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The social fabrication of society: The Law of the land and gay rights

Siobhan N. Bonilla*

INTRODUCTION

The world is constantly evolving into a place where the laws are created to protect human kind. The United States is one of the first countries in the world to legalize gay marriage; reflecting a continued modernization of society.¹ Unfortunately, there are countries in the world that have not followed suit in providing equal protection under the laws for gay rights. For example, Nigeria rejects and punishes homosexual activity on a federal and state level.² According to the Nigerian Constitution, individuals whose sexual orientation represents the Lesbian, Gay, Bisexual, or Transgender community (LGBT) are punished with lashes, fines, and face up to 14 years in prison.³ The criminal code emulates the dehumanization of human dignity rather than promoting the welfare of freedom of expression.⁴ Truthfully, there is no legal definition defining gay rights or documentation declaring it as a human right. Nevertheless, gay rights is considered the exercise of social acceptance between consenting adults that choose the liberation of free will and equality over suppression.⁵ The Federal Bureau of Investigation (FBI) has reported that 60.6% of the hate crimes taken place throughout the world involved crimes against the LGBT community.⁶ The

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1. *Obergefell v. Hodges*, 135 U.S. 2584, 2593 (2015). In light of the United States Supreme Court ruling that legalized gay marriage nationwide, here is a list of other countries where same- sex couples can marry: the Netherlands (2000), Belgium (2003), Canada (2005), Spain (2005), South Africa (2006), Norway (2009), Sweden (2009) and Argentina (2010).

2. *Nigeria: Criminal Code Act* [Nigeria], Cap C38 LFN 2004, 1 June 1916, available at: <http://www.refworld.org/docid/49997ade1a.html> [accessed 30 December 2015]

3. *Id.*

4. *Id.*

5. US LEGAL.COM, <http://definitions.uslegal.com/g/gay-rights-movement/> (last visited Jan. 4, 2016).

6. THE FEDERAL BUREAU OF INVESTIGATION, <https://www.fbi.gov/news/stories/2014/december/latest-hate-crime-statistics-report-released> (last visited Jan. 4, 2015).

recorded statistics by the FBI describes the impact of society as a whole including awareness of hate crimes against the LGBT community.⁷

Agreeably, no one has to approve the actions of others. Yet, the dignity of humanity and the LGBT community should be respected and protected under the laws within every nation. Should the LGBT community suffer physically, mentally and emotionally within society? Are there implied rights protected under the laws to legally aid the LGBT community? World leaders do not believe there is a rational basis for the accommodation of equal rights.⁸ The condemnation of social exchange presents a reasonable foundation to amend laws to uplift humanity. The reality of laws creating human rights involving all individuals in society are inherent in every nation that provides no exception to the inclusion of gay rights.⁹

This note will address the global recognition of gay rights with the emphasis of revoking the anti-gay bill in Nigeria. The awareness of denying human dignity and discrimination will enforce legal protection under the laws to restrict punishment based on sexual orientation. The anti-gay bill precludes the evolution of society by persecuting individuals based on their sexual orientation. Further, the provisions continuously become a human rights issue when it fails to realize the importance of self-worth and the right to life.¹⁰

Part I discusses the Nigerian Constitution and how it seeks to execute citizens by imprisonment for being homosexual and associated with the LGBT community. While analyzing the law, it will be stressed that it violates human dignity and freedom of expression, contrary to the objectives of the United Nations (U.N.). In addition, governmental views from conservative countries, such as China and England, are included to exemplify a trend in the law reflecting acceptance of gay rights. Part II demonstrates the efforts of the U.N. to improve protection of gay rights as it is the controlling body of international affairs that promotes peace and human rights. Part III introduces a resolution of improving society's acceptance of gay rights with legal support from the U.N. to prohibit the creation of anti-gay laws such as the one created in Nigeria. Part IV concludes on the fact that happiness is fundamentally necessary to the growth of society with the inclusion of social acceptance of sexual orientation inherited within the laws of every country.

I. THE DISCOURSE OF THE ANTI-GAY BILL AND ITS FLAWS: THE DEPRIVATION OF HUMAN DIGNITY AND CONDEMNATION OF

7. *Id.*

8. Stephen Macdeo, *Homosexuality and the Conservative Mind*, 84 *Geo. L.J.* 261, 261-265 (1995).

9. *Id.*

10. *Id.*

DISCRIMINATION

Homosexuality is not a term or act that is foreign to people living within the 21st century.¹¹ Indeed, it has made its mark within civilization and therefore cannot be ignored. There is a difference between respect and acceptance that remains true for living and breathing individuals.¹² Society advertises the acceptance of individuals regardless of who they are and where they come from but this is contrary to the treatment experienced on a daily basis.¹³ Strict governmental regulations does not justify the sentiment of equating homosexuality as a crime.¹⁴ Refusing to love someone for the qualities they possess while inviting cruelty and harsh treatment overshadows the respect that is deserved.¹⁵

