

AN ETHICAL PERSPECTIVE OF SAME SEX RELATIONSHIP IN NIGERIA

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CERTIFICATION

This is to certify that this project work was carried out by **EZEH MERCY EBERE** in the Department of Philosophy, Faculty of Arts, University of Benin, Benin city, and that it is adequate in scope and quality for the award of B.A. Degree in Philosophy.

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Date

Date

DEDICATION

I dedicate this project to my Mother, late Mrs. Rose Ezeh. Even though you are no more, your light will continue to shine through your children.

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With great appreciation in my heart, I want to first acknowledge God, who has made everything in my life possible. It is also my pleasure to acknowledge my lecturer and project supervisor, Dr. Felix A. Airoboman, for his patience, understanding and altruistic assistance which he accorded me in ensuring I come out with a well evaluated work. I remain grateful for your efforts.

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ABSTRACT

This thesis conducts a philosophical examination of the ethical dimensions surrounding same-sex relationships in the context of Nigerian society. Drawing from diverse ethical theories and perspectives, it explores the moral dilemmas, cultural considerations, and human rights implications associated with the acceptance or rejection of same-sex relationships in Nigeria. By engaging in this philosophical inquiry, the study aims to contribute to a deeper understanding of the ethical underpinnings of this contentious issue and its broader implications for societal values and human rights. In the midst of the ongoing debates and controversies surrounding same-sex relationships in Nigeria, this study aims to shed light on the complex ethical landscape

surrounding this topic, offering more insights that can inform more nuanced discussions on the subject. It involves the conflicting moral frameworks that inform this issue, scrutinizing traditional, religious and human rights based ethics. By critically analyzing these ethical perspectives and cultural norms at play, this study seeks to contribute to the ongoing discourse on same-sex relationship and cultural values in Nigeria, fostering a more inclusive and informed dialogue.

CHAPTER ONE

GENERAL INTRODUCTION

1.1 Background to the Study

The study of philosophy is a broad discipline that involves examining persistent, fundamental issues with ideas like homosexuality, morality, values, logic, the mind, and reality. Kwame believes in the legalization of same-sex relationships because denying this privilege is unethical and immoral, in accordance with utilitarianism, principlism, and its four tenets¹. It has been asserted on occasion that the union of a man and a woman constitutes the exclusive definition of marriage. It's absurd to assume that a relationship between two men or two women can ever lead to marriage or that squared circles exist².

The fight over same-sex relationships ultimately comes down to two fundamentally distinct philosophical philosophies, which in turn produce two very different viewpoints on politics and the law. According to the natural law approach, same-sex relationships are unnatural, since marriage between a man and a woman is necessary for human reproduction, because the male and female reproductive systems are complementary to one another. In fact, any sex that occurs outside of this framework is deemed unnatural, and this perspective makes it difficult to promote or penalize sexual minorities. It is clear that this has a significant theological Christian component and that Aristotle's classical political philosophy serves as its ultimate inspiration. Additionally, liberal constitutionalism is pro-same-sex relationships. This perspective asserts that

the Constitution or the core values of liberal democracy guarantee equality and individual rights for all citizens. Another viewpoint criticizes same-sex relationships, but from the standpoint of more extreme social critiques, primarily by drawing on feminist and queer theorist views. These theorists contend that marriage is an oppressive institution, particularly for women, and that people desiring freedom and equality should not do it through this traditional institution³.

Over the past ten years, same-sex relationships have generated significant debate in Nigeria and other African nations. The majority of Nigerian politicians, especially those in the ruling party, have actively opposed same-sex unions throughout Nigeria, including in the churches. Even though same-sex people in Nigeria have pleaded for equal rights to be granted to them in regards to marriage and other rights under Nigerian law, their requests have been mocked by society in general and politicians in particular. Same sex partnerships are illegal under the law as it stands now⁴.

Activities between the same sex between consenting adults, whether they were male or female, were regarded as strictly private concerns in society⁵. Various legal systems around the world have at various times disapproved of it and made it illegal by legislation, making it a crime punishable by jail⁶. Up until approximately the turn of the 21st century, the concept of same-sex relationships was unknown to legal doctrine. Countries from the many continents of the world, primarily western civilizations, started the process of evaluating their legal systems to legalize same-sex partnership or affiliation towards the close of the 20th century and the advent of the 21st century⁷.

The quest for legal recognition of same-sex couples is challenging this conventional idea of marriage. The difficulty is moral. People who practice same-sex relations seek the same privileges as heterosexual couples. However, a lot of Nigerians think that because homosexuality is against the laws of nature and procreation, it is not accepted in our society, and cannot flourish in this country. However, studies have proven that same-sex relationship is not a part of any society. It grew out of a series of decisions in response to life development process. As urbanization, education, international travel and the internet spread into Nigeria, it is inevitable that certain of our moral structures may be affected. In spite of the effects of globalization, there is a framework of ethical oppositions toward homosexuality in Nigeria. This makes sense given the moral framework of the Nigerian society. Same-sex relationships seem to contradict the moral tenets of Nigerian culture because they are built on the beneficent ideals of communal family and community well-being. This project takes a look at the ethical implication of this practice on the Nigerian society; by doing so, the researcher will expound on the advantages as well as the dangers associated with same sex relationship and the consequences it may pose on the society as a whole as drawn from the perception of the African value system that completely frowns at the idea of same sex relationship.

1.2 Statement of Problem

The idea of a same-sex relationship has generally been rejected over the years by the majority of theorists, legislators, and authorization officials. Because same-sex relationships are viewed as against the laws of procreation, as well as against the church and public values, its practices are rejected on these grounds. However, some nations have loosened their rules on

same-sex relationships as a result of contemporary constitutions and international law. Despite the ongoing international conversations regarding Lesbian, Gay, Bisexual, Transgender and Queer rights (LGBTQ+ rights) and the acceptance of same-sex relationships, Nigeria remains a country where such relationships are not only stigmatized but criminalized. This situation presents complex ethical problems that necessitate investigation. The problem lies in the ethical concerns raised by various cultural and ethical groups, which continue to shape societal attitudes and government policies towards same-sex relationships in Nigeria. This research aims to examine the ethical dimensions of this problem and provide insights into the root causes of such opposition. This research argues that the issue of same-sex relationship in Nigeria remains scornful due to cherished values deeply entrenched in cultural and religious values. It also seeks to address the fundamental problems of understanding and analyzing the ethical perspectives that underpin opposition to same-sex relationships within the Nigerian context. The study argues that the persistence opposition to same-sex relationships in Nigeria is a multifaceted issue within significant ethical implications. It involves a clash between traditional, religious and cultural values and the principles of human rights and inclusivity. Hence, the ethical dilemma faced by Nigerian society in reconciling these opposing perspectives on same-sex relationship. This study again, seeks to explore the ethical complexities of this problem with the aim to provide an understanding of the ethical barriers that hinders the acceptance and recognition of same-sex relationships in Nigeria.

1.3 Purpose of Study

The purpose of this study is multifaceted. The primary purpose is to gain a deep understanding of the ethical dimensions surrounding same-sex relationship in Nigeria and to elucidate the complex interplay of cultural, religious and philosophical values that underpin the opposition to same-sex relationships. Another purpose is to provide insight and information that can inform policy makers and human rights organizations concerning the impediments and immorality of same-sex relationships. The study seeks to contribute to the academic discourse on LGBTQ+ studies, ethics and human rights by providing a comprehensive analysis of the ethical aspect of same-sex relationship in Nigeria.

1.4 Scope of Study

The scope of this research is confined to the ethical perspective of same sex relationship. Also, the study will be limited to identifying the implications of legalizing homosexual relationships in Nigeria. It will analyze some of the considerations of some theorists who have confronted the ethical perspective of same sex relationship. The research will consider the historical and contemporary ethical viewpoints, recognizing that attitudes towards same-sex relationship have evolved over time. The study focuses on the examination of the ethical perspective of same-sex relationships in Nigeria.

1.5 Significance of the Study

This study addresses a critical gap in academic research by providing a comprehensive analysis of the ethical dimension of same sex relationships in Nigeria. It adds to the knowledge on LGBTQ+ studies, ethics and human rights. It aims to enhance societal understanding of the

complex ethical dilemmas concerning same sex relationships. It also offers insights into the cultural, religious and philosophic factors that shape the Nigerian attitudes and opinions concerning same-sex relationships. By examining the ethical perspectives that underlie opposition to same-sex relationships, the study can inform policy makers and advocacy groups about the root causes of such oppositions.

1.6 Methodology

This study employs expository, speculative and critical methods. This study shall seek to analyze the concept of same sex relationship, and its ethical implications in the Nigerian scene.

1.7 Literature Review

The first work under review is titled: *Tradition of Same Gender Marriage in Igbo Land*, edited by Leo Igwe. "In this book, Leo tells us that there is a structure of moral restrictions towards same sex marriage that requires a philosophical examination to decide the importance of the establishment of Nigerian goal setting even with the current interest for lawful acknowledgment of same sex marriage. Same sex couples need indistinguishable rights from hetero couples, and by exemplary correspondence standards, this is something all nationals can comprehend. We would need the same thing, and in this manner a similar sex couples have the Brilliant Lead on their side. In any case, the characteristic law of marriage is against it. There are two constituent parts in marriage: the unitive and transparent parts geared towards reproduction. Gay sex disregards these laws. A similar rationale connected towards the case in regards to classifying gay associations. It is an infringement against common law, target truth, and the law of complementarity⁸".

The second book in review is titled: *When Gay People Get Married: What Happens When Societies Legalize Same-Sex Marriage?* by M.V.L. Badgett⁹. Among the array of literature on same-sex marriage, Lee Badgett's book presents a unique perspective on the topic. Not only does Badgett's inclusion of personal experience augment rather than bias her work by contextualizing her findings and the relationship between her work and the reader in a profound and powerful way, but her international approach takes her work far beyond most others. Badgett's careful attention to the status of same-sex marriage outside of the United States differs from other books on the topic, which have tended to ethnocentrically evaluate same-sex marriage as if the United States were the sole country in which such discussions are occurring. Rather than perpetuate Americans' general ignorance of practices outside their own borders, Badgett pays careful attention to both supporters and critics of same- sex marriage throughout her book. While it is clear, by the end, that she supports legislation that will allow all people to marry without discrimination based on sexual orientation, she should be commended for providing a complete picture that addresses arguments made for and against same-sex marriage and that fairly evaluates both. Badgett addresses an array of important issues in her book including the value of marriage, the impact of gay marriage on heterosexuals, whether marriage will change gay people, marriage dissent in the gay community, the value and legitimacy of alternatives to marriage, and whether change is occurring too rapidly.

The third book in review is titled: *Same- Sex Marriage: Pros and Con* by Sullivan Andrew. In this book, Andrew Sullivan called for the legalization of gay and lesbian marriages as recognition of an individual's right to enter into a committed relationship with the person he or

she loves. *Same-Sex Marriage: Pro and Con* is, as the title suggests, a collection of arguments for and against such unions. Sullivan provides little commentary, allowing the various authors gathered here to speak for themselves. No matter which side one supports on this issue, this anthology will enable both an intellectual support of one's own beliefs and a better, fuller understanding of the contrary position¹⁰.

