

Conclusion and Recommendations

The need for stem cell research and therapy cannot be emphasised in the development of medicine worldwide. Through this, medical researchers have attained an increased understanding of how diseases occur and how to manage them. Healthy cells could be generated to replace diseased cells, and cells which have the potentials to be grown to become new tissues for use in transplant and regenerative medicine have become handy. This has provided cures for incurable ailments like sickle cell anaemia, cancer, bone marrow diseases and diabetes. Stem cell research holds enormous potential for the growth and development of medical research and cures. However, the medico-legal and ethical issues still constitute a significant concern in stem cell research and therapy, particularly in Nigeria.

Most ethical issues arise from personal convictions, morals, beliefs and sometimes superstitions. Unfortunately, the existing international legislation on stem cell research does not contain stiff sanctions for breach. In Nigeria, issues of stem cells are regulated in piecemeal legislations; under the National Health Act 2014, The Code of Medical Ethics in Nigeria 2008 and international best practices. In addition, there is a tendency to commercialise access to stem cell research and therapy. Similarly, inadequate investment in this area of research by government and agencies, poor enforcement of ethical standards and the need to build capacity.

Against the foregoing, it is recommended that:

- a) a comprehensive sui generis legislation on stem cell research, permissible conduct and sanctions for breach be made, taking into consideration the IVF and artificial cloning of cells currently practised in Nigeria and possible stem cell therapy procedures to be developed. Furthermore, in the countries where it is permitted, it should be placed under strict public control by a centralised authority - following, for instance, the pattern of the UK licensing body (the Human Fertilization and Embryology Authority).
- b) There should be increased funding for stem cell research and therapy, intense advocacy and enlightenment of the populace on the benefits of this area of research and therapy. This will help change the psyche of the people.
- c) Section 31 of the National Health Act, 2014 should be amended to remove the principle of federal character as a criterion in appointments to the National Health Research Committee. This could influence the Minister into choosing from tribes instead of the best hands in the required field.
- d) Section 33 (2) of the National Health Act 2014 should be amended to either delete paragraph (f) or include other sectors of beliefs in Nigeria; and subsection (3) of the same Act to increase the term of office of members of the National Health Research Ethics Committee to a renewable term of five (5) years. This is necessary owing to the long period required to achieve specialised research.

HOMOSEXUALITY, UNIVERSALISM AND CULTURAL RELATIVISM- A REVIEW

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Abstract

Homosexuality is one of the most contentious issues of our time. The United Nations and other human rights bodies have proposed that all laws that discriminate against people on the basis of their sexual orientation violate human rights. However, despite this, many countries around the world including Nigeria still maintain laws that object to homosexuality maybe, due to cultural relativism which has raised suggestive ideas, generating diverse perspectives from various segments of the political continuum. Indeed, its proliferation in international relations discourse, has become a concept that is difficult, if not impossible, to apply in contemporary human rights issues. Universalists, clearly object to cultural relativism and cautions about its application in the construction of international norms and doctrines that attempts to define definite human rights. This paper discussed homosexuality, its universal acceptance, if any within the context of human rights with particular interest on cultural relativism, which appears to be the pervasive and biasing influence responsible for the rejection of homosexual rights. In this regard, the paper is heavily biased towards the discussion about sexual orientation as a universal right. The paper concluded that although criminalization of homosexuality violates international human rights norm, cultural relativism is central to its viability, as differences exist endemically between cultures and should be respected.

