

HOMOSEXUALITY AND THE RIGHT TO SELF-DETERMINATION: A CHALLENGE TO MORALITY

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Abstract:

The main objective of this paper is to show that homosexuality is immoral by examining its socio-cultural and ethical implications. The concern is borne out of several recent efforts by human rights advocates towards a defense of homosexuality on the unjustifiable ground of right to self-determination. The paper explores the socio-cultural standards for human relations and matrimonies and concludes that homosexuality is evil, engenders terminal diseases such as HIV – AIDS and undermines society’s moral standards. The paper uses the critical and conceptual analysis while the existing literature provides the background to the paper. It is recommended that homosexuality should as a matter of necessity be outlawed in all human societies.

Keywords: Homosexuality, marriage, culture, self-determination, natural law, morality.

Introduction:

Using John Corvino’s article “Why shouldn’t Tommy and Jim Have Sex” in which he claims that homosexuality’s unnaturalness has nothing to do with morality and that homosexual sex is not harmful, this paper argues that homosexuality is immoral since it is contrary to the dictates of moral reason. In his *Summa Theologica*, in *question 94, article 4*, St. Thomas Aquinas holds that “to the natural law belongs those things to which a man is inclined naturally: and among these it is proper to man to be inclined to act according to reason” (Aquinas, 1915: 47). By the dictates of reason, Aquinas simply means that a human person must act guided by his reasoning faculty as a rational being.

The argument against homosexuality is based on my claim that it is contrary to the natural law. The natural inclination of any rational being consists of all dispositions and tendencies to action one has by virtue of the human nature. Any good pertaining to man through practical reason belongs to the precepts of the natural law. It is argued that such goods are, for example, the preservation of one’s own life, marriage and family life. I further argue that the natural law accommodates only heterosexuality, not homosexuality. I base my arguments on Aquinas’ theory of natural law found in his *Summa Theologica discussed later in this article*.

I cite the Catholic Church’s doctrine on the institution of marriage. The Church teaches that God made the married state the beginning and foundation of all human society. She regards the apostolate of married persons and of families as having a special importance for both the Church and civil society, that is, bearing of children. Basing herself on the Holy Scriptures

and on Aquinas' theory of the natural law, the Church correctly confines marriage occurring between males and females.

Furthermore, this paper takes seriously African communitarianism that is sometimes criticized as depriving individuals of their rights. African communitarianism is a political theory whose ultimate goal is the common good or rather the well-being of the community. The paper however makes a case that communitarianism respects individuals' values, but simply regards communal rights as being more valuable than individuals' rights. I accordingly conclude that homosexuality is rightfully prohibited in African communitarian societies because it is not geared towards the common good.

Self-determination argument

Proponents of homosexuality regard the principle of self-determination as their central argument. As autonomous rational beings, individuals must be allowed to make important decisions and choices about their own lives. "For libertarians, the basic unit of social analysis is the individual. It's hard to imagine how it could be anything else. Individuals are, in all cases, the source and foundation of creativity, activity, and society" (Boaz, David. 1997: 95). Contrary to communitarianism, libertarianism, that is, the right wing liberals posit individuals as being prior to their respective communities. Libertarianism is a political theory that favours a minimal state. As autonomous agents, individuals do not allow an external authority (either the government or parents) to regulate their lives. The term 'autonomy is a combination of two Greek words: auto and nomos; 'auto' means self and 'nomos' meaning rule. Autonomous, therefore, means self-rule. This amounts to saying that autonomus individuals must be allowed to rule themselves. Hence as self-determining beings, individuals are free to choose what is best for them. Even when they make mistakes they must be allowed to correct themselves accordingly. In this way, individuals are being fairly treated as adults.

As adult human beings, homosexuals are presumed to have an interest in making decisions for themselves, according to their own convictions about what they regard as good for themselves, and how they want to conduct their own lives. The principle of autonomy entitles them to choose homosexuality, if that is the life they think will suit them most. By so doing, individuals accordingly and promptly are said to be abiding by the principle of autonomy. Accordingly, the Nozikian night-watchman minimal state empowers them to be masters of themselves. It is here where fundamental human rights, particularly freedom of choice are observed and respected. External authorities that legislate laws that forbid homosexuality are in this case seen as clearly depriving individuals their right to determine their own fate. In this way, libertarianism is seen as a political theory that protects minority rights. As the minorities in their respective communities homosexuals are autonomous beings who must be permitted to freely determine their destiny.