The fourth book in review is *Social Perspectives in Lesbian and Gay Studies* by Peter M. Nardi and Beth E. Schneider. In this book, Peter and Beth further stipulate that the term gay is frequently used in a generic and adjectival sense to describe the subculture, persons, lifestyle, communities, relationships, places and situations associated with homosexuality. For instance, a homosexual club would be referred to as a gay club. Lesbian is a term formulated to refer to female homosexuals. (For the purpose of this study, both lesbians and gays will be collectively referred to as homosexuals). The term gay was originally formulated by homosexual men and women who wanted to distance themselves from the initial negative connotation linked to the term "homosexual" On the other hand, a heterosexual is a person who is emotionally and sexually attracted to people of the opposite sex. The term "straight" is used as an informal term to refer to a heterosexual person. Homophobia is a term used to describe hatred and rejection of gays, lesbians and homosexuality. It refers to the irrational fear of and/or hostility towards homosexuals, which is usually coupled with refusal to accept homosexuals. People who practice homophobia are said to be homophobic. Therefore coming out of the closet is an informal term used to refer to disclosure (to be used interchangeably with the term disclosure). It is a term commonly used among the gay community. Disclosure is a process that follows after one has

individually identified oneself as homosexual and then starting the process of revealing one's homosexuality to others. One can either choose partial disclosure which is a private sharing of one's homosexuality with people that are close to the individual. One can also opt for full disclosure which entails disclosing to the community and to the public that one is living as a homosexual¹¹.

The fifth book in review is *Aliens in the Household of God: Homosexuality and Christian Faith in South Africa* by Paul Germond and Steve De Gruchy. In this book, Paul and Steve stressed that the societal definition of homosexuality is stereotyped and carries with it negative connotations. There are people who are not sexually involved with people of the opposite sex but are usually labeled as homosexuals; men who are more feminine are often assumed to be gay, while women who are more masculine are also sometimes labeled as lesbians. Therefore, defining homosexuality predominantly lies on the individuals, their behaviour, sexual feelings and most importantly, how they define themselves. Homosexual is therefore a term used to describe or refer to a person who is emotionally and sexually attracted to someone of the same sex and defines himself or herself as homosexual¹².

Endnotes

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CHAPTER TWO

A DISCURSIVE ANALYSIS OF SAME SEX RELATIONSHIPS

2.1 Nature of Same-Sex Relationship

A same-sex relationship is an intimate or passionate union of two people of the same gender. Like in heterosexual relationships, it frequently entails emotional, sexual, and/or social connections. Depending on the legal status and cultural standards in a specific society, same-sex relationships can vary from casual dating to serious partnerships and may involve different kinds of cohabitation, marriage, or civil unions.

Same-sex relationships can range from romantic and sexual to non-romantic and homo-socially close. The phrase is most frequently used to describe gay relationships. Same-sex marriage is the term for the formal acceptance of such unions. The term "same-sex relationship" does not necessarily refer to the individuals' sexual orientation. Some activists contend that labeling a same-sex relationship as a "gay relationship" or a "lesbian relationship" is an act of bisexual erasure because bisexual, pansexual, asexual, transgender, androgynous, as well as heterosexual persons, can engage in same-sex partnerships¹.

According to a number of recent researches, same-sex relationships can be roughly divided into at least three kinds. However, there is no agreement on the category and there are no empirical signs that might be used to conclusively prove its existence. In society, one type of homosexual partnership frequently predominates, however other types may coexist. According

to historian Rictor Norton, pedophilia and egalitarian partnerships coexisted in ancient Greece alongside less privileged institutions, and that teenage desire still exists in modern heterosexual and same-sex relationships. pointed out that same-sex relationships based on age and gender are becoming less prevalent, though they are still significant in Latin America, where they coexist with postmodern forms of egalitarianism and male heterosexuals and "butch", that is macho, assertive/active bisexuals, and pansexual can even share a single identity.

2.2 History of Same-Sex Relationship

According to controversial historian John Boswell, the first time same-sex relationships were depicted in history was during the early Roman Empire. These were typically written about in a critical or humorous way. Elagabalus, the child emperor, referred to Hierocles, the blond slave from Caria who drove his chariot, as his husband. In Rome, he also wed an athlete whose name was Zoticus in a spectacular public ceremony to the delight of the populace.

Nero, the first Roman emperor to wed a man, is known to have wedded two other men on two separate occasions. The first involved Pythagoras, one of Nero's freedmen, wherein Nero played the part of the bride. Nero later replaced the teenage female concubine he had killed with a young boy, Sporus, whom he married in a very public ceremony with all the solemnities of matrimony. Sporus was then made to pose as the female concubine Nero had killed and act as though they were actually married. The "bride" was legally married by a friend. Both in Greece and Rome, the wedding was commemorated with lavish public festivities.

It should be noted, however, that *conubium* existed only between a *civis Romanus* and a *civis Romana* (that is, between a male Roman citizen and a female Roman citizen), so that a

marriage between two Roman males (or with a slave) would have no legal standing in Roman law (apart, presumably, from the arbitrary will of the emperor in the two aforementioned cases). Furthermore, according to Susan Treggiari, "*matrimonium* was then an institution involving a mother, *mater*. The idea implicit in the word is that a man took a woman in marriage, *in matrimonium ducere*, so that he might have children by her." Still, the lack of legal validity notwithstanding, there is a consensus among modern historians that same-sex relationships existed in ancient Rome, though the frequency and nature of "same-sex unions" during that period are obscure. In 342 AD Christian emperors Constantius II and Constans issued a law in the Theodosian Code (*C. Th.* 9.7.3) prohibiting same-sex marriage in Rome and ordering execution for those so married.

The standards by which a person conducted their private and public life in the Mediterranean city states of the ancient world (roughly from 40 B.C. to 400 A.D.) were social and behavioural rather than psychological or spiritual. Human standards of behaviour were founded on upholding societal norms, such as being a decent neighbor and giving honor to one's family. Regardless of sexual orientation, it was believed that it was one's responsibility to marry and raise children in order to continue the family line².

2.2.1 Medieval Same-Sex Relationship

In time and place in mediaeval Europe, different attitudes were held towards homosexuality. Generally speaking, homosexuality was regarded as sodomy and was a capital offence at least from the eleventh century. Early Romans, who lived before the Middle Ages,

accepted homosexuality and other sexual practices such as homosexual masturbation. Male elites had access to slaves or hired household boys for their pleasures, whereas males considered lesbianism as a threat to their manhood or sexual-esteem. As a result, homosexuality was generally more tolerated among men than among women who were involved in the practice. On April 16, 1061, two men named Pero Dias and Munho Vandilas were married as same-sex partners in the Spanish Galician town of Rairiz de Veiga. In a tiny chapel, a priest performed their marriage. The Monastery of San Salvador de Celanova is where the historical records of the church wedding were discovered. As we have seen, gay meetings and homosexual behaviour grew to be perceived as improper as Christianity emerged, even though same-sex relationships were not regarded as a serious offence during the early Roman Empire. The Old Testament (Leviticus 18:22, 20:13, Deuteronomy 22:5) and the New Testament (Romans 1:26) condemned females who wore male attire, males who wore female attires, and males and females that engaged in homosexual behavior or intercourse in the 11th century C.E., the Doctor of the Church, St. Peter Damian, wrote the *Liber Gomorrhianus*, an extended attack on both homosexuality and masturbation. He portrayed homosexuality as a counter-rational force undermining morality, religion, and society itself and in need of strong suppression lest it spread even and especially among clergy.

There were persecutions which reached its height during the Medieval Inquisitions, when the sects of Cathars and Waldensians were accused of fornication and sodomy, alongside

accusations of satanism. In 1307, accusations of sodomy and homosexuality were major charges leveled during the Trial of the Knights Templar³.

Roman citizens did not enter into marriage to satisfy sexual cravings; rather, it was an obligation. As a result, it was seen as natural for men to seek out sexual fulfillment outside of marriage, whilst women were not given the same freedom. Presumably, the main moral tenet of Greco-Roman society about human sexuality was that it was acceptable as long as it did not conflict with a person's duties to the state or family or include the mistreatment of unmarried women or free children. Other viewpoints advocated restricting sexual activity because it was risky. People who shared these views would typically vow to live a chaste life or restrict their sexual activity to marriage or solely for reproduction. Such views, though, did not preclude homosexual acts; they simply aimed to reduce promiscuous heterosexual activity

2.2.2 The Stories in Roman Society

Roman soldiers Sergius and Bacchus flourished in the fourth century. Male lovers, they were. Nevertheless, the Romans attacked them because of their Christian religion. Ultimately, the intolerant Romans tortured Bacchus to death. Sergius' faith reportedly wavered after his girlfriend passed away, but it was restored when Bacchus returned to him in a vision and pleaded, "Your reward will be me," implying that the couple would be reunited in paradise if Sergius maintained his faith. Like his mate, Sergius maintained his religion and died a martyr. Sergius

and Bacchus' union was revered as an example of companionate marriage, or a union founded on agape love and respect, during the middle Ages.

Christianity started to establish a new sexual ethic based on the ideals of "purity" and "holiness" around 400 A.D. By the middle of the third century, the developing Church had grown in social and political influence and had adopted two perspectives on sexuality. One of them did not regard or judge sexuality in terms of heterosexual or gay activities, like their Greco-Roman forebears. Instead, it encouraged a sex life that was mostly centered on platonic connections and solely rated the act itself. Some cite the Brother-Making Ceremony of the early Church as an illustration of a same-sex union, however this is debatable. For instance, during the early Middle Ages, the Roman custom of declaring a male as a "brother" to make a formal union with him continued. Also, though there was no official marriage within religious communities, long lasting relationships or bonds were made. Also, there are many poems from that century that suggest the existence of lesbian relationships. Even in areas where homosexual relationships were not recognized, through the end of the twelfth century there was a strong tradition in Christian beliefs that viewed and judged homosexuality and heterosexuality by the same standards. Hildegard of Bingen, born seven years after the death of St. Peter Damian, reported seeing visions and recorded them in *Scivias* (short for *Scito vias Domini*, "Know the Ways of the Lord). In Book II Vision Six, she quotes God as condemning same-sex intercourse, including lesbianism; "a woman who takes up devilish ways and plays a male role in coupling with another woman is most vile in my sight, and so is she who subjects herself to such a one in this evil deed".

Theologian Thomas Aquinas, who made the claim that "special sins are against nature, as, for example, those that run counter to the intercourse of male and female natural to animals, and so are peculiarly qualified as unnatural vices," had a significant impact on the connection made between condemnations of homosexuality and the notion of natural law in the 13th century C.E. All individuals want happiness, according to Aristotle (whom this viewpoint follows), but according to Aquinas, happiness can only be completely reached through the Beatific Vision. All sins are therefore against the natural law. But by looking at the forms and purposes of those characteristics, it is possible to determine the natural rule of many parts of life without the aid of special revelation. Aquinas viewed homosexuality as unnatural in this sense since it entails a different type of partner than what sexuality is meant to lead to. As a misuse of sexuality, he really ranked it second only to bestiality.

We may state Early on in the Middle Ages, homosexuality had no special punishment; it was treated on par with other sins. Pope Gregory III, for instance, imposed penances of 160 days for behaviours resembling lesbianism during the seventh century and typically one year for males who engaged in homosexual behaviour. It is doubtful that anyone was hauled before the Inquisition for their homosexual behaviour alone, instead, it was typically for publicly opposing the Church's position on homosexuality and those who did not back down would be severely punished.

By the end of the Middle Ages, most of the Catholic churchmen and states accepted and lived with the belief that sexual behavior was, according to Natural Law aimed at procreation, considering purely sterile sexual acts, i.e. oral and anal sex, as well as masturbation, sinful.

However homosexual acts held a special place as crimes against Natural Law. Most civil law codes had punishments for such "unnatural acts," especially in regions which were heavily influenced by the Church's teachings.

