

## FREEDOM TO MARRY'S LADDER OF CLARITY: LESSONS FROM A WINNING CAMPAIGN (THAT IS NOT YET WON)\*

EVAN WOLFSON\*\*

**Evan Wolfson:** Thank you, Suzanne. Let me start where Heather started, picking up also on what Suzanne just said, that many of us on both panels so far and throughout the day have worked together, some for decades. We have laughed together and fought together for decades. And we've welcomed in, and had the benefit of new people coming in—the next waves of talent, such as many of you here today. That's what really has led to the success that we celebrate today.

It has not always been easy, and we have not always been in agreement.<sup>1</sup> But there's a team of people here who have shared a vision and have shared the work and it's meant a lot, I think, to all of us. It is good to also be able to really welcome more in, because we all know that the work will never be done and there's always room for new energy, new talent, new ideas, and new partnerships as we work together to get our country closer to what we want it to be.

One of the happy consequences of the relative success and momentum we're seeing in this Freedom to Marry campaign has been that I increasingly am now asked to come and speak to other movements and stakeholders and funders and operatives about how have we

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1 See, e.g., Evan Wolfson, *Crossing the Threshold: Equal Marriage Rights for Lesbians and Gay Men and the Intra-Community Critique*, 21 N.Y.U. REV. L. & SOC. CHANGE 567 (1994) (describing ideological and strategic divisions over whether to pursue the freedom to marry); Joseph Hanania, *The Debate Over Gay Marriages: No Unity*, L.A. TIMES (June 13, 1996), [http://articles.latimes.com/1996-06-13/news/ls-14296\\_1\\_gay-marriage](http://articles.latimes.com/1996-06-13/news/ls-14296_1_gay-marriage) [<http://perma.cc/A7QR-C6JQ>].

done it.<sup>2</sup> Why has our campaign been so successful to this degree so far, when so much else in our country has not gone the way we want it?

The first thing that I always tell them is that we may be held up today as a model, but for most of it, it's been a muddle. There have been plenty of challenges and defeats and stumbles and imperfections—and we are not done. It is really important to understand that we have a lot to offer, there are a lot of lessons to be taken, but it didn't come easily. It'll sound linear and strategic and so on—and much of it has been strategic—but much of it has also been a response to history and other forces, and the undeniable reality that the work of social justice and inclusion is never done.

So having said that, here are some of the elements of success that we have come to in our imperfect way:

First of all, in the Freedom to Marry campaign, we have had relatively very great clarity on what I think of as the four rungs of the “ladder of clarity” needed for success.

You always should start with where you want to go—so first, the top rung.

We had great clarity about the *vision*. The *goal*. What are we working to achieve. How do we know when we've won. If you can't say what winning is, you're not going to be able to get there as effectively as you need to, because (1) you may not be going in the right direction, and (2) you won't be able to inspire and encourage others to come in and join you. So it's important to have clarity about what the goal of this campaign, or any campaign, is.

When I started advocating for the freedom to marry quite a long time ago, I picked that goal for two reasons.<sup>3</sup> One is that marriage is important, a singular bundle of tangible and intangible meanings, protections, and responsibilities. Being denied marriage is intolerable. Being denied marriage, or any important opportunity, by the government, is the most intolerable form of discrimination—state-sponsored discrimination. So to me, our challenging the denial of the freedom to marry was important, because marriage is

2 See, e.g., Williams Institute at UCLA Law, *Beyond Gay Rights: Lessons from Other Social Movements* (Apr. 8, 2011), <http://www.uctv.tv/shows/Beyond-Gay-Rights-Lessons-From-Other-Social-Movements-21905> [<http://perma.cc/7AVE-B3EG>] (panel discussion) (relevant part beginning at approx. 43:30).

3 Adam Polaski, *Evan Wolfson's 1983 Thesis on the Freedom to Marry Featured in Harvard Law Library*, FREEDOM TO MARRY (Apr. 20, 2013, 12:30 PM), <http://www.freedomtomarry.org/blog/entry/evan-wolfsons-1983-thesis-on-the-freedom-to-marry-featured-in-harvard-law-1> [<http://perma.cc/ZCH5-28PE>].

important in and of itself.