A. Nigeria and the Imprisonment of Homosexuality

In 2009, Nigeria prohibited citizens from engaging in homosexual activity, which constitutes as a crime under state and federal law.¹⁶ The Nigerian government claims homosexual activity is a crime against morality and will punish anyone that goes against human nature, making it part of the criminal code under the constitution.¹⁷ The criminal code sets a limitation of bringing punishment to individuals interacting with one another throughout the country associated with the LGBT community.¹⁸ There is no attempt in securing the dignity or protection of humanity because it influences society to give homosexuality a bad stigma that should not be proclaimed.¹⁹ The reason for the enactment was to prevent the spread of HIV/AIDS, but; this is possible between heterosexual couples. After 5 years of passing the new law, citizens were arrested based on their sexual orientation.²⁰ In March 2014, the criminal court in Nigeria ruled against 4 men receiving 15 strokes and 1 year of imprisonment for violating the prohibition act under the criminal code.²¹ The code imposes a 14 year sentence against homosexuality inflicting shame to men and women which does

11. *Id.*

12. *Id.*

13. Javid Rehman & Eleni Polymenopoulou, *Is Green A Part Of The Rainbow? Sharia, Homosexuality, And LGBT Rights In The Muslim World*, 37 *FORDHAM INTERNATIONAL L.J.* 1, 2-3 (2013).

14. *Id.*

15. Macdeo, *supra* note 8, at 264.

16. *Nigeria*, *supra* note 2, at ch. 21.

17. *Id.*

18. *Id.*

19. *Id.*

20. *Anti-Gay Law Takes Effect in Africa's most Populous Country*, *WORLD.TIME.COM*, (Jan.7, 2016), <http://world.time.com/2014/01/15/nigeria-anti-gay-law/>.

21. *Four Nigerian Men Convicted of Gay Sex And Whipped Publicly*, *HUFFINGTONPOST* (Feb. 20, 2016, 3:40 PM), http://www.huffingtonpost.com/2014/03/06/nigerian-gay-men-whipped-_n_4913190.html.

not solve the problem.²² The Nigerian government seeks to rehabilitate individuals by controlling the function of society.

The purpose of the anti-gay bill poses a contradiction: it wants to prevent same sex marriages and relationships. Conversely, imprisoning men and women in a jail cell of the same sex will further the interaction of same sex relationships.²³ In other words, the method used through enforcement of the law is not beneficial to the nation. The government uses violent force when arresting citizens to impose harsh prison sentences that eradicate individuals from the community.²⁴ The existence of pain and suffering conflicts with the legal duties of the Nigerian government which is to enforce basic human rights such as gay rights. Peace, love, and happiness become futile when hate crimes and violent arrests occur between the government and people in the country.

In the past, foreign nations like the United States, were made aware of the passage of the bill and neglected to advocate for its revocation in support of human rights.²⁵ The United States Department of State has recorded arrests that have taken place in 12 northern states in Nigeria based on the criminal code.²⁶ Furthermore, it will influence other countries to draft laws similar to the anti-gay bill in Nigeria that will defeat the purpose of protecting humanity living in society. In 2014, Uganda contemplated passing a bill targeting individuals associated with the LGBT community to prevent homosexual activity.²⁷ The formation of the proposed law in Uganda exemplifies the fear that will continue to arise in citizens throughout Africa leading ultimately to imprisonment, death and abandonment.²⁸ Historically, the U.N approved international documents adhering to human rights and world peace.²⁹ For example, the Universal Declaration of Human Rights was created in 1948 to preserve the dignity of humanity and maintain brotherhood.³⁰ The document is an international bill

22. *Id.*

23. *Id.*

24. *Id.*

25. U.S. DEPARTMENT OF STATE: DIPLOMACY IN ACTION, <http://www.state.gov/j/drl/rls/hrrpt/2004/41620.htm> (last visited Nov. 19, 2015).

26. *Id.*

27. KAPYA KAOMA, *Political Research Associates*, <http://www.politicalresearch.org/2014/11/13/ugandas-new-anti-gay-law-a-copy-of-the-u-s-right-backed-laws-in-russian-nigeria/#sthash.1SRDwCIu.dpbs> (last visited Jan. 5, 2016).

28. *Id.*

29. *Id.*

30. *Universal Declaration of Human Rights*, G.A. Res. 217A, U.N. GAOR, 3d Sess., 1st plen. mtg., U.N. Doc A/810 (Dec. 12, 1948). The Universal Declaration of Human Rights Bill fully expresses the universality of all nations chartered under the United Nations. The bill purports to express the continuation of world peace amongst nations and individuals throughout the world. *See also* INTERNATIONAL BILL OF HUMAN RIGHTS (1948), <http://www.ohchr.org/Documents/Publications/Compilation1.1en.pdf>. The U.N. refers to this document as an organized bill which encourages all chartered countries under the U.N. to follow. Furthermore, the U.N. refers to this document as a bill when chartered countries fail to adhere to basic human rights as mentioned in the document.

every nation must prepense in the preparation of creating new laws.³¹ Before exploring parts of the declaration in support of human rights, it is heavily noted Nigeria failed to honor the declaration by overlooking conflicts with the advancement of individuals living in society.³²

B. The Implication of Protection and Acceptance

1. The Universal Declaration of Human Rights: The Beginning of the Preamble

The Human Rights Bill is broken down into a detailed preamble and articles significantly relating to the welfare and treatment of people.³³ The Preamble serves as a recourse, targeting the achievement of individuals while excluding barbaric acts against humanity.³⁴ This includes selfish and harmful acts of violence against individuals who freely express themselves within a nation that believes in freedom.³⁵ The preamble emphasizes a disregard for the social interaction of humanity going against the efforts of the U.N. to improve society as a whole.³⁶ There is no implication within the human rights document suggesting the exclusion of gay rights. The language of the bill protects the LGBT community, who represents a class of individuals interacting amongst society.³⁷ Ironically, Nigeria is a chartered country under the U.N. that must support the declaration and do what it purports to do: to keep the sovereignty of people intact.³⁸ The Nigerian criminal code violates the preamble because of the punishment inflicted towards citizens engaged in homosexual activity.³⁹ Representation of barbaric acts is within the imprisonment, fines and physical violence condoned against homosexual activity.⁴⁰

a. The Articles and its Influence

Articles 1-10 of the human rights bill dictates the rights and freedom of all individuals regardless of societal status.⁴¹ Everyone has a right to live their life

31. *Id.*

32. *Id.*

33. *Id.*

34. *Id.* at preamble.

