



Fundamentalist Mormon polygamy and the traffic in women



Kaye Quek

RMIT University, School of Global, Urban and Social Studies, GPO Box 2476, Melbourne VIC 3001, Australia

ARTICLE INFO

Article history:
Received 9 June 2015
Accepted 13 June 2016
Available online xxxx

Keywords:
Human trafficking
Polygamy
Harm
Agency
Fundamentalist Mormon
Human rights

ABSTRACT

This article contends that the practice of Fundamentalist Mormon polygamy should be recognised by states and the international human rights community as a form of trafficking in women. In particular, it draws on the definition of 'trafficking in persons' established in international human rights law to demonstrate how the custom meets internationally agreed upon criteria for the crime. The article is conceived as a response to the growing body of literature that emphasises women's agency and resilience in Mormon polygamy, and that critiques analyses focusing on the harms of the practice to women. It suggests that these works fail to adequately take into account the broader context of inequality between women and men in which Fundamentalist Mormon polygamy occurs.

© 2016 Published by Elsevier Ltd.

Introduction

This article puts forward a case for understanding the practice of Fundamentalist Mormon polygamy as a form of trafficking in women. It does so against the backdrop of a growing academic literature that emphasises women's agency in polygamy, while characterising feminist critiques of the custom as unduly focused on its harms and oppressive to polygamist women by presenting them as 'victims' of a patriarchal culture (e.g. Beaman, 2006, 2014; Campbell, 2008, 2009, 2010, 2014; Chan, 2011; Johnson, 2014). The article aims to offer a counter-analysis to such works by identifying Mormon polygamy¹ not only as harmful to women but also as constituting a fundamental abuse of human rights. In making this case, it addresses the sometimes conflicting accounts given by women with experience of the custom, in particular those that emphasise its empowering or positive aspects for female participants (e.g. *Witness No. 10*, 2010; *Witness No. 12*, 2010; also see Campbell, 2010). It contends that, while such accounts are important and raise the very serious issue of attributing a 'false consciousness' to women, they do not necessarily detract from conceptualising the practice, first and foremost, as a situation of human trafficking.

The primary concern of the article is to demonstrate the extent to which Mormon polygamy meets the criteria for trafficking in persons outlined in international human rights law. It argues, on these grounds,

that the practice should be recognised by states and the international human rights community as a type of trafficking in women. The crime of 'trafficking in persons' is set out in the United Nations (UN) *Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children*, which opened for signatures in Palermo, Italy in December 2000 (hereafter, the Palermo Protocol). The Protocol is significant because it established, for the first time, a definition of trafficking in international law and remains the only definition of the crime in a UN treaty or convention (Raymond, 2002; Scarpa, 2008). In the Protocol, trafficking is understood to be based upon three constitutive elements: the act, the means, and the purpose (UNODC, 2013). Each must be present in order for a circumstance to be identified as human trafficking under international law.

While there are several types of polygamy that can be seen to contain each of these elements (e.g. see Jeffreys, 2012; Warrach & Balchin, 2006), the article focuses on the form of polygamy practiced by Fundamentalist Mormons in certain areas of the United States (US) and Canada, and particularly, by the group the Fundamentalist Church of Jesus Christ of Latter Day Saints (FLDS). There are several reasons for this approach. Plural marriage in the FLDS is the type of polygamy that is most often the concern of academic works that foreground women's agency and critique analyses emphasising the harms of the custom (e.g. Beaman, 2006, 2014; Campbell, 2008, 2009, 2010, 2014; Chan, 2011). The FLDS has also been the subject of considerable media, public, and judicial interest in the last decade (e.g. ACLRC, 2005; Bauman, 2011; Bramham, 2011a, 2011b), where anecdotal accounts of the group's marriage practices are suggestive of its links to trafficking. One news report from 2011, for instance, describes situations in which girls as young as 12 and 13 years old have been driven

E-mail address: kquek@unimelb.edu.au.