Keywords: Homosexuality, Culture, Universalism, Human Rights

Introduction

Human rights standards have been thoroughly well defined over time and properly codified in regional and international legal documents. These rights constitute a set of performance standards against which duty-bearers at all levels of society and organs of government can be held accountable, by fulfilling commitments under international human rights treaties noting that all human rights are equally important.¹ This has been reemphasised by international community and treaties.² Human rights are indivisible and interdependent, the principle of indivisibility recognizes that no human right is inherently inferior to any other; therefore they must be respected, protected and realized on equal footing, although some human rights obligations are immediate, while others are progressive.³

Globally, human rights abuses on this space are committed because of perceived sexual orientation this has persist due to discriminatory laws and practices that criminalises expressions of sexual orientation and gender identity. The principle of non-discrimination⁴ and the right to be equal before the law⁵ are unanimously recognised and secured under international law. Flowing from

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¹ Universal Declaration of Human Rights 1948. <https://www.ohchr.org> accessed 2 July 2023

² Declaration on the rights of development 1986; the 1993 Vienna Declaration and Programme of Action. A/CONF./157/24 (Part 1), Chap. 111, preamble, <http://www.ohchr.org/english/law/vienna.htm> accessed 2 July 2023

³ Comment No.3 of the Committee on Economic, Social and Cultural Rights. <http://www.ohchr.org/english/bodies/cescr/comments.htm>. Accessed 7 July, 2023

⁴ Article 1(3) and 55 of the United Nations Charter : Article 7 of the Universal Declaration of Human Rights : Article 2, 4 (1) and 26 of International Covenant on Civil and Political Rights : Article 2 of the African Charter on Human and Peoples' Rights

⁵ Article 7 of the Universal Declaration of Human Rights: Article 26 of the ICCPR; Article 3 of the African Charter on Human and Peoples' Rights.

the above, the United Nations Human rights committee posited that “Non-Discrimination, together with equality before the law and equal protection of the law without any discrimination, constitute a basic and general principle relating to the protection of human rights”⁶ The principle of non-discrimination and the rights to be equal before the law necessitates that state and its mercenaries protect people from discrimination.

The universality of human rights in a world of widely varying cultures has always been a recurrent theme in international legal theory and practice over time, ever since the universal declaration of human rights in 1948. Relativists opine that considerations of right and wrong differ along cultural lines, and therefore, definitions of human rights should differ accordingly⁷. These have been central to the problems of international human rights law which is directly bond up with issues of universalism on the respect and promotion of human rights. These have been, and it is, till date, a subject of unending debate. United Nations treaty bodies and transnational tribunals have given several views recognizing sexual orientation rights as universal human rights,⁸ moreso, as discuss on sexual orientation rights have birth heated debates due to cultural relativism.⁹

The issue of universality of human rights and cultural diversity embraces a number of interrelated questions which has not been answered over time. Most prominent of such questions is: Are the human rights norms formulated at international level since 1948 universally valid? If yes, to what extent does the cultural setting affect the way in which they are upheld by states around the world?. Generally, the foundations of today’s human rights structure in particular, the United Nations Charter of 1945 and the Universal Declaration of Human Right of 1948 can be said to have been laid at a time when the norms in question were not yet considered universally valid in all areas. The Universal Declaration speaks of a common standard of achievement for all peoples and all nations, to the end that every individual and every organ of society, keeping this Declaration constantly in mind, shall strive by teaching and education to promote respect for these rights and freedoms and by progressive measures, at national and international level, to secure their universal and effective recognition and observance. Efforts to achieve this ideal have led, in successive stages, to a situation in which states, which are the primary duty bearers or addressees of human rights to be called to account for the manner in which they uphold human rights. Although virtually all governments have, on various occasions, acknowledged the universality of human rights and the right of the international community to concern itself with the observance, not all human rights are considered in practice to be universally accepted.

Human right, which has its philosophical source from natural rights, is arguably a formidable discourse at the international and local scenes. Owing to the meanings appropriated to it

⁶ Human Rights Committee , General Comment No. 18, Non-discrimination, para, 1

⁷ Henry J. Steiner and Philip Alston “Universalism and cultural relativism: International Human Rights in Context: Law, Politics Morals (Oxford University Press ,1996) 166-225

