**Evaluating Voter Advocacy – MN Constitutional Marriage Amendment**

**Abstract:**

This lesson focuses on the importance of voter advocacy through examination of a current proposed amendment to the Minnesota Constitution defining marriage as the union between one man and one woman. Students are expected to gain a better understanding of the issue through class discussion based on debate clips from both sides of the issue and through deliberation with classmates.

**Objectives:**

* Introduce students to voter advocacy and importance of exercising one’s right to vote.
* Identify key arguments both for and against current proposed amendment defining marriage.
* Allow students to gain new perspectives on the issue through deliberation.
* Show students the importance and value of deliberation of important social and political issues in a democratic government.
* Help students develop a more concrete understanding of the issue.

**Grade level:** 9-12

**Time to complete:** One 60-minute class period.

**Materials needed:**

* PowerPoint slides with debate clips and questions for discussion.
  + - Or Reading Handout, if teaching variation lesson.
* Adapted Deliberating in a Democracy Handouts One and Two (Deliberation Guide and Student Handout).
* Adapted Deliberating in a Democracy – Marriage and the State Deliberation Handouts (Opposing and Supporting).

**Procedure:**

1. (Recommended) Introduce students to marriage rights using “Fundamental Liberties/Constitutional Interpretation” lesson plan first. [[1]](#footnote-1)
2. Handout the “Deliberation Activities” student handout.
3. Introduce topic through debate clips and discussion presented on accompanying PowerPoint presentation.
   1. Play clips from debate between Maggie Gallagher, president of the Institute for Marriage and Public Policy, and Dale Carpenter, University of Minnesota professor of civil rights and civil liberties law.
   2. Discuss the arguments made in each clip with students and have them fill in their handouts during the discussion.
   3. If possible, outline arguments (and any responses) on the board as they are articulated by the students.

3. VARIATION: Use Reading Handout rather than PowerPoint presentation to introduce the topic.

1. Have students read the Reading Handout.
2. Discuss the arguments for both sides made in the reading with students and have them fill out the student handout.
3. If possible, outline arguments (and any responses) on the board as they are articulated by the students.
4. Deliberating in a Democracy Activity

(Adapted from: http://www.did.deliberating.org/lessons/documents/DID%20

Marriage%20and%20the%20State\_2011.pdf)

* 1. Introduce the activity through Handout One (Deliberation Guide) and explain Deliberation Rules to the class.
  2. Divide the class into groups of four and each group of four into two teams (Team “A” and Team “B”). Hand out the Deliberating in a Democracy – Marriage and the State Deliberation Handouts to each student depending on whether they are supporting or opposing the deliberation question.
  3. Deliberation #1:
     1. Tell the students that Team A will find the most compelling reasons for supporting the deliberation question and Team B will find the most compelling reasons for opposing the deliberation question.
     2. Team A is then instructed to explain their reasons for supporting the deliberation question. Team B is instructed to explain their reasons for supporting the deliberation question once Team A is done.
  4. Deliberation #2 – Role reversal:
     1. The students will now reverse roles.

1. Class Debriefing:
   1. After the final deliberation, discuss the following questions with the students:
      1. What were the most compelling reasons for each side?
      2. What were the areas of agreement?
      3. What questions do you still have? Where can you get more information?
         1. State Legislature: http://www.leg.state.mn.us/lrl/issues/issues.aspx?issue=gay
         2. Minnesotans United: http://mnunited.org/
         3. Minnesota for Marriage: http://www.minnesotaformarriage.com/
      4. What are some reasons why deliberating this issue is important in a democracy?

**Method of evaluation and results:**

The instructor can determine whether the lesson objectives were accomplished through the final classroom discussion and debriefing. The instructor should also attempt to listen to some of the deliberations as they are taking place to determine whether the students are accomplishing the lesson objectives.

**Handout 1—Deliberation Guide [[2]](#footnote-2)**

**What Is Deliberation?**

Deliberation (meaningful discussion) is the focused exchange of ideas and the analysis of arguments with the aim of making a decision.

