

Lesson 4: Grades 8 & Up

Winning the Right to Marry: Historic Parallels

Overview

In this lesson, students explore marriage bans for same-sex couples within the context of earlier prohibitions, and use these historical parallels to determine the fairness of those restrictions. Students listen to the story of an individual who was personally affected by marriage restrictions and fought to change the law in his state. They then analyze similarities and differences in cases that dealt with marriage restrictions and the road to victory.

[NOTE: This lesson explores LGBT issues in an open and direct way. Given the absence of this topic in the curriculum and the disproportionate rates of anti-LGBT bullying and harassment, it is important to educate students about these issues. When discussing any new or sensitive topic, however, there is the potential for some students to react in stereotypical or disrespectful ways. It is therefore imperative that educators carefully review the lesson, assess students' maturity and readiness to engage in the lesson prior to implementation, and establish clear parameters with students that will ensure safe and constructive dialogue. See "[Establishing a Safe Learning Environment](#)" and "[Creating an Anti-Bias Learning Environment](#)" for guidelines on building safe forums for discussing sensitive issues. With regard to this particular lesson, see also [Discussing Marriage of Same-Sex Couples with Students](#).]

Objectives

- Students will explore past injustices within the institution of marriage.
- Students will identify marriage attributes that can be used in considering past and present challenges to marriage law.
- Students will reflect on the personal testimony of an individual involved in the movement for marriage rights.
- Students will consider the fairness or unfairness of current marriage laws and begin to develop a personal stance on the issue.

Time

75–90 mins. or 2 class periods

Requirements

Handouts and Resources:

- [To Be Equal: The Journey of David Wilson](#) (one per student)
- [Marriage Equality Fact Sheet](#) (one per student)
- [Historical Parallels of Marriage Bans](#) (one per student)

Other Material:

- Unheard Voices [audio interviews and transcripts](#) and [interview backgrounders](#)
- Chart paper, markers, masking tape, pencils or pens
- Computer, speakers
- (Optional) Computer lab for students to conduct research on the Internet (see Part II #6)

Advanced Preparation

- Reproduce handouts as directed above.
- Prepare the statements in Part I #1 and #2 on chart paper or as PowerPoint slides.
- Prepare to play [interview](#) (see Part II #1).

Key Words

Attribute
Civil marriage
Civil union
Constitutional/
unconstitutional
Discrimination
Domestic partnership
Interracial
Invalidate
LGBT (lesbian, gay,
bisexual and
transgender)
Mandate
Miscegenation
Plaintiff
Refuge
Sexual orientation
Void

Techniques and Skills

analyzing primary documents, analyzing oral histories, brainstorming, connecting past to present, cooperative group work, critical thinking, debate, forming opinions, historical understanding, large and small group discussion, listening skills, reading skills, research skills, writing skills

Procedures

Part I: Defining the Attributes of Marriage (30 minutes)

1. Post the following statements:

- *“All [such] marriages shall be absolutely void without any decree of divorce or other legal process.”*
- *Such marriages are “unnatural.”*
- *“Almighty God...did not intend for [such people] to mix.”*

Inform students that the statements come from various rulings by judges on cases involving marriage. Ask them to venture some guesses as to which group of people the statements refer.

