IN THE SUPREME COURT OF BRITISH COLUMBIA

IN THE MATTER OF:

THE *CONSTITUTIONAL QUESTION ACT*, R.S.B.C. 1986, c. 68

AND IN THE MATTER OF:

THE *CANADIAN CHARTER OF RIGHTS AND FREEDOMS*

AND IN THE MATTER OF:

A REFERENCE BY THE LIEUTENANT GOVERNOR IN COUNCIL SET OUT IN ORDER IN COUNCIL NO. 533 DATED OCTOBER 22, 2009 CONCERNING THE CONSTITUTIONALITY OF S. 293 OF THE *CRIMINAL CODE OF CANADA*, R.S.C. 1985, c. C-46

AFFIDAVIT #2 OF LORI BEAMAN

I, Lori Beaman, Professor Religious Studies at the University of Ottawa, in Ottawa, Ontario, MAKE OATH AND SAY AS FOLLOWS:

Introduction

1. I am a full professor in the Department of Classics and Religious Studies at the University of Ottawa. My educational and professional background was set out in my first affidavit in these proceedings, sworn on 7th day of June, 2010 ("Affidavit #1").

2. As a professor of Religious Studies and a Canada Research Chair I teach in the areas of religion and law, identity construction, and theory and methods in the social scientific study of religion. My research has focused on religious minorities and religious freedom and I have published in this area during almost the entirety of my academic career (see my Curriculum Vitae, attached as Exhibit "A" to my Affidavit #1).

3. Part of my programme of research includes understanding polygamy as it is practiced in relation to religious expression. I have written a number of articles and chapters on polygamy that result from my research, including:

   a. 2004 "Church, State and the Legal Interpretation of Polygamy", *Nova Religio*, 8(1):20-38 (attached as **Exhibit "A"** to this affidavit);

   b. 2006 "Who Decides? Harm, Polygamy and Limits on Freedom," Nova Religio 10(1):43-51 (attached as **Exhibit "B"** to this affidavit); and

   c. 2007 "Religion and the State: The Letter of the Law and the Negotiation of Boundaries," in *Religion, Globalization and Culture*, edited by Peter Beyer and Lori G. Beaman, Leiden: Brill Academic Press, 393-407.

4. I have conducted research with mainstream Latter-day Saints, the results of which are published in an article entitled "Molly Mormons, Mormon Feminists and Moderates", Sociology of Religion, 2001, 62(1):65-86; that article is attached as **Exhibit "C"**.

5. I certify that I:

   a. am aware that in giving my opinion to the Court, I have a duty to assist the Court and am not to be an advocate for any party;

   b. have made this affidavit in conformity with that duty; and

   c. will, if called on to give oral or further written testimony, give that testimony in conformity with that duty.

6. I further confirm that, although I provided my Affidavit #1 in this proceeding prior to the introduction of the requirement in the British Columbia Supreme Court Rules to provide this certification, subparagraphs (a)-(c) of paragraph 9 apply also to that earlier Affidavit.

Harm

7. My research has considered the ways in which religious minority practices are constructed as harmful, sometimes through the use of assumptions and stereotypes that are often unfounded or unexamined. Construing unfamiliar practices as harmful without careful examination can result in the perpetuation of stereotypes and an unjustified curtailing of religious expression. My work on harm and religious freedom is represented in my book *Defining Harm*, University of British Columbia Press, 2008. Fieldwork-based research includes work on evangelical Christians, Latter-day Saints, Immigrant Youth and Immigrant Young Adults (Muslims, Hindus, Buddhists) under an ongoing project on which I am a co-investigator with Peter Beyer at the University of Ottawa. My research has been consistently funded by the Social Sciences and Humanities Research Council of Canada.

8. Stereotypes about religious minorities exist for a variety of reasons, including the sometimes relative social and/or geographic location of religious minorities (including, for example, Fundamentalist Latter-day Saints and Hutterite Brethern), a lack of familiarity with religious minority practices among people outside of those groups, and the use of majority or mainstream religion as the reference point from which minority religious practices are assessed.

9. In my work I have argued that harm is often socially constructed. Thus it is very difficult for courts to develop objective measures of something that is elusive and transient. Religious groups seem to be subjected to heightened scrutiny in the assessment of their practices in relation to harm. Designating a particular practice as harmful can often cause damage to the religious individual and group out of proportion to the harm that might be caused by the practice under question (see Bailey and Kaufman, 2010). In assessing the religious practices of minority religious groups it may be that choices are made unlike those we ourselves might make. This alone is not a reason to assess them as harmful or to criminalize them.

10. In discussions about polygamy the harmful nature of polygamous relationships is often assumed or taken for granted. Polygamous relationships are assumed to be

harmful for a variety of reasons, including such assumptions or stereotypes that: women are forced to enter into such marriages; underage women are married off to older men; a surplus of young men is created; in-fighting between sister wives causes emotional trauma; and increased poverty. To some extent media coverage perpetuates these stereotypes (see, for example, "We're in the Fast Lane to Polygamy", Steyn, 2009; "The Erosion of Marriage", Hunter, 2009) as well as academic discussions (see Kent, 2006; Berkowitz, 2007); religious and theological discussions about polygamy (see Hillman, 1975; Kaplan, 1986; Newing, 1970; Turner, 1966; Zeitzen, 2008); and the stories of disaffiliates who have left polygamous relationships and polygamous communities (see Palmer, 2004).

11. In order to fairly assess harm related to the practice of polygamy it is important to carefully consider questions raised by such stereotypes, including whether polygamous families are different from monogamous families and in what ways that might be so (see Embry, 1987 for historical analysis), and whether any such differences could be said to result in greater incidence of harm.

12. Some researchers argue that negative stereotypes, or what some call "atrocity tales" or stories (Lewis and Bromley, 1987; Bromley and Shupe 2006), can define our perceptions of minority religious groups to the point that it is very difficult to introduce other ways of thinking about them.

13. The consequences of a failure to move beyond stereotypes can be dramatic, as is illustrated by two incidents involving the FLDS Church in the United States. The first took place in Short Creek in 1953 in which approximately 400 people were arrested and over 200 children taken into state care. The second incident occurred in 2008 when state authorities raided the Yearning for Zion compound of the Fundamentalist Latter-day Saints, removing over 400 children and placing them into state custody. Both incidents reportedly caused considerable trauma to women and children, although the allegations of abuse were largely unfounded. Atrocity narratives and stereotypes played a role in preventing state authorities from more carefully

examining the allegations against those living in these communities (see Bradley, forthcoming).

14. It is important in assessing harm that we move past stereotypes and assumptions and examine carefully the following: a. polygamous relationships themselves; b. the context in which they exist; and c. where possible, some of the origins of such stereotypes and the bases on which they are founded.

a. Polygamous relationships and the problem of research

15. Assessing harm in polygamous relationships in the Canadian context is extremely difficult, primarily because there is very little extant social scientific research. Specific details of life in FLDS communities and other groups who practice polygamy are rare.

16. Some notable exceptions include the work of Angela Campbell, Janet Bennion, and Altman and Ginat. In general these works are exceptions because the researchers have conducted fieldwork in polygamous communities and have used a triangulated research methodology which includes participant observation, interviews, focus groups, and in the cases of Altman and Ginat and Bennion, research with these groups over an extended period of time. Campbell's research relationship with the Bountiful FLDS community has been developed over a period of approximately 5 years.

17. Bennion conducted research over a period of 5 years with the Apostolic United Brethern or Allreds, located near Salt Lake City, Utah from 1989-1994. She engaged in interviews, participant observation and examined community documents. Her analysis, drawing from both positive and negative accounts, documents the complex ways in which women exercise agency in polygamous relationships and communities.

18. Altman and Ginat conducted interviews (with approximately 100 people) and participant observation with two large fundamentalist polygamous groups in the United States – one rural, one urban – between 1987-1992. They draw on research

from other countries as well as historical data in order to contextualize their findings. Their participants reported both positive and negative experiences, including close friendships between sister wives and competition between sister wives.

19. Campbell's research involves two fieldwork visits and ongoing communication with women in the Bountiful FLDS community. She has conducted one on one face to face interviews, face to face interviews with two participants, three focus groups and has done participant observation. Her ongoing research has created a beginning basis on which to understand life in a polygamous community and to understand individual experiences of polygamy. Her participants report both positive and negative experiences which in many ways reflect those of monogamous relationships.

20. The paucity of social scientific research on polygamy can be explained by a number of factors, including the threat of criminal prosecution of those who reveal themselves to be living in a polygamous relationship. Not only does this put potential research participants at a level of risk that many are unwilling to assume, but that many research ethics committees would find unacceptable. Further, immigrant groups are particularly vulnerable, with the perceived threat of being deported or having their status in relation to citizenship compromised looming over those who live in polygamous relationships which violate the *Criminal Code*.

21. Thus, the dynamics of polygamous relationships remain relatively obscured from public scrutiny, rendering those who live in those relationships particularly vulnerable because of their hidden nature, not necessarily because of the nature of polygamy itself.

22. In addition to scholarly research, there are some anecdotal and autobiographical accounts of polygamous relationships. While the experiences recounted by authors such as Palmer (2004) reflect the experiences of those authors, they should not be taken to reflect the experiences of all women living in polygamous relationships. Just as we would not assess monogamy on the basis accounts of women who have been

divorced or women who have been abused, so too we should not assess polygamy on the basis of isolated accounts or experiences.

23. In his work Stuart Wright (1991) has compared the disaffiliation of members from religious groups and how they subsequently come to see their involvement in the group with the process of divorce and how those who are divorced sometimes come to understand their experiences of marriage. Wright argues that the process of disaffiliation results in feelings of anger, loneliness, disillusionment and regret. Wright does not deny that some members of religious groups are in fact victims of abuse, just as some marital partners are abusive. He notes, though, that all marriages cannot be judged by a s mall number of bad marriages, an d so too religious groups should not be judged by a small number of bad incidents.

24. The literature on ex members (Bromley, 1998a; 1998b; Richardson, 1993; Wright, 1991;Introvigne, 1999; Lewis and Bromley, 1987), also known as apostates or disaffiliates, suggests that accounts of ex members of religious groups cannot be held to represent the experiences of all members of that group and should be treated with caution. None of these authors deny that abuse and manipulation can happen in the context of religious groups, but they caution against focusing solely on negative accounts. They point to the ways in which stories of disaffiliates are used to generate negative stereotypes which are then reproduced as truth about the group as a whole.

25. While individual autobiographical accounts represent the experiences of the authors, they are just that – individual accounts – and do not emerge from any systematic, social scientific study of polygamy, polygamous ways of life, or polygamous communities.

26. It is important to assess any harm that might result from polygamy using recognized social scientific research methods. Such methods would ideally include: both positive and negative accounts of polygamous life, obtained through valid research methods such as interviews, focus groups, surveys and/or participant observation; triangulated research, or research which uses a variety of research methods;

research which is not directed at finding a particular result or is motivated by a researcher's own pre-formed conclusions; and longitudinal research that examines polygamy over time, rather than 'one shot' research.

27. Including negative, positive and neutral accounts avoids selection bias, or one-sided accounts. Put otherwise, if we look for negative reports of monogamous marriage, we will find them. However, to then conclude that monogamous marriage is harmful and should be criminalized would be a decision based on biased data.

28. Face to face interviews can take a number of forms. They can be structured, in that the interviewer asks the same questions in the same order for each participant. Semi-structured interviews have more flexibility and allow for the exploration of the varieties of experiences of and statements made by the participant. Unstructured interviews are more free-flowing and can take numerous directions. There are advantages and disadvantages to each type of interview.

29. Focus group interviews are usually conducted with a small group of participants who are guided through the interview by the researcher with a series of prompting questions. Focus groups are often issue-based rather than experience–based; in other words the goal is to invite engagement with broader issues. So, for example, a researcher might ask "should polygamy be criminalized?" rather than "how does criminalization affect you?".

30. Longitudinal research, while desirable, is rare primarily for cost-based reasons. These types of studies take place over a longer period of time and as such they are better able to capture the dynamics of a group, process or phenomenon.

31. Using triangulated, or multiple, research methods offers more reliable research results in that pieces of data can be used to affirm or identify gaps in knowledge. So, for example, participant observation combined with interviews can allow a researcher to observe experiences or phenomena identified by participants. Simply put, if a participant notes in an interview that each Sunday the community shares a communal meal, the researcher through participant observation can herself observe

that event, confirming its occurrence, and also deepening her information about what happens at the event.

32. In order to properly assess whether polygamous relationships are inherently harmful it is necessary to have a much more extensive body of social scientific research, including evidence of the dynamics of polygamous relationships, polygamous communities and their relationships to the surrounding community and society.

b. Polygamy and its context

33. When assessing whether religious practices are harmful it is important to consider evidence that places them in their social and cultural context. Practices can take different significance and have different impacts in varying social contexts. The presence of human rights legislation and constitutional protections, marital property and child support legislation, the presence of a strong social safety net and other background institutions (see Mahoney, 2008), can alter the impact of practices such as polygamy and the context in which choices are made (see Falan, 2008; Kaufman, 2005).

34. An illustration of why context is important can be drawn from thinking about the situation of women in Canada in the first 80 years of the 20th century. It might be argued that monogamous relationships were harmful to women in this period prior to legal changes which revolutionized divorce law, instituted marital property legislation, and criminalized sexual and physical assault of women by their husbands.

35. Another example of the importance of context is the post-1996 Constitution customary marriage law reform process of South Africa, which included polygamy in its marriage regulation with reforms that ensure that women are contractually protected in the event that another wife is added to the family (see Deveaux, 2003; see a similar discussion in Archsmpong, 2010 in relation to Ghana).

36. Much of the empirical research that assesses polygamy comes from social, political, religious, economic, legal and cultural contexts which are distinct from those of North

America. Cultural context, rather than marriage type, may be more important for understanding harm (see Clignet, 1970).

37. Giving weight to research on polygamy in countries outside of North America should be done with caution. The social and legal context in other jurisdictions changes the impact of polygamy on the individuals who live in those relationships, and thus it is extremely difficult to make comparisons which will provide accurate insight into what harm might be caused by polygamy in the Canadian context. It is, for example, difficult to compare a sample of Bedouin Arabs living in polygamous relationships with the FLDS women of Bountiful given their different social contexts. Community structure, state structure, human rights legislation and the place of each group within society differ significantly. In short, empirical research from other jurisdictions has limited comparative use.