2.2.3 Contemporary Same-Sex Relationship

While gay and lesbian rights advocacy in the United States grew in the 1970s, Michael Klarman, a legal historian, stated in Harvard Magazine in 2013 that "Marriage equality was not then a priority." Many gay individuals, he claimed, were not initially interested in marriage because they saw it as a traditionalist institution. He also claimed that in the late 1980s, the movement for same-sex partnerships to be legally recognized began. Others assert that the present movement started in the 1990s, such as Faramerz Dabhoiwala, who wrote an article for The Guardian. In 1989, Denmark became the first country to establish "registered partnerships" as a form of legal recognition for same-sex relationships. This granted same-sex couples "most rights of married heterosexuals, but not the right to adopt or obtain joint custody of a child". The Netherlands was the first country to allow same-sex unions in the globe in 2001. Since then same-sex marriages have been granted and mutually recognized by Belgium (2003), Spain (2005), Canada (2005), South Africa (2006), Norway (2009), Sweden (2009), Portugal (2010), Iceland (2010), Argentina (2010), Denmark (2012), Brazil (2013), France (2013), Uruguay (2013), New Zealand (2013), the United Kingdom(2014), Luxembourg (2015) and the United States (2015). Same-sex marriage is to become legal in Slovenia and Finland in 2015 and on the

1st of March 2017, respectively. Following a constitutional referendum in May 2015 in which over 62% of voters approved an amendment permitting same-sex marriage, Ireland will recognize same sex marriages before the end of 2015. In Mexico, same-sex marriages are performed in Mexico City and the states of Chihuahua, Coahuila, Guerrero and Quintana Roo and these marriages are recognized in all thirty-one states. In Nepal, their recognition has been judicially mandated but not yet legislated.

2.3 Practices of Same-Sex Relationship

Every couple has a different kind of relationship. Some same-sex partnerships are for casual, informal, or anonymous sex, much like in heterosexual relationships. Other relationships last longer, require more dedication from both parties, and are exclusively sexual. While maintaining an open relationship and being devoted to one another, some people permit themselves and their partners to date other people. Due to social pressure from friends and family, religious beliefs, or familial education, some couples choose to keep their relationship private. The legal terminology for same-sex relationships is determined by national law. Same-sex relationships may be legally recognized in the form of marriage, civil union, domestic partnership or registered partnership.

People may or may not display behaviours that reflect their sexual orientation. Same-sex partners may self-identify as heterosexual, bisexual, or even gay. Similar to how not all people who identify as bisexual or homosexual seek out homosexual relationships. According to

a Social Organization of Sexuality research from 1990, of the 131 women and 108 men who self-reported feeling attracted to one another, 43 males (or 40%) had engaged in homosexual intercourse. fewer still, 42 women (32%). In contrast, a research by the Family Pride Coalition discovered that heterosexual intercourse was engaged in without producing offspring by 50% of gay males and 75% of lesbians was discovered to be considerably greater.

Regardless of how they identify themselves, men who engage in sexual activity with other men are referred to as "men who have sex with men" (MSM). Many people decide not to accept their social identities as homosexual or bisexual. The phrase was developed by epidemiologists in the 1990s to investigate the prevalence of illness among all males who engage in sex with other men. MSM is a tiny, self-identified risk category that is not limited to obvious subpopulations. Gay or MSM refer to several social identities and behaviours. Regardless of how the individuals identify, MSM refers to male sexual activity. Contrarily, being gay encompasses these activities but is more broadly regarded as a cultural identity. MSM is a term frequently employed in social surveys and medical literature to categorize such men as a group of clinical investigations without taking self-identity into account. As with any sexual connection, one can start with different foreplay techniques like kissing, touching, and caressing and then decide whether or not to use other techniques as suitable. Mutual masturbation, flotting, oral sex, and anal sex are all examples of sex between males. The term "women who have sex with women" (WSW) is used to describe women who engage in sexual

activity with other females but who do not necessarily identify as lesbians or bisexuals. Tremors or frottage, mutual masturbation, cunnilingus, vaginal, anal, oral penetration, and the use of sex toys for clitoral stimulation are all parts of sex between two women. As with any sexual connection, a person can start off with several types of foreplay including kissing, touching, and caressing and may or may not try other behaviours as suitable⁴.

2.4 Reasons for Same-Sex Relationship

The first and possibly most fundamental query regarding same-sex relationships is this one. We must first investigate what the research reveals about the roots of such attractions in order to comprehend the phenomena of same-sex sexual partnerships. There are two basic hypotheses on the origins of homosexual attraction. One is that people are "born gay," or that a same sex orientation is mostly determined by genetic and/or biological causes. The alternative theory contends that psychological, environmental, and early events play a major role in the development of same-sex attraction. In recent decades, it has seemed that the latter idea is losing ground while the former is gaining it in the public sphere. But what does the study reveal? Let's examine each of these two hypotheses in turn.

2.4.1 Is Homosexuality Innate?

While people attempting to justify homosexuality frequently cite the work of eminent sex researcher Alfred Kinsey, there is one subject on which he is rarely cited, his denial of a biological basis for same-sex relationships.

By the end of 1940, according to Kinsey's colleague and biographer, Wardell Pomeroy, “he had recorded more than 450 homosexual histories, enough to convince him that the psychologists were aggravating the situation by presuming that homosexuality was an inherited abnormality that could not be cured simply because it was inherent”²⁵. Kinsey was adamant that there was zero proof of inheritance.

2.4.2 Alleged Evidence of the Biological Origin of Same Sex Relationship

A few studies that were released in the 1990s purported to provide proof in favour of a biological or genetic reason for same-sex relationships. Three of these in particular—Simon LeVay's study of brain structure, J. Michael Bailey and Richard C. Pillard's twin study, and a team led by Dean H. Hamer's study of "gene linkage" and "gene markers"—attracted a lot of

media attention and are largely to blame for the general public's misconception that a "gay gene" has already been discovered. Take each of these in turn. The Brain Studies of Simon LeVay Some researchers have theorized that the sexual preferences and behavior of same sex partners may be dictated by the structure of the brain—particularly if the brains of same sex men, for example, can be shown to resemble those of heterosexual women more than they resemble those of heterosexual men. One highly publicized study that purported to demonstrate this was conducted in 1991 by former Salk Institute researcher Simon LeVay. LeVay studied the brains of cadavers, including 18 men known to have been homosexual and one known to have been bisexual. He compared them with the brains of another 16 men and six women whom he presumed to have been heterosexual. This is what LeVay claimed to have found: "INAH 3- interstitial nucleus 3 of the anterior hypothalamus" was more than twice as large in the heterosexual men as in the women. It was also, however, more than twice as large in the heterosexual men as in the homosexual men. This finding indicates that INAH is dimorphic with sexual orientation (i.e., shows a difference in structure between homosexuals and heterosexuals), at least in men, and suggests that sexual orientation has a biological substrate⁶.

2.4.3 Genetic Characteristics as Indirect Role in Sexual Orientation

All hypotheses of a "gay gene" remain unproven as of this writing. Some experts, however, contend that temperamental characteristics may indirectly influence how likely a person is to develop homosexual identity or feel same-sex desire as a result of their genetic makeup. According to Byne and Parsons, "For example, a gene may be considered a gene for homosexuality with limited penetrance if it altered some element, such as temperament, in a manner that would raise the risk of homosexual development in a particular environment. But the authors warn that such phrasing would downplay the environment's supreme relevance in such a situation"⁷. Bem concurs that "biological factors only indirectly affect sexual orientation, by intervening earlier in the chain of events to determine a child's temperaments and subsequently preferred activities. Correlation between a biological factor and sexual orientation is more plausibly attributed to its influence in early childhood than to a direct link with sexual orientation."⁸

2.4.4 Early Childhood Developmental Factors

The causes of same-sex attraction are many and varied. Prior to 1973 many researchers focused on the early childhood years. Bem claim to uncover a remarkable number of variables and circumstances that may result in a same-sex relationship, according to the findings of a 1969 study published in the Journal of Consulting and Clinical Psychology. There are many factors that complicate what happens after a child is born, including inner biological and emotional factors, parental and familial circumstances, social context, and cultural contexts. In

addition, different pressures and expectations change as the child grows and hardens as he makes his way into his eventual adult character structure⁹.

Also in Archives of General Psychiatry, psychiatrists Byne and Parsons write: "It seems reasonable to suggest that the stage for future sexual orientation may be set by experiences during early development, perhaps the first 4 years of life." "The inadequacies of current psychosocial explanations do not justify turning to biology by default—especially when, at this time, the biologic alternatives seem to have no greater explanatory value," the authors write in their conclusion. In reality, the present inclination may be to underrate the capacity of existing psychological theories to provide explanations¹⁰."

2.4.5 Parental Influence

Researchers have also looked at how parental personality factors may influence same-sex attraction. In the nearly a century-old psychiatric literature, theories regarding how a child's relationship with his or her parent can affect homosexual feelings have been developed. Freud (1916) regarded the mothers of homosexuals as overly caring, and their fathers as retiring or absent, according to the Archives of Sexual Behaviour. Stekel (1930) observed weak fathers and strong, dominant women. Terman and Miles discovered in 1936 that the mothers of homosexuals were particularly outgoing, affectionate, and emotional, while the fathers were often cold, dictatorial, or frequently absent from the house¹¹. "Similar to this, the Menninger

Clinic's Bulletin reported the following in their evaluation of the literature in 1963, Bender and Paster observed either a substantially deficient or very unfavourable relationship with the same-sex parent, along with an overly deep attachment to the opposite-sex parent, in a study of 19 actively homosexual children.

Additionally, a number of current researchers who independently came to the same conclusion about the mother-son component of male homosexuality are cited in a recent publication by West. In the same paper, West describes his own study of 50 gay men and 50 matched control (non-homosexual) men conducted in England. His research demonstrates unequivocally that male homosexuals are far more likely to come from a family constellation with an obsessive mother and an unpleasant connection with their father¹³.

2.5 Theories of Same-Sex Relationship

An ideal-typical model was created by Troiden (1988), which Nardi & Schneider (1998) used to describe how devoted same sex (men and women who have declared themselves as homosexuals and accepted homosexuality as a way of life) recollect how they came to have this perspective of themselves. He makes it clear that his four-stage model of the development of a gay identity only covers the broad trends experienced by committed homosexuals, or men and women who identify as homosexuals and lead related lifestyles. Troidens' conceptualization of the four-stages of homosexual identity formation was an integration of various theories.

Troidens' theory was based on the works of Plummer (1975) who focuses on homosexual identity formation on men; Ponse (1978) whose focus is on homosexual identity formation on females; and Cass (1979) whose work accounts for homosexual identity formation in both males and females. It is therefore crucial to include a brief overview of the above-mentioned theoretical accounts of homosexual identity formation before exploring Troidens' model¹³.

2.5.1 Plummer's Theory on Male Homosexual Identity Formation

According to Plummer (1975), the process of "becoming homosexual" that is, accepting homosexuality as a way of life includes the development of a homosexual identity. Being homosexual entails making the choice to identify as homosexual, learning about the roles that homosexuals play, and deciding to live one's adult life as a practicing homosexual. According to him, every gay man goes through four stages before coming out and stabilizing: sensitization, signification and disorientation, coming out, and stability.

Boys who are in the sensitization stage of their development may have early experiences that subsequently help them define themselves as homosexuals. These encounters take place in the emotional realm through same-sex emotional attachments, in the social realm through gender-inappropriate interests, and finally in the genital realm through same-sex genital acts. Boys become more likely to interpret historical events as signaling a possibility for homosexuality as a result of these formative experiences.

According to Plummer, the second stage, which includes meaning and disorientation, takes place during adolescence. Boys start to consider the possibility that their interests and

sentiments may be homosexual at this period. Their knowledge of homosexuality and its possible personal relevance is subsequently increased (signified). Since they were raised differently than other people, the homosexual connotations of their behaviours, emotions, or hobbies cause them worry and bewilderment.

