



Between Local Acceptability and International Opprobrium: On Nigeria’s Anti-Same Sex Marriage Law; Is Western Voice a Human Rights Advocacy or Cultural Imperialism?

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Abstract

Today, homosexual activity is legally prohibited in thirty-eight of Africa’s fifty-four countries and many of them have come to the fore in opposing the notion that lesbian, gay, bisexual, and transgender (LGBT+) rights should be protected legally. For Nigeria, its federal law criminalizes homosexuality and this creates a hostile situation for Nigeria’s beleaguered LGBT+ community. The interplay between same-sex marriage and human rights has generated considerable debate since the act, which stipulates 14 years imprisonment for offenders, was enacted in the country. It has drawn international condemnation from countries such as the United States and Britain. But the overwhelming majority of Nigerians who support the same sex marriage (prohibition) law are adamant. This study therefore, interrogates the anti-same sex marriage law within the socio-cultural context of the African society. Substantially relying on secondary sources of data gathering, it scrutinizes the responses of Western politicians, government representatives and non-governmental organizations to the Nigeria’s (nay Africa) anti-same sex marriage law. It also situates the international antagonism within the realm of human rights advocacy or cultural imperialism. It conclusively establishes the congruent locations and divergent paths of local issues within global relations. Although this is not an empirical work, what I seek to emphasise in this article is that if cultural values can be seen to be more enduring

(though amenable to changes) and by way of general acceptability, a biding law is made of such values, as in the case of anti-same sex marriage law in many African countries, it will amount to cultural imposition when strident antagonism comes from without.

Key words: Human rights; Imperialism; Same sex marriage; Antagonism; Homosexuality; Advocacy

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INTRODUCTION

The traditional legal architecture of marriage was built on the assumption of a different-sex couple at its heart, with the role of each partner heavily shaped by conventional gender norms and the expectation of procreation (Hunter, 2012). Sex and sexual relationship remain the bedrock on which the multiplication of human beings and lower infra sentient beings rest and in most developing nations on the African continent, sexual union is still with some level of sanctity (Okechi, 2018). However, homosexuality is a deeply sensitive issue- it is religious, cultural, moral as it is psychological. In spite of the effects of globalization, there is a framework of ethical oppositions toward homosexuality in Nigeria and this is understandable from the moral orientation of a conservative and religious Nigerian society. For the fact that Nigerian morality is based on the beneficiary values of collective family and community well-being, homosexuality appears to challenge the moral foundations of Nigeria (Onuche, 2013).

For the purpose of clarification, same sex marriage is the marriage between two persons of the same gender

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identity that is, a marriage that exists between two persons of the same biological sex (Duhan, 2014, pp.8-11). The marriage could be between two males or between two females, referred to as 'gay marriages' and 'lesbian' marriage respectively. Thus, same sex marriage comes into existence when two individuals of the same sex take solemn vows to become married. The sexual orientation of a person is often divided in terms of a) homosexual, describing same-gender attraction, b) heterosexual, describing opposite-gender attraction and c) bisexual, describing both opposite and same-sex attraction. Over the last two decades, same-sex marriage and legal protection for the LGBT+ community has become commonplace throughout many countries. But that has only widened the gulf with other parts of the world, where homosexuality remains illegal, criminal and in some cases even punishable by death (Jacobs, 2018).

Same-sex relations – which are variously criminalised under laws covering sodomy, buggery and “acts against nature” among others – could lead to a prison sentence or death penalty in some countries. Even where homosexuality is legal, many countries treat those in same-sex relationships differently, such as having an unequal age of consent or a ban on marriage (BBC News, 2014). Olanrewaju et al (2015) contend that the politics of gay marriage diplomacy reveals the clash between western civilization, sovereignty, and globalisation, territorial integrity of states, human right and traditional societal beliefs or norms. Thus, the popular reception such law receives among the populace cannot be divorced from the strong beliefs in cultural and family values and patriarchy that characterise the African society. Of essential reference is the fact that high religiosity tends to correlate with opposition to homosexuality as clearly demonstrated in Nigeria. The validity of this observation is further accentuated by the Pew Research Center survey (2013) in 39 countries which reveals that acceptance of homosexuality is particularly widespread in countries where religion is less central in people's lives. Using secondary sources of data collection, this study therefore, interrogates the anti-same sex marriage law within the socio-cultural context of the African society and seeks to situate its international antagonism within the realm of human rights advocacy or cultural imperialism. It establishes the congruent locations and divergent paths of local issues within global relations.

