Response
Who Decides? Harm, Polygamy and Limits on Freedom

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ABSTRACT: This essay considers the issue of polygamy in response to Stephen Kent’s arguments in an article in this issue. Ultimately, disagreements about religious freedom often emanate not from completely divergent positions, but from differences about the interpretation of boundaries and where they should be drawn. Kent and I agree on several points: 1) no woman or girl should be forced to marry and/or have sexual relations against her will; 2) men who abuse women or children in the name of religion should not be protected under the guise of religious freedom; 3) women who report being abused in polygamous (or any) relationships should be taken seriously. Finally, and related to point two, a theological basis for the abusive behavior is not an automatic protection from sanction. Despite these agreements, there are significant points of departure between Kent and myself, including the characterization of polygamy as inherently abusive, the use of media reports as generalizable data, and the conceptualization of agency of women who choose to live in polygamous relationships.

Defending religious freedom is not a simple endeavor, since we need to balance the abstract notion of rights against the real results of harm of those who were abused. Theoretically, distinguishing religious freedom rights from harmful practices is messy, drawing on theories of agency, justice and freedom. One must grapple with the very definition of religion, contending with narrow definitions from both fellow scholars as well as from society. Pragmatically, one must deal with groups whose beliefs and practices are at odds with one’s own beliefs. Sometimes one finds oneself positioned in opposition to one’s...
colleagues. Ultimately, that disagreement often emanates not from completely divergent positions, but from differences about the interpretation of boundaries and where they should be drawn. Such is the case in this discussion between Stephen Kent and myself. Stephen Kent’s article in this issue, “A Matter of Principle: Fundamentalist Mormon Polygamy, Children, and Human Rights Debates,” articulates some points with which few of us, no matter on which side of the “new religious movements/cults” divide we find ourselves, would disagree.

First, no girl or woman should be forced to marry and/or have sexual relations against her will. This is axiomatic, and perhaps does not need to be said, but I want to be clear that allowing social and legal space for polygamy is not the same as condoning in any way the abuse of girls and women. Stephen Kent suggests that abuse happens in polygamous relationships, and I have no doubt that he is correct, just as the sexual abuse of girls and women happens in other sorts of relationships and circumstances. Polygamy does not inherently lead to abuse, any more than celibacy does. My concern is that stories of abuse overshadow stories of women who have chosen to live in polygamous relationships who are not abused. To characterize their choice as “not a real choice” dismisses their agency altogether and demands that they be treated as poor brainwashed dears who must have protective intervention because they cannot protect themselves.

At the time of writing this reply I have just finished writing a text on gender. My research for that book included a review of the literature on a variety of types of sexual relationships, including polyamorous relationships. None of that literature included groups or individuals who were religiously motivated. In December 2005 the Supreme Court of Canada in R. v. Labaye overturned a conviction for indecent criminal conduct. The activity in question involved the running of a club in which people participated in sexual activity with multiple partners—a “swingers” club. The Court found that such activities did not cause harm to a degree that impedes the proper functioning of society. In 2004 the Supreme Court of Canada and the federal government paved the way for same-sex marriages to be solemnized. Interestingly, some of the opposition to that legislation was that it would also pave the way for polygamists. Sexual relationships that do not fit the hegemonic, and partly mythical, “one man and one woman” model challenge and frighten, but they are not inherently abusive or problematic. When they are overlaid with religious beliefs, however, they seem to be especially likely to raise objections. Moreover, polygamy cannot and should not be reduced (as I believe it is by Kent) to sexual relationships: rather it is a particular kind of family arrangement.

I cannot help but think about the conflation made between “pedophiles” and homosexuals during the sexual abuse scandal in the Roman Catholic Church. It seems to me that the discussion here is
similar: neither Kent nor I want to condone the abuse of girls or women, or the transnational trafficking of girls. But, I also do not want to conflate child abuse with polygamy, nor do I want to assume that all polygamous relationships are inherently bad for women. In its recent decision on Sikh males carrying kirpans in schools, the Supreme Court of Canada emphasizes the importance of considering the specific environment or context in which religious practices are at issue. This caution can be extended to polygamy. While cross cultural comparisons can be productive, if made in the abstract to judge religious beliefs and practices, they risk gross generalization that serve little purpose.

