



Same-Sex Marriage and Religious Liberty: Emerging Conflicts

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Same-Sex Marriage and Religious Liberty explores the religious freedom implications of defining marriage to include same-sex couples. It represents the only comprehensive, scholarly appraisal to date of the church-state conflicts virtually certain to arise from the legal recognition of same-sex marriage.

It explores two principal questions. First, exactly what kind of religious freedom conflicts are likely to emerge if society embraces same-sex marriage? A redefinition of marriage would impact a host of laws where marital status affects legal rights—in housing, employment, health-care, education, public accommodations, and property, in addition to family law. These laws, in turn, regulate a host of religious institutions—schools, hospitals, and social service providers, to name a few—that often embrace a different definition of marriage. As a result, church-state conflicts will follow. This volume anticipates where and how these manifold disputes will arise.

Second, how might these conflicts be resolved? If the disputes spark litigation under the Free Speech, Free Exercise, or Establishment Clauses of the First Amendment, who will prevail and why? When, if ever, should claims of religious liberty prevail over claims of sexual liberty? Drawing on experience in analogous areas of law, the volume explores whether it is possible to avoid these constitutional conflicts by statutory accommodation, or by separating religious marriage from civil marriage.

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