



Photo: LEGABIBO

# ADVOCATING FOR LGBT RIGHTS IN BOTSWANA: LESSONS LEARNED FROM THE LEGABIBO REGISTRATION CASE

This case study was conducted by LEGABIBO, an organisation of lesbian, gay, bisexual and transgender (LGBT) people, and partner within the Bridging the Gaps programme since its inception in 2011. In Botswana, laws and policies influence and fuel stigma and discrimination towards the LGBT community. This also affects service providers, including healthcare providers, hindering LGBT people from accessing effective, efficient health services. LEGABIBO works to change this, and promote the recognition, acceptance and equal protection of the human rights of the LGBT community in Botswana. COC Netherlands, a member of the Bridging the Gaps Alliance, provides both technical and financial support to LEGABIBO's programming.

## Background

This case study illustrates how LEGABIBO mobilised the LGBT community and its supporters during litigation for its registration as an LGBT organisation in Botswana, and how that victory is now being used to provide **a platform for the meaningful involvement** of the LGBT community in relevant decision making. LEGABIBO applied for this status in 2012, but were rejected on the basis that the Botswana Constitution does not recognise homosexuality. LEGABIBO appealed this decision, winning both their case in the High Court in November 2014, and the subsequent appeal at the Court of Appeal in March 2016. LEGABIBO argued that the registration denial constituted a direct

## FACTS & FIGURES:

- At 21.9%, Botswana has the third highest HIV prevalence in the world, after Lesotho and Swaziland.
- HIV prevalence among men who have sex with men (MSM) is estimated to be 13.1%.
- Barriers to HIV prevention in Botswana include criminalisation and punitive laws against marginalised groups such as LGBT people and sex workers, and persistent gender inequality.

violation of their constitutional **rights to freedom of association, assembly and expression**. Now registered, LEGABIBO can legally hold the Government of Botswana accountable, ensuring that LGBT health and wellness issues are addressed, and the voices of LGBT are heard by policy makers and legal and social influencers. Through the Bridging the Gaps programme, LEGABIBO could retain staff and volunteers who played a vital role in **raising awareness** of the court case, mobilise the community – both LGBT and general public – and build support.

Bridging the Gaps is an international HIV programme on health and rights for LGBT people, sex workers and people who use drugs, currently operating in 15 countries around the world. For more information on the programme, please visit [hivgaps.org](http://hivgaps.org)

**BRIDGING THE GAPS**  
Health and rights  for key populations

## Steps to success

Throughout the four years of litigation, LEGABIBO took several key steps to effectively **mobilise** the LGBT community and supporters.

Firstly, each of the **litigants**, who took the case in their name on behalf of LEGABIBO, were from Botswana and had native Setswana names. A conscious decision, aimed at debunking the myth that homosexuality is not part of the culture and tradition of Botswana. Nonetheless, some litigants were stigmatised and experienced violence from their families and communities. Litigants (and family) were also harassed by the media, with their comments distorted in reporting. To address this, LEGABIBO provided support and counselling, and offered safe spaces to discuss the case with family members.

Secondly, **partnerships** were formed with parents, community leaders, religious leaders, law and policy makers, and service providers including nurses, police and teachers. All defending LGBT rights, promoting LEGABIBO's registration, mobilising people to stand with LEGABIBO and its members, and helping change the public perception of LGBT people.

Thirdly, LEGABIBO **worked with the media**, providing training to journalists on sexual orientation, gender identity and expression, and human rights. Ensuring that participating journalists could report the case accurately, and understood how to report sensitive matters. The training resulted in positive reporting on the case and related LGBT issues, and trusted allies for LEGABIBO.

The **outcome** of the litigation – LEGABIBO's official registration – has acted as a **significant enabler for the meaningful involvement of the LGBT community**, by increasing ways to effectively and meaningfully engage in the policy decisions and practices that affect their lives.

## RESULTS

- Because of the court victories and nationwide media attention, service providers and the public are now better aware of the law, policies and practices that affect LGBT individuals, and discrimination experienced by LGBT people seeking services has decreased. Subsequently, there is a clear **increase in the number of LGBT people accessing health services**. LEGABIBO is now reaching more people through its health programmes, providing SRHR education and making HIV testing, STI screening and safer sex commodities available. LEGABIBO has also set up Health Drop-in Centres in Gaborone and Francistown, providing basic health needs to LGBT communities.
- LEGABIBO and the LGBT community are more aware of their constitutional rights, and are now **claiming their rights** and taking action. The registration of LEGABIBO has also given LGBT individuals validation and confidence, and more awareness of health policies and national laws that affect them. For example, they know that sexual orientation cannot be a reason to be fired from their workplace, and are willing to seek legal advice and take appropriate action.

- LEGABIBO has joined the HIV and Law Steering Committee (convened by the Ministry of Health & Wellness and the Attorney General), is a partner in the next Biological Behaviour Surveillance Study, and acts as convenor of the Key Population Coalition. These memberships provide LEGABIBO and the LGBT community with **increased opportunities to be meaningfully involved in influencing policies and strategies** that affect the lives of LGBT people, and to ensure that LGBT health needs are included in governmental studies and programming.
- The LEGABIBO registration has played a vital role in **encouraging other key populations to claim their rights**. Sisonke Botswana, a local sex worker's rights group, had applied for legal recognition under the Botswana constitution. Having been denied registration, the LEGABIBO victory has inspired the group to reapply.

## KEY RECOMMENDATIONS

1. **Mobilising and engaging the community and its supporters** is vital. Through consultation meetings with the LGBT community, PFLAG (parents, families and friends of LGBT), and key stakeholders, LEGABIBO kept them updated and involved. Growing social media use helped facilitate this.
2. Given the case's prominence, it was vital to **work with the media** to build public support. It's essential to create allies with private, national and regional media, creating a positive long-term impact on the reporting of LGBT issues.
3. Strategic litigation processes are time-consuming and lengthy for civil society organisations. **Effective planning** is essential, particularly in balancing court times and donor timelines, which may not align. These challenges must be clearly communicated with donors. No-cost extensions can be requested if required, and donors and (international) partners mobilised to align long-term support with any strategic litigation. Support can be financial, technical, or if feasible, the mobilisation of diplomatic support.

“After the registration of LEGABIBO, there has been an increase in LGBT becoming aware of their rights, this is also [because] of the mass awareness raising done by LEGABIBO and the community. I can now confidently stand and defend my rights, knowing that LEGABIBO will have my back should I be mistreated by the police, nurses or even in the community. I am happy now!”

LEGABIBO Member

