

BOOK REVIEW

Race, Marriage, Markets, Choice, and Some Reflections on *Is Marriage for White People?*

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IS MARRIAGE FOR WHITE PEOPLE? HOW THE AFRICAN-AMERICAN MARRIAGE DECLINE AFFECTS EVERYONE. By Ralph Richard Banks. New York, NY: Dutton. 2011. Pp. 189. \$25.95.

INTRODUCTION

*Is Marriage for White People? How the African-American Marriage Decline Affects Everyone*¹ by Stanford Law School Professor Ralph Richard Banks tackles the controversial subject of the decline, in recent decades, of marriage rates among African-Americans. The book provides a detailed, comprehensive analysis of the reasons fewer African-Americans have been getting married in recent years. The book then offers a recommendation to address this state of affairs—one Banks considers a significant problem not only for African-Americans but also for the entire nation.

The book focuses on the middle class, especially professional and middle class African-American women. While substantial public attention is often focused on African-American women who are struggling with poverty, drugs, public assistance, domestic violence, HIV status, and the child welfare system, rarely is attention paid to the experiences and emotional lives of African-American women who are educated, professional, and middle or upper-middle class.² This book is a rare and welcomed attempt to explore an aspect of the lives of a group of women who have made substantial progress in the workplace in recent decades but whose prospects for forming successful intimate relationships is often seemingly complicated by their success.

Is Marriage for White People? is anchored in demographic data focusing on the fact that there is a dearth of African-American men who have similar levels of education, income, and professional status. The result, according to Banks, is that the women face formidable challenges in finding compatible marriage partners among African-American men.³ Often these women do not marry at all. Those

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1. RALPH RICHARD BANKS, *IS MARRIAGE FOR WHITE PEOPLE? HOW THE AFRICAN AMERICAN MARRIAGE DECLINE AFFECTS EVERYONE* (2011).

2. *Id.* at 8–9.

3. *See id.* at 9 (“The African-American marriage decline is not limited to the poor. It now encompasses the middle and upper-middle class too . . .”).

who do marry frequently wed men who are at a lower level of education and income. According to Banks, the result is troubled unions often ending in divorce. As a measure to address what he views as a serious problem, Banks urges well-educated, successful African-American women to seek marriage partners from among men of other races and ethnic groups in which, he believes, they are likely to find a larger pool of men with similar levels of education and income. In other words, Banks recommends that these women marry “out” rather than “down.” In addition, Banks contends that such interracial marriages would ultimately result in more marriages between African-American men and women.

Not surprisingly, *Is Marriage for White People?* has been the subject of reviews, media attention, and quite a bit of controversy.⁴ As an African-American woman law professor who has taught family law for many years and written about issues at the intersection of race, family, and the law, I had many questions when I first learned of this book. I wondered: What was the author’s purpose? Who was his intended audience? The fact that well-educated African-American women are disproportionately unmarried is well known, and I was curious about what information the book would add to that which is widely available. Would it offer anything new in terms of information, analysis, or suggestions to make the possibility of marriage more likely for those women who are in pursuit of that goal? Would it embrace or challenge assumptions of traditional marriage as the ideal structure for intimate relationships? I hoped that the book would not contribute to the already overwhelming number of negative portrayals of the relationships between Black men and Black women that so often find a place in the media.⁵ I was interested in learning more about the author’s

4. See, e.g., Nancy Leong, *Is Marriage for Rich People?*, 44 CONN. L. REV. 1325 (2012); Melissa Murray, *Black Marriage, White People, Red Herrings*, 111 MICH. L. REV. 977 (2013); Margaret Bernstein, *Book Review: “Is Marriage for White People?”*, CLEVELAND.COM (Sept. 12, 2011, 2:37 AM), http://blog.cleveland.com/ent_impact_arts/print.html?entry=/2011/09/post_31.html; Jenée Desmond-Harris, *Review: ‘Is Marriage for White People?’*, ROOT (June 21, 2011, 12:34 AM), http://www.theroot.com/articles/culture/2011/06/is_marriage_for_white_people_review.html; Imani Perry, *Blacks, Whites and the Wedding Gap*, N.Y. TIMES: SUNDAY BOOK REV. (Sept. 16, 2011), http://www.nytimes.com/2011/09/18/books/review/is-marriage-for-white-people-by-ralph-richard-banks-book-review.html?_r=1; Alice Short, *Book Review: ‘Is Marriage for White People?’*, L.A. TIMES (Sept. 29, 2011), <http://articles.latimes.com/print/2011/sep/29/entertainment/la-et-book-20110929>; Shamontiel L. Vaughn, *‘Is Marriage for White People: How the African-American Marriage Decline Affects Everyone’*, CHI. TRIB. (Oct. 2, 2011), http://articles.chicagotribune.com/2011-10-02/entertainment/ct-books-is-marriage-for-white-people-review_1_black-men-black-women-relationship-books; Angela Stanley, *Opinion, Black, Female and Single*, N.Y. TIMES (Dec. 10, 2011), <http://www.nytimes.com/2011/12/11/opinion/sunday/black-and-female-the-marriage-question.html>.

5. Sexual politics between Black women and Black men sometimes receives a level of attention that the sexual politics of other groups does not, for example the attention given to the issue of marriage outside of the ethnic group or “outmarriage.” See JEFFREY S. PASSEL ET AL., PEW RESEARCH CTR., MARRYING OUT: ONE-IN-SEVEN NEW U.S. MARRIAGES IS INTERRACIAL OR INTERETHNIC 6 (2010) [hereinafter MARRYING OUT], <http://www.pewsocialtrends.org/files/2010/10/755-marrying-out.pdf> (using this term and defining it and the terms “intermarriage” and “marrying out” to describe marriages among spouses of different races, or marriages between a Hispanic and a non-Hispanic and noting that, in popular usage, the terms are also sometimes used to describe interethnic and interreligious marriages). The fact that Black men marry non-Blacks at a much higher rate than Black women do, see *id.* at 11, seems to receive a substantial amount of attention – indeed, Banks

recommendation of interracial marriage as a possible solution to what he clearly views as a problem. I had questions about the book's title and subtitle, as well as its claim that more interracial marriages by Black women would lead to more marriages between Black women and Black men.

In my view, *Is Marriage for White People?* is a significant, impressive, comprehensive, and sobering compilation of a great deal of information about marriage and intimate life patterns among African-Americans. This review essay will comment on what I see as some of the book's strengths, and will raise a number of concerns I have about the book's coverage and perspectives. Part One of the essay offers a brief review of the book's findings regarding the current status of marriage and intimate relationships among African-Americans.

Part Two discusses what I consider to be some of the book's strengths. I then identify three areas where the book stopped short of what might have been a richer discussion, specifically the book's market analysis, its critique of African-American marriages in which wives exceed their husbands in professional status and income, and the book's uncritical approach to traditional marriage.

Part Three of the essay will examine the recommendation that well-educated, financially secure African-American women actively seek out marriage partners among men of other ethnic groups. Here, my concern is with reliance on personal choice as a remedy for a situation stemming from structural inequalities. In this section, I also discuss the similarity between the author's recommendation of interracial marriage in this context and his support in prior scholarship of transracial adoption to address the issue of the disproportionate number of African-American children in the foster care system. Part Three also addresses the book's claim that more interracial marriages by Black women will lead to more marriages between Black men and women.

Part Four of this review addresses Banks' speculation that the pattern of African-American women surpassing African-American men in terms of education, income, and professional status may be a harbinger of a future pattern in the wider society. Although the book does not pursue this claim in any detail, this essay will briefly address that speculation in two ways. First, it will point out a few legal issues that arise in the context of intimate relationships between men and women that might warrant reexamination in the event of such changed demographics. It will then suggest that rather than such changed demographics

references this demographic pattern as one of the main reasons a significant number of Black professional women are not married. Often lurking beneath discussions of this pattern is the implication of tensions in the relationship between Black men and Black women and the suggestion that a significant number of Black men prefer white women over Black women.

