Polygamy on Trial:

Analyzing Anti-Polygamy Legislation in 19th Century United States

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Abstract

This study examines 19th-century US anti-polygamy legislation, focusing on its intersections with multiculturalism and minority rights. By analyzing the historical and legal aspects of these laws, we identify their impact on Mormon communities and immigrant groups, aimed at enforcing cultural assimilation. Our findings reveal tensions between religious freedom and societal concerns over polygamy, particularly in Christian contexts. The research highlights a paradox in liberal democracies, where safeguarding minority rights often clashes with societal values, leading to legislation against practices seen as disruptive. It emphasizes the delicate balance between cultural pluralism, multiculturalism, minority rights, and societal cohesion in 19th-century America, shedding light on the ongoing relevance of these debates today. This study calls for further exploration of arguments against culturally or religiously inspired practices in Western democracies.

Keywords: Polygamy legislation, multiculturalism, Majority-minority dynamics, Social and legal exclusion, Mormons, USA.

Introduction

The United States (US) prides itself on being a multicultural society that often creates space for, and allows, newcomers to retain and practice their own cultures and customs[1]. With a rich history of immigration, the US has often been praised as a model for embracing and promoting cultural differences[2]. It has traditionally pursued a non-interventionist approach to cultural differences, prioritizing individual freedom over civic qualifications[3]. Despite this, American legislation has forbidden certain cultural practices deemed too dangerous for American society. Polygamy is one such practice.

In the early 19th century, moral panic surrounding polygamy started due to the widespread realization that white Americans, rather than other ethnic or cultural groups in the US, were the primary polygamy practitioners[4]. Until this time, polygamy was popularly thought to be a 'foreign' phenomenon, practiced by immigrants from Africa and Asia[5]. That white Christians born in the US also practiced polygamy was difficult for the public to accept[6] and unsettled existing conceptions of the ideal American citizen[7]. Public discourse at the time framed the practice of polygamy as un-American, and commentators often used derogatory and demeaning language to liken white, native-born polygamists with those of immigrant groups. In doing so, they promoted the idea that polygamy was a cultural practice inferior to the marital model that was expected of

[1] Susan Moller Okin and Martha C. Nussbaum, *Is Multiculturalism Bad for Women?* (Princeton University Press, 1999); Richard A. Shweder, '16 Social Intelligence in a Multicultural World: What Is It? Who Needs It? How Does It Develop?', *New Perspectives on Human Development*, 2017, p. 313.
[2] Shweder, '16 Social Intelligence in a Multicultural World: What Is It? Who Needs It? How Does It Develop?'
[3] Shweder, '16 Social Intelligence in a Multicultural World: What Is It? Who Needs It? How Does It Develop?'
[4] Margaret Denike, 'The Racialization of White Man's Polygamy', *Hypatia*, 25.4 (2010), pp. 852–74.
[5] John Witte, *The Western Case for Monogamy over Polygamy* (Cambridge University Press, 2015).
[6] Denike.
[7] Cheshire Calhoun, 'Who's Afraid of Polygamous Marriage-Lessons for Same-Sex Marriage Advocacy from the History of Polygamy', *San Diego L. Rev.*, 42 (2005), p. 1023.

white Christian citizens. Motivated by public concern over polygamy, politicians used the US legal and judicial systems to restrict the practice.

In this paper, we investigate how and why polygamy has long been feared, banned, and scrutinized in American society by analyzing a set of key legal documents, including court cases, legislative acts, and the US Constitution. Through our examination of these sources, we offer insights into the societal and cultural processes that have contributed to the development of relationship norms and values in the US. Our analysis sheds light on the limits of accommodating diverse cultural practices within the multicultural society of the US, with implications for Western democracies more generally.

In the following section, we lay the groundwork for our analysis by defining and discussing cultural pluralism and multiculturalism. We then provide a brief overview of the practice of polygamy and the criticism that practice has faced within Western democracies since the early 19th century. We next outline our methodology which is followed by a focus on selected cases illustrating the role of polygamy in US society. We then analyze the US legal framework, studying both federal and state anti-polygamy documents and their meanings. The paper concludes by examining the consequences of polygamy for Western liberal democracies.

Defining cultural pluralism and multiculturalism

Diversity is a social factor that promotes practical, political, and theoretical challenges for how to envision and manage societies. Liberal ideologies exhibit a range of perspectives on public policies concerning cultural beliefs. For example, some policies grounded in liberal ideology focus on unrestricted tolerance and egalitarian citizenship, while others focus on finding a universal political conception of justice and considerations of the political harms in the politics of cultural

recognition. Cultural pluralism and multiculturalism are two approaches that have given rise to theories, political ideologies, and social practices. Cultural pluralism is distinct from multiculturalism in that it maintains the presence of a dominant culture[8]. However, if the influence of the dominant culture weakens, societies can seamlessly transition from cultural pluralism to multiculturalism without deliberate societal efforts[9].

While the term multiculturalism encompasses various meanings and applications, broadly it emphasizes the acceptance of diverse behavioral norms stemming from different cultural backgrounds and advocates for the recognition and support of these differences[10]. Multiculturalism may denote a demographic characteristic, particularly in societies with a multiethnic composition. It can also refer to a policy approach adopted by policymakers to manage cultural diversity. Additionally, in psychology and politics, multiculturalism embodies a political philosophy endorsing the acceptance and promotion of a society's cultural diversity[11].

When it comes to multiculturalism and its relationship with state policies, there is a prominent view on it[12]. This view emphasizes that the state should reflect or advance the multicultural or ethnic diversity present in society through its laws and policies[13]. This view highlights that while diversity is a natural characteristic of society, active policy measures are still needed to support and maintain the ideology of multiculturalism. From this perspective, simply

[8] Stephen May, 'Critical Multiculturalism and Cultural Difference: Avoiding Essentialism', in *Critical Multiculturalism* (Routledge, 2005), pp. 20–53.
[9] May.
[10] Carl J. Dolce, 'Multicultural Education—Some Issues', *Journal of Teacher Education*, 24.4 (1973), pp. 282–84.
[11] Fons JR Van de Vijver, Seger M. Breugelmans, and Saskia RG Schalk-Soekar, 'Multiculturalism: Construct Validity and Stability', *International Journal of Intercultural Relations*, 32.2 (2008), pp. 93–104.
[12] Christian Joppke, 'The Retreat of Multiculturalism in the Liberal State: Theory and Policy 1', *The British Journal of Sociology*, 55.2 (2004), pp. 237–57.
[13] Lily A. Arasaratnam, 'A Review of Articles on Multiculturalism in 35 Years of IJIR', *International Journal of Intercultural Relations*, 37.6 (2013), pp. 676–85.

acknowledging diversity is not enough; proactive steps are required to ensure that multiculturalism is upheld in practice.

