



## Moral Issues in Domestication of Gay Rights in Nigeria

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### Abstract

The research is on domestication of gay rights in Nigeria. The research analyze the moral issues to be considered before domestication of gay rights in Nigeria. The fact is that Nigeria is a sovereign state that consists of various ethnic and religious beliefs, but most of its citizens share values and ideas as the key concept of societal rules which regulate the behavior and actions of the society. The research examined the religious and moral values of the Nigerian society as well as their stands with respect to the right of gay men in Nigeria. The research method employed in this research work is doctrinal where both the primary and secondary sources of law have been used. The primary sources of law used are International Conventions, Local legislation and case law while the secondary sources comprises of some textbooks and articles in journals. The research also recognized and respect gay men as human being. It further recommended that Nigerian legislatures shall not domesticate any rights that does conform with the religious and moral values of the Nigerian society\*.

**Keywords:** Gay, Rights, Morality

### 1.0 Introduction

The Nigerian legislature had passed an anti-gay law. This attracts the condemnation of the civil rights activist and the International Community making it appears that the government action has contravened the international human rights obligations. There is therefore good reason to discuss the moral issues to be considered before domestication of gay rights in Nigeria.

In this view, Nigeria as a country came into existence in 1914 when the British under the administration of Lord Fredrick Lugard amalgamated the Southern and the Northern protectorates into a single nation called Nigeria, which got its independence on 1<sup>st</sup> October, 1960. Nigeria as a country is made up of diverse territories which were two main divided into: the Northern and the Southern Nigeria. The Northern Nigeria consists of North-West, North-East, and North-Central geo-political zones. While the southern Nigeria consists of South-West, South-

South and South-East geo-political zones. The capital of the country presently is in Abuja<sup>2</sup>.

The Nigerian people have a wonderful history. Archeological evidences revealed that human habitation of the area dates back to at least 9000BC<sup>3</sup>. Nigeria is located in the West African sub-region and shares land borders with the Republic of Benin in the West, Chad and Cameroon in the East and Niger Republic in the North, while its coast lies on the gulf of Guinea and part of the Atlantic Oceans in the South<sup>4</sup>. Country has over 170million people. Its population growth is 2.2 percent per year<sup>5</sup>.

Nigeria has over 250 ethnic groups with 510 living languages spoken in the country. These languages includes Hausa, Yoruba, Igbo, Edo, Ibibio, Tiv and English language among others. However, the major languages are Hausa, Yoruba and Igbo. It is also a multi-religious country which the major ones are Islam and Christianity<sup>6</sup>. It is therefore a combination of various territorial regions with different groups of cultural beliefs.

Culture is a system of collectively held values while language is the means through which our thoughts, feelings and aspirations are expressed. The development of the Nigerian country is

2 History of Nigeria from 1960 Till Date: Highlights <http://www.Nigerianfinder.com/history-of-Nigeria-from-1960-till-date-highlights> Accessed 20th December, 2017

3 Otherwise Known as, Before Christ

4 Akanmu, A.A. and Ogunesan, D.K., Development of Patronage of Parcel Delivery Service in Nigeria: Challenges & Prospects (2013) Vol.I, Rivers State Journal of Social Science and development P.7

5 Senator Ihenyen, The Same-Sex Marriage (Prohibition) Act in Nigeria: Reactions and Counter Reactions <http://Nigerianlawtoday.com/the-same-sex-marriage> Accessed 20th December, 2017

6 Falola, T.O., Anthony, H.M.K and Ajayi, J.F.A., Federal Republic of Nigeria <https://www.britannica.com/place/Nigeria> Accessed 20th December, 2017

1 Bello, N.B., Shariah, Common Law and Nigerian Society: A Critique of Nigerian Legal System (Nigeria: Nagarta Printing, 2001) P.14



achieved by the way it value system reflects cultural heritage inherited from language as the means of communication<sup>7</sup>. In Nigeria the values and ideas are the basic determinant factors of the society's culture. They are the components that make up a culture which is the totality and way of life of a society. The values and ideas therefore are the key concepts of society's rules which regulate the behavior and actions of a society<sup>8</sup>. It was constitutionally provided in Nigeria that: "the state shall protect, preserve and promote the Nigerian cultures which enhance human dignity and are consistent with the fundamental objectives as provided in this chapter"<sup>9</sup>.

Nigeria is governed by the Federal Constitution as the country's grand norm. Thus, the Nigerian constitution provides "Sovereignty belongs to the people of Nigeria from whom government through this constitution derived all its powers and authority<sup>10</sup>. Thus, the law must be founded upon the norms of the society. It must express the common interests and needs of a society as distinct from the caprice of individuals"<sup>11</sup>. However, domestic conditions cannot justify the failure of any country to implement International Treaties to which it is a party to it, unless the conflict with the National laws and goes contrary to the moral values of such society<sup>12</sup>.

Nigerian legislature by the power given to them under the 1999 constitution, to enact laws for the protection of public morality is mandated to domesticate any international treaty rectified by Nigeria as long as it does not go contrary to the moral values of the Nigerian society.

### 1.1 Statement of the Problem

In view of the same-sex social groups that are struggling and advocating for gay rights domestication in all the members state that are signatory to International Covenant for Civil and

7 Ukachukwu, A. and Fnia, A., Language, Culture and the Nigerian Situation (2010) Vol.12, Journal of Nigerian Languages and Culture P.3

8 Bello, N.B., Op.Cit P.15

9 Section 21, Constitution of the Federal Republic of Nigeria, 1999 (As Amended)

10 Section 14(2)(a), Constitution of the Federal Republic of Nigeria, 1999 (As Amended)

11 Hampstead, L.L and freeman, M.D.A., Lioid's Introduction to Jurisprudence, 5<sup>th</sup> Ed. (London: Stevens & Handbook on Civil and Political Rights, 2<sup>nd</sup> Ed. (Nigeria: Law Lords Publication, 2010)

12 Olakanmi, O., Handbook on Civil and Political Rights, 2<sup>nd</sup> Ed. (Nigeria: Law Lords Publication, 2010)

Political Rights, which Nigeria is a signatory and their social struggle to succeed in getting the rights. This research work addressed the following: -

- a. Whether in the light of the constitution of the Federal Republic of Nigeria, 1999 (As Amended) it is desirable and suitable to have gay rights in the country?
- b. Whether by the religious inclination of the Nigerian society and their traditions, moral values and cultural heritage, it is right or otherwise to domesticate gay rights in Nigeria.

This research work addresses the foregoing research questions in the course of this work.

### 1.2 Scope of the Study

This research study focused on the moral issues relating to the rights of gay men. The research is on the Nigerian jurisdiction. It is the moral values of the Nigerian society that will be examined.

### 1.3 Aim and Objectives

The aim and objectives of this research work are as follows:

- a- To analyze the issue of gay rights with the view of ascertaining whether the rights conform with the traditions and cultural value of the Nigerian society.
- b- To examine the moral issues to be considered in view of the domestication of gay rights in Nigeria.
- c- To finally proffer useful recommendation on the desirability or otherwise for domesticating gay rights in Nigeria.

### 1.4 Research Methodology

The research will make use of both the primary and secondary sources of law. The research method used here is the doctrinal, where attention is paid to the existing works.

The primary sources materials are the constitution of the Federal republic of Nigeria and Local legislation related to the study. The case laws have been utilized in this research work. The secondary sources materials used in this research comprises of some Textbooks, Articles in journals, Publications on websites written by scholars in theory and related scholarly works relevant to this research.

### 1.5 Literature Review

The researcher has examined a number of literature on the moral issues relating to the domestication of gay rights in Nigeria.

Kehinde in his article, An Ethical Perspective of Homosexuality Among the African





People<sup>13</sup>, has explains that, it is an abomination to converse on gay activities in Africa. This work generally discussed ethical issues of African societies and that is what makes the work to be relevant to this research because it can help in understanding the Nigerian moral value.

However, Boyd in his article, *The Problem with Freedom, Homosexuality and Human Rights in Uganda*<sup>14</sup>, has explains the mechanisms and success of homosexual recruitment, where he described non-governmental organizations as the importer, financier and organizer of homosexuals. He mentions a place somewhere in Ntinda where homosexual recruiters opened up a house and turned it into an NGO office. He also assert that homosexual recruiter preys upon young people's economic vulnerabilities to lure them away from the safe, moral confines of their family. This work can also be relevant to this research because it gives an insight of the psychology of gay youths. However, the work is specifically addressing Uganda problem, and this justify this study.

Subhrajit in his article, *Problems Faced by LGBT People in the Mainstream Society*<sup>15</sup>, asserts that gay men face tremendous difficulties growing up in a society where heterosexual is often presented as the only acceptable orientation and gay act is regarded as deviant. Gay men continue to face discrimination and exclusion across the world in all spheres of life. This work can be relevant to this research because it help in examining the extent of homophobic attack in Nigeria.

According to Joseph in his article, *Marriage and Changing Moral Value in Contemporary Nigeria*<sup>16</sup>, to put the extent of homophobia in Africa into context, there are currently 38 countries that criminalize homosexuality on the continent. He concluded that irrespective of the modernization, gay issues remained unacceptable in the Nigerian Moral context. This article can be relevant to this research

as it can help in understanding whether the Nigerian legislation against the act was based on traditions and cultural values of the Nigerian society.

Eskridge in his book, *A History of Same-Sex Marriage*<sup>17</sup>, believes that recognition of same-sex marriages would immediately change the institution of same-sex marriage. Such recognition however would legitimate same-sex couples in the eyes of homophobic neighbors. He asserts that hostile neighbors is more likely to change his opinion on the basis of actually knowing people who are openly gay men or lesbian to the extent that, same-sex couples could be encourage to be open. This book is going to be useful to this research work as it pointed out the ways of minimizing homophobia in the society.

Ibrahim in his article, *The Application of Islamic Law in Civil Causes in Nigerian Courts*<sup>18</sup>, gives account of the advent of the colonial administration. He explains that, at that time, the customary law applies in the Southern part of Nigeria. Such customs have frowned at the practice of same-sex sexual relationship. In the North where Islamic Law applies, also frowned at the practice of gay act. The article is relevant to this study because it explore the topic of gay rights from customary and Islamic perspective.

