

2018

Residential Segregation and Interracial Marriages

Rose Cuison Villazor

University of California, Davis, School of Law

Follow this and additional works at: <https://ir.lawnet.fordham.edu/flr>



Part of the [Family Law Commons](#), [Housing Law Commons](#), and the [Law and Society Commons](#)

Recommended Citation

Rose Cuison Villazor, *Residential Segregation and Interracial Marriages*, 86 Fordham L. Rev. 2717 (2018).
Available at: <https://ir.lawnet.fordham.edu/flr/vol86/iss6/7>

This Symposium is brought to you for free and open access by FLASH: The Fordham Law Archive of Scholarship and History. It has been accepted for inclusion in Fordham Law Review by an authorized editor of FLASH: The Fordham Law Archive of Scholarship and History. For more information, please contact tmelnick@law.fordham.edu.

RESIDENTIAL SEGREGATION AND INTERRACIAL MARRIAGES

Rose Cuison Villazor*

INTRODUCTION

As we commemorate the fiftieth anniversary of *Loving v. Virginia*,¹ it remains important to examine the ways that antimiscegenation laws, policies, norms, and social attitudes explicitly prohibited or restricted the formation of interracial couples and families historically and how they collectively facilitate racial and economic inequality and hierarchy today.² But, as I argue in this Essay, it is also necessary to explore the varied laws and policies, which may not have expressly proscribed interracial marriages but nevertheless may have functioned to prevent such marriages and relationships from forming. Antimiscegenation laws and policies were not alone in the creation and maintenance of the monoracial family. As legal scholars have argued, other laws also prevented interracial relationships from developing.³ Among those laws is property law, including the extent to

* Professor of Law, University of California, Davis, School of Law. I thank Daniel Cada and Gin Smith for their excellent research assistance and reference librarian Elizabeth McKechnie for her outstanding archival assistance. I am also grateful to Thomas Healey, Kevin Maillard, and participants of the *Fordham Law Review* Symposium entitled *Fifty Years of Loving v. Virginia and the Continued Pursuit of Racial Equality* held at Fordham University School of Law on November 2–3, 2017, for their helpful conversations about this Essay. This Essay expands on arguments I presented at the Symposium’s roundtable, “*Loving v. Virginia*’s Battle Against ‘White Supremacy’ and Segregation Today.” For an overview of the Symposium, see R.A. Lenhardt, Tanya K. Hernández & Kimani Paul-Emile, *Foreword: Fifty Years of Loving v. Virginia and the Continued Pursuit of Racial Equality*, 86 *FORDHAM L. REV.* 2625 (2018).

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

2. As the U.S. Supreme Court emphasized in *Loving*, antimiscegenation laws were central to the promotion of white supremacy. *See id.* at 11. Fifty years after *Loving*, it is critical to continue exploring the legacy of the promotion of white supremacy through laws that explicitly proscribed interracial marriages.

3. *See, e.g.*, Kevin R. Johnson, *The Legacy of Jim Crow: The Enduring Taboo of Black-White Romance*, 84 *TEX. L. REV.* 739, 756–58 (2006) (describing “lynch law[s]” as a barrier to interracial relationships); Reginald Oh, *Interracial Marriage in the Shadows of Jim Crow: Racial Segregation as a System of Racial and Gender Subordination*, 39 *U.C. DAVIS L. REV.* 1321, 1333–34 (2006) (concluding that “[r]acial segregation and antimiscegenation practices were ultimately designed to further the same goal: to preserve white racial purity and maintain a social system of white supremacy”); Angela Onwuachi-Willig & Jacob Willig-Onwuachi, *A House Divided: The Invisibility of the Multiracial Family*, 44 *HARV. C.R.-C.L.L. REV.* 231, 242–46 (2009) (describing U.S. housing discrimination laws as victimizing interracial couples). I have also written elsewhere about how immigration law functioned as a form of antimiscegenation law when it prevented American soldiers (mainly white men) from marrying their Japanese war brides and from petitioning for them to come to the United States.

which it promoted racially segregated neighborhoods, which in turn affected (and continues to influence) the establishment of mixed-race couples and families.⁴

This Essay explores the enduring connection between residential segregation and interracial marriages. As Elizabeth Emens has pointed out, among the factors that shape the “accidents of sex and love” is what demographers call “propinquity”—or, “who does and does not meet.”⁵ That is, the ability to establish relationships, including intimate ones, depends in many ways on one’s ability to interact with potential partners. Thus, as a practical matter, those who reside in segregated neighborhoods tend to primarily meet people who are similar to them. Continued attention must be paid to racially segregated neighborhoods not only for their role in perpetuating racial and economic hierarchies⁶ but also for how they effectively function to hinder the formation of interracial families.

