VANCOUVER
JUN 07 2010
SUPREME COURT SCHEDULING

A. Campbell #1
June 4, 2010

No. S-097767
Vancouver Registry

**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 #1 OF ANGELA CAMPBELL**

I, Angela Campbell, Professor of Law, of McGill University, in Montreal, Quebec, MAKE OATH AND SAY AS FOLLOWS:

1. I am a Professor and Director of the Institute of Comparative Law at the Faculty of Law at McGill University ("McGill Law"). I pursue academic research in the area of women in polygamous marriages, particularly in the community of Bountiful, British Columbia, and as such I have personal knowledge of the facts and matters deposed to herein, save and except where the same are stated to be made on information and belief, and where so stated I verily believe them to be true.

2. I have been a Professor at McGill Law since June 2003. Immediately before taking up this position, I held a contract position for one year as a Professor at the University of Ottawa, Faculty of Law (Common Law Section).

3. I was born in Montreal, Canada in 1973. I studied at McGill University where I received my B.A. (Hons.) in 1995, as well as law degrees in both civil law and common law (B.C.L. and LL.B.) in 1999. After completing my law studies in Canada, I completed a Master's of Laws (LL.M.) at Harvard Law School in 2000 where I held the Frank Knox and Langdon H. Gammon Fellowships. From July 2000 to July 2001, I served as a law clerk to The Honourable Mr. Justice Frank Iacobucci of the Supreme Court of Canada.

4. I am married according to the laws of Quebec and Canada, and I am the mother of two children.

5. As a Law Professor, I research and teach primarily in the areas of family law, criminal law and health law. A considerable part of my research since 2005 has concentrated on questions surrounding the implications for women of polygamous marriage.

6. A true copy of my curriculum vitae is attached as **Exhibit "A"** to this affidavit. Attached as **Exhibit "B"** is a collection of copies (sometimes excerpts) of the articles and books I reference in this affidavit.

**Research on Polygamy**

7. In 2005, I prepared a paper commissioned by Status of Women Canada ("SWC") on the social, economic and health implications for women of living in polygamy. This paper also considered legal approaches to polygamy in as many jurisdictions for which information could be found at that time. In writing this paper, I read and drew on a wide breadth of literature that studied polygamy in a global context. This paper was ultimately published as one of four policy reports in a publication issued by SWC entitled, *Polygamy in Canada: Legal and Social Implications for Women and Children: A Collection of Policy Research Reports*.

8. The paper that I wrote for SWC concluded that the social science literature on polygamy indicates that women in plural marriage have a range of experiences. Specifically, outcomes for plural wives seem to depend on the particular geographical, economic and cultural context in which polygamy takes place, and on the relationships within a given family. In

addition, my paper for SWC concluded that there is no single reason why polygamy is taken up. While it is very often a practice motivated by religion, it can also be prompted by social and cultural interests.

9. While pursuing research on polygamy for SWC, I was contacted by three or four women from the community of Bountiful, British Columbia ("Bountiful"). Bountiful is a community of approximately 1,000 residents who are predominantly members of the Fundamentalist Mormon Church, also known as the Fundamentalist Church of Jesus Christ of Latter Day Saints ("FLDS"). The women who contacted me did so by email or by telephone. They had learned that I was doing research for SWC through SWC's internet site, which announced the names of researchers who were selected to provide policy reports on gender issues associated with polygamy. These women contacted me to request that I speak with them and interview them, so that their views and experiences could be reflected in the report I produced for SWC.

10. Given that my timeline for preparing the SWC report was constrained (approximately three months), as was the budget I was afforded to undertake this work, I lacked the time and financial resources necessary to undertake a careful and ethical empirical study of polygamy in Bountiful before submitting this report. At the same time, while pursuing this research, it was clear that there was a dearth of academic literature on the implications of polygamy for women in Canada or even within North America. As such, my final recommendation in my report for SWC called for additional research before any legislative action was taken in regard to current legal approaches to plural marriage in Canada and especially, in regard to section 293(1) of Canada's *Criminal Code*, which makes it a criminal offence to enter into "any form of polygamy" or "any kind of conjugal union with more than one person at the same time", regardless of whether the union is recognized by law as a binding marriage. My recommendation thus stated:

> [T]he issues to which polygamy gives rise are abundant, complex and multi-faceted. Thus, before any legislative reform takes place, it is urged that additional research be conducted that incorporates, as a key part of its methodology, direct communication with women in polygamy. As noted at the outset, it was not possible to undertake such research for the purposes of this report. Nevertheless, the involvement of women in polygamy would benefit future research enormously, as this will enhance secular understandings of

women's experiences in this setting, and will help ensure that law and policy strategies will be helpful and meaningful to the women who will be directly impacted by such measures.

11. Given this conclusion, I subsequently sought funding from the Social Sciences and Humanities Research Council of Canada ("SSHRC") to undertake an empirical, qualitative research study that would examine the lived experiences of women living in polygamy in Canada. I was awarded a SSHRC Standard Research Grant in the amount of $70,415 to pursue this research between 2006 and 2009.

12. In April 2010, I was awarded a second Standard Research Grant from the SSHRC to continue my research on polygamous marriages in Canada and specifically, within the community of Bountiful. Funding was awarded in the amount of $60,748 over a period of three years (that is, 2010-2013).

13. My research on polygamy has allowed me to make two research trips to Bountiful thus far. A first took place over five days in June 2008 and a second over seven days in 2009. During my two research trips to Bountiful, I conducted 22 individual interviews, three focus group discussions and two interviews with two participants together. I have interviewed 22 women in total in the context of formal interviews and/or focus groups. I have also spoken to a number of women currently in Bountiful, or who at one time resided in this community, who agreed to speak with me only off the record.

14. Before embarking on research interviews, my research protocol and consent process were approved by the McGill University Research Ethics Board to ensure the ethical integrity of my project. Furthermore, before carrying out any research interview, each participant signed a consent form that explained the nature of this research as well as the potential risks and benefits of participating in it.

15. With one exception, each of the 22 women I interviewed formally situates herself with one of two factions within Bountiful. Specifically, as I understand the situation, residents of Bountiful currently ally themselves with one of two leaders: Winston Blackmore or Warren

Jeffs (who is represented locally by James Oler). In about 2002, Jeffs proclaimed himself as FLDS leader and attempted to revoke the authority of then-Bishop of Bountiful, Winston Blackmore. The community subsequently divided itself roughly in half between Blackmore and Jeffs loyalists, triggering what Bountiful residents call "the Split". Although both groups continue to populate Bountiful, living physically beside one another and sometimes sharing kinship ties, Jeffs generally prohibits his followers from communicating with all "apostates". The end result has been a painful division within the community and many of its families.

16. I located and contacted the women who participated in my research interviews through various means. I began this process by attempting to re-contact the women who had communicated with me in 2005, while I conducted research on polygamy for SWC. I was able to contact two women this way and invited them to participate in interviews. I also asked them about methods for reaching out to other community members so that I might discuss my research with them and invite them to take part in research interviews. This initial outreach yielded contacts with a few other residents of Bountiful. One woman who contacted me when I did my research for SWC, and with whom I spoke when I began interviewing in Bountiful (but whom I did not interview formally), is someone who has left Bountiful and polygamous life, and has published a written account of this community. She put me in touch with some women from Bountiful and strongly supported empirical research in Bountiful to ensure that my research resulted in a fair and well-rounded picture of life in this community.

17. As another way of recruiting participants, my student research assistant and I located publically available contact information (e.g., through canada411.com) for women who had spoken out publically about polygamy and about Bountiful. Some of these women agreed to be interviewed and some also put us in touch with other women living in, or associated with, Bountiful, whom I invited to participate in this research.

18. My student research assistant also contacted women who are not associated with polygamy in Bountiful, but had professional contacts with this community. For example, she spoke with Daphne Bramham, a journalist for the *Vancouver Sun* who has written extensively, and very critically, about Bountiful. Bramham suggested names of women who might be interesting for us to speak with as part of our research project. In addition, my research assistant spoke

with Anne Wilde, who is a director of "Principle Voices", a non-profit organization located in the United States that provides education and advocacy in relation to polygamy. Wilde may have recommended further names of women with whom we might speak about this research, however neither my research assistant nor I can recall for certain whether she did so. Wilde was, however, a helpful resource for understanding how polygamy plays out for women in some FLDS communities in the U.S.