BACKGROUND TO ANTI-SAME SEX MARRIAGE LAW IN NIGERIA

On January 13, 2014, then President of Nigeria, Goodluck Jonathan signed into law the Same-Sex Marriage Prohibition Act which the National Assembly had earlier passed in May 2013. It is an Act to prohibit a marriage contract or civil union entered into between persons of

same sex, solemnization of same; and for related matters (The Guardian, 2018). In the Act, same sex marriage means “the coming together of persons of the same sex with the purpose of living together as husband and wife or for other purposes of same sexual relationship” (Same Sex Marriage Prohibition Act 2013, Section 7). This Act was in response to a global rising tide of acceptance and tolerance, especially in western democracies, of what has become known as the Lesbian, Gay, Bisexual and Transgender (LGBT) lifestyle. According to this law:

A person who enters into a same sex marriage contract or civil union commits an offence and is liable on conviction to a term of 14 years imprisonment; a person who registers, operates or participates in gay clubs, societies and organisation, or directly or indirectly makes public show of same sex amorous relationship in Nigeria commits an offence and is liable on conviction to a term of 10 years imprisonment; a person or group of persons who administers, witnesses, abets or aids the solemnisation of a same sex marriage or civil union, or supports the registration, operation and sustenance of gay clubs, societies, organisations, processions or meetings in Nigeria commits an offence and is liable on conviction to a term of 10 years imprisonment (Legalpedia, 2014).

From the above statement, it is obvious that the Same Sex Marriage (Prohibition) Law of 2014 contains punitive measures for those that are supporters of same sex marriage and those that would enter same sex marriage. The law forbids any cohabitation between same-sex sexual partners and bans any “public show of same sex amorous relationship.” The law also criminalises the formation, operation and supports for gay clubs, societies and organizations with sentences of up to 10 years imprisonment (Onuche, 2013, p.91). Nigeria's law reflects a highly religious and conservative society that considers homosexuality a deviation. Given that most religious texts say that homosexuality is problematic, more religious people are more likely to take these religious precepts seriously (Adamczyk, 2017). Nigeria is one of 38 African countries - about 70 percent of the continent - that have laws persecuting gay people, according to Amnesty International (New Telegraph, 2014).

Although gay sex has been illegal in Nigeria since British colonial rule, the new law casts its net more widely. The purpose of the new law was to maintain the acceptable social norm of heterosexual relationships and make laws to punish homosexuality. Former President Obasanjo described the homosexuality as ‘unnatural, ungodly, and un-African’, when the prohibition bill was first introduced in 2006 (cited in Ajibade, 2014). Eight years after, former President Jonathan, who signed the bill justified his actions in respect of the law as respect for democracy and the will of a population that opposed same-sex unions: “98 per cent of Nigerians did not think that same-sex marriage should be accepted by our society... the bill was passed by 100 percent of my country's National Assembly. Therefore as a democratic leader with deep respect for the law, I had to put my seal of approval

on it” (Stewart, 2016). A June 2013 poll conducted by NOIPolls, prior to the enactment of the SSMIPA, found that for moral and religious reasons, approximately 92 percent of Nigerians supported the proposed law, and did not see it as infringing on the human rights of the lesbian, gay, and bisexual community (cited in Human Rights Watch, 2016).

Nigeria is one of the most religious countries in the world and the only state with equal proportions of Christians (49.3% in 2010) located mainly in the South, and Muslims (48.8%) (PEW, 2012) who are living mainly in the Northern regions of the country. It is believed that Nigeria has the highest number of church denominations and highest the number of church buildings in the world. In this clime, people and culture are inseparable since there is no denial of the fact that what makes any human society is its culture. The culture of a people is their underlying distinguishing factor from other peoples and cultures and the ability to accumulate and transmit a large body of knowledge across generations is what distinguishes humans from other species. The stability of culture and social values is a result of that process (Manfredo et al, 2017). In its simplest of forms, both Christianity and Islam- ironically, religions that are foreign to Africa and were instrumental in almost eradicating African traditions treat homosexuality in a similar respect. Both The Qur’an and The Bible condemn, at least left to the generally accepted interpretations, homosexual interaction. Cultural elements and religious practices in such a country therefore, have the propensity to influence perceptions and attitudes of even people who may not be directly involved with a particular religion or culture (Amoah et al, 2016).

