

# Deseret News

## Editorial: Same-sex marriage and the peril of religious exemptions

*Published: Sunday, July 10, 2011 12:00 a.m. MDT*

Historically, innovations by New York state lawmakers have been among the most important for the advancement of religious liberty. So it was consistent with New York's laws and customs that some effort to accommodate religious practice should figure prominently in that state's legislative debate over the legal redefinition of marriage to include same-sex couples.

Nonetheless, so-called religious exemptions, tacked onto New York's Marriage Equality Act at the last moment in order to secure a thin margin for the act's passage, fall woefully short of protecting genuine free exercise of religion for those who believe that marriage between a man and woman is the rational, civilized and divinely prescribed standard of sexual conduct.

New York's statute specifically exempts religious organizations from being required to perform same-sex marriages and from making their facilities available for same-sex weddings. It exempts religious organizations and personnel from any cause of action or state penalty that might arise from refusing to accommodate or solemnize a same-sex wedding. The legislation also contains an inseverability clause: Should a court find any part of the law invalid, including the religious exemptions, the entire law would also be invalid.

By limiting the religious exemptions to just wedding ceremonies, however, New York lawmakers utterly fail to acknowledge the centrality of sexual morality to religious teaching and the myriad ways that religion intersects with the daily lives of individuals.

Religious organizations minister in innumerable ways outside the sanctuary. It is in their daily ministry, not their sacraments, that a redefinition of marriage is most likely to conflict with tenets on sexual rectitude.

Religious organizations provide marriage and family counseling; they operate hospitals, clinics, homeless shelters, colleges, schools and camps; they provide job training and adoption services. And through the provision of all these services they employ individuals to whom they extend significant employment benefits.

If lawmakers were serious about accommodating religious practice, shouldn't they have wrestled meaningfully with the potential conflicts posed by this wide range of concerns?

And since the free exercise of religion is an individual right, shouldn't lawmakers acknowledge the rights of individuals with religiously motivated beliefs about sexual intimacy to order their closely held affairs in ways consistent with belief?

Some are heralding the religious exemptions that appear in New York's same-sex marriage statute as a model for religious accommodation.

But if all that exemptions accomplish is to permit churches to decide which weddings they host, this is an unimpressive and not particularly accommodating model. Such weak and obvious exemptions actually imply that the state might intervene into important religious liberties and practices that have not been specifically exempted.

It is the long held position of this paper that while society should legally protect the dignity of those who are attracted to the same sex, society should also legally define marriage as the conjugal union of husband and wife.

Thankfully, the vast majority of states define marriage within their constitutions and/or their statutes as being between a man and a woman. This traditional approach is what deserves strengthening.

In the wake of New York's legislation, however, some states might now consider a redefinition of marriage coupled with religious exemptions as a potential model that meets the demands of LGBT activists while safeguarding religious liberty.

We are not convinced.

If such exemptions are to genuinely protect the free exercise of religion, those religious exemptions must be broad enough, specific enough and secure enough to capture the true measure of faith as it is practiced daily by robust religious organizations and their adherents. Otherwise, exemptions might perversely imply that the state can dictate religious practice around core beliefs regarding sacred human intimacy. This is the peril of exemptions.

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