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Revisiting Plural Marriage in the 21st Century: Polygamy, Politics and Power

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Abstract: This paper reviews the complex history of plural marriage associated with the Mormon Church, giving consideration to views that are both favorable and unfavorable to the practice of polygamy. Interdisciplinary in nature, this paper delves into the religious underpinnings common to the practice of polygamy in the United States, alongside a discussion of media framing and court decisions that could impact the future of polygamy. Utilizing a social constructionist framework informed by historical information, media narratives from women who have experienced polygamy first-hand, and legal arguments surrounding the practice of plural marriage, the author argues that modern opposition to polygamy is rooted in ideas of moral superiority and is not aligned with many historical accounts of polygamy nor with the changing tides of legal recognition of fundamental rights and familial status occurring in the United States in the 21st century.

Key Words: Religion, Polygamy, Media, Family, Politics, USA

INTRODUCTION

This paper reviews the complex history of polygamy within the Church of Jesus Christ of Latter-Day Saints, commonly known as the Mormons, giving consideration to the continuing practice of polygamy in the United States in the 21st century. As modern-day changes in the legal recognitions of consensual relationships and the status of marriage have occurred, notably *Lawrence v. Texas* (2003) and *Obergefell v. Hodges* (2015), a strong argument can be made that the time has come for legal recognition of polygamous relationships within the United States. Using a framework of social constructionism, the author demonstrates that the attitude toward polygamy, both past and present, found within the general public is not based on factual evidence but on socially constructed and sometimes unfounded beliefs. A historical account is first provided, followed by a discussion of the views of both the women practicing

polygamy in the mid-to-late 1800s and the competing views of the staunch anti-polygamists. The linkage of polygamy to women's suffrage, which is generally lost in present-day discussions of polygamy, is conclusively demonstrated, along with connections to the general liberation of women in the areas of divorce and control of fertility. While these issues are not generally associated with Mormon doctrine, the historical literature suggests otherwise, providing a balanced portrayal of polygamy rather than the sensationalized (and generally negative) popular version. As the United States entered the 21st century, accounts of oppressive polygamist patriarchs exerting significant control over the lives of women and children made headlines, combined with first-hand accounts of escapes from polygamous communities by the women themselves. Less sensationalized, however, were the stories from women who agree with their 19th-century female ancestors: women who argue that polygamy offers them a balanced life that eludes the modern-day American woman—a woman who is often struggling to manage the day-to-day routines of a career-seeking female, wife, and mother. As the standards for legal recognition of relationships has evolved over time for other groups in the United States, the same has not occurred for polygamists. This paper presents a compelling argument that it is time to revisit the boundaries that for centuries have demarcated the moral line of marriage.

A BRIEF HISTORY OF THE MORMON CHURCH

The 1800s were a period of significant social change in the United States. The industrial revolution that began in and continued throughout that century changed the structure of the family in a way that had been previously unfathomable. For much of the population, work was now an activity that was separate from the household, placed within a factory or office rather than an activity that occurred within the household, extending to the family garden or farm (White & White, 2005). Many families moved to the cities and in doing so, they lost many of their familial connections; the grandparents were no longer living in the same household, oftentimes not even the same geographical area; adult siblings and cousins who had previously relied on each other for social support were likewise separated (White & White, 2005). To laypersons and scholars alike, this profound shift was taken as a clear indication that the concept of family was in dire straits. Many people soon began longing for a return to the traditional form of family, and they sought this comfort within the community (White & White, 2005). Among these was Joseph Smith, the founder of the Mormon Church. Based upon his own experiences of economic hardship stemming from the changes wrought by the industrial revolution, coupled with the death of his siblings, Smith longed for a return to traditional agrarian society (White & White, 2005). The manifestation of this desire was to be found in the formation of the Mormon Church, officially founded in 1830 (White & White, 2005; Gordon, 2003). Smith announced that an angel had come to him, leading him to unearth golden plates which were then translated into the Book of Mormon by Smith with the assistance of the angel Moroni. Humankind was in the “latter days,” according to Smith, and God was going to continue to reveal himself and his ultimate plan to his followers through continued revelations to his modern Prophets and Apostles (Gordon, 2003).

The Church of Jesus Christ of Latter-Day Saints is a highly structured organization with various levels of authority. It is set apart from other Protestant denominations because of its reliance on the Book of Mormon and a separate Doctrine & Covenants to supplement the Holy Bible. Mormons also actively put into practice certain beliefs that are not a part of traditional Christianity, either Protestant or Catholic. Because of this, especially in its early days, it was met with extreme criticism and public scorn—including the tarring and feathering of Smith in Ohio in the late 1830s (Gordon, 2003). Today, there are approximately 6.7 million Americans affiliated with the Church of Jesus Christ of Latter-Day Saints in

the United States (Church of Jesus Christ, 2019-1), wherein the practice of polygamy is strictly prohibited (Church of Jesus Christ, 2019-2).

THE ROOTS OF POLYGAMY

One of the early revelations given to Smith in 1843 was the practice of polygamy (White & White, 2005). Although an earlier revelation in 1831 had hinted at the possibility of plural marriages, and historical evidence indicates that Smith himself was experimenting with polygamy prior to the official revelation (Gordon, 2005; White & White, 2005), plural marriage was not officially recognized by the Mormon Church as a divine revelation until 1843, at which time the doctrine of celestial marriage was revealed to Smith (Burgett, 2005; White & White, 2005; Gordon, 2003). Described as a “new and everlasting covenant of marriage” (Gordon, 2003:166), Mormons were now promised that their marriage was eternal. It was not to be a single marriage however, for it was God's intent that procreation be a primary objective of humankind. It would be necessary for men to have multiple wives to achieve this purpose (White & White, 2005; Gordon, 2003). Although the Mormon Church later re-defined this doctrine to include monogamous marriages, as originally revealed to Smith the revelation was given in absolute terms: anyone who rejected this new covenant would not be able to achieve salvation (White & White, 2005; Gordon, 2003). The Prophet (Smith or his successors) was given the power to seal these celestial marriages for eternity by authority of the holy priesthood (Burgett, 2005; White & White, 2005). Herein lies an important characteristic of the Mormon practice of polygamy: it becomes an aspect of their faith, something that the early Mormon followers widely accepted as an inspiration from God; it is not a cultural aspect or a “lifestyle choice,” but a tenet of religious faith. This distinction is addressed throughout this discussion of polygamy.

This polygamous lifestyle, termed *living the Principle*, redefined the family and caused so much upheaval in the United States that for four decades the issue was commonly referenced as the “Mormon Question” by scholars, politicians, and everyday citizens (Burgett, 2005). The public outcry over the practice of polygamy, which some Mormons had been practicing for over a decade and which they were still attempting to keep secret, eventually led to Smith's death in 1844. Smith was arrested after ordering that a printing press be destroyed; its owner had published a piece voicing disapproval of polygamy and making other critical remarks about the Church. A mob of anti-Mormons attacked the jail and lynched Smith (Gordon, 2003). Brigham Young, taking the role as the new Prophet of the Church, decided the followers of the faith should move to western territory where they would not be under the jurisdiction of the United States government (Gordon, 2003). Young was given the role of governor of the new territory and they quickly set up their own government, which was referred to as their political kingdom (Gordon, 2003). After becoming firmly settled in the area, the Mormon Church finally officially recognized its practice of polygamy at a general conference in 1852 (Gordon, 2003). It was at that time that Brigham Young declared the practice to be an article of faith of the Mormon Church (Swisher, 2015).

