



**BOTSWANA – SOGI LEGISLATION COUNTRY REPORT**  
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Please note: This document was prepared by law students and highlights publicly-accessible information about legislation available at the time it was prepared. It is not exhaustive, nor is it updated on a regular basis. The information provided here is not a substitute for legal advice or legal assistance, and the International Human Rights program at the University of Toronto Faculty of Law cannot provide such advice or assistance.

***Summary***

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Both male and female same-sex activity are prohibited in Botswana (*Botswana Penal Code: Chapter 08.01, 1964*).

Termination of contracts of employment on the grounds of sexual orientation or health issues (including HIV/AIDS) is prohibited (*Employment Amendment Act, 2010*).

***Legal Provisions***

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**ANTI-DISCRIMINATION**

***Botswana Employment Act, 1982:*** This piece of legislation prohibits termination of employment due to discrimination based on various grounds.

*Chapter 47.01*

23. Restriction of grounds on which employers may terminate contracts of employment

Notwithstanding anything contained in a contract of employment, an employer shall not terminate the contract of employment on the ground of-

- a) the employee's membership of a registered trade union or participation in any activities connected with a registered trade union outside working hours or, with that consent of the employer, within working hours;
- b) the employee seeking office as or acting or having acted in the capacity of an employees' representative;

- c) the employee making, in good faith, a complaint or participating in proceedings against the employer involving the alleged violation of any law;
- d) the employee's race, tribe, place of origin, national extraction, social origin, marital status, political opinions, sex, colour or creed.

<http://www.elaws.gov.bw/law.php?id=817>

***Botswana Employment Amendment Act: 10 of 2010:*** This Act amended the *Employment Act* to add sexual orientation and health status (including HIV/AIDS status) as prohibited grounds of discrimination, and introduced section (e), which provides more general protection against discrimination.

- 3(a) (d) the employee's race, tribe, place of origin, social origin, marital status, gender, sexual orientation, colour, creed, health status or disability; or
- 3(b) (e) any other reason which does not affect the employee's ability to perform that employee's duties under the contract of employment.

<http://www.elaws.gov.bw/default.php?UID=660>

