



## Justices should strike down discriminatory laws that meddle in marriage choices

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They are U.S. citizens. They pay taxes, vote and pay insurance premiums. They are parents, homeowners, community volunteers and even soldiers.

Yet because government has decreed they are legally inferior, same-sex couples in some jurisdictions are not allowed to marry and they are denied federal benefits. Because such laws deny the basic constitutional protections guaranteed to all citizens, it is time to strike them down.

On Tuesday and Wednesday of next week, the U.S. Supreme Court will hear arguments in two cases: First, whether California's Proposition 8 defining marriage as a union between a man and a woman is unconstitutional. Second, whether Section 3 of the federal Defense of Marriage Act ("DOMA") — it defines "marriage" as "a legal union between one man and one woman" for all purposes under federal law, including benefits — is also unconstitutional.

Our government, whether state or federal, has no business meddling in people's personal business by dictating whom they can and can't marry. Doing so sets a dangerous precedent for arbitrary discrimination for whatever reasons government — including future lawmakers — might decide are justifiable.

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This principle is firmly established in the 14th Amendment to the U.S. Constitution, which provides that states may not deny "any person" the "equal protection of the laws." The clause, adopted in 1868, mirrors the limitation on federal government our Founding Fathers placed in the Fifth Amendment.

The Cato Institute, a think tank engaged in public policy research furthering "the principles of individual liberty, limited government, free markets and peace," has filed a joint amicus brief with the Constitutional Accountability Center urging the Supreme Court to strike down both Proposition 8 and DOMA. The brief emphasizes that these laws deny citizens "ordinary civic life in a free society" simply because they are homosexual — a classic denial of equal protection. It also notes that DOMA provided a vehicle for federal lawmakers to "express their disapprobation through the law" of a particular class of citizens — a particularly distasteful and irrational reason for such sweeping legislation that applies to more than 1,000 federal legal protections.

Last weekend, the Washington Post published a column by President Bill Clinton, who signed DOMA into law in 1996. At the time, no state allowed same-sex marriages. The law was passed in the context of national pressure for a much more significant prohibition: a federal constitutional amendment banning gay marriage altogether. Only 81 of the 535 members of Congress opposed DOMA. Mr. Clinton explained why he signed legislation he now believes is unconstitutional:

"When I signed the bill, I included a statement with the admonition that 'enactment of this legislation should not, despite the fierce and at times divisive rhetoric surrounding it, be understood to provide an excuse for discrimination.' I know now that, even worse than providing an excuse for discrimination, the law is itself discriminatory. It should be overturned."

In recent decades our nation has shifted dramatically on the issue. The Pew Research Center reports that 57 percent of Americans believe homosexuality should be accepted by society. Two-thirds believe same-sex couples should have the same legal rights as heterosexual couples. The Pew report states that about one in five (18 percent) say "they changed their minds to support gay marriage because the world has changed and that this kind of shift is inevitable" with the same percentage saying "they changed their minds because they think people should be free to choose what makes them happy and that they no longer think the government should be involved in people's personal lives in this way."

More than 100 Republicans have signed a legal brief asking the Supreme Court to confirm the constitutional right of gay couples to marry by striking down both Proposition 8 and DOMA. These lawmakers have taken a bolder stance than President Obama, who believes DOMA should be struck down but has backed off Proposition 8, saying he would leave it to the states to decide.

The American Academy of Pediatrics has issued a statement of support for making gay marriage legal because children need committed parents "irrespective of their sexual orientation." More than 275 companies have signed onto a brief asking the Supreme Court to strike down DOMA as being discriminatory and a burden on the employer-employee relationship.

It's time for the U.S. Supreme Court to formally recognize that same-sex couples are being denied equal protection by intrusive and discriminatory laws such as Proposition 8 and DOMA. When it comes to personal relationships, the government has no place deciding some are more legally valuable than others.