2. After some speculation, inform students that the statements reflect decisions about interracial marriage that were prevalent until relatively recent times. Share the full text of the above quotes with students:
 - *“All marriages between a white person and a colored person shall be absolutely void without any decree of divorce or other legal process.”* (Va. Code Ann. 20-57, 1960)
 - *Racial intermarriage is “unnatural,” and would lead to children who are “generally sickly, and effeminate...and inferior in physical development and strength.”* (Scott v. Georgia, 39 Ga. 321, 323, 1869)
 - *Almighty God created the races white, black, yellow, malay and red, and he placed them on separate continents. And but for the interference with his arrangement there would be no cause for such marriages. The fact that he separated the races shows that he did not intend for the races to mix.”* (Loving, 388 U.S. at 3, 1958)
3. Allow some time for students to react to these statements. Point out that at one time 40 states forbade the marriage of a white person to a person of color and it was not until 1948 that California became the first state to declare unconstitutional a ban on interracial marriage. Add that in the landmark 1967 case, *Loving v. Virginia*, the U.S. Supreme Court finally struck down the remaining interracial marriage laws across the country and declared that the freedom to marry is a “basic civil right.”
4. Ask students if they think that racial sameness is a necessary or important attribute of a good marriage (most will likely reject this notion). Tell students that you would like them to come up with more appropriate attributes of marriage. Form small groups of 3–5 students, ask each to select a recorder and provide each with a sheet of chart paper and a marker. Instruct each group to brainstorm a list of marriage attributes—not legal standards, but qualities they think form the basis for a sound marriage (e.g., emotional compatibility, demonstration of love, commitment over time, economic interdependence, etc.). Allow 10 minutes for groups to work.
5. Reconvene the class and have groups post their lists. Together create a master class list that reflects the major attributes from all groups. If there is disagreement amongst students, try to reach some consensus and then display the class criteria.

Part II: Researching Historical Challenges to the Marriage Law (30 minutes plus time for research)

1. Inform students that in recent years another group of Americans turned to the courts in order to secure the freedom to marry—same-sex couples. Tell them that you are going to play an [interview](#) of someone who was involved in that struggle. Provide the following introduction:

David Wilson and his partner, Rob Compton, were two of the plaintiffs in Goodridge v. Department of Public Health, the landmark case that awarded marriage equality to same-sex couples in Massachusetts. Ten years before the lawsuit, David Wilson was living with his first partner, Ronald Loso, outside of Boston, until November 29, 1994. Here, Wilson remembers that day.

2. After playing the [interview](#), provide additional context by distributing the handout, [To Be Equal: The Journey of David Wilson](#), to each student. Read the handout together as a class. Process David's story using the discussion questions found in the [backgrounder](#) that accompanies the interview.
3. Point out that while David won the right to marry in Massachusetts, for many years millions of LGBT Americans were denied the right to marry in the states where they resided, until June 26, 2015.
4. Distribute the [Marriage Equality Fact Sheet](#) to each student. Give students 10 minutes to read it silently. Discuss with the whole group by asking the following questions:
 - What didn't you know before that you know now?
 - What other questions do you have?
 - What do you think about marriage vs. civil unions? Is it fair?
 - Do you have a different opinion after reading this fact sheet?
 - Why do you think some people are against marriage equality?
 - What do you think about marriage equality?

NOTE: Some students may suggest that there are religious justifications for opposing same-sex marriage. Without passing judgment on any student's religious beliefs, make sure to clarify the difference between civil and religious marriage for the purposes of this discussion. Share, for example, the following explanation from the New Hampshire Freedom to Marry Education Fund (<http://nhftm.org/>): "There are two types of marriage—civil marriage and religious marriage. Couples may have one or both types of marriage: a civil marriage if they meet the government's requirements; and a religious marriage if they meet the requirements of their faith tradition. However, to receive the legal protections of marriage, a couple must have a civil marriage. The debate over the freedom to marry was about the right to enter into a state-created institution of civil marriage only. Even after the legalization of same-sex marriage, no court decision or legislative enactment can change the basic tenets of a religious faith."

5. Tell students they will have the opportunity to research and explore past prohibitions of marriage and discuss in class.
6. In class or for homework, have students read about the landmark *Loving v. Virginia* case that ended interracial marriage bans in the U.S. and the Supreme Court ruling guaranteeing same-sex couples the right to marry. Have them compare and contrast the journey to victory in both cases. Instruct them to use the following websites as the primary resources for their research and if necessary, other resources for further clarification, including the handouts they have received during this lesson. Distribute the [Historical Parallels of Marriage Bans](#) handout to each student to complete.
 - *Loving v. Virginia*, www.history.com/topics/loving-v-virginia
 - Freedom to Marry: Winning in the States, www.freedomtomarry.org/pages/winning-in-the-states (Choose a state and read the "History and Path to Victory.")
7. Make time in class for students to share and discuss their research.
8. Engage students in a discussion using some of the following questions:
 - Do same-sex couples have the capacity to reflect the attributes on the class list brainstormed earlier?
 - Is there a justification for the definition of marriage as the union between one man and one woman?
 - Should government have the right to determine who can and cannot marry based on gender, sexual orientation, race, religion or any other factor?