However, just as John Locke in his *Treatises of Government* correctly holds that "But though this be a *State of Liberty*, yet it is not a *State of License* (Locke, 1966: 288), I also maintain that the liberty or freedom of individuals is not a state of license. Inevitably, every individual

has a right and is free to choose a life he or she is comfortable with. But such a freedom of choice is and must be constrained if it either directly or indirectly affects the lives of others. In other words, free individuals must take into consideration the 'common good' seriously. Homosexual marriages indirectly have a negative impact on one of the primary goals of marriage, namely, procreation. If, for example, homosexual marriages were legalized, and if the majority of couples were homosexuals, the existence of the human species would undoubtedly be at stake.

'What violates an organ's principal purpose is unnatural?'

John Corvino (2005: 2011-2013) argues against the people who maintain the view that homosexual sex is unnatural since it cannot result in procreation. According to Corvino, human organs have multiple purposes and should not be restricted to particular purposes like confining genitals solely for procreation. He illustrates his point by citing an example of a 'mouth' as an organ having multiple purposes like: eating, breathing, chewing and kissing women or men. Corvino maintains that to conclude that all other uses of the mouth are natural except kissing men is arbitrary. Hence, given that human organs have multiple purposes, same sex partners can rightfully use their mouths for kissing, and there is nothing unnatural in this regard too.

Having shown that human organs have various natural purposes, Corvino confines himself to genitals and maintains the view that they are not only meant for procreating. Sexual organs, Corvino maintains, can also be rightfully deployed for enhancing a relationship, expressing love, celebrating an event, and the like. In this way, even when procreation is not a factor at stake, sexual organs can still be used accordingly for a variety of purposes. Corvino reinstates his point by citing the doctrine of the Roman Catholic Church thus: "Indeed, even the Roman Catholic Church, which forbids contraception and masturbation, approves of sex for sterile couples and of sex during pregnancy, neither of which can lead to procreation" (Corvino, 2005: 213). He holds the view that under normal circumstances, sterile couples cannot have children whenever they have sexual intercourse. For them, sexual intercourse is just for pleasure and they also have it to express their intimacy. Given that the Catholic Church allows sterile couples to have sex aware of the fact that procreation is impossible in their condition, Corvino holds that the Church is being inconsistent when it condemns homosexuality on the ground that it is not procreative. The other reason why the Church condemns homosexuality is that it is unnatural (as I am going to show later).

However, the examples cited by Corvino in defense of homosexual people are problematic. He holds that opponents of a homosexual relationship regard it as being immoral because it deviates from the norm as most people engage in heterosexual relationships, but, he maintains, an activity of people writing with both hands is not considered immoral though they are few in number. But, the comparison between few homosexuals having sex and few people writing with both hands is quite irrelevant because the latter activity has nothing to do with morality. Relatively, few people write with left hands and accordingly this activity is neither moral nor immoral, it is just regarded as being unusual. Given the natures of homosexuality and

heterosexuality, they cannot be considered amoral. Therefore, Corvino's mode of thought is not quite right since amoral acts cannot and should not be identified with moral acts.

Again, Corvino argues against the claim that human organs have various principal natural purposes. On the contrary, Corvino maintains, our organs have multiple purposes. He illustrates his point by giving an example of a mouth as a human organ that does not have just one principal purpose but as an organ having multiple purposes. Following Corvino's mode of thought human sexual organs too should not be confined to procreation alone but also have multiple purposes, such as expressing love or giving and receiving pleasure. But, given the structure and the nature of the anus, it is such that it is clearly not intended to be penetrated by the penis, whether Corvino admits it or not. It is not surprising that on many occasions gays had to be operated, given the size of the penis tearing the anus, as medical doctors have testified.

Furthermore, Corvino cites the Roman Catholic Church that allows sterile couples to have sexual intercourse aware of the fact that their having sex cannot lead to procreation because of infertility. But Corvino's mode of thought here is somehow flawed. It is by accident that procreation for sterile couples is impossible. That is to say, sterile couples did not choose to be born sterile, it is by brute bad luck that they happen to be disadvantaged by nature. On the contrary, the same sex couples freely and deliberately decide and choose a relationship where procreation is impossible. In my view, it is clearly wrong to make a general rule that is simply based on few exceptional cases. It is like enacting a law that people should stop walking during the night because some people are blind.

The Catholic Church correctly teaches that: "By their very nature, the institution of matrimony itself and conjugal love are ordained for the procreation and education of children ..." (Vatican II Council, p. 250). By its very nature homosexual matrimony is not ordained for the procreation and education of children. If we take the preservation of the human species seriously, homosexuality should as matter of necessity be outlawed because it may lead to the extinction of the human species.