THE HISTORICAL SUPPORT OF POLYGAMY – THE OFFICIAL CHURCH POSITION

Notwithstanding the public outcry against Mormon practitioners of polygamy, the Mormon Church was determined to make the people of the United States understand and even accept their choice to practice polygamy. They referred to Biblical support of polygamy, particularly citing Old Testament Prophets Abraham and Jacob (Burgett, 2005) and they also noted that polygamy was still widely practiced around the world (Gordon, 2003). Second, they viewed sexuality as a gift from God, a divine attribute not to be perverted by engaging in sex outside of marriage, visiting prostitutes, or committing

adultery (Gordon, 2003). The Church argued that polygamy was a “sure cure” for evils that faced the monogamous world: “whoredom, adultery and hypocrisy” among other things (Burgett, 2005; Gordon, 2003). Notwithstanding the Church’s official position in support of polygamy, scholars note that only a small minority of early Mormons themselves engaged in the practice, and those who did generally had only two wives (Swisher, 2015, citing Van Waggoner, 1989 and Milne, 2006). For those who practiced polygamy, it was viewed as a serious commitment under their religious tenets (Swisher, 2015). Nonetheless, Americans generally saw the practice as barbaric and scandalous, an open door for the oppression of women (Swisher, 2015).

Beyond their Biblical support of polygamy, the Mormons relied on revelations given to their Prophets which indicated that a new kingdom on earth of good people (the Mormons) would usher in the Second Coming of Christ. Enough of these good people must exist, however, for this to come to pass. Thus, God's commandment to procreate must be strictly enforced. The way to do this was through plural marriages; it would be physically impossible for a single wife to bear each man enough children to usher in the Second Coming (White & White, 2005).

IN SUPPORT OF POLYGAMY—THE MORMON WOMAN'S POSITION

The polygamous Mormon woman echoed the sentiments of the formal teaching of the Church. At the same time, they were also embracing the dominant ideology of that period with respect to the role of the woman:

In the middle years of the nineteenth century, women’s role in society was prescribed by domesticity. The domestic ideal dictated that a woman’s life be built around her husband and children in the private sphere of the home, where the wife and mother provided a refuge from the public sphere of men. Women were expected to be the keepers of tradition and the upholders of morality (Dunfey, 1984:524).

The practice of polygamy, while certainly at odds with mainstream culture, nonetheless provided her with a mechanism for fulfilling this culturally prescribed role. However, for the Mormon polygamous woman, her marriage was not only culturally dictated, but also a fulfillment of her religious duties, given the revelation that had been divinely bestowed on their first Prophet, Joseph Smith. Mormon women were taught that through their procreation, they were fulfilling the religious expectation that they would bear many children and ultimately fulfill God’s master plan (White & White, 2005).

Indeed, the Mormon doctrine was extended even further to explicitly state that sexual intercourse (always within marriage) should *only* be for the purpose of procreation, never for pleasure, and Mormon men were warned by church leaders that they should not continue to live with a woman who could not conceive because it was tantamount to adultery (Hardy, 2001). In further support of their plural marriage system, Mormons also noted that men had the ability to father children late in life, thus he needed to continue to marry young women who could produce children beyond what his earlier and aging wives could produce (Hardy, 2001).

The power of their religious faith guided the women to accept this unusual form of marriage (Dunfey, 1984), but many personal journals of these early Mormon women reflect the emotional conflict they encountered upon being introduced to the practice of polygamy (Dunfey, 1984). Particularly, many women rejected the notion of sharing their husband sexually with another woman (Dunfey, 1984). Based upon the Church doctrine, these women came to believe that this plural form of marriage was their religious duty, along with being the answer to the ills currently found in mainstream American society.

A newsletter published by the women themselves, *Woman's Exponent*, explicitly explained their reasons in agreeing to form plural marriages: [to reduce or end] infanticide, alcoholic and abusive husbands, desertion, divorce and prostitution (Dunfey, 1984:527-528). By returning to a strict patriarchal system such as that found in the Holy Bible, they believed they could bring an end to these undesirable behaviors (Dunfey, 1984). Their logic was simple: a husband with multiple wives would not need to visit prostitutes, for he would have more than one woman to satisfy his sexual urges. These would be other Mormon women, not an "unclean" prostitute. Moreover, the husband would be less likely to desert a wife in favor of a new wife (today's "serial monogamy"), nor would he need to get a divorce, or have the desire to take out his frustrations of an unhappy marriage through abuse of the woman or abuse of alcohol (Dunfey, 1984). Unfortunately for the Mormon women, Brigham Young reportedly once asked at a large gathering of Mormon priests how many of them had been unfaithful to their wives, and between three and four hundred stood up (Gordon, 1996). Thus, it is possible that this rationale for polygamy by the women was actually more theoretical for some of the men.

The logic used by the women to justify polygamy extended even further to include a popular notion that there were not enough good men to go around for all the good women (Hardy, 2001; Dunfey, 1984). Since men were by nature depraved, while women were by nature pure, surely God would not want a woman to be left in a position where the only man left available for marriage was an ungodly one (Dunfey, 1984). Particularly important to this line of thought was the popular notion of that time that men had a greater need and desire for sex than women. George Napheys, a renowned physician and author, estimated that women had only one-tenth the sexual desire of a man. Mormons used this common belief as further justification of their polygamous lifestyle. ". . . a plurality of wives, when sexual intercourse was confined to the perpetuation of the species, allowed both genders to live in greater harmony with their respective natures" (Hardy, 2001:49).

This reasoning was then linked to the belief system of the Mormon Church regarding the souls of humans: Souls are waiting to be born into a human body: they exist separately and before conception (White & White, 2005). God would not desire a "good woman" to marry an ungodly man and then bear his child, because this would lead to the outcome of a soul being placed into the physical body of a child who was already corrupted by the "bad genes" of the ungodly man. "Monogamy, because it forced good women to marry bad men, produced tainted offspring" (Dunfey, 1984:531). A fate that was viewed as even worse than this scenario was to be left single, thereby not fulfilling their "proper sphere as wives and mothers" (Dunfey, 1984). Thus, the solution was simple: polygamy. The multitude of chaste, pure women would marry the few good Mormon men, fulfilling his natural sexual desires and fulfilling the woman's duty to bear many children, giving a physical existence to the many souls waiting to be born.

In further support of polygamy, the women turned to a commonly-held assumption during that period: that emotions and actions experienced by a pregnant female could harm or deform an unborn child (Kukla, 2005:13-15; Hardy, 2001; Dunfey, 1984). They argued that having additional wives to whom the husband would turn while one was pregnant would relieve the worry associated with having intercourse during pregnancy. "A woman's heart should be pure, her thoughts and affections chaste, her mind calm, her passions without excitement" (Dunfey, 1996:531, quoting Pratt). Polygamy would provide a legitimate outlet for the male sexual desire, while freeing the woman of the expectation of sexual intercourse during pregnancy, thus leading to the delivery of a healthy child (Dunfey, 1984). This was an often-used justification for plural marriage, especially given the Mormon doctrine of procreation. Men and women alike were expected to do all that could be done to safely bring a new life into the world,

including refraining from sexual intercourse which might harm the child.

Every time a husband excited in his [pregnant] wife the sexual passion, he robs his child of some portion of its vitality, and her of some of the strength she needs (Hardy, 2001:45, quoting Nichols).

