

# Engendered Equality: Probing the Right to Marry in Light of *Obergefell v. Hodges* and Constitutional Freedoms and Limitations

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On 26 June 2015, the United States (U.S.) Supreme Court, in *Obergefell v. Hodges*, declared that same-sex couples have the right to marry under the U.S. Constitution. It held that there is no lawful basis for a State to refuse to recognize a lawful same-sex marriage performed in another State on the ground of its same-sex character. In light of this, the said landmark decision implies that a supreme court has the power to re-define marriage if to exclude same-sex couples from its definition would violate the latter's right to marry. However, it remains to be seen whether in the Philippine context, there is a right to marry and whether the Supreme Court may grant this right to same-sex couples and, consequently, re-define marriage.

This Article ultimately illustrates the legal effects of *Obergefell* in the Philippine setting with regard to the right to marry, specifically of same-sex couples. In doing so, the Author discussed and analyzed *Obergefell* and its disputed declarations. She looked into the historical background of same-sex marriage legislation in the U.S. and discussed exhaustively the jurisprudential history of the constitutional precepts of due process and equal protection vis-à-vis the right to privacy and right to marry. To tie these with the marriage and right to marry cases in the Philippines, the Author discussed and analyzed the status of the pertinent right in the country, and the legal and political factors that the Supreme Court should consider when a case like *Obergefell* is filed before it.