19. We also contacted one woman whose contact information was available through a blog on polygamy, to which she had contributed.

20. Furthermore, while in Bountiful, I met several women simply by being on site. Many were curious about the research and inquired about it. I invited several of these women to be interviewed; some accepted and some declined.

21. As a final method for finding participants, I often asked participants at the end of their respective interviews whether they had female family members or friends that might wish to participate in this project. This yielded some additional participants.

22. I believe that my participant pool offers a sound representation of the experiences of women in Bountiful, at least within the Blackmore faction of the community. This is because my participant group derived from various points of origin and did not all "snowball" from the same source. Moreover, with respect to this particular project (that is, as distinct from the research I did in 2005 for SWC), participants became involved in this research through invitation by me, and did not seek me out with a view to being interviewed. Finally, some recurrent themes and experiences emerged in the narratives shared by participants. While each participant was unique in her own way and had distinct stories, common experiences threaded through their interview accounts. For example, many participants reflected on the emotional pain and turmoil caused by the Split, the challenges and benefits of polygamous life as a wife and as a child, and the sense that polygamy is lived as a form of religious expression but also yields some social and economic advantages for women in this place.

23. While in Bountiful, my sense was that many residents – especially the women and young people – were curious, but generally accepting, in regard to my presence. However, some

people had concerns that I might misrepresent their way of life in my writing. Some others were not sure whether I was onsite to gather information for journalistic purposes. Further, because I am a law professor, some other residents also seemed concerned that I was somehow affiliated with law enforcement. Given these concerns, some women opted not to be interviewed formally as part of my research.

24. When I explained the purposes of my research to residents of Bountiful, most seemed appreciative of a project that aims to spend more extensive time in this community to gather a fuller understanding of their way of life. Several residents indicated that they wanted the world "outside" of Bountiful to see more of their community, believing that this would dispel misunderstandings and scepticism about this place.

25. Many residents seemed pleased to have an opportunity to share their stories in the context of open interviews where their stories could be narrated in the way they chose. While interviewees knew that I could never replicate an entire interview transcript in a paper or article, I gave each of them an opportunity to see any excerpts that I intended to include in a paper before publication. I would also allow them to see any passages in which I paraphrased their interview statements. While residents could not veto what I wanted to publish, they did have the chance to see these statements in advance and to be assured that the comments were accurate and in accord with what they had told me during interviews. On only a couple of occasions did participants ask me to change the wording of passages that I was going to publish, but these revisions were primarily stylistic (e.g., using past tense instead of present or clarifying my understanding of FLDS theology).

26. These steps have allowed me to earn and maintain what I believe is a sincere sense of trust in my research on the part of many women in Bountiful. This trust has been sustained also through steps such as informing participants every three or four months about the development of my research, and by providing community members with copies of all of the texts that I have written, which draw on my research interviews and fieldwork in their community.

27. The research interviews I conducted in Bountiful took place primarily in the Bountiful Midwifery Centre. I was given space to meet with participants by women who oversaw this Centre. On a few occasions, though, I interviewed women in their own homes. In one case, I interviewed a woman by telephone. In no case did a husband or any male member of the community insist on being present for these interviews.

28. Interviews with women in Bountiful focused on five main themes: (1) whether and how they made choices about whether, who and when to marry; (2) whether and how women made choices about reproduction and about how to raise their children; (3) intra-familial relationships (i.e., women's relationships with husbands and with sister wives); (4) whether women made choices in respect to education and work, and if so, what shaped these choices; and (5) whether women understood laws related to polygamy in Canada and how they evaluated or perceived these laws.