Dias in his book, *Jurisprudence*<sup>19</sup>, discusses that public offensiveness and the immorality of conduct cannot always be separated, nor is it possible to demarcate the public from private behavior, because a society is made up of a network of moral institutions. The work is therefore helpful to this research work as it emphasizes that, in traditional Nigerian society there is no difference between public morality and private morality, because if a citizen does an immoral act like smoking, alcohol drink or homosexuality the society frowns at him or her. This is because, such act even though done in private cannot only harm the doer but the generality of society.

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13 Kehinde, O., *An Ethical Perspective and Homosexuality Among the African People* (2013) Vol.I European Journal of Business and Social Sciences, P.5

14 Boyd, L., *The problem with freedom: Homosexuality and Human Rights in Uganda* (2013) Vol.86 Anthropological Quarterly P.14

15 Subhrajit, C., *Problems Faced by LGBT People in the Mainstream Society: Some Recommendations* (2014) VOL.I International Journal of Interdisciplinary Studies, P.6

16 Joseph, O., *Marriage and Changing Moral Values in Contemporary Nigeria*, (2014) VOL.2 Journal of Sociology and Social Work P.6

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17 Eskridge, W.N., *A History of Same-Sex Marriage* (New York: Faculty Scholarship Series, 1993) P.75 <http://digitalcommons.law.yale.edu/FSS-papers> Accessed 21st October, 2017

18 Ibrahim, A.A., *The Application of Islamic Law in Civil Causes in Nigerian Courts* (2002) VOL.6 Journal of International and Comparative Law, P.101

19 Dias, R.W.M., *Jurisprudence*, 5<sup>th</sup> Ed. (London: Butterworth, 1985) P.115



Curzon in his book, *Jurisprudence*<sup>20</sup>, contains the concept of rights. For instance Bentham has looked on the issue of rights as fictitious entities and therefore can never be ascertained empirically. Pufendorf on the other hand considered right as a moral quality and a power which raised a claim against another so that the other becomes obliged to do so as required by a duty which imbues his will. The book is going to be useful to this study because it shows that for a right to qualify as a right it must be a moral one. This would help the researcher in understanding whether gay act is moral right or a moral wrong.

Isma'il in his book, *Al-Fiqihul-Wadhih Minal-Kitab Was-Sunnah*<sup>21</sup>, mention the side effect of gay act which includes; causes mental disorder, sexually transmitted disease. He also classified gay into two, minor and major. To him, a minor gay is usually between a man and a woman in her anus instead of her vagina. While a major is an act involving same-sex male to satisfy their sexual desire. He also describes it as cheating and destruction to Nation. The work can also be relevant because it shows that protecting the health, safety and social integrity of the people is necessary.

Al-Jazairy in his book, *Minhaj-Al-Muslim*<sup>22</sup>, has describes gay as a practice involving same-sex people who are also male having sexual satisfaction at the anal level, which is contrary to the natural human sexuality. The book is going to be useful to this work because it shows that, same-sex male sexual relation is immoral in Islam.

Al-Dhahabi in his book, *Alkaba'ir*<sup>23</sup>, has wrote on the behaviors of gay men which includes lack of respect to anyone no matter his gentle man like behavior. Interested in playing the game of Ludo to waste time, among others. The work can be relevant to this research because it shows that gay men have an immoral behaviors therefore domesticating gay rights in Nigeria would affect the moral value of the Nigerian society.

Tamale in his article, *Exploring the Contours of African Sexualities: Religion, Law and*

*Power*<sup>24</sup>, has described same-sex sexual relations as unnatural. He has described homosexuals as worse than Dogs and Pigs due to their dirty conduct. This article can be relevant to this study as it shows that homosexuality is an immoral act in African traditions and cultural values. This can help the researcher in understanding the Nigerian's moral stand on gay act.

Put together this research has explains that, gay act is a same-sex sexual relationship in the anal level. With this, society frowns at the act as an immoral one.

The above research works are quite different with the existing work. In the sense that, the researchers are going to dwells so much in analyzing the issues to be considered before domesticating gay right in Nigeria.

### 2.1 Conceptual Clarification of Some Selected Terms

To have easy understanding of the research work, some words are defined as follows: -

#### a- Gay

The word Gay was said to have derived from the old French word "*gai*" which in turn was probably derived from a Germanic word. The word occurred in English Language in the 12<sup>th</sup> century to mean "Joyful", "Carefree", "Bright", and "Showy", which implies heterosexual unconstrained lifestyle.

Gay has been defined to refer to a man whose sexual orientation is to men. The word gay also means a sexual attraction among members of the same-sex. In another definition, gay means a person whose enduring physical, emotional and roman desire are to the people of the same-sex.

However, the word heterosexual that appeared in the above definition means sexually attracted to the opposite sex. Sex here means either of the two main categories, that is male or female into which human and most other living things are divided on the basis of their reproductive functions. In accordance to these definitions, any sexual relationship between men is sufficient to be established as gay.

Bringing up baby in 1983, was the first firm to use the word gay to mean homosexuality. Cary Grant in one scene ended up having to wear a lady's feathery

20 Curzon, L.B., *Jurisprudence* (London: Pitman Publishing, 1979) P.219

21 Isma'il, M.B., *Al-Fiqihul-Wadhih Minal-Kitab Was-Sunnah Ala Arba'ati Madhahib* (Madina: Darul-Manar, 1997) P.190

22 Al-Jazairy, A.J., *Minhaj Al-Muslim* (Cairo: Maktabatul Ulum Wal-Hikam, 1973) P.429-430

23 Al-Dhahabi, I., *Alkaba'ir* (Lebanon: Dar-E-Fikr, 2003) P.224

24 Tamale, S., *Exploring the Contours of African Sexualities: Religion, Law and Power* (2014) VOL.14 African Human Rights Law Journal, P.165



robe. When another character asks about why he was wearing that, he responded, because “I just went gay”. At that time, the audience thought he meant “I just decided to be carefree”.

By 1995, the word gay officially acquired a new added definition to mean homosexual males. In 1967, to openly identify someone as homosexual was considered very offensive and an accusation of serious criminal act. This is because since 20<sup>th</sup> century same-sex male sexual relation was illegal in Britain. Therefore, the word gay has been predominantly used in recent decades in the sense of homosexual. The earlier uses of colourful, carefree and joyful words have fallen out of fashion.

Currently, the word gay implies homosexuality, which means same-sex male sexual relation. However, homosexuality means feeling sexual attraction to people of one’s own sex. It is the orientation of sexual need, desire or responsiveness towards other persons of the same-sex. Finally, presently gay means same-sex male sexual relation.

## Rights

Rights can be traced in western philosophy to stoic natural law doctrines. These ideas have originated with zero of citium, the stoics teaching that there have been pervasive laws of nature. On that man’s conduct should therefore be measured in accordance with those laws.

The idea of rights generally speaking connotes morality, since it has to do with the right way of doing things or doing the right action. It can therefore be said that, a right is moral issue while morality refers to man’s primordial instinct of goodness. The idea of right can therefore be related with metaphysics. This is because metaphysics is linked with morality and justice. And, it is themoral elements of right that makes it just claim as a right, it shows that, whatever one may claim as a right, must satisfy a minimum moral requirement in order to be a just claim.

However, a right that is not moral cannot qualify to be transformed into a legal right. It is also believed that men did enjoy rights in the state of nature, and these rights were moral in kind, since they were prior to the formation of a civil society and the establishment of legal system.

### 2.2 Gay Rights Movement in Nigeria

As recent as the coming of the 21<sup>st</sup> century, there began to be a notion of human rights and protection on sexual orientation. This is what

naturally gave birth to global network of those advocating for the gay rights. In fact the rise in these calls led to the formation of organizations in the guise of civil or human rights. These organizations, then began to spring from the Western world particularly the United States of America.

Their initial operational slogan has been on the basis of dignity and gender equality. They began by advocating that there should be the possession of rights on multiplicity of identity issues. They argued that gay men are exposed to abuses, torture, killings, unjust arrests, unequal treatment, censorship and discrimination<sup>25</sup>. As a result of such ill treatments the gay men have been struggling to find universal acceptance. This is because the Universal Declaration on Human Rights States that “Everyone is entitled to all the rights and freedoms set forth in this declaration without distinction of any kind<sup>26</sup>. The fact is that, some countries including Nigeria consider gay rights debatable. This is because the UDHR drafted in 1948, does not specifically include sexual orientation as part of human rights.

However, just 40years ago, every state in the United State of America had a criminal sodomy law. As a result, gay people have openly been facing pervasive discrimination and most members of the community remained closeted out of fear. But with the stonewall riot of 1969<sup>27</sup>, the growth of gay act has been so phenomenal that, in the West today, about ten percent of the population is involved in the act. By the year 1970s the gay culture had developed in America and Europe to the point that members could no longer hide their identities: Their self-assertion was so aggressive that, the population came to doubt whether they were not after all the ones in the wrong regarding sexual matters<sup>28</sup>.

With the aids crisis in the 1980s and 1990s, the gay community suffered terrible losses but also gained a new determination for greater

25Nigerian at the New Civil Rights Movements <<http://thenewcivilrightsmovement.com/tags/Nigeria>> Accessed 4<sup>th</sup> December, 2017

26Article 2 Universal declaration of Human Rights, United Nations General Assembly, the Palaise De Chaillot, Paris, 10<sup>th</sup> September, 1948 Resolution 217A (III)

27Hill, P. and Fellow, S., LGBT Rights Law: A Career Guide (Cambridge: Harvard Law School, 2007) P.4  
28Kihinde, O., An Ethical Perspective of Homosexuality Among the African People, (2013) Vol.I European Journal of Business and social Sciences, P.79



equality as various diseases exposed them, because some gay movements like Act up and Gay men's health crisis were formed in 1981 and they fought for both visibility and power to protect gay men in all matters<sup>29</sup>.

More recently and perhaps most significantly was in June 26, 2003 where the Supreme Court of the United States of America; for the first time explicitly protected the rights of the gay men. It overruled its 1986 decision, upholding state anti-sodomy law. In *Bowers V. Hardwick*<sup>30</sup> and had in *Lawrence V. Texas* that<sup>31</sup>, Texas anti-sodomy laws violated the right to liberty under the due process clause of the fourteenth amendment. Most gay act and lawyers considered this decision as a major victory in the gay movement.