The Natural Law Theory

In his most celebrated *Summa Theologica*, St. Thomas Aquinas describes the natural law (in Question 94 with six articles) as the precept to which man is inclined to naturally, and that man is naturally inclined to act according to the dictates of reason. Based on Aquinas' theory, the paper argues that by deciding to opt for heterosexual sex man rightfully follows the dictates of reason.

Aquinas defines a law as an ordinance of reason that is promulgated by the one who has the care of the community, and it is directed towards the common good. According to Aquinas, as a directive, law must at all times be reasonable, that is to say, if it is not reasonable, it cannot qualify as a law. It ought to be directed towards the common good, and not just promulgated for the private interest of relatively few people. The one who promulgates the law must be a legitimate authority responsible for the community, and the law ought to be made known to all the subjects of the law.

According to Aquinas, natural law is the law by means of which God governs rational beings. God, the appropriate author of natural law, governs rational creatures according to their being as rational creatures. Man as a rational being is governed by God through natural law which, as a matter of fact, is a rational participation in the eternal law. For Aquinas, the participation in the eternal law by human beings or rational creatures is called natural law. Aquinas' natural law is actually identical to moral law. Hence, Aquinas' concept of natural law is, in fact, the same as moral law.

For Aquinas, the order of natural inclination is such that it is the order of the precept of the natural law. He holds that "in man there is first of all an inclination to good in accordance with the nature which he has in common with all substances: in as much as every substance seeks the preservation of its own being, according to its nature..." (Aquinas, 1915: 44). In my view, evidently the only way or means of preserving human life occurs when man following the dictates of reason is inclined towards heterosexual sex, and this under normal circumstances belongs to the natural law. There is also an inclination in man to things according to that nature he shares with nonhuman animals. In the light of this inclination, Aquinas maintains, such things belong to the natural law. Here one is rightfully entitled to deduce that together with other nonhuman animals, man is naturally inclined towards heterosexual intercourse and taking care of one's offspring.

Aquinas further teaches that everything to which a man is inclined necessarily belongs to the natural law. He maintains that each and everything that exists is naturally inclined to give birth to that which is in conformity with its nature. In order to re-instate his point he cites an example of fire being naturally inclined to give heat. In our case one gives an example of sexual organs as being naturally inclined to give birth to children. Aquinas further holds that "Sexual matters, which are indeed ordained to the natural common good, just as other matters of law are ordained to the moral common good" (Aquinas, 1915: 46). This observation is vitally important since by deliberately ignoring what sexual organs are naturally ordained for, this may in the long run lead to the extinction of the human species. The dictates of reason must accordingly order the sexual organs to naturally be ordained to the moral common good.

However, Aquinas notes a possible objection to the universality of the natural law. Given that different persons are naturally inclined to different things, it possibly follows logically that there is no one natural law for all. Typical examples consist in that people are naturally inclined: to the desire of pleasures, as in the case of hedonists, the desire of honours and the like. I believe that advocates of homosexuality may most probably add that homosexuals are naturally inclined to the desire of the same sex relationships.

Aquinas' reply is that all other powers of man necessarily ought to be commanded by the faculty of reason. All the natural inclinations belonging to the other powers of necessity must be directed by the dictates of reason. In fact, rationality essentially differentiates us from other nonhuman animals. Any feeling that is incompatible with the dictates of reason must necessarily be suppressed because it ceases to be human, but purely animal like. Therefore, it is in order that all our inclinations should be directed according to reason. If homosexuality is

not ordained to the moral common good, and if it is not universally right for all men, then it cannot be an inclination directed according to reason. Any feeling that is incompatible with the dictates of reason ought to be accordingly prohibited.

Perhaps Emmanuel Kant's categorical imperative could be deployed here to demonstrate that homosexuality is unacceptable. In his *Groundwork of the Metaphysic of Morals*, Kant expresses the Categorical Imperative thus: "Act only according to that maxim by which you can at the same time will that it should become a universal law"(Kant [1785] 1964: 103). According to Kant, autonomy means that a rational being is not only self-legislating, but also makes a law which binds every rational nature. If I were to enact a law, then I should ask myself whether I am willing for that law to be followed by everyone at all times. If the answer is yes, that would make it a universal law. Undoubtedly, in my view, we could not will that homosexuality be a universal law because such a law would lead to the extinction of the human species. Evidently, therefore, the dictates of reason cannot rule and command that homosexuality be a universal law.

