

# A MORAL CONDEMNATION OF SAME SEX MARRIAGE AS A BREACH OF NATURAL LAW DOCTRINE

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## Abstract

In human relation and marital relationship, it has been from time in memorial that the conjugal fusion should be between people of opposite gender and any modernity against this is a breach of natural doctrine. The law of nature has prescribed the modus of doing things and any move away from this law is naturally condemnable. This is the major problem with same sex marriage or homosexuality. The agitators of this version of marriage states that it is permissible for a man to marry a man or a woman to marry another woman. However, the researcher discovered that this agitations and permutation does not have any natural backup and it's also against some cultural doctrines and laws of certain groups and societies. The researcher therefore recommended that the practice of gay marriage and all sorts of homosexual relationship should be stopped forthwith as such is against nature and nurture because any further agitation or persuasion might aggravate the lot of the supreme being against the creatures.

**Key Words:** Homosexuality, Marriage, Natural, Law, Doctrine

## 1.0 Introduction

In every culture, marriage has been an institution that brings two individuals with mutual understanding together for societal growth, lawful progressions and procreations. Marriage is one of the things which most biblical scholars alleged to have been instituted by the Supreme Being, God. This union is purposefully meant for two individuals of different sex who understand themselves together and accepted to live in harmony and mutual co-existence. It is the coming together of two individual beings of either different cultural background or same cultural identity with the purpose of procreation. According to Haviland, marriage is a transaction and resulting contract in which a woman and a man are recognized by society as having a continuing claim to the right of sexual access to one another and in which the woman involved is eligible to bear children ([www.marriage/haviland/goggle](http://www.marriage/haviland/goggle)).

In most societies, marriage prepares a man or woman to attain certain levels of cultural inheritance. The essence of this is that without marriage, man cannot participate or contribute in certain discussions and cultural celebrations that pertains him or his families. The area where this is majorly practiced is in Igbo cultural background where an unmarried man is not allowed to break kola nut in cultural gathering or partake in the land distribution amidst his kindred. The unmarried man is still seen as a kid irrespective of his age, wealth and academic achievements.

In the recent time, marriage which was earlier meant for two couples or spouses, male and female has been redirected by certain groups that call themselves homosexuals. In 2004, gay rights activist, Bisi Alimi, became the first Nigerian to declare his homosexuality while playing guest on the Nigerian Television Authority's (NTA) titled "Funmi Iyanda show-New Dawn". Though the reaction of the NTA was swift and reflective of the role of mainstream media in silencing the minority opinion. The show's live format was canceled. Subsequent shows were prerecorded and screened by the NTA hierarchy to avoid what was considered "causing public offence." In effect, the NTA reasserted a climate of opinion rejecting homosexuality in Nigeria. When compared with social media, the NTA experience presents a stark contrast to the freedom of expression associated with online platforms (Aryal, 2014).

However, the increase in advocacy for homosexuality grows rapidly in online platforms, the mainstream media, and some developed country governments are leveraging their influential status to promote trends and propaganda for and against homosexuality (Jones, 2019; Olanrewaju et al., 2015; Opara et al., 2016; Zhang et al., 2020). Studies report that social media and cyber activists, bolstered by the relatively high recognition of homosexuality in the global North, have started to advocate more acceptance for homosexuality in the global South (Opara et al., 2016). Social media, particularly, has ensured that control of public communication is no longer the preserve of mainstream media and the political elite, thereby enabling individuals and groups to create and to judge their own identity-based content through personal and group platforms (Botsman, 2017; Jones, 2020).

More so, most of the advocates of same sex marriage have leveraged on their right of sexual attainment and pleasure to choose and not to choose that which they considered good and meaningful to them. It is this stand that Edwards, a waitress from Brighton who did not know the law was different in Northern Ireland until she moved from England to Belfast, said:

‘We feel humbled that our wedding is a landmark movement for equal rights in Northern Ireland. We didn’t set out to make history, we just fell in love. ‘We are so grateful to the thousands of people who marched for our freedoms, to the Love Equality campaign who led the way, and the politicians who voted to change the law. Without you, our wedding wouldn’t have been possible. We will be forever thankful. (PA Media, 2020).