Cultural pluralism differs from multiculturalism in its approach to social organization[14]. Cultural pluralism defines a societal system where various ethnic, cultural, and religious groups coexist within a larger society. Individuals have the freedom to organize their social lives as they choose, provided that both individual and collective differences are respected. In contrast, multicultural politics often disregards these principles by emphasizing and mobilizing around imposed and incompatible identities[15]. Multicultural politics sometimes prioritizes symbolic gestures over substantive dialogue, leading to surface-level acceptance of diversity while ignoring underlying issues of inequality and discrimination. For instance, identity-based political movements may inadvertently reinforce stereotypes and deepen societal divisions, impeding efforts for true cultural integration and mutual respect. It places the burden of "recognition" solely on the majority in society[16].

The US is a multicultural liberal democracy but struggles to uphold liberal democratic ideals[17]. Since the early days of nation formation, the commitment to building an open, accommodating society has been in tension with established racial and cultural hierarchies and moral aspirations. Broadly, as a multicultural society, the US has had many challenges because the legal system typically reflects and formalizes the beliefs, values, emotional responses, aesthetic norms, and worldviews specific to the dominant cultural groups who hold the most influence[18]. This situation poses risks for individuals belonging to immigrant minority communities[19].

[14] Giovanni Sartori, 'Understanding Pluralism', *Journal of Democracy*, 8.4 (1997), pp. 58–69.
[15] Richard A. Shweder, 'Relativism and Universalism', *A Companion to Moral Anthropology*, 2012, pp. 85–102.
[16] Joppke.
[17] Richard A. Shweder, 'The Psychology of Practice and the Practice of the Three Psychologies', *Asian Journal of Social Psychology*, 3.3 (2000), pp. 207–22.
[18] Shweder, 'The Psychology of Practice and the Practice of the Three Psychologies'.
[19] Shweder, 'The Psychology of Practice and the Practice of the Three Psychologies'.

Systemic racism has produced significant disparities in access to education and healthcare and unequal treatment by law enforcement officers. Xenophobic immigration policies, such as the "Muslim ban" and family separation at the southern border, exhibit the state's willingness to discriminate based on religion, ethnicity, and geographic origin. These examples raise questions about the limits of multiculturalism in application. In this paper, we consider limits of multiculturalism in the face of moral viewpoints and practices that conflict with mainstream cultural values by examining the practice and prohibition of polygamy in the US.

The case of anti-polygamy legislation in the US is a pertinent test for multiculturalism due to its intersection with diverse cultural, religious, and legal frameworks, highlighting the challenges of accommodating cultural practices within the legal system while upholding societal values and individual rights.

Practice of polygamy and its criticism

Polygamy is a cultural and religious tradition currently practiced in various regions, including the Middle East, sub-Saharan Africa, Asia, and Russia[20]. Polygamy was historically practiced among Jews, particularly in ancient times, and it was also a widespread practice in China throughout various periods of history[21]. Among indigenous communities in select US states, such as the Navajo Nation in Arizona, New Mexico, and Utah, polygamy was practiced as well. Polygamous practices, for instance, were also observed among certain Native American tribes prior to colonization, with these practices ceasing within those communities during the colonial period and afterward[22].

[20] Witte.
[21] Miriam Koktvedgaard Zeitzen, *Polygamy: A Cross-Cultural Analysis* (Routledge, 2020).
[22] Hugh B. Urban, *New Age, Neopagan, and New Religious Movements: Alternative Spirituality in Contemporary America* (University of California Press, 2015).

While the core principles of the practice have been similar across these movements, the underlying reasoning for the practice has differed between groups. Most polygamous practices involve one man with more than one wife, technically termed polygyny. These practices are founded in various premises; for example, among certain Native American tribes, polygyny was practiced as a means of solidifying kinship ties and ensuring the continuity of lineage, with some leaders taking multiple wives to strengthen political alliances and clan relationships[23]. Polygyny was also permitted and practiced in ancient Hebrew society, exemplified by figures like King Solomon, reflecting patriarchal structures and a desire to increase progeny[24]. In addition, polygyny is observed in Pacific Island cultures, symbolizing social status and family alliances, where men having multiple wives demonstrate wealth and ability to provide for extended families[25]. These examples show that the dynamics and constellations of these unions also vary from place to place and from group to group.

Criticism of polygamy from the white majority in most Western societies has been consistent and universal for all these groups, irrespective of the motivations for the practice. Western societies refer to countries, cultures, or regions that have historical, cultural, and geopolitical ties to Europe and North America. These societies often share common values, traditions, and institutions. Geographically, Western countries include those in Europe, North America, Australia, and New Zealand, among others.

Despite its widespread existence across non-Western cultures, Western states and legal bodies view polygamy as antithetical to monogamy and modern marital ideals. In all European

[23] Erika Pérez, *Colonial Intimacies: Interethnic Kinship, Sexuality, and Marriage in Southern California, 1769–1885* (University of Oklahoma Press, 2018), v.
[24] Isaac Sassoon, *The Status of Women in Jewish Tradition* (Cambridge University Press, 2011).
[25] Clifford R. O'Donnell, 'The Right to a Family Environment in Pacific Island Cultures', *Int'l J. Child. Rts.*, 3 (1995), p. 87.

countries, polygamy is legally prohibited and culturally stigmatized[26]. For example, in the UK and Denmark, legal frameworks and societal norms in these countries are deeply rooted in monogamous traditions[27][28], with polygamy often viewed as incompatible with modern family structures and gender equality principles[29]. In Canada certain forms of religious polygamy are practiced under specific circumstances, such as fundamentalist Mormon communities, it is generally prohibited under Canadian law[30]. Legal challenges and public debates surrounding cases of polygamy in Canada often highlight concerns about exploitation, gender inequality, and the potential for harm within polygamous relationships, reinforcing the perception that polygamy conflicts with contemporary Western values[31].

We will explore how this antithesis was produced in public debates and legislation in the US during the early 19th century. We examine this historical case over other possible cases of cultural debate involving polygamy because (1) it is a clear example of the state taking an anti-polygamy stance, (2) there is substantial documentation available to analyze, and (3) the polygamists in this case are not immigrants to a Western democracy but natural born citizens, many with deep family roots in the US.

[26] Mona Mir Sattari, 'Polygamy as a Cross-Cultural Dispute in Europe: The Extent to Which Polygamy Can Be given Effect in European Legislations', 2021.
[27] Flora Botelho, Bogdan, Power Ludmila, Seamus, 'Polygyny in Denmark: A Study of the Instrumentalization of Cultural Differences in Immigration Policies.', Forthcoming (2024).
[28] Katharine Charsley and Anika Liversage, 'Transforming Polygamy: Migration, Transnationalism and Multiple Marriages among Muslim Minorities', *Global Networks*, 13.1 (2013), pp. 60–78.
[29] Zeitzen.
[30] Nicholas Bala, 'Why Canada's Prohibition of Polygamy Is Constitutionally Valid and Sound Social Policy', *Can. J. Fam. L.*, 25 (2009), p. 165.
[31] Lori G. Beaman, 'Opposing Polygamy: A Matter of Equality or Patriarchy?', *The Polygamy Question*, 2016, pp. 42–61; Lori G. Beaman, 'Church, State and the Legal Interpretation of Polygamy in Canada', *Nova Religio*, 8.1 (2004), pp. 20–38.

