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## Perspectives on Marriage Equality and the Supreme Court

The Editors

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## FORUM

### PERSPECTIVES ON MARRIAGE EQUALITY AND THE SUPREME COURT

On June 26, 2015, the U.S. Supreme Court decided *Obergefell v. Hodges*,<sup>1</sup> one of the most significant civil rights decisions in recent years. For many of our generation, the Court’s conclusion that same-sex couples enjoy the constitutional right to marry simply confirmed deeply held beliefs about the importance of marriage equality and inclusion for all.<sup>2</sup> We recognize, however, that for American society more broadly, the decision has evoked strong feelings on both sides of the marriage equality debate. For some, *Obergefell* delivered a unique gift that was unimaginable even a few decades ago: the ability of same-sex couples to affirm their basic humanity, loving relationships, and standing in American society by exercising the right to marry the “person of one’s choice.”<sup>3</sup> For others, the Court’s affirmance of the “equal dignity”<sup>4</sup> of same-sex couples raises serious issues regarding religious freedom and, as the justices in dissent made clear, questions about the institutional role of the Supreme Court in our federalist system.<sup>5</sup> Nevertheless, we are persuaded that *Obergefell* conveys a message about law, legal advocacy, and democracy that concerns us all, as the pictures of the White House awash in rainbow colors on the evening of “decision day” attest.<sup>6</sup>

The *Fordham Law Review* has long explored matters pertaining to LGBT rights and belonging in its pages.<sup>7</sup> In keeping with this tradition, we thought it imperative to devote space to a scholarly exploration of the import and meaning of the *Obergefell* decision in the first issue published after the Court announced its holding. We thus invited six Fordham Law faculty members of different backgrounds and perspectives to share their early thoughts on the case. This Forum begins a conversation about what *Obergefell* means for law and the people it affects, addressing issues

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1. 135 S. Ct. 2584 (2015).

2. See PEW RESEARCH CTR., SEVEN IN TEN YOUNG ADULTS FAVOR SAME-SEX MARRIAGE (2013), <http://www.pewresearch.org/daily-number/seven-in-10-young-adults-favor-same-sex-marriage/> [<http://perma.cc/YX8H-8DWB>].

3. *Perez v. Sharp*, 198 P.2d 17, 19 (Cal. 1948).

4. *Obergefell*, 135 S. Ct. at 2608.

5. See, e.g., *id.* at 2612, 2625 (Roberts, C.J., dissenting).

6. The Associated Press, *White House Lit in Rainbow Colors After Supreme Court Ruling*, N.Y. TIMES (June 26, 2015, 9:20 PM), <http://www.nytimes.com/aponline/2015/06/26/us/politics/ap-us-gay-marriage-white-house-lit.html> [<http://perma.cc/SK9E-LHWK>].

7. See, e.g., Symposium, *Forty Years of Loving: Confronting Issues of Race, Sexuality, and the Family in the Twenty-First Century*, 76 FORDHAM L. REV. 2669 (2008).

pertaining to constitutional doctrine, families, gender, human rights, race, and the unmarried.

The long-term impact of *Obergefell* is unknown. We cannot predict now where the discussion launched here will take us. As recent events in response to the decision have shown,<sup>8</sup> *Obergefell* raises almost as many constitutional issues as it resolved. This Forum is not our last word on *Obergefell*. Rather, the goal is to continue the *Fordham Law Review*'s commitment and pledge to provide an ongoing forum for scholarly engagement with civil rights issues and the law.

THE EDITORS

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8. See, e.g., Alan Blinder & Tamar Lewin, *Clerk in Kentucky Chooses Jail Over Same-Sex Marriage*, N.Y. TIMES (Sept. 3, 2015), <http://www.nytimes.com/2015/09/04/us/kim-davis-same-sex-marriage.html> (reporting on a Kentucky county clerk who refused to grant LGBT couples marriage licenses on grounds of religion) [<http://perma.cc/7YY6-UUWC>]; Tamar Lewin, *Mississippi Ban on Adoptions by Same-Sex Couples Is Challenged*, N.Y. TIMES (Aug. 12, 2015), <http://www.nytimes.com/2015/08/13/us/mississippi-ban-on-adoptions-same-sex-couples-challenged.html> (detailing a recent lawsuit challenging the state of Mississippi's ban on adoption by same-sex couples) [<http://perma.cc/6CX6-EKAE>].