So, the homosexuals through the above paragraph capitalized their intention on love and equality with heterogeneous individuals. It is observable that this concept of love is a mainstream of pleasurable ingenuity. This is because love is rooted in pleasure and that which one could gain at all times. However, the psychology of human nature has described man as a pleasure seeking animal and pain avoider. He goes for that which will always give him pleasure and avoids that which gives pain. All human actions according to the hedonists are directed towards the search for pleasure and no man would attempt any action which he knows would cause him pain. This is why the psychological hedonist would say that pleasure is the driving force of all human activities (Omeregbe, 1993). Jeremy Bentham, as a proponent of this ethical theory established his utilitarian principle on this assumption by maintaining that “a good action is an action that produces pleasure while a bad action is an action that produces pain (Omeregbe, 1993). In furtherance to that, Perry Barton held that “good action is an action which is subject of one’s favourable interest, that is, an action which brings about the object of one’s positive interest” (Omeregbe, 1993). He further defined value in this sense saying that whatever is object of one’s interest is valuable. So, a thing, anything has value or is valuable in the original sense or generic sense when it is the object of one’s interest.

However, Thomas Hobbes tells us that in the state of nature, good meant the object of one’s desire. Whatever that is the object of desire is for that person good and whatever that is object of his appetite is morally good. So, for him “whatever is object of appetite or desire is good and whatever that is object of hate or aversion is evil and contemptible” (Stumpf and Fieser, 2008). The naturalistic philosopher assumed that what propels man into taken any action must be based on his appetite of desire or hate. So, all actions are based on that which gratifies human interest or need. Whatever that is the object of man’s natural inclination according to David Hume is for them good and that which is contrary to man’s natural inclination is bad.

However, the concept of same sex marriage or what is popularly known as ‘Homosexuality’ is objectively inclined with the concept of personal desire to satisfy sexual urge with the same sex. The exhibitors of this attitudinal life believed that it is within their power to seek that which gratifies them and objectifies it. In the world to today, homosexuality has been a phenomenal discourse as it has been granted a moral stand in some countries like United States of America and Liberia.

## 2.0 Natural Law

Natural law is law of nature. It is a law given by nature without interference by manmade substances. On his own accord, Grotius defined natural law as “a dictate of right reason which points out that an act, according as it is or is not in conformity with rational nature, has in it a quality of moral business or moral necessity; and that in consequence such an act is either forbidden or enjoyed by the author of nature, God” (Omeregbe, 2007). Natural law according to him is based on human nature. “For the nature of man, which even if we had no lack of anything would lead us into the mutual relation of society, is the mother of law of nature” (Uduigwomen, 2010). Natural law is unchanging, certain and its fundamental principles are self-evident.

Consequently, the natural law according to the Greeks are the intelligible laws that can be grasped by the human mind to govern the universe. Socrates and Plato believed that the principle of morality can be discovered through the process of reasoning and insight. It is this stand that Socrates claimed that he is a midwife that assist people to deliver that which they already possess through nature. Thus, knowledge of natural law is innate; education makes attempt in bringing it into reality. Plato on his own side developed the idea of perfect world of ideas. This is a world that is full of ideas of immutable essence which the visible changing world would imitate. Our idea of justice approximate the immutable idea of justice, eternal idea of justice. This eternal idea of justice can only be grasped by a philosopher king. He further opined that the ideal justice can only be found in ideal state where a philosopher king is the ruler (Stumpf and Fieser, 2008). Consequently, Aristotle holds that every particular thing develops according to certain nature (Stumpf and Fieser, 2008). Nature according to him is the capacity for development inherent in particular things and aimed in particular end or purpose both in respect of physical and moral phenomena. Aristotle went further to differentiate between natural and conventional justice. Natural justice is common to all mankind and based fundamental end or purpose of human beings as social and political beings. It include the attainment of state of goodness or what could be called ‘Eudomonia’. Conventional justice is developed according to the history and need of the particular community.