This taboo against intercourse extended past gestation to include the time of nursing (Hardy, 2001).

Finally, the acceptance of plural marriage contained the element of self-sacrifice. For the early Mormon women who adopted this new religion as their own, polygamy was very much in conflict with mainstream norms and values. Nonetheless, they saw it as their duty not just to become mothers, but to embrace polygamy as part of the mothering role, leading to a better life for their daughters regardless of the woman's individual feelings:

We mothers have been willing to lay aside our preconceived notions, training and moral education . . . that our daughters might be nobler, purer, better . . . not for pleasure, happiness or enjoyment here (Dunfey, 1984:528, citing Women's Exponent).

THE TIES OF POLYGAMY TO WOMAN'S SUFFRAGE

The Utah territorial legislature granted women the right to vote in 1870 (Gordon, 1996). Many Americans considered Utah to be a good “test case” of whether women could carry out this responsibility with proper care (Gordon, 1996). Specifically, the general public and politicians outside Utah felt that if women gave careful consideration to their right to vote, they would outlaw polygamy and bring about their own “moral redemption” (Gordon, 1996). This, however, did not happen: the women, carrying the belief that it was their place to marry good Mormon men and bear children, and believing that the practice of polygamy was actually superior due to the problems found within monogamous relationships, did not repeal the practice of polygamy. It is no surprise then that by 1885, most people in the United States were ready to conclude that woman's suffrage was a failure. The women of Utah—some practicing polygamy and others simply supporting the right to practice—believed by Americans to be oppressed, had not demonstrated the ability to make good choices, thus she could not be trusted with something so important as the right to cast a political vote (Gordon, 1996). Even Susan B. Anthony concluded that most women did not want the vote, and of those that did not actively oppose it, at best they were apathetic, and most men were “opposed in varying degrees” (Gordon, 1996:825). Why, then, did Utah continue offering the vote to women? Some concluded that it was simply a matter of the Mormon men “voting their wives,” thus effectively enlarging their potential pool of Mormon voters, while the few non-Mormons in the territory did not have any “extra” votes to cast. This system assured that the Mormons remained in political control of the territory. This point has long been debated in the historical literature (Gordon, 1996). Eventually the power of the anti-suffragists won out through the argument that woman's suffrage in Utah did nothing to strengthen women, but everything to strengthen Mormonism. In 1887, woman's suffrage in Utah was repealed (Gordon, 1996).

POLYGAMY AND DIVORCE

Although heavily derided in their day for giving women the right to vote, if the Mormons were to be viewed as open-minded by today's standard on the issue of suffrage, they were even more open-minded and viciously derided in their view toward divorce. Although the women commonly cited the lack of need for divorce as a point in support of polygamy, the men's view was apparently somewhat different. Prophet Brigham Young articulated the official Mormon sentiment toward women and the possibility of divorce in a sermon:

My wives have got to do one of two things—either round up their shoulders and endure the afflictions of this world and live their religion, or they may leave; for I will not have them about me. I will go into heaven alone, rather than have scratching and fighting around me. I will set all at liberty. What! First wife too? Yes, I will liberate you all. (Gordon, quoting Young, 1996: 835).

His reference to bearing their burdens was meant to reinforce the religious standard of polygamy. In effect, he was saying the woman can either accept it or leave the marriage, and by extension, the Church. This ran counter to the sentiment of many non-Mormon clergymen and provided fuel to the fire for anti-polygamist and anti-divorce activists. Calling divorce “polygamy on the installment plan,” these activists charged that treating the end of a marriage contract (whether it was a monogamous or polygamous relationship) with such a lax attitude was a sign of moral decay (Gordon, 1996). Utah, politically controlled by the Mormons, had the easiest divorce laws in the nation during the late 1800s, the same period that saw the divorce rate grow exponentially throughout the United States (Gordon, 1996). Utah required only that a person declare him or herself a resident of Utah, or desiring to become one, to seek a divorce. For the divorce itself, the petitioner only had to state that the couple could not live peacefully together, and their welfare required a separation (Gordon, 1996). Records conclusively demonstrate that divorce was more common among nineteenth-century Mormons in Utah than among residents of other jurisdictions in the United States, and those records only apply to legally documented marriages. When adding in the “divorces” granted by the Church to the illegitimate practitioners of polygamy, the divorce rate was much higher than officially documented (Gordon, 1996). During this time period, it is estimated that the percentage of divorce actions in the Utah Territory brought by women was as high as seventy-three percent (Swisher, 2015), a percentage that clearly indicates a position of power enjoyed by the females in the Territory. Additionally, it was well-known throughout the United States that divorce was easy to obtain in Utah, and many people seeking a quick dissolution of marriage traveled to Utah for this purpose. This only exacerbated the negative view about Mormons their unusual practices throughout the country (Gordon, 1996).

THE PUBLIC RESPONSE TO POLYGAMY

The general public and the United States government was forced to examine this “Mormon Question” in explicit detail for several decades. Many well-known activists of the time chose to speak out vehemently against the practice of polygamy. Well-known anti-polygamists included Kate Field, Anna Dickinson, and Jennie Anderson Froiseth (Gordon, 1996). Most of the discussions included the idea that the Mormon women were enslaved and deluded (Dunfey, 1984) or otherwise “duped, hypnotized or brutalized into polygamy” (Gordon, 1996:834). Field frequently referred to the self-degradation of the Mormon women, and in response to her allegations Mormon women from Utah traveled to Washington to speak out in defense of polygamy. In contrast, Ann Eliza Young, the estranged wife of second Prophet Brigham Young spoke out vocally on the side of the anti-polygamists, being dubbed the “Rebel of the Harem” (Gordon, 1996). Politicians frequently played on emotions by referring to polygamy alongside the still-fresh memory of slavery, typically calling them the “twin relics of barbarism—polygamy and slavery;” if one of the evils had been destroyed, surely it was possible to end the other as well (Swisher, 2015; Burgett, 2005; Gordon, 2003; Gordon, 1996). The female polygamist became a substitute for the black slaves; to free one meant that we should free the other (Gordon, 2003). Today, anti-polygamists often reference “escapes” from polygamy; a terminology that conjures up images of exploitation and enslavement.

Anti-polygamists argued that liberty—the freedom to choose—was the polar opposite of license—the abuse of freedom. In their vocal opposition, they argued that there was no room for licentiousness in the land of the free (Gordon, 1996). In contrast to this argument, the polygamists responded that their choice of plural marriage did not reflect an abuse of religious freedom, that it was a mandate given to them by God. Thus, they should be free to practice polygamy as part of their faith. Eventually, this issue arrived at the doors of the United States Supreme Court in the 1879 case *Reynolds v. United States*.¹ The Justices concluded that there was a fundamental difference between “belief” and “practice.” In other words, the Mormons were free to *believe* in plural marriages, but they were not free to *practice* it. The language used by the Court in *Reynolds* indicates the moral judgment involved in reaching the decision, concluding that the government had the power to prohibit actions that were “in violation of social duties or subversive of good moral order” (Swisher, 2015, citing *Reynolds*, 98 U.S. at 145). At the time of the decision, Mormons clung to the position that they answered to a higher authority than the state or national government, which in their opinion had no authority to impose their will on them in this matter. The government had another answer, however, and soon thereafter Congress enacted the Edmunds Anti-Bigamy Act in 1882, making it a misdemeanor to cohabit with more than one woman (Swisher, 2015). Law enforcement responded by vigorously enforcing this new law and eventually prosecuting over 2,500 criminal cases related to polygamy, including charges of adultery, fornication, unlawful cohabitation and incest (Gordon, 2003), and imprisoning more than 1,300 men over the next decade for unlawful cohabitation (Swisher, 2015). Moreover, the Edmunds Act exerted even more social control over polygamists by expanding the range of punishment for polygamous lifestyles to include disenfranchisement at the polls and disqualification from public office (Swisher, 2015).

