Monogamous Canadian Citizenship, Constructing Foreignness and the Limits of Harm Discourse

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Introduction

In 2007, the town council of Hérouxville, Quebec passed a code of conduct for incoming immigrants, banning several already illegal practices including polygamy. While Hérouxville's immigrant population is virtually nonexistent, the code of conduct was motivated by a fear of foreignness and the perceived threat foreignness presents to small-town Québécois values (Peritz, 2013). Despite critics accusing the code's framers of fearmongering while simultaneously reinforcing racist, cultural and anti-immigrant stereotypes, the feared accommodation of "anti-Québec" values was justification enough to uphold the code, sending a message to certain immigrant groups that they, and their assumed values, were not welcome. Fast forward to 2015, a similar narrative of foreignness, polygamous immigration and anti-Canadian values re-emerged with the passing of the *Zero Tolerance for Barbaric Cultural Practices Act* (Bill S-7). The practice of polygamy within Canadian borders is not unique to immigrant populations; however, polygamy continues to be framed as a threat to Canadian values, ultimately suggesting that the Canadian state has a vested interest in protecting our monogamous ways.

Answers to the question "Why not polygamy?" have been made explicit by governments, legal scholars, feminists and advocacy groups alike, focusing on the harmful impacts polygamy has on women and children (Status of Women Canada, 2005). Interestingly enough, the effects of polygamy on women and children have also been used to frame

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arguments in favour of striking down s.293 of the Criminal Code, advocates arguing that these negative effects are cause for decriminalization, as current illegality renders these effects legally invisible, leaving women and children without agency (Calder and Beaman, 2014; Campbell, 2005, 2010).[1] Regardless of position, narratives of harm have been used to debate whether the state should have an interest in regulating polygamy, and more specifically, what that interest should be.

While justifications for and against polygamy are multiple, explanations as to why the current system of monogamous privilege should be upheld remain unaddressed. Therefore, instead of asking "Why not polygamy?" the question we should be positing is "Why monogamy?" A harm framework provides a convincing argument for state regulation of polygamy; however, state inaction with respect to enforcing this ban suggests that the avoidance of harm is not necessarily its primary motivation for such control. Moreover, while the practising of polygamy is not limited to immigrant populations, polygamy continues to be framed as a foreign threat to Canadian values. It appears then that the Canadian state has a vested interest in protecting this system of monogamous privilege that goes beyond shielding vulnerable populations from harm. A critical citizenship framework provides a useful starting point for analyzing these conceptual gaps in a harm-based approach. In its privileging of monogamous immigrants in order to reinforce both its physical borders and mainstream narratives of belonging, the state is enforcing a particular type of citizenship reliant on sexist and racist undertones. Solely relying on a harm-based approach is therefore insufficient, as it fails to account for connections between immigration, foreignness and the policing of non-monogamous bodies.

This paper examines why the Canadian state continues to defend monogamy when its privileging is being challenged. I argue that relying solely on a harm framework inadequately captures the complexities of regulating polygamy, as the state's primary motivations for defending monogamy are not necessarily rooted in the avoidance of harm, but in the preservation of a particular type of citizenship.[2] I begin my analysis with an examination of how a harm framework is used to justify the constitutional ban on polygamy. Using the state's complex and often inconsistent approach towards penalizing polygamous activity, I will then challenge the assumption that legal and political treatment is solely motivated by the desire to protect vulnerable populations from harm. In doing so, I propose that a critical citizenship framework best captures state impetus for the protection of monogamous privilege.

Monogamy, Harm and Citizenship

When it comes to determining whether something is harmful to women, MacKinnon (1993) warns we must be cognizant of the fact that what

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Abstract. The *Zero Tolerance for Barbaric Cultural Practices Act* (2015) targets immigrants suspected of engaging in polygamy. While polygamy is already illegal in Canada and non-immigrant polygamous arrangements exist within Canadian borders, the framing of polygamy as a foreign practice portrays this familial arrangement as a threat to Canadian national values. Effects on women and children have traditionally provided a convincing argument for state regulation of polygamy; however, the combination of state under—and over—enforcement suggests that relying solely on a harm framework inadequately captures the complexities of state treatment. In this paper, I argue that the state's primary motivations for defending monogamy are not necessarily rooted in the avoidance of harm but in the preservation of a particular type of citizenship.