It has often seemed to me that there is much less attention directed toward the possible intragroup sexual politics arguably implicated in the outmarriage patterns of other groups. For example, to what extent might outmarriage by Asian women reflect emasculating stereotypes of Asian men? To what extent might outmarriage by educated Hispanic women reflect stereotypes of Hispanic men as "macho"? To what extent might outmarriage by Jewish men reflect possible stereotypes of Jewish women as controlling? African-Americans are not the only ethnic group in which there are intragroup gender politics. It would be a significant contribution to the analysis of the relationship between race and gender if *Is Marriage for White People?* inspired the media, scholars and even ordinary people from a variety of ethnic backgrounds to pay more attention to the intragroup dynamics and sexual politics of a range of ethnic groups. These dynamics may prove equally complex and intriguing.

being seen as a problem, they might be viewed as offering an opportunity for society to engage in a broad re-imagining of traditional gender roles.

I. MARRIAGE AND INTIMATE RELATIONSHIPS BETWEEN AFRICAN-AMERICAN MEN AND WOMEN

Each chapter of *Is Marriage for White People?* offers a great deal of specific, detailed information about the intimate lives of African-American women, and the statistics presented are quite dramatic. African-American women are half as likely to be married as white women, and are more than three times more likely than white women to have never married.⁶ African-American women are also three times as likely as white women to have never lived with an intimate partner. If African-American women do marry, they are twice as likely as white women to divorce.⁷ According to Banks, census data reveals that among women with a graduate or professional degree, "black women are nearly twice as likely as their white counterparts to remain childless."⁸

The book argues that the African-American marriage decline negatively affects the wellbeing of African-American women in many areas of their lives, including emotional health, economic wellbeing, and physical health. In Bank's view, many Black women are deprived of what he considers to be the emotional rewards of marriage, family, and intimate romantic connections. He also argues that as a result of the marriage decline, African-American women and the larger African-American community are disadvantaged financially, missing out on the economic advantages of the two-income family.⁹ He cites the statistic that seven out of ten Black children are born to unmarried parents and notes the correlation between single motherhood and lower economic status.¹⁰ Banks argues that the marriage decline also negatively affects African-American women's physical well-being. He reports that this group, which comprises 13 percent of our nation's female population, more than one out of three have had abortions. He attributes this to the marriage decline, noting that most abortions within this group result from the unplanned pregnancies of unmarried women.¹¹ Banks also cites statistics that indicate that Black women are disproportionately represented among women infected with venereal diseases.¹²

Central to Banks' analysis of the African-American marriage decline is the concept of the market. He identifies the problem as being essentially one of supply and demand: there simply is not a sufficient number of marriageable African-American men to meet the demand of the many African-American

6. BANKS, *supra* note 1, at 7.

7. *See id.*

8. *See id.* at 79–80.

9. *See id.* at 10–11 ("The marriage decline restricts the growth and security of the black middle class.").

10. *See id.* at 68. Banks does not argue that Black children being raised by a single parent are necessarily disadvantaged emotionally in comparison to Black children in families where the parents are married. He argues that there are high rates of marital dissatisfaction among African-American married couples and that this may cancel out some of the benefits their children might otherwise accrue from being raised in a two-parent family.

11. *See id.* at 81.

12. *See id.* at 64–66.

women seeking marriage partners.¹³ The result of this shortage of “eligible” marriage prospects is that many successful, professional African-American men, finding themselves in a situation in which they have many options, are unwilling to commit to marriage or other exclusive relationships.

According to Banks, the market disparity places those men likely to be considered desirable potential partners in the position to exercise a great deal of power in their relationships with women. In his view, there is often a willingness on the part of many African-American women to make accommodations in their romantic and intimate relationships that they would probably be unwilling to make in a more favorable market situation. Banks cites research indicating that Black men are more likely to be in concurrent relationships than are white men, and that this is true even if the men are in cohabitation relationships with a woman or are married.¹⁴ He further states that for Blacks, but not for whites, the multiple partner relationships are most common among the better-educated men.¹⁵

Banks offers three main reasons for the decline in marriageable African American men. First, he notes that high rates of incarceration of African-Americans constrict the marriage market for poor and working-class Black women.¹⁶ Second, he states that interracial marriage depletes the pool of men for middle-class, college-educated Black women.¹⁷ Third, zeroing in on the specific problems of unemployment, health, and lower educational attainment, Banks notes that the economic prospects for many Black men have worsened, while those for Black women have improved.¹⁸

To address the shortage of marriageable African-American men, Banks recommends that successful African-American women actively seek marriage partners from men in other ethnic groups— either white men or other men of color. He sees such an expanded pool as yielding a larger number of men who are likely to be more compatible with these women in terms of education, professional status, and income. He believes that not only might this provide more African-American women with husbands, and the fulfillment he seems to believe marriage and children brings to most women, but also that it may lead to more marriages between African-American men and women. Banks believes that if African-American men were to see themselves in competition with other men for the affections of African-American women, they might be more willing to enter into marriage.¹⁹

13. The subject of a “shortage” of marriage-desirable African-American men has also received substantial attention in the popular press. See, e.g., AARON ANWAR SMITH, IS THERE REALLY A SHORTAGE OF GOOD BLACK MEN? (2010); Sabrina Lamb, *Is There a Shortage of Black Men, or are Women Just Too Picky?*, EBONY, Apr. 2007, at 74.

14. BANKS, *supra* note 1, at 53.

15. *Id.* at 63.

16. *Id.* at 30–33.

17. *Id.* at 33–38.

18. *Id.* at 29, 38–44.

19. See *id.* at 181.

II. TROUBLING A TROUBLING PICTURE

The statistics presented in *Is Marriage for White People?* are compelling and sobering. It is true that virtually all of the statistics cited in the book can readily be found elsewhere, and the impact of the African-American marriage decline has already been the subject of other research and public discussion.²⁰ Still, the impact of the presentation of such a large amount of information in one place was dramatic and powerful—a case of the whole being greater than the sum of its parts.

Banks does not paint his picture of the lives of these women with statistics alone. His method is both quantitative and qualitative. He conducted in-depth interviews with over one hundred Black women, most of whom were in their late thirties or forties.²¹ The resulting anecdotes and quotes reveal the author to be a very effective interviewer, and the information mined from these interviews greatly enriches his project. The book paints a sympathetic portrait of African-American women who are well-educated and professionally successful, but whose quests for fulfilling intimate lives have often been fraught with complexity. Many of the women have not found partners for marriage or even for romance. A number expressed regret and disappointment that they had not become mothers.

Is Marriage for White People? offers much of value. The issue the book focuses on, the African-American marriage decline, is an important one. Whether or not one views marriage as the preferred structure for intimate relationships, and regardless of one's views of single-parent families as compared with two-parent families, it should concern us all if a particular group has less ability than others to choose to enter into marriage for reasons related to societal structural inequalities. The comprehensive research findings contained in the book should be very helpful to anyone seeking to gain a deeper understanding of the structural and market factors that underlie the African-American marriage decline. Indeed, the book's extensive documentation and detailed analysis virtually forces any serious discussion of the marriage decline to go beyond racial and cultural stereotypes, such as the description in the famous 1967 Moynihan Report of the relationships between African-American men and women as a "tangle of pathology."²² Because the intimate lives of African-American women cannot be examined in isolation from the lives of African-American men, the book is also a potent reminder of another consequence of the distressing circumstances facing so many Black men in America. The book does an effective job in conveying the complexity in the lives of well-educated Black professional women. A deeper understanding of the challenges and dilemmas

20. See, e.g., Robert Staples, *Sociocultural Factors in Black Family Transformation: Towards a Redefinition of Family Functions*, in *THE BLACK FAMILY: ESSAYS AND STUDIES* 18–22 (1999); *THE DECLINE OF MARRIAGE AMONG AFRICAN AMERICANS* (M. Belinda Tucker & Claudia Mitchell-Kernan eds., 1995); Lexington, *Sex and the Single Black Woman*, *ECONOMIST* (Apr. 8, 2010), <http://www.economist.com/node/15867956/> (discussing how the mass incarceration of Black men diminishes the marital prospects for Black women).