35. *Id.*

36. UNITED NATIONS, *International Bill of Human Rights* (1948), <http://www.ohchr.org/Documents/Publications/Compilation1.1en.pdf>.

37. *Id.*

38. *Member States*, UN, <http://www.ohchr.org/Documents/Publications/Compilation1.1en.pdf> (last visited Jan. 6, 2016).

39. *Supra* note 2.

40. *Id.*

41. *Supra* note 31, at Art. 2. The importance of article 2 of the human rights bill rests solely on the establishment of sex which implies sexual orientation should not be the sole factor of any bar to a human right such as gay rights. No individuals should be distinguishable because of the way in which they choose to live their life accordingly.

according to how they see fit and be respected by the general republic.⁴² No exception to gay rights exists when looking at the choices and obligations of humanity by acting in correspondence to the brotherhood established by the U.N.⁴³ Powerful groups exemplify the meaning of human rights and what it stands for to protect individuals from harm, discrimination and strict scrutiny of anti-gay laws created in countries like Nigeria. The active participation of groups that aid the LGBT community are beyond heroic.

Amnesty International (“Amnesty”) is one of the world’s largest grassroots organizations that seek to promote human rights as well as provide support against social injustice towards the LGBT community.⁴⁴ The dedication it provides to individuals displays the principles of the human rights bill created by the U.N.⁴⁵ Furthermore, Amnesty advocates for the decriminalization of homosexuality to express sexuality as part of human nature rather than a crime.⁴⁶ The criminalization of homosexuality contradicts treaties like the Universal Declaration of Human Rights Bill, which upholds personal free will and therefore, should not be accepted in every nation throughout the world.⁴⁷ The persecution of life does not solve the negative impact experienced within society.⁴⁸ Thankfully, there are countries throughout the world that have communicated the same sentiments as Amnesty when referring to gay rights and makes human rights enforceable.

C. *The Accommodation of Gay Rights*

1. *England and Its Consistency with the Common Law*

Like Nigeria, England imprisoned individuals who associated themselves as homosexual.⁴⁹ The LGBT Foundation recalls testimonials and accounts of men in England charged with sodomy and gross indecency for engaging in consensual homosexual activity.⁵⁰ For instance, Mike Newman, a man who grew up after the World War II era, talked about sexual repression in England.⁵¹ Newman generally describes the stigma placed on men for not dating women and how he had to learn for himself what it meant to be homosexual.⁵² Men and women were also persecuted if they uttered or suggested sexual activity besides

42. *Id.*

43. *Supra* note 31, at Art. 3.

44. *About Amnesty International*, <http://www.amnestyusa.org/about-us> (last visited Jan. 6, 2016).

45. *Id.*

46. *Decriminalizing Homosexuality*, <http://www.amnestyusa.org/our-work/issues/lgbt-rights/decriminalizing-homosexuality> (last visited Jan. 6, 2016).

47. *Id.*

48. *Id.*

49. *‘Gay’ in the 1950’s*, <http://lgbt.foundation/news-articles/-gay-in-the-1950-s/> (last visited Jan. 6, 2016).

50. *Id.*

51. *Id.*

52. *Id.*

engaging in the act.⁵³ Despite the existence of criminal penalties recounted by Newman, necessary steps were taken by Parliament to reform and educate individuals about Homosexuality.⁵⁴ England kept track of homosexual offenses when it formed the Committee on Homosexual Offenses and Prostitution led by educationalist Sir John Wolfenden.⁵⁵ The goal of the committee was to learn about the affairs of the public nation while attempting to implement proposals that would benefit or restrict Homosexual activity.⁵⁶ The committee concluded that criminal law acts to preserve social order rather than intervening on patterns of behavior.⁵⁷ Hence, the inclusion of discussing homosexuality as an evolving patterned behavior between private consensual adult relationships that does not equate to criminal punishment.⁵⁸

The efforts of the committee paid off when England passed the provisions of the reports under the Sexual Offenses Act in 1967.⁵⁹ The Act signified a justification for respecting private conduct amongst society in England and Wales which is a substantial step from the stigma placed on Homosexual activity.⁶⁰ Learning from some of the historical events, England has appreciated the acceptance of gay rights since the 1960's.⁶¹ Parliament claims no reasonable justification for restricting the human rights of individuals living in society.⁶² The government cares more for people and their personal choices they have made, outweighing the physical, mental, and emotional punishment inflicted upon its citizens. The reflection of change within the 1960's has gradually led to its improvement of gay rights in the 21st century that still marks a deviation from what was consistent with the common law to modernization of acceptance.

a. From Common Law to Modernization

England accommodated its laws to recognize LGBT rights by passing the Equality Act 2010, an amendment of the Sexual Offenses Act.⁶³ In Part II, Chapter 1 of Section 12, England agreed to protect and respect the rights of the LGBT community symbolizing an awareness of expanding human rights.⁶⁴ Organizational groups in England representing the LGBT community, were

53. *Id.*

54. R.J. Buxton, *Criminal Law Reform: England*, 21 Am. J. Comp. L. 234, 230-32 (1973).

55. *Id.* At 233- 234. Sir Wolfden never involved his personal thoughts regards the reports he annually completed with the Committee.

