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New Mexico court, federal judge in Utah recognize same-sex marriage

by Catholic News Service

Washington — A federal judge Friday struck down Utah's ban on same-sex marriage, arguing it violated the U.S. Constitution's guarantees of equal protection and due process.

A day earlier the New Mexico Supreme Court ruled that barring same-sex couples from marrying violates the equal protection clause of that state's constitution.

In a statement issued Monday in Washington, the chairman of the U.S. bishops' Subcommittee on the Promotion and Defense of Marriage said both the court and judge "imposed a wrong decision about the meaning of marriage onto the people of their respective states."

San Francisco Archbishop Salvatore Cordileone quoted Blessed John Paul II, who said: "Vast sectors of society are confused about what is right and what is wrong, and are at the mercy of those with the power to 'create' opinion and impose it on others."

In Utah, Bishop John Wester of the statewide Catholic diocese of Salt Lake City said while some see U.S. District Court Judge Robert J. Shelby's decision "as a joyful moment" in the debate on "the definition of marriage in our society," others "see it as an affront to an institution that is at once sacred and natural."

"As Catholics, we seek to defend the traditional, well-established and divinely revealed reality of the marriage covenant between one man and one woman, a permanent and exclusive bond meant to provide a nurturing environment for children and the fundamental building block to a just society," he said in a statement.

The Catholic church respects "the dignity of all persons, not wishing to undermine their pursuit of

happiness but only to preserve and defend the gift of marriage as divinely revealed in Scripture and in natural law," Wester said.

In response to the Dec. 19 court ruling in New Mexico, the state's Catholic bishops said they "recognize the New Mexico Supreme Court as the interpreter of the state constitution."

"The Catholic Church respects and loves the gay and lesbian members of our community. We will continue to promote Catholic teaching of the biblical definition of marriage to be that of one man and one woman," they said.

The statement was issued by the New Mexico Conference of Catholic Bishops, the public policy arm of the state's bishops: Archbishop Michael Sheehan of Santa Fe and Bishops James Wall of Gallup and Oscar Cantu of Las Cruces.

New Mexico Supreme Court Justice Edward L. Chavez wrote: "We hold that the state of New Mexico is constitutionally required to allow same-gender couples to marry and must extend to them the rights, protections and responsibilities that derive from civil marriage under New Mexico law."

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Under the New Mexico court ruling, there is a provision allowing clergy who disagree with same-sex marriage to decline to perform wedding ceremonies for same-sex couples.

With the two latest rulings, same-sex marriage is now legal in 18 states and the District of Columbia.

In his decision Shelby said: "The state's current laws deny its gay and lesbian citizens their fundamental right to marry and, in so doing, demean the dignity of these same-sex couples for no rational reason. Accordingly, the court finds that these laws are unconstitutional."

Utah's voters approved the ban in 2004.

State officials planned to appeal the ruling and asked for an emergency stay on marriage licenses being issued to same-sex couples.

The Associated Press reported that immediately after Shelby handed down his ruling there was confusion about whether marriage licenses could immediately be issued to same-sex couples. Some county clerks were issuing them and some said they were not allowed to yet, the AP story said. It added that even if state officials were granted a stay, licenses that were already granted would probably be valid.

By changing the definition of traditional marriage, "we believe that this fundamental institution will gradually lose its meaning and cease to serve as the ideal relationship between a man and a woman. In our view, this would hurt both our church and our society," Wester said in his statement.

While the church opposes redefining marriage to include same-sex couples, he said, "we firmly hold that all persons are loved by our compassionate God and deserve the respect and dignity that is inherently theirs as human beings."

The church acknowledges the state's right to provide for "a well-ordered society" with laws that protect the common good and the rights of its citizens. But he also urged lawmakers and judges "to respect those institutions that are beyond the state's jurisdiction, institutions such as marriage that transcend civil law

and whose origins precede the existence of the state and go beyond its competence."

Cordileone in his statement said the "right question" to be asked in the marriage debate "is not, 'Is there a government interest in not recognizing alternative types of relationships as marriage?', but rather, 'Is there a public interest in societal recognition and regulation of the only kind of relationship that brings children into the world?'"

"Every human society in history has recognized that there is," he said. "By losing sight of this fundamental reality, confusion and error triumph."

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