Marriage Equality as a New Era Dawns

Evan Wolfson discusses marriage equality in 2009 and beyond.

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2008 was a truly tumultuous year for the movement for the freedom to marry, as for the country, ending on a note of difficulty and tremendous hope. While marked by both successes and bumps, the past twelve months ultimately showed that when we and our allies engage early and work together in a sustained, affirmative effort, we can win marriage equality. After all, 2008 was the year we saw two powerful court rulings striking down exclusion from marriage and rejecting civil union as a substitute for equality. In 2008, we won the freedom to marry in a second state, and then a third, with marriage secure now in Connecticut. The pain of having the freedom to marry temporarily taken away in California has already led to a new awakening for many not previously engaged, and renewed determination to do what is needed to restore marriage equality in California and end the denial of marriage nationwide.

The passion and activity unleashed by the results of the election in November show that our vision for securing marriage equality nationwide has been embraced by a broad array of movement stakeholders, setting a course to victory within a decade or two. The number of states now actively debating marriage equality in their courts or legislatures seems to grow every few months. Meanwhile, support among the public increases, and the 2008 elections have opened a new era of possibility for our movement at the federal level as well.

But that success will only continue with ongoing hard work done strategically -- by each of us. We expect still more progress in 2009 -- progress that could mean that 25% of Americans will live in states with marriage equality by 2010. So now the challenge is even bigger. Consider the current landscape.

In an important shift since Freedom to Marry's founding, some of the most promising and important state-level work to end marriage exclusion in 2009 is now underway in legislatures (a seeming impossibility just a few years ago). In past years, marriage bills have passed both legislative chambers in California (twice) and the lower house in New York. In 2008, legislatively empowered state commissions in New Jersey and Vermont examined the results of civil unions and found them wanting. These reports are leading to legislative and political momentum there to enact full marriage equality.
As a result, we expect legislative consideration of full marriage equality in at least 3-4 states this year. In New Jersey and New York, legislative leaders have endorsed the freedom to marry and have committed to pushing for bills, while both Governors have said they will sign such bills into law. In Vermont, the legislature is debating a marriage bill, and hopes are high that this beautiful state may finish the job begun years ago. There are also "sleeper" possibilities bubbling in New Hampshire. Groups such as NJ's Garden State Equality, NY's Pride Agenda, and the Vermont Freedom to Marry Task Force deserve and need support urgently.

Equality Maine has done an excellent job of implementing a plan to win marriage in that state legislatively this year, too. Meanwhile, with the advent of a less hostile Congress, activists in the District of Columbia are working with District lawmakers and the Mayor on how best to proceed. Work in both these jurisdictions also must address the possibility of ballot initiatives that we would face if marriage bills there pass and are then petitioned to ballot (contingencies that bear further research) -- but those battles can be won if we marshal resources, co-ordinate efforts, enlist partners, and follow the lessons from California and other states, including the importance of early money and sustained, authentic message-delivery about our families and why marriage matters.

In Iowa, the State Supreme Court heard oral arguments in early December in Lambda Legal's case which seeks to declare unconstitutional state law that discriminatorily excludes same-sex couples from marriage. One Iowa has been working with a wide array of partner groups to wage a public education campaign, while successfully holding off an anti-marriage constitutional amendment in the legislature. We are hopeful of a positive outcome in 2009, if the Iowa team -- with our support -- works now to create a climate of receptivity that enables the court to do the right thing.

And of course, work is already underway to restore the freedom to marry in California. Newly energized and new activists have taken to the streets and the internet to vent their anger, repent of their complacency and inaction, and bring voice to their own stories. Part of the phenomenon I've called "losing forward," this reaction has already caused 8% of those who voted for Prop 8 to regret their vote -- enough to have created a different result. More important, the messages reverberating help create the public climate necessary for successful outcomes in either of the two ways in which Prop 8 will be overturned - the State Supreme Court challenge or a new ballot initiative.

