



FOUNDATION
AGAINST
INTOLERANCE
& RACISM

Lesson Title: *Loving V Virginia: To Love is Human, to Marry is a Right*

Recommended Grades: 9-12

FAIR Learning Standards:

HM.9-12.4, DV.9-12.7, DV.9-12.9, FR.9-12.19

Recommended Pacing: 2 Class periods (Approximately 120 minutes)

Theme: Stories of Heroism and Hope

Era: Civil Rights Era

Areas of Focus: Civil Rights, Segregation, Milestone Court Cases, Character Strengths

Lesson Objectives:

1. Students will be able to evaluate primary documents to better understand context and complexities in history.
2. Students will be able to explain the foundations of the law against inter-racial marriage as it existed in Virginia.
3. Students will be able to understand the risks involved in violating the miscegenation law.
4. Students will be able to analyze the arguments made in the case before the Supreme Court.

5. Students will be able to respond to essential questions from source readings that enable them to comprehend the impact of the case on civil rights in America.
6. Students will be able to respond to essential questions from video sources that provide vivid stories about the individuals involved in the case.
7. Students will be able to collaborate in small groups in order to interpret data/information on changes in marriage patterns in America.
8. Students will be able to write a reflection on the enduring impact of the Loving v Virginia case.

Lesson Background

America is a collection of stories that are intertwined through a unique DNA. This DNA represents over four centuries of diverse peoples living together and building a society different from any other in human history. Our country has certainly known its share of triumph and tragedy as it continues its journey to fulfill its founding principles with an eye toward forging a more perfect union. What is so remarkable is the ability of each and every person, no matter their race or background, to contribute toward the fulfillment of an America where every person is treated as equal in their humanity, where rights are respected and protected and where each individual has the opportunity to live their best life.

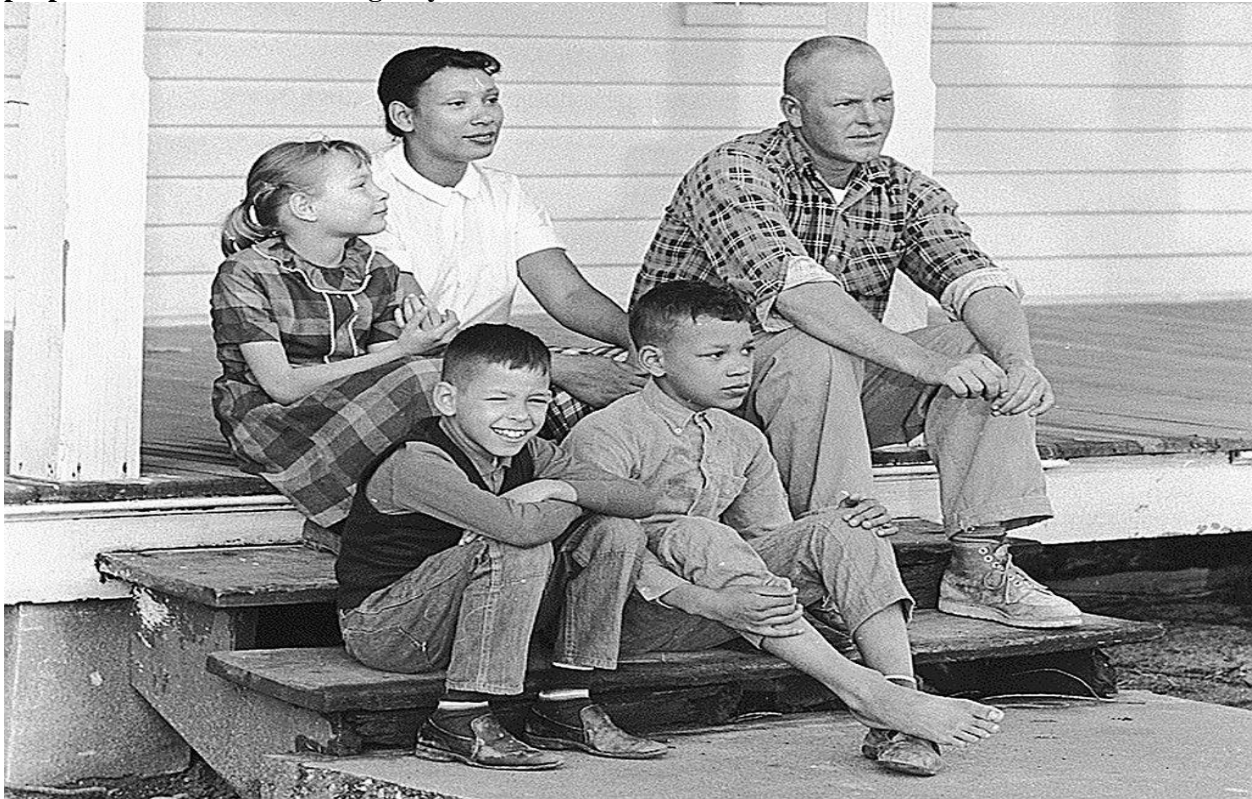
Key Terms

Police powers
Equal Protection Clause
Due Process Clause
Miscegenation
Incorporation
Appellant
Appellee
Amicus curiae
Incorporation
Majority Opinion
Precedent

I. Opening Activity

What observations can you make about this picture? What does the photo tell you about these

people? What are some thoughts you have about their life?



