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## Book Review

### Is Marriage for Rich People? A Book Review of Ralph Richard Banks's *Is Marriage for White People?*

NANCY LEONG

*The rate of marriage for black Americans is lower today than it has been at any time since the end of slavery. Ralph Richard Banks, in *Is Marriage for White People?*, examines this reality, paying particular attention to the middle class. Banks notes that the condition of black singleness is especially problematic among middle class black women. According to Banks, the shortage of "eligible" middle class black men frequently allows black men to set the terms of relationships with black women. In response, Banks suggests that rather than marrying "down"—i.e., marrying a black man from a lower socioeconomic class—middle class black women ought to open themselves to marrying "out"—i.e., marrying a man of a different race. Not only would this increase the pool of eligible men, it might also increase the rate of black marriage by leveling the playing field between black men and black women.*

*Banks offers a careful and thorough analysis of the declining rate of marriage among blacks in America. But this Review suggests that Banks does not follow his argument to its logical conclusion. His solution to the black marriage problem—marrying "out," not "down"—suffers two primary flaws. First, the shortage of middle class men extends across all races. So marrying out merely shifts the burden from black women onto women of all races. Of course, there is no principled reason why black women should bear this burden exclusively; however, the proposed solution of interracial marriage does not entirely resolve the issue for any group of women. Second, Banks's proposed solution implicitly assumes that marrying someone who is less educated, less wealthy, or both, is undesirable. Refusing to marry down, then, only further exacerbates current socioeconomic gaps. Ultimately, the best solution to the problem of social inequality perpetuated through marriage would both discourage hostility to interracial marriage and avoid reifying class distinctions. If we recognize both "marrying out" and "marrying down" as potentially legitimate choices, we will make progress toward wearing away existing barriers of race and class.*



# Is Marriage for Rich People? A Book Review of Ralph Richard Banks's *Is Marriage for White People?*

NANCY LEONG\*

Blacks have the lowest marriage rate of any racial group in America, and black women are more than three times as likely as white women to never marry.<sup>1</sup> What accounts for this disparity? Richard Banks's monograph, *Is Marriage for White People?*, provides a searching inquiry into the condition of black singleness.

Black Americans are less likely to be married today than at any time since legalized slavery.<sup>2</sup> This is true for all socioeconomic groups, but Banks's analysis focuses on the middle class.<sup>3</sup> Banks traces much of the decline of marriage among blacks to a shortage of "eligible" black men.<sup>4</sup> He explains that incarceration and the related failures of the education system have reduced the pool of black men whom women would consider as a realistic choice for a marriage partner.<sup>5</sup> Moreover, black men are far more likely to marry non-black women than the reverse.<sup>6</sup> These factors mean that fewer black men than black women are available; and, using the metaphor of a market,<sup>7</sup> Banks explains that this shortage causes black women to agree to relationships on black men's terms.<sup>8</sup> These terms often

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<sup>1</sup> RALPH RICHARD BANKS, *IS MARRIAGE FOR WHITE PEOPLE?* 7 (2011).

<sup>2</sup> *Id.* at 2.

<sup>3</sup> Banks uses the term "middle class" to include people in both the middle and upper-middle classes. *Id.* at 9.

<sup>4</sup> *See id.* at 29 (explaining that the shortage of "eligible" black men results from a high rate of incarceration and interracial marriage, as well as an imbalance of economic prosperity between black men and black women); *see also* Ralph Richard Banks, *A Shortage of Eligible Black Men*, N.Y. TIMES (Dec. 20, 2011, 12:39 PM), <http://www.nytimes.com/roomfordebate/2011/12/20/black-men-for-black-women/a-definite-shortage-of-marriageable-black-men> ("Black men's difficulties arise partly for reasons beyond their control—failing schools, a changing labor market, mass incarceration—but they nonetheless leave black men less able to fulfill the role of husband.").

<sup>5</sup> BANKS, *supra* note 1, at 30–31, 38.

<sup>6</sup> *Id.* at 33 ("Estimates are that more than one out of five black men marry interracially, whereas fewer than one out of ten black women do.").

<sup>7</sup> *Id.* at 3.

<sup>8</sup> *Id.* at 29.

do not include marriage.<sup>9</sup> Yet despite the severely reduced pool of marriageable black men, black women, he reports, “marry down but not out”<sup>10</sup>—that is, they are willing to marry a man from a lower socioeconomic class, but not a man of a different race.

