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### March 16, 2009: Proposition 8 and the Threat of, and to, Religious Liberty

Bruce Ledewitz

*Duquesne University*, [ledewitz@duq.edu](mailto:ledewitz@duq.edu)

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Title: Proposition 8 and the Threat of, and to, Religious Liberty

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3/16/2009--The online magazine ReligionDispatches ran a piece today in which I discussed the likelihood that the California Supreme Court would accept the will of the voters and uphold Proposition 8, thus overturning the court's earlier decision validating gay marriage in California. You can access the piece at

[http://www.religiondispatches.org/archive/sexandgender/1212/the\\_great\\_secret\\_of\\_constitutional\\_law%3A\\_why\\_proposition](http://www.religiondispatches.org/archive/sexandgender/1212/the_great_secret_of_constitutional_law%3A_why_proposition)

comment on the piece caught my eye—the claim that opposition to gay marriage is illegitimate because it reflects essentially a religious position. There were a number of claims about the relationship between Proposition 8 and religious liberty that were made during the campaign before the vote. They struck me as quite dubious. Supporters of the effort to overturn gay marriage argued, and this argument may be the only reason Prop 8 passed, that the legalization of gay marriage threatened the religious liberty of conservative Christians who consider gay marriage to be immoral. I never understood this argument. There are many things that are both legal and immoral. Most pornography, for example, is protected by the first amendment, but people, including ministers, still have no problem asserting that the possessions of pornography is immoral. I could also point to gambling and drinking. That claim by Proposition 8 supporters was just false and it would be a shame if that false claim sealed the fate of gay marriage in California. On the other hand, there is nothing illegitimate about voting one's religious commitments. If there were, Martin Luther King Jr.'s opposition to segregation would have been illegitimate. As another example, many people who support the criminalization of prostitution do so because of religious scruples. Surely no one thinks that we have to come up with some other reason than that or be forced to legalize prostitution.