This Essay proceeds in two Parts. Part I highlights recent data on racially segregated neighborhoods and low rates of interracial marriage to underscore what Russell Robinson refers to as “structural constraints” that shape and limit romantic preferences.⁷ As I discuss in this Part, many cities today continue to be racially segregated. Notably, current data demonstrate a strong correlation between low rates of interracial marriage and racially segregated neighborhoods in those cities. By contrast, contemporary studies indicate that in cities where communities are more racially and economically integrated, the rate of interracial marriages is high.

Part II argues that the association between high rates of segregation and low rates of interracial marriages should prompt an exploration of factors that facilitate and perpetuate residential segregation. It also calls for an examination of ways to dismantle these contemporary barriers to the establishment of racially integrated neighborhoods and communities. Part II.A focuses on the ways that some cities are seeking to address residential segregation and housing discrimination in their jurisdictions. Part II.B

See Rose Cuisson Villazor, *The Other Loving: Uncovering the Federal Government’s Racial Regulation of Marriage*, 86 N.Y.U. L. REV. 1361, 1367–71 (2011).

4. See, e.g., Elizabeth F. Emens, *Intimate Discrimination: The State’s Role in the Accidents of Sex and Love*, 122 HARV. L. REV. 1307, 1398–1400 (2009) (explaining the role of housing discrimination and residential segregation in the formation of relationships); Dorothy E. Roberts, *Crossing Two Color Lines: Interracial Marriage and Residential Segregation in Chicago*, 45 CAP. U. L. REV. 1, 19–32 (2017) (discussing residential segregation as a barrier to interracial marriage in Chicago); Russell K. Robinson, *Structural Dimensions of Romantic Preferences*, 76 FORDHAM L. REV. 2787, 2788 (2008) (discussing how residential segregation shapes and limits romantic preferences along racial, gender, and sexual-orientation lines).

5. See Emens, *supra* note 4, at 1367–68.

6. Yousef T. Jabareen, *Law, Minority, and Transformation: A Critique and Rethinking of Civil Rights Doctrines*, 46 SANTA CLARA L. REV. 513, 548–49 (2006) (noting how school segregation and housing segregation are “intertwined” and that such segregation perpetuates a racial hierarchy); Ruth D. Peterson & Lauren J. Krivo, *Race, Residence, and Violent Crime: A Structure of Inequality*, 57 U. KAN. L. REV. 903, 907 (2009) (“In the United States, residential segregation and the organization of the housing market that supports continued segregation is a key mechanism undergirding the existing hierarchy.”).

7. Robinson, *supra* note 4, at 2788–91.

considers private endeavors that policy makers ought to also consider in seeking to better integrate certain neighborhoods. Specifically, this Part discusses real estate developer James Rouse's integrated planned community of Columbia, Maryland, which he established in 1967. Rouse's attempt to integrate through private social engineering of American neighborhoods and cities offers important lessons for those who are invested today in creating conditions for diverse families to flourish.

I. INTERRACIAL MARRIAGES AND RACIALLY SEGREGATED NEIGHBORHOODS

Since the U.S. Supreme Court decided *Loving* in 1967, interracial relationships have been on the rise. Yet, as Part I.A explains, a geographic analysis of recent interracial marriage data reveals that such marriages are more prevalent in some cities than others. Part I.B then considers one possible explanation for the disparate interracial marriage rates: a connection between interracial marriage rates and a city's proportion of residentially segregated neighborhoods. On the whole, this Part aims to draw attention to both the correlation and potential causation of low rates of interracial marriage in certain parts of the United States.