Thomas Aquinas affirmed that there is a natural law in us. Law is a rule and a measure of all acts. As a rule, it can be in a person in two ways: “as in him that rules and measures” and “as in him which is ruled and measured”. All things partake of the eternal law in the measure in which they have been given and ordained in their inclination to their proper acts and ends. Rational creatures have their own proper order and inclination proper to their acts and ends:

Now among all others, the rational creature is subject to divine providence in the most excellent way, in so far as it partakes of a share of providence, by being provident both for itself and for others. Wherefore, it has a share of the eternal reason, whereby it has a natural inclination to its proper act and end: and this participation of eternal law in the rational creatures is called the natural law (Omeregbe, 2011).

Irrational creatures partake according to their order and inclination in the eternal reason, but rational creatures partake in an intellectual and rational manner. This participation of the rational creatures in the rational and intellectual manner gives the eternal law an impetus to be regarded as law in its proper sense. So, rational creatures participate in the eternal law through the operation of reason. However, commenting on Aquinas notion of natural law, Kossel says;

In locating the natural in the hierarchy of law, it provides the general perspective for understanding law in its ultimate causes. The argument is simple: if there is an eternal law existing in the reason of the ruler of the whole community of the universe, then it is participated in some way by every creature because God impresses on them the inclinations to their proper acts and ends (Njoku, 2007).

Man like other animal is observed in accordance to the forces operative in them. What differentiates man from other animals is his power of rationality which is natural in him. So, the mode of reason that man has held and viewed peculiar to him is his power of reason. This is because the hallmark of his human nature is in those modes of conduct which depend on his reason. The specifically human conduct which is thus implied by rational conduct accordingly signifies man's natural law; man's authentic mode of conduct which depends upon his self-determination and responsibility as rational being. Man therefore, exercises control over other animals because of his rational nature. Given man rational nature, nature law however seeks to explain law as a phenomenon of social necessity based on the rational perception of the rational persons, that is, the principles of moral that is derivable from man's rational nature.

### **3.0 Sexuality**

Sexuality is the ability to recognize once sexual trait. It is an important of who a person is and what he or she would become. It encompasses all the feelings, thoughts and behaviour of being male or female, being attractive and being in love as well as being in relationship with others which include but not limited to sexual intimacy and other physical sexual activities. Sexuality is one of the factors that give individuals life the principal trait that distinguishes it. It refers to a person's tendencies, preferences, habits and interests with respect to sexual activity, typically, though by no means exclusively in an interpersonal context. Sexuality is often closely associated with one's sexual orientation. As Meyer (2010) points out, however, it can 'refer to a wide variety of identities and behaviour as well' and she goes on to emphasize the inter-relationships between sexuality, sexual orientation, sexual behaviour (the types of sexual activity one actually engages in), and sexual identity (how one chooses to describe one's self). As such, sexuality permeates, influences, and is inseparable from our gendered, religious, class, ethnic and other identities emerging as a term in this twentieth century, sexuality increasingly became an object of study through the following two centuries, with the work of Krafft-ebing (1886; Osterhuis, 2012), Hirschfeld (1910, 1935) and Havelock Ellis (1900–1928) being among the landmarks in the development of sexology (the scientific study of human sexuality).

The words Same Sex Marriage is rooted on the marriage between individuals of the same sex or same chromosome. In the biology of human formation, there are two divisions of biological differentiations, X and Y chromosomes (Umoren, 2013). This is dependent of prenatal and postnatal hormonal activity for proper development. At the period of hormonal development, if the mature spermatozoa or male sex cell carries an X-chromosome during the fertilization, what results is a female offspring but when it carries a Y-chromosome the result will be male (Umoren, 2013). As the individuals grows to the level of self-identification as male or female, the need for attractiveness occurs. The attractive nature varies from individual to individual. Some people are attracted to their opposite sex while some are attracted to the same sex and others to both sexes. Those attracted to the opposite sex are called the Heterosexuals while those attracted to the same sex are called the Homosexuals. A person is said to be heterosexual if a great majority of images, fantasies and attractions are associated with sexual arousal concerning members of opposite sex. While homosexual are been attracted or aroused by images of persons of the same sex. The other groups are the bisexuals, there are attracted or aroused by the images of persons of both sexes. So, with the above we can obviously say that there are three types of sexuality; the Heterosexuals, Homosexuals and Bisexuals.

