

Obama, DOMA & the Constitution: Defenseless

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No matter what you think of same-sex marriage -- and, for the record, it's pretty clear that remaining social constructs against it can survive neither social evolution nor the discrimination test -- the Obama administration's decision to no longer defend the Defense of Marriage Act is, as a matter of law, defenseless.

President Clinton signed the act into law 15 years ago that bars the federal government from recognizing same-sex unions. Congress created the law. And only through new legislation can Congress rescind it or any other law. Or the Supreme Court, as the final arbiter of a legal challenge, can declare the law unconstitutional and, thus, null and void.

But what the administration did Wednesday last -- publicly withdrawing its support for DOMA, declaring it unconstitutional and saying the administration no longer is under any obligation to defend it -- defies and defiles the constitutional mandate that the president takes "care that the laws be faithfully executed."

The implications, of course, are chilling. What law or laws will Mr. Obama next decide to -- by fiat and for personal preferences or political purposes -- declare that his administration won't defend?

The courts might eventually decide that the Defense of Marriage Act is unconstitutional. But until that time, the president has a constitutional obligation to defend the law or, if he disagrees with it, to champion legislative recourse.

All this said, the better idea would be to get government out of the marriage business, period.