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Churches seek -- and find -- greater exemptions from employment laws

by Jamie Manson

Grace on the Margins

They receive millions each year in state and federal aid.

They pay no taxes on their profits or on their houses of worship.

And now they want special exemptions from civil rights laws.

On Thursday, five U.S. bishops, including Cardinal-designate Timothy Dolan, deepened their union with right-wing religious organizations by signing an open letter titled "Marriage and Religious Freedom: Fundamental Goods that Stand or Fall Together."

The missive, which is addressed to religious leaders and "all Americans," is the latest addition to the ongoing push by conservative religious leaders to maintain what they see as their right to discriminate against committed gay and lesbian couples.

The letter's untruths emerge quickly in the second paragraph. The authors claim that the letter has been signed by individuals representing a "wide variety of faith communities." In addition to several Catholic leaders linked to the USCCB, other signers include the members of the Southern Baptist Convention, the Salvation Army, the Lutheran Church-Missouri Synod, the Open Bible Church, the International Pentecostal Holiness Church, the Fellowship of Evangelical Churches and the Union of Orthodox Jewish Congregations of America.

If there is any evidence of variety, it's that the non-fundamentalist Roman Catholic Church has placed itself among a group of unapologetic, biblical literalists.

The religious leaders are horrified that if they are forced to recognize civil unions and marriages between people of the same sex, they will be forced also to obey the laws that apply to all married people. They recoil at the notion of being accountable to laws governing "employment discrimination, employment benefits, adoption, education, healthcare, elder care, housing, property, and taxation."

And if they refuse to obey the government's laws, they might be forced to forfeit their government money.

The religious leaders also want to reserve the right to fire gays and lesbians who dare to legally affirm their loving, committed relationships.

"Religious employers would also face lawsuits for taking any adverse employment action -- no matter how modest -- against an employee for the public act of obtaining a civil 'marriage' with a member of the same sex," the authors lament.

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On that front, the chief justices of the Supreme Court might have fortified the religious leaders' cause. In a landmark decision Wednesday, the justices affirmed a "ministerial exception" to employment discrimination laws. The ruling states that religious organizations are free to choose and dismiss their staff members without government interference. Conservative Catholic justices John Roberts, Samuel Alito and Clarence Thomas wrote particularly impassioned arguments.

The case was brought to the court by Cheryl Perich, a teacher at a school run by the Lutheran Church-Missouri Synod (yes, the same denomination that signed the marriage letter). Although Perich taught mostly secular subjects, she did teach a religion class and attended chapel services with students. Perich was fired after being on leave for treatment related to narcolepsy. She returned to work to find that her job had been given away.

Under this new ruling, religious organizations will be exempt from basic human rights protections, provided they can demonstrate that an employee "leads a religious organization, conducts worship services or important religious ceremonies or rituals, or serves as a messenger or teacher of its faith."

If you've worked in a religiously affiliated institution, you understand just how broadly these parameters could be interpreted.

According to the *New York Times*, the Rev. Barry Lynn, executive director of Americans United for Separation of Church and State, worried particularly about the fate of employees who are sexually harassed.

"Blatant discrimination is a social evil we have worked hard to eradicate in the United States," Lynn said in a statement. "I'm afraid the court's ruling today will make it harder to combat."

Bishop William Lori of Bridgeport, Conn., who serves as chairman of the USCCB's Ad Hoc Committee for Religious Liberty, had a slightly different reaction. "It's a great day for the First Amendment," he boasted.

Lori's own rigorous commitment to protecting religious liberty may have earned him that chairmanship. When the marriage bill passed in Connecticut in 2009, he attempted to extend religious liberty protections to florists who object to same-sex marriage on religious grounds. The clause didn't pass, leaving us all to

wonder how many florists would have taken advantage of Lori's solicitude.

It is ironic that most religious organizations blame a secular, antireligious culture for these attacks on religious liberty. But can Americans be blamed for antireligious sentiments when they watch religious organizations lobby so heavily for exemptions from so many laws that protect human rights?

What kind of image is cultivated by a church that would rather make its employees vulnerable to a hostile work environment than be accountable to labor laws? What vision of Christianity is derived from a church that would rather see foster children remain in a lonely, detrimental system than be placed in stable, loving homes? What are average Americans to think of churches that lobby for the right to deny a human being her legal right to health care, property, housing and legal taxation because of her loving, committed relationship?

In his interview with *60 Minutes* last May, Dolan pontificated on the ways in which same-sex marriage "tampers with" the true meaning of marriage. He argued that if same-sex marriage becomes legally and socially acceptable, "Where would the tampering stop?"

To prove his claim, he asserted to CBS's Morley Safer, "I love my mom, but I don't have the right to marry her."

A similar question might be asked of Dolan and his fellow signers as they continue the crusade to protect religious freedom. By asking for exemptions, it could be argued that conservative religious leaders are attempting to tamper with laws intended to protect the civil rights of all Americans. If the government acquiesces to their request, where would the tampering stop?

Unlike the biblical fundamentalists with whom they are increasingly keeping company, the Roman Catholic Church's doctrine on same-sex relationships is derived from natural law. This is the same teaching on which the church bases its opposition to divorce and remarriage, sex outside of marriage and the use of contraception by married couples.

If given this exemption, then, could the Catholic church eventually push for greater protections under its right to religious liberty? What is to stop them from seeking the right to fire divorced employees who re-marry outside of the church?

Or the right to discriminate against employees who cohabitate with their partners of the opposite sex?

Or to the right to fire employees who had to pay for the contraception that the church was exempted from providing?

[Jamie L. Manson received her Master of Divinity degree from Yale Divinity School, where she studied Catholic theology and sexual ethics. Her columns for *NCR* earned her a first prize Catholic Press Association award for Best Column/Regular Commentary in 2010.]

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