Beginning in late adolescence or in the middle of the third stage is coming-out. Boys start to learn about gay roles at this point, make contact with other homosexuals, and label themselves as such. When individuals become at ease with being homosexual and decide to adopt it as their way of life, they have reached the ultimate stage, known as stability (Plummer, 1975 in Nardi & Schneider, 1998). According to Plummer's theory, all male homosexuals will finally accept their gay orientation after going through the same stages. Ponse (1978) developed a theory that aims to clarify the stages involved in the homosexual identity formation among girls because Plummer's focus was on males.

2.5.2 Ponse's Theory on Female Homosexual Identity Formation

Based on her sociological investigation of identities among the lesbian population, Ponse (1978) developed her theory. She concentrated on how lesbian identities are created in relation to lesbian community norms. Ponse's research uncovered five components that could be used as first steps towards adopting lesbian identities. The first component, which she characterized as an emotional or sexual desire for other women, is a subjective sensation of being different from heterosexuals. Women learn about the lesbian or homosexual significance of their sexual or romantic impulses in the second component. The presumption of a lesbian identity is the third component. Fourthly, they look for other ladies in similar situations to hang out with. Last but

not least, they start dating lesbians. According to Nardi & Schneider (1998), Ponse tries to simplify the process that lesbians go through and pays little attention to the challenges that female homosexuals encounter when trying to understand and embrace their sexual orientation¹⁴.

2.5.3 Cass's Theory on Homosexual Identity Formation on Males and Females

The first attempt to explain how homosexual identity development occurs in both males and females was made in Cass' (1979) theoretical theory of homosexual identity formation. Her classification of homosexual identities divided them into six stages. Before the first stage, people already assume they are heterosexual and never question this belief, claims Cass (1979). Due to their sentiments, interests, and behaviors that are not seen as heterosexual, people in stage one, identity confusion, start to suspect that they might possibly be gay. People start to think they are definitely homosexual at the second stage, identity comparison. In the third stage, known as identity tolerance, both men and women identify as homosexual but still feel uneasy about it because of the stigma associated with it. Stage four, identity acceptance, follows pleasant interactions with other gays who provide newcomers the knowledge and rationale necessary to normalize homosexuality as a valid identity and way of life.

When a person is in the fifth stage, identity pride, they are happy with who they are and how they live. They commonly let others know they are gay, rather than keeping it a secret. Additionally, they fiercely defend homosexuality when confronted with the anti-homosexual beliefs held by many heterosexuals. In the third stage, known as identity synthesis, gays and lesbians are ready to reveal their sexual orientation to anyone, even though they no longer regard

it as the most significant aspect of who they are. They start interacting with both gay people and straight people¹⁵.

2.5.4 Biological Theories of Homosexuality

Byne draws the conclusion that the biological theory is still speculative and write that “the appeal of current biologic explanations for sexual orientation may derive more from dissatisfaction with the present status of psychosocial explanations than from a substantiating body of experimental data. Critical analysis reveals a lack of support for a biologic theory. In a different paradigm, as a person's sexuality develops, temperamental and personality features interact with the family and social environment. The model predicts an apparent nonzero heritability for homosexuality without assuming that either genes or hormones directly influence sexual orientation *per se* because such qualities may be heritable or developmentally influenced by hormones”¹⁶.

2.6 Advantages and Disadvantages of Same-Sex Relationship

2.6.1 Pros Arguments of Same-Sex Relationship

Equal access to benefits: same-sex couples vs heterosexual couples: In 2004, it was discovered that married couples receive precisely 1138 benefits, from healthcare treatments to property protection to tax breaks. Similar to how the Internal Revenue Service (IRS) and the US

Department of Labor value married couples, married couples have access to retirement and health insurance benefits. Contrarily, the aforementioned have no benefit for same-sex relationships. For instance, the New York Times reports that same-sex couples who rejected marriage benefits are expected to pay an additional \$41,196 to \$467,562 in expenses over the course of their lifetimes compared to married couples who do not. Another illustration is that the Atlantic Journal found that unmarried women spend up to a million dollars more on healthcare, taxes, and other costs throughout their lifespan than married women do.

The change of “traditional relationship” concept and its definition over time: Only two centuries ago, according to historian Nancy F. Cott of Harvard University, monogamous homes made only a tiny percentage of all households and were confined to Western Europe and small towns in North America. Before the 1950s, interracial marriage was outlawed in the USA. However, according to the official unions, traditional marriage customs were followed in a number of nations in the 13th century for marriages between same-sex partners.

Same-sex relationship is a civil right: The National Association for the Advancement of Colored People (NAACP) pronounced same-sex relationships to be an essential civic right in our time on May 21, 2012. According to The White House website, same-sex marriage rights include freedom from discrimination in the workplace, equal pay for women, and fair sentencing for offenders of color.

Gay couples make good parents: Studies have revealed that same-sex offspring perform better academically than children of heterosexual parents. youngsters of same-sex parents had fewer social issues than the other type of youngsters, according to another study.

Same-sex marriage physical and psychological health benefits: In 2007, the American Psychological Association, American Psychiatric Association, and other psychological associations made the case that permitting same-sex marriage will offer individuals access to the social support that will create improvements to their psychological and physical health. Contrarily, the American Journal of Public Health (2010) revealed that restricting same-sex marriage increases anxiety disorders, mood disorders, and alcohol use disorders.

Gay marriage and legalization: no harm on marriage institution: According to a study that was published on April 13, 2012 in Social Science Quarterly, allowing same-sex marriage won't impair societal components; in fact, it might help keep human communities stable.

2.6.2 Cons Arguments of Same-Sex Marriage

Traditional definition of marriage institution: Marriage, traditionally and categorically, entails the union of a man and a woman in order to procreate.

Marriage and procreation: Same-sex relationship will absolutely block producing future children and future generations.

Children need both a mother and a father: Girls with same-sex parents are more likely to engage in early sexual activity because they lack emotional security, according to research. They frequently experience hardship in their daily life, particularly as a result of sexual assault and unemployment.

Same-sex relationship is immoral and unnatural: Convincing research has shown that people who are engaged in same-sex relationships consciously admit that their conduct is against laws of the nature.

Gay marriage legalization: homosexual vs heterosexual marriage: According to the Illinois Family Institute, the core of an individual's identity will be lost if homosexual marriage is legalized since naturally nurtured children will view same-sex marriage as a regular activity. Additionally, typical kids are being misled into believing that homosexuality and heterosexuality are both natural. Therefore, we must stop this behavior.

Children hunger for their biological parents: In vitro fertilization (IVF) or surrogate mothers used by same-sex couples purposely produce a generation of children who are not raised by their biological parents. In an effort to learn more about their biological parents, children of IVF often pose probing inquiries to their lesbian mothers. “Mommy, what did you do with my

Daddy? Can I address a letter to him? Has he ever seen me? Did you not enjoy him? Had he not liked me?"¹⁷ These are examples of questions they might ask.

In this chapter, a holistic analysis of the same-sex relationship was made. The next chapter will focus on ethical imports of same-sex relationships in respect to the Nigeria society.

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CHAPTER THREE

ETHICAL THEORIES AND SAME SEX RELATIONSHIPS IN NIGERIA

The debate about same-sex relationships, gay marriages and gay rights have always been discussed with mixed emotions. The reason for this is that these concerns touch on every delicate aspect of our social life, societal ideals, and even the dignity of the individual. They are essentially questions that cut between spirituality and law, psychology and ethics. This has caused quite an issue in South Africa where the practice of corrective rape is not a new topic.

Corrective rape, is a criminal activity in which lesbian women are raped by men, often with the help of family members or other community members, in an effort to "cure" them of their homosexuality. As a result, the issue becomes more and more complex every day. Therefore, in order to assess the moral standing of gay marriage, we are to start over, at least philosophically speaking, to investigate the complicated and often fallacious reasoning used by pro-homosexual advocates to support same-sex unions. In the late 20th and early 21st centuries, there has been a growing movement in a number of countries to regard marriage as a right which should be extended to same-sex couples, despite the fact that homosexuality is still frowned upon and that issues of gay rights are found to be poorly founded¹.

For expositional clarity, this work shall provide brief explanations on some of the major concepts that form the topic of this work. These concepts are: ethics and same sex relationship.

3.1. Conceptual Clarification

Ethics: Etymologically, ethics was derived from the Greek word *ethikos*, which signifies custom. It has a long history of use in technical contexts in relation to normative science, which teaches us not what men really do or think is right to do but what men ought to do and what they ought to think is right to think. It alludes to a branch of science that investigates the criteria we use to determine whether an action is good or bad, right or wrong. Ethics as the branch of philosophy that deals with the morality of human actions, can be defined as referring to the code or set of principles by which individuals live. In actuality, it is the normative science of human behavior. It is concern with determining what is right and wrong, good and bad in human conduct. Although the human being can be moral without ethics, the growth of morality in humans may

benefit greatly from ethics as a systematic study of the norms of human conduct. Fundamentally, ethics is the normative science that describes how people behave in terms of what is right or wrong.²

Same-Sex Relationship: The term "same" is equivocal and can indicate different meaning depending on the context in which it is used. According to the *OnlineOxfordDictionary*, same means "exactly like another or each other", "identical, not different"³. Additionally, it is thought of as "being one or identical even though it has different names, aspects, etc." In another sense, it is interpreted as "agreeing in kind, amount, etc." However, for the purposes of this essay, we'll use it in the former sense, which is when something is one or the same gender but has distinct names, aspects, etc.

The union of two people of the same sex in a marriage relationship with all of the legal rights and obligations assigned to this contract in a specific country is known as a same sex relationship, otherwise called a homosexual or gay relationship. It is believed to be a behavior that arises as a result of the environment or genetic predisposition. The characteristic may also come from child sexual abuse either as a result of poor relationships between parents of the same sex and their kids. Because of this, certain children's needs are not met, and because those needs do not go away, they instead exhibit intense and unusual behavior toward others of the same sex, which leads to the emergence of homosexuality in society. It implies the idea of sharing the same state of being either male or female as a concept. It is simply referred to as marriage between individuals of the same sex, whether it occurs during a secular civil ceremony or in a sacred space. Advocates of this type of marriage equally refer to it as marriage equally and go by the

name "gay marriage". The term "same-sex marriage" still refers to the union of two persons who share the same sex, such as two homosexual (men) or two lesbian (women), notwithstanding the different twists that advocates of this practice have given it. The earliest recorded instance of same-sex marriage, in accordance with Boswell, occurred in the early Roman Empire. Emperor Nero, who is also said to have wed two other men on separate dates, entered into this marriage. The first was Pythagoras, one of Nero's freedmen, with whom Nero played the part of the bridegroom. Ancient Rome and Greece both observed these marriages. It is evident from these justifications that same-sex marriage continues to be a relationship between individuals of the same gender.⁴

3.2 Nature of Ethics

Ethics refers to the principles that should govern human behavior, typically in terms of right, duties, fairness, and a particular virtue. It relates to questions of propriety, including rightness and wrongness, what is morally right and what is morally wrong. In place of right in ethics, the words "proper," "fair," and "just" are also sometimes employed. A layman might say that 'pleasure is good' or 'nation's prosperity is good'. When we mistakenly associate happiness or riches with virtue, the problem becomes serious. Almost everyone would agree that one of life's good things is experiencing happiness or wealth. However, no rational person would claim that happiness or riches are the only two characteristics of good. A decent man or ethical man in Plato's and Aristotle's era was one who was a good citizen. If ethics is a theoretical study of moral issues, it may be argued that this has practical implications for the study of ethics. Such a

statement might not mean anything to the average person. No amount of academic information, it is claimed, can potentially enhance a person's ethical norm because only experience can expand a person's ethical perspective. Knowledge, according to Socrates, is a virtue. He was attempting to make the point that no one could be moral by accident or without genuine understanding of what a moral act entails. Knowledge must come before compassion, according to Jaina ethics, which is characterized as the practical application of nonviolence as the highest virtue. These assertions stand alone as sufficient proof that virtue practice begins with virtue knowledge. Therefore, the theoretical examination of the ethical dilemma serves as the very basis for its implementation in real-world situations. Western culture has placed a greater emphasis on material advancement and separated metaphysics from ethics and science from religion. The dualistic mindset of the West has interfered with people's normal lives and driven some of them to the verge of suicide. Despite man's control over nature, his ambition of visiting other planets is becoming a reality, but the average person in the globe is not at peace with himself. Today's world is rife with uncertainty and dread. The ethical norms established by Indian sages thousands of years ago are universal guidelines that can always be upheld and are a long-lasting remedy for the ills that have crept into contemporary society. It is true because these principles were never thought of as merely notions of morality but rather as a way of spiritual living that promotes the growth of the individual and society as a whole. The brief study of ethics' nature makes it abundantly evident that it cares about human life and evaluates human behavior from a normative perspective. Because of this, numerous thinkers have developed distinct definitions of ethics. According to John Mackenzie, ethics is a broad study of the ideals

present in human life. According to John Dewey, the goal of ethics is to highlight morally correct and admirable behavior. According to G. E. Moore, ethics should be concerned with the highest good. All of these suggest that human social behavior is a factor in the topic of ethics. Until we explain the nature of normative science, our understanding of the nature of ethics is insufficient.