The question did not end with *Reynolds* however, and a decade later the Mormon Church was prosecuted for its support of polygamy. In *Late Corporation of the Church of Jesus Christ of Latter-Day Saints v. United States* (1890), the Supreme Court upheld the Edmunds-Tucker Act of 1887 (an amendment of the earlier 1882 Act), and upheld Congressional authority to revoke the church charter and confiscate church property should the Church continue to support the practice of polygamy. Within months, the Mormon Church issued a public statement commonly known as the “Manifesto,” declaring that the Church would no longer teach or practice polygamy (Swisher, 2015). In 1890, with plans for statehood becoming a reality in Utah, Utah’s state constitution included a clause specifically forbidding the practice of polygamy (Swisher, 2015). All Mormons did not abide by this agreement, however, and some scholars estimate that as the United States entered the 21st century as many as 40,000 people continued to practice polygamy, while otherwise following Mormon doctrine (White & White, 2005; Fields-Meyer and Jones, 2003).

Some estimates place the number of polygamists in the US closer to 60,000, although this number includes other groups besides Mormon practitioners such as Muslim and Evangelical Christian polygamists, as well as African American women responding to the high incarceration, unemployment, intermarriage, and early death rates of African American men (Swisher, 2015, citing Alexandre, 2007 and Wing, 2001). Wing, an international scholar, professor of law, and Critical Race Feminist, argues that although polygamy remains illegal in the United States, some African American women engage in *de facto* polygamy due to the perceived or actual lack of eligible African American males (Wing, 2001;

¹This landmark case has continued to set the standard for freedom of religion cases since that time.

Alexandre, 2007). Analogous to the early Mormon women in the United States, their quest to find the “few good men” leads them to accept a relationship status whereby they become the *de facto* “second wife” without any of the legal protections or benefits of the legal wife. The same phenomenon occurs in a small subset of the Evangelical Christian community, who adopt the idea of polygamy from Biblical scripture: four prominent prophets (David, Abraham, Jacob and Solomon) had multiple wives. For the Evangelicals, who adhere to the tenets of polygamy, the Bible glorifies the concept. Websites, such as 2Wives.com, allow the religious community to find other adherents, billing itself as the website “Where Good Pro-Polygamy Married Families and Single Men Find More Wives.”² Other sources place the number of people practicing polygamy in the United States even higher, possibly 50,000 to 100,000 among the Muslim community alone (Hagerty, 2008). Because of its illegality and secrecy, true numbers are difficult to discern. Among Muslims, it is permissible under the tenets of their faith for the husband to have up to four wives, but the husband is expected to treat his wives equally: he cannot favor one over the other, emotionally or economically (Hagerty, 2008). Like Mormon and Evangelical Christian polygamists, the Muslim marriages are not legally recognized beyond the first marriage, although it is common across the groups for the marriages to take place in the form of a religious ceremony to bless the union. Finally, it is important to distinguish the concept of polygamy from simultaneous dating or adulterous relationships; polygamists view their relationships through the lens of a familial status, with parties aware of the existence of the other, albeit without legal recognition by the state. The wives are accepting of the situation although, as discussed herein, the possibility of tension and resentment clearly exists, but is not universal.

THE PRACTICE OF POLYGAMY TODAY—VOICES PRO AND CON

The Mormons who continue to practice polygamy are following the original doctrines of the church's first two leaders, Joseph Smith and Brigham Young. Because of their literal interpretation of the scripture and their strict beliefs and practices, they are known as the fundamentalist sect³ of the Mormon Church. The group has continued to practice polygamy throughout the 20th and into the 21st century. Originally one cohesive group, they have broken into three primary sects and various smaller splinter groups, the largest of which is the Fundamentalist Latter-Day Saints (“FLDS”) (Stephen, 2008). The official Mormon Church has taken a strong stand against the practice of polygamy. In a 1998 interview on *Larry King Live*, then-President of the Mormon Church Gordon B. Hinckley spoke out in harsh terms against polygamy, going so far as to say that there were no “fundamentalist Mormons,” likening the use of those two words together as an oxymoron (White & White 2005; The Church News, 1998). This clearly indicates that the Church, at the end of the 20th century, was trying to redefine itself and move past its history of polygamy. In addition to verbally refuting the practice of polygamy, a 370-page text published by the Church made no reference at all to the history of polygamy in the Church, leaving out

² Language from landing page of www.2Wives.com, current as of April 15, 2021.

³The terminology varies in the literature. Although academic literature tends to refer to the fundamental Mormons as a “sect,” some popular media has characterized it as a cult. This more sensationalized term (“cult”) evokes more negative reaction than the milder term (“sect”). According to Henslin's (2008:542-543) sociological definition, a cult is a “new religion with few followers, whose teachings and practices put it at odds with the dominant culture and religion.” A sect is “a religious group larger than a cult that still feels substantial hostility from and toward society.” With 40,000 followers and the negativity surrounding polygamy, the Mormon polygamists are a sect, not a cult.

any references to Smith and Young's multiple wives except their first, and omitting all wives of any other past Presidents until the time following the Manifesto of 1890, which formally announced that Mormons would discontinue the practice of plural marriage (White and White, 2005). Notwithstanding the earlier publication that made no reference to polygamy, in late 2014, the Mormon Church posted an article on its website, detailing the history of plural marriage in the Church, which some historians and Mormons consider to be a progressive step toward a more open dialogue about its history (NPR.org., 2014).

WHO AND WHERE ARE THEY TODAY?

A large number of fundamentalist Mormons live in the areas of Colorado City, Arizona and the neighboring area of Hildale, Utah. Property was communally owned for many years in a common-law trust called the United Effort Plan, or UEP, which at one time had assets estimated between \$100 and \$110 million (Carlisle, 2019; Fields-Meyer and Jones, 2008). The State of Utah then seized the trust in what was to become fourteen years of complex litigation beginning in 2005. Oversight of the trust reverted to the UEP Board in 2019 after more than a decade of state oversight (Carlisle, 2019). In addition to the UEP assets, FLDS Prophet Warren Jeffs, the son and successor of Rulon Jeffs, acquired property in Texas in 2004 and began a new compound, the Yearning for Zion Ranch in El Dorado (Atlas, 2008).