⁸ Young v Australia, UN GAOR Hum Rts Comm, 78th Sess, UN Doc CCPR/Ci78/D/941/2000 (2000) (upholding the rights of same-sex domestic partners to receive the same government benefits as heterosexual domestic partners); Lustig-Prean & Beckett v United Kingdom, 29 Eur Ct HR 548 (2000) (voiding a ban on openly gay individuals serving in the military); Toonen v Australia, UN GAOR Hum Rts Comm, 50th Sess, Supp No 40, vol 2, at 226, UN Doc A/49/40 (1994) (holding that a statute criminalizing homosexual conduct violated the ICCPR); Dudgeon v United Kingdom, 45 Eur Ct HR 52 (1981) (holding that a ban on homo- sexual conduct violated the European Convention on Human Rights)

⁹ Douglas Sanders, Human Rights and Sexual Orientation in International Law (2003), online at <http://www.ai-lgbt.org/resourcesother.htm> accessed 29 July 2023; Michael Thomas, Teetering on the Brink of Equality: Sexual Orientation and International Constitutional Protection, 17 BC Third World L J 365 (1997); Laurence R. Heifer and Alice M.Miller, Sexual Orientation and Human Rights: Toward a United States and Transnational Jurisprudence, 9 Harv Hum Rts J 61 (1996); James D. Wilets, The Human Rights of Sexual Minorities: A Comparative and International Law Perspective, 22 Hum Rts 22 (Fall 1995)

either in the Universal Declaration of Human Rights of 1948 or by individual philosophers, scholars or groups. Human rights have been defined in diverse ways, notably; most of these definitions portray the universality of human rights based on the concept that people, by virtue of their humanity have certain fundamental and inalienable rights¹⁰. Being rights which are derived from the inherent dignity of the human person¹¹. they are a natural endowment of any living species called human being. . These rights should not be taken away except as a result of due process based on specific circumstances. Being a right which covers virtually every area of human activity, they are more than mere demands as a result of its internationally agreed characteristics of universality and indivisibility. Defining human rights from the point of culture, these cultures have their origin in philosophies, and the value systems for each culture vary in details from one society to another but the fundamental ideas are in the concept of justice and human dignity. Notable, though hinged on universalism, individuals are the central focus of human rights. Following the same line of thought, it could be sustained that certain rights should be upheld against alleged necessities of states. In essence, human rights are natural, hence it cannot be given up to the artificial state and its institutions. This shows the primacy of an individual human person over the society, state and public authorities, that may sometimes be oppressive against an individual.

Donnelly¹², opined that human rights are not only instrument for restraining the state or a government, but a needful tool, hence, he advanced the need to ensure the universality of human rights and states further that both connotative and denotative meanings given to it should elude the capacity of a single state to define for itself and its citizenry what is human rights. Analysing human rights from the point of functionality, he¹³ argued that respect for human rights will facilitate world peace, engender justice, fairness, and humanity needs for all individuals.

Being a universal right which cannot be taken away except as a result of due process based on certain circumstances, the need to sustain the moral fabrics of a society as a culture hereby assumes the position of the special circumstances. Notably, the universality and sovereignty of human rights is rigidly constrained by cultural relativeness or differences which to some¹⁴ precipitates western cultural Imperialism. Prominently, these has been the latent but virile factor for the resistance against the universal acceptance of human rights. In most scenario human rights are confined by state laws and religion, most especially where such rights are viewed as a religious taboo or when its outcome appears like what will rob the people of their cultural values.¹⁵

Universalist opined that, independent individuals should ordinarily be able to determine for themselves what is acceptable as human right or standard for judging values. Reviewing these self-determining argument in the discourse of human rights is pertinent because of the views of cultural relativist, that human rights is a western imposition, intended to rob the people of their cultural values. Interestingly, while relativist argue that human rights are product of western culture and its acceptance as universal, as cultural imperialism intended to westernize and rob a people of their cultural values, into accepting values from the west as standards for moral judgment. Cultural relativity sets in with the primus objective of demanding respect for cultural differences. Being a normative doctrine that portends that what a culture defines to be right

¹⁰ Robert D. Sloane, *Outrelativizing Relativism: A Liberal Defense of the Universality of International Human Rights*, 34 *Vand J Transnatl L* 527,541-42 (2001).