Résumé. La Loi sur la tolérance zéro face aux pratiques culturelles barbares (2015) cible les immigrants soupçonnés de pratiquer la polygamie. Alors que la polygamie constitue déjà une pratique illégale au Canada et que des arrangements polygames visant des non-immigrants existent à l'intérieur des frontières canadiennes, l'encadrement de la polygamie en tant que pratique étrangère dépeint cet arrangement familial comme une menace aux valeurs nationales canadiennes. Les effets sur les femmes et les enfants ont fourni un argument convaincant en faveur d'une réglementation de la polygamie par l'État ; toutefois, la combinaison d'une application de la loi, « insuffisante » d'une part et « excessive » de l'autre, suggère que le fait de miser uniquement sur un argument de préjudice cerne de façon insuffisante les complexités du traitement de l'État. Dans cet article, j'avance que les motivations premières de l'État pour la défense de la monogamie n'ont pas nécessairement pour fondement d'éviter tout préjudice, mais la préservation d'un type particulier de citoyenneté.

constitutes harm is defined within a patriarchal framework, that a "cauldron of values ensures nothing for women if it contains only patriarchal values" (Baehr, 2003: 138). In this light, any activity whose very existence relies on the subordination of women can be considered inherently harmful. While the term "polygamy" refers to plural marriages, it is typically associated with marital relationships involving one man and multiple wives (polygyny). The conflation of polygamy with polygyny has constructed a narrative of polygamy in which polyandrous (one wife and multiple husbands) and group marriages (multiple wives and husbands) are ignored and their experiences silenced. Polygamy is a gendered issue, as the majority of polygamous relationships involve a gender imbalance of some kind; however, it is dangerous to suggest that all women are disenfranchised in polygamous arrangements. As Zeitzen contends, there are polygamous societies responsible for "the emancipation of women through education and economic opportunities" (2008: 8). The assessment of polygamous relationships therefore requires an account of social and cultural factors that shape the position of gendered parties within these arrangements rather than relying on universal, monolithic conclusions that conflate all polygamous relationships in this discussion of harm (Campbell et al., 2005: iii).

The language of harm has been a mainstay of feminist rhetoric in support of both polygamy's illegality and proposed legality (Baines, 2012). This presumption of harm is premised on the reality that the majority

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of publicly documented polygamous societies are polygynous (one man, multiple wives) and because there remains deep-rooted gender imbalances within the institution of marriage, polygamy has been framed as an inherently harmful familial arrangement (Campbell, 2005, 2010) in which women are treated like "chattels and allocated as concubines into harems" (O'Malley, 2007). Status of Women Canada's 2005 report recognized the diversity in polygamous relationships, but concluded that the state's primary consideration should continue to be the "social, psychological, and economic impacts" polygamy has on women and children (2005: 80). The report then warned should polygamy be decriminalized, the message both nationally and internationally would be that Canada is ambivalent when it comes to issues of gender equality and child welfare (2005: 81). On the other hand, pro-decriminalization feminists claim that the constitutional ban on polygamy strips the very women and children the state maintains they are protecting from accessing necessary legal and social services (Calder and Beaman, 2014). Advocates argue that the negative effects of polygamy are cause for decriminalization, as current illegality renders these effects legally invisible, leaving women and children without agency. The assumption here is that should polygamy be decriminalized, the vulnerable in polygamous communities would then have access to already available legal protections.

Interestingly, this language of harm was co-opted by the Harper government on a series of women's issues including state funding of global abortion services (Do, 2014), laws around sex work (Kennedy, 2014), polygamous immigration and forced marriage (Blanchfield, 2014), and, most recently, the refusal to allow women to wear the niqab while taking the citizenship oath (Milewski, 2015). In all of these examples, prohibitive measures were either adopted or reinforced in the name of protecting women from harm. The purpose of this paper is not to minimize instances of harm experienced by vulnerable parties in polygamous relationships, nor is it to suggest that a harm framework is of no use in deconstructing and analyzing the impacts of polygamous familial arrangements; rather, I argue that relying solely on a harm framework inadequately captures the complexities of polygamy. Moreover, in limiting oneself to a harm framework, the Canadian state's vested interest in upholding a system of monogamous privilege remains unaddressed.

