

THE SOCIETY DISPARITIES FACED BY GAY COMMUNITY

Muthujamallan

Research Scholar, Department of English, Vels University, Chennai, India

ABSTRACT

This article explores the concept of immutability in homosexual behaviour, revealing the uncertainties surrounding its biological and social causes. Current understanding of these causes remains incomplete, necessitating further development and maturation of our knowledge base. While biological influences on homosexual attraction are contested, this article shifts focus to the biological impacts of engaging in homosexual behaviour. As societal acceptance of gay lifestyles evolves, our understanding of these biological effects is also evolving. By dispelling historical stereotypes and myths, this article underscores the common risks and challenges faced within homosexual communities. Family law, as a field, transcends any single academic discipline, encompassing both social and biological sciences to address the complexities and implications of these relationships in contemporary society.

KEYWORDS: *Homosexual Behaviour, Immutability, Maturation, Same-Sex Marriage, Visitation Rights.*

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INTRODUCTION

In recent years, the discourse around same-sex marriage and gay rights has increasingly centered on the notion of biological determinism. This perspective posits that homosexual attraction or orientation is biologically determined and therefore immutable. Observations and surveys conducted over the past seven or eight years indicate a growing acceptance of this belief, with approximately two-thirds of people, particularly younger generations, endorsing the idea that sexual orientation is hardwired. This correlation is mirrored in the rising support for legalizing same-sex unions, suggesting that those who view homosexuality as an inherent trait are more likely to advocate for gay rights. Proponents of same-sex marriage often draw parallels to the historical fight against racial and gender discrimination, using the "Loving analogy" to argue that prohibiting gay marriage is as unjust as banning interracial marriages. However, the claims of immutability and the genetic basis of homosexuality are contentious. Critics argue that these assertions are speculative, based on uncertain and debatable data, and therefore insufficient as a foundation for public policy. Moreover, even if homosexual desire were proven to be unchangeable, it does not necessarily mandate a shift in public policy to legalize same-sex unions. Thus, the debate continues, highlighting the complex interplay between scientific evidence, personal beliefs, and legal principles in shaping the future of same-sex marriage rights.

UNDERSTANDING THE COMPLEXITIES OF HOMOSEXUAL ATTRACTION AND ITS CAUSES

The question of what causes homosexual attraction remains a subject of intense study and debate. Contrary to popular belief, homosexuality is influenced by a combination of genetic and environmental factors, rather than being dictated by a single "master gene." This nuanced understanding highlights the complexity of sexual orientation, suggesting that we may never be able to predict with certainty who will be gay. A common misconception is the idea that gay men are simply destined to be that way from birth. This oversimplification overlooks the multifaceted nature of sexual orientation. The first challenge lies in defining homosexuality itself. There is no consensus on what constitutes homosexuality: is it enough to have thoughts about same-sex attraction, or does it require actual sexual behaviour? Should the focus be on recent behaviours or on patterns over a longer period?

These definition ambiguities are crucial and unavoidable in any research on the subject. Yet, many prominent studies on the immutability of sexual orientation often gloss over these complexities. For example, research into brain structure is frequently cited as evidence that biology influences homosexual behaviour. These studies, while informative, do not capture the full picture and should not be interpreted as conclusive proof. Historically, the term "sexual orientation" has been used to describe the direction of an individual's sexual feelings or behaviours toward either the same or the opposite sex. This definition, while useful, can lead to misunderstandings. It is important to recognize that sexual orientation encompasses a wide range of experiences and cannot be boiled down to simple biological determinism.

THE DYNAMICS OF HUMAN HOMOSEXUAL BEHAVIOUR

The understanding of human homosexual behaviour is a complex and multifaceted issue. Evidence suggests that some individuals can learn to manage, lessen, and potentially eliminate their homosexual urges and behaviours through professional treatment. This challenges the idea that homosexuality is an unchangeable biological trait like race or gender. Numerous studies report high success rates in treating individuals who seek to change their patterns of homosexual behavior. Thousands of psychologists have worked with patients to help them understand the underlying dynamics of their homosexuality and take control of these urges. This suggests that homosexual inclination or attraction can be managed and is not beyond human control.

Additionally, the experiences of spiritually devoted individuals who exhibit homosexual behaviour "considerably less frequently" indicate that sexual behaviour can be significantly influenced by belief systems. This further refutes the notion of biological determinism or the idea that homosexuality is hardwired and immutable. The lives of thousands of lesbians and gays who have left the homosexual lifestyle, along with the efforts of psychologists, psychiatrists, and counsellors who have assisted them, stand in opposition to the assertion of immutability. Some individuals report a complete shift in orientation from homosexual to heterosexual. For instance, Dr. Robert Spitzer concluded that ex-gays and ex-lesbians experienced changes not only in their behaviour but also in their underlying beliefs.

While it is possible to prevent gay behaviour, sexual orientation itself may remain unchanged. However, this does not negate the fact that some people can and do experience changes in their sexual orientation. This points to the malleability of sexual behaviour and the significant role of psychological and environmental factors. Moreover, even if the biological immutability of homosexual attraction were established, it would not necessarily support arguments for same-sex marriage. The debate around sexual orientation and behaviour is not solely a matter of biology but also involves psychological, social, and spiritual dimensions.

