



## **Beyond Borders Fact Sheet on Child Marriage**

**March, 2009**

### **Synopsis**

Child marriage involves the marriage of anyone below the age of 18. It is the marriage of a child to an adult or another child, and may be legally condoned by national laws. These marriages are often given legal sanction because of legislative loopholes may camouflage the sexual exploitation of children. While a child cannot be expected to appreciate all the implications of marriage and give full and informed consent to it, their wishes are generally overlooked in the arrangement of such a marriage.

Child marriage increases the vulnerability of girls in particular to sexual exploitation through all stages in their lives, and puts very young girls at risk of health problems associated with early sexual intercourse and pregnancy. Child marriage can be regarded as a form of commercial sexual exploitation of children (CSEC), where a child is to be used for sexual purposes, through marriage, in exchange for cash, goods or kind. This is the case where parents or a family marry off a child in order to gain benefit or to support the family. Child marriage is also associated with later divorce or abandonment, which often means acute poverty for the girl or young woman leaving them more vulnerable to resorting to some form of commercial sex to survive.

Different societies have different perceptions of childhood, but most governments, including Canada, have committed through the *Convention on the Rights of the Child* to ensure the overall protection of children and young people below the age of 18. In particular, governments have committed to safeguarding children from all forms of abuse and exploitation, as well as upholding their rights to health and protection from harmful traditional practices, which include child marriage. Any rationalisation of child marriage as a “practice of tradition” overlooks the fact that such marriages are often arranged within social milieu where the rights of children to protection as embodied in the CRC are absent. As such, these marriages may cater to a demand for children as sexual partners in ways that are not identified by society as actual abuse. Overall, the argument for such traditional practices lends legitimacy to this sexual abuse and exploitation of children. Child marriage should be seen in the context of CSEC and identified as such.<sup>i</sup>



## Who and Why

In Canada and the United States, child marriage is closely linked to polygamous marriage. In Bountiful, a community of about 1,000 in Southern British Columbia, polygamy has been openly practiced for more than half a century. Those who practice it are members of the Fundamentalist Church of Jesus Christ of Latter-day Saints (FLDS); polygamy is a central tenet of their faith. It is common among them for men to be married to many, even dozens, of wives and to father scores of children.<sup>ii</sup> There are thousands of other FLDS members and members of other sects practicing polygamy in such places as Utah, Arizona, Texas, Idaho and Mexico. Bountiful is split into two religious factions, with half of its residents loyal to local bishop Winston Blackmore, and the other half loyal to the more radical “prophet” Warren Jeffs from the twin towns of Hildale, Utah and Colorado City, Arizona. None of these sects are associated with the much larger Church of Jesus Christ of Latter-day Saints, which has disavowed the practice of polygamy since 1890.<sup>iii</sup>

There are serious allegations of child sexual abuse occurring among the FLDS. Allegations have been made that girls as young as 14 and 15 have been married off in the community to much older men and that these girls have been told that refusing these unions would ensure their eternal damnation.<sup>iv</sup> Blackmore admits to having “married several young wives” in his life. Members loyal to him will only admit that two girls younger than 16 have ever entered into plural marriages in the community, and one of these was 14. Recently, they have vowed that henceforth no one under 18 would be allowed to enter into a plural marriage.<sup>v</sup> This says nothing about the other half of Bountiful that is still loyal to Jeffs. In May 2006 he was placed on the FBI's Ten Most Wanted List for unlawful flight to avoid prosecution on Utah state charges related to his alleged arrangement of extralegal marriages between his adult male followers and underage girls. He was arrested in August 2006 in Nevada, and agreed to be taken to Utah for trial. In May and July 2007 the State of Arizona charged him with eight additional counts, including sexual conduct with minors and incest, in two separate cases. His trial, which began early in September 2007 in St. George, Utah, lasted less than a month, and on September 25, 2007 the verdict was read declaring him guilty of two counts of rape as an accomplice. On November 20, 2007 he was sentenced to imprisonment for 10 years to life and has begun serving his sentence at the Utah State Prison.<sup>vi</sup> Eight other sect leaders in the U.S. have surrendered to authorities on charges of sexual misconduct with underage brides.<sup>vii</sup>

