

## CHANGING THE FAMILY CONCEPT: CHALLENGES OF SAME SEX MARRIAGE IN NIGERIA

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### **Abstract**

*Family is defined as a group consisting of two parents and their children living together as a writ<sup>1</sup>. There is doubt that legalizing same sex marriage has radically altered the concept and definition of the Family. Some countries particularly in the developed world legalized same sex marriage and practicalised it. They refer to it as marriage equality, involving gay men and lesbians. The gay community believes that this is an issue of human rights and the campaign to end discrimination based on sexual orientation.*

*In African custom end amongst the Muslims, a man is entitled to marry more than one woman as wife<sup>2</sup>. In Africa homosexuality is viewed as Abomination Countries in Africa and particularly Nigeria criminalized same sex even in the face of threats by the developed countries.*

*This paper argued that this is not good enough and therefore recommends concerted efforts be made to protect the cultural heritage of non western countries so as to fulfill one of the aims and objectives of GOD instituting marriage, which is procreation as recorded in the Bible<sup>3</sup>.*

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<sup>1</sup> <https://www.merriam-webster.com/family> accessed

<sup>2</sup> [www.cx.org/content](http://www.cx.org/content) accessed on

<sup>3</sup> Gen 1:28, Amplified Bible (AMP) – version information, Bible Gateway.com accessed 27/07/17

## **Introduction**

It has been stated that the word “family” is one which is difficult, if not impossible to define<sup>4</sup>. The word “family” is also a word with multiplicity of meanings<sup>5</sup>. People have many ways of defining a family and what being a part of a family means to them. Families differ in several ways such as in the social dimension, in the cultural dimension and in the economic dimension and in the numerical dimension etc, but what every family has in common is that the people who call it a family are making a clear statement that these people are related in one way or the other to the person calling them his or her family.

The family has been seen, from time immemorial, as the basis of society and the family is in turn based on marriage i.e. the traditional meaning of marriage as the voluntary union for life of one man and one woman to the exclusion of all others<sup>6</sup>. However, in the last two or three decades or so, fundamental changes in the definition and law of marriage has caused profound changes in the meaning of marriage and the concept of the family. These years has seen the rising complexity of family life, single parenthood, the sceptre of never married parents, unmarried couples and remarried parents.

Also, the last two decades has seen several countries<sup>7</sup> implement profound changes in the laws regulating marriage and family life in their societies and about 21 countries have so far legalized gay marriages as at June, 2015 and also embarked on the codification and proliferation of same sex civil unions, same sex marriages as well as the right of gay couples to adopt and raise children.

These changes have caused the need to redefine the concept of family. It is our submission that to do this will entail drastic reinvention of the family and family life.

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<sup>4</sup> Bronley’s Family Law, Butterworths 8<sup>th</sup> ed P.M Brokley & anor at p.3

<sup>5</sup> Ibid.

<sup>6</sup> Hyde v Hyde (1866) L.P.I.D.&D 130.133 Per Lord Penzance

<sup>7</sup> [www.pewforum.org.2015/06/26+gay](http://www.pewforum.org.2015/06/26+gay)

## Definition & Terms

The key terms to be used in this paper will be defined under this subheading.

### A. Family

According to the AR dictionary<sup>8</sup>, a family is “*the collective body of persons who live in one house and under one head or manager; a household, including parents, children or boarders.*” It also defines a family as “*the group comprising a husband and a wife and their dependent children, constituting a fundamental limit in the organization of a society.*”<sup>9</sup>

The Macmillan dictionary defines family as “*a group of people who live together and are related to one another, usually consisting of parents and children*”.<sup>10</sup> The definitions explored above have one thing in common namely that a family consists of at least parents and children, such parents being husband and wife.

These definitions, also relate to persons other than parents and children- family may refer to parents being husband and wife.

A family consists of nuclear family and extended family. A nuclear family consists of just parents and children. An extended family, on the other hand, consists of not just the members of the nuclear family but other family relations as uncles, aunts, grand fathers, grandmothers etc.