MARRIAGE INSTITUTION IN AFRICAN CULTURE AND SOCIETY

In sub-Saharan Africa, people and culture are inseparable. Despite the changes taking place in sub Saharan African societies due to the modernization process, the family still remains a prominent nexus in the social life of Africans. Generally, marriage refers to the formal union of a man and a woman, typically recognized by law, by which they become husband and wife. Marriage is a universal institution which recognised and respected all over the world. As a social institution, marriage is founded on, and governed by laws, social and religious norms of society. Marriage is traditionally defined as a voluntary union for life between one man and one woman to the exclusion of all others while it lasts. This notion of marriage reflects principles of monogamy and heterosexuality: ideologies originally affirmed by Christian beliefs (de Ru, 2013). It is a social contract of two opposite sexes for the satisfaction of physical, biological, social, psychological and spiritual needs of males and females. It leads to the formation

of family and the procreation of children. Marriage can be perceived from different facets, as an institution, a partnership, a lifecycle phase and as a role. According to Encyclopedia Britannica (2009) marriage is “a legally and socially sanctioned union, usually between a man and a woman, that is regulated by laws, rules, customs, beliefs, and attitudes that prescribe the rights and duties of the partners and accords status to their off spring (if any)”.

For long, structural-functionalist approaches emphasised the centrality of the institution of marriage for the anthropological understanding of kinship systems, socio-economic relations, ethnicity and religion, and for the functioning of political systems (Pauli & van Dijk, 2016). Epprecht (2008) argues that Africans, just like people all over the world, have always had a range of sexualities and sexual identities. Over the course of the last two centuries however, African societies south of the Sahara have come to be viewed as singularly heterosexual. Many Africans view homosexuality as an immoral Western import, and the continent is full of harsh homophobic laws. Indeed, on grounds of religious and cultural values, same-sex sexuality is considered as something orchestrated by the “devil” and a cultural taboo; and thus, used as a yardstick to disregard the rights and freedoms of people in non-normative sexual relationships in many African countries (Amoah et al, 2016). Put differently, same sex marriage runs fundamentally counter to many people’s religious views and opposition to same-sex marriage has been a galvanizing issue for them. To legalize it would offend deeply held beliefs and further erode the key role religion plays as a moral bedrock in society. Little wonder, homosexuality could not survive legal test amidst Nigerians religious conservatism.

What has been said about African religio-cultures can be said about concepts and customs of marriage in Africa because marriage is one of the key religio-cultural institutions in Africa. Marriage manifests the unity of African religio-cultures in its various expressions among African ethnic communities (Bahemuka, 1983, pp.88-100). In the eastern African nations of Tanzania, Kenya, Uganda, Malawi and Zambia (all former British colonies), it is illegal to have ‘carnal knowledge of any person against the order of nature’ and anyone who ‘permits a male person to have carnal knowledge of him or her against the order of nature’ can be punished. This grew out of their values, beliefs and orientation about the marriage institution over decades in spite of the interregnum of colonialism. There are major African initiation rites that have been handed down through generations of ancestors. These rites have a major function of linking the individual to the community and the community to the spiritual world. African communities do not take it for granted that people automatically grow and develop into responsible, community-oriented adults. They have to be socialised or initiated into the community (Okiya, 2016).

Marriage is one among the major initiation rites that

are fundamental to human growth and development both at the individual and the community levels. In Africa, heterosexual relations are often prized over homosexual ties for their procreative capacity that often consolidates the bond, not only between couples but also their families. In other words, as based on community and non-individualistic, the group comes first in the African traditional society. And the individual cannot exist without their community, their family. Matolino (2017) situates this submission within the context of communitarianism—that sees the individual as “thoroughly fused to the community. There is no room for individual interests or for the individual to determine whatever she wants to be. Not only does she owe her existence to the community, but she also has to show her loyalty to that community”. Not even the advent of the dominant religions – Christianity and Islam – has been able to interfere with that fundamental belief.

Marriage in African context therefore, has never been seen as a private affair. Rather, it is a community affair, and that is what gives it essence and meaning (Agekameh, 2014). From this perspective, homosexuality, is regarded as being harmful both to the collective interests of the community (that the individual participates in) as well to the individual as it is against the rhythm and perpetuation of life in Africa. Thus, those backing anti-same sex marriage laws argue that such relationships were either unknown or very rare before colonialism, and are still much rarer in African countries today compared to other countries. In this view, same-sex desires and practices are Western imports (Human Rights Watch, 2008) and the more reason why attitudes towards same-sex relationships on the continent are increasingly conservative and intolerant while homosexuality is deemed to be part of ‘the globalisation of perversion’.

