

# MARRIAGE, SAME-SEX RELATIONSHIPS AND THE CATHOLIC CHURCH

MOST REVEREND THOMAS JOHN PAPROCKI†

Annual LeBlond Lecture

February 12, 2014

Mount Saint Mary's Seminary of the West/  
The Athenaeum of Ohio  
Cincinnati, Ohio

In each of my hands I am holding a piece of fruit. If I asked you to identify these, most people would likely say that I have an orange in my right hand and an apple in my left, and that would be the common consensus. But if the civil government were to pass a law or some judge were to declare that in the name of fairness we will no longer discriminate in what we call these visibly different realities, and that both were to be called apples, we would then see in supermarkets bins of each type of these fruits labeled “apples.” Consumers have selective tastes, however, so adjectives would be needed to make distinctions for those who have discriminating tastes. In addition to red apples and green apples and golden delicious apples, we would now have orange apples, too.

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† Bishop of Springfield in Illinois and Adjunct Professor, Loyola University Chicago School of Law.

Something very similar is happening with two very distinct realities that some civil laws and judicial decisions have decreed will both be called “marriage.” Until recently, one of those realities was considered a sacred partnership of man and woman, while the other was considered a sinful transgression against nature by people of the same sex. Regardless of what these different realities are called by civil law and popular culture, people know in their hearts and in their minds, if they are honest, that they are not the same, and so will need to use adjectives to distinguish between them, such as traditional marriage and same-sex marriage, natural marriage and unnatural marriage. For those of us in the Church, we have further distinctive terminology for the reality that we call Holy Matrimony and a sacrament between a baptized man and baptized woman.

Making these distinctions is an unpopular and increasingly uphill battle in our secular culture today. For example, consider that a Google™ search on the Internet for the name “Matthew Shepard” at one time produced 11,900,000 results. Matthew Shepard was a 21-year-old college

student who was savagely beaten to death in 1998 in Wyoming. His murder has been called a hate crime because Shepard was gay.<sup>1</sup>

A similar search on the Internet for the name “Mary Stachowicz” yielded 26,800 results.<sup>2</sup> In 2002, Mary Stachowicz was also brutally murdered, but the circumstances were quite different. Mary, the gentle, devout 51-year-old Catholic mother of four urged her co-worker, Nicholas Gutierrez, 19, to change his gay lifestyle. Infuriated by this, as he later told police, he allegedly beat, stabbed and strangled her to death and then stuffed her mangled body in a crawl space in his apartment, located above a Chicago funeral home, where they both worked. I know about Mary Stachowicz, not from the Internet, but personally, because Mary was my secretary at the parish where I was pastor before I was named a Bishop. She worked part time at the funeral home and part time at the parish. One afternoon, she didn’t show up at her usual starting time. This was unusual because she was always on time. A call to the funeral home disclosed that her car was still in their parking lot and her purse with her car keys was

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<sup>1</sup> Whether or not the murder of Matthew Shepard was motivated by homosexual bigotry or for other reasons is matter of debate. See Stephen Jiminez, *The Book of Matt: Hidden Truths about the Murder of Matthew Shepard* (Hanover, New Hampshire: Steerforth Press, 2013).

<sup>2</sup> Thomas J. Paprocki, “Marriage, Same-Sex Relationships and the Catholic Church,” *Loyola University Chicago Law Journal*, Vol. 38, No. 2, Winter 2007, p. 247.

still at her desk, but there was no sign of Mary. As Mary's family and friends prayed and worried about her disappearance, Gutierrez prayed with them. Three days later, her mutilated body was discovered in a crawl space in his apartment.

Both murders were senseless and brutal, and I condemn them both unequivocally. However, the fact that there are over eleven and a half million more Internet stories about Matthew Shepard than Mary Stachowicz indicates where popular sentiment lies today on the question of same-sex relationships. Shepard's story has received such widespread attention because his homosexuality was the chief motive for his murder. Mary's murder was widely ignored by the media, despite the fact that she died as a martyr for her faith.

My point is that, in the light of popular opinion today, we need to recognize that we have an uphill struggle to persuade people of the reasons why same-sex relationships should not be legally recognized as marriages. In light of the fact that an increasing number of countries, states and jurisdictions, including my home state of Illinois, are redefining marriage to include same-sex relationships may seem that its universal acceptance is inevitable and that efforts to prevent this are a lost cause, so why bother?

