

The United States has now followed Ireland in the legalizing of same-sex marriage. The case of Ireland, where a solid majority of voters endorsed the change, is the more stunning reversal of past attitudes and law. The United States Supreme Court was not foolish enough to try to stop the momentum of the social acceptance of same-sex marriage. The Court's decision did not have much to do with constitutional law. Neither the majority nor minority opinions presented a compelling legal argument.

As has become common with the Court's decisions, the liberal politicians voted one way and the conservative politicians were on the other side. Two of the judges, Kennedy and Roberts, are not as predictable as the other seven; it was they who held the deciding votes on what the law is in rulings on the Affordable Care Act and the next day on same-sex marriage.

It is a shame that issues such as same-sex marriage quickly become political litmus tests instead of an opportunity for citizens to examine their attitudes and convictions and to have a civil debate about the merits of the case. Asking the U.S. Supreme Court to decide social/cultural/political questions is a form of national denial. One of the few rational comments that Justice Scalia made was that nine east coast lawyers from Harvard and Yale should not be deciding these matters.

Same-sex marriage would be an especially good case for thoughtful reflection because the change in attitude within a short time has been so dramatic. Is the change symptomatic of some bigger pattern? Both sides in this case often spoke with absolute certainty, and very few people acknowledged their own change of attitude in the course of just a few years.

The four essays below are an interesting cross section of opinion challenging the assumption that same-sex marriage is just a case of progressive vs. conservative. The first essay by Gabriel Moran tries to broaden the context of the discussion with the help of history. The second essay by a *New York Times* columnist points out the shift of thinking among Roman Catholics. The third essay by a *Slate* contributor invites his conservative colleagues to change their perspective. The fourth essay from *Time* may exaggerate the threat to Christianity but the view does express the fear of many people, especially evangelical Christians.

FAMILY MARRIAGE AND PARTNERSHIP MARRIAGE

By Gabriel Moran

The way that the case for same-sex marriage has been argued has involved disingenuousness on both sides. First, opponents of same-sex marriage argued that marriage has had the same meaning for “millennia.” Advocates replied that marriage is always changing. Neither side has been entirely forthcoming. The U.S. Catholic bishops said after the decision that “marriage remains unchanged and unchangeable.” That statement is simply a denial of reality. Marriage has obviously undergone changes over the centuries; there is no eternal essence of marriage. But one has to respect the history of an institution to decide which changes do or do not make sense.

The second problem is the phrase “marriage equality.” It is an effective slogan because if “equality” is the issue opponents are in a corner. Do they really want to be on the side of inequality? But like most slogans “marriage equality” clouds the issue rather than clarifies it. People who argued against same-sex marriage logically raised the question of what are the limits of that equality. In a recent essay in *The New York Times* entitled “Is Polygamy Next?” William Baude argues for polygamy as the next extension of marriage equality. He concludes the essay: “Once we abandon the rigid constraints of history, we cannot be sure that we know where the future will take us.” Indeed, once we abandon those rigid constraints of history, we can call anything by any name but there is nothing left to argue about.

A plural marriage could conceivably fit within some logic of marriage but the case would have to be made within the perception of an historical evolution. The marriage of one man and several women is nothing new and it could even be construed as regression. These days we are presumably including one woman and several men, as well as all numerical combinations of men and women. But what is the limit? Can 5 people have a marriage? How about 50 or 500? Is there any advantage in calling a union of 50 people a marriage rather than, say, a community? It is true that “we cannot be sure that we know where the future will take us” but wherever it takes us we will not be free of our history and the imperfect institutions that help to shape us.

Same-sex marriage has some logic to it by reason of the way that the idea and the institution of marriage has evolved. In the distant past, marriage was about a man’s property which included a woman or women who could bear the children that he would father. The conclusion of Justice Kennedy’s majority opinion that marriage makes “two people greater than they once were” is almost comical in the light of history. Even in the 19th century the common-law rule of “coverture” collapsed the woman’s legal identity into that of her husband’s. A wife was legally invisible. It has been a long journey for women to get to the place where marriage could realistically be called a partnership. Not much progress toward that arrangement had been made until the human race began producing more babies than the earth or two parents could manage. Marriage understood as a contract to have as many babies as God or nature sends needed adjustment.

