

Gay Rights Policy and the United States-Nigeria Diplomatic Relations

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Abstract: The study assessed the nexus between gay rights policy and the United States-Nigeria diplomatic relations, 2006-2015. Relations between both countries have been cordial except during military rule in Nigeria. The low moments of their diplomatic relations since democratic rule in 1999 was evident during 2013-2015 and it was centered on the controversy generated especially, by the Same-Sex Marriage (Prohibition) Act, 2013 and failed leadership. Hence, the study specifically, is to (i) ascertain whether the criminalisation of gay rights in Nigeria undermined the existing diplomatic relations between the United States and Nigeria, and, to (ii) determine whether leadership role in Nigeria accounted for the pressure by the United States for the decriminalisation of gay rights in Nigeria. The theoretical perspective of this study is rooted in the 'centre-periphery' theory of structural imperialism by Johan Galtung and adopted the documentary methods of data collection and content analysis as its methods of data analysis. This study found out that, the gay rights policy undermined diplomatic relations between both countries and that, the leadership role in Nigeria accounted for the pressure by the United States for the decriminalisation of gay rights in Nigeria. The study recommends among others that, the Nigerian government should formulate citizen-centric policies instead of policies that have no direct benefits to the generality of Nigerians such as the anti-gay laws. Also, over dependence on foreign aid from countries seeking to influence Nigeria's domestic politics should be discouraged.

Keywords: Gay rights policy, United States-Nigeria relations, Same-Sex Marriage, Criminalisation, Decriminalisation

I. INTRODUCTION

The gay rights policy in western and advanced democracies is one that has drawn much attention globally in the past two decades. The United States of America (U.S.), as one of the leading democratic states in the international arena, is religiously pursuing the promotion of gay rights as its foreign policy in a bid to protect the human rights (non-discrimination and equality) of Lesbian, Gay, Bisexual, Transgender, Intersex and Queer (LGBTIQ) persons. The immediate past President of the U.S., Barack Obama, during an address to the United Nations General Assembly in 2011, made a foreign policy statement concerning gay rights, thus:

No country should deny people their rights to freedom of speech and freedom of religion, but also no country should deny people their rights because of who they love, which is why we must stand up for

the rights of gays and lesbians everywhere (Barack Obama, UNGA, September 2011).

As a corroborative evidence to the U.S. foreign policy on gay rights under the President Obama's leadership, the United States is a liberal democracy whose constitution underpins liberty, justice, and equality and as a result, the country holds the belief that, every human being anywhere is born free and should be accorded liberty of free will to live under state protection. It is also the duty of government to dispense justice without fear or favour of anyone, and all individuals should enjoy equal rights as members of a political community.

In a 2011 speech to the UN Human Rights Commission, the erstwhile United States Secretary of State, Hillary Clinton made an impassioned case for gay rights. Borrowing from her famous 1995 Beijing speech in which she argued that "women's rights are human rights and human rights are women's rights," she intoned, "Gay rights are human rights, and human rights are gay rights." She added that gay rights are "not a Western invention but rather a human reality." Soon thereafter, Clinton instructed United States embassies across the globe to make gay rights a diplomatic priority (Encarnación, 2014, p. 102).

In the meantime, effort by the United States and other advanced democracies to impose gay rights policy on Africa and Nigeria in particular, have proven divisive as homosexuality is considered illegal in 38 of the 54 African countries including Nigeria (Olarewaju, Chidozie and Olarewaju, 2015, p. 505). Russia, the Islamic countries as well as countries in the global south with few exceptions have vehemently kicked against the gay rights policy (Pew Research Centre, 2013 cited in Encarnación, 2014, p.96).

Gay activities such as same sex marriage and all forms of homosexuality in Nigeria are seen as acts contrary to religious and societal norms and as a matter of policy, these gay activities are considered as moral decadence that belie section 45(1) of the 1999 Nigerian constitution; consequently, this gave the Nigerian legislative body (National Assembly) the impetus to criminalise gay activities in 2013 despite the United States pressure on the legalisation of gay rights in Nigeria. The Senate voted to sharpen the bill in 2011, and in July 2013, Nigeria's lower chamber, the House of Representatives, unanimously voted for the outright criminalization of homosexual relations (Ikpechukwu 2013).

Meanwhile, Nigeria has had a long history with the United States. According to Ayam (2008, p. 118), the first diplomatic contact Nigeria had with the United States was at Nigeria's independence ceremony on October 1, 1960, where the United States President, Dwight Eisenhower was represented by Nelson Rockefeller, the then Governor of the State of New York. Ayam also states that.

Interaction between the two countries in the 1960s was influenced by United States' policy of containment and Nigeria's non-aligned posture. Containment had been used as a policy by the United States to stop the spread of communism. While communism did not gain any foothold in Nigeria seen at the height of Soviet support for the federal government during the civil war, the desires of both countries was for good and cordial relations. America's high level of development, technology and wealth remain a source of assistance to Nigeria (Ayam, 2008, p. 117).

Since her independence in 1960, Nigeria has been a strategic partner of the United States but there have been instances where both countries have had face-offs or disagreements on issues of governance, leadership, human rights, transparency, and integrity in the conduct of its domestic affairs. The relationship that exists between the United States and Nigeria is a strategic one; this is because of the role the two countries play in the international system. Nigeria and the United States belong to a few the same international organizations, including the United Nations, International Monetary Fund, World Bank, and World Trade Organization. Nigeria also is an observer to the Organization of American States (United States Department of State (USDoS, 2017). According to Adebajo and Mustapha (2008, p. 22 in Olarewaju Chidozie and Olarewaju, 2015, p.505) strategic events are largely responsible for the unstable external relations between the two countries.

However, Aka (2002, pp. 225-280) and Ayam (2008, pp. 117-132) have asserts that, despite collaborations in a wide range of areas such as trade, security, democracy, human rights, health to mention just a few, the relationship between the two countries has experienced challenges at various points in time arising from clashes in the pursuit of vital domestic interests. Osaretin and Ajebon (2012 as cited in Olarewaju, Chidozie and Olarewaju, 2015, p.505) did argue that, the few factors that engendered the strains in Nigeria -United States relations include the violation of human rights during the military dictatorships of General Babangida and General Abacha, kidnapping and abductions of expatriates in the Niger Delta, the acts of the terrorist group Boko Haram and attempted suicide bombings; the resulting efforts of the Nigerian military's inability to rout the Boko Haram terrorists group and most recently, the clash of ideology over gay marriage.