Ethics as a normative science is mainly concerned with what ought to be done rather than what is the case. It differs from positive science. A positive science is concerned with facts and explains them by their causes, but ethics deals with values. It evaluates standard or norms by which we can judge human action to be right or wrong. Logic and Aesthetics are also considered as normative sciences.

Ethics is also a science of character. Because it is a normative science, ethics is distinct from natural and factual science. Every science is focused on a specific area of knowledge. Therefore, ethics has a distinct field of study within science. It addresses certain conclusions that we draw about how people behave. According to Muirhead, "Ethics is not only concerned with temporal behavior, it serves as the foundation for legal decision-making." Ethics, in the opinion of intuitionists, is the science of right. The fundamental idea is correct. In every situation, you should abide by it. It is required to follow the law, and it is wrong to do otherwise. They must be followed by man; this perspective is known as duty-predominating ethics. Formalist ethics holds that moral rules are ends in and of themselves. They do not aim to achieve any other objective. Ethics is not a practical science because it is not a science of application; it just directs us toward a particular objective. Its approach differs from that of applied science, which serves as a tool for

achieving goals or objectives. For instance, medical research provides a way to address the root causes of sickness. Ethics therefore looks to determine what the ultimate purpose of life is and how it might be attained.

Ethics is also not an art because it is based on motive, whereas art depends on outcome. According to John Mackenzie, the final attraction in art is the product produced, whereas the ultimate appeal in morals is the inner harmony. In particular, art concerns with developing the ability to create things. Because goodness is a fundamentally intrinsic goal, ethics differs from art in this way. Once more, Mackenzie makes the point that ethics cannot be treated as an art since virtue has two unique qualities that are insignificant in the context of art. First, virtue calls for action. As long as a person does not truly uphold moral principles, we cannot regard him as moral. When it comes to an art, skill is more significant than the actual activity. In other words, a good painter is someone who can create beautiful paintings; a decent man is someone who acts morally rather than someone who cannot. When a painter is resting or traveling, they produce their best work. A good man is not good while resting or traveling. Therefore, goodness is an activity rather than a quality or potential. Because of this, Aristotle asserts that "virtue is a kind of habit." It is a habit of making the right decision. In other words, virtue is a combination of wisdom and practice, awareness and activity, and thought and volition. As a result, ethics, science, and art all have diverse purposes and outcomes⁵.

3.3 The Ethics of Same Sex Relationship from a Deontological Perspective

Deontological ethics in [philosophy](#) is ethical theories that place special emphasis on the relationship between duty and the morality of human actions. The term *deontology* is derived

from the Greek *deon*, “duty,” and *logos*, “science”⁶. In deontological ethics, an action is considered morally good because of some characteristic of the action itself, not because the product of the action is good. Deontological ethics holds that at least some acts are morally obligatory regardless of their consequences for human welfare. Descriptive of such ethics are such expressions as “Duty for duty’s sake,” “Virtue is its own reward,” and “Let justice be done though the heavens fall”

Given that both of their beliefs place more value on an individual's choices than those of society, a deontologist's perspective on homosexual marriage is practically identical to that of a utilitarian. Gay weddings are a structured belief or opinion according to utilitarianism and deontology. Deontologists feel that a gay couple seeks marriage because they think it is the right thing to do, as was previously indicated in the paper. Deontology pertains to moral obligation and need. They do not consider the implications of their choices or take a closer look at their behavior. According to the Virtue ethics theory, a gay marriage would only be immoral if it was done so for immoral reasons.

Immanuel Kant was a deontological theorist who has received a lot of attention over the years. According to the philosopher's theory, a person's activities are immoral if they are incompatible with or inconsistent with their standing as an intelligent, morally upright person. This leads one to believe that gay marriage is morally acceptable and widely accepted. This is due to the fact that it enhances one's position as a rational, upright, and average individual. This increases positive outcomes, enjoyment, and equality rights, and satisfies them. In order to compare the two theories (utilitarianism and deontology), we may say that the utilitarian

perspective on gay marriage holds that couples make their decisions with the expectation that the outcomes will be favorable to a greater number of individuals. According to a deontologist, gay individuals make their decisions with the awareness that whatever they do respects life, equality, and honesty without taking the potential implications on society into account⁷.

In continuation, informing oneself of the philosophical theory of duty can be of great assistance in determining whether or not same-sex marriages should be legalized. There are basic guidelines for the topic of duty ethics:

First, act only according to that maxim (rule), which can be a universal law for all people in all circumstances. This maxim is universal, and applies to everybody in all circumstances. Second, how do you check to make sure that you have come up with a good rule? This calls for the principle of Reversibility. It says, the maxim (rule) is right if one would want to be treated that way themselves... Third, check it out, and whatever you do virtuous, do it not for your own selfish reasons but because it's the moral thing to do⁸.

Immanuel Kant, a German philosopher, was a major proponent of responsibility ethics. Kant disliked a morality based on rules, particularly church laws. He asserted that you cannot rely on laws since they are occasionally enacted by arbitrary individuals. He claimed that the capacity for reason is the one trait that all humans share. In other words, people's most fundamental desire is to live in a good community and interact with others. Duty According to ethics, we have an obligation to do good⁹.

In Kant's work entitled *The Groundwork of the Metaphysics of Morals* he says, "Act only according to that maxim whereby you can at the same time will that it should become a universal law". What Kant is saying here is that one should only follow a rule that everyone else will be able to also follow, not just because of one's own motives. The philosophical theory of duty can

be applied to the idea of same-sex marriage. Marriage is a legal act in the United States and it is law that someone wanting to be married can go to any courthouse to process. This law according to duty ethics must be universal and apply to everyone in every circumstance and therefore everyone that wishes to marry should be able to do so regardless of his or her sexual orientation or preference. Everyone can surely agree that in the United States individual rights nine times out of ten are extremely important regardless of one's religious views, moral views, and political views, and these rights should be given to all citizens and not discriminate against any particular group. Refusing gays the right to marry can be compared to not allowing African-Americans the right to attend the same schools as their Caucasian counterparts. Using the utilitarian theory one will notice that the legalization of gay marriage promotes happiness for the majority instead of happiness for a minority, and through the theory of duty one will learn that if marriage is acceptable for some then it should be acceptable universally¹⁰.

3.4 The Ethics of Same Sex Relationship from a Utilitarian Perspective

Utilitarianism argues that an action is good if it increases pleasure and reduces pain, or otherwise contributed to the greatest happiness for the greatest number. The founder of Utilitarianism Jeremy Bentham believed that we are to promote pleasure and act to reduce pain. When called upon to make a moral decision, one measures the value of an action with respect to pleasure and pain according to the following: intensity (how strong the pleasure or pain is), duration (how long it lasts), certainty (how likely the pleasure or pain is to be the result of the action), proximity (how close the sensation will be to performance of the action), fecundity (how likely it is to lead to further pleasures or pains), purity (how much intermixture there is with the

other sensation). One also considers extent, the number of people affected by the action. On the utilitarian view one ought to maximize the overall good that is, consider the good of others as well as one's own good. Additionally, impartiality and agent-neutrality are characteristics of utilitarianism. Happiness is the same for everyone. Utilitarianism is a philosophical theory that can be used to analyze the issue of gay marriage in the United States. Citizens of the United States have the legal right to get married here. The right to marry, however, discriminates against persons based on their sexual preferences because only heterosexual couples are accepted as being lawfully wed throughout the country. But if one takes a utilitarian stance, one can see that same-sex marriage would lessen the suffering of those who would lose their freedom to choose their spouse. Legalizing same-sex unions across all states would boost happiness in society¹¹.

Plibersek believes that "marriage equality" is simply self-evident, necessitating neither justification nor actual thought. Others have tried to short-circuit and stifle public discourse throughout history by disguising their own ideas as "neutral" and "obvious" while demonizing others as irrelevant, illogical, and self-serving. You do not often encounter opposing ethical philosophies like utilitarianism. According to Plibersek, the best course of action in a same-sex marriage is the one that creates a future state of affairs with the greatest net benefit and/or the least net harm. Setting aside the well-known and to-this-day interminable difficulties utilitarians face in identifying and defining (and *then* balancing) equivocal "benefits" and "harms"¹², Miller asserts that utilitarians would favour same-sex marriage because the "direct benefits" to same-sex couples of being eligible to marry obviously outweigh the only "indirect harms" that "some people" might experience from having their conception of marriage "hurt." Despite the

recognition (without explication) that there are "many factors to consider," only these two are actually considered and - *presto!* - the balance favours the reform Miller already wants¹³.

According to Plibersek, however, what if we take into account other benefits and harms, such as the benefit to children of having their own mother and father raise them in a devoted and loving marriage, and the risk that further fiddling with marriage may lessen the likelihood that children will have such advantage? Despite the diversity of modern parenting, most people would concur that, overall, the cross-cultural institution that seeks to unite men and women as husbands and wives, to be father and mother to any children that their acts of love bring into the world - the institution we used to call "marriage" - has accomplished a great good. The utilitarian balance may shift in the opposite direction when you consider that many of the legal benefits sought by fiddling with marriage definitions — hospital visitation rights, property, tax, and so forth — can already be attained in other ways (through contract or a sex-neutral civil union scheme). The effects of such a radical reorientation of the very concept of "family life" around the emotional needs of some adults will undoubtedly be felt "directly" very soon, according to Plibersek, who also agreed with many utilitarians that if the situation changed, "the sky won't fall in" overnight (significant cultural change always takes years, even decades).

The "greatest happiness principle," which holds that all human behaviors are driven by a desire to avoid suffering and experience pleasure, is the cornerstone upon which Bentham built his writings on the law of marriage. Bentham classified "self-regarding" motivations for human behavior, which include "pecuniary interest," "love of power," and "self-preservation," along with "sexual love," which he defined as bodily desire. The final one includes a love of life, a love

of ease, and a dread of pain. According to Jeremy Bentham, the case for same-sex couples' right to marriage can be made extremely persuasively from both a position of recognizing and supporting uniqueness and from a position of utilitarianism. According to utilitarians, you must do your best to limit the worst harm and maximize the best pleasure.