A critical citizenship framework provides a useful starting point for analyzing why the Canadian state continues to defend monogamy when the parameters of monogamous privilege are being challenged. Sexual citizenship scholars argue that citizenship is premised on specific ideals of sexuality, and citizens are constantly "sexed" (Bell and Binnie, 2000; Plummer, 2003; Richardson, 2000; Weeks, 1998), as made evident by legislation including, but not limited to, age of consent laws, tax credits that favour the nuclear family and legal discussions of obscenity. State conceptions of

sexual responsibility are used to regulate the bodies of its citizens; those who are "sexually responsible" embody what it means to be an ideal sexual citizen. The work of governing that sexual citizenship performs is the foundation of political membership: "The law's articulation of sexuality is also an articulation of the state" (Harder, 2007: 174). Sexual citizenship thus becomes a tool of nation building; the state seeks control over the sexual nature of its members in the name of protecting national identity (Pryke, 1998: 540). Stevens echoes Pryke's sentiments that citizenship rules shape and reproduce specific interpretations of familial reproduction via nationalist discourse, stating that, "the familial nation exists through practices and often legal documents that set out the kinship rules for particular political societies" (1999: 108). As such, discourses of citizenship, nationalism, and security amalgamate within the family, "the site where state power has penetrated into the most intimate domains of modern life" (van Walsum, 2008: 20–21). Monogamous privilege is therefore an integral component in the production and reproduction of state power.

Monogamy is privileged, even celebrated, by our political, legal and social structures, establishing the monogamous couple as the cornerstone for the Canadian family (Rambukkana, 2015). Monogamy has not always historically been of primary interest to the state (Carter, 2008); however, it has become a means of governing populations through ritual (for example, marriage, divorce, and so forth) and active exclusion (such as refusal of rights and recognition, imprisonment, and so forth). The idea that monogamy is intrinsic to Canadian national identity is internalized, ultimately reinforcing the assumption that monogamous intimacy is "general or at least widespread in the dominant strata of the population" (Foucault, 1988: 74). State favouring of monogamy remains strong despite the fact that the parameters of this relationship form are often challenged by the existence of polygamous families within Canadian borders, increasing divorce rates, serial monogamy, the commercialization of marital infidelity (such as Ashley Madison), the existence of swingers clubs, increased visibility of queer familial arrangements and a pop culture fascination with non-monogamous practices (for example, television shows like *Sister Wives, Big Love*, and others). These have tested, albeit unsuccessfully, state reliance on the monogamous family unit. Through the normalization of monogamous privilege, the Canadian state is able to simultaneously produce and reproduce a narrative that encourages state allegiance and disciplines sexual behaviour, establishing a space for state influence in the most intimate domain of our individual lives.

In addition to producing a national narrative that is sexualized, this Canadian discourse of monogamous citizenship also reproduces racialized understandings of intimacy. In her examination of racial politics in the United States between 1850 and 1890, Denike contends that the framing of polygamy as sexually deviant was used to further state projects

dependent on a culture of whiteness; anti-polygamous language was "instrumental in the consolidation of the racial formations of the Anglo-American nation" (2014: 143). Historically, the so-called monogamous nature of white men was juxtaposed against the perceived sexual prowess of black men, simultaneously championing the white man's ability to marry and care for a single woman and justifying further disciplining of black male bodies. We see a similar narrative in Canada with respect to the colonization of Indigenous populations. While monogamy is now part of Canadian common sense, Cott warns that its privileging was "by no means a foregone conclusion" (2000: 9). Ethnographic scholarship on Indigenous communities residing in Western Canada during the late nineteenth century depict a wealth of intimate familial arrangements including those that were monogamous, as well as polygamous, homosexual and blended (Carter, 2008: 5). Conflating monogamy with civility, colonial powers hoping to bring the West into the fold of the Canadian nation began to regulate and penalize non-monogamous practices through the enacting of laws that privileged the monogamous marriage model: "The health and wealth of the new region, and that of the entire nation, was seen as dependent on the establishment of the Christian, monogamous, and lifelong model of marriage and the family" (8). For Denike, this produces a new biopolitical type of racism premised on the assumption that "society must be defended against the threats that lurked within" (2014: 157). The interconnectedness of sexuality and race in these narratives highlight the ways in which monogamy and whiteness are mutually constitutive in state projects; by conflating monogamy, whiteness and civility, states are able to further certain agendas that allocate citizenship based on gendered, sexualized and racialized lines.