Problematic

Nigeria considers gay rights issue as a pettifoggery of the West against her leadership. The country has ignored aspects of human rights protections for LGBTIQ persons even when most of the 30 articles of the United Nations Declarations on Human Rights have been domesticated in her 1999 constitution (in particular Chapters Two and Four of the constitution which frowns at discrimination and protects the right to privacy, freedom of expression and freedom of association), has seen the country being maligned by the international community (especially the United States) after the enactment in 2014 of the Same-Sex Marriage (Prohibition) Act, 2013. The anti-gay rights policy like every domestic policy has largely influenced the outcome of Nigeria's foreign policy and given her a bad image internationally as her policies are at variance with other countries' foreign policies.

Nigeria's foreign policy over the years has been grossly sabotaged and undermined by ineptitude, corruption, nepotism, leadership deficit and poor democratic credentials, which have negatively affected the international reputation of the country (Nwoke, 2014, p. 59). Nigeria's reluctance to take seriously into account other countries' foreign policies has affected her position negatively in international politics and made her gain but little respect where she was supposed to have been respected among the comity of nations as the supposedly acclaimed 'giant of Africa'. In his analysis of five decades of Nigeria's foreign policy, Ezirim (2010, pp. 12-13) argues that.

Foreign policy must be defined in terms of the goals a nation needs to officially seek to attain abroad, the culture and values that bring about those objectives and the instruments necessary to pursue the goals while considering other nation's prevailing foreign policies that may be established against our national interest. Nigeria in the present regime is not following this global tenet and it is hurting Nigeria badly among the comity of nations shown by the lack of interest in Nigeria despite our huge human and material resources...this is because, other nations have seen that our foreign policy thrust presently is rudderless and so are taking advantage of that to rub into our faces the fact that we are not 'giants' as we erroneously keep thinking we are.

Akinboye (2013, p. 58) further states that, without any contradiction, Nigeria's foreign policy in contemporary context must be premised solely on national interest with emphasis on national security and welfare, regional and global peace, as well as robust multilateral diplomacy that is tailored along strong strategic partnership with friendly states in the global arena. The focus of this study, therefore, is anchored on the rejectamenta of gay rights by Nigeria which has hitherto unravelled the effects of gay rights policy (as an instrument of foreign policy) on the United States-Nigeria diplomatic relations.

The politics of gay rights in the international sphere continue to be a debatable issue in world politics as “the schizophrenic manner in which gay-rights politics played out in 2013 highlights the ambiguities in global trends: Gay rights are expanding in some countries while constricting in others” (Encarnación, 2014, p. 91).

The Criminalisation of Gay Rights in Nigeria

Okoli & Abdullah (2014, pp. 17-24 as cited in Olarewaju, Chidozie & Olarewaju, 2015, p. 12) argue that Nigeria’s position against same sex marriage or (gay rights) is rooted in inherent socio-cultural ideological complexes of the African society and the cultural proclivity of the African society does not allow for such (same-sex or homosexual) marital unions. Gay rights in Nigeria are criminalised and about 98 per cent of the population is against homosexuality in Nigeria (Pew Research Centre, 2013 cited in Encarnación, 2014, p. 96). From the Pew Research Centre perspective, one may be quick to agree that the nature of the Nigerian society towards homosexuality might have led to the criminalisation of gay rights in the country but beyond the already conservative society, the country’s various leaderships have been known to have poor human rights records and as captured below:

Nigeria has had bad historic track record for human rights. It has survived dictatorial regimes and military juntas since its independence in 1960. Violations of human rights including torture, suppression of freedom of association and expression, detention without trials, abuse of rule of law and due process, excessive lawlessness, extra-judicial executions, expulsion from school and dismissal from work without a fair hearing, joblessness, unpaid salaries, pensions and gratuities for years, corruption, violations of women’s rights, discrimination against lesbians, gay, transgender and bisexual (LGBT) people, misappropriation of public resources, weak and inefficient oversight mechanism have grown to become the country’s scourge and worst enemy resulting in a legacy of underdevelopment and abject poverty for the majority of the country (Letjolare, Nawaigo & Rocca, 2010, p. 6).

Even before the Same-Sex Marriage (Prohibition) Act, 2013 was signed into law in Nigeria in 2014; there were three other versions of anti-gay laws in the country. First, was the Penal Code of the Federal Provisions Act of 1959 (referred to as colonial legislation with provisions criminalising homosexuality). The jurisdiction of the law covered the northern region which is now known to be the nineteen northern states of the country, the second was the Criminal Code Act, Chapter 77, Laws of the Federation of Nigeria 1990, Cap 147 (with provisions criminalising homosexual acts) and the third was the Harmonised Shari’a Penal Code of 2000 and 2001 (with provisions criminalising homosexual acts) in the twelve northern states of the country. Details of the various provisions in all the versions of the anti-gay laws

including the recent Same-Sex Marriage (Prohibition) Act, 2013 will be highlighted during this study.

The anti-gay bill that was signed into law in 2014 was done purely out of the idiosyncratic discretion of the Nigerian leadership as there was no wider consultation with the civil society. The President Goodluck Jonathan led leadership probably felt that, since homosexuality is a *taboo* in Nigeria, there was no need for wider consultation. The effort of his administration in this regard constitutes discrimination as his government refused to protect the minority gay community in the society. Olarewaju, Chidozie and Olarewaju (2015, p. 513) state in the same vein that,

It is imperative to state that consideration was not given to the adoption of homosexual law in Nigeria because the anti-gay law represents the will of the majority and the practice of gay marriage is the choice of a very minute minority... standing on the socio-cultural ideological complexes of the African society, most Nigerians stood as one forgetting their multi-cultural character to collectively condemn the acceptance of gay marriage in Nigeria. In other words, despite tribal affiliations, Nigerians stood together to condemn the act of homosexuality as a taboo against the socio-cultural context of African societies.