When discussing same-sex marriage, philosophers like Pufendorf argued that it is imperative that different people be let to live diverse lifestyles. In other words, there is no justification for restricting your ability to live the way you want, as long as your idea of living out your life does not interfere with others' rights to pleasure. This principle also comes through in concepts like freedom of expression and of religion. The freedom to practice any religion you choose promotes diversity in a community and preserves the minor truths of each religion until a more comprehensive truth may be established by fusing them all¹⁴. Similar to this, Pufendorf added that the freedom to live however you choose to live, whether in a heterosexual, homosexual, asexual, or other relationship, enables a community to remain diverse and fosters vigorous debate, which may result in a better understanding of the truth or of relationships, which may increase societal happiness. Demanding couples to adhere to heteronormativity may result in the community becoming so homogeneous, that social progression grinds to a halt since conformity is the final nail in the coffin when it comes to social advancement.

Another philosopher Keith Thomas argued that the best way to live is by “pursuing our own good in our own way, so long as we do not attempt to deprive others of theirs, or impede their efforts to obtain it.” With that said, from a utilitarian standpoint, allowing same sex couples to pursue their own happiness through being able to marry their partner increases their utility and

capacity for achievement. There is no valid argument that says that letting homosexual couples marry will keep a heterosexual couple from being able to either marry or obtain their own happiness through that union¹⁵. According to Keith Thomas each person is in charge of maintaining and cultivating their own happiness and health, so if being allowed to marry the person they're with helps someone to maintain their health or happiness, then they should be able to do it. Just as "different people also require different conditions for their spiritual development," they also may require different conditions for their own happiness that may not be in line with the current ideas of the time. It is our obligation as a society to encourage individual tastes to keep up the diversity of our community.

3.5 Same Sex Relationship in Nigeria

The question of whether same-gender marriage is completely foreign to Nigerian culture and custom is one of the hotly contested topics in the discussion of homosexuality and same-sex marriage in Nigeria. The argument that same gender union is alien to Africa has been made by those opposed to same sex marriage time and time again. On the other hand, gays have allegedly always existed in Africa, according to Leo Igwes' argument. He contends that homosexual relations precede contact with Arab and western civilizations and are as ancient as Nigerians in Africa. However, as in other cultures, gay people in Africa have traditionally kept their sexual orientation and feelings a secret, with heterosexuality being the accepted sexual orientation. As a result, gay people in Nigeria enter straight relationships in order to have children and lead "normal lives." Because of this, some claim that there are no homosexual people in Nigeria¹⁶.

Igwe denounced the "rash of comments from Nigeria dripping with hatred, disgust, and condemnation for the homosexuals." While many demanded that these "vile" individuals with their "disgusting" lifestyles be burned, executed, beheaded, or stabbed, others bemoaned the deterioration of Nigerian moral ideals and the associated inflow of corrupt western cultural values. It was argued that under no circumstances could the idea of human rights be extended to such individuals because, after all, they were subhuman and engaged in behavior that even animals would not partake in. On the cusp of their departure, Nigerian colonizers inserted anti-gay laws into their statute books, according to proponents of the present trend in the same-sex debate. According to them, the current discrimination against homosexuals in Nigeria has some roots in the colonial past. These colonies were subjected to the social, cultural, and political philosophies of Western imperialists. Unfortunately, the majority of African nations uncritically embraced the laws and constitutions of their former oppressors when they gained their freedom. For instance, the former British Colonies, Nigeria, Kenya, Uganda, Ghana, adopted the British common law which until the 1960s prohibited homosexuality; while the Islamic majority states adopted the Shari'a law - introduced to Africa by Arab jihadists - which sanctions death for gay sex. So homosexuality is a crime in Nigeria¹⁷.

Mensah is of the view that, the fact that anti-gay laws were inserted into the statute books by the departing British colonialists should in itself put paid to that ridiculous notion that the idea that homosexuality is a Western concept and therefore foreign to Africa as nonsense. Homosexuality, he claimed, cuts across all cultures worldwide and is simply human, in as much as it is also derided across cultures. In fact, until relatively recently in western societies,

homosexuality was frowned upon and criminalized in many countries. Even today, in spite of liberal laws, there are gay men in the west who hide their sexuality and go through loveless marriages just for the sake of keeping up appearances; fearful of the ridicule and contempt of their peers were their secrets to come out. The strict Nigerian communal expectations of yesteryear simply meant men who had sexual feelings for men were forced to bury them whilst they went through the tortuous and sometimes unhappy ritual of marriage and procreation that was expected of them, and in many instances, led double lives. The argument therefore that homosexuality is intrinsically a western pervasion foisted on poor but pure hapless Nigerians fits into an interesting narrative, but it is simply a hysterically jingoistic, ignorant one devoid of any intellectual basis or evidence¹⁸.

The demand to conform, which is the foundation of our ancient communalistic society, is quickly vanishing on a number of fronts in Africa's emerging culture. Clearly, in this vacuum, groups start to assert themselves as they cast off the "yoke" of conformity. Therefore, it should not come as a surprise that gays are getting more outspoken every day in Ghana, South Africa, and Nigeria¹⁹. It is inevitable that certain structures will collapse, and we may not be able to do much about it, as urbanization, education, foreign travel, and the internet extend throughout Africa. For instance, many educated Nigerian women with independent careers and finances no longer feel the need to remain trapped in loveless and sometimes abusive marriages just to conform to traditional society's expectation of 'stable' marriages. Single parenthood no longer is a matter of eternal shame.

The decision of a woman to work as a prostitute is no longer met with wild outrage—at least not in the faceless jungles that have replaced our cities. People will remind you that it is their life if you dare criticize them as they become more and more aware of their democratic rights of self-expression through the concept of human rights (which is obviously a good thing, definitely). Our extended family system is steadily disintegrating, and the nuclear family is taking over. Many young people come from broken homes and have taken their own destinies into their hands. We are very slowly but gradually ceasing to care what another person does with his or her life. It is within this context of the western-style individuality taking over Nigerian communality that the gay Nigerians feels unwilling to live according to the strict demands of societal expectation and demands to be left alone to get on with his life as he sees fit²⁰.

Igwe went on to provide a comprehensive overview of what same-sex marriage in Igbo society looks like. He claims that same-sex weddings between women are accepted and practiced among the Igbo for reproductive objectives. A heterosexual partnership, which is viewed as having procreative (and reproductive) significance, traditionally has equal status and legitimacy with gay relationships. He believed that Nigeria's views on homosexuality were myths and misunderstandings that needed to be dispelled and addressed if Nigeria was to advance on this crucial topic. Some of the myths include assertions that homosexuality is un-Nigerian, that gay sex is abnormal and a type of sexual aberration imported to Africa from the West, and that gay marriage is a form of child abuse. Homophobes and gay-bashing groups on the continent and elsewhere have benefited from these myths. They have misrepresented Nigerian culture and conscience. If homosexuality is un-Nigerian, does it mean that heterosexuality is Nigerian? Are

Nigerians the ones that exported opposite-sex relationships to other parts of the world? Should we blame Africa for the corruption, immorality and perversions that plague the world due to straight sex? How does one determine what is Nigerian or un-Nigerian? Who determines what natural or unnatural sex is? Who certifies what is sexually moral or normal? What makes a consensual same-sex relationship a taboo and consensual sex among heterosexuals a tradition?²¹.

It suffices to state here that same-sex marriage is still stigmatized because of the moral context of Nigeria and its communitarian nature, despite the fact that answers to these probing questions are in fact required from any serious mind who wants to conduct objective research into same-sex marriage in Nigeria. The most populous Black country on earth faces one of the biggest moral, social, and legal issues and dilemmas of the twenty-first century due to the sensitive and divisive nature of the gay sex issue. Because Nigerians had and exercised their moral beliefs that were consistent with their private attitude to sex before the arrival of Christianity and Islam, the homophobia that is currently prevalent there is not necessarily founded on religion²².

In Nigeria, same-sex behavior is illegal and punishable by up to 14 years in jail. "Any person who has carnal knowledge of any person against the order of nature or permits a male person to have carnal knowledge of him or her against the order of nature is guilty of a felony and liable to imprisonment for 14 years," states Section 214 of the Penal Code (Third Edition 1967). Any attempt to conduct one of the offenses listed in the previous preceding section is a crime punishable by up to seven years in jail, according to Section 215 of the law. Under Section 217, "Any male person who, whether in public or private, commits any act of gross indecency

with another male person, or procures another male person to commit any act of gross indecency with him or attempts to procure the commission of any such act by any male person, whether in public or private, is guilty of a felony and is liable to imprisonment for three years." Maximum penalties for non- consensual acts are the same as for consensual acts. Thus, under Section 352 of the Penal Code assault with intent to have "carnal knowledge with a man (or woman) against the order of nature" also carries a maximum penalty of 14 years' imprisonment, while unlawful and indecent assaults on a male person can be punished with up to three years' imprisonment²³.

More recently, legislation that would outlaw same-sex blessing or marriage ceremonies, punish those who participate in them, and make it illegal to promote same-sex conduct of any type and by any means were proposed in Nigeria. Violators would face up to five years in jail. The Nigerian moral community has publicly supported this proposed piece of legislation. In a recent unanimous-approval discussion on a measure outlawing same-sex marriage in Nigeria, the Nigerian Senate took a strong stance against it. Domingo Obende, the bill's sponsor, said in his opening statement, "We as a country need to act very quickly to prevent this tendency from finding its way into our country." "Same sex marriage cannot be allowed on moral and religious grounds. The Muslim religion forbids it²⁴. Christianity forbids it and the Nigerian traditional religion forbids it. It should not be allowed because it will lead to a breakdown of the society." All senators that debated the bill at the plenary accepted Obende's line of argument. "It is morally and spiritually wrong and unacceptable," said Oluremi Tinubu. Nigeria's Senate President David Mark voiced support for the bill for the prohibition of Same Sex Marriage²⁵.

My faith as a Christian abhors it, he declared in his opening remarks at the public hearing held by the Senate Committee on Judiciary, Human Rights, and Legal Matters on October 31, 2011. Thinking of being married to someone of the same sex is absurd. I find it incomprehensible. He scoffed at "the importation of a foreign culture" and declared, "I cannot be a party to it. There are sufficient numbers of men and women for marriage. The importation of foreign culture is the whole point, but this would be one freedom too many. We cannot allow our culture and morals to deteriorate. It is insulting. It is disgusting. I don't think any faith supports this, and I will preach against it, and we must rise up to oppose same sex marriages in Nigeria. I'm not sure where the concept of same-sex marriage originated". He came to the conclusion that same-sex marriage violates both culture and tradition.²⁶.

The position of the Senate President did not go down well with the gay community in Nigeria. In their own argument presented by their spokesperson Dr. O. Obiowu at the public hearing, many Nigerians have left their homeland because same-sex unions are not supported, "Many talented Nigerians are living in the diaspora openly as gays, lesbians, bisexuals and transsexuals," he said. "We contribute positively to the development of our country of residence but are afraid to come and live and contribute to the development of our motherland because of victimization."

In their own presentation during the public hearing, The Queer Alliance of Nigeria, an organization that works to advance the welfare and rights of sexual minorities, held that sexuality is a crucial aspect of being human throughout life and encompasses sex, gender identities and roles, sexual orientation, eroticism, pleasure, intimacy, and reproduction. In thoughts, fantasies,

desires, beliefs, attitudes, values, behaviors, practices, roles, and relationships, sexuality is experienced and expressed. The interaction of biological, psychological, social, economic, cultural, ethical, legal, political, historical, religious, and spiritual variables also has an impact on sexuality. It therefore suffices to say that homosexuality is inherent in a particular percentage of the citizenry of our country. Sexuality they claim is a core component of what makes us human beings. Same Sex attraction as we know is not a matter of choice. No one will willingly choose to belong to a marginalized group within any particular society. They hinge their argument on the Nigeria's constitution which they claim guarantee every citizen their fundamental human rights. Chapter IV of the constitution gives a list of these rights. Notable is the Right to the Dignity of the Human Person, The Right to Freedom from Discrimination and The Right to Peaceful Assembly and Association.

