

Q&A

Wedded to Justice

Marriage equality for same-sex couples has made headway this year. Executive Director Kevin Cathcart and Patrick Flaherty, Deputy National Director of the Gill Foundation, discuss the recent victory in Iowa and what it means for the future of LGBT civil rights.



KEVIN M. CATHCART AND PATRICK FLAHERTY

KEVIN M. CATHCART: By focusing funding on LGBT rights work, the Gill Foundation has been a bedrock for Lambda Legal and other LGBT organizations for years now. Its funding has made a real difference in helping us do the work that brought us to the recent Iowa marriage victory. It's important to look at the investment that it took from both the foundation world and individual donors over a period of many years. We started working on the Iowa case seven years ago. The people and institutions that invest long term in organizations are key in enabling us to do all of the work that it takes to win.

PATRICK FLAHERTY: This is why the Gill Foundation has supported Lambda Legal on a national level for so long — about 13 years. This Iowa case did not come about overnight; it was seven years of Lambda Legal being strategic, doing research, laying groundwork, building coalitions and helping to support

an organization on the ground that could respond or defend a decision if necessary. The state work is a priority for us because most of the policies we need to change to secure equality are state-level policies, whether we're talking about relationship recognition, adoption, hate crimes, education or nondiscrimination laws. So, while the mainstream media might have been surprised with a victory in Iowa, we were not, as we'd seen it unfold for nearly a decade.

KC: We went to Iowa when we did because of our analysis of the Iowa Supreme Court and the role that that the court has played — its willingness to be a leader in civil rights going back more than 100 years. We felt, from a strategic legal perspective, that this was a place with good laws, a strong court, where there were same-sex couples who wanted the right to marry and where we could win. Of course, "could win" is only a starting point. So, from there, part of the strategy was to have plaintiffs from different parts of the state so we could represent many communities and tell the story in as many parts of the Iowa as possible. We relied on the local press, a very vibrant market in Iowa, to tell the story of why marriage is important and what equality would mean for same-sex couples. And now there's additional political work that needs to be done — supporting the growth of strong statewide organizations to make sure that everything is being done to help us make this victory secure.

PF: Yes, we need the ground and troops in states to create a climate in which judges can do the right thing: judges read the

newspapers, watch television, talk to their friends and some are even subject to retention votes. So, it's critical that we not just file a good lawsuit, but we create a climate in which a favorable decision can come about and be protected. We're in a position to protect a great decision, and so far, that's going well, though there are definitely challenges ahead. But, as you said, Kevin, litigation does not exist in a vacuum, and we need that political environment and that social climate to allow us to take great victories, protect them and move forward.

KC: It's very hard to know what trickles up to judges. Although they live in the same world that we all live in, just by virtue of being judges, they often stay outside of the political process. So part of our educational campaign was aimed at the judiciary, yes, but we were also creating a climate where legislators, who are going to play a very important role after the decision, are getting this information, as well as voters. The decision couldn't have been more beautifully written and couldn't have been stronger, but the next important step was getting through the end of the legislative session. I think everyone on the ground in Iowa, and especially our partners at One Iowa, should feel very good about the legislature having finished its session for this year right in the wake of the court decision without any bad actions following. But we're not done in Iowa: people on the ground there will be working hard on this issue through the next legislative

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session, because of the possibility of political backlash.

PF: The other side wants to paint marriage equality as being the end of marriage or society as we know it. Obviously that's false, but it was important that One Iowa, with help from Lambda Legal, be out in front with positive messages about how this is good for Iowa, families and the larger society. And as the people of Iowa become comfortable with marriage equality and realize that there are more important issues that they need to address than taking away our civil rights, we need to persist with this message. We've seen this in other states, and we're seeing it across the country as we speak. As society becomes comfortable and as marriage for same-sex couples occur, people realize that it's not a danger and that it's in fact the right thing.

KC: Absolutely. We need to continue to normalize marriage equality in Iowa so that people get used to it. That's going to require keeping the level of conversation about equality as high as it has been throughout the last phase of the lawsuit. We have to keep media work going so people continue hearing and seeing same-sex married couples and families as part of the fabric of everyday life, as a part of the fabric of life in Iowa because that's what's going to protect us from votes and referendums.

PF: Yes, this is just one phase of the journey to equality. Having all the legal rights doesn't necessarily gain us equality. It has to sink in. But this is a critical step in letting

our relationships be recognized and treated equally in the eyes of the law and a step toward having them being treated equally in the eyes of society.

KC: Going forward, the broader vision involves doing more of what we did in Iowa in other states. Of course, it's both labor-intensive and resource-intensive. The ironic problem in the marriage movement now is that we have this incredible range of opportunities, but we're in a situation where every key player has financial constraints that make it difficult for us to do even as much as we were doing a year ago. We're in the position of having a clearer sense of what needs to be done, but yet we don't have the capacity to do nearly as much of it as we'd want. But marriage equality and greater civil rights for LGBT people are inevitable. Even people who are opposed to our civil rights are noticing the trend. But if we don't nurture it, push it, work it and fight for it every step along the way, it might become a different trend. We have to do everything that we can, even in a difficult economy and even with resource limitations, to keep things moving in our direction.

PF: And we need to be working on national and state levels with equal intensity at the same time. Federal legislation is a matter of building the arguments and then seizing an opportunity when it arises. We may have an opportunity on the horizon soon, but in the meantime, we have opportunities state by state and, as we've discussed, and we need

to keep up with the discussion that changes hearts and minds, which goes for the work to repeal the Defense of Marriage Act (DOMA) as well.

KC: I agree. There are things that can and have to happen on the federal level, but there is a lot that has to happen on the state level. There is nothing like being in the places where people really live, to reach people, to tell stories that will resonate and change their minds. And it does. That has an effect on what happens in Washington, D.C., as well. It's a two-way street. What happens in the states affects national picture, and what happens in D.C. affects the states. We need to maintain a strong and vibrant presence.

PF: I really just have two words for those considering supporting Lambda Legal: Iowa and unanimous. This is just another groundbreaking event in the march to equality delivered by Lambda Legal. I'd also like to offer a personal thank you from me and my partner, because by the time anyone reads this, he and I will be married in his hometown in Audubon, Iowa.

KC: Let me congratulate you on your upcoming wedding. It's wonderful to have a unanimous court and a beautifully written decision, but it's even more amazing to see people change their lives with it.

PF: Absolutely. We can go home and live our lives with the protections and the rights and responsibilities that come with marriage equality. **L**