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## Gay Marriage: The Tide is Turning And There's No Going Back

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Major court decisions on controversial social issues are sometimes ahead of their times. That was certainly the case with judicial rulings decades ago that struck down laws banning interracial marriage. But despite conservative claims that U.S. District Court Judge Vaughn Walker's ruling Wednesday to overturn California's Proposition 8 ban on same-sex marriage is outside the mainstream, the reality is that his decision is in sync with public sentiment.

The gay rights movement has won Americans' hearts and minds. The tide has turned. Opponents can try, but they can't push it back.

Although nobody believes that homophobia has disappeared, polls show that public support for gay rights - including marriage - has increased dramatically in the past decade, especially in the last few years. Moreover, support for gay marriage is much higher among younger Americans, indicating that the future belongs to the advocates, not the opponents, of same-sex marriage. Soon, conservative politicians and groups will no longer be able to use gay marriage as a "wedge" issue to stir controversy and win elections.

The battle for gay marriage is often compared with the struggle to end the prohibition against marriage between blacks and whites. In fact, Americans' attitudes about same-sex marriage changed much more quickly.

In 1948, when California's Supreme Court legalized interracial marriage (the first state to do so) in *Perez v Sharp*, most Americans opposed it. In the 1950s, when half the states still had laws prohibiting interracial marriage, over 90% of Americans still considered it wrong. By 1967, when the U.S. Supreme Court, in *Loving v. Virginia*, knocked down state anti-miscegenation laws everywhere, 16 states still had such laws on the books and 72% of the public still opposed interracial marriages.

It wasn't until the 1990s that even half of Americans said they approved of marriage between blacks and whites. In 2007, the most recent poll on the topic, 77% of Americans supported interracial marriage. It may be shocking to some that 17% of Americans still disapprove of black-white marriages (6% had no opinion), but the shift in public opinion over five decades has been steady and irreversible.

The civil rights movement laid the foundation for the gay rights crusade, which adopted many of its strategies and tactics, including grassroots organizing, protest and civil disobedience, fighting for justice in the courts, lobbying for legislation, and campaigning to elect sympathetic candidates.

After the gay rights movement burgeoned in the 1970s, it took time for public opinion about homosexuals to shift. But as gay activism accelerated, and more and more people (including public figures) came out of the closet, attitudes changed, reflecting a profound transformation in public opinion.

More and more public figures - politicians, entertainers, teachers, judges, journalists, businesspersons, athletes and clergy -- acknowledged their homosexuality. TV sit-coms began to have openly gay characters. Businesses began to appeal to gay consumers.

As advocates began to put specific issues on the agenda, public support increased for such questions as allowing openly gays and lesbians to teach in public schools, providing health benefits for gay partners, permitting gay couples to adopt children, ending anti-sodomy laws, outlawing job and housing discrimination against gays, funding for research to combat AIDS, and imposing penalties for people who commit hate crimes against gays. In 1993, for example, only 44% of Americans believed that gays should be allowed to openly serve in the military, according to a Washington Post/ABC News poll. Today, more than 75% think so.

A growing number of Americans began realizing that they knew gay people. (By 2003, 58% of Americans said that had a friend, relative, or coworker who is gay or lesbian - the same as today).

People began to confront their own values and views about a subject that was once taboo in their own lifetimes. Today, 78% of Americans (and 88% of those who say they personally know someone who is gay or lesbian) say that they are comfortable around homosexuals.

Until the late 1990s, gay marriage wasn't even an issue, and most pollsters didn't bother asking the public how they felt about it. (One exception was the Field Poll, which first asked Californians in 1977 if they approved of extending marriage laws to same-sex couples. By a 59% to 28% margin, they said no).

But eventually the question of gay partnerships - civil unions and marriage - emerged as a topic of public debate and private conversations in every corner of the country. Not surprisingly, in the past decade, support for legalizing gay partnerships has skyrocketed. Initially, the idea of civil unions broke the comfort zone barrier. Americans are still more supportive of civil unions than

of gay marriage, but the positive trend for both is indisputable.

In 2002, the *New York Times* began to publish announcements of same-sex civil unions and weddings. The following year -- just seven years ago -- a Washington Post/ABC News poll asked Americans if gay and lesbian couples should be allowed to form "legally recognized civil unions, giving them the legal rights of married couples in areas such as health insurance, inheritance and pension coverage." Only 40% agreed. When they asked the same question earlier this year, 66% agreed. Over that same period, the proportion who say they favor gay marriage increased from 37% to 47%. Although different polls use a variety of wordings to gauge public opinion on the issue, they all show growing support for gay marriage.

Public support for same-sex marriage is strongest in the West and weakest in the South. But legalization of gay marriage depends not only on public opinion but also on the willingness of politicians and judges to tackle the issue. Gay marriage is now legal in Iowa, Vermont, Connecticut, New Hampshire, Massachusetts, and Washington, D.C.

In most states, it was the opponents, not the advocates, of gay marriage that forced the issue into the public debate. Hoping to whip up fears and energize conservative voters to go to the polls and help elect Republicans, they put measures on the ballots to ban same-sex marriage. In all 30 states where the issue has been put to the voters, they've rejected legalizing gay marriage.

These ballot outcomes have been setbacks in the battle for gay marriage. They may accurately reflect current public sentiment in those states, but they also reflect the effectiveness of the opponents of gay marriage in mobilizing voters, raising and spending on ads and other propaganda, and framing the issue to win over "swing" voters.