Nigeria is a signatory to numerous international agreements and conventions, including the Convention on the Elimination of All Forms of Discrimination Against Women, the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social, and Cultural Rights, the Nigerian Charter on Human and Peoples' Rights, and the Universal Declaration of Human Rights. As such, Nigeria recognizes that sexual orientation and gender identity are and should be protected rights. It also implies that there is sexual diversity among us as a people and a nation. Internationally, the right to be free from discrimination has been construed to encompass freedom from bias based on sexual orientation and gender identity. While the constitution endorse the Right to Freedom from Discrimination, discriminatory and repressive laws found in the Penal And Criminal Codes of the nation gives a breeding ground for

the perpetration of hate crimes and violations of human rights on grounds of sexual orientation and gender identity in the country²⁷.

The passage of this bill, which follows punitive legislation, will make life even harder for people who identify as sexual minorities. In light of this, they came to the conclusion that "this bill is completely unnecessary and we as citizens of Nigeria urge the Senate and other bodies to open up possibilities for discussing human sexuality in an open environment rather than debating to further criminalize people with this orientation where it is already illegal and criminal. The Nigerian Humanist Movement was represented by Leo Igwe, who spoke for the group. He claims that the body is extremely concerned about yet another attempt by the Nigerian Parliament to make same-sex marriage illegal in the nation. This bill is a big distraction and a waste of Nigeria's limited legislative resources he argued. "It will worsen Nigeria's human rights records and undermine the efforts by Nigerians to foster true democracy, national dialogue and tolerant pluralism"²⁸.

It is difficult to comprehend why the Nigerian Parliament wants to set the country on a path against the global trend of abolishing homophobia and ending all forms of discrimination against persons on the basis of sexual orientation and gender identity. Nigerian Humanists hereby urge the lawmakers to shelve this bill and instead to consider decriminalizing homosexuality and taking other legislative measures to promote, protect, uphold and enforce the full human rights of all persons despite the race, ethnicity, sex, sexual orientation, religion or belief²⁹.

In a joint Memorandum submitted to the senate on the bill by, The Amnesty International, Human Rights Watch (HRW) and the International Gay and Lesbian Human Rights Commission (IGLHRC), they strongly urge the Nigerian Senate not to pass the 'Same Gender Marriage (Prohibition) Bill 2011 as the bill 'Same Gender Marriage Prohibition Bill, 2011' Violates Constitution. Nigerian position was earlier emphasized during the recent council meeting of the UN Human Rights. Earlier, Nigeria at UN Human Rights Council warned that the UN could be turned into a “guinea pig” of policies that cannot be implemented by member states, following a resolution that endorsed the rights of gay, lesbian and transgender people. Speaking on behalf of the Nigerian group, Nigeria’s representative at the Council Ositadinma Anaedu said Africa countries, “and more than 90 per cent of the Nigerian people” did not support the resolution. He said notions on sexual orientation should not be imposed on countries. He queried the hypocrisy of some African representatives who voted in favor of the motion and reinstated the fact that same-sex is illegal in Nigeria and it is punishable by death through stoning in the 12 states that have adopted Shari’ a law, and by up to 14 years imprisonment throughout Nigeria³⁰.

The US Department of State, in a Press Statement of 1st February 2006, censured the proposed legislation, on the grounds that it "threatened to limit rights of sexual minorities". Many other political groups around the world have also condemned the proposed legislation and pleaded for its withdrawal. The moral implications of the reactions from the American Department of State possess are grave. How far can the “values of the west” be used to evaluate Nigerian morality? Temisan, Ebijuwa (165) argued that “a society can be said to be good if such moral values can lead to the promotion of good human relations and happiness. That is, if it

produces programs, policies and laws that are necessary for the attainment of social and public goods such as peace, security, justice and freedom. These social and public goods are given expression in different societies in the manner in which they enhance human social interaction- the benefit of which can be seen in the preservation and the promotion of the good life and the resources of both physical and human development³¹.

Arising from the above, positive human values will then be those values which different societies consider important in the course of the development of man and his environment. We find such values in how society's activities guarantee freedom, peace, justice, harmony, and so on. Now, because different societies are at different stages of their historical experiences, it will be wrong to say that they are all at par in their quest for positive human values. Emphasizing this view,³² says that even when due allowance has been made for the existence of different epistemologies and values- a consequence of the fact that the world, at least for now, is "irretrievably fractured"-we still would have to admit the fact that our world-views and values do not have equal merit. But that does not in any way suggest inferiority in moral values, but differences in moral conceptions³³.

Proponents have argued that humanism provides a viable moral framework for Nigerians to combat homophobia and establish the human rights of all gays and lesbians in Nigeria. Humanist morality is based on concern for human dignity, happiness and fulfillment. It is not a set of absolutist edicts and commandments handed down as eternal moral truths by some deity, but comprise principles and values discovered and informed by human knowledge and experience. Humanism is a progressive outlook founded on liberal and civilizing values. And

one of them is that all human beings are equal in dignity and value. In most African countries, where homosexuality is regarded both as a crime and taboo, it is almost impossible to find anyone who will readily and openly admit to being gay. And few people with human rights credentials are willing to stick out their necks by putting homosexuality on their agenda as they draw a line between morality and law. Although protesting the discrimination of single women in Kenya, Alice Ndegwa, coordinator of the Forum for Single Women's Rights, says her lobby group cannot champion homosexuality. Lesbian and gay relationships, she says, are against nature and God's teachings and that marriage can only be between a man and a woman³⁴. She described homosexuality as awful, a bad behavior and not part of human rights." It is foolhardy, she stresses, for a person to excuse immoral behavior by simply saying one's genes demand that one steals, molests children, or commits suicide, for example. From the arguments above, one discovers that Nigerian society has two views of homosexuality³⁵.

The traditional or conservative view which holds that homosexuality is an aberration, and the orientation a disorder, and the behavior is pathological, and the opposing liberal view which holds that homosexuality is a normal variant in the human condition, that it is determined before birth, and homosexual behavior is natural for those so oriented. The gay community has been tremendously successful in gaining acceptance for the second view. This view, however, rests on a number of questionable premises, which if false, lead us back to the traditional view. The burden of proof should be with those who say it is normal and natural. This is because the only hard evidence that we have--the biological evidence--clearly indicates that it is a disorder, in that

homosexuality represents a tendency to want to use body parts for some purpose other than that for which they were designed³⁶.

The question that readily comes to mind is; Are people "born gay?" Do they choose to be gay? What causes homosexuality? Some claim that homosexual orientation is biologically determined through genetics or hormones in the same way that eye or hair color is fixed. This claim is used to advance the argument that because homosexuality is caused rather than chosen then it cannot be immoral; instead it is normal and good. Regardless of where you stand on the pleasure-relational aspects of sexuality, man and woman's sexuality is inextricably associated with reproduction, and two men or two women cannot reproduce. Therefore, homosexuality is a condition that, in a fundamental way, is contrary to nature. Biologically, it is simply not natural or normal. The advocates of acceptance of homosexuality, have put forth a great effort to convince the world that homosexuality is in fact both natural and normal, that it is simply different, and that only because it is the orientation of a minority, do we classify it as a disorder or perversion. In applied ethics, what is normal is what is in accordance with the norm; what is common. When we talk about what is natural, we are talking about what is in accordance with nature. Most arguments favoring homosexuality as normal and natural, therefore, are aimed at creating an impression that homosexuality is extremely widespread, that it occurs everywhere in nature³⁷.

3.6 Same-Sex Relationship and Human Rights in Nigeria

The current law in Nigeria, the Same Sex Marriage (Prohibition) Act 2013, forbids and makes illegal any civil union or marriage between people of the same sex. According to the Act,

a same-sex marriage is defined as "the union of two or more persons of the same sex for the purpose of establishing a common-law marriage or other same-sex relationship"³⁸.

A federal Constitution that serves as the nation's fundamental law governs Nigeria, a sovereign state with federating units. During the colonial era, same-sex partnerships and/or unions were illegal in Nigeria. In Nigeria, the legal debate over marriage has long since been resolved. Therefore, any union or association between people of the same sex in Nigeria is illegal³⁹. Nigeria maintains that marriage is an alliance or union between heterosexual couples, hence the gender neutrality of marriage and marriage law issue does not exist there. The criminalization of same-sex marriage by the Nigerian government may appear to have the potential to erode the fundamental rights of those who are motivated to engage in such behavior. The different human rights instruments have detailed provisions for the rights of people, including the freedom of association, the right to marry and start a family. Nigeria as a nation has signed and ratified these accords on numerous occasions. Would the Nigerian government's action of passing the same sex marriage prohibition law, which forbids marriage contracts or civil unions between people of the same sex and criminalizes the act by making anyone who does so guilty of an offense and subject to a prison sentence, not constitute a breach of such international obligations? Will it not be argued that the law's passage violates the fundamental rights and liberties of Nigerians, especially the minority group that viewed same-sex unions as a way of life?

3.7 The Right to Privacy and Same Sex Relationship in Nigeria

The Nigerian ‘Same Gender Marriage (Prohibition) Bill, 2011’ defines “Same Gender Marriage” as “the coming together of persons of the same sex with the purpose of living together as husband and wife or for other purposes of same sexual relationship.” Under the bill, any person who “entered into a same gender marriage contract” would be subject to up to three years imprisonment. Amnesty International considers this is in contravention of section 37 of the Nigerian Constitution, which guarantees the right to private and family life. The clause extends the definition of “Same Gender Marriage” to “other purposes of same sexual relationships” and could lead to arbitrary arrests on the basis of allegations about sexual orientation, rumors of sexual behaviour or objection to gender presentation. Article 17 of the ICCPR states: “No one shall be subjected to arbitrary or unlawful interference with his privacy, family, home or correspondence, nor to unlawful attacks on his honour and reputation.” Invasion of privacy can amount to discrimination. In the landmark Toonen case, the UN Human Rights Committee considered that the provisions of the Tasmanian Criminal Code criminalizing same-sex sexual relations constituted an arbitrary interference with the complainant’s right to privacy and amounted to discrimination. The UN Human Rights Committee, the treaty body tasked with monitoring states’ compliance with the ICCPR, noted elsewhere that “the serious infringement of private life in some states which classify as a criminal offence sexual relations between adult consenting partners of the same sex carried out in private, and the consequences thereof for their enjoyment of other human rights without discrimination⁴⁰.”

3.8 Same Sex Relationship and the Nigerian Constitution

Former Nigerian President Goodluck Jonathan signed the Same-Sex Marriage (Prohibition) Bill (SSMPA) into law on January 7, 2014. The SSMPA's stated goal is to forbid marriages between people who share the same sex. Its reach is actually considerably wider. The law bars any living between same-sex sexual partners as well as any "public show of same sex amorous relationship." Anyone who "registers, operates or participates in gay clubs, societies and organizations" or "supports" the operations of such organizations faces a 10-year prison sentence under the SSMPA. Penalties are harsh and can include 10 to 14 years in prison. Such provisions build on existing legislation in Nigeria, but go much further: while the colonial-era criminal and penal codes outlawed sexual acts between members of the same sex, the SSMPA effectively criminalizes lesbian, gay, bisexual, and transgender (LGBT) persons based on sexual orientation and gender identity.