Banks then suggests that many of black women’s concerns regarding interracial relationships may be unfounded, or, in some instances, less problematic than those that occur in marriages among those of different classes; therefore, black women might wish to open themselves to such relationships.<sup>11</sup> That is, they might seek to marry “out” rather than “down.” Moreover, if more black women were willing to marry out, the rate of marriage between black men and women might actually increase.<sup>12</sup> That is, “[i]f 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.”<sup>13</sup> Banks explains that “as black women marry men of other races the numbers imbalance among single African Americans diminishes. . . . And as the imbalance shifts, so, too, does the power.”<sup>14</sup> A common assumption is that women tend to prefer marriage—or at least monogamy—more frequently than men do,<sup>15</sup> so a shift in power would

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<sup>9</sup> See *id.* at 57–59 (“Faced with so many options, some men reason—as one black man bluntly told researchers in a study of unmarried parents—‘Why have one woman when you can have ten?’”).

<sup>10</sup> *Id.* at 3.

<sup>11</sup> *Id.* at 129–69. Two chapters entitled *Desire* and *Fear* form the core of the book’s argument. In these chapters, Banks discusses the bases of black women’s desire to be in steady relationships with black men with whom they share cultural common ground. *Id.* at 136–39. He also explores the sense of fear many black women experience when they contemplate long-term serious relationships with white men—women worry that such relationships will not be accepted by their families or communities. *Id.* at 143–44. Banks discusses how societal and cultural factors affect and enforce these trends. *Id.*

<sup>12</sup> *Id.* at 181.

<sup>13</sup> *Id.*

<sup>14</sup> *Id.*

<sup>15</sup> For the proposition that “black men are more reluctant to marry than black women,” Banks cites research conducted in the early 1990s. *Id.* at 58–59 & n.156 (citing Scott J. South, *Racial and Ethnic Differences in the Desire to Marry*, 55 J. MARRIAGE & FAM. 357 (1993)). But more recent evidence suggests that the stereotype of women preferring marriage may no longer be accurate. A recent study of over five thousand single men and women in America revealed that men and women are more or less equally likely to want to marry. See Heidi Stevens, *Men Want Babies? Women Want Their Space?*, CHI. TRIB., Feb. 22, 2011, available at [http://articles.chicagotribune.com/2011-02-22/travel/sc-fam-0222-men-women-love-20110222\\_1\\_single-women-single-men-men-and-women](http://articles.chicagotribune.com/2011-02-22/travel/sc-fam-0222-men-women-love-20110222_1_single-women-single-men-men-and-women) (summarizing research stating that in answer to the question “Do you want to get married?” sixty-three percent of single women and sixty-one percent of single men in the twenty-one to thirty-four age range answered “yes”). Other research, though, suggests that women may prefer marriage, or at least monogamy, more often than men do. See, e.g., MARK REGNERUS & JEREMY UECKER, *PREMARITAL SEX IN AMERICA: HOW YOUNG AMERICANS MEET, MATE, AND THINK ABOUT MARRYING* (2011). Moreover, recent research has not examined how preferences vary among individuals of different races. Still, while some ambiguity remains, it seems fair to conclude that the shortage of men allows men to

change relationship dynamics and would ultimately result in more marriages between black men and women, as well as more relationships between black women and non-black men. “For black women,” Banks concludes, “interracial marriage doesn’t abandon the race, it serves the race.”<sup>16</sup>

Banks’s work offers a great deal to admire. It provides a nuanced account of the decline in the marriage rate among blacks in America, drawing from a comprehensive survey of available quantitative data woven together with insight gleaned from over one hundred lengthy interviews that Banks conducted with black women and men.<sup>17</sup> The interviews are touchingly personal, and one can readily see Banks’s skill and sensitivity as both an interviewer and, later, a chronicler of the information his subjects chose to share with him. The book is at its best as it explores the complicated reasons that successful, attractive, black women remain disproportionately single.<sup>18</sup>

The most controversial part of the book is Banks’s advocacy of interracial marriage. Banks displays commendable restraint by stopping short of recommending that black women marry interracially. Rather, he simply presents reasons that such marriages—at least for some—may not present the problems that many black women worry they will.<sup>19</sup> In so doing, he suggests that interracial marriage is an option that black women may wish to consider for themselves, both because interracial marriage might lead to improved personal circumstances and because, ultimately, interracial marriage may improve the circumstances of black people more generally.<sup>20</sup>

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control the terms of relationships, and that at least some men prefer to marry later or not at all—a conclusion sufficient for present purposes.