Some scholars argue that western civilisation influenced anti-homosexual sentiments in Africa and that the architect of the criminalisation of gay rights in Nigeria has been Nigeria’s erstwhile colonisers. Ironically, in some African countries, the laws criminalising homosexuality remains the legacy of British colonialism in other words, a direct product of Western influence (Encarnación, 2014, p. 103). Unfortunately, at independence most African countries blindly adopted the laws and constitutions of their erstwhile colonisers. For instance, the former British Colonies, Nigeria, Kenya, Uganda, Ghana, adopted the British common law which until the 1960s prohibited homosexuality; while the Islamic majority States adopted the Shari’a law - introduced to Africa by Arab jihadists - which sanctions death for gay sex, so homosexuality is a crime in Nigeria (Onuche, 2013, p. 93). The criminalisation of gay rights during colonial Nigeria is found in the Penal Code (Northern States) Federal Provisions Act of 1959, which is applicable to all the 19 states in Northern Nigeria. The sections of the provisions include.

Section 284 stipulates that, ‘Unnatural Offences’ attracts 14 years’ imprisonment and/or a fine. Section 405 defines vagabonds in 405(2)(c) as ‘any male person who dresses or is attired in the fashion of a woman in a public place or who practices sodomy as a means of livelihood or as a profession and this offence is punishable with up to two years’ imprisonment and/or a fine; while the penalty for an ‘incorrigible vagabond’ as defined in Section 405(3) is any person who has been

'convicted as a vagabond' at least once already and the punishment for this amount up to three years' imprisonment and/or a fine (Human Dignity Trust, 2015, p. 1).

The United States-Nigeria Diplomatic Relations

Diplomatic relations between the United States and Nigeria have remained crucial for over five decades since the latter gained independence from Great Britain in 1960. Both countries have enjoyed cordial diplomatic relations beyond instances of their disagreements on policy issues. Nigeria has a diplomatic mission represented by her embassy in Washington DC in the United States and so is the presence of the United States' diplomatic mission through her embassy in Abuja, Nigeria.

Diplomatic relations between both countries covers a wide range of interests that precludes; political, economic, social, and cultural and security concerns. Right from the inception of their diplomatic ties, both nations have remained strategically focused through cooperation. The under mentioned is telling of the evolved relations.

On November 17, 1960 a Nigerian, Dr. Jaja Wachukwu - Acting Permanent Representative for Nigeria at the United Nations was elected Chairman, UN Conciliation Commission on the Congo through the instrumentality of the U.S. ...on December 12, 1961 President John F. Kennedy of the United States announced an offer of \$225 million as a long term development aid for Nigeria... the Kennedy aid offer underlined the political importance which the United States attached in its evolving African diplomacy and in the security of Western position in the continent. Furthermore, the implementation of the American aid, within the framework of the First National Development Plan, marked the start of Nigeria's strategy to multilateralize its external economic and political dependency (Ate, 1986 cited in Dickson, 2013, p. 204).

The Dwight Eisenhower and later the J.F. Kennedy American leaderships pitched strong relations with Nigeria right from when the African nation gained her political independence in 1960 from Great Britain and that was enough to set the path for strategic partnership between both countries. According to Dickson (2013, p. 204), "during the first six years of independence that is between 1960 and 1966 Nigeria had bilateral ties with the United States and this had serious political consequences for its foreign policy. The U.S. provided more than 50 percent of the \$949.2 million for the 1962-1968 National Development Plan". As dynamic events unfold, the established cordial diplomatic ties from inception were not enough to shield off disagreement between them as there were instances where their diplomatic relations have hit the rocks because of conflicting interest in policies, but their strategic partnership is yet to be altered. "After a

period of strained relations in the 1970s and especially in the 1990s, when military dictatorship ruled Nigeria, U.S.-Nigeria relations steadily improved under President Obasanjo, and they have since remained robust. Diplomatic engagement is sometimes tampered, however, by Nigerian perceptions of United States' intrusion in regional or domestic affairs, and by U.S. concern with human rights, governance and corruption issues" (Blanchard and Husted, 2016, p. 18).

Nigeria is an important trading partner of the U.S and is the second largest beneficiary of U.S. investment on the continent. Given Nigeria's ranking as one of Africa's largest consumer markets and its affinity for U.S products and American culture, opportunities for increasing U.S. exports to the country, and the broader West African region, are considerable" (U.S. Commercial Service, 2013 cited in Blanchard and Husted, 2016, p. 18).

Blanchard and Husted (2016, p.18) have stated that, relations between both countries remained strategic and key in areas of development. As they put it, "the Obama administration has been supportive of reform initiatives in Nigeria, including anti-corruption efforts, economic and electoral reforms, energy sector privatisation, and programs, promotion of peace and development in the Niger Delta". Their strategic partnership also led to certain mutual bilateral agreements that were signed between governments of the two nations. "In 2010, the Obama administration established the U.S.-Nigeria Bi-national Commission, a strategic dialogue to address issues of mutual concern. The U.S. Congress regularly monitors Nigerian political developments, and some members have expressed concerns with corruption, human rights abuses, and the threat of violent extremism in Nigeria. The U.S. Congress oversees more than \$600 million in U.S. foreign aid programmes in Nigeria, one of the largest U.S. bilateral assistance packages in Africa". Reiterating the aforementioned, the U.S. Commission on International Religious Freedom (USCIRF) noted that:

Nigeria is a strategic U.S. economic and security partner in Sub-Saharan Africa. Senior Obama Administration officials regularly visit the country, including trips by Secretaries of State Hillary Clinton and John Kerry and by other senior State Department officials. The United States is Nigeria's largest trading partner. Nigeria is the second largest recipient of U.S. foreign assistance in Africa and the United States is the largest bilateral donor to Nigeria; for fiscal year 2016 the State Department is requesting \$607,498,000 for programs to support democratic governance, professionalization of the security services, counterterrorism initiatives, economic and agricultural production, and health and education services. Nigeria's importance to U.S. foreign policy was demonstrated in 2010 with the establishment of the U.S.-Nigeria Bi-National Commission (USCIRF, 2015, p. 105).