A. *Interracial Marriage Rates and Marriage Market Rates*

Recent data demonstrate that interracial marriages have increased since the Court struck down antimiscegenation laws in *Loving*. In 1967, the rate of intermarriage was approximately 3 percent.⁸ By contrast, as the Pew Research data reported in 2015, 17 percent of newlyweds, or approximately one in six couples, were married to someone of a different race or ethnicity.⁹ Cohabitation among interracial couples has also increased. In 2016, 18 percent of all adults who cohabited or lived together had a partner of a different race or ethnicity.¹⁰

Although the foregoing rates of interracial marriage demonstrate an increase from 1967,¹¹ it should be noted that the actual rates of interracial marriage differ based on geography. While some cities have high interracial

8. Kristen Bialik, *Key Facts About Race and Marriage, 50 Years After Loving v. Virginia*, PEW RES. CTR. (June 12, 2017), <http://www.pewresearch.org/fact-tank/2017/06/12/key-facts-about-race-and-marriage-50-years-after-loving-v-virginia> [https://perma.cc/U6XZ-JXK8].

9. *Id.*

10. Gretchen Livingston, *Among U.S. Cohabitors, 18% Have a Partner of a Different Race or Ethnicity*, PEW RES. CTR. (June 8, 2017), <http://www.pewresearch.org/fact-tank/2017/06/08/among-u-s-cohabiters-18-have-a-partner-of-a-different-race-or-ethnicity> [https://perma.cc/64WG-GKVR].

11. As others have pointed out, although the rate of interracial marriage is high, the rate is still well below what one would expect under a random pairing. *See, e.g.*, Kevin R. Johnson, *Taking the "Garbage" Out in Tulia, Texas: The Taboo on Black-White Romance and Racial Profiling in the "War on Drugs,"* 2007 WIS. L. REV. 283, 297 ("Black-white marriages remain rare and often provoke comment."); Elizabeth M. Toledo, *When Loving Is Not Enough*, 104 CALIF. L. REV. 769, 775-776 (2016) ("[D]espite the *Loving* ruling and the steady increase of interracial couplings, interracial relationships are still rare occurrences.").

marriage rates, others fall way below the national rate. For instance, cities with the highest rates of interracial marriage include Honolulu, Hawaii (42 percent), Las Vegas, Nevada (31 percent), and Santa Barbara, California (30 percent).¹² The cities with the lowest rates of interracial marriage include Birmingham, Alabama (6 percent), and Jackson, Mississippi (3 percent).¹³ Interestingly, these cities—with both the highest interracial marriage and lowest interracial marriage rates—all have highly diverse “marriage market” rates.¹⁴ That is, the marriage markets in Birmingham, Alabama, like in Honolulu, Hawaii, are quite diverse.¹⁵ In Honolulu, the marriage market is composed of “42% Asians, 20% non-Hispanic whites and 9% Hispanics.”¹⁶ In Birmingham, the marriage market is also quite diverse: “57% non-Hispanic whites and 37% non-Hispanic” African Americans.¹⁷

What might explain the differences in interracial marriage rates among these cities? One possible explanation is the lower acceptance of interracial marriage in the South. According to the same 2015 Pew Research Center study, approximately 13 percent of adults in the South have stated that “more interracial marriage is a bad thing for society.”¹⁸ By contrast, only 4 percent and 5 percent of people in the West and Northeast, respectively, have reported the same sentiment.¹⁹ Problematically, a recent March 2018 survey indicates that 17 percent of the people polled reported that interracial marriages are morally wrong.²⁰ No doubt, further examination of the link between attitudes about mixed-race marriages and marriage market rates should be conducted.

B. Racially Segregated Neighborhoods and Limited Opportunities for Interracial Relationships

A comparative analysis of two cities with high interracial marriage rates—Las Vegas and Santa Barbara—and the cities with the lowest interracial marriage rates—Birmingham and Jackson—suggests a correlation between racially segregated neighborhoods and interracial marriage rates. At the outset, both Jackson and Birmingham have more racially segregated neighborhoods and communities, unlike cities with higher rates of interracial marriage than Las Vegas and Santa Barbara. Indeed, the city of Jackson has

12. Gretchen Livingston, *In U.S. Metro Areas, Huge Variation in Inter-marriage Rates*, PEW RES. CTR. (May 18, 2017), <http://www.pewresearch.org/fact-tank/2017/05/18/in-u-s-metro-areas-huge-variation-in-intermarriage-rates> [https://perma.cc/24W6-EQFW].

13. *Id.*

14. *See id.* (explaining that “marriage market” refers to “all unmarried and recently married adults, and serves as a proxy for the recent pool of potential partners in the area”).