The big sexual revolution in the twentieth century occurred in the 1920s. The sexual behavior of women changed dramatically in that decade. There was discussion at that time of two kinds of marriage, traditional and companionate. Even the Roman Catholic Church in the 1930s accepted companionship as a secondary purpose of marriage; the primary purpose, according to the church, was still the birth and education of children. The church altered its position in the 1960s by saying that there is no “hierarchy” of ends. Take your pick as long as you don’t interfere with the formerly primary meaning of marriage. In that framework, the Roman Catholic Church should be a supporter of same-sex marriage which is suited to the companionate function of marriage and presents no problem of interference in the process of pregnancy and conception.

The church cannot accept same-sex marriage because it does not accept gay sex. If it could see beyond that barrier it might recognize same-sex marriage as a conservative movement to shore up a troubled institution. I am somewhat puzzled why gay people have been so anxious to join an institution that fails more often than it succeeds. The upper classes in this country still consider marriage a mark of respectability but a sizeable part of the straight population has disconnected marriage and babies. And a great many of them also have doubts that sexual companionship is helped by the stereotypes that still burden the idea of marriage.

Ten years ago I, like most of the country, was not an advocate of same-sex marriage. I was not against it; I simply did not know how big the issue was for gay couples. I thought that perhaps heterosexual couples would increasingly join gay couples in establishing unions with desirable economic protections and social approval. But why would sexual partners wish to get involved in all the husband and wife stuff where equality is still a problem? Parenthood does involve more complicated questions than a stable sexual partnership so that some of marriage tradition makes sense for the upbringing of children.

The problem with all the attention given to who can marry is that the related question of who takes care of the children can get underemphasized. The term marriage could have been rerouted to its historic role of a contract to start a family. Gay couples raising a family could have strengthened or reconnected the bond between marriage and family. The government could then have concentrated on the quality of childcare in this country where one out of five children is born into poverty. Other stable sexual unions could be blessed by the church while the government stayed out of the sex lives of straight and gay couples who wish to contribute to society in ways other than by parenting.

The moment has passed when that linguistic direction could have been taken. The legal recognition of same-sex marriage is progress insofar as it provides gay people with the respect they deserve. But a confusion about the nature of marriage remains. Same-sex marriage is more likely to strengthen than to weaken the institution of marriage but the institution needs more help than the addition of a new population. The country needs an honest discussion of how to improve family life and get government policies that help rather than undermine families.

The Roman Catholic Church has begun a massive change in its attitude toward gay couples adopting children. In 2003 the Vatican denounced gay marriage claiming that “allowing children to be adopted by parents living in such unions would actually mean doing violence to these children.” (No evidence was offered for that claim). In a welcome change of tone, the Synod in 2014 said that “the Church pays special attention to children who live with same-sex couples and stresses that the needs and rights of the little ones must always be given priority.”

The Roman Catholic Church could make a great contribution to society by continuing to insist that the two ends of marriage are not hierarchically ordered. They now constitute two kinds of marriage that could be sacramentally distinguished. They might be called family marriage and partnership marriage. Straight and gay couples who intend to raise children need the support of family-friendly policies by the government and the support by the church. Other married couples need legal recognition of their economic partnership and they also need social support for their union. If the Roman Catholic Church were to come on board, a new way of looking at marriage might emerge that respects tradition but acknowledges the irreversible trends of the last seventy-five years. Women’s equality and help for family life could be given the attention they deserve.