56. *Id.*

57. *Id.* At 236.

58. *Id.*

59. *Id.* at 238.

60. *Id.*

61. Terry Calvani, *Homosexuality and the Law- An Overview*, 17 N.Y.L.F. 273, 288 (1970).

62. *Id.*

63. THE NATIONAL ARCHIVES, *Equality Act 2010*, <http://www.legislation.gov.uk/ukpga/2010/15> (last visited Jan. 6, 2016).

64. *Id.*

formed to ensure gay rights were protected and enforced.⁶⁵ Stonewall Youth is a non-governmental foundation that supports gay rights throughout England and abroad.⁶⁶ The well-known foundation fought for social justice and human rights since 1989 with just a small group of people that faced issues regarding equality for gay rights.⁶⁷ In support of legislative documents like the Equality Act, Stonewall provides campaigns, advocacy and resources to the LGBT community to strengthen the laws in England.⁶⁸ England is not the only country that has had to develop and modify laws to satisfy gay rights amongst its citizens. Conservative countries, other than England, have dealt with the increased demand for social change.

2. *China and the Promotion of Anti-Homosexuality through Chinese Dynasties*

Since the beginning of dynasties, China rarely criminalized homosexuality and was not in the degree as serious as Nigeria. Although China is a conservative country, it has developed an understanding of social change within society. In light of viewing the modern change of society, it is best to look at China's history on how the country dealt with homosexuality. Unlike Nigeria, China had a high tolerance for homosexuality since the beginning reign of the Yellow Emperor, which was common amongst men within dynasties.⁶⁹ Prehistorically, dynasties were created in Ancient China over a thousand years ago, that references recollections of China's history pertaining to Homosexuality.⁷⁰ The Yellow Emperor was the first Chinese man to include and form relationships with men while married with more than 1 wife.⁷¹ Known for economically improving civilization, he influenced Chinese story writers to create tales embodying the acceptance of homosexuality.⁷² The stories told in China capture the image of acceptance and high regard for human life and rights.⁷³

The first and most famous story was respectively between a Duke and male court official named Ling and Mizi Xia.⁷⁴ These men offered to share a peach

65. *Stonewall's History*, <http://www.stonewall.org.uk/about-us/stonewalls-history> (last visited Jan 6, 2016).

66. *Id.*

67. *Id.*

68. *International Work*, <http://www.stonewall.org.uk/our-work/international-work-1> (last visited Jan 6, 2016).

69. *Gay Millions: China's Silent Minority*, https://www.washingtonpost.com/archive/politics/1992/11/04/gay-millions-chinas-silent-minority/a34c0c2f-5038-4eec-99c0-5906520c4b52/?utm_term=.369bc48ae9ea (last visited June 3, 2017).

70. *Id.*

71. *Comrades of the Cut Sleeve Homosexuality in China*, http://bobhay.org/_downloads/_homo/Summary%20Session%2011.pdf (Last visited June 3, 2017).

72. *Id.*

73. *Id.*

74. *Id.*

with one another which is a symbol of homosexuality in China.⁷⁵ For the next two thousand years the relationship between both men were referred to as “Love of the Shared Peach”.⁷⁶ The story implicates sharing love and affection instead of hatred amongst society.⁷⁷ The phrased term in China for homosexuality puts into perspective how negative connotations were not used against people who would be associated with the LGBT community.⁷⁸

Through the second story, homosexuality became known as, “Love of The Cut Sleeve”.⁷⁹ The tale involves an emperor by the name of Ai and his lover, Dong Xian.⁸⁰ Emperor Ai would arise from his bed and find Dong Xian sleeping on the sleeve of his robe.⁸¹ Instead of awaking Xian, the emperor would cut off his sleeve.⁸² The Imperial Court of China commemorated the coined term in honor of their love for one another, later presented to the public as exceptional devoted love.⁸³

The third story refers to homosexuality as, “Long Yang”.⁸⁴ The story is named after Lord Long Yang and a man known as King Wei. During their relationship, King Wei became fearful of Lord Long Yang seeing other men.⁸⁵ The fears of the King influenced the Lord to declare destruction upon anyone who tempts him with male presence.⁸⁶ Despite the difference in time, the stories told during the dynasty era, indicates entitlement to human rights analogous to the declaration written by the U.N.⁸⁷ Today, China continuously accepts the LGBT community and is in the process of amending laws to provide protection and recognition.⁸⁸ The country reveals more peace amongst one another than hatred because the stories recounted from the dynasty era reflect not only its existence but also, a current involvement to accept societal change of standards.⁸⁹

a. *The Proclamation and Formation of Acceptance*

In addition to social acceptance, there is no punishment or sanction against homosexuality.⁹⁰ Although China has not created specific laws to protect or

75. *Id.*

76. *Id.*

77. *Id.*

78. *Id.*

79. *Id.*

80. *Id.*

81. *Id.*

82. *Id.*

83. *Gay Millions: China's Silent Minority*, *supra* note 69.