Loving v Virginia (1967)

In 1958, two residents of Virginia, Mildred Jeter, a black woman, and Richard Loving, a white man, were married in the District of Columbia. The Lovings returned to Virginia shortly thereafter. The couple was then charged with violating the state's antimiscegenation statute, which banned inter-racial marriages. The Lovings were found guilty and sentenced to a year in jail (the trial judge agreed to suspend the sentence if the Lovings would leave Virginia and not return for 25 years).

Did Virginia's antimiscegenation law violate the Equal Protection Clause of the Fourteenth Amendment?

II. Source Analysis

Open the link to the Bill of Rights Institute. Read the brief source and answer the questions that follow.
<https://billofrights.org/e-lessons/loving-v-virginia-1967>

Questions

1. Why were the Lovings indicted and sentenced to a year in prison?
2. Why did the Supreme Court find Virginia's Racial Integrity Act of 1924 unconstitutional?
3. James Madison, called the "Father of the Constitution," asserted that "Conscience is the most sacred property." The Court held in *Loving v. Virginia* (1967) that "Under our Constitution, the freedom to marry, or not marry, a person of another race resides with the individual and cannot be infringed by the State." How does the *Loving v. Virginia* decision support freedom of conscience?
4. Do you think it was important that the Court's decision was unanimous? Why?
5. What relevance (if any) might *Loving v. Virginia* have to the Court's decision on gay marriage?

Open the link to the Oyez and go to the **media** to listen to the audio from the case's oral arguments.

<https://www.oyez.org/cases/1966/395>

As you listen, answer the following questions:

1. In the opening arguments, attorney Hirschkop characterized the Virginia law as a slave law. How, in 1967, could he make this argument?
2. What is meant by the phrase "on its face"?
3. At the conclusion of his opening remarks (at 20:45), Hirschkop urges the Court to consider the full spectrum of these laws, not just the criminality. Why does he urge the Court to do this?
4. Bernard Cohen, who also represented the couple, argued for the application of the Due Process Clause in the case (this begins at 22:51). According to Cohen, how could the Due Process Clause be applied in the *Loving* case?
5. Explain the difference between "arbitrary and capricious" grounds and "reasonable basis".

6. The exchange between Justice Hugo Black and Bernard Cohen that occurred between the 27:30 and 33:00 marks was an especially pivotal moment in the argument. Do you agree? Why or why not?
7. At 37:00, William Marutani argued the Amicus Curiae filed by Japanese American Citizens. Why were his arguments especially powerful?
8. What were Virginia's main arguments in its opening (mark 1:05:00)?
9. Between the time marks of 1:17:00 and 1:22:00, Attorney McIlwaine had a significant exchange with Justice Potter and Chief Justice Warren. Do you think this exchange had an important impact on the decision? Why or why not?

Watch the clip on Bernard Cohen (who successfully argued the case of Loving v Virginia) in order to respond to the following questions.

<https://www.youtube.com/watch?v=AYTYnpF7FZM>

1. What obstacles did Cohen have to confront when he decided to argue the case?
2. What case was later influenced by the precedent in the Loving case?

Use the following primary source document to answer the questions that follow.

<https://www.blackpast.org/african-american-history/loving-v-virginia-1967/>

1. Explain the relevance of the Racial Integrity Act of 1924 to the Loving v Virginia case.
2. What is the punishment for breaking the Virginia law according to Section 259?
3. How did the Unanimous Opinion of the Court most effectively refute the validity of Virginia's case as presented through the Naim v Naim decision and the debates held in the 39th Congress?

Watch the primary source video in order to answer the following questions.

<https://www.youtube.com/watch?v=FaHhZ4IbVYY&t=66s>

1. What is meant by the idiom "the boy next door"?
2. What aspects of Mildred and Richard's background do you think are important?

3. During the interview, Mildred states: “I didn’t realize how bad it was until we got married”. Why do you think the couple did not realize the problem?
4. How did Mildred take action to fight the Virginia law?
5. The end of the news segment is particularly significant. What is the impact of the decision in their case?

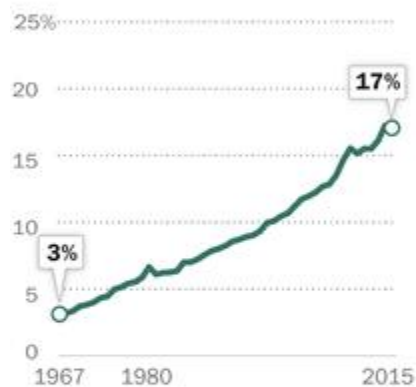
III. Interpreting Data/Information

Intermarriage in the U.S. 50 Years After Loving v. Virginia

Working in small groups, evaluate the given graphs from a recent Pew Research Study in order to discuss and answer the following 5 questions.

