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The Supreme Court giveth and taketh away

Jamie Manson | Jun. 27, 2013 Grace on the Margins

"The arc of the moral universe is long, but it bends toward justice."

This quote, often attributed to the Rev. Dr. Martin Luther King Jr., seems fitting to describe the victories for lesbian, gay, bisexual and transgender civil rights that were won Wednesday in the Supreme Court.

Activists who spent decades organizing rallies, participating in sit-ins, educating the public and coming out to family and friends at last have begun to achieve justice on the federal level.

The Defense of Marriage Act, a 1996 law that placed heavy financial burdens and significant limitations on the rights of same-sex couples, was declared unconstitutional. And nearly five years since it passed in California, those who brought Proposition 8 to court were declared to have no legal standing.

I join my partner, my family and my friends in celebrating this historic victory and the freedoms and protections it will bring to many of our lives.

But I celebrate with a heavy heart, knowing full well that, unlike Wednesday, the Supreme Court rulings that took place Tuesday were not a great moment for America, justice or civil rights.

As has been widely reported, the Supreme Court struck down a key provision in the 1965 Voting Rights Act that, for decades, scrutinized states -- especially those with histories of racial discrimination -- that seek to change their voting laws.

In her powerfully worded dissent from this decision, Justice Ruth Bader Ginsburg invoked the King quote about the arc of justice, but in this case, she used it warn her fellow justices that they may be forcing the arc of the moral universe off its course.

King, she said, marched from Selma to Montgomery in Alabama to call for the passage of the Voting Rights Act. "If there is a steadfast commitment to see the task through to completion," she told the court, "that commitment has been disserved by today's decision."

Although the decision will still require states (mostly in the deep South) to get federal preclearance before altering voting procedures, it cannot be enforced until Congress creates new procedures for getting that approval.

While we await a new formula from our hopelessly dysfunctional Congress on which jurisdictions are required to get preclearance, states with controversial voter ID laws (like Texas, Alabama, Mississippi and North Carolina) will be able to move forward with their plans to restrict voter eligibility.

I got a crash course in voter ID laws in September 2012, when I was invited to Minneapolis to offer a talk on the connection between this issue and marriage equality. At the time, Minnesotans were being asked to vote on two new amendments to their state constitution. One would ban same-sex marriage and the other would make it mandatory for voters to show a state-issued photo ID to get access to the polls.

While proponents of voter ID claim these laws are intended to protect against fraud at the polls, the reality is that incidents of such fraud are almost negligible. Those opposed to voter ID (or "voter suppression laws," as they have been justifiably dubbed) have argued convincingly that these laws create unnecessary, if not unconstitutional, obstacles between some of our most disadvantaged citizens and the voting booth.

As anyone who has worked in social services knows well, many in the poor, disabled, homeless, immigrant and elderly populations do not have state-issued identification, and if they do have one, it is often out of date. If these individuals do not have ID or if the identification does not match the voting district, they would be barred from voting or would have to endure a costly, convoluted process in order to vote, often days or weeks after the election takes place.

The law would also render many college students who have identification from out of state ineligible to vote.

Since voter ID laws disenfranchise those who would be more likely to vote for more liberal candidates and causes that protect entitlements and civil rights, it should come as no surprise that these laws are the brainchild of Republican lawmakers. In some states, keeping even a fraction of the poor, elderly, immigrant or student population from the polls could be enough to ensure a Republican or tea party victory.

It should also be no surprise, therefore, that within hours of Supreme Court's decision on the Voting Rights Act, Republican Party leaders in Texas, Alabama, Mississippi, and North Carolina declared their plans to proceed with voter suppression.

When I was invited to give the presentation on voter ID and same-sex marriage, Michael Bayly, executive director of Catholics for Marriage Equality Minnesota, told me that if the amendment banning same-sex marriage was defeated but the voter ID amendment passed, it would be a "hollow victory." (In the end, Minnesotans managed to defeat both the voter ID and the ban on same-sex marriage amendments in November.)

Bayly's "hollow victory" phrase has been reverberating in my mind this week as the sidewalk outside the Supreme Court building transitioned from a place of frustration and defeat for racial justice activists Tuesday into a place to relief and rejoicing for LGBT activists Wednesday.

The fight against voter suppression laws and the fight for LGBT rights share some deep connections. At the most fundamental level, both are civil rights battles for equal protection under the law. In the same way that LGBT activists have asked other victims of discrimination to identify with our struggle, LGBT people must continue to foster the bonds of identity and solidarity across communities of justice-seekers.

At a strategic level, LGBT activists must also consider the ways in which voter suppression could undermine the fight for equality in the 35 states where same-sex marriage continues to be illegal. If right-wing lawmakers are successful in restricting voter eligibility among the disenfranchised, LGBT civil rights will be as vulnerable as government entitlements, civil liberties, collective bargaining and protections for immigrants.

LGBT activists and their allies know that, even in light of these historic victories, there is still much work ahead. The Supreme Court decision on the Voting Rights Act serves as a cautionary tale of how, decades after they are won and codified, civil rights can be gradually dismantled or undermined.

Even as we reap the fruits of justice, we must always be watchful that the arc of the moral universe continues to bend, not boomerang.

[Jamie L. Manson received her Master of Divinity degree from Yale Divinity School, where she studied Catholic theology and sexual ethics. Her *NCR* columns have won numerous awards, most recently second prize for Commentary of the Year from Religion Newswriters (RNA).]

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