84. *Comrades of the Cut Sleeve Homosexuality in China*, *supra* note 71.

85. *Id.*

86. *Id.*

87. *Id.*

88. *In China, LGBT citizens seek acceptance*, <http://www.cnn.com/2013/06/27/world/asia/china-gay-lesbian-marriage/> (Last visited June 3, 2017).

89. *Id.*

90. *Gay and Lesbian Rights in China*, GLOBAL TIMES ONE-STOP, <http://onestop.globaltimes.cn/gay-and-lesbian-rights-in-china/> (last visited Jan. 7, 2016).

provide for the LGBT community, LGBT advocates implore the youth and those in support to continue advocating for protection under the laws in.⁹¹ The complexity behind homosexuality opened the door for legal consideration in 1997, but had no effect until the beginning of the 21st century.⁹²

England and China became accustomed to homosexuality as part of a social environment.⁹³ Both countries continue to care more for its people than create laws that would harm its citizen like the laws in.⁹⁴ Harm is not experienced by individuals based on sexual orientation and introduces a stepping-stone of treating people with kindness in accordance with peace. Humanity is given a high standard by allowing gay rights to be represented as a human right that must prevail on a global level. Particularly, the anti-gay bill is not indicative as to the purpose of condemning a community for exercising their right to freedom of life.⁹⁵ The laws in China and England do not model the dehumanization of humanity for actions committed within a community like Nigeria.

II. THE UNITED NATIONS AND THE CONSIDERATION OF ITS ADDITION OF THE LGBT COMMUNITY AS A PROTECTED CLASS

A. *The Truth Behind Reality: The U.N. and Its Power*

1. *Retaliation and the Awareness of Basic Rights*

The power of the U.N. is very limited when countries refuse to accept gay rights as a basic human right.⁹⁶ The U.N. reported human rights violations occurring since late 2011.⁹⁷ Reinforcement of decriminalizing homosexuality is a constant battle for the U.N. as the insidious treatment gradually increases towards the LGBT community in some countries throughout the world.⁹⁸ The U.N. does not disregard the acts as a violation of basic human rights.⁹⁹

Problematically, countries reject the efforts of the U.N.¹⁰⁰ Leaders argue the LGBT community is not a protected class under international human rights and,

91. *Being Gay In China: Does the Rainbow Flag Fly Free?*, CNN.com, (Jan. 7, 2016, 8:12 PM), <http://www.cnn.com/2014/11/26/world/asia/china-rainbow-flag/>.

92. *Tiptoeing Out of the Closet: The History and Future of LGBT Rights in China*, <https://www.theatlantic.com/china/archive/2013/08/tiptoeing-out-of-the-closet-the-history-and-future-of-lgbt-rights-in-china/278869/> (last visited June 3, 2017).

93. THE NATIONAL ARCHIVES, *supra* note 63.

94. *Nigeria*, *supra* note 2.

95. *Id.*

96. *U.N. Issues First Report On Human Rights Of Gay and Lesbian People*, U.N.ORG, (Jan. 8, 2016, 1:01 AM), <http://www.un.org/apps/news/story.asp?NewsID=40743#.Vo9Jx03bKUK>.

97. *Id.*

98. *Id.*

99. *UN Human Rights Chief Denounces "Draconian" Anti-Homosexuality Law In Nigeria*, U.N.ORG, (Jan. 8, 2016, 1:01 AM), <http://www.un.org/apps/news/story.asp?NewsID=46923#.Vo9IyU3bKUK>.

100. *Id.*

therefore, no obligation is owed.¹⁰¹ The reason behind this inclination is because same sex couples did not emphatically have the right to protection by legislatures; even though they are persons defined under the human rights bill.¹⁰² In the past 5 years, U.N. reports reveal making recommendations for chartered countries to follow that were ignored.¹⁰³ Several treatises like the declaration of human rights serve as a guide to implement stability within the world.¹⁰⁴ Strict policies were made to allow enforceability of claiming the LGBT community as a protected class.¹⁰⁵ To resolve this issue, on September 24, 2014 the Human Rights Council under the guidance of the U.N. passed The Human Rights, Sexual Orientation and Gender Identity resolution.¹⁰⁶ The document imposes responsibility on countries to cultivate human rights laws on an international level that precludes discrimination and oppression of the LGBT community.¹⁰⁷ The resolution marks a progressive start to having a productive society where individuals, regardless of their sexual orientation, can flourish in their communities.¹⁰⁸ Throughout time, it will allow the U.N. to obviate reactions to advocating for human rights against countries that abuse their powers against humanity.¹⁰⁹ Although the resolution passed, it is difficult to enforce countries like Nigeria to outlaw anti-gay bills that realistically deteriorates social acceptance furthering violence.

2. *The Condemnation of the Nigerian Anti-Gay Bill by the U.N.*

The media covered several accounts of the U.N. disagreeing with Nigeria's anti-gay bill. The United Nations High Commissioner for Human Rights, Navi Pillay, publicly condemns the bill because of the infliction it has on the LGBT community.¹¹⁰ She does not condone hate crime and discrimination purported within the country and will not tolerate prejudice and abuse of international laws.¹¹¹ The spread of HIV/AIDS is a meritless reason for supporting the creation

101. Marianne Mollmann, *New UN Report: Treat LGBTI Humans As Humans*, OUT RIGHT ACTION INTERNATIONAL (Jan. 8, 2016, 1:24 AM), <https://www.outrightinternational.org/content/new-un-report-treat-lgbti-humans-humans>.