21. BANKS, *supra* note 1, at 186–88.

22. OFFICE OF POLICY PLANNING, U.S. DEP'T OF LABOR, *THE NEGRO FAMILY: THE CASE FOR NATIONAL ACTION* 29–44 (1965).

many Black women face in their personal lives, regardless of educational or professional achievement, could be helpful to a wide range of women scholars in thinking about how feminist legal theory and the women's rights movement could better incorporate and address the needs of a more diverse group of women. For example, the analysis of the demands of balancing work and family could be enriched by reflecting the reality that many working women of color, whether married or not, whether mothers or not, are not attached to men of economic means.

While I consider *Is Marriage for White People?* to be a significant and valuable book, there were a number of aspects I found problematic. My concerns ranged from the book's title to its market analysis, from its dismal view of marriages in which women are more successful than their husbands, to its idealistic, uncritical approach to traditional marriage. I also found the recommendation of interracial marriage and the argument that more interracial marriages would lead to more in-racial marriages to be unpersuasive. Finally, despite its subtitle, which suggested that the African-American marriage decline has implications for the wider society, the book offered little exploration of this important assertion.

A. What's in a Name?: Observations on the Relationship Between Title and Audience

This book's title, *Is Marriage for White People?*, is one that is certain to attract notice. However, the title is quite misleading. First, this title seems to suggest that the only significant groups that merit acknowledgment and comparison are Black people and white people. However, in America today, there are many different racial and cultural groups that would not generally be considered as "white," and the title does not reflect the fact that there are probably many different marriage rates and intimate life demographics among these different groups. The title also seems somewhat inapt in a world in which the marriage rates among white Americans have also been declining, albeit less dramatically than among African-Americans.²³

The book's subtitle, *How the African American Marriage Decline Affects Everyone*, does not reflect the book's actual content. There is actually very little discussion in the book as to how the decline in African-American marriage affects anyone other than African-Americans. While the subtitle might have had the effect of attracting a broader audience, anyone who bought the book on the assumption that it would illuminate broader societal implications of the decline in African-American marriages would be disappointed. While Banks offers the observation at several points in the book that the pattern of declining marriage rates in the African-American community is a likely harbinger of a pattern likely to emerge in the larger society in the future, there is almost no exploration of this point. One reason why there may be little discussion of the potential impact of the African-American marriage decline on the rest of the

23. The share of Americans aged 18 and older who are married has been declining during the past several decades. In 1960, 74% of white people in this demographic were married. Today, that figure is 55%. In 1960, 61% of African-Americans in this demographic were married. Today that figure is 31%. D'VERA COHN ET AL., PEW RESEARCH CTR., BARELY HALF OF U.S. ADULTS ARE MARRIED—A RECORD LOW 7 (2011), <http://www.pewsocialtrends.org/files/2011/12/Marriage-Decline.pdf>.

country is that the book is directed primarily toward an African-American audience.

While a wide range of people would likely find this book interesting, it seemed to me that the book has two major goals. The first goal—one with multiple subparts—is to present information concerning the marriage decline, to argue that the decline constitutes a serious problem, and to encourage dialogue among African-Americans about the situation. Some evidence of this goal is the fact that at the time of publication, the author set up an online site to promote discussion.²⁴ The second goal of the book is to encourage African-American women to search for potential marriage partners outside of their race, and to suggest to them that there might be a significant number of men from other races who might be interested in marrying them.

The author seems to be specifically addressing African-American women.²⁵ He notes that he is married to an African-American woman, and he offers other disclosures about his background that could be interpreted as an effort to establish rapport and credibility with this group. For example, he makes it clear that he hails from a not especially privileged background, and he notes some of the economic and personal challenges some of his relatives have faced.²⁶ The book also contains a substantial amount of discussion about African-American women's hair and engages other issues likely to resonate with women in the age group of many of those who are the focus of the book.

Further evidence that the book is directed toward an African-American audience is that the book does not ask anything of people who are not African-American. This book does not make an appeal to the larger society to take any specific action. It does not call for new social policies, social programs, or government assistance. It does not advocate changes in the law.

It is admittedly risky to speculate as to an author's intentions. Although I do not agree with all of the analysis offered this book, and I viewed both the title and the subtitle primarily as marketing tools, I appreciate the book's earnestness and concern for African-Americans, particularly for African-American women. The book raises issues that may be likely to inspire uncomfortable, but needed conversations among African-Americans about intimate relationships, and the future of the African-American family. It was also gratifying to see an African-American legal scholar of Banks' stature write a book that, seemed to be directed to the African-American community.

B. Markets and Male Behavior

While Banks describes the challenges facing African-American men with respect and sympathy, *Is Marriage for White People?* inevitably paints a picture of

24. See *IS MARRIAGE FOR WHITE PEOPLE? HOW THE AFRICAN AMERICAN MARRIAGE DECLINE AFFECTS EVERYONE*, <http://ismarriageforwhitepeople.stanford.edu/> (last visited Nov. 5, 2015).

25. At points in the book, the author discusses issues such as hair straightening, hair weaves and women being attracted to men with "swag." See BANKS, *supra* note 1, at 134-35, 173-76. He informs the readers that he is an African-American man who is married to an African-American woman with whom he has three sons, BANKS, *supra* note 1, at 1, and offers other information about his background.

26. *Id.* at 41.

men who are not succeeding in America in terms of education and employment, and who seem reluctant to commit to marriage. Banks largely attributes this reluctance to marry to market principles of supply and demand. He argues, as noted earlier, that all too often, a surplus of available women has resulted in African-American men having multiple relationships, being unwilling to marry, and in far too many cases, engaging in unhealthy and undesirable behaviors.

The book's description of the male-female power dynamic in relationships between Black men and women could have benefitted from being placed more squarely within the context of a broader societal analysis of the impact of market principles on intimate relationships. The problem here is not that the book does not make the point that scarcity is responsible for some of the behavior of some Black men with respect to their treatment of Black women. However, it would have been helpful if the point had also been made much more clearly that market forces influence the behavior of many, if not most men, independent of the factor of race. For example, there are two paragraphs on the shortage of white men on college campuses and the way in which this has given rise to the practice of "hooking up" among young white people. It would be unfortunate indeed for readers to be left with the impression that Black men treat Black women badly and that white men treat white women better than Black men treat Black women and that therefore white men would treat Black women better than Black men do, if more Black women were to marry white men.

Thus, although Banks is probably correct in stating that some African-American women trade monogamy for whatever they see as the benefits they believe they are deriving from relationships with African-American men, it is important not to lose sight of the fact that women in other ethnic groups often make similar trade-offs, and not only in the college context.

An example is the common scenario of the married woman whose friends are whispering behind her back that her husband is having an affair and they cannot understand "how she cannot see it—everyone knows except her." The response, of course, is that the woman does know about the affair. She has simply made a decision to live with it, given her alternatives for the possibility of contracting an equally advantageous marriage without the same problem. The wife has assessed her situation, assessed the market for remarriage given her age and circumstances, and made a choice—a tradeoff that she may not be willing to talk about. Race is not a special factor in this kind of market analysis of the behaviors of men and women.

Many women "make deals" in order to keep their relationships going. Men of all races are cognizant of their market positions. The fact that some Black men take advantage of their position is thus not an aberration.