But my second reason for picking this goal of winning marriage as what I wanted us to devote our energies to, to the extent I could encourage that, was that winning the freedom to marry would be claiming a vocabulary that would be about more than just marriage. It would be about, as so many people have already said today, deeper values. Our deeper ability to connect with non-gay people. A transformative language that would help people understand who we are and change their attitudes, and that thus would make everything we seek more attainable. So my second reason for putting forward this vision, this goal, was that in addition to marriage being important in and of itself, our fight to win it would be an engine of change.<sup>4</sup>

Now on that ladder of clarity coming down to the second rung, once you've had your goal, you need to have—and stick with—a *strategy*. And so early on we propounded a strategy and stuck with it. And drum-beated it. And harangued people about it. And nagged people about it. And explained it over and over and over to whoever would listen, even when they didn't want to listen. I have always been all about the strategy, in order to inculcate the understanding of what it was going to take to win.

Our strategy, quite simply, has always been to bring the country to national resolution at the Supreme Court, having built a critical mass of states and a critical mass of support that together would create the climate for that Supreme Court win.

At Freedom to Marry, we called that strategy the “Roadmap to Victory”<sup>5</sup>—and it was never a secret strategy. We had it on our website, because we wanted people to connect with it and contribute to it, and by seeing how we could win, believe that we would win.

It is this Freedom to Marry “Roadmap to Victory” strategy that has brought our movement, through the work of many, to the momentum and progress we all see today. It is this strategy that will bring home the victory we have always aimed for, provided we keep at it.

A defining feature of the strategy—and Freedom to Marry as the sustained, affirmative campaign we built to drive it and support the broader work of the many movement players

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4 *Id.*

5 *Roadmap to Victory*, FREEDOM TO MARRY, <http://www.freedomtomarry.org/pages/roadmap-to-victory> [<http://perma.cc/9JFW-A7AN>] (last visited June 8, 2014).

who contributed and made it succeed—was what I long talked about as the four “multi’s.” What are the four “multi’s”?

The campaign needed to be an effort that would be able to operate *multi-year*, because we weren’t going to be able to win it overnight.

It needed to be able to play out *multi-state*, because just winning in one battle, or one state, was not going to be enough. Mary talked very briefly this morning about the power of the Hawaii case that launched this ongoing global movement, but didn’t deliver the freedom to marry. Fortunately we had opened a second front in Vermont, but our second front also didn’t deliver the freedom to marry. It delivered instead something close to marriage, on the way to marriage. Something better than we’d won before, but not good enough—civil union. So we needed to have the next case, and the next case. And eventually, we needed to get to the place where we weren’t doing them one in a row. We needed to be able to get multi-state.

It needed to be *multi-partner*, because as the talent here and on the previous panel indicated, no one organization, no one person, was going to be able to do something this big. That’s not how civil rights advance; that’s not how social justice movements achieve. So we needed to have a campaign that could accommodate multi-partner work. Give everybody their share of the credit, their limelight; let them play their piece, as long as it was in furtherance of the strategy.

And the strategy needed to operate *multi-methodologically*. I took that phrase from Dr. Martin Luther King, who talked about the “methodologies of social change.” We needed to combine litigation and legislation and direct action and public education and personal persuasion and storytelling and engagement. And we needed to roll those all out in synergy.

So, mindful of those four multi’s, and striving to build a campaign that could be eyes on the prize and boots on the ground toward the goal, I shaped a strategy in furtherance of the vision.

Moving down the ladder, we needed to be able to have—in furtherance of that strategy then—a mix of *vehicles*. We needed to know where could we win and then leverage those wins, and then leverage the next wins. Where we might lose, could we at least *lose forward*, so that we set the stage for the wins to come?<sup>6</sup> And so on this ladder of clarity—goal,

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6 Evan Wolfson, *Marriage Equality and Lessons for the Scary Work of Winning* (Feb. 10, 2010, 4:20 PM),

strategy—we had vehicles, and a close analysis of where we could develop those points of gain that would move the strategy forward.

Every time we took a loss—and in a movement, you have your losses—there was a chorus of voices saying that this is too hard, this is not the right time, you’re going too far, you’re going too fast. But we knew that we had a vision and a strategy and more vehicles in play that would keep driving down that roadmap to victory.

And, finally, on the ladder of clarity, we had to articulate and deliver *action steps*. We needed to be able to tell people—organizations, allies, individuals with powerful stories—what they could do. How they could be involved. How everybody could bring their piece to this work of moving the entire country on this fundamental and defining question in this particular campaign.

I think our movement overall, with great imperfections, did a tremendous job, and continues to do a good job, in this Freedom to Marry campaign working all four of those levels of clarity. As I talk with other movements, there’s no one-size-fits-all of how to do it. There are adaptations required of each of these elements. But I believe these are the elements of success. And I will add that just as we are now being invited to talk with other movements about how we’ve done it, much of what we have done has come from the inspiration, the instruction, and the inheritance we derive from and now owe to so many other movements and chapters of civil rights history.

