

Development of Human and Cultural Rights: A Study of Synergies in the Case of Gay Rights in 21st Century World Order



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Abstract

The paper looks at the approaches to universal human rights by relentlessly focusing on the individuals on formal equity and abstract autonomy, whether it will be in the domain of culture or human rights. The human rights corpus view the individual as moral universe, it rest upon the philosophical claim that exists within rationally identifiable moral order whose legitimacy is 'pre-social' and prehistorical; and applies universally and equally to all human beings. It devolves on the plank of moral universalism, so in this consideration, the main task of this paper, lies on the imperative of finding a genuine interpretation in resolving the politics of epistemology, diversity and dissent within understanding of gay rights in 21st Century human existentialism. Under the avalanches of history and of the constructivists approach, the epistemic structure of gay rights are internal cultural affairs which can only be accepted within culture as a right passage of national policy. Considerably, it is in this trajectory that our findings support the thesis that, it is a tool of humiliation, discrimination and subjugation in the nations that do not primarily observe it as norms. It is inherently incompatible with some cultural institutions that do not accept it as a public policy issue.

Keywords: Queer theory; Homonormativity; Heteronormativity; Religion; Human Rights; Cultural Rights

Introduction

Issues of human rights significantly define the world in our time. Peoples everywhere are consciously demanding of their rights as human persons. So, the imperative of the gay rights are becoming a moral problem in 21st century world, order. Indeed, it exhibits a form of reasoning that conceals a particular politics of interpretive authority that seek to make universal argument about justice on the rights of gay marriage (same sex marriage). The hermeneutics accruing from this are many. It trails into the specifications of the ascendance of gay rights in human rights discourse, as if, it is through the articulation of sexual orientation and 'gender identity' resolutions, or in the manner in which pursuit of same-sex marriage can be interpreted as creating and stratifying new forms of heteronormativity and homonormativity. Considerably, this inquisition is based on the general articulations of rights interpretive concept of human rights on the avalanche of the corpus of universality. Human rights are the inalienable rights to which all human beings are entitled, irrespective of race, nationality or membership to particular social group.

They specify the basic and minimum conditions for human dignity and outline the basic conditions for human existence

[1]. Hence, it is based on this parameter that the human rights watchers are focusing on the individuals on formal equity and abstract autonomy. The individual is viewed as a moral universe. It rests upon the philosophical claim that there exists a rationally identifiable moral order whose legitimacy is pre-social and prehistorical; and applies universally and equally to all human beings. It devolves on the plank of moral universalism within a political legitimacy of authority. So, it is on this light that the term human rights are nearly criterionless. There are lots of ambiguities begging the question on the criteria for determining when the term is used correctly and incorrectly - and not just among politicians, but among philosophers, political theorists and jurists as well. The language is being debased on various forms of interpretations. Thus, it is under this argument that the issue of gay (LGBT) rights are being discussed, and that it has turned to be a subject of manipulation through the politics of epistemology, diversity, and dissent in some cultures.

In view of this analysis, this paper is profoundly a critical interpretation and evaluation of human rights towards the understanding of gay rights (LGBT) in the society. How it brings skepticism to the methodologies already founded on the ideas of heterosexuality of marriage institutions. Thus, this paper is

a challenge and a critical analysis of socio-political institutions, political structures, and socio-cultural processes inherently in nature of heterosexuality, as a form of legality within the concept of human rights. Literarily, it is within this justification that the political strategies advanced by transnational LGBT rights advocacy have been criticized by a number of queer theorists as pursuing a “politics of normalization” [2]. Following this link of argument is to critically assess the political developments of the global LGBT movement, with specific reference to the conception of LGBT rights as Human Rights. The means of LGBT rights as human rights will amount to a political claims of LGBT persons. Mores, this work has been calibrated on the comparative analysis of cultures that are seemingly different in politics of epistemology, diversity and dissent.

This means findings - which comes from a variety of the socio-political institutions in different parts of the world. All support the view that people process negative and positive cultures differently. In the western philosophical thought, dates from the period of Aristotle, the legal justice rests upon national justice that has the same validity everywhere and does not depend upon acceptance. So, human rights are source of moral and therefore political legitimacy of human rights. It connotes to the legality of the rights of individual, but in the African philosophical thought, the individual sees himself in relations to the whole, so the issue of human rights is holistic in the sense of cultural affairs. It is based on this, that there is no justification for gay rights in Africa. They often see gay issues as aberration of the socio-political institutions, which does not require any ounce of rights at all. It portends a sacrilege of a taboo and humiliation to the person that indulges in such act. There is no conscientious obligation that such act is appropriate. It has no political legitimacy of authority in Afrocentric cultures. In this regard, any form of enforcement or adoption, will be by a migration or hybridizations of culture in Africa; through the manipulations of the politics of epistemology, diversity and dissent in the 21st century world order.