WESTERN ANTAGONISM TO ANTI-SAME SEX MARRIAGE LAW

Western journalists and scholars shape much of the discussion about same-sex issues in Africa even though activists in the international arena have focused on anti-violence and antidiscrimination campaigns rather than same-sex marriage. Reaction to the passage of the law in Nigeria and the strict penalties from the western world was, of course, swift, condemnatory and led to the deterioration of relations with the European Union and in particular the Barack Obama administration in the United States of America. Assent to the bill on January 7, 2014 by President Jonathan apparently shocked some foreign embassies leading to ‘curious’ inquiries from the Federal Government. Then US Secretary of State, John Kerry, said the United States was “deeply concerned” by a law that “dangerously restricts freedom of assembly, association, and expression for all Nigerians.” The US ambassador

to Nigeria, James Entwistle, threatened to scale back American health programmes in response to the law (Ndiribe et al, 2014).

The Obama administration had, earlier in 2011 maintained that the United States would use all the tools of American diplomacy, including the potent enticement of foreign aid, to promote gay rights around the world (Myers and Cooper, 2011). President Obama outlined the importance of gay rights and several ways for the United States to promote gay rights abroad through a memorandum entitled “Presidential Memorandum -- International Initiatives to Advance the Human Rights of Lesbian, Gay, Bisexual, and Transgender Persons” (2011). The memorandum listed five primary actions to improve gay rights 1) combat criminalization of LGBT status/conduct 2) protect LGBT refugees and asylum seekers 3) Foreign Assistance to Protect Human Rights and Non-discrimination 4) Swift U.S. responses to LGBT rights abuses and 5) Engaging with International Organizations to end LGBT discrimination. An editorial in the New York Times (2014) framed the issue this way: “As acceptance of gays and lesbians has grown in the United States and Europe, intolerance and persecution has been rising in other parts of the world. African nations are leaders in this cruel and dehumanizing trend.” There appeared to be a reprieve for some African nations however, when President Donald Trump assumed office and made some moves against gay rights including a ban on transgender people serving in the military, surprising Pentagon leaders and reversing a year-old Obama administration policy (Eyoboka, 2018) until his administration signed onto a United Nations statement condemning human rights violations against LGBT folks and opposing the criminalization of LGBT behaviour.

Different groups and governments also have been very vociferous against the clampdown. In a meeting encompassing some of the most influential leaders in the world in April 2018, the issue that stole the show was how to cajole members of the club to accommodate homosexuality and abolish laws in the Commonwealth debarring citizens from actualising same-sex marriages. Theresa May, the British Prime Minister and Chairman-in-Office of Commonwealth Heads Of Government Meeting (CHOGM) had stolen the high moment when she admonished member-states that have existing laws against homosexuality and same-sex marriage to do well to rescind them. May, speaking in Westminster, headquarters of CHOGM said:

Across the world, discriminatory laws made many years ago, continue to affect lives of many people, tens of millions of young people. Criminalising same-sex relations and failing to protect women and children. Nobody should face discrimination or persecution because of who they are or who they love and the UK stands ready to help any Commonwealth member wanting to reform outdated legislation that makes such discrimination possible (The Nation, 2018).

Many of these new laws move beyond the

criminalisation of sex 'acts' to outlawing the 'promotion' of homosexuality, with broad definitions of what such promotion of homosexuality might entail (Kretz, 2013). It may seem that, as projected by Western Europe and the Americas- home to the world's most democratically advanced states and the largest and most sophisticated gay rights movements- the criminalisation of same sex marriage by the Nigerian government is capable of eroding the fundamental rights of persons who are inclined to such practise (Odiase-Alegimenlen and Garuba, 2014), but some people have also argued that there are extant laws that protect individuals and institutions in the country. The various human rights instruments make elaborate provisions for the rights of persons such as rights to marry and found a family as well as the right of freedom of association. To the LGBT community however, this is inadequate without including their rights!