29. In the context of discussing these topics, participants shared accounts that revealed how religion permeates most aspects of their lives, including decisions about marriage. As such, while carrying out this empirical research in Bountiful, I came to appreciate the ways in which participants understood the connection between their faith and polygamy. Specifically, my sense is that within fundamentalist Mormon doctrine, polygamy is an ideal to which families should aspire, and while monogamy may be accepted as a practice, there is an expectation that those who live monogamously will be, at a minimum, open to the idea of plural marriage and to the possibility of one day becoming polygamous.

**Marriage in FLDS Theology**

30. Marriage is the most central social and religious institution within Mormonism. It is viewed in this faith as essential to realizing the promise of resurrection after death, and of exaltation, or becoming close to, or like, God.[1] This promise, however, is elusive, demanding a pure and righteous mortal life unaffected by sin.[2] Specifically, Mormon theology posits that, after life on earth, there are three levels of glory or exaltation, each bearing a closer proximity to God:

---

[1] Daynes (2001) at 4-5.
[2] Bushman (2008) at 75.

telestial, terrestrial and celestial. Although it is believed that most people will, after their time on earth, inherit one of these kingdoms of heaven, the most virtuous will attain the highest level of glory, that is, celestial exaltation, where the spirit becomes a god itself.[3]

31. The necessity of marriage for achieving celestial existence is made explicit in the *Doctrine and Covenants*, which forms part of the canon of the Mormon Church and contains early revelations to the Church's founders. In the *Doctrine and Covenants of the Church of Jesus Christ of Latter-Day Saints*, it is written:

> In the celestial glory there are three heavens or degrees; And in order to obtain the highest, a man must enter into this order of the priesthood [meaning the new and everlasting covenant of marriage] [i.e., the covenant of marriage]; And if he does not, he cannot obtain it. (131:1-3)

32. Although frequently considered to be an inherent part of Mormon marriage practice, polygamy was not universally envisioned as a prerequisite to exaltation in the early Church. However, throughout the latter half of the nineteenth century, the "New and Everlasting Covenant" of marriage came to be understood by most Mormons as plural marriage.[4]

33. Plural marriage was instated in 1831 by Mormonism's founder, Joseph Smith, pursuant to revelations from God that he claims to have experienced while working on a revision of the King James Version of the Bible.[5]

34. Over time, polygamy came to generate extensive controversy and critique within the United States. This ultimately resulted in the American federal government's progressive enactment of legislation aimed at depriving those who engaged in this practice of civil liberties and at financially debilitating the Mormon Church.[6] American anti-polygamy laws were engendered

---

[3] Bushman (2008) at 75-76.
[4] Ryan (1991) at 223; Daynes (2001) at 73.
[5] Ryan (1991) at 218. Given that polygamy was wholly inconsistent with puritan sexual ideals of the day, Smith was apparently reluctant to introduce the practice among his followers and did so only secretly and slowly a decade after this revelation, following a visit from an angel sent by God commanding this practice. See Ryan (1991) at 220-221; Busman at 86.
[6] See White (2009).

by the perception of polygamy as a foreign and barbaric practice, and inconsistent with the prevailing supremacist attitudes of the day.[7]

35. Faced with this political prosecution, Church president Wilson Woodruff is thought to have sought divine guidance on the polygamy question. He claimed to receive a revelation from God in response, which he articulated in 1890 in a "Manifesto" calling for the cessation of plural marriage.[8] This enunciation, which ultimately allowed Utah to acquire statehood,[9] curtailed the practice of polygamy considerably. However, dissention as to the scope, interpretation and genuineness of the Manifesto resulted in some perpetuation of plural marriage. In particular, fundamentalist Mormons believed that God had transferred the power to continue plural marriage to the Prophet, John Taylor, in a revelation in 1886, and that this stood in contradiction to the Manifesto. [10]

36. A "Second Manifesto" from the Church communicated a clear and more emphatic ban on plural marriage within the faith worldwide. From that point forward, Mormons who engaged in polygamy were subject to excommunication.[11]

37. Anti-polygamy edicts did not succeed in halting polygamy outright. Instead, the tradition was perpetuated by fundamentalist believers who, despite being grouped into different sects, shared the view that plural marriage remained essential to Mormon theology. These groups were critical of their former leaders who succumbed to political pressure to abandon plural marriage.[12]

38. Fundamentalists have thus continued to adhere to the original Mormon view that the celestial kingdom is attainable only through a man's taking of multiple wives through the "Law of Sarah", that is, the requirement of a first wife giving her consent to her husband's taking of subsequent wives.