The answer to that question is suggested to me by the popular movie from the 1930's by Frank Capra, *Mr. Smith Goes to Washington*, in which Jimmy Stewart plays a young man who has been elected to the United States Senate. As he leaves for Washington, his father offers this encouragement and advice: "Lost causes are the only ones worth fighting for." In his bestselling book, *Management of the Absurd: Paradoxes in Leadership*, Richard Farson explains this advice, saying, "Lost causes are the ones most worth fighting for because they tend to be the most important, most humane ones. They require us to live up to the best that is in us, to perfect ourselves and our world."<sup>3</sup>

The ethical or moral analysis of an issue is not properly based on polls or surveys of public opinion, but on values, virtues and principles. The challenge is first to show what marriage is and why it deserves a unique status.

I describe the view I am presenting tonight as "consistent with Catholic teaching" because it is not exclusively the teaching of the Catholic Church. The traditional understanding of marriage as between one man

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<sup>3</sup> Richard Farson, *Management of the Absurd: Paradoxes in Leadership* (New York: Touchstone Books, 1997).

and one woman is not the invention of the Catholic Church and in fact precedes Christianity. It is not based on religion, but on natural law.

In my remarks tonight I will address the claims of an argument against my views that would go something like this:

The Catholic Church teaches that marriage is limited to the union of one man and one woman, and that the civil law should reflect this definition. Some non-Catholic religions, and some people with no religious affiliation, are supportive of homosexual marriage. The civil law governs a diverse and pluralistic society, and it is not legitimate to single out one religious group's views and grant them favored status by enacting their religious views into law. Therefore, it is not legitimate for civil society to limit marriage to heterosexual couples.

The first thing to note in response to this argument is that it relies on several false premises. The Catholic Church did not invent marriage as an institution limited to heterosexual couples. Neither did the state. Marriage is a pre-political and natural phenomenon that arises out of the nature of human beings. The Catholic Church, along with virtually every religion and culture in the world recognizes and supports this natural institution

because without it, no society will exist or flourish. I will discuss this phenomenon shortly.

Secondly, it is a given of First Amendment jurisprudence that the mere fact that a civil law harmonizes or agrees with religious beliefs is not grounds for finding an Establishment Clause violation. Certainly, if the civil law granted recognition *only* to sacramental marriages as defined in the *Code of Canon Law* of the Catholic Church, this would violate the Establishment Clause. But no law purports to do so.

The Supreme Court has held that:

The Establishment Clause does not ban federal or state regulation of conduct whose reason or effect merely happens to coincide or harmonize with the tenets of some or all religions. In many instances, the Congress or state legislatures conclude that the general welfare of society, wholly apart from any religious considerations, demands such regulation. Thus, for temporal purposes, murder is illegal. And the fact that this agrees with the dictates of the Judaeo-Christian religions while it may disagree with others does not invalidate the regulation. So too with the questions of adultery and polygamy. The same could be said of theft, fraud, etc. because those offenses were also proscribed in the Decalogue. *McGowan v. Maryland*, 366 U.S. 420, 442 (1961).

My response to the claim that it is illegitimate for the civil law to favor the Church's view on marriage will address three points: first, I will

discuss the nature of marriage as a natural institution; second, I will argue that civil law and a limited government act beyond their competence and authority when they attempt to redefine the fundamental attributes of marriage; and finally, I will address some pastoral implications of the Church's definition of marriage.

## I. THE NATURE OF MARRIAGE

First, neither the state nor the Church "created" marriage. Marriage is a natural outgrowth of human nature, capacities and needs in a similar way that language is a natural outgrowth of human nature, capacities and needs. No one at the dawn of time sat down with a committee of linguists to develop languages, nor did a blue-ribbon committee of sociologists and politicians create marriage.

Marriage grows out of a natural affinity and complementarity of male and female – in other words, the ways in which one gender completes the other emotionally, spiritually and physically. Most of our natural inclinations can be developed and accomplished through our own efforts – we can fulfill our inclinations towards preserving our health, satisfying our hunger, learning the truth, seeking the beautiful, through our own solitary

efforts. Even if others assist us in reaching these goals, it is our own efforts that ultimately are determinative of our fulfillment. But the inclination, natural desire and capacity towards procreation and creation of a family can only be fulfilled through the union of a man and woman. Even though new biotech interventions in reproduction have advanced seemingly solitary avenues to this fulfillment, say through artificial reproduction, they all must find ways to mimic the union of a man and woman in order to be successful.

The inclination towards these goods is obviously keenly felt by all human beings, including those with same-sex attractions. But couples of the same sex lack the capacity to realize the goods of natural marriage for the simple reason that they lack the complementarity of male and female.