### **4.0 Marriage**

The concept of same sex marriage cannot be understood without first clear the distortions and expound the concept of marriage. However, we shall first make clear and expose the meaning of marriage before discussing same sex marriage. This will make the work less ambiguous and clear the road for proper understanding and comprehensibility.

The marriage institution is common and present in every society. The beginning of a legitimate family is marked by a socially and culturally acceptable legally consummated union called marriage. Marriage can be perceived from different facets, as an institution, a partnership, a lifecycle phase and as a role. The institution of marriage is considerably subjected to the trend of accommodation to the process of industrialization/modernization (Adinlofu, 2019, September 10). Marriage constitutes a vital variable that is pivotal for procreation. The distortion of its structure tends to serve as a medium where socioeconomic changes associated with the main values of culture can be measured.

Marriage is seen as the foundation of human existence, honored and considered to be sacred because it was instituted by God himself which explains the much attention given to it and the celebration that accompanies the final process of marriage. Marriage is a socially approved mating relationship that people expect to be stable and enduring. The family and societal expectations in marriage are high because a breakdown of marriage is associated with a widespread negative effect on the couple, children, extended family members and the society at large.

According to Bigombe and Khadiagala marriage is defined simply as the union of a man and woman and it is being accepted as a legal marriage. It solidifies relationships that enrich communities and nations by bringing forth new lives, new hopes as well as diffuse ethnic barriers that tend to prevent unity. This perspective of the African marriage underscores the reason for involvement of families and sometimes the entire community in the marriage processes of any intending couple. In the African concept, marriage is seen as a cherished and most celebrated norm and rite of passage for male and female members of the society and a fulfillment of parental obligations and roles as parents give out their children and also expect to receive new members or persons into their family (Bigombe and Khadiagala, 2020).

Marriage is the fundamental building block of all human civilization. The government does not create marriage. Marriage is a natural institution that predates government. Society as a whole, not merely any given set of spouses, benefits from marriage. This is because marriage helps to channel procreative love into a stable institution that provides for the orderly bearing and rearing of the next generation. This understanding of marriage as the union of man and woman is shared by the Jewish, Christian and Muslim traditions; by ancient Greek and Roman thinkers untouched by these religions; and by various Enlightenment philosophers (Girgis, 2012). It is affirmed by both common and civil law and by ancient Greek and Roman law. Far from having been intended to exclude same-sex relationships, marriage as the union of husband and wife arose in many places, over several centuries, in which same-sex marriage was nowhere on the radar. Indeed, it arose in cultures that had no concept of sexual orientation and in some that fully accepted homoeroticism and even took it for granted. As with other public policy issues, religious voices on marriage should be welcomed in the public square. Yet one need not appeal to distinctively religious arguments to understand why marriage as a natural institution is the union of man and woman.

In recent decades, marriage has been weakened by a revisionist view of same sex marriage that is more about a man marrying another man or a woman marrying another woman. In the year 2023, the new technology has also reviewed marriage between living beings and robot as invented by Elon Musk. These views reduce marriage primarily to pleasurable affair, emotional bonds or legal privileges. Redefining marriage represents the culmination of this revisionism and would leave emotional intensity as the only thing that sets marriage apart from other bonds. However, if marriage were just intense emotional regard, marital norms would make no sense as a principled matter. There is no reason of principle that requires an emotional union to be permanent or limited to two persons or sexual, much less sexually exclusive (as opposed to “open”), or inherently oriented to family life and shaped by its demands. Couples might live out these norms where temperament or taste motivated them, but there would be no reason of principle for them to do so and no basis for the law to encourage them to do so.

## 5.0 Same Sex Marriage

In today's society, marriage has been extended to male and male or female and female types of marriage as against the traditional male and female type of marriage. This new modern invention system of marriage is called homosexual marriage. It is the consummation of two same sex individuals as husband and wife (though it's always difficult to know whom the wife or husband is especially where it pertains two males). Homosexuality is not left with a single sex, it is seen among the two sex organs, male and female. The male homosexuals are called "Gay" while the female homosexuals are called "Lesbians". This type of marriage is not generally accepted in all cultures and countries.

