

# Religious freedom and the us constitution



**ASSIGN  
BUSTER**

In America, one of the greatest civil rights we have is that of religious freedom. This, along with several others are granted to all citizens no matter where in the country they live, what country they are originally from or what religion they chose to practice. In light of the attacks on America, in September 2011 there are those who have claimed that they are no longer allowed to freely practice their religion freely; that they are persecuted by those who are supposed to uphold the laws, however there is no concrete proof to back up these claims. What has happened, whether due to these claims or not are “ laws being passed to solve a problem that actually doesn’t exist” (Asam Uddin).

When reading the U. S. Constitution, the First Amendment reads “ Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances” How does this affect federalism? The question that comes to mind is: does federalism truly support religious freedom for all and if so what impact does it have? For this, I’d like to use the case of county clerk Kim Davis, of Rowan County, KY who refused to sign marriage certificates for same sex couples and sighted her own religious beliefs as a reason. Miss Davis was sued by many couples who she refused to give a license to and in *Miller v Davis*, (ACLU, 2017) she was ordered to issue the licenses and when she defied that order was jailed for five days. Miss Davis asked that her name be removed from the license and a law was passed that allowed for a marriage certificate with no clerk’s signature. This case made huge headlines and since it was also during the 2016 presidential

campaign was made an even bigger issue, in the end Miss Davis won her battle, if it can be called a battle, against having to issue marriage certificates with her name and names of other clerks in the Kentucky county clerk office to couple of the same sex.

The debate that followed Miss Davis' refusal to issue marriage certificates ran the gamut on both sides. For many years same sex couples have been seeking to be recognized as legal unions with the same benefits and protections offered to the traditional male, female union, According to Corvin and Gallagher, 2012, " for the first time in May of 2011, the gallop poll showed a small majority of Americans favored legalizing same sex marriage, with 53% for and 45% against. What is hotly contested is that marriage is between a man and a woman, however in this book; both authors have differing views with Corvin for same sex marriage and Gallagher firmly against.

The negative impact of religious freedom in this case is that because of where miss Davis and others like her work, or even other businesses who now must service openly gay people, is that they are forced to go against their own beliefs and issue same sex marriage licenses or provide service to same sex couples. This impacts people all across this country even if they are not as vocal as Miss Davis was. Most cannot afford to lose their jobs so they remain silent hoping that somehow things will change. Unfortunately the change those people are hoping for may not come to fruition unless they themselves take a stand and then live with whatever the outcome is.

The positive impact of this case is the ruling that a bill was passed where one single marriage license form is used for all couples, heterosexual and gays, the county clerks names are no longer on the licenses and those applying can " check bride, groom or spouse". Also, unless one volunteers to sign as a notary public, that is not a requirement either. This satisfies both the request for a marriage license by gays and no names being required on the licenses for people such as Miss Davis. In this case, all concerned can still work without infringing on their own religious freedoms while doing so.

The most significant impact in this case is the compromise that was reached. Society has taught us that marriage is traditionally between a man and a woman and although now the issue of same sex marriage is out in the open, for decades couples have lived together as an unrecognized marital unit. Some lived in fear because that lifestyle was frowned upon and others just simply lived together and if asked claimed the person as a family member. Is it right to have to live in fear? The answer any sane person would give is no, yet that is exactly how many gay couples have lived. With the event of legalizing same sex marriage and offering the same benefits and protections as a man and woman couple, many have finally chosen to come out in the open. They now faced other challenges such as the one in Kentucky where they were unable to get married. The issue that most people believe was not taken into consideration was how others would react to legalizing same sex marriage. On the one hand it is good for those who felt as if they were living on the fringes of society, shunned for who and what they were and having no support. On the other hand, for the majority who feels that marriage is between a man and a woman, this posed a huge acceptance problem. Is it

now fair for these very people to go against everything they have been taught since childhood and engrained in their very core that anything other than a man and a woman was wrong as a married couple is wrong? Now, at least in Kentucky, no longer will the county clerks have to worry about that particular issue. It has been settled by the bill that was signed by the governor. Still, there is the business side of things; however, businesses must make a profit to survive so they are working on that without involving the courts. No person should ever have to go against their own religious beliefs to appease someone else but we live in a world that is evolving and to survive, we too must evolve. Doesn't mean we must go against our beliefs, it only means we must find ways to compromise without infringing on someone else's first amendment rights.

In conclusion, when it comes to freedom of religion, we all have the inherent right to practice our religion without fear of retaliation against us. As with everything there are positive and negative aspects and impacts. No single person should feel persecuted or discriminated against because of their religious beliefs and no person should have to go against their religious beliefs to appease the masses. The issue discussed was same sex marriage and even though it is still not widely accepted by society, as a whole, society will have to learn to make compromises because without compromise, people in the LGBT community will find themselves being discriminated against whether it is intentional or unintentional and that in and of itself is a shame we all must live with.

## References

Academic Freedom and the First Amendment in the Supreme Court.

Retrieved from scholarship. law. wm. edu/cgi/viewcontent. cgi? article=1751&context= facpubs

Asma Uddin, The First Amendment: Religious Freedom for All, Including Muslims, 20 Wash. & Lee J. Civ. Rts. & Soc. Just. 73 (). Available at:

<http://scholarlycommons. law. wlu. edu/crsj/vol20/iss1/9>

John Corvino-Maggie Gallagher (2012). Debating Same-Sex Marriage. New York: Oxford University Press.

<http://dailycaller. com/2016/04/14/kentucky-clerk-kim-davis-just-officially-won-the-same-sex-marriage-license-battle/>

Miller v. Davis | American Civil Liberties Union- ACLU. Retrieved February 19, 2017, from <https://www. aclu. org/cases/miller-v-davis>

<https://assignbuster.com/religious-freedom-and-the-us-constitution/>