### B. Marriage

According to the Merriam Webster dictionary, marriage is defined as “*the state of being united to a person of the opposite sex as husband or wife in a consensual and contractual relationship recognized by law; the state of being united to a person of the same sex in a relationship like that of a traditional marriage*”<sup>11</sup>. The advantage of this definition is that it represents both the traditional

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<sup>8</sup> [www.ardictionary.com](http://www.ardictionary.com)

<sup>9</sup> Ibid.

<sup>10</sup> [www.macmilliandictionary.com/family](http://www.macmilliandictionary.com/family)

<sup>11</sup> <https://en.m.wikipedia.org>

and contemporary definitions or trends of marriage combining traditional definition of marriage with contemporary situations.

### **C. Same- Sex Marriage**

While the term “same- sex” is defined as “*involving or restricted to members of the same- sex*”<sup>12</sup> or “*of or involving gay men or lesbians*,”<sup>13</sup> the term same- sex marriage (otherwise referred to as “gay marriage”) is marriage between persons of the same biological sex and/or gender identity. Legal recognition of same-sex marriage is sometimes referred to as marriage equality or equal marriage.

### **Legal Framework for the Concept of Family in Nigeria**

The laws regulating family life in Nigeria are numerous. They consist of a variety of laws that include both statutory and case law. With respect to the statutory laws they are either primary statutes<sup>14</sup> or secondary statutes<sup>15</sup>. The primary statutes include Marriage Act, Matrimonial Causes Act, Adoption Law, Child Rights Act, etc. The secondary statutes, on the other hand, include the Constitution of the Federal Republic of Nigeria (1999), the African Charter on Human and Peoples Rights, Evidence Act, Criminal Code Law and Penal Code Law etc.

Section 37 of the Constitution of the Federal Republic of Nigeria (1999) as amended 2011 provides for the right to private and family life. It provides as follows: “The privacy of citizens, the homes, correspondence, telephone conversations, and telegraphic communications is hereby guaranteed and protected.”

The right to privacy and family life may be referred to as essentially dual in nature. We will therefore concentrate on the

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<sup>12</sup> <https://en.m.wikipedia.org>

<sup>13</sup> Ibid.

<sup>14</sup> A primary statute is a statute that deals wholly with a subject matter.

<sup>15</sup> A secondary statute is a statute that deals with a large number of things or subject matters.

second limb being right to family life. Article 13 of the African Charter on Human and Peoples Rights provides as follows: “The state shall have the duty to assist the family which is the custodian of morals and traditional values recognized by the communities”<sup>16</sup>

The combined effect of section 37 of the 1999 constitution and Article 13 of the African Charter, which has been made part and parcel of Nigerian law, is that the right to family is at the apex of our legal system. Its nature as a fundamental right may be broadly interpreted as antecedent to the state and therefore immune from any attempt by the state to abridge its contents. A less optimistic perspective is that by making the right to family a fundamental right, the state has elevated it from the position of “rights rhetoric” to an enforceable right protected by the state, which has the power to modify it to the extent “reasonably justifiable in a democratic society”<sup>17</sup>

When we use the term family, there are two broad interpretations of what we mean: first, there is the sense of family as our universal kinship, everyone we are related to by blood or marriage<sup>18</sup>. Second, the term family is virtually synonymous with household<sup>19</sup>. Although the kinship link remains important, there is implicit reference to a shared housekeeping and a domestic economy.

The right to family includes the right to marry and the right to have a family<sup>20</sup>. It also provides for the right not to be disturbed in the privacy of one’s home. It also connotes a right to consortium of one’s spouse and the right to raise and adopt children.

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<sup>16</sup> Paragraph 2 of Article 13 of the African Charter on Human and Peoples Rights (1981).

<sup>17</sup> See Section 45 of the Constitution of the Federal Republic of Nigeria 1999 as amended 2011.

<sup>18</sup> [www.ncsociology.org](http://www.ncsociology.org)(Supra)

<sup>19</sup> Ibid.

<sup>20</sup> See review of existing reproductive health policies and legislations in Nigeria by Dr. M.T. Ladan – [www.dawodu.com/Ladan](http://www.dawodu.com/Ladan).

Apart from the 1999 constitution, the African Charter on Human and Peoples Rights also provides for the right to family. Nigeria has transformed<sup>21</sup> this Charter into a domestic law as provided by the 1999 constitution<sup>22</sup>. Article 18 of the African Charter on Human and Peoples Rights provides as follows: “The family shall be the natural unit and basis of society. It shall be, protected by the state which shall take care of its physical health and moral<sup>23</sup>.”

