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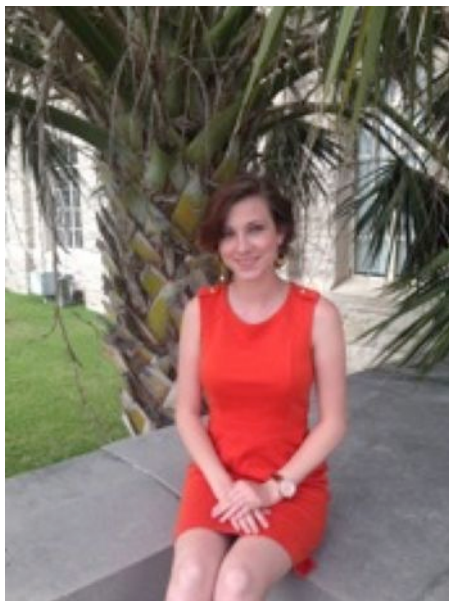
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Victoria Elizabeth Watson is a History major with a minor in Women's Studies from Mobile, AL. After graduation in May 2016, she is interested in both law school and graduate school. Watson's research interests include history, identity, and race. Her current research began in an Introduction to African American History and Culture course. Previous research includes work on Preservation Hall in New Orleans and a Mellon Research Circle grant concerning biography in the Black Atlantic.

## The Politics of Biracial Identity

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### Abstract

This research manuscript will investigate the impact of slavery, segregation, and cultural environment on biracial individuals' ethnic identity. Due to the context of the factors being investigated, this manuscript will specifically explore the impact on biracial individuals of African and European ancestry. Biracial in this study will be considered as those who are of both African and European descent, at minimum one eighth of either ethnicity. The purpose of this study is to gain a stronger understanding of ethnic identity itself, its role in biracial individuals' lives, and the history that influenced the ethnic identity of biracial individuals. It will also give a better cultural understanding to those individuals who are considered biracial with African and European ancestry. The research methods for this manuscript are an in depth study of secondary sources from scholars who have previously examined this topic. Primary sources such as colonial laws and Supreme Court ruling transcripts will also be used to investigate this historical and cultural question. Major results from this research are that slavery, segregation, and cultural environment have had a direct effect on the shaping of biracial individuals' ethnic identity. The implications of the results of this study are a greater understanding of biracial individuals of African and European descent in a cultural as well as historical context.

### Key Terms:

- Biracial
- Jim Crow
- "One Drop Rule"
- Ethnic Identity
- Plessy v. Ferguson

Ethnic identity is a construct whereby an individual defines self as belonging to a cultural or ethnic group. Whereas, race is a social construct whereby people are politically defined on the basis of skin color and, historically in the United States, in congruence with a black and white binary. In the United States historically, black and white are separated into two dichotomous groups; an individual is either black or white. Ethnic identity for biracial individuals has been directly shaped by society and racial views. Regarding African American and European American biracial individuals, ethnic identity has been shaped by slavery, segregation, and the environment in which they live. The purpose of this research is to examine the ethnic identity of children of African American and European American descent throughout history to inform how this identity continuously is and was shaped by slavery as a social construct; Black Codes in state constitutions after slavery and sanction by the U.S. Supreme Court with passage of *Plessy v. Ferguson* (1896); and the redesign of census guidelines today, given the ascription of “other” as a race. This research addresses the implications of those historical factors on ethnic identification of biracial individuals in society today.

Previous scholars have identified the construct of slavery, miscegenation, and the one-drop rule as being major factors in causing many biracial individuals to identify themselves as black.<sup>1</sup> The construct of slavery is social, meaning it only existed because people in society generated particular ideas that they wanted others to appropriate. If the enslaved did not brace those ideas mentally and physically, it simply remained a construct. Currently the topic is still debated

using new materials such as relevant censuses and the format of applications such as employment, college admissions, scholarships or citizen applications, in the United States. The debate still continues about how much slavery and segregation affected the shaping of biracial individuals’ ethnic identity. The present study is relevant because it directly affects our culture and society today. The number of biracial and multiracial individuals in the United States has been steadily rising in the past few decades, making it imperative to explore the culture and history of those individuals. The general methods used were secondary source research and analysis, as well as the analysis of primary sources in order to draw conclusions about the topic at hand.

