

Rod Dreher: Why Prop 8 victory was Pyrrhic for conservatives

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Despite their unexpected victory in California's Prop 8 battle, conservatives have all but lost the war to stop gay marriage. Yes, every time voters have been consulted about same-sex marriage, they've chosen to stick with tradition. But defenders of traditional marriage are not likely to prevail. Consider: • Prop 8 won because of a huge pro-Obama turnout among blacks and Latinos, who are conservative on gay marriage. But the issue doesn't matter enough to them to vote Republican in general elections. Democratic elites back gay marriage, and are likely to appoint judges who do too.

- Opposition to gay marriage was strong in 2004, but it has dramatically receded since then, polls show. This year, nonpartisan Pew Center found that a slight majority (52 percent) of voters oppose gay marriage, but the steady trend lines do not favor the antis.

- Young adults are far less opposed to gay marriage than older Americans. As the physicist Max Planck once said, "An idea does not take hold because people see the light. It wins because everyone opposed to it eventually dies."

These young people might change their minds as they age. But don't count on it. They have been raised in a culture that has in the past half-century thoroughly deconstructed the traditional meaning of marriage.

The concept of marriage has largely been severed from established norms in the popular understanding and is now seen as a contract formalizing the love a couple (for now) has for each other. Today, marriage has no intrinsic meaning that people are meant to serve; rather, it can be shaped to support people's desires.

This is the logical next phase in the development of modernity, whose 500-year project has been the gradual emancipation of the individual will. When gay marriage proponents argue that conservatives are on the wrong side of history, they're right.

Moreover, the prejudice – both in the bad, bigoted sense, and the good, Burkean sense – that protected traditional marriage is evaporating. Conservatives will lose this war because they have lost the young. And they have lost the young because they have lost the culture.

They are going to lose more than that when and if gay marriage becomes constitutionalized. They are going to lose some of their religious liberty.

No, pastors won't be jailed for anti-gay sermons. Nor are clergy likely to be forced to marry same-sex couples. But because marriage carries with it a vast array of legal rights and obligations, a live-and-let-live settlement is hard to imagine.

If courts place homosexuality on par with race in civil rights jurisprudence, a host of penalties against traditionalist religious organizations – including the loss of tax-exempt status – will kick in. Georgetown's Chai Feldblum, a gay rights activist and legal scholar, points to irreconcilable differences between gay rights and religious freedom.

Though Prof. Feldblum believes justice is on the gay rights side, at least she admits how high the stakes are for the faithful. Most gay marriage proponents deny or elide this, and the media aren't especially interested in examining the competing rights claims of religious believers.

What's more, as gay marriage backer and UCLA law professor Eugene Volokh has observed, one goal of the gay rights movement is "delegitimizing and legally punishing private behavior that discriminates against or condemns homosexuals." Though anti-Prop 8 campaigners said that no one would *ever* try to yank a church's tax exemption, days after losing the vote, gay protesters at a Mormon temple demanded exactly that. And a beloved Mormon theatrical director was forced out of his Sacramento job because he gave money to the Prop 8 campaign.

It won't stop there.

Should conservatives surrender? No, but it's important to deal with the world as it is. Marc D. Stern, general counsel of the American Jewish Congress, warns of a substantial impact on traditionalist churches, synagogues and mosques if gay marriage is constitutionalized under current conditions.

"If there is to be space for opponents of same-sex marriage, it will have to be created at the same time as same-sex marriage is recognized, and, probably, as part of a legislative package," he counsels.

Well, California gays had marriage in all but name, but still successfully petitioned the state Supreme Court over the word "marriage." Still, if religious liberty can be protected while statutorily granting same-sex marriage, that's a deal prudent conservatives and fair-minded gay activists should take.

Otherwise, get ready for a culture-war cataclysm.

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