The Court has already scheduled oral arguments for the case March 5, with a ruling likely by June. An extraordinary array of non-gay groups, from the NAACP and other civil rights groups to child welfare associations, from religious leaders to cities and political leadership, including the legislature, have spoken out in support of marriage equality and against the dangerous attack on minorities and fundamental American rights that Prop 8 represented. Meanwhile many groups, both big and small, are already doing the core work of engaging people one on one across the state to build the foundation of public support and institutional infrastructure needed to win a ballot initiative to overturn Prop 8 by 2012 or sooner, if we make the progress we need.
To be done right, these specific legal and political vehicles must roll forward under the air-cover of an affirmative public education effort that frames and prompts discussion, engages new hearts and minds, and spurs the base to action. That is a lesson that our opponents on the right have already learned. They are even now, deploying considerable resources from national groups to the battleground states discussed above, trotting out the messaging of fear and obfuscation they used to win in California.

However, our own model of success can be found in California as well. The affirmative public education Let California Ring campaign that Freedom to Marry helped shape and run in 2007 offers important lessons for how this movement should approach the work ahead. The effectiveness of the Let California Ring model, which was test-run at the intended level and supported by well-prepared work on the ground in Santa Barbara County in 2007 proved itself when the only county in Southern California which defeated Prop 8 -- a year later! -- was, yes, Santa Barbara.

Simultaneously, thanks in large part to gay and non-gay people's substantial investment in marriage in California and to its righteous and real dismay at the vote there, we are now presented with new opportunities to move the debate nationally. The protests that organically popped up across the country in the weeks following Prop 8's passage unveiled numerous new elements in the marriage movement. People in states both on the coasts and in the South and Midwest have taken action. Non-gay allies have come forward, regretting their previous complacency or inaction, and new technologies have been deployed in communicating the message and mobilizing supporters. We must help these new voices tackle the most important work at hand: sustained conversation with circles of people we can each reach in our lives, engaging them on why marriage matters. Campaigns like Let California Ring and the ACLU's "Tell 3" conversation-promotion are needed, and should be funded.

While gains at the state level remain the central focus of the work that needs to be done, it is also time to begin more intense work at the federal level. President Obama has pledged support for the repeal of the so-called "Defense of Marriage Act." There is talk of a congressional agenda including partnership/family recognition measures, and after years of groundwork, thought, and consultation, GLAD has filed a carefully drawn lawsuit challenging the federal discrimination against couples lawfully married in a state that has ended the exclusion from marriage.

To ensure our success at the state and federal level, we all must help in enlarging the echo chamber of affirmative message-delivery on why marriage matters. Reinforcing messages must come from many and varied messengers. Public education forums, ministerial convocations and community meetings create dialogue. Lobby days, committee testimony and floor debates create press. Individual stories posted on web sites, on-line social networks and public blogs create commentary. Protests at clerk's offices, candle light vigils, and pride day marches create awareness. Endorsements from political leaders, speeches at conventions and celebrity chat create buzz.

With this promising landscape and with all of this work underway, resourced with urgency and to scale, Freedom to Marry is confident that marriage equality will be achieved nationally sooner than many now expect. If we could achieve what we did during the past eight dreadful years in
American history for civil liberties and minority rights, imagine what can now be done together in the new era that dawns, even amid the economic challenges we all now face. The freedom to marry shimmers within reach nationwide, with all its meanings -- for young people, for equality of the sexes, for protections for families, for inclusion of LGBT people into American life, for fulfillment of our nation's deepest values.

Yet progress is never a given. Freedom to Marry's vision for full equality and inclusion will only come to pass if our collective work is continued, our engagement redoubled, and the debate and outreach deepened and broadened. Our movement has not yet fully implemented the vision of an affirmative, sustained campaign, staffed with requisite expertise and funded to scale. But we can. And with the generous support of eQualityGiving donors for all the key organizations that work together in this movement, and the new allies we bring in and build up, we will end exclusion from marriage and secure enlarged possibilities for all.

By Evan Wolfson |

"One of the 100 most influential people in the world." - Time Magazine

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Before founding Freedom to Marry, Evan served as marriage project director for Lambda Legal Defense & Education Fund, was co-counsel in the historic Hawaii marriage case, and participated in numerous gay rights and HIV/AIDS cases.

Citing his national leadership on marriage equality and his appearance before the U.S. Supreme Court in Boy Scouts of America v. James Dale, the National Law Journal in 2000 named Evan one of "the 100 most influential lawyers in America."

In 2004, Evan was named one of the "Time 100," Time magazine's list of "the 100 most influential people in the world."