Over the last couple of years, the extended family is gradually disappearing as it is being replaced by the nuclear family as the main operating family unit<sup>24</sup>. The extended family is a group that consists of parents, children and other close relatives living in close proximity while the nuclear family consists of parents and their children. There have been dramatic improvements in transport, communication and housing making it more accessible and simple and allowing families to move further from their traditional areas without fear of isolation. There have also been improvements in educational instruction and opportunities have increased job prospects.

The role of women in the family has increased since women are no longer just house-wives or nursing mothers but are also major contributors to the welfare of the family. The gradual rise in the number of human rights to be claimed by individuals has resulted in a higher level of conscientization in societies over the years having a significant effect on family life. There has also been the rising divorce rates, the emergence of same sex marriage and the same sex couples, single parents, and gender issues.

### **Changes in the Concept of the Family**

Historically, the definition of marriage did not include gay and

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<sup>21</sup> It is referred to as domestication in Nigeria under international law and ratification under Nigerian law.

<sup>22</sup> Section 12 of CFRN (1999)

<sup>23</sup> Paragraph 1 of Article 18

<sup>24</sup> *Ibid.*

lesbian couples. The traditional definition started to receive intense calls for review due to debates that raged for many years on same-sex marriage. This evolution gained considerable speed following U.S Supreme Court's 2013 decision, *US v Windsor*<sup>25</sup>. The Windsor case involved a New York widow, who married her partner in Canada, and her marriage was recognised by the State of New York. Her partner died, and Ms. Windsor was denied the benefit of a spousal deduction for federal estate taxes because the Federal Defense of Marriage Act (DOMA) barred recognition of Ms. Windsor as a "spouse". She paid more in federal taxes than she would have if the federal government had recognised her marriage. The US Supreme Court found that the section of DOMA that limited marriage and spouse to only opposite-sex couples was unconstitutional under the Fifth Amendment of the US constitution. Writing for the court, Justice Kennedy concluded that New York had protected a class of people, and DOMA took that protection away, resulting in a violation of basic due process and equal protection. Because the definition in DOMA applied to a wide variety of federal laws, the holding affected many areas, including social security, benefits under the Family & Medical Leave Act, taxes, bankruptcy, immigration, military spousal benefits, to name a few. However, the holding only applied to marriages that were legal under the law of the state. The holding did not apply to same-sex couples in states whose laws did not recognize same-sex marriage. This decision struck down the clause in the Federal Defence of Marriage Act (DOMA). The term "marriage" and "spouse" was defined excluding same-sex partners<sup>26</sup>. Ultimately in 2015 the U.S Supreme Court recognized the right of same-sex partners to marry in a decided case, which is now the locus classicus of same-sex marriage, *Obergefell v Hodges*<sup>27</sup>. On June 2015, the U.S Supreme court concluded that, under the Fourteenth Amendment<sup>28</sup> of the U.S constitution, state must license a marriage

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<sup>25</sup> [www.lawlawmix.com/cases.obergefell.Hodges](http://www.lawlawmix.com/cases/obergefell.hodges) U.S Supreme Court 2015.

<sup>26</sup> Opt cit (U.S Supreme Court 2015).

<sup>27</sup> Ibid.

<sup>28</sup> *Obergefell v. Hodges* Us Supreme Court 2015.

between two people of the same sex, and must recognise a marriage between two people of the same sex when their marriage was lawfully licensed and performed out-of- State. In that case, *Obergefell v. Hodges* fourteen same-sex couples and two men whose same-sex partners were deceased, challenged the laws of their states, raising the following two issues: (1) whether the Fourteenth Amendment requires a state to license a marriage between two people of the same sex and (2) whether the Fourteenth Amendment requires a state to recognise a same-sex marriage licensed and performed in a state that does not grant that right. Justice Anthony Kennedy authored a 5-4 the decision answering “yes” to both of those questions. After discussing the development of marriage as an institution, and the evolution of the rights of gays and lesbians, the opinion concluded that marriage is a fundamental right that applies with equal force to same-sex couples. Justice Kennedy referenced four principles in reaching this conclusion:

1. The right to personal choice regarding marriage is inherent in the concept of individual autonomy.
2. It supports two-person union unlike any other in its importance to the committed individuals.
3. It safeguards children and families by providing stability, recognise, and predictability, as well as economic benefits.
4. Marriage is integral to our country’s social order.

