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# MORE COLOR MORE PRIDE: ADDRESSING STRUCTURAL BARRIERS TO INTERRACIAL LGBTQ LOVING

*Praatika Prasad\**

## INTRODUCTION

On June 26, 2015, people across the United States celebrated the U.S. Supreme Court's decision in *Obergefell v. Hodges*<sup>1</sup> legalizing same-sex marriage.<sup>2</sup> Armed with rainbow flags, throngs of people filled the street outside the Stonewall Inn (Stonewall) in New York City's Greenwich Village to rejoice. Almost exactly forty-six years earlier, Stonewall was the site of the riots credited with catalyzing the gay rights movement.<sup>3</sup>

Police raided Stonewall on the morning of June 28, 1969. After the police clubbed a lesbian over the head for saying that her handcuffs were too tight, Marsha P. Johnson and Sylvia Rivera, two transwomen of color, were among the first people to physically fight back.<sup>4</sup> The violence between the police and the Stonewall patrons escalated, causing the rioting to continue into the next night. The riots caused a feeling of urgency in the LGBTQ<sup>5</sup> community, galvanizing its political activism and motivating the formation of organizations like the Gay Liberation Front and the Gay Activists Alliance. History has been rewritten to exclude people of color's role in the riots, with portrayals of the Stonewall uprising becoming whitewashed over the years.<sup>6</sup> With this rewriting of history and the omission of the interracial nature of the

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\* Executive *Online* Editor, Vol. 87, *Fordham Law Review*; J.D. Candidate, 2019, Fordham University School of Law; B.A., 2014, Smith College. I would like to thank Professor Robin Lenhardt for her guidance. I would also like to thank Sara Dennis for all her help in making the *Fordham Law Review Online*'s Women's Issue a reality.

1. 135 S. Ct. 2584 (2015).
2. This Essay will use "marriage equality" and "same-sex marriage" interchangeably.
3. Jacob Koffler, *Crowds at Stonewall Inn Celebrate Gay Rights Victory Decades in the Making*, TIME (June 26, 2015), <http://time.com/3937889/stonewall-gay-marriage-celebration/> [<https://perma.cc/Q6C9-UEKC>].
4. *Transgender Women of Color at Stonewall*, EQUALITY ARCHIVE, <https://equalityarchive.com/history/transgender-women-of-color-at-stonewall/> [<https://perma.cc/N2A2-U3DN>] (last visited Mar. 2, 2019).
5. This Essay will use the acronym "LGBTQ" to include all forms of non-heterosexual sexual orientations.
6. See, e.g., Sam Stagamen, *Whitewashing of the Stonewall Riots*, W. OREGON UNIV. HONORS THESES (2017) (describing the inaccurate account of the Stonewall riots in the 2015 film *Stonewall* and its erasure of the real people of color who were instrumental in the riots).

couple in *Lawrence v. Texas*,<sup>7</sup> people of color within the LGBTQ community have been forgotten, even as the celebration of the *Obergefell* decision culminated at the site where people of color catalyzed the movement for LGBTQ rights.

The marginalization of LGBTQ people of color is not seen only in the LGBTQ community, but also in society at large. The State has created and continues to support unequal racialized structures in society, such as housing, schooling, criminal justice policies, and access to health care. These structures continue to perpetuate racial disparities across the United States and act as barriers to interracial intimacy, even though many Americans now believe that racism is immoral and that valuing racial classification over individual character is wrong.<sup>8</sup> Many Americans also believe that society is “post-racial,” and that they are “colorblind.”<sup>9</sup> This colorblindness rationalizes white supremacy in everyday thought and supports whites’ ability to engage in everyday racism while ignoring the significance of white privilege.<sup>10</sup>

White privilege is seen in the LGBTQ community although many white LGBTQ people believe that as “minorities” themselves, they understand the plight of racial minorities and do not participate in racism and racial bias. In actuality, racism is rampant within the LGBTQ community and the interests of LGBTQ people of color are often overlooked.<sup>11</sup> While LGBTQ people of all races still face harassment and discrimination, LGBTQ people of color face additional inequalities in housing, education, and employment because of their multiple minority status. State-imposed racial structures constrain intergroup contact and thus artificially limit the possibility for LGBTQ people of different races to meet and form intimate relationships.

Through an examination of State-supported racial structures, this Essay illustrates that even after the legalization of interracial and same-sex marriages, the State’s control over housing, education, and employment prospects impedes the formation of interracial LGBTQ relationships. This Essay suggests that reducing residential segregation can be a first step in dismantling structural barriers to interracial LGBTQ loving, as truly integrated housing would increase cross-racial contact, lead to better educational and employment outcomes, and give LGBTQ people of color a chance to improve their social capital. This, together with altering how issues of race are framed within the LGBTQ community, will help dispel negative racial stereotypes and facilitate the formation of interracial LGBTQ relationships.