<sup>16</sup> BANKS, *supra* note 1, at 181.

<sup>17</sup> *Id.* at 3.

<sup>18</sup> See, e.g., *id.* at 30–33 (discussing incarceration); *id.* at 33–38 (discussing the effect of interracial marriage on eligible black men); *id.* at 38–44 (discussing success and education gaps as reasons for fewer eligible black men).

<sup>19</sup> *Id.* at 179 (“Interracial couples encounter fewer barriers than ever.”).

<sup>20</sup> *Id.* at 181 (“[B]lack women’s commitment to black men can actually undermine the black family that women hope to salvage. The more that black women limit themselves to black men, the more power black men gain.”). Others have suggested that, for black women, marrying “out” is not simply a matter of choice. Indeed, some empirical data suggest that black women are viewed less favorably by men of other races. The popular dating website *OK Cupid* analyzed by race the rate at which its members wrote each other back, finding that “[b]lack women reply the most, yet get by far the fewest replies.” Christian Rudder, *How Your Race Affects the Messages You Get*, OK TRENDS: DATING RESEARCH FROM OK CUPID (Oct. 5, 2009), <http://blog.okcupid.com/index.php/your-race-affects-whether-people-write-you-back/>. Banks acknowledges this view, but emphasizes that it allows the possibility that although some men view black women as less desirable, many view them as equally or even more desirable. BANKS, *supra* note 1, at 121–28 (stating that “few white men stated a racial preference at all” and “[e]ven if, say, two-thirds of non[-]black men refuse to date a black woman, there would be at least two to three times as many non-black men willing to date black women as there are black women”). And, he explains, “[o]ne problem with black women assuming white men are not

The book has succeeded in stimulating a provocative conversation. It deservedly has attracted a great deal of media attention and critical analysis.<sup>21</sup> The bulk of that attention has centered—as does Banks’s book—on the various reasons that educated and financially independent black women might hesitate to marry non-black men. That is, the media analysis has focused on marriages, or the lack thereof, involving black people.

Much of Banks’s careful analysis of the condition of black marriage seems to me uncontroversially correct. His catalog of reasons for black singleness is illuminating, and I tend to agree that the obstacles to marriage between black women and non-black men are overstated—indeed, I would extend the conclusion to interracial marriages more generally, as other commentators have proposed.<sup>22</sup>

My primary criticism of *Is Marriage for White People?* is simply that it suffers from a defect common to most interesting and important books—that is, it leaves the reader wanting more. This book review offers a modest attempt to provide that “more” by extending Banks’s argument to its logical conclusion. Suppose the world Banks envisions comes to pass.

interested in them is that they overlook those who are.” *Id.* at 131. It is unclear whether existing research reveals white men’s true preferences. As I have explored in other work, asserting an affinity for members of non-white groups sometimes provides a way for white individuals to assert their own tolerance and lack of racism. Nancy Leong, *Racial Capitalism*, 126 HARV. L. REV. (forthcoming 2013). While the question of whether marrying out is simply a question of black women opening themselves to the possibility is an important topic, it is one for a different review—here, I bracket the question and accept for now Banks’s conclusion that black women could marry out if they so choose.

<sup>21</sup> E.g., Alice Short, *Book Review: Black Women and the Marriage Problem*, L.A. TIMES, Sept. 29, 2011, at D1; Jessica Bennett, *Is Marriage for White People*, THE DAILY BEAST (Sept. 1, 2011, 2:19 AM), <http://www.thedailybeast.com/articles/2011/09/01/ralph-richard-banks-book-on-black-women-asks-is-marriage-for-white-people.html>; Jenée Desmond-Harris, *Review: ‘Is Marriage for White People?’*, THE ROOT (June 21, 2011, 12:34 AM), <http://www.theroot.com/views/book-proposes-solution-black-women-s-marriage-woes> (“By the time you reach the solution presented at the end of the book—that black women should shift the power balance by opening themselves to interracial marriage—you realize the author hasn’t even attempted to explore, let alone answer, the cover’s quandary.”); Thomas Rogers, *Is Marriage for White People?*, SALON.COM (Sept. 4, 2011, 11:03 AM), [http://www.salon.com/2011/09/04/marriage\\_and\\_race\\_interview/singleton/](http://www.salon.com/2011/09/04/marriage_and_race_interview/singleton/).