38. Research conducted on polygamy in countries outside of North America is mixed in its assessment of the impact of polygamy. Even researchers who find negative impacts recognize, for example, the cultural and personal significance of polygamy (Al-Krenawi et al, 1997), its fluid nature which makes it possible to address negative impacts (Al-Krenawi and Graham, 1999), and the ways in which women work strategically within the structures of their marital and family life to mitigate harm and optimize outcomes (Borgerhoff Mulder, 1992).

c. The origins of stereotypes

37. It is also important to give careful consideration to the historical context in which the criminalization of polygamy took place (see Chapman, 2001). The reasons for its original criminalization may not hold true any longer, if in fact they were ever valid reasons.

38. Reasons for prohibiting polygamy were wide ranging. A review of the literature suggests that sexual morality, racism, nation building, colonialism and the importation of Christianity were the most prevalent. As is the case in the present day, there was little systematic study of the lives of those living in polygamous

relationships, a fact that may be explained by the relative infancy of social science. The ban on polygamy was not therefore based on any sustained or scientific analysis of harm.

39. In Victorian America polygamy played on fears about uncontrolled sexual desires and morality (see Cannon, 1974). Polygamy was viewed as a stage in development before monogamy (Fee, 1973; Moloney, 2005; Zeitzen, 2008), with monogamy being the more advanced stage. Forbes (2003) argues that Latter-day Saints were labeled as being non-Christian and were thus positioned against Christianity and therefore viewed as a threat to the dominant religion and, by extension, to morality (Forbes, 2003).

40. A number of scholars have identified race-based fears and anxieties as forming the basis for the criminalization of polygamy. Latter-day Saints were sometimes characterized as a 'new Islam' (see Eliason, 2001;), an 'Asiatic pestilence' and 'Africanist' (Handley, 2004). This body of scholarship argues that anti-polygamy laws were based in racism (see Ertman, 2010; Denike, 2010).

41. Sarah Carter's (2008) work links the impending wave of Latter-day Saints immigration in the late 1890s, combined with the presence of polygamy among First Nations peoples, to the state's imposition of control of polygamy through the criminal law. The criminalization of polygamy was linked to colonial ideals about citizenship and an imagined vision of the nation state which was largely white and Christian (see also Ertman, 2010 Gordon, 2001, 2000, 1996, 1995, Mazur, 1999).

42. In short, the anti-polygamy criminal law provisions were created in a context of imagined harm and were designed to impose a particular moral model of family, sexuality and state.

Women and minority religious groups

43. In relation to minority religious groups, women are often portrayed as needing to be saved, rescued, or protected, with little examination or consideration of their choices. In my work with evangelical Christian women, I found that women

exercised considerable agency in their day to day lives, despite their adherence to the doctrine of submission and headship (Beaman, 1999). Similarly, with mainstream Latter-day Saints, women exercised various levels of agency despite the doctrine of the priesthood, which is similar to the evangelical notion of headship (Beaman, 2001). Despite the patriarchal structure of many religious groups, including mainstream Latter-day Saints, women exercise agency in many ways, working to reconcile teachings that encourage putting family first, for example, with participation in the paid labour force (see Beaman, 2001) There is a significant scholarly literature which documents similar findings among women in a range of minority religious groups, including Orthodox Jews (Davidman,1991; Kaufman, 1991), Evangelical Christians (Gallagher, 2003), the Amish (Olshan and Schmidt, 1994), and Charismatic Catholics (Neitz, 1987), each of which adopt rigid gender role prescriptions, which, on closer examination, are much more flexible and fluid than might be imagined absent the findings of scholarly research.

44. This literature points to two considerations in assessing religious groups: first, the idea of subjectivity or lived religion plays a key role in understanding the ways in which people live out their religions. Secondly, the contexts in which people make choices about their religious commitments and practices form the basis for understanding the complexity of the concept of agency, and of making sense of the ways in which people – both men and women – make choices.

45. The concept of lived religion is one which is used in both religious studies and sociology. It focuses on the ways in which people live out their religious commitments rather than on doctrine or orthodoxy. The idea of lived religion encourages careful empirical research that engages with the experiences of people in their day to day lives and examines the ways in which they create religious worlds (see McGuire, 2008; Orsi, 2005)

46. Women in marginal or minority religious groups are often especially susceptible to having their choices challenged. This challenge often comes under the paternalistic guise of 'protecting' women. Such paternalistic attitudes are variable, and depend

on social context and on the status of the religion involved. For example, there is little discussion of rescuing Roman Catholic nuns who choose to live a life of celibacy in the service of the Church, while accepting a secondary status to priests, always male, within the organizational hierarchy of the Church

47. Within the research on FLDS women there is evidence that women make choices in the context of their lives and communities. For example, the fact that not all relationships are polygamous indicates that some members of the community choose not to express their religious commitment in that way. Moreover, there is evidence that women themselves sometimes initiate polygamous relationships, suggesting or choosing potential sister wives. Further, in the course of their day to day lives women negotiate household duties, childcare, participate in pursuing higher education, work in the paid labour force, control household budgets and make economic decisions and so on (see Campbell, 2009; 2008, Bennion, 2004; Altman and Ginat, 1996). To portray women in these contexts as 'victims' denies their agency or decision making-capacity.

48. Despite evidence that women living in polygamous relationships and communities make choices, this is not to suggest that there are not sometimes incidents of abuse, forced marriage, underage marriage and so on. The incidence of such incidents has not been properly studied, and we should be cautious about characterizing all polygamous relationships on the basis of isolated incidents of abuse. Such an approach would be akin to assessing monogamous relationships on the basis, for instance, of accounts of abuse.

49. Moreover, given what we know about violence against women more generally, we should be cautious about attributing causal links between polygamy and violence. Violence against women happens across relationship forms and across socio-economic status.

50. The characterization of women as having no choice draws on implicit understandings of people in minority religious groups and new religious movements as being brainwashed or coerced. Brainwashing has largely been discredited as a

valid way to see those who belong to minority religious groups. The challenge to this way of thinking began largely with Eileen Barker's (1994) groundbreaking work on the Unification Church, "The Making of a Moonie", and has continued with both Barker and the work of others (Bromley and Shupe, 2006, Bromley, 2001; Wright, 1984 Richardson, 1991; 1996; Richardson and Introvigne, 2001). Religious socialization does not mean that one has no choice.

51. The line between choice and force has garnered a great deal of attention in relation to minority religious groups, with the assumption being too often that force, rather than choice, offers an explanation for involvement in such groups. Barker (2003a; 2003b) proposes that we begin with the assumption that people choose to be or remain involved in religious groups. Such a position does not negate taking seriously allegations of abuse or underage marriage, for example, but assumes that the religiously committed have capacity as agents to make decisions. To fail to assume agency is to take a patriarchal position which treats religious minorities as being without the ability to make decisions. It assumes that we have the right to impose a particular worldview "for their own good" on an assessment of their religious practices that is not based on empirical fact.

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Church, State and the Legal Interpretation of Polygamy in Canada

Lori G. Beaman

ABSTRACT: Using the Church of Jesus Christ of Latter-day Saints in Canada as an example, I argue that religious minorities who are deemed to be harmful to society are controlled through law, either directly by legislation, through judicial application of legislation, or, more insidiously, through the discursive practices of government agents such as immigration officials. Both the legal controls imposed and the types of resistance or compliance offered by religious minorities shift and change over time. Definitions of religious freedom also shift and change over time. While the primary focus of this article is a case study of the Latter-day Saints and polygamy, it is prescient of other contemporary issues of social control of religious minorities. In these post-September 11 times, there has been a shift in rhetoric from nation-building to nation-preservation. Polygamy still plays a role in the construction of citizenship in Canada through the filtering of immigrants, but current social, political and economic circumstances differ from those the Latter-day Saints faced in the 1800s.

As the host of the 2002 Winter Olympics, Salt Lake City received a great deal of media attention. On 23 February 2002, the *National Post*, a Canadian newspaper, ran a half-page reproduction of an advertisement for "Polygamy Porter," whose slogan was "why have just one?" The *Post's* headline was, "Source of mirth for some, pain for others, polygamy persists in the Beehive State."[1] In some measure, the piece captured the present-day tension between mainstream and polygamist Latter-day Saints, and between Saints and the society in which they live. To this, add the story of Bountiful, a beautiful community

20

set in the foothills of the Canadian Rockies in the province of British Columbia, home to a tight-knit community of some 700 people. It is a community in which polygamous relationships are commonplace, and for which, thus far, there have been no criminal sanctions imposed for behavior that is in clear violation of the Criminal Code of Canada. Winston Kaye Blackmore, head of the Canadian branch of the Fundamentalist Church of Latter-day Saints, has reportedly noted that the group has constitutional protection, stating, "We've got a great piece of legislation in this land of ours, and it's the Charter of Rights and Freedoms."[2] Indeed, section 2(a) of that document guarantees freedom of religion.

The existence of polygamous communities such as Bountiful raises important questions. Why, despite the clearly worded provisions of the Criminal Code, has no one in Bountiful been charged with criminal conduct? This article will conclude with some speculative answers to that question. More important, though, is the exploration of the links between religious practices in Bountiful to those of other groups, especially an examination of how, why, and when religious minorities are socially controlled through criminal and other legal sanctions. Underlying this discussion is the question of how limits on religious freedom are constructed.[3] Intertwined in this discussion are religious and legal discourses, which set the context in which boundaries around religious freedom are constructed.

Drawing from case law, parliamentary debates, and legislation, I will detail the shifting terrain and multiplicity of voices that have emerged in relation to Latter-day Saints and polygamy. I begin the article with a brief overview of the history of polygamy in the Saints' belief system and its social control through law. I then situate the legal treatment of Latter-day Saints in Canada in the broader context of the legal boundaries around religious minorities generally. Because the legal objections to polygamy focus on "harm" as the central principle, I explore the parameters of that concept as a limiting tool in the context of the intersection of religious and legal discourses.

I argue that religious minorities deemed harmful to society are controlled through law, either directly by legislation, through judicial application of legislation, or, more insidiously, through the discursive practices of government agents such as immigration officials. Both the imposition of legal controls, such as Criminal Code provisions and policy practices, and the types of resistance or compliance offered by religious minorities shift and change over time. The nineteenth-century Church of Jesus Christ of Latter-day Saints (LDS Church) suffered a fracture over the issue of polygamy, with the main body of the church reaching a compromise position with the state, while polygamist Saints continued to resist state demands to change their practices. Throughout this process, definitions of religious freedom also changed,

21

in part because of perceptions of what constitutes harmful behavior, a calculation based on shifting boundaries of the social construction of harm. While the primary focus of this article is a case study of the Latter-day Saints and polygamy, it is prescient of a contemporary example of social control of religious minorities. In these post-September 11 times there has been a shift in rhetoric from nation-building to nation-preserving. Polygamy still plays a role in the construction of citizenship through the filtering of immigrants, but in social, political, and economic circumstances that differ from those the Latter-day Saints faced in the 1800s.

POLYGAMY, LATTER-DAY SAINTS, AND LEGAL HISTORY

It is important to acknowledge fully the difficulties inherent in discussing Mormon polygamy. First, some members of the mainstream church would oppose calling polygamists Latter-day Saints at all. Second, as an outsider, my use of the term Mormon is tenuous at best. It has become a re-appropriated term in the construction of religious identity that is perhaps best not used by those outside the LDS community. Finally, I wish to stress that I have attempted to be respectful of both those in the mainstream LDS tradition and polygamous Latter-day Saints. I refer to polygamous LDS as Latter-day Saints and as Mormons, qualified by the word "fundamentalist." The terms LDS, Saints, and Mormons are also used interchangeably by members of these groups. To use one term over the other would misrepresent the diversity of this group, because these multiple terms reflect how *they* self-identify. However, I recognize that polygamy is a point of schism and disagreement between what we might describe as mainstream Mormons and polygamists, despite their shared religious history. Generalizations about theological differences are difficult to make, as there are at least a dozen polygamous denominations, each with varying interpretations of the "fundamentals" of Mormon faith.[4] These theological intricacies are beyond the scope of this article.[5] Canadian fundamentalists are simply one of the schismatic groups who live in Canada through historical circumstances I will discuss later in the article.

The Saints have a long history of tensions and ambiguities around polygamy.[6] Joseph Smith's reporting of his revelation of "Celestial Marriage" and the sanctity of plural marriage was met with a negative reaction both within and outside the Mormon community.[7] However, "Latter-day Saints accepted it as a commandment of God and non-Mormons fought it by passing legislation."[8] But the percentage of LDS who actually lived in polygamous situations was extremely varied.[9] While Mormons were not the only group to experiment with sexual boundaries in the name of religion, they were the largest and most powerful group to do so.[10]

The tension continues today. For example, Quinn describes instances of mainstream adherents reporting their fundamentalist sisters, daughters, and others practicing polygamy.[11] Both the state and LDS Church ban polygamy, yet there is an awareness of the fundamentalist adherence to the practice. Popular ignorance among the non-Mormon population has contributed to a defensiveness about polygamy among mainstream LDS, who see church teachings as encouraging, and indeed dictating, that the faithful obey the laws of the land, including anti-polygamy laws. For fundamentalists, as Quinn reports, adherence or conversion to fundamentalism is not about polygamy, but rather a quest "for a greater doctrinal and spiritual emphasis than they have known in the LDS church."[12] Fundamentalists see themselves as the "true" Mormon church because they have adhered to what they interpret as original church teachings.