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7. 539 U.S. 558 (2003).

8. *Id.*

9. Imani Perry, *Post-Intent Racism: A New Framework for an Old Problem*, 19 NAT’L BLACK L.J. 113, 116 (2006).

10. See generally EDUARDO BONILLA-SILVA, *RACISM WITHOUT RACISTS* (4th ed. 2014); Praatika Prasad, Note, *Implicit Racial Biases in Prosecutorial Summations: Proposing an Integrated Response*, 86 FORDHAM L. REV. 3091 (2018) (discussing prosecutors’ frequent use of racial tropes and dog-whistles in closing arguments).

11. See *supra* notes 48–51 and accompanying text.

## I. STRUCTURAL BARRIERS TO INTERRACIAL LGBTQ LOVING

The Supreme Court's decision in the 1967 landmark civil rights case *Loving v. Virginia*<sup>12</sup> portrayed and allowed for Martin Luther King's vision of the "integrative ideal"<sup>13</sup> in interracial coupling and marriage, but the rate of interracial coupling is still low. Part of the reason for this is that people may have strong preferences about the types of people they are interested in and desire. While love, desire, and sex are "deeply personal and highly significant aspects of human experience,"<sup>14</sup> the State plays a major role in the development of these "preferences." By creating the infrastructure of society, the "[S]tate shapes the accidents of who meets whom and how."<sup>15</sup> The State also plays a "role in the hierarchy of intimate opportunities by shaping social capital and relative advantages."<sup>16</sup> This contributes to people's perceived romantic "preferences" and explains the low rate of interracial LGBTQ relationships.

### A. *Integrative Ideals: Loving to Love-is-Love*

The *Loving*<sup>17</sup> decision determined, in part, that antimiscegenation laws were discriminatory because they were "[based on] invidious racial discrimination . . . [and] designed to maintain White Supremacy."<sup>18</sup> *Loving* is considered "iconic" for eliminating the State's role in interracial couples' right to marry.<sup>19</sup> Because of its legacy, *Loving* was an important precedent in the marriage equality debate. Same-sex marriage was seen to extend *Loving*'s principles of freedom of choice, antidiscrimination, and antisubordination. Although marriage equality advocates used the *Loving* analogy, they did not consider a key component—race. The advocates failed to include *Loving*'s antisubordination principle, as articulated through the Courts' anti-white supremacist language, thus undermining the *Loving* analogy itself.<sup>20</sup>

In the landmark decision ensuring marriage equality—*Obergefell*—Justice Anthony Kennedy considered the Court's decision in *Loving*. Like the marriage equality advocates, instead of acknowledging the strong message

12. 388 U.S. 1 (1967).

13. Dr. Martin Luther King, Jr.'s vision of a racially "integrated ideal" was "the positive acceptance of desegregation and the welcomed participation of Negroes into the total range of human activities . . . genuine intergroup, interpersonal doing." See Dr. Martin Luther King, Jr., Speech at Church Conference in Nashville, Tennessee (Dec. 27, 1962), in *A TESTAMENT OF HOPE: THE ESSENTIAL WRITINGS AND SPEECHES OF MARTIN LUTHER KING, JR.* 121 (James M. Washington ed., 1991).

14. Elizabeth F. Emens, *Intimate Discrimination: The State's Role in the Accidents of Sex and Love*, 122 HARV. L. REV. 1307, 1356 (2009).

15. *Id.* at 1309.

16. *Id.*

17. 388 U.S. 1 (1967).

18. See *id.* at 11; see also Adele M. Morrison, *Same-Sex Loving: Subverting White Supremacy Through Same-Sex Marriage*, 13 MICH. J. RACE & L. 177, 178 (2007).

19. Elizabeth M. Toledo, *When Loving is Not Enough*, 104 CALIF. L. REV. 769, 774 (2016).

20. Morrison, *supra* note 18, at 197.

that *Loving* communicates about the illegitimacy of antimiscegenation laws “designed to maintain White Supremacy”<sup>21</sup> or its affirmation that racial classifications “require the most ‘rigid scrutiny,’” Kennedy “recast the decision as one unrelated to race.”<sup>22</sup> Kennedy “wrote . . . the history of racial subordination and bias out” of *Loving*, by characterizing the *Loving* decision as being based on liberty under the Due Process Clause instead of being rooted in interracial relationships.<sup>23</sup>

