

OPINION

The Corporate Court's War on Women

So far, the results not so good

BY MARTHA BURK



When President George W. Bush nominated John Roberts and Samuel Alito for the Supreme Court, women's groups mobilized to no avail. Senate Majority Leader Harry Reid refused to filibuster either nomination despite personal pleas from feminist leaders. Our main worry was reproductive freedom.

But many of us feared something that has proven to be just as menacing — a strong bias in favor of corporations. Women's rights at work have been under constant assault since Congress passed the Equal Pay Act and Title VII of the Civil Rights Act prohibiting sex discrimination in the workplace in the 1960s.

History has proven that our fears of a Roberts Court were well founded. In 2007, it overruled six lower federal courts by upholding a ban on one abortion procedure with no exception for a woman's health. The same year, in *Ledbetter v. Goodyear*, the Court overturned 40 years of precedent when it severely curtailed a woman's right to sue for sex discrimination in pay. And in 2011 it piled on the punishment with *Walmart v. Dukes*, cutting the heart out of women's ability to sue as a class when they're unfairly denied pay and promotion.

So far, not so good. The one semi-bright spot for women was the decision upholding the Affordable Care Act, when Chief Justice Roberts surprised the world and wrote the majority opinion. That decision puts an end to some insurance com-

pany abuses like gender rating — charging women more than men for the same coverage — and counting pregnancy and domestic violence as preexisting conditions. But those victories were incidental since the health care decision wasn't about tackling sex discrimination head on, nor pitting a giant corporation against its female workers.

With the Supremes' new term underway, women again have a lot at stake. The justices will make new rulings on affirmative action and the right to sue for sexual harassment at work.

Affirmative action levels the playing field for women, opening up universities and banning "no girls allowed" rules in virtually all workplaces. But no law can erase all bias in society. Women of color still face the double whammy of sex and race discrimination in all kinds of places, including college admissions. The University of

Texas has sought to remedy that by instituting a race-conscious (not race-preferential) admissions policy, based on the fact that the consideration of race in admissions at the University of Michigan was upheld in 2003.

Now the Texas plan is being challenged. What happens if the Supremes overturn it? The Supreme Court didn't have to take the case. Could it be, as some of its closest observers believe, that the Roberts Court wants to take this opportunity to do away with affirmative action altogether, which could have widespread national implications?

Also at risk is a woman's right to sue her employers for sexual harassment. Prior rulings have held employers accountable for harassment by supervisors. But in one case going before the court, the employer is claiming that it isn't liable for sexual harassment

by a day-to-day supervisor unless that person has the ability to fire or demote the employee. So the Court could hold the employer unanswerable regarding a woman who endures harassment daily by someone who oversees her work. Talk about national implications.

The future of the Court and some fundamental rights for women could also be at stake in the presidential race, particularly if Mitt Romney is elected. The former Massachusetts governor has said he's going to appoint justices in the mold of the ultraconservative Robert Bork, who failed to be confirmed by the Senate in 1987. And of course the Republican platform has an anti-abortion plank with no exceptions.

So where does that leave women? Time — and the Court — will tell.

Martha Burk is the director of the Corporate Accountability Project for the National Council of Women's Organizations.

Fighting Hate by Living and Loving Openly

For many gay men, we must come out twice

BY KALI LINDSEY



Each year, the LGBT community marks the anniversary of the 1987 National March on Washington for Lesbian and Gay Rights, by celebrating National Coming Out Day.

As a black gay man, I know how difficult coming out can be. I also know how important it is to be open

and honest about who you are and who you love.

For much of our history, the LGBT community was relegated to the proverbial closet, unable or unwilling to live in the open. That all changed when a group of drag queens fought back against police brutality one summer night in New York City.

Gays and lesbians across the country realized that no one was going to hand them equality, they'd have to demand it. And the best way to fight hate was to live and love openly.

I came out for the first time in 1997. But, like so many gay men, I've

had to come out twice.

In 2003, I was diagnosed with HIV. Coming out to my friends and family about my HIV status was just as difficult, and no less important, as telling them that I was gay, especially after promising my parents that I would keep myself safe and healthy.

I am lucky to have family and friends that continue to love me unconditionally. It is very difficult to manage this disease without the support of your loved ones. But I took that risk and came out both times, because just as living as an openly gay man is the best way to combat homophobia, being open about my HIV status is critical to combating the stigma that sur-

rounds this disease.

The stigma surrounding homosexuality and HIV go hand in hand. Fear of being "outed" about either too often prevents individuals from being tested or seeking care and treatment. The irony is that much of the current gay rights movement owes its existence to HIV/AIDS.

As the epidemic ravaged gay men in the 1980s, with little to no response from the government, the LGBT community stood up and demanded action. Gay men came out in droves, and the lesbian and transgender communities were by their sides.

The government may not have been concerned with a disease that mainly affected gay men, but be-

cause these brave individuals came out, the public saw the face of AIDS, and it looked like their brothers and their sons.

While National Coming Out Day is a day to celebrate who we are, we must also acknowledge the hard reality facing gay men in this nation, especially young gay men.

Evidence suggests that those who come out and live openly as gay men are more likely to become HIV-positive. Young gay and bisexual men are the only group in which HIV infections are increasing, with young black gay men seeing an alarming 48 percent spike in new infections between 2006 and 2009.

Our community must once again come together and support young gay and bisexual men and help them grow into adulthood HIV-free.

I am proud to be an openly gay man living with HIV and look forward to the day that HIV is a thing of the past.

But until that day, I encourage anyone in a position to do so to come out. While the decision to live openly about one's sexual orientation and HIV status is deeply personal and often scary, I am living proof that there is joy, fulfillment and love waiting for those that choose to.

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