**Why Are We Deliberating?**

Citizens must be able and willing to express and exchange ideas among themselves, with community leaders, and with their representatives in government. Citizens and public officials in a democracy need skills and opportunities to engage in civil public discussion of controversial issues in order to make informed policy decisions. Deliberation requires keeping an open mind, as this skill enables citizens to reconsider a decision based on new information or changing circumstances.

**What Are the Rules for Deliberation?**

• Read the material carefully.

• Focus on the deliberation question.

• Listen carefully to what others are saying.

• Check for understanding.

• Analyze what others say.

• Speak and encourage others to speak.

• Refer to the PowePoint or reading to support your ideas.

• Use relevant background knowledge, including life experiences, in a logical way.

• Use your heart and mind to express ideas and opinions.

• Remain engaged and respectful when controversy arises.

• Focus on ideas, not personalities.

**Handout 2—Deliberation Activities[[3]](#footnote-3)**

**Student Handout**

**Discussion Outline**

What are the most important reasons for voting yes on the amendment? Write them below.

1) \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

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What are the most important reasons for voting no on the amendment? Write them below.

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**Review the Discussion**

What reason(s) do you find most persuasive? Write it/them below and explain why.

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What reason(s) do you find least persuasive? Write it/them below and explain why.

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**Deliberation Question**

Should the Minnesota Constitution be amended to recognize marriage as a union solely between one man and one woman?

**Learning the Reasons**

|  |  |
| --- | --- |
| **Reasons to Support the Deliberation**  **Question (Team A)** | **Reasons to Oppose the Deliberation**  **Question (Team B)** |
|  |  |

**Evaluating Voter Advocacy – MN Constitutional Marriage Amendment**

**Marriage and the State—Deliberation[[4]](#footnote-4)**

**Question with Arguments**

**Deliberation Question**

Should the Minnesota Constitution be amended to recognize marriage as a union solely between one man and one woman?

**NO—Arguments to Oppose the Deliberation Question**

1. Marriage offers benefits that should be open to every member of democratic society. Married people can automatically hold and can inherit joint property, collect government benefits, visit their spouse or child in hospital, and take family leave for extended illness or the birth of a child. Gay and lesbian couples deserve to enjoy these rights and privileges just as heterosexual couples do. Government should not discriminate against same-sex couples by denying these rights.

2. While marriage certainly includes the right to “found a family,” it is not the only reason people get married. People marry for love and companionship, and they marry for economic reasons. There are also plenty of legitimate marriages without children, as well as single parent families or blended families with a parent and children from two different marriages. All of these families are legitimate, as long as there is love and respect in the home—qualities that both heterosexual and same-sex parents can provide.

3. The basic rights of people who are gay or lesbian should not be subject to a religious veto. Religious traditions in a democracy deserve respect, but they are not the foundation of democratic laws. Slavery was once accepted by Christians, Jews, and Muslims, but today all three traditions condemn slavery. Religious traditions also are not monolithic. Certain Protestant Christian and Jewish denominations have called for civil recognition of same-sex marriages, and their clergy have performed weddings for gay and lesbian couples. Religious practices, like democratic norms, evolve over time.

4. Allowing gays and lesbians to marry would create more, not fewer, families. And children's best interests would be protected. Our democracy’s desire to encourage people to have children in good homes is by recognizing same-sex marriage, not banning it.

**Marriage and the State—Deliberation[[5]](#footnote-5)**

**Question with Arguments**

**Deliberation Question**

Should the Minnesota Constitution be amended to recognize marriage as a union solely between one man and one woman?

**YES—Arguments to Support the Deliberation Question**

1. All democracies have laws limiting who can marry. There are minimum age requirements and prohibitions against marrying close relatives. Most western democracies also limit marriage to two people. Moreover, democratic tradition allows the majority to the set moral standards for a society. In both European countries and the United States, a majority of the public is firmly against legalizing same-sex marriage. Our democracy can reasonably limit marriage to one man and one woman.

