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Black Citizenship, Dehumanization, and the Fourteenth Amendment

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BLACK CITIZENSHIP, DEHUMANIZATION, AND THE FOURTEENTH AMENDMENT

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The fight for full Black citizenship has been in large measure a fight against the systematic dehumanization of African Americans. Dehumanization is the process of treating people as less than human, as subhuman. Denying Blacks full and equal citizenship has gone hand in hand with denying their full humanity. To effectively promote equal citizenship for African Americans, therefore, requires an explicit commitment to ending their dehumanization.

In this Essay, Part I will discuss the concept of dehumanization and its role in the infliction of harm on a dehumanized class of people. Part II will discuss the concept of citizenship, and contend that full and equal citizenship consists of four layers of citizenship: formal, political, civil, and social citizenship. While the first three types of citizenship are familiar, social citizenship is a neglected yet crucial aspect of full citizenship. Social citizenship entails the right and ability to enter into and have personal relationships based on mutual respect and equality with other members or citizens of the political community.

Part III will examine three key race and citizenship cases to illustrate how dehumanization has been pivotal in denying full citizenship or imposing second-class citizenship on Blacks, especially in denying Blacks social citizenship. In *Dred Scott v. Sandford*, the Supreme Court dehumanized Blacks to deny them formal U.S. citizenship.[1] In *Plessy v. Ferguson*, the Court dehumanized Blacks in upholding racial segregation and denying them social citizenship.[2] In *Naim v. Naim*, the Virginia Supreme Court dehumanized racial minorities in upholding a ban on

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1. 60 U.S. 393 (1857).
2. 163 U.S. 537 (1896).

interracial marriage, contending that interracial marriages would undermine good citizenship.[3]

Part IV will conclude by exploring the implications of my analysis for Black citizenship in the twenty-first century. It's only when dehumanization is squarely addressed and eliminated that full and equal citizenship status can realistically be attained. A constitutional doctrine of equal citizenship, then, must address and eliminate practices and policies which systematically dehumanize African Americans, such as racial segregation in education or racist policing.

I. DEHUMANIZATION

Dehumanization is the process by which people are understood to be less than human.[4] A group or class of people is dehumanized through language or imagery depicting them as animalistic or subhuman. Dehumanization encompasses two layers. One layer involves stripping a person, or class of persons, of human qualities, such as emotions and cognitive abilities.[5] The second layer involves "attributing demonic or bestial qualities to them."[6] The two layers combine to turn a dehumanized person into something less than human, something even akin to a subhuman, animalistic creature.[7]

For social psychologist Albert Bandura, "[t]he process of dehumanization is an essential ingredient in the perpetration of inhumanities."[8] Dehumanization plays a paramount role in the marginalization of certain groups, as "conceiving of people as subhuman often makes them objects of violence and victims of degradation."[9]

How does dehumanization lead people to inflict harm or support punitive policies against a class of people? One factor is the attitudes of the person or group engaging in dehumanization. When a group views a specific class of people as subhuman, these outgroups are placed "outside of normal moral consideration," which then "facilitate[s] violence against the dehumanized group."[10] According to Herbert Kelman, "[t]o the extent

3. 197 Va. 80 (1955).

4. DAVID LIVINGSTONE SMITH, LESS THAN HUMAN: WHY WE DEMEAN, ENSLAVE, AND EXTERMINATE OTHERS 26 (2011).

5. *See* Nour Kteily et al., *The Ascent of Man: Theoretical and Empirical Evidence for Blatant Dehumanization*, J. PERSONALITY & SOC. PSYCH. 3–4 (2015).

6. Albert Bandura, *Selective Moral Disengagement in the Exercise of Moral Agency*, 31 J. MORAL EDUC. 101, 109 (2002).

7. Kteily et al., *supra* note 5, at 3.

8. Bandura, *supra* note 6, at 200.

9. SMITH, *supra* note 4, at 37.

10. Kteily et al., *supra* note 5, at 2.

victims are dehumanized, principles of morality no longer apply to them and moral restraints are more readily overcome."[11] The ability to restrain oneself from engaging in cruel conduct against another person is severely diminished once the victim is stripped of human qualities.[12]

Dehumanizing a group also elicits negative emotions, such as anger, disgust, and fear against the dehumanized group.[13] Those negative emotions can lead to reduced empathy for the dehumanized group and support the desire for harsh, punitive treatment.