<sup>22</sup> E.g., RANDALL KENNEDY, *INTERRACIAL INTIMACIES: SEX, MARRIAGE, IDENTITY AND ADOPTION* (2003); RACHEL F. MORAN, *INTERRACIAL INTIMACY: THE REGULATION OF RACE AND ROMANCE* (2001). Of course, this is not to say that there is no animus directed against participants in interracial marriages, or against mixed-race individuals. See, e.g., Rashmi Goel, *From Tainted to Sainted: The Interracial Marriage as Cultural Evangelism*, 2007 WIS. L. REV. 489 (cataloging discrimination against interracial couples and mixed-race individuals); Nancy Leong, *Judicial Erasure of Mixed-Race Discrimination*, 59 AM. U. L. REV. 469, 483–504 (2010) (same). But the barriers are certainly less now than in the past, as evidenced by the fact that rates of interracial marriage continue to rise. See, e.g., Jeffrey S. Passel et al., *Marrying Out*, PEW RES. CTR. PUBLS. (June 4, 2010), <http://pewresearch.org/pubs/1616/american-marriage-interracial-interethnic> (finding that a record 14.8% of new marriages in 2008 were between people of different races or ethnicities, as compared to only 6.7% in 1980).

Suppose that more black women marry non-black men.<sup>23</sup> What then?

I think that the changes Banks envisions, played out to their logical conclusion, would reduce the racial disparity in marriage at the expense of widening the socioeconomic disparity in marriage and instantiating current socioeconomic gaps. These consequences are not a reason for black women to avoid interracial marriage. As I have already noted, I agree with Banks's basic argument that many obstacles to interracial marriage—not just between black women and white men, but among people of different races more generally—are overstated.

But the concerns I discuss reveal a need for broader solutions to the problems that Banks meticulously describes—solutions that extend beyond the circumstances of particular racial groups and acknowledge the intersectional realities of social stratification in America today.<sup>24</sup> The power imbalance in the romantic marketplace is not unique to blacks—indeed, Banks acknowledges this, although he does not pursue its implications in any detail.<sup>25</sup> Nor is the “down or out” marrying decision inherently limited to black women. Rather, educational disparities between men and women of all races and diminished rates of cross-class marriage reveal that current marriage patterns function as a much broader mechanism for instantiating social inequality.<sup>26</sup> So measures to ensure that marriage is not only for white people should be accompanied by measures to ensure that marriage is not only for the wealthy.

Let us, then, examine the consequences of an increase in marriages between black women and non-black men. The reason this is a less than complete solution is that there is not a surplus of middle-class men—the category that is Banks's primary preoccupation—of any race.<sup>27</sup>

As a precursor to discussing this issue, I must address the question of who, exactly, is middle class. The U.S. Census, for example, does not have an official definition of the term “middle class,” and does not use the

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<sup>23</sup> See BANKS, *supra* note 1, at 181.

<sup>24</sup> Considering the way that various identity categories—race, gender, class, sexual orientation—affect one another is a pervasive theme in scholarship both within critical race theory and beyond. See, e.g., Kimberlé Crenshaw, *Mapping the Margins: Intersectionality, Identity Politics, and Violence Against Women of Color*, 43 STAN. L. REV. 1241, 1242–45 (1991) (exploring violence against women of color through a simultaneous examination of race and gender).

<sup>25</sup> Banks does suggest that the condition of black marriage has implications for marriage more generally. As he puts it, with respect to marriage, “white follows black,” and presumably the same is true of other races. BANKS, *supra* note 1, at 85–87.

<sup>26</sup> The influence of class, both on its own and as it intersects with other identity categories such as race, has received increased attention from commentators in recent years, perhaps in part as a result of the economic downturn. See, e.g., June Carbone, *Unpacking Inequality and Class: Family, Gender and the Reconstruction of Class Barriers*, 45 NEW ENG. L. REV. 527, 529–31 (2011) (examining how family structure both denotes and reifies class).

<sup>27</sup> See BANKS, *supra* note 1, at 9, 29 (“[T]he African American marriage decline is not limited to the poor. It now encompasses the middle and upper-middle class, too, a grouping that I refer to simply, for the sake of convenience, as the middle class.”).

concept in its analysis.<sup>28</sup> By self definition, more women than men consider themselves middle class—forty-eight percent to forty-two percent, according to one recent poll<sup>29</sup>—yet the problem with relying on self-perception rather than on a more objective indicator is that, in the aggregate, men and women may simply have different definitions of middle class, or may have to fulfill different needs in order to consider themselves middle class.