¹¹ Universal Declaration of Human Rights 1948

¹² Donnelly J., 2007 “ The Relative Universality of Human Rights . *Human Rights Quarterly* 29(2) 281-306

¹³ *ibid*

¹⁴ Tierney B, 2004 “ The Idea of Natural Rights: Origin and Resistance. *Northwestern Journal of International Human Rights* 2(1) 2.

¹⁵ Henkin L, (1989) *The Universality of the concept of Human Rights*. www.researchgate.net accessed 2 July 2023.

is right, based on the argument that cultures differ on their conceptions. Hence, what is right in community A may not be right for an individual to practice in community B. This puts culture at the position of absolutism and moral infallibility. Not satisfied Altman,¹⁶ argued that the views appeared nonconforming and submitted that the argument of cultural relativists runs the risk of precluding moral learning across cultures and, it leaves the people in a culture with no other standard to judge their own culture since standards and value are relative to the culture from which they derive so that any attempt to formulate something new that grows out of the beliefs or moral codes of one culture must to that extent detract the applicability of any declaration of Human Rights to mankind as a whole. The argument for the non-applicability of a practice of a place in another, rules out the fact of adaptation; the absolute tendency of a culture as offered by cultural relativists runs the risk of taking everything a culture says is right to be right. For instance, depriving the girl child the right to inherit her fathers' property in a culture will be right to the extent that the culture dictates it to be so. That is to say, a culture that professes supremacy over every other, is right to the extent that it is the peculiarity of the culture. Upholding this kind of argument in an evolving era will surely result in a world chaos and total crack down on inherent human dignity.

For ease of discussing these very troubling issue of homosexuality as a right considering the universal nature of human rights and relevance of cultural relativity, it becomes absolutely necessary to pin point the most challenging clog on the wheel of advancing homosexuality right in some domain to be religion, cultural values and societal standards for moral judgment. These factors, out rightly restrains expression of homosexual rights, considering the enormous effect of religion on peoples around the globe; and how they contribute to social norms, social thoughts and way of life. Culture, therefore, places a barricade on the universality of homosexual rights. Nevertheless, due to the discrepancies on what constitutes the right value among cultures, the article agrees to some extent that effective standards for moral judgments can best be found in universal acceptance of culture, which is the moral stance of the people . According to lord Delvin, when he rejected the distinction between public and private morality by H.L.A Hart, in his Wolfenden report of 1957 on the departmental committee on homosexual offences and prostitution (Cmnd 247)¹⁷ he claimed that

The protection of morals in the public interest is more powerful than the protection of individual freedom of consenting parties in an immoral act.¹⁸

To Delvin, morality which in most scenarios is the output of culture of a people was paramount to individual freedom as he warned against the disintegrating effect of a lapse in enforcing moral values in society and appealed to the idea of society resting upon a shared morality as a 'seamless web' which must be able to defend itself against a subversive act against its moral structure. He feared that any attack on society's constructive morality, culture and values will lead to inevitable disintegration of society and its core values and culture. In view of the legitimizing force of morality on human rights, international human rights law recognizes that certain rights could be limited in the interest of public morality, thus legislation criminalizing unnatural offences are within the ambit of permissible limitation on the right to privacy in the interest of public morality.¹⁹Therefore relaying on cultural relativism as a justification for rejection and non-

¹⁶ Altman, D. (2013). *The end of the homosexual*. Queensland: University of Queensland Press. American Anthropological Association. (1947). Statement on human rights. www.humanrights.americananthro.org accessed 16 August 2018.

¹⁷ Wolfenden Report which recommended the decriminalization of homosexuality between consenting adults.