Research on Polygamy

This paper engages with several bodies of literature surrounding the topic of polygamy in the US. First, it investigates research on the historical context of polygamy within the US, providing insight into the origins of public debate and legal discourse surrounding the practice[32]. Second, it examines scholarship that highlights the social impacts of polygamy, including issues such as illegality, socioeconomic disparities, and violence against women and children[33]. Additionally, it explores literature that discusses the role of polygamy in public and legal discourse.

Research on polygamy has focused on tracing the history of the practice in the US, which, despite being practiced by a small percentage of North Americans from various backgrounds, disproportionately occupies public and legal discourse regarding its legal and ethical permissibility[34]. This examination of the historical context provides insight into the origins of public debate and legal discourse surrounding polygamy.

Previous research also pointed to dysfunctional polygamous practices, including illegality, geographic isolation, socioeconomic disparities, male dominance, economic hardship, lack of female support networks, and abuse[35]. These studies seem to limit discussion of these practices onto the same religious fundamentalist groups. In the same manner, research also suggests that polygynous marital structures, along with their accompanying economic, political, and social practices, have a significant correlation with violence against women and children[36].

[32] Cardell K. Jacobson, *The Polygamy Question. Edited by Janet Bennion and Lisa Fishbayn Joffee* (Oxford University Press, 2017).
[33] Janet Bennion, 'The Variable Impact of Mormon Polygyny on Women and Children', *The Polygamy Question*, 2016, pp. 62–84.
[34] Jacobson.
[35] Rose McDermott and Jonathan Cowden, 'Polygyny and Violence against Women', *Emory LJ*, 64 (2014), p. 1767.
[36] Bennion.

Maura Strassberg scrutinized the historical genesis of legislation outlawing polygamy in North America, a response to the political influence exerted by polygynist Mormons[37]. Her research also probed recent discourse framing polygamy as an alternative sexual practice and familial arrangement deserving legal recognition and protection, mirroring advocacy for same-sex marriage. These discussions confront obstacles posed by sexual bias in progressive states. Strassberg drew parallels between arguments from the 19th-century polygamy debate and contemporary dialogues about acknowledging fundamentalist Mormons and other marginalized groups in liberal democracies.

Sarah Song has also addressed this issue within the context of contemporary concerns regarding the equal protection of women and the nuanced consideration for the recognition of polygamy[38]. She explores how critiques of minority norms, like Mormon polygamy in 19th century America, and contemporary debates over practices such as arranged marriage and female circumcision within immigrant communities, can inadvertently deflect attention from inequalities within the majority culture, potentially reinforcing discourses of cultural superiority.

Our article adds to our understanding of polygamy and the law by analyzing the foundational values that drove the strong reaction and intolerance towards polygamy in 19th-century United States.

Sources of Data

Our analysis draws from a range of federal legal documents that were used to manage the practice of polygamy in the 19th century US. These documents were meticulously reviewed and

[37] Maura Irene Strassberg, 'Distinguishing Polygyny and Polyfidelity under the Criminal Law', *The Polygamy Question*, 2016, pp. 180–98.
[38] Sarah Song, 'Polygamy Today: A Case for Qualified Recognition', *The Polygamy Question*, 2016, pp. 199–209.

selected from national archives and historical legal databases, ensuring a comprehensive understanding of the legislative measures and their implications. These were cases and legislation that have been widely discussed in mass media, scholarly research, and public debates. This decision was based on the prominence of these cases and their significance in shaping discussions around the topic of polygamy. We draw from the First and Fourteenth Amendments of the US Constitution, as well as several pieces of congressional legislation: the Morrill Anti-Bigamy Act of 1862, the Edmunds Anti-Polygamy Act of 1862, and the Edmunds-Tucker Act of 1887. Additionally, we explore two significant Supreme Court rulings: Reynolds v. United States (1879) and Davis v. Beason (1890), which reinforced states' authority to implement anti-polygamy laws. We also address several state-and territory-level anti-polygamy laws.

We rely on qualitative content analysis to dissect these constitutional amendments, crucial legal documents, and court cases pertinent to the anti-polygamy movement in the 19th century US. This method enables a thorough examination of textual data[39], paying attention to what we call "multicultural" characteristics that are categorized in themes such as race, religion, immigration, identity, ethics, and gender. These themes arose through an iterative process of reading and identifying themes[40].

Drawing on this close textual examination, we explore the implications of 19th century anti-polygamy legislation for American values and identity. Specifically, we examine tensions between the state's commitment to freedom of religion and efforts to restrict the practice of polygamy among Mormons, on the basis that it challenged national norms, including the monogamous marriage practices of mainstream Christianity. Moreover, we scrutinize the impact of the

[39] Victoria Clarke and Virginia Braun, 'Thematic Analysis', *The Journal of Positive Psychology*, 12.3 (2017), pp. 297–98.
[40] Clarke and Braun.

polygamy debates on citizenship, rights, and the role of Congress. We also address gendered aspects of anti-polygamy legislation, in terms of their impact on practitioners of polygamy and on ideas about citizenship. Through an examination of these references, our objective is to answer the research question: What are the parameters of incorporating varied cultural customs within the Western multicultural democratic framework of the US?

Emergence of the Church of Latter-Day Saints and the Context of Polygamy

The origins of the Church of Jesus Christ of Latter-day Saints (LDS), commonly known as the Mormon Church, trace back to the early 19th century in the US[41]. Founded by Joseph Smith Jr., the movement emerged during a period of religious fervor known as the Second Great Awakening[42]. Smith claimed to have received divine revelations, including the introduction of new scripture, such as the Book of Mormon. One distinctive aspect of early Mormonism was its belief in the practice of polygamy, or the marriage of one man to multiple wives[43]. This practice was justified within the LDS faith as a restoration of biblical principles, particularly as evidenced in the lives of ancient prophets like Abraham and Jacob[44]. As the LDS Church grew, its missionary efforts became a hallmark of the faith[45]. Missionaries were sent throughout the US and abroad to spread the teachings of Mormonism, attracting converts and establishing communities[46].

[41] Davis Bitton, 'Mormon Polygamy: A Review Article', *Journal of Mormon History*, 4 (1977), pp. 101–18.
[42] Bitton.
[43] Sarah Barringer Gordon, 'The Mormon Question: Polygamy and Constitutional Conflict in Nineteenth-century America', *Journal of Supreme Court History*, 28.1 (2003), pp. 14–29.
[44] O. Kendall White and Daryl White, 'Polygamy and Mormon Identity', *The Journal of American Culture*, 28.2 (2005), pp. 165–77.
[45] Christine Talbot, *A Foreign Kingdom: Mormons and Polygamy in American Political Culture, 1852-1890* (University of Illinois Press, 2013).
[46] White and White.