---

[7] Ertman (2010).
[8] Bushman (2008) at 89.
[9] Bushman (2008) at 89 and 98-99.
[10] Bennion (2008) at 15.
[11] Bushman (2008) at 98-99. See also Campbell (2001); Forbes (2003); Ward (2004); and Bushman (2008) at 96-100.
[12] Bushman (2008) at 91.

39. Conversely, a monogamous marriage, celebrated according to Church rites, is viewed as persisting for eternity, but is "only the beginning of the law of celestial marriage, the full consummation thereof being accomplished in the plural act."[13]

40. This belief, along with the perspective that the Gospel is eternal and unchanging, led fundamentalist Mormons to cling to the original teachings of Mormonism based on revelations from God to various prophets in relation to the virtues of plural marriage.[14] Polygamy thus remains central within this faith, even though the practice is ardently rejected by current mainstream leaders of the Church of Jesus Christ of Latter Day Saints, [15] and even though the practice is criminalized in many western jurisdictions including the U.S. and Canada.

41. Original Mormon theology rationalizes polygamy not only through adherence to scripture, but also through pragmatic and spiritual concerns. For example, although plural marriage was deemed, according to Joseph Smith's teachings, essential to celestial exaltation, not all men were seen as righteous enough for entry into the celestial kingdom. Because such men were considered a minority, women were encouraged to marry them, even polygamously, so that they, too, could achieve exaltation and heavenly existence after their terrestrial lives.[16] The practice therefore was understood as bestowing "reproductive privilege" on men considered especially deserving or orthodox, allowing them to populate communities with their own family lines.[17]

42. A practice that rewarded only the most virtuous men with expansive families was consistent with a particular theological belief in Mormonism. This belief posited that Mormons are the

---

[13] Musser (1944) at 12.
[14] Bennion (2008) at 30; Musser (1944) at 14. See also Blackmore blog, which states: "the Gospel of our Lord Jesus Christ is as old as eternity and the Prophet Joseph said that it was never changing, for he reasoned, if God was always changing, then who could ever really know if they were pleasing him?" (Nov. 29, 2009).
[15] Blackmore blog at Nov. 29, 2009.
[16] Altman (1996) at 369; Campbell (2001) at 35 and 68.
[17] Campbell (2001) at 35.

restored Israel and the descendants of Biblical patriarchs.[18] Fundamentalist Mormon polygamy is thus rooted in God's promise to Abraham that he would be blessed with ample progeny in exchange for recognizing Him as his God.[19] Joseph Smith and other prophets thus looked to the patriarchs of ancient Israel as justificatory sources for the practice of plural marriage[20] and for the creation of patriarchal familial structures.[21]

43. This aspect of Mormon theology can also be understood as part of an effort to resist an understanding of marriage as rooted in romance. Such a practical, functional image of marriage that emerged in the Victorian era coincided with the development of Mormon thought in the nineteenth century.[22]

44. Consistent with this philosophy, more modern fundamentalist teachings on polygamy remind followers that the practice is not intended to "please man in his carnal desires", but instead to raise a "peculiar people" unto God, to serve Him and inherit His highest kingdom in the afterlife.[23]

45. The practice of polygamy within fundamentalist Mormon theology is anchored also to the Mormon value of large families,[24] headed by the community's most saintly men. Fostering opportunities for such men to sire many children was seen as a way to affirm their leadership, and as a "supreme kingdom building tool," that is, as a social mechanism for creating and raising "spirit children" who would grow to serve and develop the spiritual community.[25] Polygamy was thus viewed as instrumental to fulfilling this end.

