

THE HOPE OF *LOVING* AND WARPING RACIAL PROGRESS NARRATIVES

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*Loving v. Virginia*¹ has been heralded as the catalyst for a “biracial baby boom.”² *Loving* marked the end of the criminalization of miscegenation between nonwhite and white individuals and the automatic illegitimacy of mixed-race children in many states, and it heralded the beginning of the celebration of interracial families as part of a new multiracial, and eventual postracial, era. The construction of whiteness has been tied to the management of interracial sex and marriage, and *Loving* razed antimiscegenation laws that, in former Chief Justice Earl Warren’s words, had been “designed to maintain White Supremacy.”³ Today, the media relies on demographic changes in the United States—such as the fact that 16 percent of new marriages are interracial—as proof of both diminishing racism and *Loving*’s legacy of racial progress.⁴ Yet, these stories gloss over the fact that most American interracial marriages are between whites and Latinos, Asians, or Pacific Islanders.⁵ Racial progress, therefore, is equated with the “whitening” of the United States. Furthermore, black men intermarry twice as much as black women, whereas the reverse happens among Asian American men and women.⁶ Much of the discourse on mixed-

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1. 388 U.S. 1 (1967).

2. Maria P.P. Root, *The Multiracial Experience: Racial Borders as a Significant Frontier in Race Relations*, in *THE MULTIRACIAL EXPERIENCE: RACIAL BORDERS AS THE NEW FRONTIER*, at xiii, xiv (Maria P.P. Root ed., 1999).

3. *Loving*, 388 U.S. at 11.

4. See Stephanie Chen, *Interracial Marriages at an All-Time High, Study Says*, CNN (June 4, 2010, 3:29 PM), <http://www.cnn.com/2010/LIVING/06/04/pew.interracial.marriage/index.html> [<https://perma.cc/RB7S-WZZE>].

5. See, e.g., Lise Funderburg, *The Changing Face of America*, NAT’L GEOGRAPHIC (Oct. 2013), <http://ngm.nationalgeographic.com/2013/10/changing-faces/funderburg-text> [<https://perma.cc/MD4X-UM3N>]; Jeff Guo, *Mixed Marriages Are Changing the Way We Think About Our Race*, WASH. POST (Feb. 17, 2016), <https://www.washingtonpost.com/news/wonk/wp/2016/02/17/mixed-marriages-are-changing-the-way-we-think-about-our-race> [<https://perma.cc/P4FZ-559T>].

6. HABIBA IBRAHIM, TROUBLING THE FAMILY: THE PROMISE OF PERSONHOOD AND THE RISE OF MULTIRACIALISM 89 (2012); Gretchen Livingston & Anna Brown, *Intermarriage in*

race marriages focuses on mixed race as being part white; exploring dual-minority mixed people requires a rethinking of racialized hierarchies and implicates discussions of mixed-raceness as a threat or move toward whiteness. Thus, dominant narratives in the United States ignore persistent antiblackness, white supremacy, and patriarchy.⁷ Battles over how to remember the mixed-race past of the United States reveal *Loving's* limitations.

Looking back on debates in the late 1990s over racial categorization for the 2000 census⁸ demonstrates racial anxieties and competing narratives of racial and national identities. At the time, many organizations—primarily those founded and galvanized by white mothers—sought to introduce a new multiracial category in the census materials.⁹ Conservative political allies marshaled support for this proposal as well.¹⁰ Other organizations pursued changes that would have allowed individuals to check more than one racial category box.¹¹ Civil rights groups were very concerned that the multiracial category would blur documentation and evidence of patterns of racial inequality and discrimination.¹² It seems that, in the context of the 1990s and 2000s, neoliberal and conservative rhetoric offered utopic national narratives devoid of race, and hence, racism. The dismantling of affirmative action and race-based policies coincided with the increasing use of multiracial people to challenge the viability of race as a meaningful category. U.S. Supreme Court Justices Alito, Roberts, and Thomas also recently expressed concern over the viability and appropriateness of affirmative action programs¹³ given the increasing multiracial population.¹⁴

the U.S. 50 Years After Loving v. Virginia, PEW RES. CTR. (May 18, 2017), <http://www.pewsocialtrends.org/2017/05/18/intermarriage-in-the-u-s-50-years-after-loving-v-virginia/> [<https://perma.cc/89S4-NFFE>].

7. This is in relation to the mainstream media discourses surrounding interracial marriages and mixed-race children, which focus on celebration and do not adequately address systemic inequalities.

