



NATIONAL CENTER FOR LESBIAN RIGHTS



making the case for equality



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A constitutional democracy is built on two basic ideas: The people are in charge, but there are limits on the majority's power over minorities. The people get to vote on most things, but we don't put the fundamental rights of a disfavored minority up for a vote. But that's exactly what happened with the passage of Proposition 8. For the first time in California's history, the people, by a slim majority, voted to take away the fundamental right to marry from only one group of people—same-sex couples.

But this case isn't just about marriage, and it's certainly not just about gay people. For if a simple majority of the voters can take this core right away from gay people, it can take any right away from any other group as well. If Prop. 8 is upheld, then we could vote to take religious freedom away from Muslims. Or free speech rights away from women. Or the right to vote away from Chinese-Americans. This case is important for every Californian—it's about whether the limits we've set on the power of the majority have meaning.

This principle—that minority rights are protected from the majority—is so central to our form of government that children learn about it in schools across the state. It's a staple of civics classes and part of what makes our government great. If we're going to change the core principles of our government, it can't be done through a simple majority vote, using a process that wasn't set up to make changes like this.

The California courts have a solemn responsibility to enforce our state Constitution to protect the rights of all people, regardless of popular opinion. We hope the Court will recognize that it is not just the rights of lesbian, gay, bisexual, and transgender (LGBT) people that are at stake, but the rights of all Californians that it must protect by striking down Prop. 8.

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**The American Civil Liberties Union** is America's foremost advocate of individual rights. It fights discrimination and moves public opinion on LGBT rights through the courts, legislatures and public education. [www.aclu.org](http://www.aclu.org)