Seen in this way, the surge of gay rights palaver in the 21st century politics is inherently “unrealistic”; because it gives us a distorted view of the world; to some people, it is a subject of individual rights, and as such should be universal. Such grants of norm in a society will amount to a colossal damage of socio-political institutions in any country. How do we depict a value that does not synchronize with the traditions and culture of the people? How do we select small sample of subjects, events, and trends in the world from the teeming multiparty without distorting their significance? These are problems associated with gay rights, and it will be the subject of highlights in this paper.

Human Rights: Categories and Implications to Gay Rights

The study of gay rights brings us to the classifications of human rights. What does it mean to be right in the society? What

constitutes an individual right? What will be the instrument of measurement of this hierarchy of rights? Again, what constitutes the concept of universal and cultural rights? Is gay a phenomenon of a universal issue or an embodiment of a cultural or individual right? All these are problems that need to be clarified in the evaluations of gay rights. Thus, in this consideration, Finnis in Odimegwu [3] argues that human rights are justifiable on the ground that they serve to protect and promote certain essential human interest. It is on the instances of this, that they are very instrumental values for securing the necessary conditions of human well-being. So, the issue is being very pivotal to the rights of individual well-being and should not at the same point become very detrimental to social wellbeing of the state. The state embodies the individual and must not be allowed to be destroyed by the individual sense of autonomy in the society. “Rights, they claim, are a manifestation of the exercise of personal autonomy” (Fagan, 2006:16), so the problem now lies on the principles of societal evaluation of individual rights, whether it can be generally accepted in the society. Rights can clash where my right to well-being can be secured only by failing to protect your right to liberty.

However, “such conflicts among competing rights claims constitute especially poignant moral dilemmas, for any resolution is imperfect from the moral point of view” [4]. Thus, such a situation in the affairs of homonormativity and heteronormativity of rights claims portends attention on the positive legality of the law. The parties to this claim require a social justification for adjudication on the basis of moral and legality of the political legitimacy in the settlement of the conflict. The state’s responsibility to adjudicate the clash of rights justly is the panacea to this conflict, because both have the subject of interests and claims, regarding the values and benefits of gay rights/non gay rights in the society. What is really needed in the evaluation and resolution of this conflict, should be through the avalanche of social/biological/cultural - stratification of values based on the utilitarian ground that gay is on the invisible minority of civil rights enclave, protected by law as citizen of a particular national. “Civil or judicial rights are rights to the impartial administration of civil and criminal law in defense of property and person” [5].

The argument to the proposition, relates to the justifications of gay rights as a civil responsibility for the general protection of life of every person including gays, and the autonomy of individual space. Analogously, the civil rights judicial interpretations also promote the integrity of harmony and orderliness in the society, and so the adoption of gays (LGBT) rights can bring disorderliness in the society. It will create a social misfit of cultural revolution of identity crises, sexual promiscuity among gay people, spread of sexual transmission of diseases (STD), social disorder and intolerance among the homosexuality and heterosexuality classes. These are all indications of incivility among the people with the recognitions of gay rights claims. The government is generally recognized to have obligation to enhance conditions

that promote the flourishing of individual lives. Thus, any form of juxtaposition will destroy the ability of a good government in protection of life and property in the society. The government sole responsibility is for the social harmony and building of a viable nation free from any abnormality of social harmony. In considering this, the government action can be evaluated in terms of a collective interest not just on the personal interest. The government formulates different alternatives based on the greatest good for all parties involved in the state, and not what will bridge peace among them like (LGBT) rights. We are essentially pessimistic about the state's ability to define and enforce order for the benefits of a common life for man and woman.

Human Rights Versus Cultural Rights: Implications to the Synergies of Gay Rights

The full development of the concept of human rights means a development of the distinctive characteristics that differentiates it from cultural rights. It is based on this imperative that we will discuss it with the implications of gay rights by showing the model of some differentiations in the concept. The concept of human rights is normative and prescriptive and as such have some atrophied understanding in relation to culture(s), because its general articulations on the concept of rights have some different interpretations. The hermeneutics emanating from it are many, because it doesn't give full justifications on the notion of cultural rights. Considerably, on the meaning and analysis of rights, there is a big cultural divide between human rights and cultural rights on the implications of gay (LGBT) rights discourse. Both expresses the property of rights with the synergy lies on the right hermeneutics understanding of the term "gay" or its epistemological experiences in the language analysis.

