



Evan Wolfson, Executive Director, Freedom to Marry

[8-23-04 Regan Morris]

Whether you think it is a matter of civil rights or an attack on traditional family values, few issues have polarized the United States in recent years more than gay marriage. The men leading the charge on both sides of the fight are attorneys. In the second half of a two-part installment on gay marriage, LawCrossing spoke to Evan Wolfson, executive director of Freedom to Marry, the gay and non-gay partnership working to win marriage equality nationwide.

Evan Wolfson became interested in politics during a two-year stint in West Africa with the Peace Corps after graduating from Yale. He had always been interested in history, but his experiences in repressive societies made him more political. As a gay man, Wolfson understood discrimination firsthand. But at a young age he learned that, as an American, he was afforded the freedom to pursue happiness that many others around the world did not have.

"I had the experience of meeting people who, if they grew up in a different country, would have been gay," Wolfson told LawCrossing. "But because their societies didn't allow them to think in those terms, let alone organize their lives for their full fulfillment, they didn't have that opportunity to be who they really were."

He enrolled in Harvard Law School and read a book that changed his life: John Boswell's *Christianity, Social Tolerance and Homosexuality*, which documents the history of gays in Western Europe and their prominent and respected positions in society.

"It [the book] helped me see that being gay is not just something personal to me, but it was something that had political meaning about which I could work to change and end discrimination in society," he said.

He wrote his third-year paper on gay people's rights to marriage, thereby laying the groundwork for his organization, Freedom to Marry, which has been in the national spotlight since its founding in January, 2003.

"I argued then, as I believe now, that you can't say you're for equality and then acquiesce in anyone's exclusion from the central social and legal institution of this society," Wolfson said.

Freedom to Marry joins together gay and non-gay organizations fighting for gay rights through various means - litigation, legislation, and education.

Before founding the organization, Wolfson was the marriage project director for Lambda Legal Defense & Education Fund and was co-counsel in the historic Hawaii marriage case, which sparked the national debate on gay marriage. That case - *Baehr v. Anderson* - marked the first time in U.S. history that a court had ruled that gay people should not be excluded from marriage. But public outcry forced a change in the state constitution in 1998 to block the Supreme Court from enforcing the ruling.

Wolfson, 47, has since written his own book, which was published in July, called *Why Marriage Matters: America, Equality and Gay People's Right to Marry*. He hopes the book will influence people who are grappling with the issue of gay rights to support the cause. He is heartened that gay marriage has been in the news daily because it gets more people talking about the issue.

"America does need to talk about what reason is there for excluding these couples from marriage and how will it really help other people's marriages to keep these committed couples from marrying. And, if we care about kids, why are we punishing

the children being raised by gay parents by denying them these protections from marriage?" he says.

He said the arguments in his book are targeted to people he thinks of as "reachable, but not yet reached."

Although all gays have been denied the right to marry in the United States until recently, when Wolfson thinks of the face of gay marriage, he thinks of Del Martin and Phyllis Lyons, the first of about 4,000 gay couples to be married last winter in San Francisco. The California Supreme Court rendered the marriages invalid on August 12.

Martin is 83 and Lyons is 79, and they were two days short of their 51st anniversary as a couple on their wedding day.

"Couples like that have waited long enough. And they said today in response to the court delay...they said, 'We don't really have the luxury of time'... they want to be sure that whoever survives in the relationship is taken care of, has access to social security, that she won't lose her home."

Wolfson says he is fighting for legal rights to marry, not religious rites, and that religions should not dictate to the government who has a right to a marriage license. Freedom to Marry does not want to force the Catholic Church or any other religious group to marry gays because religious freedom guarantees that any religion can make its own decision on the qualifications for marriage.



"[For example], a Jewish couple can't march down to a church, bang on the door and demand to get married there. And on the other hand, a Catholic couple who may be divorced and ineligible to be married again in the church can still get a civil marriage license," he said.

Wolfson, who previously served as Associate Counsel to Lawrence Walsh in the Iran/Contra investigation and as an Assistant District Attorney in Brooklyn, NY, says the gay-rights movement is a struggle for civil rights.

"It's part of the larger civil rights struggle in America - much of which has played out on the human rights battlefield of marriage. We've struggled in our country, in our own lifetime, to end race restrictions on whom can marry whom, to end the legal subordination of women in marriage, and

the government's tying people's hands in deciding whether to leave a failed or abusive marriage, and on the government's intrusion into the bedroom on important questions such as whether or not to use contraception. All of these larger questions of liberty and equality and happiness have played out on this battleground of marriage. And we are met once again on that battlefield," he said.

Wolfson's work has not gone unnoticed. Citing his national leadership on marriage equality, the National Law Journal in 2000 named him one of "the 100 most influential lawyers in America." In 2004, he was named one of Time magazine's "100 most influential people in the world."

He says he has seen a lot of progress on the gay rights issue since his law school days, especially in Massachusetts, which legalized same sex marriages in May.

Wolfson urges attorneys to get involved in the gay-rights movement by doing pro-bono work for gay couples challenging laws in their states and to search for local contacts on his website, freedomtomarry.org.

He believes that the movement is not only relevant to gay couples seeking the legal protections of marriage, but part of a larger question of a free and open society.

"It's about what kind of country we're going to be. Whether we're really going to be serious and faithful to our commitment as a nation to provide equality to all and to welcome people in, which has generally been the story of America's constitutional growth - that we constantly bring in more and more people to fulfill our vision of equality, liberty and the pursuit of happiness for all."