Historically, dehumanization was integral to the atrocities inflicted upon marginalized classes in society. For example, dehumanization played a crucial part in the genocidal campaign against Jews during World War II, and in the enslavement of persons of African descent in the United States.

In Nazi Germany, those who were Jewish were dehumanized as an insidious, subhuman race of people who possessed the qualities of disease and vermin.[14] Adolf Hitler believed Jewish people were an "illness spreading parasite, representing the danger of disease."[15] He considered them as a "germ, germ carrier, or agent of disease, a decomposing agent, fungus, or maggot."[16] He referred to Jews as "bloodsuckers, leeches, and poisonous parasites."[17] Joseph Goebbels, in a Nazi propaganda film he produced entitled *The Eternal Jew*, connected "Jews and filth, decay, and disease in every sector of cultural life. The film's narrator gravely states the 'race of parasites' has no feeling for the 'purity and cleanliness' of the German idea of art."[18] A campaign of genocide seemed entirely rational, logical, and necessary to the Nazis once Jews were dehumanized as vermin and disease.

Similarly, dehumanization was at the heart of African and African American experiences with slavery and segregation in the United States.[19] American slaveholders justified the enslavement of Africans by contending that they were animalistic subhumans.[20] If Africans were not

11. H.C. Kelman, *Violence Without Moral Restraint: Reflections on the Dehumanization of Victims and Victimizers*, 29 J. SOC. ISSUES 24, 48 (1973).

12. Bandura, *supra* note 6, at 200.

13. *See* Stephen M. Utych, *How Dehumanization Influences Attitudes Towards Immigrants*, 1 POL. RES. Q. 19 (2017).

14. SMITH, *supra* note 4, at 146.

15. *Id*.

16. *Id*.

17. *Id*.

18. *Id*. at 139.

19. *See id*. at 114–23 (describing dehumanization of Africans).

20. *Id*. at 117 ("Many colonists treated slaves as less than human and also explicitly stated that Africans were soulless animals.").

really human, then enslaving them did not constitute a violation of *human* rights. Thus, slavery apologists believed that Africans could be "tamed, trained and used like domestic animals. . . ."[21]

Even after the abolishment of slavery, African Americans continued to be dehumanized. Immediately after slavery was abolished, former slave states enacted the Black Codes, state laws constructing a system of discriminatory treatment depriving African Americans of basic liberties.[22] After the Fourteenth Amendment abolished the Black Codes, former slave states implemented Jim Crow segregation.[23] Like slavery, Jim Crow segregation was a manifestation of the entrenched belief that African Americans were racially inferior subhumans and who could not share spaces as equals with whites.[24]

The tragic story of Ota Benga, a member of the African pygmy group from central Africa, illustrates the horrors of dehumanization. In the early twentieth century, a white American arranged for Ota Benga to move from Africa to the United States to become an attraction at the Bronx Zoo in New York.[25] Ota Benga was put in a cage as if he was an animal. In fact, they made him share his cage with an orangutan.[26] The *New York Times* reported on Ota Benga, stating, "'[f]ew expressed audible objection to the sight of a human being in a cage with monkeys as companions.'"[27]

The treatment of Ota Benga created an uproar among the local African American community. Under intense social pressure, the Bronx Zoo ultimately released Ota Benga from his cage. However, he remained at the zoo and continued to be treated as an attraction. Thousands of visitors came to see "the star attraction in the park, the wild man from Africa. They chased him about the grounds all day, howling, jeering, and yelling" before Ota Benga ultimately committed suicide.[28]

Note that dehumanization is not the same as racism, bigotry, or prejudice. Dehumanization is not just antipathy, discrimination, or hatred. One can hate a person or a race of people without denying that person's or race's full humanity. Rather, "[d]ehumanization is racism on

21. *Id*. at 119.

22. C. VANN WOODWARD, THE STRANGE CAREER OF JIM CROW: A COMMEMORATIVE EDITION 23 (2002).

23. *See* JERROLD M. PACKARD, AMERICAN NIGHTMARE: THE HISTORY OF JIM CROW 65 (2002) ("From the end of Reconstruction until the Supreme Court's *Plessy v. Ferguson* decision in 1896, Jim Crow spread like a pestilence.").