Blessed Pope John Paul II, soon to be Saint John Paul II, developed a large body of teaching about human sexuality which has been pulled together under the title of the "Theology of the Body." I want to turn to a few of his insights to develop this idea of natural marriage.

Karol Wojtyła wrote in *LOVE AND RESPONSIBILITY*, "Marriage is a separate institution with a distinctive interpersonal nature....This

institution provides a justification for the sexual relationship between a particular relationship within the whole complex of society.”<sup>4</sup>

Wojtyła also noted that this is important for the consequences of the relationship, e.g., children, and for the sake of the partners themselves. The institution of marriage is a moral evaluation of their love – it gives a context to their love and relationship because they’re given a place both in the social milieu and society at large. They may not think they need this acceptance at first, but as time goes by, they are bound to realize that without this acceptance their love lacks something very important.

There is a need for social recognition of this love as a union of persons. Love demands this recognition. Compare the terms “mistress,” “concubine,” “wife,” and “fiancé.” Wojtyła notes that these are words referring to women, but they also say something about a man. The first two words are used for women who are objects; the second two suggest the co-subject of a love having full personal and hence full social value.

Thus, Wojtyła continues, the institution of marriage is necessary to signify the maturity of the union between a man and woman, to testify that

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<sup>4</sup> Karol Wojtyła, *LOVE AND RESPONSIBILITY* (New York: Farrar Straus Giroux, 1995).

theirs is a love on which a lasting union and community can be based – physically, materially, morally, spiritually, etc. This institution serves first the interests of the persons in the marriage and secondarily the interests of others who participate in it (e.g., children) and society at large.

The fact that the institution in fact does all this is revealed in the movement for same-sex marriage. Unions which are essentially different from marriage (one man and one woman permanently committed to each other) will not become marriage simply by taking on the institutional guise. Those involved in same-sex relationships are looking for social validity and legal approval. All of this is understandable, but that doesn't make it possible.

It can be said that marriage, as an institution, exists at least in part to protect the vulnerability that arises, especially for women, when a man and a woman have an intimate relationship that of its nature has the potential for children. What sets the sexual union between a man and a woman apart from any other union – sexual or non-sexual – is the potential to bring forth new human life or lives. This makes the relationship uniquely vulnerable for everyone involved.

Legal parlance has also recognized this unique aspect and vulnerability by referring to the child as the “issue” of marriage. In fact, as University of Notre Dame Law Professor Gerald Bradley has pointed out, “Consummation has traditionally (though, perhaps, not universally) been recognized by civil as well as religious authorities as an essential element of marriage. Pre-existing, incurable physical defects and incapacities which render a party unable to consummate the marriage, are, under most statutes, grounds for annulment. . . . The law, in its rules regarding consummation, embodies an important insight into the nature of marriage as a bodily – no less than spiritual and emotional – union that is actualized in reproductive-type acts.”<sup>5</sup>

The Catholic Church has considerable jurisprudence on the concept of the consummation of marriage. This jurisprudence on marriage developed over the course of centuries, starting with the early Christians who simply entered into and lived out their marriages according to the traditional practices of the culture in which they lived, first the Jewish

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<sup>5</sup> Gerard V. Bradley, “Same-Sex Marriage: Our Final Answer?” in SAME-SEX ATTRACTION: A PARENTS’ GUIDE, John F. Harvey, OSFS, and Gerard V. Bradley, eds. (South Bend, Indiana: St. Augustine’s Press, 2003), 139.

culture and later the Greco-Roman culture.<sup>6</sup> Despite the widespread practice and acceptance of homosexual relations in the Greek and Roman cultures, neither Greek law nor Roman law ever sought to grant legal status to same-sex relationships or to define them as “marriage.” However, from the start Christians distinguished themselves from the Greeks and Romans in rejecting their promiscuous understanding of sexuality and embracing instead the virtue of chastity both within marriage and outside of marriage.

With regard to the consummation of marriage, then, Canon 1061 of the *Code of Canon Law* states that a valid marriage is “called ratified and consummated if the parties have performed between themselves in a human manner the conjugal act which is per se suitable for the generation of children, to which marriage is ordered by its very nature and by which the spouses become one flesh.” Thus, oral sex, anal sex, and mutual masturbation do not constitute consummation of marriage.<sup>7</sup> I have yet to see any analysis, jurisprudence, legislation, argumentation, or explanation of how a so-called same-sex “marriage” is consummated.

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<sup>6</sup> *New Commentary on the Code of Canon Law*, Commissioned by the Canon Law Society of America (New York, N.Y.: Paulist Press, 2000), p. 1234.