In Africa, the clash is obvious because whilst they emphasize duties of the community, the human rights on the other hands epitomizes the universal rights of individual in all cultures. Human rights are those rights that individual enjoy because he is human, and no government body, group or person can deprive it from them. It is the rights of individual autonomy, right to life, right of self-preservation to own property and exercises his/her liberty in the state. It is the right to education, fair trial, protection from torture and freedom to vote and expression. Thus, it is on this imperative, that the proponents of universality of human rights, argue that international human rights norms have moral and legal authority, because they constitute the world community's consensus regarding all the ethical behavior between governments and their citizens. Under these circumstances the implication is that there is no right modus of the implementations of gay rights or same sex marriage within the concept of human rights interpretations. The general indication is that the concept of human rights will not be able to mediate or entertain the issue of gay rights on the parameter of individual rights when in actual sense it contravenes the right to peace as a public good, the attainment of it should be normative

and practical good of each society and individuals in which it inhibits to live in mutual harmony. As put by Nickel [6] "the full development of the concept of human rights also means a development of the distinctive characteristics that differentiate it from natural rights".

Hence, the issue on this matter does not necessitates the ambivalence of the emergence of gay rights on the ground of individual rights to freedom, but it will require the evaluation to be based on the cultural affirmative actions, and as well natural rights. However, it is within this trajectory, that our propositions stand to attest the value of true principles of human rights. The essence of human rights law was to protect the individual in all countries, but that does not mean that it should legitimate the authority of individuals in circumventing the cultural rights of the state. The gay (LGBT) rights are under the subject of individual utility that does not promote peace as a public good. The attainment of public good should be altruistic and does not select sex, race, language, diversity or dissent. So, gay (LGBT) rights is a selective process of discriminating from the heteronormative kind of sexuality. It is not normative and practical good of every society; because it is not mutually homogeneous in social intercourse. Its claims and challenges to states on the concept of gay rights is very ambiguous, on the fact that the issue of gay rights is not human rights but about cultural rights. Considerably, it is in this light, that promotion and practice of gay rights in Africa has been underpinned by dominant liberal west political and economic philosophy, which privileges the imposition of gay (LGBT) rights in another sovereignty. The claims and challenges of human rights should be the subject of ratifications on the ground, that it does not depict a negation of socio-political and economic growth of a state. It should be part of the issues of circumventing the negative atavistic tendencies, inhibiting individuals in all cultures. Advocates of the interest theory like Finnis in Odimegwu [3] observe that:

Human rights are justifiable on the grounds that they serve to protect and promote certain essential human interest. Human rights therefore have instrumental values for securing the necessary conditions of human well-being (p. 356).

The human well-being does not stem to the individual wellbeing alone, but also to the societal harmony. A right should accord us to a cultural good and for the societal harmony; not just only on the self-indulgences. Perhaps, it is in this plight that Fagan [7] expresses it thus:

Philosophers have tried to justify human rights by appeal to such ideals as equality, autonomy, human dignity, fundamental human interests, the capacity for rational agency (p. 13)

Considerations like the foregoing have inclined many human rights philosophers to the argument that institutions entrusted with care of citizens and peoples of the world should also have the duty to provide and protect the rights of individuals on the bases of moral and legal respects of the society in which they

live in. Therefore, governments, international and governmental bodies should be inclined to protect not only the institutions, but the individual as well. However, it is based on this trajectory, that the issue of gay rights should not be valued on the circumstantial evidence based on human rights. It is a cultural phenomenon of a simple minority interest seeking to have a political legitimacy. Their concept of rights is basically conflictive and not sustainable to the global society founded on respect for nature, universal human rights, economic justice and culture of peace. Towards this end, it is imperative that we declare our responsibility to one another, into a greater community of life.

Can Human Rights Justify Gay (LGBT) as Rights?

Our submission is that there was a surreptitious recognition of secularism, capitalism and political democracy through which rights are being guaranteed in the society. The failure to wrestle with actual categorical propositions of rights gives credence to the synergies of conflict between the heterosexuality and homosexuality groups. From the start, the human rights movement and its founders did not see themselves as charged with the responsibility to address or classified rights categorically in the sense of LGBT rights. Thus, it is based on this consideration, that human rights corpus is defined by a variety of pathologies - both of choice and substance - that are limited and limiting. Many of these pathologies arise not only from the internal logic of the corpus, but also the tactical and strategic choices that does not support some commitments to the cultural rights corpus. The equation of the containment of state despotism with the attainment of human dignity has been classified effectively. It has been the conflict with the LGBT rights on the nature of claims.