As a result of this development, Adams, Lambda, Lambda legal's Director of Education and Public Affairs stated; following the decision that<sup>32</sup>, the ruling was a ringing declaration of support for the dignity of gay community and it has broad implications for protecting the civil rights of gaymen, as it has changed the legal landscape. This is because, in *Goods Ridge V. Dept. of Public Health*<sup>33</sup>, the Supreme Judicial Court in Massachusetts ruled, that gay and lesbian couples have the right to civil marriage. And several states have followed with civil unions and domestic partnerships including California<sup>34</sup> and Vermont,<sup>35</sup> Denmark<sup>36</sup> was the first country to introduce such a same-sex partnership schemes which recognised same-sex couples followed by Norway in 1993<sup>37</sup> and many other European countries.

However, in Maine, the highest court affirmed the power of the state probate courts to grant guardianships to gay and lesbian parents. So same-sex partners who plan the birth or adoption of a child with his or her partner is a parent and that parents should not have to adopt their own children<sup>38</sup>. That, an adoption is a court judgement

that, the child has two legal parents for all purposes<sup>39</sup>. The Arkansas Supreme Court in the case of *Howard V. Child Welfare Agency Review Board*<sup>40</sup>, struck down a regulation banning gay people and people in households with gay family members from foster parenting.

As several courts within and outside Europe have held that, same-sex couples are capable of constituting a family within their domestic legislation, none of them have expressly stated that, gay rights is legally allowed. For example in *Lawrence V. Texas*<sup>41</sup>, the Supreme Court did not find that sexual relationship between consenting adults to be a fundamental right. In fact they specifically excluded themselves from any discussion on the gay rights issues. They did not condone gay act; they simply ruled that, Texas could not criminalize private consensual sex<sup>42</sup>.

Robert Salem, a clinical instructor at the university of Toledo College law who specializes in gay rights work, noted that, as gaymen achieve higher visibility within the larger community; they are less afraid to go to a private lawyer and ask for services. Again, Lambda Legal Defence and Education Fund which was founded in 1973 to advance the rights of gaymen and educate the public about discrimination against the gay community, use litigation on local, regional and national levels to protect gay rights. They generally focus on legal work. Also, organizations like Human Rights Campaign Action Committee and the Gay and Lesbian Victory Fund are offering financial assistance and support to members of gay community<sup>43</sup>.

So, despite the protest raised against the gay rights; even in the Western part of the world, same-sex sexual relationship as a form of sexual orientation has gradually become a reality, an acceptability and recognized within the legal framework of many countries. For example former President Barrack Hussain Obama of the United States of America was of the view that same-sex

29 Hill, P. and Fellow, S. Op.cit, P.4

30478 U.S. 186 (1986)

31539 U.S. 558 (2003)

32Hill, P. and Fellow, S. Op.cit, P.4

33N.E. 2d 941(Mass 2003)

34Section 297-297.5 of the Californian family code

35H847, No. 91 An Act Relating to Civil Unions

36 LOVOM Registreret Partnerskab, Lov nr. 372 of Juni 1989

37 LOVOM Registreret Partnerskab, Lov 30 April, 1993 nr. 40

38National Center for Lesbian Rights: Legal Recognition of LGBT Families

<[http://www.nclrights.org/wp-](http://www.nclrights.org/wp-content/uploads/2013/07/legal-Recognition-of-LGBT-families)

[content/uploads/2013/07/legal-Recognition-of-LGBT-families](http://www.glad.org/uploads/docs/publications/me-lgbt-overview-pdf)> Accessed 19<sup>th</sup> August, 2016

39Overview of the Legal issues for Gay Men, Lesbians, Bisexuals and transgender People

<<http://www.glad.org/uploads/docs/publications/me-lgbt-overview-pdf>> Accessed 19<sup>th</sup> August, 2016

40S.W. 3d-2006 WL. 1779467 (Ark 2006)

41Lawrence V. Texas, Op.cit

42Marriage Right and Equal Protection

<<http://www.redstate.com/diary/davenji/2012/07/08/gay-marriage-and-equal-protection>> Accessed 21<sup>st</sup> September, 2017

43Hill, P. and Fellows, p., Op.cit, P.7



persons have a legal right to contract marriages. He believes that, to prohibit them, will be tantamount to a denial of their Fundamental Human Rights<sup>44</sup>.

In African set up, when you talk of gay rights, it is considered due to cultural orientation as an abomination. It is unheard of. In Nigeria however, many gaymen are still in the closets<sup>45</sup>, this is because almost all the Nigerian cultures disapprove the practice. But some of them are gradually coming out of their closet to assert what they perceive to be their constitutional rights. They want people to recognize them and respect their sexual orientation. They do not want to be regarded as abnormal also<sup>46</sup>. To some people, it is proper to respect gaymen as human beings created by God, their moral shortcomings notwithstanding. To these people also such respect and sympathy should not be translated to mean condoning the act.

Among those advocating for gay rights in Nigeria was Yemisi, who raised awareness about the Human Rights situation of the Nigeria gay men and debunked claims that, homosexuality is Un-African<sup>47</sup>. Davis's book contained the history of being victimized as a Christian gay man in Nigeria and how he transformed his experiences into greatness through resistance<sup>48</sup>. While Jide, explained the love of God for gaymen, an encouragement to promote their self-acceptance and the freedom to enjoy the love of Jesus-Christ<sup>49</sup>.

Again, gay network exists around Nigeria, even in the Shari'ah Implementing states of Bauchi, Kano, Kaduna and Zamfara states, where they have consistently been organizing gatherings such as secret and sometime open gay parties, which serve as safe spaces where they socialize, celebrate and exchange ideas<sup>50</sup>. Many of their

parties are organized and funded by sacrificing or carefree Nigerian gaymen; some of whom do not have much education or belong to any non-governmental organization<sup>51</sup>.

Even after the signing of the new anti-gay law in January, 2014 some Nigerian gaymen have travelled to Sweden to acquire gay rights training and have returned home to contribute to the movement; using the knowledge they acquired<sup>52</sup>.

Again, the Nigerian gay in the Diaspora has held a rally on Thursday, 20<sup>th</sup> February, 2014 outside the Nigerian High Commission in London to protest the same-sex marriage prohibition act signed into law by former President Goodluck Jonathan of Nigeria saying no to this law because it has violated their rights. They also delivered a protest letter to the Nigerian High Commissioner defending their rights against the people who use the Bible to judge them<sup>53</sup>. The Coordinator of the protest Davis Mac-Iyalla has said: "As for the Bible and scripture is just try to do best to live the way it believe a good person should leave. If you want to live completely by the principle of the Ten Commandments of God, then, show me where it was written in the Bible according to the Commandments that "thou shall not be gay"<sup>54</sup>.

Davis concluded his speech at the rally by saying that, the African churches must open its mind to honest conversations. The African Bishops according to him need to stop doing just the talking and should instead start listening to the gay men<sup>55</sup>.

In another development, a legitimate agency is established in Nigeria, called Hookup Agency. This agency is registered and licensed under the Nigerian Agency Co-operation and fully legalized by Corporate Affairs Commission. The organization members have been organizing sugar mummies parties in Nigeria and they have covered

<sup>44</sup>Ekwenze S.A.M: The Moral and Legal Frontiers of Homosexuality, lesbians and Gayism: A paradox for the Third Millenium

<<http://www.ssm.com/abstract=2174084>>

Accessed 19<sup>th</sup> August, 2017

<sup>45</sup>Kinde, O., Op.cit, P.2

<sup>46</sup>Ibid

<sup>47</sup>Ilesanmi, Y., Freedom to Love for All:

Homosexuality is not Un-Africa (Lexington, Ky:

Create Space, 2013), P.11

<sup>48</sup>Mac-Iyalla, D., Fiyabo: The Story of Nigerian Gay

Christian, David Mac-Iyalla (Lexington, KY: Create space, 2014) P.15

<sup>49</sup>Macaulay, J., Pocket Devotional for Lesbian, Gay, Bisexual and Transgender Christians (United Kingdom: RBM Consulting, 2009) P.20

<sup>50</sup>On the Street: The Federal Response to Gay and Transgender Homeless Youth

<<http://can.americanprogress.org/wp-content/uploads/issues/2010/06>> Accessed 11<sup>th</sup> April, 2017

<sup>51</sup>Ibid

<sup>52</sup>See What Nigerian Gays and Lesbians are Doing

in London <<http://www.naij.com/59930/html>>

Accessed 4<sup>th</sup> December, 2017

<sup>53</sup>Anti-Gay Law: We Will Pressure Nigeria to Reverse the Law-UN

<<http://nairaland.com/2445596/anti-gay-law-pressure-nigeria-reverse>> Accessed 4<sup>th</sup> December, 2017

<sup>54</sup>Ibid

<sup>55</sup>Ibid



most states in the country<sup>56</sup>. The agency has a magazine called “Perfect Match Maker’s” where they explained how they are rendering their services and how the public could reach them. Their aim is to change the life of the gay men with money and influence. They are also responsible for beneficial arrangements for foreigners flying into Nigeria for the purpose<sup>57</sup>. This is because, these rich and wealthy sugar mummies and sugar daddies come from all works of like: like the politicians, company, directors, London based ladies and ladies and men that run their own business organization<sup>58</sup>. In fact the agency is comprised of influential people in Nigeria and outside.

Finally, it is surprising that; the struggle of Nigerian gay rights activists like Aderonke Apa. Otibho Obiowu<sup>59</sup>, Davis Mac-Iyalla and their organization known as Queer Alliance of Nigeria has helped a lot in the existence of gay men in Nigeria.