8. See G. Reginald Daniel & Josef Manuel Castañeda-Liles, *Race, Multiraciality, and the Neoconservative Agenda*, in *MIXED MESSAGES: MULTIRACIAL IDENTITIES IN THE "COLOR-BLIND" ERA* 125, 131–34 (David L. Brunsma ed., 2006).

9. See IBRAHIM, *supra* note 6, at 82–83.

10. See *id.* at 43; KIM WILLIAMS, *MARK ONE OR MORE: CIVIL RIGHTS ON MULTICULTURAL AMERICA* 121–23 (2006).

11. KIMBERLY MCCLAIN DACOSTA, *MAKING MULTIRACIALS: STATE, FAMILY, AND MARKET IN THE REDRAWING OF THE COLOR LINE* 30 (2007).

12. WILLIAMS, *supra* note 10, at 42–43, 93; Daniel & Castañeda-Liles, *supra* note 8, at 125–45.

13. *Fisher v. Univ. of Tex. at Austin*, 136 S. Ct. 2198, 2216–17 (2016) (Alito, J., dissenting).

14. In Brazil, for instance, despite dominant national and transnational narratives that position Brazil as a racial democracy due to its extensive racial mixing, this discourse and utilization of mixed-race people has recently been challenged. See generally GILBERTO FREYRE, *THE MASTERS AND THE SLAVES [CASA-GRANDE & SENZALA]: A STUDY IN THE DEVELOPMENT OF BRAZILIAN CIVILIZATION* (Samuel Putnam trans., 1986). Hence, Brazil has a large mixed population, and it maintains race-conscious affirmative action, thereby presenting a model to dismantle white supremacy and an alternate narrative of racial essentialism. Sérgio da Silva Martins et al., *Paving Paradise: The Road from "Racial Democracy" to Affirmative Action in Brazil*, 34 J. BLACK STUD. 797, 800 (2004).

Even when framed through progressive liberal media expressions of the hopes of a postracial future, there is a tendency toward using mixed-race identity to actualize whiteness and expunge nonwhiteness from the nation. For example, the 1993 *Time* magazine cover of the “new face of America,” a computer-generated image of a woman depicting the future of America through racial mixing, fueled the popular imagination of a raceless society and the role of women as reproducers and symbols of the nation.¹⁵ Yet, the visual image was essentially white. Thus, this desired image of Eve provided a simultaneous celebration of racial mixing and a management of nonwhiteness. Here again, “racelessness” and whiteness continued to be associated together. The image also erased the history of racial mixing and mixed-race people in the United States. African Americans are embedded in histories of race mixing from the beginnings of colonization in the Americas.¹⁶ Ignoring this history involves ignoring a history accompanied by sexual violence and racial oppression.¹⁷

The claims of a postracial era were perhaps strongest when Barack Hussein Obama, the product of an interracial marriage, became President of the United States in 2008. Former President Obama’s mixed race, comprised of black and white ancestry,¹⁸ was a key component of the postracial discourse that foresaw a nation in which racial identities and racial discrimination fell away.¹⁹ Seemingly, the United States portrays itself as a multicultural nation even as it grapples with a legacy of colonization and slavery, which has resulted in persistent racial inequalities and marginalization. It relies on mixed-race bodies, the post-*Loving* generation, and public figures, such as Barack Obama, Halle Berry, Dwayne Johnson, and Tiger Woods, to affirm national unity in the context of ongoing oppression.

The glorification of *Loving* likewise expunges the vast histories of miscegenation and mixed-race peoples. Within the racial binary of the United States, mixed-race people unsettle ideas of racial purity. As such, prior to *Loving*, mixed-race people were labeled as deviant bodies.²⁰ This approach differs strongly from those of Latin America and the Caribbean, which acknowledge histories of racial mixing.²¹ For example, the *mulata* (a woman of both African and European descent) is often mobilized as physical

15. *The New Face of America*, TIME (Nov. 18, 1993), <http://content.time.com/time/covers/0,16641,19931118,00.html> [<https://perma.cc/R9L7-D4MJ>].

16. See generally JOEL WILLIAMSON, *NEW PEOPLE: MISCEGENATION AND MULATTOES IN THE UNITED STATES* (1980).

17. Saidiya Hartman, *Seduction and the Ruses of Power*, 19 CALLALOO 537, 538–39 (1996).

18. Paul Watkins, *A Promise of Redemption*, N.Y. TIMES (Aug. 6, 1995), <https://www.nytimes.com/1995/08/06/books/review/a-promise-of-redemption.html> [<https://perma.cc/BU9Q-PPFB>] (reviewing BARACK OBAMA, *DREAMS FROM MY FATHER* (1995)).