In the mid-19th century, under the leadership of Brigham Young, the LDS Church sought refuge from persecution by establishing a theocratic government in the Utah Territory[47]. This period saw the rapid expansion of Mormon settlements and the development of a unique social and political structure under LDS authority[48]. The practice of polygamy became a focal point of contention between the LDS Church and mainstream American society[49]. While polygamy was legal under Mormon rule, it clashed with prevailing social norms and religious beliefs in the broader American context[50].

The expansion of Mormon settlements, coupled with the public acknowledgment of polygamous marriages, drew condemnation and opposition from various quarters[51]. Mainstream religious groups, women's organizations, and government officials viewed polygamy as immoral and detrimental to family and social stability. As tensions mounted over the issue of polygamy, efforts to combat the practice intensified. Anti-Mormon sentiment fueled legislative action aimed at eradicating polygamy and dismantling the political power of the LDS Church[52].

In response to mounting pressure, particularly from the federal government, the LDS Church officially renounced the practice of polygamy in 1890[53]. This declaration, known as the Manifesto, marked a significant shift in LDS doctrine and practice. Despite the renunciation of polygamy, legal challenges persisted, leading to the disincorporation of the LDS Church and the passage of laws criminalizing polygamous unions. The Edmonds-Tucker Act of 1887, for example,

[47] Orma Linford, 'The Mormons and the Law: The Polygamy Cases', *Utah L. Rev.*, 9 (1964), p. 308.
[48] B. Carmon Hardy, *Solemn Covenant: The Mormon Polygamous Passage* (University of Illinois Press, 1992).
[49] Talbot.
[50] Linford.
[51] Hardy.
[52] Gordon.
[53] Stanley S. Ivins, 'Notes on Mormon Polygamy', *Western Humanities Review*, 10 (1956), pp. 229–39.

targeted Mormon institutions and sought to dismantle the social and economic infrastructure supporting polygamy[54].

The emergence of the LDS Church, its missionary zeal, and the practice of polygamy were central factors in the social and legal conflicts that characterized the anti-polygamy movement[55]. The tension between religious freedom and societal norms, coupled with political and legal challenges, shaped the trajectory of Mormonism in the US and continues to influence its legacy today.

Criminalization of Polygamy: Legislation and Societal Perceptions

In the following section, we make two claims: (1) in response to the emergence and growth of the LDS Church, there were many efforts to criminalize polygamy at local, state, and federal levels; (2) the criminalization of polygamy framed the practice as harmful to the Christian norm of monogamous marriage. Currently, every US state has laws forbidding getting legally married while being married to another person[56].

In the wake of the emergence of the Church of Jesus Christ of Latter-day Saints (LDS Church) and its practice of polygamy, the American legal system responded with a series of acts aimed at criminalizing and eradicating polygamous unions. These legislative measures reflected broader societal concerns about the perceived threat posed by polygamy to existing marriage norms and social order.

The Edmunds Act, enacted by Congress in 1882, represented a significant milestone in the federal government's efforts to combat polygamy. This legislation specifically targeted the practice of polygamy within the LDS Church and sought to dismantle the social and legal infrastructure

[54] Linford.
[55] Talbot.
[56] Larry Kramer, 'Same-Sex Marriage, Conflict of Laws, and the Unconstitutional Public Policy Exception', *Yale LJ*, 106 (1996), p. 1965.

supporting plural marriage. Key provisions of the Edmunds Act included the criminalization of polygamy as a felony offense punishable by fines and imprisonment. Additionally, the act imposed restrictions on individuals involved in or affiliated with polygamist organizations, such as the LDS Church, by disenfranchising them and limiting their participation in public office.

The passage of the Edmunds Act and similar statutes reflected widespread concerns about the perceived threat posed by polygamy to traditional marriage norms and family structures. Polygamous unions were viewed as a deviation from the monogamous ideal and were seen as undermining the sanctity of marriage and the stability of family life[57]. Critics of polygamy argued that it fostered social discord, encouraged marital instability, and posed a challenge to the fundamental principles of American society[58].

In legal proceedings such as the Davis v. Beason (1890) case, the courts construed polygamy as a threat to existing marriage norms and societal values. The legislation criminalizing polygamy was justified on the grounds of preserving the integrity of marriage and protecting the rights and liberties of individuals within society. The belief-action distinction, emphasized by the courts in cases involving polygamy, reinforced the importance of balancing religious freedoms with broader societal interests. While acknowledging the protection of religious beliefs, legal restrictions were deemed necessary to prevent practices that were perceived to infringe upon the rights and liberties of others.

The Edmunds Anti-Polygamy Act of 1882 distinguishes between bigamy, polygamy, and unlawful cohabitation, holding both men and women accountable,

Every person who has a husband or wife living who, in a Territory or other place over which the United States have exclusive jurisdiction, hereafter marries another, whether married

[57] Talbot.
[58] Talbot.

or single, and any man who hereafter simultaneously, or on the same day, marries more than one woman, in a Territory or other place over which the United States have exclusive jurisdiction, is guilty of polygamy, and shall be punished by a fine of not more than five hundred dollars and by imprisonment for a term of not more than five years [59].

In the decades before the Edmunds Act, there were also several local and state acts criminalizing polygamy[60]. For example, the Anti-polygamy bill of 1854 was the first legislative attempt to discourage polygamy in Utah, which included provisions such as prohibiting men with more than one wife from owning land in the Utah Territory[61]. However, it was defeated in the House of Representatives. Later, 1862 Morrill Anti-Bigamy Act criminalized the practice of polygamy, unincorporated the Church of Jesus Christ of Latter-day Saints (LDS Church), and limited the church's real estate holdings[62]. Following the introduction of the Morrill Anti-Bigamy Act, additional bills by Senators Wade, Cragin, and Cullom were introduced to the US Congress with the goal of strengthening the enforcement of the Act's prohibition on polygamy and instituting more severe penalties for its practice[63]. They failed to pass, including the Cullom Bill, which sought to impose significant restrictions on those practicing polygamy. They failed to pass due to a combination of political opposition, public debate, and the complexities of balancing individual rights with societal norms. The Cullom Bill faced resistance from those who viewed it as an infringement on religious freedoms and from political factions wary of excessive federal intervention in personal and community practices. Additionally, the lack of sufficient consensus and support among lawmakers contributed to its failure. Later, in 1874, the Poland Act aimed to

[59] United States. Utah Commission. Report. 1883.
[60] Linford.
[61] Kramer.
[62] Linford.
[63] Stephen Eliot Smith, 'Barbarians within the Gates: Congressional Debates on Mormon Polygamy, 1850–1879', *Journal of Church and State*, 51.4 (2009), pp. 587–616.

prosecute Utah under the Morrill Anti-Bigamy Act for refusing to stop practicing polygamy[64]. This act gave the federal government greater control over the territory and allowed for criminal indictment of polygamists.