Slavery was a social construct instituted by Europeans in order to make a profit. Europeans justified the kidnapping of Africans by asserting that Africans were inferior in appearance and intellect. Because skin color is something that cannot be changed, this ensured, along with the social and legal system’s effects, that the enslaved Africans could not rise above their predetermined social status. Therefore, biracial individuals were categorized as black; their European ancestry was of no significance. During the period of slavery, biracial offspring were commonly products of rape; primarily the raping of enslaved African women by European “masters.” Plantation owners often raped enslaved African women that were of lighter complexion, which they referred to as “fancy maids.”<sup>2</sup> The fathers of these children often neglected their patriarchal duties to their biracial children. Many colonies’, or later, states’ slave codes included acts that addressed the status of an

<sup>1</sup> Christine B. Hickman, “The Devil and the One Drop Rule: Racial Categories, African Americans, and the U.S. Census,” *Michigan Law Review* 95 (1997): 1179.

<sup>2</sup> Edward E. Baptist, “‘Cuffy,’ ‘Fancy Maids,’ and ‘One-Eyed Men’: Rape, Commodification, and the Domestic Slave Trade in the United States,” *The American Historical Review* 106 (2001): 1619–1650.

enslaved woman's child. One example of this is Act 12 of the Virginia slave codes, passed December 1662, that states that if there is any doubt to whether the child of an Englishman and Negro woman should be in bondage or free, the child should carry the status of its mother.<sup>3</sup> Therefore, an enslaved woman's child would be a slave regardless of its ancestry. Not only did this benefit the economy, but sealed the children to only identify themselves as black by legally as well as socially labeling them as black. The father's neglect of these children inflicted a sense of alienation from European ethnicity as well as the legal codes that considered biracial children Negro, rather than biracial with an ancestry of European and African. Biracial children, during this time, often did not identify with their European ancestry.

The legal aspects of racial identity varied from court to court. One example of this is the case study of Abby Guy, who was biracial. It was said that she was so light complexioned that she passed as seemingly European in society, her mother only slightly darker than her. Abby and her four children lived in Arkansas as free persons since 1844; however, when they moved to Louisiana it was discovered that they were of African descent. In 1855, a man named Mr. Daniel took possession of the Guy family, and he sold Abby to his daughter for 400.00 dollars. In the bill of sale, Abby is described as a Negro girl, not a biracial individual despite the fact she was a quarter African. Consequently, Abby Guy sued Mr. Daniel for her freedom and lost on the basis that she was a quarter or more African. Four years later, in 1861, she sued again and won her

freedom only after a degrading physical examination. Teresa Zackodnik (2001) posits that the court looked at biracial individuals as black individuals and judged them based on the degree of black "blood" within them:

And while Abby Guy was clearly neither white nor black, the corporeal challenge she and other "mulattos" posed to a social system built upon this racial binary caused the courts to marshal contradictory notions of race in order to silence and subsume such threats. Contained within these deliberations of the mulatto's racial identity was a reaffirmation of whiteness as an "original, natural" state of being against which difference was repeatedly asserted as degrees of deviance. The courts did not codify whiteness directly, but as they debated the boundaries of what they considered to be blackness, they policed and enforced the limits of whiteness.<sup>4</sup>

This case study embodies the idea of white and black being two different entities that cannot come together. It also exhibits the treatment of mulatto peoples during the time of slavery and how their status was determined not by their ethnicity but their skin pigment or physical features. However, this was not upheld in every court and varied because the social construct of race was flawed, especially when it came to the taboo concept of miscegenation.