Aquinas raises yet another possible objection regarding the natural law. He holds that the possession of all things and the universal freedom pertain to the natural law. But it does happen that sometimes human laws change matters of the natural law. Therefore, the natural law is subject to change. The evidence that the natural law is changeable can be seen the countries that have legalized same sex marriages. Aquinas responds by maintaining that the natural law is unchangeable and the same for all men because all men are rational, and that it is in order that human beings be inclined to act according to reason. For Aquinas, a thing belongs to the natural law because nature did not bring in the contrary. For example, it is of the natural law for a man to be naked since nature did not give him clothes. Clothes is just an art invented by man, and as such it does not change the natural law but simply adds to it. On the contrary, it seems to me that the same sex marriage does not add anything to the natural law; but rather it does contradict the natural law since it is directly incompatible with the primary purpose of marriage, namely, procreation.

Pope Paul VI correctly teaches that the sexual activity in which husband and wife are intimately united with one another does not cease to be legitimate even when it is foreseen to be infertile. The reason being that in this particular case it is independent of their will. The Supreme Pontiff holds that "new life is not the result of each and every act of sexual intercourse. God has wisely ordered laws of nature and the incidence of fertility in such a way that successive births are already naturally spaced through the inherent operation of these laws" (*Humanae Vitae*, p. 5). The Church teaches that the precepts of the natural law be observed, and correctly maintains its doctrine of the marital act ought to retain its intrinsic relationship to the procreation of human life. The Church accordingly prohibits the marital act of the same sex couples since their inability to procreate is dependent of their will. In this case it is a matter of choice unlike in the case of sterile couples.

Socio-cultural Standards for Human Relations and Matrimonies

When discussing socio-cultural standards for human relations and matrimonies regarding certain ethical questions like homosexuality, it depends to some extent on the political theory one cherishes. On the one hand, Western liberals welcome both heterosexual relationship and homosexuality; for them, it is just a matter of individual choice. On the other hand, African communitarians regard homosexuality as being immoral and as something that is strictly prohibited.

Liberalism is a political theory that sets out to give people power over their own lives and an equal say in the running of the government. Liberty and equality are two essential constituents of liberalism. Libertarianism is an extreme exclusively individualistic form of liberalism. For libertarians, “the basic unit of social analysis is the individual... Individuals are, in all cases, the source and foundation of creativity, activity, and society. Only individuals can think, love, pursue projects... Only individuals are capable of choice” (Boaz, 1997: 95). Liberal citizens claim to have the liberty to pursue their plans and projects and they hold that they should have equal opportunity to do so.

Liberals’ main argument in defense of their overemphasis on individual rights is self-determination. They hold that individuals must be allowed to make important decisions about their lives for themselves. As autonomous beings, individuals ought to rule themselves and must be permitted to live in accordance with what they consider as a good life for themselves. In this way, an external authority is forbidden to determine the lives of individuals. It is with this mode of thought that opting for the same sex relationships, individuals exercise self-determination and take responsibility for their own lives and for the kind of persons they want to be.

First, if taken seriously, libertarian liberalism tends towards relativism. It does not accommodate a norm or standard by means of which we can pass judgments on human actions. In fact, libertarianism is not different from Protagoras’ sophistic relative doctrine that a human being is the measure of all things, of the things that are, that they are, and of the things that are not, that they are not. Ethical relativism is a doctrine that there are no universal moral standards; it entails that right and wrong are determined by each individual. Now, bearing in mind the notion of libertarian liberalism above and that of ethical relativism, they amount to Protagoras’ doctrine that man is the measure of all things. In this way, if libertarian liberals hold the view that homosexuality is moral and communitarians maintain that it is immoral, both conflicting views must be regarded as being correct because man is the measure of all things. Now, suppose that an adult person freely decides to have sex with a nonhuman animal, and that this decision neither interferes with other humans nor causes pain to the nonhuman animal in question, this abominable act, in my view, must be judged honourable because man is the measure of all things.

In the last analysis, if we take libertarian liberalism seriously, the consequence is to ultimately stop making explicit reflections on moral acts, that is to say, to stop doing ethics.

Second, the self-determination argument that might appear to be admirable at first sight is detrimental for two reasons: firstly, it tends towards anarchism, and secondly it ignores the communal nature of man. In his most celebrated *Leviathan* Thomas Hobbes has this to say: “For every man looketh that his companion should value him, at the same rate he sets upon himself...” (Hobbes: 1991: 88). In chapter XIII of his *Leviathan*, Hobbes talks about the state of nature, a state that he says is characterized by egocentrism. He develops his own moral and political theory based on psychological egoism. To some extent I concur with Hobbes since most of the time people are egoists who act in their own self-interest to obtain gratification and avoid harm. Now, if the argument of individual autonomy is taken seriously, selfish individuals are likely to tend towards anarchism. They will most likely be tempted to enact laws that will legalize same sex marriages, laws that are exclusively individualistic ignoring the common good of society, namely, procreation.