In 1882, Edmunds Act made polygamy a felony punishable by a fine and imprisonment. It also introduced the concept of 'unlawful cohabitation,' which was punishable by fine and imprisonment as well as revoking the right to vote or hold office for polygamists[65]. In 1887, the Edmunds–Tucker Act allowed for the disincorporation of the LDS Church and seizure of church property[66]. It extended punishments for polygamy and led to the imprisonment of many polygamists. Additionally, at the federal level, between 1879 and 1924, fifty-five amendments were proposed in Congress to ban polygamy, reflecting widespread public concern[67]. The first proposal came from Representative Julius C. Burrows in 1879, stating simply: "Polygamy shall not exist within the United States or any place subject to their jurisdiction. Congress shall enforce this by appropriate legislation"[68].

The Supreme Court, in response to LDS efforts to challenge the constitutionality of the Edmunds Act and other legislative acts criminalizing polygamy, has similarly framed polygamy as a threat to the Christian norm of monogamous marriage. In *Reynolds vs. United* States (1878), discussed in detail in the next section, the court contended that monogamy is "the most important feature of social life," which cannot be altered. Polygamy, it argued, was 'wrong' because the practice had never previously been accepted or allowed on American soil. While the case itself may not have directly cited Christian doctrine, the underlying principles of moral order and societal

[64] Bitton.
[65] Linford.
[66] Ivins.
[67] Denike.
[68] Edward Stein, 'Past and Present Proposed Amendments to the United States Constitution Regarding Marriage', *Issues in Legal Scholarship*, 4.1 (2004); Kelly Elizabeth Phipps, 'Marriage and Redemption: Mormon Polygamy in the Congressional Imagination, 1862-1887', *Virginia Law Review*, 2009, pp. 435–87.

harmony, implicitly framed within Christian ethics, played a role in shaping the court's decision. Therefore, even if not explicitly stated, Christian values, brought up in the other debates surrounding the criminalisation of polygamy, were are part of the broader cultural and legal reasoning of the time.

However, North American jurisprudence has struggled to identify and find proof of the 'harms' of polygamy[69]. The importance of demonstrating proof of 'harm' in American jurisprudence lies in the fundamental principles of justice and due process. In the legal system, proof of harm serves as a critical factor in determining liability, culpability, and the extent of legal remedies available to individuals or groups who have been wronged[70]. The US government exercised authority over citizens' private relationships without providing evidence of specific 'harm' or 'injury' caused by polygamy [71]. Mormons contended that practicing their religious beliefs, including polygamy, should be permitted due to the absence of proof or 'harm.' They argued that all individuals in polygamous marriages enter them willingly and voluntarily. However, anti-polygamy legislators continued to emphasize that marriage is a Christian institution between one man and one woman, a sacred duty deserving universal respect[72]. Marriage law has deep religious roots, dating back to medieval times[73]. In the Middle Ages, the Church held jurisdiction over marriage matters, a practice that persisted into the nineteenth century[74].

This highlights the prioritization of Protestant Christian practices over other religious or cultural customs, reinforcing the dominance and superiority of one culture over others. The

[69] Maura I. Strassberg, 'Scrutinizing Polygamy: Utah's Brown v. Buhman and British Columbia's Reference Re: Section 293', *Emory LJ*, 64 (2014), p. 1815.
[70] Steven D. Smith, 'Is the Harm Principle Illiberal', *Am. J. Juris.*, 51 (2006), p. 1.
[71] Jonathan Turley, 'The Loadstone Rock: The Role of Harm in the Criminalization of Plural Unions', *Emory LJ*, 64 (2014), p. 1905.
[72] Charles J. Reid Jr, 'The Unavoidable Influence of Religion Upon the Law of Marriage', *QLR*, 23 (2004), p. 493.
[73] Reid Jr.
[74] Reid Jr.

legislation against polygamy reflected a public and legal effort to safeguard the religious beliefs of the majority while intimidating and coercing the Mormon minority into adopting the mainstream Christian culture and behavior. *Davis v. Beason (1890)* states that:

Bigamy and polygamy are crimes by the laws of the United States, by the laws of Idaho, and by the laws of all civilized and Christian countries, and to call their advocacy a tenet of religion is to offend the common sense of mankind [75].

Thus, the legislation invoked mainstream Christianity's emphasis on monogamous marriage in upholding prohibitions on polygamy, and in doing so, reinforced the intolerance and fear of the dominant culture toward religious minorities. The act continues:

A crime is nonetheless so, nor less odious, because sanctioned by what any particular sect may designate as religion. It was never intended that the first Article of Amendment to the Constitution, that "Congress shall make no law respecting the establishment of religion or prohibiting the free exercise thereof," should be a protection against legislation for the punishment of acts inimical to the peace, good order and morals of society.[76]

In public debates at the time, monogamy was seen as the only just and honorable form of marriage, the opposite of the decaying, lustful practice of having multiple partners[77]. There was a strong wish among the public to reject any possibility of legitimating multiple sexual partners and altering the image of a traditional Christian American family[78]. Divergent marriage practices were viewed as a potential risk to the stability of the political regime and power structures of the country[79]. Such practices were seen as a departure from the fundamental values of American

[75] Davis v. Beason (1890)
[76] Davis v. Beason (1890)
[77] Talbot.
[78] Talbot.
[79] Beaman, 'Opposing Polygamy: A Matter of Equality or Patriarchy?'

society—honor, justice, and freedom—and ultimately perceived as a threat to national identity and democracy[80].

Constitutional Protection of Religious Freedom vs. the Religious Practice of Polygamy

In this section, we explore how Mormons in the 19th century, facing efforts to criminalize the practice of polygamy, argued the practice should be tolerated as a matter of religious freedom. The legal framework in the US, outlined by the Constitution, establishes a federal system of government with distinct powers granted to the federal government and the states. The Supremacy Clause ensures that federal laws take precedence over conflicting state or local legislation[81]. Federal laws, such as those addressing polygamy, are systematically compiled in the US Code and entail judicial decisions that are interpreted and put into action by federal administrative agencies[82]. While polygamy is not explicitly addressed in the Constitution, advocates have mobilized constitutional clauses to defend the practice as permissible under US law.

In the late 1870s, the Church of Latter-Day Saints organized an effort to challenge anti-bigamy legislation on the grounds that it prevented Mormons from freely practicing their religion. During this time, the Church of Latter-Day Saints was involved in a legal battle against anti-bigamy laws. Thus, George Reynolds, a secretary in the LDS Church, presented himself as a bigamist to test the constitutionality of the law and was subsequently arrested and imprisoned. This occurrence led to the Morrill Anti-Bigamy Act of 1862, which was an act of Congress that specifically targeted the Church of Latter-Day Saints, outlawing the practice of bigamy in the federal territories – including Utah, where the Church was based.

[80] Denike.
[81] Linford.
[82] Jill Elaine Hasday, 'Federalism and the Family Reconstructed', *UCLA L. Rev.*, 45 (1997), p. 1297.

In *Reynolds vs. United States* (1878), Reynolds argued it was his religious duty to marry multiple times, and that this practice of polygamy was protected by the free exercise clause of the First Amendment of the US Constitution, which states: "Congress shall make no law respecting an establishment of religion or prohibiting the free exercise thereof."