---

[18] For an analysis of reflections of Judaism found in Mormon theology, see Jospe, Madsen and Ward (2001); and Ryan (1991).
[19] Bushman (2008) at 87; Musser (1944) at 7, 12, 100-101.
[20] Journal of Discourses 1:59-61. See also the passages in *Doctrines and Covenants* which speak to Biblical men, namely Abraham, Isaac, Jacob, David, Solomon and Moses, who took servants at God's command. (132:37 and 132:38).
[21] Daynes (2001) at 5.
[22] Campbell (2001) at 34.
[23] Ryan (1991) at 225; Musser (1944) at 14, 101.
[24] Campbell (2001) at 35.
[25] Bennion (2008) at 32. The term "spirit children" is rooted in the Mormon belief that spirits pre-exist human bodies and that women and men have a duty to have as many children as possible to create physical bodies for these spirits who can then descend to earth, learn to live virtuously and attain celestial exaltation after death. This act of providing bodies for pre-existent spirits is seen as a devout act in this faith.

**Marriage Practices in Bountiful**

46. Apart from texts that address the relevance of marriage and polygamy within FLDS theology, my observations in Bountiful lead me to believe that plural marriage continues to be taken up pursuant to religious beliefs in this community. This is the case even though not all residents of Bountiful are polygamous. Research participants whom I interviewed suggested that polygamy is actually not as widely spread as is monogamy in this community. These women explained that if polygamy were universal, there would be an insufficient number of women for each man in the group.

47. These comments about marriage in Bountiful were bolstered by my own personal observations in this community. Specifically, during my visits to Bountiful, I met a number of women who were the sole wives of their husbands. I also attended the wedding celebration of a young monogamous couple in Bountiful, which was officiated by a Justice of the Peace of the Province of British Columbia.

48. Women choose to live monogamously for different reasons. Most centrally, women insist that polygamy only works if "everyone wants it." In particular, both a husband and wife should desire any additional spouses in their families. They should also agree on the particular person who will join their family, and this prospective new wife must also share the desire to unite with the existing family. Where these elements are not present, my understanding is that Bountiful's residents believe that monogamy is preferable.

49. Some women simply have not developed the desire to live plural marriage. The following comments of one woman reflect the deliberation and reflection that underlay her decision to remain monogamous:

> [G]rowing up, I never felt like I wanted to be a plural wife, and I thought about this quite a bit because you could say it was because of how I was raised or whatever. But I have friends my same age who, we basically grew up together in the same environment. And I have several who said that they wanted to be in a polygamous relationship and that was different for me, I didn't want to. And so I don't know, I guess you could say it's an individual thing because, you know, we grew up the same and had the same influences and they chose to be polygamous and I chose to be a monogamous wife. [...]

> [W]e [participant and her husband] have talked about that a little bit and, neither of us are necessarily opposed to plural marriage *per se* because I don't feel that it's wrong. [...] I was born in it and I've seen it work very well. [...] But I've also seen situations where it does not work and where it's pulled families apart and so for me, I, it's not something that I would rush into and it's not something that I would necessarily actively promote. [...] I would have to realize that the person was going into it for the right reasons and that it was something that was chosen by all of us. So I don't know, I guess it would just depend on if that ever happened. So, we'd have to see.

50. Several participants in my research stated that a woman's choice to live monogamously was not questioned or criticized by other women, nor did it alter the esteem in which she would be held by other community members. One woman, a plural wife, stated:

> We have so many monogamous couples. [...] And that's great. In our marriage covenant there is a part about the union being "of your own free will and choice." This is for both man and wife. I think it is better for couples to stay monogamous if they don't truly believe in plural marriage and want to live it. Marriage is meant to be like heaven, not like hell.

51. Another participant, herself in a plural marriage, indicated:

> [M]y next door neighbour grew up here, in a plural family and she is against plural marriage. But we're best friends.

52. Although polygamy is less widespread in Bountiful than one might believe by examining FLDS teachings on marriage, conversations with some women indicate that this practice still retains a sacred place in the community. That is, more relevant than the actual *practice* of plural marriage is one's *openness* to the possibility of polygamy, either in one's lifetime or upon entering a kingdom of heaven. Participants thus made statements like: "I was always taught, 'Live your life planning not to be a polygamist but leave that open,'" and "[I]n our beliefs, this isn't the end of our life, right? We go on, and on. And, if you're open enough in your heart, then maybe the next life or the next life you'll have the opportunity to live [polygamy]."