It is not surprising that marriage equality advocates did not care about the removal of *Loving*’s racial component from the *Obergefell* decision. Many people in the LGBTQ community are uninterested in racial issues. There was, and continues to be, a fundamental lack of understanding of how subordination is maintained by the interconnection of race and sexuality-based oppression.<sup>24</sup> Legalization of same-sex marriage has primarily benefitted affluent white male couples and further divided the LGBTQ community among racial, class, and gender lines.<sup>25</sup> *Obergefell* holds significant promise for this privileged subset of LGBTQ people, but it crafts a whitewashed version of marriage and dignity, and does not carry the same potential for less privileged subgroups within the community.<sup>26</sup> While society believes that marriage rights signify acceptance, such rights do not resolve larger injustices in society, as they are less relevant to struggles for survival of women, people of color, and poor LGBTQ people.<sup>27</sup> “Access to marriage, without more, does not cure the stigma, disparate treatment, and harm that comes with outsider status.”<sup>28</sup> As a result, people who face multiple oppressions and those who are socially privileged have different views about the ability of marriage to transform their lives.<sup>29</sup>

The United States has still not resolved issues of race and citizenship from the time of *Loving*.<sup>30</sup> Breaking down legal barriers to marriage through *Loving* did little to achieve full integration of Black people into the dominant white culture. “Though de jure white supremacy may have diminished in our culture, de facto white supremacy has not.”<sup>31</sup> Over half a century after *Loving*, the rates of interracial coupling are still low.<sup>32</sup> Colorblind discourse

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

22. R.A. Lenhardt, *The Color of Kinship*, 102 IOWA L. REV. 2071, 2094 (2017).

23. *Id.*

24. Morrison, *supra* note 18, at 185.

25. See Darren Lenard Hutchinson, *A Racial Critique of Gay and Lesbian Legal Theory and Political Discourse*, 29 CONN. L. REV. 561, 590 (1997).

26. See generally R.A. Lenhardt, *Race, Dignity, and the Right to Marry*, 84 FORDHAM L. REV. 53 (2015); see also Alexander Nourafshan & Angela Onwuachi-Willig, *From Outsider to Insider and Outsider Again: Interest Convergence and the Normalization of LGBT Identity*, 42 FLA. ST. U. L. REV. 521, 521 (2015).

27. Nourafshan & Onwuachi-Willig, *supra* note 26, at 523.

28. Lenhardt, *supra* note 26, at 53.

29. Nourafshan & Onwuachi-Willig, *supra* note 26, at 523.

30. Lenhardt, *supra* note 26, at 65.

31. Morrison, *supra* note 18, at 198.

32. Even after *Loving* and *Obergefell*, two publicly-funded studies have confirmed that the rate of interracial LGBTQ coupling remains low. GARY J. GATES, WILLIAMS INST., SAME-SEX COUPLES IN CENSUS 2010: RACE AND ETHNICITY (2012),

and *Loving*'s legacy have prevented the acknowledgment of how State structures create barriers to interracial intimacy. The State's role in discouraging both heterosexual and same-sex interracial relationships has shifted from antimiscegenation laws to subtle regulation of interracial relationships. The regulation of interracial relationships in the LGBTQ community is a significant and often overlooked problem.

*B. The State's Control Over the Infrastructure of Life*

Laws and social norms create structures that inform and limit interactions among different kinds of people. This social structuring affects people's romantic preferences and inclinations they "imagine, express, and pursue."<sup>33</sup> Even if people do not explicitly look at race, they consider factors like income, education, and employment when deciding whether or not to form an intimate relationship. These factors are largely influenced by the State-created social infrastructure. The presence of such structures and their influence on people's romantic choices is often overlooked, allowing people to remain unaware of the structural influences in their romantic preferences.<sup>34</sup>

For example, a long history of public policies and private practices has created a system of segregated housing patterns in the United States. The roots of housing discrimination, especially as it affects Black people, extends deep into history. Slavery shaped the early housing options for Black people as labor. Over time, as slavery was replaced by institutional and economic structures that limited Black participation in social life, their housing choices followed a pattern of inequality.<sup>35</sup> Even after the Fair Housing Act<sup>36</sup> (FHA) was passed in 1968, banning housing discrimination, decades of public policy has supported de facto segregation. These policies include race-based

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<https://williamsinstitute.law.ucla.edu/wp-content/uploads/Gates-CouplesRaceEthnicity-April-2012.pdf> [<https://perma.cc/Z6AW-LR84>] [hereinafter GATES: 2010] (finding 20.6 percent of same-sex couples are interracial); GARY J. GATES, WILLIAMS INST. LGB FAMILIES AND RELATIONSHIPS: ANALYSES OF THE 2013 NATIONAL HEALTH INTERVIEW SURVEY (2014), <https://williamsinstitute.law.ucla.edu/wp-content/uploads/lgb-families-nhis-sep-2014.pdf> [<https://perma.cc/5PKT-FN5R>] [hereinafter GATES: 2013] (finding 13 percent of married same-sex couples are interracial). The rate of interracial LGBTQ couples is likely even lower than what the studies found, as there are challenges "associated with the measurement of same-sex couples in the [U.S.] Census Bureau data." See GATES: 2013; Julie A. Nice, *The Responsibility of Victory: Confronting the Systemic Subordination of LGBT Youth and Considering a Positive Role for the State*, 23 TEMPLE POL. & CIV. RTS. L. REV. 373, 377 (2014).