<sup>7</sup> See *New Commentary on the Code of Canon Law*, Commissioned by the Canon Law Society of America (New York, N.Y.: Paulist Press, 2000), pp. 1257-1259.

## II. LAW AND TRUTH IN RELATION TO THE STATE

Next, I would like to turn to a consideration of the proper relationship between law and truth, or, more specifically, between law and the truth about marriage as held on the basis of natural law reasoning.

First, I need to make a short digression to discuss an historical progression about the necessary grounds or justifications for enacting civil laws.

The philosophical project of the Enlightenment sought to sweep away old-fashioned traditions that rested on no more than superstition and historical anachronisms, and establish in their place a legal system resting on a standard that all ethical norms and laws should be justified by empirically valid evidence. By employing this scientific standard in pursuit of a just and reasonable society, reformers hoped to imitate the advances made possible by the use of the scientific method in expanding human control over nature. Similarly, it was thought that such standards could be used to decide disputed moral questions and would one day establish rational and just rules for the social organization of human beings. Social taboos and superstitions were to be swept away by

scientifically verifiable approaches to social organization, and only those practices that could be justified by this new standard would be legitimate. Hence we have the development of utilitarianism by Jeremy Bentham and John Stuart Mills, a theory that claims to be able to rationally settle all ethical questions in terms of measuring how much they maximize pleasure and minimize pain.

The obvious difficulty with this attempt to graft scientific and mathematical standards of proof-requirements into the ethical and social organization of human beings is that there is no means of measuring, manipulating, and verifying the truth claims of various ethical and philosophical positions. Even utilitarianism cannot identify or measure the “greatest happiness” that is the guiding light of its method. For instance, should sado-masochism be allowed if the intensity of pleasure of the torturer outweighs the pain inflicted on the victim? Who can scientifically verify whether the pleasure is more intense than the pain? Consequentialists, who believe that the ethically correct position is the one that most advances the overall good of society, face a similar problem, as it is impossible to accurately measure all of the good and bad consequences that flow from any particular choice.

When it became clear that this Enlightenment project aiming at universally justifiable ethical positions was not attainable, and that it was impossible to justify ethical positions with the same precision as was present in science, philosophical trends shifted to the post-modern rejection of all universal moral truth claims. Since no ethical system could be justified to this level of precision, many post-modern philosophers and social critics adopted varying modes of cultural and moral relativism. Here no absolute or universal truths are possible, and ethical reflection becomes a political endeavor of compromise and mutual respect. Equality is one of the very few unquestioned values that is enshrined in this philosophy, although it leaves unanswered the question of why equality should be favored over inequality if all positions are morally equivalent. Since supposedly there are no moral truths but only preferences held by individuals, all alternatives should be given equal respect and dignity. To hold to moral absolutes, in this view, is to limit human potential and deny equal dignity to those who do not accept or live by such precepts. But it is logically impossible to equally credit all moral positions in the law, as even those attempts to adopt morally neutral positions are themselves moral choices that deny recognition and equality to those who disagree. The end

result is that moral questions end up being only political questions decided by the majority, with the result that the weakest suffer the most.

Since limiting public policy to positions based on either empiricism or moral relativism is too problematic, we should consider a third basis of justifiable laws -- those that are warranted. While it may be that ethical truths do not lend themselves to being "justified" under scientific standards of proof, moral positions can and should be evaluated in terms of whether or not they are "warranted" because they are reasonable. We can come to a conclusion that a claim is warranted in a number of ways -- based on trustworthy authorities (a basis that is explicitly rejected by both enlightenment and post-modern philosophy), through natural law reasoning, reflection on human nature, including our embodied biological nature, human experience, as well as the lessons that come from various cultures, religions, traditions, history, and the social sciences. Together, this common human heritage represents a received treasure that each generation has the duty to hand on to the next.

Civil societies and the state are acting properly, in accordance with reason, when they base their legal systems on "warranted claims" that are attested to by this kind of evidence. Under this system, one is certainly

*warranted* in believing that society has an important and vital interest in preserving, promoting and defending marriage and families as composed exclusively by heterosexuals. At the same time, given the fact that the state itself would be endangered if families based on heterosexual relations were threatened, the state is warranted in refusing to grant legal recognition to same-sex marriage.

The burden of establishing that homosexual unions are similarly vulnerable and in need of recognition, as well as being necessary and beneficial to the common good, as heterosexual marriage, is necessarily on those who wish to overturn these warranted claims. I do not believe it will be possible to establish, based on the evidence detailed above, that such claims are in fact warranted. If the state, nonetheless, adopts such proposals in order to further the political or social agendas of those who cannot establish such warrant, the state would be acting illegitimately, and in opposition to reason.