In its protection of the state from threats within, this system of monogamous citizenship is also used to shape the sexuality of the immigrant foreigner seeking access. Honig (2001) examines how narratives of xenophobia and xenophilia are used to frame the sexual values of immigrant populations as threatening to the national population. Immigration produces "foreignness," which for Honig is a simultaneous source of stability and instability for the nuclear family. Immigrants are encouraged to utilize Canada's family reunification program but then framed as a potential threat to the Canadian family and society at large. In this light, immigration control is not solely about protecting the state from potential risk, it also acts as a mechanism for "constructing, enforcing and normalizing dominant forms of heteronormativity while producing figures as supposed threats" (Luibhéid, 2008: 296). The state therefore ascribes membership to those whose values correspond with so-called national ideals of family, marriage and sexuality.

Through a critical citizenship framework, we are able to deconstruct and analyze the work of governing monogamous privilege performs for

the Canadian state. This framework draws attention to the state's vested interest in the continued regulation of polygamous bodies despite societal challenging of the parameters of monogamous privilege and the use of an anti-polygamous narrative to reinforce specific conceptualizations of sexual intimacy, gender and race. In analyzing state treatment of polygamous immigration in the cases of Bountiful (a settlement of several Mormon fundamentalist groups) and the *Zero Tolerance for Barbaric Cultural Practices Act*, it is evident that there is perceivably more at stake should our current system of monogamous privilege be challenged than simply the protection of women and children from harm.

Bountiful and the Canadian State

Despite s. 293's longstanding tenure in the Criminal Code, actual prosecution of those engaging in polygamous relationships has been rare. In fact, prior to the 2005 investigation into Bountiful, no Canadian had been indicted for polygamy in over sixty years (Campbell, 2010; Carter, 2008).[3] The Provincial Government of British Columbia's appointment of special prosecutor Richard Peck in 2007 to investigate the activities of those living in Bountiful resulted in Peck's recommending that the constitutionality of s.293 be reviewed. In response to Peck's recommendations, the Supreme Court of British Columbia reviewed and upheld s.293, Justice Bauman concluding that polygamy threatens "women, children, society and the institution of monogamous marriage" (*Reference re. Section 293 of the Criminal Code of Canada,* sec.1.5). Interestingly, the framing of polygamy as a foreign practice was present in this reference decision. Polygamy has historically been labelled anti-Canadian, a familial arrangement that undermines the institution of marriage, the Canadian family and society at large (Campbell, 2010: 347). Justice Bauman echoed this by highlighting the perceived threat decriminalizing polygamy would present for Canada's immigration system, claiming that easing polygamy laws could result in the "rapid production of certain immigrant groups" (*Reference re. Section 293*, sec. 4.557). Bauman contended that the ban on polygamous immigration lacked the legislative muscle to protect Canadian borders from such an increase. Apprehension was therefore not solely grounded in concerns for what this would mean for those vulnerable parties involved in polygamous arrangements within Canadian borders, it was also about protecting the Canadian nation from unwanted outsiders using state programmes to advance "non-Canadian" values.

The adoption of a narrative of "foreignness" thus accomplishes two things. First, it allows the state to incorporate monogamy into discussions of Canadian national identity; the betterment of the nation relies on a system of monogamous practice, despite the fact that polygamy continues

to exist within Canadian borders. As stated by the Office of the Prime Minister in 2009, "It is these values [gender equality, dignity and the rule of law] that unite us as Canadians … The practice [polygamy] represents a clear challenge to those unifying values" (Mayeda, 2009). Opposition often adopts a tone of Western superiority, advocating for the "Christian rejection of polygamy," as the allowance of polygamy in Canada will inevitably lead to "unfettered religious practice" and acceptance of barbaric non-Western activities including forced marriage and female genital mutilation (Campbell, 2010; Javed, 2008a, 2008b). Second, this narrative permits a focus on polygamous groups rather than the practice of polygamy itself. The public and political framing of Bountiful as inherently harmful suggests that domestic violence and gender inequality are unique to polygamy; rather than using Bountiful to spark a broader discussion on the pressing issue of gender-based violence, polygamy has consistently been identified as the root of the problem. This was made evident by Peck's statement that, "Polygamy is the underlying phenomenon from which all other alleged harms flow and the public interest would best be served by addressing it directly" (Levitz, 2007).[4] While Bountiful consists of Christians living within Canadian borders, polygamy continues to be framed as an external, cultural threat. The *Zero Tolerance for Barbaric Cultural Practices Act* took this a step further by painting polygamy as deviant non-Western behaviour that "good Canadians" would not engage in and as an external threat to Canadian values.