However, in response to these arguments, the Supreme Court drew a distinction between the regulation of religious practices and religious beliefs. It ruled that while individuals are free to hold their beliefs, they are not necessarily entitled to translate those beliefs into practices that are perceived as threats to American values and freedom. The Supreme Court further justified its decision by saying religious practices are allowed if they do not conflict with the law of the land, but that polygamy does conflict with the law of the land:

> *It may safely be said there never has been a time in any State of the Union when polygamy has not been an offense against society, cognizable by the civil courts and punishable with more or less severity. In the face of all this evidence, it is impossible to believe that the constitutional guarantee of religious freedom was intended to prohibit legislation in respect to this most important feature of social life…Can a man excuse his practices to the contrary because of his religious belief? To permit this would be to make the professed doctrines of religious belief superior to the law of the land, and in effect to permit every citizen to become a law unto himself*[83].

Later, in a separate case - *Davis v. Beason (1890)* - the Court expanded upon the distinction between religious belief and action, underlining the importance of the 'belief-action distinction' in upholding the First Amendment's safeguarding of religious freedom. It was another test case brought by the LDS Church and resulted in the arrest of 1,300 Mormons for polygamy[84]. This case

[83] Reynolds v. United States 1878.
[84] Ivins.

was initiated by the LDS Church to test the constitutionality of the Edmunds Anti-Bigamy Act (1882), which made polygamy a felony and required voters to swear they were not bigamists or polygamists, and an Idaho statute that stripped voting rights from individuals involved in or affiliated with organizations advocating for bigamy or polygamy[85]. Several non-polygamous Mormons, including Samuel B. Davis, filed a lawsuit when they were unable to cast ballots in the 1888 election. Their inability to vote was only seen as a political issue by the Idaho court [86], and the US Supreme Court upheld the act on appeal because it was within the legislative body's power to set voting requirements in the territory. While acknowledging certain exceptions, the Supreme Court emphasized while religious beliefs are protected, religious practices may face legal restrictions if they are understood to infringe upon the liberty and equality of others[87]:

> *However free the exercise of religion may be, it must be subordinate to the criminal laws of the country, passed with reference to actions regarded by general consent as properly the subjects of punitive legislation. There have been sects which denied as a part of their religious tenets that there should be any marriage tie and advocated promiscuous intercourse of the sexes, as prompted by the passions of their members*[88].

Again, the Court argued that while religion was a matter of belief that was constitutionally protected, polygamy was not a religious belief but a practice, and those practices can be

[85] Merle W. Wells, 'The Idaho Anti-Mormon Test Oath, 1884-1892', *Pacific Historical Review*, 24.3 (1955), pp. 235–52.
[86] John S. Dinger, 'Resigned to Fate or Resigning to Vote: The Idaho Test Oath and Woolley v. Watkins', *Journal of Mormon History*, 46.4 (2020), pp. 60–89.
[87] Kathryn A. Heard, 'Theorizing Employment Division v. Smith: The Affective Politics of the Legal Regulation of Religion', *Law, Culture and the Humanities*, 16.1 (2020), pp. 53–69.
[88] Davis v. Beason, 1890

criminalized[89]. As Justice Stephen J. Field concluded that "a crime is not the less abhorrent because it is sanctioned by what any specific sect may define as religion"[90].

In American society, the emphasis on preserving monogamous families outweighed the protection of polygamists' religious liberties. The historical context, in Reynolds v. United States, refers to the way marriages were regulated and how violations like polygamy were handled legally. It highlights a lack of acceptance within both the American public and legislative frameworks toward certain cultural and religious customs of minority communities.

At common law, the second marriage was always void (2 Kent, Com. 79), and from the earliest history of England, polygamy has been treated as an offence against society. After the establishment of the ecclesiastical courts, and until the time of James I, it was punished through the instrumentality of those tribunals not merely because ecclesiastical rights had been violated, but because upon the separation of the ecclesiastical courts from the civil the ecclesiastical were supposed to be the most appropriate for the trial of matrimonial causes and offences against the rights of marriage, just as they were for testamentary causes and the settlement of the estates of deceased persons[91].

The Court acknowledged the importance of monogamy, declaring that "[m]arriage, profoundly sacred in its essence, is also, in most developed societies, recognized as a legal contract and is typically subject to legal regulation. It forms the foundations upon which society is constructed, with its offspring giving rise to a network of social connections, responsibilities, and obligations that the state is bound to address."[92] While there have been ongoing legal disputes

[89] Jesse H. Choper, 'Defining Religion in the First Amendment', *U. Ill. L. Rev.*, 1982, p. 579.
[90] Philip B. Kurland, 'Of Church and State and the Supreme Court', *The University of Chicago Law Review*, 29.1 (1961), pp. 1–96.
[91] Reynolds v. United States, 98 U.S. 145 (1878).
[92] Reynolds v. United States, 98 U.S. 145 (1878).

challenging the prohibition of polygamy, especially invoking the Free Exercise Clause, the Reynolds case remains established precedent[93]. Despite this, legal arguments have continued to evolve, particularly in areas concerning privacy and individual rights.

Constitutional Protection of Privacy vs. Individual Practices of Polygamy

The Due Process Clauses in the Fifth and Fourteenth Amendments of the US Constitution protect individuals from arbitrary denial of life, liberty, or property by the government outside the sanction of law. In legal disputes concerning polygamy, these clauses have been invoked with varying degrees of success. The pivotal case of Reynolds v. United States (1879) set the stage for rejecting constitutional protections for polygamy even though the Due Process Clause was not the main focus.

Over time, the concept of 'substantive due process' has been established, meaning that the Due Process Clause not only requires legal procedures but also protects certain fundamental rights from government infringement, potentially including privacy and family relationships. Despite this broader interpretation, the courts have not traditionally viewed polygamous relationships as being under the umbrella of rights protected by substantive due process.

Another case, Cleveland v. United States (1946)[94], involving the conviction of members of the LDS Church for polygamy argued that their convictions violated their rights to free exercise of religion and due process. However, the Supreme Court rejected this argument and affirmed the conviction.

[93] Alyssa Rower, 'The Legality of Polygamy: Using the Due Process Clause of the Fourteenth Amendment', *Family Law Quarterly*, 38.3 (2004), pp. 711–31.
[94] Cleveland v. United States (1946).

It was only in more recent times that cases concerning privacy and individual autonomy came to the forefront of judicial review. The landmark Lawrence v. Texas[95] decision in 2003, while addressing the decriminalization of sodomy rather than polygamy, set a precedent by showcasing the Due Process Clause's protection of privacy and liberty in intimate adult relationships. This ruling has subsequently provided a legal rationale for those advocating against the criminalization of polygamy.

In the 2013 case of Brown v. Buhman[96], Kody Brown and his family from the reality show 'Sister Wives' brought into question the constitutionality of Utah's anti-polygamy statute. A federal district court originally ruled in favor of the Browns, effectively decriminalizing polygamy by stipulating that cohabitation among consenting adults should not be illegal, though it did leave the prohibition against multiple marriage licenses in place. Nonetheless, this decision was overturned on appeal due to a determination that the Browns were not at immediate risk of prosecution, thereby lacking the legal standing necessary to sue.