The unacceptance or "disacceptance" of this marriage is based on the fact that it was referred to as a mental disorder. In 1973, the American Psychiatric Association (APA) following the serious controversy over the true nature of homosexuality decided to classify it as a mental disorder. More so, Dr. Irving Bieber has also maintained that homosexuality is a developmental abnormality (Irving, 1968-1969). Though it may not be a disease or mental illness, it may be called "heterosexual dysfunction or inadequacy" (Harvey, 2005). The unacceptance of same sex marriage has lingered all society today especially in African soil.

In the present Africa, homosexuality is criminalized in about 40 countries with sentence ranging from fines to imprisonment (Umoren, 2013) while in most of the Islamic countries, homosexuality is punishable by death. This does not mean that there are no homosexuals in Islam, rather, there are suppressed by law and custom. In the year 2005, nine Cameroonians were charged to court and could not be granted bail for committing homosexual acts till after one year of imprisonment. Likewise, in 2009 Uganda parliament proposed a bill subjugating homosexuality and in December that same year, Malawian gay couples who wanted to get wedded were arrested and charged for unnatural offenses and indecent practices amongst men. More so, in 2011 the senate house of Nigeria passed a bill out-lawing same sex marriage in her country as a way of banning public display of homosexual affections (Odenigbo, 2005). This law has however spell a 14-year jail term for anyone involved in same sex marriage. It went further to provide ten years imprisonment for anyone who could give consent to such marriage.

This public cancellation, condemnation and stigmatization has propelled the homosexuals to prove that they are humans and possess the same right with others. In 2010 when Pope Benedict XVI visited Spain, there was a protest by the homosexuals numbering close 200 people kissing in. Their intention was to demonstrate to Pope that they are humans and needed respect and better treatment especially among the Catholic Church which oppose their right of different way of loving (thisdayonline.com). The Catholic Church cannot admit or accept anyone who practice homosexuality to the sacrament of holy order as against some churches. In Anglican Church for instance accepted and vote for the Episcopal ordination of Rev. Gene Robinson who is an active gay clergy in 2003. Robinson was elected bishop by the New Hampshire diocese in the Episcopal Church in the United States of America on June 7, 2003. This made him the first gay bishop in the history of the church (Umoren, 2013).

However, some philosophers and scholars have advised that homosexuality or homosexuals should be welcomed in the society and public places as there are humans with both senses like ours. Sigmund Freud in 1935 wrote a letter to a worrisome mother of homosexual youth saying;

homosexuality is assuredly no advantage but it is nothing to be ashamed of, no vice, no degradation, it cannot be classified as illness....many highly respected individuals of ancient and modern times have been homosexuals, several of the great men among them are Plato, Michelangelo, Leonardo di Vinci etc. it is a great injustice to persecute homosexuality as crime and cruelty too (Freud, 1987).

The homosexuals see themselves as expressing their right of love in a different way other than how others or the majority of people do.

## **6.0 Cognitive Associations of Homosexuality.**

Many scientists have puzzled over how homosexuality (especially exclusive homosexuality) evolved. How could a behavior that appears to reduce reproductive success survive the rigors of natural selection? If homosexuality is not a totally arbitrary construct of symbolic culture, then we should find some recurrent themes behind all of the cultural diversity. For example, are “pathics” like “gays”? What about the typical men who have sex with them? Are there perhaps universal cognitive associations with homosexuality?

People with experience in both gender-stratified and modern gay systems often compare “pathics” with “gays,” under the assumption that a man who became a “pathic” in one culture would become a “gay” if he had lived elsewhere. For centuries scholars have puzzled over how our concepts are constructed. Plato thought that we are all born with very specific ideas (like “horse”) which we later attribute to empirical phenomena. Kant reduced these inborn ideas to a few basic building blocks (categories like “time,” “space,” or “causality”) that he thought necessary to construct any intelligent system. Piaget followed Kant, but more recently, developmental psychologists have discovered that babies are born with some very specific concepts (McKenzie, 1990; Pinker, 1994) and that (as etymologies and pidgin languages show) more abstract concepts are built up from earlier more concrete concepts (Givon, 1989). This ontogenetic process may reflect phylogenetic changes in cognition as thought becomes more complex.