Media accounts have focused significantly on Warren Jeffs, Prophet of the FLDS, who was at one time on the FBI's Ten Most Wanted List (for facilitating sexual liaisons involving an underage girl) until being captured during a routine traffic stop for obscured license plates in Nevada. Jeffs was charged with accomplice rape and incest, after arranging the marriage of a 14-year-old girl to her 19-year-old cousin. He was found guilty, but the conviction was overturned by the Utah Supreme Court due to faulty jury instructions. Jeffs was later sentenced to life imprisonment plus 20 years following a 2011 trial and conviction for two counts of child sexual assault in Texas, based upon sexual relations with two of his underage wives. Meanwhile, the FLDS also made national news for a period of time in early 2008, when a call was made to a domestic violence shelter by a female claiming to be 16 years old and married to an abusive 50-year-old man from the fundamentalist sect. This resulted in a siege of major proportions at the FLDS compound in El Dorado, Texas, at the Yearning for Zion ("YFZ") Ranch, the compound home of many FLDS followers (Stephen, 2008). Because of the accusations of child marriages, rape and incest, Texas Child Protective Services removed all 400-plus children from the Ranch (Stephen, 2008; Atlas, 2008). The state, however, did an even worse job at "mothering" these children than the mothers themselves had been accused, housing them like cattle in a military facility and later in a sports stadium. While there, they were not provided with enough food nor with changes of clothing, and in one area there were only two bathrooms for more than 100 people (Atlas, 2008; Stephen, 2008). After approximately seven weeks, the Texas Court of Appeals and then the Texas Supreme Court both ruled that the original Judge who had granted the removal of the children had acted inappropriately and ordered the children returned to their parents because the state had not demonstrated a risk to the children, much less any abuse (Stephen, 2008). The original caller was identified as a deranged woman with a history of making false reports, who had no connection to the FLDS compound other than the fact that she was reportedly unhappy with their lifestyle (Stephen 2008). Another somewhat smaller Mormon polygamist group, the Kingston Clan, also known as The Order, has also made significant headlines in the 21st century regarding its continued practice of polygamy (Levy, 2019).

Whether the women are oppressed and exploited remains a central question in the inquiry into fundamentalist polygamy today. The women belonging to the raided compound vocally defended their marriages and religious practices, much like their predecessors in Utah in the 1800s. Women outside the

compound also have spoken out in recent years in defense of polygamy, including Rita Jessop and Mary Batchelor, both of whom have been in plural marriages but are not currently practicing polygamy (Atlas, 2008; Hewitt, 2008). Jessop recalls a very happy childhood within the sect, but feels the situation within the FLDS began to change when Warren Jeffs' father Rulon became the Prophet in the late 1980s, followed by his son in 2002. With the Jeffs in control of the sect, the members were forbidden first from having dances, then from boisterous laughing and most recently from television and the internet. Nevertheless, she continues to believe that although there might be some women who want to leave the sect, "for the most part I think they're happy" (Atlas, 2008). It is her contention that while the practices may seem strange to outsiders, it is a normal way of life for the women in the sect (Atlas, 2008). Mary Batchelor is a pro-polygamy activist who is adamant that the public has been misguided into believing that the women are not there by choice:

I know many polygamist families where the women work together and love each other. . . . That the women and children have no choices, that polygamy is abuse. Those things are false. (Fields-Meyer and Jones, 2008).

Batchelor speaks from experience: she was a plural wife until her husband divorced his first wife. She is not active with any of the fundamentalist sects but describes herself as an "independent fundamentalist Mormon" (Fields-Meyer and Jones, 2008).

Nevertheless, other women, who have chosen to leave the practice of polygamy or to leave the fundamentalist sect, are often very vocal about the oppressive conditions. Pam Black, a former FLDS member, notes: "We're chattel to them . . . My rage was driving me insane" (Fields-Meyer and Jones, 2008). Women such as Black have joined forces, persuading officials to prosecute abusive spouses, and offering shelter to other women (Fields-Meyer and Jones, 2008). Former polygamous wives have also formed their own organization, Tapestry of Polygamy, dedicated to escaping the abuses of polygamy (White & White, 2005). Other organizations for women seeking to escape polygamy also exist, such as Help the Child Brides (Fields-Meyer and Jones, 2008).

Books have also been written by women who have left the polygamous sects, such as the one written by Carolyn Jessop, a middle-age mother of eight who was a member of the FLDS group that resides at the Utah/Arizona border. In her emotionally-charged book, *Escape*, Jessop describes being sealed at age 18 as the fourth wife to Merrill Jessop, who later added three more wives. Similar to Rita Jessop (relationship unknown), Carolyn Jessop notes that the sect became much more radical once Rulon Jeffs came into power (Jessop, 2007:2). She vividly recounts her life experiences and discusses the aspects of jealousy and suspicion felt by the wives of one another. Even as she discusses her intense discontent with the FLDS sect and its practice of polygamy, she still provides information that can be inferred as evidence that all women do not share her sentiments. For example, as she was preparing to leave with her children, she had to hide her actions from her sister-wives because she knew they would tell her husband. Her own daughter, Betty, after being forced by Jessop to leave with her and the other seven children, eventually chose to return to the sect once she turned eighteen. Although Jessop talks about the extreme control exerted by the men in the community, she also mentions that her sister Linda is in a happy and monogamous marriage in the community, and one of her brothers has chosen to leave the community with one of their stepsisters in order to live a mainstream monogamous lifestyle in Salt Lake City. Additionally, Jessop explains that as a young child, her grandmother lovingly told her stories about her family's polygamous past and her destiny to be part of a plural marriage in accordance with God's ultimate plan. It was never presented to her as something to be feared, but rather embraced (Jessop,

2007:16-20).

Through Jessop's text the reader also becomes familiar with the hierarchal structure of the FLDS and the intricacies of its more unusual belief system and practices. For example, Jessop explains that when she had sex with her husband while she was pregnant, another wife became very upset by this. Jessop explains that although the FLDS believes that sex during pregnancy is sinful, there is a "loophole" that can permit sex to occur: if the husband has reached priesthood status, a high level in their bureaucratic structure, then it is believed that the spirit of God resides in him. If the spirit moves him to have sex with his wife, it is permissible since it is an inspiration coming from God (Jessop, 2007:178). Jessup also discusses the belief system regarding the preexistence of souls and relates it to the woman's duty to bring these souls to mortal life. During her "patriarchal blessing," a rite of passage that occurs when a female is told by a Patriarch (the third rank of authority following Prophet and Apostle) what her future will be, Jessup was given a blessing that was a bit unusual by the FLDS standards. While most females are simply told they will become faithful wives and mothers, her blessing consisted of being told, among other things, that in her own preexistence she had been an influential soul in the battle of good and evil whereby the devil was cast out of heaven; that she was a direct descendant of Jesus Christ; and that some of the most special spirits that were currently waiting for life would be born to her (Jessup, 2007:168). Mary Nelson, formerly associated with The Order, tells a similar story of her experience in that splinter group—a story that she shared on the CBS series "Whistleblower" (Levy, 2019).

Although their beliefs and practices may be at odds with conventional Christianity and the official Mormon Church, it is not clear that all women experience oppression in the manner described by Jessop and Nelson, or have a desire to leave the sect. Certainly, sentiment today seems as highly charged regarding polygamy as in the late 1800s. As noted by Mary Batchelor in yet another personal account: "I'm discovering there's two sides to every story." (Fields-Meyer and Jones, 2008). That "other side of the story" is eloquently expressed by Elizabeth Joseph in an often-cited article that appeared in the *New York Times* in 1991. Joseph, one of nine wives, recounted her content that her children were cared for by her sister-wives while she worked (as a journalist and a lawyer), relieving her of many of the worries of the typical working mother. She also recognized the rewards that plural marriage offered for the couple, an idea that resonated with the early polygamists of Utah: a man who was happy at home would have no need to stray. She writes:

It offers men the chance to escape from the traditional, confining roles that often isolate them from the surrounding world. More important, it enables women, who live in a society full of obstacles, to fully meet their career, mothering and marriage obligations. Polygamy provides a whole solution. I believe American women would have invented it if it didn't already exist (Joseph, *New York Times*, May 23, 1991 at A15).