### 2.3 Theological Perspective on Gay Rights

Theology is a widely used term. Thus, it means divinity, religion, religious studies and spirituality. The word theology comes from two Greek words of *Theos* (God) and *Logos* (Word or Study) put together these words mean the word of God. It is therefore used to describe a method by which the truth is examined within each of the specific revealed books.<sup>60</sup> Theology also seeks to understand God’s creation particularly man and his condition.<sup>61</sup>

However, certain common features appear in many descriptions of religion. There is the belief

in theology of something higher than the individual human person himself. This may be a personal god, a whole collection of supernatural beings, a force within a nature, a set of values or the human race as a whole.<sup>62</sup> Under all circumstances, theology must deal with God. For Muslims and Christians in Nigeria, there can be no question of any other God except the true God, the Lord of heaven and earth.<sup>63</sup> Theology therefore, is the natural response of our faith toward God.<sup>64</sup> That God created man and woman who were Adam and Eve because male and female are the essential correlatives of human kind.<sup>65</sup>

In the eyes of Islam, Christianity and traditional religions in Nigeria, gay activities are regarded as great sins<sup>66</sup>. As such only in the marital relationship between a man and a woman that, the act of sexuality can be legal. Thus, a person engaging in same-sex sexual relationship are committing an illegal act.<sup>67</sup>

Having understood what theology is, it is necessary to examine the sense in which we are using it here; that is the theological perspective on gay rights. The theological perspective on LGBT rights is a theological methodology that makes gay individuals talk about God by focusing on their specific needs, and also talking about God in a way that challenges natural binary categories of sexual

56Seeking Rich sugar Mummies  
<<http://abuja.locanto.com.ng/ID-317260664>>  
Accessed 4<sup>th</sup> December, 2017

57Ibid

58Get Connected to Sugar Mummy/Daddy/Gay/Lesbian-Abuja  
<<http://abuja.locanto.com.ng/ID-579565039/get-connected-to-wealth>> Accessed 4<sup>th</sup> December, 2017

59Onuche, J., Same-sex Marriage in Nigeria: A Philosophical Analysis (2013) Vol.3, International Journal of Humanities and Social Sciences, P.95

60Dennis Fisher, M., Theology Definitions  
<<http://www.can.rbc.org/courses/en-us/whitepaper/theology-christian-university-GlobalnetDefinitions.pdf>> Accessed 17<sup>th</sup> January, 2017

61Millard, J.E., Christian Theology, Vol.3 (U.S.A: Baker House Company, 1985)  
<<http://www.media.sabda.org/alkitab-2/PDFBooks/00031EriksonchristiantheologypartI.pdf>> Accessed 17<sup>th</sup> January, 2017

62Ibid

63John, P. (2001), On the Concept of Theology  
<<https://www.wisessays.net/bitstream/123456789/20203/schaller-theology.pdf>> Accessed 17<sup>th</sup> January, 2017

64Jay, T. (2004), Introduction to theology  
<<https://www.classnotes/taylor-jay/tailorj/intro-theology.pdf>> Accessed 17<sup>th</sup> January, 2017

65Ekwenze, S.A.M, The Moral and legal Frontiers of Homosexuality, Lesbianism, and Gayism: A Paradox for the Third Millenium> Accessed 17<sup>th</sup> January, 2017

66Adriaans, S.V., and Masilwa, R.G., Taking up the Cudgels Against Gay Rights? Trend and Trajectories in African Christian Theologies on Homosexuality. (2012) Journal of Homosexuality  
<<https://www.doilabs/10.1080/009/8369-2012-638549>> Accessed 18<sup>th</sup> January, 2017

67James, K., Theological Perspective on Gay Rights the Open Debate: Moral Theology and the Lives of Gay & Lesbians person  
<<https://www.theology/perspective/on-gay-rights-jameskenan.pdf>> Accessed 18<sup>th</sup> January, 2017





and gender identity.<sup>68</sup> For this reason, gay theology begins with an assumption that gender-non-conformity and lesbian and gay desires have always been present in the Bible.<sup>69</sup> In a paper read at the conference of modern churchmen in 1967, titled “Jesus”, the Revelation of God”, Reverend Hugh William Montefiore, offers a controversial interpretation of the early life of Jesus where he said:<sup>70</sup> “All the synoptic gospels show Jesus in close relationship with the outsiders and the unloved, sinners, prostitutes and criminals are among his companion. That he was homosexual consistent with his identification with the poor and oppressed”.

Theological debate over gay activities developed when gay activists created their own revisionist interpretation of the Bible to support their claim that homosexual behavior is neither immoral nor sinful. Thus, many Christians are not aware that in 1968 a gay rights activist started a Christian denomination called the Metropolitan Community Church based on gay theology.<sup>71</sup> Gay theology argues that, the type of homosexual behavior condemned in levities does not include homosexuals in loving and consensual relationship. Gayrights activists contend that there are only seven scriptures that address homosexuality in the Bible and that homosexual behavior is insignificant in scripture.<sup>72</sup>

Other arguments put by gay theologians are that, the word for homosexual has been misinterpreted in the passages of the Apostle Paul’s letters. This is because God destroyed Sodom and Gomorrah not because homosexual behavior was prevalent in these communities, but because its citizens were inhospitable and sought to rape their male visitors. Hence, lesbian and gay desire have always been present in human history including in the Bible.<sup>73</sup>

<sup>68</sup>Queer Theology, From Wikipedia the Free Encyclopedia

<<https://en.wikipedia.org/wiki/Queer.theology>> Accessed 11<sup>th</sup> May, 2017

<sup>69</sup>Jagose, A., Queer Theory: An Introduction (New York: New York University Press, 1996) P.91

<sup>70</sup>Barry, P., Beginning Theory: An Introduction to Literacy and Cultural theory (Manchester: Manchester University press, 2002) P. 140

<sup>71</sup>Queer Theory, from Wikipedia, the free Encyclopedia. opcit

<sup>72</sup>ibid

<sup>73</sup>Parrella, F., Gay May: Theological and Moral Ethics <<https://www.resources/gay-marriage-theological-and-moral-argument>> Accessed 10<sup>th</sup> November, 2017

From a theological perspective, Christians should be concerned for people who engage in consensual homosexual behavior because the followers of God should not want anyone to perish either. However, the Bible clearly condemns LGBT activities as a sin, which is the dividing line in the conflict over homosexual behavior in the church, this is because there are many warnings in the Bible which apply to the LGBT persons.<sup>74</sup>

#### 2.4 Moral Landscape of Gay Rights

The word moral is derived from the Latin word “*Mos, Moris*” meaning the code or customs of a people, the social glue that defines how individuals should live together. Morality is therefore concerned with the principles of the right and wrong behavior. That children need to learn to live and act right in the community.<sup>75</sup> Morality deals with humans and how they relate to others and the world around them. It deals with how we treat one another so as to promote what is good and right.<sup>76</sup> Morality can be a body of standards or principles derived from a code of conducts from law, religion and culture, while immorality is the active opposition to morality (i.e. opposition to that which is good or right).<sup>77</sup>

The history of mankind, shows a universal bond between religion and morality that is why religion is said to be one of the sources of morality.<sup>78</sup> God also made man to have the sense of obligation to do that which is believed to be right.<sup>79</sup> The sense of right and wrong by the decree of God, has always been part of human nature and that the difference between right and wrong makes morality a desirous issue.<sup>80</sup> One must therefore respect the fact that religion is a medium where

<sup>74</sup>Thomas, C. (2008), Introduction to the Theological aspects of Homosexuality and Gay Rights Movement <<https://www.ex-gaytruth.com/homosexuality.theology.intro>> Accessed 15<sup>th</sup> January, 2017

<sup>75</sup>Omede, J. and Abdul, A.O., Terrorism and Insecurity in Nigeria (2005) Vol.6, Journal of Education and Practice P. 70

<sup>76</sup>What is Morality?

<<https://www.wps.preahall.com/wps/media/objects/355/875571/il-PDF-chol-pdf>> Accessed 16<sup>th</sup> January, 2017

<sup>77</sup>Harris, P., An Introduction to Law (London: Weldenfeld Nicolson, 1980) P.34

<sup>78</sup>Akanmidu, R.A., Religion and Morality (1990) Vol.7, University of Ilorin Journal of Arabic and Religious Studies, P.32

<sup>79</sup>I dowu, E.B., God in Yoruba Belief (Nigeria: Longman PLC., 1996) P.149

<sup>80</sup>ibid



most Nigerians and indeed Africans anchor their beliefs and values. As such one should endeavor to commit self to attain high moral values for the realization of good life, peaceful co-existence and peace of mind.<sup>81</sup> Hence, value is a belief about what is right and wrong and what is important in life.

Having the understanding of what morality is, it is necessary to examine the Nigerian moral context on gay activities. The Nigerian moral context has communitarian elements of good and bad that imbue morality inculcation which makes gay activities to remain an aberration, deviancy, unnaturally and foreign and unacceptable sexual relationship. Gay activities as it is today has failed the Nigerian moral tests and therefore is morally unacceptable.<sup>82</sup> The moral systems of many Nigerians, of individual's ethnic and tribal groups declared LGBT activities to be an absolute wrong and thus, such conduct should not and cannot be approved by legislatures.<sup>83</sup> The unequal treatment to gay men is necessary to ensure a societal good.

In spite of the effects of globalization, there is a vehement ethical opposition toward gay activities in Nigeria. This is understandable from the moral orientation of the Nigerian society for the fact that the Nigerian society as morality is based on the beneficiary values of collective family and community well-being. As a result gay activities appear to challenge the moral foundations of Nigeria.<sup>84</sup> This is because gay activities is one of the most self-destructive and harmful actions a person could engage in. It is a dark, twisted and dangerous life style that can be harmful to both the body and soul of a person.<sup>85</sup>

The end result of allowing gay activities in the country is that, the citizens will be forced to live in an environment which has no moral value. This will be difficult to parents to give a moral training to their children. This is because lesbians and gay males always have uncountable partners and mostly among these partners are new ones who will according to nature will never give birth to

new siblings as their anatomies are not shaped and fashion for that purpose<sup>86</sup>.

It is evident that, both the law and morality serve to channel the people's behavior. The law accomplishes this primarily through the threat of sanctions of disobeyed legal rules. Morality too, involves incentives: Bad acts may result in guilt and disapprobation. Good acts may result into virtuous feelings and praise. That is why the duty of mutual aid, the duty of helping one another when one is in need or jeopardy is necessary for the good of every society.<sup>87</sup> As a result of this, one will then find nothing odd on each society trying to foster a certain set of valued moral ideas which will usually be different for different societies<sup>88</sup>. That, if the laws by which a society operates are in consonance with rational moral ideas, the people will tend to respect more of the law and will be better disposed to obey it.<sup>89</sup> In line with this big or normal position, it has been stated that "The state has the duty to protect and promote moral and traditional values recognized by the community."<sup>90</sup>

The Nigerian Constitution which is devoted to setting out the fundamental objectives and directive principles of states policy goes even further in that direction by clearly specifying the objectives of state policy such moral loaded ideas that are about active promotion of national integration<sup>91</sup>. They are provided in the following constitutional sections. That in furtherance of the social order, the sanctity of the human person shall be recognized and human dignity shall be maintained and enhanced<sup>92</sup>.

The children, young persons and the aged are protected against exploitation whatsoever, and

81Onuche, J., Same-Sex Marriage in Nigeria: A Philosophical Analysis (2013) Vol.3, International Journal of Humanities and Social Sciences, P.97  
82Ibid  
83Ibid  
84Ibid  
85Perspective on Homosexuality  
<<https://www.reasonablefaith.org/a-christian-perspective>> Accessed 9<sup>th</sup> May, 2017

86If LGBT act is allow as a Right in Nigeria, a Large Number of People Mostly Young ones May Become a Victims of Homosexual Act.

