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LEGABIBO Calls for Respect for the Courts Following High Court Hearing on Marriage Equality Case

LEGABIBO has taken note of a constitutional challenge currently before the High Court of Botswana, brought by two women who are contesting the constitutionality of provisions within the Marriage Act of Botswana that exclude same-sex couples from marrying.

The couple argues that the provision unjustly denies them equal protection and access to the rights and responsibilities that accompany civil marriage, including economic security, inheritance, and the ability to make medical decisions for one another. At its core, this case is about dignity, equality, and the ability of two Botswana who love one another to enjoy the same legal protections afforded to other couples.

LEGABIBO wishes to express its full support for the couple and their decision to seek clarity and justice through the courts. Access to the courts is a fundamental democratic right, and every Botswana is entitled to seek constitutional protection where they believe their rights have been infringed.

We urge members of the public to refrain from misinformation and harmful rhetoric as this matter proceeds. The judiciary must be allowed the space to exercise its constitutional mandate independently and with dignity. Public discourse should not be driven by fear, prejudice, or hate.

We also caution against the weaponisation of culture and faith in ways that seek to exclude or diminish the humanity of others. Botswana's legal history has already affirmed the place of LGBTQIA+ persons in our society. In the landmark 2021 judgment of the *Attorney General v Motshidiemang*, the Court of Appeal affirmed:





“The Constitution protects the rights of all persons, including those who are lesbian, gay, bisexual, transgender or intersex. They are entitled to equal protection of the law and to live openly and freely in our society.”

This affirmation reflects the values upon which Botswana’s democracy is built.

Equally important is the Setswana principle of *Botho*, which calls upon us to recognize the dignity and humanity of others. Botho teaches us that our differences do not make us enemies; rather, they enrich our society and strengthen our collective humanity. Historically, difference has never been a legitimate ground for spreading harmful rhetoric or denying others their place in our shared national life.

At the heart of this case are two people who love one another and wish to build a life together under the protection of the law. Love, commitment, and partnership should not be matters for condemnation or public hostility. They should be recognized as part of the diverse ways in which Botswana build families, care for one another, and contribute to the fabric of our society.

LEGABIBO therefore calls for calm, respectful public engagement as the matter proceeds through the courts. We remain hopeful that Botswana will continue to uphold the constitutional values of equality, dignity, and justice for all.

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