For some commentators like James Schneider (2014), "the bill is a calculated move to change the focus of the Nigerian political debate at a time when President Jonathan's luck appears to be running out". However, in a country where religious elites often explicitly link concerns about the immorality of homosexuality to concerns about political elites' opportunism, materialism, and corruption (McKay & Angotti, 2016), Schneider's submission may not be out of place. Similar arguments have often been advanced by Nigerian religious and political elites, often alongside commentary about the moral costs of development in the West epitomized by materialism, capitalism, individualism, moral permissiveness and a widespread breakdown of marriage and family relationships (Ehusani, 2002). Conversely, African communalism is anchored on human/mutual inter-relationships which place the community over and above the individual. It also has a unique way of building consensus, social harmony and reconciliation. Above all, Africans believe that it is only in the community where the life of the individual acquires true meaning.

HUMAN RIGHTS ADVOCACY OR CULTURAL IMPERIALISM? THE THIN LINES AND NEXUS

The legislation across the continent, that criminalizes any promotion of homosexuality, has been condemned as a violation of the fundamental equality and dignity of LGBT+ people. Western governments have used human rights diplomacy² as their primary mechanism to promote LGBT rights internationally. As Western LGBT+ activists

have made substantial political gains in the United States and Western Europe, they are now extending their advocacy to other regions of the world (Owen, 2016). The fight however, as posited by Naimasiah (2014), "is against a liberalism that seeks to impose the West's assembly of human rights discourses as the only legitimate ones – removed from their historical contexts and contemptuous of complex African histories". Whereas the West endorses LGBT+ equality as a universal human right, active promotion of this belief has triggered reactionary responses from typically non-Western countries, whose populations have not experienced dramatic shifts in public opinion toward LGBT+ rights as populations have in the West (Rohrich, 2015). Thus, given the strong support of the Nigerian people for the anti-same sex marriage law and the condemnation this action has received from human rights groups and the international community, it becomes imperative to bring into focus the underlying motives behind the Western antagonism.

It is however, interesting to note that, despite the moral bankruptcy that has generally characterized leadership in Africa, most leaders on the Continent have denounced homosexuality as evil, unnatural and incongruent to African culture and psyche (Obasola, 2013) describing "homosexuality" as a dangerous and corrupt Western import. This is also predicated on the popular assumption, in some quarters, that the unreservedly Western antagonistic position to issues of abortion, euthanasia, same-sex marriage, etc amounts to imposing a Western secular system on Africans. In fact, a group of African nations attempted to suspend the appointment of a UN expert charged with investigating LGBT discrimination in 2016. That was after the African Union's human rights commission adopted a resolution condemning violence against LGBT+ people in 2014 (Felter and Renwick, 2017). The very religious and generally conservative nature of African societies has helped shape the anti-gay popular sentiment in many countries like Ghana, Uganda, Kenya and Nigeria, where more than four-fifths of the population believes homosexuality is morally unacceptable (Sneed and Welsh, 2014). Today, South Africa is the only sub-Saharan African country where same-sex couples can be married bearing in mind that the country's parliament legalized same-sex marriage in 2006.

Given the fact that homosexuality remains stigmatized to some degree even in the most liberal nations (Kohut, 2014), publics in Africa and in predominantly Muslim countries remain among the least accepting of homosexuality. Promoters of anti-same sex marriage law often appeal to populist notions of culture that frame homosexuality as an "un-African", alien behaviour foisted on the continent by western imperialists (Smith, 2014). Many African political and religious leaders argue that decriminalising homosexuality would be akin to promoting it and that it goes against their traditions and

² Defined as "bilateral or multilateral diplomatic negotiation and persuasion for the specific purpose of protecting human rights," as defined by Michael O'Flaherty, Zdzislaw Kedzia, Amrei Müller and George Ulrich (eds.) in *Human Rights Diplomacy: Contemporary Perspectives* (Leiden, The Netherlands, Koninklijke Brill NV, 2011)

culture. A 2016 report by Human Rights Watch on the impact of Nigeria's anti-gay law observes that "the heated public debate and heightened media interest in the law have made homosexuality more visible and LGBT people even more vulnerable" (Nwaubani, 2017). In sub-Saharan Africa, according to the Pew Research Center survey (2013), at least nine-in-ten in Nigeria (98%), Senegal (96%), Ghana (96%), Uganda (96%) and Kenya (90%) believe homosexuality should not be accepted by society. Even in South Africa where, unlike in many other African countries, homosexual acts are legal and discrimination based on sexual orientation is unconstitutional, 61% say homosexuality should not be accepted by society, while just 32% say it should be accepted. In these countries, opposition to homosexuality has become a means of affirming cultural integrity and authenticity. The argument of empirical evidence showing that homosexuality existed in Africa before the arrival of Europeans seems to have been overtaken by the new convictions imposed on the African people by Christianity and Islam.