87 Tsav, M.K. (2002), Political Morality in Rawls <<https://www.unn.edu.ng/publications/files/images/TSAV.MICHEALKORSHIMA.doc.pdf>> Accessed 19<sup>th</sup> January, 2017

88 Elegido, J.M., Jurisprudence: A textbook for Nigerian Students (Ibadan: Spectrum Law, 1994) p.351

89 Elegido, J.M.Op.cit, P.358

90Article 17, African Charter on Human and Peoples' Right, Organization for African Unity (Now, African Union), Banjul, Adopted on 1981, Came Into Force on 1986, Resolution 115 (XVI)

91 Elegido, J.M.Op.cit

92Section 17(2)(b) Constitution of the Federal Republic of Nigeria 1999 (as amended)



against moral and material neglect<sup>93</sup>. The state shall protect, preserve and promote the Nigerian cultures which enhance human dignity and are consistent with the fundamental objectives of state policy as provided in this chapter<sup>94</sup>. The National Ethics shall be discipline, integrity, dignity of labour, social justice, religious tolerance, self-reliance and patriotism<sup>95</sup>.

It shall be the duty of every citizen to respect the dignity of other citizens, the rights and legitimate interests of others in order to live in unity, harmony and in the spirit of common brotherhood<sup>96</sup>, and to make positive and useful contributions to the advancement, progress and well-being of the community.<sup>97</sup>

Thus, as a result of this, the Nigerian Government enacted law recently, prohibiting any form of cohabitation between two individuals of the same-sex. This also extends to the prohibition of gay clubs and gay associations<sup>98</sup>. This is because, if we are to have a law at all, it will have to be based on some moral values.<sup>99</sup>

All laws, regardless of their content or their intent, arise from a system of values with the belief that some things are right and others are wrong, and that some things are good and others are bad and also that some things are better and others are worse<sup>100</sup>. Every piece of legislation therefore touches directly or indirectly on moral issues or is based on moral judgment and evaluations concerning what it is we want or believe ought to be, what it is we want or desire or believe we ought to produce and preserved<sup>101</sup>.

However, Lord Devlin, criticised the report of the Wolfenden Committee which had advocated the lifting of the ban on criminal law from homosexuality between consenting adults. He mentioned that, the law should continue to support

a minimum morality<sup>102</sup>. As some moral ideas are part of the fabric of a given society, that a society is entitle to preserve them and thus is itself against anything capable of destroying them. The law cannot undertake not to intervene for such moral institution<sup>103</sup>.

Thus, to Devlin, morality is the essence of the community. And preserves the right to legislate against any type of immorality, which could lead to its, decay and disintegration.<sup>104</sup> Laying further emphasis on the need to desirability of haven common societal morality. He further asserts: "An established morality is as necessary as good government to the welfare of the society. Societies disintegrate from within; more frequently than they are broken up from external pressure. There is disintegration when no common morality is observed, and history shows that, the loosening of moral bonds is often the first stage of disintegration".<sup>105</sup>

He further contends that there can be no limit on society legislate against immorality. The immorality which does no harm to a certain individuals may still cause harm to the general society by leading to its disintegration. Hence the society may legislate against immorality to avoid this harm.<sup>106</sup>

The question to ask is, does gay or bisexual activities harm individual or cause harm to the society? The answer is yes. This is because the Human anus is made up of stack fibre (called Toto in Hausa language). Therefore, anytime the fibre inside particles in the anus is damaged, stroke or destroyed by a pushing penis; all its particles or fence will be ruptured<sup>107</sup>. As from then, whatever watery matter or fluid content enters the anus it begins to leak. The leaked water or fluid due to the fermentation of sperm mixed with watery stool, becomes full of offensive Adour or smell. The warms which enter the anus due to the combination of sperm and stool depend on the sperm for

93 Section 17(2)(f) Constitution of the Federal Republic of Nigeria 1999 (As Amended)

94 Section 21(a) Constitution of the Federal Republic of Nigeria 1999 (As Amended)

95Section 23 Constitution of the Federal Republic of Nigeria 1999 (As Amended)

96Section 24(c) Constitution of the Federal Republic of Nigeria 1999 (As Amended)

97Section 24(d) Constitution of the Federal Republic of Nigeria 1999 (As Amended)

98Same-Sex Marriage (Prohibition) Act 2013

99Elegido, J.M. Op.cit

100 Perspective on Homosexuality  
<<https://www.reasonablefaith.org/a-christian-perspective>> Accessed 9<sup>th</sup> May, 2015

101 Ibid

102Dias, R.W.M, Jurisprudence (London: Butterworths, 1985) P.112

103Ibid

104Adaramola, F. Basic Jurisprudence, 2<sup>nd</sup> ed. (Nigeria: Nayee Publishing, 2003) P.93

105 Ibid

106 Ibid P.97

107Ahmed, B. An Overview of Gay Practices and its Attendant Side Effects. (2015), An Article in the Voice of the North; a Publication of Northern Media Communication.

<<https://www.muryararewa.nj>> Accessed 28<sup>th</sup> February, 2017



survival. If it finish, the warm begin to bite the anus flesh for more sperm which is their food<sup>108</sup>.

The excessive *biting* of the anus fibre like the flesh, will force the gay males to go for a continued round of gay act to supply the warms with new sperm meals. If such meals become absent in the anus, the gay male will pay with the continued pegging of his flesh<sup>109</sup>. As a result, they will be terminally ill all the time they regularly suffer from various sexually transmitted diseases and offensive odour. That is why they always resort to instant use of perfume spray wherever they find selves. And if they fail to have their ways of pervasion with uninterested people, they try to seduce them with money or any materials gift assets<sup>110</sup>.

If it fails, they can resort to charms, maiming or killing of their victims. They strongly believe that, whoever needs their favor should join their pervasive practice. Therefore, the effect of their act, make them to have uncountable partners mostly minors and youths<sup>111</sup>. LGBT act will therefore, affect the nation's human resources.

According to Plato<sup>112</sup>, a society exists to promote the moral goods of its members. The law should be used to punish immorality. As such, the Nigerian legislations which criminalized LGBT behavior based on immorality are lawful.

## 2.5 Islam Stand on Gay Rights

Before examining the issue of gay in the eyes of Islam, it is imperative to understand the meaning of the word Islam. The root meaning of the word Islam is *Silm*, that is to enter into peace. Islam therefore means entering into peace. In Islam a Muslim is an individual person who makes peace with God and man. Peace with God implies complete submission to His will. And peace with Man is not only to refrain from evil or injury to another, but also to do good to him or her.<sup>113</sup> The

name Islam was given to the religion by Allah when he says in the Holy Qur'an 5:3 that: "This day have I perfected for you your religion and completed my favor upon you and have chosen for you Islam as your religion".<sup>114</sup>

Manners and noble qualities of mind and character enjoy a place of crucial importance in the structure of Islamic teachings. With this, the Holy Qur'an provides in 33:21, that: "Prophet Muhammad peace be upon him was evolved by Allah as the best example in all patterns of sound morality<sup>115</sup>."

The Prophet Peace Be Upon Him quoted to have said that: "I have been sent by God to teach moral virtues and to promote them to highest perfection<sup>116</sup>."

The above quoted verse and tradition shows that, morality is held in the highest esteem in Islam while immoral practices are condemned. Therefore, one of the most important aspects of a Muslims life is to have high moral standards. That was why, since the beginning of Islam, the prophet peace be upon him was mainly concerned, with teaching and disciplining of Muslims to have the best manners and perfect personal characteristics.<sup>117</sup> The Holy Prophets personal life and behaviors were reflective of his teachings which were revealed by Allah in the Holy Qur'an where Allah describes the Holy prophet in Qur'an 68:4 saying that: "And indeed you are of a great moral character<sup>118</sup>."

Islam as a religion therefore, stands for complete submission and obedience to the will and wishes of Allah who is the one and only creator of the whole universe and everything it entails. That those who obey and submit willingly to Allah are known as Muslims<sup>119</sup>. A Muslim should therefore practice a moral conduct from the wish to obey and

108Ibid

109 Ibid

110 Ahmed, B., The Counter Productive Effects of LGBT Activities in the Socio-Personal and Economic Development of Nigeria for Overall Advancement of Mankind (2010) A Lecture Paper Delivered for SS 3 Students, Staff and NYSC Members of Federal Science College, Sokoto(Unpublished)

111 Ibid

112 Adamorola, F. Op.cit

113Morality in the Perspective of Islam and African Religion (Afrel)

<<http://unilorin.edu.ng/agboolamoby>> Accessed 20<sup>th</sup> May, 2017

114 Taqi-ud-Din al-hilali, M. and Muhsin Khan, D; the Noble Qur'an, <Madinah: King Fahad Glorious Qur'an printing complex, 2015) P. 141

115 Ibid

116Imam Malik, Al-Muwatta Imam Malik (England: Diwan press, 1982) P.434

117 Islamic Teaching

<<http://www.islamicweb.net/emainpage/articles/newguest>> Accessed 20<sup>th</sup> May, 2017

118Taqi-ud-Din al-hilali, M. and Muhsin Khan, D; the Noble Qur'an, <Madinah: King Fahad Glorious Qur'an printing complex, 2015) P.779

119Abdullahi, M and Yusuf, A, The Relevance of Religion in Nation Building: Issues and Challenges in Nigeria (2013) VOL.I Rivers State Journal of Social Sciences and Development, p.237



please his Lord and to refrain from any wrong out of fear and have respect for his or her Lord<sup>120</sup>.

A Muslim has the reasons, to attempt to do well and to avoid what is harmful to himself and other members of his society. A moral conduct involves often a denial of our immediate desires. The ability to consciously deny oneself the fulfillment of his immediate illicit and harmful desires is one of the things that differentiate man from the beasts. For a Muslims there is only one acceptable reason for the self-denial of one's immediate desires, and that is the pleasure of Allah, his Creator and Judge. Any person who denies unwarranted desires can have the peace of mind, body, intellect and soul.<sup>121</sup>

A moral code of Islam ranges from the smallest details of domestic life to the biggest field of National and International behaviour. It guides the people at every stage in life.<sup>122</sup> What was considered as bad morals in the past will also remain so forever, even if the society accepts it as a norm, as long as it remains to be a source of harm to an individual or collective person? The system of ethics is not affected by cultural norms, because Allah is the one who determines what is acceptable and what is not<sup>123</sup>.