Constructing the Unwanted Polygamous Foreigner

The *Zero Tolerance for Barbaric Cultural Practices Act* (Bill S-7), aimed at "protecting Canadians from barbaric cultural practices such as child, forced or polygamous marriages and gender-based family violence" (Alexander, 2014), received Royal Assent on June 15, 2015. Included in the act is an amendment to the *Immigration and Refugee Protection Act* (IRPA) that states, "A permanent resident or a foreign national is inadmissible on grounds of practising polygamy if they are or will be practising polygamy with a person who is or will be physically present in Canada at the same time as the permanent resident or foreign national" (Canada, 2015: s 2). As a result, the act permits immigration officers to deport non-citizens suspected of practising polygamy without a Criminal Code conviction or finding of misrepresentation and to refuse family reunification to those sponsored spouses believed to be in a polygamous arrangement. Simply put, permanent and temporary residents can be deported regardless of tenure on Canadian soil should they be suspected of engaging in a polygamous relationship within Canadian borders. Conservative MP Candice Bergen described this as a clear message to immigrants that, "Polygamy

is illegal. It is not allowed and it is not tolerated in any way, shape, or form" (Bergen, 2015). Then Minister of Citizenship and Immigration Chris Alexander reinforced this language of cultural foreignness, stating, "Our stance is clear: women and girls in Canada deserve the full protection of the Canadian law. When people try to bring these barbaric cultural practices here, our Conservative government has one response: that is not our Canada" (Alexander, 2014).

While restrictive immigration and refugee policies are not unique to the Harper government, the act is but one in a legislative pattern of this particular government imposing a "number of extreme sanctions on various categories of 'offenses'" aimed at appeasing their social-conservative base (Jeffrey, 2015: 226). Sanctions, including the act as well as a nationwide crackdown in 2011 on "marriages of convenience" and the creation of a national tip line to report "fraudsters", and the 2015 *Anti-Terrorism Act* highlight an agenda of moral regulation focused on the recruiting and naturalizing a specific version of the Canadian immigrant family. Further restrictions to immigrant familial practice premised on the assumption that the current state of polygamous immigration requires emergency action that goes "beyond normal parameters of political procedure" (Watson, 2009: 26), have been framed as a way to protect our country from undesirable migrants while maintaining the integrity of our immigration system. Moreover, the Harper government used this language of security to sell their agenda to both immigrant and non-immigrant voters alike: "It [the Harper government's immigration and refugee agenda] appeared to be based at least partly on fear, and even more on indignation about 'phony' refugees, 'queue jumpers,' 'part-time Canadians,' and other perceived malfeasance that required additional punitive measures" (Jeffrey, 2015: 225). As such, the Harper government constructed meanings of difference through these legislative measures that have ultimately shaped the claims of those seeking access and the subsequent policing of these claims.

The language of the act is not population specific; however, its focus on practices such as forced marriage, female genital mutilation and polygamy, combined with its tone of Western superiority targets specific groups of immigrants assumed to be engaging in these activities. The fact that Bountiful was able to exist without legal intervention for close to fifty years, along with the state's low prosecution record of polygamous offences, suggests the state has been relatively lax on the issue of polygamy until it was realized that specific groups of immigrants, particularly Muslims, might import this familial practice.[5] This sudden revelation of a perceived foreign threat and the subsequent resistance towards an otherwise allowed practice is reflective of the right to faith-based family arbitration debates in Ontario in the early 2000s. While Catholic and Jewish faith-based tribunals had been legally settling familial dissolution disputes for over ten years, faith-based arbitration was banned in Ontario after Muslim leaders

advocated for the allowance of tribunals (Zine, 2012). As Zine contends, this continued focus on demonizing certain Muslim cultural practices has been justified by governments calling for the protection of women's rights. Arguably hypocritical in the context of the act, as the Harper government's track record as advocates for women's rights left much to be desired, restrictive policy measures targeting specific immigrant groups are rationalized using a harm framework. In both policy initiatives, governments used the protection of women from harm as justification for enacting legislative bans on "foreign" cultural practices deemed anti-Canadian.