¹⁸ Shaw Julia, *Jurisprudence: Law and Morality, the good, the bad, the ugly.* (Pearson Education Limited: Edinburgh Gate, 2014)Pp 39- 40

¹⁹ Osita N.O, " Human rights Law and Practice in Nigeria) 2nd Ed., (Enugu; Snaap Press Limited, 2013)p 280

recognition of homosexual rights asserts a relativist view that contravenes the United Nations tone of universal rights. Although consensually states willingly accept the protection of human rights by international law, the definition and scope of human rights remain contested, a critical structure of this debate bothers on the universality and relativism of rights²⁰

General Overview

Homosexuality is romantic/sexual attraction or sexual behaviour between members of the same sex or gender. It is an enduring pattern of emotional, romantic, and/or sexual attractions to people of the same sex. The issue of homosexuality is a controversial discourse in international relation today with various dimensions which have paradigm shift in the known concept of marriage between a male and female to that of people of same sex. It is a trend which is spreading across the globe with increasing support on daily basis²¹ was described by Schalkwy²², as un-African, and an act of western cultural imperialism. Maybe this bias is factually true to the extent that, homosexuality was not a popular practice or it was a clandestine practice among African people²³. Following the assertion of un-Africanness of homosexuality and ignoring actual history, non-normative sexual orientations and gender identities are dismissed on the basis that they are western imports and un-African²⁴, hence the innovation of draconian anti-guy laws in Nigeria to counteract the alleged imperialistic call for sexual rights by western actors.

Cultural relativism as a concept has been problematized by a series of postcolonial events. Culture, is a formidable factor against the universal realization of homosexual rights, especially rights to non-discrimination of same sex marriage, lesbianism and other sexual orientation. Culture is, with no laborious effort, the total way of life of a people. This includes diverse practices amongst a people that have formed values, standards for morals, even ways of understanding or viewing actions, events and the likes. This makes cultural relativists believe their distinct culture should dictate its standards and be answerable to none. This argument appears not only misleading to its opponents but also inimical.

Regional Overview

Europe

Struggle for homosexual rights have made significant progress over the past few years, only in some parts of the world. In most region, this community of people still face widespread stigmatization and persecution, and in a surprising number of countries the penalty for same-sex relationships is prison or even death. Despite getting a lot more public acceptance in the last few years, homosexuality is still viewed as a sensitive topic, even in the western world. Even though Europe might be viewed as a unit in some cases, especially when it comes to the countries in the

²⁰ Steiner and Alston, *International Human Rights at 192* ("One of the intense debates in the human rights movement involves the 'universal' or 'relative' character, related to the 'absolute' or 'contingent' character, of the rights declared.").

²¹ The Netherland was the first country to legalize homosexuality in 2001, followed by Belgium, Spain, Canada, South Africa. Some other countries include Norway, Sweden, Portugal, Ice land and Argentina. In 2004, the state of Massachusetts has made an unprecedented attempt to allow homosexuality as the first state in the USA to legalise homosexuality.

²² Schalkwy, J. (2000) "Culture, gender equality and development cooperation" www.oecg.org/social/gender_equalityanddevelopmen. Accessed 26 July 2023.

²³ Okalanwon K, 2013 "Resisting the Hypocritical Western Narrative of Victimhood and Celebrating the Resistance against Homophobia in Nigeria. www.hivos.org accessed 26 July 2023.

²⁴ Okalanwon K, 2013 "Resisting the Hypocritical Western Narrative of Victimhood and Celebrating the Resistance against Homophobia in Nigeria. www.hivos.org accessed 28 July 2023.

European Union, the truth is that there are enormous differences between the countries within as lesbian, gay, bisexual and transgender rights are widely diverse in Europe per country.

America

Most people look up to this region when it comes to the idea of liberal views and acceptance of diversity. Regrettably, homosexual right is still grappling with challenges, especially in practical sense even after legalizing it. The United States of America still has scores to settle even after the legalization of homosexuality, as some classified the legalization as an “out of control act of unconstitutional Judicial tyranny”²⁵. The case of Kim Davies in August 2015, who defied court order to issue marriage license to the gay couple in her county²⁶; the religious freedom law and the law that forbids trans-genders from using certain gender toilets in some states in the US²⁷ indicates that the struggle still continues, although fairer than a place where it is criminalized or not legislated upon, this region is far from being the liberal heaven that it is generally pictured as.

