

**THE AFTERMATH OF *LOVING V. VIRGINIA*: SEX
ASYMMETRY IN AFRICAN-AMERICAN
INTERMARRIAGE**

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I. INTRODUCTION

The Supreme Court’s 1967 decision in *Loving v. Virginia* invalidated antimiscegenation statutes as unconstitutional.¹ In the years since *Loving*, intermarriage rates have risen substantially, though not uniformly. African-Americans, for example, are less likely to intermarry than Latinos or Asian-Americans.² Among African-Americans, men are nearly three times as likely as women to intermarry.³

Although the sex asymmetry in African-American intermarriage is often assumed by scholars and lay people alike to be longstanding, it is actually of recent vintage, having developed only since *Loving*. The most noteworthy feature of the post-*Loving* period is not the increased intermarriage rate of African-American men, but the sustained low

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1. 388 U.S. 1 (1967). At the time *Loving* was decided, more than a dozen states had antimiscegenation statutes. See R. Richard Banks, *Intimacy and Racial Equality: The Limits of Antidiscrimination*, 38 HARV. C.R.-C.L. L. REV. 455, 455 n.3 (2003).

2. R. Richard Banks and Su Jin Gatlin, *African-American Intimacy: The Racial Gap in Marriage*, 11 MICH. J. RACE & L. 115, 129-31 (2005).

3. *Id.*

intermarriage rate of black women, especially in light of the demise of antimiscegenation laws and the increased opportunity for interracial contact.

Recognition of the recent development of the sex asymmetry and of the low intermarriage rate of black women redirects analysis of the sex asymmetry in two ways. First, it shifts attention from historical to more contemporary influences on intermarriage.⁴ Second, it situates the sustained low intermarriage rate of black women as the outcome in need of explanation. Rather than ask why the intermarriage rate of black men increased during the 1960s and 1970s, one might ask instead why the intermarriage rate of black women—now the least likely of all groups to intermarry—did not. This brief Article offers an hypothesis about changes during the *Loving* era that depressed the intermarriage rate of black women, even as other groups—including black men—intermarried with greater frequency.

Part II briefly describes the development of the sex asymmetry in African-American interracial marriage,⁵ owing largely to the sustained low intermarriage rate of black women during the 1960s and 1970s. Part II also explains why the most common explanations for the sex asymmetry are inadequate. Part III proposes that black women may have become especially disinclined to enter interracial relationships during the 1960s and 1970s in response to pressures to bolster the black family as a means of rebutting assertions that African-Americans were culturally deficient.

II. CHANGING PATTERNS OF AFRICAN-AMERICAN INTERMARRIAGE

A. *Development of the Sex Asymmetry*

The intermarriage rates of black men and women diverged beginning in the 1960s.⁶ In 1960, according to United States census data,

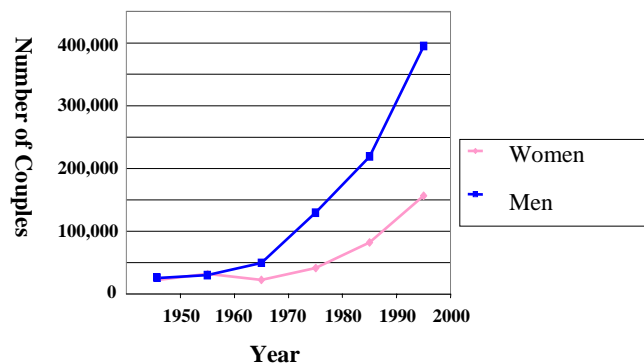
4. Although commentators often attempt to explain the sex asymmetry on the basis of longstanding racial preferences, the fact that it emerged as recently as the 1960s and 1970s weighs in favor of efforts to identify causal influences specific to that period. It is unlikely that social or cultural influences dating from slavery fueled developments a century later.

5. Throughout, I use the term African-American interracial marriage (rather than some more cumbersome term) to refer to interracial marriages in which one partner is African-American.