The solution to this threshold definitional question is one that Banks himself implicitly proposes by conflating “middle class” with “college educated.” As he correctly notes, the two are correlated, particularly given the recent increase in the value of a college degree.<sup>30</sup> Ultimately, however, the criteria of a college degree seems to be doing far more work than actual income in his analysis. When Banks examines the problems of “mixed marriages”—marriages between college-educated, middle-class black women and working class black men—a primary focus is the “[c]onflict[] over values” that “may be especially pronounced when the partners have attained starkly different levels of education.”<sup>31</sup> In describing the conflict in the marriage between Cecelia (a corporate lawyer) and Daryl (a construction worker), Banks explains that Daryl “hadn’t finished college because he didn’t want to. It just wasn’t important to him.”<sup>32</sup> As a result of Daryl’s failure to invest in the college experience, “it didn’t broaden his perspective and shape his life goals the way college had for Cecelia.”<sup>33</sup> Of course, Cecelia and Daryl—and many of the other cross-class marriage partners Banks describes—had financial disagreements as well as disagreements driven by their educational values.<sup>34</sup> But Banks suggests that financial disagreements tend to be an outgrowth of educational disparities—education, in the aggregate, translates to greater earning

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<sup>28</sup> *Income: Narrative (Middle Class)*, U.S. CENSUS BUREAU (Sept. 16, 2010), <http://www.census.gov/hhes/www/income/data/inequality/middleclass.html>.

<sup>29</sup> Gary Langer, *The Comeback: New Poll Shows Concerns of American Middle Class*, ABC WORLD NEWS (Mar. 15, 2010), <http://abcnews.go.com/WN/abc-world-news-poll-us-middle-class-concerns/story?id=10088470>.

<sup>30</sup> BANKS, *supra* note 1, at 86 (“[T]he economic benefits of advanced education are greater than at any time since the mid-twentieth century.”).

<sup>31</sup> *Id.* at 103, 107.

<sup>32</sup> *Id.* at 81, 103.

<sup>33</sup> *Id.*

<sup>34</sup> Banks argues that although income differential may seem to be at the heart of financial disagreements, such disagreements actually stem from value differences, which derive, in part, from education. See *id.* at 106–07 (“[R]elationships are mismatches for reasons of education and cultural orientation rather than income. It’s one thing for a woman to earn more than her husband. It’s quite another for her to have been to college and graduate school while he’s content with his high school diploma.”). For example, Banks discusses how Daryl and Cecelia’s “differing values became apparent in those disagreements about how to spend money”: Daryl wanted Cecelia to “display” her income by purchasing a Mercedes, while Cecelia wanted to spend money on private school for their children. *Id.* at 103–04.

power, and so financially-motivated tensions within a marriage are often an attenuated result of educational disparities.<sup>35</sup>

Once we have made explicit the focus on education, with the understanding that there is a distinct correlation between education and income, the disparities between men and women become more pronounced. The educational disparity between black men and women is particularly striking: each year, two black women graduate college for every black man.<sup>36</sup> But this disparity in educational attainment is not limited to blacks; rather, the overall disparity between men and women is well-documented, significant, and increasing. Women currently outnumber men in college. The American Council on Education reports that in fall 2007, women constituted almost 57% of undergraduates, and 60.3% of graduate students.<sup>37</sup>

The end result of this dramatic disparity in educational attainment is clear. If more black women marry non-black men—as Banks proposes—more non-black women will then face the triad of choices that Banks currently presents: marrying “out,” marrying “down,” or remaining single.<sup>38</sup>

The first option—marrying out—is one that Banks would likely approve. But as the foregoing demonstrates, this is a temporary and provisional solution, because the shortage of college-educated men extends across all races. Even if all women were open to marrying men of any race, there would still be a shortage of men. At some point, the supply of college-educated men will fall short of demand.

At that point, the sexual power imbalance that Banks identifies<sup>39</sup> would be distributed across all racial groups. Indeed, this state of affairs is already visible on the many college campuses where women are a numerical majority. The numerical gender disparity affects social and romantic relationships on campus.<sup>40</sup> As Kathleen Bogle puts it, “[o]n

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<sup>35</sup> Banks explains the linkage between greater educational attainment and greater earning power among women, then attests to the tension that this phenomenon creates in marriages. *Id.* at 84–85 (“Marriages . . . in which the woman earns the bulk of the family’s income[] are more common among African Americans than among any other group. Black women are also more likely than any other group of women to be better educated than their husbands.”); *id.* at 94 (explaining that Daryl and Cecelia “fought about the money. Given her ample income, the problem wasn’t a lack of funds as much as who would control [them].”).

