

CONSTITUTION 101

Module 14: Battles for Freedom and Equality: Modern Battles

14.4 Primary Source

LOVING V. VIRGINIA (1967)

View the case on the National Constitution Center's website [here](#).

SUMMARY

Mildred and Richard Loving, an interracial couple, married in D.C. but moved to Virginia where interracial marriage was banned. They sued for violation of the Equal Protection Clause. The Court held that the Virginia law violated the Fourteenth Amendment because of the law's clear purpose to create a race-based restriction. The Court reasoned that the law treated people differently based on race because it prohibited marriage based on the race of the other party to the marriage. Here, a white man who married a Black woman was committing a crime because the woman he chose to marry was Black. This holding marked an expansion of the Court's interpretation of the Equal Protection Clause and the characteristics it protects.

[Read the Full Opinion](#)

Excerpt: Majority Opinion, Chief Justice Earl Warren

State bans on interracial marriage violate the Fourteenth Amendment; they are unconstitutional. This case presents a constitutional question never addressed by this Court: whether a statutory scheme adopted by the State of Virginia to prevent marriages between persons solely on the basis of racial classifications violates the Equal Protection and Due Process Clauses of the Fourteenth Amendment. For reasons which seem to us to reflect the central meaning of those constitutional commands, we conclude that these statutes cannot stand consistently with the Fourteenth Amendment. . . .

Sixteen states still ban interracial marriage. Virginia is now one of 16 States which prohibit and punish marriages on the basis of racial classifications. Penalties for miscegenation arose as an incident to slavery, and have been common in Virginia since the colonial period. The present statutory scheme dates from the adoption of the Racial Integrity Act of 1924, passed during the period of extreme nativism which followed the end of the First World War. The central features of this Act, and current Virginia law, are the absolute prohibition of a "white person" marrying other than another "white person," a prohibition against issuing marriage licenses until the issuing official is satisfied that the applicants' statements as to their race are correct, certificates of "racial composition" to be kept by both local and state registrars, and the carrying forward of earlier prohibitions against racial intermarriage. . . .

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The core purpose of the Fourteenth Amendment was to attack racial discrimination by the states. The clear and central purpose of the Fourteenth Amendment was to eliminate all official state sources of invidious racial discrimination in the States.

Virginia's ban on interracial marriage discriminates on the basis of race. There can be no question but that Virginia's miscegenation statutes rest solely upon distinctions drawn according to race. The statutes proscribe generally accepted conduct if engaged in by members of different races. Over the years, this Court has consistently repudiated '(d)istinctions between citizens solely because of their ancestry' as being 'odious to a free people whose institutions are founded upon the doctrine of equality.' At the very least, the Equal Protection Clause demands that racial classifications, especially suspect in criminal statutes, be subjected to the 'most rigid scrutiny,' and, if they are ever to be upheld, they must be shown to be necessary to the accomplishment of some permissible state objective, independent of the racial discrimination which it was the object of the Fourteenth Amendment to eliminate. Indeed, two members of this Court have already stated that they 'cannot conceive of a valid legislative purpose . . . which makes the color of a person's skin the test of whether his conduct is a criminal offense.'

The state has no legitimate purpose for imposing this ban. There is patently no legitimate overriding purpose independent of invidious racial discrimination which justifies this classification. The fact that Virginia prohibits only interracial marriages involving white persons demonstrates that the racial classifications must stand on their own justification, as measures designed to maintain White Supremacy. We have consistently denied the constitutionality of measures which restrict the rights of citizens on account of race. There can be no doubt that restricting the freedom to marry solely because of racial classifications violates the central meaning of the Equal Protection Clause. . . .

The right to marry is a fundamental right protected by the Fourteenth Amendment.

Marriage is one of the 'basic civil rights of man,' fundamental to our very existence and survival. . . . To deny this fundamental freedom on so unsupportable a basis as the racial classifications embodied in these statutes, classifications so directly subversive of the principle of equality at the heart of the Fourteenth Amendment, is surely to deprive all the State's citizens of liberty without due process of law. The Fourteenth Amendment requires that the freedom of choice to marry not be restricted by invidious racial discriminations. 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.

The Lovings win. These convictions must be reversed.

***Bold sentences give the big idea of the excerpt and are not a part of the primary source.**