6. I rely on the best available estimates of intermarriage rates, derived from United States census data. It is important, though, not to overstate the accuracy of statistics regarding African-American intermarriage. Because black-white intermarriage

there were slightly more black women married to white men than black men married to white women.⁷ By 1970, though, intermarried black men outnumbered intermarried black women. The most interesting aspect of this development is not that intermarriage by black men increased substantially during this period (as intermarriage rates increased among all minority groups), but that intermarriage by black women did not. The absolute number of interracially married black women may have even declined slightly during the ten-year period from 1960 to 1970.⁸

Figure 1: Interracially Married Black Men and Women



The intermarriage rates of black men and women diverged even more during the 1970s. Intermarriage by black men increased sharply, while intermarriage by black women began a slow ascent. In sum, between 1960 and 1980, the absolute number of interracially-married black women appears to have barely increased, while the number of interracially married black men grew nearly fourfold. Black men became much more likely to intermarry, as black women went from constituting a majority to less than a third of interracially married African-Americans. And the question remains: what explains this trend?

during the periods I discuss is such a rare event, the statistics that I present should not be taken as exact measures of intermarriage.

7. According to data published by the Census Bureau, in 1960 there were 26,000 black women married to white men, and 25,000 black men married to white women. See U.S. CENSUS BUR., HOUSEHOLD AND FAMILY CHARACTERISTICS: MARCH 1994 (1994)

8. By 1970, the absolute number of black women married to white men declined by approximately 8% to 24,000, while the number of black men married to white women increased by nearly 70% during the same ten-year period. See *id.*

B. *Conventional Explanations*

Intermarriage rates are often explained in terms of either the law, increased opportunity for interracial contact, or race-sex stereotypes. None of these modes of explanation, however, provides a convincing account of the development of the sex asymmetry in African-American interracial marriage.

1. THE *LOVING* DECISION

An obvious development during the 1960s that likely would have increased intermarriage rates was the Supreme Court's invalidation of antimiscegenation laws.⁹ While this undoubtedly permitted an increase in interracial marriages, it is not clear how that change could specifically account for the development of the sex asymmetry in African-American intermarriage. Because antimiscegenation statutes precluded black women as well as black men from marrying whites, the invalidation of such statutes symmetrically expanded the realm of potential marital partners. The development of the sex asymmetry, therefore, cannot simply stem from the formal invalidation of the intermarriage prohibition. Nor may the sex asymmetry be fully accounted for by the fact that social condemnation and law-enforcement pressure during the Jim Crow era may have bore down especially harshly on interracial couples involving black men and white women.

Finally, to the extent that the symbolism of *Loving* itself could have influenced marriage behavior, the opinion might have been expected to spur interracial marriage by black women. After all, Richard Loving was white and his bride, Mildred Jeter, was black.¹⁰ The Lovings embodied the possibility of love and marriage between a black woman and a white man.

2. HISTORICALLY ROOTED IMAGES AND STEREOTYPES

Perhaps the most common and intuitive account of the sex asymmetry in African-American intermarriage centers on sexual stereotypes which render black men more desirable, and black women less desirable. Black men are regarded as strong and virile, qualities

9. Explanations that focus on the invalidation of the legal prohibition of interracial marriage might be viewed as a particular type of opportunity-oriented explanation, which is discussed later.

10. See PETER WALLENSTEIN, *TELL THE COURT I LOVE MY WIFE: RACE, MARRIAGE, AND LAW: AN AMERICAN HISTORY* 231-60 (2002); See also RANDALL KENNEDY, *INTERRACIAL INTIMACIES: SEX, MARRIAGE, IDENTITY, AND ADOPTION* (2003).

which are considered attractive in a man.¹¹ Even the crude stereotypes of black men as sexually well-endowed might render them more desirable. In contrast, black women are stereotyped as rough and strong, qualities antithetical to the feminine ideals of beauty and delicateness that men are thought to desire.¹²