<sup>36</sup> *Id.* at 3.

<sup>37</sup> *ACE Fact Sheet on Higher Education*, AM. COUNCIL ON EDUC., <http://www.acenet.edu/AM/Template.cfm?Section=InfoCenter&TEMPLATE=/CM/ContentDisplay.cfm&CONTENTID=33957> (last visited Feb. 15, 2012).

<sup>38</sup> See BANKS, *supra* note 1, at 3.

<sup>39</sup> See *supra* notes 6–10 and accompanying text (explaining how the shortage of available black men gives black men disproportionate power in defining the terms of relationships with black women).

<sup>40</sup> Alex Williams, *The New Math on Campus*, N.Y. TIMES, Feb. 5, 2010, <http://www.nytimes.com/2010/02/07/fashion/07campus.html?pagewanted=all>.

college campuses where there are far more women than men, men have all the power to control the intensity of sexual and romantic relationships.”<sup>41</sup> The problem is, then, that even if women’s dating and marriage behavior is entirely race blind, a shortage of men will still result.

Banks’s suggestion that marrying interracially may offer a solution for many black women thus reallocates the problem among women of all races but does not entirely resolve it for anyone. This includes black women, who will continue to experience a shortage, albeit perhaps one less acute than currently exists.

Moreover, Banks does not offer a theory of why distributing the “man shortage” among women of all races is normatively superior to concentrating it among black women. Of course, I am not arguing that black women should bear the brunt of the man shortage—for me, several reasons immediately come to mind that they should not. To the extent the “marry down or stay single” conundrum is a social “bad,” perhaps it is equitable to distribute that bad equally without regard to race.<sup>42</sup> Particularly given the ugly history of racism in our country and the unique burdens historically placed upon black women both before and after the abolition of slavery,<sup>43</sup> we should be particularly sensitive to social conditions that burden black women’s relationships. Likewise, given the dominant cultural norms of beauty that tend to denigrate the physical attractiveness of black women,<sup>44</sup> perhaps we should take particular care to avoid a marital state of affairs that implicitly reifies those norms.

Any one of these justifications is an independently sufficient reason for concern if black women remain unmarried more often than women of other races. The primary point here is that Banks does not offer any such explanation; he assumes, without more, that the social “bad” of an inability to find a satisfactory partner should be shifted away from black women and on to women more generally. While I agree with the conclusion, I think the debate over the reasoning is worth having.

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<sup>41</sup> *Id.* (quoting an email from Kathleen A. Bogle, a sociologist at La Salle University); see generally KATHLEEN A. BOGLE, *HOOKING UP: SEX, DATING, AND RELATIONSHIPS ON CAMPUS* (2008).

<sup>42</sup> Modern case law does not recognize disparate impact alone as the basis for a claim of discrimination under the Equal Protection Clause. *E.g.*, *Washington v. Davis*, 426 U.S. 229, 239 (1976). But other statutes do capture the notion that disparate impact—and disparate distribution of social “bads”—should be prohibited. See, *e.g.*, 42 U.S.C. § 2000e-2(k) (describing the burden of proof on the claimant in establishing an unlawful employment practice based on disparate impact).

<sup>43</sup> See, *e.g.*, Pamela Bridgewater, *Reproductive Freedom as Civil Freedom: The Thirteenth Amendment’s Role in the Struggle for Reproductive Rights*, 3 J. GENDER RACE & JUST. 401, 410–15 (2000) (discussing slave breeding and slave rape).

<sup>44</sup> See, *e.g.*, KATHY RUSSELL ET AL., *THE COLOR COMPLEX* 82 (1992) (quoting an interviewee who attests that black women’s skin color and hair style are primary determinants of beauty); *cf.* Note, *Racial Steering in the Romantic Marketplace*, 107 HARV. L. REV. 877, 879–82 (1994) (describing how stigmatization of a particular social group can inflict psychological injury on an individual member of such a group).