THE DEBATABLE LEGAL AND CONSTITUTIONAL SIGNIFICANCE OF THE IMMUTABILITY OF HOMOSEXUAL ATTRACTION

The legal and constitutional implications of the immutability of homosexual attraction remain a subject of debate, even if scientific evidence were to establish such immutability conclusively. Unlike attraction, homosexual behaviour involves some degree of free will and decision-making. Therefore, immutability alone is neither a prerequisite nor a sufficient justification for classifying homosexuals as a "suspect class" under the law. When examining state authority to regulate or outlaw specific behaviours such as rape, child molestation, violence, or drunk driving it becomes evident that the propensity for certain behaviours does not exempt them from regulation or restriction. Similarly, even if some individuals may be mentally or physically predisposed to certain behaviours, this does not render the regulation of such behaviours illegal.

The argument for the immutability of sexual orientation is much less compelling than the proof of the immutability of age or consanguinity. Marriage laws that prohibit same-sex unions are not rendered illegal by the argument of immutability. In fact, the case against such laws based on immutability is even weaker compared to other categories where restrictions exist. The societal relevance of immutability is also debatable. Relying on the premise of biological determinism for acceptance falls short of achieving true societal acceptability. Historical evidence suggests that expecting protection based solely on purported biological causality is unrealistic. For instance, the undeniable innateness of skin colour has not mitigated racism. This implies that immutability, whether scientifically proven or not, does not guarantee social acceptance or protection under constitutional law.

CAUTION IN CHANGING PUBLIC POLICY

Changing public policy based on current research on factors influencing homosexual desire carries significant risks, given our incomplete understanding of these factors within human sexuality. Advocating for a foundational shift in legal doctrines, such as redefining marriage or modifying adoption eligibility criteria, on the premise that homosexual attraction is solely influenced by biology is premature and unsupported.

Our knowledge of the complexities contributing to homosexual attraction and behavior remains insufficient to justify sweeping legal and social policy changes. The evidence available is often ambiguous, inconsistent, and inadequate to warrant such drastic modifications. Comparatively, the understanding of heterosexual unions is more established and supported by historical norms. When considering public health and safety in matters of sexual relationships, heterosexual unions traditionally receive preference and support. In contrast, homosexual unions face greater scrutiny and must overcome significant societal hurdles to achieve similar recognition and benefits as married couples.

LEGAL AND SOCIAL IMPLICATIONS

Understanding the biological underpinnings of homosexual desire and behaviour is crucial for informing family law principles. However, current knowledge regarding the aetiology of homosexuality, particularly claims of biological immutability, remains inconclusive and unreliable as a basis for guiding public policy. Therefore, further research into the factors influencing homosexual attraction is necessary and should be supported.

The physiological implications of homosexual behavior are pertinent to numerous policy and family law issues, including adoption, foster care, same-sex marriage, domestic partnerships, visitation rights, and child custody. The well-being and welfare of individuals engaged in homosexual relationships have direct implications for society at large, as well as for spouses, children, and other family members. These factors must be carefully considered in decision-making processes concerning legal status, privileges, and protections for individuals in such relationships.

Granting positive legal status and benefits incentives and supports behaviours and relationships that are legally recognized, while denying preferential treatment serves as a deterrent. Non-discriminatory treatment, rather than criminalization or punitive measures, is both compassionate and rational when addressing relationships that have biological implications impacting societal welfare. There is a risk that political correctness may hinder unbiased scientific and legal analysis of the biological effects of homosexual activity, particularly in sensitive areas like marriage and family law. It is essential for lawmakers and courts to objectively evaluate these biological effects when formulating family law policies and making decisions that affect the well-being of families and children.

CONCLUSION

In conclusion, safeguarding the future of society and the well-being of children requires a balanced approach that acknowledges and incorporates scientific understanding into family law deliberations. By openly considering the biological implications of homosexual relationships, lawmakers and courts can ensure fair and informed decision-making that protects the interests of families and secures the foundations of our society.

REFERENCES

1. J. Michael Bailey, *The Man Who Would be Queen: The Science of Gender – Bending and Transsexualism* (2005).
2. Dean Hamer & Peter Copeland, *the Science of Desire: The Search for the Gay Gene and the Biology of Behaviour* (1994).
3. J. Michael Bailey & Richard C. Pillard, *A Genetic Study of Male Sexual Orientation*, *Archives gen. psychiatry* 1089 (1991) [Bailey & Pillard, *Genetic-Study*].
4. J. Michael Bailey & Kenneth J. Zucker, *Childhood Sex-Typed Behaviour and Sexual Orientation: A Conceptual Analysis and Quantitative Review* *Developmental psychol.* (1995) (relying on problematic retrospective adult-recall reports to explore the possible association between childhood sex-typed behaviour and adult sexual orientation)
5. J. Michael Bailey et al., *Genetic and Environmental Influences on Sexual Orientation and Its Correlates in an Australian Twin Sample*, *j. personality & soc. psychol.* 524 (2000)