The act is therefore framed as a way to protect women and children living within Canadian borders from being victimized by those who fail to adhere to Canadian rules and values. After prioritizing state protection of women and children from cultural-based violence in their 2013 Speech from the Throne, multiple ministers reinforced this message including then Minister of Justice and Attorney General of Canada Peter Mackay, "Our Government has been clear on its stance against polygamy and other barbaric practices that constitute gender-based violence"; then Minister of Labour and Status of Women Kellie Leitch, "This new legislation reaffirms our Government's ongoing efforts to end violence against women and girls"; and then Minister of Health Rona Ambrose, "I am proud that our Government continues to take strong action to ensure the equality, safety and security of women and girls in communities all across Canada" (Citizenship and Immigration Canada, 2014). Further, those members of Parliament (MPs) critical of the act were accused by the government of failing to take seriously the issue of violence against women, as was demonstrated by former Conservative MP Roxanne James who stated:

> The member [former NDP MP Denis Bevington] also scoffs at the title of this bill, saying that it should not be called "barbaric cultural practices." When someone who is a minor is forced into an early marriage with a man 40 years old who is overseas, from another country, that young girl, that child is going to be raped every single day for the rest of her life. How could the member not think that is barbaric? Does he just simply think it is all in the family? Standing up for the rights of women and the protection of our children is the absolute priority that every single Canadian across this country must take to heart and must stand united on. (James, 2015)[6]

In addition to using a narrative of harm to justify the prohibitive measures outlined in the act, the Harper government also relied on this rhetoric to demonize opposition while simultaneously positioning themselves as the sole protector of women and children.

While the bill was heavily debated in the House of Commons, it is worth noting that none of the criticism focused on the actual activities

outlined in the act. Simply put, no one was publicly critical of the criminalization of these practices, including polygamy. In fact, state treatment of female genital mutilation, forced marriage and polygamy were rarely discussed, the Conservative party opting to frame it as an issue of gender-based violence instead. Rather, critics took issue with more superficial details. Parliamentary debate focused primarily on three issues: use of the word "barbaric," the government's broad focus on non-citizens and legislative redundancy. The term "barbaric" has been a longstanding tool of colonialism used to justify unjust treatment of certain groups deemed barbaric, backwards and uncivilized, and to further the divide between the Western (read: civilized) and the non-Western (read: uncivilized) world (Mohanty, 2003). As explained by the Canadian Council of Muslim Women:

> The title [Zero Tolerance for Barbaric Cultural Practices] is racist, discriminatory and further exacerbates the racism and stereotyping of some of us in Canadian society … We should all remind ourselves of the treatment meted out to our First Nations, who were seen as barbaric, primitive and uncivilized … The overt message of this act is that these barbaric practices will be brought into a pristine Canada where there is no violence, and where women and girls are not subjected to these horrible practices. (quoted in Duncan, 2015)

This was echoed by Avvy Yao-Yao-Go, Director of the Metro Toronto Chinese and Southeast Asian Legal Clinic, who stated, "It [the act] mocks the practice of polygamy elsewhere as a sign of cultural inferiority while ignoring the fact that polygamy, both formal and informal, is being practised in Canada by some Canadians and that all too often marriages break down in Canada due to infidelity and/or abuse" (quoted in Duncan, 2015).

Framing polygamy as a "barbaric" practice simultaneously reinforces racist stereotypes and fuels xenophobia aimed at specific racialized communities. It also suggests that polygamy is culturally determined and can therefore be curbed by restricting access to those polygamous cultural groups seeking citizenship. Former NDP MP Lysane Blanchette-Lamothe addressed the government's conflation of polygamy and culture, questioning, "Could the parliamentary secretary tell me what culture is in Bountiful?" (Blanchette-Lamothe, 2015). Considering political and social discussions of polygamy include, but are not limited to, Indigenous populations (Carter, 2008), Bountiful (Calder and Beaman, 2014; Campbell, 2010), Muslim populations (Rambukkana, 2013), and queer-identified families (Barker and Langdridge, 2010; Klesse, 2007), it is misleading to suggest that polygamy is culturally specific. It is equally as problematic to suggest that a specific cultural community can therefore be targeted both outside and within Canadian borders. This conflation of culture and

barbarism reinforces whiteness, as white Canadians are framed as a culture-less population while immigrants of colour engage in culturally problematic behaviour: "The assumption that people of colour are governed by cultural dictates is not only dehumanizing, it is also depoliticizing because such thinking often leads us to neglect the power of "noncultural" forces in shaping reality" (Volpp, 2000: 96). The language of the act is therefore hypocritical, as it glosses over the complexities of polygamous living in Canada by targeting specific "barbaric" cultures accused of practices that counter Canadian values and refusing them citizenship.

