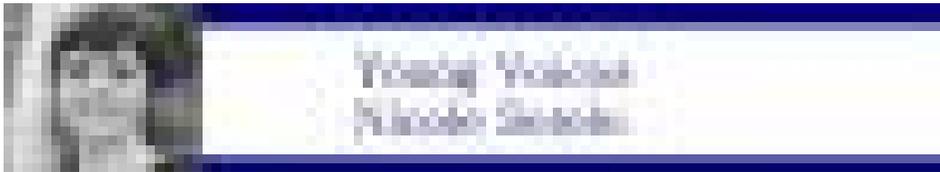


## The law of love

Nicole Sotelo | Oct. 29, 2008



The bishops in California and Florida

are asking Catholic voters to preserve marriage at the polls this November. Both states have constitutional amendment proposals on their ballots that, if passed, would restrict marriage and its privileges to relationships between a man and a woman. These changes in the state constitutions would preserve "traditional marriage" according to a bulletin insert being distributed by California bishops.

But I wonder what type of laws we are preserving. We'll be keeping a system of marriage laws that are not about love, but about privilege. Our current civil marriage laws privilege heterosexual men and women who happen to be fortunate in finding a partner. These couples receive special benefits with regard to taxes, pension plans, health care, social status and a variety of other societal advantages. Those who happen to be unlucky in love or whose families do not fit the mold are left out: unmarried parents with children, unmarried elderly individuals who live together and care for one another, and so on.

The California constitutional amendment will also preserve separate but equal laws. The bishops' bulletin insert claims that no rights are being denied people who are gay and lesbian. It says that gay and lesbian couples will still have rights under California's domestic partner law. Separate but equal. Isn't that fair? Last time I spoke with my Mexican-American grandfather who attended a segregated grade school in the Southwest, separate but equal was not fair. It was unjust.

So what would a just marriage law, a law of love, look like?

I imagine that a law of love would support the common good. Pope John XXIII, in *Pacem in Terris*, writes, "The civil power must not serve the advantage of any one individual, or of some few persons, inasmuch as it was established for the common good of all." Right now, we offer married heterosexual couples special access to pension plans, health care and a variety of other benefits. Instead, all people should have equal access to basic needs and societal support. If we preserve current marriage laws, we are not supporting the common good, we are supporting the common some.

A law of love would support legal recognition for a wide range of relationships. It would support the elderly couple who walk in the Communion line together and have walked with one another in relationship, but unmarried, for 40 years. It would support the single father and his son who live down the street. It would support the sibling who brought her "female friend" to Christmas Mass last December. If we preserve current marriage laws, we may be supporting a handful of bishops, but we are not supporting our fellow Catholics and citizens.

Finally, a law of love would support, well, love. Current marriage laws are based on shifting cultural norms, not

love. Remember "Guess Who's Coming to Dinner"? If marriage laws were about love, then they would have been open to interracial marriages in the past, or be open to same-gender couples who love one another now. But they are not. In fact, history tells us that marriage has usually been divorced from love. Marriages were consecrated for the sake of family fortunes, political alliances, additional hands on the farm, and the like. Marriage for love's sake was often not permitted, if imagined at all. If we preserve current marriage laws, we are not supporting relationships and families of love, but marriage as a collection of privileges for some.

And yet the Catholic bishops are helping lead the charge to pass constitutional amendments in California and Florida, even though the amendments would disadvantage many of the church's own members and would have no bearing on church law. A change in the constitutional amendment affects civil marriage laws. The church's sacramental marriage laws, in place since 1545, would remain untouched. No priest would be forced to perform a wedding for same-gender couples. No bishop would be asked to bless same-gender unions.

**NCR e-mail alerts** [1] writes, "And now I make a request to you, not sending you a new law, but the law Privacy by  SafeSubscribe<sup>SM</sup> [1] st, that we have love for one another." As a Catholic, I believe it is time we forgo another constitutional amendment, or "new law," that continues to uphold special privileges for some. Instead, it is time we begin creating a society based on "the law which we had from the first," a law of love. What's this? [2]

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