

Same-sex marriage: The sky is not falling

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The sky is not falling.

Despite what some commentators said after the Supreme Court's decision in June in *Obergefell v. Hobbs* regarding same-sex marriage, the sky was not falling. The ruling may, in fact, make things better, not only for LGBT couples, but also for our society.

There will be problems. Sweeping decisions always create some problems. In this case there will be problems for religious liberty. But we will learn to live with *Obergefell*. There will eventually be an accommodation between the 14th Amendment's equal protection of the rights of same-sex couples and the First Amendment's religious liberty rights (free exercise) of the faithful.

The Sunday after the decision was announced I talked about the issue from the pulpit. I started my homily by reading a letter from our archbishop, Cardinal Donald Wuerl. His letter made three points.

First, the church's definition of sacramental marriage has not changed. We still see marriage as the life-long union of one man and one woman, for the purpose of the mutual love of the couple *and* the procreation and education of children. Second, our church welcomes all people, gay and straight, into our community of faith. "Catholic teaching exhorts every believer to treat all people with respect, compassion, sensitivity and love. All are called to walk with Jesus and so all who try to do so have a place in the Church," Wuerl wrote. Third, while all people must be treated with respect, we do not have to agree with everything that they do.

As a matter of law I have some sympathy for the viewpoint expressed by Justices Roberts and Scalia in their dissents. It would have been better if such a major legal change as same-sex marriage had come about by a decision of elected legislators or by popular vote of the people, not a decision by unelected judges. The trend was already in that direction.

On the other hand, we do not leave questions of fundamental human rights to popular vote or the will of the legislature. Courts protect the rights of minorities from the tyranny of the majority. There would probably still be states in the U.S. with *de jure* (legal) segregation if it had been left up to the vote of state legislatures. It took court intervention to establish the right of inter-racial couples to marry. (*Loving v. Virginia, 1967*)

Perhaps the Supreme Court could have kicked the can down the road a couple more years, but eventually they were going to resolve the conflict of laws between circuit courts and the various states. They could run, but they could not hide.

In my own state of Maryland, same-sex marriage came about the best possible way. Three years before the Supreme Court decision, our General Assembly passed a law permitting same-sex marriage. Our governor signed it. In November of 2012 it was put to a repeal referendum by petition of the voters, and same-sex marriage was reaffirmed by a majority vote of the people. We have had very few problems here because it is clearly the will of the people in Maryland.

Even in the rural and very conservative county where I live, same-sex marriage has hardly caused a ripple. Our court clerk has issued same-sex marriage licenses with no fuss. Same-sex couples have been treated with respect. Some judges have presided at same-sex weddings. There have been no reports of anyone denied service by a local business. Our religious liberties are protected under the law. No church can be forced to violate its conscience.

Our church sits across the street from our county court house. What we do on one side of the street is very different from what we do on the other side, even though we may use some of the same vocabulary.

The civil "contract" of marriage ratified at the court house carries with it legal rights, privileges and obligations, but it is not a theological or moral statement. The state can confer rights, privileges and obligations on whomever it chooses. It can also dissolve the contract of marriage when it chooses. The

state action does not bind or oblige the church. Analogously, our society already recognizes divorce in all 50 states, but the Catholic Church has never recognized the power of civil courts to dissolve marriages.

On our side of the street, we speak of marriage as a covenant, a vocation, and a sacrament. We see it as a path to holiness. Our concept of marriage involves God and the gift of grace. Our church blesses only the marriages of people who share our understanding of marriage. No one at the court house speaks of marriage in these terms.

Civil and ecclesiastical concepts of marriage are different and distinct. Maybe the time has come for us to completely “divorce” civil authority from ecclesiastical authority in the ratification of marriage. It is odd that when I sign the marriage license, I am acting as both a religious minister and a civil authority. Perhaps we priests should stop signing state-issued marriage licenses.

In Mexico and dozens of other countries, there is no such commingling of civil and ecclesiastical marriage and authority. Instead, all couples first have a civil ceremony before a representative of the state. Later, if they choose, they go to church for a religious ceremony. If same-sex couples go to the courthouse to obtain civil marriage, it is no skin off my nose. Who does it hurt? How does it threaten heterosexual, sacramental marriages? I don't think it does.

If a Catholic clerk issues a same-sex marriage license, it does not mean she agrees with that union any more than when a Catholic court clerk issues divorce papers.

The whole society benefits from more stable and committed relationships. Everyone benefits when people have clearer legal rights and responsibilities. Same-sex marriage does not erode the meaning of sacramental marriage. In fact, it is a tip of the hat in respect for it because it seeks a parallel institution.

Same-sex marriage is a very conservative movement. Homosexual people who seek stable and committed relationships are implicitly declaring their opposition to promiscuous, violent, or exploitive sex. Like heterosexual couples they seek faithful relationships based on real love.

Do gay and lesbian couples really need the protections offered by civil marriage? Yes, they do.

I didn't used to think so, but I have changed my mind.

You can see why they need these protections in a powerful documentary movie called “Bridegroom.” I would suggest that everyone go online on YouTube and watch it. It is a mind changer.

The movie documents the lives of two young men, Shane Crone and Tom Bridegroom (his real name). It shows how they grew up in small towns: shy, conflicted and repressed. It shows how they met and fell in love. They made their lives together for six years, before Tom died tragically in an accident. Every couple, gay or straight, could only hope for a gentle, respectful, joyful, loving relationship like the one Tom and Shane had.

When Tom fell from a roof to his death, his partner Shane was devastated. But Shane's pain was compounded by how he was treated after Tom's death. Shane had no legal right to be with Tom as he died or to make decisions about his care or disposition of his body. He was denied entry to Tom's funeral, the person he loved the most in the world and who loved him. The movie is heart breaking. We can see the injustice of the situation and the need for a legal structure to protect people. If same-sex marriage could encourage relationships like Tom and Shane's, it would be an unalloyed good for everyone in society, including our church.

On the practical level, how will parishes respond to same-sex marriage?

Pope Francis gave us example during his visit to the United States. He met with a gay couple. He warmly welcomed them to the Nunciature. He treated them with affection and respect.

On a practical level, what will we do?

As long as I am pastor here we will welcome and register everyone who shares our Catholic faith, including same-sex couples. After all, we register divorced and remarried people. We will educate their children in our religious education programs, and we welcome them as sponsors at baptism and confirmation. We open our ministries to them. We will allow them to teach religious education so long as they are respectful of the church teaching. (That we require of everyone.) We will encourage them to participate fully in the life of the church, including the Eucharist. We will treat everyone with respect and dignity. We will allow them the right of their own conscience.

There will be some limits.

We will not bless same-sex unions. We will not celebrate anniversaries.

Ultimately, I think, the church is going to adjust its language and teaching. Fifty years from now, we will be embarrassed by some of the things we have said about homosexual people and their relationships. Do we really want to say that they are “inherently disordered?” Do we really mean that every same-sex relationship is gravely sinful? Does such harsh rhetoric square with our lived experience? We might have to revisit our interpretation of some Scripture passages like the first chapter of St. Paul’s letter to the Romans.

The Supreme Court has changed the definition of marriage in civil law. There may be some problems, but the sky is definitely not falling.