33. Russell K. Robinson, *Structural Dimensions of Romantic Preferences*, 76 FORDHAM L. REV. 2787, 2788 (2008).

34. *Id.*

35. See generally DOUGLAS S. MASSEY & NANCY A. DENTON, *AMERICAN APARTHEID: SEGREGATION AND THE MAKING OF THE UNDERCLASS* (1998).

36. Title VIII of the Civil Rights Act of 1968, Pub. L. No. 90-284, 82 Stat. 73 (codified as amended at 42 U.S.C. §§ 3601–31 (2006)) (preventing discrimination in the sale, rental, and financing of dwellings, and other housing-related transactions because of "race, color, religion, national origin, sex, handicap, or familial status").

discriminatory lending practices<sup>37</sup> and zoning rules that obstruct affordable housing and propagate segregation today.<sup>38</sup>

Today, housing policies continue to subtly affect interracial intimacy. Even after de jure segregation ended, people determine which neighborhoods to live in because of race, ethnicity, and sexuality. Because of the discrimination and othering of people of color, racial communities tend to live near each other. This residential segregation has a sizeable influence on romantic preferences by limiting intergroup contact. Segregation deprives people of the opportunity to get to know each other. Instead, it allows for people to accept dehumanizing myths and stereotypes about others that foster fear and hatred.<sup>39</sup> Living or working where one race predominates also makes it difficult for people to connect romantically with people of different races.<sup>40</sup>

Additionally, though no laws forced LGBTQ people to live separately, they often self-segregated, as coming out often involves discrimination, threats of violence, and physical harm.<sup>41</sup> This resulted in the formation of gay neighborhoods, or “gayborhoods,” in many urban U.S. areas in the second half of the twentieth century. The development of gayborhoods led to gentrification, as gayborhoods were formed in “forsaken parts of cities” where people of color lived.<sup>42</sup> While gayborhoods are meant to be safe havens for all LGBTQ people, they often exclude blue-collar gay people, gay people of color, and lesbians.<sup>43</sup> Gayborhoods are usually gay white male-dominated and the number of opportunities for white men to “meet and mate” is much higher than the number of public spaces where people of color and lesbians are welcome.<sup>44</sup>

Since they do not feel welcome in gayborhoods, many LGBTQ people of color prefer to live near other people of the same race rather than sexual orientation.<sup>45</sup> This preference has tangible implications on interracial intimacy as it limits cross-racial contact and informs social capital. Since gayborhoods displaced communities of color, LGBTQ people of color and their racial communities were forced to move to areas with even lower educational and employment outcomes.<sup>46</sup> Living in racial communities contributes to LGBTQ people of color facing a perpetual “outsider” status.

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37. Laura Sullivan et al., *The Racial Wealth Gap*, DEMOS & IASP, [http://www.demos.org/sites/default/files/publications/RacialWealthGap\\_1.pdf](http://www.demos.org/sites/default/files/publications/RacialWealthGap_1.pdf) [https://perma.cc/M2CU-SB8J] (last visited Mar. 2, 2019).

38. Raul Yzaguirre, Laura Arce & Charles Kamasaki, *The Fair Housing Act: A Latino Perspective*, 4 CITYSCAPE 16, 18 (1999), <https://www.huduser.gov/portal/Periodicals/CITYSCPE/VOL4NUM3/yzaguirre.pdf> [https://perma.cc/9DDZ-838R].

39. Robert S. Salem, *Intimate Integration: Lessons from the LGBT Civil Rights Movement*, 45 CAP. U. L. REV. 33, 41 (2017).

40. See Robinson, *supra* note 33, at 2788.

41. Salem, *supra* note 39, at 41.

42. Charles J. Ten Brink, *Gayborhoods: Intersections of Land Use Regulation, Sexual Minorities, and The Creative Class*, 28 GA. ST. U. L. REV. 789, 829 (2012).