A re-definition of marriage to include same-sex marriage is beyond the competence of the state, because marriage both precedes the state and is a necessary condition for the continuation of the state (because future generations arise from and are formed in marriage). When a state enacts a

law saying that a same-sex relationship can constitute a marriage, it has the power to enforce that in a society's external practices, but it is devoid of any intrinsic moral legitimacy and is a contrary to any natural reality. As I said at the outset of this talk, if the government says that an orange is now the same as an apple, and the law requires everyone to call oranges "apples," the state would have the power to punish anyone who calls an orange an "orange" instead of an "apple," but it would be a totalitarian abuse of raw power and would not change the biological reality of the nature of the fruit in question. So too with the definition of marriage.

Benito Mussolini defined totalitarianism in this way: "Everything within the state, nothing against the state, nothing outside the state." The great totalitarian movements of the 20<sup>th</sup> Century sought to fundamentally subordinate families to the goals of the state, whether in pursuit of a national identity rooted in racial purity or in furtherance of a Marxist utopia. In response, the Church further refined its teaching on the ethical principle of subsidiarity, which holds that is not legitimate for the state to interfere with the fundamental nature of the family. In this view it is never legitimate for the state to decide that it will use marriage and the family as mere instrumentalities to be manipulated to achieve the state's own goals

of cultural transformation. Rather, the principle of subsidiarity holds that “a community of a higher order should not interfere in the internal life of a community of a lower order, depriving the latter of its functions, but rather should support it in case of need and help to co-ordinate its activity with the activities of the rest of society, always with a view to the common good.” (*Catechism of the Catholic Church* #1883)

Shades of this impulse toward consolidation of every sphere of life into the direct control of the state, and a rejection of the concept of limited government appears to underlie the rejection of the concept of “natural marriage” and the movement for legal recognition of same-sex marriage.

The State has a duty to preserve and promote marriage as an institution that precedes the State, but the State does not have the authority to fundamentally redefine the nature of that institution. Similarly, the State has the authority to enact the “rules of the road” to protect vehicle drivers. But it has no authority or power to change the laws of physics so that car crashes will be less destructive. Rather the State assesses the pre-existing factors that influence safe driving – the age when most persons can handle the responsibility of driving, the effect of alcohol on drivers, the best way to construct roadways, maximum safe speeds – in order to create rules that

best accord with these pre-existing realities. The same should be true of marriage.

The benefits and duties conferred on marriage simply respond to the reality that the state cannot exist without families who will bring into existence the next generations. Those who advance a view of the family that is subordinate to and dependent upon the state for its existence turn the relationship of the family and state upside down. The family itself is the first cell of society, from which the state receives its existence. In a very real sense, the state exists to serve the family which has its own legitimate nature and identity. It is not within the power of the state, particularly a state which claims to embrace the notion of a limited government, to redefine marriage in order to advance the state's interests in equality of treatment.

It would be naïve to assume that this impulse towards the aggrandizement of the state poses no threats to religious freedom. While the political campaign to strip Catholic institutions of their ability to witness to their religious teaching through their institutions has in recent decades been pressed most strongly by those who seek to weaken the Church's defense of the unborn and other frail human beings, this pressure

is now being brought to bear on the Church's opposition to same-sex marriage. For instance, in 2011 Catholic Charities throughout Illinois were forced to withdraw from offering foster care and adoption services because the state refused to accommodate the Church's teachings and policies against placing children with same-sex couples, indeed with any unmarried cohabiting couples, whether heterosexual or homosexual. While most redefinition of marriage laws do not obligate ministers of religion to perform same-sex marriage ceremonies, they may not stop the state from obligating the Knights of Columbus to make their halls available for same-sex "weddings." They may not stop the state from requiring Catholic grade schools to hire teachers who are legally "married" to someone of the same sex. They may not protect Catholic hospitals, charities, or colleges, which exclude those so "married" from senior leadership positions. They may not even protect me as the Bishop of Springfield in Illinois if I refused to employ someone in a same-sex "marriage" who applied to the Diocese for a position meant to serve my ministry as Bishop.