NOTE: If the subject of religious justifications for opposing same-sex marriage arises again, reaffirm that judgment is not being passed on any student's religious beliefs. No court decision or legislative enactment can change the basic tenets of a religious faith."

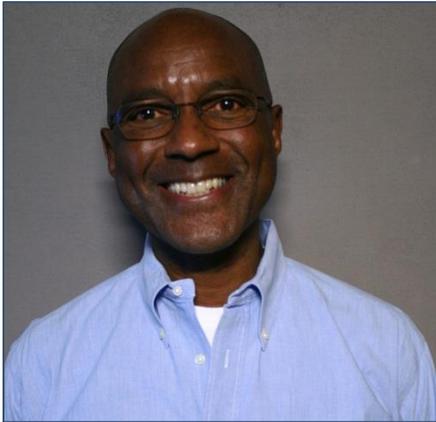
9. (Optional) For homework or as an in-class follow-up assignment, have students write an essay in which they discuss the quote below and why they agree or disagree with the author's point of view.

Surrounded as I am now by wonderful children and grandchildren, not a day goes by that I don't think of Richard and our love, our right to marry, and how much it meant to me to have that freedom to marry the person precious to me, even if others thought he was the 'wrong kind of person' for me to marry. I believe all Americans, no matter their race, no matter their sex,

no matter their sexual orientation, should have that same freedom to marry. Government has no business imposing some people's religious beliefs over others. Especially if it denies people's civil rights.

—Mildred Loving, plaintiff in *Loving v. Virginia* (1967), the U.S. Supreme Court

To Be Equal: The Journey of David Wilson



One evening, as he returned home from work, [David Wilson] found his partner lying on the ground in their driveway. He called his neighbors for help. They called 911, and when the police arrived they proceeded to arrest David assuming, that because he was black, he was breaking and entering and had assaulted the man on the ground.

“Before anything could go any further, my neighbors came to my defense and told them that we were a couple, and that they needed to find out what was going on with my partner.”

At that point, the police released him, but what would take place at the hospital still leaves David shaky-voiced.

“They wouldn’t give me any information because they did not recognize our relationship. They called my partner’s 75-year-old mother who lived in Vermont, and she gave them permission to tell me his condition. They told me that he had

suffered a massive heart attack and was dead on arrival.”

In that moment, David had to quickly come to terms with an unfortunate circumstance of being gay: there was no legal mandate acknowledging his right to medical information about his partner.

“I had never considered the problem with relationship rights until that moment. I had a lot to think about.”

[David] began reading about gay rights, and joined a group called Gay Fathers of Greater Boston. It was in this group that he met Rob Compton, a father of two who had recently relocated to Massachusetts. Rob had been fired from his job as a dentist in Michigan when he came out as a gay man. He came to Massachusetts seeking refuge under the non-discrimination law that prohibits sexual orientation discrimination in the areas of employment, housing, public accommodations, credit and services. David and Rob came together around their stories. They fell in love, and moved in together.

One morning Rob awoke in excruciating pain. David led him to the car and took him to the same hospital that denied him access to his previous partner’s information. “It was five minutes away from our home. It was the local hospital, and it’s a very good one... I just wanted to get Rob to the hospital,” he explained.

Once again David was led to a waiting area while his partner lay on the other side of the wall in the emergency room. It wasn’t déjà vu, it was the sheer reality of the situation: the hospital had to adhere to the law that protects a patient’s right to privacy.

“I tried to describe what had happened to me three years earlier, and the staff didn’t really care. To them, I had no relationship to this man and, unless I could prove that I was related in some way, they would not give me any information.”