15. *See id.*

16. *Id.*

17. *Id.*

18. *Id.*

19. *Id.*

20. *Economist Tables March 12 2018*, YOUGov tbl.48K, at 92 (Mar. 14, 2018), https://d25d2506sfb94s.cloudfront.net/cumulus_uploads/document/y3tke5cxwy/econTabReport.pdf [https://perma.cc/Y45X-EMS9].

the largest segregated neighborhood of African Americans in the country.²¹ A report commissioned by the city cites a study that measures how segregated a neighborhood is based on the degree of interaction individuals in that neighborhood have with other segregated agents.²² The report found that African Americans in Jackson have a high rate of interaction with other African Americans.²³ This is consistent with the city's geographic data, which indicate that most of the African American population is almost entirely clustered on the western side of the city, while the white population is almost entirely on the eastern and northern sides of the city.²⁴ This is the result of a stark decrease in the white population—from 28 percent in 2000 to 18.4 percent in 2010.²⁵

Birmingham similarly conducted a study of its neighborhoods, which also revealed a high rate of segregation.²⁶ The study reported that housing and neighborhood data indicate that most racial minorities live in two pockets near the city centers, which mirrors the city's map of low-income households with structural or financial housing problems.²⁷ Like the segregated neighborhoods in Jackson, Birmingham has distinct racially and ethnically concentrated areas of poverty.²⁸

Santa Barbara starkly contrasts with Jackson and Birmingham in terms of racial integration. In Santa Barbara, the racial distribution is mixed in the downtown, waterfront, and surrounding neighborhoods, and the racial divisions are not as clearly delineated as the clear east-west separation in Jackson.²⁹ Similarly, Las Vegas, the city with the second highest rate of interracial marriage, is also racially diverse.³⁰ The city commissioned a study in 2015 that compared the actual racial composition of the city with averages that the researchers determined would exist in a housing market “genuinely free” of discrimination.³¹ The study found that, although there remained pockets of the city that were segregated, the city's overall racial composition was the same as that of a hypothetical city with a housing market free of discrimination.³² The surrounding areas of Henderson and North Las Vegas

21. HOUS. EDUC. & ECON. DEV., INC., ANALYSIS OF IMPEDIMENTS TO FAIR HOUSING CHOICE IN JACKSON, MISSISSIPPI 24 (2014), <http://www.jacksonms.gov/DocumentCenter/View/1387> [https://perma.cc/LA72-S52K].

22. *Id.*

23. *Id.*

24. *Id.* at 21.

25. *Id.* at 18.

26. GCR INC., CITY OF BIRMINGHAM HOUSING AND NEIGHBORHOOD STUDY 56 (2014), http://www.imaginebham.com/uploads/1/4/4/7/14479416/2014_birmingham_housing_and_neighborhood_study.pdf [https://perma.cc/2JXC-7428].

27. *Id.* at 59.

28. *Id.*

29. *Race and Ethnicity in Santa Barbara, California*, STAT. ATLAS (Apr. 18, 2015), <http://statisticalatlas.com/place/California/Santa-Barbara/Race-and-Ethnicity> [https://perma.cc/46Z7-26SK].

30. S. NEV. STRONG, REGIONAL ANALYSIS OF IMPEDIMENTS TO FAIR HOUSING 2015, at 9 (2015), <https://www.lasvegasnevada.gov/cs/groups/public/documents/document/dhn0/mdax/~edisp/tst001633.pdf> [https://perma.cc/6RJB-MKX7].

31. *Id.* at 79.

32. *Id.* at 10–14.

were either directly in line with the predicted numbers or had minority populations with a lower degree of segregation.³³

In sum, as these studies indicate, there appears to be a link between interracial marriage rates and a city's proportion of residentially segregated neighborhoods. At minimum, these studies point to the necessity of further examining the connection between racial segregation and the formation of interracial marriages and relationships. More broadly, they suggest the need to take a closer look at the conditions that facilitate racial segregation and consider laws and policies that could dismantle barriers to achieving racially and economically integrated neighborhoods.