2. To permit gay and lesbian couples to marry will overturn centuries of custom and tradition. Marriage in both American and European law system has been unmistakably understood as between one man and one woman. By contrast, the calls for change to this tradition are very recent. Rushing to make such a change will cause great disruptions. Our democracy can wait a few generations to see whether such a radical change is really necessary.

3. The understanding of marriage as a relationship between one man and one woman is central to many religious traditions. Marriage is thus a sacred as well as a legal institution. Our democracy should not extend marital rights to couples in a way that would reject the teachings of these religious traditions and offend the values of millions of people.

4. Marriage has always fundamentally been about procreation. Marriage is the accepted way to create and raise children. Gay and lesbian partners cannot naturally procreate, nor can they simulate the long-standing representation of a family by a mother, a father, and a child or children.

**Marriage and the State—Deliberation [[6]](#footnote-6)**

**Reading Handout**

1 In 2001, The Netherlands became the first country in the world to legalize same

2 sex (homosexual) marriage. Prior to that law, only couples consisting of a man and a

3 woman could marry. After the law passed, Anne-Marie Thus and Helene Fassen became

4 the first same-sex couple in the world to be officially married. “We’re totally ordinary,”

5 says Thus. In the next few years, other countries passed similar laws—Belgium in 2003,

6 and Spain and Canada in 2005. Today, seven countries and five U.S. states recognize

7 same-sex marriage for gay and lesbian couples.

8 The Dutch marriage law and others like it have sparked controversy. Many

9 opponents of same-sex marriage insist that it will lead to destruction of the institution of

10 marriage. These opponents question the limits of democratic decision-making in

11 overturning long-standing social customs and institutions.

12 **Defining and Regulating Marriage**

13 Marriage can have both a civil (secular) and a religious element (Andryszewski,

14 2008). The state offers **civil marriage,** which is regulated by the government. A civil

15 marriage grants the legal rights of marriage to a couple. A religious marriage ceremony

16 also includes two additional dimensions. The couple vows fidelity to God and their faith

17 tradition. In turn, the couple asks for and receives sanction from God and the community

18 of believers for their marriage. Religious institutions such as churches, synagogues, and

19 mosques have their own rules for whom they will or will not allow to marry.

20 Most democracies today restrict marriage to heterosexual couples. For example,

21 *The Family Code of the Russian Federation*, enacted in 1996, clearly requires the

22 “voluntary consent of the man and the woman” in marriage. *The Family Code of*

23 *Lithuania* defines marriage as one man and one woman and prohibits same sex marriage.

24 Indeed, marriage terms indicating a heterosexual (male and female) relationship are the

25 norm. In the English common law, the tradition that forms the basis and context for the

26 American legal system, marriage could occur only with the consent of both parties. While

27 having more than one spouse (polygamy) was practiced in other cultures—Moses in the

28 Hebrew Bible had two wives and the Prophet Muhammad in the Qur’an had four—

29 marriage in the English legal tradition was unmistakably between one man and one

30 woman (“Marriage: An Overview,” Legal Information Institute).

31 In most democracies, the national government typically regulates marriage.

32 Marriages in the United States fall under each state government’s lawmaking authority.

33 State governments set certain rules about marriage, including minimum age requirements

34 for marriage and prohibitions on marriages between certain close relatives, such as a

35 parent, brother or sister, or aunt or uncle. All states also limit marriage to **monogamy**, or

36 two people. As of this writing, every state except Connecticut, Iowa, Massachusetts, New

37 Hampshire, and Vermont restricts marriage to one man and one woman. Traditionally,

38 states must honor marriage licenses issued by other states. However, in 1994, the national

39 government passed a law called the *Defense of Marriage Act* (DOMA), which allows

40 states to ignore licenses issued to same-sex couples in other states.

41 **Marriage: Responsibilities, Benefits, and Rights**

42 Some important responsibilities go with marriage. Married people share

43 responsibility for rearing their children and sending them to school; if they fail to take

44 care of their children, the state can remove their children from their home. They must

45 take care of and pay for any property they own. Married couples receive some tax breaks;

46 conversely, if one person cheats on taxes, the spouse is not legally liable, but the couple’s

47 assets (what they have) may be severely affected. Divorced individuals must take steps to

48 provide economically, if necessary, for their former partners.

