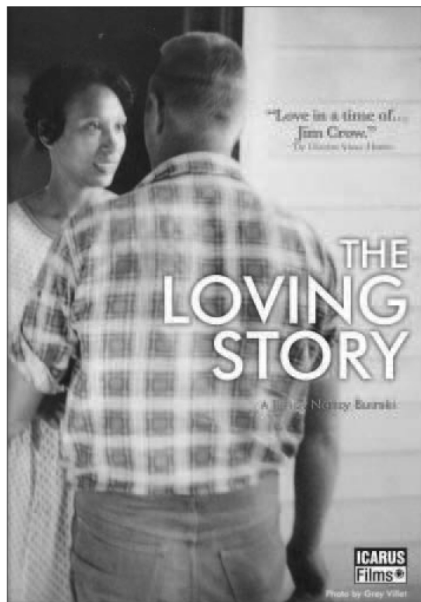


THE LOVING STORY

directed by Nancy Buirski. Icarus Films, Brooklyn, NY, U.S.A., 2011. DVD, 77 min. Distributor's website: <<http://icarusfilms.com>>.

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Ironically, as I was wondering where to begin this review today, I noticed a car with two bumper stickers matching the sentiments I was tossing around in my mind. One read: "Hate is easy. Love takes courage." The other said: "Got Constitution?" Both relate to the details of the *Loving* case, in which the United States Supreme Court legalized interracial marriage (or held laws against interracial marriage to be unconstitutional [prompted by a suit brought



against the Commonwealth of Virginia by Richard and Mildred Loving]). The Lovings, the key figures in this case, are captured in *The Loving Story*, a film produced by Nancy Buirski and Elisabeth Haviland James and available through Icarus Films.

Married in Washington, D.C., on 2 June 1958, Richard Loving and Mildred Jeter returned home to Virginia where their marriage was declared illegal because he was white and she was black and Native American. At that time, anti-miscegenation laws—laws against interracial marriage—existed in 16 states. Such laws are a typical consequence of states' rights in the United States, a mechanism that allows the laws of different geographical areas to reflect the mores (and biases) of specific parts of the country.

The Loving Story conveys how such laws can impact lives with a poignancy that a strict narrative could not. We meet a young interracial couple that wanted to live together in Virginia. They were not activists or rebels. The film captures their lives using a trove of recently uncovered 16-mm film, old news clips and still photographs that present the Lovings, their lawyers and the time in a form that needs little supplemental narrative. To summarize, the case was brought by Mildred Loving, a black woman, and Richard Loving, a white man. After they married in Washington, D.C., close to their home state of Virginia, they returned home. Based on an anonymous tip, the local authorities arrested them (while in bed), and they were eventually sentenced to prison in Virginia for marrying each other, because their marriage violated the state's anti-miscegenation statute, the Racial Integrity Act of 1924, which prohibited marriage between people classified as "white" and people classified as "colored." On 6 January 1959, the Lovings pled guilty. They were sentenced to 1 year in prison, with the sentence suspended for 25 years on the condition that the Lovings permanently leave the state of Virginia.

One of the driving elements of the film's script is the racial bias in the legal case brought against the couple. Even the judge's ruling against their marriage shows this bias. Leon M. Bazile,

the trial judge, wrote: "Almighty God created the races white, black, yellow, Malay and red, and he placed them on separate continents. And but for the interference with his arrangement there would be no cause for such marriages. The fact that he separated the races shows that he did not intend for the races to mix."

The Lovings did not like living in the District of Columbia; they missed their families and wanted to go home. How they lived and felt about the situation is effectively captured in the photographs and interviews that compose much of the film. There are also rare documentary photographs by *Life* Magazine photographer Grey Villet that recount the little-known story of the Loving family—first-person testimony by their daughter Peggy Loving and footage of the two lawyers who took the case. Indeed, one of the remarkable features is seeing clips of the two young American Civil Liberties Union lawyers, Bernard S. Cohen and Philip J. Hirschkop, discussing the case as young men, as well as in contemporary interviews in which they look back on this work.