In view of the disposition of this ultra-majority against homosexuality, the European Union, Canada and the United States' criticism that the law negates the fundamental human rights of individuals enshrined in the Nigerian constitution, may have fallen on deaf ears. In fact, Nigeria's former acting Minister of Foreign Affairs, Viola Onwuliri, opined that such criticisms stem from the "double standards" of the West. "Is democracy for pick and choose? When it suites them they want us to do good governance and democracy, but when it does not suit them they want us to go against the democracy that has been put in place" (Premium Times, 2014). Sneed and Welsh (2014) also see political motive in the emerging trend:

There's another political advantage to supporting such laws. Since pro-gay support is seen as a Western influence, promoting anti-gay laws allows politicians to not only tout their religiosity, but also be seen as standing up to those attempting to infringe upon their sovereignty. And on a continent so heavily shaped by colonization, the case against imperialism can be an easy, and winning, argument to make.

Nigeria is a leading oil producer and Africa's most populous country, and the ban is considered the most significant setback yet to gay rights on the continent (New York Times, 2014). Nigeria's signatory to international covenants and treaties (notably Universal Declaration on Human Rights, International Covenant on Civil and Political Rights, the International Convention on Economic, Social and Cultural Rights, the Nigerian Charter on Human and Peoples' Rights, Convention on the Elimination of all forms of Discrimination against Women etc.), recognizes the fact that we know and acknowledge that sexual orientation and gender identity is and should be a protected clause in the context of human rights. It also means that as people and a country, there is sexual diversity amongst us. The Right to Freedom from Discrimination has been interpreted internationally

to include freedom from discrimination on the basis of sexual orientation and gender identity (Onuche, 2013).

From the human rights perspective therefore, the phrase "marriage equality" conveys the assertion that not permitting same-sex couples to access the institution of marriage is a breach of their human rights. It is argued that the current wave of anti-gay laws and policies are likely to reduce access to health care, increase discrimination, and impact HIV research and programs (Beyrer, 2014) just as the Nigerian law on same-sex marriage includes a range of restrictions on freedom of assembly, speech, and association (Beyrer, 2014). In particular, the criminalisation of "gay clubs, societies and organisations" poses a direct threat to LGBT Nigerians and their allies and will seriously impede their ability to organise in defence of their human rights and safety (Kaleidoscope Trust Briefing, 2014). Human Rights Watch (2016) for instance, concludes that the impact of the law appears to be far-reaching and severe and that it has become a tool being used by some police officers and members of the public to legitimize multiple human rights violations perpetrated against LGBT people.

Both the United Nations Human Rights Committee and the European Court of Human Rights have held that there is no inequality where a state retains the traditional definition of marriage (Fowler, 2017). Ironically, advocacy for same sex marriage is being given tactical backing at the UN Secretariat as it began in 2014³, to recognize the same-sex marriages of its employees. This advocacy for same-sex marriage is increasing, despite the fact that no UN document or international legal instrument requires such a redefinition of marriage (Coleman, 2016). Scholars of Africa however, tend to evaluate African sexual identities in terms of local practices, mores, and cultural conventions (Owen, 2016). In African society, values and notions of propriety have often been based on religious ideologies of morality and these have shaped attitudes and laws in respect of sex and gender. The prominence of Western scholars in discussion of same-sex issues in Africa can perpetuate the myth that "non-normative sexualities are not a topic of particular interest to African intellectuals" (Dionne, 2015) because, like this author, most of them do conform to heterosexual standards in a seemingly peculiar cultural context.

Cultural imperialism is achieved through internationalism, the politics of international system, especially through globalization and promotion and protection of human rights. However, in the face of possible neo-colonialism, many African nations have

³ The head of the Secretariat, former Secretary General Ban Ki-moon, implemented this "major policy change" without consulting any Member States. In September 2015, twelve UN agencies released a joint statement condemning violence against LGBT people and promoting a long list of LGBT "rights," many of which have never been recognized by international law.

found it necessary to protectively safeguard their sovereignty and independence. This has been expressed by the great desire to espouse traditional African values. In this attempt to revive African values, homosexuality has been perceived as a Western value which does not readily fit into African traditions and ethos (Ncube, 2014). Religious and cultural arguments against the inclusion of sexual minorities in mainstream society reflect widely-circulated ready rhetorics that identified homosexuality and same-sex sex as unnatural, immoral, and sinful. They also highlight the divergence of African and Western cultural and religious values as well as the sovereignty of African countries to determine their own laws in accordance with local values (McKay & Angotti, 2016). If cultural imperialism seeks to determine the direction of both economic and social progress, define cultural values, and standardize the civilization and cultural environment throughout the world (Sandbacka, 1975), the lingering Western opposition to anti-homosexual laws in Africa could be located within this ideological precinct.