“It is now clear that the challenged laws burden the liberty of same-sex couples and it must be further acknowledge that they abridge central precepts of equality”<sup>29</sup>, wrote Kennedy.

As such, same-sex couples may not be deprived of the fundamental right to marry, meaning same-sex couples may marry in all states, and states must recognise a lawful same-sex marriage performed in another state.

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<sup>29</sup> Justice Kennedy <ahref=[http://www.apim-ages.com/meta data/index/supreme-\(court accessed on the 27/7/17](http://www.apim-ages.com/meta data/index/supreme-(court accessed on the 27/7/17)

Massachusetts was the first to legalize same-sex marriage followed by California. This argument was that the bar was a violation of the state's constitutional provisions regarding equal protection

**What are the changes in the family concept in modern times?**

Before we answer the question, we need to appreciate the fact that same-sex marriage has come a long way. Initially, persons engaged in homosexual and lesbian conduct were openly discriminated against. Their conduct was widely perceived as corrupting the good public morals and offensive to the sensibilities of the wider society which was heterosexual. This was until the judiciary delivered judgments that held that homosexual conduct was legitimate conduct between consenting adults provided it was done privately.

Eventually, the gay community received legislative endorsement when their relationship was given the appellation of "civil union"<sup>30</sup>.

Gay rights were conceived of as human rights, a right to sexuality without the restrictions of society. Laws were promulgated that protected the gays from being discriminated against in all works of life. Soon, the gays claimed the right to privacy and cohabitation and they were granted civil unions. The gays have also claimed a right to be married like normal heterosexual couples<sup>31</sup>. They argue essentially that since attraction, intimacy and love are the hallmarks of marital union and bliss, and that heterosexual couples exhibit such, homosexual couples are equally capable of having and showing love and intimacy and are attracted to members of the same biological sex. They further state that homosexual couples are as much human as heterosexual couples, only that homosexual couples have a medical cum biological disposition to be attracted to members of the same sex. Just like we cannot choose our natural

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<sup>30</sup> Obergefell v. Hodges Us Supreme Court 2015.

<sup>31</sup> [www.ted.com/conversations/will-same-sex-marriage-damage.html](http://www.ted.com/conversations/will-same-sex-marriage-damage.html) accessed 09/07/2013

disposition, it will be wrong to discriminate against, or prevent them from practicing what nature and not their will has endowed them with. Thus they claim to be eligible for marriage. They also claim the right to adopt and raise children just like heterosexual couples.

The gay community has also claimed a right to be ordained as priests, bishops and ministers of the church. They argue that they are as much the children of God as the heterosexuals. Since God made them naturally to prefer the intimacy of their fellow sex then they should not be discriminated on that ground.

### **The Dialectics of same Sex Marriage in a Secular Society**

From a gay perspective, the objections to gay marriage are factored under the traditional definition of marriage as the union of one man to one woman<sup>32</sup>. This view is based on the position that most objections are based on the belief that marriage has a spiritual or religious dimension and that homosexuality is a defect, unnatural and sin. The gays respond by arguing that both racism and sexism are often supported by religious views and tradition. They therefore conclude that it is a weak argument.

They also hold the view that most objectors to same sex marriage ground their objection on the fact that same sex marriage will damage the family unit, damage the children and damage society<sup>33</sup>. The gay community believes that this is an issue of human rights and the campaign to end discrimination based on sexual orientation. They also hold the view that no one has the right to impose their religious views on others and that everyone has the right to pursue happiness that does not harm others.

The classical definition of family is a group made up of one man and one woman, and their children who form a single household<sup>34</sup>.

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<sup>32</sup> Ibid.

<sup>33</sup> Ibid.

<sup>34</sup> Retrieved from [www.timesofmalta.com./articles](http://www.timesofmalta.com./articles) on 09/07/2013

This definition, however, is not representative of the family configuration in such traditional societies as exist in Africa and Asia. It does not take the realities in Africa and Asia into perspective.