¹ The terms 'Fundamentalist Mormon polygamy' and 'Mormon polygamy' are used interchangeably in the article, the latter for the sake of brevity. Such use of terms is not intended to confuse Fundamentalist Mormonism with non-Fundamentalist Mormonism, which is a different religious sect and practice.

across the US–Canada border by their parents to be placed in polygamous marriages with much older men (Bramham, 2011a, 2011b). Despite these occurrences, the notion that Mormon polygamy may constitute a type of trafficking in women is a concept largely absent in academic literature and in international human rights discourse.

The article is divided into two main sections. The first provides background information on the marriage practices of the FLDS, and on the emerging body of literature that rejects the focus on harm found in earlier works, in favour of emphasising women's agency. It also considers the positive accounts of polygamy provided by some women with experience of the custom, and thus the problem of 'disbelieving' women that can sometimes occur in feminist scholarship. In the second section, the article puts forward its case for understanding Mormon polygamy as a type of trafficking in women. It outlines the methods and data used in the analysis, which includes written evidence provided to the Supreme Court of British Columbia, Canada in 2010–11, when the court examined and upheld the constitutionality of Canadian laws banning polygamy (see Bauman, 2011). The section then demonstrates the extent to which Mormon polygamy meets the definition for trafficking in persons established in international law, specifically in terms of the elements identified as constitutive of human trafficking in the Palermo Protocol (UNODC, 2013). In contrast to approaches focusing on *individual* cases of FLDS polygamy, it contends that the concept of 'trafficking' provides a useful framework for understanding the practice of Fundamentalist Mormon polygamy *as a whole*.

Fundamentalist Mormon polygamy in the US and Canada

There are numerous Fundamentalist Mormon communities across North America, however, the largest by far is the FLDS, which, as a sect, makes up the majority of practicing polygamists in the US and Canada (ACLRC, 2005, 5; Bala, Duvall-Antonacopoulos, MacRae, & Paetsch, 2005, 6). While estimates of the number of practicing polygamists in North America vary from 25,000 to 100,000 in the US (Bala, 2009, 181; Moore-Emmett, 2004, 26), to 30,000 to 210,000 across the US and Canada (Bala et al., 2005, 6), it is in concentrated communities in isolated areas of Arizona, Texas and Utah in the US, and in British Columbia (BC) and Alberta in Canada, that most FLDS polygamists are thought to reside (Bala, 2005, 6). The most well known of these communities are the FLDS enclaves in Colorado City at the Utah–Arizona border, which consists of approximately 9000 members (Berkowitz, 2008, 615), and its sister-community in Bountiful, BC, which has some 1000 residents (ACLRC, 2005, 8; Campbell, 2010, 343). In media reports of cross-border trafficking by FLDS polygamists, it is the transporting of women and girls from Colorado City to Bountiful, and vice versa, that is most often described and linked to trafficking (e.g. Bramham, 2011a, 2011b).

In the FLDS custom of polygamy, it is actually *polygyny* (the practice of one man having several wives), rather than *polygamy* (where one person has several spouses), that takes place. This is in fact how polygamy is most often practiced throughout the world, with very few cases of polyandry (where one woman has several husbands) documented by scholars (Bala, 2009; Bala et al., 2005, 6; also see Al-Krenawi & Slonim-Nevo, 2008, 745). Certainly in North America, polygyny appears to be the only form of polygamy that is practiced (Bala, 2009; Bala et al., 2005, 6). As such, feminist critics have sought to point out that polygamy operates as a gendered phenomenon, which precludes the possibility of female equality in marriage (Cook, 2010; Cook & Kelly, 2006; Jeffreys, 2012, 146).