CATHOLICS ARE LEADING THE WAY

By Frank Bruni

Take a look at this list of countries: Belgium, Canada, Spain, Argentina, Portugal, Brazil, France, Uruguay, Luxembourg and Ireland. Name two things that they have in common. They don’t share a continent obviously. Or a language. But in all of them, the Roman Catholic Church has more adherents, at least nominally, than any other religious denomination does. And all of them belong in the vanguard of 20 nations that have decided to make same-sex marriage legal.

In fact, countries with a Catholic majority or plurality make up half of those where two men or two women can now wed or will soon be able to. Ireland, obviously, is the freshest addition to the list. It is also in some ways the most remarkable one. It’s the first country to approve same-sex marriage by a popular referendum. The margin was not even close. About 62% of voters embraced marriage equality. And they did so despite a past of great fealty to the Catholic Church’s official teachings on, for example, contraception, which was outlawed in Ireland until 1980, and abortion, which remains illegal in most circumstances.

Irish voters nonetheless rejected the church’s formal opposition to same-sex marriage. This act of defiance was described accurately as an illustration of church leaders’ loosening grip on the country. But in falling out of line with the Vatican, Irish people are actually falling in line with their Catholic counterparts in other Western countries, including the United States. They are not sloughing off their Catholicism – not exactly, not entirely. An overwhelming majority of them still identify as Catholic. But they are incorporating religion into their lives in a manner less rooted in Rome.

We journalists too often use “the Catholic Church” as a synonym for the pope, the cardinals, and the teachings that have the Vatican’s stamp of approval. But in Europe and the Americas, in particular, the church is much more fluid than that. It harbors spiritually inclined people paying primary obeisance to their own consciences, their own senses of social justice. That impulse and tradition are as Catholic as any others. Catholics in the United States appear to be more, not less, progressive about gay rights than Americans in general are. In an especially ambitious survey conducted over the course of 2014 by the Public Religion Research Institute, about 60% who called themselves Catholic said that they approved of same-sex marriage, versus about 30% who said that they did not. The spread among all respondents was 54 to 38, and the group that clearly stood in the way of same-sex marriage wasn’t Catholics but evangelical Protestants.

And yet, interestingly, the qualms that certain public figures have about same-sex marriage are routinely explained – by the media and sometimes by those people themselves – as ineluctable consequences of their Catholicism. “We need to be stalwart supporters of traditional marriage,” Jeb Bush, who converted to Catholicism as an adult, said in a TV interview. “It’s at the core of the Catholic faith.”

Rick Santorum, Bobby Jindal, Chris Christie and Marc Rubio, among others, have cited their Catholic devotion as a barrier to embracing same-sex marriage. But seldom does anyone point out that this explanation puts these men in the minority not the majority of Catholics in the United States. Their stances win them more political favor among Baptists than among Catholics. That’s because “Catholics” includes not just worshippers who attend Mass weekly and tilt in a more conservative direction but those who go less frequently and those whose Catholicism is as much an ethnic as a religious identity.

For this large and diverse group in the United States and other Western countries, same-sex marriage has rapidly gained favor and Catholic leaders’ expressions of protest, such as firing employees who marry same-sex partners or speak up for marriage equality, are becoming untenable. Cognizant of that, Catholic bishops in Germany recently voted to relax morality clauses in contracts with lay workers so that those who remarry after a divorce or enter into same-sex civil unions (same-sex marriage isn’t yet legal there) needn’t fear losing their jobs. Is this a sign that in Europe and the Americas, same-sex marriage could become analogous to divorce: something that Catholic leaders technically frown upon but don’t bother to inveigh against all that much?

I wonder especially in light of comments by Diarmuid Martin, the archbishop of Dublin, after the Irish referendum. He noted “a growing gap between the culture of Ireland” and the church, which, he said “needs to take a reality check.” He means that its leaders do, and they can turn not just to Ireland but to many other densely Roman Catholic countries to gauge the hearts and souls of Catholics today.