In African custom and amongst the Muslims, a man is entitled to marry more than one woman as wife<sup>35</sup>. In Asia, some people have the custom of one woman marrying more than one husband. Despite these cultural differences the essential issue at the fore of the discourse is that in Africa and Asia, as in the traditional English definition of marriage, the practice of marriage as the union of members of the opposite sex is of wide acceptance. Also, in Africa and Asia, homosexuality is viewed as abominable in their respective cultures.

Extending the meaning of marriage beyond the union of members of opposite sexes to the union of members of the same sex has been achieved first through the instrumentality of the courts<sup>36</sup> and second by statutory instrument<sup>37</sup> for instance, the New Zealand statute passed in 2013 defines marriage as “the union of two people regardless of their sex, sexual orientation or gender identity<sup>38</sup>”. This Act followed a series of court victories for the gay rights activists. This definition of marriage is wide enough to include heterosexual couples, homosexual couples and transgender individuals. This extended definition of marriage has implications for the notion of family in the traditional sense. For instance, for the homosexual and transgender folk family will not only mean a couple of the same sex, it will also mean raising children that are not the biological children of the homosexual couple<sup>39</sup>. This will mean

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<sup>35</sup> What is a family retrieved by [www.cx.org/content](http://www.cx.org/content) accessed 10/2/2014

<sup>36</sup> See the case of *Halpern v A.G.* (2003) 6S OR 3D 161 retrieved from [www.ontariocourts.on.ca](http://www.ontariocourts.on.ca)

<sup>37</sup> The Canadian Civil Marriage Act defines marriage as “... the lawful union of two persons to the exclusion of all others”.

<sup>38</sup> New Zealand Marriage Act

<sup>39</sup> The children may be from a previous heterosexual marriage

rationalizing on the right of gay couples to adopt children.

The idea has been canvassed that the sanctioning of same sex marriage will lead to a disincentive for marriageable persons to contract marriage to the opposite sex<sup>40</sup>. It has been suggested that since potential candidates are allowed by law to choose their sexual preference, they would opt for that which is less demanding.

Also, it has been said that contrary to the claims of proponents of gay marriage that gay marriage would not have any negative effect on the traditional idea of marriage, the statistics show that the rate of marriage has slowed down because of gay marriage<sup>41</sup>.

Additionally it has been argued that gay marriage has a serious implication for children and their welfare. Scientific literature indicates that parent's financial, psychological and physical well being can be enhanced by marriage and that children benefit from being raised by two parents within a legally recognized union of opposite sexes. Humans (and most animals) have two genders i.e. male and female. Each has different construction and processes towards achievement of goals<sup>42</sup>. Unless the two same sex "parents" can display, teach and promote both genders in a more or less equal proportion to the children, then the Fathers teach boys how to be men and how men should treat women. Mothers teach girls how to be ladies and how women should treat men<sup>43</sup>. These are learned by example. They are behavioural lessons, not factual matrices. If both "parents" are the same sex, no matter how effeminate or masculine, the children will be unable to learn these lessons.

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<sup>40</sup> "Sociologist warns that equal marriage will lead to "decline and "instability" of marriage" by Joseph McCormick retrieved from [www.pinknews.co.uk](http://www.pinknews.co.uk)

<sup>41</sup> Ibid.

<sup>42</sup> Comment by Jeremy Poff retrieved from [www.ted.com/conversations](http://www.ted.com/conversations) children are going to be robbed of "growing up" with an equal chance accessed 10/2/2014

<sup>43</sup> Ibid.

The fact that many heterosexual couples fail or have failed to provide good examples for their children e.g. the abusive father or mother or the alcoholic parent, has been used by homosexuals to taunt the heterosexual community as a failed enterprise. They argue that homosexual relationships are more stable and affectionate, than heterosexual relationships<sup>44</sup>.

This does not prove the incapability of heterosexual couples. The fact that a good suffers from one problem or the other does not make it inadequate. It only draws our attention to a social problem which requires a social attention. Although, children can be loved, catered for and given optimal educational opportunities by same sex couples, their life under parents who are same sex couples would not afford them an important part of their upbringing that moulds them to be future parents and members of a dual gender race<sup>45</sup>.

