

HAS OBAMA TAKEN HIS EYES OFF THE PRIZE?

By Nick Gier

Our sense of fairness and justice runs very deep. Recently Austrian scientists have discovered that dogs react to being cheated, so we may share our moral and emotional life with animals more than we ever thought. Even Beagles want to be treated as equals.

I just recently saw the film *Something the Lord Has Made*, based on the true story of how Vivian Thomas, a brilliant self-taught black scientist, was initially denied proper recognition for his role in the first cardiac surgeries on "blue babies." My revulsion about his mistreatment welled up from the deepest parts of my being. Thomas joined thousands of others as the focus of the movement to keep our "eyes on the prize" of equal rights for all Americans.

The idea of equality is easiest to affirm when we are among our own kind, but even then women are still slighted in much of the world today. Former President Jimmy Carter, after 60 years of teaching Sunday School, has resigned from the Southern Baptist Convention. His reason is that its patriarchs still refuse to allow leadership positions to women.

In my own research I have found that gender discrimination is much older than that based on race. Systematic discrimination against black Africans did not occur until they became enslaved in large numbers by white Europeans and Americans 400 years ago. See my article at www.class.uidaho.edu/ngier/ColorSkin.htm.

The principle of equality before the law is hardest to affirm when we perceive that the person is acting immorally or charged with mass murder. In many cases the response has been a prelegal and disastrous "let's string them up." Many of these people don't stop to acknowledge that heterosexuals commit far

more "unnatural" sex acts, or realize that domestic terrorists such as Timothy McVeigh are not tortured and are given a fair trial.

How can it be that Muslim detainees, most of them captured by bounty hunters, have fewer rights than McVeigh? We have proved that we can do it right by the civil court convictions of the Shoe Bomber Richard Reid and Al Qaeda member Zacarias Moussaoui, who now are serving life sentences without parole.

Candidate Barack Obama promised that he would close the prison at Guantanamo; that he would ban torture; and that he would dismiss Bush's military tribunals. The prison is still running, mistreatment is still happening, and the tribunals continue. Reporters covering the new trials write that, because of so many legal uncertainties, there is total confusion and chaos at the proceedings.

The Geneva Conventions make no provisions for "enemy combatants" and require that all prisoners be given the right to hear charges against them and be tried fairly. On April 2 a U.S. District Court Judge ruled that three detainees held at Afghanistan's Bagram Air Base for six years have the right of *habeas corpus*, a right to appeal unlawful imprisonment that English barons won for all us in 1215. Bagram has been the scene of horrendous crimes and the Academy Award-winning documentary *A Taxi to the Dark Side* offers gruesome details and confessions by U.S. interrogators.

Obama's Justice Department has appealed the Bagram ruling claiming, just as the Bush administration had, that it would impede the prosecution of the war in Afghanistan. Candidate Obama once said that the Bush offered us a false choice between "fighting terrorism and respecting *habeas corpus*."

Let us focus on one Guantanamo detainee: Lakhdar Boumediene from Algeria. Boumediene worked for the Red Crescent, the Muslim equivalent of the Red Cross, and had been assigned to manage an orphanage in Bosnia. On October

21, 2001, he was arrested on charges of joining with five other Algerians in plans to attack the U.S. Embassy.

Even though Bosnia's highest court cleared Boumediene on January 17, 2002, the U.S. still insisted on taking him into custody. He was sent to Guantanamo; was tortured for 16 days under a regime of "enhanced" interrogation that would be later rescinded by Donald Rumsfeld; and was finally released seven years later.

In June, 2008 the U.S. Supreme Court ruled in *Boumediene vs. George W. Bush* that Boumediene must be tried in a civilian court, where he and five other Algerians were acquitted six months later.

When Obama took office in January 2009 Boumediene, now called a "free detainee," was still, incredibly enough, in a Gitmo cell, where he was consistently mistreated (confirmed by a Pentagon investigation) until his release on May 15. He is now living in France with his wife and family trying to recover from 8 years of trauma.

America's gays and lesbians worked very hard for Obama's election, even though he affirmed his support for the Defense of Marriage Act of 1996. In that same year Obama, as an Illinois State Senator, declared that same-sex marriages should be legal. Obama is not alone among national candidates who have reversed their position on this controversial issue.

On June 11 the Justice Department released a brief defending the Marriage Act. Some have said that it is common practice for the Justice Department, regardless of the party in power, to argue in support of existing law.

The law, however, was not being challenged in any court, and given that fact that courts and legislatures in California, Iowa, Connecticut, New Hampshire,

Vermont, Maine, and Massachusetts have ruled that there are no exceptions to the principle of equality, it was simply not necessary for the Justice Department to poke America's gays and lesbians in the eye.

The Obama administration has also dragged its feet on abolishing "Don't Ask, Don't Tell," which has forced, from 1993-2008, the resignation of 12,615 service men and women, many of them nurses, doctors, and linguists. Defense Secretary William Gates says that more study is needed, but the logic of equality requires no research; rather, it demands immediate application.

After being stiff-armed by the Bush administration for five years, the National Association for the Advancement of Colored People (NAACP) was thrilled to have President Obama speak at their July convention. Bringing two areas of injustice together as any reasonable person should, Obama spoke out about the discrimination of "our gay brothers and sisters" who are "still taunted, still attacked, and still denied their rights."

The NAACP fought hard to eliminate the ban on interracial marriage, but still, even though some of its leaders have spoken in favor, it continues to deny marriage equality to gays and lesbians. At hearings for the Maine's Act to End Discrimination in Civil Marriage, Bob Talbot, president of the Bangor NAACP, praised Maine for accepting his interracial marriage 40 years ago, and he challenged Maine to affirm marriage equality for gays and lesbians as well. Denying equality, he said, "was wrong 40 years ago, and it's wrong now!"

When I ask those who object "What part of equality don't you understand?" the question is not only rhetorical but absurd. Equality before the law, unlike economic equality, is indivisible. Equality before the law does not have parts; you either have it or you don't. Economic equality can be determined by gathering facts, but no amount of facts (differences of gender, race, age, or sexual

orientation) make a person more or less equal. Bill Gates and I are economically unequal, but fully equal in dignity and value as persons. Equality before the law is also universal: either every person has it or it does not have the force and value that it must have.

Some have said that with regard to basic human rights Obama is continuing the ninth year of the Bush administration. We cannot repair our moral image in the world unless we make progress in these crucial areas.

Nick Gier taught philosophy at the University of Idaho for 31 years. Read his "What Part of Equality Don't You Understand" at www.class.uidaho.edu/equality.htm