The Real and Potential Social-Psychological Values of Same-Sex Marriage: *A Philosophical Rumination on the Nigerian Context*

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Abstract

The issue of *same-sex marriage* (S-SM) has become a source of worry around the world. While some countries have legalized the practice, some other ones have not; and yet others are considering formalizing it beyond mere civil union. There are so many philosophical (favorable and others against) arguments about the practice of S-SM, ranging from religious, cultural, legal, and political grounds. However, that the idea of S-SM is being accorded a modicum of praxis around the world implies that there, in the least, are some perceived (or real) social values of the practice. Hence this theoretical but lateral article, by analyzing of specific available literature on human sexuality vis-a-vis marriage/sex, explains the essential nature of (the issues concerning) S-SM or union, and articulates the possible social and psychological values accruable from the practice. It outlines and juxtaposes the moral and legal suasions surrounding the doctrine of S-SM so as to spit an overview of its personal/psychological and social values. It thus articulates a philosophical basis for the possible tenability of the same-sex (S-S) union as state doctrine and policy for nascent society that desires to stamp out the excesses of orthodox marriages such as, in the least, violent rivalry arising from sexual interests, gender agitations, and avert population explosion.

Keywords: Society, psychology, sex, sexuality, marriage, values

I. Introduction

For decades now, the idea of same-sex marriage (S-SM) has become an issue around the world. And as the world is increasingly becoming more knit together through social media, the quest for and issues arising from S-SM are infiltrating every society. Moreover, so many philosophical arguments (some in favor and others against the practice) of S-SM have emerged. For instance, Asekhauno *et al* (2016) reviewed some of those arguments in detail and suggested that the nous of S-SM requires first of all a re-conceptualization (or re-definition) of the meanings of the institutions of marriage and family. It is obvious, however, that those authors had yet to come to grip with the growing personal and social attractiveness of the emergent practice. Moreover, that the idea of S-SM is being accorded a modicum of praxis around the world only implies that there, in the least, are some perceived or real social values that could accrue by the practice.

Fortunately, it is possible and necessary to outline the essential nature and issues concerning S-SM on the one hand, and articulate its possible social and psychological values, on the other. In order to achieve this, we shall immediately analyze some specific (available) literature on human sexuality vis-à-vis marriage/S-SM, and thereafter outline, articulate and juxtapose the moral and legal issues and suasions surrounding the doctrine or practice of S-SM; and to spit an overview of its real/potential social/psychological values. Hence the philosophical structure/base for the tenability/acceptability of the union shall also be articulated—which is particularly necessary because, in the end, the extant stigmatization the union invites would thus be theoretically stamped out.

We hope that the reader infers the mind-set behind this piece that proponents and/or practitioners of same sex union could contrive a defense as the one presented here; yet it is further hoped that the reader develops a critical response to such proponents. However, this discussion is of a general sort—even though marriage or sex climate in the Nigerian context forms its background (electrified by boundless promiscuity, marital infidelity, and irrational commercialization/commoditization of sexual activity). Thus contemporary Nigerian experience of sexual activity has become a mockery of traditional African values surrounding marriage and the family (Asekhauno, *et al,* 2016). But if modernity, civilization and inordinate quest for individual freedom herald or portend S-SM, then the practice possibly has some practical values. Perhaps, an assemblage of those values could be comprehensive once the province of marriage and that of sex/sexuality are initially distinguished.

II. Marriage

Though the institution is universal, marriage is a cultural phenomenon which sanctions a more or less permanent union between partners (usually of opposing sexuality), thereby conferring legitimacy on their offspring(s) (Hogan, 2006, 235-236). Marriage is a socially acknowledged (permanent) sexual relationship or union between two adults. While in some society (mostly Western) individual choice of spouse seems prevalent, in much of Nigerian cultures, there is deep involvement of parents and (in some cases) extended family members in mate selection (*arranged marriage*). According to Garner (2009, 962) and Curzon (1993, 1059), the essentials of a valid marriage include: that the parties be legally capable of contracting to marry; some mutual consent or agreement by the spouses; and actual contracting in the form prescribed by the law on marriage (conjugal union, cohabitation and consummation). As the bases for "security, support, and companionship", forms of marriage vary from country to country, culture to culture, religion to religion, and civilization to civilization (Dawood and Anor, 2000). From Christian and Islamic respective points of view, marriage is essentially heterosexual (Ebrahimi, 2005). In traditional African jurisprudence, marriage is regarded as, first, a relationship among the families of the couples; and, second, a relationship between the couples (Subbarao, 1992, 5).