24. *See id*. at 64 ("But Jim Crow was a Southern phenomenon, the infrastructure white Southerners built to preserve, insofar as humanly possible, the old master/slave system.").

25. SMITH, *supra* note 4, at 121.

26. *Id*. at 122.

27. *Id*.

28. *Id*. at 123.

steroids."[29] The worst atrocities that we associate with racism are actually the result of racism intertwined with dehumanization.

II. CITIZENSHIP

While seemingly simple and straightforward, citizenship is a difficult concept to pin down. Citizenship is "not a unitary concept" and is therefore subject to multiple meanings.[30] I posit a conceptual framework that includes four types of citizenship.

The first concept is formal citizenship or citizenship as legal status.[31] This type of citizenship "refers to formal or nominal membership in an organized political community."[32] Formal citizenship is the typical understanding of citizenship, and it entails meeting the legal criteria for being a citizen. In the United States, formal U.S. citizenship is obtained by meeting the constitutional requirement set forth in Section 1 of the Fourteenth Amendment or by meeting the statutory requirements to become a naturalized citizen.

If by citizenship all we mean is formal citizenship, there would not be much complexity in defining who or who is not a full citizen of the United States, and the notion of second-class citizenship would have little salience. Complexity exists because there are multiple conceptions of citizenship.

In addition to formal citizenship, I suggest that there are three other types of citizenship: political, civil, and social citizenship. Borrowing from a conceptual framework of equality from the late nineteenth and early twentieth century, I view these kinds of citizenship as substantive in nature.[33]

Political citizenship is about democratic self-governance and participation. Being a political citizen means having the right to equally and fully participate in aspects of democratic self-governance. It includes the right to vote, the right to serve on juries, and the right to serve in political office.[34] Political citizenship entails the rights and duties associated with the political community.

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29. DAVID LIVINGSTONE SMITH, ON INHUMANITY: DEHUMANIZATION AND HOW TO RESIST IT 52 (2020).

30. Jennifer Gordon & R.A. Lenhardt, *Citizenship Talk: Bridging the Gap Between Immigration and Race Perspectives*, 75 FORDHAM L. REV. 2493, 2500 (2007).

31. Linda Bosniak, *Citizenship Denationalized*, 7 IND. J. GLOBAL L. STUDIES 447, 456 (2000).

32. *Id*. at 456.

33. *See* Reva Siegel, *Why Equal Protection No Longer Protects: The Evolving Forms of Status-Enforcing State Action*, 49 STAN. L. REV. 1111, 1120 (1997).

34. *See* Jack Balkin, Plessy, Brown, *and* Grutter*: A Play in Three Acts*, 26 CARDOZO L. REV. 1689, 1694 (2005).

Civil citizenship is about participation in civil society.[35] Civil citizenship includes "equal rights to make contracts, own, lease, and convey property, sue and be sued, and according to some formulas, the right of freedom of speech and free exercise of religion."[36]

Social citizenship is the most ambiguous and under-theorized type of citizenship, yet the concept of social citizenship is crucial to understanding what full citizenship means as it pertains to African Americans. I define social citizenship in terms of both rights and recognition. It involves the *right* to enter into and have personal relationships with other citizens, and it involves the *recognition* as an *equal* within these relationships. Relationships that implicate social citizenship include equal relationships among colleagues, friends, neighbors, classmates, relatives, and spouses. Social citizenship entails the rights and duties associated with what I call interpersonal society.

Leading African American political thinkers in the first half of the twentieth century such as W.E.B. Dubois strongly believed that full social citizenship was central to full Black citizenship. He contended that Blacks must gain, in addition to civil and political citizenship, social equality or citizenship in order to be truly free.[37] Dubois defined the term "social" in social equality or citizenship to mean "[n]ot only . . . the intimate contacts of the family group and of personal companions, but also and increasingly . . . the whole vast complex of human relationships through which we carry out our cultural patterns."[38] With regards to personal intimate contacts "like marriage, intimate friendships and sociable gatherings, equality means the right to select one's own mates and close companions."[39] The quintessential right associated with social citizenship is the right to marry. Historically, Blacks were denied social citizenship by being denied the right to intermarry whites.