II. DISMANTLING BARRIERS TO THE ESTABLISHMENT OF *LOVING* RELATIONSHIPS

A comprehensive analysis of the historical and contemporary factors that have led to racially segregated neighborhoods is beyond the scope of this Essay. Similarly, this Essay would not be able to fully address the various laws and policies that may and should be enacted to eliminate residential segregation. Instead, this Part highlights both relatively recent public endeavors and historical initiatives that seek to address residential segregation and equal access to housing choices. Part II.A focuses on Jackson, Birmingham, and Santa Barbara and their efforts to address residential segregation and limited housing choices. Next, Part II.B describes an example from the past—indeed, one that began at around the time that the Supreme Court decided *Loving*—that was designed to explicitly create an integrated city.

A. City Initiatives to Address Housing Inequality

As explained previously, Jackson, Mississippi, has one of the most segregated neighborhoods in the United States. In 2014, the city conducted a study of the various barriers that their residents encounter when seeking housing.³⁴ The city initiated the study as part of a program with the U.S. Department of Housing and Urban Development (HUD) to “affirmatively further fair housing.”³⁵ Notably, the report from the study identified a number of impediments to equal access to housing choices, including the lack of a local fair housing ordinance that mirrors the federal Fair Housing Act.³⁶ Further, the report explained that resources designated to investigate and alleviate such inequalities under the Act are limited.³⁷ Indeed, Jackson has a higher rate of discriminatory housing practices compared to cities with higher rates of interracial marriage.³⁸ For instance, in Jackson, of the forty-one

33. *Id.*

34. See generally HOUS. EDUC. & ECON. DEV., INC., *supra* note 21.

35. *Id.* at 67.

36. *Id.*

37. *Id.* at 6.

38. See *supra* Part I.B (discussing the low interracial marriage rates in Jackson, Mississippi, and high interracial marriage rates in Santa Barbara, California, and Las Vegas, Nevada).

discrimination complaints filed between January 1, 2006, and July 31, 2011, with the Department of Housing and Urban Development, twenty-two cited racially motivated discrimination.³⁹ Fifteen of those cases settled out of court.⁴⁰

In addition, the report also found racial minorities in Jackson experience discrimination in other ways that perpetuate residential segregation. For example, African American men and women were more than twice as likely to be given expensive loans with high interest rates, regardless of their earning status.⁴¹ The city's study concluded that predatory lending practices have contributed to the stripping of wealth and adequate housing from African American communities in Jackson.⁴²

Based on these findings, the city of Jackson proposed some recommendations to address the ongoing barriers to housing, including a "concerted effort by all levels of the community," both inside and outside the city to mitigate the longstanding effects of residential segregation.⁴³ To be sure, the report itself noted that it would be difficult to eliminate all barriers to fair housing and that the city must continue to investigate past and present policies to determine policy changes they should adopt.⁴⁴ Engaging in this initial study, however, is a necessary step toward eliminating segregated neighborhoods, which, as explained earlier, hampers the formation of interracial marriages and families.

Similarly, Birmingham, Alabama, conducted a study in 2014—which it explained as its "first in depth assessment of housing and neighborhoods"—to determine, among other things, the housing challenges facing poor and racial minorities in the city.⁴⁵ One of its findings focused on the city's zoning laws, which disproportionately affect low-income minority families by limiting how many unrelated adults can live in one home and by setting prohibitively small lot sizes for multifamily homes.⁴⁶ The study also found a disparity in mortgage approvals between white applicants and African American or mixed-race applicants.⁴⁷ African Americans were twice as likely as white applicants to be denied a loan, and mixed-race households were denied at a similarly disproportionate rate.⁴⁸ This is especially true where the applicants make 50 percent less than the area's median income.⁴⁹

Additionally, African American and Hispanic homeowners in Birmingham suffer higher cost burdens on their home expenses compared to their white neighbors. Their housing costs are 38 and 32 percent, respectively, whereas white homeowners only spend about 24 percent on housing costs in the same

39. HOUS. EDUC. & ECON. DEV., INC., *supra* note 21, at 4.

40. *Id.* at 50.

41. *Id.* at 61.

42. *Id.* at 62.

43. *Id.* at 71.

44. *Id.* at 6.

45. GCR INC., *supra* note 26, at 3.

46. *Id.* at 56.

47. *Id.* at 57.

48. *Id.*

49. *Id.*

neighborhood.⁵⁰ Lastly, like Jackson, Birmingham lacks local fair housing laws to combat these issues.⁵¹

Based on its findings, the report suggested a number of recommendations, which included supporting the development of affordable housing and investment in social programs to encourage fair housing choices.⁵² Like the city of Jackson, Birmingham's focus on the wide-ranging obstructions to housing in its city shows a step in the right direction of seeking to overcome residential segregation.