Critics have also taken issue with the act's broad focus on non-citizens, referring to both permanent and temporary residents. As Sharryn Aiken explains:

> The inadmissibility provisions in the act apply broadly to all non-citizens. That means they apply to foreign nationals seeking admission to Canada from overseas, whether they're seeking admission on a temporary basis or a permanent basis. They also apply to long-term permanent residents, people who have been in Canada for years and who've established themselves in Canada. For those people, people who are in essence already part of the fabric of their community, it means that the mere charge that somebody will be engaging in polygamy opens them up to the prospect of deportation … What we're looking at here is expanding the scope for deportation of long-term permanent residents based on a speculative link to some future-oriented conduct. (Aiken, 2015)

The government's targeting of non-citizens means that all non-citizens regardless of time spent in Canada can be subjected to the punishments outlined in the act and can be stripped of the right to due process reserved for Canadian citizens. The result is what Aiken refers to as a "two-tiered system of justice" that deprives partial and non-citizens of any type of legal agency and fails to deal with potential "fallout from this expanded scope of inadmissibility" (Aiken, 2015). While the Canadian state prides itself on its accessible immigration system, the act reinforces the reality that when the state believes that lines of citizenship need to be drawn, power imbalances between Canadian-born and non-Canadian born citizens are reinforced. Citizenship is not a uniform status equally applied to all; the act further distinguishes between citizens, potential citizens, partial citizens and non-citizens.

Finally, parliamentarians have questioned the necessity of the act, specifically with respect to polygamous immigration. In addition to polygamy being formally criminalized in the Criminal Code and the *Civil Marriage Act*, the federal government's manual *OP2: Processing Members of the Family Class* (*OP2*), an assessment manual for immigration officers, explicitly states that polygamous marriages are not permitted (Citizenship and Immigration Canada 2006, s.6). As outlined in *OP2*, failure to

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account for all partners and children at the time of application can lead to refusal of the application or deportation if the application is approved and then later proved invalid. More importantly, if and when polygamous families are able to successfully "cheat" the system, they are held accountable through the Canadian justice system. Is it necessary then to have such legislative redundancy when it comes to polygamy? Liberal MP Adam Vaughan raised this question, stating, "If we make murder illegal three times, as polygamy has now been made illegal twice, and impose national and provincial standards that are already in place, therefore reinforcing the law by making a redundant law even more debated, are there any areas where redundancy is effective?" (Vaughan, 2015). Rather than using a narrative of fear mongering, critics propose the government rely on anti-polygamous language already enshrined in current law and policy and turn their attention towards "actually enforcing these laws and the assignment of resources to address problems faced by immigrants and other victims" (Duncan, 2015).

One question that has not been sufficiently raised is whether polygamous immigration is as serious of problem as the Harper government suggests. As to whether there has been a significant increase in reported cases of polygamous immigration, the numbers are vague. Citizenship and Immigration Canada does not track the number of people who have either been deported or lost their permanent residency status specifically because they were found guilty of engaging in polygamy; rather, they monitor misrepresentation as a single category (Gaucher, 2014: 194). This makes it difficult to pinpoint the actual rate of polygamous immigration. When questioned about the lack of empirical data, then Minister of Citizenship and Immigration Chris Alexander responded, "Dozens of settlement agencies across this country have identified dozens, and potentially hundreds, of cases of polygamy so far without even really looking into this in detail" (Alexander, 2015). The empirical backing for the act is therefore questionable, as it is based on conjecture and anecdotes about polygamous immigration. Rather than provide evidence that supports the claim that polygamous immigration is on the rise and warrants a third type of legislative action, the government has relied on narratives of polygamy, foreignness and citizenship to muster parliamentary support for the act.