In FLDS polygamy, men obtain multiple wives by legally marrying one woman, with whom their marriage is civilly registered and, thereafter, by taking additional wives in religious ceremonies. Although these are not civilly recognised, they are considered 'celestial' or religious marriages and legitimate in the eyes of the community (ACLRC, 2005, 4; Bala, 2009, 185; Bala et al., 2005, 7). The religious basis for polygamy, according to the FLDS, derives from the teaching that men require three

or more wives to enter into the highest level of heaven in the afterlife (Berkowitz, 2008, 617; Kent, 2006, 17; also see Wickett, 2011, 2). As Canadian sociologist Stephen Kent explains, this stems from the idea that 'plural wives who were sealed with men for eternity would allow the men to pass through two heavens or degrees and enter the third and highest heavenly kingdom' (Kent, 2006, 17). In contrast, obedient participation in a polygamous marriage and bearing as many children as possible, are the requirements deemed necessary for women to enter into the highest levels of heaven (Bala et al., 2005, 7). In accordance with such beliefs, the number of wives and children a man has is considered not only a reflection of his coming ascendancy in the afterlife, but a symbol of his current status in the community (Brown, 2008, 272).

An additional religious belief governing marriage in the FLDS is the view that marital unions in the community are determined by God and communicated through church elders. In its opening statement in the BC Supreme Court case, the sect itself explains: 'partners in marriage are decided, not initially by participants themselves, but rather by a Prophet who receives a revelation from God' (Wickett, 2010, 2). In this sense, polygamy in the FLDS operates as a system of arranged marriages, in which church leaders can reward or punish men in the community by assigning or denying them wives. The use of 'assigned' marriages by FLDS leaders as recompense for faithful men is noted by scholars such as Kent (2010, 8), who observes that '[l]eaders/"priests" reward men's loyalty by assigning them brides, especially young brides' (also see Jeffreys, 2012, 152). As discussed later in detail, the giving of women in marriage in exchange for loyalty or services rendered is indicative of the custom's links with trafficking, particularly where trafficking is understood as the treatment of human beings as objects for exchange (Fergus, 2005; Parrot & Cummings, 2008). Yet, in much recent academic work on FLDS polygamy, it is women's exercise of agency – rather than their experiences of harm – that is increasingly the focus of analysis.

Critiquing the focus on harm: recent scholarly analysis of Mormon polygamy

In the last decade, but especially in the last five years, an important shift has occurred in feminist scholarship on polygamy. Where previously the practice was clearly identified by feminist theorists as inimical to women's rights, more recently a growing number of scholars have sought to critique the focus on harm found in earlier works, while underlining women's expressions of agency and resilience in polygamy (e.g. Beaman, 2006, 2014; Campbell, 2008, 2009, 2010, 2014; Chan, 2011; Johnson, 2014; also see Abu-Lughod, 1998; Honig, 1999). This section outlines such agency-based approaches to FLDS polygamy, and calls into question what might constitute a 'balanced' approach to marriage in the FLDS. It suggests that given the severity of the harms involved, a balanced approach might not be one that seeks to offset accounts of abuse with an emphasis on agency, but that articulates the broader context of inequality in which both agency and harm occur.

The basis for critiquing feminist works that identify polygamy as harmful stems from the idea that these analyses do not consider the custom of FLDS polygamy in its entirety. This is a view put forward by scholars such as Lori Beaman (2014, also see 2006) and Angela Campbell (2010), who contend that there is a tendency for feminist critics (as well as the media and public authorities) to unduly focus on

² An argument can be made that the movement of women between various FLDS enclaves is in fact a structural requirement of closed polygamous communities. This is due in part to the need to broaden the gene pool in each collective as a result of generations of in-breeding, which have created considerable genetic disorders within the group (Armstrong, 2004; Kent, 2010). The movement of women between FLDS populations is seen as a way to avoid further medical impairments in the sect (Armstrong, 2004). Transferring women between communities can also be seen as structurally required due to the demand for brides that polygyny creates. As the system of polygyny involves one man having multiple wives, women from outside a community may need to be brought in when no suitable brides are deemed available (Bauman, 2011, at 523).

Download English Version:

<https://daneshyari.com/en/article/375858>

Download Persian Version:

<https://daneshyari.com/article/375858>

[Daneshyari.com](https://daneshyari.com)