A logical exposition may help illustrate this: if all marriages were of the same sex, procreation is lost and genetic diversity becomes reliant on choice made in the laboratory. This is not nature. The English version of the Russian newspaper, Pravda<sup>46</sup> had this to say about the rising of same- sex marriages:

“Family, in the common sense of the word, is a cell of healthy society that leads to the appearance of new generations, thus providing the domination of births over deaths. What can same sex marriage offer, extinction and degradation? The behavioural example that parents show to their children is an important factor in the educational process of personality. Mankind may face the problem of cultivating homosexuality among the children

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<sup>44</sup> Ibid.

<sup>45</sup> [www.ted.com](http://www.ted.com) (Supra).

<sup>46</sup> “How will gay marriage change the world” by Serge Vasilenko retrieved from [www.EnglishPravda.nu/society/family](http://www.EnglishPravda.nu/society/family).

whose parents share a “non traditional” orientation. Every fifth gay couple or family in the United States has either children born from previous heterosexual marriage, or adopted children. In total, we are talking about more than two million human lives. What kind of people will they be.”

The implication for family life as it is traditionally understood is dire. Also, the implication for the human race in terms of procreation is equally serious. The writer strikes the relevant cord with this piece.

### **The Case of Nigeria**

Nigeria recognises neither same sex marriage nor civil union for same sex couples. Unconventional sexual behaviour is not totally strange to Nigeria. For instance, in some parts of northern Nigeria there is a practice known as Dan Dauda that allows men to dress and walk like women, mimic women, and even get involved in social activities that are mostly associated with women. Similarly, in parts of Southern Nigeria there are masquerades that appear in public in as women especially during community festivals when they usually display feminine characteristics to amuse and entertain their audience. Such artistic display is similar to some patterns of cross dressing in Shakespeare’s plays. While these artistic and cultural practices still exist in Nigeria, they do not, in the opinions of most Nigerians, constitute justification for same sex marriage. It cannot be ruled out that there are gays and lesbians in Nigeria and other African countries. However, it is unlikely that these people are socially tolerated to the extent that they can engage in open association with one another.

Sometime in 2011, it was reported that two men approached a Magistrates’ Court in Edo State seeking the legal registration of the conjugal union of their persons. Being that, under sodomy and unnatural offences laws, penalties for such relations were already existent but they were denied. As a result they threatened to sue for

discrimination since there was no provision of the English Common Law used in Nigeria that was against the marriage of persons of the same sex. This event in some respects, served to bring into limelight the discourse on same sex marriage in Nigeria. Due to the cluster of interests around the issue, both within and outside Nigeria, it did not take time for the issue to become part of the national discourse. Some notable interest groups like Human Rights Watch, Amnesty International and the International Gay and Lesbian Human Rights Commission stood against the Bill, highlighting the implications on human rights. They argued that the bill would extend the already existing penalties for consensual same sex conduct in the country, and also that criminalising individuals for “living together as husband and wife” of same sex further expands these punishments. Their argument was that ordinary people with normal sexual orientation may likely suffer as victims of the hatred towards homosexuals. Outside Nigeria, the Bill drew attention and also provoked reactions from members of the international community, mostly arguing that the Bill represents a defeat of democratic values and a disregard for international laws on fundamental human rights. Also some Nigerians in the diaspora organised rallies and open demonstrations to condemn the prohibiting of same sex marriage in Nigeria. In spite of all the moves against the Bill, it was eventually passed by the National Assembly.

On January 7, 2014, President Goodluck Jonathan signed into law the Same-Sex Marriage (Prohibition) Act criminalizing Same-Sex Marriage in Nigeria<sup>47</sup>. The law is cited as anti LGBTI<sup>48</sup> law. Homosexuality can land someone up to fourteen years imprisonment. Of interest to Nigeria is an article on the Saturday edition of Punch News papers authored by Kunle Falayi and titled

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<sup>47</sup> [www.nigerialawtoday.com/2014/02/10/same-sex-marriage/](http://www.nigerialawtoday.com/2014/02/10/same-sex-marriage/). 10 Feb, 2014.