Do humans have any elementary concrete ideas regarding homosexuality? The psychoanalyst Arango (1989) suggests that our “dirty words” reflect some of our most basic concepts. These words seem to be stored in a different part of our brain, and may continue to be remembered and used even after brain damage destroys the rest of our conceptual thinking. Many of the dirty words mentioned by Arango seem to derive rather directly from primate markers for dominance and submission. For example, in most, if not all, human languages, typical primate “homage-paying” behaviors are used to insult people thought too anxious to please their superiors. Brazilians call such people *puxa-sacos* (literally sack-pullers), recalling the behavior of subordinate vervet monkeys. More common is the subordinate’s gesture of sniffing the dominant’s behind.

The association of “active” (insertor) homosexual roles with domination and “passive” (insertee) roles with subordination also appears to be almost universal, although the nature of the domination may vary from cruel demonstrations of power (as in prison rape) to more fatherly “mentorship” roles.

## **7.0 Same Sex Marriage as a Breach of Natural Law**

The theory of natural law states that the only law which should be accepted and honoured must be divine law. Divine laws are laws of God. These are laws ordained through the divine being and sent to man through nature. Natural law is not man made law, it’s not cultural law or law of the state rather, it is a moral law or divine law that is sent by divine being to guide humanity. The major characters of natural law is that it cannot be traced to a definite date. This means that natural laws are not dated and cannot be said to be promulgated by any man on any date. It is a law that has been in existence before the emergence of man, thus, one can be said that man is born with it through the rational instinct.

The law of nature has it that marriage must be heterogeneous and anything outside this is an aberration. This is because the purpose of marriage is characterized by procreation through sexual ejaculation and emanation but homogeneous marriage cannot offer it because ejaculation can only be practiced between man and woman and not the other way round. Thus, same sex marriage is unaccepted as it has nothing to offer to the society in its procreative end. So, the marriage between man and man or woman and woman is null and void because this type of marriage cannot give room for the performance of the essential role of marriage.

However, the same sex marriage cannot be said to hold and the promoters cannot universally apply it to be a universal concept. This is because if this is adopted, the idea of child bearing will automatically become optional leaving the society in perjury. However, Pope John Paul 11 said to the forum of Bishops of Episcopal Conference of U.S.A on October 5, 1979 that homosexual activity is morally wrong and anyone who willingly consent to homosexual activity is guilty of grave sin (Iroleh, 2006: 83). So, to choose someone of the same sex for sexual activity is to annul the rich symbolism of creator's sexual design. Homosexual activity cannot transmit life and any sexual relation without the purpose of life transmission is not natural and stands null and void.

There is a life experience of what happens when someone involves in homosexual act, the conscience keeps on judging, disturbing and condemning the act. The conscience is a natural and universal judge which pronounces the inner judgment when someone engages in good or bad act. It is the conscience that pronounces the result of someone's action as to condemn or appraise him. This however occurs when a Homosexualist takes action of homosexuality. The mind keeps on disturbing especially when an opposite sex passes by. The conscience also helps man to take an action of what to do and what to refrain from.

## **7.0 Conclusion**

The understanding and interpretation of homosexuality as a disease can hold a thorough ground because most homosexuals have changed from the act to heterosexual behaviour. But, one would say that anybody who changes from his evil ways to live a good life is a repentant and such person has been cured of his infirmities, therefore he has recovered of his sickness. With this, homosexuality can be referred as a disease. The person who has experienced same sex arousal need not to be frightened that he or she is destined to life of homosexuality, the experience is quite common in our society and need to be responded to squarely. The theological, sociological and psychological framework is needed to help channel sexuality. The framework can be used to say a firm no to homosexual activity in much the same way that married couple uses Christian framework to say a firm no to extramarital sexual activity.

However, the proper thing about sexuality is to stay within the proper channel. This can be compared to a river which flows through the rightful channel and one's it overflows its bank, it becomes destructive, likewise the moment sex goes beyond its natural banks, it also becomes destructive. Sex is meant for male and female, and any attempt to do otherwise becomes an injury to the body and such left man with questionable trait. The best ways to overpower the spirit of homosexuality are to change homosexual orientation and to control homosexual orientation.

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