

Ballot Propositions and Civil Rights Lesson Plan

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Overview:

This lesson examines the history of ballot propositions in the struggle for equal rights in California. It accompanies excerpted text from *Wherever There's a Fight*. The text excerpts profile key ballot initiatives from the 20th Century that played a role in supporting or battling against struggles for racial justice in California. Students examine the tension between “the voice of the majority” and the defense of minority rights and the role played by the judiciary in protecting the Constitutional rights of minority communities from injustices imposed by majority rule through the ballot initiative process. Each case study explores the social context that sometimes makes difficult the effort to protect and defend the rights of minority communities and populations in California.

This lesson meets the state of California History-Social Science Content Standards for:

- 11th Grade U.S. History and Geography; 11.11 (Students analyze major social problems and domestic policy issues in contemporary American society).
- 12th Grade Principles of American Democracy and Economics; 12.6, 12.7, 12.10 (Students examine features of direct democracy, e.g. ballot propositions, explain how conflicts between levels of government and branches of government are resolved, the relationship among federal, state and local jurisdictions in the Courts and the tension between majority rule and individual rights).

Learning Objectives: Students will understand:

- The tension between majority rule as expressed through ballot initiatives and the role of the Courts to protect the Constitutional rights of minority populations
- How social context, fear and prejudice influence the ballot initiative process
- The difference between the legislative process and ballot initiatives as processes for making law in California

Duration: Two class periods

Resources: text, [handout](#)

Activities:

Warm Up:

Students will do a “values barometer” for the following questions. Post a sign on one wall, “ALWAYS AGREE” and a sign on the opposite wall, “NEVER AGREE.” The teacher or a student reads each statement aloud and students QUIETLY stand and space themselves along a line in the classroom that reflects where they place themselves along

the continuum between “always agree” with the statement and “never agree” with the statement. The teacher solicits student comments from different points along the continuum. As students comment, it is OK for classmates to adjust their own position along the continuum if what they heard changes where they want to stand. This activity invites rich discussion and works well if students can maintain quiet to hear and respond respectfully to classmates’ opinions.

Statement #1:

“Majority rule is always a good way to make decisions in a democracy.”

Statement #2:

“Voting is the most effective way to decide difficult controversial issues (e.g affirmative action, legal rights of undocumented immigrants, gay marriage).”

Tell students that this lesson will focus on the following ballot propositions in California and the role more generally of ballot propositions in the ongoing struggle for civil rights and equality for minority and vulnerable populations in California.

Main Activity

Students will work in groups to read the stories of a diverse group of Californians impacted by ballot initiatives in the 20th century. Each group will read an excerpt from *Wherever There's a Fight* and answer a set of questions from [Handout #1](#)

Rights of the Criminally Accused

Pages 396-399

- Proposition 8; 1982, “Victims Bill of Rights”
- Proposition 184; 1994, “3 Strikes”

Gay Marriage

Pages 340-343

- Proposition 8; 2008 Same-Sex Marriage

School Busing

Pages 152-155

- Proposition 1: 1979 School Desegregation
- Proposition 21: 1972 “Student School Assignment Initiative”

Undocumented Immigrants

Pages 73-77

- Proposition 187: 1994 Undocumented Reporting

Fair Land/Housing Laws

Pages 53-55, 145-149

- Alien Land Law Initiative: 1920 Restrictions on Japanese American Property Ownership
- Proposition 14: 1964 Fair Housing Laws

People with HIV

Pages 331-333

- Proposition 64: 1986 Reporting/Quarantine
- Proposition 96: 1988 HIV Testing for Criminally Accused
- Proposition 102: 1988 Reporting/Sex Partners

For each group:

Read your section of the text quietly to yourself or aloud together (*the teacher can work this out if necessary). If you are reading silently record your responses to the questions in [Handout #1](#) in your notebook. When your group is finished share your responses with one another—filling out your own notes if your group members included important details that you left out. If you are reading aloud together, each of you should write down your group's responses to the questions (the group members' responses could vary depending on the question—they don't have to all be identical!):

After completing the [Handout](#), have each group discuss their answers within the group. Choose one member of your group to participate on the Expert Panel to present to the class.

Expert Panel

- Presenting Students: Sit or stand in front of the class together. Take turns telling the story of your set of ballot initiatives.
- Listening students: Ask questions! Record in your notebook one comment for each panel expert—how was this set of ballot initiatives like or unlike the one your group studied?

Whole group debrief

1) Ask students to make a list of 3-5 key generalizations about the set of ballot initiatives we studied in class. Make a list on the board.

2) Read the following two quotes aloud. Ask students to reflect if these quotes describe the set of circumstances surrounding their set of ballot initiatives.

The issue is not whether one judge can thwart the will of the people; rather the issue is whether the challenged enactment complies with our Constitution and Bill of Rights. Without a doubt, federal courts have no duty more important than to protect the rights and liberties of all Americans by considering and ruling on such issues, no matter how contentious or controversial they may be. This duty is certainly undiminished where the law under consideration comes directly from the ballot box and without the benefit of the legislative process.

-- U.S. District Court Judge Thelton Henderson from his preliminary injunction barring enforcement of Proposition 209

“...If fundamental rights can be stripped from a minority on a mere show of hands, why bother having courts and constitutions?”

--Evan Wolfson, from a letter to the New York Times in response to the success of California’s Proposition 8 banning same sex marriage, November 25, 2008

3) U.S. District Court Judge Thelton Henderson argued that the ballot proposition process makes laws “without the benefit of the legislative process.” What do you think he meant? What is a “benefit of the legislative process” compared with ballot initiatives?

Who wins and who loses from ballot initiatives that involve civil rights issues? What are possible solutions?

Follow-Up Activities/Questions

- Research the history of ballot initiatives in California
- Compare ballot initiatives in California with other states—do many states have a ballot initiative process like California?

Assessment Ideas

Quiz, collect notes, evaluate oral participation