C. Is Marriage for Anybody?

Although Banks is a professor of law, *Is Marriage for White People?* is not a book that focuses on the law.²⁷ Therefore, it would be unfair to criticize the book

27. The first few chapters of the book discuss the evolution of some of the legal doctrines that have increased the autonomy of individuals to make choices about their intimate lives. See BANKS, *supra* note 1, at 28. Examples are drawn from areas such as marriage, abortion and birth control. The book also provides background on the evolution of the law with respect to the question of

for including little in the way of case law or debates among legal scholars. Still, discussion of the book's central issue, the African-American marriage decline, could have been enriched by situating that issue more squarely within the context of current societal debates about marriage and the structure of families. Although these debates are reflected in the work of legal scholars, the issues are also widely discussed outside of that context. To put it simply: at the same time that Banks is arguing that African-Americans should be pursuing traditional structures for marriage and intimate relationships, those very structures are the subject of debate and fundamental change.²⁸

In many ways, *Is Marriage For White People?* is a conservative book. The views expressed about marriage seem traditional and patriarchal in a world where the landscape, in terms of family structures and intimate relationships, is rapidly changing. The book conveys the impression that the ideal male-female relationship is the traditional married nuclear family with children and with a husband who is at least the equal of his wife, if not more so, in terms of education, income, and professional accomplishment. Cohabitation, families composed of a mother, child and grandparents or other relatives, or families composed of single mothers who have either given birth to children or who have adopted them are not presented as attractive alternative family structures. There is little or no recognition of the possibility that women who are in an economic position where they can afford to raise children without a husband may find as much fulfillment in their lives as women who are married.

The book also stays far afield from the question of patriarchy—a subject of

miscegenation and the creation of interracial families.

Although the focus of this book is not on the law and there are no longer legal restrictions on choices concerning matters such as interracial marriage, the law continues to have a significant impact on the intimate life choices of African-Americans. The response of the law to issues such as discrimination, affirmative action and fairness in the criminal justice system critically impact the employment opportunities that are central to decisions about marriage. Employment opportunities are also affected by legislation governing matters such as incentives for American businesses to outsource work to other countries. Thus the law profoundly affects the marriage marketplace and plays a critical role in determining the number of African-American men who will be able to achieve an economic status more likely to result in the willingness and ability to marry.

28. Fundamental changes in the structure of the family have led the United States Supreme Court to note that “The demographic changes of the past century make it difficult to speak of an average American family. The composition of families varies greatly from household to household.” *Troxel v. Granville*, 530 U.S. 57, 63 (2000).

A recent study discusses the attitudes of the American public regarding the definition of a “family”:

By emphatic margins, the public does not see marriage as the only path to familyformation. Fully 86% say a single parent and child constitute a family; nearly as many (80%) say an unmarried couple living together with a child is a family; and 63% say a gay or lesbian couple raising a child is a family.

PEW RESEARCH CTR., *THE DECLINE OF MARRIAGE AND THE RISE OF NEW FAMILIES* ii (2010), <http://www.pewsocialtrends.org/files/2010/11/pew-social-trends-2010-families.pdf>.

Marriage and family life are undergoing fundamental changes in other countries as well. In the Scandinavian countries and in France, cohabitation is even more common than it is in the United States. A large proportion of births are to cohabitating couples—more than half of first births in Sweden. Eighty four percent of American women are predicted to marry by the age of forty, but those figures are only 70% in Sweden and 68% in France. ANDREW J. CHERLIN, *THE MARRIAGE-GO-ROUND: THE STATE OF MARRIAGE AND THE FAMILY IN AMERICA TODAY* 13-35 (2009).

much attention in the writings of women. It offers no critique of traditional gender roles or of the traditional hierarchy in many marriages in which the husband is the higher-earning spouse and the wife shoulders all or at least a disproportionate amount of the household responsibilities. It might even be said that the book suggests that if Black men are no longer able to play the traditional patriarchal role, perhaps Black women ought to look to other men who can. Yet, patriarchy is one of the most fundamental issues women must confront in the quest for equality and women scholars across boundaries of race and ethnicity are challenging the hegemony of patriarchy within the context of marriage as well as in other settings.

Although there is a great deal of debate in the country about the desirability and legitimacy of the institution of marriage itself, *Is Marriage for White People?* also does not engage this issue. Some scholars have taken the position that the institution of marriage itself should be abolished.²⁹ Scholars have argued, for example, that the “horizontal” family based primarily on the sexual affiliation between spouses should be replaced with a concept of the “vertical family” in a legal structure in which the organizing principles of family focus on caretaking and dependency.³⁰ Scholars have engaged the question as to whether marriage should be replaced by private contracts in which the parties themselves define the scope of the duties and obligations of their relationship.³¹ There are also calls for marriage to co-exist with or be replaced by alternative structure, such as civil unions and domestic partnerships.³² In the marriage equality/same sex marriage debate, concern has been expressed that the focus on the right to marry for same-sex couples might have the effect of reifying the societal hierarchy of intimate relationships that enshrines marriage and devalues other intimate life choices.³³ *Is Marriage for White People?* posits traditional marriage as the ideal family structure and does not consider the possibility that there might be viable alternatives.

While Banks notes the “marriage incentive” programs which the Bush administration began to implement in the 1990’s as a way of encouraging poor women to marry,³⁴ he does not offer much comment on these programs other

29. See, e.g., Martha Fineman, *Commentary: Why Marriage?*, 9 VA. J. SOC. POL’Y & L. 239 (2001); Carol Sanger, *A Case for Civil Marriage*, 27 CARDOZO L. REV. 1311 (2006).

30. See MARTHA FINEMAN, *THE NEUTERED MOTHER, THE SEXUAL FAMILY, AND OTHER TWENTIETH CENTURY TRAGEDIES* (1995). For other critiques of marriage, see, e.g., Katherine M. Franke, *Longing for Loving*, 76 FORDHAM L. REV. 2685, 2686 (2008) and Rachel F. Moran, *How Second-Wave Feminism Forgot the Single Woman*, 33 HOFSTRA L. REV. 223, 229–30 (2004) (discussing the widely held view that marriage defines a woman’s worth); Laura A. Rosenbury, *Friends With Benefits?*, 106 MICH. L. REV. 189 (2007) (discussing how the focus on marriage marginalizes and stigmatizes the unmarried).

31. See, e.g., Marjorie Maguire Shultz, *Contractual Ordering of Marriage: A New Model for State Policy*, 70 CAL. L. REV. 204 (1982).

32. See, e.g., Erez Aloni, *Registering Relationships*, 87 TULANE L. REV. 573 (2013) (discussing alternatives to traditional marriage and proposing a model of registered contractual relationships).

33. See Kathryn M. Franke, *The Politics of Same-Sex Marriage Politics*, 15 COLUM. J. GENDER & L. 236, 239 (2006); Nancy D. Polikoff, *We Will Get What We Ask For: Why Legalizing Gay and Lesbian Marriage Will Not Dismantle the Legal Structure of Gender in Every Marriage*, 79 VA. L. REV. 1535, 1546 (1993).

34. See generally Vivian Hamilton, *Will Marriage Promotion Work?*, 11 J. GENDER RACE & JUST. 1 (2007); Vivian Hamilton, *Mistaking Marriage for Social Policy*, 11 VA. J. SOC. POL’Y & L. 307 (2004);

than to link them to what he calls “The Persistence of the [Marriage] Ideal.”³⁵ But an important question that could have been asked here is whether the problem is that poor women are not getting married or whether the problem is that poor women lack educational and job opportunities. A discussion of marriage incentive programs might also have been enriched by noting some of the ways these types of programs constitute efforts to further privatize dependency, thereby letting the government off the hook in terms of providing more in terms of social supports for families. Although the book’s focus is on middle and upper-middle class women rather than poor women who might need more government support, the book uncritically embraces marriage as the ideal for all women.³⁶

Having said this, it is important to acknowledge that the African-American marriage decline presents an important social justice issue. Although marriage is not the goal of all women, it remains a goal for many. If African-American women who wish to marry do not have access to the same range of choices about intimate relationships that other women have, this is a matter that warrants serious concern. For example, even if in some countries polygamy is a response to disparities between the number of men and the number of women, there is a social justice issue if in this country, polygamous relationships in the African-American community are largely a response to larger structural inequalities tied to race. Thus, even if Banks does not sufficiently interrogate traditional marriage, his concern that many African-American women who would like to marry have fewer options than women from other groups is legitimate, important, and deserves attention.