Hours later, Rob walked into the waiting room area and sat down next to him. He told David he finally got it. In the emergency room, he was in so much pain he could not answer all of the questions he was asked. He needed David to be there—to hold his hand, comfort him and tell him it was going to be okay—but he wasn’t.

When Rob recovered, the couple moved into the city, seeking a more supportive environment for their relationship. They reached out to the Gay and Lesbian Advocates and Defenders group (GLAD). It was perfect timing, GLAD was spearheading a lawsuit against the state that would grant civil marriage rights to gay and lesbian couples and was seeking plaintiffs upon whom to rest the case. More than 100 same-sex couples were interviewed and screened; David and Rob were selected along with six other couples to testify. GLAD filed the suit in April of 2001, and on November 18, 2003, the Supreme Judicial Court of Massachusetts ruled to end the exclusion of same-sex couples from marriage in the state.

This historic case, known as *Goodridge v. Department of Public Health*, guarantees the legal framework of protections and obligations offered in civil marriages to gay and lesbian couples, and their children too. These protections include the joint filing of taxes, the ability to purchase joint policies of insurance, protection through workers compensation and wrongful death

actions, the ability to bequeath retirement benefits, economic protections to a surviving spouse and hundreds of other protections that cannot be secured without a marriage license.

David and Rob were among the first same-sex couples to be married on May 17, 2004.

Excerpted from Bridgit Brown, "To Be Equal: The Journey of David Wilson," in *Color Magazine*, www.colormagazineusa.com/index.php?option=com_content&view=article&id=222%3Ato-be-equal-&catid=53%3Afeature&Itemid=67. Reprinted with permission.

Marriage Equality Fact Sheet

- On June 26, 2015, in a 5-4 decision, the Supreme Court of the United States held that the 14th Amendment requires a state to license a marriage between two people of the same sex and to recognize marriages lawfully performed in other jurisdictions. This means that marriage equality is now the law of the land in all 50 states. Prior to this historic day, 37 states plus the District of Columbia had legalized marriage for same-sex couples. In 2004, Massachusetts became the first state to legalize same-sex marriage.
- In the past, some states have passed laws granting gay and lesbian people civil unions (or domestic partnerships), but not marriage. It is important to know that married couples have 1,138 federal rights, protections and responsibilities such as: (1) social security benefits upon death, disability or retirement of spouse, as well as benefits for minor children, (2) family and medical leave protections to care for a new child or a sick or injured family member, (3) workers' compensation protections for the family of a worker injured on the job, (4) exemptions from federal income taxes on spouse's health insurance, (5) the right to visit a sick or injured loved one, have a say in life and death matters during hospitalization and many more. A civil union is not a marriage nor is it recognized in all states. It is a legal relationship between two people that provides some of these legal protections to the couple. The protections and responsibilities for civil unions/domestic partnerships do not extend beyond the border of the states in which the civil union was entered and no federal protections are included with a civil union.
- Civil unions (or domestic partnerships) are less relevant since the U.S. Supreme Court legalized marriage for same-sex couples. However, there are many people who remain in civil unions or domestic partnerships despite the availability of same-sex marriage.
- In 1996, the Defense of Marriage Act (DOMA) was signed into law. This was a federal law recognizing lawful marriages as only between a man and woman. Among other things, the law defines marriage as the union of a man and woman. That denied many federal benefits—including Social Security survivors' benefits, insurance benefits for government employees and estate taxes—to same-sex couples, even those granted the right to marry in another country or any of the states and the District of Columbia that recognized those marriages. In July 2013, the Supreme Court struck down Section 2 of this law.
- Prior to the legalization of same-sex marriage, the majority of people in the United States were in favor of marriage equality. According to a Washington Post-ABC News poll in April 2015, 61% of people believed that gay men and lesbians should be able to marry and 78% of those under the age of 30 supported marriage equality. Thirty-five percent were opposed. (See [Poll: Gay Marriage Support at Record High](#))
- President Obama has stated that marriage for same-sex couples should be legal. In May 2012, he said "I think same-sex couples should be able to get married." (See "[President Obama Supports Same-Sex Marriage](#)" by Josh Earnest, May 10, 2012, White House Blog.)