In 1862, the United States Congress banned polygamy through the *Morrill Act,*[13] but Mormons did not experience the enforcement of legal sanctions for more than a decade after the law's passage[14] (in this, their situation was similar to that of modern-day Bountiful). The polygamy issue came to a legal head in 1870 through the test case of *Reynolds v. United States,* in which the United States Supreme Court found that freedom of religion could be limited by law, and that banning polygamy was a justifiable limit on freedom of religion.[15] Thus ended the open practice of polygamy, at least for a time. Polygamists fled to Mexico and to Canada, and in the following years, United States courts and legislative bodies continued to deny the legitimacy of polygamy. The 1882 Edmunds Act amended the Morrill Act to impose harsher sanctions, including prison for practicing polygamists and the unseating of polygamous elected officials. A series of United States Supreme Court decisions upheld these limits on the freedom of Latter-day Saints to engage in polygamy. Eventually, "[t]he cost of maintaining the practice of plural marriage and with it increasing government persecution proved to be too great."[16] By 1890, the church officially ended polygamy, planting the seeds of the fundamentalist movement in which present-day adherents see themselves as following the true teachings of the church. Intense state opposition to polygamy is now more accurately viewed as an exercise in nation-building. While polygamy was the lightning rod that attracted attention to the LDS, it was the possibility that members of a new religious movement would place their allegiance to the leaders ahead of their commitment to the state that posed the real threat. Eliminating polygamy was linked to the preservation of the welfare of the country and the protection of liberty.[17]

While Canada proved to be a temporary sanctuary for polygamous Mormons, it took legal measures to reinforce its stand on the criminal nature of polygamy; thus, any respite from persecution the LDS enjoyed in Canada quickly ended. Following British legal tradition, Canada had

laws prohibiting polygamy prior to Mormon immigration. "By the time of Mormon arrival, not only had the 'British North America Act' lodged the regulation of marriage throughout the dominion with the central government but also the 'Consolidation Act' of 1869 reaffirmed the most recent English statute prohibiting polygamy."[18] Mormon men were advised that they would only be allowed to live with one wife in Canada, and the Canadian government took action to increase the penalty for polygamy from two to five years' imprisonment.[19]

The 1890 parliamentary debates, as reported in *Hansard*, about the Criminal Code amendment are telling. The intention of the legislature clearly was to address the "Mormon problem" of polygamy. As it became apparent that Mormons were seeking asylum in Canada, the need to prevent the establishment of polygamous colonies became more pressing, evidenced by a comment during debates:

> Section 9 deals with the practice of polygamy, which I am not aware yet exists in Canada, but which we are threatened with; and I think it will be much more prudent that legislation should be adopted at once in antic- ipation of the offence, if there is any probability of its introduction, rather than we should wait until it has become established in Canada.[20]

The ensuing discussion around this section of the Criminal Code revealed ignorance about religious practices and ambivalence about Mormons as immigrants, who were recognized to be industrious and frugal, but whose sexual practices mitigated against enthusiasm about their immigration. As one member of Parliament said, "we are here try- ing to prevent what may become a serious moral and national ulcer."[21] Another member stated: "I think it is not the class of population which we desire, and the history of the United States proves that it forms an element which the American people would be glad to be rid of."[22] While they were recognized to be "first rate" settlers, there was concern that, despite assurances of Ora Card (the "leader" of the immigrant group) that they would comply with the law of the land, they would succumb to their "Mormon inclinations."[23]

Section 310 of the Criminal Code of Canada, 1906 was clearly drafted with the Saints in mind:

> Every one is guilty of an indictable offence and liable to imprisonment for five years, and to a fine of five hundred dollars—
>
> (a) who practises, or, by the rites, ceremonies, forms, rules, or customs of any denomination, sect or society, religious or secular, or by any form of contract, or by mere mutual consent, or by any other method what- soever, and whether in a manner recognized by law as a binding form of marriage or not, agrees or consents to practise or enter into
> i) any form of polygamy,

ii) any kind of conjugal union with more than one person at the same time

iii) what among the persons commonly called Mormons is known as spiritual or plural marriage. . . .

During the time of early LDS settlement in Canada, and in particular southern Alberta, there was considerable tension around the immigration of Mormons from the United States. Popular myths and stereotypes were countered by government support for the LDS presence, and in fact "British Canadian Protestants were torn between the pressing need to populate the prairies and their reservations about securing immigrants who were culturally different."[24] Today, the Criminal Code provision (293) reads:

(1) Every one who:
    (a) practices or enters into or in any manner agrees or consent to practice or enter into
        i) any form of polygamy, or
        ii) 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 a marriage; or
    (b) celebrates, assists or is a party to a rite, ceremony, contract, or consent that purports to sanction a relationship mentioned in subparagraph (a)(i) or (ii) is guilty of an indictable offence and liable to imprisonment for a term not exceeding five years.

The present day Criminal Code has eliminated the specific mention of "the persons commonly called Mormons,"[25] which, as will be discussed later in the paper, has the effect of expanding the possible scope of application, and eliminating from scrutiny polygamous, but non-threatening LDS. In essence, during one period of history religious freedom was interpreted so as to exclude polygamous family structures, and in another, was tacitly accepted, at least when practiced by Latter-day Saints.

The Legal Context of Religious Minorities in Canada

Historically, Canada has had a Protestant/Roman Catholic quasi-establishment that has served to set the boundaries around that which constitutes "normal" religion.[26] The law is a mechanism by which religion on the margins is socially controlled. Bountiful is a singular example of the complex web of church-state-community relations that underlies religious freedom in Canada (and arguably North America). Scientologists, Jehovah's Witnesses, Wiccans, and Native Americans, to name but a few groups on the religious margins, have all experienced social control through the criminal sanctioning of their religious

activities. Scientologists have been charged with fraud for practices that would be seen as "normal" for mainstream religious groups, such as paying church leaders out of church profits.[27] Jehovah's Witnesses have been restricted by municipal bylaws from proselytizing[28] and more recently from making medical decisions in relation to their children.[29] Wiccans are forbidden from talking about their religion with their children.[30] Native Americans are criminally charged for hunting out of season, for possessing prohibited animal parts when they attempt to perform religious rituals, and for use of a prohibited substance (peyote) as part of a sacred ceremony.[31] In the case of fundamentalist LDS, polygamy is the focal point for persecution and, historically, prosecution. For Scientologists, it is their socially and sometimes legally constructed "cult" status and the absence of God in their cosmology. For Native Americans, it is their way of thinking that threatens the Eurocentric ordering of ownership. Each of the minority groups is a case study in itself, as the parameters of exclusion take a different shape and the boundaries of "normal" are contested terrain that shifts over time and space. Indeed, exclusion from the norm may be partial—one of the conditions of acceptance of Mormons as normal was that they abandon polygamy as a religious practice.[32] However, acceptance may be partial and conditional, depending upon the shape of the dominant religious voice(s). Paradoxically, those dominant voices often act silently to define "real" religion, and thus shape the ways in which freedom of religion is articulated.

Communities like Bountiful pose an interesting exception to the patterns of criminal sanction experienced by Latter-day Saints and other polygamous groups. Everyone agrees that polygamy is a violation of the Criminal Code. Indeed, a Royal Canadian Mounted Police investigation resulted in a recommendation that two Bountiful residents, one being Winston Kaye Blackmore (the leader cited at the beginning of this article), be charged under the Code. But the Crown Prosecutor's office reportedly refused to proceed, arguing that section 2(a) of the Charter of Rights and Freedoms would strike down the Criminal Code section in this instance.[33] In essence, the Crown Prosecutor's office refused to proceed based on what it anticipated *might* happen. Yet, in other circumstances the state has not hesitated to impose "external" standards of justice on closed religious communities in the past, as in *Lakeside Colony of Hutterian Brethren v. Hofer* (1992).[34]

The somewhat odd and uneven approach to religious freedom is not simply a Canadian anomaly—we can find many other examples of the uneven terrain of religious freedom in other countries as well. James T. Richardson has examined the contours of this problem internationally.[35] James Beckford has focused on the ways in which religious freedom is legally constructed in France.[36] In the United States, the 1988 *State of Oregon v. Smith* case is representative of the type of reasoning used

to restrict religious liberty, and is probably the case of most recent and sweeping significance.[37] There the Supreme Court privileged the so-called war on drugs over a religious ritual involving peyote, a prohibited substance but a central element in a Native American ritual. As Richardson notes, there has been a serious erosion of religious freedom in the United States.[38] In cases involving religious freedom there is a majority religious discourse that acts as a barometer of what constitutes "real" religion, even when the state is explicitly committed to secularism.

The legal mechanisms for limiting religious freedom vary from country to country. In Canada, the Supreme Court has held that it will give a broad interpretation to the meaning of religion in "freedom of religion," stating that it will not impose "internal limits."[39] Nonetheless, the Court has restricted the religious liberty of minority groups. One mechanism for limiting religious freedom is Section 1 of the Charter of Rights and Freedoms, which limits the rights and freedoms contained in the Charter by stating they are "subject only to such reasonable limits prescribed by law as can be demonstrably justified in a free and democratic society."[40] Legally, religious minorities are limited by the boundaries of "the normal," however that might be constituted. The parameters of those boundaries are negotiated terrain, but highly influenced by the hegemonic impact of mainstream Christianity in Western countries.

While the Supreme Court of Canada has used Section 1 to limit religious freedom, there is no clear reasoning or framework established for doing so. Certainly there is a body of case law that introduces mechanisms for determining Section 1 limits, but these are sufficiently vacuous to allow for the incorporation of a silent standard of "real" religion. The most articulate and well-reasoned decision of the Supreme Court in conducting a balancing and limiting of religious freedom is found in the *Ross* case, in which the Court weighed the religious freedom claimed by an anti-Semitic teacher against the "poisoned atmosphere of the educational environment."[41] The Court defined religious freedom as the "right to entertain such religious beliefs as a person chooses, the right to declare religious beliefs openly and without fear of hindrance or reprisal, and the right to manifest religious belief by worship and practice or by teaching and dissemination."[42] In its decision, the Court was clear that religious freedom is not boundless and must be tempered by the interests of society. Here the Court introduced the notion of "harm" and decided that there was a causal relationship between the teacher's conduct and the identified harm. The Court did not, however, articulate a clear framework with which such analyses could be conducted. The legal concept of harm is not new, but it is a novel approach in the limitation of religious freedom. It is also a concept that is employed, explicitly or implicitly, by the various voices that contribute to the debate over polygamy—that it harms women, the state, or men's control of women, and so on. The calculation of harm as a method for delineating legal

27

boundaries has become increasingly important, and it is therefore worth exploring in some detail.

"HARM" AS A LIMITING CONCEPT

Martha Nussbaum develops the concept of harm in relation to the limiting of religious freedom in her essay, "Religion and Women's Equality." Her balancing formula for religious freedom and other human rights involves a consideration of the preservation and support of human "central capabilities" with religious freedom. The intervening principle, and the aspect of Nussbaum's argument that is most interesting for the purposes of this article, is that of "harm." Nussbaum's central proposition is that "we should refuse to give deference to religion when its practices harm people in areas covered by the major capabilities."[43] She argues that religion should be protected because it is an important mechanism for some people for searching for ultimate good, and that religion is an important facilitator of morality.[44] However, her list of "major capabilities" is problematic. For example, 10b is "Material—being able to hold property," a central capability that reflects a particular liberal conceptualization of human fulfillment that runs contrary to the teachings of some religious groups, but that would not, in my view, constitute a "harm" that would justify limiting religious freedom.[45] For example, a number of religious groups hold property communally (see the discussion of the *Lakeside* case in note 34). Embedded in Nussbaum's central capabilities are judgments about what is good, desirable, and important for human happiness that may not be shared by all people and cannot necessarily be linked with the essence of what it is to be a healthy, happy human being. The "harms" conceptualized by Nussbaum are open to debate. Her underlying premises evidence, first, a limited understanding about religion—she insists that "cults" not be protected if they do not contain a "conduct improving element" and refers to Scientology as a "money making scheme."[46] Second, her underlying premises are based on an over-reliance on liberalism and conservative notions of virtue that would preserve the religious freedom of mainstream religions while leaving many religious minorities on the margins. The use of "harm" as a limiting concept may have potential, and it is a beginning point from which we may want to build a more clearly articulated framework for limiting religious freedom. However, it is important to recognize, as illustrated by Nussbaum's carefully laid out schema, that asking questions about harm necessarily imports moral frameworks about what is good and desirable. This is unavoidable. The point is that those frameworks must be identified as such, rather than masked under the guise of neutrality and objectivity. This is especially important in law, which holds itself as a neutral arbiter, and which presents legal formulae as objective problem solvers.

Mariana Valverde identifies the multi-faceted potential of the "harm" test in her discussion of obscenity law in Canada. Her analysis references us back to the problems with Nussbaum's proposed categories for the determination of the existence of harm by identifying the multiple possibilities of the harm test and the underlying values or standpoints from which the risk of harm argument is deployed. In short, Valverde argues that risk of harm acts "as a veritable joker card that can serve completely different purposes depending on the context."[47] In the example of polygamy, risk of harm also can be cited by the state in its bid to preserve the single-ownership model of women. Harm can be used by feminists who seek to argue that polygamy is a harmful vestige of patriarchy, and by women in polygamous relationships who may argue that their agency is compromised through the criminalization of polygamy. Valverde's arguments in relation to obscenity law bear repeating in the context of polygamy and its criminalization:

> The *Butler* decision's test of "risk of harm" has met with a warm reception both from other judges and from the public, but in this general happiness that a new basis for the criminalization of "immorality" has been found, it has been largely forgotten that the fashionable term "harm" can mean many things and that harm-based governance can have very different rationales and produce extremely varied results.[48]

Harm, or risk of harm, is a fluid concept subject to perspective and (ab)use by any interested party. Does this render it useless as a means to consider the limits we might want to place on religious freedom? Not necessarily, but a primary caveat of its use must be the revelation of moral assumptions about what is "good" or "right" or "desirable."

How can the concept of harm be used as a legal limit on religious freedom against those who claim they are entitled to practice polygamy as an expression of their religious beliefs? A central obstacle to its use is not a legal one, but rather an ongoing dilemma related to human agency and freedom of choice that again illustrates the differences among the various voices wishing to define religious freedom. Further, the fluidity of harm, as pointed out by Valverde, is intertwined with the confluence of many streams, including nation-building, nation-preserving, and the targeting of particular groups as "threatening" or "risky." Where, then, are we left on the question of polygamy, its criminalization, and its use as a filter in the boundaries of citizenship and nation? The determination of harm is no easy task, and must always be assessed (if harm analysis is the chosen route) asking the question: harm from whose perspective?

