



# THE CASE FOR INCLUSION

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## SCOTUS Upholds Same-Sex Couples' Fundamental Right to Marry

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The Supreme Court of the United States (SCOTUS) issued a [landmark opinion](#) which held that same-sex couples in all states have the right to marry in the [Obergefell, Tanco, DeBoer and Bourke, et al.](#) matters. Justice Kennedy writing for the majority stated: “Excluding same-sex couples from marriage thus conflicts with a central premise of the right to marry.”

The cases before SCOTUS demonstrated how same-sex couples did not receive the same constitutional rights and protections as opposite sex couples. Same-sex individuals, who were lawfully married in one state, faced challenges in other states that refused to acknowledge their marriage. For example, an amendment to the state constitution in Ohio defined marriage as a union only between one man and one woman. Laws in other states, such as Kentucky and Michigan, were enacted to provide that no marriage between people of the same sex would have any force and effect and would not be recognized.

These laws, [as found by SCOTUS](#), imposed harm upon same-sex couples, as illustrated below.

James Obergefell lawfully married his long-time partner John Arthur in Baltimore, Maryland. They resided in Ohio. However, upon John’s death, Ohio refused to recognize his marriage to James and the death certificate refused to acknowledge the marriage. This non-recognition of their marriage prohibited James from applying for benefits as a surviving spouse, or filing joint tax returns for the time they were married.

As in Massachusetts, Ohio recognizes that a child born of a marriage is the child of both spouses. However, this recognition did not apply to any lawfully married same-sex couples who resided in Ohio because their marriage is not recognized by the state. Even same-sex couples who do not reside in Ohio were adversely affected by these laws. For example, a lawfully-married, New York same-sex couple adopted a child born in Ohio. The adoption decree entered in New York. Typically, Ohio would amend an adopted child’s birth certificate upon receipt of the adoption decree. However, Ohio refused to amend the birth certificate of an adopted child because the parents were of the same sex.

SCOTUS held that the refusal to extend the right to marry to same-sex couples, or to acknowledge their-lawful marriages, stripped them of fundamental rights, as well as inheritance and property rights, parental rights, spousal privileges, support and taxation benefits, among others, based on their marital status in violation of the Due Process and Equal Protection clauses of the Fourteenth Amendment.

Read the complete SCOTUS opinion [here](#).