In each of these movements that I’ve studied—and I know many of my colleagues are very invested in as well—there are important lessons and flashpoints that we’ve learned from, that we’ve had to navigate. Things like the tension between federal and state. Things like the tension between pushing through the law and shaping the climate and the culture. The challenges and tensions of the inside work and the outside push. Do you push, or do you create space from the outside in order to enable those on the inside? Every movement, every successful campaign, has had to struggle with these challenges and at Freedom to Marry we’ve worked hard to take our lessons and to have our engagement at every level in the right way, and to keep getting it where it needs to be.

And, on that note, I will say, successful as we have been, the momentum that we have, the progress we have, the pathway ahead that’s clear—it still requires the work. Change

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does not waft in on waves of inevitability.<sup>7</sup> It comes when enough good people stand up and do the work. And our work is far from done.

*Here, the panel turned to questions about generational aspect of the work, movement priorities, and connections across reproductive rights and marriage equality work.*

**Evan Wolfson:** So, to me, one of the unifying themes of the last set of questions, and even these comments, is—maybe a little reductively—don’t be on the defensive. Be on the affirmative. What’s your vision? And then the ladder of clarity that flows from that for the change you want to see in society. For much of the early decades of the LGBT rights movement, the unifying principle under pressure was leave us alone. Don’t arrest us, don’t attack us, don’t come into our spaces where we can have our moments of intimacy. We want to be let alone.

We’ve changed that through the power of the freedom to marry cause. And it’s no longer we want to be *let alone*; we want to be *let in*. We want to be part of. And all that flowed from that. The values engagement. The reaching to people who weren’t yet with us. The diversifying. The bipartisan outreach. All of that flowed from that historical and complex shift in this movement and in the personal actions that people took—the shift to a central push for the freedom to marry.

And so for example, this is relevant even when people talk now about the lessons of Arizona.<sup>8</sup> Wonderful as this week was, our “victory” in Arizona was defeating a ridiculous, despicable attempt at up-ending the important balance between personal freedom and religious freedom, a square-off between the real and hard-fought value of participation in the marketplace and a phony claim of religious infringement. Well, you know, we defeated it. That’s good. Waking up alive is good. But you want more out of your day.

I don’t want us to be framing our thinking about what are the next frontiers and what are the next strategies and what are the next battles and what is the needed follow-through on the terms that the opponents set for us. Whether with regard to our movement or our

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7 Evan Wolfson, Executive Director, Freedom to Marry, Speech at the 25<sup>th</sup> M.L.K. Symposium at the University of Michigan: Is the Freedom to Marry Inevitable? (Jan. 17, 2011), available at <http://www.freedomtomarry.org/resources/entry/speech-wolfson-discusses-mlk-legacy-freedom-to-marry> [<http://perma.cc/X9XG-9E4U>].

8 See Catherine E. Shoichet & Halimah Abdullah, *Arizona Gov. Jan Brewer vetoes controversial anti-gay bill, SB 1062*, CNN (Feb. 26, 2014), <http://www.cnn.com/2014/02/26/politics/arizona-brewer-bill/> [<http://perma.cc/CWF2-4UMS>].

overlapping and related movements, reproductive freedom and so on, it's what is *our* vision for the country, and how are we going to persuade people to rally to it. Because I think people respond to an affirmative vision even if the elements of getting them to respond are conflict and tension and pushing—again, classic civil rights elements that Martin Luther King and others talked about.

And in further response to the question, let me just say that in my book, *Why Marriage Matters*, I quote Dr. King and a speech he gave. I'll paraphrase it now, where he basically said, "I hate the word backlash."<sup>9</sup> Backlash, King said, falsely conveys this notion that somehow those of us who are favoring social justice went too far or went too fast or did something wrong, and the other side is reacting. When in fact what is happening—and this is clearly true in reproductive freedom and women's empowerment and racial justice and our cause—what is happening is a contest between two different visions of what kind of country this is to be. We are not responsible for what they are doing, and what they are doing is not "backlash." They are fighting for what they believe in, and, happily for us, most people can be enabled to rise to fairness if we give them the affirmative vision and then follow through on strategy and vehicles and action steps for getting the country there. We should not define ourselves or our goal on our opponents' terms; we should define ourselves by our own vision, because we are right.

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9 EVAN WOLFSON, *WHY MARRIAGE MATTERS: AMERICA, EQUALITY, AND GAY PEOPLE'S RIGHT TO MARRY* 19 (2004) (quoting Martin Luther King, Jr., Seventh Annual Gandhi Memorial Lecture at Howard University (Nov. 6, 1966)).