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- HOME
- NY RESOURCES
- NEWS EDITORIAL EDITOR'S COLUMN OPINION LETTERS
- CLASSIFIEDS
- ADVICE ASK A RABBI ARTS & CULTURE BOOKS CALENDARS CYBERSITES HEALTH KOSHER CUPBOARD LIFECYCLES NEIGHBORHOODS NEWSLETTER SABBATH WEEK SINGLES TRAVEL
- JEWISH VACATIONS
- FRESH INK FOR TEENS
- WRITE ON FOR ISRAEL
- SPECIAL SECTIONS
- DIRECTORIES
- MANHATTAN BROOKLYN/STATEN ISLAND QUEENS LONG ISLAND WESTCHESTER/BRONX
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## Gay Marriage Debate Now Embroiling Jews

*CBST's Kleinbaum calling on rabbis to perform marriages without a license.*

**James D. Besser - Washington Correspondent**

Using the powerful symbolism of the civil rights movement, Jewish gay rights advocates are launching a campaign to enlist rabbis in the fight against a constitutional amendment banning gay marriage.



And they don't just want political support. These advocates are asking rabbis to take a risky stand by "solemnizing gay marriages without a marriage license."

Rabbi Sharon Kleinbaum, spiritual leader at Congregation Beth Simchat Torah in Manhattan, the nation's largest gay and lesbian synagogue, told The Jewish Week that such actions would be "the equivalent of sitting down at a Woolworth's lunch counter," referring to the protests that sparked the civil rights movement in the 1950s.

But that effort will run into the predictable resistance from Orthodox groups that are supporting the call by President George W. Bush for a constitutional amendment banning gay marriage, and possibly from more liberal groups that support equal rights and benefits for same-sex couples but balk at the idea of marriage.

The issue is forcing many Jewish religious leaders in the middle into agonizing choices.

"My objection to the constitutional amendment is different from my confusion over whether gays and lesbians should be married under Jewish tradition," said Rabbi Jack Moline, spiritual leader of a Conservative synagogue outside Washington.

A constitutional amendment imposing a certain religious view of marriage is a clear violation of the Establishment Clause, he said.

"But my confusion about gay marriage is much deeper and more troubling. It's a conflict between two sets of values," he said. "If homosexuality is an orientation and not something that is environmentally conditioned or a matter of choice, then there must be a way for a sacred expression of intimacy for gays and lesbians, as there is for heterosexuals.

"On the other hand," Rabbi Moline continued, "you can't deny that the weight of our tradition is heavily against such an arrangement."

Still, the election-year frenzy surrounding the issue — and the sharp anti-gay agendas of some of the amendment's backers on the religious right — may force the hand of some rabbis.



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"A few months ago, a lot of people were trying to stay out of it," said a top Jewish leader this week. "Now, with the conservatives in Congress really energized and the president involved and a lot of hurtful rhetoric being thrown around, I think a lot more rabbis and other Jewish leaders will be inclined to take a stand on this as a fundamental civil rights issue."

It may become harder to straddle the issue because advocates on both sides of the acrimonious debate are pressing hard for Jewish support.

This week Rabbi Kleinbaum said she was launching a campaign to convince rabbis to press the issue.

"We are calling on Jewish clergy in particular, but in fact all clergy, to sign a pledge saying they will do exactly what Jason West has done, which is to solemnize weddings without a marriage license," she said.

West, mayor of the upstate New York village of New Paltz, is facing criminal charges for performing same-sex marriages. Following West's actions, state Attorney General Eliot Spitzer said that gay marriage is illegal under New York law but he does not support the prohibition.

Rabbi Kleinbaum said such actions would recall Jewish involvement in the civil rights struggles of the 1950s and 1960s. But Nathan Diament, the Orthodox Union representative in Washington, said that argument could backfire.

Talking about some time he spent recently with black clergymen, Diament said "I was really struck by how firmly these ministers were against gay marriage and how incensed they were by the advocates of gay marriage wrapping themselves in the mantle of the civil rights movement."

As a result, he said, "Groups in the liberal wing of the Jewish community could find themselves in a very awkward position with some of their usual coalition partners, who are upset by this."

But the Religious Action Center of Reform Judaism has no qualms. Rabbi David Saperstein, the group's executive director, said the rush of events — including recent court decisions legalizing gay marriage in Massachusetts, the appointment of an openly gay bishop in the Episcopal Church, the flurry of gay marriages in several cities and the election-year push for a constitutional amendment — is "causing denominations and congregations to rethink their positions."

The conservative push for an amendment, he said, could "lead a number of [clergy] to take a public stance by officiating as a way of showing their opposition to the amendment."

The Union of Reform Judaism and the Central Conference of American Rabbis, he said, "have positions in favor of gay marriage as a civil right."

But the movement has not taken a position "on the question of religious marriage," Rabbi Saperstein said. "We leave it up to rabbis to decide whether to officiate at commitment ceremonies or marriages. That's their decision."