53. This view was not, however, shared by all participants. One woman did suggest that the failure to live polygamously had moral consequences:

> [We] believe that in order to, um, get to the highest kingdom of heaven, [it's necessary] not only to have more than one wife … but to be honourable and to treat the ladies fairly and kindly. […] And that's not the case in every situation, even in our religion. But I, I believe that anybody that doesn't live up to it is going to be accountable for that.

54. Women who *do* marry polygamously believe that their marital structure is consistent with the norms and requirements of their faith. That is, polygamy is viewed as a central tenet of the community's faith and all FLDS believers must, at a minimum, be open to living plural marriage. My impression, however, is that the most righteous existence is lived when one adheres through practice to the principle of polygamy, and many participants thus expressed that their life would be incomplete, spiritually and socially, if they did not practice polygamy. Several women thus made statements to the effect that this way of life is part of their religion, and what they believe God expects from them..

55. Given that polygamy is foundational to the FLDS faith, the residents of Bountiful with whom I spoke see this requirement as taking precedence over civil and secular rules governing marriage. Therefore, polygamy's criminalization does not affect whether people in Bountiful take up this practice as those who espouse it see it as necessary to fulfilling their requirements to God.

56. Criminalization thus does not seem to be an effective deterrent to the practice of polygamy. This sentiment emerged in several interviews with participants. For example, one woman indicated in response to a question about what the relevance of decriminalizing polygamy would be for Bountiful's residents, "I don't feel it [i.e., decriminalization] would necessarily change it [i.e., polygamy] that much because people are still living it and practicing it and not necessarily because it's against the law or not."

57. Another woman stated: "I grew up knowing that polygamy was in my life, and it's part of my religion so I mean, there was nothing that was going to stop me from doing what God wanted me to do."

58. In the same vein, a different participant commented: "It's not gonna matter if they decriminalize it or not. [...] I mean, in my mind, that's how I live."

59. Although the threat of criminal sanction does not seem to thwart or halt polygamy in Bountiful, participants indicated that the fact that polygamy is criminalized causes them to feel stigmatized and looked upon with disdain within the larger community. It thus seemed that the criminal penalty attached to a successful prosecution for polygamy mattered less than the everyday stigma that community members felt they assumed on account of their criminalized lifestyle.

60. In my research interviews, I asked some participants how their lives would change if Parliament decriminalized polygamy. Most responded that their daily lives would not be affected, although they would feel relief from no longer being branded a "criminal". They made statements about the benefits of decriminalization such as, "I wouldn't have people looking down on me," and "We're upstanding citizens you know. [...] Who wants to be a law breaker?"

61. Other participants believed that decriminalization would foster broader social acceptance of their lifestyle and reduce the hostility they sometimes encounter outside of Bountiful. One participant thus indicated, "People might like us better; [we'd] have way more friends." Another stated, "if we weren't breaking the law, probably a lot of people's opinions would be 'that's just their lifestyle, leave them alone.'" According to a third woman, "As a mother, it [i.e., decriminalization] would have been nice. Because it's really hard not to be able to say, 'I have a husband.' It hurts." Still others narrated incidences of having been spat on and verbally assaulted because of practicing polygamy, and believed this type of public conduct would cease of polygamy were longer criminal.

SWORN BEFORE ME at Montreal, Quebec, this 4 day of June, 2010.

A Commissioner for taking Oaths for Quebec.

#257959-6
AISHA TOPSAKAL
University of McGill
Faculty of Law
3644 rue Peel
Room 419
Montreal, Quebec H3A1W9

**ANGELA CAMPBELL**

Angela Campbell #1
June 4, 2010

No. S-097767
Vancouver Registry

**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 #1 OF ANGELA CAMPBELL**

TAD/mlw

File No.: 00574-0120

**FARRIS, VAUGHAN, WILLS & MURPHY LLP**
Barristers & Solicitors
2600 – 700 West Georgia Street
Vancouver, B.C. V7Y 1B3
Telephone: (604) 684-9151