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# Heteronormative Versus Legalising Gay Marriage: Critical Analysis

Heteronormative is the idea and belief that heterosexuality is the social norm as it's widely accepted and is the preferred sexual orientation because, most of the sexual relationships in society are heterosexual. Law is generally based on the norms, values and moral principles of society. They all regulate behaviour of individuals and influence each other to a great extent as society is shaped by law and law being shaped by society. This statement can be argued for and against with theoretical concepts, references to today's contemporary society and examples along with evidence, which will be demonstrated throughout this essay.

The statement of the law being criticised as heteronormative by queer theorists can be seen as valid, as law and society itself promotes heterosexuality as the normal and/or preferred sexual orientation. The idea of heterosexuality being viewed as a social norm is a result of social construction, which is the idea that society is socially constructed through both primary (family) and secondary socialisation (media, religion, peer, workplace and education) meaning society views heterosexuality as natural and normal. This can be seen reinforced in society and lawfully through institutions of marriage, taxes, employment, adoption rights, sex education and among many others. Lesbian, gay and bisexual relationships are strongly looked down upon in many societies both socially and legally as it challenges the heteronormative position that sexual relationship exist purely for reproductive purposes. A key word used by queer theorists is "heterocism", which is the theory or assumption, often innocent, that heterosexuality is the social norm, universally by which everyone's experience can be understood.

Sociologically speaking, functionalists such as Talcott Parsons et al. (1955) stresses the importance of family as functionalists identify the family unit as the most integral component in society as they play an important role known as primary socialisation. Parsons (1955) argued that sexual activity is an important function of the family, so homosexuality cannot be promoted on a large scale as an acceptable substitute for heterosexuality therefore, it is seen as dysfunctional to society. This shows that the statement of the law being criticised as heteronormative is valid to a certain extent because, these sociological views are applied to the structure, norms and values of society instead of applied directly to the law. In today's contemporary society, homosexuality is beginning to be accepted in many societies, for example it was legalised in the UK 2015 and the most recent society to legalise homosexuality is India 2018. In spite of this, there are still issues as homosexuality is still struggling to be accepted through certain institutions such as a curriculum within education and adoption centres today. With evidence gathered, according to research by sexual health charity Terrence Higgins Trust, 95% of young people have never been taught about LGBT sex and relationships. Only a minority of schools teach about LGBT sex. Margaret Thatcher's government in 1988 explicitly forbidden the promotion of homosexuality by local authorities including schools and councils. This shows that the government and prime minister who come up with most ideas of new laws, are heteronormative as the government themselves have discriminated the teaching of homosexuality because. it's not considered as a norm. This shows the premise of law being heteronormative to be valid as this example clearly demonstrates the heteronormative domination within law. Nevertheless, it is still being brought into the system of education very slowly.

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Some adoption agencies refuse to allow same sex couples to adopt as both parents or adopt at all. Only one partner can apply as a parent and the other same-sex partner must apply as a legal guardian. This is evidently shown as in today's contemporary society as democrats are fighting republican bill that would allow adoption agencies to refuse same-sex couples . This is due to religious beliefs and that a child must have both father and mother role figure in their lives as it is very important to the child's upbringing and future. This is strongly expressed in the teachings of sociology where New Right theorist Murray (1990) argues that a large percentage of children who are brought up by single mothers due to absent fathers, result in boys lacking parental discipline and appropriate roles models. Young males would often turn to delinquent role models on the street to gain status through crime rather than supporting their families through a steady job. Or they could become absent fathers themselves as they didn't have a father role figure in their upbringing, they wouldn't know what to do. The same goes for young girls. Due to absent fathers, young females are most likely to go out and search for a "father figure" for themselves and are most likely to be young and pregnant . Again, this example shows the statement to be valid by a certain extent as it is yet again applied to a societal view instead of a legal view. In evaluation, legally the law however, brought the Adoption and Children Act 2002 which allowed unmarried couples, including same-sex couples, the right to adopt and this became law in December 2005 . This legal act shows that the idea of law being heteronormative is slightly invalid because, the law of adoption and children which was once heteronormative has now been changed and accessible for other sexualities to adopt such as homosexual, transgender and bisexual couples. So, along with the increasing numbers of society accepting homosexuality nowadays and laws changing and adapting to a non-heteronormative system, this shows that the statement argued by queer theorists of the law being heteronormative to be invalid.