49 Getting married brings with it a great many benefits that cover virtually every

50 aspect of a person’s life. In the United States and in Europe, married people can

51 automatically hold joint property and inherit the property of a loved one who dies without

52 a will. They are protected (in most cases) from testifying against each other in court.

53 Spouses are entitled to collect health benefits, unemployment benefits, veterans’ benefits,

54 and death benefits if their spouse is injured or dies. Married people automatically have

55 the right to visit a spouse or a child in hospital, and to take family leave for extended

56 illness or the birth of a child. Any children born to them are assumed to be theirs.

57 Some democratic nations and localities have offered **civil unions**. A civil union is

58 a secular marriage-like relationship regulated by the government. It allows couples to

59 have some of the rights that married couples have. In 2006, for example, the Czech

60 Republic passed a law that allowed same-sex couples to have a type of civil union called

61 a **registered partnership**. The partners in this relationship have inheritance rights, the

62 right to appeal court judgments on behalf of each other, and the privilege not to testify in

63 court against each other, among other rights. Significantly, registered partnerships, like

64 other civil unions, do not allow the couples to adopt children, unless they dissolve the

65 partnership and one of the partners adopts as a single parent.

66 **Marriage: Law and Tradition**

67 Many who view marriage as a purely secular or legal relationship—as well as

68 those whose religious beliefs recognize same-sex marriage—believe marriage rights

69 should belong to gay and lesbian couples who wish to marry. They believe the

70 government should not discriminate against same-sex couples by denying those rights.

71 Those who view marriage as a primarily religious relationship often believe that

72 government should not extend marital rights to couples in a way that would reject the

73 teachings of their religious tradition. They argue that redefining marriage offends the

74 fundamental values of millions of people and contradicts the long-standing representation

75 of a family by a mother, father, and child or children. In traditional Christianity, Islam,

76 and Judaism, marriage is understood as a heterosexual institution. Orthodox Christianity

77 and the Catholic Church explicitly forbid same-sex partnerships of any kind. Islamic law,

78 as well, only recognizes the validity of marriage between a man and a woman.

79 Today, however, certain Protestant Christian and Jewish denominations have

80 called for civil recognition of same-sex marriages, and their clergy have performed

81 weddings for gay and lesbian couples. A few historically Catholic countries also have

82 broken with tradition. Spain legalized same-sex marriage in 2005, and Slovenia legalized

83 same-sex registered partnerships in 2006. Some parts of historically Catholic Latin

84 America have legalized civil unions. Since 2003, for example, residents of Buenos Aires,

85 the capital of Argentina, can have same-sex civil unions. And since 2007, residents

86 of Mexico City, the capital of Mexico, may do so as well.

87 The predominantly Muslim country of Albania has seen change in marriage laws.

88 In July 2009, Prime Minister Sali Berisha proposed a measure in the parliament to give

89 same-sex couples the same rights as heterosexual couples. Albanian opponents, including

90 Muslims, Catholics, and Orthodox Christians, condemn Berisha's proposition as sinful,

91 but also as politically corrupt.

92 According to U.S. Supreme Court Justice Antonin Scalia, a democratic tradition

93 allows the majority in a society to set moral standards. Scalia has written that to

94 criminalize same-sex relations “is well within the range of traditional democratic action,”

95 and warned against “the invention of a brand-new ‘constitutional right’ by a Court that is

96 impatient of democratic change” (*Lawrence* v. *Texas*, 2003). The “brand new” right he

97 mentioned was legalized same-sex relationships, including marriage. Significantly, the

98 U.S. Supreme Court rejected religious freedom as a defense when it outlawed polygamy

99 (*Reynolds* v. *United States*, 1878).