102. *Id.*

103. *Id.*

104. G.A. Res. 217, *supra* note 30.

105. Mollmann, *supra* note 106.

106. World Conference on Human Rights, *Human Rights, Sexual Orientation and Gender Identity*, U.N. Doc. A/HRC/27/L.27/Rev.1 (Sept. 24, 2014). Significantly, commentators record the meetings that are conducted by the U.N. to update the population on current events involving the LGBT community. *See also*, Suzanne Trimel, Text of Passed Resolution, <https://www.outrightinternational.org/content/un-human-rights-council-votes-support-lgbt-rights> (last visited Jan. 8, 2016).

107. *Id.*

108. *Id.*

109. *Id.*

110. *UN Human Rights Chief Denounces "Draconian" Anti-Homosexuality Law In Nigeria*, *supra* note 104.

111. *Id.*

of the bill because programs were enacted to decrease the epidemic.¹¹² The continuing existence of the bill will deter men and women from receiving medical care and abolish existing programs if people are imprisoned without necessary resources.¹¹³ Although the U.N. is making adjustments with countries to accept gay rights as a protected class, Nigeria is one of the hardest countries to persuade.¹¹⁴

The United States and Amnesty continuously supports the U.N. to revoke the bill and the dangers that surface.¹¹⁵ Besides the spread of HIV/AIDS, the government refuses medical care and financial assistance to the LGBT community even if they do not have HIV/AIDS.¹¹⁶ Nigeria risks losing its respect as a republic when forcing citizens to conform to a way of living that is not made by freedom of choice, meeting the limitations the law implements against human rights.¹¹⁷ The biggest mistake Nigeria committed was assuming homosexuality to be a cultural problem rather than a social choice.¹¹⁸ Against the initiatives of the U.N., Nigeria publicly announced that it is not a place for the LGBT community.¹¹⁹ When a class of people are turned away from a country, there is a lack of kindness and leadership to represent the needs within society.¹²⁰ The public embarrassment of persecuting people on a daily basis fosters dehumanization and discrimination. In order to successfully promote the welfare of society, there must be an understanding of how society evolves.

III. RESOLUTION AND IMPROVEMENT: THE KEY TO ACCEPTANCE

A. *Flaws of the Anti-Gay Bill*

In early 2014, Nigeria amplified the increased fear for life and the right to live peacefully.¹²¹ The passage of the bill brought more pain than peace because people are suffering every day.¹²² This is not the example a country should lead when people are dependent on its leaders to protect them than do harm.¹²³ It is disheartening to watch the violence occur between people who love themselves than experiencing abuse for not believing society's traditional views.¹²⁴

112. *Id.*

113. *Id.*

114. Stacey Alicia Maalej Rusnak, *Reconciling Three Countries' Current Laws With Human Rights In The Face Of International Law*, 20 Ann. Surv. Int'l & Comp. L. 139, 164 (2014).

115. *Id.* at 163.

116. *Id.*

117. *Id.* at 169.

118. *Id.*

119. *No Country For Gay Men*, THE ECONOMIST, <http://www.economist.com/blogs/baobab/2014/01/nigeria> (last visited Jan. 8, 2016).

120. *Id.*

121. *Nigeria*, *supra* note 2.

122. *Four Nigerian Men Convicted of Gay Sex And Whipped Publicly*, *supra* note 21.

123. *Id.*

124. Macdeo, *supra* note 8.

Conducting raids and imprisoning people is tiresome than accepting the physical existence of the LGBT community.¹²⁵ Through the Nigerian bill, the government advocates for unhappiness than the restoration of peace.¹²⁶

Happiness and love does not involve suppression or oppression of people within humanity.¹²⁷ The message behind happiness is to keep peaceful principles intact without judging the actions of others.¹²⁸ When happiness or stability is taken away, destruction amongst civilization prevails more than world peace.¹²⁹ Across the globe, countries embody the acceptance of humanity rather than restrict the actions beyond their control.¹³⁰ The criminal code in Nigeria does not mirror the expanding trend of human rights to include gay rights.¹³¹ For example, England is a traditional country governed by common law principles rooted in today's generation.¹³² Homosexuality could not be ignored and, therefore, laws were accommodated to include the LGBT community as a protected class.¹³³ The concept noted in England, is no different from Nigeria announcing itself to be a traditional country that does not believe in homosexuality.¹³⁴ Mistreatment under any circumstances signifies abandonment from its own government. No matter how many times homosexuality is condemned, it exists throughout the world and it is suggested to be mindful of the dignity of others.¹³⁵

Before the passage of the anti-gay bill, people committed suicide and experienced cruelty from citizens in Nigeria.¹³⁶ The government contributed to the stigma of homosexuality rather than apprehending the violence against the LGBT community.¹³⁷ The community is a class of people who are deserving of justice like all members of society. Violence should never be condoned against an individual regardless of their race, sexual orientation or economic status.¹³⁸ China is a conservative country that follows traditional views but rarely viewed homosexuality as a crime.¹³⁹ While claiming to have criminalized homosexuality, during the dynasty era, leaders were allowed to have men as concubines.¹⁴⁰ The emperors in China could not punish people for engaging in

125. POLITICAL RESEARCH ASSOCIATES, *supra* note 27.

126. *Id.*

127. *Id.*

128. *Id.*

129. Rusnak, *supra* note 119.

130. World Conference on Human Rights, *Human Rights, Sexual Orientation and Gender Identity*, *supra* note 111. The United States, Canada, South Africa, New Zealand, Spain, Greenland, England, Ireland, France, Norway and South America have amended its laws to accepting gay rights.