Some scholars have argued that United States' interest in Nigeria is her crude oil and barring any other interest, trade, and investments in the oil sector in Nigeria, is of paramount interest to the United States and that is why she has huge foreign investments in the oil sector with so many American oil companies in the African nation.

Nigeria's relations with the United States since 1960 have been hoisted on a tripod, namely: trade, foreign investment, and democracy. Nigeria ranks second only to Saudi Arabia as the most important supplier of petroleum (crude oil) to the United States, which buys over one million barrels of highly desirable, low sulphur sweet crude daily. Nigeria provides about 10 per cent of U.S oil imports. Annual trade amounts to more than \$6 billion, and U.S companies have about \$7 billion investment in the country (Onuoha, 2001 cited in Onuoha, 2008, p. 285).

In corroborating Onuoha (2008, p. 285), Blanchard and Husted (2016, p.9) mention that, the Gulf of Guinea crude oil is prized on the world market for its low sulphur content and Nigeria's proximity to the U.S. relative to that of the Middle East countries had long made its oil particularly attractive to U.S. interests. The country consistently ranked among the U.S largest sources of imported oil. U.S. imports, which accounted for over 40 per cent of Nigeria's total crude oil exports until 2012 and which made the U.S, Nigeria's largest trading partner. Although U.S purchases of Nigerian sweet crude have fallen substantially since 2012 as domestic U.S crude supply increased.

In the forgoing, "the U.S government considers its relationship with Nigeria, Africa's largest producer of oil and its largest economy, to be among the most important on the continent. The country is Africa's most populous nation, with more than 180 million people, roughly evenly divided Muslims, and Christians. Nigeria which transitioned from military to civil rule in 1999, ranked until recently among the top suppliers of U.S oil imports, and is a major recipient of U.S foreign aid. She is an influential actor in African politics and a major troop contributor to the United Nations peacekeeping missions" (Blanchard & Husted, 2016, p.1). The United States relations with Nigeria goes beyond her diplomatic activities within the confines of the latter's territory as it encompasses Nigeria's role in Africa and the world in general. Their strategic relations are further expressed below in the words of Obiozor, (2015: n.p).

At Nigeria's independence, a little over fifty years ago, many African countries were only closer to their former European colonial masters than to the United States. This is no longer true today, for many Nigerians and Africans, all roads lead to the United States. The United States/Nigeria relations may seem complex but nonetheless a vital relationship that recognizes Nigeria's vital role in Africa and the world. The United States'

appreciation of Nigerian political leaders in our over fifty years of relationship have been sporadic and principally because of inter-personal variables and not institutionally grounded. Hence, every leader in Nigeria is compelled to find his way to the United States to renew or reaffirm the relationship between our two countries.

The U.S and Nigeria have vital and strategic cooperation. "In terms of power generation in Nigeria, the U.S through the U.S Export-Import (Ex-Im) Bank signed an agreement in 2011 with the Nigerian government that aims to secure up to \$1.5 billion in U.S exports of goods and services to support power generation reforms. The Obama Administration has identified Nigeria as one of the six initial partner countries for its Power Africa Initiative, which aims to double in access to power in sub-Saharan Africa" (The White House, Factsheets- Power Africa, 2014 cited in Blanchard and Husted, 2016, p.19).

On U.S aid or assistance to Nigeria, the U.S Congress as well as various U.S agencies have been involved, especially, the U.S Department of State through its embassy and consulate in Nigeria, Department of Defence, and the United States Agency for International Development (USAID). In carrying out developmental projects in Nigeria, the State Department's FY2017 foreign aid request includes more than \$600 million for Nigeria. This aid is pitched towards support for the development of stable democracy including human rights protection, security priorities, and agricultural productivity (Blanchard and Husted 2016, pp. 19-21).

On health and agriculture, Owolabi, (2013 cited in Olarewaju, Chidozie and Olarewaju, and 2015, p. 509); Blanchard & Husted (2016, p.21) attest to the fact that, Nigeria has benefited from the U.S. Presidents' Emergency Plan for AIDS Relief (PEPFAR), Presidents' Malaria Initiative (PMI) as well as Feed the Future (FTF), which is an agricultural program for Nigerian farmers. The U.S. Africa Command collaborated with the U.S. Centre for Disaster and Humanitarian Assistance Medicine (CDHAM) to organise training exercise aimed at protecting Nigerians from natural disasters as well as offer other necessary assistance when as the need arises.

Moreover, Blanchard and Husted (2016, p.22) note that "in addition to peacekeeping support provided through the State Department's African Contingency Operations Training and Assistance (ACOTA) program, Nigeria also benefits from security cooperation activities with the California National Guard through the National Guard State Partnership program."

On Counter terrorism assistance, Blanchard, and Husted (2016, p.22) summarise that.

Nigeria also receives counter terrorism, anticorruption, and maritime security assistance through State's Department West Africa Regional Security Initiative (WARSI). The assistance includes

programs coordinated through TSCTP and other State's Department initiatives, including Anti Terrorism Assistance (ATA), as well as through the Department of Defence funds. Nigeria, along with neighbouring Cameroon, Chad and Niger will also benefit from counter terrorism and border security assistance under the \$40 million, 3-year Global Security Contingency Fund (GSCF) program focused on countering Boko Haram, to be jointly funded by Departments of State and Defence. Some U.S assistance for Nigerian military's practice of rotating its forces for short-term missions in the north-east, where some individuals and units have been implicated in serious abuses against civilians and detainees.