In the end, the Church's teaching on homosexuality and marriage is Catholic because it is true, not true because it is Catholic. This is expressed in the words of the bishop, St. Cyril of Jerusalem: "The Church is called

Catholic or universal because . . . it teaches fully and unfailingly all the doctrines which ought to be brought to men's knowledge, whether concerned with visible or invisible things, with the realities of heaven or the things of earth."<sup>8</sup> In other words, the conclusion that same-sex relationships should not be afforded legal status is because it is based on the truth, not just on Catholic teaching. Yet, saying that makes this conclusion all the more controversial. If it were based simply on Catholic teaching, opponents could say in our pluralistic context, "You Catholics are entitled to your opinion, but that is not binding on others." Instead, saying that truth is the reason that same-sex relationships should not be afforded legal status is offensive to those who deny the existence of truth, who prefer to live in a world dominated by what Pope Benedict XVI termed a "dictatorship of relativism." In his homily at the Mass on the day of the opening of the conclave that elected him Pope, Benedict identified this "dictatorship of relativism" as "the gravest problem of our time."<sup>9</sup>

If you acknowledge that truth exists, then we can discuss and even argue about whether or not I or the Catholic Church correctly understands

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<sup>8</sup> Quoted in *Office of Readings*, LITURGY OF THE HOURS, Wednesday of the Seventeenth Week of Ordinary Time.

<sup>9</sup> Quoted in John L. Allen, Jr., *THE RISE OF BENEDICT XVI* [New York: Doubleday, 2005], p. 174.

the truth of this matter. But if you deny that there is such a thing as truth, that is, *the* truth, not just *my* truth and *your* truth, then the matter becomes merely an exercise of raw political power in terms of who has more votes to impose an agenda, and that is what makes it ultimately tyrannical. This was described by then-Cardinal Ratzinger in a speech that he gave in Rome in 1996: In a culture dominated by relativism, he said, “The majority determines what must be regarded as true and just. In other words, law is exposed to the whim of the majority, and depends on the awareness of the values of society at any given moment, which in turn is determined by a multiplicity of factors. This is manifested concretely by the progressive disappearance of the fundamentals of law inspired in the Christian tradition. Matrimony and family are increasingly less the accepted form of the statutory community and are substituted by multiple, even fleeting, and problematic forms of living together.”<sup>10</sup>

Similarly, Pope Francis last year pointed out in his Apostolic Exhortation, *Evangelii Gaudium* (“The Joy of the Gospel”), “Marriage now tends to be viewed as a form of mere emotional satisfaction that can be

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<sup>10</sup> Quoted in John L. Allen, Jr., *THE RISE OF BENEDICT XVI* [New York: Doubleday, 2005], p. 176.

constructed in any way or modified at will. But the indispensable contribution of marriage to society transcends the feelings and momentary needs of the couple.”<sup>11</sup>

Neither two men nor two women – nor, for that matter, three or more people—can possibly form a marriage. Our law would be lying if it said that they could. The basic structure of marriage as the exclusive and lasting relationship of a man and a woman, committed to a life which is fulfilled by having children, is given to us in human nature, and thus by nature’s God. Notwithstanding the vanity of human wishes, every society in human history—including every society untouched by Jewish or Christian revelation—has managed to grasp this profound truth about human relationships and happiness: marriage is the union of man and woman.

The redefinition of marriage to include same-sex couples enshrines in our law – and thus in public opinion and practice – three harmful ideas:

1. What essentially makes a marriage is romantic-emotional union.
2. Children don’t need both a mother and father.
3. The main purpose of marriage is adult satisfactions.

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<sup>11</sup> Pope Francis, Apostolic Exhortation, *Evangelii Gaudium* (Vatican Press, November 24, 2013), no. 66.

These ideas would deepen the sexual revolution's harms on all society. After all, if marriage is an emotional union meant for adult satisfactions, why should it be sexually exclusive? Or limited to two? Or pledged to permanence? If children don't need both their mother and father, why should fathers stick around when romance fades? As marriage is redefined, it becomes harder for people to see the point of these profoundly important marital norms, to live by them, and to encourage others to do the same. The resulting instability hurts spouses, but also—and especially—children, who do best when reared by their committed mother and father.<sup>12</sup>

Indeed, children's need—and right—to be reared by the mother and father whose union brought them into being explains why our law has recognized marriage as a conjugal partnership—the union of husband and wife—at all. Our lawmakers have understood that marriage is naturally oriented to procreation, to *family*. Of course, marriage also *includes* a committed, intimate relationship of a sort which some same-sex couples (or multiple lovers in groups of three or more) might imitate. But our law

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<sup>12</sup> See <http://www.familystructurestudies.com/>, The New Family Structures Study of the University of Texas, 2011.

never recognized and supported marriage in order to regulate intimacy for its own sake. The reason marriage is recognized in civil law at all (as ordinary friendships, or other sacraments, are not) is specific to the committed, intimate relationships of opposite-sex couples: they are by nature oriented to having children. Their love-making acts are life-giving acts.