Law could be criticised as being heteronormative as it could be argued that law descends from a divine being or power. From a philosophical point of view, St Thomas Aquinas' Natural law theory states that there are 4 levels of law known as; eternal, divine, natural and human. The first level is Eternal Law, which is the view of principles by God which governs the universe, so God rules govern the universe. The second level is Divine Law, which means what's moral and immoral comes from God's rules within the Bible which guides us in reaching our goal of perfection. The third level is known as Natural Law, which is part of eternal law that applies to human choices in identifying primary precepts which can only be known by reason. Lastly, Human Law which is the rules that humans create . The purpose of human law is to keep order and indeed one of the primary precepts of natural law reflects this. Human law is based on the traditions of natural law such as society has been centred around the principles of the 10 commandments. For example, experience tells us not to steal which leads us to an "ordered society" which is a primary precept within the natural laws. However, there have been issues with natural law relating to the statement of law being heteronormative. It raises questions such as what does this mean for homosexuals? Most Abrahamic religions forbid the idea of homosexuality and only promote heterosexuality through the story of Adam and Eve. God made male and female for a reason, to reproduce, not male and male or female and female. Since law descends from God and human law reflects natural law, that would mean that law itself should be against homosexuality and promote and remain as a heteronormative system. This example proves that the statement of law being criticised as heteronormative is valid because, of the notion of law descending from God, displays that the system is based on religious traditions meaning just as religion law is also heteronormative.

On the other hand, it can be argued that the law isn't heteronormative as many countries in

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today's contemporary society are legalising gay marriage and that society is becoming more secular. The awareness of society becoming secular weakens and criticises the natural law theory made by St Thomas Aquinas. Natural law can be argued to be stuck in the past, enforcing traditional views that are out of touch with the 21st century society. With evidence gathered, research shows that 27 countries have legalised gay marriage plus two more countries which are yet to be added onto the list, Bermuda and India, making that a total of 29 countries legalising gay marriage. Many gay rights have been introduced into the system slowly. For example, in 1998 a law called section 28 was introduced which meant teachers were not allowed to teach about gay relationships in schools, but it wasn't until 2003 this was overturned; In 2002 a law has changed to allow gay people and unmarried couples to adopt and in 2008 it became illegal to encourage homophobic hatred. These evidence and examples demonstrates that the statement made about law being criticised as heteronormative is invalid as many laws in a variety of countries are legalising gay marriage and other anti-gay rights making the system non-heteronormative and more homonormative.

In evaluation, this is still a small number and percentage of the world as the total number of countries in the world accounts to 195 and the fact that only 29 countries so far, have only legalised gay-marriage, shows that heteronormative law is still dominating more than 3 quarters of the world. This logical evidence validates that law was originally heteronormative and even with only 14% of the world legalising gay marriage, it still remains to be heteronormative in more than 3 quarters of the world.

In conclusion, the validity of law being criticised as heteronormative by queer theorists can be argued for to a certain extent. Most arguments within this essay apply to society rather than law. For example, the sociological explanations that justifies why adoption agencies refuse same-sex couples to adopt. A legal example is demonstrated though that applies to law which is the example of Margaret Thatcher explicitly forbidding the teaching of LGBT as a curriculum within schools. Also, the philosophical point that has been provided validates this statement further as it gave a persuasive idea of where law originally came from, which is God and defends why we have a heteronormative system. These points validate the validity of the argument of law being heteronormative.

In evaluation, even though, there are huge number of countries that still have not legalised gay marriage and the heteronormative system within the law still remains dominant due to sociological and philosophical concepts, each year countries are legalising, and societies are becoming more accepting and welcoming to the idea of homosexuality, it is increasing quite rapidly. This could be due to society becoming more secular which criticises the philosophical points as they are seen to be outdated and irrelevant to today's contemporary society. This is proven with the increasing numbers of legalisation on gay marriages in many societies and countries. Also, the anti-gay acts that have been introduced within the 21st century displays that law isn't heteronormative as it once was because, many laws have changed allowing queer people to have same human rights as straight people would have. For example; In 2002 a law has changed to allow gay people and unmarried couples to adopt. These evidence and examples invalidates the statement of law being heteronormative. The reason why this was concluded to be valid to an extent was because, the points which argue the statement to be valid are very true however, they were true as now within today's contemporary society, these points are now irrelevant as things have now changed over time. In completion, the statement is valid to a certain extent as they were true however, these points are irrelevant today as things have changed therefore, making the statement invalid.

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