Table 1: The U.S State Department and USAID Assistance to Nigeria (\$ in thousands)

	FY2013 Actual	FY2014 Actual	FY2015 Actual	FY2016 Request	FY2017 Request
Development Assistance	76,920	71,000	57,800	76,016	72,658
Economic Support Fund	0	0	4,600	0	0
Foreign Military Financing	949	1,000	600	600	500
Global Health Programs – State	455,746	456,652	403,236	356,652	356,652
Global Health Programs – USAID	165,451	173,500	173,500	173,500	173,500
International Military Education and Training	712	730	817	730	800
Non-proliferation, Antiterrorism, Demining and Related Programs	0	100	0	0	0
TOTAL	699,778	703,031	640,553	607,498	606,110

Source: U.S State Department FY2015-FY2017 Congressional Budget Justification for Foreign Operations. *Totals do not include emergency humanitarian assistance or certain types of security and development assistance provided through regional programs, including for counterterrorism and peacekeeping purposes (Blanchard & Husted, 2016, p.21).

However, as earlier noted, diplomatic relations between both countries have been strained not long after both countries committed to diplomatic ties especially, during military rule in Nigeria. An earlier instance was the refusal of the United States' government to support General Yakubu Gowon as Nigeria's Head of State in fighting the civil war of 1967-1970 where she refused to sell weapons to Nigeria in the prosecution of the civil war but rather became sympathetic to the cause of the secessionist Biafra Republic and gave them humanitarian assistance instead by providing certain need like medical drugs and treatments. The U.S relations with Nigeria under the Gowon administration was very passive and it was so even after the post civil war as Nigeria tilted towards the East Bloc because she had received support and military assistance from the defunct Soviet Union during the civil war.

The General Gowon government was overthrown in a bloodless coup d'état by General Murtala Muhammed but the change in regime never yielded many diplomatic positives except that, trade and investment were unhindered between both nations. The radical inclination of Nigeria's foreign policy under the Muhammed's leadership led to strains in relations with the U.S.

During the military administration of late General Murtala Muhammed in 1975/76, Nigeria's position in supporting the Popular Movement for the Liberation of Angola (MPLA) regime in Angola at that time, threatened United States' position and support for the Democratic Front for the Liberation of Angola (FDLA) and the National Union for the Total Independence of Angola (UNITA) as Nigeria's strong opposition to U.S interest led to friction in their relations but the friction was because Nigeria mingled with the Soviet Union in supporting the MPLA, as the defunct Soviet Union was America's arch enemy during the cold war era. Ezirim (2010, p.5) also noted that, General Murtala Mohammed did not help matters with his forceful sparring with the United States on the Angolan crisis between UNITA and MPLA, where Nigeria recognized and supported the MPLA government as against the American support for UNITA.

According to Lyman (1988 cited in Dickson, 2013, p.204), "in 1975, the Nigerian military invaded and occupied the U.S Information Service headquarters in Lagos. This was followed by Nigerian government refusal to receive the U.S Secretary of State, Henry Kissinger on three occasions. The U.S Embassy was also attacked by demonstrators for alleged American complicity in the Angolan civil war and alleged American involvement in the assassination of General Murtala Mohammed". In 1977, relations between both countries became stable again in the aftermath of the assassination of General Murtala and after General Olusegun Obasanjo (second in command to late General Muhammed) became the new Nigerian military leader but after civil rule returned to Nigeria in 1979 under President Shehu Shagari, relations between the U.S and Nigeria was robust and further strengthened because the American government under President Jimmy Carter appreciated Nigeria's return to democracy. After Jimmy Carter vacated the American presidency, he was succeeded by Ronald Reagan and the latter's leadership as America's president again changed the phase of diplomatic relations with Nigeria.

President Ronald Reagan's policy towards Apartheid South Africa never went down with the Nigerian leadership first with Shehu Shagari and then the military governments of General Buhari and General Babangida because Nigeria had made Africa the centrepiece of her foreign policy; as decolonisation was her priority in South Africa and this resulted in divergent interest with the U.S as the Reagan leadership was implicitly supporting the white minority rule in South Africa, a position Nigeria fought against. The Leadership of G.H Bush, who succeeded Ronald Reagan, had the busy task stabilising events in the Middle East and

prosecuting the Gulf war. At this time, Nigeria was under the Babangida's administration but relations between both countries never improved much as America's interest in Apartheid South Africa was still implicitly strong but trade and investment between both countries (U.S and Nigeria) was stable as Nigeria continued to supply her oil to the U.S in the wake of the Gulf war and amid short supply of crude oil in the world market. The U.S distanced herself away from the pariah (military) regimes of Babangida and Abacha but supported these regimes at the sub-regional level in ending the Liberia and Sierra Leone crises in the 1990s by providing certain logistics and finance to Nigeria who led the ECOMOG troops in the West African region.

The American appreciation of Nigeria baring any leadership crises the country was grappling with at that time was because of Nigeria's crucial role as an international actor especially in the West African Sub-region, Africa as well as the United Nations. Also, as a country with a mono economy, Nigeria has depended so much on the U.S for a long time now for her economic survival as the sale of her crude oil is quoted in the US Dollars (petro dollar) which has remained her official foreign exchange currency and her dependence on U.S technology and aid are all tied to the economic might of the U.S over her.

The implication is that any economic crisis that affects the U.S will directly affect the Nigerian economy or any economic crises in Nigeria will hugely benefit the U.S in an instance where there is the devaluation of the Naira as most consumable goods from the U.S will flood Nigerian market to her advantage since the African nation import almost everything she consumes mostly from the U.S. This dependence on the U.S that has lasted for so long is now a repercussion that has made Nigeria to become a dominated country when the two countries relate and according to Ate, (1987, cited Olarewaju, Chidozie and Olarewaju, 2015, p.509) "although Nigeria has been an essential actor in both regional and international affairs since independence, she has depended so much on aid from America to solve her problems and run her economy. Nigeria's relations with the U.S have been more of dependence"

Meanwhile, Osaretin and Ajebon (2012 as cited in Olarewaju, Chidozie and Olarewaju, 2015, p.505) argue that, the few factors that engendered the strains in Nigeria -United States relations in recent years include the violation of human rights during the military dictatorships of General Ibrahim Babangida (Rtd.) and late General Sani Abacha, the unprecedented kidnapping and abductions of expatriates in the Niger Delta, the acts of the terrorist group Boko Haram and attempted suicide bombings; the resulting efforts of the Nigerian military's inability to rout the Boko Haram terrorists group and most recently, the clash of ideology over gay marriage.