With the three kinds of citizenship in mind, we can then theorize about what it means to be a second-class citizen. I suggest that, when we talk about a second-class citizen, we refer to a person who possesses formal citizenship, but who lacks or is denied one or more of the three other kinds of citizenship. In the context of the United States race relations, second-class citizenship for African Americans post-Reconstruction Amendments has meant, in large part, the denial of full social citizenship. The primary basis for that denial has been rooted in

35. *See* Bosniak, *supra* note 31, at 476–77.
36. Balkin, *supra* note 34, at 1694.
37. THEODORE BILBO, TAKE YOUR CHOICE: SEPARATION OR MONGRELIZATION 73 (1947).
38. *Id*. at 74.
39. *Id*.

dehumanization, and that denial has resulted in systematic racial segregation in all aspects of interpersonal society for African Americans.

III. THE CASES ON RACE AND CITIZENSHIP

This Section will discuss three cases on race and citizenship, and examine how, in each case, the court either denied formal citizenship entirely to, or imposed second-class citizenship status on, African Americans and other racial minorities. In each of the cases, the overt dehumanization of African Americans was at the heart and center of the courts' reasoning.

A. Dred Scott v. Sandford

The dehumanization of African Americans was the central theme in the infamous 1857 Supreme Court decision denying U.S. citizenship to descendants of African slaves in the United States, *Dred Scott v. Sandford*.[40] In *Dred Scott*, the Court held that, a slave and all descendants of slaves were categorically prohibited from being U.S. citizens, even if they were born on U.S. soil, even if they were themselves never a slave. As a result, the plaintiff, a slave seeking emancipation, could not bring a lawsuit in federal court on the basis of diversity of citizenship jurisdiction. In short, *Dred Scott* rendered all descendants of slaves in the United States stateless non-citizens for all perpetuity.

The key rationale was based on Chief Justice Taney's understanding of the framer's original intent regarding the status of African slaves. The key question was whether the framers, in constructing the Constitution and notions of U.S. citizenship, meant to include slaves or the descendants of slaves as part of the American political community and thereby entitled to citizenship.[41] His answer was an emphatic no:

> In the opinion of the court, the legislation and histories of the times, and the language used in the Declaration of Independence, show, that neither the class of persons who had been imported as slaves, nor their descendants, whether they had become free or not, were then acknowledged as a part of the people, nor intended to be included in the general words used in that memorable instrument.[42]

For Taney, the reason why the framers excluded Africans from the American political community was because they explicitly and openly

40. 60 U.S. 393 (1857).
41. *Id*. at 406.
42. *Id*. at 407.

viewed African slaves as nothing more than "ordinary articles of merchandise."[43] In other words, because the framers believed Africans were less than human, non-human, they were nothing more than objects to be owned and sold. As "ordinary articles of merchandise," Taney argued that the framers thought of Africans "as beings of an inferior order, and altogether unfit to associate with the white race, either in social or political relations. . . ."[44] They believed that Africans were so inferior that they could and should "justly and lawfully be reduced to slavery for his benefit."[45]

For Taney, excluding persons of African descent from the American political community was justified, not necessarily because *he* himself believed that African Americans were objectively inferior, but, because he believed that the *framers* thought that Africans were inferior and less than human. In other words, even if Taney thought, as an objective matter, Africans were not inferior by nature, as long as the framers viewed and treated them as inferior, i.e., as long as the framers dehumanized them, then that was a sufficient basis to deny Africans U.S. citizenship. Essentially, Taney honored and bestowed respect upon the framers' dehumanization of African slaves instead of condemning it.

Although Taney did not use the word dehumanization to describe how the framers viewed and treated African slaves and their descendants, that is the word which best fits their view. Taney noted that the framers "stigmatized" (dehumanized) Africans as an inferior, subordinate class of people unfit to be U.S. citizens.[46]

In another part of his opinion, Taney argued that the existence of anti-miscegenation laws in the colonies and states in the eighteenth century was further proof that the framers universally viewed persons of African descent as less than human and unfit to be U.S. citizens.[47] Taney referred to anti-miscegenation laws in non-slave colonies and states to show that even those who opposed slavery still believed in the inferior, subhuman nature of Africans who were unfit to marry whites, and consequently, unfit to be U.S. citizens.[48]

The Court referred to a 1705 Massachusetts anti-miscegenation law as proof that the colonies and the eventual states thought of Africans as a

43. *Id*.
44. *Id*.
45. *Id*.
46. *Id*. at 416.
47. *See id*. at 408–09.
48. *See id*. at 408–09, 413.