SAME-SEX MARRIAGE SHOULD BE SUPPORTED BY REPUBLICANS

By William Saletan

Republicans have been moaning about *Obergefell v. Hodges*, the June 26 Supreme Court decision that declared gay marriage a constitutional right. Presidential candidates who claim to represent the party's next generation are pledging to continue the fight. These men are leading the GOP in the wrong direction. There's a simpler, saner way for Republicans to regain their footing on social issues. Go back to being the party of lifestyle conservatism: marriage, parenthood, community, faith, commitment, self-discipline, and social order. Recognize same-sex marriage as part of that tradition. Now that the fight for "marriage equality" has been won, the next fight is about what that victory means. Are we welcoming same-sex couples, like different-race couples, to an enduring institution by rethinking the rules of marriage and its place in society? That's a debate to which social conservatives should contribute. And it's a fight the GOP can win.

Republicans are right to worry about redefining marriage. But their decision to draw the line at sexual orientation was a profound mistake. They thought homosexuality was a lifestyle. In reality, the only lifestyle at stake is marriage itself. By locking gay people out of that institution, Republicans disserved their party's mission: a well-ordered society. And by asserting that there was no logical stopping point between homosexuality, polygamy, and infidelity, the right helped the left. Today Republicans find themselves in a de facto alliance with people who want to eliminate all discrimination among family structures. Some social liberals are claiming that if you support marriage equality for same-sex couples, you have to support it for multiple partners as well. Some right-wing groups agree. Both sides want to make Americans choose between lifestyle liberalism and rolling back gay marriage.

Not all family structures are equal. Divorce, single parenthood, and promiscuity are real problems. So is the replacement of marriage by cohabitation or domestic partnership. To be heard on those issues, Republicans have to build a middle ground in which *Obergefell* is welcomed and understood, not as a gateway to equal recognition and benefits regardless of how you live, but as an affirmation of marriage.

In the short term, this will be hard. Republicans will have to admit that they were wrong. But in exchange, they'll be freed to fight for their values. And whatever support they lose on the right will be offset by a fresh appeal to the center. The public is ready for this message. The fact that Republicans misunderstood the issue means that they never lost what was important. Americans didn't sign up for lifestyle liberalism or for dissolving the meaning of matrimony. If you study polls, you'll see what really happened: People embraced same-sex marriage not because they saw homosexuality as a matter of personal choice, but because they didn't.

In 2004, 37 percent of respondents in a Gallup poll said homosexuality was "something a person is born with." Forty-one percent said it was "due to factors such as upbringing and environment." Since then, the numbers have reversed. Three months ago, 51 percent of respondents told Gallup that gay or lesbian orientation was inborn; only 30 percent

attributed it to upbringing or environment. Polls make a strong case that lifestyle liberalism has not driven the massive surge in public support for gay marriage. Instead, many Americans have decided that homosexuality is an immutable trait, and they have adjusted their views accordingly. If homosexuality isn't a choice, it can't be a sin. We can't make gay people straight, but we can let them marry.

To find a question on which the public has moved as dramatically as it has on same-sex marriage, you have to scroll down the page to this one: "Do you approve or disapprove of marriage between blacks and whites?" On that question, public support has risen by 22 points since 2002. The magnitude of the shift on gay marriage mirrors the magnitude of the shift on interracial marriage, because Americans are coming to believe that sexual orientation is more like the color of your skin than like the content of your character.

I'm not a big fan of using the government to reward or punish sexual behavior. It's a clumsy tool, and when the rules it applies are equally clumsy, it does more harm than good. But lifestyle liberalism can also do a lot of damage. It can overrun and erode moral institutions. We need a party that speaks that truth. Republicans should be that party. They just need to catch up to the rest of the country.

EXILES IN OUR OWN COUNTRY

By Ron Dreher

No, the sky is not falling — not yet, anyway — but with the Supreme Court ruling constitutionalizing same-sex marriage, the ground under our feet has shifted tectonically. It is hard to overstate the significance of the *Obergefell* decision — and the seriousness of the challenges it presents to orthodox Christians and other social conservatives. The present moment requires sobriety, precisely because its radicalism requires of conservatives a realistic sense of how weak our position is in post-Christian America.