D. The African-American “Mixed Marriage”: Complexities of Class v. Complexities of Race

Central to Banks’ analysis of the status of marriage among African-Americans is his view that marriages between well-educated successful women and men with less education and lower paying jobs are troubled and prone to failure. Banks terms these relationships “mixed marriages.” While many people probably associate the term “mixed marriages” with interracial marriages, Banks uses the term to reference intra-racial marriages between individuals from

Angela Onwuachi-Willig, *The Return of the Ring: Welfare Reform’s Marriage Cure for the Revival of Post-Bellum Control*, 93 CAL. L. REV. 1647 (2005).

35. BANKS, *supra* note 1, at 21–23.

36. In recent years, the subject of polygamy has also received increased attention in both the popular culture and in legal scholarship. In his discussion of African-American men engaging in what he describes as “concurrent relationships,” Banks suggests that he sees some African-Americans engaging in what might be described as informal polygamy, but he comments that “although some African-Americans have linked the concurrent relationship patterns among some Blacks to an African past,” these relationships are “less like polygamy and more like ‘friends with benefits’ . . .” *Id.* at 54. In recent years, scholars, including African-American female scholars such as Adrien Wing and Adrienne Davis have engage in serious scholarly examinations of the subject of polygamy. See Adrienne Davis, *Regulating Polygamy: Intimacy, Default Rules, and Bargaining for Equality*, 110 COLUM. L. REV. 1955 (2010); Adrien K. Wing, *Polygamy in Black America*, in CRITICAL RACE FEMINISM: A READER 186 (Adrien K. Wing ed., 2d ed. 2003). Polygamy is also an issue likely to garner increased attention in the future in light of the growing importance of immigration and globalization and the increased recognition of the significance to the West of the Muslim world.

different classes. His view is that such relationships are often “mismatched for reasons of educational and cultural orientation rather than income,”³⁷ and that they are often under stress because of differences in values between the two spouses.

Although Banks views such marriages with pessimism, there is a very substantial history of African-American women entering into marriage with African-American men with lesser educational backgrounds. In the past, many of these marriages succeeded. One probable reason is that, decades ago, the divorce rate in this country generally was lower than it is currently. However, there may be other reasons why these pairings often endured.

During *de jure* segregation, African-Americans of all educational and income levels usually lived in the same community. In that racially segregated world, people could achieve status in their communities in various ways. Obviously, traditional professionals, such as doctors, lawyers and teachers, occupied a certain status. However, a factory laborer or school custodian married to a teacher or a nurse might also achieve status in the community because of a role such as a deacon in the church attended by people at all levels of social status in the community. Moreover, often a job as a mill worker paid as much or more than that of a teacher or a nurse.

Scholarship on African-American families also supports a probability that historical structures and values in the African-American community were helpful to the survival of these marriages. Sociologist Patricia Hill Collins notes, for example, that many African-Americans made a distinction between the kind of jobs they held (or were allowed to hold) and their measures of self worth.³⁸ She also found that African-American families have been less patriarchal than the typical American family in terms of division of labor. Less segregation by gender roles meant that African-American fathers did more than the typical American father in the home and in caring for children.³⁹ In short, economic necessity and an understanding of the challenges facing Black families helped these relationships endure despite differences in educational levels between husbands and wives.

It may, indeed, be more difficult for these kinds of relationships to succeed now. Today, an African-American man who holds one of the few remaining working-class jobs in this society is less likely to have a higher salary than his wife, who may be a lawyer or an executive, rather than a teacher or a nurse. A successful African-American professional woman is more likely to be working in a racially integrated environment where she may be expected to socialize with her colleagues, sometimes accompanied by her husband. Holding an important role in a local Black church would not provide her husband with meaningful status in his wife’s circle of colleagues. It may also be true that today, African-Americans are more likely to share more of a preoccupation with job status as a

37. BANKS, *supra* note 1, at 106–07.

38. Collins notes that for many African-Americans, work was a contested construct and “evaluating individual worth by the type of work performed was seen as a questionable practice in systems based on race and gender inequality.” PATRICIA HILL COLLINS, *BLACK FEMINIST THOUGHT: KNOWLEDGE, CONSCIOUSNESS, AND THE POLITICS OF EMPOWERMENT* 47 (1990).

39. *Id.* at 47.

measure of self-worth than was so in the past. In short, there are ways in which the world of African-Americans may be structured now that pose a different level of challenge for couples where the wife has a higher level of education and/or professional status than the husband.

Still, it is interesting that Banks assumes problems with this kind of “mixed marriage,” but does not explore the potential for conflict in the more traditional “mixed marriage”—that between spouses of different races. Statistical studies of the divorce rate for interracial marriages as opposed to in-racial marriages do not suggest that interracial marriages are a panacea.⁴⁰ In such marriages, problems can stem from a range of issues, including stressed relationships with relatives, cultural differences like food, music, and humor, to conflicting understandings about the significance of race in everyday life. Another interesting issue that the book might have discussed: what is or might be the dynamic when Black women marry white men who have less education or income than they have?

There can be strains in a marriage caused by class differences or racial differences. While it may be true that marriage between people with different levels of education, professional status, and income can be complicated and challenging, Banks may be understating the conflict that can exist in interracial marriages. *Is Marriage for White People?* may be idealizing interracial marriages in the same way that it idealizes traditional marriages. The reality is that neither is a panacea.

III. INTERRACIAL MARRIAGE AS A REMEDY

It would require a radical transformation of the educational and economic status of African-American men in America for African-American women to have the range of marital choices among African-American men that white women generally have when they are seeking partners among white men. Many of the root causes of the challenges facing African-American men today lie in structural changes the society has been undergoing for decades.⁴¹ These changes include the decline in the nation’s manufacturing base, the outsourcing of jobs to overseas locations,⁴² and technological innovations that have reduced the need for human labor.⁴³ Many economists argue that American society simply no

40. A recent report by the Pew Research Center references several studies which, using government data, have found overall higher divorce rates in interracial marriages. However, the studies also note that the patterns vary by the races and genders of the couples involved. WENDY WANG, PEW RESEARCH CTR., *THE RISE OF INTERRACIAL MARRIAGE* (2012), <http://www.pewsocialtrends.org/files/2012/02/SDT-Intermarriage-II.pdf>; see also Yuanting Zhang & Jennifer Van Hook, *Marital Dissolution Among Interracial Couples*, J. MARRIAGE & FAM., Feb. 2009, at 95; Jenifer L. Bratter & Rosalind B. King, “But Will It Last?”: *Marital Instability Among Interracial And Same-Race Couples*, 57 FAM. REL. 160 (2008).

41. See generally WILLIAM J. WILSON, *WHEN WORK DISAPPEARS* (1996); WILLIAM J. WILSON, *THE TRULY DISADVANTAGED: THE INNER CITY, THE UNDERCLASS AND PUBLIC POLICY* (1987).

42. See, e.g., Steven Pearlstein, *Outsourcing: What's the True Impact? Counting Jobs is only Part of the Answer.*, WASH. POST (July 1, 2012), http://www.washingtonpost.com/business/economy/out-sourcings-net-effect-on-us-jobs-still-an-open-ended-question/2012/07/01/gJQAs1szGW_story.html.