III. Marriage in Traditional Africa: Nigeria as Case Study

We shall treat of Africa as the sub-Saharan region. The various cultures within the region have similar forms of marriage; they also stipulate the rules of its engagement and sanctions against their infraction. In Nigeria, beyond the popular forms of *polygamy*, (*polygyny or polyandry*), and *monogamy*, cultural variants of marriage include *Surrogacy*—which allows a barren wife to choose a mature fertile female to have (a) dowry paid on her, and (b) have sex with one's husband to bear children in her (the wife's) name (as among the *Bini*). *Sororate* permits or requires a man to marry the younger (if any) sister of his deceased wife as a single or an additional one to others because of his good experience with the deceased (as among the *Afemai*). *Widow Inheritance*—permits one to marry his dead father's or brother's wife and the children therefrom are his (as among the *Tiv* and *Ishan*). *Ghost marriage* allows a younger brother of a dead bachelor to marry and raise a family in his (the dead bachelor) name (as among the *Calabari*); and *Levirate* allows one to marry his dead father's or brother's (or any kin's) wife and the children therefrom belong to the deceased (as among the *Fulani* and *Afemai* and *Yoruba*). In all those forms, every marriage is formalized by the payment of bride-wealth. However, in some cultures (as the Nuer tribe), a wife may acquire another woman (by paying her bride price) to bear children in her (the payer's) name as if it is another/independent marriage altogether (Agomo, 2007). Invariably, the issue of same-sex marriage perhaps does not arise because what is

clear among those cultures (as against S-SM claims) is that the sexuality of the parties to every union (marriage) is essentially (and only of) those of opposing gender as against the more accommodation of some other culture (Aigbona, 2015).

IV. Modern Nigerian Statutes on Marriage

In Nigeria, the grand statute on marriage is the *Nigerian Marriage Act* (NMA, 2007); the second is *The Constitution of the Federal Republic of Nigeria* (1999); and the third, the *Matrimonial Causes Act* (2004). Among these three, the *Interpretations Act* recognizes that the provisions essentially refer to or connote monogamous marriage, which, in turn, is in harmony with the Christian consideration of (valid) marriage. Yet the Quran at chapter 4 verse 3 instructs men to "…marry women of your choice…two or three or four…." Certainly, what is meant by marriage here is simply between a man and a woman or several women. However, customary law marriage in Nigeria varies from culture to culture (Elias, 1956). Most customary (native) and Islamic marriages also accommodate polygamy. At common law, marriage is defined as the voluntary union for life of one man and one woman to the exclusion of all others (1866 LRIP & D). Despite their various obvious or subtle differences, all those versions of marriage-statutes are recognized by the national constitution. In all, even though these statutes on marriage portend some psycho-physical relationship often involving sexual activity.

V. Sexuality, Sex and Same-Sex: A Synoptic Insight

Sexuality implies "an expression of those socially constructed qualities, desires, roles and identities that have to do with sexual behavior and activities" (Pierson and Thomas, 2010, 479). Hence the term, *sex* could be considered from two standpoints: one, "the peculiarities of structure and function along gender or the elaboration of the biological division…into two major statuses, male and female (sexuality)—in which case it is a mark of identity" (Hogan, 2006, 324); and second, it is *carnalis copula* (sexual intercourse)—"the physical sexual activity …" (Garner, 2009, 1499). Yet, sexuality suggests two characteristics. One, that human sexuality is essentially personal (that the sexual denomination of *male* or *female* is not a quality that pertains merely to one part of the individual person, but that it is something that is said of the whole person—either the whole person is *male* or is *female*); hence sexuality is therefore a fundamental component of personality as one of its modes of being. And two, that human sexuality is essentially procreative. This may be erroneous. Hence, it appears that human sexuality is essentially relational, unitive, and complementary. However, would there be anything wrong if the complementarity of sexuality of achieved homosexually?

The concept of *same-sex* (homosexuality) is the ceremonial union of two people of the same sex or gender; a marriage or marriage-like relationship between two (or more) men (gay), or two (or more) women (lesbianism). In some European and American countries, S-SM has transformed from mere behavioral practice to state doctrine. According to Adekile (2007), S-SM "is a relationship of homosexuality…or transsexuality." But, critically, same-sex contrasts trans-sexuality and transcends homosexuality—for the former ignites the question about the legal status of same-sex couples as spouses since they are sometimes called civil unions or domestic partnership. Thus the concept has been both contentious and litigious around contemporary world since the 1890s when Oscar Wilde was sentenced in Britain for homosexual activity; nearly 100 years later, that condition has become more intense with similar litigations in Europe. From the beginning of the 21st century Europe and several American States, statutes have passed enabling law for same-sex marriage.