There have been many allegations of child sexual abuse in recent years in both Bountiful and U.S. polygamous communities. Debbie Palmer, a former child bride from Bountiful, recently released a book in which she describes her entrapment in a plural marriage in which her husband abused her and molested two of her six children.<sup>viii</sup> Jeffs' nephew has launched a civil suit accusing Jeffs of sexually molesting him as a child in the name of doing "God's work."<sup>ix</sup> Bountiful members deny that any abuse is happening there and say they would encourage police investigations into the matter.<sup>x</sup>

Former FLDS members allege that girls as young as 13 are trafficked across the B.C. – Idaho border to become brides.<sup>xi</sup> Jane Blackmore, former first (and only legal) wife of Winston Blackmore, tells of how her daughter at 17 was assigned by the church to marry a man from Utah that she had never met. She flew to Utah with her father, and was married within five minutes of meeting her to-be husband.<sup>xii</sup>

Former polygamous wives contend that typical religious polygamy elevates some men above all others, and women and children are nothing more than property to accumulate.<sup>xiii</sup> Women and children may become also more vulnerable to abuse because they are deprived of education. Underage girls are taken out of school to marry and expected to bear as many children as possible, leaving them very dependent on their husbands and unable to support themselves.<sup>xiv</sup> Polygamists from Centennial Park, Arizona have argued that it is the criminalization of polygamy that has turned FLDS communities into a "breeding ground" for abuse because it forces them to become more insular and does not allow them to take advantage of law enforcement, child welfare agencies and other resources that would otherwise be available.<sup>xv</sup>

### The Law

Practicing polygamy is against the law in both Canada and the U.S.. Blackmore argues that because his plural marriages are not legally registered he technically is not a polygamist, only an adulterer, and cannot be charged with polygamy.<sup>xvi</sup> Section 293 of the *Canadian Criminal Code* states that anyone who enters into "any kind of conjugal union with more than one person at the same time, whether or not it is by law recognized as a binding form of marriage...is guilty of an indictable offence and liable to imprisonment for a term not exceeding five years".<sup>xvii</sup> This would suggest Blackmore's practices are indeed illegal.

The B.C. government has been debating for years whether polygamy charges should be laid against the leaders of Bountiful. The Bountiful community had been the subject of several police probes since the late 1980's after allegations of polygamy, sexual abuse, exploitation of children and trafficking of teenage brides across the Canada-U.S. border first arose. Prosecutors had refused to proceed with charges, anticipating that provisions in the *Charter of Rights and Freedoms* that guarantee freedom of religion would overrule the evidence of polygamy. Mr. Oppal, the Attorney General of B.C., believes the police have finally collected sufficient evidence to obtain convictions of polygamy against two of the leaders. Blackmore was charged in January 2009 with "practising a form of polygamy or practising a kind of conjugal union" with 19 women between May 1, 2005, and Dec. 8, 2006. James Oler faces the same charge for his relationship with two women between Nov. 1, 2004, and Oct. 8, 2008. Despite the charges, authorities did not announce any measures for the children from the homes of the men. The men were released from custody on condition they surrender their passports, report to police twice a month and refrain from entering into or performing celestial marriages.

The age of marriage varies from province to province, although the trend is 16 years old with parental consent and 18 without. Some provinces make allowances to waive the parental consent requirement when the girl is pregnant or either child has been emancipated.<sup>xviii</sup>

Section 153 of the Criminal Code states that anyone who "is in a position of trust or authority" or is "in a relationship of dependency" with a young person (14-18) is guilty of either a summary or indictable offence and can be imprisoned for up to 5 years.<sup>xix</sup> FLDS leaders who wed underage brides may also fit this description; the challenge is gathering enough evidence against them. Oppal has stated that he is willing prosecute FLDS leaders on sexual exploitation charges if witnesses come forward who are willing to testify in court.<sup>xx</sup> The problem so far has been finding anyone willing to testify and it is expected to be difficult to find willing participants from such a tight-knit, insular community.

#### Recommendations

1. Direct child welfare authorities to proactively investigate the status of children living in polygamous communities.
2. Raise the age of marriage in all provinces to 18, regardless of parental consent.