The second thing on which Stephen Kent and I agree is that men who abuse children or women in the name of religion should not be protected under the guise of religious freedom. Nor, however, should polygamy be criminalized in order to preserve the pickings for younger men—this is the implication of some of the arguments against polygamy, such as Kent’s statement that “it has proven to be very costly to its young men, whom the older polygamists see as sexual competitors and threats” (this issue).

Finally, and related to the second point above, is that a theological basis for the abusive behavior is not an automatic protection from sanction. However, simplistic or decontextualized interpretations of theology do little to advance our understanding of the issues. Religion is lived, and biblical and theological texts often are removed from religion as it is practiced in everyday life. And here again it is important to examine carefully the ways in which members of a particular group actualize their beliefs. The equation of polygamy with abuse does little to advance our understanding of the religious beliefs and practices of those who include polygamy as part of their religious worldview.

The need to prosecute polygamous Latter-day Saints has disappeared in that the original intent of the legislation in Canada, which was aimed specifically at Mormons, was to exert social control over a group whose beliefs and practices were framed in a manner such that they were seen to subvert the very existence of the nation. This is not to say that when children or women are abused that individual perpetrators should be exempt from legal sanction. I do not want to belabor this point, as I have argued it extensively elsewhere, but it is a point that has been taken up by both Kent and the Alberta Civil Liberties Research Centre in the polygamy papers prepared for Status of Women Canada. It is well known that the separation of families in Short Creek was disastrous. The characterization of polygamous families as maladaptive is not a particularly helpful analytical tool in that it contains an underlying assumption about normalcy that begs the question of how power relations play out. Underscoring those relations are questions about how people choose to act.

The line between choice and force is not as clear as we might wish, and the determination of the location of the boundaries is a delicate balance. Eileen Barker is perhaps the grande dame of this balancing act.
Her conceptualization of agency is theoretically sophisticated. The use of her theory of agency extends far beyond the field of sociology of religion. Yet, she is not an apologist for new religious movements or marginal religious groups. Barker’s work demands that we take new and marginal religious movements seriously, but it does not demand that we nod glibly and accept their every belief and practice without critical examination when harm is identified as an issue. Barker draws the line at harm, as does Stephen Kent, but the manner in which they conceptualize that harm is different. Barker begins with an assumption of agency; Kent begins with an assumption of compromised or impaired agency. There is sometimes a fine line between paternalistic approaches to women and laws and policies that ensure that women can exercise their agentic capacity. In the last line of his article, Kent frames the concerns of the state and other critics as “fear that human rights violations are occurring against people who may lack the power and/or insight themselves to represent their own best interests.” Ironically I am reminded of Catherine MacKinnon’s argument that all sex can be conceptualized as rape, based on the argument that in the current patriarchal order even when women think they are making a choice to have consensual sex they aren’t, because they are so immersed in their own oppression that they cannot see it. I am also reminded of the European colonizers’ assumptions that Native Americans had no religion and thus they needed to be “enlightened” through the systematic destruction of their language and culture and the introduction of better ways such as Christianity. Arguments that begin from certainty in one’s own enlightened position and a portrayal of the “other” as duped, unenlightened, or brainwashed should raise red flags for all of us.

Debates about religious freedom almost always involve some discussion of human agency, which takes us to a central debate across disciplines, including sociology, philosophy, political science, and which is as yet unresolved. My reading of studies that have focused on women in “fundamentalist” religious groups, including Orthodox Jews, Mormons, and the Amish leads to the conclusion that questions of agency in such circumstances are complex. My colleague Homa Hoodfar’s work on Muslim women and the veil has been especially helpful in this regard: her work underscores the multiplicity of factors that contribute to women’s decisions to wear or not wear the veil. The inevitable conclusion is a question: who is qualified to determine whether women are “freely choosing”? This is even more complicated when we consider the work of Rebecca Johnson and Robin West, who challenge the liberal myth of the independent, freely choosing citizen. Choice, they argue, is always bounded by social and cultural relations. To say, therefore, that women “choose” to have children must be a discussion that is embedded in the material reality of body—only women can have children. This recognition of situatedness does not nullify agency, rather it reveals its complexities.
Discussions of polygamy must start from the same place, acknowledging that “choice” is multi-layered.