II. THEORETICAL PERSPECTIVE

The 'centre-periphery' theory of structural imperialism has been adopted in this study. The centre-periphery theory of structural imperialism as propounded by Johan Galtung is one of the centre periphery theories from the dependency theory which borrows from neo-Marxism, or the neo-Marxist idea rooted in classical theory of imperialism as propounded by Karl Marx. Neo Marxism perceives of the developmental processes of societies especially in the developing world or third world countries from the perspective of exploitation and accumulation of exchange value in an unequal economic relations anchored on domination and dependence. Dependency theory counters modernisation theory and sees economic relations between the advanced capitalist societies and the third world societies as that of global north and global south dichotomy, the development of the underdevelopment characterised by the metropolitan countries and the satellite countries, accumulation on a world scale by the advanced capitalist societies characterised by an unequal development between the advanced capitalist societies and their third world counterparts and the unequal relations between the centre (core) and the periphery. As a broad range of theories under the dependency theory. The centre-periphery theories do not limit their analysis to the countries of Latin America as most writings' *ab initio* have centered on Latin America developmental pattern. Instead, they claim to be more general, and applicable to the whole of the Third World.

Centre-periphery theories emphasize the unequal and exploitative structural relationships that have developed between the different parts of the capitalist world system, that is, the centre and the periphery. They pay ample attention to the allegedly negative effects of the ties between the centre and the periphery on the latter. Some of the proponents of the centre-periphery theory are scholars such as: Andre Gunder Frank, Samir Amin, Johan Galtung and Giovanni Arrighi (Hout, 1993, p. 6).

Application of the Theory

In the application of the 'centre-periphery' theory of structural imperialism to this study, it is obvious that, the United States is the centre while Nigeria is the periphery and relations between these two countries are rather unequal, one characterised by dominance and dependence in an inter-dependent world. The United States has always dominated in relations between the two countries in the international system while Nigeria on the other hand, has always depended on the United States for international support, for economic as well as technological survival.

According to Galtung (1971, pp. 81-82), "imperialism is a species in genus of a dominance and power relationships. Dominance relations and other collectives will not disappear, with the disappearance of imperialism; nor will the end to one type of imperialism (political or economic) guarantee the end to another type of imperialism (economic or cultural) for this reason, conflict of interest becomes a special case of conflict

in general, as a situation where parties are pursuing incompatible goals". The power relations of a dominant power in international politics where the United States is regarded as a dominating superpower only attest to this fact, as Nigeria is hugely dependent on the centre for its economic survival despite being an independent country politically. Nigeria depends on the U.S for aid assistance in many regards and as well depends on over 40 per cent of her foreign exchange earnings on the sales of its crude oil to the U.S as the American nation used to be the largest consumer of Nigeria's oil until recently. The conflict over gay rights brought about incompatibility of interests which further weakened the diplomatic relations between both countries during the periods; 2013-2015. The inability of Nigeria to kowtow to the U.S. pressure in rescinding anti-gay laws by legalising gay rights, led to outright U.S. domineering politics over Nigeria in the international arena as Nigeria faced condemnation internationally.

Nigerian Leadership and Pressure by the United States for the Decriminalisation of Gay Rights in Nigeria

The paper under this section investigates the issue of gay rights under four different post colonial administrations in Nigeria that either attempted criminalising or criminalised gay rights. Hence, the administrations under review include the military administration of Ibrahim Babangida (1985-1993), the civil administrations of Olusegun Obasanjo (1999-2007), Umar Musa Yar'Adua/Goodluck Jonathan (2007-2010) and Goodluck Jonathan (2010-2015). The United States effort towards human rights promotion and protection in Nigeria has not been possible without enormous pressure through diplomatic sanctions against some of the under mentioned leadership regimes.

The Military Administration of Ibrahim Babangida (1986-1993).

The military administration of General Ibrahim Badamasi Babangida (Rtd) started in August 1985 after he seized power through a coup d'état in the ousting of another military government under the leadership of General Muhammadu Buhari (Rtd) in a bloodless exercise. The suspended constitution under his predecessor means that General Babangida's rule as a military leader is without any recourse to constitutional provisions.

It was under the Babangida leadership that the military government enshrined the Criminal Code Act, Chapter 77, Laws of the Federation of Nigeria 1990, Cap 147 which contains aspect of colonial laws (the Penal Code of the Federal Provisions Act of 1959) that criminalised gay rights in Nigeria.

The codification of this Act contains arbitrary arrest and detention of homosexuals. The Criminal Code Act, Chapter 77, Laws of the Federation of Nigeria 1990, Cap 147 provisions include.

Section 214 which states that "any person who (1) has carnal knowledge of any person against the order of nature; or (2) has carnal knowledge of an animal; or (3) permits a male person to have carnal knowledge of him or her against the order of nature; is guilty of a felony and is liable to imprisonment for fourteen years. Section 215 also states that, "any person who attempts to commit any of the offences defined in the last preceding section is guilty of a felony and is liable to imprisonment for seven years. The offender cannot be arrested without warrant." while Section 217 stipulates that "any male person who, whether in public or private, commits any act of gross indecency with another male person, or procures another male person to commit any act of gross indecency with him, or attempts to procure the commission of any such act by any male person with himself or with another male person, whether in public or private, is guilty of a felony, and is liable to imprisonment without warrant (Chapter 77 Criminal Code Act, 1990).

The gay community was mostly affected because of the discriminatory policy of the Babangida administration because homosexuals were targets by the homophobic and transphobic Nigerian society as well as the government which was supposed to protect them in the first place. Homosexuals were not allowed to express their fundamental human rights as the Chapter 77 Criminal Code Act, 1990 denied them their inalienable rights. During the Babangida military junta, the United States was aware of the human rights violations of that period as she distanced herself from the dictatorship of the Babangida's regime but emphasises were not particularly drawn to the gay community because gay rights at that time was not a priority for global attention as it has now become.

The Civilian Administration of Olusegun Obasanjo (1999-2007).