3. Encourage polygamous communities to voluntarily adopt rules of conduct that address concerns related to the risk of sexual abuse of the children living in their society.
4. Direct school boards to visit and evaluate private community schools.
5. Address trafficking allegations in polygamous border-town communities; see Fact Sheet on Trafficking of Children for recommendations.

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<sup>i</sup> [http://www.ecpat.net/EI/Csec\\_marriage.asp](http://www.ecpat.net/EI/Csec_marriage.asp)

<sup>ii</sup> S. Drumheller. "They don't have horns: Women of polygamist colony, supporters explain lifestyle and views" *The Spokesman-Review* (20 April 2005), online <[http://childbrides.org/canada\\_SR\\_they\\_dont\\_have\\_horns.html](http://childbrides.org/canada_SR_they_dont_have_horns.html)>.

<sup>iii</sup> M. Thiessen. "Canadian police probe FLDS reports" *The Associated Press* (6 August 2004), online: Hope for the Child Brides < [http://childbrides.org/sex\\_AP\\_police\\_probe.html](http://childbrides.org/sex_AP_police_probe.html)>.

<sup>iv</sup> K. MacQueen. "The battle for Bountiful" *Macleans* (13 December 2004).

<sup>v</sup> "No more polygamy with girls under 18, B.C. sect says" *CBC News* (20 April 2005), online: Hope for the Child Brides < [http://childbrides.org/canada\\_CBC\\_no\\_more\\_girls\\_under\\_18.html](http://childbrides.org/canada_CBC_no_more_girls_under_18.html)>.

<sup>vi</sup> B. Winslow. "Jeffs is now an inmate at Utah State Prison." *Deseret Morning News* (22 November 2007).

<sup>vii</sup> C. Ayres. "Manhunt for the Mormon with 70 wives." *Belfast Telegraph* (29 July 2005), online: Hope for the Child Brides < [http://thehopeorg.org/abuses\\_spec\\_opinion\\_manhunt\\_for\\_Warren\\_is\\_over.html](http://thehopeorg.org/abuses_spec_opinion_manhunt_for_Warren_is_over.html)>.

<sup>viii</sup> G. Florio & D. Frazier. "'Principle' is bedrock law" *Rocky Mountain News* (16 July 2005).

<sup>ix</sup> D. Braham. "Teen boys subtracted in polygamy math: Sect leaders drive out young males to sustain their polygamous lifestyles" *Vancouver Sun* (12 November 2004), online: Hope for the Child Brides <[http://childbrides.org/abuses\\_VS\\_lost\\_boys.html](http://childbrides.org/abuses_VS_lost_boys.html)>.

<sup>x</sup> D. Braham. "The many wives of Bountiful" *Vancouver Sun* (7 August 2004), online: Hope for the Child Brides < [http://childbrides.org/canada\\_VS\\_many\\_wives\\_of\\_Bountiful.html](http://childbrides.org/canada_VS_many_wives_of_Bountiful.html)>.

<sup>xi</sup> *Ibid.*

<sup>xii</sup> *Supra* note 4.

<sup>xiii</sup> M. Hamilton. "God vs. the gavel: religion and the rule of law" (New York: Cambridge University Press, 2005) at 73.

<sup>xiv</sup> *Ibid.*

<sup>xv</sup> "One Arizona town puts on best face for polygamy critics" *The Arizona Republic* (24 July 2005).

<sup>xvi</sup> "The Bishop of Bountiful" online: CBC News: *The Fifth Estate* <<http://www.cbc.ca/fifth/polygamy/index.html>>.

<sup>xvii</sup> *Canadian Criminal Code*, R.S.C. 1985, c. C-46, s. 293.

<sup>xviii</sup> N. Bala. "Controversy over Couples in Canada: The Evolution of Marriage and Other Adult Interdependent Relationships" (2003), 29 Queen's L.J. 41-102.

<sup>xix</sup> *Supra* note 16, s.153.

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<sup>xx</sup> D.Braham. "B.C. set to prosecute in Bountiful case if evidence turns up" *CanWest News* (25 July 2005).