There is no doubt that there are stories of abuse and terror associated with religious participation, no matter what the religious group under discussion. There is abuse and control and patriarchy among most groups of human beings, religious or not. Sometimes the abuses are isolated and perpetuated by individuals, sometimes they are engrained in the processes of power. Sometimes the horror stories come from isolated “exes,” who are disgruntled or harmed. Sociologists of religion have long been cautious about using “ex” stories to assess the practices and beliefs of religious groups. This is not to discount them entirely, but to recognize that they may offer limited insight into religion and those who believe and practice.

Stuart Wright compares belonging to and leaving a religious group to divorce. He argues that such a conceptualization leaves room for the complexity of the relationship between believers and the group. Wright argues that the coercion model (and I would argue that those who reject polygamy as inherently “bad” are adopting such a model) smoothes over those complexities, highlighting the loss of autonomy without considering the nuance of human agency. Wright points out that “not unlike disenchanted spouses, disgruntled devotees discover that the group to which they committed may never be what they assumed, expected or hoped it would be.” Wright cautions that, like divorce, the end of a believer-group relationship can result in feelings of depression, loneliness, dissociated states and obsessive review. Wright by no means suggests that accounts of abuse be diminished or dismissed. He states, “the marital disengagement model is sufficient to explain elements of control, periodic manipulation or abuse. Some members of cults are victims of abuse, even as some marital partners are victims in bad marriages. . . . Since all marriages cannot be judged by a small number of bad marriages, it seems only reasonable to extend this logic to new religions.”

There are times that accounts of abuse or manipulation represent a systemic problem. For example, polygamous women have themselves raised the issue of young girls marrying significantly older men, and have and are lobbying for change. Their dilemma raises the key problem in assessing religious groups on the basis of horror stories. As they point out, the all-or-nothing position of the Canadian state has left women and children especially vulnerable to abuse. The state’s position of pretending polygamy does not exist has meant that members of polygamous groups are left without legal protection. It is as though the state has taken the position that if someone chooses to involve herself with such a religious group, they should not expect state resources to be used to protect them should trouble arise. I think this is perhaps where Stephen Kent and I agree: the choice to exercise religious freedom should not leave one without legal protection if one suffers harm.
This is one of the central points made in the 2006 report by Martha Bailey, Beverley Baines, Bita Amani and Amy Kaufman prepared for Status of Women Canada. They argue that in order to best protect women and children polygamy should be decriminalized, not legalized. (We might think of this as a typical Canadian compromise!)

But the determination of harm is not something that can be arrived at by a formula. Harm is a wild card that can be played by any number of interested groups. As I write this response in 2006 the world is embroiled in a bitter contest over the publication of cartoons insulting Muhammad in a Danish newspaper. The contest is being framed by some as a battle between the harm suffered by the Muslim community versus the harm suffered if freedom of expression is curtailed by fear or threat of violence. The harm argument is being deployed from a number of fronts, yet there have been very few genuine attempts to understand the ways in which the offended religious groups understand and contextualize their experiences of seeing the cartoons. This would seem to me to be an obvious beginning point—the place at which religion is lived. So too, it is important to examine the ways in which those who live in polygamous relationships conceptualize their own lives. To fail to do so is as patriarchal as some people assert the very existence of polygamy is. As I have argued previously, the expressions of faith of religious minorities are most likely to be characterized as harmful. Alternatively, as was the case in an early post-Charter religious freedom decision by the Supreme Court of Canada, infringement of their religious freedom is more likely to be described as “miniscule.”

By focusing on horror stories we feed the public perception of marginal religions as wacky fringe groups whose members are brainwashed and out of control. The assessment of stories of abuse is a delicate balance. I am not advocating sweeping such stories under the rug. Those who have experienced hurt in religious communities deserve to be heard. But, too often there are deleterious effects of horror stories that obscure the complexity of life in new religious movements.