In the preceding pages, I have outlined the persecution of polygamous Latter-day Saints as a religious "other" whose threat to nation-building was articulated around the issue of polygamy. Over time, the

Saints have proven themselves to be good citizens, and are no longer seen as a threat to the nation. The main LDS Church has officially banned polygamy and clearly separates itself from polygamous groups. Fundamentalist groups, like those in Bountiful, are not perceived as a threat by the Canadian state. In short, the harm and risk of harm caused by polygamy has been assessed as non-existent, or at least not as a threat to the state. I wish to conclude this discussion with an example of the potential reconfiguration of harm in the post-September 11 climate.

PRESERVING THE NATION, DEFINING THE BOUNDARIES

In her carefully crafted discussion of "The Mormon Question," Sarah Barr Gordon locates the polygamy issue in its historical context. Gordon argues that polygamy became a symbolic beacon around power struggles of a broader nature, including religious freedom and nation-building. Central to anti-polygamy arguments were the notions that Christian monogamy and the welfare of the country were intertwined; that liberty and mainstream Protestantism were linked; and that polygamy could only be supported by theocracy, eliminating the distinction between church and state.[49] Of course, the links between mainstream Protestantism and the well-being of the nation and its citizens were not seen to violate the church-state wall. Anti-polygamists framed their arguments in relation to the antislavery movement, appealing to "the emotional suffering created by a system of oppression."[50] This connection also "provided a blueprint for constitutional rights consciousness."[51] In short, polygamy was constructed as being fraught with harm and risk of harm at multiple levels, not least of which was jeopardizing an entire nation and the values the majority of its citizens held dear (or so went the rhetoric).

Let us fast-forward to 2004, a post-September 11 era in which nation preservation, through the creation of fortress North America and the mounting of the war on terrorism, has become a pervasive discourse. In his pre-2001 discussion of treatment of immigrants in American culture, John K. Roth worried about the marginalization of "surplus" people, a discussion he linked to the "Final Solution" of the Nazi regime. He cited Richard Rubenstein: "[I]n a crisis, a secularized equivalent of the division of mankind into the elect and the reprobate could easily become a controlling image." Roth also noted that, "Western monotheism's emphasis on a God of history has typically included the idea that some groups or persons are specially called. They are linked together with God in covenantal relations."[52] While the post-September 11 God-rhetoric has been much more pervasive in the United States than in Canada, there is a renewed sense that an anti-immigrant sentiment, particularly against non-Christians, has certainly accelerated since Roth wrote these words.

In an interesting parallel, we see once again what has become articulated as a shared problem between the United States and Canada involving the flow of immigrants seen as posing a risk of harm, and who therefore must be monitored, controlled, and in some cases excluded as potential citizens. In the late 1800s, Mormons were constructed as presenting a threat to nationhood similar to that posed by present-day immigrants, particularly those from Muslim countries. Religion again plays a role in distinguishing "us" from "them," and the issue of polygamy emerges, albeit less centrally, as a sorting mechanism for excluding those constructed as presenting a threat to the nation/continent.

I pose this thesis not as a given, but as a call for further research and investigation. A significant limitation to such an inquiry is the availability of data, particularly through case law. Much of the sorting of immigration cases occurs behind closed doors, in the context of creating files embedded in a power-knowledge matrix that eludes external examination.[53] Further, immigrants are excluded from access to justice to a much greater extent than are citizens. Fear, lack of knowledge of the legal and bureaucratic systems, language barriers, and limited financial resources contribute to the parameters of power relations in this context. Finally, while the passage of time occludes many details of the story of Latter-day Saints and polygamy, it has also opened possibilities for discussion and allowed identification of narrative strands that make possible arguments such as that presented by Gordon. This same historical advantage is unavailable to us, as we are in the midst of the intersection of polygamy with broader social, political, and legal currents.

Reported cases of polygamy are somewhat scarce, and case law represents a very small portion of those matters that enter the legal forum; it is difficult to generalize from them, and there is much within legal discourse that remains hidden from view. Polygamy cases frequently turn on matters of conflict of laws, such as which country's laws apply, and are often focused on the availability of "matrimonial relief" to polygamous wives who immigrate to Canada.[54] In *R. v. Moustafa* (1991), the judge noted: "If I recall the Old Testament correctly, polygamy was a prevailing type of marriage arrangement in biblical days and is still in some countries permitted, although it certainly seems to be a type of marriage that is on the wane." The data the judge drew on for this conclusion was not mentioned. The defense council responded: "It's too expensive, your Honor." While the court noted that polygamy "surfaced" in earlier times in North America in the LDS Church, it went on to state that "it is not a kind of marriage that has been practised in Canada. The defendant is from Egypt, and of the Moslem religion. The defendant is sentenced to time served, and to probation. In addition, he is ordered to report to immigration authorities."[55] In 2002, in *Gure v. Canada (Minister of Immigration)*, the applicant, who married a Somalian woman and later

13

a Saudi Arabian woman, was denied permission for permanent resident status based on his previous polygamous status. He had divorced one of the women, but the court noted his separate applications for permanent residence with each woman, and the fact that he was married to two women at the time of his application, as reason to exclude him from the legislative parameters of "member of the family class" for the purposes of sponsorship.[56] In a 1998 decision *Ali v. The Minister of Citizenship and Immigration,* the Federal Court upheld the decision of an immigration officer refusing Ali's application for permanent residence in Canada because the officer "was of the opinion that there were reasonable grounds to believe the applicant would practice polygamy in Canada."[57] Not mentioned here were polygamous marriages in Canada that remained outside the purview of prosecutorial energies.

A thematic link between Mormon fundamentalists and present-day immigrants is their minority religion status. The fact that both groups have been limited in their religious expression is no mere coincidence. For both Mormons and immigrants, the law controls the religious practices of minority groups and, by implication, imposes a particular, idealized notion of family life/intimate relations. Cultural assimilation is thus facilitated on two fronts—religion and family structure—and the polygamy issue remains a mechanism for monitoring citizenship.[58]

CONCLUSION

The existence of polygamous groups such as that found in Bountiful serves as a point from which to explore some important issues, including the ways in which the definition of religious freedom shifts and changes over time. Historically, polygamy served as a focal point for attention to what was then a new religious movement. The LDS Church fractured over this issue, and it remains divided. In the contest between citizenship and nascent religious doctrine/practice, the former was the strategic choice for mainstream Mormonism. This ongoing internal conflict begs the question of why external sanctions, in the form of criminal prosecution, have not been pursued in Bountiful. Does failure to prosecute mean legal condoning of polygamy? There are several possible explanations for Bountiful's seeming immunity.

First, it might be argued that the failure to prosecute is in fact an attempt to respect women's autonomy/agency. State reluctance frequently manifests in this form, in which women's agency is used as the symbolic touchstone for non-intervention. Similar reasoning is used in relation to various forms of violence against women, including "domestic" violence and sexual assault. But this reasoning is often offered uncritically, leaving women without legal resources, or without a legal system that is responsive to women's oppression. There is, in this approach, no real reflexive interpretation of what we mean by women's

agency and how that might be best supported. It may take different shapes for different women. The reality is that polygamy is sometimes raised as problematic by women who leave polygamous colonies or families. Their allegations and insights offer another perspective on polygamous family life. Polygamous families are like other families—they can support a "private" place in which violence against women occurs and in which children are abused. While social scientists have identified issues around perspective in reporting (usually around "brainwashing") from those who leave religious colonies, nonetheless it is the voices of women who emerge to call into question conditions for women in polygamous colonies. Their voices must be taken seriously by the legal system. The state claim to be respecting women's agency through non-intervention lacks both credibility and reflexivity.

A second explanation for non-intervention may be the state's desire to avoid bad appearances. Scenes of crying women and babies as "offenders" are led away come to mind, such as the highly publicized case at Short Creek, Arizona, in 1953. In that case, the families were eventually reunited and remained committed to their religious beliefs, including the sacredness of polygamy.[59] The political management of a scene in which the state is seen as destroying families becomes extremely difficult, particularly in a neo-liberal climate that brings with it support for "traditional family values." In the abstract, polygamous families fall outside that framework, but the reality resembles the "ideal" family of conservative rhetoric much more than does the single-parent family. This raises an associated problem—what to do with the disassembled polygamous family? As the state has moved to privatize responsibility for families, and to displace state responsibility with individual responsibility, the creation of state-sanctioned "broken" families is problematic. Some family, it would seem, is better than no family at all, especially if it resembles a patriarchal model that avoids the dreaded female-headed family. A patriarch gives the state some assurance that the family is in safe hands.

In the social and legal construction of religious freedom and its limits, polygamy has served as a touchstone from which to control marginalized groups. The need to prosecute LDS polygamists has disappeared—they are no longer seen as a threat to the nation or the social order. Polygamy laws served a purpose in relation to social control of Mormons. They contributed to nation-building by transforming potentially rebellious outliers into model citizens. However, state-building was taking place at both levels. In the process of trading away polygamy, Mormons gained nationhood in terms of a safe territory that was granted statehood. In part, then, Joseph Smith's vision of a separate, earthly, kingdom[60] was realized.[61] Mormons have proved themselves model citizens, and thus a more radical group of polygamist LDS can be tolerated by the state with a live-and-let-live attitude.

However, the polygamy threat can be transposed to other groups who are perceived as threatening the nation, such as those who emigrate from countries in which polygamy is practiced legally, and whose religious beliefs support polygamy. In Canada, the Criminal Code provisions serve as a filtering device for immigrants with undesirable national/religious backgrounds. In an interesting historical continuity, parliamentary debates around the 1890 Criminal Code's enactment of polygamy sections reveal the targeting and control of immigration and immigrants (at that time Mormons) as a key goal:

> Notwithstanding the anxiety the hon. members from the North-West have shown during the last few days to promote immigration, I fancy they will not be very anxious to promote immigration of this character, and I do not suppose that any of us feel, under the circumstances, that such immigration is of a useful or wholesome or profitable character. I am not suggesting at this moment that we cannot do more than, by the most careful and comprehensive legislation, provide machinery for the discontinuance or the prevention of these abominable practices which we know these people engage in under pretence of religion.[62]

Although the social and political context was much different—Canada was a relatively new nation for which settlement was an important and somewhat pressing issue—the use of the Criminal Code as a filtering mechanism remains today.

The polygamy provisions are especially useful in the negotiation of power relations between state and religious minorities. The Criminal Code provisions prohibiting polygamy have been in existence for years, rendering them relatively unobtrusive and less likely to attract civil rights groups' attention. In theory, the provisions reflect the values of a society in which mainstream Christianity provides a silent measure of what counts as religion and what is worthy of protection under constitutional guarantees of freedom of religion. The calculation of risk of harm remains the wild card, as described by Valverde. In the meantime, polygamy and the limitation of its practice will no doubt continue to be a topic on which multiple discursive voices will be heard. The shifting terrain of polygamy laws allows the legal and social construction of LDS polygamists as harmless citizens and polygamist immigrants as potential dangers.

ENDNOTES

research assistance. Jon Berquist, Rebecca Johnson, and Marilyn Nefsky offered valuable suggestions. I thank the anonymous reviewers for their guidance.

[2] Estanislao Oziewicz, "Bountiful's Troubling Tradition," *Toronto Globe and Mail*, 9 December 2000.

[3] Polygamy, or more accurately polygyny (husband with multiple wives), is practiced worldwide by a wide range of religions, including Jews and Muslims.

[4] Richard N. Ostling and Joan K. Ostling, *The Power and the Promise: Mormon America* (San Francisco: HarperSanFrancisco, 1999), 74.

[5] See D. Michael Quinn, "Plural Marriage and Mormon Fundamentalism," in *Fundamentalisms and Society: Reclaiming the Sciences, the Family, and Education*, ed. Martin E. Marty and R. Scott Appleby (Chicago: University of Chicago Press, 1993) 240–93. Quinn offers an excellent discussion of Mormon fundamentalism and its theology.

[6] See Quinn, "Plural Marriage and Mormon Fundamentalism," 253–55, for a discussion of the tensions between fundamentalist and mainstream LDS.

[7] For some of the LDS rationales for polygamy, beyond the claim that it was a revelation to Joseph Smith, see Stanley S. Ivins, "Notes on Mormon Polygamy," in *The New Mormon History: Revisionist Essays on the Past*, ed. D. Michael Quinn (Salt Lake City: Signature Books, 1991), 175.

[8] Jessie L. Embry, *Mormon Polygamous Families: Life in the Principle* (Salt Lake City: University of Utah Press, 1987), 16.

[9] Richard S. van Wagoner, *Mormon Polygamy: A History* (Salt Lake City: Signature Books, 1989). Also, see Quinn, "Plural Marriage and Mormon Fundamentalism."

[10] Sarah Barringer Gordon, *The Mormon Question: Polygamy and Constitutional Conflict in Nineteenth-Century America* (Chapel Hill: University of North Carolina Press, 2002). In any event, "today Mormons are widely regarded as quintessentially, even hyper, American." Grant Underwood, "Millennialism, Persecution, and Violence: The Mormons," in *Millennialism, Persecution, and Violence: Historical Cases*, ed. Catherine Wessinger (Syracuse: Syracuse University Press, 2000), 60.

[11] Quinn, "Plural Marriage and Mormon Fundamentalism," 253–55.

[12] Quinn, "Plural Marriage and Mormon Fundamentalism," 252.

[13] This is a simplification of a more complex legal history. For an excellent and detailed overview, see Mary K. Campbell, "Mr. Peay's Horses: The Federal Response to Mormon Polygamy, 1854–1887," *Yale Journal of Law and Feminism* 13 (2001): 29–70.

[14] Eric Mazur, *The Americanization of Religious Minorities: Confronting the Constitutional Order* (Baltimore: Johns Hopkins University Press, 1999), 74–80.

[15] *Reynolds v. United States*, 98 US 145 1878.

[16] Mazur, *Americanization of Religious Minorities*, 83.

[17] Gordon, *Mormon Question*, 30. Gordon also notes the tendency in popular culture to compare polygamy to slavery, and the criticism of law in its seeming ineffectiveness to control both during the mid 1800s (48–49).

