

Marriage for Some, or Civil Unions for All ?

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Last summer I attended an unforgettable wedding here in town. Sunny day; open field with magnificent view of the Bay; over a hundred Mexican American friends & family; clergymen to bless the union and celebrate Mass; wonderful music; two radiant brides in traditional white dresses; heartfelt toasts; tears in most every eye.

Today that couple, along with hundreds of other respected members of our community and thousands of lesbian, gay, bisexual and transgendered Californians elsewhere, awoke to hear that Proposition 8 had been approved by a majority of the same voters who'd contributed so mightily to the election of our new President. That for many fellow-citizens, the loving partnerships they've formed -- publicly, officially, and often enough "in the eyes of God" -- are now to be invalid in both custom and law.

This assault on the privacy and dignity of citizens violates, not a "gay right", but a universal human right to equality and equal treatment under law. Similar measures were enacted in Florida and Arizona. All in all it was a stunning, if certainly temporary and very expensive, victory for the "Christian Right". It was as if huge doses of shame had been injected into our arms, at the precise moment when most Californians felt proudest of our "blue" state and our rainbow country.

Proposition 8 has already been challenged in the courts by the ACLU and others. Questions are raised about its motivations, vast out-of-state funding, and vicious disinformation campaign. But the solution to this "culture wars" problem requires looking beyond the current legitimate struggle for LGBT rights to the bigger question of the separation of Church from State.

The peculiar American custom in which clergy sign marriage certificates is a holdover from the days when monarchy was sustained by State religions offering the only legal

form of marriage. When democracy triumphed, religions were separated from States. In Europe and elsewhere the *civil unions* of couples are celebrated, granting them legal status along with legally specified duties and privileges. These are distinguished from religious *marriages*, which have no *legal* standing at all. In America, we were sloppy with this distinction and neglected to complete the separation of church functions from those of the State.

The democratic State has a vital interest in the solidity of civil unions; it sanctions contracting parties for failing to live up to their obligations. But it has no essential interest in the gender makeup of couples. Increasingly today, in the Netherlands, Belgium, Spain, Canada, Mexico City and elsewhere, the legally binding civil union is available to same-sex couples. The holy sacrament of marriage -- however deeply significant to the couples it joins -- operates beyond the jurisdiction of the State. Most couples marry in both ways, covering all bases; only civil unions have standing in law.

In Christian tradition, marriages are not *performed* by clergy but *blessed* by them. Couples exercise free will, and marry one another. Clergy are trained to explain what churches expect of them in marriage; but they are not equipped to explain the State's requirements, or to enforce those requirements later on. Many clergy would prefer to be relieved of that responsibility, and leave that work to qualified public functionaries.

The campaign to impose religious notions of marriage upon civil society violates the separation of Church from State. It should be resisted by every citizen. Were clergy excluded from the legal certification of marriage, the squabbling over legal definitions would cease; and the institution itself, unimpeded by religiously inspired discrimination, would be freer than it is now to flourish in American society.

The solution is clear: relieve clergy of responsibility for certifying the legality of marital unions; encourage *marriage* for those who want it; require a *civil union* for every legalized couple. That way the radiant brides and beaming grooms can stand tall

alongside the rest of us. They can join in building an America that sustains and nourishes the dignity of every citizen -- and by so doing instills pride in us all.