The Civil Rights section especially stood out. It is introduced with footage of a large demonstration and followed by a clip of Mildred Loving softly

explaining to someone in her living room that she was not involved in the Civil Rights movement. Rather, she relates, she decided to write to Robert Kennedy simply because she and Richard wanted to go home to Virginia. Initiating the kind of individual litigation they needed to pursue was not a part of the Attorney General's purview. Kennedy, however, directed her to the American Civil Liberties Union.

Growing up in the United States, I was educated to believe that our political system, despite its faults, was the best in the world. We learned that although change was sometimes slow, rightness or justice of some kind prevailed. I can remember learning about the landmark *Brown v. Board of Education* case even in grade school. This was the case in which the United States Supreme Court declared state laws establishing separate public schools for black and white students unconstitutional, paving the way for integration. *Brown* was a major victory and helped propel the civil rights movement of the 1960s. The *Brown* case was handed down by what is known as Warren Court, because the Chief Justice at that time was Earl Warren. Their unanimous (9–0) decision stated that, “separate educational facilities are inherently unequal.”

I do not recall studying the 1967 *Loving* case in school, although it certainly drew on *Brown*. Like the *Brown* case, the Warren Court struck down *Loving* unanimously. Warren's opinion read:

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

The court also concluded that anti-miscegenation laws were racist and had been enacted to perpetuate white supremacy:

There is patently no legitimate overriding purpose independent of invidious racial discrimination, which justifies this classification. The fact that Virginia prohibits only interracial marriages involving white persons demonstrates that the

racial classifications must stand on their own justification, as measures designed to maintain White Supremacy.

Watching the legal challenges presented in the video and listening to the sentiments of the people involved with the case brought to mind recent challenges to laws forbidding same-sex marriage in the United States, an issue set to go to the Supreme Court later this year. Advocates of same-sex marriage often offer the history of civil rights law as a touchstone and a rationale as they fight for equal rights in the courts. As with the Lovings, those fighting today often capture the personal and human qualities that drive the fight for marriage equality.

To my surprise, the connection between race restrictions and gender-based restrictions is covered in an exceptionally well-crafted teacher's guide that comes with the video. This guide is also available on the Icarus site (see <http://icarusfilms.com/guide/ls_teacher.pdf>). One section of the supplement notes that the question of who can marry today remains controversial and the guide invites students to look at the issues. (*Loving*, of course, was a case cited in the initial court ruling in favor of same-sex marriage.) Prepared by the Southern Poverty Law Center, the materials are valuable on their own terms, and I think teachers will find them useful. This guide includes maps and timelines, expanding the discussion with sections on the place of the Lovings in history, the question of rights in general, the legal process and the power of activists.

As I reviewed the supplemental guide, I could not help but think about the way times change. In recent years, the U.S. Supreme Court rarely writes unanimous opinions. Perhaps this is why many of us who were schooled to believe so strongly in a self-correcting formula built into the United States constitution wonder if we were naïve in our younger days and now are simply jaded, or if time has changed the viability of the political system. Still, regardless of how the current case turns out, there are clear commonalities. Indeed, one of the most remarkable aspects of *The Loving Story* is how it conveys an unpretentious couple in love. They were not activists, although there is a sequence in which Mildred acknowledges that while she got involved because they simply wanted to return to Virginia, she also recognizes the broader ramifications of the case.

Rather, their sincerity and love drives their story.

The courage of the Lovings is matched by that of the same-sex couples today who are seeking legitimacy for their relationships. In a concurring opinion to *Loving*, Associate Justice Potter Stewart wrote: “It is simply not possible for a state law to be valid under our Constitution which makes the criminality of an act depend upon the race of the actor.” Today, of course, “sex of the actor” would be the operative phrase. Given the humanness of these issues, it is not surprising that this film has won many awards. It is perfect for classrooms and for all interested in who people are and how they make things happen.