43. *Id.*

44. Robinson, *supra* note 33, at 2790 n.12.

45. Nourafshan & Onwuachi-Willig, *supra* note 26, at 539–40.

46. Ten Brink, *supra* note 42, at 812.

LGBTQ people of color face the “gay outsider” status from heterosexual communities of color where they live and face the “person of color outsider” status in LGBTQ public spaces.<sup>47</sup>

Despite the stereotype of an affluent gay community, LGBTQ people are also more likely to fall into poverty than heterosexuals. Like their heterosexual counterparts, LGBTQ people of color have lower economic security and higher rates of poverty and uninsurance than their white peers. LGBTQ people of color report greater economic insecurity than their heterosexual people of color peers.<sup>48</sup> Additionally, LGBTQ people of color are more likely to live in less-gay friendly states and to have fewer years of education than white LGBTQ people.<sup>49</sup> LGBTQ people of color are also overrepresented in the criminal justice system.<sup>50</sup> These disparities begin at a young age for LGBTQ people of color and persist throughout their lives. Thus, they are most vulnerable to various forms of discrimination.<sup>51</sup>

Many young LGBTQ people experience rejection from their families, harshness from the child welfare and juvenile justice systems, harassment in schools, and violence in the streets.<sup>52</sup> These harsh experiences impact LGBTQ youth of all races, but disproportionately affect LGBTQ youth of color. LGBTQ youth of color are more likely to be rejected by their families and to end up in the child welfare or juvenile justice systems.<sup>53</sup> Black, Latinx, and multiracial LGBTQ youth are often pushed out of school directly into the juvenile and criminal justice system by harsh disciplinary policies and choosing to skip school because school does not feel safe.<sup>54</sup> LGBTQ youth of color are also the most vulnerable youth population in health and developmental outcomes because of lack of support from their racial communities and the LGBTQ community, and the increased likelihood that they will experience prejudice on multiple fronts because of their multiple minority identities.<sup>55</sup>

These marked disparities throughout their lifecycles make LGBTQ people of color more likely than white LGBTQ people to have lower paying jobs or

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47. Nourafshan & Onwuachi-Willig, *supra* note 26, at 535 (describing one survey that found that half of Black gay and lesbian respondents experienced racism from white gays and lesbians and that respondents experienced racism at mostly white gay events and venues and experienced homophobia in Black heterosexual organizations, from their families, straight friends, and religious organizations).

48. CTR. FOR AM. PROGRESS & MOVEMENT ADVANCEMENT PROJECT, UNJUST: HOW THE BROKEN CRIMINAL JUSTICE SYSTEM FAILS LGBT PEOPLE OF COLOR (2016), <https://www.lgbtmap.org/file/lgbt-criminal-justice-poc.pdf> [<https://perma.cc/X2HP-NSDY>].

49. Nourafshan & Onwuachi-Willig, *supra* note 26, at 532.

50. See CTR. FOR AM. PROGRESS & MOVEMENT ADVANCEMENT PROJECT, *supra* note 48.

51. Nourafshan & Onwuachi-Willig, *supra* note 26, at 523–24.

52. Nice, *supra* note 32, at 375–76.

53. CHILDREN’S BUREAU, RACIAL DISPROPORTIONALITY AND DISPARITY IN CHILD WELFARE (2016), [https://www.childwelfare.gov/pubpdfs/racial\\_disproportionality.pdf](https://www.childwelfare.gov/pubpdfs/racial_disproportionality.pdf) [<https://perma.cc/BNZ2-JD8K>].

54. See CTR. FOR AM. PROGRESS & MOVEMENT ADVANCEMENT PROJECT, *supra* note 48 (finding that 66 percent of currently incarcerated Black and Latinx LGBTQ people had been arrested before age eighteen compared to 51 percent of white LGBTQ people).

55. Nice, *supra* note 32, at 393.



to be unemployed. While associating whiteness and wealth with homosexuality has helped LGBTQ people make strides toward equality, LGBTQ people of color's concerns—especially those who are poor or working class—are not given much attention by the LGBTQ community or the State. This has caused LGBTQ people of color to become even more vulnerable to continued racial and sexual orientation-based inequalities, and even more invisible to the public. Since LGBTQ people of color experience high rates of discrimination in school, in employment, and in accessing social services, they are less likely to escape the poverty cycle than similarly situated white people.<sup>56</sup> The relative poverty, low education, and poor job prospects of LGBTQ people of color collectively serve as a hindrance in the dating market, as people base their dating preferences off of these markers.<sup>57</sup>

## II. MANIFESTATION OF STRUCTURAL BARRIERS WITHIN THE LGBTQ COMMUNITY

Sexual desire and socialization are linked. “Opportunities to meet people from a range of backgrounds and pursue intimate relationships [with them] are . . . limited by [the United States’] history of exclusionary practices that have shaped its infrastructure and social conditions.”<sup>58</sup> The perpetuation of negative stereotypes, fear, and hatred continues to transmit through white supremacy by individuals who pass on racist attitudes that they have absorbed from their various cultures and subcultures.<sup>59</sup> These attitudes reveal themselves in everyday behaviors, often without conscious recognition. Intergroup contact can help address this, but is often limited because of segregated housing and public spaces.<sup>60</sup>

White LGBTQ people often believe that they cannot be racist because of being part of a marginalized community themselves.<sup>61</sup> Unfortunately, like their heterosexual counterparts, white LGBTQ people are also affected by the messages they receive from their surroundings, including messages about race-based stereotypes.<sup>62</sup> Racial segregation, differences in education, employment and socioeconomic status, the lack of multiracial representation of LGBTQ people in the media, and the lack of opportunities for people of

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56. CTR. FOR AM. PROGRESS & MOVEMENT ADVANCEMENT PROJECT, *supra* note 48.