Same-sex relationships lack this unique predicate of state recognition and support. Even the most ideologically blinded legislator cannot change this natural fact: the sexual acts of a same-sex couple (regardless of how one views them morally) are simply not of the type that yield the gift of new life. So they cannot extend a union of hearts by a true bodily union. They cannot turn a friendship into the one-flesh union of marriage. They are not marital. This is not just a Christian idea, but one common to every major religious tradition and our civilization's great philosophical traditions, beginning with ancient Greece and Rome.

### III. PASTORAL IMPLICATIONS OF THE CHURCH'S TEACHING

This leads me to my third and final point – the pastoral implications of the Church's teaching on the definition of marriage. With the growing

acceptance of the redefinition of civil marriage in secular society, there are increasing numbers of situations being presented of couples coming to the Catholic Church who are in civil marriages not recognized by the Church. How do we respond to them with compassion and with the truth?

The most compassionate thing we can do is help people to turn away from sin. To ignore another person's wrongful actions is a sign of apathy or indifference, while fraternal correction is motivated by love for that person's well-being, as can be seen by the fact that our Lord Jesus himself urged such correction.<sup>13</sup> Indeed, the call to repentance is at the heart of the Gospel, as Jesus proclaimed, "The Kingdom of God is at hand. Repent and believe the Good News" (Mark 1:15).

The Good News is that God's mercy and forgiveness extend to those who repent. Mercy does not mean approving of something that is sinful, but does absolve the wrongdoer after a change of heart takes place in the sinner through the gift of God's grace. It is not the Church that must change to conform its teachings to the views of the world, but it is each individual who is called to be configured to Christ.

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<sup>13</sup> Gospel of St. Matthew 18:15: "If your brother sins against you, go and tell him his fault."

The Church has always believed that it has a duty to assist Catholics in living a moral life. Scripture says that every person will have to give account for the actions they performed in life, and that we are judged on the basis of our own actions in life (*Matthew* 25:31-46). That judgment will take place regardless of the kinds of work we perform in life – it is equally true for an auto mechanic, a chef, a doctor, and a politician. It is the duty of the Church to assist her members in living a morally upright life, both for the sake of advancing the common good and defending human dignity, and in order to assure the salvation of souls. Part of that duty includes assistance in thinking through difficult moral dilemmas that come up in many different areas of life.

In 2003, then Cardinal Ratzinger (Pope Emeritus Benedict XVI) issued a document called “Considerations Regarding Proposals to Give Legal Recognition to Unions Between Homosexual Persons.” This document was issued in response to various arguments and campaigns aimed at establishing legal recognition to homosexual marriages, including arguments that religious opposition to homosexual marriages is illegitimate. This document is addressed to all Catholics, explaining why such proposals are immoral and harmful to the common good and why

they must therefore be opposed. The most controversial aspect of this teaching is the assertion that “the homosexual inclination is . . . ‘objectively disordered’ and homosexual practices are ‘sins gravely contrary to chastity’” (“Considerations,” #4).

The reason for this negative reaction is the tendency of the listener to hear the word “disorder” as a psychological term and to personalize it, as when a homosexual person asserts, “The Church says I’m disordered.” However, the term “disorder” is used in this context in a philosophical sense referring to the purpose of sexual activity in the natural order, not as a psychological description of the person. As John Finnis has pointed out, “This is a *moral* doctrine, a teaching about what is right (or wrong), good (or worthless and harmful), and choiceworthy (or sinful).”<sup>14</sup> Father John Harvey describes it this way: “But if one has a sexual-genital attraction to another person of the same sex, it can never lead to a morally good act between the two individuals, but rather it will *always* lead to an immoral act. That is why it is called an objective disorder.”<sup>15</sup>

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<sup>14</sup> John Finnis, “An Intrinsically Disordered Inclination?” in *SAME-SEX ATTRACTION: A PARENTS’ GUIDE*, John F. Harvey, OSFS, and Gerard V. Bradley, eds. (South Bend, Indiana: St. Augustine’s Press, 2003), 91.

<sup>15</sup> Fr. John Harvey, “Observations on the Revised Text of *Always Our Children*, in *SAME-SEX ATTRACTION: A PARENTS’ GUIDE*, John F. Harvey, OSFS, and Gerard V. Bradley, eds. (South Bend, Indiana: St. Augustine’s Press, 2003), 224.