The alarm that the four dissenting justices sounded in their minority opinions is chilling. Chief Justice John Roberts and Justice Antonin Scalia were particularly scathing in pointing out the philosophical and historical groundlessness of the majority's opinion. Justice Scalia even called the decision "a threat to democracy," and denounced it, shockingly, in the language of revolution. It is now clear that for this Court, extremism in the pursuit of the Sexual Revolution's goals is no vice. True, the majority opinion nodded and smiled in the direction of the First Amendment, in an attempt to calm the fears of those worried about religious liberty. But when a Supreme Court majority is willing to invent rights out of nothing, it is impossible to have faith that the First Amendment will offer any but the barest protection to religious dissenters from gay rights orthodoxy.

Indeed, Chief Justice Roberts and Justice Samuel Alito explicitly warned religious traditionalists that this decision leaves them vulnerable. Alito warns that *Obergefell* "will be used to vilify Americans who are unwilling to assent to the new orthodoxy," and will be used to oppress the faithful "by those who are determined to stamp out every vestige of dissent." The warning to conservatives from the four dissenters could hardly be clearer or stronger. So where does that leave us?

For one, we have to accept that we really are living in a culturally post-Christian nation. The fundamental norms Christians have long been able to depend on no longer exist. The court majority may impose on the rest of the nation a view widely shared by elites, but it is also a view shared by a majority of Americans. There will be no widespread popular resistance to *Obergefell*. This is the new normal.

For another, LGBT activists and their fellow travelers really will be coming after social conservatives. The goal of activists will be a long-term campaign to remove tax-exempt status from dissenting religious institutions. The more immediate goal will be the shunning and persecution of dissenters within civil society. After today, all religious conservatives are Brendan Eich, the former CEO of Mozilla who was chased out of that company for supporting California's Proposition 8. Third, the Court majority wrote that gays and lesbians do not want to change the institution of marriage, but rather want to benefit from it. This is hard to believe, given more recent writing from gay activists like Dan Savage expressing a desire to loosen the strictures of monogamy in all marriages. Besides, if marriage can be redefined according to what we desire then there are no boundaries on marriage. Marriage inevitably loses its power.

In that sense, social and religious conservatives must recognize that the *Obergefell* decision did not come from nowhere. It is the logical result of the Sexual Revolution, which valorized erotic liberty. It has been widely and correctly observed that heterosexuals began to devalue marriage long before same-sex marriage became an issue. The individualism at the heart of contemporary American culture is at the core of *Obergefell* — and at the core of modern American life. This is profoundly incompatible with orthodox Christianity. But this is the world we live in today.

Orthodox Christians must understand that things are going to get much more difficult for us. We are going to have to learn how to live as exiles in our own country. We are going to have to learn how to live with at least a mild form of persecution. And we are going to have to change the way we practice our faith and teach it to our children.

It is time for what I call the Benedict Option. In his 1982 book *After Virtue*, the eminent philosopher Alasdair MacIntyre likened the current age to the fall of ancient Rome. He pointed to Benedict of Nursia, a pious young Christian, who left the chaos of Rome to go to the woods to pray, as an example for us. We who want to live by the traditional virtues, MacIntyre said, have to pioneer new ways of doing so in community. We await, he said “a new — and doubtless very different — St. Benedict.” Throughout the early Middle Ages, Benedict's communities formed monasteries, and kept the light of faith burning through the surrounding cultural darkness. Eventually, the Benedictine monks helped refound civilization. I believe that orthodox Christians today are called to be those new and very different St. Benedicts. *Obergefell* is a sign of the times, for those with eyes to see. This isn't the view of wild-eyed prophets wearing animal skins and shouting in the desert. It is the view of four Supreme Court justices, in effect declaring from the bench the decline and fall of the traditional American social, political, and legal order. We live in interesting times.