43. See Paul Krugman, Opinion, *Sympathy for Luddites*, N.Y. TIMES (June 13, 2013), <http://www.nytimes.com/2013/06/14/opinion/krugman-sympathy-for-the-luddites.html> (“[A] much darker picture of the effects of technology on labor is emerging.”); but see BEN MILLER & ROBERT ATKINSON, INFO. TECH. & INNOVATION FOUND., *ARE ROBOTS TAKING OUR JOBS, OR MAKING THEM?*

longer requires the same number of workers to do the work needed to be done.⁴⁴ The result is a persistent threat of unemployment for many Americans,⁴⁵ and African-American men are likely to continue to be hit especially hard. There is no magic bullet that will quickly change this situation.

The question then is whether in the face of these sobering realities, Banks' recommendation that African-American women who are interested in marriage actively seek marriage partners outside of the race is a practical one. It should be noted that while Banks proposes that these women seek marriage partners from men from various ethnic groups, most of the discussion in the book focuses on white men as the alternative potential marriage partners.

Today, rates of interracial marriages in the United States are rapidly increasing.⁴⁶ In a society in which, until 1967, such marriages could be interdicted by state law,⁴⁷ the fact that interracial marriages are increasing is an important and hopeful sign that racism is on the decline. Still, for a book to recommend interracial marriage as a course of action to address an issue that stems ultimately from societal racial inequality is troubling. Personal choice as the solution to a structural problem is not a promising approach because it does little or nothing to address the underlying structural issue.

It needs to be noted here that the book's recommendation of interracial marriage does not break new ground. Debates concerning African-American women dating and/or marrying white men have long occurred in the African-American community, and the number of African-American women who have entered into interracial marriages has already been rising in recent years.⁴⁸ Thus, a substantial number of African-American women have already demonstrated a willingness to marry men who are not Black. Still, it is likely that most African-American women will continue to think of African-American men as their most likely potential marriage partners. Most women, regardless of race, view men from the same ethnic group as their most likely partners for romance and marriage.⁴⁹ Moreover, high rates of residential segregation constitute an additional factor that decreases the chances of romance and marriage between individuals of different races.⁵⁰ Yet another complication is that there is an increasing scarcity of college-educated men in the nation as a whole.⁵¹ Successful,

(2013), <http://www2.itif.org/2013-are-robots-taking-jobs.pdf>.

44. See e.g., JAMES B. HUNTINGTON, *WORK'S NEW AGE: THE END OF FULL EMPLOYMENT AND WHAT IT MEANS TO YOU* 41 (2012) ("No longer will the number of American jobs approximate the number of those who can work them.").

45. See generally CONG. BUDGET OFFICE, *UNDERSTANDING AND RESPONDING TO PERSISTENTLY HIGH UNEMPLOYMENT* (2012), <http://www.cbo.gov/sites/default/files/cbofiles/attachments/02-16-Unemployment.pdf> (focusing on long-term unemployment, particularly since the Great Recession).

46. See generally *MARRYING OUT*, *supra* note 5.

47. See *Loving v. Virginia*, 388 U.S. 1 (1967).

48. In 1980, 3% of Black women married outside of their race. In 2010, that figure was 8.9%. See *MARRYING OUT*, *supra* note 5, at 11, 12.

49. See, e.g., Kerwin Kofi Charles & Ming Ching Luoh, *Male Incarceration, the Marriage Market, and Female Outcomes*, 92 *REV. ECON. & STAT.* 614 (2010) (describing the tendency of people to marry within "marriage markets" that are defined by race, location and age).

50. See Russell K. Robinson, *Structural Dimensions of Romantic Preferences*, 76 *FORDHAM L. REV.* 2787, 2788 (2008).

51. See *infra* note 70 and accompanying text.

professional African-American women seeking husbands outside of the race may simply find themselves in competition with other women for a decreasing pool of non-Black, highly-educated men. Finally, the recommendation does nothing to address the dire circumstances confronting African-American men in this country. If all of the African-American women in America married men from other ethnic groups, this would not change the professional and educational circumstances of African-American men in this country.

Are single African-American women “damsels in distress”⁵² in need of rescue, or are they women who possess power that they have declined to exercise? Whatever Banks’s view of this issue might be, it is troubling that the book seems to posit white males as the solution. Could marriage become yet another context in which the approval of, and acceptance by white males, becomes the key to “success” for Black women? At the present time, it is often white males who are in the position of making decisions about the advancement of professional Black women in the workplace. It could be argued that this book’s proposal extends similar power to the context of marriage and other romantic relationships.

This is not the first time Professor Banks has looked to the formation of interracial families as a solution to what he identifies as a problem affecting the African-American community. In a law review article published in 1998, Banks embraced transracial adoption as a solution to the challenge of finding homes for Black children in the foster care system.⁵³ In the afterword of *Is Marriage for White People?*, Banks refers to his earlier article as one in which he analyzed “how governmental policy undermine[s] the welfare of black children by discouraging whites from adopting them.”⁵⁴

There has been an ongoing debate in family law over the desirability of transracial adoption as a solution to the challenge of the disproportionate numbers of Black children in foster care.⁵⁵ Some scholars have argued for greater efforts to place Black children for adoption by white families.⁵⁶ Others have argued that there should be a preference for placing Black children with Black families, and that rather than focusing on transracial adoption as the solution for Black children in foster care, efforts should be increased to strengthen families in trouble and to reunite children with their families as soon as possible in those

52. See, e.g., Ta-Nehisi Coates, *The Black Damsel in Dating Distress*, ATLANTIC (Mar. 5, 2010), <http://www.theatlantic.com/entertainment/archive/2010/03/the-black-damsel-in-dating-distress/37085/> (disputing the idea of Black women as “damsels in distress”); BANKS, *supra* note 1, at 131 (“Many liberal social scientists take for granted that Black women’s intimate isolation is determined by forces beyond their control.”).

53. R. Richard Banks, *The Color of Desire: Fulfilling Adoptive Parents’ Racial Preferences Through Discriminatory State Action*, 107 YALE L.J. 875 (1998) [hereinafter *The Color of Desire*].

54. BANKS, *supra* note 1, at 183.

55. See e.g., Solangel Maldonado, *Discouraging Racial Preferences in Adoption*, 39 U.C. DAVIS L. REV. 1415 (2006); Twila L. Perry, *Transracial and International Adoption: Mothers, Hierarchy, Race and Feminist Legal Theory*, 10 YALE J.L. & FEMINISM 101 (1998); Twila L. Perry, *The Transracial Adoption Controversy: An Analysis of Discourse and Subordination*, 21 N.Y.U. REV. L. & SOC. CHANGE 33 (1993-94) [hereinafter Perry, *Transracial Adoption Controversy*].

56. See, e.g., Elizabeth Bartholet, *Where Do Black Children Belong? The Politics of Race Matching in Adoption*, 139 U. PA. L. REV. 1163 (1991).

cases where foster care placement was unavoidable.⁵⁷ It is interesting that Bank's approaches to both the African-American marriage decline and the disproportionate number of Black children in foster care depend on the willingness of whites to embrace Blacks at the most fundamental, personal level of the family. However, it is likely that most white families seeking to adopt are not interested in adopting Black children,⁵⁸ and most white men, apparently, are not interested in marrying Black women.⁵⁹ While many people agree in theory with the idea of integration, it is an inconvenient truth that as a practical matter, most Americans continue to exercise racial preferences with respect to family formation.

It is possible that Banks both overestimates the resistance Black women have to interracial relationships and underestimates the interest white men have in Black women as marriage partners. Banks is probably correct in his discussion of the reasons some Black women are reluctant to think of white men as romantic partners. The nation's history of slavery, which often involved rape and sexual exploitation, concern that a white man may be interested in sex but not marriage, and the feelings of some Black women that they have a responsibility to be guardians of a cultural legacy, probably are among the factors that result in a lack of enthusiasm on the part of some Black women toward the prospect of interracial dating and marriage.⁶⁰ Despite this, as noted earlier in this essay, a growing number of African-American women are marrying interracially.