131. *Nigeria*, *supra* note 2.

132. *Gay' in the 1950's*, *supra* note 49.

133. *Id.*

134. THE ECONOMIST, *supra* note 124.

135. *Id.*

136. U.S. DEPARTMENT OF STATE: DIPLOMACY IN ACTION, *supra* note 25.

137. *Id.*

138. G.A. Res. 217, *supra* note 30.

139. *Gay Relationships Through History: Ancient China*, *supra* note 69.

140. *Gay Love in Ancient China*, *supra* note 71.

homosexual activity when it was committed by powerful leaders.¹⁴¹ Furthermore, because of the acceptance of gay rights as a human right, England and China do not decrease the status quo by imprisonment through sexual orientation.

Generally, the law is not perfect and can be interpreted in many ways. In Particular, the United States Supreme Court battled with gay rights since the early 1980's. The court never punished homosexuality but ruled sodomy or sexual relations without consent unlawful.¹⁴² Gay marriage was legalized in June 2015, giving the LGBT community the right to get married in every state.¹⁴³ This embraced the trend in the law of acceptance but raised many concerns for equal rights such as employment and government assistance.¹⁴⁴ The importance behind this law influenced many other countries to abide by international human rights in giving people a voice to be who they are. But, like the United States, there is room for improving the welfare of humanity. By taking the necessary steps, it is important for Nigeria to mirror these examples to understand the evolution of society and developing rights to accompany that understanding.

B. Educational Opportunities and Its Demand

Acceptance comes with learning and engaging with the community. Nigeria is capable of learning what it means to be associated with the LGBT community and recognizing the progress that can be made through social interaction. Good standing with members of the LGBT community will spread awareness of an organization that believes in equality. An active involvement with people sharing modern views will express a positive concern for humanity. In the process of welcoming an open mind, Nigeria does not have to forget traditional views. An implementation of governmental programs for leaders to attend and have seminars will benefit the prevention of abandonment and punishment.

Educating one's self does not mean disregarding opinions and personal testimonials of what it means to be homosexual. American author Matthew Vines;¹⁴⁵ depicts what it means to be gay around conservative individuals who knew nothing about the LGBT organization and what it stands for.¹⁴⁶ He believes it will always take time for society to truly accept homosexuality.¹⁴⁷ If people were slowly taught about how to love rather than hate it will make people realize that individuals associated with the LGBT community are just like everyone else.¹⁴⁸ Preferably, no one is expected to fully accept someone but to respect and recognize the existence of all forms of civilization no matter the circumstances.

141. *Id.*

142. *Lawrence v. Texas*, 539 U.S. 558, 562 (2003).

143. *Hodges*, 135 U.S. at 2593, *supra* note 1.

144. *Id.*

145. MATTHEW VINES, *GOD AND THE GAY CHRISTIAN* 3-10 (2014).

146. *Id.* at 3.

147. *Id.*

148. *Id.* at 4.

Statistically, 20.8% of the hate crimes are based on sexual orientation that should come to a decrease.¹⁴⁹ The increase of violence is enough for Nigeria to revoke the anti-gay bill and educate leaders to promote the wellness of humanity than contributing to the crimes.¹⁵⁰ The Universal Declaration of Human Rights represents a guide on how to treat society in a civilized manner without diminishing the purpose of equal rights.¹⁵¹ While using the declaration as a resource, the U.N. can always moderate the educational programs to the countries advantage to avoid abuse of discretion. With gradual improvement, Nigeria may look to support from several member countries under the U.N. to draft different proposed laws recognizing gay rights.

C. *The Influence of Peaceful Campaigning*

The more influence Nigeria receives recognizing gay rights, the better development of laws in the countries. The victimization of homosexuality encouraged the United States to campaign against the anti-gay bill.¹⁵² The majority of the country does not recognize LGBT community organizations that would lead to campaigning of strict laws such as the anti-gay bill.¹⁵³ To begin, the Free and Equal Organization is a campaign started by the U.N. in support of LGBT rights. According to Navi Pillay, campaigns are needed in order to further education of human rights and equal protection laws for the LGBT community.¹⁵⁴ She has expressed that social prejudice through the ill-treatment of homosexuality is unfair against basic human rights.¹⁵⁵ According to Pillay, when humanity suffers at the hands of a government, the explication of freedom and liberty are defeated.

Commendably looking at the objectives of the U.N. reveals they are not looking at violence from a distance but doing their best to rectify the international violations. The growth of campaigns diminish the hate crimes in Nigeria to change the current events to reflect peace instead of adversity. Owing to increased campaigning in Nigeria, many citizens had to flee and seek asylum in other countries that did not deteriorate the goal of spreading awareness for change.¹⁵⁶ Whether or not Nigeria decides to outlaw the anti-gay bill is not

149. *Global Discrimination Against LGBT Persons: 2015 United Nations Report*, JOURNALIST'S RESOURCE, <http://journalistsresource.org/studies/international/human-rights/global-discrimination-against-lgbt-persons-2015-united-nations-report> (last visited Jan. 8, 2016).