Since 1967, a steady increase in U.S. intermarriage

% of newlyweds who are intermarried



Note: Data prior to 1980 are estimates. See Methodology for more details.

Source: Pew Research Center analysis of 2008-2015 American Community Survey and 1980 decennial census (IPUMS).

“Intermarriage in the U.S. 50 Years After Loving v. Virginia”

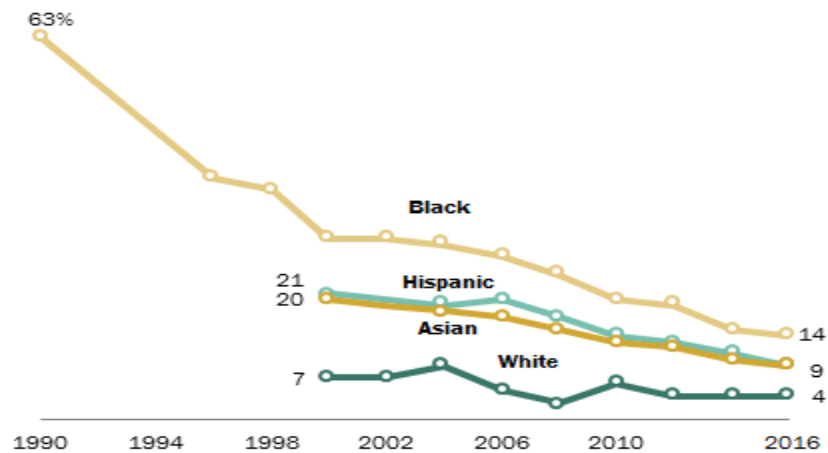
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1. Why is 1967 the start point for this study?

- How would you characterize the slope of the line that shows the percent of newlyweds who are intermarried?

Dramatic dive in share of nonblacks who would oppose a relative marrying a black person

% saying they would be very or somewhat opposed to a close relative marrying someone who is ____ among U.S. adults who are not that race or ethnicity



Note: Due to changes in question wording, the universe of nonblacks prior to 2000 includes anyone who reported a race other than black; in 2000 and later, the universe of nonblacks includes those who did not identify as single-race, non-Hispanic blacks (and so may include Hispanic blacks and multiracial blacks).

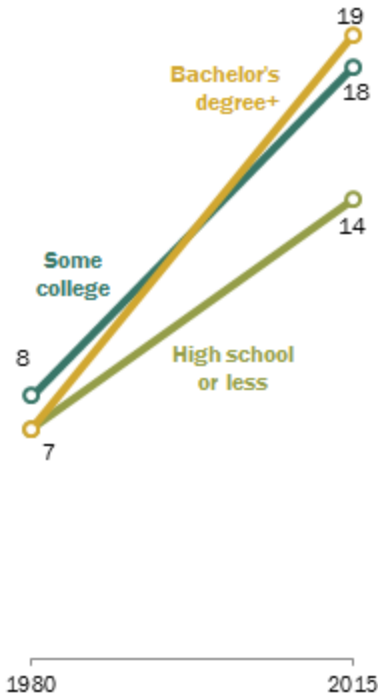
Source: Pew Research Center analysis of General Social Survey.
"Intermarriage in the U.S. 50 Years After Loving v. Virginia"

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- What does this graph say/communicate about racial attitudes toward intermarriage in America?
- What do you think accounts for the significant decrease in opposition to a relative marrying someone outside of their race/ethnicity among Black Americans?

An emerging educational gap in intermarriage

% of U.S. newlyweds ages 25 and older who are intermarried



Note: "Some college" includes those with an associate degree and those who attended college but did not obtain a degree. The 2015 time point is based on combined 2014 and 2015 data.

Source: Pew Research Center analysis of 2014-2015 American Community Survey and 1980 decennial census (IPUMS).
"Intermarriage in the U.S. 50 Years After Loving v. Virginia"

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5. Why do you think that intermarriage increases as education level increases?

IV. Reflection

The devotion the Lovings had for each other was unbreakable. The courage they showed under great adversity was inspiring. At the close of this lesson, it is important that we take a moment to reflect on this family. In a paragraph, discuss what struck you the most about their story, their case, and their impact on America.

Additional Sources

https://www.youtube.com/watch?v=q-qlS_J4Mho - How Loving v. Virginia Led to Legalized Interracial Marriage (The History Channel)

<https://www.youtube.com/watch?v=24VVjMvUcEk> - CBS Sunday Morning show on Loving Day

<http://www.legacy.com/ns/mildred-loving-obituary/109079408> - Mildred Loving's Obituary

<https://www.pbs.org/black-culture/explore/interracial-marriage-relationships/> - Inter-racial Relationships that Changed History