<sup>48</sup> Lesbian, Gay, Bisexual Trans gender and intersex. [www.ng.lawtoday.com/](http://www.ng.lawtoday.com/) without need for procreation.

‘We’d have been locked up in Nigeria’. It is about a Nigerian born lesbian woman aged 53-year-old known as Moji Solar-Percy, who walked down the aisle with her American ‘wife’ on Tuesday in the US, celebrating the freedom that she would not have had in Nigeria.

According to the author, Solar-Percy, a real estate mogul, runs a company, Solar Worldwide Realty Inc. in Staten Island, New York. She gushed about her love for the woman, with whom she probably would have been arrested if the wedding had taken place in Nigeria. Solar-Percy, who hails from Ijero-Ekiti, Ekiti State, describes herself as a mother, realtor, LGBT activist, speaker, coach and host on her Facebook page, did not reveal the name of her partner.

According to the *Saturday Punch*, she wrote on her Facebook wall, where friends and families have been celebrating her new status that she embarked on the marital journey with fear.

“Today I woke up in a cold sweat. I was drenched with fear, for a moment. I forgot where I was. I ask you all to close your eyes, imagine what would have happened Saturday at our wedding if we were in Nigeria.

“Even though we went to great lengths to make sure we had security, the thought of the police barging in and arresting all our guests, my wife and I, to be carted off to jail, the women raped and beaten, the men brutalised, and my children beaten along with everyone else.

“When I got my bearings, I got on my knees and thanked God for his grace of living in the US. Then I remembered all the people that could not do what we did with grace and class. To all of you (gay) all over Africa #westandforyou. May all our days be filled with blessings and grace”, she concluded.

In the wedding, which was well attended by other Nigerians in the US, Solar-Percy and her bride decked up in both traditional

attires, while another picture she posted showed her wearing a white wedding gown and being attended to by her first child. Friends say Solar-Percy has never hidden her sexual orientation.

Saturday PUNCH learnt that as is the tradition in many gay weddings, the broker and her partner made use of two aisles.

A source for the Saturday Punch said that each of their bridal train alternated going down the respective aisles, then Sola-Percy and her partner walked parallel to each other.

She was said to have hired two photographers to capture both of them as they walked down the aisle.

In Nigeria, such a gay marriage would have met with a clampdown from authorities as a result of the country's Same-Sex Marriage (Prohibition) Law, which prescribes up to 14 years imprisonment upon conviction.

## **Conclusion**

The concept of family has indeed been transformed by a lot of changes particularly from; social factors notably the legalizing of same sex marriages. Several case law authorities buttress the fact that the concept of family has been radically altered with the courts inclined to give legal recognition to same sex relationship under Human Rights and to accord the members of such relationship the status of family, at least with respect to each other.

This attitude of the courts has led to increasing expansion of Human Rights into the domain previously exclusive to the traditional meaning of family.

Now, same sex couples are entitled to the right to raise children either by adoption or by transferring parenting from a previous heterosexual relationship to a current homosexual or lesbian one. Also, the concept of marriage has been radically altered so as to allow the right to marry, in order to legitimate this, marriage was

redefined in terms of love, intimacy, deep relationship, monogamous relationship and affection as the major characteristics and not procreation. In the case of *Baker v Nelson*<sup>49</sup> the counsel to the plaintiff argued that procreation or child rearing is not the goal of every marriage and that middle ground may be reached if heterosexual couples may be content to live together without children why not homosexual couples as a prelude to granting same sex marriages?

The Traditional Family definition of family has been altered. This alteration or change is gradually creeping into many jurisdictions but those who have refused to accept this change are still much more. The change in family concept is not universal but we concede that with the increase in same sex and gay marriages universally, more countries may legalise same sex marriage.

To stop or accept this change there might be a need for research into development of sexual orientation in persons<sup>50</sup>. If this is not implemented or it is abandoned, humans may one day begin to sleep with animals (which is already happening) and seek for it to be legalised as marriage.

All government needs to do is to go beyond criminalizing same sex marriage and begin to see it as a social problem which requires a social attention.

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<sup>49</sup> 291 (Minn.310 1371) 409 U. S. 810 (1972).

<sup>50</sup> [www. ng.law today](http://www.ng.law today) Feb 2014.