Some have also suggested that interracial relationships have acquired different social meanings for black men as compared to black women, and that such meanings contribute to a tendency for black men to intermarry and a disinclination for black women to intermarry. These social meanings are thought to be a product of history. The coupling of a black woman and a white man is thought to conjure images of brutality and coercion—characteristics often associated with such relationships during and after the slavery era.¹³ The coupling of a black man and white woman, in contrast, signifies the man having obtained the “forbidden fruit.”¹⁴

Longstanding stereotypes or historically rooted social meanings could conceivably have influenced the formation of interracial relationships throughout the nineteenth century and into the twentieth. But, again, it is difficult to fathom how such influences could have culminated in a sex asymmetry that developed only during the 1960s and 1970s.¹⁵

3. INCREASED OPPORTUNITY AND INTEGRATION

A third way of thinking about interracial marriage rates centers on the opportunity to form interracial relationships. During the late 1960s and 1970s, such opportunities unquestionably increased, as African-Americans entered previously all-white educational and professional settings. The Voting Rights Act of 1965,¹⁶ the Civil Rights Act of 1964,¹⁷

11. RACHEL F. MORAN, *INTERRACIAL INTIMACY, THE REGULATION OF RACE AND ROMANCE*, 103-05 (2001).

12. *Id.*

13. No doubt slavemasters often had coercive sexual relationships with black women. Black women were available to satisfy the cravings of white men and were often powerless, legally and socially, to resist their advances.

14. See Lynn Norment, *Black Women White Men, White Women Black Men*, *EBONY*, Nov. 1999, at 218.

15. See Richard E. Watts & Richard C. Henriksen, Jr., *Perceptions of a White Female in an Interracial Marriage*, 7 *FAM. J.* 68 (1999).

16. Pub. L. No. 89-110, 79 Stat. 437 (codified as amended at 42 U.S.C. § 1971 (2006)).

17. Pub. L. No. 88-352, 78 Stat. 241 (codified as amended at 42 U.S.C. § 2000a).

the Fair Housing Act of 1968,¹⁸ and innumerable state and local antidiscrimination measures all moved African-Americans toward the mainstream of American life and contributed to the opportunity for interracial interaction. In addition, colleges and universities initiated affirmative action programs that led to the enrollment of unprecedented numbers of African-Americans, some of whom, in turn, entered high-status and well-paying occupations.

The entry of African-Americans into previously all-white institutions, however, does not help explain the development of the sex asymmetry. More black women than men moved into such institutions.¹⁹ The increase in the population of college-educated African-Americans, for example, was greater among black women than black men.²⁰ Black women, therefore, experienced a greater increase in interracial exposure and interaction than black men. To the extent that changes in interracial marriage reflected changes in opportunity, one would have expected a sex asymmetry in African-American intermarriage directly contrary to that which actually developed.

One way to reconcile the sex asymmetry that actually developed with the inverse disparity in interracial exposure would be to demonstrate that enhanced educational and professional opportunities might have had different effects on the intermarriage prospects of black men as opposed to black women. One longstanding theory, initially advanced by sociologists in the 1940s,²¹ is that black men are able to trade professional status and high earnings potential for the more desirable racial status of a white spouse. Well-educated black women, in contrast, have been thought of as unable to execute such a trade, their value as a potential spouse stemming from beauty and sex appeal rather than education and achievement. Some empirical analyses have seemed to support this theory.²²

More sophisticated empirical analyses, however, have undercut the so-called status-exchange theory.²³ The best available evidence suggests that interracially married black men (along with intraracially married

18. Pub. L. No. 90-284, tit. VIII, 82 Stat. 81 (codified as amended at 42 U.S.C. §§ 3601-31).

19. *The Marriage Dilemma of College-Educated Black Women*, J. BLACKS IN HIGHER EDUC., Autumn 1997, at 52, 52.