Throughout these legal challenges, the US courts have generally upheld laws against polygamy, maintaining a strong distinction between protecting private, consensual adult relationships and not extending such protection to institutional practices that defy state interests in marriage regulation, such as polygamous arrangements[97]. The courts have repeatedly affirmed the state's interest in regulating marriage and have not deemed polygamy a practice protected by the Due Process Clause[98].

[95] Lawrence v. Texas 2003.
[96] Brown v. Buhman 2013.
[97] Rower.
[98] Rower.

While substantive due process provides a framework to challenge laws infringing on individual rights, polygamy has not yet been recognized by the US judiciary as a constitutionally protected practice under this doctrine.

Anti-immigrant narratives

The anti-polygamy legislation, followed by justifications of anti-immigrant acts, used demeaning assertions about immigrants and other races. There is a historical connection between anti-polygamy laws and the sentiments expressed in anti-immigrant legislation, with both utilizing negative stereotypes about immigrants and other racial groups to justify legal restrictions. For example, the Chinese Exclusion Act of 1882 and the Immigration Act of 1924 were both influenced by concerns over maintaining the cultural and racial homogeneity of the US[99]. These laws were often justified by presenting immigrants—particularly those from Asia, Eastern Europe, and Southern Europe—as inherently different and unable to assimilate into American society[100]. These harmful statements emphasize the public worry that white Americans could be inundated by this trend, ultimately eroding the essence of national identity and the concept of being a complete American citizen.

Even though US legislation focused on restricting the polygamous practices of white, native-born members of the LDS Church and did not directly target immigrants of other races, indigenous people, or other national minorities, political figures – including policymakers, legislators, and judges, as well as politicians - used these groups to suggest that polygamy was

[99] Erika Lee, 'The Chinese Exclusion Example: Race, Immigration, and American Gatekeeping, 1882-1924', *Journal of American Ethnic History*, 21.3 (2002), pp. 36–62.
[100] Denike.

degrading, uncivilized, and foreign. This rhetoric aimed to cast polygamy as an alien practice incompatible with American values:

Polygamy has always been odious among the northern and western nations of Europe, and, until the establishment of the Mormon Church, was almost exclusively a feature of the life of Asiatic and of African people[101].

Court rulings frequently utilized derogatory language, particularly those who were non-white, perpetuating negative stereotypes and reinforcing racial biases. For example, *Reynolds v. United States* asserts that only 'Asiatic' and 'African' people practice polygamy, calling it 'odious' and outside of Western culture. These comments implied that it was inappropriate for white Americans (Mormons) to try to impose a non-Western custom on American culture [102].

In *Reynolds*, the court contended that endorsing polygamy would be equivalent to endorsing practices like human sacrifice or sati, in which wives are set afire on the funeral pyres of their deceased husbands[103]. This association suggests that women typically assume passive roles in these arrangements, implying they may be coerced against their will or best interests into sharing their husband with other women. This argument is seen from the landmark Supreme Court case Reynolds v. United States, 98 US 145 (1878):

Suppose one believed that human sacrifices were a necessary part of religious worship; would it be seriously contended that the civil government under which he lived could not interfere to prevent a sacrifice? Or if a wife religiously believed it was her duty to burn herself upon the funeral pile of her dead husband; would it be beyond the power of the civil government to prevent her carrying her belief into practice? So here, as a law of the organization of society under the

[101] Reynolds v. United States, 98 U.S. 145 (1878).
[102] Joanna Brooks, Mormonism and White Supremacy: American Religion and the Problem of Racial Innocence (Oxford University Press, USA, 2020).
[103] Brooks.

exclusive dominion of the United States, it is provided that plural marriages shall not be allowed. Can a man excuse his practices to the contrary because of his religious belief?

This argument by Chief Justice Morrison Waite shows the extreme associations are based on very different premises and has radically different consequences than being burned alive as part of the cultural marital custom. In the historical context, women were often perceived as lacking agency in their decisions, as evidenced by associations with practices such as being burned alive as a marital custom. These associations suggest that women may not have willingly participated in polygamous marriages but rather lacked autonomy or understanding of their circumstances.

The ban on polygamy reflected a prevailing belief in the superiority of white race and culture, with the general American public and policymakers of the era feeling discomfort when white Americans themselves engaged in its practice[104]. This societal discomfort was deeply intertwined with legal decisions of the time. The rejection of polygamy shows that mainstream society had a certain ideal of what a citizen should be in nineteenth-century America, an ideal that was both reflected in and reinforced by the legal framework. However, it is important to distinguish between these legal decisions and the prevailing societal opinions, as the latter influenced but did not entirely dictate the former.

Social and Racial Exclusion

The preservation of America's political and racial identity as a predominantly white Christian nation has been perpetuated through the retention of these criminal laws. This is exemplified in the justification of anti-Muslim and anti-Asian immigration legislation and policy, with polygamy often cited as a pretext for excluding these groups from citizenship[105].

[104] Denike.
[105] Denike; Phipps.

The 19th century anti-polygamy legislation referred to the exhibition of horrors and calling it 'Mohammedan barbarism' [106]. Through specific portrayals of Muslims and the practice of polygamy in Islam, Mormon polygamy was stigmatized as being barbaric, un-Christian, and un-American. These inaccurate descriptions of Islamic polygamy were used to effectively demonstrate in court that polygamy was not a protected religious practice under the Constitution[107]. For example, political cartoons in the late 19th century often used portrayals of 'oriental' despotism to parallel LDS practices with those seen in predominantly Muslim territories[108]. Cartoons depicted Mormon patriarchy with a harem to draw a comparison to a Sultan, using this visual mimicry to suggest a kind of foreign 'otherness' and despotism that was contrary to American values[109]. Also, during congressional debates over the Edmunds-Tucker Act, legislators would have likely invoked the rhetoric of 'Mohammedan barbarism' to suggest that Mormon polygamy was similar to what they perceived as Islamic practices of polygamy, thus painting both as antithetical to American civilization and values[110].

Some argue that Congress' efforts to enact anti-polygamy legislation were inconsistent, and the initial enforcement of such laws was directly influenced by the Chinese Exclusionist movement during the late 19th century [111]. The inconsistencies in Congressional actions refer to how anti-polygamy laws were enforced relative to anti-Chinese immigration laws. While both sets of laws targeted practices seen as contrary to American values, they were applied unevenly, with the Chinese facing immediate and stringent exclusion.

[106] Adam Daniel Morrison, '" Poisonous Fruits": Polygamy, Mormons, and the Muslim Menace in Congress and the Supreme Court' (University of California, Santa Barbara, 2018).
[107] Morrison.
[108] Jana Riess, 'Mormon Popular Culture', *The Oxford Handbook of Mormonism*, 2015, pp. 439–53.
[109] Riess.
[110] Denike.
[111] Phipps.