Joseph also spoke at a 1997 conference of the Utah National Organization for Women, once again declaring her support for the practice of polygamy, noting that it provided her with the "environment and opportunity to maximize [her] female potential without all the tradeoffs and compromises that attend monogamy" (Joseph, from "Polygamy—The Ultimate Feminist Lifestyle," May 1997).

In direct opposition to the familial conflicts often found within mainstream blended households and between former spouses in the United States, sister-wives often develop a very strong bond with one another and with the children of their sister-wives, turning to the women and to the children for emotional comfort. This bond has been documented historically in the journals of the early Mormon women (Dunfey, 1984) and is similarly mentioned by the women practicing polygamy today (Hewitt, 2008;

Joseph, 1997; Joseph, 1991). By way of example, Mary Batchelor, crying while referring to the loss of her sister-wife due to divorce, states: “She was my best friend. We shared everything.” (Hewitt, 2008:131-132). This is not to say, however, that plural marriage is without problems. Discussing her two sister-wives in a 2008 interview (one of whom is also her biological sister), Valerie (who did not give her last name due to fears that it would hurt her husband’s business) notes:

It’s not like there’s no jealousy, but the things I’ve been jealous about have nothing to do with sex. It’s more emotional—like if I thought he took her out three times and took me out once. (Hewitt, 2008:131-132).

Rather than focus on the negative issues that can arise when sharing a spouse, the Mormon women choose to focus on the ultimate outcome: spending eternity as one large family—one which she has helped create. For the practitioners of plural marriage today, those who are in sheltered communities or compounds are socialized from birth to accept polygamy and practice it openly. Others who choose to live in mainstream monogamous communities often conceal their plural marriages due to the hostility they know or fear they will encounter. Valerie, quoted above, explains:

You try to be discreet . . . In ways I feel, ‘Let’s just tell!’ If people ask, we don’t try to hide it (Hewitt, 2008:131-132).

This element of secrecy denies the legitimacy of this form of family and must surely be confusing to the children within these families.

THEORETICAL VIEWPOINTS

“If men define situations as real, they are real in their consequences” (Thomas and Thomas, 1928). The Thomas Theorem, postulated by sociologists William I. and Dorothy S. Thomas, illuminates the concept of social construction of reality and is at the heart of symbolic interactionism. This concept, that “facts” do not have a uniform existence apart from those who observe and interpret them,⁴ can be directly applied to the situation of polygamy and how it is viewed by those who are actively engaged in the experience and by those who are outsiders looking in. Social construction theory is an examination of “[t]he process whereby people continuously create, through their actions and interactions, a shared reality that is experienced as objectively factual and subjectively meaningful (Wallace and Wolf, 1999:277). Social constructionism thus holds that meaning is created through repeated interactions with the environment. Dominant beliefs within a society, and within the individual, determine what is “real” (Aniciete and Soloski, 2011). Marriage, as a socially constructed entity, is not a fixed concept. For example, the desirability of remaining in a marriage regardless of marital satisfaction has changed over time, as has the longevity of marriage itself. The societal definition of a “good marriage” has changed, and with it, our willingness to leave an unhappy union. The way in which a society defines the concept of marriage impacts our collective worldview of the institution. Accordingly, social constructionism is an appropriate theory with which the situation of the Mormon polygamists can be analyzed, as their

⁴ Although a common sociological concept, this precise explanation is provided by Oxford Reference, in A Dictionary of Media and Communication, Daniel Chandler and Rod Munday, Oxford University Press, 2011. Available online at <https://www.oxfordreference.com/view/10.1093/oi/authority.20110803104247382#:~:text=A%20concept%20formulated%20by%20the,come%20into%20and%20define%20situations.>

internalized ideas about marriage are at odds with mainstream society in the United States. Relevant to constructionism is how a particular institution—here, marriage—is defined by various groups. Mainstream society and the legal institution defines marriage as a union of two individuals. And, until recently, the nation’s laws went one step further to define marriage as a union of one man and one woman. For the early Mormon woman, as for the fundamentalist Mormon woman today, her religious conviction led her to accept polygamy, a situation at odds with the prevailing worldview. Thus, her social construction of reality was (and is) vastly different than her female counterparts who adhere to the norms that define the realities of courtship, love, and marriage in mainstream America, where relationships can be formalized through state recognition of the union. Mormons who practiced and continue to practice polygamy have socially constructed a different worldview based upon their shared experiences, but it is one that is as real to them as monogamy is to the vast majority of Americans. Their plural marriages are often hidden, yet for those who are committed to the polygamous lifestyle, their marriages offer intangible benefits of love, partnership, and emotional security notwithstanding the lack of societal recognition of their union.

APPLICATION TO THE MORMON EXPERIENCE

Although some women chose (and choose) to leave the polygamous lifestyle, evidence indicates that many women adhere to the principle of polygamy based upon their religious conviction that it was (and is) the right choice to make. The fact that some early Mormon women left polygamous marriages is proof in and of itself that the women were not forced or coerced to stay in unhappy marriages. Whether the women are currently being forced into polygamy is unclear. Certainly, evidence such as Carolyn Jessop’s story and others like hers indicate that some women are being forced into unwanted marriages, but these stories cannot be generalized to every female in the polygamous Mormon sects. Instead, it may be that these forced marriages and oppressive conditions are the result of individual power held by Rulon and Warren Jeffs⁵ within the FLDS and are not indicative of the sentiments or actions of the majority of the sect members. It is quite plausible that some, if not many, women continue to embrace the idea as part of their religious belief system, much as Jessop’s own grandmother instilled those beliefs in her granddaughter.

Early references to the ending of polygamous marriages generally refer to “leaving” the relationship, while current references allude to “escaping” the relationship. Our culture has socially constructed a picture of polygamy that focuses on oppression, exploitation, and degradation of the female in those relationships, and applies terminology suggestive thereof. When a woman chooses *not* to leave, she is criticized. As stated succinctly by Gordon (1996:817):

[A]ntipolygamists of all stripes shared a central conviction that polygamy was dangerous politically—that polygamy was fundamentally at odds with liberty, that the freedom to choose could be negated by wrong choices.

This line of thought is very similar to the belief that women, when allowed to make personal choices, will eventually make the “wrong” choice (Solinger, 1998). As noted by Dunfey (1984:523), the

⁵ It is not currently known who has taken over as leader of the FLDS sect, given Jeffs’ conviction and incarceration. It has been rumored that either William E. Jessop or Merrill Jessop (the former husband of Carolyn Jessop) has taken over the day-to-day sect leadership although Jeffs may still be exerting a great deal of administrative control even from prison (Wikipedia, 2019).

Mormon women who practiced and supported polygamy did not appear in any way to be deluded, enslaved, or degraded. Just as women today want to make their own choices in personal matters without criticism of the general public, so too did (and do) the Mormon woman. Yet in the public's eye, her choice to accept plural marriages, and her choice not to actively vote against it once she had been given the vote, indicated an inability to make appropriate choices. Similarly, when a female belonging to the polygamous Mormon sect today decides to accept plural marriage, or to deliberately return to the sect (as in the case of Betty Jessop), her choice is described as a poor decision likely brought on by the influence of the males or the culture of the sect itself, even utilizing terms such as "brainwashing," denying the possibility that it was a conscious decision made by the woman.