"degraded" and "unhappy" subordinate race.[49] For the Court, the fact that free states enacted anti-miscegenation laws is convincing proof that a "perpetual and impassable barrier was intended to be erected between the white race and the one which they had reduced to slavery, and governed as subjects with absolute and despotic power. . . ."[50] The framers "looked upon" Africans "as so far below them in the scale of created beings, that intermarriages between white persons and negroes and mulattoes were regarded as unnatural and immoral. . . ."[51] These anti-miscegenation laws banned all marriages between whites and persons of African descent, whether free or a slave, showing that the "stigma" of subordinate, inferior status "was fixed upon the whole race," not just among slaves.[52]

Taney's logic is straightforward: If Africans were so degraded and inferior to whites that the framers prohibited and criminalized their marriage to whites, why would the framers grant formal citizenship to such a degraded and inferior class of people?[53] In other words, the fact that the framers denied Blacks a key right associated with social citizenship, the right to marry, was conclusive proof for Taney that they meant to deny them formal citizenship in perpetuity. And dehumanization was central to denying Blacks the right to marry whites.

B. Plessy v. Ferguson

In 1868, through the Citizenship Clause, the Fourteenth Amendment effectively overruled *Dred Scott* and ensured U.S. citizenship to African Americans born in the United States. However, while African Americans obtained formal citizenship, they were quickly relegated to being second-class citizens, first through Black Codes, then through systematic, state sanctioned racial segregation.

Decided in 1896, the Court in *Plessy v. Ferguson* upheld the constitutionality of racial segregation in public places and spaces.[54] At issue was a Louisiana law requiring the separation of the races on passenger trains.[55] The plaintiff challenged the law as a violation of equal protection. The Court held that there was no equal protection violation, even though the statute facially discriminated on the basis of race.

49. *Id*. at 408–09.
50. *Id*. at 409.
51. *Id*.
52. *Id*.
53. *Id*.
54. 163 U.S. 537 (1896).
55. *Id*. at 540.

In upholding racial segregation, the Court had to somehow conclude that it did not offend the guarantees of citizenship, equality, and liberty to African Americans under the Fourteenth Amendment. If Blacks could not be excluded from a jury as the Court held in *West Virginia v. Strauder*[56] a few decades before *Plessy*, how could the Court then conclude that Blacks could be excluded from public spaces and places on the basis of their race?

The Court relied on the distinction between political, civil, and social equality (citizenship) to do so. While acknowledging that the purpose of the Equal Protection Clause was to "enforce the absolute equality of the two races before the law," the Court emphasized that it was not intended to "enforce social, as distinguished from political, equality, or a commingling of the two races upon terms unsatisfactory to each other."[57]

In other words, the Court reasoned that the Fourteenth Amendment guaranteed African Americans the rights associated with civil and political citizenship, but it did not provide them the rights associated with social citizenship. Why not? The Court, like the *Dred Scott* Court, resorted to dehumanizing African Americans to deny them social citizenship. It relied on its belief in the inherent inferiority of African Americans to conclude that they had no right to associate with whites in social spaces as their equals: "If the civil and political rights of both races be equal, one cannot be inferior to the other civilly or politically. If one race be inferior to the other socially, the constitution of the United States cannot put them on the same plane."[58]

The *Plessy* decision paved the way for the systematic segregation and subordination of Blacks in Jim Crow South, segregation that imposed on Blacks second-class citizenship status. While Blacks were also denied political rights during Jim Crow, the central feature of Jim Crow was the dehumanizing treatment of Blacks as social inferiors unfit to associate with whites as equals.

Thus, for the *Plessy* Court, while the Fourteenth Amendment provided African Americans the rights associated with civil and political citizenship, it did not require Blacks to be treated as fully human and thereby entitled to the rights associated with social citizenship. Restricting social citizenship was a way to deny as many of the aspects of citizenship as possible to African Americans while conceding those aspects it could not find a way to deny as a constitutional matter.

