

Janet Bennion and Lisa Fishbayn Joffe (eds): *The Polygamy Question*

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Polygamy presents a nested set of questions regarding ethical and moral permissibility, religious justification, and challenges of legal regulation. *The Polygamy Question* sets a three-part goal: to trace the genealogy of contemporary interest in polygamy, explore arguments for and against legal recognition in North America, and consider how recognition might work in practice (p. 3). The eleven essays consider different facets of polygamy, presenting multiple, and sometimes opposing, perspectives.

The essays are divided into two sections, which correspond to two key issues identified by the editors: (1) what are the harms and benefits of polygamy and (2) “If the alleged harms of polygamy stem from the institution itself in all its instantiations, how could it be regulated by the state?” (p. 12). The premises of this approach seem to be that an objective determination of the polygamy benefit/harm ratio is possible, and the result of that calculation should inform state response. However, the essays themselves seem to support no such conclusion. The strength of the collection is in the multifaceted presentation of polygamy as a lived experience .

Although some essays use non-North American examples as a point of contrast, the focus is solidly upon the United States and Canada. The social, political, and legal history of polygamy is explored with special focus on a key court case in each locale: the 1879 case on Mormon polygamy in the United States, *Reynolds v. US*, and the 2011 judgment on polygamy in Canada, *Reference re: Polygamy*. Several essays mention the 2013 Utah district court case of *Brown v. Buhman*, which was overturned by the Tenth Circuit since publication of the book (and may be appealed to the US Supreme Court). This serves to reinforce the continued contemporary significance of polygamy questions.

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Religious justifications of polygamy and the welfare of women are twin threads that weave throughout the essays. In the opening essay “Polygamy in Nineteenth Century America,” Sara Song demonstrates how professed concern for the patriarchy of polygamy deflected attention from equally-problematic aspects of monogamy. In addition to plural marriage, the LDS church allowed easy divorce and women’s suffrage—two challenges to the legal doctrine of coverture that denied married women control of their lives. Her analysis of the *Reynolds* opinion includes reference to political pressures of the time. The second essay takes issue with the role that women’s equality played in the 2011 judgment of the Supreme Court of British Columbia. Lori Beaman calls upon her vantage point as a feminist researcher who studies religion and women’s agency to say that the “near-hysterical and moralistic response” to the decriminalization of polygamy fits “within a framework that has consistently denied agency to some religious women. Women who are religious... are not imagined to make choices in the same way as the ‘free’ women of the sexually liberated neoliberal market-capitalist world” (p. 43).

Two essays present perspectives from within polygamous communities. Debra Majeed gives voice to two African American Muslim women in polygamous marriages, both Midwesterners in their fifties. She describes how each views Islamic cultural practices and scriptural authority, with the emphasis on having a *halal* relationship rather than legal recognition. One is happily helping to find a woman to add to her marriage, the other eventually divorced after being abandoned upon the arrival of a new wife. Majeed also describes the relationship between co-wives, and with other women living in polygamy, “[All] women in multiple-wife marriages knowingly or unknowingly acknowledge the legitimate interference of other women in their own personal liberty and identity” (p. 99). In her second essay, Sarah Song includes perspectives of Mormon women in arguing for qualified recognition of polygamy. She finds a “contested practice” with Tapestry of Polygamy (a group of wives who have left plural marriages) on one side, and on the other side, women now living in polygamous relationships, such as members of the Women’s Religious Liberties Union. They promote polygamy as good for women because shared childcare and household responsibilities allow women to pursue both career and family (p. 201).

Janet Bennion draws upon her experience as a descendant of Mormon polygyny and two decades of ethnographic field research to identify variables that characterize what she calls “poor-functioning polygamy.” The first is illegality, the remaining four could apply equally to monogamous relationships: geographic isolation, socioeconomic inequality, male supremacy, economic deprivation, absence of female networking, and presence of sexual, physical, and emotional abuse (p. 62). She argues for legalization of polygamy, and for recognition of “the strength of people’s ties to their cultural norms” (p. 77), while guided by “the goal of facilitating meaningful choices for women” (p. 82).

In contrast, Maura Strassberg argues that it is specifically the theological commitments of religious polygamy that make it inherently coercive and harmful to women. She distinguishes this traditional understanding of plural marriage from “polyfidelity:” a union of multiple spouses not based upon religion or culture. While acknowledging that adultery, fornication and same-sex relationships have

been decriminalized as expressions of personal liberty, Strassberg says this argument should apply only to “pure polyfidelity... based on love and sexual attraction” and not fundamentalist Mormon polygyny, which she says is based on reproduction and patriarchy. “[If] decriminalization of fundamentalist polygyny is sought on religious grounds, I argue that the extraordinary coercive potential of polygyny shaped by and practiced in the context of fundamentalist Mormon theology should take it out of the protection ordinary religious practice receives under the constitution” (p. 197).

Other essays consider the economic impact of polygamy on marriage markets, the practical problems involved in applying family and immigration law to families with multiple spouses, and whether polygamy should remain a crime, given contemporary attitudes toward personal relationships in the US and Canada. Amid their diverse perspectives, the essays come to agreement that “Contemporary modes for regulating polygamy need to be rethought in light of changing demographics, changing mores, and changing legal norms” (p. 18). As the essays are all concerned with the practice of polygamy in North America, they draw upon the same legal cases, communities, sometimes the same incidents or anecdotes. This results in repetition, but allows each essay to stand on its own. With the background provided in the introduction, it is possible to focus on the issue of a single chapter without reading every essay, which is helpful for targeted research. However, reading the essays in conversation with each other provides a valuable insight into the complicated status of polygamy in contemporary society.

References

- Brown v. Buhman*, 947 F. Supp. 2d 1170 (D. Utah 2013).
Brown v. Buhman, No. 14-4117, 2016 WL 1399358 (10th Cir. Apr. 11, 2016), *aff'd* by *Brown v. Buhman*, ___ F.3d ___, 2016 WL 2848510 (10th Cir. May 13, 2016).
Reference re: Section 293 of the Criminal Code of Canada, BCSC 1588 (2011).
Reynolds v. US, 98 US 145 (1879).