Both cities may be contrasted with Santa Barbara, which, as noted earlier, has a higher interracial marriage rate. An examination of Santa Barbara illustrates initiatives designed to promote access to housing. For instance, Santa Barbara has an inclusionary housing ordinance, which requires 15 percent of all housing developments above ten units to be affordable to low-income individuals.⁵³ Developers are incentivized through the city's density bonus program, which is granted to developers who provide a certain number of housing units to residents across the city.⁵⁴ All developers are required to enter an affordability-control covenant to maintain prices that comply with the city's Affordable Housing Policies and Procedures.⁵⁵

In sum, the foregoing describe initiatives and policies that cities may and should adopt to address residential segregation and limited housing opportunities in their jurisdictions. Doing so is critical for creating opportunities for *Loving* relationships. Access to integrated neighborhoods and affordable housing provides occasions for meaningful interaction between and among different races, thus increasing the likelihood of interracial relationships.

B. Integrated Planned Communities

Yet another method of addressing residential segregation is through private initiatives and programs. One such example may be drawn from the past. In the early 1960s, real estate developer James Rouse quietly purchased thousands of acres of farmland in Howard County, Maryland.⁵⁶ Described as a visionary, Rouse planned to do something no other developer had done before—develop a “colorblind” and “integrated, planned community.”⁵⁷ Columbia, Maryland, the progressive urban development that Rouse established, welcomed mixed-income people, people of color, and interracial

50. *Id.* at 51.

51. *Id.* at 56.

52. *Id.* at 128.

53. SANTA BARBARA, CAL., MUNICIPAL CODE ch. 28.43, § 28.43.030(A)(1) (2016).

54. *Id.* § 28.43.050(A).

55. *Id.* § 28.43.090(A).

56. Edward Gunts, *Columbia Marks 50 Years Since Rouse Began Buying Land for Town*, BALT. SUN (Feb. 19, 2012, 11:35 AM), <http://www.baltimoresun.com/news/maryland/howard/bs-ho-columbia-anniversary-20120207-story.html> [https://perma.cc/8ZC5-N845].

57. DeNeen L. Brown, *A Haven for Interracial Love Amid Relentless Racism: Columbia Turns 50*, WASH. POST: RETROPOLIS (July 21, 2017), <https://www.washingtonpost.com/news/retropolis/wp/2017/07/21/a-haven-for-interracial-love-amid-relentless-racism-columbia-turns-50> [https://perma.cc/G2PW-NU8J].

families at a time when racial minorities faced barriers to owning and renting property across the United States.⁵⁸ Real estate developers, brokers, and agents regularly engaged in redlining and excluding buyers of color from purchasing property in certain neighborhoods.⁵⁹ Private parties used racially restrictive covenants to exclude families of color.⁶⁰ Banks and other lenders denied loans to customers on the basis of race, which made it difficult for people of color to buy property.⁶¹ The Fair Housing Act had not yet been enacted and the Federal Housing Administration was notorious for subsidizing white-only suburban developments.⁶² Various state and local laws continued to deny people of color and mixed-race couples the right to own property.⁶³ Critically, interracial marriages were still banned in Maryland and fifteen other states.⁶⁴

Rouse, however, believed that “it would be good to have families of different races living side by side.”⁶⁵ In a memo he sent to real estate agents and developers, Rouse cautioned that buyers are to be “shown the courtesy and attention by sales personnel that is appropriate to their interest regardless of color.”⁶⁶ When the planned community opened its doors to residents in June 1967, the Supreme Court had just decided *Loving*. It was not clear, however, that this constitutional ruling regarding the right to marry would also translate to the right of interracial couples to have equal access to property. Thus, for interracial couples, Columbia offered a safe haven. Many chose to settle down and raise their mixed-race children in this suburban racial experiment.

58. *Id.*

59. See *Buchanan v. Warley*, 245 U.S. 60, 63–64 (1917) (striking down an ordinance that prohibited persons of color from living in neighborhoods primarily occupied by white persons).

60. See generally *Shelley v. Kraemer*, 334 U.S. 1 (1948) (holding that state courts could not constitutionally prevent the sale of real property to black persons even if that property was covered by a racially restrictive covenant).