[18] Carmon B. Hardy, "Mormon Polygamy in Mexico and Canada: A Legal and Historiographical Review," in *The Mormon Presence in Canada*, ed. Brigham Y. Card, Herbert C. Northcott, John E. Foster, Howard Palmer, and George Jarvis (Edmonton: University of Alberta Press, 1990), 195.

[19] Embry, *Mormon Polygamous Families*, 24.

[20] *Hansard*, 3177.

[21] *Hansard*, 3177.

[22] *Hansard*, 3178.

[23] *Hansard*, 3179.

[24] Howard Palmer, "Polygamy and Progress: The Reaction to Mormons in Canada, 1887–1923," in Card, Northcott, Foster, Palmer, and Jarvis, *Mormon Presence in Canada*, 110.

[25] Section 310, Criminal Code of Canada, 1906.

[26] "Few Canadians find the 'separation of church and state' an acceptable description either of their situation or of their ideal of it." John Webster Grant quoted in Seymour Martin Lipset, *North American Cultures: Values and Institutions in Canada and the United States* (Orono, Me.: Borderlands Project, 1990), 10.

[27] *R. v. Church of Scientology* No. 6, 99 OAC 321, 1997.

[28] *Saumar v. City of Quebec and Attorney General of Quebec* [1953] 2 SCR 229.

[29] *Sheena B* [1995] 176 N.R. SCC.

[30] *Gay v. Kingston* [1992] AJ 1171.

[31] *R. v. Jack* [1982] 5 WWW 193. See *Employment Division, Department of Human Resources of the State of Oregon v. Smith*, 485 U.S. 660 (1988).

[32] See Underwood, "Millennialism, Persecution, and Violence," for a discussion of millennialism, violence and links to polygamy in the 1890s, especially on 51.

[33] Oziewicz, "Bountiful's Troubling Tradition."

[34] That case involved the expulsion of a member of an Alberta Hutterite colony who had invented and patented a hog feeder against the wishes of the community. Such colonies are in some senses models of Durkheim's mechanical solidarity: values and norms are shared, and punishments for transgressions are harsh, thus maintaining, at least in theory, social solidarity. Shaming, in this instance, becomes a central mechanism for social control. In this way Hutterite communities minimize conflict and try to deal with decisions using a community consensus model. In part they achieve this by separating themselves from the world. In *Hofer*, the expelled member argued that the principles of natural justice had not been followed because he was not given proper notice of the meeting at which the decision to expel him was reached. The Supreme Court of Canada imposed external standards of natural justice, which it assumed were universal standards and if they were not followed, should be. In applying external legal standards, the Court ignored the internal order of the colony that the expelled member clearly violated. Only Justice McLachlin (now Chief Justice of the Supreme Court of Canada) in dissent acknowledged that the social context should be carefully considered. She stated, "The church is predicated on voluntary submission to the rulings of the elders in authority, so as to maintain the ideal of peaceful and harmonious living. A member is at all times free to remove himself from the colony." See *Lakeside Colony of Hutterian Brethren v. Hofer* [1992] 3 S.C.R. 165, at 228. Rather than respecting the colony's dispute resolution mechanisms as well as its need to maintain social solidarity in such a tight-knit community, the court privileged legal discourse over religious discourse. Surely if the court was willing to interfere over a hog feeder, risking the balance of the community, it should have no trouble enforcing the public law as stated in the Criminal Code in relation to polygamy, or at least chancing a favorable decision at what would inevitably be the Supreme Court of Canada level.

[35] James T. Richardson, "Minority Religions ('Cults') and the Law: Comparisons of the United States, Europe and Australia," *University of Queensland Law Journal* 18, no. 2 (1995): 183–207.

[36] James A. Beckford, "'Dystopia' and the Reaction to New Religious Movements in France," paper presented at the annual meeting of the Society for the Scientific Study of Religion, 2001.

[37] *Employment Division, Department of Human Resources of the State of Oregon v. Smith*, 485 U.S. 660 (1988).

[38] In all these examples, the minority religious groups seek to define the boundaries of religious freedom based on internal understandings of their religious beliefs and practices. These groups frequently engage the legal measures and formulae for religious freedom in attempts to transcend boundaries that might otherwise exclude them.

[39] *Ross v. New Brunswick School District No. 15* [1996] 1 S.C.R. 825 paragraph 73.

[40] Canadian Charter of Rights and Freedoms, Constitution Act 1982.

[41] See *Attis v. New Brunswick District No. 15 Board of Education* [1996] 195 N.R.81 (S.C.C.) 251, known as the "Ross" case.

[42] *Ross v. New Brunswick School District No. 15* [1996] 1 S.C.R. 825 paragraph 72.

[43] Martha Nussbaum, "Religion and Women's Equality: The Case of India," in *Obligations of Citizenship and Demands of Faith: Religious Accommodation in Pluralist Democracies*, ed. Nancy Rosenblum (Princeton: Princeton University Press, 2002), 349.

[44] Nussbaum, "Religion and Women's Equality," 348.

[45] In her list, Nussbaum includes reproductive health and "opportunities for sexual satisfaction," raising the possibility that she might eliminate celibacy from the range of protected choices made in accordance with religious beliefs.

[46] Nussbaum, "Religion and Women's Equality," 349.

[47] Mariana Valverde, "The Harms of Sex and the Risks of Breasts: Obscenity and Indecency in Canadian Law," *Social and Legal Studies* 8, no. 2 (1999): 184.

[48] Valverde, "The Harms of Sex," 187.

[49] Gordon, *Mormon Question*, 30, 33, 34–35.

[50] Gordon, *Mormon Question*, 49.

[51] Gordon, *Mormon Question*, 51.

[52] John K. Roth, *Private Needs, Public Selves* (Chicago: University of Illinois Press, 1997), 187.

[53] Michel Foucault, *Discipline and Punish* (New York: Vintage Books, 1977). See also Lori G. Beaman, "Legal Ethnography: Exploring the Gendered Nature of Legal Method," *Critical Criminology: An International Journal* 7, no. 1 (1996): 53–74.

[54] *Sara v. Sara* [1962] 31 DLR 2nd 566; *Re Hassan and Hassan* [1976] 12 OR 2nd 432. See M. L. Marasinghe, "Polygamous Marriages and the Principle of Mutation inn the Conflict of Laws," *McGill Law Journal* 24 (1978): 395–421, for an extensive discussion of conflict of laws issues.

[55] *R. v. Moustafa*, [1991], O.J. No. 835 (Ont. Prov. Div.) (QL).

[56] *Gurr v. Canada (Minister of Immigration)* [2002], 25 Imm.L.R. (3d) (Imm. & Ref. Bd. [App. Div.]).

[57] *Ali v. Canada (Minister of Citizenship and Immigration)* [1999], 154 F.T.R.

[58] Notes in the Criminal Code make it clear that adultery does not constitute polygamy. The law does not otherwise sanction adultery, and thus multiple relationships in North America in one form receive tacit approval or at the very least are not socially controlled through law.

[59] Quinn, "Plural Marriage and Mormon Fundamentalism," 145; and Ostling and Ostling, *The Power and the Promise*, 74. See also Ken Driggs, "'This Will Someday Be the Head and Not the Tail of the Church': A History of the Mormon Fundamentalists at Short Creek," *Journal of Church and State* 43, no. 1 (2001): 49–80.

[60] Gordon, *Mormon Question*, 22.

[61] In the United States, there is an extra piece to the puzzle of polygamy. The United States Constitution differs from the Canadian constitutional approach to religion (which, especially in the Constitution Act of 1867, arguably could be interpreted as endorsing state/religion entanglement) in that the former explicitly prohibits the "establishment"

of religion. It might be argued that Utah in fact has an established religion in that its state government is dominated by LDS, and it is clear that LDS religious beliefs are reflected in state laws. It is arguable that, with the elimination of polygamy as a tenet of mainstream Mormonism, the church brought itself within the boundaries of mainstream Protestantism, which forms the hegemonic religious discourse in the United States. Thus "establishment" became acceptable as long as the established church fell within the parameters of mainstream Protestantism.

[62] *Hansard,* 3175.

Response

Who Decides? Harm, Polygamy and Limits on Freedom

Lori G. Beaman

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,[1] 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.[2] 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.[3] 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.[4] 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

44

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,[5] 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,[6] 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.[7] 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.

45

Her conceptualization of agency is theoretically sophisticated.[8] The use of her theory of agency extends far beyond the field of sociology of religion.[9] 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.[10] 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,[11] Mormons,[12] and the Amish[13] 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[14] 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[15] and Robin West,[16] 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.[17] 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."[18] 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."[19]

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.[20] 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[21] 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,[22] 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,[23] 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.[24] 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[25] 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."[26] 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.

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). ·

[3] R. v. Labaye, 2005 SCC 80.

[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."

[5] *Multani v. Commission scolaire Marguerite-Bourgeoys*, [2006] SCC 6.

[6] Lori G. Beaman, "Church, State and the Legal Interpretation of Polygamy in Canada," *Nova Religio* 8, no. 1 (July 2004): 20–38; Beaman and Matthews, *Sociology of Gender*.

[7] Alberta Civil Liberties Research Centre, "Separate and Unequal: The Women and Children of Polygamy," Status of Women Canada, 2006, at <http://www.swc-cfc.gc.ca/pubs/pubspr/0662420683/200511_0662420683-4_1_e.html>.

[8] For examples, see Eileen Barker "And the Wisdom to Know the Difference? Freedom, Control and the Sociology of Religion," *Sociology of Religion* 64, no. 3 (2003): 285–307, as well as Eileen Barker, "Harm and New Religious Movements: Some Notes on a Sociological Perspective," *Cultic Studies Review* 2, no. 1 (2003), at <http://www.culticstudiesreview.org/csr_member/mem_articles/barker_eileen_csr0201.htm>.

[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.

[10] Catherine MacKinnon, *Feminism Unmodified: Discourses on Life and Law* (Cambridge: Harvard University Press, 1987).

[11] Debra R. Kaufman, *Rachel's Daughters: Newly Orthodox Jewish Women* (New Brunswick: Rutgers University Press, 1991).

[12] Lori Beaman, "Molly Mormons, Mormon Feminists and Moderates: Religious Diversity and the Latter-Day Saints Church," *Sociology of Religion* 62, no. 1 (2001): 65–86.

[13] Marc A. Olshan and Kimberly D. Schmidt, "Amish Women and the Feminist Conundrum," in *The Amish Struggle with Modernity*, ed. Donald B. Kraybill and Marc A. Olshan (Hanover: University Press of New England, 1994), 215–30.

[14] Homa Hoodfar, "More than Clothing: Veiling as an Adaptive Strategy," in *The Muslim Veil in North America: Issues and Debates*, ed. Alvi Sajida, Homa Hoodfar, and Sheila McDonough (Toronto: Women's Press, 2003), 3–40.

[15] Rebecca Johnson, *Taxing Choices: The Intersection of Class, Gender, Parenthood, and the Law* (Victoria: University of British Columbia Press, 2002).

[16] Robin West, "Jurisprudence and Gender," *University of Chicago Law Review* 55, no. 1 (1988): 1–72.

[17] Stuart A. Wright, "Reconceptualizing Cult Coercion and Withdrawal: A Comparative Analysis of Divorce and Apostasy," *Social Forces* 70 no. 1 (1991): 125–47.

[18] Wright, "Reconceptualizing Cult Coercion and Withdrawl," 133.

[19] Wright, "Reconceptualizing Cult Coercion and Withdrawl," 141.

[20] Martha Bailey, Beverley Baines, Bita Amani and Amy Kaufman, "Expanding Recognition of Foreign Polygamous Marriages: Policy Implications for Canada," *Status of Women Canada*, 2006, at <http://www.swc-cfc.gc.ca/pubs/pubspr/0662420683/200511_0662420683-3_1_e.html>.

[21] Mariana Valverde, "The Harms of Sex and the Risks of Breasts: Obscenity and Indecency in Canadian Law," *Social and Legal Studies* 8 no. 2 (1999): 181–97.

[22] Beaman, "Church, State and the Legal Interpretation of Polygamy in Canada, 20–38.

[23] R. v. Edwards Books and Art Ltd. [1986] 2 SCR 713.

[24] "Bountiful Women Defend Polygamy: 'Silent no more': Wives Allow Unprecedented Peek at Lifestyle," *National Post* (Canada), 21 April 2005, A3.

[25] Beaman, "Church, State and the Legal Interpretation of Polygamy in Canada," 20–38.

[26] Section 310, Criminal Code of Canada, 1906.

Molly Mormons, Mormon Feminists and Moderates: Religious Diversity and the Latter Day Saints Church

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Based on data from life history interviews with 28 Latter Day Saints women, this paper considers the process of boundary negotiation on two key sites. First, how do Mormon women maintain their autonomy and agency in the context of institutionalized patriarchy. Secondly, how do women make sense of church prescriptions on male authority both within the family and in the church hierarchy. The study reveals that LDS women are not monolithic in their response to these issues, and that they tend to fall into one of three groups — Molly Mormons, feminists, or moderates. The paper reviews strategies used by Mormon women to negotiate boundaries within their families, the church, and society around four issues: participation in the paid labor force, male headship, the priesthood, and the separation of their faith from decisions made by the male hierarchy of the church.

INTRODUCTION

The study of boundary negotiation between religious groups and the social context in which they exist has long held fascination for sociologists. Donald Kraybill (1989) and Conrad Kanagay (1994) have explored the permeability of boundaries in relation to the Amish, Nancy Ammerman (1987) has examined the ways in which fundamentalists negotiate boundaries in a secular culture, and James Davison Hunter (1991) has constructed a theory of culture wars based on assumptions about boundaries. In religion, the struggle over boundaries is manifested in the ways in which both church organization and ideology is acted upon and acts upon individual believers in their social context.

