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Looking Beyond ‘Don’t Ask, Don’t Tell’

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<http://www.newsweek.com/2010/12/22/looking-beyond-don-t-ask-don-t-tell.html>

When President Obama signed the repeal of “don’t ask, don’t tell” (DADT) Wednesday morning, gay rights were expanded in a limited way. Even though gays can now serve openly in the military, advocates for their rights say there’s more work to be done. The benefits that accrue to military spouses will not be extended to gay partners, even those who are legally married in their home states. And on the big three goals of the gay-rights movement—marriage, equality, and laws protecting them against employment or public-accommodation discrimination—gays are exactly where they were before. Some states and private companies have adopted progressive policies on gay employees. But in a state with no such protections, a hotel owner can still refuse to let a gay couple book a room, and a business owner is allowed not to hire someone on the basis of his sexual orientation.

Even though the community faces a Republican majority in the House of Representatives, it’s optimistic about its chances of getting closer to legally recognized equality across the board. Advocates believe that the DADT repeal will have a trickle-down effect, pushing other policy debates in the right direction.

First off, the DADT repeal brings a sense of cultural affirmation. In the 1990s, with the passage of DADT, as well as the Defense of Marriage Act (DOMA)—which defined marriage at the federal level as being between a man and a woman—the momentum was going in the other direction. But it changed last year when Congress added gays to its list of groups protected against hate crimes. The DADT repeal built on that momentum. “This is the first time Congress has passed a major, historic piece of legislation in the gay-rights area,” says Richard Socarides, the president of Equality Matters, a new organization focusing on media messaging in favor of gay rights. “Symbolically, the first is always the most important hurdle to get over, so we’re hoping for momentum from this.” Socarides says that when politicians who feared a backlash for voting to repeal DADT end up not paying a political price, they will feel more comfortable voting for gay-rights legislation in the future. “People will get used to voting in a certain way,” he predicts. “It’s a barrier that has been passed.”

Gay-rights advocates are confident that gays serving openly in the military will have a positive effect on how they’re perceived by society. “To a gay kid struggling with their orientation, for the first time the federal government sent a message that gays and lesbians should be out and open,” says Fred Sainz, a vice president of Human Rights Campaign (HRC), a gay-rights organization. “It’s an incredibly powerful statement in its affirmation that will have a tremendous impact on transforming hearts and minds.”

The DADT repeal may also change the way specific issues get framed. Consider employment discrimination. The Employment Non-Discrimination Act (ENDA), which would prohibit employers from discriminating against gay or transgendered employees (transgendered individuals are not covered by DADT repeal), failed to pass in this Congress, and Republicans are certain not to move it in the next one. Look ahead a few years, though, to when gay soldiers come home from war, injured or traumatized from serving their country in battle. How will it look if those individuals are unable to get a job because

of their sexual orientation? The commercials arguing that ENDA should be passed on their behalf will write themselves, and could be very effective at moving moderate voters. “Once we’ve said as a government that you shouldn’t discriminate in military service, it becomes harder to argue that you should discriminate against gays in other ways,” says Socarides.

That same logic may strengthen the argument for gay-marriage rights. The spouse of a gay soldier killed in combat who is denied survivor benefits will demonstrate the cost to gays of serving. Congress could amend the law just passed to provide survivor benefits for gay spouses, and it’s plausible that it will do so, even with a Republican majority. Repealing the Defense of Marriage Act altogether would be a much more formidable political challenge, though.

Various gay-rights groups have different ideas as to how to capitalize on the current momentum. Equality Matters views the Republican Congress as so hostile to employment-nondiscrimination legislation that the group intends to focus primarily on marriage and to do so at the state level and through the courts. While acknowledging the challenges to passing an employment law, Human Rights Campaign says such a measure is still a top priority. The group also is thinking about how it can make progress on other issues while John Boehner holds the House speaker’s gavel. The three pieces of legislation HRC says Republicans may support: a bill to protect gay students from bullying, extending marriage benefits to partners of gay federal employees, and removal of the tax disadvantages of being a same-sex couple.

And the work on DADT repeal is not finished, either. Since the law does not ban discrimination against gays within the military, it will be up to the Obama administration to impose rules to that effect. “It’s lucky for gays and lesbians that the Obama administration has two years to put in such protections, because there’s no guarantee the next administration will be supportive,” says Jonathan Turley, an expert on constitutional and national-security law at George Washington University. Once in place, nondiscrimination rules are unlikely to be undone by the next administration. Socarides, who served as President Bill Clinton’s top adviser on gay issues, says that President Bush did not undo the executive orders Clinton used to expand protections around sexual orientation. “Historically, rights get expanded and almost never contracted,” says Socarides.

Opponents of gay rights know that, too, which gives them more reason to fight tooth and nail along the way. “There are pitched battles to come,” says Sainz. Luckily for the gay-rights agenda, there are plenty of willing soldiers.

What is the author’s purpose of this article?

Who is his intended audience?

Possible WN topics:

- Do you support DADT? Why? Why not?
- Do you support same sex marriage? Why? Why not?