



ARCHDIOCESE OF WASHINGTON

Archdiocesan Pastoral Center: 5001 Eastern Avenue, Hyattsville, MD 20782-3447
Mailing Address: Post Office Box 29260, Washington, DC 20017-0260
301-853-4500 TDD 301-853-5300

Statement of the Archdiocese of Washington to the District of Columbia Board of Elections and Ethics in the Matter of the Marriage Initiative of 2009, Filed September 1, 2009

Monday, October 26, 2009

On behalf of the Catholic Archdiocese of Washington (“Archdiocese”), we submit this statement in support of the initiative to uphold the meaning of marriage in the District of Columbia. The Archdiocese of Washington includes more than 580,000 Catholics living in Washington, D.C., and neighboring Maryland counties. Catholic churches, parishes, schools, and social service ministries have been serving the spiritual and material needs of residents since before the District of Columbia was formed. Our religious teaching and our long-standing commitment to serving the common good compels us to write.

The Catholic Church teaches that marriage is the exclusive, life-long, faithful union of a man and a woman. More than just a union of two people who love each other and are committed to each other, marriage is reserved to the union of one man and one woman because of their unique and complementary ability to create children and to give children a nurturing structure that benefits from the unique gifts of both a mother and a father. This definition of marriage does not originate with religious law or civil law but finds its origin in natural law, embedded in human beings’ minds and hearts.

Marriage is not just any relationship between human beings. It is a private relationship with public significance. Throughout all time, religions, cultures and civil governments have recognized and defined marriage as between a man and a woman because of its unique role in protecting the rights of children to have and benefit from both a mother and a father and because it creates a stable and secure foundation for our society. Men and women are not interchangeable. They complement each other physically, psychologically and emotionally, and each has distinctive gifts that they bring to a child’s upbringing.

Efforts to change the historically and fundamentally essential institution of marriage by redefining it without the input of the citizens of the District are unjust and contrary to the District of Columbia Charter. The District of Columbia Home Rule Act of 1973 (the “Home Rule Act”) devolved certain congressional powers to local government. The legislation included the District Charter or Home Rule Charter (the “Charter”), which provided for limited self-governance and autonomy. The Archdiocese has long supported home rule.

The Archdiocese has also spoken to the underlying moral considerations in the District of Columbia's lack of voting representation on national issues within the United States Congress, following Pope John Paul II's directive that "every democracy must be participative...that the different subjects of civil community at every level must be informed, listened to, and involved," and that the "Church values the democratic system inasmuch as it ensures the participation of citizens making political choices, guarantees to the governed the possibility both of electing and holding accountable those who govern them...."¹ It is in this spirit that the Archdiocese lends its voice in support of the request before you.

The legislative remedies of the Charter, exist specifically for situations when the question at hand is so important and fundamental that the people desire to speak for themselves. Few legislative actions could affect the citizens of the District of Columbia in a more personal and profound way than the legislative effort to redefine marriage now before the D.C. City Council. Throughout history, religions, cultures and governments have recognized and defined marriage as between a man and a woman because of marriage's unique role in protecting the rights of children to have both a mother and a father and because it creates a stable and secure foundation for our society. Efforts to change this historically and fundamentally essential institution present exactly the kind of important and fundamental question that the Charter reserved to the people.

Moreover, few efforts could have such adverse effects on the wellbeing of our city's youth and our most needy as the the one to redefine marriage. Those most in touch with the good done by religious-based charities every day must be given the chance to preserve the ability of these organizations to operate without retribution for simply abiding by their beliefs on the nature of marriage. The educational and social service programs of the Archdiocese of Washington serve more D.C. residents, without regard to their religion, than any other private charitable organization in the District of Columbia.

Catholic Charities, the nonprofit social services arm of the Archdiocese of Washington, alone served over 68,000 D.C. area residents last year, regardless of religion, through 63 separate programs providing shelter, food, medical care, foster care and adoption, counseling, immigration services, emergency assistance and more. Regardless of religion, the Archdiocese of Washington has educated thousands of the District's neediest children and along with its 40 Catholic parishes across the City, has provided on-site food pantries and soup kitchens, as well as provided clothing, rent and utility assistance, literacy programs and more every day to people in need. If this initiative is disallowed by the Board, all of these programs could be jeopardized, particularly if the current legislative effort to redefine marriage succeeds in the Council.

