Supreme Court Upholds Constitution In VAWA Decision

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The federal government's insatiable demand for more power was slowed down by the Supreme Court this month. In United States v. Morrison, the Court just said no and properly invalidated a key provision in the 1994 Violence Against Women Act (VAWA).

At issue was whether the federal government can regulate aspects of marriage and domestic relations, which have always been within the exclusive domain of the states. Radical feminists and their allies in the media sought to transfer this power to the federal level, where they can more easily apply political pressure.

Such a fundamental transfer in power from the states to the federal government should require a constitutional amendment. But after Clinton won the Presidency and control of Congress in 1992, those seeking federal control over domestic relations tried another approach.

Senator Joe Biden (D-DE) included in the VAWA law a little-noticed provision to effectively undermine local control over domestic issues. He piggybacked on media sensationalism about the 1991 Navy Tailhook convention.

That provision, Section 13981, gave federal courts unprecedented power over domestic relations. If this provision had been upheld by the Supreme Court, there would be no constitutional limitation on federal expansion in this area.

VAWA also included a provision awarding attorneys fees, thereby creating a bonanza for contingency-fee attorneys seeking to intimidate defendants with allegations of rape and even marital rape. While states place sensible time limits on such accusations in order to enable prompt and fair investigation of the facts, VAWA allowed attorneys to make allegations up to four years afterwards.

No one is helped, least of all women, when a criminal victim turns to a contingency-fee attorney rather than to local police. If the allegations are true, only the local police can stop the perpetrator from continuing to harm the victim and others. If the allegations are embellishments, no one benefits from the spectacle of a federal court, years later, trying to sift fact from fiction.

This VAWA provision would have been a giant step towards a complete takeover of marriage and domestic relations law by the federal government. Federal judges, perhaps intimidated by graphic allegations that began filling their dockets, repeatedly upheld application of this VAWA provision.

Finally, in Virginia, a courageous federal judge stood up to the pressure and defended the fundamental principle that local domestic relations disputes should be addressed promptly by local authorities.

Congress has neither the constitutional authority nor the experience to ameliorate domestic relations problems. A cadre of gold-digging attorneys traipsing to federal court would likely make the problem worse rather than better.

When U.S. v. Morrison reached the Supreme Court, dozens of liberal and feminist organizations filed amicus curiae briefs in an attempt to preserve this federal intrusion. Their friends in the media publicized the actions of a handful of protesters on the day of oral argument in order to increase the pressure.

Fortunately, the Supreme Court, in a straightforward decision, confirmed that Congress cannot do what the Constitution did not give it authority to do.

Logic, however, does not stop hungry attorneys and their allies from demanding more and more cash opportunities in the form of new federal remedies. The twin engine of attorney's fees for the bar and liberal policy for the ideologues is what drove VAWA and similar legislation through Congress, often under the deceptive name of civil rights.

In fact, the VAWA provision did nothing to advance civil rights. The media and VAWA supporters persistently concealed the fact that the defendants in U.S. v. Morrison were blacks who had been exonerated by the criminal justice system, yet were later subjected to civil allegations unjustified by any independent investigation. Their ultimate victory in this case, after years of being smeared, was a triumph of justice.

The money at stake in this case and the cases that were expected to be its progeny drove it all the way to the Supreme Court. Attorneys had been salivating at the opportunity to apply VAWA to many of the million-plus domestic break-ups that occur each year, which could easily have translated into a new billion-dollar industry for lawyers.

Stunned at their loss, liberals are crying "racism" in a Pavlovian reflex, claiming the Supreme Court's ruling is somehow tantamount to siding with the South during the Civil War. That charge reflects the lack of rational argument for upholding VAWA and only serves to discredit those who assert it.

Nor is there any flaw in the Supreme Court's decision to cut off pork for plaintiffs' attorneys in domestic disputes. The Court merely invalidated VAWA's distorting incentives that encouraged victims to seek big bucks in federal court rather than justice in state court.