56. 103 U.S. 303 (1880).
57. *Id*. at 544.
58. *Id*. at 551–52.

Plessy ensured official second-class citizenship status for African Americans for the first half of the twentieth century until the Court's decision in *Brown v. Board of Education* in 1954, when the Court struck down racial segregation of public schools.[59]

C. Naim v. Naim

In the aftermath of *Brown*, one of the central questions of racial equality left was the constitutionality of laws banning interracial marriage. In *Naim v. Naim*,[60] the Virginia Supreme Court in 1955 upheld the Racial Integrity Act, the state's anti-miscegenation statute. It did so by dehumanizing people of color, in particular, mixed-race people of color, and contending that the state was justified in banning interracial marriages because they threatened and undermined *good* citizenship.

In *Naim*, a white wife of a Chinese husband sought to annul their marriage. The couple were residents of Virginia who had gone to North Carolina to get married and then returned to Virginia to live together as husband and wife.[61] The trial court issued a decree declaring the marriage void because it was an interracial marriage in violation of Virginia's ban of interracial marriages. On appeal, the Virginia Supreme Court upheld the constitutionality of the statute under the Fourteenth Amendment Equal Protection and Due Process Clauses.[62]

The court's analysis focused on two themes. The first theme was the traditional authority of states to regulate marriage as part of their police power: "The right, in the states, to regulate and control, to guard, protect, and preserve this God-given, civilizing, and Christianizing institution is of inestimable importance, and cannot be surrendered, nor can the states suffer or permit any interference with."[63]

The second theme was citizenship. The court reasoned that the state had a legitimate interest in prohibiting interracial marriages in order to promote good citizenship. Interracial marriage could be prohibited because "no sort of valid reasoning could it be found to be a foundation of good citizenship. . . ."[64] Going even further, the court reasoned that it believed interracial marriages are actually "harmful to good citizenship."[65]

59. 347 U.S. 483 (1954).
60. 197 Va. 80 (1955).
61. *Id*. at 81.
62. *Id*. at 89–90.
63. *Id*. at 84 (quoting *State v. Gibson*, 36 Ind. 389, 402–03).
64. *Id*.
65. *Id.*

It may not seem intuitively clear what marriage has to do with good citizenship, let alone interracial marriage. It is only when we consider the court's explicit dehumanization of racial minorities that the connection starts to make sense, at least from the perspective of segregationists.

One reason that the court used the theme of citizenship to uphold the ban on interracial marriage is due to the U.S. Supreme Court's seminal decision, *Brown v. Board of Education*, handed down in 1954.[66] In that case, the Court struck down racial segregation in public schools as a violation of equal protection. The *Naim* decision followed one year later, and the central question was, could bans on interracial marriage survive *Brown*?

The *Naim* court addressed *Brown* head on and distinguished it. The court seized on the language in *Brown* about good citizenship.[67] The *Brown* Court reasoned that, because a sound education is so important to good citizenship, it must be provided on an equal basis.[68] For the *Naim* court the central holding of *Brown* was that racial segregation was detrimental to good citizenship, while racial integration was necessary to ensure that Black children grew up to be good citizens. The *Naim* court then argued that *Brown* supports the ban on interracial marriages, because interracial marriages actually *undermine* good citizenship.

For the *Naim* court, how exactly did interracial marriages undermined good citizenship? The key to understanding the *Naim* court's rationale is the notion of racial purity or integrity, and the fear of mixed-race children. For the *Naim* court, it was a patently legitimate state interest to "preserve the racial integrity of its citizens."[69] What did that mean? Preserving racial integrity, specifically, preserving *white* racial integrity, meant ensuring that whites remained whites over time. That required the state to prevent the "corruption of blood," which was a metaphor both for sex between a white and non-white person, and the results of such sexual intercourse: the production of a child with corrupted blood; i.e., a child with superior white blood "mixed" with inferior non-white blood.

The corruption of blood, if it were allowed to occur, would "weaken or destroy the quality of its citizens," resulting in a "mongrel breed of citizens."[70] And, for the *Naim* court, the proliferation of mongrel citizens would spell disaster for Virginia and its goal of promoting good citizenship.