Morality in Islam centers on certain basic beliefs and principles. Among these are the followings: -

- a- God is the creator and source of all goodness, truth and beauty.
- b- Man is a responsible, dignified and honourable agent of his creator.
- c- God has put everything in the heavens and the earth in the service of mankind.
- d- By his mercy and wisdom, God does not expect the impossible from a man or hold him accountable. For anything beyond his neither power nor does God forbid man to enjoy good things of life<sup>124</sup>.

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120Lemu, B.A., Islamic Citizenship and Moral Responsibility (Minna Nigeria: Islamic Education Trust, 1979) P.1

121Ibid

122The Moral System of Islam

<http://islam101.Com/sociologymoral> Accessed 5<sup>th</sup> May, 2017

123Islamic

Teaching<<http://www.islamicweb.net/emainpage/articles/newguest/20/05/2009>> Accessed 5<sup>th</sup> May, 2017

124The concept of morality in

Islam<<http://www.islamawerung.com/subpage>> Accessed 5<sup>th</sup> May, 2017

The dimensions of morality in Islam are numerous, far-reaching and comprehensive. This is because, the Islamic morals deal with the relationship between man and God, man and his fellow men, man and other elements and creatures of the universe and man and his innermost self<sup>125</sup>. The Muslim therefore, has to guard his external behavior and his manifest deeds, his words, his feelings and his intentions. His role is to champion what is right and fight what is wrong, seek what is true and abandon what is false, cherish what is beautiful and wholesome and to avoid what is indecent<sup>126</sup>.

Specifically, the Muslim's relationship with God is one of love and obedience, complete trust and thoughtfulness, peace and appreciation, steadfastness and active service. This high level of morality will undoubtedly nourish and reinforce morality at the human level<sup>127</sup>. Therefore, the Act of prohibiting immorality is introduced by God, for the spiritual and mental well-being of man as well as for the moral and material benefit of humanity. It is not an arbitrary action or a self-imposed intrusion from God. On the contrary, it is a sign of God's interest in the welfare of humanity which is an indication of his good care for man<sup>128</sup>.

When God prohibits certain things, it is not because He wants to deprive man of anything good or useful, but because He means to protect man and allow him to develop a good refined taste for the better things in life and a continued interest in higher moral values<sup>129</sup>.

Most Muslims agree on certain moral principles. For example, in nearly all countries, it is necessary to believe in God to be a moral person. There is also a widespread agreement that some behavior including drinking alcohol, sex outside marriage, gaybehaviors, murder and suicide are all immoral. In particular, Muslim's the world, overwhelming believe that gay act is a moral wrong<sup>130</sup>.

Having understand what morality is in Islam, it is important to examine the gay rights in the eyes of Islam. The Islamic religious stand on gayright is that of total rejection and condemnation.

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125 Ibid

126 Ibid

127 Ibid

128 Ibid

129 Ibid

130 Answering Question on Homosexuality

<<http://www.pewforum.org.20130430>> Accessed 6<sup>th</sup> May, 2015



It is also an immoral and unacceptable act.<sup>131</sup> This is based on the following, Qur'an 7:80-81 as: "We also sent Lut: He said to his people, do Ye commit lewdness such as no people in creation (ever) committed before you?<sup>132</sup> For Ye practice your lusts on men in preference to women. Ye are indeed a people transgressing beyond bounds"<sup>133</sup>.

The Holy Qur'an continues in 26:165-166 that: "Of all the creatures in the world will Ye approach males,<sup>134</sup> and leave those whom Allah has created for you to be your mates? Nay, you are a people transgressing (all limits)"<sup>135</sup>.

In another Qur'anic provisions it is said in 27:55, 29:28-29 that:

Would Ye really approach men in your lusts rather women? Nay. Ye are a people who behave senselessly".<sup>136</sup> "And remember Lut: when he said to his people: you do commit lewdness, such as no people in creation ever committed before you.<sup>137</sup> Verily, you practice sodomy with men, and rob the way farer (travellers). And practice Al-Munkar (disbelief and Polytheism and every kind of evil wicked deed) in your meetings. But his people gave no answer except that they said: "Bring Allah's torment upon us if you are one of the truthful.<sup>138</sup>

God the almighty has told the prophet Muhammad Peace Be Upon Him in *Suratul Hud* (chapter II) verse 82 that, there existed some communities in the past, whose prophet was Lut. Prophet Lut's people happened to be sodomists. Prophet Lut admonished them to stop homosexuality due to its numerous harmfulness, but these people did not heed their prophet's admonition. As a result, they were destroyed or annihilated through fire and brimstones.<sup>139</sup> Their land was turned upside down through God's

instruction. God the almighty further told the Holy Prophet Muhammad that, the punishment meted to the stubborn people of prophet Lut could be revisited to any society on earth to the end world, if they do not desist from same-sex sexual relation.<sup>140</sup>

God the almighty has said in *Suratul Ambiya'I* verse 71 that before He destroyed the people of prophet Lut, He separated the good people who are not sodomists from the pervasive ones who were sodomists due to their deviant behavior on earth. Therein also, God the almighty said that, he is the creator of all creatures who created women and men to satisfy their sexual urge from whoever goes contrary to that injunction has committed unlawful deeds and prohibitive acts.<sup>141</sup>

The almighty Allah himself is saying to the people of Lut that, how do you seek sexual satisfaction from your male counterparts instead of seeking such urge from women who have been approved for you through a divine instructions. He cursed such inhuman habit. Then all those cursed by Allah or his messenger will be without any blessings. And their lives will be full of worries and abnormalities.<sup>142</sup>

Al-Dhahabi said that, the prophet Muhammad peace be upon him ordered for the outright killing of sodomists once they are caught red-handed. This is based on the prophet's tradition where Amr in a hadith reported by him and conveyed from Ikram and Ibn Abbas said that: sodomists and their victims even if they are minors, should be instantly killed. Narrated by Bukhari and Muslim.<sup>143</sup> Muslim scholars went on to identify the behaviors of those who engage themselves in unnatural sexual relationship as follows:

- a- Most of them like Ludo game play
- b- Sea beaches regular attendance, swimming in nude/naked postures
- c- Engaging same-sex animals into a fighting competition or plays in the name of past time or recreation, as for example between a cockered and a cockered, a dog versus a dog, a cow versus a cow or a bull versus a bull. Such impress them to the extent of enjoying those games.<sup>144</sup>
- d- They do not mind being seen in naked postures especially when they enter public toilets
- e- Most of them are not trustworthy and when they exchange greetings with the

131Al-Dhahabi, Alkabair (Lebanon: Dar el fikr, 2003) P. 39

132Taqi-ud-Din al-Hilali, M. and Muhsin Khan, D., the Noble Qur'an (Madina: king Fahad Glorious Qur'an printing Complex, 2015) P. 211

133Ibid at P. 211

134Ibid at P. 500

135 Ibid at P. 500

136Ibid at p. 511

137Ibid at p. 534

138Ibid at p. 534

139Al-Dhahabi, Op.cit

140Al-Dhahabi, Op.cit

141Al-Dhahabi, Op.cit, P. 41

142Ibid

143Ibid

144Ibid, P. 41



people, they have their style of hands shakes by putting one of their fingers in the middle of one's palm.145

Muslim scholars went on to also identify the side effect of gay act. They went on to say that same-sex male sexual relation is full of a lot of problems due to the supply of semen fluid in a man's anus which causes many anomalies to gay men as follows:

- a- A human being spinal cord and ridge can be ruptured, that can reduce his body energy and affect his brain which could result to unsoundness of mine.
- b- Can cause male infertility that can deter a man from producing fertile sperm.146
- c- An anus as a cavity that hold end product of digestion such as stool, there is a lot of deceases therein. Then whichever male penis is inserted into the anus can contract deadly deceases which can be harmful to the gay male and his sex partner.
- d- The sperm that is put into the anal cavity can badly affect human ridge, spinal cord and brain which could lead to unsoundness of mind to the extent that, a gay male thinking could be less than that of animals.
- e- Whoever engages in same-sex sexual relation, cannot be respected by the society as he is not a man of integrity honour and conscience.147
- f- They do not respect any one no matter his gentleman like behavior.
- g- A gay male do not see any element of respect in any one and does not differentiate between a man of integrity and a traitor, to him all of them are the same.
- h- Their close associates are people of dubious character such as drunkards, gamblers and pervasive elements. This is because they are not at all impressed by any man of good character and conscience.
- i- They commit any atrocity on earth such as witchcraft, lying, murder, bestiality e.t.c in order to satisfy their desire148.

- j- They are very inhibitive in social relations as they prefer to remain in isolation and dislike being identified as a gay males.
- k- They prefer engaging minors in gay act.
- l- They enjoy having social and interactions with minors and adolescence.
- m- They can commit any atrocity or abomination acts in order to satisfy their desire.149

Based on the above quoted Qu'anic verses and an explanation of Muslim scholars, it becomes clear that, the Islamic religion proclaims an outright death sentence on gay males due to the uselessness and unpriceless of the gay act.150 It is therefore notice that, same-sex male sexual relation can destroy the whole society due to its effect mention above.

The fundamental question here-in is, how can gay be said to be a normal phenomenon and as such guaranteed as a right, when God Himself Has affirmed that, it is an abnormal, unnatural and anti-biological deed. Only God can pass judgment on issues pertaining his creatures behavior and well beings in order to behave and live normally and naturally.

Finally, if a person is only a creature, how can he or she decides on what is good or bad to a fellow creature, when his beginning is life, his continuation is further life and his end is death. Which cannot be prevented by any creature. For example an automobile inventor knows the best technology and the substances applicable to it to become mobile and operational. It is also the motor vehicle inventor that has thought that, can be moveable when either petrol, solar energy or electrical energy are applied to it

God the almighty knows what can be good to human beings for their normal biological operations such as nutritional foods and sexuality, which is only permitted between heterosexual people. And that no tradition, religion or culture in history that have ever allowed homosexuality in world history.