Historically, vivid record of homosexual phenomenon abound in the history of the Jews, beginning with the practices of Sodom and Gomorrah that led to their eventual annihilation (Romans 1:26-27). Among the ancient Greece, for example, "all manner of unseemly and unnatural sex relations existed, including men having their women in common in order that they might all be brothers and kinsmen and have no envy or hatred towards one another" (Ehiwele, 2007, 99). Plato's picture of the ideal state also reflects such scenario common property ownership (Popkin, 1999). Nigeria's recognized first encounter of the practice was in 2005 (*Anyagafu* & Enyeoka, 2006). Not long, Nigeria officially outlawed S-SM in 2006.

VI. Arguments Against/For S-SM: A Summary

There are many arguments against as there are for S-SM. One major argument against S-SM is that it is illegal (in Nigeria). The issue of same-sex marriage perhaps arises because what is left to be determined is the sexuality of the parties to this union. Even though the *Marriage Act* commits to protect marriage institution as cultures dictate it in Nigeria (Africa), there seems to be a flaw in the ambiguity of Session 49:

> Subject to Sessions 50-53 of this Act, a marriage between parties one of whom is a citizen of Nigeria, if it is contracted in a country outside Nigeria, before a marriage officer in his office, shall be valid in law as if it had been contracted in Nigeria before a registrar in the registrar's office (NMA).

It appears as if this provision permits any kind of marriage union including homosexuality. On the other hand, some (Oke, 2017) have argued, in reference to certain

lower animals and beasts that freely engage in "same-sex relations", that homosexuality is natural and consistent with human sexual desires too; that homosexuality is as natural as any other sexual inclination; and that, at worst, it ought to be taken as the cumulating of the freaky interactions of genes and cells in the prenatal formation of the specie giving rise to the uncommon/unusual (but natural) sexual behavior now known as homosexuality. Whatever the merit in those positions, the sum is that S-SM could be of some value to both the individual person and the society.

VII. Major Social-Psychological Values of S-SM

Agreeably, S-SM could produce certain important social and psychological benefits (Aminu, 2017). The discussion of these could be achieved by categorizing each accordingly as either social or personal/psychological—even though both portend societal gain.

S-SM eliminates promiscuity/rivalry, rape, and competitiveness. One possible value of S-SM is that it could reduce promiscuity. Research (Asekhauno and Udokang, 2014) shows that promiscuity is more prevalent among bi-sexual activity. Fortunately, S-SM is congenial to individual freedom and less ubiquitous; so also is its excessiveness (Aminu, 2017). In addition, one undeniable fact of today's human sexual attitude is that sex activity has reared an atmosphere of promiscuity, which often leads to jealousy and rivalry. The immediate consequence of this is, especially for the disadvantaged, avenues of rape and sexual violence. Fortunately, those motivations could be less widespread, violent and expressive when the partners are of the same sexuality with trust and confidence on one's partner—a herculean feat for orthodox counterparts. This implies that those negative implications of failed attempts at sexual fulfilment do not arise among S-SM society.

Similarly, S-SM could *limit sexually transmitted diseases STDs*. It is unarguable that STDs arising from bi-sexual activity are wide-spread world-over—which has resulted from (mostly) the complex web of indiscriminate canal sexual activity even in the sacred corners of contemporary world. This does not undermine the fact (Oke, 2017) that very unusual diseases result from homosexual activity (especially with gay). The fact is that S-SM could mire the extant uncontrollable widespread of common STDs as a result of reduced degree/network of promiscuity, the commoditization of sex, and extra-marital affairs.

It is reasonable to think: *If sex is the basis of marriage and its stability, then homosexuality is best suitable for such*. This is because it is more stable and less likely to end in divorce which has a lot of undesirable implications—both on the side of the parents and their children. Moreover S-SMs essentially thrive on faithfulness and solidarity—two requirements for marital stability. Hence considerations and concerns for those bio-physiological

formations such as genotype and blood group (its content and quality) in selecting partners do not feature in S-SM settings. Similarly, the anxiety/weight and agony of pregnancy does not surface; the pains and pangs of dysmenorrhea and its psychological overflow/effects are of little interference for the expression of sexual activity for the S-S partners as it is for orthodox marriage unions.

