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The battle for sexual justice is far from won

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It's been a bad week for gay rights. On Wednesday, the Supreme Court of India reinstated that country's ban on gay sex four years after a lower court struck it down. On Thursday, Australia's highest court struck down a law allowing same-sex marriages in the Australian Capital Territory. The global struggle for sexual justice for all has come extraordinarily far in a short time, but it's far from over.

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Russia's recent law prohibiting gay propaganda rounds out the portrait of setbacks for gays and lesbians. Under cover of that law, homophobic violence is visited daily on gays in that country.

Looking back over the year, the contrasts are striking. Canada marked the 10th anniversary of its first same-sex marriages. England and France passed laws allowing them. The U.S. Supreme Court struck down the Defense of Marriage Act. That cleared the path for federal recognition of marriages performed in states permitting same-sex marriage.

The sense of shock many have experienced this week hints that people imagined gay and lesbian equality would always advance smoothly. But the story of social movements is often more complicated. It involves setbacks and backlash.

This week's decisions will have a direct and painful impact for many. It would be wrong to minimize that. Overwhelmingly, though, the progress of the past 40 years has been astonishing.

The gains in many countries, including Canada, have come faster than people once dreamed. By now, it's plain which position stands on the right side of history.

This week's events emphasize that each country has to make its own way there, in its own time. They also remind us that the battle for gay rights can't only be fought in the courts.

In each case this week, the courts passed the ball to their national legislators. It's up to the Australian Parliament to change its Marriage Act. Since 2004, that law has defined marriage as between a man and a woman. It's up to the Indian Parliament to repeal the antiquated ban in its penal code, a vestige of British colonial rule.

In Australia, activists are already focusing their efforts on lobbying the federal government. In India, the next steps are less obvious.

The Indian case is a reminder that the fight for sexual justice isn't only one of law and rights. It has to include education and attitudes. A recent national television poll found more than 70 per cent of Indians believe homosexuality should be illegal.

That belief collides with the most basic entailments of the human rights to equality, liberty and security. But public beliefs may need to change before the law can.

In Canada, it was Parliament that repealed our ban against gay sex in the 1960s. On equal marriage, the courts led, but public opinion wasn't far off.

A further complication arises where opponents cast the project of sexual equality as a specifically Western or imperial imposition. For proponents of Russia's law, the contrast with Europe's approach to gay rights is a selling point. The challenge is to root claims for gay rights in local traditions and commitments.

For those of us fortunate to live under formal legal equality, this week's events are a clarion call against complacency. They show that as the global project of sexual justice moves forward, it must tack between universal ideals and local institutional and cultural contexts.

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