20. See generally BART LANDRY, *THE NEW BLACK MIDDLE CLASS* (1987).

21. See Kinsley Davis, *Intermarriage in Caste Societies*, 43 AM. ANTHROPOLOGIST 376 (1941); Robert K. Merton, *Intermarriage and the Social Structure: Fact and Theory*, 4 PSYCHIATRY 361 (1941).

22. See Matthijs Kalmijn, *Intermarriage and Homogamy: Causes, Patterns, Trends*, 24 ANN. REV. SOC. 395 (1998).

23. See Michael J. Rosenfeld, *A Critique of Exchange Theory in Mate Selection*, 110 AM. J. SOC. 1284 (2005).

black men, and men and women of other groups) tend to couple with partners who are similar to them educationally.²⁴ Similarly, the intuition that black women's appeal as potential partners derives from their physical beauty rather than their educational and professional status is probably less accurate than conventional wisdom supposes. Black women with more education are more likely to marry than are black women with less education,²⁵ notwithstanding professional women's lessened economic need for marriage.

While it is difficult to gauge precisely the relative influence of black men's and women's educational and professional credentials on their interracial marriage prospects, it seems safe to assume that the different role of educational and professional status does not account for the sex asymmetry. It is more likely that black women have been less apt to intermarry despite, rather than because of, the enhanced educational and professional credentials that the civil rights era made possible.

III. THE CIVIL RIGHTS ERA

This Article hypothesizes that black women became subject to greater cultural and political pressure not to intermarry, which, in turn, made white men less likely to seek relationships with black women. The pressures faced by black women stemmed from the increased centrality of the black family in racial equality discourse during the 1960s and 1970s.

A. *The Black Family and Inequality*

Throughout American history, people have argued that the government should not help African-Americans because their disadvantage reflects their own inadequacies. Blaming African-Americans for their own disadvantage has been a frequent means of

24. *The Marriage Dilemma of College-Educated Black Women*, *supra* note 19, at 52. The status-exchange theory seems intuitive because it fits with prevailing notions about what makes men desirable as marriage partners and about the cultural value associated with whiteness. Moreover, it seems to comport with everyday observations, as black men who marry interracially seem to be of relatively high socioeconomic status, while white women who marry interracially seem to be of relatively low socioeconomic status. I say "seem" because each party's socioeconomic status is implicitly evaluated relative to their own group. But because blacks, on the whole, are of lower socioeconomic status than whites, the black man is only of high socioeconomic status relative to blacks generally, but generally not relative to his white spouse. Similarly, the white woman is of lower socioeconomic status relative to whites as a whole, but usually not compared to her black spouse.

25. See MORAN, *supra* note 11, at 103-04; Norment, *supra* note 14, at 218; *The Marriage Dilemma of College-Educated Black Women*, *supra* note 19, at 52.

justifying government inaction with respect to racial inequality. The logic of this reasoning is questionable at best, but it nonetheless may be rhetorically and politically potent. The willingness for government to act on behalf of a group would undoubtedly be diminished by a widespread sense that the group has brought misfortune upon itself and is therefore undeserving.

Through the early twentieth century, these sorts of claims often took the form of assertions of innate inferiority. Claims of innate racial inferiority, however, lost their moral acceptability in the aftermath of World War II, when crude notions of biological inferiority were in retreat.²⁶

During the civil rights era, if African-Americans were to be blamed for their own disadvantage, the cause would have to be their behavior, not some innate inferiority. Anthropologist Oscar Lewis coined the term “culture of poverty,”²⁷ which referred to a disadvantaged group’s adoption of self-defeating behaviors in response to disadvantaged circumstances. Although the group’s behavior may have played no role in the initial disparity, behaviors adaptive to that disadvantage may nonetheless perpetuate it. Because they are cultural, these behaviors may endure across generations.

It is easy to see how the culture of poverty notion became prominent in the debate about racial inequality. Conservatives who wanted to cast African-Americans in an unsympathetic light could strenuously argue that, in a post-Jim Crow era, continued inequality reflected the deficiencies of the African-American community and the failings of the black family. Conservatives could make such claims even as they professed not to be racist and to have disavowed genetic explanations of black disadvantage.