Are there a significant number of white men interested in dating and marrying African-American women? At the present time, this question is difficult to answer with any certainty. Most of the recent discussions of this issue have centered on information gleaned from internet dating sites, where statistical data has revealed that many white men indicate in their online profiles that they are not interested in dating Black women.⁶¹ Banks and some others who have examined this research have argued that a closer analysis of the statistics reveals a different picture. They claim that white men tend to only indicate racial preferences in their profiles if they are specifically asked whether they wish to

57. See e.g., Perry, *Transracial Adoption Controversy*, *supra* note 55, at 42; James S. Bowen, *Cultural Convergences and Divergences: The Nexus Between Putative African-American Family Values and the Best Interests of the Child*, 26 J. FAM. L. 487, 528-31 (1987-88); Ruth-Arlene W. Howe, *Transracial Adoption (TRA): Old Prejudices and Discrimination Float Under a New Halo*, 6 B.U. PUB. INT. L.J. 409, 464-72 (1997).

58. *The Color of Desire*, *supra* note 53, at 881 n.20 ("The overwhelming majority of adults seeking to adopt are white and few of these adults would consider adopting a black child."); Bartholet, *supra* note 56, at 1205 ("[M]ost prospective white adopters prefer to adopt healthy white infants.").

59. See *infra* note 62.

60. BANKS, *supra* note 1, at 129-69. Patricia Hill Collins has noted, "The relationship among Black women and white men has long been constrained by the legacy of Black women's sexual abuse by white men and the unresolved tensions this creates. Traditionally, freedom for Black women has meant freedom from white men, not the freedom to choose white men as lovers and friends." COLLINS, *supra* note 38, at 191.

61. There has been quite a bit of controversy as to the extent to which these sites indicate resistance on the part of white men to dating African-American women. See, e.g., Coates, *supra* note 52; BANKS, *supra* note 1, at 123-28; Elizabeth Emens, *Intimate Discrimination*, 122 HARV. L. REV. 1307 (2009); M. Belinda Tucker & Claudia Mitchell-Kernan, *Social, Structural and Psychological Correlates of Interracial Dating*, 12 J. SOC. & PERS. RELATIONSHIPS 341, 350 (1995) (reporting on a telephone survey in which white males indicated that they were more likely to exclude Black women as potential marriage partners than they were likely to exclude any other group of women).

exclude certain women. What this means with respect to the openness of these men to interracial dating is not clear. There seems to be continuing disagreement about what the internet dating sites do or do not demonstrate, but it may be that Banks overestimates the interest of white men in dating and marrying Black women.⁶²

Finally, Banks suggests that if more Black women marry white men it will increase the number of Black men willing to enter into marriage with Black women, thereby raising the rate of African-American marriages. The analysis presented on this point is brief — Banks states that “as Black women marry men of other races, the black gender imbalance becomes less severe[,]”⁶³ and this “shifts the balance of relationship power, ever so slightly, in favor of black women.”⁶⁴ He goes on to say that “if black women don’t marry because they have too few options, and some black men because they have too many, then black women, by opening themselves to interracial marriage, could address both problems at once.”⁶⁵ If more Black women marry white men, would Black men then begin to fear a shortage of Black women, thus giving them increased incentive to lay claim to a Black woman before the supply runs out? The connection the book draws between an increase in the number of Black women marrying non-Black men and an increase in the number of Black men marrying Black women is not convincing.

The vast majority of Black men who marry, already marry Black women. Even assuming that the existence of a “surplus” of educated Black women is the reason some Black men are unwilling to marry, there would need to be a very large number of Black women marrying non-Blacks for there to be a perception that there is a shortage. If the view here is that if non-Black men start to marry Black women in significant numbers this would make Black men appreciate Black women in ways they did not before, this would only make a difference if a lack of appreciation of Black women, rather than a lack of economic security, is a major factor in the African-American marriage decline. In any event, an increase in interracial marriages between Black women and non-Black men would not help to address rates of African-American male incarceration and unemployment, the effect of outsourcing of jobs, and other factors that have resulted in African-American men being disproportionately unmarried.

IV. BEYOND RACE: WOMEN SURPASSING MEN: MIRAGE? DISASTER? OR AN OPPORTUNITY?

At various points in the book, Professor Banks speculates that the pattern of African-American women surpassing African-American men in education and professional status may be a harbinger of what may eventually happen in the larger society, hence the subtitle of the book, *How the African-American Marriage Decline Affects Everyone*. Although this hypothesis suggests that

62. There are a number of anecdotes in the book about white men who encouraged their African-American wives or other romantic partners to stop chemically straightening their hair and wear it natural. See BANKS, *supra* note 1, at 173–76.

63. *Id.* at 181.

64. *Id.*

65. *Id.*

Banks may see African-Americans as the proverbial “canaries in the mineshaft,” the book does not actually go into any detail as to how the decline in African-American marriages affects anyone except African-Americans. It does not discuss whether the larger society has a stake in the decline in marriage rates among African-Americans. Nor is there much discussion of how marriage and other intimate relationships are changing among whites and other ethnic groups. However, I was not surprised by the dearth of discussion of the implications of the African-American marriage decline for the larger society because, as already discussed, I see this book as directed primarily at an African-American audience.⁶⁶

Still, Banks’ speculation raises some interesting questions. How might marriage and other intimate relationships between men and women in this country change if women began to generally outstrip men in professional and economic status? Would the relationships between white men and women then mirror the patterns of marriage and romance that Banks describes among African-Americans? Would those patterns require a rethinking and possible revision of legal doctrines governing intimate relationships between women and men? Would women exceeding men in educational levels, professional status, and income necessarily be a negative?

First, it is important to note that dramatic long-term changes in the economic relationships between men and women in this country are not going to happen overnight. There are significant continuing gender disparities in terms of wages and salaries—women still earn only 77 cents for every dollar earned by a man.⁶⁷ Further, men are still the dominant group at the highest levels in the most prestigious and lucrative professions and occupations in the society and these disparities are likely to continue for the foreseeable future.⁶⁸ Thus, it is important not to overstate the prospect that, in the country as a whole, women will be exceeding men in terms of income and status in the foreseeable future.

However, recent statistics indicate that in the United States, men are starting to fall behind women in terms of educational achievement. In the 1970’s, women were a third or less of all college graduates. Today, more women than men graduate from college and there are more women than men in graduate school.⁶⁹ While today, men still earn more than women, women’s earnings grew 44% between 1970 and 2007, while men’s earnings grew by only 6%.⁷⁰ Research indicates that over the past few decades, the likelihood of employment for men

66. See *supra* notes 24–26 and accompanying text.

67. CARMEN DENAVAS-WALT ET AL., U.S. CENSUS BUREAU, INCOME, POVERTY, AND HEALTH INSURANCE COVERAGE IN THE UNITED STATES: 2010, at 5 (2011), <http://www.census.gov/prod/2011pubs/p60-239.pdf>.

68. CTR. FOR RESEARCH ON GENDER AND THE PROFESSIONS, THE PERSISTENCE OF MALE POWER AND PRESTIGE IN THE PROFESSIONS: REPORT ON THE PROFESSIONS OF LAW, MEDICINE, SCIENCE & ENGINEERING (2013), <http://crgp.ucsd.edu/documents/PersistenceofMalePowerandPrestigeintheprofessionsReportwithCaseStudies.pdf>.