The civil administration of President Olusegun Obasanjo brought about ambiguity and conflict in constitutional jurisdiction between the federal government and state governments in the country as the 1999 constitution provided for Shari'a laws which apply to Muslims in the country.

The 1999 Nigerian constitution cradled from decree 24 of 1999 under the military leadership of General Abdusalam Abubakar (Rtd.). The constitution had made provisions for Shari'a penal code drawn from the 1979 constitution. Arguments raged under the Olusegun Obasanjo government between 2000 and 2001 based on the conflict in constitutional jurisdiction between the Nigerian constitution and the Islamic penal code. Under the Nigerian constitution, section 1(1) stipulates that, the constitution is supreme and binding on all authorities in Nigeria. This implies that, all other laws enacted by states are subject to be prevailed over where there is conflict between the federal and the states government and in

such instance, the Nigerian constitution remains supreme. The ambiguity arose between the Nigerian constitution and the Shari'a laws because, citizens protected under the constitution may not enjoy such protection as a Muslims under the Islamic penal code. The Shari'a law gained prominence during 2000 and 2001 and its implementation by the twelve northern states went into full swing after it was first adopted by most of the twelve northern states in 2000. While Borno, Jigawa, Kaduna, Kano, Katsina, Kebbi, Niger, Sokoto and Zamfara adopted the Shari'a law in the year 2000, other states such as Bauchi, Gombe and Yobe followed suit and adopted the law in 2001.

The adoption and implementation of the Shari'a law did cause uproar internationally and, in the country, particularly amongst the gay community in northern Nigeria as homophobia became particularly rife during that period as it is still very rife until now because the full implementation of the Islamic laws was not met with hesitation, and this implies that homosexuals are not spared of death penalty as provided for in the Shari'a laws. The Islamic (Shari'a) penal code enforces strict moral conduct and as a result, the penal code outlawed sodomy and lesbianism or any act of homosexuality which any attempt at violating the law carries a maximum death (*rajm*) sentence by stoning as pronounced by the Shari'a courts. In the Harmonised Shari'a Penal Code Law, Chapter 4 as contained in Chapter VIII of the “*Hudud and Hudud Related Offences*” under Sections 129, 130, 133 and 134, homosexual acts referred to as *asliwat* for sodomy and *sihaq* for lesbianism are criminalised.

Section 129 stipulates that, “whoever has anal coitus with any man is said to commit the offence of sodomy” section 130(1) states “subject to the provisions of sub-section (2), whoever commits the offence of sodomy shall be punished with stoning to death (rajm) while section 130(2) states that “whoever has anal coitus with his wife shall be punished with caning which may extend to fifty lashes” section 133 states “whoever, being a woman, engages another woman in carnal intercourse through her sexual organ or by means of stimulation or sexual excitement of one another has committed the offence of lesbianism and section 134 provides that, “whoever commits the offence of lesbianism shall be punished with caning which may extend to fifty lashes and in addition be sentenced to a term of imprisonment which may extend to six months (Ostien, 2007, pp.69-70).

The call for the implementation of the Islamic penal code in northern Nigeria has been because of the coming into operation of the constitutionally and democratically elected leaders in Nigeria where Obasanjo was the president (Babaji, 2007, p.98). “Using a number of the 1999 constitutional provisions, the then Governor of Zamfara state, Ahmed SaniYerima became a trail blazer for the adoption and implementation of the Islamic laws as he assented to the bill

establishing the ‘Shari'a Penal System’ passed by the Zamfara State House of Assembly” (Haruna, 2003, p.144).

Meanwhile, what is now known today in Nigeria as the Same-Sex Marriage (Prohibition) Act, 2013 started as the Same-Sex Marriage (Prohibition) Bill in 2006 under the civil administration of the former Nigerian leader, Olusegun Obasanjo. Following demonstrations for same sex marriage during the International Conference on HIV/AIDS (ICASA) in 2005, on January 18, 2007, the Federal Executive Council sent a bill – Same Sex Marriage (Prohibition) Bill 2006, to the National Assembly for urgent action” (Obidimmaand Obidimma, 2013, p.45). The International Gay and Lesbian Human Rights Commission (IGLHRC) reports that.

In January 2006, the Nigerian Minister for Justice (BayoOjo) presented to the Nigerian Federal Council a bill that would create criminal penalties for anyone engaging in same-sex marriages and relationships and which launches a vigorous attack on freedom of expression, assembly, and association in Africa’s most populous nation. Article 7 of the proposed Bill goes well beyond any intention to prevent same-sex marriages. If this Bill becomes law, anyone who publicly advocates for the rights of lesbians, gays, bisexuals, and people of transgender status (LGBT) would be a criminal. Anyone forming or taking part in a gay or lesbian club or support group would face arrest. Critical HIV preventions efforts that target same-sex practicing men would be jeopardized because of the silencing effect of this legislation...consensual homosexual acts between adults are already illegal in Nigeria. Chapter 42, Section 214 of the Nigerian Federal Code penalizes consensual same-sex acts by 14 years imprisonment and in the Shari'a states the punishment for “sodomy” can be death (IGLHRC, 2006, p. 1)

The Same-Sex Marriage (Prohibition) Bill, 2006 never saw any meaningful headway because the National Assembly at that time, did not enact it and so, it was never signed into law, but the content and the bill stayed alive until successive administrations (particularly, the Goodluck Jonathan administration) reconsidered it and subsequently, it became an Act in January 2014.

The Civilian Administration of Umar Musa Yar'Adua/Goodluck Jonathan (2007-2010)

After the failed attempt by the Obasanjo administration to criminalise gay rights, it suffices to say that there was another attempt under the Yar'Adua/Jonathan administration to criminalise same-sex marriage and outlawing of gay activism. Letjolare, Nawaigo and Rocca (2010, p. 24) attested to this development as they reported that.

... in March 2009 a new Bill, named Same Gender Marriage (Prohibition) Bill, was tabled before Parliament. Although this last Bill is more limited in scope than the 2006 Bill, it may be interpreted as criminalising the work of anyone, including a human rights defender, who advocates for equal rights for all individuals or communities, including lesbian, gay, bisexual, and transgender people.