This was certainly the case in California. For example, in July 2008, the Field Poll found that California voters approved of same-sex marriage by a 51% to 42% margin. But four months later, California voters approved Proposition 8 - which banned same-sex marriage -- by a 52% to 48% margin.

What happened? First, a small number of voters misled pollsters (and perhaps even themselves) in voicing support for same-sex marriage, while others may have mistakenly thought that voting "yes" meant support for marriage equality. Second, too few pro-gay marriage Californians bothered to vote. Third, some lukewarm sympathizers were persuaded by TV ads or flyers to change their minds.

When the campaign was over, there was much fingerpointing, but eventually many gay rights activists began to seriously examine what they did right and wrong. Many of the organizers of the anti-Proposition 8 effort acknowledge that they ran a lousy campaign, especially in terms of generating turnout and responding to anti-gay attack ads. They also conducted thousands of interviews to determine who voted against gay marriage and why. The result is an important new study. It found that between mid-September and election day, approximately 5% of voters--at least 687,000-- moved to favor the ban on same-sex marriage, mostly parents with children at home.

Yes, there is a hard core of anti-gay Americans who are more fervent in their views than their pro-gay marriage counterparts. Their activism fueled the campaigns against extending wedding vows to gays and lesbians. But, the study suggests, many people who voted against gay marriage are not haters. They support other aspects of gay rights and may eventually change their views on same-sex marriage.

A Field Poll conducted earlier this month and released on Wednesday found that California voters once again support allowing same-sex couples to marry by a 51% to 42% margin, with 7% uncertain.

But gay rights supporters know that for public opinion to influence public policy, it has to be mobilized. A vocal minority can have disproportionate influence if they are well-organized -- a lesson the Tea Party has learned well. Judge Walker's ruling is a victory for gay marriage proponents, but it doesn't end the battle to win in the political arena - in California and elsewhere.

What is clear, however, is that the future belongs to marriage equality. Last month's Field Poll revealed that age makes a big difference in attitudes toward same-sex marriage. Only 42% of California voters who are 65 or older endorsed gay marriage, compared with 46% of 50-64 year olds, 47% of 40-49 year olds, 53% of 30-39 year olds, and a whopping 68% of 18-29 year olds.

Among the in-between generation -- the 40-49 year olds - 12% still register no opinion. Both older and younger Californians are clearer about where they stand on the issue. Only 5% of 18-29 year olds say they have no opinion about gay marriage.

Nationwide polls show a similar dynamic. A Washington Post/ABC News poll conducted in February found that 30% of Americans over 65 believe gay marriages should be legal, compared with 47% of those in the 30-64 age group, and 65% of those between 18 and 29. In fact, in 38 states, a majority of those age 18-29 support same sex marriage, according to an analysis by Columbia University political scientists Jeffrey Lax and Justin Phillips. The 12 other states (except Utah) are all in the South, and in six of those states (Texas, North Carolina, South Carolina, Louisiana, Georgia, and Kentucky) more than 44% support gay marriage.

Given these trends, is there any doubt that a substantial majority of Americans will soon favor gay marriage?

In other words, the time when conservatives can use same-sex marriage as a "wedge" issue is coming to an end. For sure, some politicians - especially in some conservative states, Congressional districts, and state legislative districts - will continue to find it useful to bash gay marriage in order to win votes. But the days of gay-bashing as a political strategy are numbered.

The opponents of same-sex marriage claim that Judge Walker's ruling on Proposition 8 was a fluke. The Liberty Counsel, a right-wing legal group, called the decision "simply the whim of one judge." The conservative Family Research Council criticized Walker's

decision as "far Left," despite the fact that he was first nominated to the federal bench by President Ronald Reagan, renominated twice by President George H.W. Bush, and strongly endorsed by conservative former Governor Pete Wilson.

The Proposition 8 advocates plan to appeal Judge Walker's ruling to the Ninth Circuit Court of Appeals and, if necessary, to the United States Supreme Court. That process could take another year or two. By then, it is likely that an even more Californians, and Americans, will favor same-sex marriage. If the composition of the current Supreme Court doesn't change, it is possible that it will rule to maintain the Proposition 8 ban on same-sex marriage. But if they do, they will be even further behind where the American people are. It may set back the fight for social justice by a few years, but it will surely not reverse growing support for gay marriage.

We've seen dramatic changes in public opinion before - on such issues as women's suffrage, sexual harassment, interracial marriages, racial and sexual discrimination in jobs and housing, women's roles at home and work, government's role in protecting the environment, fuel efficiency in cars, and disability rights.

In each case, grassroots movements made a big difference. Their role is to put new issues on the public agenda - to make people think about things they hadn't thought about before. Initially, this makes people feel uncomfortable. It sometimes even triggers a backlash among some people who resist change. But eventually most people come to accept the reality - and fairness - of new ideas and behaviors. The radical ideas of one generation become the common sense of the next.

When children born this year reach voting age 18 years from now, they will surely wonder how it was even possible that America once deprived gays and lesbians the right to marry. They will take same-sex marriage for granted.

Hopefully, however, they will learn in their history classes and on TV about the grassroots movement that catalyzed the dramatic changes in public opinion, laws and court rulings that made America a more humane country, especially for the married gay and lesbian couples they call their neighbors, friends, aunts and uncles, brothers and sisters, and parents.