The social construct of slavery continued to shape the ethnic identity of biracial individuals of African and European descent in the United States even after slavery was abolished in 1865 at

<sup>3</sup> "Virginia Slave Codes. Excerpts taken from William W. Henning, *The Statutes at Large; Being a Collection of all the Laws of Virginia, v.2 (1823)*," <http://hackettlatinacademy.weebly.com>.

<sup>4</sup> Teresa Zackodnik, "Fixing the Color Line: The Mulatto, Southern Courts, and Racial Identity," *American Quarterly* 53 (2001): 423-424.

the conclusion of the Civil War. Slave codes were abolished but black codes were instituted. In the diction of these black codes, application often was applied to negroes, mulattoes, and anyone having black ancestry. One example of this is section two of the black codes of Mississippi, enacted in January 1866, that states, "All unemployed negroes or mulattoes that congregate in assemblies in either day or night time will be fined up to 50 dollars and imprisoned up to 10 days." This code applied to biracial individuals just as it would those of pure African descent.<sup>5</sup> Another example of this is section one of the punishable offenses section of the black codes of Mississippi approved on November 25, 1865 that says, "No freedmen, free negroes or mulattoes that are not in the military can carry firearms, ammunition or a bowie knife."<sup>6</sup> Therefore, biracial individuals often identified themselves as black and only associated with black persons since the law treated them just as it did those of pure African descent. Robert Brent Toplin (1979), makes this point very clear when he discusses the work of an earlier scholar, Carl N. Degler. Toplin explains:

Carl N. Degler's excellent comparative study, *Neither Black nor White*, is particularly relevant to an examination of attitudes toward the mulatto. Degler observes that in Brazil mulattoes were important both in terms of numbers and social privileges but that this pattern did not develop in the United States. Degler carefully identifies judicial rulings of the slavery period that show some Americans wanted to give mulattoes favored treatment over Negroes, but he finds these cases very irregular and not representative of the

prevailing view. Discussing the implications for modern times, he says, "There are only two qualities in the United States racial pattern: black and white. A person is one or the other; there is no intermediate position."<sup>7</sup>

Toplin illustrates the point that the racial identity of biracial individuals was directly shaped by the social construct of slavery and the racial binary existing in the United States even after slavery had ended.

The ethnic identity of biracial individuals continued to be shaped after slavery ended and was consolidated in 1896 with a major Supreme Court case, *Plessy v. Ferguson*. The defendant of the *Plessy v. Ferguson* case was Homer Adolph Plessy, who was biracial. Plessy was seven-eighths European and one-eighth African. Plessy bought a first class passage on the East Louisiana Railway from New Orleans to Covington and sat in the white section of the train car. Due to his one-eighth African ethnicity, he was forced to abide by the black codes of Louisiana, which meant that he could not sit in the white section. A police officer forcibly ejected him from the train and arrested him. Plessy petitioned against this, which resulted in the ruling "separate but equal."<sup>8</sup> This ruling stipulated that public facilities such as transportation, schools, and water fountains would be racially segregated. Due to Plessy's biracial ethnicity, it was clear that this ruling applied to both blacks and biracial individuals. *Plessy v. Ferguson* ruling made it clear that the ethnic identity of biracial individuals in the United States

<sup>5</sup> "Black Codes of Mississippi (1865)," <http://oll.libertyfund.org>.

<sup>6</sup> *Ibid.*

<sup>7</sup> Robert Brent Toplin, "Between Black and White: Attitudes Toward Southern Mulattoes, 1830-1861," *The Journal of Southern History* 45 (1979): 186.

<sup>8</sup> "Transcript of *Plessy v. Ferguson* (1896)," <http://www.ourdocuments.gov/doc.php?flash=true&doc=52&page=transcript>.

was labeled as black regardless of their European ancestry.

