



Wolfson, Evan (b. 1957)

by Linda Rapp

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Attorney Evan Wolfson is a staunch champion of glbtq rights. He has participated in some of the crucial legal battles in the struggle for equality. As founder and executive director of the non-profit advocacy organization Freedom to Marry, he has been particularly visible in the quest for marriage equality.

The eldest of four children, Evan Wolfson was born in Brooklyn, New York on February 4, 1957 but grew up in the suburbs of Pittsburgh, Pennsylvania. His parents were ardent Democrats who dreamed that their son, who took an interest in politics from a young age, might become the first Jewish American president.

Wolfson attended Allerdice High School, whose motto is "Know something, do something, be something." While what Wolfson knows, does, and is did not set him on a path to the White House, it did lead him to a life of exemplary service.

After his graduation in 1974, he enrolled at Yale, from which he received a baccalaureate degree in 1978. His excellent academic record earned him acceptance to Harvard Law School, but he joined the Peace Corps instead and worked for two years in a village in Togo.

He devoted himself to promoting education, raising money to create the Pittsburgh-Pagouda Friendship Library and Study Center, but he also became increasingly aware of the urgent need to promote the civil rights of glbtq people.

"While in the Peace Corps, I really came to understand how much of who you are is . . . shaped by the opportunities your society gives you," he told L. A. Johnson of the *Pittsburgh Post-Gazette*. "I met friends [in Togo] who, had they grown up in another country, would have thought of themselves as gay, but they didn't have the choice."

Upon returning to the United States after his service in the Peace Corps, Wolfson entered Harvard Law School. His interest in glbtq rights led him to discover John Boswell's book *Christianity, Social Tolerance, and Homosexuality* (1980), which had a profound impact on him.

He had already witnessed the societal restrictions on his friends in Togo, but, he further stated to Johnson, "[Boswell's] book opened my eyes to the fact that being gay wasn't just about me personally, but had a political context that could change the way in which gay people are excluded from very important participation in society."

Among the obvious areas of exclusion was marriage, and, as a third-year law student, Wolfson wrote a thesis arguing for marriage equality.

Wolfson took an important step in his personal life: he came out to his family. Describing the moment to reporter Mark S. Warnick, he stated, "I think they were all surprised. I think that their main reaction was



Evan Wolfson in 2006.
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sadness, that I was not going to have the kind of life they expected and were familiar with. But they were always loving and supportive. They're very proud of what I do and they've always been there for me."

After receiving his law degree in 1983, Wolfson became an assistant district attorney in Kings (Brooklyn), New York, a job that he held until 1988. While in that capacity, he also wrote amicus curiae briefs in the United States Supreme Court case *Batson v. Kentucky* (1986), which prohibited racial discrimination in jury selection, and in the New York state case *People v. Liberta* (1984), which eliminated the exemption for marital rape.

Wolfson began an association with Lambda Legal Defense and Education Fund in 1984, donating his services as a pro bono cooperating attorney with the approval of his boss, then District Attorney Elizabeth Holtzman. Two years later he wrote the organization's amicus brief when *Bowers v. Hardwick*, a challenge to Georgia's sodomy law, was argued in the United States Supreme Court.

Recalling the trial, Wolfson told Tony Mauro of *The American Lawyer* that as he sat next to Michael Hardwick and heard Chief Justice Warren Burger ask, "Didn't they used to put people to death for this [i.e., sodomy]?" he "knew that we were doomed right then and there. The Court felt like a very hostile place."

After the bitterly divided court upheld the law by a 5-4 vote, Wolfson was discouraged. "I went through a couple of days of wondering how I could be a lawyer, how I could be part of this system," he stated to Mauro, but he persevered in his quest for glbtq rights.

In 1989 Wolfson went to work full-time for Lambda Legal. Among the issues in cases he litigated were parental and adoption rights, discrimination in employment, and benefits for gay and lesbian partners of employees of New York City.

He also argued before the United States Supreme Court in *Boy Scouts of America v. Dale* (2000), exhorting the justices to uphold a New Jersey Supreme Court ruling ordering the Boy Scouts to readmit James Dale, a scoutmaster whom they had fired because of his homosexuality.

In another 5-4 ruling, the Supreme Court overturned the New Jersey decision; nevertheless, Dale praised Wolfson for taking on the case and bringing homophobia to public attention. "He is a visionary. He really gets it and understood the power of my story," Dale declared to Mauro. "He could easily be a millionaire working at some private firm, but he chose to work on these issues."

The issues in question included same-sex marriage. On the same day that Wolfson appeared before the U. S. Supreme Court in the ultimately unsuccessful Dale case, he learned that Vermont Governor Howard Dean had signed a bill authorizing civil unions for gay and lesbian couples. Wolfson was part of the legal team that had presented its case in *Baker v. Vermont* in the state's Supreme Court, which ruled that same-sex couples were entitled to all the benefits of marriage but did not mandate marriage itself.

Although the decision in Vermont fell short of the goal of marriage equality, it was an important step in the right direction.

The Vermont case was not the first instance of Wolfson's advocacy for equal rights to marriage for all. As the head of Lambda Legal's marriage project, he served as co-counsel in challenging discriminatory laws in Hawaii.