Equally important is a fact that libertarian liberals ignore the communal nature of man. They deliberately ignore an obvious fact that it is not by chance that human beings are born in societies. Now, heterosexuality is such that it enhances this communal nature of man with its basic unit of a family extending to a larger society. Suppose our societies would at one stage be solely composed of pairs of homosexual couples, communities would gradually be diminishing until the entire human species is extinct.

On the other hand, African communitarians accommodate heterosexual relationships and prohibit homosexuality. Communitarianism is a political theory that maintains the view that the community is prior to the individual. It is a political theory that maintains that in the case of conflict of rights the community rights must override the rights of individuals. However, critics of communitarianism regard it as a political theory where individuals are wholly absorbed into a community such that they no longer have rights. Elsewhere I have argued that “communitarianism is not a theory that rejects individualistic values. Individual rights are still respected in a communitarian society. What characterizes a society to be communitarian is its claim that communal rights are more valuable than the rights of individuals” (Manyeli, 2010: 338).

The problem with libertarian liberals is that they mistakenly tend to dissociate individual rights from communal rights. They ignore the undeniable fact that rights of individuals are entailed in communal rights. In other words, communal rights encompass rights of every individual. Moreover, communal rights ensure that rights of all individuals are protected. In the case of conflict communal rights ought to override individual rights because the communitarian theory itself assumes a greater concern for communal values, that is, for the good of the wider society as such. Adhering to the individual right of the marriage of the same sex couples a libertarian liberal view that is exclusively monadological is directly conflicting with the communal value of marriage, particularly procreation which is the good of the wider society.

In as far as the socio-cultural background of matrimony in Lesotho is concerned, homosexuality has always been a phenomenon that is alien. Matsela (1999: 23-37) maintains that from childhood boys and girls were trained and prepared for marriage. Marriage was

regarded as the greatest institution by means of which families were formed and continuity of life ensured. It is worth noting that the same sex marriages never featured in traditional Lesotho society.

Initiation rite was a form of formal education offered to neophytes. Formal instructions to both masculine and feminine initiation centered on the essentials of life such as marriage and the family. Thomas Manyeli holds that “One of the most important information given during the initiation was conjugal life, especially sexual(s) problems. Neophytes were told the role and duty of women in the process of procreation. These lessons were given by detailed poems which described the sexual organs of both sexes as well as the implied sexual relations” (Manyeli, T., 1992: 76). The conjugal life to which the neophytes were informed about was centered on their lives as future husbands and wives, and it is important to note that there was no mention of homosexuality in these vital formal instructions. The neophytes were taught that sexual organs were meant for the sexual gratification of both partners, but most importantly for procreation. Therefore, it is not surprising that sterility was regarded as a curse since sexual organs in the case of sterile couples were not serving the primary purpose of having sexual intercourse, namely, procreation. I have cited above the case of Lesotho where matrimony is strictly confined to heterosexuality and where homosexuality does not feature.

Male same-sex activity had previously been illegal in Lesotho as a common law offence, but had not been enforced. However, in 2012 male same-sex activity was legalized. But that Act was not considered as being legal because it did not follow normal procedures before reaching Parliament to be voted for. In fact, the bill was never publicized as it should in order to allow the public to voice their opinion; even in Parliament it was not debated as the procedure requires. Amazingly, it is unclear why female same-sex activity was not legalized in that same year. Taking into consideration the Basotho conception of homosexuality, public opinion cannot legalize same-sex activity. In my view, the government’s loosing of the general elections in 2012 may be indicative that the people never approved of the attempt to the legalization of male same-sex activity. However, I patiently wait to hear the arguments of the defenders of homosexuality.

The Uganda Anti-Homosexuality Act, 2014 can be cited here to further prove that homosexuality is alien to Africans in general. The Ugandan Anti-Homosexuality Act, 2014 was passed by Parliament on 20 December 2013 with life in prison substituted for the death penalty, and the President signed the bill into law on 24 February 2014. I castigate both life in prison and death penalties since they directly violate people’s fundamental right to choose their lifestyle. However, this reaction clearly shows that the concept of homosexuality is alien to African mentality. The re-election of President Museveni of Uganda confirmed that Ugandans concurred with their Parliament on their discontent about homosexuality.