The years following *Plessy v. Ferguson* were known as the Jim Crow era. Jim Crow measures varied from state to state, but the aim was to impose legal punishment on individuals consorting with members of another race. In reference to biracial individuals, they belonged to both the white and black race, therefore, these laws in theory would not apply to them; however, the United States ethnically defined biracial individuals as black, so they could not disrupt this socially constructed idea of race and law. One example of a Jim Crow measure that directly addresses this flaw is the Jim Crow measure of intermarriage from Florida, which stated that all marriages between a white individual and a negro, or between a white person and a person of negro descent to the fourth generation inclusive, were not allowed now or anytime in the future.<sup>9</sup> This law clearly addressed the “biracial problem” by including any individual that has African descent traced back to as far as their great-great grandfather. The application of Jim Crow measures to biracial individuals, even those with only one-sixteenth or less of African “blood,” shows that biracial individuals ethnic identity was not shaped by their ethnic composition, but their “blackness,” no matter how minimal. This was derived from the social construct of slavery.

The ethnic identity of biracial individuals continued to be shaped by the construct of race and its cultural applications in the United States. In 1920, this was prolonged by the “one drop rule.” Prior to the “one drop rule,” mulatto was a choice on the 1850 census as well as every census after that until the fourteenth census, the census of

1920. Beginning in 1870, there were specific choices for those of differing degrees of African descent, such as quadroon, octoroon, or anyone with a perceptible trace of African blood. In 1890, enumerators of the census were instructed to visually assign those of African descent into the different categories; however, there was no standard for how this was done. These choices on the censuses of 1850 to 1920 were only to create a more national professional statistical system. These choices, however, ended in 1920 with the “one drop rule.” The “one drop rule” in its literal definition means anyone with one drop of African blood is black.<sup>10</sup> In sociology, this rule is seen as a form of hypodescent. Its applied meaning in society was anyone with a known black ancestor was considered black. This rule eliminated the ethnic identity of being biracial. Biracial individuals of African and European descent were thus legally considered only black. Christine B. Hickman (1997) illustrates the idea that biracial individuals were seen as black as a social construct of slavery:

For mulattoes and Negroes, all rights were rooted in the past, in remote African ancestry. Ancestry alone determined status, which was fixed. A Negro could not buy out of her assigned race; she could not marry out of it, nor were her children released from its taint. As historian Gilbert Stephenson bluntly stated, "Miscegenation has never been a bridge upon which one might cross from the Negro race to the Caucasian, though it has been a thorough fare from the Caucasian to the Negro."<sup>11</sup>

<sup>9</sup> “Jim Crow Laws of Various States,” [http://www.nps.gov/malu/forteachers/jim\\_crow\\_laws.htm](http://www.nps.gov/malu/forteachers/jim_crow_laws.htm).

<sup>10</sup> Wendy D. Roth, “The End of the One-Drop Rule? Labeling of Multiracial Children in Black Inter marriages,” *Sociological Forum* 20 (2005): 36.

<sup>11</sup> Christine B. Hickman, “The Devil and the One Drop Rule: Racial Categories, African Americans, and the U.S. Census,” *Michigan Law Review* 95. 5 (1997): 1179.

Hickman illustrates that the construct of slavery shaped the ethnic identity of biracial individuals as black and the “one drop rule” propelled this. The period after Plessy v. Ferguson prolonged the view of biracial individuals as being politically defined as black and legally addressed in such manner.

