

## SEXUAL ORIENTATION

### and the LAW

In Botswana, identifying with non-heterosexual sexual identities and engaging in debates about these identities is not illegal. However, same sex sexual relations are. If one is caught having same sex sexual relations they would be arrested and may be sentenced to a maximum of seven years in prison. The Botswana Penal code says:

*"Any person who has carnal knowledge of any person against the order of nature, has carnal knowledge of an animal or permits any person to have carnal knowledge of him or her against the order of nature, is guilty of an offense and is liable to imprisonment for a term not exceeding seven years. 'Carnal knowledge' means sexual relations and 'against order of nature' is interpreted as referring to any non- heterosexual sexual acts."*  
(Section 164, Penal code, chapter 08:01)

#### International Law

GLBTI people like every human being are entitled to have their human rights respected. They also have the right to health, non-discrimination, dignity, and security of person. Some international documents that outline the human rights of everyone including GLBTI people are;

- ⑥ The Universal Declaration of Human Rights
- ⑥ The International Covenant on Civil and Political Rights
- ⑥ The United Nations Conventions on Racial Discrimination, Women, Torture, and Children.

Because GLBTI people in most parts of the world face discrimination and are not able to fully enjoy all the rights that heterosexuals do, many non governmental organizations, interest groups, some governments and the GLBTI community itself have been calling for the protection of the rights of GLBTI people. As a result, South Africa included a clause in its 1996 constitution that specifies that no one should be discriminated because of their sexual orientation. Some countries, like the Netherlands, allow GLBTI people to marry, adopt and be beneficiaries if their partner dies.

## What should be done?

- ⑥ Private morality as a concept should be introduced in local laws to make sure that people who lead non heterosexual lives are not discriminated against. Private morality in this context means that what goes on in the bedroom between two consenting adults should not be legislated.
- ⑥ Information, Education and Communication (IEC) materials should include information targeted at GLBTI people. Information should be readily available on where and how to access extra strong condoms and dental dams.
- ⑥ Extra strong condoms and dental dams should be available to all who may need them.
- ⑥ Information and access to 'GLBTI friendly' HIV testing and counseling centers should be available because GLBTI people are generally not comfortable talking to doctors about their sexual orientation because of fear of discrimination or confessing to a crime.

# SEXUAL DIVERSITY MAKES HUMANITY



For more information and help on

GLBTI issues contact us at;

Botswana Network on Ethics, Law and HIV/AIDS  
Plot 50662, Medical Mews, Fairgrounds  
Gaborone

P.O. Box 402958, Gaborone  
Botswana

Tel: +267 393 2516

Fax: +267 393 2517

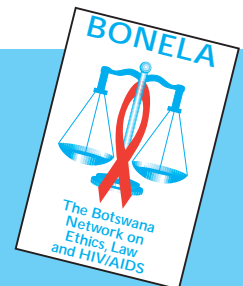
Email: [bonela@botsnet.co.bw](mailto:bonela@botsnet.co.bw)

Website: [www.bonela.botsnet.co.bw](http://www.bonela.botsnet.co.bw)

Funded by the United States Embassy - DHRF Project

## BONELA

The Botswana Network on  
Ethics Law and HIV/AIDS



## GLBTI- What it Means?

**Gay:** A man who is physically, emotionally and sexually attracted to other men.

**Lesbian:** A woman who is physically, emotionally, and sexually attracted to other women.

**Bisexual:** A person who is physically, emotionally and sexually attracted to both men and women. The attraction to both sexes may not be equal and can happen at different times in life.

**Transgendered:** A man or woman whose gender identity does not correspond to their genetic sex.

**Intersexed:** When a person is born with full or partial sexual organs of both sexes.

## GLBTI People and HIV/AIDS

*Many of the HIV/AIDS programmes in Botswana do not address sexuality as a fundamental part of their work despite knowing that HIV is largely transmitted through sexual activities.*

This has resulted in GLBTI issues not being included in HIV/AIDS strategies, programmes and service delivery. GLBTI people are left out because:

- they are not accepted and acknowledged as part of our communities
- the misconception that identifying as a homosexual or bisexual is illegal and therefore targeting such an audience is criminal.

There is a high risk of HIV infection among the GLBTI community as there is a tendency to think that there is no need to use protection because one cannot get pregnant. For people who engage in anal sex, whether gay or heterosexual, the danger is that the anus tears easily and not using condoms means no protection against HIV/AIDS and other Sexually Transmitted Infections.

HIV can also spread through unprotected oral sex. When having oral sex people should use such devices as a dental dam - square shaped piece of rubber which is inserted in the vagina during oral sex.

## MYTHS & FACTS

**Myth:** The whole concept of homosexuality and bisexuality is unAfrican.

**Fact:** Research shows that homosexuality and bisexuality existed in Africa well before Europeans came to the continent. There are also existing vernacular names that are used to refer to GLBTI people in any African society. In this country gays are called matanyola- a term that originally was not insulting.

**Myth:** You can recognize GLBTI people by their looks, race, mode of dress, nationality and other characteristics.

**Fact:** GLBTI people cannot be identified by their appearance because, they are from all walks of life.

**Myth:** GLBTI people are found in certain professions only, like hairdressing.

**Fact:** Like heterosexuals, GLBTI people are found in all walks of life.

**Myth:** GLBTI people lead bizarre irregular lives. They are alcoholics and use drugs.

**Fact:** Like heterosexuals, GLBTI people have diverse lifestyles.

**Myth:** Relationships between GLBTI people are shallow, physical and do not last. Bisexuals mainly are incapable of being faithful.

**Fact:** Like heterosexuals all GLBTI people have many different types of relationships and are equally capable of having deep, loving monogamous relationships.

**Myth:** Gay people are child molesters.

**Fact:** Anyone can be a child molester and research shows that most child molesters are heterosexuals.

**Myth:** Homosexuality and bisexuality are contagious

**Fact:** Homosexuality and bisexuality are innate characteristics. They are sexual orientations not diseases.