FAQs: Religious Liberty and Marriage

Marriage & religious liberty stand - or fall - together

What is religious liberty?

Religious liberty is "the right to live in the truth of one's faith and in conformity with one's transcendent dignity as a person" (*Centesimus Annus*, no. 47). "Nobody may be forced to act against his convictions, nor is anyone to be restrained from acting in accordance with his conscience in religious matters in private or in public, alone or in association with others, within due limits" (*Catechism*, no. 2106, quoting *Dignitatis Humanae*, no. 2). Religious liberty is so important that John Paul II called it the "source and synthesis" of rights considered basic to every human person (*Centesimus Annus*, no. 47).

How are marriage and religious liberty connected?

Marriage (the union of one man and one woman as husband and wife) and religious liberty are two distinct goods that are also related to each other. The protection of each good follows from the duty to protect the inviolable dignity of the human person. But even more directly, the legal protection of marriage as the union of one man and one woman also protects the religious freedom of those who adhere to that vision of marriage.

How could changing the legal definition of marriage have any effect on religious liberty?

Changing the legal term "marriage" is not one change in the law, but rather amounts to thousands of changes at once. The term "marriage" can be found in family law, employment law, trusts and estates, healthcare law, tax law, property law, and many others. These laws affect and pervasively regulate religious institutions, such as churches, religiously-affiliated schools, hospitals, and families. When Church and State agree on what the legal term "marriage" means (the union of one man and one woman), there is harmony between the law and religious institutions. When Church and State disagree on what the term "marriage" means (e.g., if the State redefines marriage in order to recognize so-called same-sex "marriage"), conflict results on a massive scale between the law and religious institutions and families, as the State will apply various sanctions against the Church for its refusal to comply with the State's definition. Religious liberty is then threatened.

But would ministers really be forced to officiate at the "wedding" of two persons of the same-sex?

This question is a red herring. In other words, it is a false caricature of the real concerns about religious liberty, and is actually used to distract from the real concerns. It is unlikely in the extreme that the State will force ministers and churches to officiate same-sex "marriage" ceremonies, although it is easily foreseeable that many church ministers and communities could be sued in court over this question. There are, however, other more probable and pervasive concerns.

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What's the real threat to religious liberty posed by same-sex "marriage"?

The legal redefinition of marriage can threaten the religious liberty of religious institutions and individuals in potentially numerous ways, involving various forms of government sanction, ranging from court orders compelling action against conscience, to awards of money damages and other financial penalties, to marginalization in public life:

⇒ **Compelled Association:** the government forces religious institutions to retain as leaders, employees, or members those who obtain legalized same-sex "marriage"; or obligates wedding-related businesses to provide services for same-sex "couples."

⇒ **Compelled Provision of Special Benefits:** the government forces religious institutions to extend any special benefit they afford to actual marriage to same-sex "marriage" as well.

⇒ **Punishment for Speech:** preaching, political action, or conversation reflecting moral opposition to same-sex "marriage" represents actionable "harassment" or "discrimination," or forbidden "hate speech."

⇒ **Exclusion from Accreditation and Licensure:** those who adhere to the definition of marriage are excluded from participation in highly regulated professions and quasi-governmental functions, as licenses are revoked and religious institutions lose accredited status.

⇒ **Exclusion from Government Funding, Religious Accommodations, and Other Benefits:** those who adhere to the definition of marriage are excluded from receiving government grants and contracts to provide secular social services, and from various tax exemptions.

Have any of these threats come to pass?

Yes. Examples include, but are not limited to, the following: the extension of married student housing to same-sex "married" couples (a Catholic college in MA); the extension of spousal employment benefits to same-sex "domestic partners" (Catholic Charities in Portland, ME); the loss of funding and licenses to provide adoptions for refusal to place with same-sex couples (Catholic Charities in Massachusetts, DC, and Illinois); the imposition of tax penalties for preaching about marriage amendments (Montana); and the loss of state tax exempt status for a religiously-affiliated camp (New Jersey). These threats have been manifest in other countries as well, often to an even more persistent and invasive extent.

Doesn't a religious exemption protect institutions and individuals if they believe that marriage can only be between a man and a woman?

Sometimes. A religious exemption may provide protections, but so far those protections have been drawn very narrowly and fail to cover known risks. More broadly, because "marriage" so pervades the law, it is difficult to foresee all circumstances where religious freedom conflicts may arise. But even further, no religious exemption—no matter how broadly worded—can justify a supportive or neutral position on the redefinition of marriage (see Congregation for the Doctrine of the Faith, "Some Considerations Concerning the Response to Legislative Proposals on the Non-Discrimination of Homosexual Persons," 1992, no. 16). Such "redefinition" is always fundamentally unjust, and indeed, religious exemptions may even facilitate the passage of such unjust laws. *Protecting marriage protects religious liberty; the two are inseparable*.

MARRIAGE
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On religious freedom: visit *Fortnight for Freedom* at www.fortnight4freedom.org

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