A multi-faceted approach to religious participation may serve to help us understand women's participation in conservative religions, and the process of boundary negotiation at multiple levels. Elizabeth Ozorak argues that higher levels of religiosity amongst women presents a paradox that needs to be explained. She asks "why do women disproportionately invest in an institution that systematically devalues them?" (1996: 17). While the women Ozorak interviewed identified some inequalities in the church, they chose to deal with it through 'cognitive restructuring' — reinterpreting their environment and adjusting their responses to it. Such a tactic allowed women to maintain their self-esteem without abandoning their religious beliefs. Davidman (1986) and Kaufman (1991) have explored boundary negotiation in relation to Orthodox Jewish women, Neitz has studied charismatic Catholic women (1987) and their negotiation of boundaries both within the church and society, and I have examined how evangelical women shape church teachings and negotiate church-community boundaries in relation to wife abuse (1996, 1997).

Christel Manning's work with Catholic women serves to raise another problem arising out of boundary negotiation. Different responses to religious dogma result in divisions between women within religious organizations. While Manning (1997) points out that such divisions may be bridged to some extent by moderating factors, they do contribute to the overall polarization within the church. Similar strains exist amongst evangelical women (Beaman 1997). For LDS[1] women, the divisions have sometimes been rather dramatically and publicly played out through events like the 1980 excommunication of Sonia Johnson for her activism in relation to the ERA.

The negotiation of boundaries and the strategies employed by LDS women in their day to day lives will be examined in this paper. The strategies used to understand roles, particularly in light of church teachings on headship, participation in the paid labor force, the priesthood and church hierarchy will be explored. How do LDS women maintain their autonomy and agency in the context of institutionalized patriarchy, particularly in light of the trend within the Mormon church to adopt the "family values" rhetoric of conservative Protestantism (Mauss 1994)? The discussion which follows reveals the diverse ways in which LDS women exercise their agency, negotiate their identities as agents, and challenge and shape church structure. My intention is to produce a more "textured interpretation of human agency," to use Ammerman's (1997) words, through a consideration of multiple sites which highlight the complexities of religious participation through the process of boundary negotiation. Using a qualitative approach which focuses on life histories of participants, this

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[1] I will use LDS and Mormon interchangeably in this paper in keeping with the variety of self-descriptions I heard from the women I interviewed. As one reviewer pointed out, more conservative and moderate members would are likely to refer to themselves as LDS, and usually only use the term "Mormon" when talking to an outsider.

paper examines Mormon women's perceptions of their own agency in the context of church doctrine, their families and their own life paths.

METHOD

The data for this paper is part of a larger research project which examines women's agency in patriarchal religions. This research has drawn from a variety of data sources: participant observation at a large general women's meeting, indepth personal life-history interviews, email conversations, a day spent with an informal group of women who consider themselves, for the most part, to be Mormon feminists, and an "insider" informant — an LDS woman whose family roots trace back to the great trek to Utah and who has been raised in Western Canada has acted as an informant on basic beliefs and practices, as well as an entry point into the LDS community. The interviews lasted 1–2.5 hours, with one participant asking to be interviewed again at some point in the future. Although I do not claim that this is a representative sample, the 28 women who have been interviewed provide an interesting mini-portrait of the diversity of LDS women. Each of these women lives in Southern Alberta, although not all are originally from Western Canada.[2]

The women who participated in this study ranged in age from 18 to 93, with an average age of 45. All were white, three were single (never married), one had been widowed, five were divorced, the rest were married. Almost all had either college or university education. Fourteen were employed either full time or part time, two were students, two were unable to work because of physical disabilities, three were retired. Seven were full-time homemakers. Twenty three had children, with an average of three children in a family. Only five were adult converts to the LDS church, the rest had been born into families with a Mormon heritage.

Life histories have recently been recognized as an important method in sociological research. As a research tool, they permit the careful study of the complex relationship between social structure and life experiences over a broad sweep of time (Engel and Munger 1996). In contrast to a more traditional interview format, the life history approach encourages the participant to identify the continuum of events in her life. The organization of her experiences by religious institutions may intersect with career choices, gender roles within relationships, or changing understandings of her own agency. In addition, the organizing process of religion changes over time, and extends beyond the place an interviewee may be at the time she participates in research. Life history data captures

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[2] The Mormon presence in Canada dates primarily from the late 1800s, although the rise and subsequent decline of the LDS community in the east occurred in the 1830s and 40s. As a percentage of the population, the LDS presence in Canada is very small. LDS make up only about 0.3% of the Canadian population (Jarvis 1990).

the complexities of the dialectic relationship between agent and structure over time, and helps us to avoid the trap of seeing religious participation as a static state, rather than a dynamic process. For Mormons in particular, the life history approach seems to be appropriate, both for those who have been born into the church and those who have converted. Those born into the church often reported a period during which they had "strayed." Interestingly, these participants found themselves defending and protecting their faith, even when they themselves were not active.[3] For converts the "pre" LDS life is often an important part of their self-perception and present religious participation.

One of the advantages of using the life history approach is that we are able to see the trajectory of religious participation and commitment throughout the participants' lives. It is also important in assessing the nature of gender roles. For example, if we considered one participant's present position as a stay-at-home mother in isolation, we might conclude that the institutionalized patriarchy of the church has successfully socialized her to forego her "potential." Yet, when we examine her life as a whole, she has exercised agency in realizing her potential through sport, mission, and now, motherhood. The role models she cites are strong women who are active in church, community, and interestingly, career. Another participant commented that our discussion would have been very different had she been interviewed 10 years earlier in her life.

The categories I talk about in the following sections — Molly Mormons, Mormon feminists or moderates — reflect both the uniqueness of these data and typologies used in other research on conservative church women. Other research with LDS women (Beck 1995) and conservative Protestants (Beaman 1998) as well as Lyn Gesch's (1995) work have identified a pattern to the heterogeneity of women within religious communities. As the data in this study was analyzed it became apparent that these categories would be useful tools in understanding the ways in which LDS women make sense of the teachings of the church in light of their everyday lives.

FINDINGS

The women who participated in this study, whether Molly Mormons (a term that emerged from the interviewees), Mormon feminists, or moderates,[4] each

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[3] Presley et al. attribute such defensiveness in part to the perception by Mormons of themselves as a persecuted minority (1986: 72).

[4] Other research, both with LDS women (Beck 1995), conservative Protestants (Beaman 1997) and mainline Protestants (Gesch 1995) have identified a pattern in the heterogeneity of women's groups. As the data in this study were analysed it became apparent that these categories would be useful tools in understanding the multiple forms of agency amongst LDS women. While some of the women used these terms, not all did. I had never heard the term "Molly Mormon" before my second interviewee used it to describe herself. Another interesting term used by the women is "Jack Mormon," used to describe someone who has "lapsed."

finds her own way to negotiate her identity, her place in her local congregation, and her role in society. The phrase "Molly Mormon" was used by a number of the women, sometimes to describe themselves, other times to describe church expectations. From their descriptions, "Molly Mormon" describes a "good" Mormon woman who follows church teachings. However, as one interviewee pointed out, it is a stereotype that fits no woman because "there's always some kind of place where she feels a disjuncture, a place where she knows her feelings aren't working with what she's told she ought to be or ought to do" [MC3].

Church policy and the social context in which women find themselves shape the boundaries within which they exercise their agency. Those boundaries are by no means static: they shift and change over time. Gender roles is one such "boundary." To Mormons, gender is theologically important (Shipps 1994 : 78); one is gendered not only in one's earthly life, but in the afterlife as well. Gender prescribes roles and responsibilities, acting as a map to salvation, but also as a basis for distinction and hierarchy (Cornwall 1994: 240). LDS women are enjoined by church leaders to give their domestic roles top priority in order to promote the stability of the family (Mauss 1994 : 135). Only Mormon men can participate in the priesthood, a calling which brings with it responsibilities such as preparing and blessing the sacrament, performing baptisms, and holding church offices such as elder or stake president.[5] Although some attempt has been made to equate the role of mother[6] which is based in "nature," with the priesthood, which is derived from the "order of law," there is little convincing evidence that the roles are held in equal esteem by church hierarchy (Cornwall 1994: 245).[7] Policies around gender roles and the interpretation of theology form a "transcendent perspective" (Ammerman 1997: 210) which make up the structure in which Mormon women negotiate their daily lives. LDS women

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[5] In her research with a fundamentalist Mormon group, Bennion found that "While in the mainstream Mormon Church, women are forbidden to participate in vital 'priesthood' religious and social rituals, fundamentalist women, because of their 'forced independence,' often bless one another and their children, prophesy, preside autonomously over their organizations and auxiliaries, and serve, to some extent, in gender-blind administrative positions, such as city recorder, city judge, adult Sunday school teacher, naturopath/midwife, and village doctor" (1997: 80).

[6] An interesting aspect of Mormon theology is the belief in a Heavenly Mother, although there is some debate about the nature of this female God. Heeren et al. argue that this, in and of itself, does not have any feminist implications, indeed "From the point of view of Church authorities, then, Mother in Heaven seems to provide a role model for Mormon women. Patriarchy among Mormons is seen as justified by the order of Heaven. Heavenly Father plays a more prominent role in Heavenly matters than does the Mother (perhaps Mothers) of his spirit children. Thus should it be on earth" (1984: 406). Although Mormon feminists have tried to appropriate Mother in Heaven as a symbol for Mormon feminism, she remains largely a symbol of the patriarchal order.

[7] See also Bennion (1997: 85-86.) One participant commented that the Mother in Heaven belief is nervewracking to men "and we've been told we're not to talk about our Mother in Heaven though she is in our theology" [MC-3].

exercise agency in their interpretation of church doctrine[8] and sometimes by ignoring it.

The following composites represent the three "types" of LDS women who have participated in this research: Molly Mormons, Mormon feminists and "moderates." Obviously, these are broad generalizations and are intended to be used as heuristic tools rather than as representative of all LDS women. Although these composites are generalizations, I will use quotations from participants who resemble these typologies. Interviewees are identified by numbers assigned by the interviewers in order to preserve anonymity.

Rebecca is a 27 year old mother of a 3 month old girl. Her temple wedding pictures are prominent in her living room. She proudly traces her roots to the wagon train settlers, and has been raised in an active LDS family, and jokingly describes herself as a "Molly Mormon." She reports her childhood as being full of opportunity. She was a highly accomplished athlete, has gone on a mission to a far eastern country, and although professionally trained, is happy with her stay-at-home status. During our conversation she frequently mentions other LDS women she admires, and although it is clear she is respectful of the male church hierarchy, it is these women who are her role models.

Anne is a 46 year old single woman who works as a receptionist. She converted to Mormonism in her teenage years, despite the objection of her family. In her early twenties she went on a mission to Europe. Although she would have liked to have been married and to have had children, she accepts the fact that she is single, and likely to remain so. She is very active in the church, having taken on a number of senior responsibilities. She has struggled with the authority given to men through the priest-hood, but is accepting of it so long as men use it responsibly.

Martha is a 60 year old mother of 5 children who has always been a full-time homemaker, although she has training as a teacher. Her family has a long Mormon heritage of which she is proud. She is angry about the changes in the church during the past two decades, and is especially bitter about the diminishing of women's roles and responsibilities in the Relief Society. She has gradually developed a feminist consciousness over the past two decades, and now describes herself as a Mormon feminist.

PARTICIPATION IN THE PAID LABOR FORCE

"We Mormons are often heard to say that no success can compensate for failure in the home."

The institution of "family" is central to LDS theology and religious practice. Family is the basis of social order and development within LDS culture (Foster 1991: 205): "For Latter-day Saints, marriage and family are more than a matter of social convention or individual need fulfillment; they are fundamental to personal salvation" (Holman and Harding 1996: 52). Although changed over time, church leadership promotes family both internally, through encouraging specific practices like family home evening (usually Mondays), during which members

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[8] One woman acknowledged her love of coffee, but chose not to drink it because of church teachings. She did admit that "if the church ever said we could drink coffee, I'd probably be the first one to go out and get a cup!" [M-6].

are encouraged to spend time with spouses and children, and externally in the broader culture through television advertisements which depict family members supporting and loving each other in daily life.

> Although Mormon women today continue to play an essential role in the home and in grass-roots church activities, their participation in the larger society is discouraged in many ways, both by direct exhortation and by subtle community sanctions against deviance from the church-approved ideal that women should try to be perfect wives and mothers in an almost neo-Victorian sense (Foster 1991: 203).

Heaton identifies four areas of difference between Mormons and mainstream society, including more conservative sexual behavior before marriage, a pro-marriage attitude, larger family size and the fact that "Mormons believe in male authority and in a more traditional division of labor between husbands and wives" (1994: 88–89). While divorce rates are lower amongst LDS couples, the percentage of Canadian LDS men who are divorced is lower than the national average, while the percentage of women is higher (Jarvis 1990: 242).

Mormon women's negotiation of boundaries within their families involves the definition of their role, which is integrally tied to participation in the paid labor force. Heaton (1994) has found that LDS women participate in the paid labor force at approximately the same rate as the national average, although they are more likely to work part-time. How do LDS women themselves understand their participation in the paid labor force, or their decisions to stay at home? Foster points to the interesting contrast between rhetoric and reality here: "while approximately half of married Mormon women work at least part time outside the home to help make ends meet, the church criticizes women who work and thereby neglect their families." (1991: 209).[9]

The decision to enter the paid labor force is especially complicated for LDS women, who are taught to be self-sufficient, even though they are expected to marry, have children, and stay at home. Anne, who acts in a leadership capacity, describes her role in mentoring young women:

> the primary focus would, of course, be to prepare them, in my opinion, to be independent women, to educate themselves, with the view in mind that if marriage comes to them, and it's something they feel is the best course of action for them, that they should take it. If they cannot, for some reason, have that opportunity, or they're not able to, mentally, physically, whatever . . . then be more productive in society, serve in some manner. So we encourage them to educate themselves, um, but always with the view that if they can become wives and mothers, that's great [M-1].

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[9] In their study of 1130 LDS women, Chadwick and Garrett (1995) found that many women who worked in the paid labor force experienced guilt or other negative feelings over the tension between being employed and the teachings of the church.

Anne's discussion gives us some insight into the complexities of the role prescriptions for women. While women are encouraged to stay at home with small children, young women are also supported in becoming self-sufficient:

> The church isn't against women working, and they encourage women to get an education, cause you don't know what's ever going to happen in the future, maybe your husband's killed or your husband dies, you know at an early age, or maybe unfortunately you do end up getting divorced so you have to support your family [M-4].