In following this consideration, the limitations that curtail the ability of the LGBT rights corpus to respond to the state human rights claim are conceptual and normative. The first limitation is simply one of the idioms in which the rights discourse is formulated. The language of rights, which is central to liberalism, is fraught with limitations that could be detrimental to the project of transforming deeply distorted societies. Inherent in the language of rights are indeterminacy, elasticity, and the double-edged nature of the rights discourse. All these characteristics open the rights language to malleability and misuse by malignant social elements, and they turn it into a tool in the hand to press for the political legitimacy of the LGBT rights in this 21st century. A case in point is the recent campaign for the LGBT rights which is fundamentally and deeply queer attitude, a social dysfunction and the perverse legacy of human rights in some nations of the world, notably the United States, Britain, Canada, Nederland, France, Germany etc.

Another problem of the liberal tradition of LGBT rights, which has been inherited by the human rights movement, is its unrelenting focus on individualism. This arises from liberalism's focus on formal equity and abstract autonomy. The human rights corpus views the individual as the center of the moral universe

and, therefore, degenerate communities, collectives, and group rights. This is a particularly serious problem in the realm of cultural norms, religious group; where group and community rights are both deeply embedded in the cultures of the people. In reality, this is an exhibition of individual rights of citizens within the state and seeks to be addressed in the context of group rights. Thus, group rights or the rights of peoples become important entitlements if the state is to gain the loyalties of its diverse citizens. Literarily, individualism is still important for any constitutional democracy, but we reject the idea that it can strive to the recognition of the LGBT rights in a state of political community. That would be a stunted understanding of rights in any country, because one has to go beyond individual and address group identities in the political and economic framework of the state.

LGBT Rights and the Religious Reality

Assuming these philosophical difficulties on the avalanche of the LGBT claims, are important, how can religion as conceived be of any help to the reconstruction of the LGBT rights in 21st century world order? This underlies Adriaan [8] warning "that virtual ignoring of religion in queer theory is already problematic vis-à-vis Western context but even more so vis-à-vis African context where religion is so enormously vital and plays crucial and public roles" (p. 2). The relationship between religion and LGBT has varied greatly between different religions and denominations. They have different attitudes towards these sexual orientations of LGBT rights. Most of these religions view homosexuality as sin, an abnormality to the society. Such mythologies and traditions can be seen in many world religions, with exception of Hinduism, which does not view homosexuality as a religious sin. Hinduism does not condemn homosexuality, but teaches tolerance, equality and acceptance of all people, regardless of race, religion, gender or sexuality [9]. Opposition to same sex marriage and LGBT rights is often associated with many religions on the ground of a divine command in the sense that they derived their validity from God. They believe that morality (i.e. rightness and wrongness) originates with God. That is to say that "the moral rightness" simply means "willed by God", and moral wrongness means "being against the will of God" [10].

Considering this fact above, what we meant here is that: morality is not only originated with God, but moral rightness simply means "willed by God". Thus, it is in this perspective that the LGBT rights have been rejected by religionists as immoral. It is a moral wrongness being against the will of God. It will also help to bring order to the world rather than chaos. The queer LGBT is the abnormality of the traditional institutions and negation of the biological structure of human reproductive system. It is an aberration of culture(s) by allowing of same-sex marriage, lesbianism, homosexuality, bi-sexual and transgender as a legitimate culture in spite of their conflicting interests in the heteronormative, heterosexuality cultures. The content of a

queer theoretical approach, which seeks to engage and disrupt the normal heteronormative procedures, varies depending on the shape and functioning of normativity's that takes a particular setting in a culture.

Conclusion

Generally, the discussions of the paper have basically focused on the reality of family institution on the system of sexuality between the homonormativity and heteronormativity structure of human sexuality. It emphasizes on the real issues of gay rights, in trying to emancipate oneself in the avalanche of gay stigmatization in the society. Thus, it is based on this consideration that there is a classification of interest or synergy between the concepts of human rights and cultural rights, on the issue of gay rights. The obvious question, lies on the real epistemic framework of what is being understood as gay (LGBT) rights. What are the social stratifications that grant their legitimacy of autonomy in a state? These are all that have been expressed this paper.

Interestingly, the cynosure of proposition has some elements of conflict: It explores the conflicts of identity between the cultural rights and human rights - on the nature of stigmatization of gay, lesbian, bi-sexual and transgender in the society. Relating to these propositions, there is an indication of social conflict on the right ethical process to the concept of a genuine sexuality. So, it is on this plight that we genuinely ascribe to the principle of heteronormative sexuality as a collective action of a rational order that resolved this conflict of interest. It is within this realm of societal culture of heterosexuality, that reproductivity of the human species that social harmony occurs. It is in this

manner, that every individual in the society upholds his/her virtue altruistically. An action is good or bad, not in reference to self-indulgences as gay, but by the love of others in the political society.

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