The broader point is that empirical evidence makes clear that willingness to marry out—either by black women or by all women—may partially shift but will not solve the problem of inequality between men and women in the marriage market.<sup>45</sup> This means that women of all races will increasingly be faced with the dilemma that Banks now ascribes to black women—i.e., to marry down or remain single.<sup>46</sup>

This brings us to the crux of the problem. Why do we view marrying someone who is less educated, less wealthy, or both, as marrying down? Here, I am concerned that Banks overstates the undesirability of such pairings in a manner not entirely different from those who assume problems inherent in interracial marriages. Throughout the book, he implies that individuals who are less educated or less economically advantaged than oneself are not suitable marriage partners. He observes uncritically that “[i]t has long been the case that a man’s value in the marriage market depends on his income potential.”<sup>47</sup> He reports one woman’s stated desire to marry a man “on her level,” without questioning what it means for two people to be on the same “level.”<sup>48</sup> He offers one of the lengthiest and most serious critiques of director Tyler Perry’s oeuvre that I have ever seen, accusing Perry of perpetuating the idea of the “blue-collar brother” as the right solution for a previously hard-charging and career-oriented black woman.<sup>49</sup> He devotes an entire chapter to the problems inherent in “mixed” marriages—by which he means marriages across class lines, not across race lines.<sup>50</sup>

Banks’s point seems to be that such mixed marriages—mixed in the sense of income and educational attainment—inherently suffer from greater obstacles than those that are homogamous with respect to class and education. Marrying down may be inherently more problematic than marrying out. But this attitude adopts, without critical analysis, the conventional wisdom regarding class-based incompatibility. Put another way, Banks does with class what he accuses others of doing with race.

The unexamined belief that marriage ideally occurs between economic and educational equals may have serious and unintended consequences. Available research suggests that marriages between individuals of different

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<sup>45</sup> See RICHARD FRY, *WOMEN, MEN AND THE NEW ECONOMICS OF MARRIAGE 2* (2010), available at <http://www.pewsocialtrends.org/2010/01/19/women-men-and-the-new-economics-of-marriage/> (noting how women’s gains in education and earnings relative to men have shifted the demographic characteristics of potential marriage partners).

<sup>46</sup> Banks to some degree acknowledges that this choice is salient for women of all racial groups, explaining that with respect to marriage trends, “white follows black.” See BANKS, *supra* note 1, at 85–87. But he does not explicitly acknowledge that his implied solution—for black women to marry out—will make the choice more salient for all women.

<sup>47</sup> *Id.* at 45.

<sup>48</sup> *Id.* at 62–63.

<sup>49</sup> *Id.* at 87–93.

<sup>50</sup> *Id.* at 103–14.

socioeconomic statuses are increasingly on the decline.<sup>51</sup> As one *New York Times* article put it: “Once, it was commonplace for doctors to marry nurses and executives to marry secretaries. Now the wedding pages are stocked with matched sets, men and women who share a tax bracket and even an alma mater.”<sup>52</sup> Stephanie Coontz agrees, explaining that men are now more interested in marrying women who are economically self-sufficient than ever before.<sup>53</sup> Research suggests that various aspects of modern society, such as geographic mobility, the rise of Internet dating, and an increase in specialized work environments, has facilitated “assortative mating,”<sup>54</sup> or people pairing with similar partners.<sup>55</sup> And a recent study found an increasing correlation between a woman’s socioeconomic status, as measured by her wages prior to marriage, and the earning potential of her prospective husband.<sup>56</sup>

The result of these changes is a gradual replacement of the old dreams of marrying well with new assumptions of marrying someone within one’s own class. For women, the Cinderella story has been replaced by a narrative more akin to *Sex and the City*—rather than hoping for a prince to rescue them, accomplished and self-sufficient women now bemoan the lack of men whose professional achievements and economic security match their own. Even the words that we use to talk about interclass marriage reflect this shift. Disparaging terms such as “gold-digger” have emerged to describe those who marry up, while condescending terms such as “sugar mama” and “sugar daddy” are increasingly applied to those who marry down.

The belief that marriage is ideally a union of socioeconomic equals—and the reality that marriage increasingly embodies this phenomenon—thus enhances existing socioeconomic disparities. The Census confirms

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<sup>51</sup> Annie Murphy Paul, *The Real Marriage Penalty*, N.Y. TIMES, Nov. 19, 2006, (Idea Lab), at 22.