These practical concerns allow women the freedom to choose a career, even though they may actually never use their skills in the paid labor force. However, as the participation of this group of women in the labor force (as well as other research) would indicate, there is sometimes a sharp contrast between church teachings and actual practices.

In her longing for the days when women stayed at home and men went out to work, the following participant articulates a traditional or "Molly Mormon" perspective on the roles of men and women:

> I like that idea. I think it's better not only for the kids and the family, but I think economically as well because, this is getting off the subject too but, um, if the woman, in most, more cases, in more cases would stay home, I think it would leave a lot more jobs open for those men who need jobs to support their families [M-7].

"Rebecca" lives the "ideal" role for a woman as set out by the church. Rebecca is a stay-at-home mother, married in the temple, and committed to traditional roles within the context of her marriage, and she jokingly describes herself as a "Molly Mormon." Yet, she is not naïve about the difficulties LDS women face, and identifies the pressure to be perfect as being sometimes quite overwhelming. She calls this the "Mormon Woman's Syndrome." Although she is reluctant to place the blame for this pressure on the teachings of the church, she does cite the gospel and commandments as a beginning point for this pressure. However, church teachings allow Rebecca the freedom to stay at home and mother, which is what she says she wants to do at this point in her life. Within LDS culture, her decision is not only permissible, but desirable.

In the process of analyzing participants' beliefs and practices it is important to allow for flexibility not only within categories, but among the women themselves. As the life history approach illustrates, depending on their experiences and social location, women often shift their beliefs and practices over the course of their lives. A young professional LDS woman described how her beliefs had changed over the course of her three year marriage. At first, she believed she had to "take care" of her husband, falling into traditional roles even though, as she said it, her mother is a feminist. She noted that her mother-in-law does all of the household labor: "she has a lot of resentment . . . you know . . . of not having worked and nor really having many choices, and I just kind of go, you know, I

don't really want to be fifty and saying all these things" [MC-1]. Martha went further in her condemnation of "separate roles:"

> Well, our church still believes that there, the women have a role, the men have a role, that's laughable. You know, that his role is to provide for the family and is to bring in money and her role is to make the family happy on that much money. That's ridiculous nowadays. It's a belief that we have in the church, it's a belief that gives a lot of families guilt, but it's a belief that families don't need, they have to feel guilty with, if the woman still goes out to work. We kind of don't recognize that women go out, they take paper routes, they take in, they have children coming in, like day homes they, what else do they do . . . they do home cottage things and we like to believe that that's not work, or that that money doesn't count when in actual fact it might just be the thing that keeps the wolf away from their door. So we don't give credence to women's role. We have the idea that we put the woman on the pedestal, but really she is, she's not on a pedestal being taken care of, she really is just working an eighteen hour day trying to make it in the family, provide for her family and make her husband happy. I don't think there's anyone trying to make her happy. We have a rhetoric, the husband is to make the wife happy but, I'm not too sure that it turns out in practice [MC-3].

For the most part, the participants in this study cited some version of church rhetoric on separate roles for men and women. Martha's views are a startling departure from the "party line." Her love of her Mormon heritage is coupled with her feminist views in her agency as a religious participant. She feels that her views, which she has stated publicly, have resulted in her marginalization, particularly in her contact with younger female Saints. She has been told that she is not "trustworthy." Yet, for Martha, being a Mormon is as much a part of who she is as is her identity as a Canadian.

While there are patterns which emerge from these interviews which support the typology of "feminist, Molly Mormon, and moderate" set out at the beginning of this section, the negotiation of boundaries is not as clear as we might want them to be. A young single woman, reporting conversations she has had with friends discussing the "ideal" for family life, was careful to leave open the option to work in the paid labor force:

> We want to have one parent who goes out to work, and it doesn't necessarily have to be the man or have to be the women, but it's very important that one is at home with the family. And I would be willing to stay at home and raise children, but I'm going out to get an education so that in case my husband can't afford it or can't get by, or we can't get by with one income, then I can be there to help out where needed.

> [Interviewer: So do you feel like that's in line with what the church would teach you?]

> Yeah, the church mainly teaches that the woman should raise the children, and that is very important but they are very understanding about how the world is today, and it's hard to get by on one income, and they aren't going to shun you because the woman is working too. So, it's just, it's just a good outline of how to live, because if one person is at home raising the family you have a really tight family, and you grow together more and raise your own children instead of them having to go out to daycares when they're really young and all that sort of stuff [M-8].

There is some negotiation with what are perceived as the pressures of the modern world, especially around the need for a family to have more than one income to survive. The social context in which the ideal roles are set out by the church has changed. Women have responded by preparing themselves for a career should the "need" arise. The statement above is a fascinating blend of acceptance of church policy, acknowledgment of social trends which would permit fathers to take a more active role in parenting, including staying home with children, and preservation of self as an independent, or potentially independent, woman.

Women negotiate the boundaries of prescribed gender roles both within their own families and within the church. Rebecca sees her decision to stay at home as the most desirable option. As a single woman, Anne must provide for herself although she believes in the importance of stay-at-home mothers. Although she stayed at home to raise her children, Martha is adamantly opposed to roles prescriptions which force women to stay at home. The diversity of women's lives means that any attempt to categorize them will, to some extent, fail to capture the nuances of the ways in which they negotiate boundaries. However, we can identify three broad categories which reflect three different approaches to the negotiation of roles within the context of the family, church and society. Molly Mormons are not necessarily absent from the workforce for their entire lives, but they give priority to stay-at-home mothering. Moderates are less committed to that ideal, either for reasons of necessity or personal fulfillment, but they are not willing to reject church teachings outright. Mormon feminists see no reason to maintain a rhetoric of an ideal, and indeed do not support the narrow prescription of gender roles.

INTERPRETING HEADSHIP

Within LDS doctrine the male of the family is the "head." This is true to the extent that when an adult male is absent male children become the designated head of the family. Strategies of interpretation around the issue of headship are diverse among LDS women. About her marital relationship, Rebecca states that her husband "spoils her." She talks about church support for men's participation or "help" with household chores. She says:

> if the man is living his religion, he should be treating his wife equally if not better than himself, you know like not, she's definitely should not be treated subserviently or anything, and decisions definitely should be made together, not, uh, tyranny or anything like that. I think to people looking in from the outside, women in the church are probably, um, they would perceive them as being subordinate, is that the proper term? [she laughs]. Like, you know, because for example, lots of LDS women stay home with their families, or have lots of kids, could be interpreted by others as, oh well, he just makes her have the kids and stay home-you know, that kind of thing. Whereas to me, just because our roles are different, doesn't mean that they're not equal [M-2].

Another participant who had been married six months at the time of the interview, acknowledged the rhetoric of male headship:

> Our roles in our marriage are different, but we do believe that we're equals. But um, in our church the man is the head of the household, supported by the wife. So, but it's not taken in the way that what he says goes, it's taken in the way that we discuss it, and kind of in the end what he says goes but it's never said without the opinions of both [M-9].

Despite her description of her husband as the leader, this sixty-one year old participant's discussion reveals the balance of rhetoric and practice:

> His role is to me, well in my family not necessarily all the LDS women, but um, he's the leader in our home, you know. Uh, like for instance, not that I don't have my say, for instance, when we talk about things and uh, we work things out together, sometimes if we can't come to a decision, I feel that it's up to him to be the one that makes the decision. And that's good, you know, that's fine. And sometimes I can uh, lead him and not necessarily, he doesn't necessarily know [M-6].

Another woman focused on the teamwork aspect of men's and women's roles:

> The father's role is the head of the house. The mother's role is the heart of the house. And that doesn't mean the father is more dominant than the mother or the mother more dominant than the father. They work together as a team; most horses as a team work good together. One's got a strong point one place, and one another. So, it's basically teamwork [M-18].

Finally, Martha was blunt about her criticisms of church teachings in relation to male headship:

> There is a very destructive belief in Mormonism that the man is the head of the family and should make all the decisions — it's very destructive. There is the belief that if a decision has to be made then the man should make the decision. See, my opinion is if there's an economic decision to be made in the family and a woman's better at economics, then she should be making the decision on economics. If he has more abilities in um, say house maintenance, then he should be making the decisions in house maintenance. It is very cruel, very threatening, very demeaning, that belief that a man should make all the decisions or the final decision, even if he listens to the woman, there's a very destructive belief.

The boundaries of headship are negotiated by Molly Mormons like Rebecca by accepting the rhetoric of headship while translating it in the context of their relationships to mean equality. Moderates translate the doctrine as implicitly implying partnership, and Mormon feminists reject the doctrine outright.[10]

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[10] Bushman and Bushman note that "patriarchal rhetoric is often employed alongside fairly egalitarian roles in practice" (1996: 31).

A second dimension of boundary negotiation around family and headship is related to the shape of LDS families, which are supposed to be comprised of the traditional "ideal" of a mother, father and children. But what if there is no male "head?" Although single women report finding satisfaction from their involvement in the church, it is within limited parameters. Anne's experiences give us some insight into the traditionalism of the church in relation to families. She would have liked to have had the opportunity for motherhood:

> I could have, as a single woman, adopted, but I didn't want to rear a child without a father figure. I think there's too much of that in the world.

> Interviewer: Would that have been acceptable to the church for you to . . . ?

> It would have been discouraged, for that very reason, that you don't have the traditional family setting. Although there are many members in the church who are divorced. So, it's not, you know, not every family is perfectly happy or anything. But the traditional setting would be the most preferred [M-1].

It is difficult to determine the degree to which church teachings impacted on Anne's decision not to adopt, as she later states that it was for the sake of the child that she decided not to single parent. At the same time, Anne reports that it was, in part, the emphasis on family life which drew her to the church in the first place.

Although some single women find spiritual fulfillment in the church, it is clear that for others it is difficult being single in a church which so emphasizes one model of family life. One older twice-divorced woman finds it very difficult to participate in activities which she sees as being couple-focused. She talked about turning down a recent invitation to a gathering "because I don't have that partner beside me and I think most of the women in the church feel that way, unless they are older and a widow. There's a little difference" [M-4]. One married participant commented that for single and divorced people church is "a very painful experience, an always present reminder that they are less than complete."

Many temple rituals are designed to reinforce the importance of family and to serve as a reminder that "families are forever." Being sealed to one's husband and children is an important part of LDS family life, and afterlife. But even here gender prescriptions apply and different "rules" exist for men and women. One single mother talked about the impact of being single on her opportunity to be sealed to her children:

> He [the bishop] said you can't be because you're not married to a person holding the priesthood, and the sealing has to be husband and wife with their children. And so, as a single mother, I can't be sealed to my children, but that doesn't mean that I can't try to keep myself worthy enough that maybe one day Tom Cruise or Tom Selleck will come into my life and take me there [M-5].

We talked about this issue again later in the interview and she said:

> Like, it happened to me just last week, and I go, 'is there something wrong with me here, like am I missing the boat?', I see these women and these guys and I'm going . . . you know, but so it's just not my time. And if it happens here, great, if I end up being an angel without my kids that's great too because sometimes they're so aggravating but . . . those are just my moments [we laugh]. I'm just . . . I don't want you to think I don't love my religion, I do.

An interesting tension emerges for those women who do not quite fit the ideal for Mormon women. As single Saints, women must negotiate the boundaries of church teachings to find a place for themselves.

Like the women in Mary Jo Neitz' study of Catholic Charismatics, some of the women in this study were grateful for the organizationally prescribed roles. They felt that these guidelines had influenced their husbands in positive ways — one participant's husband stopped drinking alcohol when he joined the church. Another woman said: "I love this part, they always teach that you should treat your wife with great respect and love" [M-20]. One participant noted that the church plays a role in setting standards for men's treatment of women, and also talked about the meaning of the words "helpmeet" and "helpmate," the former being an equal and a companion, and reflecting God's design for male-female relationships [M-3].

In general, the women who have been interviewed have not perceived the church's position on family to be restrictive or inhibiting to their own decisions. But the negotiation process is complex:

> In the family, women's role is related to raising children and staying home. There is pressure from the church in a way to do that. Women are built differently, they have different instincts, it is more natural for them. In the family, the man and woman are different but the same — they have different roles but they are equal. Responsibilities are shared, but each specializes in different areas [M-9].

This women goes on to argue that holding views that contradict the church position on this can "compromise your commitment to the church, and hinder your growth. It takes away from your testimony." However, she then added that she is okay with women working and going to school, but it is difficult to trust someone with your children, but finally that she is glad that "women are advancing in society." This woman's discussion illustrates the complicated, confusing and sometimes contradictory ways in which women balance their own agency, church structure and society's mixed messages.

THE PRIESTHOOD: SYMBOL OF MALE STRENGTH?

Male authority within the LDS church takes a variety of forms: the "headship" of the male within the family, the "priesthood" functions of males, and the leadership roles within the church hierarchy. How do LDS women

conceptualize the priesthood? Are they resentful of the fact that it is only held by men?[11]

Most women conceptualize it as a service oriented calling which brings with it much responsibility and few rewards. With the exception of Mormon feminists, most women do not analyse the holding of the priesthood in terms of power. However, men who hold the priesthood are not respected unconditionally. For example, Anne tells the story of the day one man called her a bitch in the church because she spoke out. "He wanted to know why I didn't respect him and his priesthood, and I said, well, as soon as he began to honour it, I would" [M-1]. Clearly, priesthood does not mean automatic authority to this moderate Mormon.

For another participant, the priesthood provides clear directions for men, who she believes are spiritually weaker than women:

> The men hold the priesthood, but see I have my little, have my feelings on the priesthood . . . um . . . see women, I think women are more, I don't know, more spiritual sometimes, just inborn in us. We're more sensitive, do you know what I mean? We're . . . we're just different, than men. And with the priesthood, men, that helps men, I think, to become more sensitive, because they have to be, you know, like they have to learn to be meek, um, submissive, like a child [M-3].