57. Emens, *supra* note 14, at 1391.

58. *Id.* at 1376.

59. Andrew R. Flores, *Yes, There’s Racism in the LGBT Community. But There’s More Outside It*, WASH. POST (July 7, 2017), [https://www.washingtonpost.com/news/monkey-cage/wp/2017/07/07/yes-there-is-racism-in-the-lgbtq-community-but-not-as-much-as-outside-it/?utm\\_term=.dbe2c8a6d20d](https://www.washingtonpost.com/news/monkey-cage/wp/2017/07/07/yes-there-is-racism-in-the-lgbtq-community-but-not-as-much-as-outside-it/?utm_term=.dbe2c8a6d20d) [https://perma.cc/CLN8-7N3H].

60. *See supra* Part I.

61. Owen Jones, *No Asians, No Black People. Why Do Gay People Tolerate Blatant Racism?*, GUARDIAN (Nov. 24, 2016, 2:00 AM), <https://www.theguardian.com/commentisfree/2016/nov/24/no-asians-no-blacks-gay-people-racism> [https://perma.cc/CYD8-NCB3].

62. Ashley Brown, “Least Desirable”? *How Racial Discrimination Plays Out in Online Dating*, NAT’L PUB. RADIO (Jan. 9, 2018, 5:06 AM), <https://www.npr.org/2018/01/09/575352051/least-desirable-how-racial-discrimination-plays-out-in-online-dating> [https://perma.cc/3PDV-JZMY].

different races to meet contributes to the racial attitudes within the LGBTQ community.<sup>63</sup> These racial attitudes manifest in online dating preferences<sup>64</sup> and racism in gay bars,<sup>65</sup> which further perpetuates negative racial attitudes within the LGBTQ community by limiting cross-racial contact.

### III. DISMANTLING STRUCTURAL BARRIERS TO INTERRACIAL LGBTQ LOVING: FACILITATING CROSS-RACIAL INTERACTIONS

People of color and LGBTQ people have historically been marginalized and discriminated against in U.S. society. LGBTQ people of color experience the inequalities faced by both marginalized groups. Since there is no quick or easy solution to remedy the effects of multiple oppressions, this Essay suggests that a first step to addressing prolonged inequalities is to increase cross-racial contact.

Better realizing Dr. King's integrative ideal requires greater cross-racial contact by exposing people to differences in their formative years.<sup>66</sup> Cross-racial contact has been found to increase comfort among different racial groups. Even among people who show high levels of racial bias, psychological signs of stress have been found to decrease through repeated interracial interactions, which then makes future interracial experiences more positive.<sup>67</sup> While the Court has focused on attaining cross-racial exposure through education,<sup>68</sup> addressing de facto residential segregation could be a better way to attain the integrative ideal, since housing directly impacts education, socioeconomic status, and personal well-being.

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63. *Id.*

64. Hateful messages like “no blacks, no Asians” are regularly seen on profiles on popular dating apps like Grindr, Tinder, and OKCupid. For a catalog of illustrative racist messages, see DOUCHEBAGS OF GRINDR, <http://www.douchebagsofgrindr.com/tag/racism/> [https://perma.cc/SZF3-C3LP].

65. Gay bars sometimes prevent people of color from entering their establishments by adding cover charges when the customers seem “blacker than usual,” creating rules such as “no hats, no timbs” and subjecting people of color to rigorous pat downs. *No Blacks Allowed: New NYC Gay Bar Discriminates Against POC? Says “This Is Not a Real Issue,”* EDUGAYTION, <http://www.edugaytion.com/2017/04/no-blacks-allowed-new-nyc-gaybar.html> [https://perma.cc/X7FG-A64Y]. For more examples of racism in 2017 alone, see Ashlee Marie Preston, *Even in WeHo, Trans People Struggle for Acceptance*, WEHO VILLE (Apr. 17, 2017), <https://www.wehoville.com/2017/04/17/opinion-even-in-weho-trans-people-struggle-for-acceptance/> [https://perma.cc/33CR-S8AT]; Mathew Rodrigues, *D.C. Gay Bar JR’s Under Fire After Manager Requests “Hot White Guy” Instead of Black Model on Ad*, MIC (Jan. 28, 2017), <https://mic.com/articles/166954/dc-gay-bar-jrs-under-fire-after-manager-requests-hot-white-guy-instead-of-black-model-on-ad#.cqn2fdcNM> [https://perma.cc/28JA-UVAA]; *Lesbian Luau Cancelled Because of Online Protests over Racism*, WILLAMETTE WEEK (Jan. 24, 2017), <http://www.wweek.com/portland/blog-33613-lesbian-luau-cancelled-because-of-online-protests-over-racism.html> [https://perma.cc/ZPZ3-6JBY].