For the public (of yesterday or modern-time) to decry their marriages as abominations is the epitome of ethnocentrism. Utah gained statehood on the promise that it would forbid polygamy; prior to that time, the practice was not illegal in the Utah territory. Nonetheless, the United States government felt it was its place to become the moral police of this practice, both within the confines of the states and to its territories, ultimately refusing to grant statehood to Utah until the Mormons agreed to forego polygamy. Continuing today is the notion that polygamy is somehow wrong or immoral, thus it is defined as illegal throughout the United States.⁶ Critical theorists, however, point out that the law becomes a vehicle for enforcing a particular moral philosophy. The definition of which acts are criminal is based upon what the people holding the power decides to *define* as criminal (Henslin, 2008:220). Concepts such as this are further evidenced by the state intervention into the lives of the FLDS members at the Yearning for Zion Ranch in Texas.

With regard to the issues of suffrage and divorce, constructionism would lead us to acknowledge that far from being ultraconservative, the Mormon Church was actually quite liberal. The idea that a woman should have agency, including the ability to have a political voice or to leave an unhappy relationship, is at the heart of feminism. Not only were the Mormons in favor of women's suffrage, but they were willing to allow her to leave an unhappy marriage, both of which were unconventional concepts. Although the argument could be made that easy divorce benefited the man more than the woman, especially in light of educational standards and economics during this time period, the Utah law nevertheless gave the right to seek a divorce equally to a male or female petitioner. Similarly, the argument could be made that the Mormon men forced their wives to cast a particular vote, but there is no firm basis for this conclusion.

Many scholars have noted that contrary to the assumption that early Mormon women had no choice as to whom to marry, and no control once married, journals of the women suggest otherwise. Journal entries reflect that many women initially had negative reactions to the idea of plural marriage, which their husbands appear to have accepted and respected. Jane Snyder Richards' journal reports that she told her husband the idea of a second wife was "repugnant to her idea of virtue" (Dunfey, 1984:526, quoting Richards). Her husband did not raise the issue again for three years, telling her he would not practice polygamy "if he did not think she would love his wives as much as he himself" (Dunfey, 1984:527, quoting Richards). Eventually, it was she who raised the issue again, after having a vision and recognizing it as her religious duty (Dunham, 1984). In addition to being given a choice to practice polygamy, the women also used the plural marriage system as a form of control over their own fertility

⁶ Congress officially outlawed polygamy in 1862. It should be noted that Utah reclassified bigamy as an infraction in 2020, a progressive step, but it nonetheless remains illegal.

(Dunfey, 1984). They believed the Mormon men were morally superior to non-Mormon men, and they believed it was a woman's place to bear children in order to give life to the waiting souls. Therefore, they chose to marry Mormon men, they chose to bear his children, and they chose to agree to his taking of additional wives. Specific to the issue of fertility, rather than bear a child to just "any" man, they were choosing to bear a Mormon man's child. And, because their belief system strictly adhered to a "sex is for procreation, not recreation" stance, they were not expected to engage in sexual intercourse at the husband's every whim, nor were they expected to engage in sex during pregnancy or while nursing.

Once the women accepted the idea of polygamy and entered into these relationships, historical evidence indicates that although they suffered great pains of jealousy, they otherwise found a great deal of emotional comfort from the other wives and the many children. This bonded situation of the multiple wives allowed them a great deal of control within their marriages (Dunfey, 1984). Whether the modern polygamous Mormon wives share this bond most likely varies based on general personality and temperament, as is evidenced by the words shared by these women in the few interviews they offer to the media. Certainly, Elizabeth Joseph declared her strong bond with her sister-wives, stating "The women in my family are friends. You don't share two decades of experience, and a man, without those friendships becoming very special" (Joseph, 1997), and the daily lives shown to the audience by the Browns in "Sister Wives" and other polygamy-focused reality television programs also indicate women can accept and embrace the practice of polygamy. Polygamy, it could be argued, can be just as satisfactory an arrangement as monogamy, but for the moral value judgments placed on it.

THE LEGAL STATUS OF POLYGAMY

Some legal scholars suggest that in the wake of 21st century victories for homosexuals, such as *Lawrence v. Texas* in 2003 which affirmed the right of adults to engage in consensual sexual relationships based upon a constitutional right to privacy; *United States v. Windsor* in 2013 which effectively invalidated the Defense of Marriage Act passed by Congress in 1996, declaring it unconstitutional as its language led to a "deprivation of the liberty of a person protected by the Fifth Amendment" and *Obergefell v. Hodges* in 2015 which affirmed the act of marriage itself as a fundamental right guaranteed by the Constitution, that the logical progression from those cases is an affirmation of the right to marry multiple partners (Swisher, 2015). Indeed, Chief Justice Roberts, although dissenting from the majority in *Obergefell*, noted:

One immediate question invited by the majority's position is whether States may retain the definition of marriage as a union of two people. . . . Indeed, from the standpoint of history and tradition, a leap from opposite-sex marriage to same-sex marriage is much greater than one from a two-person union to plural unions, which have deep roots in some cultures around the world. If the majority is willing to take the big leap, it is hard to see how it can say no to the shorter one. . . . It is striking how much of the majority's reasoning would apply with equal force to the claim of a fundamental right to plural marriage. (*Obergefell*, 2015, Part II(B)(3))

The late Justice Scalia also recognized the similarities between same-sex marriage and polygamy, writing that the ruling of the majority in the *Lawrence* decision would call into question the laws against bigamy.

The progression of Court decisions regarding fundamental rights is of utmost importance to the question of changes in the laws surrounding polygamy. Although the Constitution does not explicitly guarantee a right to privacy, the Supreme Court has held that there is a penumbra of rights that are created from the various Amendments, specifically the First, Third, Fourth and Fifth, which can be inferred from

the enumerated rights. In particular, one of the zones created by the penumbra is a right to privacy, including marital privacy (*Griswold v. Connecticut*, 1965). Following the *Griswold* decision, the Court's 1967 *Loving v. Virginia* ruling invalidated laws against interracial marriage. In *Loving*, the Court declared marriage as a "basic civil right[s] of man." Again, taking up the question of basic rights, the Court in 1978 declared in *Zablocki v. Redhail* that the right to marry was a basic freedom guaranteed by the United States Constitution. In its *Windsor* decision, the Court noted that the Defense of Marriage Act disparaged same-sex couples "who wanted to affirm their commitment to one another before their children, their family, their friends and their community"—yet that is precisely what the laws against polygamy continue to do. Value judgments intimating that marriage to more than one person is immoral or promiscuous has allowed legislatures and courts throughout the United States to continue to deny legal recognition to those practicing polygamy. Thus, even among polygamous Mormons, the legal status of marriage is bestowed only upon the first wife, while the remaining "wives" do not enjoy any legal recognition or legal protection of their status, instead being placed into a status of "spiritual wife" only, cohabitating but not legally married.⁷

As public interest in polygamous relationships rose in the early 21st century due to media coverage, the Brown family, the subjects of the "Sister Wives" reality television show, raised a legal challenge to Utah's laws against polygamy, but after prevailing at the district court level, the US Court of Appeals for the 10th Circuit dismissed their claim for lack of standing, and the US Supreme Court declined to hear the matter (*Brown v. Buhman*, 2017; Carlisle, 2017). Should a party with standing bring a future challenge to the laws against polygamy, the Court could well employ the language from *Obergefell* to render its decision on the fate of polygamists:

Many who deem same-sex marriage to be wrong reach that conclusion based on decent and honorable religious or philosophical premises, and neither they nor their beliefs are disparaged here. But when that sincere, personal opposition becomes enacted law and public policy, the necessary consequence is to put the imprimatur of the State itself on an exclusion that soon demeans or stigmatizes those whose own liberty is then denied. Under the Constitution, same-sex couples seek in marriage the same legal treatment as opposite-sex couples, and it would disparage their choices and diminish their personhood to deny them this right. (*Obergefell*, 2015, Part III)

Opponents of polygamy, as noted by Swisher (2015), have traditionally argued that polygamous relationships lead to a variety of negative societal outcomes, notably underage marriage, child abuse, and incest, along with relegating women to an inferior status and the potential for welfare fraud. However, as he skillfully explains, laws exist at both the federal and state level to prosecute those individual crimes, which can and do occur in monogamous and single-family households, and which are neither exclusively nor necessarily an outcome of polygamous relationship. Those crimes could effectively be prosecuted separate and distinct from any connection to polygamy. Thus, the insistence of legislative bodies to refuse the right to marry to *consenting adults* amounts to a moral judgment against a lifestyle choice or, for fundamentalist Mormons, a tenet of their faith, which is arguably a fundamental right protected by the

⁷ Although many states have laws that prohibit cohabitation and adultery, cases are seldom prosecuted. Cohabitating while legally married to another person may be against the law, but the act is distinct from bigamy, wherein a person attempts to enter a second legal marriage.

Constitution of the United States. Notably, a recent change to the state law of Utah occurred in March 2020, decriminalizing bigamy, which had previously been classified as a felony punishable by up to \$5,000 and five years in prison, reclassifying it as an infraction. Supporters of the bill argue that by decriminalizing the practice of plural marriage, women who are in abusive relationships will be able to feel safe coming forward without fear of prosecution. Meanwhile, opponents of the change argue that it is one step closer to legalizing polygamy, which they aver is a situation where women “are treated as property, forced to work without pay, traded as daughters, coerced into having unwanted sex, and into giving birth to numerous children they cannot care for” (Kaur, 2020). The future of the laws surrounding polygamy are uncertain, but the potential for change clearly exists.

CONCLUSION

Notwithstanding the evolution of marriage rights and marriage laws through Supreme Court decisions, for many the “Mormon Question” is well-settled and is not a matter of legal interpretation but rather a principle of their faith. The master status of the historical Mormon woman and the modern fundamentalist Mormon woman is clearly her identity as a mother. The women (as mothers) were and are given especially high regard, for it is only through her reproductive capabilities that the Mormons can realize their goal of ushering in the Second Coming of Christ. Motherhood is one sacred responsibility bestowed upon the woman, passed down through interpretation of the scripture, both by the Church and within the family itself where the grandmothers and mothers teach the young girls that bearing children is her destiny. Within the historical Mormon church, a barren woman was to be pitied by the community and even shunned by her husband because she could not achieve this ultimate status, while expectant and nursing mothers were afforded a protected status whereby they were not expected to engage in sexual intercourse, instead devoting all their energies to the nurturing of the child. As originally noted by Margaret Mead and reiterated by Balin (1988:275), “pregnancy and childbirth are also social events, and as such are imbued with vastly different social and symbolic meanings from one society to another.” Certainly, within the Mormon society this was an event to be revered—the bringing forth of new life, nurturing the child into a righteous community which would form the foundation for the ultimate return of Christ. Balin goes on to note that within mainstream American culture, pregnancy is treated as a sacred event (1988:298). It stands to reason if a largely secular society bestows this sacred status upon mothers, how much more sacred and symbolic this event must be to a highly religious subculture such as the fundamentalist Mormons of the 21st century.

Amidst the changes that were occurring during the early years of the 21st century among members of the FLDS, the news coverage of the YFZ Ranch and the fate of Warren Jeffs, the entertainment media took this as an opportunity to capitalize on the concept of polygamy through production of several films and television series devoted to the idea. Showing both sides of the situation through documentary programming such as “Escaping Polygamy,” “Escaping the Prophet,” and “Polygamy, USA,” to the fictional series “Big Love,” to the reality-television programs such as “Sister Wives,” the media has managed to bring the topic of polygamy into homes throughout the United States. The very fact that the programming has garnered such a following over the past two decades among the public is a testament to the interest that the lifestyle choice of polygamy, or in other instances, to the drama of the escape of those who are oppressed by the practice, holds for the many regular (or even sporadic) television viewers. The mass media simultaneously produced a *culture of fear* based on events at the YFZ Ranch and the scandal surrounding Warren Jeffs, with newspaper headlines such as “Life in the Cult” (Atlas, 2008) and book titles such as “Escape” (Jessop, 2007) and a *culture of intrigue* through fictional scripted

programming such as “Big Love” premiering in 2006, and reality-television coverage of “Sister Wives” beginning in 2010, followed by “My Five Wives” in 2014, and both “Three Wives, One Husband” and “Seeking Sister Wife” in 2018.⁸ Nonetheless, media coverage generally does not adequately convey what life *means* to those women who support plural marriage and are part of a polygamist culture; their experiences are mediated by the drama of reality programming. Evidence suggests that the popular view of oppression, exploitation and degradation of the females has been sensationalized, both in historical and modern times, socially constructing an immensely negative image of the practice in order to maintain the façade of morality and purity within our mainstream monogamous society which in turn serves to justify the continued existence of laws that prohibit polygamy.

Plural marriage—which throughout this article has been defined as one male and multiple females, but which would almost certainly encompass other arrangements as well, should the Supreme Court build upon current case law as it relates to fundamental rights surrounding marriage—is a contentious issue in our society; the overwhelming majority is vehemently opposed to it. A 2017 Gallup Poll questioning the “moral acceptability of polygamy” indicated only 17% support for polygamy, up from only 7% in 2003, an increase that could be attributed to a heightened awareness about polygamy due to media television programming, but which is not in line with the liberal changes in attitude otherwise evidenced in the 21st century such as the attitude toward homosexuality and homosexual marriage (Dugan, 2017). Thus, polygamy remains one of the most “morally taboo social behaviors” (Dugan, 2017), but a small minority continues to practice and defend it, nonetheless.

The laws related to the current definition of marriage is problematic for groups who have been socialized with an alternate worldview. The social constructionist framework challenges the basis of the claim being made by the laws that continue to define marriage as a relationship solely between two individuals. These laws implicitly assert that polygamous relationships are undesirable, unhealthy or even immoral, even when the relationship stems from a religious belief system. For those who choose polygamy for reasons other than religious beliefs, the value judgment is arguably even harsher. Seen through the lens of social constructionism, polygamous relationships are “lesser than” monogamous relationships solely because this is how the laws are written, socialization experiences reinforce monogamy, and mainstream society has accepted and chosen not to challenge that worldview. As has been witnessed with the 2015 change in same-sex marriage laws nationwide and with the more recent 2020 change to the bigamy law in Utah, the dominant worldview on the institution of marriage in the United States is not carved in stone. The potential for change is clearly articulated in the following passage from *Obergefell*, Part II(B), authored by Justice Kennedy, providing a succinct closure to the current discussion: “Indeed, changed understandings of marriage are characteristic of a Nation where new dimensions of freedom become apparent to new generations, often through perspectives that begin in pleas or protests and then are considered in the political sphere and the judicial process.”

⁸ Seeking Sister Wife does not focus exclusively on Mormon polygamists.

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