Historical Parallels of Marriage Bans

Directions: Read about the landmark *Loving v. Virginia* case that ended interracial marriage bans in the U.S. and the Supreme Court ruling guaranteeing same-sex couples the right to marry. You are to compare and contrast the journey to victory in both cases. Use the following websites as your primary resources for research and if necessary, other resources for further clarification, including the handouts you received in class to answer the questions below.

- *Loving v. Virginia*, www.history.com/topics/loving-v-virginia
 - Freedom to Marry: Winning in the States, www.freedomtomarry.org/pages/winning-in-the-states (Choose a state and read the “History and Path to Victory.”)
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1. What state did you choose from Freedom to Marry: Winning in the States to research?
2. What are some similarities in the challenges people faced during the journey to victory in each case? Be as specific as possible.
3. What are some distinct differences in the issues (i.e., government policies, societal reactions, emotional impact) they faced during their journey?
4. What policies in either of the cases do you think were unfair? Explain.

Discussing Marriage of Same-Sex Couples with Students

Since the June 26, 2015 Supreme Court ruling legalizing same-sex marriage, students will surely bring their feelings and questions about this subject into the classroom, presenting educators with an opportunity to deepen students' thinking about matters that are of great legal, economic, social and moral importance. Students will benefit from an accurate presentation of the facts and the opportunity to discuss important issues in a safe space.

Since students are routinely bombarded with all sorts of information from television, the Internet, peers and community leaders, it is an outdated and false notion that keeping controversial issues out of the classroom will somehow protect and preserve students' "innocence." On the contrary, students are harmed more when they have no place in which to make sense of complex issues, work past stereotypes and misconceptions, and to develop a strong sense of personal ethics and morals.

It is therefore both appropriate and important that issues such as marriage of same-sex couples be discussed and debated in class. As you discuss the issues with your students, bear in mind the following ideas:

1. ***Many students have had experiences with same-sex couples:*** Don't assume that your students have no experience or knowledge about same-sex relationships. Growing numbers of children today are being raised in same-sex headed families. Many others have friends, neighbors, and relatives that are in committed, same-sex relationships. Draw upon your students' experiences to enrich the conversation and try to acknowledge the many different family constellations from which they likely come. Discussions based on personal understandings will have more meaning for students than those that are abstract or removed from the real lives of community members.
2. ***Same-sex families already exist:*** Unions of same-sex couples have existed around the world for thousands of years. Despite social and legal obstacles, same-sex partners have always found ways to demonstrate their love and commitment for one another, and to create a sense of family for themselves. Legislation that prevented or blocked recognition of same-sex marriages did not change this fact, but it did deprive millions of existent families of the legal and economic benefits that many of their heterosexual counterparts enjoyed.
3. ***There is no evidence to support the notion that marriage of same-sex couples would pose a threat to the institution of marriage or to the fabric of society in general:*** Some opponents of marriage that is inclusive of same-sex couples feel that legally permitting such unions will somehow diminish the institution of marriage and contribute to a moral decay within society. There is little objective evidence to support these claims, however. Studies of same-sex partnerships indicate that these relationships function similarly to those of opposite-sex couples in terms of commitment, endurance, and mutual care and support. Findings also support the conclusion that the great majority of same-sex couples share the kind of intimacy and economic sharing that marriage laws seek to encourage. Concerns about the integrity of the institution of marriage and societal decay are therefore unfounded. Such fears have been historically expressed when changes to the rules of marriage have been considered. When interracial marriage bans were lifted, many asserted that this would lead to polygamous coupling and incestuous relations. When England was considering allowing wives to own property, the London Times declared that doing so would "abolish families in the old sense" and "break up society into men and women" creating "discomfort, ill-feeling and distrust where hitherto harmony and concord prevailed." These foretellings of societal disaster proved foolish. Indeed, if one looks to the many countries that have given formal status to unions of same-sex couples today, there is no evidence of negative societal consequences.
4. ***The emotional health of children reared in same-sex headed families does not differ from that of other children:*** Though many married couples cannot or choose not to have children, for young students, notions of marriage and parenting are inseparably intertwined. Students may therefore question the ability of same-sex partners to be good parents. It is important to stress that the best parents are those who provide love, support and a caring home for their children. Sexual orientation and gender identity should be de-emphasized as criteria for evaluating child-rearing ability in favor of these more enduring characteristics of good parenting. There is no existing research to support the claim that same-sex parents rear children with greater emotional or identity conflicts than heterosexual parents. The American Psychological Association concluded, in fact, that "not a single study has found children of gay and lesbian parents to be disadvantaged in any significant respect relative to the children of heterosexual parents. Indeed the evidence suggests that home environments provided by gay and lesbian parents are as likely as those provided by heterosexual parents to

