrests, denial of access to healthcare and education, forced evictions, violence, and harassment. While national legal responses remain critical, the African regional human rights system offers unique avenues for accountability and standard setting. Notwithstanding institutional limitations and political backlash, the African Commission on Human and Peoples' Rights (ACHPR) and the African Court on Human and Peoples' Rights have affirmed – albeit inconsistently

– the applicability of the Charter's non-discrimination norms to LGBTIQ+ communities. Opportunities may also exist for litigating SOGIE related cases at the ECOWAS Court and East African Court and cases impacting the rights of children at the African Committee of Experts on the Rights and Welfare of the Child.

With this context in mind, the Initiative for Strategic Litigation in Africa (ISLA) and the Institute for Human Rights and Development in Africa (IHRDA) are convening a closed high-level side event panel discussion focused on deepening engagement with the African human rights system as a forum for litigating sexual orientation, gender identity and expression (SOGIE) cases. This event

aims to brainstorm on broader strategies to expand the normative boundaries of sexual rights jurisprudence on the continent and develop robust responses to the pervasive human rights violations faced by LGBTQ+ persons across Africa. Building on previous expert advisory processes convened by ISLA, this side event aims to consolidate emerging strategies, share lessons from ongoing litigation efforts, and examine the challenges and opportunities presented by regional mechanisms.

This event recognises that claims relating to the rights of sexual and gender minorities often represent a broader confrontation with structural exclusion and institutional resistance. Through the lens of contested rights, the panel will explore how the African human rights system can be engaged to create pathways for legal recognition, protection, and accountability in the face of political and legal hostility.

This panel discussion will interrogate how legal practitioners and activists can engage with the African human rights system in ways that are legally sound, politically astute, and responsive to the needs of affected communities. It will also examine how to avoid regressive jurisprudence while building strategic cases capable of catalysing wider change.

## Objectives of the Panel Discussion

- Explore contested rights claims, including those based on SOGIE, that are currently justiciable before the African Commission and Court.
- Analyse how legal strategies can assert rights in environments where recognition and protection are absent or actively resisted.
- Examine the strategic role of the African human rights system in amplifying legal resistance to discriminatory state practice.
- Initiate discussions on building a regional database of potential cases and litigants that could be pursued to expand jurisprudence on contested rights.
- Share case studies and insights from ongoing or planned litigation efforts, with a focus on regional collaboration and strategic alignment.

## Guiding Questions for the Panel

- What are the most promising legal entry points for SOGIE litigation before the African Commission and the Court?
- How do we mitigate the risk of backlash and negative legal precedent when litigating these issues regionally?
- In what ways can strategic litigation be used to complement community-based advocacy and movement-building?
- How can regional litigation influence domestic jurisprudence and policy reform on SOGIE rights?
- What can be learnt from other regions (e.g., Latin America, the Caribbean) in engaging resistant courts or conservative socio-political contexts?
- How do we strategically navigate the shrinking civic space and rising anti-rights rhetoric within regional human rights institutions?

## Expected Outcomes

- A clearer understanding of how regional mechanisms can be used to assert rights that remain marginalised or denied within domestic legal systems.
- Refined criteria for selecting and advancing strategic cases before the African Court and Commission.
- Strengthened coalitions across African litigators and advocates working on contested rights issues, including SOGIE.
- Concrete proposals for the development of a regional database mapping litigable contested SOGIE rights cases and litigants.
- Documentation of insights to inform the next phase of ISLA's Asserting Contested Rights litigation work.

### Contact Information:

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# Proposed Agenda for the Event

<b>Time</b>	<b>Activity</b>	<b>Facilitator</b>
13:30 - 13:40	<b>Opening Remarks</b> <i>(10 Minutes)</i>	ISLA (SB)
13:40 - 13:5	<b>Framing SOGIE within the African Human Rights System</b> <i>(10 Minutes)</i>	IHRDA (MN)
13:5	<b>Regional Litigation: Cases and Emerging Opportunities</b> <i>(30 Minutes)</i>	All Panelists
14:20 - 14:40	<b>Strategies for Engaging the African Commission and Court</b> <i>(20 Minutes)</i>	All Panelists
14:40 - 14:55	<b>Navigating Risks and Avoiding Harmful Precedents</b> <i>(15 Minutes)</i>	All Panelists
14:55 - 15:25	<b>Interactive Discussion and Reflections from Participants</b> <i>(30 Minutes)</i>	All Participants <b>Moderator - ISLA (LK)</b>
15:25 - 15:30	<b>Closing Remarks</b>	IHRDA (MN)