Although Nigerian law already makes it illegal to engage in consensual same-sex behavior, the SSMPA, according to the research, in many ways openly condones abuses of LGBT individuals, thereby worsening an already troubling situation. Following the SSMPA's passing, there were numerous media reports detailing high levels of violence, including mob assaults and extortion against LGBT persons. Concerns about the law's reach, its ambiguous language, and the severity of penalties were made by human rights organizations and UN representatives. On February 5, 2014, following the passage of the SSMPA, the Special Rapporteur on Human Rights Defenders in Africa noted with concern in a press release, "the increase in cases of physical violence, aggression, arbitrary detention and harassment of human rights defenders working on sexual minority issues.

3.9 Same Sex Relationship and International Human Right

In accordance with international law, a nation is required to uphold treaty obligations pertaining to human rights. In addition to the many human rights instruments, the following additional human rights instrument merits thorough scrutiny:

The right to enjoy one's own culture, to profess and practice one's own religion, and to speak one's own language, both in public and privately, without hindrance or any form of discrimination, is guaranteed to anyone who belongs to a national or ethnic minority. People who are members of minorities have the right to establish and maintain free and peaceful contacts with other members of their group and with people who are members of other minorities, as well as contacts across borders with citizens of other States to whom they are related by national or ethnic, religious, or linguistic ties. This right is protected from discrimination. States must take steps to make it possible for people in minority groups to express who they are and develop their culture, language, religion, traditions, and customs, unless certain behaviors are illegal under national law and against international standards.⁴¹

The question at hand is whether or not those who engage in same-sex acts fall under the above Declaration's definition of a minority, whose rights should be upheld. If the answer is yes, the question then becomes whether Nigeria is not in violation of the aforementioned Declaration.

Even if it is agreed that same sex practitioners are a minority group whose rights should be safeguarded, it is vital to note that the aforementioned Articles contained an exemption clause. The same sex marriage (prohibition) act of 2013 is the result of the Nigerian governments' decision to refuse to provide people such rights if it believes strongly that allowing homosexual activities to exist in society will violate international law. According to our assessment, the Nigerian government has struck a balance between the rights of those who are inclined toward same-sex relationships and the necessity to protect the moral foundations of society. Marriage is

still viewed as a union between a man and a woman according to custom and cultural beliefs of the numerous ethnic nationalities that make up Nigeria. The government's decision to forbid same-sex unions and make them illegal may have infringed on certain people's rights, but doing so was necessary for the welfare of society as a whole.

The enactment of Same Sex Marriage (Prohibition) Act, 2013 by the Nigerian government besides prohibiting same sex marriage practice in the country, it went further to criminalize the act with a term of fourteen (14) years imprisonment upon conviction without an option of fine. However, the Act did not expressly criminalize homosexuality in the country.

Nigeria has been under tremendous pressure from the international community to reverse the law recently passed which prohibits same sex marriage in the country. The Minister of Information Labaran Maku after, one of the nation's Federal Executive Council's meetings where the President presented a memorandum seeking the Federal Executive Council's approval of Nigeria's Second Quota Universal Periodic Review Report (2008-2012) to the United Nations Human Rights Council stated that "the country has made substantial progress in 30 out of the 32 issues raised in the last report in 2009.

That Nigeria had continued to differ in the other two areas which include abolition of death penalty and the clamor for same-sex marriage." He further stated that "while Nigeria has made substantial progress in terms of death penalty, but with relation to same-sex marriage, it still has fundamental differences within the country and as they are trying to look into it and see what position Nigeria will take⁴²."

The British Prime Minister Mr. David Cameron, reacting to the passage of the Same Gender Marriage (Prohibition) Act, told Nigeria that:

Britain would not give any assistance or aid to countries that were opposed to same sex marriage. The British High Commissioner in Nigeria, Mr. Andrew Lyod, in a closed door meeting with the Jigawa State Governor, Alhaji Sule Lamido, asked the Nigerian government to rescind its decision on punishing individuals involved in same sex marriage, adding that such a law infringes on the fundamental rights of choice and association⁴³.

In the same vein, the Canadian government also condemned the passage of a bill criminalizing same-sex marriage and gay activities in Nigeria by the Senate, saying that:

The bill, if assented to by President Goodluck Jonathan, would trample upon the fundamental human rights of homosexuals and gay people. The Canadian government, in a statement by its Foreign Affairs Minister, John Baird, called on Nigeria to reverse the bill so as to allow all its citizens to enjoy basic rights. He further maintained that, a bill passed by Nigeria's Senate, if ratified disregard basic human rights and fundamental freedoms⁴⁴.

If a sovereign state is free to govern its state and its citizenry in accordance with the laws of its land. Is it appropriate therefore for such State to be coerced into accepting a practice which it finds not compatible with its cultural values and customs as they offend natural justice equity and good conscience as well as public policy and morality? The British and Canadian governments have hinged their point on the fundamental rights doctrine. It was even stressed further by the Canadian government which referred to it as 'basic human rights.' What then are fundamental rights and basic human rights? The Nigeria state pursuant to the Universal Declaration of Human Rights introduced into her Constitution in Chapter Four the fundamental provisions for the Nigerian people.

The British High Commissioner has stated that such law is capable of trampling on the right of choice and association of the people. Although section 37 of the Constitution of the Federal Republic of Nigeria provides that “every person shall be entitled to... associate with other persons.” It is our strong opinion that literally, the above section did not contemplate gender-neutrality in marriage to accord the right or freedom of marriage to same-sex couples in Nigeria. And to do so, would amount to overstretching the human rights provisions to a dangerous extreme. Nigeria as a sovereign state has the authority to make laws for the good governance of the people without any form of interference or external influence of any kind.

Nigeria is a member of the United Nations, the UN Charter provided for non - interference of the domestic affairs of a sovereignState⁴⁵. So laws made by the country which include laws that exclude same-sex couples from marriage and other policies should be viewed as a purely domestic matter for the State not attracting foreign or external interference or influence. In the light of the foregoing therefore, there is likely to be problem with couples of same-sex marriage coming into the country, as the Nigerian state is totally against any relationship that involves the same gender.

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CHAPTER FOUR

EVALUATION AND CONCLUSION

4.1 Evaluation

The differences in perceptions pertaining to same sex relations' rights between Western and Nigerian same sex relationship is a known fact. The overwhelming evidence against same sex marriage in Nigeria points to the fact that Nigeria's moral context does not welcome the practice. Kwasi Wiredu described moral context as those paradigms and specialized language of ethical theories that bind our thinking and the observance of rules for the harmonious adjustment of the interests of the individuals in a given society¹. Same sex relationship is one of the most difficult situations in which morality and law are all pulling in different directions. The initial challenge is an ethical one. Same sex couples want the same rights as heterosexual couples, and by classic reciprocity principles, this is what all citizens can understand.

The moral systems of many Nigerians declare same sex relations to be an absolute wrong, and thus a conduct that should not and cannot be approved by legislation. So there is an absolutist analysis that opposes same sex marriage, and a utilitarian analysis that says it is wrong as well. That analysis concludes that the institution of marriage, the stability of the family, and the welfare of society generally will suffer if marriage is expanded to include same sex couples; in classic utilitarian terms, the unequal treatment of gays is necessary to ensure a larger societal good. This absolute condemnation of homosexuality has old roots: it arose from the classic "if everybody does it" standard, at a time in antiquity when the survival of a tribe, a race, or a community depended on procreation between men and women². If everybody was homosexual, society was doomed, so it made sense to evolve strict taboos against the conduct. In the absence of any concrete documentation of factors justifying the withholding of equal treatment, granting

the rights was the right approach. In the Nigerian moral context, same sex relationship has been described as an oxymoron, meaning the terms are incompatible upon considering marriage's inherent nature³. Two constituent parts reside within marriage. The first is unitive, that is, when two become one. Homosexuals cannot, by definition, satisfy this requirement. Secondly, marriage includes openness towards procreation. Homosexual sex violates the law of complementarity, whereby male and female, while sexually different, are indeed complementary.

One completes the other and leads toward reproductive potentiality whereby the unitive portion is not interrupted, halted, or harmed, but is instead maximized. Homosexual sex has no procreative value, and so, it negates marriage's second component. The same logic applies toward the specious claim regarding codifying homosexual unions⁴. Gay "marriage" is a violation against natural law, objective truth, and the law of complementarity. Marriage is based on the fact that we are male and female - two halves of a complete, life-giving whole - and that this life-giving power is inherent in heterosexual intercourse. This ability to transmit life is what invests marriage with its transcendent, moral, cultural, and social significance⁵.

4.2. Conclusion

Sexual orientation exists along a continuum that ranges from exclusive homosexuality to exclusive heterosexuality, and it includes various forms of bisexuality. Bisexual persons can experience sexual, emotional and affectional attraction to both their own sex and the opposite sex. Persons with a homosexual orientation are sometimes referred to as gay (both men and women) or as lesbian (women only). Sexual orientation is different from sexual behavior because it refers to feelings and self-concept. Persons may or may not express their sexual orientation in their

behaviors. The word homosexual is usually avoided because of its negative connotations relating to the way it has been used in the past.

Different countries of the world over time resisted the pressure and agitation by different groups to recognize same gender marriage by passing gender neutrality laws that allows same-sex couples to be married like the heterosexual couples. But at the wake of the 21st century, most of those countries succumbed to such pressure and then amended their laws to accommodate same-sex marriage into their legal system⁷. The whole idea of same-sex marriage couples is about adult pleasure desires and nothing more. This, in our opinion, could be achieved without seeking the instrumentality of the law to gain recognition and legitimacy without tinkering with the traditional conception of marriage. Same-sex couples could as well go about their activities without seeking any license from the state or government for any form of legitimacy so long as the law of the land permits them.

One of our worries here is: how long Nigeria would continue to resist such pressure particularly those from the international community championed by the United Nations Human Rights Council, which say the present law against same-sex marriage is anti-human rights. We are afraid that the day will come when Nigeria will decriminalize same-sex association or union and enact a marriage law that is gender neutral, to accommodate same-sex association.

The against homosexuality is one of the few areas which gained support of the majority of Nigerians and the National Assembly, unlike other issues which had divided opinion; the reason behind this is that Nigeria is a country; irrespective of her bad and corrupt image to the outside world, still holds strongly to morality when making laws. On the other hand, the

morality issues regarding making laws that affect the northern part of Nigeria (Panel Code) is not to be debated, due to the religious nature of such laws.

Following from the strong belief which holds to morality as a source of all laws, we strongly support the attempt by the Nigerian legislature to criminalize homosexuality and gay marriage. The reason for this support is that it is an unnecessary sexual satisfaction or genetic disorder that a man or woman would want to have sex or get married to a person of the same sex. This seems to be absurd and disgusting. It must be noted that according to the Biblical scripture and the holy Quran, the major purpose of marriage and sex is for procreation. The big question that arises is, how does the act of homosexuality and same-sex marriages intend to sustain procreation? It is undoubtedly impossible. *Ipsa facto*, homosexuality and same-sex marriages have no benefit to the society at large, except disgusting and selfish sexual satisfaction which it brings to such persons who engage in homosexual activities. Therefore, the Nigerian legislature and any other morally based country should go ahead with its criminalization.

On the other hand, it is quite unfortunate that some super-power countries of the world like the United States of America, Canada and the United Kingdom have legalized this immoral act, and have stated categorically to cut off aids to any country which criminalizes the act. Nigeria is one of those countries who receive aids from such super-power countries but have the courage to criminalize the act; irrespective of such countries treat⁶.

Finally, I strongly believe that this is a bold step in the right direction by the Nigerian National Assembly, although, the aids which our country might not get will definitely rock the nation for a while. I am also sure that before the National Assembly went on to criminalize this

act; strategies must have been put in place to make Nigeria independent of such conditional foreign aids. As the saying goes; “if what will kill a man approaches, what will also remedy the situation will definitely follow”.

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