In one recent case, an LGBT organisation sought registration three times but every time the authorities claimed the names chosen were not appropriate. At the first attempt, it was claimed that the name was like the name of another organisation; at the second attempt, the word 'campaign' was considered not appropriate; at the third attempt, the name was considered too vague. While there is no evidence that registration was refused because of the issues the organisation works on, this example is illustrative at the very least of how the registration procedure is at times used by the authorities to obstruct the work of human rights defenders.

The proposed Same Gender Marriage (Prohibition) Bill, 2008, received little parliamentary attention when the government tried to initiate the effort and could not be enacted.

The Civilian Administration of Goodluck Jonathan (2010-2015)

When Goodluck Jonathan assumed the mantle of leadership in 2010, effort was made to re-introduce the Same-Sex Marriage (Prohibition) Bill in 2011 before the National Assembly. This time round, the bill received adequate attention before the Upper House (Senate) of the National Assembly and the move to enact the law received little or no opposition from the Senate.

The bill was later enacted by the National Assembly which became the Same-Sex Marriage Prohibition (SSMPA) Act, 2013 and assented to by President Jonathan on 7th January 2014.

The provisions of the Same-Sex Marriage (Prohibition) Act, 2013 include. Section 1(1)(a) which prohibits gay marriage contract or civil union in Nigeria. Section (1)(b) does not recognise entitled benefits of valid gay marriage. Section 1(2) renders void any gay marriage certificate obtained in a foreign country and that includes any benefit attached to such certificate which shall not be enforced by any law court in Nigeria. Section 2 (1) forbids religious bodies from solemnising gay marriage whether in church or mosque or any other place of worship in Nigeria. Section 2(2) invalidates certificates issued to persons of same sex in marriage or civil union in Nigeria. Section 3 only recognises heterosexual marriages as the only valid marriage in Nigeria (SSMP Act, 2013, pp. 1-4).

Section 4(1) states that, registration of gay clubs, societies and organisations, their sustenance, processions, and meetings is prohibited while Section 4(2) prohibits any form of public show of same-sex amorous relationship directly or indirectly in Nigeria. The sentences for the offences are found in Section 5(1) which stipulates that, "entering into a same-sex marriage or civil partnership attracts 14 years imprisonment". Section 5(2) states that, "registering, operating or participating in 'gay clubs' attracts 10 years imprisonment". Section 5(2) states that, "any public show of amorous same-sex relationship" is punishable with a maximum ten-year imprisonment. Section 5(3) provides that, "aiding or solemnising a same-sex marriage or supporting an LGBTIQ organisation attracts 10 years imprisonment (SSMP Act, 2013, pp. 1-4).

The leadership of President Goodluck Jonathan was censured by the United States through the U.S Department of State in Washington DC and its diplomatic mission in Nigeria. Musawa (2015) reports that, "At the time that the law was passed, the U.S Ambassador to Nigeria, Mr James Entwistle threatened that his country would scale down its support for HIV/AIDS and anti-malaria programs in response to government's position on the gay rights issue" also, Aribisala (2014) quotes the U.S Secretary of State, Senator John Kerry of having reacted to the anti-gay laws signed by the President Jonathan's leadership as the high ranking diplomat was said to have been "deeply concerned" by a law that "dangerously restricts freedom of assembly, association, and expression for all Nigerians"

The immediate past U.S. Assistant Secretary of State for African Affairs also reacted in this light through a webinar broadcasted from Washington DC when she says.

This is very much a work in progress, but I think you will agree with me that the anti-gay laws in Nigeria really went far in discriminating against the gay community but also people who associate with them and for this, we will continue to press the government, to press the legislature to change these laws and provide human rights for all Nigerian people regardless of their sexual orientation...with what is happening in the US (SCOTUS ruling that legalised gay rights in the entire United States), you can determine how far we are willing to go. We strongly believe human rights for all people, and we particularly are opposed to legislation that targets the gay community for discrimination, so we are prepared to push this (gay rights) policy not just in Africa but across the world (Greenfield, 2015).

The State Department officials have vowed to keep pressuring Nigeria until she decriminalises her anti-gay laws and the pressure have come with threats of possible sanctions against most of the developmental partnership being embarked on by the United States in Nigeria.

III. CONCLUSION

This paper examined the criminalisation of gay rights in Nigeria and its effects on the U.S. and Nigeria diplomatic relations. The politics that played out because of the inability of the Nigerian leadership to rescind the Same-Sex Marriage (Prohibition) Act, 2013 signed into law in 2014, led to pressure from the U.S. government against the Nigerian leadership and this brought about strains in their relationship between the two countries. After exhaustive and critical analysis of available data collated from the secondary source, the findings of the study painstakingly revealed that:

- a. The U.S has strong diplomatic relations with Nigeria and that, the country depends on the U.S for aid assistance but because of gay rights politics, the foreign policy objectives of the U.S played out more in her diplomatic relations with Nigeria while the failure in the Nigerian leadership to rescind anti-gay laws, undermined their diplomatic relations.
- b. The study discovered that, the Same-Sex Marriage (Prohibition) Act, 2013 was rather a policy not citizen-centric as it was not needed at that time where better policies should have been formulated instead because there were laws (Chapter 77, of the Criminal Code Act, 1990 and the Sha'riah laws in 12 northern states) in the country that had already criminalised homosexuality. The anti-gay laws implicitly necessitated the diversion of attention from the heated polity at that time as it culminated with domestic politics leading to national elections.

IV. RECOMMENDATIONS

In the light of the findings, the paper recommends that.

- (1). The Nigerian government should formulate citizen-centric policies that targets welfare (tackling of unemployment) and security (tackling of insecurity) for the generality of the people and not formulate and implement discriminatory policies that targets the minority groups in the country.
- (2). The Nigerian leadership should look inward and harness the country's rich resources and develop rather than depending so much on the U.S for aid assistance and, the leadership should be pragmatic in its responsibility in fulfilling State's statutory obligation under international best practices as this will put Nigeria on the pedestal of mutual respect between her and the U.S in international politics.

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