In the nineteenth century, discourses on white men's polygamy were based on racial beliefs about the idea of a separate, superior Anglo-Saxon race that was divinely and plainly destined to control the world and spread its Christian institutions and superior government structure[112]. Some contend that the concept of Anglo-Saxon racial superiority within biopolitics has operated through various institutions to create a division and define the relationships between 'American' citizens and those seen as outsiders in the context of North American colonial history[113]. Even though these others had lived 'among us' and, of course, before us, they did not belong because of the threat they posed to the country's racial and national unity [114]. The task before Congress was to stop the spread of polygamy among the heterogeneous population of the (white) nation, which posed a threat of such degeneracy; one of its tools for doing so was constitutional change as well as criminal law [115].

This phenomenon illustrates how both non-white populations and immigrants were excluded, with a disproportionate focus on white Mormons due to their racial identity. It highlights the purposes of anti-polygamy measures, which aimed not only to strip away the rights of white Americans but also to exclude other minority groups from public and social inclusion. This challenge to the social order was exacerbated by the perception that white Mormons were culturally superior to the few minority groups of 'barbarians' and 'uncivilized' immigrants.

[112] Nancy Cott and Janay Nugent, 'Public Vows: A History of Marriage and the Nation', *Labour*, 50, 2002, p. 346; Martha M. Ertman, 'Race Treason: The Untold Story of America's Ban on Polygamy', *Colum. J. Gender & L.*, 19 (2010), p. 287.
[113] Robert Júlio Decker, 'The Visibility of Whiteness and Immigration Restriction in the United States, 1880-1930.', *Critical Race & Whiteness Studies*, 9.1 (2013).
[114] Denike.
[115] Denike.

The Role of Women in Anti-Polygamy Legislation

We make two main arguments in this section, (1) anti-polygamy legislation identified men as the main practitioners of polygamy and focused on penalizing them; (2) the absence of women from anti-polygamy legislation suggests that those putting forward this legislation were not concerned with how polygamous marriage harms women.

Most anti-polygamy laws and court cases in the 19th century were written to exclude polygamous men from socio-political life by forbidding them to vote or hold any political office. The 19th-century anti-polygamy legislation was, only in part, framed around concerns for the welfare of women, although the sincerity and the primary motivation behind these concerns can be historically debated[116].

In the public and legislative discourse surrounding anti-polygamy laws such as the Morrill Anti-Bigamy Act of 1862, the Poland Act of 1874, and the Edmunds-Tucker Act of 1887, one of the often-cited justifications was the protection of women and family. This was in context to the perceived harms of polygamy, which was argued to subjugate women and to work against their economic, social, and emotional well-being. This emphasis was used to appeal to broader concerns of Christian morality, which held monogamous marriage as a cornerstone of society. However, these discussions held paternalistic views that women needed protecting and were incapable of making such personal decisions on their own.

When anti-polygamy legislation did address the role of women in polygamous marriages, it framed them as participants in the criminal practice, also undeserving of civil rights. For example, the US Utah Commission (1883), which had been implemented because of the Edmunds Act, decreed that not only would "polygamist[s]" or "bigamist[s]" – presumed to be

[116] Denike.

men – be forbidden from voting or seeking public office, but women involved with polygamists or bigamists would be forbidden from doing so, as well. The statute reads:

Sec 8. That no polygamist, bigamist, or any person cohabiting with more than one woman, and no woman cohabiting with any of the persons described as aforesaid in this section, in any Territory or other place over which the United States have exclusive jurisdiction, shall be entitled to vote at any election held in any such Territory or another place, or be eligible for election or appointment to or be entitled to hold any office or place of public trust, honor, or emolument in, under, or for any such Territory or place, or under the United States[117].

Notably, one of the most direct effects of the Edmunds-Tucker Act was the disenfranchisement of women in the Utah territory. Unlike at the federal level, women in Utah had won the right to vote in 1870, fifty years before the 19th Amendment granted that right to all American women. The Edmunds-Tucker Act revoked this right, expressly because the federal government believed Mormon women would vote in line with their church's teachings, including the support of polygamy. This legislative move highlights how women's political rights were directly manipulated to suppress cultural and religious practices that deviated from mainstream values. Ultimately, the disenfranchisement of Mormon women under the Edmunds-Tucker Act shows the broader struggle for women's suffrage and the intersection of gender, religion, and federal power in 19th-century America.

Conclusion:

Our contribution lies in examining polygamy as a contentious practice within the multicultural US, where ongoing debates question its compatibility with contemporary societal

[117] United States. Utah Commission 1883.

norms. We connect polygamy to issues of cultural pluralism and multiculturalism, exploring the selective inclusion or exclusion of cultural practices and analyzing the underlying motivations for these actions.

Polygamy has historically been portrayed as barbaric, uncivilized, un-American, non-white, and un-Christian, posing a perceived threat to the liberalism and democracy of the American state. Legal cases and interpretations have consistently deemed polygamy dangerous, representing perceived backwardness and conservatism. We investigate the paradoxical relationship between freedom of religion and the societal fears surrounding polygamy, particularly the threats perceived by Christianity. Anti-polygamy laws have targeted white male polygamists, while marginalizing women in polygamous relationships in both legal and societal discourse.

Our analysis highlights the measures taken to combat polygamy, considering the roles of race and immigration in shaping these efforts and their impact on national identity and democracy. Court decisions and extreme associations used to reject polygamy emphasize establishing a Christian sexual morality rooted in white heterosexual monogamy. Despite the increasing recognition of diverse romantic partnerships in liberal democracies, polygamy remains criminalized, reflecting a conflict with democratic and liberal ideals. The American political culture largely ignored polygamy among foreigners but responded with moral panic when practiced by white Americans.

By examining the legal and social dimensions of polygamy, we observe that monogamy is deeply embedded in the US legal framework. The criminalization of polygamy raises important questions about the tensions between multiculturalism, liberalism, and minority rights, highlighting the conditional acceptance of minority traditions based on their alignment with

dominant cultural values. Additionally, American culture imposed stricter standards on its citizens compared to immigrant groups, maintaining a moral hierarchy to control minority groups.

Contemporary critics of polygamy, particularly anti-Mormon advocates, argue it reinforces patriarchal structures, fosters despotism, and conflicts with traditional American morality and values. Furthermore, anti-migrant policies have linked polygamy with other coercive forms of marriage, such as underage brides and arranged unions, revealing an intent to safeguard the core values of the dominant moral code. These frameworks, whether justified by women's rights or regulation of male behavior, still rest on Christian moral values, even amidst significant secularization in society.

In conclusion, our research demonstrates how majority groups used legislative measures in a discriminatory manner to marginalize specific minority groups during the 19th century in the US. While our focus has been on the historical and legal context of anti-polygamy legislation, primarily rooted in the late 1800s, future research could explore the evolving arguments against polygamy. Examining how cultural and religious practices continue to be prohibited in Western liberal democracies would provide a more contemporary perspective, noting shifts in core arguments over time. This approach would bridge historical analysis with modern-day interpretations and applications, offering greater clarity and contextual relevance.

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