

Botswana Court Overturns Ban on Gay Rights Lobbying Group

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Last month, a **Botswana court ruled that a local gay rights organization called LEGABIBO had the right to be registered under Botswana law as a lobbying organization.** The ruling overturned an earlier ruling by Botswana's Department of Labor and Home Affairs which [blocked the organization from registering as a civil society organization under the Botswana Societies Act](#). LEGABIBO's application was denied on the grounds that homosexual conduct is illegal under Botswana law, and [the Botswana Societies Act allows the government to deny registration to any organization "likely to be used for any unlawful purpose prejudicial to or incompatible with peace, welfare or good order in Botswana."](#)

In coming to its decision, the court rejected the Department's arguments for refusing the registration of the local group, stating that "[a]dvocacy or lobbying is protected by the right to freedom of expression as well as freedom of association . . . [i]t goes without saying that denying people whose sexual orientation is not a crime in Botswana the right to register for a society for the purposes of lawfully carrying out advocacy for *inter aliadecriminalization* of homosexuality is a clear violation of their constitutional right to freedom of expression, assembly and association contrary to Section 3 of the Constitution." The decision carefully distinguished between lobbying for the decriminalization of homosexuality, and engaging in homosexual conduct, which remains a crime under Botswana law.

Homosexual activity is [currently banned in 38 African countries](#), and can result in the death penalty in 3 countries. As noted in our blog post of [August 25, 2014](#), Uganda's Constitutional Court overturned the Anti-Homosexuality Act (AHA) — which imposed a life sentence for certain homosexual conduct and criminalized the "promotion," "aiding," and "abetting" of homosexuality — on procedural grounds, holding that the Act's passing was unconstitutional because the necessary quorum of lawmakers was not present in parliament to vote on the bill.

In the wake of the Botswana ruling, the United Nations [urged other African countries to lift bans on lobbying for gay rights](#).

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