19. See generally CATHERINE SQUIRES, *THE POST-RACIAL MYSTIQUE: MEDIA AND RACE IN THE TWENTY-FIRST CENTURY* (2014).

20. See, e.g., IBRAHIM, *supra* note 6, at 43.

21. See generally Peter Wade, *Images of Latin American Mestizaje and the Politics of Comparison*, 23 BULL. LATIN AM. RES. 355 (2004).

and symbolic proof of Brazilian racial democracy and national identity.²² The focus on the newness of mixed-race people—the children of post-*Loving* interracial marriages—allows for the attachment of racial progress in the United States to multiracial populations. Thus, unlike in Latin America, the notion of the novelty of mixed-race children, rather than a recognition of past histories, is key to the logic of an emergent enlightened racial utopia in the United States. The celebrations of the *Loving* case and the selective forgetting of the United States' mixed-race histories reveal the continuous disavowal and anxieties that mixed-race bodies hold for future visions of the United States. Extending beyond the *Loving* case, then, reveals the continuing anxiety that ambiguous mixed-race bodies signify for the nation-state and the upholding of white supremacy.

The 2017 inauguration of Donald Trump and the rise of openly white supremacist violence, as demonstrated in the Charlottesville protest,²³ requires a reevaluation of the symbolic triumph of the *Loving* decision and the post-*Loving* generation. White supremacy is not an aberration. Rather, it is a continuation of antiblackness and the reification of whiteness in the United States' racial project. Much of the concern expressed over interracial marriages and mixed-race children may have stemmed from fears that the racial hierarchy will be diluted. Persistent tropes of the tragic *mulatto* (or *mulata*) suggest their racial mixture inflicts suffering upon them.²⁴ For example, in 2009, Justice Keith Bardwell of Louisiana refused to marry an African American man and a white woman on the ground that the children of such marriages suffer.²⁵ In 2013, a Cheerios cereal advertisement featuring an African American father and a white mother with their mixed-race daughter was met with criticism on social media, with comments suggesting that the advertisement heralded “racial genocide.”²⁶ Thus, fears that racial mixing will lead to the loss of whiteness persist.

Yet, celebrations of the fiftieth anniversary of *Loving* claim that the mere existence of interracial couples and their offspring is a marker of achieved emancipation, or at least a salve for racial oppression.²⁷ *New York Times* headlines in 2017 included “How Interracial Love Is Saving America”²⁸ and

22. See, e.g., FREYRE, *supra* note 14, at xxx.

23. See Joe Heim, *Recounting a Day of Rage, Hate, Violence and Death*, WASH. POST (Aug. 14, 2017), <https://www.washingtonpost.com/graphics/2017/local/charlottesville-timeline/> [<https://perma.cc/GPL5-5UU7>].

24. See generally EVE ALLEGRA RAIMON, *THE “TRAGIC MULATTA” REVISITED: RACE AND NATIONALISM IN NINETEENTH-CENTURY ANTISLAVERY FICTION* (2004).

25. Mary Foster, *Interracial Couple Denied Marriage License in Tangipahoa Parish*, TIMES-PICAYUNE (Oct. 16, 2009, 8:37 AM), http://www.nola.com/crime/index.ssf/2009/10/interracial_couple_denied_marr.html [<https://perma.cc/5EWM-2LGV>].

26. Morgan Whitaker, *Interracial Family in Cheerios Ad Sparks Online Backlash*, MSNBC (June 3, 2013, 12:50 PM), <http://www.msnbc.com/politicsnation/interracial-family-cheerios-ad-sparks-onli> [<https://perma.cc/DMP5-B95P>].

27. See *supra* notes 25–26 for examples of this celebratory reasoning.

28. Sheryll Cashin, *How Interracial Love Is Saving America*, N.Y. TIMES (June 3, 2017), <https://www.nytimes.com/2017/06/03/opinion/sunday/how-interracial-love-is-saving-america.html> [<https://perma.cc/CH32-KBLE>].

“What Biracial People Know,”²⁹ which proclaim the unique, promising beacon of multiracialism. Citations of *Loving* as the point of origin for a multiracial utopia obscure racial inequalities.³⁰ Mixed-race individuals do not necessarily challenge existing racial models. Such narratives of celebratory multiracialism are often in direct correlation to, rather than a disassembling of, existing racial orders based on nonwhiteness and antiblackness.

29. Moises Velasquez-Manoff, *What Biracial People Know*, N.Y. TIMES (Mar. 4, 2017), <https://www.nytimes.com/2017/03/04/opinion/sunday/what-biracial-people-know.html> [<https://perma.cc/4DMR-UXWY>].

30. *See, e.g.*, Cashin, *supra* note 28.