

---

# The New R E P U B L I C

## WHY THE DEMS SHOULD NOT SHUT UP ABOUT GAYS AND MARRIAGE

### Vows

by **Evan Wolfson**

Only at **TNR Online**

Post date: 08.18.07

**J**ames Kirchick's contention that "The Dems Should Shut Up About Gay Marriage," **published** on *The New Republic Online* on Thursday, rests on several false premises and builds to the wrong conclusion. To begin with, as was clear from the candidates' answers at the August 9 Human Rights Campaign/LOGO forum Kirchick cites, most of the candidates (save former Senator Gravel and Congressman Kucinich), while signaling general supportiveness, are dancing, shading, and evading on the freedom to marry in order to avoid genuine, legitimate, and inevitable questions. The questions will continue.

I have **recommended** that candidates be authentic and direct about their values and the policies of fairness that flow from them not just because it is the right thing to do, but because it is also in their interest to do so. If candidates want to spend less time talking about gays and marriage, and more time talking about other questions, the best way to do that is to simply stand on clear principle, and explain that they are for equality in marriage because marriage matters and equality is right for all Americans. Then they can move on, rather than open themselves to countless follow-up questions on policies and positions that are incoherent or inauthentic. They could focus their campaigns on the real problems facing the country, the problems, by the way, that will determine the votes of most Americans, rather than the **difference** between civil union and the freedom to marry. Evasive answers fall short not just as politics, but as policy, and raise broader concerns about candidates' values, character, and leadership. Yes, marriage is licensed by the states and, historically, predominantly a state concern (despite anti-gay efforts to create a "gay exception" to this tradition first through the so-called "Defense of Marriage Act" and then George W. Bush's proposed anti-gay constitutional amendment). But historically, too, the freedom to marry is, in the words of *Loving v. Virginia*, one of the "vital personal freedoms" and "basic civil rights" protected by the federal Constitution. In one of many Supreme Court cases on the freedom to marry, Justice Thurgood Marshall wrote, "the right to marry is of fundamental importance for all individuals." How then, in yet another chapter of America's civil rights history, could it be misplaced to wonder how candidates will use the bully pulpit to guide the debate and provide the moral suasion Kirchick minimizes?

The next president, too, will be called upon to tackle specific federal legal and political questions that arise from the continued exclusion of same-sex couples and their kids from marriage. Without the freedom to marry itself, the rights and responsibilities of civil unions, as in Vermont and other states, would have to be negotiated one state and one item at a time--at least 1,138 federal and thousands of state and private-sector protections and obligations that marriage, the system we already have federally and in all fifty states, automatically confers. Even then, the

U.S. would still have a confusing patchwork of state laws creating continuing problems for families and the employers, businesses, banks, and others they deal with--and no one has explained how that would interact with the federal reforms the candidates have airily claimed to support. Candidates who call for "equality" in name, but don't support actual equality in marriage will still have a lot of explaining to do. Is that how they really want to spend their time?

The core of Kirchick's argument, though, is that coming clean on their support for marriage itself, rather than "all but marriage," entails a "high cost" and a "significant political sacrifice." Elsewhere I have **marshaled** evidence that this is not so. For instance, in 2005, when California's legislature became the first to vote for marriage equality, it did so solely with the votes of Democrats, including those from socially conservative districts. Likewise, in states such as Iowa, Maryland, Minnesota, Wisconsin, and, notably, Massachusetts itself, Democrats have taken the lead in blocking efforts to cement anti-gay discrimination in state constitutions. None of the pro-marriage legislators in any of these states lost their seats over their stand.

To back up his claim that support for marriage would be politically dire, Kirchick references a recent, somewhat odd survey that said that a gay group's endorsement would make 30 percent of swing voters in three states less likely to vote for a candidate, 10 percent more likely, and 58 percent no more or less likely. This certainly does not prove that there exists some determinative swath of voters who would support an "all but marriage" candidate but recoil at a candidate favoring the freedom to marry.

By contrast, we've seen several painful examples of how candidates who evade, fuzz, and equivocate leave voters cold. In 2004, Senator John Kerry embraced civil unions (like most of this year's Democratic presidential candidates), but left open possible support for a constitutional ban on marriage in his own state, Massachusetts (a ban that legislators overwhelmingly rejected this year, by more than 3-1). All the nuancing and straddling accomplished nothing. Many Democrats and independents were dismayed, while millions of other voters probably still believed Senator Kerry personally supported marriage equality.

Either way, gay people and marriage didn't cause Kerry's defeat. The Democrats' own post-election polling showed that on Election Day, so-called "moral values" voters were far more motivated by national security, abortion, the economy, and other issues than they were by marriage, which placed near the bottom of the list. Senator Kerry's position on gay equality **didn't cost** him the election, but the way he handled the question was symptomatic of what did.

The truth is that Democrats, progressives, fair-minded Republicans, and other friends and potential allies will never be anti-gay enough to quiet their opponents. Democrats who don't support the freedom to marry fail in both directions: embracing the separate, unequal, and ultimately unworkable patchwork of civil unions while running from their party's historic commitment to fairness and inclusion. The abandonment of any effort to persuade the center on big questions has, for more than a decade now, ceded ground and power to the right-wing. Silence and evasion have harmed couples and their kids, and also our country.

And, of course, 2008 is not 2004. Senator Clinton has said that her stance on gay

issues "has certainly evolved," and so has the country's. As Senator Edwards has characterized his position on marriage, Americans are on a "journey." Those of us who are not running for president have the obligation to continue that movement, not count on time or others to allow fairness to simply waft in.

Too quickly embracing or giving a pass to inadequate positions does this civil rights cause--and the candidates--no favor. It merely makes them vulnerable to attacks later, while doing nothing to advance the discussion and diffuse resistance. We are not in the home-stretch of an election blitz in a swing-state; we are more than a year away and in the midst of an important conversation where there is ground to cover, and lifting to do, now.

On Election Day one makes decisions whom to vote for by determining which outcome in a (usually binary) choice will better advance one's interests and values, and the well-being of our loved ones, our country, etc. As Representative Barney Frank wisely says, voting is not dating; you may have to accept imperfection. But at this early stage in a very long campaign, there is no need to write off the possibility of getting that binary choice as good as possible.

The 2004 Democratic Party platform opposed the anti-gay constitutional amendment pushed by the White House, and went on to declare, "We support *full* inclusion of gay and lesbian families in the life of our nation and seek *equal* responsibilities, benefits, and protections for these families" [emphasis added]. Beyond the national party's 2004 convention, state parties from California to New York, from Washington to New Mexico, have passed resolutions supporting the inclusion of same-sex couples in marriage. As public support for marriage equality continues to evolve, Democrats, thus already perceived as the party of "gay marriage," have a winning issue on their hands, one that evokes the best traditions of their party--fairness and inclusion. The conversation will not stop. Candidates who want to move on to other questions ought to get the freedom to marry question right--for their sake as well as the country's.

**EVAN WOLFSON** is executive director of *Freedom to Marry*, and author of *Why Marriage Matters: America, Equality, and Gay People's Right to Marry*.

#### RELATED LINKS

##### Check Mate

The Dems Should Shut Up About Gay Marriage [web only](#)

##### Spouse Abuse

A gay marriage ban that hurts conservatives [web only](#)

##### Mass Repeal

The liberal case for Massachusetts's anti-gay-marriage amendment [web only](#)

##### Quite Contrary

Mary Cheney's baby destroys a conservative delusion [TNRD](#)