Asia

Homosexuality is outlawed in at least twenty Asian countries, but about eight countries have enacted protection laws for LGBT community. India highest court overturned a colonial era law that criminalizes consensual gay sex in what appeared as a long fought victory. Delivering the judgement the chief justice of India, Dipak Misra said, “The LGBT community has same fundamental rights as citizens, the identity of a person is very important and we have to vanquish prejudice, embrace inclusion and ensure equal rights”²⁸ reading out his judgement in the case, the chief Justice of India held that interpreting section 377 to criminalise gay sex was irrational, arbitrary and indefensible. Probably, this judgement opened up new debate on the matter of equal marriage in a very conservative society.

Africa

Presently, South Africa remains the only African nation that has legalized homosexuality²⁹. The decision of the court extended the common law definition of marriage to include same-sex spouses as the Constitution of South Africa guarantees equal protection before the law to all citizens regardless of sexual orientation. They described homosexuality as a human reality, which are mysteries to must be embrace with openness, respect and sensitivity.

The Scenario in Nigeria

The legislation on same sex relationship in Nigeria has again put the spot light on the plight of homosexuality in Nigeria. This legislation further emphasises with harsher penalties on the crime of homosexuality, widening the scope of the law to include related areas such as advocacy and social life. The Same-Sex Marriage Prohibition Act³⁰ criminalises all forms of same-sex unions and same-sex marriage throughout Nigeria.³¹ Despite the several interpretations given to section

²⁵ Mike Huckabee, 2015 “US Supreme Court Rules Gay Marriage is Legal Nationwide” www.bbc.com accessed 4 July 2023.

²⁶ Mura J. and Perez-Pena R., “Marriage Certificate Issued in Kentucky County, Debates Continues. The New York Times. September 4, 2015. www.nytimes.com accessed 9 July 2023

²⁷ Lisa Relin, 2015 “Transgender people should use Bathroom of Gender they Identify as, U.S. urges” www.washingtonpost.com accessed 5 September 2018

²⁸ Manveena Suri, “India’s top court decriminalizes gay sex in Landmark Ruling” 6 September 2018. www.cnn.com accessed 9 July 2023

²⁹ Minister of Home Affairs v Fourie (2005)

³⁰ Same Sex Marriage (Prohibition) Act 2014

³¹ Repeal Same sex Marriage “The Guardian” July 3, 2013. p 1.

37³² of the Constitution of the Federal Nigeria on the issue of right to privacy and what it seeks to protect, which raised controversial issues because of the various interpretation which has stretched the concept beyond the words of the provision³³. The provision of the act has made a bad situation worse for Nigerian's harassed lesbians, gay, bi-sexual and transgender community. This provision has further imposed restrictions on nongovernmental organizations providing essential services to these set of Nigerians. In reality, its scope is much wider, as it forbids any cohabitation between same sex sexual partners and bans any public show of same sex amorous relationship. It imposes a ten years prison sentence on any one who registers, operates or participates in gay clubs, societies and organization or supports the activities of such organization. The tone of this law contravenes basic tenets of Nigerian constitution and violates several regional³⁴ and international³⁵ human rights treaties that Nigeria has ratified which imposes legal obligation on Nigeria to prohibit discrimination, ensure equal protection of the law, respect and protect rights to freedom of association, expression, privacy and the highest attainable standard of health, prevent arbitrary arrest and torture or cruel, degrading and inhumane treatment. Regrettably, the tenets of these treaties are powerless tools which are non-effective because of the limitation clause³⁶ which lends validity to any law promulgated in the interest of defence, public safety, order, public morality or public interest which blatantly restricts the freedoms spelt out³⁷ moreso traditional cultural values indigenous to Nigeria has no place for homosexuality in its entirety despite divergent views emanating from the western world on the grounds of human rights.