To this woman, rather than being evidence of men's superior position, the priesthood is a means by which men are guided to submission and humility. Reinterpreting church teachings related to men's roles was often done in a manner which celebrated women's strengths and acknowledged men's weaknesses. When thinking about the reasons for the age and time differences between men's and women's missions, one young woman stated:

> When a girl is already twenty-one when she goes out she's a lot more mature. She gets there and gets to work and does what's expected, or what needs to be done. And, like I said, this is just a personal opinion cause I was there [she went on a mission]. And the elders are young, they're nineteen and boys, in my opinion, mature slower anyhow [M-7].

About the priesthood, this woman stated:

> A man needs, in my opinion, a man needs to look good. He needs to be told that, what you're doing is wonderful. Because with my . . . I can speak for my husband and I know he said this a lot about . . . it's really important for a man to provide for his family. And I think with the priesthood he can not only provide for us monetarily, and by just being there, you know, but in a spiritual sense as well.

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[11] Toscano (1994) argues that women do hold the priesthood, but are discouraged from using it by church authorities.

The notion that men need the priesthood for their egos, or to look good, was not uncommon:

> There are some out there that are just awesome women that do that, that build their husbands up, um, really neat examples of people that I know. Women, I think a lot of times women have to set the example, and then he kind of . . . has to keep up with her [M-5].

LDS women do not necessarily see the holding of the priesthood by men as an indication of their superiority, or as a licence to make all of the decisions. As many point out, men have a duty to use the priesthood responsibly, and never for their own gain.

> Women have their own role in the church. I don't feel that we're given any less responsibility or any less of anything. I feel that what they have is made up for with what women have, it's just that it's an actual title that men have the priesthood, and it's something that they're given and they hold. But I think that women have just as much authority, and their role is just as important as men's. So it doesn't bother me like it does a lot of women [M-9].

The following participant viewed the priesthood as a shared responsibility between husbands and wives, and matter-of-factly pointed out the patriarchal ordering of Mormon life:

> The actual authority is given to the men, but the women hold it along with their husbands. I guess really the biggest reason is it's a patriarchal order, and it's something that the father or the male people in the household hold. Facetiously some people say the women don't need it and the men do [M-18].

Some participants specifically addressed the issue of women and the priesthood. This seemingly traditional young woman had a somewhat surprising position:

> No, I don't think so [that the priesthood would ever be extended to women] because I . . . I should say we do enough, but we do enough. We have children, we're the, I mean, we're the Moms. I think if . . . a father's role, and yes he has a big roles too but, I think it puts him as a co-equal with a woman by having the priesthood, and I think if we had it, it would make us unequal . . . yeah, the man really needs it, but if the prophet were to say women can hold the priesthood then sure, I'd be all for it. But ultimately it comes from the Lord, so whatever is the will [M-7].

This sixty-one year old convert has a more conventional approach:

> You know, a lot of people have felt that women should hold the priesthood, but I'm quite happy letting my husband hold the priesthood. I'll hold the priesthood in my arms and let it go at that [M-6].

For Mormon feminists, the holding of the priesthood should be a prerogative extended to both women and men. Moderates tend to use interpretations that

minimize the priesthood role, or elevate their own role. They also highlight the necessity of the priesthood as a mechanism for strengthening the inherently weak nature of men. Molly Mormons celebrate the strength of the male priesthood, while at the same time valorizing their own roles as mothers.

What are the implications of women "buying into" the notion that only men can participate in the priesthood? As Marie Cornwall points out, it is difficult to assess women's position in the church because they are so present in the daily, local level of church activity. Indeed, Cornwall asks: "How are women simultaneously 'present and silent' in religious traditions, and what social processes maintain their presence and silence?" (1994: 240). The restriction of the priesthood to men is one obvious barrier to women's full participation in the church, but what is the impact of women's absence from church authority?

SEPARATING THE LEADERSHIP FROM THE FAITH

It is no secret that in recent years church hierarchy has taken numerous steps to quash the feminist impetus amongst some LDS women which would see greater institutional support for increased roles for women, especially in institutional decision-making. The Relief Society remains the public presentation of women's contribution to Mormonism (Cornwall 1994), and even this has been diminished over time as "the tradition of women leading women became lost in an emphasis on priesthood line and priesthood authority." (Cornwall 1994: 258) Bushman and Bushman argue that the reorganization of the Relief Society was designed to free up family time for women.

> In this retrenchment, the financially autonomous Women's Relief Society, organized by Joseph Smith as a *companion* to the male priesthood, was placed firmly under the *control* of the priesthood. As a result, women within the Society have lost leadership positions as well as considerable visibility and power in the church (1996: 32).

At a recent Women's Conference in Lethbridge, Alberta, women were reminded that the Relief Society is the "Lord's organization for women." Yet some women are discouraged by the power dynamics in the church, particularly the loss of financial control, and the resulting loss of women's empowerment.

> My feeling is that there will be slight shifts here and there, but that the men will never give up the power base that they are accustomed to. Women now have no say in how the funds of the ward are expended. They have no input at the curriculum level. They have no decision making powers at the structural level. I don't see that those who have this power will give it up [MC-3].

Although men have positions of leadership, so too, according to some of the participants in this study, do women:

> Because men are in leadership positions, lots of people perceive that as . . . they're trying to be
> domineering and dominant over these women-bla bla bla . . . and I don't interpret it that way
> at all. And, we have every right to talk to them and voice our opinions and things, and like,
> the leaders of the church have always said that the women's voices should be heard and if,
> you know, we have a concern or whatever, we're perfectly free to bring it up or question or
> whatever [M-2].

Others, however, noted that while women expressed their opinions, men went away and made the decisions.

One strategy women have for protecting their belief system is to separate the leadership of the church from the church teachings. While most were careful not to challenge the notion that leadership is divinely inspired, some did comment on the imperfections of humans: "Well I think, the setup of the religion, the religion itself is perfect. Like there's nothing, you can't find anything wrong with it. But it is filled with imperfect people." [M-8] In this way women can hold on to the Mormon identity of a "peculiar people," distinct from the rest of society, without compromising their own status as agents.

The tension between society, the church and women's own needs and expectations also emerged from the interviews. One woman lamented the church's adoption of patriarchal values which she saw as straying from Joseph Smith's teachings about the equality of men and women. For others, the societal tensions were caused by feminism. One woman in her mid twenties had left the church in her teenage years. She saw her feminist views and the teachings of the church as being so contradictory that she could never envisage returning to the church, even though she admits that she still finds herself defending Mormonism on occasion. Other women have been able to manage the tension between their feminism and their faith, in part by seeing their faith as no different in its misogyny than any other faith, or than society in general: "It's a problem in religion. There are very few faiths where women hold an equal status with men. And this just isn't a problem with religion either" [MC-3]. Some women see the choice between society and faith as irreconcilable with their belonging to a group which has always seen itself as a "peculiar people" (one of the participants called this a "fortress mentality"):

> Well, it's kind like a path you're going down and then totally splitting, you can't straddle the
> line any more. It's almost as though you can't choose, or you can't take society and religion at
> the same time, you have to choose which one you want. And there's a lot of, the whole
> feminist movement out there and stuff like that and . . . but I think the female is equal to the
> male. And just because the man has the priesthood does not put him on a pedestal above the
> woman. And just because the woman um, you know, stays at home instead of women, doesn't
> mean that she's lower than a man. And I think society doesn't view it that way. They think
> the woman's gotta be out, she has to have everything exactly the same as the man in order to
> be equal to the man, but that's not necessarily the way I view it, or the way religion views it
> [M-8].

82 SOCIOLOGY OF RELIGION

The identification of social context is a complex process. Not only are these women located in a geographic area which is known to be "conservative,"[12] but their comments identify the conflicting worldviews within the social context — both feminist and patriarchal being only two. "Structure" here becomes multi-faceted, with no identifiable uni-directional gauge.

Lawrence Foster argues that the roles of LDS women have become much more conservative in the twentieth century if contrasted with their activities in the 19th and early 20th centuries. Foster points to the nature of frontier life, polygamy, the existence of an effective women's organization and women's suffrage as contributing factors to the relative autonomy and strength of LDS women. As these unique circumstances disappeared, so too have women's opportunities within the Mormon church diminished (1991). Foster also identifies the rapid growth of the church and the fear of feminism as two factors which have contributed to increasing restrictions on the role of women.[13]

As both Cornwall and Foster point out, changes in women's roles within the LDS church will entail major shifts in the entire organization (Foster 1991: 213; Cornwall 1994). However, as Foster also notes, there is unease amongst LDS women which may force the church organization to change if it is to retain its authority (1991: 217).[14] The emergence of a Mormon feminist presence is one vehicle for such change, although the number of LDS women who actually identify themselves as feminists is likely relatively small.[15] While some LDS

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[12] The degree to which a religious culture impacts on the broader society, and the ways in which the social context in which a religious group finds itself shapes religious belief and practice is always the subject of debate. For Mormons in Southern Alberta, this is especially true. Although Mormon teachings on women's roles are admittedly what can simplistically be described as traditional and conservative, Mormons in southern Alberta area located in a very conservative social climate. This was not lost on one of the women who was interviewed for this study, who noted with frustration the conservative nature of the social milieu in which she lives:

I really mind that in Southern Alberta. I also find that because women are encouraged to support their husbands, that many choose to be subjugated, it's a choice thing, but in the process of doing that, they have given men the idea that what they say and want comes first, so there is a very chauvinistic feeling among them. I won't say all men, there are some marvelous men in the church here, but there is a very prevalent feeling among some that because I'm a man in the church, you must do as I say. And, uh, that don't fly with me, [she laughs] at all [M-1].

The complexities of the ways in which the social climate in Southern Alberta interacts with Mormon teachings is a topic for another paper, yet it is important to recognize the social context in which the LDS church has grown in Canada.

[13] In contrast, Iannacconne and Miles (1990) argue that the Mormon church has become more accepting of non-traditional roles.

[14] Foster cites the excommunication of Sonia Johnson as a precipitating factor in this unrest (1991: 217).

[15] For a discussion of patterns of mothering and their relationship to Mormon feminism, see Presley et al. (1986).

women do conflate faith and church hierarchy, accepting the decisions of the male leadership as being inspired by God, others have distinguished between the two as a way to reconcile their commitment to their faith and the distaste for church policies, especially those which they perceive to denigrate or minimize the role of women.

CONCLUSIONS

The findings of this research are similar to those of other studies that have focused on women's negotiation of belief and practice in conservative religious traditions. Like Ozorak's participants, the Latter Day Saint women who were interviewed for this research interpret the teachings of the church in a manner that maximizes their agency while remaining within the boundaries of church doctrine. Yet we see that there are variations in approach within the three broad categories of Molly Mormon, Feminists and Moderates.

Similar to the findings of Kaufman (1991), Davidman (1986) and Neitz (1987), conservative church doctrine related to gender roles within the Latter Day Saint faith sometimes serves to provide women with a sense of security. LDS women report that the priesthood ensures that men take family life seriously. Rather than imposing a hierarchy that places men above women, the priesthood (at least to some Mormon women) "keeps men in line." To those of us on the outside, the priesthood seems to be a blatant institutionalization of patriarchy. From the perspective of some LDS women, it offers help rather than oppression.

One unique dimension of the LDS experience is the emphasis by the church on education. Women are encouraged to become fully prepared for "public" life, but are then taught that women's most meaningful role is that of mother, and that women should focus on family life as a full-time vocation. As we see lived out in Rebecca's example, young women are trained both to take agency, and to live within rather narrowly prescribed roles. There is a tension in the role expectations for women; be responsible for yourself, yet be dependent on your husbands. Be able to care for yourself, but let your husband be the breadwinner. At the same time as Mormon women are well trained for public life, they are denied access to the church hierarchy, except those organizations and roles specifically designated as being appropriate for women role.

The multiplicity of forms of women's agency within a patriarchal religious structure are illustrated by the variety of women's experiences as they negotiate the boundaries of their faith at numerous levels. For each of the participants, exercising agency as a Mormon woman takes a different form. For Rebecca, it is the freedom to be a stay at home mother. For Anne, it is being a self-supporting single woman. For Martha, there has been a shifting as she has raised a family, and now finds her beliefs in tension with church doctrine. These women share in common their desire to identify themselves as Mormons, yet tension does

emerge between women who live out church teachings in different ways. Some women (like Martha) feel isolated from the church and from other church women who interpret church teachings to support a "traditional" path for women.

Admittedly there is much left to explore, and this descriptive paper has been a beginning in the process of mapping the terrain in this research that examines the nature and forms of women's agency within a church that promotes a clear delineation between the roles of men and women both within the church hierarchy and within LDS families. How women conceptualize and negotiate the boundaries between themselves and the secular world is in part determined by how they see their own roles in their families and in their churches.[16]

To view the religious participation of LDS women in a static manner would fail to capture the rich diversity of the different ways in which they exercise agency at multiple levels, and in diverse ways over the course of their lives. Using the experiences and words of Latter Day Saint women, this paper offers a glimpse into the complex world of Mormon women. It is appropriate that one of the participants should have the last word:

> So we have to ask, who is Mormon? The woman who spends the most time in church, the woman who spends the most time listening to other Mormon women, the woman who spends the most time talking about her religion to others, what she believes about it, or is the real Mormon woman one who's tending someone else's children or taking the casserole, or should we call her, you know, will the real Mormon woman stand up? [MC-3].

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[16] What remains relatively unexplored are the ways in which women support women outside of official institutional means, and how this women's network acts to maintain women's agency. These networks include informal groups where women feel free to talk to each other in ways that might be seen as being against church policy, either in person or through the Internet or email lists.

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IN THE SUPREME
COURT OF BRITISH COLUMBIA

IN THE MATTER OF:

THE CONSTITUTIONAL QUESTION ACT, R.S.B.C. 1986, c. 68

AND IN THE MATTER OF:

THE CANADIAN CHARTER OF RIGHTS AND FREEDOMS

AND IN THE MATTER OF:

A REFERENCE BY THE LIEUTENANT GOVERNOR IN COUNCIL SET OUT IN ORDER IN COUNCIL NO. 533 DATED OCTOBER 22, 2009 CONCERNING THE CONSTITUTIONALITY OF S. 293 OF THE *CRIMINAL CODE OF CANADA*, R.S.C. 1985, c. C-46

AFFIDAVIT #2 OF LORI BEAMAN

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