support and enable children’s psychological growth.” This is not to say that being raised by same-sex parents comes without difficulties; children will inevitably have to cope with teasing, feelings of embarrassment, and other realities as a result of the negative social stigma attached to homosexuality. Studies show, however, that despite these special problems, the mental health of children reared in same-sex headed families does not differ from that of other children. These children learn to deal with community stigma based on their families’ difference just as children living in other minority families. Relying on community stigma as a basis for regulating marriage is problematic, and such arguments have been rejected by the courts in cases claiming that social stigma resulting from interracial marriages would be detrimental to children.

5. ***Marriage is a basic human right:*** When discussing this issue, help students to move past preoccupations with the “rightness” or “wrongness” of same-sex coupling or homosexuality in general. Place the debate over marriage within the context of human rights, thereby expanding the dialogue beyond the realm of morality. The core concern of students—and all citizens—should transcend their moral stance and be an objective consideration of the justness of a government that denies social, legal and economic benefits and protections to one segment of the population while affording them to all others. Marriage should be understood as a basic human right and an individual personal choice. The Universal Declaration of Human Rights, ratified by the United Nations in 1948 and considered the standard for human rights practices internationally, declares marriage and family a fundamental human right, stating that “the family is the natural and fundamental group unit of society and is entitled to protection by society and the state.”
6. ***This is not just a “gay” issue:*** Marriage of same-sex couples is an issue about which many citizens—both gay and straight—are concerned. Non-gay people are affected, among other ways, by attempts to use anti-marriage laws to strip away domestic partnership laws and protections. Laws that are discriminatory and unjust pave the way for future limits to our freedom, and this affects us all. Students should be encouraged to take an interest in matters that may not affect them directly, but threaten the integrity of other individuals and our society in general. It may interest them to know that Coretta Scott King and many other community leaders have expressed their support for the right of same-sex couples to marry.
7. ***Students may be directly impacted:*** Marriage legislation affects not only the couples, but the families that they support as well. By denying same-sex couples the right to marry, the government may also be denying students eligibility for financial aid and scholarships, which is often affected by marital status. Committed, same-sex couples still in school may also be denied student housing and the ability to move easily from state to state for study and work.
8. ***This is not the first instance of government interference with people’s freedom to marry:*** Less than 50 years ago, interracial couples were prohibited from legally marrying. Today, very similar discriminatory arguments are being used to prohibit same-sex couples from marrying. A Virginia judge ruled in 1958 that “Almighty God created the races...and he placed them on separate continents. And but for the interference with his arrangement there would be no cause for [interracial] marriages. The fact that he separated the races shows that he did not intend for the races to mix.” Americans today recognize the inherent prejudice in this statement, and the right of each individual to marry the person she or he loves, regardless of race, class, religion and the like. Examined against the backdrop of interracial marriage bans, it becomes difficult to make a rational case for marriage prohibitions against same-sex couples. Students should understand both the historical parallels to marriage prohibitions against same-sex couples as well as the similarities among racism, homophobia, and all other oppressions.

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