The constricting parameters of ethnic identity that the United States placed on biracial individuals living in the United States caused some biracial people to reject their African identity so as to not be impaired legally in society. Some biracial individuals in the Jim Crow era tried to pass as white in society. One historical example of this is the story of Hickman’s great uncle, Jack, whose last name she does not provide, a biracial individual who looked white. He began to pass himself off as white in society with his fair skinned wife in order to economically advance himself. He moved into a middle class neighborhood in Detroit that was reserved for whites. His relative, who was black and darker skinned, helped him move in and Jack’s neighbors quickly figured out he was of African descent as well. He was evicted from his house and the white people harassed him. In court, Jack insisted he was not of African descent; however, he lost the court case and his home.<sup>12</sup> This example displays the desperate measures some biracial individuals took to try to fit in the racially constructed society. Some of these biracial individuals that denied their African descent did so because they were distressed by the legal impediments placed on them as well as the ethnic identity forced on them that they felt the need to deny a part of their ethnic composition to society. The argument can be made that some biracial individuals simply desired to align themselves with their European origins and identify as white; however, many identified as

<sup>12</sup> Ibid.

white because of the benefit to do so in a racially oppressive society.<sup>13</sup>

Many Biracial individuals of African heritage throughout history and to the present day still identify themselves as black because of the internalization of the “one drop rule.” Dominant culture has instilled this in individuals of African heritage and can be seen as a way to limit their identity choices. Roth conveys this idea of biracial and multiracial individuals of African heritage internalizing the one drop rule:

However, it has often been assumed that few identity options exist for multiracial individuals who have Black heritage. America’s history of the “one-drop rule”-codified legally as well as socially and culturally - designated how they should be identified. People with any known Black ancestry, or “a single drop” of Black blood, were legally designated as Black and over time Blacks internalized this rule themselves.<sup>14</sup>

Roth shows that there was a dichotomy in ethnic identity; one was either black or white in reference to the “one drop rule.” Many biracial individuals saw themselves as only black because of the one drop rule. Some biracial individuals identified themselves as being just white, if they could, to advance themselves in a society and time that oppressed those of African descent. Regardless, the identity choice for biracial individuals has historically been limited compared to others.

<sup>13</sup> Robert Brent Toplin, “Between Black and White: Attitudes Toward Southern Mulattoes, 1830-1861,” *The Journal of Southern History* 45 (1979): 186.

<sup>14</sup> Wendy D. Roth, “The End of the One-Drop Rule? Labeling of Multiracial Children in Black Intermarriages,” *Sociological Forum* 20 (2005): 36.

Biracial individuals were legally categorized as black under Jim Crow measures until segregation was legally ended in 1954 with the Supreme Court case *Brown v. the Board of Education*. Black citizens did not truly get their rights after the civil rights movement came to a close in 1968; however, in ways this fight for African American and biracial rights is still ongoing today. Today, the ethnic identity of biracial individuals is not as constricted as it was historically. It is still defined by the social construct of slavery in some ways; however, due to the progression of our society, other factors such as parenting and environment affect the ethnic identity of biracial individuals. In 1967, interracial marriages were made legal in the Supreme Court case, *Loving v. Virginia*. After the 1967 decision, the number of interracial marriages has nearly quadrupled. The number of African American and European American interracial marriages has also risen, despite the fact that this type of interracial relationship has historically been one of the lowest of all the interracial marriages.<sup>15</sup> With this rise in interracial marriages, there has been a movement to change the United States census so that there is an option for multiracial and biracial individuals to choose. As of 2010, biracial or multiracial individuals can “check” more than one race or ethnicity, but there is no choice that says biracial or multiracial. Even if the census were to add this box, it would not accurately represent the identities of biracial or multiracial people. Hickman (1997) gives intriguing insight on proposals about the census and biracial individuals that shows the flaws in the understanding of race by others. Christine B. Hickman (1997) informs:

[A]nd there have been two proposals for limiting the multiracial category to a socially important category: the burgeoning group of people with parents of different races. One proposal would include a multiracial box on the race line together with an instruction explaining that this box is to be checked by people with parents from two distinct racial groups. A second proposal would also add this multiracial box, but would require the persons who check it to identify the race of their parents. Both proposals place the multiracial category on the race line, thereby decreeing that people can have a racial identity or a multiracial identity, but not both. There are three flaws in these proposals: (1) they incorrectly assume that multiracial status is race; (2) they force people to choose between their racial and multiracial identities; and (3) they will lead to an inaccurate count of biracial Americans.<sup>16</sup>