61. Willy E. Rice, *Race, Gender, “Redlining,” and the Discriminatory Access to Loans, Credit, and Insurance: An Historical and Empirical Analysis of Consumers Who Sued Lenders and Insurers in Federal and State Courts, 1950–1995*, 33 SAN DIEGO L. REV. 583, 584 (1996) (“[A]ll too often, lenders were denying credit and loans to consumers on the basis of gender, race, color, national origin, marital status, religion, and age.”).

62. Charles L. Nier III, *Perpetuation of Segregation: Toward a New Historical and Legal Interpretation of Redlining Under the Fair Housing Act*, 32 J. MARSHALL L. REV. 617, 625 (1999) (describing the assistance that the Federal Housing Administration provided to mostly white individuals in suburbs, which detrimentally affected African Americans in urban areas).

63. U.S. COMM’N ON CIVIL RIGHTS, REPORT OF THE UNITED STATES COMMISSION ON CIVIL RIGHTS 1, 419–29 (1959) (noting that “[t]here are a number of cities and States where the residential separation of the races is the prevailing public policy” and providing comments from state advisory committees in Georgia, North Carolina, and Texas concerning these policies).

64. See *Loving v. Virginia*, 388 U.S. 1, 6 (1967) (noting that, until 1967, there were sixteen states that had antimiscegenation laws).

65. Amanda Kolson Hurley, *Here’s a Suburban Experiment Cities Can Learn From*, WASH. POST MAG. (July 13, 2017), https://www.washingtonpost.com/lifestyle/magazine/heres-a-suburban-experiment-cities-can-learn-from/2017/07/11/c737165e-4d1f-11e7-bc1b-fddb8359dee_story.html [https://perma.cc/W6HN-CHVR].

66. Brown, *supra* note 57.

Fifty years later, Columbia remains one of the most racially and economically diverse cities in the United States. It is “56 percent white, 25 percent [African American], 11 percent Asian and 8 percent Latino.”⁶⁷ It is more racially and economically diverse than many cities, including New York and San Francisco.⁶⁸ Indeed, *Money* magazine dubbed it the “best place to live” in 2016 for its economic and social diversity.⁶⁹

To be sure, despite its diversity, Columbia is not free of race-related and other social issues. After the November 2016 election, controversy broke out over racial slurs posted to social media at two Columbia high schools.⁷⁰ But, as interracial couples have reported, Columbia has historically been, for them, “an oasis of tolerance.”⁷¹ Columbia’s story suggests there are advantages and disadvantages of this sort of private-order engineering and experimentation.⁷²

CONCLUSION

In sum, this Essay argued for the need to continue analyzing the connections between residential segregation and interracial marriages. *Loving* may have proscribed antimiscegenation laws, but there remain laws and norms that essentially promote “normative” monoracial relationships. Some of these today include those laws and practices that have reinforced racially segregated neighborhoods and created barriers to fair housing. As we remember the legacy of *Loving*, it is crucial to continue exploring remain both explicit and implicit impediments to the formation of *Loving* relationships.

67. See Hurley, *supra* note 65.

68. *Id.*; see also Dan Kopf, *San Francisco’s Diversity Numbers Are Looking More and More Like a Tech Company’s*, ATLANTIC (May 9, 2016), <https://www.theatlantic.com/business/archive/2016/05/san-francisco-diversity-migration/481668> [https://perma.cc/2S9P-4HLG].

69. *I. Columbia, Md.*, MONEY (Sept. 18, 2016), <http://time.com/money/collection-post/4480692/columbia-maryland> [https://perma.cc/DP6J-LTAN].

70. See Brown, *supra* note 57.

71. See *id.*

72. A look at another racially diverse town highlights that although residents are diverse and neighborhoods are integrated, problems along racial lines continue to linger. See John Eligon, *Does Race Matter in America’s Most Diverse ZIP Codes?*, N.Y. TIMES (Nov. 24, 2017), <http://www.nytimes.com/2017/11/24/us/does-race-matter-in-americas-most-diverse-zip-codes.html> [https://perma.cc/U5WF-L99T] (discussing Vallejo, California, one of the most racially diverse towns in the United States). It would be interesting to compare Vallejo, California, which can trace its diversity to the Mare Island Naval Shipyard, *id.*, and Columbia, Maryland, which, as discussed, was created by a private developer, to determine the public and private conditions that led to their diversity and the common problems they are experiencing.