## 2.6 Christianity Stand on Gay Rights

Before examining the issue of gay rights in the eyes of Christianity, it is imperative to understand the meaning of the word Christianity. Christianity is a religion in which the followers believe in the Virgin Mary's miraculous birth to Jesus Christ, as the only begotten son of God.151

145Ibid

146Isma'il, M.B., Al-Fiqihul Wadih Minal-Kitab Was-sunnah Ala Arbaati Madhahib (Madina: Darul-Manar, 1997) P. 225

147Ibid, P. 224

148Ibid

149Ibid, P. 223

150Al-Jazairy, A.J., Minhaj-Al-Muslim (Cairo: Maktabatul Ulum Wal-Hikmah, 1973) P.429-430

151Nwankpa, F.N., Nigerian People and Cultures, (Nigeria: First Standard Press, 2008) P. 30



Christianity was founded by Jesus the Christ or saviour of Nazareth in Israel in the first century. This religion got its name only after the death of Jesus Christ. The followers of this religion are called Christians.<sup>152</sup> A Christian is also the one who believes in the potency of the shaded blood of Jesus during Crucifixion to atone for his sins of all mankind. Accordingly, the followers of Christianity are governed by Decalogue (a set of Ten Commandments) and the teachings of the Lord Jesus Christ.<sup>153</sup>

Jesus engage in a lot of discussion regarding the laws of God and personal morality. That God through Jesus teachings is by His very nature perfectly Holy and Good. He is just, loving, patient, merciful and generous. All that is good comes from Him and is a reflection of his character.<sup>154</sup> Now God's perfectly good nature issues in Mathew 22:37 which become the moral duties for Christians that: love the Lord your God with all your heart, with all your soul and with all your mind.<sup>155</sup> This is the first and greatest commandment.

Secondly, the Bible said in Mathew 22:40 that: "Love your neighbor as yourself".<sup>156</sup> These things are right or wrong based on God's commandments, and God's commandments are not arbitrary but flow necessarily out of His perfect nature.<sup>157</sup> Therefore, how to practice morality in the first place is, it must be done with a person's sincere confession of his or her sin and his or her ability to obey God's laws by his or her own efforts. Such confession and repentance demonstrate one's acceptance of God's will and love.<sup>158</sup>

The basis for moral decisions is an informed conscience. There has to be the responsibility of train peoples conscience based on studying the Gospel message and church teachings and education. This does not mean doing whatever one wants, but what is come known is to be a

morally right.<sup>159</sup> Morality therefore, is the application of God's laws regarding a person's private and public behavior, in his or her belief to live a moral life.

Having understood what morality is in the eyes of Christianity, it is important to examine the LGBT rights in the eyes of Christianity. The Christian religion condemns LGBT act as an immoral and sinful act and therefore, regards it as unacceptable. The Biblical cases against the act of homosexuality are contain in both the old and new testaments, in Leviticus 18:22, 20:13 and Romans 1:27 as: "It is an abomination for a man to vile with another man as with a woman<sup>160</sup>." "If there is a man who lies with a male as those who lie with a woman both of them has committed a detestable act"<sup>161</sup>. "Men abandoned the natural function of the woman and burned in their desire towards one another: men with men committing indecent acts"<sup>162</sup>.

The Holy Bible in Deuteronomy 23:18, 1 Corinthians 6:9-10, Revelation 21:27, I kings 14:24 and 2 Peter 2:6-7 provides:

You should not bring the hire of a harlot or the wages of a dog (male prostitutes) into the house of the Lord<sup>163</sup>.

Do not be deceived; neither fornicators, nor idolators, nor idolaters, nor men who practice homosexuality, nor thieves, nor the greedy, nor the drunkards.....will inherit the kingdom of God<sup>164</sup>.

And nothing unclean, and no one who practices abomination and lying, shall ever come into (the heavenly city)<sup>165</sup>.

There were also male cult prostitutes in the land. They did according to all the abominations of the nations<sup>166</sup>.

152Ibid

153Ibid

154Christian Perspective on Homosexuality <<http://www.reasonablefaith.org/a-christian-perspective>> Accessed 9<sup>th</sup> May, 2017

155Milligan W.R., The Holy Bible: (King James Version London: William Collins Sons and Company Limited, 1957) P. 3

156Ibadat P.3

157Christian Morality

<<http://www.christianity.org/morality>> Accessed 9<sup>th</sup> May, 2017

158Ibid

159All About Catholic Teaching

<<http://www.aboutcatholics.com/belief/christianity>> Accessed 9<sup>th</sup> May, 2017

160Milligan W.R., The Holy Bible: (King James Version London: William Collins Sons and Company Limited, 1957) P. 127

161 Ibid at P. 129

162 Ibid at P. 160

163Ibid at P. 212

164Ibid at P. 174

165Ibid at P. 268

166Ibid at P. 346





And if he condemned of the cities of Sodom and Gomorrah to destruction.....and if He rescued the righteous lot, oppressed by the sexual conduct of unprincipled men.....167.

Also, Paul talks in Romans 1:24-28 as:

Therefore, God gave them up in the lusts of their hearts to impurity, to the dishonouring of their bodies among themselves because they exchanged the truth about God for a lie and worshipped and served the creature; rather than the creator, who is blessed forever. Amen168.

For this reason, God gave them up to dishonorable passions. For their women exchanged natural relations for those that are contrary to nature; and the men likewise gave up natural relations with women and were consumed with passion for one another, men committing shameless acts with men and receiving in themselves the due penalty for their error169.

Paul condemned homosexuality and lesbian acts regardless of orientation. And that the Holy Bible is very forth right and clear when it comes to discuss contrary to God’s design and is a sin and that sex is designed by God for marriage between man and woman only.170Paul employed the most condemnatory language when referring to gay act among the Romans, that Romans had abandon God and given themselves to Lewd practices. Paul referred same-sex sexual relationship as an act which is against nature and it is condemned.171

However, passages in the Bible dwell on issues bothering on gay activity. The sin of Sodom and Gomorrah. It is clearly demonstrated in the incidence of lot’s encounter with certain men of the city. They wanted to have carnal knowledge of the two visitors who had lodged in lot’s house. They inquired from lot “where are the men who came to you tonight? Bring them out to us so that we may

know them carnally”. They were not just after any form of sexual encounter but the homosexual act.172

In view of the above quoted verses of the Holy Bible, it is clear that same-sex sexual relationship is a sinful practice, and God considered it as a very serious sin and his wrath was not limited to Jews alone, but extended to any generation who practice this act of perversion.173

### **2.7The Stand of Traditional Religions in Nigeria on Gay Rights**

Religion refers to a system of beliefs, practices, institutions and relationships that provides the primary source of moral guidance for believers.174 The advent of the Nigerian religion could be dated back as far as the advent of men in Nigeria. Initially everybody worshiped whatever they want until the introduction of Islam to the Northern part of the country in as early as the eleventh century while Christianity was introduced in the middle of the nineteenth century by devote missionaries from British and had spread to the southern part of the country.175

In Nigeria everybody is free to practice any religion of his choice provided the rights of others are not infringed. However in Nigeria three religions are dominance. Islam, Christianity and Traditional religions out of these three religions two are popular with membership of almost of equal sizes and ten percent were traditional religion.176 Nigeria traditional religions is not located in sacred text and cannot be isolated from people’s everyday existence. Nigerian traditional religion is experienced and integrated into the life of the people.177

172Kehinde, O., An Ethical Perspective of Homosexuality Among the African People (2012) Vol.I European Journal of Business and Social Sciences P. 81

173Ibid

174Adebayo, Breaking News: No More Trousers for Redeemed Ladies  
<<http://www.nairaland.com/71063/breaking-news-no-more-trousers>> Accessed 5<sup>th</sup> August, 2017

175Religion in Nigeria and Worships  
<<https://www.total.facts-about-nigeria.com/religion-in-Nigeria.html>> Accessed 15<sup>th</sup> January, 2017

176Religion in Nigeria  
<<http://www.theodora.com.wfbcurent-Nigeria>> Accessed 21<sup>st</sup> April, 2017

177Mbiti, J., General Manifestations of African Religiosity

167Ibid at P. 245

168Ibid at P.159

169Ibid at P. 159

170The Christian Perspective on Homosexuality.

<<http://www.reasonablefaith.org/a-christian-perspective>> Accessed 9<sup>th</sup> May, 2017

171Ibid





Nigerian traditional religions are simply the worship of inanimate objects, the worship of rocks, trees or some animals like lions while they believe to be their source of strength spiritual guide. These gods were seen as a guide and the sovereign authority in any village or town. They speak to the people through a mediator (priest), they go by so many names like Magero, Dodo, Masharuwa, Amadioha, Iku, Urashi, Ikuku, Ogwugwu, and one thing about these gods is the fact that they can't go without blood sacrifice.<sup>178</sup>

Apart from traditional religion in Nigeria, there exists also Hinduism. Hinduism spread to Nigeria mainly by immigration of Hindu from India. This is mainly due to the efforts of Iskcon missionaries who have inaugurated the vedic welfare complex in Apapa Lagos. There are about 25,000 Hindus in Nigeria and most of them live in Lagos. Nigerian Hindu condemned same-sex sexual relations<sup>179</sup>. There exist Jews in Nigeria. They are Igbo Jews. Igbo Jews are members of the Igbo people of Nigeria who practice a form of Judaism. They are not recognised as Jews by the mainstream Jewish community. The main concern of Igbo Jews is how to be part of the wider Jewish world. There are about 3,000 to 5,000 Igbo Jews in Nigeria.<sup>180</sup> As with Islam and Christianity, the Torah (first five books of the Hebrew Bible) is the primary source for Jewish view on homosexuality where it states in Leviticus 18:22 that (a man) should not live with another man as (he would) with woman, it is an abomination, the stated punishment for willful violation is the death penalty.<sup>181</sup>

The popular belief of Nigerian traditional religion about sex is that, it is sacred. The sacredness of sex is the fact that, it must be performed mainly by husband and wife and at night. As a matter of fact, it is something that must not be talked about. Traditional religions in Nigeria forbids bestiality adultery, homosexuality,

masturbation, lesbian among others.<sup>182</sup> These are not only taken as sexual immoralities, they are taken also as sin against society on the other hand. To prevent the people in engaging themselves from all illegal act, the society made provision for a magical medicine such as "Magun" or "Teso".<sup>183</sup>

Gay act is against the traditional religions norms and therefore condemned.<sup>184</sup> Traditionally, it is believed that the truly human sexual orientation is heterosexual. Same-sex spouse undermined the traditional family and they are deemed as not qualified to raise children whether born by them or adopted. There believes is that children should be reared in homes with both the father and mother. This is because children raised in same-sex marriage are more likely to be sexually abuse and more likely to become gaymen.<sup>185</sup>