Hickman’s critique of these proposals is profound, but there are some flaws with her own reasoning that a multiracial box eliminates a racial identity for those who are multiracial but identify racially as black or white. The flaw with this reasoning is that some biracial individuals identify themselves as biracial, not just black or just white. This proposal would then suffice for them, but changing it to address Hickman’s point may make it insufficient for them; however, Hickman makes valid points with other flaws in the proposals that she critiques. Despite this minimal progression, many other official forms do not have a choice for multiracial or biracial individuals either. Primarily, forms such as job and college

<sup>15</sup> “Interracial Marriage Statistics from 1960 to 1998.” <http://www.census.gov/population/socdemo/ms-la/tabms-3.txt>.

<sup>16</sup> Christine B. Hickman, “The Devil and the One Drop Rule: Racial Categories, African Americans, and the U.S. Census,” *Michigan Law Review* 95 (1997): 1179.



applications, standardized tests, and scholarly surveys lack this choice as well. Our society has progressed, but the lack of an ethnic identity for biracial individuals still persists. The ethnic identity of biracial individuals continues to be shaped by the history of the United States and the social construct of slavery that was created in what is now the United States.

The social construct of slavery is not the only measure that shapes the ethnic identity of biracial individuals in society today. An individual has the power of self-identification. Today biracial ethnic identity can be a multidimensional model, influenced by the social construct of slavery and self-identification. This multidimensional model is explained by scholars Kerry Ann Rockquemore and David L. Brunnsma (2002). They inform:

Conceptualizing identity as an interactionally validated self-understanding, Rockquemore argues that biracial individuals construct various understandings of their racial identity. These variations in self-understanding are reflective of the parameters of legitimate racial identities available to social actors in their environment. Specifically, she argues that individuals with one black and one white parent choose between four different racial identity options: a singular identity (exclusively black or exclusively white), a border identity (exclusively biracial), a protean identity (sometimes black, sometimes white, sometimes biracial) and a transcendent identity (no racial identity).<sup>17</sup>

Despite these many identity choices, many scholars say that it is common for a biracial

individual to identify themselves as racially black because of the history of the construct of race.<sup>18</sup> This directly shows that the construct of slavery continues to shape the ethnic identity of biracial individuals; however, this historically had some positive outcomes. It united together the African American race, despite their own heritage, to fight against the unjust laws imposed on them. The strength of influence of the construct of slavery and race in the United States is declining; there are many biracial people who identify themselves as being white and black or mixed. Although, due to the large amount of history surrounding biracial individuals and the identity accorded in society, it is impossible for this not to influence the ethnic or racial identity of biracial individuals in society today.

The history of the United States shapes our present society. The construct of slavery in the United States has shaped various innate views still prevalent in society. Slavery instituted a racial binary between black and white persons that limited biracial individuals to defining themselves as black according to their ethnic heritage. In turn, this practice was supported by the black codes after slavery, the Plessy v. Ferguson decision, the Jim Crow era, and even today with the census as well as other forms requiring racial identification. Hence, biracial individuals have been subjected to being identified as black and treated legally as black in history, as well as today. Although our society has progressed in regards to this practice, biracial individuals of African and European descent have had their ethnic identity shaped for them throughout history by law and custom. The importance of researching this impact of history and institutions on biracial identity is that to

<sup>17</sup> David L. Brunnsma and Kerry Ann Rockquemore, *The Sociological Quarterly* 43 (2002): 336.

<sup>18</sup> Wendy D. Roth, "The End of the One-Drop Rule? Labeling of Multiracial Children in Black Intermarriages," *Sociological Forum* 20 (2005): 36.

liberate individuals and allow them to declare their own identities, society must recognize and consciously work against categorizing individuals on the basis of social constructs.

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