After Voting Rights setback, time to march again

Contributed by Donald Jones
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Following the Civil War, there was a period of “Reconstruction” in which the federal government forced the South to allow blacks to vote. The right to vote was guaranteed on paper by the 15th Amendment to the Constitution ratified in 1870 but the right was guaranteed, in reality, by the occupation of the South by Northern troops.

Reconstruction ended with the infamous Hayes-Tilden compromise in 1877. In return for concession of a disputed election, the North removed its troops.

Southern states ingeniously devised a number of stratagems that followed the letter of the law but operated to disenfranchise former slaves.

The poll tax, for example, typically required blacks to pay $200 to register to vote. Through grandfather clauses and other devices, whites did not have to pay.

Similarly, blacks were often required to take a literacy test. Blacks were sometimes asked, “How many bubbles are there in a bar of soap?” Southern states often held white primaries. The Democratic Party was the only party that mattered in the South. It was declared a private organization, like a private club, and, until 1944, in several states voting in that party was limited to whites.

During the Civil Rights Movement, the right to vote became synonymous with the right to be a full-fledged citizen of the United States.

So people died to gain this right. One of them was Jimme Lee Jackson, in Alabama. On March 7, 1965, blacks tried to march from Selma to Montgomery as a protest against Jackson’s death and their ongoing exclusion from the electoral process. They were viciously attacked by state police. Many blacks were beaten, some knocked into the river by police wielding batons. From this tragedy change sprang forth.

In 1968, Congress passed the Voting Rights Act.

Under the act, states and other jurisdictions which had a history of discriminating against blacks were required to send to the Justice Department any changes in their voting procedures. Originally, these provisions were set to expire after five years but the act has been reauthorized several times.

Civil rights groups have depended on this provision to protect and to maintain the franchise for black Americans.

In many ways, blacks, with regard to Civil Rights, are victims of their own success. There has been a 1,000 percent increase in the number of elected officials from the six states covered by the law. But though blacks have continued to face exclusion in voting, the big picture is that the Voting Rights Act has been working.

Exploiting this “success,” Republicans have argued that federal intervention in state elections should have an expiration date and that it is no longer needed. The formula by which those states and covered counties were placed on the list is generally that they had discriminatory laws on the books in the 1960s. The Republicans have argued that the 50-year-old formula is outdated and belongs in a museum, not the federal statutes.

But the cynical use by the Republicans of voter ID laws nearly disenfranchised millions of black and Hispanic voters in the last elections. Based on both recent and historical experience as blacks, we knew that if the Voting Rights Act was gutted, black suffrage would be in serious jeopardy. It would be as if the current U.S. Supreme Court had forgotten even our recent history.

That is exactly what has happened. In Alabama v. Holder, the Supreme Court on Tuesday gutted the provision at the heart of the act’s scheme of enforcement.

The court held that Section 4 of the act, which required pre-clearance, is unconstitutional. The extraordinary power exercised by the federal government could only be justified by “current needs,” the court held.

The court has therefore held that need no longer exists. It has ruled further that the formula used to determine which counties or states were required to seek federal approval can no longer be used. Without this formula, Section 5 of the Voting Rights Act, the very teeth of the law itself, can no longer be enforced. The Civil Rights era was our Second Reconstruction. For the current Supreme Court, that era is over.

In the eyes of the court, that is as it should be: We are a post-racial society. Because blacks are fully “equal,” blacks no longer deserve special protection. Blacks who seek “special protection” now do so not because they are victims but because, according to Justice Antonin Scalia, in a concurring opinion, we feel “we are entitled.” There is an us versus them narrative involved here, I think.

In theory, the theater of battle now shifts to Congress. But imagine the challenge President Barack Obama would have getting the reworking of the Voter Rights Act before a Congress which is currently controlled by a crew of Tea Party wingnuts who seem to want to lynch him.

It seems to me the single answer, as history comes full circle, is that we achieved Civil Rights victories through marches and it may be time to march again.

Donald Jones is professor of Law at the University of Miami.