It is not our job as sociologists to protect new religious movements or marginal religions. But, we must go beyond single stories of abuse before making sweeping conclusions about religious groups. Media sources should not substitute for high quality social scientific research. Stephen Kent points out the value of media sources of data in a footnote (17) in his article. I agree with him—media reports can raise issues that are important for social scientists to pursue further using the resources available to us, such as expertise in a particular field, research funds, and time to examine more fully social issues, which our colleagues in journalism often do not have. My point is not intended to disparage media efforts to help those who are disadvantaged or who somehow find themselves silenced. But, a few media stories of former members do not give us a good database. This is also not meant to discount the stories of those people. But, we would not use a few stories from any community.
to assess it in its entirety. We might use them to prompt an investigation, to bring charges and obtain convictions of individual perpetrators, but not to condemn the beliefs and practices of an entire group. In an interesting twist, a recent media report took up the story of women from Bountiful who reported that they were happy in their community. An organization called the Women of Bountiful reportedly proclaimed the benefits of plural marriage, including shared labor and higher family incomes. They report that there have been only two plural marriages of girls under sixteen. And, like other women in polygamous communities, they are lobbying for a ban on marriage for young women under eighteen, which would actually be two years older than the law permits (under eighteen must have the consent of parents).

Why are we willing to put greater weight on the stories of those who have withdrawn from religious groups as sources on which to base our understanding of the entire group? There is more to be lost than gained from such an approach, since it promotes a hegemonic ideal that flattens diversity and renders meaningless the commitment, at least in Canada, to a constitutionally enshrined recognition of the importance of multiculturalism. I propose that we move through these issues carefully. First, we need to carry out high quality social scientific research that explores the ways in which individuals and communities experience polygamy in their social and cultural contexts. Second, we must take seriously the stories of those who have experienced abuse in their religious communities, but we must refrain from jumping from singular stories of abuse to condemnation of entire religious groups or communities. Finally, the voices of those who have positive experiences must be honored as well, and not discounted by assumptions about diminished agency. Like any group, religious communities are made up of complex power relations and networks in which there is a structure-agency dynamic that can both empower and repress.

The issues around the criminalization of polygamy are not simply (or at all) about the “protection” of girls and women. The genealogy of polygamy law is interesting, and was undertaken briefly in my article that in part prompted Kent’s essay. The Criminal Code provisions were originally enacted to respond to a perceived threat to nation by “the persons commonly called Mormons.” Gradually, though, the law was amended to remove mention of Mormons, and prosecutions under it have been sparse and attention to polygamy has become important in relation to immigration. It is important to ask questions about the purposes of prosecution when criminal laws are selectively enforced.

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ENDNOTES

1 For an interesting reversal of perspective on polygamy that raises important issues of colonial power, see David Maillu, Our Kind of Polygamy (Nairobi: Heinemann Kenya, 1988).

2 Lori Beaman and Beverly Matthews, Sociology of Gender (Don Mills, Ontario: Pearson, forthcoming).


4 Judith Butler in Undoing Gender (New York: Routledge, 2004), 5, argues: “The enduring social ties that constitute viable kinship in communities of sexual minorities are threatened with becoming unrecognizable and unviable as long as the marriage bond is the exclusive way in which both sexuality and kinship are organized.”


9 David Bromley’s discussion of agency is also useful in this context. See David Bromley, “A Tale of Two Theories: Brainwashing and Conversion as Competing Political Narratives,” in Misunderstanding Cults: Searching for Objectivity in a Controversial Field, ed. Benjamin Zablocki and Thomas Robbins (Toronto: University of Toronto Press, 2001), 318–48.


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18 Wright, “Reconceptualizing Cult Coercion and Withdrawal,” 133.
19 Wright, “Reconceptualizing Cult Coercion and Withdrawal,” 141.
22 Beaman, “Church, State and the Legal Interpretation of Polygamy in Canada,” 20–38.