66. See *supra* note 13 and accompanying text.

67. Thomas F. Pettigrew & Linda R. Tropp, *When Groups Meet: The Dynamics of Intergroup Contact*, in PSYCHOLOGY PRESS (2011).

68. See generally *Fisher v. Univ. of Texas*, 570 U.S. 297 (2013); *Parents Involved in Cmty. Schools v. Seattle Sch. Dist. No. 1*, 551 U.S. 701 (2007); *Grutter v. Bollinger*, 539 U.S. 306 (2003); *Regents of Univ. of Cal. v. Bakke*, 438 U.S. 265 (1978).

Addressing residential segregation will have a direct impact on education, as “housing policy is school policy.”<sup>69</sup> Truly integrated housing and schooling will allow for increased cross-racial contact, which will help dispel negative stereotypes and help form positive racial attitudes from a young age. It will also allow for people from different races to meet and form relationships. Additionally, an improvement in housing conditions may reduce the population of homeless LGBTQ youth, thus improving the lives of countless LGBTQ people of color.<sup>70</sup> Better education and lower rates of homelessness will increase the social capital of LGBTQ people of color and improve their position in “the hierarchy of intimate opportunities.”<sup>71</sup> Dispelling racial stereotypes and increased social capital may also lead to lower levels of racism in online dating and gay bars, thus positively affecting the formation of interracial LGBTQ relationships.<sup>72</sup>

Residential desegregation will help interracial LGBTQ relationships last longer. Currently, even if interracial LGBTQ couples are formed, they may be difficult to navigate because of structural barriers working against them. While interracial, heterosexual couples may face discrimination upon a single identity category such as race, LGBTQ interracial couples may encounter discrimination at the intersection of race and sexual orientation.<sup>73</sup> Even though race-based discrimination is prohibited by the FHA, it still occurs.<sup>74</sup> LGBTQ couples are often discriminated against in housing,<sup>75</sup> and the FHA does not protect LGBTQ people from this discrimination.<sup>76</sup> Thus, interracial LGBTQ couples may face double the discrimination in finding a place to live, which may strain their relationship.

Real residential desegregation and an increase in cross-racial contact will require bureaucratic reforms and a moral commitment from white America.<sup>77</sup> For these changes to truly benefit LGBTQ people of color, the LGBTQ community will also need to reframe the manner in which it sees race.

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69. Yishai Blank & Issi Rosen-Zvi, *The Geography of Sexuality*, 90 N.C.L. Rev. 955, 1001 (2012).

70. See *supra* Part I.C.

71. Emens, *supra* note 14, at 1309.

72. See *supra* Part II.

73. Angela Onwuachi-Willig & Jacob Willig-Onwuachi, *A House Divided: The Invisibility of the Multiracial Family*, 44 HARV. C.R.-C.L. L. REV. 231, 233 (2009).

74. Shaila Dewan, *Discrimination in Housing Against Nonwhites Persists Quietly, U.S. Study Finds*, N.Y. TIMES (June 11, 2013), <https://www.nytimes.com/2013/06/12/business/economy/discrimination-in-housing-against-nonwhites-persists-quietly-us-study-finds.html> [<https://perma.cc/4MZU-UL3K>].

75. Diane K. Levy et al., *A Paired-Testing Pilot Study of Housing Discrimination Against Same-Sex Couples and Transgender Individuals*, URBAN INSTITUTE (2017), <https://www.urban.org/research/publication/paired-testing-pilot-study-housing-discrimination-against-same-sex-couples-and-transgender-individuals> [<https://perma.cc/ZL9L-XGLF>].

76. THE STATE OF FAIR HOUSING, U.S. DEP’T OF HOUS. AND URBAN DEV., [https://www.hud.gov/sites/documents/23544\\_FY2009ANNUAL-RPT.PDF](https://www.hud.gov/sites/documents/23544_FY2009ANNUAL-RPT.PDF) [<https://perma.cc/Q378-FTU5>].