Remarkably, however, S-SM is a direction away from exaggerated erotic/arousing entertainment and sexual activity (music, style, values, social mores, etc.). Unregulated video theaters of perverted sex have sprung up across the world; these makeshift shafts have become open to all, regardless of age. Irresponsible and immoral order (replete with different postures of nudity) has become inevitable in the contagious effect, breeding social dislocations everywhere. For example, next-to-nudity has become the ideal fashion, indecent exposure; violent attractions, rape, and perversion pervade modern society. S-SM negates such degeneration because it does not really thrive on opposing sexuality and nudity; hence it could *build some moral order devoid of incisive nudity and porn.* One consequence of incisive nudity and porn is that it could arouse irrational sexual urge on the perceiver(s). Unarguably, man by nature is an embodiment of emotions; he is easily attracted to those objects capable of pleasing/offering pleasure (appetite), and away from those that could hurt (aversion). However, S-SM divests nudity or porn of such capacity in that those aspects of human anatomy which really could arouse such emotion become less emphasized since the real force of attraction is other than bi-sexual activity (Emaku, 2016).

The immediate offshoot of the foregoing is that *S-SM eliminates the puzzle of sexuality and the exegesis of gender inequality/disputation.* The very nature of S-SM implies conduct by the partners devoid of either overriding the other sex—especially since the relationship thrives mostly on homosexuality. By implication, S-SM restores or assures gender equality/respect, and suppresses gender sensitivity—including the implications therefrom. Hence the seemingly irrational quest for "women's rights" does not arise.

Another socio-psychological value of S-SM is that, since the union does not thrive on copulation based on opposing sexuality or secretion/fusion of female-male gametes, *the sexual behavior or activity of the union cannot directly result to pregnancy*. The implication of this is that issues over "unplanned or unwanted pregnancy" do not arise—thereby reducing the risk/issues of abortion. What therefore counts **is** intimacy, not child bearing. By implication incidences of 'fatherlessness' or child-dumping do not arise. As a corollary, according to Oke (2017) S-SM/union possibly is not affected by those bio-physiological

considerations as for *genotype* and *blood group* (its content and quality) which often mire or mar regular unions whereas S-S partners freely engage in mate selection.

S-SM abhors or is *a sure guard against (child) sex trafficking*. Sex trafficking has become widespread around the world as a means of survival or to rip capital. Hence, an ideal S-SM (which does dot thrive on procreation) would also not strive for adoption, in which case the supply market for children would fall. As the above point stands, the true test of S-SM is that it is a real opportunity *for expression of true love* (often devoid of material or extraneous considerations), true partnership, selflessness and security. Thus S-SM provides for the partners a sense of belongingness.

Accordingly, SS-M *eliminates the hopelessness associated with infertility and the stigma of impotency*—which is the inability or incapacity of one to achieve an erection or to have sexual intercourse. Impotency is erectile dysfunction (Garner, 2009, 825). Note that the erection of sex organs is necessary for heterosexual or bisexual activity; genital erection is necessary for the consummation of orthodox marriage. Thus any partner who is incapable of this act becomes a recluse, stigmatized and often degenerates to some feeling of rejection. Impotence could render a marriage null, void, or voidable, as against S-SM because it is not solely validated by copulation/consummation. S-SM could be sattling without offspring. Potentially, impotency or infertility could produce some psychological state in spouse: generates inhibition (non-willingness to engage in sexuality by recourse to inhibitive tendencies or defense mechanism); or develop sex-scare, turgidity-scare, chauvinism, all which eventually produce sexual insatiability and/or lack of orgasm. All these could generate in the individual an aversion for the opposite sex and one becomes admirer of one's sex traits—this trajectory could find expression and culminates in S-SM. This point is both a reason for S-SM, and an explanation for the role it plays in *stamping out those nasty possibilities or undesirable tendencies.*

Moreover, *S-SM forestalls the idea of exploitation*—which is the bane of contemporary world (Weithermer, 2016). Let us take the analogy of sexual exploitation, for instance. Exploitation must be understood in terms of its synonyms such as misuse, abuse and mistreatment. What this means is that the prostitute, for instance, is seen as simply as an object of use or utility which could be abused, misused and mistreated and eventually abandoned. In other instance, it is possible for either sexual partner to exploit the other on the calculus of comparative cost vis-à-vis satisfaction (Asekhauno, 2018). At any rate, S-SM forestalls the possibility of sexual exploitation by either party since there is proven equality of the potency of both sexes.

