

12. Polygamy

With the victory of gay marriage advocates in Massachusetts, and now California, it seems one of the next great frontiers of social change is polygamy. To use the oft cited quote of Washington Post columnist Charles Krauthammer, "And now, polygamy" (17 Mar 2006). In *Reynolds v. U.S.*, the Supreme Court held that federal legislation banning polygamy was constitutional and did not violate the First Amendment right to free exercise of religion. In recent years, the Utah Supreme Court has issued several opinions regarding the application of the State bigamy statute to criminalize the religiously motivated practice of plural marriage. Without exception, the courts upheld the constitutionality of laws banning polygamy. According to ACLU of Utah Legal Director Stephen Clark, "Living arrangements are really the most intimate kinds of decisions people make." He contends that Utah's polygamists are just like gays and lesbians who "...want the right to live their lives, and not live in fear because of whom they love" (ACLU Release, 16 Jul 1999).

The protection of sexual privacy received a boost in 2003 when the U.S. Supreme Court in *Texas v. Lawrence* struck down the long-standing sodomy law in Texas that criminalized homosexual sex. The bigamy statute in Utah, argue many, is like the sodomy statutes—it is anachronistic and rides roughshod over what the Supreme Court identifies as important fundamental privacy rights.

The arguments against legalized polygamy seem ambiguous in contrast or, as Jonathan Rauch puts it in "One Man, Many Wives, Big Problems," "The broad public opposes polygamy, but is unsure why." Most commonly, detractors of polygamy, even the most temperate, rely on anecdotal evidence to suggest that polygamous marriages foster and condone statutory rape, lead to trafficking in underage girls, and increase instances of incest. Also circumstantially, but perhaps as convincingly, Jonathan Rauch points to research that shows no polygamous societies have ever been true democracies and crime rates tend to be higher in them (reasononline, 2006).