¹ *Compendium of the Social Doctrine of the Church*, Paragraphs 190 and 406 (drawing on Pope John Paul II's *Centesimus Annus*, 1991).

There is indeed nothing more paramount to the modern struggle for civil rights than the right to vote itself. The fight for suffrage was premised on the idea that the people should decide questions just like this for themselves. The question before the Board today is not whether same-sex marriage is a civil right but instead whether it is permissible in the first place for the Board, rather than the people of D.C., to make that decision. The passage by Congress of the District of Columbia Home Rule Act of 1973 granted D.C. citizens the right to participate in D.C.'s legislative process through the introduction of popular initiatives and referenda.² The Charter's limits on subject matter for initiatives and referenda do not exclude proposals that may contravene provisions of the HRA.

The Board's June 2009 opinion on a similar proposal asserts that the D.C. Council intended the Initiative, Referendum, and Recall Charter Amendments Act of 1978 to ensure that "the initiative and referendum process would never be used to interfere with basic civil and human rights."³ However, nowhere in the Charter has any provision to that effect ever been adopted. The D.C. Council "cannot 'amend' the Charter of the District of Columbia...without such an amendment being ratified by a majority of registered voters by referendum."⁴ Nor may the Council effectively amend the Charter through the operation of any statute or regulation not submitted to the electors for approval.⁵ Yet, that appears to be what the Board's earlier opinion is based upon.

In its June 2009 opinion in support of the prohibition of initiative and referendum proposals affecting purported human rights, the Board cites limitations that other jurisdictions place on subject matter for initiatives and referenda. The limitations cited are inapposite to the one at hand for two reasons and further illustrate its impermissibility. First, every subject matter limitation cited is established by a state constitutional amendment rather than by an act of the state legislature. This makes sense because only the electors, not the electorate, may abridge this right. Second, unlike the

²The term "initiative" means the process by which the electors of the District of Columbia may propose laws (except laws appropriating funds) and present such proposed laws directly to the registered qualified electors of the District of Columbia for their approval or disapproval.

(b) The term "referendum" means the process by which the registered qualified electors of the District of Columbia may suspend acts of the Council of the District of Columbia (except emergency acts, acts levying taxes, or acts appropriating funds for the general operation budget) until such acts have been presented to the registered qualified electors of the District of Columbia for their approval or rejection. D.C. Code §1-204.101 (a) and (b).

³ Memorandum from Councilmember Marion Barry to D.C. Council Government Operations Committee members regarding Proposed Amendment to 2-317, the "Initiative, Referendum, and Recall Procedures Act of 1978" (April 26, 1978).

⁴ *Potomac Electric Power Co. v. D.C.*, 651 F. Supp. 907, 910 (1986); see D.C. Code 1-203.03. A charter amendment must also survive a 35-day period before the United States Congress during which Congress may enact a joint resolution disapproving it. *Id.*

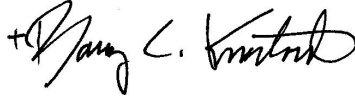
⁵ See U.S. Const. amend. X.

⁶ See D.C. Code § 1-1001.16(b)(1)(C) ("[The Board shall refuse to accept the measure if] [t]he measure authorizes, or would have the effect of authorizing, discrimination under Chapter 14 of Title 2," referring to the District of Columbia Human Rights Act).

statute the Board relies on,⁶ these and other subject matter limitations placed by state constitutions on referenda generally address practical concerns about the proper and efficient operation of the state government (for instance, the common prohibition of measures regarding appropriations or emergency acts, Massachusetts' prohibition of measures affecting the judiciary).

The consequences likely to flow from a denial of this initiative by the Board will affect the very foundation of our society. In adherence to the terms of the city's Charter, and the Home Rule Act, the Board should permit this initiative.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Barry C. Knestout". The signature is written in a cursive style with a small cross at the beginning.

Most Reverend Barry C. Knestout
Auxiliary Bishop of Washington
Vicar General and Moderator of the Curia