

Supreme Court Raises Doubts on California Marriage Case

As the Supreme Court heard arguments on Tuesday on the delicate and divisive issue of gay marriage, Chief Justice John Roberts expressed doubt that California opponents of **gay marriage** had a right to be heard in federal court.

U.S. citizens in general do not have a right to sue to enforce laws they favor. Roberts pressed lawyer Charles Cooper, who represents gay marriage opponents, on why his clients are any different as they seek to enforce California's gay marriage ban, known as **Proposition 8**.

"I don't think we've ever allowed anything like that," Roberts said in the first half of an hour of scheduled argument.

If Cooper's clients lack the right to appear, known as standing, the Supreme Court may not reach the central question of gay marriage rights.

Justice Anthony Kennedy, who like Roberts is seen as a potential swing vote, pressed Cooper. Kennedy used one of his questions to focus on the "imminent legal injury" facing 40,000 California children being raised by gay and lesbian couples.

"They want their parents to have full recognition and full status," he said.

Cooper, facing a barrage of questions mostly from the Supreme Court's liberal wing, called California's law the equivalent of a "pause button."

A ruling that finds a fundamental right to marry for gays and lesbians would unfairly cut off spirited public debate nationwide, Cooper said.

As sign-carrying demonstrators from both sides gathered peacefully in front of the Supreme Court building on a brisk morning in Washington, the first of two days of oral arguments on the issue got under way inside.

On Wednesday, the court will consider the 1996 federal **Defense of Marriage Act** (DOMA), which limits the definition of marriage to opposite-sex couples. Rulings in both cases are expected by the end of June.

Over the two days of arguments, the justices will have their say on what gay activists see as a civil rights issue reminiscent of famous Supreme Court cases of the past, including *Loving v. Virginia*, a 1967 case in which the court invalidated bans on interracial marriage.

The cases come before the high court at a time when more states have legalized gay marriage. Last year three more—Maryland, Maine and Washington—did so, bringing the total to nine plus the District of Columbia.

“Never before in our history has a major civil rights issue landed on the doorstep of the Supreme Court with this wave of public support,” said Theodore Boutrous, a lawyer for opponents of Proposition 8.

Strong opposition to gay marriage still exists, however, both among Republicans in Congress and in many states. A total of 30 states, including California, have constitutional amendments that ban gay marriage. Nine states, including California, recognize civil unions or domestic partnerships among same-sex couples.