According to a report in Africa, the following website shows that “Africans see homosexuality as being both un-African and un-Christian. Thirty-eight of 53 African nations criminalize homosexuality in some way. A 2013 poll found that the overwhelming majority of Ugandans disapproved of homosexuality” (<https://en.wikipedia.org/wiki/Uganda-Anti-Homosexuality>),

act,2014). The survey perspicuously shows that in general homosexuality is pugnacious to the African culture. The legislations of the following African countries against homosexuality: Malawi, Nigeria, Kenya and Uganda clearly demonstrate that homosexuality is contrary to the African cultural and moral values. Undoubtedly, homosexuality is a new phenomenon in African society. The problem with some Western libertarian liberals is that they tend to regard their culture as being superior to all other cultures; and consequently they regard their culture as setting the standard and norm for all other inferior cultures.

Adoption of Minor Children by Lesbian and Gay Adults

In her famous article “Adoption of Minor Children by Lesbian and Gay Adults: A Socialist Science Perspective”, Charlotte Patterson (1995: 191 – 205) justifies adoption of children by homosexuals on the ground that it serves the best interests of children. Basing on her research findings Patterson maintains that the claim that the adoption of children by lesbian and gay parents is harmful to children is in fact unfounded.

Regarding custody disputes and adoption proceedings, Patterson summarizes three major concerns raised by judges supposedly to be detrimental to the welfare of adopted children: sexual identity, personal development and social relationships.

Questions asked on sexual identity are: Would girls in lesbian or gay families grow up thinking of themselves as boys or boys in lesbian or gay homes grow up thinking of themselves as girls? Is it more likely that children adopted by gays or lesbians end up being lesbians or gays themselves? Unfortunately, Patterson does not respond to the latter question. However, I think that these questions can best be answered by children adopted by lesbian or gay parents. I suppose that it is hard to imagine that homosexual partners can think positively of heterosexual families, given that the latter normally are negative about homosexual families. Inevitably, in my view, lesbian and gay parents’ mode of thought will probably influence children entrusted in their care. Just as it is rare to have children growing under Protestant families ultimately converting to Catholicism, so I suppose it will be the case with children raised by lesbian or gay parents. They will hardly conceive heterosexuality positively. Besides being negative about heterosexuality, homosexual families are less informed about heterosexual families. Just as one does not expect Protestant families to teach children about Catholicism, the same applies to homosexual families regarding heterosexuality.

A second concern raised by judges involves other difficulties in personal development: low self-esteem, problems of adjustment and psychiatric disorders. Patterson’s finding is that “the existing research suggests that the great majority of sexual abuse is committed by heterosexual men, not by lesbian or gay men” (Patterson, 1996: 199). I hope and believe that I do not misinterpret Patterson when I say that according to her it follows from the premises she has laid to conclude that therefore for the best interests of children, it is ideal that they be entrusted to the care of lesbian and gay families. This should be so, according to Patterson, given her claim that ‘the great majority of child sexual abuse is committed by heterosexual men’. Whilst not denying that some heterosexual men may at times sexually abuse children, I suspect that

Patterson's finding is exaggerated, especially when she does not articulate the exact percentage of heterosexual men abusing children and the exact percentage of gays less involved in child sexual abuse.

The third concern of the courts rests on social relationships. Some judges fear that children of lesbian and gay parents will be laughed at or stigmatized because of having homosexual parents. One other judicial concern is whether children of lesbian parents will have sufficient contact with adult men. Patterson's response is that these judicial concerns have no evidence. Regarding the first concern Patterson holds the view that children from lesbian parents do not experience problems because what appears to be complicated to adults may be simple for children. She cites an instance where a child was asked: 'who is that other man who lives at your house'? The child simply responded: 'That's my father's husband'. Regarding the stigmatization concern it depends where one is situated. In the African context children of lesbian and gay parents would be teased and stigmatized by their peers because homosexuality is alien to African culture. And children who find themselves growing in lesbian and gay families would most likely experience difficulties because of finding themselves living under conditions regarded as being alien to their culture.

Homosexual Sex is Harmful

In his defense of homosexuality Corvino does not want to admit the fact that homosexuality is harmful in the sense that it puts people at risk of contracting AIDS. He argues that "For if it is wrong for men to have sex with men because their doing so puts them at a higher AIDS risk than heterosexual sex, then it is also wrong for women to have sex with men because their doing so puts them at a higher AIDS risk than homosexual sex (lesbians as a group have the lowest incidence of AIDS). Purely from the standpoint of AIDS risk, women ought to prefer lesbian sex" (Corvino, 2005: 214). However, it has been scientifically proven that homosexual males are statistically more likely to carry the virus than heterosexuals and homosexual females.