150. *Id.*

151. G.A. Res. 217, *supra* note 30.

152. *U.S. Support of Gay Rights May Have Done More Harm Than Good*, NYTIMES.COM, http://www.nytimes.com/2015/12/21/world/africa/us-support-of-gay-rights-in-africa-may-have-done-more-harm-than-good.html?_r=0 (last visited Jan. 8, 2016).

153. *Id.*

154. *Navi Pillay Knows We Need to Start Changing the World*, UNFE.ORG, <https://www.unfe.org/en/actions/navi-pillay-psa>, (last visited Jan. 8, 2016).

155. *Id.*

156. *Exiled from Home, Nigeria's Gay Community Builds New Life in US*, ALJAZEERA AMERICA.COM, <http://america.aljazeera.com/articles/2014/3/4/exiled-from-homenigeriasgaycommunitybuildsalifeinnewyorkcity.html> (last visited Jan. 8, 2016).

determinative on the safety of individuals living in Nigeria.¹⁵⁷ Campaigning influenced LGBT members to strive for a better life where recognition is apparent in other countries.¹⁵⁸ The use of campaigning persuades Nigeria to provide safety, security and decent laws.

The U.N. and United States recently became the biggest campaigners for the LGBT community.¹⁵⁹ Both have always agreed with the right to life and the human rights that accompany it.¹⁶⁰ The universal impact within the world allows more countries to do what is best for society. In view of traditional countries like Nigeria, advocating for gay rights is not the easiest task. The more encouragement received the closer the world becomes in recognizing gay rights as a human right. In the end, peace is paramount to the spread of violence and hatred. International laws reflect the improvement of successfully obtaining happiness throughout humanity.¹⁶¹ Discrimination and brutality against humanity opens the door for the dislocation of social acceptance found in reports shamefully presented to the world.¹⁶² The global reports inspire countries like China, England and the United States to refrain from any form of genocide and to collectively bring a solution.¹⁶³

CONCLUSION

People are entitled to the liberty afforded to all human kind.¹⁶⁴ The anti-gay bill in Nigeria does not further the acceptance or liberty of others but reveals an inconsistency with the global trend in the law. The decline of human dignity and increase of discrimination solves nothing in today's generation. Society is entitled to live life according to his or her own standards without judgment from the government. Ignorance of the law does not excuse the awareness and presence of happiness or freedom.¹⁶⁵ The world cannot continue to hide behind homosexuality and deny basic human rights afforded to individuals living in society.¹⁶⁶

The anti-gay bill in Nigeria continuously promotes harm instead of the peace the law should instill for justice.¹⁶⁷ Someone experiencing imprisonment for more than a year and physical abuse is an injustice to the world as a whole

157. *Id.*

158. *Id.*

159. Global Discrimination Against LGBT Persons: 2015 United Nations Report, *supra* note 154.

160. *Id.*

161. *Id.*

162. *Id.*

163. *Id.*

164. G.A. Res. 217, *supra* note 30.

165. Supreme Court has encouraged that by law ignorance is no excuse whether something is knowledgeable or unknowledgeable. Available at, <http://thinkprogress.org/justice/2014/12/15/3603686/supreme-court-if-youre-a-cop-mistakes-about-the-law-wont-stop-your-drug-bust/>.

166. THE FEDERAL BUREAU OF INVESTIGATION, *supra* note 6.

167. *Nigeria*, *supra* note 2.

because it depletes the fundamental existence of social equality. Nigeria dissolves freedom when the constitution controls individuals living in society.¹⁶⁸ To control means to have lack of knowledge about social acceptance and where it comes from within the nation. A horrendous domino effect will occur leading our next generation to accept the act of violence.

As a civilization, we can do better with how we treat one another and give more than take away human dignity. The first step is to be considerate of what people experience on a physical, mental and emotional level within society. When more than one person assimilates to mistreating a populace it places a burden on those who do the best they can to live life. The second step is to realize when humanity is suffering and to actively reach out like organizations such as Amnesty.¹⁶⁹ Outreach demonstrates the care the general population retains for one another than the hatred and misery continuously committed. The anti-gay bill diminishes the basic rights of citizens; the LGBT community deserves to live without fear and unoppressed on earth. Bringing harm is not going to erase the stigma, violence or appearance of homosexuality. China and England are significant examples of countries that slowly entered the 21st century accepting society for its growth. Solely spreading awareness about the principles of social interaction within communities will open the door for a brighter future. The actions of others speaks volumes when there are solutions to aid in the happiness and free will of a community.¹⁷⁰ Present generations must learn from one another instead of passing on negativity reflected in the bill.

Recognition will take time for everyone in the world to come together and agree on one thing evolving in society. Respect is given when it is recognized through the resources provided to humanity. There are programs, seminars, and campaigns that can launch a new beginning in Nigeria where world peace is implicated than the violence experienced. It is not a crime to express what is right and human rights will always be defined as a symbol of unity than separation.¹⁷¹ Tolerance is the hardest lesson because it is difficult to welcome a standard of living that requires patience. Man-kind has the potential to disregard all forms of stereotypical problems in society. Any kind of misunderstanding with the interaction of people will favor the law into being for everyone without limitations or exclusions. The reason behind formulating better laws will be for the protection and advancement of civilization.¹⁷²

168. *Id.*

169. *About Amnesty International, supra* note 44.

170. *Id.*

171. US LEGAL.COM, *supra* note 5.

172. *Id.*