THE CARROT AND STICK POLITICS AND THE QUESTION OF POLITICAL SOVEREIGNTY

On-going controversies around the world exemplify a long-standing and widespread preoccupation with the acceptability of homosexuality (Bailey et al 2016). Long before the coming of colonialism in Africa, Africans had their ways and systems that ensured communities thrived. Unfortunately though, Africa has been liberated from Western political domination, it is now being dominated by Western and Eastern ideological neo-colonialism. Western prestige, Western know-how, Western technology, Western methods have permeated every aspect of African societies. Interestingly, even within Western societies, struggles against issues such as heteronormativity have tended to be marked by a fundamental tension between what might be described as a liberal politics of inclusion or assimilation into the mainstream. This politics of inclusion is marked by such priorities as the right to marry or to serve in the military and a more radical queer politics that seeks to challenge the very basis of institutions that are seen as oppressive, rather than merely seeking inclusion within them (Rao, 2014).

Research examining the relationship between foreign aid and human rights conditions has yet to fully situate gay rights within the aid allocation relationship (Comstock, 2016), but in many Sub-Saharan African countries, the outlawing of homosexuality has, in most instances, been followed by vehement reactions from Western governments and donor organisations (Ncube, 2014). An editorial in the New York Times (2014) once alerted that “it is unlikely that any of these countries can reach their full economic potential because many foreign entities may find

it too risky to invest in such hostile environments”. Such development partner/donor responses are in two folds: withdrawing development aid on the basis of anti-gay legislation or demonstrating solidarity with oppressed gay people by funding same sex marriage advocacy activities; conditions capable of fuelling neo-colonial tendencies in which African states have their economic and political policies controlled by external forces. Consequently, (before it was ultimately overturned on a technicality) a number of Western countries, including Norway, Denmark and Sweden, withdrew foreign assistance, and the World Bank froze a \$90 million loan to Uganda (Shaw and Albarracín, 2014). The Obama administration increased funding of gay rights groups abroad and tied overall aid to respect of gay rights. It also imposed sanctions on Uganda and Gambia, though not on Nigeria, a richer and more strategically important nation (Onishi, 2015).

Similarly, the British government once threatened to cut aid to African countries that violate the rights of gay and lesbian citizens, having unequivocally affirmed that “the U.K. opposes any form of discrimination on the grounds of sexual orientation” (Eyoboka, 2018). In 2011, there was uproar from the global North after a gay couple was arrested in Malawi for attempting to conduct a traditional marriage ceremony. Western donors withheld financial aid amounting to US\$ 400 million, citing displeasure with the manner in which issues of human rights and governance were being handled by the Malawian Government (Ncube, 2014). Ncube (2014) however, submits that “withdrawal and cutting of development aid to Africa by Western governments and donor organisations is not only unsustainable, but hypocritical when those donor governments lack a clean record with LGBT rights in their own countries”.

Strong opposition to these laws may not be limited to the economic realm alone as other form of political colouration has been insinuated. The Economist (2014) posits that politicians have found gay people a useful scapegoat to distract from corruption or other domestic problems, to shore up conservative constituencies, or to steal a march on political rivals. For instance, political watchers believe that the Western countries’ opposition to the re-election of former President Goodluck Jonathan partly stemmed from his insistence on signing into law the Same-Sex Marriage Prohibition Act. As *Africa Confidential’s* Andrew Weir (cited in Rickett, 2014) points out, “unscrupulous politicians in Africa who have come under attack from Western governments or NGOs for abuses of human rights or for stealing public funds sometimes try to deflect the criticism by picking fights with the West over the gay question”. In a book titled ‘Against The Run Of Play’ written by Olusegun Adeniyi, there were assertions made by former Senate President, David Mark which stated that Goodluck Jonathan, delayed the National Assembly from passing the anti-same sex marriage bill, because former US President, Barack

Obama raised concerns about him seeking re-election at the time:

President Jonathan asked what could be done and I told him that not only was I committed to the passage of the bill that was also the position of the National Assembly. I said the only thing I could do was delay its passage till after the American presidential election. But I assured him that the same-sex marriage was not something we would legalise in Nigeria (NOSTRINGSNG, 2017).

