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## Voting Rights ruling not a step back: Column

**Ilya Shapiro**

As we mark the 50th anniversary of Martin Luther King's "I Have a Dream" speech, civil rights leaders bemoan what they consider to be a huge setback in the fight for racial equality, the Supreme Court's recent ruling on voting rights. Rep. John Lewis (D-GA), who shed blood at Selma and helped organize the March on Washington, said that he was "not going to stand by and let the Supreme Court take the right to vote away from us."

President Obama intoned that *Shelby County v. Holder* "upsets decades of well-established practices that help make sure voting is fair." Hillary Clinton opined that "citizens will be disenfranchised, victimized by the law instead of served by it."

You could thus be forgiven for thinking that the ruling means that racial minorities can no longer vote. But all the Supreme Court did was ease out an emergency provision enacted in 1965 to provide federal oversight of state elections based on that era's racial disparities. While politicians and pundits irresponsibly liken the ruling to sanctioning Bull Connor's dogs, it actually shows the strength of our voting-rights protections.

The court struck down the "coverage formula" used for Section 5 of the Voting Rights Act, which required certain jurisdictions to "preclear" any changes in election regulations — even moving a polling station — with the federal government. This formula was unconstitutional because it was based on 40-year-old data; black-voter turnout is consistently higher in the formerly covered jurisdictions than in the rest of the country.

In other words, just as the court was correct in 1966 to approve preclearance as an "extraordinary" remedy to the "exceptional conditions" in the Jim Crow South, it was correct now in restoring the constitutional order.

This week if any, shouldn't we be marveling that Mississippi, then "a state sweltering ... with the heat of oppression," now has the best ratio of black-voter turnout to white-voter turnout? And that the Magnolia State is one of a number of states where voter-registration rates are higher for blacks than for whites? Shouldn't we be celebrating that rather than lynching black people for trying to vote, we elect a black president and confirm a black attorney general? And that these two were preceded by two black secretaries of state, including one whose schoolmate was killed in the Birmingham church bombing?

Yet public officials are acting as if the last 50 years never happened. Attorney General Eric Holder vowed to use "every tool" at his disposal to continue federal control despite the ruling, but the Justice Department's lawsuits against Texas — along with others filed against North Carolina's reforms — prove the Supreme Court's wisdom. They show that plenty of laws exist to combat racial discrimination in voting, and it's the effectiveness of those laws that have obviated Section 5.

For example, Section 2 of the Voting Rights Act grants both private parties and the federal government the right to go after state practices that constitute "a denial or abridgment of right to vote." And Section 3 authorizes courts to order federal supervision over jurisdictions that have engaged in deliberate discrimination and are likely to continue this conduct.

The only difference from the Section 5 regime is that the government will now actually have to *prove* the existence of systemic discrimination. If Holder can meet that standard, it will undermine the administration's claim that the Supreme Court made it impossible to enforce voting rights. If he can't, isn't that a good thing?

Of course, the attorney general and his allies believe that voter-ID laws — and related ballot-integrity tweaks — are themselves evidence of discriminatory conduct. But the Supreme Court, in an opinion by the liberal Justice John Paul Stevens, approved Indiana's voter-ID law just five years ago. And there's no evidence that such laws keep minorities from voting; indeed, a *Washington Post* poll last year showed that 65 percent of blacks and 64 percent of Latinos support the measures.

Justice Ruth Bader Ginsburg, in her *Shelby County* dissent, compared getting rid of Section 5 to "throwing away your umbrella in a rainstorm because you are not getting wet." But it's actually more like stopping chemotherapy when the cancer is eradicated.

There's more to be done to achieve racial harmony, to be sure, but the best way to honor the heroes of 1963 is to build on their triumphs — not pretend that we still live in their time.

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