This document was preceded by a more general one that addressed a wider range of topics, called the Doctrinal Note on Some Questions regarding Participation of Catholics in Political Life. This document acknowledges the valid autonomy of the temporal order from the religious order, but it argues that this rightful autonomy does not mean that the temporal order is independent of morality. In particular, the Note discusses the duties of Catholic politicians to oppose civil laws that contradict fundamental moral absolutes, such as laws that permit killing of the innocent or that undermine marriage and the family.

These documents really do not present any new ideas, but rather they elaborate on the constant teaching of the Church in the light of new challenges to this traditional teaching. In large measure, they are further reflections upon the teaching of Vatican II on the role of the laity in building up a culture that reflects and advances the fullness of human dignity.

The point of controversy over these documents, as I understand it, (aside from those who simply disagree with the position of the Church on the question of homosexual marriage) comes in regard to the status of Catholics who reject the central point of the documents – those who claim

that they are Catholics in good standing while supporting abortion or homosexual marriage.

There are pastoral implications for people who make this claim, not just for politicians, but also for others, such as same-sex couples in civil marriages who seek to register in our parishes, present their biological or adopted children for the sacraments of Baptism, Reconciliation, Eucharist and Confirmation, and enroll them in our Catholic schools.

The key factor in such situations is the issue of integrity. It is a matter of integrity for a person's identity as a Catholic to accept the teachings of the Catholic Church and try to act in accord with them. Please note that I am not saying that failure to act in accord with the Church's teaching means that a person should no longer be considered Catholic. There is a world of difference between those who seek to live in accord with the Church's teaching but fail in their struggle from time to time due to human weakness and sin, and those who do not accept the Church's teaching and therefore refuse even to try to live according to those teachings. The former are Catholics who have sinned and are in need of the grace of sacramental reconciliation, while the latter should be considered to have left the full communion of the Catholic Church of their own free will. The implications

for the reception of the sacraments and participation in the life of the Church flow from this distinction.

For example, for a child to be baptized in the Catholic Church, outside of the danger of death, at least one parent or the person who lawfully takes the place of the parents must give consent and there must be a founded hope that the infant will be brought up in the Catholic religion.<sup>16</sup> If the parent or legal guardian rejects the teachings of the Church, this raises serious questions about whether the infant will be brought up in the Catholic religion. The situation would be different, in my opinion, if the parent or guardian said he or she accepted the Church's teachings, but was having difficulty following them and at times failed to do so.

With regard to the reception of Holy Communion, a person who is conscious of grave sin is not to receive the Body of the Lord without prior sacramental confession unless a grave reason is present and there is no opportunity of confessing; in this case the person is to be mindful of the obligation to make an act of perfect contrition, including the intention of confessing as soon as possible.<sup>17</sup> Since sexual activity outside of marriage,

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<sup>16</sup> See *Code of Canon Law*, canon 868.

<sup>17</sup> See *Code of Canon Law*, canon 916.

whether homosexual or heterosexual, is gravely sinful, persons conscious of such serious sins should refrain from going to Holy Communion. It should be noted that this is a question of self-regulation. The denial of Holy Communion by a minister of the Church only becomes involved where people voluntarily fail to refrain from going to Holy Communion in cases when they should have refrained from receiving the Sacred Eucharist.<sup>18</sup>

This is not a new discipline of the Church being applied to homosexual persons. Indeed, it is well-known that people who are divorced and civilly remarried are not eligible to receive Holy Communion unless they receive an annulment and are married in the Church. Those who abide by that are observing the requirement of canon 916. But at times that provision is ignored and people who are ineligible to receive present themselves for Holy Communion. In such cases, the pastoral approach is a private conversation with the person involved. That is an application of canon 915. The same sacramental discipline applies to heterosexual couples who cohabit without marriage as well as to sexually active homosexuals.

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<sup>18</sup> See *Code of Canon Law*, canon 915.

## IV. CONCLUSION

I conclude by recalling St. Paul's visit to Athens. We read in the *Acts of the Apostles* that Paul engaged in daily debates in the public square with ordinary passers-by. Some Epicurian and Stoic philosophers disputed with him, some of them asking, "What is this magpie trying to say to us?" (*Acts* 17:18). Perhaps you are asking the same thing of me right now! After Paul addressed the Athenian citizens in the Areopagus, we are told that "some sneered, while others said, 'We must hear you on this topic some other time'" (*Acts* 17:32). Again, some of you may be sneering, and I might be lucky if you said you were willing to hear me again on this topic some other time. But the passage ends by saying that a "few did join him, however, and became believers" (*Acts* 17:34). In the end, I hope that at least a few of you will agree with my remarks.

**Resources:**

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