Again, by its very nature, *S-SM prevents population explosion.* The essential nature of S-SM is that it cannot lead to pregnancy. In mostly Nigeria today, both the rich and (especially) the poor have remained largely instinctive when it comes to reproductive activity. Hence the nation's population has risen tremendously: from 45 million in 1945 to 180 million in 2011 (NPC, 2011). However, because while bi-sexual activity goes on, S-SM is incapable of breeding children; then the seemingly uncontrollable and geometric progression in world population development comes to its natural halt. Or is this potentiality not worth trying?

VIII. A Terse Analysis, Conclusion and Recommendations

We must reiterate that this is a lateral piece on S-SM based on some basic premises in the Nigerian context, to wit: one, that the institution of marriage and the family is essential feature of human social nature; and two, that S-SM/union is a fact of contemporary society. From the discussion, it is clear that forms of marriage vary from country to country, culture to culture, religion to religion, and civilization to civilization. Since this is anything to go by, it follows that contemporary civilization has morphed to encounter S-SM/union; though the practice may be absurd, but it is a social reality which status must be addressed. Yet the extant definition of and the law on marriage in Nigeria has yet to accommodate S-SM.

This work affirms that sex is natural (human) activity. The phenomenon of same-sex union is topical in contemporary discourses—though it has not been as emotional and problematic in Nigeria (Africa) as it has among the Western world. Many countries and States amongst mostly Western world have passed legislation permissive of same-sex marriage. As Nigeria is sank within the pressure of the agitations, this work pointed out some of the perceived or (possibly) real personal and/or social values of legalizing S-SM. Regrettably, in Nigeria (and much of Africa), S-SM partners have remained hushed, timid and closeted. In the spirit of the Act, same-sex marriage and homosexuality and their adjuncts are forever afraid to speak their names in public.

It must be admitted that, so far, the presentations in this work could be confronted with serious pitfalls. The practice is reminiscent of bestiality. In all the circumstances, accordingly, the presentation inform that the concept of same-sex marriage could be considered inconsistent with the liberal ideals of civilized/community values (western and African): in the West, it offends the essence of the law; in Africa, it offends cherished traditional values; in both, it marks a retrogression/degeneration into the animalistic tendencies of lesser mortals.

For some, it may well be disgusting and unfortunate that the Church (catholic) has not had a common voice on the issue which even offends against God's intention for human sexuality fashioned in His own image. Fortunately, for them however, the Anglican Communion in Nigeria has come out strong against the phenomenon, for it "offends against biblical values…the beauty of holiness, and departs from…cherished traditions of holiness…" (ACCB, 2003). But how does one explain, against such background, the prevalence of gay among the priests of God at the highest level? So either ACCB is right or is wrong; if right, then there must be some superior value of the practice; if wrong, then the practice is healthy. Fortunately, far and above bestiality, S-SM is the height of expression of human freedom—a mark of higher rationality recognizing the worth of the *other sex.* Similarly, against Mbiti's and following the biblical (I Corr. 7: 1-4) and Subbarao's (1992) accounts, marriage is essentially against fornication and for companionship respectively. S-SM satisfies both purposes.

We have outlined the nature and issues concerning S-SM and discovered it is one of the many human contrivances in his freedom to achieve emotional fulfilment. Perhaps, this work has pointed out some of the perceived real/potential ills and values S-SM—the consideration of which informs that it could be tolerated. Again, if S-SM is congenial to individual freedom, then for such psychological value, S-SM could be tolerated—though with relative applicability.

S-SM practitioners in Nigeria must realize that the activity is yet to be recognized. However, S-S families should be denied the capacity to adopt children since homosexuality cannot independently produce one. Hence, against inordinate ambition/exaggerated expression, S-SM practitioners should be moderate in their activities. To revert this condition, and for the statutes and formalities to accommodate same-sex union as marriage, those extant definitions of marriage must have to be reviewed and substituted (doing such would be nothing new since older terms and concepts do acquire newer interpretations/meanings, and newer ones emerge frequently following the dynamic nature of man and society). Hence for now, and until this is done, the quest for admissible status of same-sex as marriage remains eclectic—a quest that is not plausible nor wise but threatens the sanctity of both legal and natural justice because morality, judges and the law do not work in a vacuum; they are guided by the values recognized in a (particular) society. Hence, on a final note, the law (if it cannot accommodate it) should be silent on S-SM it for now: S-SM should neither be outlawed (for persons have the right to freedom of association); nor it be legalized (for it will introduce a burden on the law to develop its principles of such marriage)—but one which does not obliterate the values of the union itself outlined above!

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