Dr. Elizabeth Boskey's article "Why Do Gay Men Have an Increased Risk of HIV?" tells us that: "In the United States, gay men are at a disproportionately high risk of getting HIV and AIDS. Between 2010 and 2015, 68 percent of HIV infections were among men who have sex with men" (Boskey, 2018: 1). She gives a biological reason why gay men are likely to get HIV: "Scientists have estimated that the average HIV transmission rate during anal sex is 18 times higher than the rate during vaginal intercourse. The risk of acquiring HIV during an act of unprotected anal intercourse is estimated to be 1.4 percent.... There's another biological factor that makes anal sex riskier for gay men. They are much more likely to engage in both 'topping' and 'bottoming', or penetrating and receiving. This is known as **role variability**, and it has been shown to increase HIV transmission risk" Boskey, 2018: 2). She says men who practice receptive anal intercourse stand at a higher risk of contracting HIV and those practicing insertive anal intercourse have more likelihood to transmit HIV to their partners. She then concludes: "When men do both, the combination of behaviors optimizes the spread of HIV in

a way not seen in heterosexual couples” (Boskey, 2018: 2). The harmfulness of homosexuality has thus been proven on scientific grounds.

The HIV and AIDS diagnoses of 2014 read as follows: “Gay and bisexual men accounted for 83% (29,418) of the estimated new HIV diagnoses among all males aged 13 and older and 67% of the total estimated new diagnoses in the United States... Gay and bisexual men accounted for an estimated 54% (11,277) of people diagnosed with Aids” (www.aidslinkinternational.org). This study indicates that gay and bisexual men continue to experience the greatest burden of HIV when compared to any other group in the United States. This undeniable fact is due to the nature of rough homosexuality that ultimately tears delicate tissues of the anus. Under normal circumstances, heterosexual sex does not lead to the tearing of delicate sensitive tissues of the female. Corvino’s comparison of heterosexual and homosexual sex does prove that homosexual sex is harmful and that the former is preferable. Heterosexual sex is risky in the case of unfaithful partners, particularly men who also engage in homosexual sex. Most probably, the spread of AIDS is caused by gays who also engage in heterosexual sex.

Corvino concludes that “there is nothing inherently risky about sex between persons of the same gender. It is only risky under certain conditions: for instance, if they exchange diseased bodily fluids or if they engage in certain ‘rough’ forms of sex that could cause tearing of delicate tissue” (Corvino, 2005: 215). But Corvino accepts the finding that in the United States homosexual males are statistically more likely to carry the virus. Undoubtedly, this is due to the nature of homosexual sex itself for it causes the tearing of delicate tissues. Logically, Corvino’s conclusion that ‘there is nothing inherently risky about sex between persons of the same gender’ does not follow, given the nature of homosexual sex, that is, men having sex with other men. As a matter of fact, the correct conclusion from these premises should simply be that homosexual sex is inherently risky, and therefore harmful. As I said, homosexuals who are also active in heterosexual sex do contribute in the spreading of AIDS.

Homosexuality violates Biblical Teaching

Corvino argues against the people who attempt to justify the immorality of homosexuality by appealing to religion. He considers two biblical passages that condemn homosexuality as an activity that is univocal. These passages are: “You shall not lie with a male as with a woman; it is an abomination” (Leviticus, 18:22). “For this reason God gave them up to degrading passions. Their women exchanged natural intercourse for unnatural, and in the same way also the men, giving up natural intercourse with women, were consumed with passion for one another. Men committed shameless acts with men and received in their own persons the due penalty for their error” (Romans, 1: 26-27).

Corvino holds that these passages and the like must be understood and interpreted in their historical contexts. He thus cites Leviticus 11: 7-8 where the Jews were strictly prohibited to eat pork, and maintains that such a passage should not be taken literally. It is with this mode of thinking that Corvino holds the view that the above mentioned texts from Romans and

Leviticus ought not to be taken literally. Corvino neglects the fact that even today in Jewish religion Jews are still strictly prohibited to eat pork. Most important, Corvino's hermeneutic of interpreting homosexuality using a text that talks about the prohibition of pork is quite misleading. In my view, a passage must be interpreted by at least using a passage related to it.

The Old Testament as a whole does not accommodate homosexuality. In the beginning "God created man in his image; male and female he created them" (Genesis 1: 27). The creation story clearly attests to the fact that it was in God's plan that man was created with a woman to serve the primary purpose of marriage, namely, procreation as stipulated: "God blessed them, saying: 'Be fertile and multiply; fill the earth and subdue it'" (Genesis 1: 28). Another version of the creation story shows that God instituted marriage between a man and a woman and neither between a man to a man nor a woman to a woman. In Adam's solitary state God did not create another man for Adam, but a woman, and God found Eve (a woman) to be the most suitable partner for man. (Genesis 2: 21-24).

