

Same-Sex Marriage: Empathy or Right?



By [Charles Krauthammer](#), Published: May 17

There are two ways to defend gay marriage. Argument A is empathy: One is influenced by gay friends in committed relationships yearning for the fulfillment and acceptance that marriage conveys upon heterosexuals. That's essentially the case [President Obama](#) made when he [first announced](#) his change of views.

No talk about rights, just human fellow feeling. Such an argument is attractive because it can be compelling without being compulsory. Many people, feeling the weight of this longing among their gay friends, are willing to redefine marriage for the sake of simple human sympathy.

At the same time, however, one can sympathize with others who feel great trepidation at the radical transformation of the most fundamental of social institutions, one that, until yesterday, was heterosexual in all societies in all places at all times.

The empathy argument both encourages mutual respect in the debate and lends itself to a political program of gradualism. State by state, let community norms and moral sensibilities prevail. Indeed, that is Obama's stated position.

Such pluralism allows for the kind of "stable settlement of the issue" that [Ruth Bader Ginsburg](#) once lamented had been "halted" by *Roe v. Wade* regarding abortion, an issue as morally charged and politically unbridgeable as gay marriage.

Argument B is more uncompromising: You have the right to marry anyone, regardless of gender. The right to "marriage equality" is today's civil rights, voting rights and women's rights — and just as inviolable.

Argument B has extremely powerful implications. First, if same-sex marriage is a right, then there is no possible justification for letting states decide for themselves. How can you countenance even one state outlawing a fundamental right? Indeed, half a century ago, states' rights was the cry of those committed to continued segregation and discrimination.

Second, if marriage equality is a civil right, then denying it on the basis of (innately felt) sexual orientation is, like discrimination on the basis of skin color, simple bigotry. California's [Proposition 8](#) was [overturned by a 9th](#) Circuit panel on the grounds that the referendum, reaffirming marriage as between a man and woman, was nothing but an expression of bias — "serves no purpose . . . other than to lessen the status and human dignity of gays and lesbians."

Pretty strong stuff. Which is why it was so surprising that Obama, after first advancing Argument A, went on five days later to adopt Argument B, calling gay marriage a great example of "[expand\[ing\] rights](#)" and [today's successor](#) to civil rights, voting rights, women's rights and workers' rights.

Problem is, ...

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