Interestingly, homosexual activists have accused some political and religious leaders in the country of being influenced by American evangelicals who want to spread their anti-gay campaign in Africa. In some quarters therefore, the anti-gay law is not just an odd local Nigerian phenomenon; it is part of an international effort, at the level of non-governmental bodies, to push similar legislation to receptive governments throughout Africa. This law, according to Schneider (2014) was designed to “stir up anger at an idea of imposed Western values, helping create solidarity at home by directing anger outwards”. As a political strategy, Nigerian leaders have also used this rhetoric to unite Christians and Muslims in a common hatred, especially prior to elections (Haskins, 2014). In the final analysis however, the strong opposition against anti-same sex marriage is seen largely as an infringement on the sovereignty of African countries and the latest example of Western effort to impose its values on Africa. Perhaps, in the face of possible neo-colonialism, many African nations have found it necessary to protectively safeguard their sovereignty and independence.

CONCLUDING REMARKS

The current state of domestic laws among UN Member States shows that the vast majority of the world views marriage as a relationship between a man and a woman (Coleman, 2016). Even though Africa certainly has its challenges in relation to LGBT rights, Ncube, (2014) contends that “it is important to remember that the West is still grappling with homophobia and discrimination of sexual minorities as well”. While advocates of gay marriage have largely relied on “equal rights” arguments or claims based on substantive due process, perhaps, it is prudent to understand history and appreciate how long it took America with all its democratic structures to become more tolerant of gays (Adémólá-Olátéjú, 2014). As many Africans become increasingly uncomfortable with their countries’ dependence on the West, Gevisser (2011) opines that “they look to find a place to put their pride: they might be poor, but at least they have values!”

For all practical purposes, same sex marriage is unacceptable to the African people; the society condemns it in its entirety and, in most cases, ostracizes anybody involved or passes a curse on such a person or persons. Even though many commentators have noted that these laws are themselves a remnant of colonial occupation

and as such do not communicate African values, the fact remains that they are being used to help justify negative attitudes towards homosexuality in Africa⁴. Recognition that societies are changing and the gradual de-stigmatisation of homosexuality is real but should not be tantamount to acceptance. The vehemence and near unanimity in Nigeria in the rejection of this proposition is therefore, not misplaced. It is interesting though that in spite of the moral decadence that pervades governance in the country, there remain certain values that the vast majority of Nigerians consider non-negotiable. Above all, we should recognise that societies and cultures change at a pace commensurate with their absorptive capacity. Evolution to tolerance and eventual acceptance may be inevitable in human affairs but too much, too soon, against the ethos of a society, is sure to lead to social upheaval.

Although this is not an empirical work, what I seek to emphasise in this essay is that if cultural values⁵ can be seen to be more enduring (though amenable to changes) and by way of general acceptability, a binding law is made of such values, as in the case of anti-same sex marriage law in many African countries, it will amount to cultural imposition when strident antagonism comes from without. Social values are the cognitive foundation on which people’s prioritizations are built and as such the predominant cultural value orientation that could be found in the African society naturally leads people to be receptive to conservation initiatives – and perhaps, facilitates a group mentality in which they think in similar ways and discourage individual differences. The import of this could be gleaned from the fact that even in a few African countries where homosexuality is not considered illegal (not legalised though) or its promotion not in any way criminalised, those who engage in the act still express such in the dark and perturbation. In Nigeria where public opinions reflect religious and cultural proclivities, the international opprobrium against anti-same sex marriage law is essentially perceived as immoral sexual attitudes and practices from the West and thus, a cultural imperialism agenda.

⁴ Scott Shackford (2019) contends that it was colonialism that arguably pushed anti-gay attitudes on some of these countries and encouraged them to treat their gay and transgender inhabitants as evil threats. Eprecht (2009) argues that while subcultures of homosexual behaviour are home-grown, homophobia is actually imported by colonialism and Christianity.

⁵ Cultural values refer to enduring ideals or belief systems to which a person or a society is committed. Cultural values are transmitted to a culture’s members by parenting and socialization, education, and religion. For instance, unlike American culture with emphasis on self-reliance and individualism, African cultural values emphasise the *sense of communality* - the awareness which identifies an individual not as an isolated ego, but as an entity whose being and survival is consequent upon its union with other human beings within an identified locality.

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