The destruction of Sodom and Gomorrah as a punishment for homosexuality is a clear demonstration that this sin does not only affect the Jews, but that it is a sin against humanity in general. The demolition of the entire homosexually inclined people of Sodom and Gomorrah (Genesis 19) inevitably demonstrate that before God homosexuality has always been immoral. To relate the Jews prohibition of eating pork with the entire condemnation of homosexuality in the Bible is clearly tantamount to undermining the gravity of the immorality of homosexuality.

Conclusion

The main apparently plausible argument raised by libertarian liberals in defense of homosexuality is individual self-determination. In my view, the main reason why this argument is appealing to many is due to the fact that for centuries some individual rights have been unfairly suppressed. For example, in my traditional Lesotho society people were denied their right to choose in as far as marriage was concerned, families were responsible to choose the right partners for their children. In both African and Western societies women were considered simply as domestic engines confined to the home. Minority groups such as: African-Americans were denied their right to humanity (by being enslaved), black South Africans were denied their rights to vote; and this deprivation of individuals' fundamental rights was tantamount and detrimental to the dignity of the human person.

But, does it mean that every time one encounters marginalized groups or individuals, one should always conclude that they are being unfairly denied their rights? The answer is of course no since every case must be treated as being uniquely different. I do not have an objection against groups or individuals making choices about the kind of lives they want to live since they are free to do so. But in the case of conflict of rights, that is, between communal and individuals rights, the former must prevail. I have shown that procreation ensures the continuation of the human species. Humans are free to choose, but liberty is not and should

not be license. The minority right to the same sex marriage is incompatible with the right to the continuity of the human species.

Accordingly, we cannot allow individuals who may be psychologically disturbed to commit suicide simply because they have a right to choose. We cannot also allow a certain minority group to have sex with nonhuman animals simply because they are free to choose; such a marginalized group choice necessarily ought to be strictly prohibited since it is neither human nor animal like. Similarly, we cannot allow individuals who may be psychologically disturbed to have homosexual sex. The community is duty bound to have pity on such individuals and assist by giving them proper counseling.

Earlier, I have shown that when defining law, Aquinas maintains that it is a directive or a command which must be reasonable, directed towards the common good, and not enacted for the private interest of a few people. Undoubtedly, a law enacted and promulgated to allow same sex relationships and marriages is made for the private interest of a few people. Such a law is not and should not be regarded as binding since it is not directed towards the common good.

References

Aquinas, Thomas. Trans. 1915. *Summa Theologica: Question XCIV, Articles 1-6*. London: Burns Oates & Washbourne.

Boaz, David. 1997. *Libertarianism*. New York: The Free Press.

Corvino, John. 2005. "Why Shouldn't Tommy and Jim Have Sex?" In William Shaw. *Social and Personal Ethics*. Australia: Thomson and Wadsworth, pp. 210-218.

Hobbes, Thomas. [1651] 1991. *Leviathan*. Ed. Richard Tuck. Cambridge: Cambridge University Press.

Flannery, Austin. Trans. 1975. *Vatican Council II*. U.S.A.: Jove Publications.

Kant, Emmanuel. [1785] 1964. *Groundwork of the Metaphysics of Morals*. Trans. H.J. Paton. New York: Harper & Publishers.

Locke, John. [1690] 1966. *Two Treatises of Government*. Cambridge: Cambridge University Press.

Manyeli, Louis. 2010. A Re-Reading of Gyekye's Moderate Communitarianism. *LWATI: A Journal of Contemporary Research*, vol. 7, pp. 335-346.

Manyeli, Thomas. 1992. *Religious Symbols of the Basotho*. Maseru: Maseru Publications.

Matsela, Z.A. 1990. *Bochaba Ba Basotho*. Maseru: Maseru Publications.

Paul VI. 1968. "Humanae Vitae". Rome: Encyclical Letter, pp. 1-16.

https://en.wikipedia.org/wiki/Uganda-Anti-Homosexuality_act,2014.

www.aidslinkinternational.org

www.verywell.com

Patterson, J. Charlotte. 1995. Adoption of Minor Children by Lesbian and Gay Adults: A Social science Perspective. *Duke Journal of Gender Law and Policy*, vol. 2, pp. 191 – 150.

Zinkurature, V. and Angelo Colacrai. Trans. 1999. *The African Bible*. Nairobi: Paulines Publications Africa.