66. 347 U.S. 483 (1954).
67. *Id*. at 493.
68. *Id*.
69. *Naim*, 197 Va. at 90.
70. *Id*.

Mongrel citizens, or mixed-race persons, were a danger to "good citizenship" because the court and segregationists believed that mixed race people were a race of people degraded and inferior to pure whites. If interracial marriages were permitted or encouraged, they would lead to the production of "mongrel" children. Over time, as more and more whites and non-whites entered into interracial marriages, mongrels would soon become the majority or dominant racial group. And a state or even nation dominated by inferior, inept, and incompetent mongrel citizens is a state or nation that would be in perpetual decline.

The belief that mongrel citizens would harm or destroy good citizenship was based on the dehumanization of Blacks and mixed-race people as inferior, less than human creatures compared to pure white citizens. Dehumanization was central to denying non-whites the right to marry, a right central to social citizenship. And in denying Blacks full social citizenship, the state of Virginia and other segregationist states were continuing to impose second-class citizenship status on Blacks and other racial minorities.

The Supreme Court finally ruled that bans on interracial marriages violate the Fourteenth Amendment in *Loving v. Virginia*.[71] We can and should understand *Loving* to be a case about race and *citizenship*, not just about race and interpersonal relationships. It stands for the proposition that the right to marry anyone of one's choice is an integral right of social citizenship specifically, and a right of full citizenship more broadly. In rejecting Virginia's interest in preventing the production of "mongrel citizens," the *Loving* Court emphatically rejected racial dehumanization as a means of imposing second-class citizenship on people of color.[72]

IV. CONCLUSION: BLACK CITIZENSHIP IN THE TWENTY-FIRST CENTURY

What are some of the lessons that we can draw from my analysis for what full citizenship for African Americans might mean today?

One key lesson is that dehumanization has been a central feature of the subordination and denial of full citizenship to African Americans throughout American history. Slavery was dehumanization. Jim Crow segregation was dehumanization. The ban on interracial marriage was dehumanization. To state that African Americans have experienced racial discrimination over the centuries, without explicitly linking dehumanization to that discrimination, fails to highlight how truly

71. 388 U.S. 1 (1967).
72. *See id.* at 11–12.

pernicious and insidious that discrimination was. Dehumanization went hand in hand with differential treatment.

A second lesson is that dehumanization, throughout American history, from *Dred Scott* to *Naim*, has been considered a valid justification for racial discrimination and subordination. Instead of being condemned as morally wrong, the defenders of white supremacy believed that the dehumanization of African Americans was completely unproblematic and justifiable. While one may understand how in 1857, the Supreme Court could honor and respect how the framers dehumanized Blacks, it may seem incredible that even in 1967, states like Virginia openly and unabashedly dehumanized Blacks and mixed-race persons. The normalization of dehumanization in American history must be acknowledged and understood if we are to fully grapple with the legacy of systemic racism in America.

A third and perhaps most sobering lesson is that dehumanization is still a central part of the racial discrimination that African Americans and other racial groups experience today. When we look for it, we can see dehumanization virtually everywhere. De facto racial segregation in public schools and housing; the continuing stigma associated with interracial marriages between whites and Blacks; the experience with racist policing; the mass incarceration of Blacks and Latinos; these are all the elements of continuing second-class citizenship and systematic dehumanization of Blacks. Given that dehumanization has been normalized throughout American history, it really should not be surprising that racial dehumanization is still pervasive in America. Dehumanization is an integral aspect of current systemic racism.

Finally, the hopeful lesson is that dehumanization does not have to be inevitable. Dehumanization can be countered through rehumanization. Rehumanization means treating dehumanized people with respect and dignity. In practice, that means actively entering into and maintaining relationships with persons of all races that involve mutual respect.

Racial diversity and inclusion programs are fundamentally about racial rehumanization. They are about the inclusion of Blacks in various arenas of civil, political, and interpersonal society out of the belief that they are social equals deserving of mutual respect and equality. The diversity and inclusion movement seeks to encourage and facilitate recognition of diverse racial identities. To that end, we can think of diversity as fundamentally about granting full citizenship for African Americans.