69. BANKS, *supra* note 1, at 44 (citing RICHARD FRY & D’VERA COHN, PEW RESEARCH CTR., WOMEN, MEN AND THE NEW ECONOMICS OF MARRIAGE, 21 (2010)); JESSICA W. DAVIS & KURT J. BAUMAN, U.S. CENSUS BUREAU, SCHOOL ENROLLMENT IN THE UNITED STATES: 2006, at 6 (2008), <https://www.census.gov/prod/2008pubs/p20-559.pdf>.

70. BANKS, *supra* note 1, at 45.

has “remained flat or declined, while it has risen for women.”⁷¹ Men accounted for nearly 75 percent of the jobs lost during the most recent recession.⁷² Recently, books and articles in the popular press have seized upon these kinds of statistics to argue that the economic status of men is eroding and, with that erosion, so, seemingly is their usefulness to some women.⁷³ With flagging economic status, the marriage rates among whites, especially at the lower end of the economic scale, are also falling.⁷⁴

While the sub-title of the book clearly suggests that the relationships between white men and white women will begin to mirror what the author describes as the pattern of male/female relationships among African-Americans, it is not clear whether Banks views a possible marriage decline among whites or the possible implications of white women exceeding white men in terms of income and accomplishments as similarly problematic. He does not, for example, suggest that white women facing a short of marriageable white men in America seek out Middle Eastern oil moguls or Russian billionaires to compensate for the shortfall. He does express the view that the cultural divide between the genders may be less of an issue for other races because the educational and resulting economic gulf between men and women “is not so pronounced.”⁷⁵ This suggests that Banks may not view a disparity in income and accomplishment between white men and women to be as potentially problematic as the disparity between African-American men and women. If so, the subtitle of the book may have sounded a needless alarm. Still, it is interesting to think about some of the ways in which relationships between men and women generally might be affected if women begin to outstrip men in terms of education, income and status.

It is probable that some issues that arise periodically in family law would be affected. For example, scholars have long expressed concern that women are often in a weaker bargaining position than their male partners in the negotiation of agreements governing intimate life, such as antenuptial or cohabitation contracts. Any generalization that women are less likely to have bargaining power than men would be in line for reconsideration if women begin to outstrip men in the arena of economic power.

The context of domestic violence provides another example. At present, the vast majority of domestic violence cases involve men inflicting physical violence upon women. The assumption has been that this pattern is a manifestation not only of the physical power, but also of the economic and psychological power men often wield over women in intimate relationships. We might ask, what would happen if women were the economically dominant gender? Would the

71. *Id.*

72. *Id.*

73. Hanna Rosin, *The End of Men*, ATLANTIC (July/Aug. 2010), <http://www.theatlantic.com/magazine/archive/2010/07/the-end-of-men/308135/>; see also Kate Bolick, *All the Single Ladies*, ATLANTIC (Nov. 2011), <http://www.theatlantic.com/magazine/archive/2011/11/all-the-single-ladies/308654/>; Eduardo Porter & Michelle O'Donnell, *Facing Middle Age With No Degree and No Wife*, N.Y. TIMES (Aug. 6, 2006), <http://www.nytimes.com/2006/08/06/us/06marry.html?ref=us>.

74. See e.g., Catherine Campbell, *Marriage is for Rich People*, N.Y. TIMES: ECONOMIX (Feb. 8, 2012, 10:00 AM), <http://economix.blogs.nytimes.com/2012/02/06/marriage-is-for-rich-people/> (discussing declining marriage rates at the lower end of the income ladder).

75. BANKS, *supra* note 1, at 107-08.

pattern or the prevalence of domestic violence change? Would men be less or more likely to batter women? Might aspects of the analysis of battered women's syndrome be challenged if women were more often in financial circumstances that would enable them to leave their batterers?

Limitations of space do not permit this essay to explore possible responses to complicated issues such as these. The point though, is that women surpassing men in terms of education, income, and professional status is likely to result in changes in the relationships between men and women, and those changes will ultimately be reflected in the reconsideration of a range of legal issues that implicate gender.

There would certainly be some beneficial effects for women as they make gains in professional status and income. For example, an increased presence in legislatures, judiciaries and major businesses would likely result in laws and policies that make it easier for women to combine childrearing with their careers. Assistance in areas such as maternity benefits and maternity leave would increase and workplace onsite.

Indeed, the heightened status of women in education, professional status and income could provide an opportunity, more generally, for the whole society to engage in a fundamental rethinking of gender and gender roles. One result of this might be increased freedom for both men and women to make choices in their lives that might lead to more personal fulfillment. Men whose interests and personalities are particularly well-suited to caring for the home would be more able to play the role of homemaker without excuses. Women who prefer to focus on their careers rather than homemaking would similarly feel more freedom to make the choices they are happiest and most comfortable with.

Although one almost inevitable consequence of this kind of a shift in gender roles would likely be an increase in the number of divorced men receiving alimony and child custody,⁷⁶ this need not necessarily be viewed as a negative development.

The number of marriages where the wife has substantially more education and/or more income than the husband is increasing.⁷⁷ For some people, including Professor Banks, the major concern may be the prospect of a marriage decline. Others might cheer the potential decline of traditional marriage in the hope that this might lead to increased acceptability of a wider range of choices concerning intimate relationships. Still, others might wish to focus on exploring how a radically different paradigm of marriage might be able to succeed. With respect to the last possibility, there may be something of value to be learned from the marriages described earlier between African-American men and women in the era before racial integration—marriages in which wives sometimes had more education than their husbands. In these marriages, gender roles were less rigid, a man's contributions to the wider community contributed to his self-esteem, and

76. This would not require changes in the law because the applicable doctrines are already gender-neutral. *See* *Orr v. Orr*, 440 U.S. 268 (1979) (holding unconstitutional alimony statutes providing that only wives could receive alimony).

77. *See* Wendy Wang, *Record Share of Wives are More Educated Than Their Husbands*, PEW RESEARCH CENTER: FACTANK (Feb. 12, 2014), <http://www.pewresearch.org/fact-tank/2014/02/12/record-share-of-wives-are-more-educated-than-their-husbands/>.

jobs outside of the home were less of a determinant of a man's sense of self-worth. There was an awareness of the impact of the challenge of marriage and family in a society in which unfairness and inequality were facts of everyday life. Perhaps the lesson here is that marriages can survive challenging societal circumstances and that positive value can accrue in committed relationships between men and women, even if the relationship does not fit the traditional pattern of gender roles.

CONCLUSION

Is Marriage for White People? provides a great deal of information about emerging patterns of marriage and intimacy among African-Americans. The information presented is significant and sobering, and constitutes a powerful demonstration of the reality that the many structural challenges confronting the African-American community are deep and persistent, and that the effects of racial oppression and subordination reach into some of the deepest and most important aspects of the lives of those in this group. Beyond its focus on the issue of race, the book also raises, even if it does not answer, some interesting, more general questions about the impact of education and income on the relationships between men and women.

Recent decades have brought transformation to traditional marriage and the nuclear family. These institutions are in the process of undergoing fundamental change. *Is Marriage for White People?* would have been enriched by more discussion of the relationship between these changes and the perspectives offered in the book—today, many people have moved beyond rigid adherence to the view that the “best” form of intimate relationship for everyone is marriage. Still, it is a matter of legitimate concern that marriage patterns in America vary so significantly by race. It is important for African-Americans to be in a position to be able to exercise the same range of choices with respect to intimate relationships as individuals in other groups, and if this book directs more attention to the societal inequalities that underlie the marriage decline, it will have made a significant contribution.

Although Banks' recommendation that African-American women actively pursue marriage partners in other ethnic groups may provide options for some women, the challenges facing the African-American community ultimately cannot be resolved by the kind of personal choice he urges. In the end, the issues that are at the core of this book can only be addressed by structural changes that improve the economic status of both African-American men and women. It would be only then that African-American men and women would be free to make the choices with respect to intimate life that they believe would be most fulfilling.