Fighting the federal amendment "has been a priority concern for us and will remain a priority concern for us."

Asked if there were any major differences between the center's position on gay marriage and those of gay rights groups such as the Human Rights Campaign, Rabbi Saperstein said, "I don't know. Not that I'm aware of."

This week the Reform group was exploring the possibility of creating a national clergy network to fight the proposed amendment.

The Conservative movement, not surprisingly, is somewhere in the middle of a debate in which both supporters and opponents of the amendment come in different shades of opinion. Rabbi Jerome Epstein, executive vice-president of the United Synagogue of Conservative Judaism, said his movement has "no position on an amendment," but said it would oppose "any intrusion on the

national level” aimed at denying same-sex couples basic partnership benefits.

Marriage, he said, “should be a religious issue. The issue of the federal government getting involved in this through a constitutional amendment would be unfortunate.”

Rabbi Epstein said Conservative Jewry has “no provision for sanctioning gay unions,” although individual rabbis have performed ceremonies.

Orthodox groups, on the other hand, have lined up solidly behind the effort to pass an amendment defining marriage. Diamant said the Orthodox Union was “dragged into” the fight by activist judges.

“Our position is that we are supportive of an amendment that would take this very fundamental issue out of the hands of a few judges and put it in the people’s hands,” he said. “We are supportive of defining marriage in the United States as between a man and a woman — period.”

Diamant also pointed a finger at gay rights groups for overreaching.

“They aren’t asking for just civil unions; they’re looking for marriage,” he said. “This isn’t just about benefits. States are giving some kind of approval when they grant a marriage license.”

Diamant said polls show Americans would support civil unions, “but most have trouble with gay marriage.”

Rabbi Kleinbaum predicted that the Jewish community would be “very important” as the debate rages on Capitol Hill because “the religious radical right wing has organized very effectively to make this the civil rights issue of this decade. I’m hoping that with some nudging and prodding, the Jewish community will respond as it did to a different civil rights challenge.”

The Bush administration, she argued, has “made this a religious debate. It needn’t have been.”

“What we’re talking about here in New York City and across the country is civil marriage. I support President Bush’s right to his own religious views about gay marriage, and support his minister refusing to conduct a gay marriage,” Rabbi Kleinbaum said. “What I object to, and I hope the Jewish community objects to enough to organize around, is that they’re not entitled to codify those religious beliefs into the Constitution or any other form of law.”

Rabbi Kleinbaum said there should be a “civil right to marriage for everyone, and an individual synagogue, an individual rabbi, an individual denomination can choose not to perform them.”

The gay marriage issue has been simmering for years. In 1996, Congress passed and President Bill Clinton signed a “Defense of Marriage” act denying federal recognition to same-sex marriages and allowing states to refuse to acknowledge gay marriages approved in other states.

A constitutional amendment defining marriage as the union between one man and one woman has been pending in Congress for several years but was not a priority for congressional leaders.

That changed in November, when the Massachusetts Supreme Court ruled that it was unconstitutional to deny same-sex couples the right to marry. In a follow-up decision, the same court ruled that “civil unions” were not an acceptable alternative.

That touched off new actions on both sides of the debate. Officials in a number of municipalities, including San Francisco and New Paltz, began issuing marriage licenses. In response, Republican congressional leaders indicated they would bring the Federal Marriage Amendment to a vote before the end of the session.

And Bush, after a delay that incensed some of his conservative Christian supporters, recently announced his support for the amendment, guaranteeing

that it would dominate the election-year congressional session.

Many rabbis and congregations appear torn and uncomfortable as the gay marriage debate picks up in intensity.

Rabbi Peter Rubinstein of Central Synagogue in Manhattan said that like many people in his congregation, he believes "gay couples should be afforded all legal and financial rights, like any other couple." But he said he feels "uncomfortable" talking about the specific issue of gay marriage.

Rabbi Moline said the issue "is not a matter of practical concern for the overwhelming majority of people in my congregation. Whatever they think about it, they have an ambivalent attitude about whether we, as a synagogue, ought to be entering the fray."

Still, Rabbi Moline said he has no ambivalence about an attempt to amend the Constitution to reflect the views of religious conservatives.

Rabbi Moline expressed concern that Jewish civil liberties concerns could push the community to move too fast.

Talking about rights for gays and lesbians within the Jewish context is "long overdue," he said. "We know that the status quo is not adequate. But if satisfying our urge for the rightful embrace for gays and lesbians is going to create such tension in our communities that gays and lesbians will feel less welcome as married couples than they do now as singles, we do not gain much. In fact, I think we lose." n

Here is a list of other articles in this section

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*Trip through city saloons can't find anti-Semitic WMDs.*
- [Hillel Leader Faces Possible Ouster](#)  
*After dramatic growth of Columbia Hillel, board seeks executive director with more managerial skills.*
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*A former terrorist repents and discusses his metamorphosis on six-city speaking tour.*
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- [Tannenbaum Didn't Talk, Israeli Officials Say](#)

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