Even when not advanced in order to diminish government responsibility, claims of cultural deficiency were undoubtedly interpreted by many as threats to hard-won racial progress. These claims implied that African-Americans did not deserve the substantive changes for which they fought. The Moynihan Report, for example, highlighted the high number of female-headed families among African-Americans, and described such families as a “tangle of pathology.”²⁸ Familial dysfunction, Senator Daniel Moynihan reasoned, would impede the attainment of a more substantive racial equality. Moynihan did not intend

26. See GEORGE M. FREDRICKSON, *RACISM: A SHORT HISTORY* 141-45 (2003).

27. See OSCAR LEWIS, *FIVE FAMILIES: MEXICAN CASE STUDIES IN THE CULTURE OF POVERTY* (1959)

28. See DANIEL PATRICK MOYNIHAN, *DEP’T OF LABOR, THE NEGRO FAMILY, THE CASE FOR NATIONAL ACTION* (1965) (Chapter IV is entitled “The Tangle of Pathology”).

the report as an attack on the black family, nor was he attempting to let the government off the hook for racial inequality. To the contrary, Moynihan documented the failings of the black family in order to dramatize the need for large scale government action.²⁹

Nonetheless, Moynihan's analysis was taken as an attack,³⁰ itself an effort to impede black advancement. The controversy reinforced the centrality of the black family in the debate about racial inequality. As a result, defending African-Americans' claim to further equality required bolstering the black family, to counter any implication that it was an embodiment of cultural deficiency and thereby a mechanism of continued inequality.

B. Family as the Black Women's Obligation

The burden of defending the black family fell to black women. Although, in theory, claims of a deficient family or culture might implicate black men and women equally, in practice such claims put into question the responsibilities of women. Just as men are associated with the market, women are associated with the family. And so the problems of the black family would be seen as the responsibility of black women.³¹

One potential response of black women may have been to become disinclined to enter relationships with white men. It was the woman's responsibility to uphold the sanctity of the black family, and that task could not be accomplished through marriage to a white man. Indeed, such marriages might be taken as evidence of the fragility of the black family.

Others have also linked black women's aversion to interracial marriage to a special commitment to the black family. As Professor Renee Romano has stated, "black women might feel a greater sense of responsibility to maintain the future of the community by building strong black families and raising black children."³² Psychiatrist Alvin Poussaint stated in the 1970s that "the black woman in some ways sees herself as guardian of the black experience, keeper of the culture and the black family role."³³ Whereas these accounts seem to accept black women's commitment to group cohesion and aversion to interracial marriage as

29. *See id.*

30. For a discussion of the controversy surrounding the Moynihan Report, see LEE RAINWATER & WILLIAM L. YANCEY, *THE MOYNIHAN REPORT AND THE POLITICS OF CONTROVERSY* (1967).

31. The irony, of course, is that, according to Moynihan at least, the missing character in the black family was the black man. *See MOYNIHAN, supra* note 28.

32. *See* RENEE C. ROMANO, *RACE MIXING: BLACK-WHITE MARRIAGE IN POSTWAR AMERICA* 242 (2003).

33. *Id.*

longstanding, my own sense is that those beliefs were, at least in part, a response to, a result of, *Loving*-era controversy regarding the black family. Black women's aversion to interracial marriage was partly a consequence of the ideological clashes of that period.

One could easily imagine how the changed orientation of black women might have influenced the behavior of white men. If black women became more committed to the black family as a cultural signifier, the myriad expressions of that commitment might have caused white men to be less inclined to enter relationships with black women.

IV. CONCLUSION

The civil rights movement signaled a transformative period in American history. Our society changed for the better as we shook off the shackles of Jim Crow. The struggles of that period not only transformed race relations in schools, workplaces, and the market, they reverberated in the intimate lives of Americans as well. The sex asymmetry in African-American intermarriage is often assumed to be longstanding, but, in fact, it is one of the less noticed consequences of the civil rights era.