In Nigeria, how and with whom we have sex, what we desire, what we take pleasure, why, under what we take pleasure in, how we express that pleasure, why, under what circumstances and with what outcomes, are all forms of learned behavior communicated through the institution of culture, religion and law. It is through these social institutions that sexuality is given meaning.<sup>186</sup> However, what is clear in Nigeria among the three major tribes of Yoruba, Igbo and Hausa is this; Yoruba people have no words, saying or proverbs that indicate that they knew what gay act were. Yoruba can be quite explicit in detailing heterosexual sex emphasizing the penis and

<sup>182</sup>Akintunde, D.O. and Ayantayo, J.K., Homosexuality and Spirituality: Possible Bedmates in the Religious Terrain in Contemporary Nigeria (2005)

<<https://www.arsrc.org/downloads/uhsss/akintunde.pdf>> Accessed 15<sup>th</sup> January, 2017

<sup>183</sup>Ogunsakin, F., Contemporary Theories of Magic: Magun's Disparate Characteristics in orita (1988) Vol.27 Ibadan Journal of Religious Studies P. 20

<sup>184</sup>Jeffrey, S.S., Homosexuality and religion <<https://www.islamblessings.com/upload/homosexuality-and-religion-org.pdf>> Accessed 15<sup>th</sup> January, 2017

<sup>185</sup>Onuorah, C.P., (2012), The Religious, Socio-Cultural and Moral Implications of same-Sex Sexual Union in Contemporary Nigerian Society <<https://www.unn.edu.ng/publications/files/imag/es/onuorachioma.pdf>> Accessed 16<sup>th</sup> January, 2017

<sup>186</sup>Sanneh, L., The Domestication of Islam and Christianity in African Societies (1980) Vol.II Journal of Religion in Africa P.9

<<https://www.africaword.net/afrel/mbiti.htm>> Accessed 12<sup>th</sup> October, 2017

<sup>178</sup>Religion in Nigeria and Worship

<<https://www.total.facts-about-nigeria.com/religion-in-Nigeria.html>> Accessed 15<sup>th</sup> January, 2017

<sup>179</sup>Ibid

<sup>180</sup>Igbo Jews <<https://en.wikipedia.org/wiki/igbo-jews>> Accessed 15<sup>th</sup> January, 2017

<sup>181</sup>Homosexuality and religion <<https://en.wikipedia.org/wiki/homosexuality-and-religion>> Accessed 15<sup>th</sup> January, 2017



vagina.<sup>187</sup> Same-sex sexual relationship did not exist in traditional Yoruba community. Gay activities is not acceptable and it is not a topic of discussion. In fact it is against the culture and hence frowned upon it.<sup>188</sup>

Igbo culture has long nurtured same-sex couples consisting of “woman husband” and “woman wife” the practice is entirely indigenous. The practice is also not same-sex sexual relationship.<sup>189</sup> Traditionally in Igbo land marriage is taken to be a union between a man and a woman as the case may be. However, there are circumstances where a marriage between a woman and a woman is permissible. This is a situation where a woman has no son or no child and the husband dies. It is culturally allowed for her to marry a wife. In this case she become the husband. She pays her dowry and fulfils other traditional rites as it is done when a man is marrying a woman.<sup>190</sup>

After that, the woman brings her wife home and they start living together as husband and wife, no body frowns at it. To have children both the “woman husband” and “woman wife” will agree to allow a man from the same village or neighboring town to sleep with the wife.<sup>191</sup>

In Hausaland, what exist is *Yan Daudu*. This *Yan Daudu* are cross-dressers. Cross-dresser is a person who has an apparent gender identification with one sex and who has and certainly has been birth-designated as belonging to that sex, but who wears the clothing of the opposite sex because it is that of the opposite sex.<sup>192</sup> In spite of the fact that,

these men were gender non-conformity they enjoyed tolerance in many community in northern Nigeria. The reasons for the tolerance include the fact that, they never commit sodomy and conformed to the Nigerian culture by marrying women and having children. Thus, they were never seen as a threat to society.<sup>193</sup>

*Yan Daudu* also, operate as intermediaries between female prostitutes and prospective clients where they procure females for males, recruiting runaway women and socializing them into prostitute, soliciting suitors and arranging contacts for them, because the female prostitutes live outside the city. The *Dan Daudu* is paid for his service by both customers and prostitutes.<sup>194</sup> However, *Yan Ludu*, a term that means sodomy in Hausa is derived from Arabic word which literally means “people of lot”. The word is not indigenous to Hausa. As such lesbian, gay and bisexual does not exist in Hausaland.<sup>195</sup>

Finally, as with Islam and Christianity almost all the traditional religions in Nigeria condemned the activities of gay men, and procreation remains the main aim of sexual intercourse between a man and a woman.

## 2.8 Conclusion

In terms of Nigeria’s ethnic groups, the Hausa ethnic group in the north is mostly Muslim, the west which is the Yoruba tribe is divided among mainly Islam, Christianity and Traditional religions, while the Igbos of the East are Ijaw in the south, are predominantly Christians<sup>196</sup>. Ninety percent of the Nigerian population subscribe to the religions of Islam and Christianity<sup>197</sup>. However, from various religious perspectives in Nigeria gay act is totally condemned, culturally, it is seen as an alien to the cultures of the whole ethnic groups in Nigeria. It is against the law of the land also.

Religious objections of gay act are premised on teachings of the Islam, Christianity

### 187HOMOSEXUALITY IS UNAFRICAN

<<https://www.afronline.org?p=27868>> Accessed 13<sup>th</sup> January, 2017

188Ofolabi, I., Yoruba Culture Permits Homo-Gay? <<https://www.ning.com/m/group/discussion?id=2971192%ATTOPIC%A32481>> Accessed 13<sup>th</sup> January, 2017

189Igwel, L., Tradition of Same-Sex Gender Marriage in Igboland Nigeria <<https://www.blacagendereports.com/content/tradition-same-gender-marriage-igboland>> Accessed 13<sup>th</sup> January, 2017

190Colin, S., 21 Varieties of Traditional African Homosexuality <<https://www.76crimes.com/2014/01/30/21-varieties-of-traditional-african-homosexuality>> Accessed 12<sup>th</sup> January, 2017

191Ibid

192Transgender from Wikipedia, the Free Encyclopedia <<https://en.wikipedia.org/wiki/transgender>> Accessed 12<sup>th</sup> March, 2017

193Okaniawon, K., Understanding Post-Colonial Homophobia in Nigeria: Implication for Workplace (Netherlands: Institute of social Studies of the Erasmus University, 2013) P. 71

194 Murray, S.O.m Homosexuality and Traditional Religion in Nigeria <<https://www.homosexuality.esmgai.free.fr/doc.ett-pdf/africa/94-pdf>> Accessed 15<sup>th</sup> January, 2017

195Homosexuality is Unafican <<https://www.afroline.org?0=27868>> Accessed 13<sup>th</sup> January, 2017

196 Religion in Nigeria <<https://en.wikipedia.org/wiki/religion-in-nigeria>> Accessed 15th January, 2017

197 Sanneh, L., Op. Cit at P. 91



and traditional religions. As such religious leaders in Nigeria are not left behind in vehement opposition of gay right in the country, where they reiterates their support to the government in preventing the menace. According to the Bishop of the Niger, Rt. Rev. Owen Nwokolo speaking during a presidential address to mark the 29<sup>th</sup> Synod of the Diocese of St. Monicei's Anglican Church, Woliwo, Onisha said<sup>198</sup>: the church has risen against anything that is contrary to the Christian faith especially same-sex marriage. He therefore submitted his total support to the government in waging war against such dubious act, as it is repugnant to all religious teachings in the country.

Another scholar, Abdulkadir Apaokay (Deputy Chief Imam of Abuja branch of Nasrul-Lahil-Faith society of Nigeria) said that, gay people were mentally unstable and could bring severe instability to the society in which they lived. As such gay men deserve a grievous capital punishment such as death sentence. He also maintains that, any society that tolerate gay act would come to destruction the way God destroyed the people of Lut foe sodomy<sup>199</sup>. As such when certain moral qualities cease to exist in a legal system, if ceases to have a claim to citizen's obedience<sup>200</sup>.

Finally, it is true that, the gay act in the eyes of religious beliefs in Nigeria is total condemnation.

### Observation

In this research, it is observed that:

- a. What a particular community or nation considered as immoral may be considered as moral by another community or nation. That is why, in Nigeria gay act is considered as an immoral act because the religious belief and moral values of the Nigerian society have frowned at the act.

- b. In Nigeria, among the Criminal Law that is applicable to its people are a Penal Code which is based on the Shariah and Customary law based in tradition of the people.
- c. In Nigeria, sovereignty belongs to the people of Nigeria and welfare of the people is primary purpose of government.
- d. Non recognition of gay rights in Nigeria is in consonance with the aspirations and moral principles of its citizens.
- e. Finally, gay act remain wrong in Nigeria.

As a result of the above mention points, Nigerian government has no justifiable legal reason to domesticate gay rights in the country, because it run counter to the aspiration of Nigerian people.

### Recommendation

Based on the moral issues to be considered before domestication of gay rights in Nigeria, the research is hereby make the following recommendation:

- a- Nigerian legislatures should not domesticate any right that does not conform with the religious and moral values of the Nigerian society.
- b- The Nigerian Judiciary should invalidate any law domesticated by the Nigerian legislatures, if it does not conform with the moral values of the Nigerian society.
- c- Nigerian legislatures shall not domesticate any human rights provision that is morally wrong and legally inconsistent with the Nigerian constitution.
- d- Western Nations should be prevented by the United nations in enter faring with the affairs of any sovereign state as long as that state operates and enact laws that suit the religious and moral values of its citizens.
- e- Finally, Nigerian government should not domesticate gay rights in the country

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198 Murdock, H., Nigerians Applaud Anti-Gay Laws <https://www.csmonitor.com/world/africa?2014/0117/Nigerians-applaud-anti-gay-laws-as-islamic-court-hands-out-20lashes> Accessed 15th November, 2017

199 Clerics Advocates Death Penalty for Same-Sex Marriage <https://www.vanguard.com/2011/12/cleric-advocates-death-penalty-for-same-sex-marriage> Accessed 17th November, 2017

200 Cotteral, R., The Politics of Jurisprudence: A Critical Introduction to Legal Phylosophy (Edinburgh: Butterworths, 1989) P.130