100 Advocates of the rights of same-sex couples to marry, on the other hand, find

101 support for redefining marriage in legal traditions and democratic principles. The UN

102 International Covenant on Civil and Political Rights, for example, states in Article 23 that

103 “The right of men and women of marriageable age to marry and to found a family shall

104 be recognized.” When Spain legalized same sex marriage, Spanish Prime Minister Jose

105 Luis Rodriguez Zapatero said that Parliament was “expanding the opportunities for

106 happiness of our neighbors, our colleagues, our friends and our relatives” and “building a

107 more decent society" (“Spain Legalizes Same-Sex Marriage,” 2005). While marriage has

108 been presumed to be heterosexual in English and American law, that legal tradition also

109 includes the democratic principles of equal protection and due process, which the courts

110 have in some cases applied to marriage. For example, in 1967 the U.S. Supreme Court

111 ruled that the Constitution prohibited states from denying marriage licenses to interracial

112 couples (*Loving* v. *Virginia*, 1967).

113 **Marriage and Children**

114 Founding a family remains a special area of concern for people who oppose same

115 sex marriage. Opponents of same-sex marriage contend that the tradition of heterosexual

116 marriage has always fundamentally been about procreation. “Children need both mothers

117 and fathers,” states Robert H. Knight, who helped draft the federal *Defense of Marriage*

118 *Act* in the United States,” and marriage is society’s way of obtaining them.”

119 Supporters of same-sex marriage counter that marriage certainly includes the right

120 to “found a family” but is not exclusively centered on that right. They point to

121 “legitimate” marriages without children. Married couples traditionally find

122 companionship and love, as well as rights to property. They also obtain rights to adopt

123 children. Therefore, a heterosexual couple who cannot procreate is similarly situated to a

124 same-sex couple with regard to adopting children. Also, assuming that children “need

125 both mothers and fathers,” the case for traditional marriage is not strengthened by high

126 divorce rates of heterosexual couples. Statistical evidence has shown that as many as 41

127 percent—and perhaps 50 percent—of heterosexual marriages in the United States end in

128 divorce (*New York Times*, 2005).

129 Supporters say allowing same-sex marriages would enable the establishment of

130 more, not fewer, families. And children's best interests would be protected. The executive

131 director of Amnesty International Ireland has argued, “Because a same-sex couple is

132 denied access to civil marriage, any adopted child parented by a same-sex couple will not

133 have the same rights, entitlements and protections afforded to a child adopted by a

134 heterosexual couple.” Similarly, the Massachusetts Supreme Judicial Court held in its

135 decision to legalize same-sex marriage in 2003 that the government’s goals in promoting

136 procreation and ensuring good homes for child-rearing were not promoted by a ban on

137 same-sex marriage (*Goodridge* v. *Department of Public Health*, 2003).

138 **Law and Democratic Change**

139 In democracies that recognize same-sex marriage, society must make significant

140 adjustments to laws and policies. Opponents of same-sex marriage argue that those

141 adjustments would place too great a burden on traditional heterosexual marriages.

142 Opponents also point out that public opinion is still firmly against legalizing

143 same-sex marriage. In the United States, about 40 percent of citizens support making

144 same-sex marriages legal (Gallup, May 2009). About 44 percent of European Union

145 citizens feel the same way (Eurobarometer, 2006). This tension exists also with respect to

146 children. Less than a third of EU citizens, for example, feel that same-sex couples should

147 have rights to adopt children. In contrast, a 2003 survey in the United States showed that

148 60 percent of adoption agencies accept applications from homosexual men and women,

149 with more and more agencies seeking training in working with those parents.

150 “It’s ironic and interesting,” says Harvard University historian Nancy Cott, “that

151 same-sex marriage advocates and conservatives of the ‘family-values’ school” both agree

152 on the value of marriage and “how crucial it is as a social institution” (“The Future of

153 Marriage,” *Harvard Magazine*, November-December 2004).

1. Note to instructors: If you have already covered the Due Process Clause and did not use the Constitutional Interpretation lesson, you may need to review the concept of liberty with the class before this lesson. [↑](#footnote-ref-1)
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