<sup>52</sup> *Id.*

<sup>53</sup> See STEPHANIE COONTZ, MARRIAGE, A HISTORY: HOW LOVE CONQUERED MARRIAGE 265 (2005) (noting the increase in the number of children being raised by two-earner families). “College graduates and women with higher earnings are now *more* likely to marry than women with less education and lower wages . . . .” *Id.* at 285.

<sup>54</sup> GEOFFREY MILLER, THE MATING MIND: HOW SEXUAL CHOICE SHAPED THE EVOLUTION OF HUMAN NATURE 436 (2001) (defining assortative mating as “[s]exual choice for traits similar to one’s own, e.g. tall women favoring tall men”).

<sup>55</sup> See, e.g., *id.* at 4–7, 10–11, 197 (arguing that sexual selection theory, which describes sexual choice and courtship as psychological activities, offers valuable insight into human evolution, and describing a high level of assortative mating for fitness indicators among modern couples).

<sup>56</sup> Megan M. Sweeney & Maria Cancian, *The Changing Importance of White Women’s Economic Prospects for Assortative Mating*, 66 J. MARRIAGE & FAM. 1015, 1023–24 (2004). While Sweeney and Cancian’s research extended only to white women, there is no evidence to suggest that the same would not also be true of women of other races. See *id.* at 1020 (limiting analytic sample to white women and acknowledging that, although previous research suggests that assortative mating may differ by race, “more research is needed to better understand racial differences in partner preferences and in patterns of assortative mating”).

this general trend, with researchers observing that “the long-term trend has been toward increasing income inequality.”<sup>57</sup> Of course, the factors explaining the trend toward income inequality are many and complex, but it is clear that marriage insularity with respect to class exacerbates rather than alleviates the problem.

Meanwhile, marriage rates have declined precipitously among poor people even as they have remained stable and even increased slightly among the well-educated and, relatedly, the rich.<sup>58</sup> For example, sixty-four percent of people with college degrees are married, compared to only forty-seven percent of those with a high school diploma or less.<sup>59</sup> These socioeconomic and educational disparities cross racial lines as well. Ivory Toldson offers empirical support:

A black woman with a postsecondary degree is more likely to be married than a white woman who dropped out of high school. A black woman with a personal annual income of more than \$75,000 is more than twice as likely to be married as white women who live in poverty.<sup>60</sup>

Perhaps part of the disparity can be attributed to changing norms regarding the institution of marriage which, we might hypothesize, are more pronounced among those of working class backgrounds. But part of the disparity may also be a result of the fact that—economically speaking—there is relatively little for poor people to gain by marrying one another. Marriage has become the province of the educated and wealthy. It has become a mechanism by which these privileged individuals perpetuate their privilege across generations. That is, marriage is now *for* rich people—in the sense that it has become an institution that yields economic benefits to the rich and the rich alone.

All of this is not to say that Banks is wrong that there might be good reasons for black women to marry out. But the preference for out over down offers an incomplete solution. Indeed, it problematizes interracial marriage at the expense of instantiating an existing—and increasing—

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<sup>57</sup> U.S. CENSUS BUREAU, *supra* note 28.

<sup>58</sup> See D'VERA COHN ET AL., PEW RESEARCH CTR., BARELY HALF OF U.S. ADULTS ARE MARRIED—A RECORD LOW 1–2, 9, app. 12 (Dec. 14, 2011), <http://www.pewsocialtrends.org/files/2011/12/Marriage-Decline.pdf> (reporting a decline in marriage rates among the less educated and noting that the economic recession may be a factor in the trend); Ivory A. Toldson, *Education and Income, Not Race*, N.Y. TIMES (Dec. 20, 2011), <http://www.nytimes.com/roomfordebate/2011/12/20/black-men-for-black-women/marriage-education-and-income-not-race> (“[L]ower marriage rates among black people has nothing to do with race, and everything to do with educational and income disparities between races.”).

<sup>59</sup> COHN ET AL., *supra* note 58, at 8.

<sup>60</sup> Toldson, *supra* note 58.

preference against interclass marriage. The net result is advocacy of behavior that—without other adjustments to our thinking about marriage and changes in marriage patterns—will certainly exacerbate existing income inequalities.

I do not claim to have a solution to the problem of social inequality perpetuated through the institution of marriage. But I think that the best solution would both discourage hostility to interracial marriage and avoid reifying class distinctions. One place to start involves our thinking about both “marrying out” and “marrying down.” If we recognize both alternatives as potentially legitimate choices, we will make progress toward wearing away existing barriers of race and class.