77. MASSEY & DENTON, *supra* note 35, at 16.

LGBTQ identity has been constructed as an essentialist<sup>78</sup> and immutable identity in order to transform homosexuality from an outsider group to an insider group.<sup>79</sup> LGBTQ activists have taken advantage of the interest convergence theory—the notion that the rights of marginalized people are acknowledged and recognized through legal protection only when their interests converge with the white decision-making elite<sup>80</sup>—to seek equality through whitewashed and heteronormative institutions such as marriage and the military, so the interests of the LGBTQ community and judicial decision makers aligned.<sup>81</sup> While the LGBTQ community has also become more visible because of celebrities coming out as being part of the community, popular portrayals of homosexuality are still largely white, educated, urban dwelling, successful, and socioeconomically privileged.<sup>82</sup> The LGBTQ community's focus on the single-identity axis of whiteness and affluence has created a racial hierarchy and “prevent[ed] the formation of a ‘cohesive’ gay community.”<sup>83</sup>

The current LGBTQ rhetoric ignores intersectionality and the complexities associated with it, further perpetuating the inequalities created by State-influenced structures such as housing, education, and socioeconomic status. LGBTQ people of color face not just homophobia but also racism—and sexism, if they identify as women—and the “oppressive forces intertwine in vexing ways.”<sup>84</sup> While white supremacy and heterosupremacy work against people of color and LGBTQ people respectively, they also each work separately and together to oppress the other group.<sup>85</sup> Thus, white supremacy supports racism within the LGBTQ community. For example, LGBTQ people of color are excluded from gay bars based on their race and gay white men are branded “dinge queens” or “rice queens” for being in relationships with Black or Asian men.<sup>86</sup> Similarly, heterosupremacy acts as an oppressive force within communities of color. These communities are often “homophobic, heterosexist, and heteronormative.”<sup>87</sup> This may cause LGBTQ people of color to remain closeted so that they remain welcome

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78. See Jane Wong, *The Anti-Essentialism v. Essentialism Debate in Feminist Legal Theory: The Debate and Beyond*, 5 WM. & MARY J. RACE, GENDER, & SOC. JUST. 273, 274–75 (1999). Essentialism is defined as “the set of fundamental attributes which are necessary and sufficient conditions for a thing to be [considered] a thing of that type.” *Id.* at 274. The definition involves distinguishing the “thing” from other things by referring to part of its characterization to capture its “intuitive essence” and characterizing the object within a single concept to allow for a discursive understanding of the “thing.” *Id.* at 275.

79. Nourafshan & Onwuachi-Willig, *supra* note 26, at 526.

80. *Id.* at 522.

81. In doing this, the LGBTQ community has won some victories—same-sex sexual conduct was decriminalized, the ban on LGBTQ people from serving openly in the military was lifted, and marriage equality was achieved. See Anthony Michael Kreis, *Gay Gentrification: Whitewashed Fictions of LGBT Privilege and the New Interest-Convergence Dilemma*, 31 LAW & INEQ. 117, 120 (2012).

82. Nourafshan & Onwuachi-Willig, *supra* note 26, at 526–27.

83. Hutchinson, *supra* note 25, at 603.

84. Russell K. Robinson, *Racing the Closet*, 61 STAN. L. REV. 1463, 1466 (2009).

85. Morrison, *supra* note 18, at 204–05.

86. *Id.* at 206.

87. *Id.*

within their racial community as they are often not welcome in the LGBTQ community.<sup>88</sup> Further, while white LGBTQ people can conceal their minority status and evade societal exclusion if they choose, LGBTQ people of color do not have this advantage.<sup>89</sup>

LGBTQ organizations and the larger LGBTQ community should pay special attention to the needs of people of color within the community. The LGBTQ movement should refocus its advocacy towards racial issues and pay more attention to intersectionality. The movement should create welcoming environments for people of color in public spaces, educate its white members about racial issues, and provide more support to LGBTQ youth of color. This reframing of race within the LGBTQ community could function alongside residential desegregation to allow for more opportunities for cross-racial contact and the formation of interracial LGBTQ relationships.

#### CONCLUSION

Even though interracial marriage and same-sex marriage are now legal, interracial LGBTQ couples are not common. State-created structures of housing, education, and the resulting socioeconomic disparities contribute to the low rate of interracial LGBTQ couples, as these structures influence who meets whom and how. Since LGBTQ people of color are not welcomed into safe haven gayborhoods, they often live with their racial communities. This not only limits their cross-racial and LGBTQ interactions, but also likely contributes to their low level of education, job prospects, and socioeconomic status. Without opportunities for cross-racial contact, racial stereotypes persist and are manifested through online dating platforms and in gay bars. This further limits opportunities for cross-racial contact and the formation of interracial intimate relationships. Dismantling residential segregation can help increase cross-racial interactions, dispel negative stereotypes, and improve educational, employment, and socioeconomic outcomes of LGBTQ people of color. The LGBTQ community should play its part in dismantling the barriers to interracial LGBTQ loving by recognizing this intersectionality within the community and paying greater attention to racial issues. Although the complete dismantling of structural barriers to interracial loving will take a long time and require further research and concrete solutions, truly integrated housing and a change in how race is perceived within the LGBTQ community will likely help increase cross-racial contact and improve the prospects of interracial LGBTQ loving.

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88. *Id.*

89. Hutchinson, *supra* note 25, at 605.