Summary

Multiculturalism might be seen as the subversion of Human Rights in some quarters. The raising controversies on the concept of right to privacy, raises an unanswered question, whether this right protects homosexuality? In some region, homosexuality is seen as human rights, but in Nigeria, it is scarcely or not discussed as a rights of any sort rather it is criminalized in Nigeria as an offence against Morality in the criminal code and as an unnatural and indecent offence in the penal code. Hence, the universalism and relativism of homosexual rights remain a controversial discourse both at the local and the international realms. In spite of the controversy obscuring the universality of homosexual rights, some rights can be said to be universal such as right to life, right to conscience, thought and religion, these are not without problems though, at the level of interpretation and application to some realities in diverse places across the world.

Conclusion

Conclusively, projecting a system that is evidently western in origin to the rest of the world as a template is wrong, since values are culture-specific, reflecting the cultural norms, values and religious beliefs of particular societies. It is wrong to impose homosexuality as a universal right as the global divide on homosexuality cannot be over emphasized. Even the United States and other countries who have legalised homosexuality are grappling with the issue of general acceptance in reality, there are huge variance by region on the broader question of whether homosexuality should be accepted or rejected by society. Although western scholars opine that criminalization of homosexuality is inconsistent with the international human rights laws. The place of cultural relativism cannot be over emphasized. Hence, it becomes apparently difficult to achieve

³² Section 37 of the 1999 Constitution of the Federal Republic of Nigeria guarantees the right to private and family life.

³³ *ibid.*

³⁴ African Charter on Human and Peoples' Right

³⁵ International Covenant on Economic Social and Cultural Right; International Covenant on Civil and Political Rights.

³⁶ Section 45(1) (a) Constitution of the Federal Republic of Nigeria 1999 (As Amended)

³⁷ Section 37,38,39 and 40 Constitution of the Federal Republic of Nigeria 1999 (As Amended)

universality of homosexual rights, irrespective of western persuasion on the grounds of respect for human rights, as human rights without limits are recipes for the destruction of any society. The culture and morality of a people must be taken into cognizance, because it is important to know that culture and morality are inextricably linked with each other. The article argues further that cultural specificity of human rights might be dangerous, as extreme relativism can very often be an instrument for dictatorial regimes to relay on in committing all sorts human rights abuses in their countries. Relativism makes it impossible for human rights violations in such regions to be condemned as violation may be legitimately acceptable in the culture of the affected people.

Homosexuality is offensive to our cultural fabrics and capable of desecrating the much admired sacrosanct and immutable core values and public morality, hence the import of section 45 of the Constitution of the Federal Republic of Nigeria which gives constitutional backing to laws that restrict certain human rights in as much as such laws are reasonably justifiable in a democratic society. The present anti same-sex acts comes within the purview of these constitutional provisions.

Recommendations / Contribution

Having discussed conceptually the relevance of morality and cultural values, it is obvious that homosexual rights cannot be universal considering the peculiarities of certain culture and religion. Therefore article suggest thus:

- That despite the persuasion from International organizations that has homosexual human rights issues in focus and the consensus in civilised democracies in the light of judicial decisions, dissenting states should not engage in any parity discourse. As such paradigm shift will grind our moral fabric to a halt.
- In solving the dilemma and dichotomy of human rights, the tension between cultural relativism and universalism need not be destructive; rather it should generate new insights that will strengthen local and global efforts to bring human rights to life by encouraging cross-cultural dialogue to generate a more universally acceptable architecture of human rights, predicated on the understanding that no culture is complete.
- Nigerian Government should not succumb to western pressure to repeal the specific provision of the same sex marriage prohibition act that criminalize the formation of, and support to Lesbian, guy, bi-sexual and transgender organization. That specific provision has douse sponsorship of the group, for fear of facing the law.
- Nigerian Government should disallow the engagement of special mechanisms to integrate sexual orientation and gender identity issues in the execution of any mandates, including when adapting thematic and country specific resolutions.