For a heady moment in 1996 it appeared that Hawaii would lead the nation in granting marriage equality when Circuit Judge Kevin S. C. Chang ruled that the state had failed to present "sufficient credible evidence . . . that the public interest in the well-being of children or families, or the optimal development

of children would be adversely affected by same-sex marriages" or, indeed, that the state had the requisite compelling interest to prohibit such marriages at all.

In an interview with the *Washington Post*, Wolfson called the decision "a historic moment for lesbians and gay men," adding that "when people look at it fairly, they'll see that the choice of who[m] to marry belongs to all of us, not just to the government."

Unfortunately his optimism was premature, as Hawaiian voters passed a discriminatory amendment to their state constitution in 1998, thwarting marriage equality.

Realizing the importance of the issue of equal rights to marriage, Wolfson accepted a 1.1-million-dollar grant from the Evelyn & Walter Haas, Jr. Foundation to found Freedom to Marry, a not-for-profit 501c(3) organization, in 2003. The start-up funding was exponentially less than the resources commanded by political and religious groups opposing marriage equality, but under Wolfson's leadership as Executive Director, Freedom to Marry has grown to become a strong and influential proponent of fairness in marriage laws.

Freedom to Marry's "Roadmap to Victory" outlines a threefold strategy. Since change is coming one state at a time, a vital goal is to "win more states" in the drive to end unequal treatment of couples throughout the country. To achieve these victories, Freedom to Marry aims to "build a majority for marriage" among the voting public so that pernicious ballot initiatives like California's Proposition 8 can be defeated and that those who hold or aspire to office may be emboldened to take a stand for equal treatment of all Americans, regardless of the vociferous cries by some to codify discrimination in state and national constitutions in contravention of the very documents they claim to defend.

In addition, Freedom to Marry is dedicated to "end[ing] federal marriage discrimination," now legal under the Defense of Marriage Act (DOMA).

In 2004 Wolfson published *Why Marriage Matters: America, Equality, and Gay People's Right to Marry*, a thorough-going examination of the myths advanced by opponents of equality (e.g., that children fare better with heterosexual parents), the numerous and vitally important "tangible benefits, protections, rights, and responsibilities" denied to same-sex couples and their families under existing law, and the pressing need for glbtq people and allies to work for and effect change.

Wolfson recognizes that progress may come in small increments, yet he is optimistic that victory will be achieved. "The classic pattern for civil rights advancement in America is patchwork, but I see equal marriage rights for gays becoming a nationwide reality over the next 15 or 20 years. I really believe it will happen in my lifetime," he stated during a 2007 interview with Robin Finn of the *New York Times*.

He is adamant that victory means the right to marry, not to have different and less beneficial systems such as civil unions or domestic partnerships for gay and lesbian citizens. "You don't ask for half a loaf," he declared to Finn. "We don't need two lines at the clerk's office when there's already an institution that works in this country, and it's called marriage. One of the main protections that come with marriage is inherent in the word: certainly in times of crisis any other word than marriage would not bring the same clarity or impart the same dignity."

Wolfson sees renewed cause for optimism—not that his own has flagged—in light of the eloquent and well-reasoned opinion of Vaughn R. Walker, Chief Judge of the United States District Court of the Northern District of California, calling for the restitution of the right of gay and lesbian couples to wed in that state, a right of which they were deprived by the passage of Proposition 8 in 2008.

"What's happening here," Wolfson commented to Sandhya Somashekar of the *Washington Post*, "is the collapsing of the house of cards that the anti-gay opposition has relied on. . . . Everyone can now see the emptiness of the arguments that they are making."

Wolfson takes inspiration from the words of Gandhi on the process of change: "First they ignore you. Then they laugh at you. Then they fight you. Then you win."

Wolfson and his partner (now husband), Cheng He, a Canadian-born microbiologist, reside in New York.

Fittingly, Wolfson and Freedom to Marry were deeply involved in the successful struggle to achieve marriage equality in the Empire State.

Freedom to Marry became a founding member of the New Yorkers United for Marriage coalition, which was put together by Governor Andrew Cuomo to forge a coherent strategy to build support for marriage equality in the state.

Freedom to Marry invested over \$1,000,000 in the campaign, including more than \$500,000 for television, newspaper ads, and direct mail, and over \$100,000 in polling, all aimed at making sure legislators heard from the couples affected, their loved ones, and the 58% of New Yorkers who support the freedom to marry.

When the New York legislature finally passed the marriage equality bill in a historic vote on June 24, 2011, Wolfson issued the following statement: "With the freedom to marry in New York, the nationwide majority for marriage will swell, as even more people get to see why marriage matters to same-sex couples, that gay couples, like non-gay, treasure the chance to affirm and strengthen their commitment, and that ending marriage discrimination helps families and hurts no one."

He added: "We are especially grateful for Governor Cuomo's strategic and passionate leadership in advancing this bill. He worked tirelessly with Freedom to Marry and other advocates to secure the votes we needed to win. No governor has ever worked harder or more strategically to advance marriage legislation."

Wolfson and Dr. Cheng He were married in New York City on October 15, 2011. They have been a couple since 2002. In an interview with Nate Schweber of the *New York Times* for a feature story on their marriage, Wolfson said, "For me, getting married is not about making a political statement; it's about wanting to build a life together, wanting to have protections for one another, wanting to make a commitment in front of your family and friends, just like everyone else."

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About the Author

Linda Rapp teaches French and Spanish at the University of Michigan-Dearborn. She freelances as a writer, tutor, and translator. She is Assistant to the General Editor of www.glbtc.com.