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Child Brides in Canada

Polygamy is practiced and tolerated in Canada. 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,¹ of wives and to father scores of children. 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 1890.²

There are serious allegations of child sexual abuse occurring among the FLDS:

- ***Young teenage girls are brainwashed and forced into “plural marriages” with much older men.*** Many allege that girls as young as 14 and 15 are “married” off in the community to much older men and that these girls have been brainwashed into believing that refusing these unions would ensure eternal damnation for them.³ 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. They also vow that henceforth no one under 18 will be allowed to enter into a plural marriage.⁴

This says nothing about the other half of Bountiful that is still loyal to Jeffs. Jeffs

¹ Susan Drumheller ““They don’t have horns” Women of polygamist colony, supporters explain lifestyle and views” *The Spokesman-Review* (20 April 2005), online: Hope for the Child Brides <http://childbrides.org/canada_SR_they_dont_have_horns.html>.

² Mark 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>.

³ Ken MacQueen “The battle for Bountiful” *Macleans* (13 December 2004), online: Macleans <http://www.macleans.ca/topstories/religion/article.jsp?content=20041213_94591_94591>.

⁴ “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>.

is wanted by authorities in the U.S. for arranging the marriage of a 16-year-old girl to a much-older sect member who was already married. Eight other sect leaders in the United States have surrendered to authorities on charges of sexual misconduct with underage brides.⁵

- ***Incest and child sexual abuse.*** There have been many allegations of child sexual abuse in recent years in Bountiful and U.S. polygamous communities. Debbie Palmer, a former FLDS member 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.⁶ Warren Jeffs' nephew has launched a civil suit accusing Jeffs of sexually molesting him as a child in the name of doing "God's work."⁷ Bountiful members deny that any abuse is happening there and say they encourage police investigations into the matter.⁸
- ***Cross-border trafficking of young girls.*** Former FLDS members allege that girls as young as 13 are trafficked across the B.C. – Idaho border to become brides for much older men.⁹ 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 young man from Utah she had never met. She flew to Utah with her father, and was married within five minutes of meeting her to-be husband.¹⁰

Is there a link between polygamy and child sexual abuse? 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.¹¹ 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.¹² Polygamists from Centennial Park, Arizona, contend that abuse is not a product of a polygamist lifestyle but rather occurs whenever humans live with other humans. Women there claim that to have a more liberated lifestyle, attaining high levels of education and claim that no underage marriages are tolerated among them. They argue

⁵ Chris Ayres "Manhunt for the Mormon with 70 wives" *Belfast Telegraph* (29 July 2005), online: Hope for the Child Brides <http://childbrides.org/news_BT_manhunt_for_Warren.html>.

⁶ Gwen Florio and Deborah Frazier "'Principle' is bedrock law" *Rocky Mountain News* (16 July 2005), online: Rocky Mountain News

<http://www.rockymountainnews.com/drmn/state/article/0,1299,DRMN_21_3931144,00.html>.

⁷ Daphne 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>.

⁸ Daphne 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>.

⁹ *Ibid.*

¹⁰ *Supra* note 3.

¹¹ Marci Hamilton, *God vs. the gavel: religion and the rule of law*, (New York: Cambridge University Press, 2005) at 73.

¹² *Ibid.*

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.¹³

Practicing polygamy is against the law in both the United States and Canada. Why is this law not enforced? Winston 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.¹⁴ He is wrong. His practices clearly fall under Section 293 of the *Criminal Code*, which 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” (emphasis added).¹⁵

Past British Columbia attorney generals have been unwilling to prosecute under this law as provincial government reports have determined that it would not stand up to a religious freedoms challenge under the *Charter of Rights and Freedoms*.¹⁶

Federal Justice Minister Irwin Cotler disagrees. He believes that s. 293 is constitutionally sound and has offered the support of the Department of Justice if the constitutionality of the section is challenged.¹⁷ Internationally recognized constitutional expert Marci A. Hamilton also doubts that the Supreme Court of Canada would find polygamy to be a constitutionally-protected right because of a strong precedent that exists in the United States and Canada that “one’s actions are measured by their effects and the law, not by their motivation.”¹⁸ She challenges polygamy supporters to make the only argument that has any solid foundation: that polygamy is a socially beneficial practice capable of serving the public good.¹⁹ For this, its effects on society as well as the “victims” of polygamy would need to be considered.

At the very least, FLDS leaders who have taken child brides should be charged with sexual exploitation.

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

¹³ “One Arizona town puts on best face for polygamy critics” *The Arizona Republic* (24 July 2005) online: The Arizona Republic

<<http://www.azcentral.com/arizonarepublic/viewpoints/articles/0724valdez0724.html>>.

¹⁴ “The Bishop of Bountiful” online: CBC News: The Fifth Estate

<<http://www.cbc.ca/fifth/polygamy/index.html>>.

¹⁵ *Criminal Code*, R.S.C. 1985, c. C-46, s. 293.

¹⁶ Fabian Dawson “B. C. wants law changed to allow move on polygamists” *The Province* (7 February 2002) online: Hope for the Child Brides

<http://childbrides.org/canada_Province_BC_wants_law_changed.html>.

¹⁷ Letter from The Honorable Irwin Cotler, Minister of Justice and Attorney General of Canada, to Nancy Mereska (10 March 2004).

¹⁸ *Supra* note 11 at 68.

¹⁹ *Ibid.* at 77.

either a summary or indictable offence and can be imprisoned for up to 5 years.²⁰ FLDS leaders who wed underage brides clearly fit this description; the problem is gathering enough evidence against them. B.C.'s new attorney general, Wally Oppal, has stated that he is willing prosecute FLDS leaders on sexual exploitation charges, and possibly even polygamy charges, if witnesses come forward who are willing to testify in court.²¹ The problem so far has been finding anyone willing to testify,²² and it is expected to be difficult to find willing participants from such a tight-knit, insular community.

Other Recommendations:

- 1. Raise the age of consent for sexual activity and marriage to 16²³**
- 2. Require the consent of both children and parents to polygamous unions**
- 3. Encourage polygamous communities to voluntarily adopt rules of conduct which address sexual abuse of children**
- 4. Require medical personnel to report underage pregnancies**
- 5. Require outside independent school counselors in community schools**
- 6. Increase children's education directed at preventing their sexual abuse**

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²⁰ *Supra* note 15 at s. 153.

²¹ Daphne Braham "B.C. set to prosecute in Bountiful case if evidence turns up" CanWest News (25 July 2005), 1.

²² Interview of Wally Oppal, Attorney General of British Columbia, by Peter Warren (27 July 2005) on CKNW, Vancouver, CKNW Audio Vault.

²³ David Matas, "Preventing sexual abuse in a polygamous community," online: Beyond Borders <<http://www.beyondborders.org/POLYGAM6.pdf>>: These and other options are explained in detail in the report.