

Gay-adoption stakes

The controversy over gay adoptions in Massachusetts is an issue that can be framed two ways. In the conventional liberal narrative, this is a simple issue of bias: The Catholic Church must not be allowed to deny gay couples the right to adopt children. The other frame, generally absent from discussions so far, raises this question: Under what conditions can the state force churches and religious agencies violate their own principles? This question has come up again and again, as pressure on churches to accept dominant, secular norms has increased. This issue includes laws requiring Catholic institutions to provide

contraceptive services and "morning after" pills to female employees, attempts to force religious hospitals to do abortions and provide abortion training, and the use of anti-racketeering laws to punish right-to-life demonstrators.

By John Leo

Catholic Charities of Boston, after 103 years of working for adoptions, will retire from those services this June rather than accept the state's mandate. Gov. Mitt Romney, a Mormon, has proposed a religious exemption for the church, pointing out that many other agencies approve adoptions by gay couples. The Boston Globe, as ardently anti-Catholic as ever, sternly reminded him that he is a "governor, not a

bishop," which he probably already knew. The state legislature, believed to be three-quarters Catholic, has refused to grant an exemption, in large part out of fury over the church's nonchalant handling of the clerical sex scandals.

The Catholic Church is not of one mind on this issue. The Vatican and the state's four Catholic bishops are strongly opposed to Catholic approval of adoptions by gay couples. Many who work at Boston's Catholic Charities have been much more willing to grant them. Of the 42 members of the board, eight quit over the policy of opposing adoptions by gay couples.

Maybe the Catholic Church's position on adoptions will change. Maybe it won't. But why not consider a conscience exemption? No one is required to use a Catholic agency. Gay couples are not being denied a

chance to adopt, merely a chance to adopt through a particular church.

Much of the reporting on the issue has featured stories of children who might be denied a home if gay applicants are rejected. But that is focusing on a pebble and not noticing the boulder nearby. Boston's Catholic Charities accounts for 31 percent of the state's special-needs adoptions, those children abused, neglected, disturbed or handicapped. A conscience clause would allow the church to keep shouldering that burden, all but 3 percent of the cost at its own expense.

More important, the state is in effect using its licensing power to bring the church to heel — no gay adoption, no license to conduct adoptions in Massachusetts. Acting on traditional Catholic social principles — that one father and one mother are best for children —

is defined as bias.

John Garvey, dean of the Boston College Law School, argues that the issue isn't whether the church or the state has the better of the debate over gay families; the issue is religious freedom. "When freedom is at stake, the issue is never whether the claimant is right," he writes, any more than freedom of the press requires publishers to guarantee that everything they print is true. "Freedom of religion is above all else a protection for ways of life the society views with skepticism or distaste," he writes.

Anti-discrimination laws and regulations are used more and more to restrict religious freedom. On some campuses, evangelical groups have been derecognized or otherwise punished for refusing to allow sexually active gays into leadership positions. A Swedish

pastor was put on trial for a sermon criticizing homosexuality. And British author Lynette Burrows was contacted by police about a possible "homophobic incident" — she had said in a radio interview that she didn't think homosexuals should be allowed to adopt.

Some fear more drastic attempts to curb the churches. These might one day include Title VII provisions against gender bias to force the ordination of women priests and imams, or even moving to deny tax exemptions for churches that reject favored secular norms. Certain law professors want more regulation of sectarian groups, all for the common good, of course. It's best for the churches to be on guard.

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