While the act was introduced as a measure to protect women and children living within Canadian borders from harmful practices, critics question the government's definition of harm. Those opposing the act agree that polygamous familial arrangements can create abusive environments for vulnerable parties; however, they warn of the potential harms this act can present for the very individuals the government is claiming to protect: "As much as this bill purports to protect women, it will actually lead to serious harm and the potential to disrupt families and affect children" (Aiken, 2015). Similarly, former NDP MP Laurin Liu warned, "Victims

of polygamy could be criminalized, children could be deported and families could be separated. The Conservative government claims to want to help women, but it is doing nothing to ensure that women have access to the services they truly need," and NDP MP Robert Aubin highlighted, "Bill S-7 deprives women who are conditional permanent residents of provisions that protect them from deportation if their spouse proves to be a polygamist. What is more, the bill imposes criminal sanctions on minors … which can seriously harm their future since they would have a criminal record for the rest of their lives" (Aubin, 2015). The architects of the act claim to protect those vulnerable parties from abuse, yet these same parties are susceptible to other harms including, but not limited to, deportation, familial separation, and criminalization. With citizenship on the line, the act arguably makes these parties even more vulnerable; without any type of legal agency or guarantee of state protection, those women and children who are in abusive polygamous relationships could be less likely to come forward.

These measures also harm women in polygamous familial relationships by denying them agency and ignoring the possibility that not all women who engage in these practices identify as oppressed. Labelling these practices as inherently harmful suggests that a woman would never freely choose such an arrangement: "They must be coerced, or have false consciousness, or be unable to exercise agency due to their socialization. In other words, they do not know any better" (Beaman, 2014: 10). This is particularly evident when referring to women in non-Western countries, reinforcing the problematic narrative that the "third-world woman" is ignorant, poor, uneducated, tradition-bound, victimized, and in need of saving by the Western world (Mohanty, 2003). Narratives of culture, harm and women therefore often "coalesce around women's bodies and incorporate racial judgments" (Volpp, 2000: 90), reinforcing the moral superiority of white populations and, ultimately, white womanhood.

In addition to further harming women and children in polygamous relationships, critics have highlighted the harmful impacts the act will have on national discussions regarding gender-based violence. Former-NDP MP Jinny Jogindera Sims addressed these impacts stating, "Gender-based violence is a serious issue, and all of us know there is enough research to show that it crosses all social, ethnic, and cultural boundaries. We always excuse it when we put the word 'cultural' in front of it, that somehow it only happens in other countries and not across our communities" (Sims, 2015). Former NDP MP Laurin Liu echoed this sentiment, "We know that violence against women is committed throughout Canadian society, not just within cultural communities … We must find solutions that help women who find themselves in such situations in Canada. We are convinced that this bill is not an appropriate response to the serious problem of gender-based violence, which, I repeat, is not a cultural problem" (Liu, 2015). In its restricting gender-based violence to something that non-

Canadians do, the act sidesteps the issue of gender-based violence within Canadian borders, an issue that continues to warrant attention with high rates of missing and murdered Indigenous women, domestic violence and sexual harassment in the workplace. In using specific cultural groups as scapegoats, the government is sidestepping the issue of gender-based violence within Canadian borders, denying victims of any agency or resources to improve their situation. While the government claims that the primary motivator behind the act is the avoidance of harm, it presents consequences for the same parties it claims to protect. The government's definition of harm therefore warrants attention; moreover, it is worth asking whether protection from harm is truly the goal of this particular piece of legislation.[7]

Conclusion

Analyzing state treatment of polygamy through a critical citizenship lens highlights the role of citizenship in reproducing the monogamous family unit. Nation building relies on processes of "othering" in order to define membership; these parameters of belonging cutting across, among others, sexist, racist and sexualized lines. In the context of polygamy, monogamy has been framed as a criterion for membership, ultimately reinforcing a system of monogamous privilege: good Canadians are therefore monogamous Canadians. This narrative simultaneously encourages state allegiance and regulates sexual behaviour, establishing a space of state interference in the intimate lives of Canadian citizens as well as non-citizens seeking access to our borders (Harder, 2007, 2009, 2015; Gaucher, 2014). Additionally, a critical citizenship framework draws attention to the ways in which certain policy initiatives are being used to target specific racialized populations in the name of protecting women from harm. In their targeting of so-called "barbaric" cultures, legislative bans on polygamy and subsequent justifications, invoke a language of whiteness; white Canadians are portrayed as protectors of gender equality while certain groups of immigrants are suspected of participating in misogynist cultural behaviour. Constructing the foreign polygamous "other" as a threat to Canadian women, Canadian families and Canadian national identity allows the state to award citizenship to those whose intimate relationships coincide with national ideals of family, marriage, and sexuality.

State treatment of Bountiful and the *Zero Tolerance for Barbaric Cultural Practices Act* highlights how the framing of polygamy as a foreign practice, the focus on specific cultural groups and the conflation of monogamy with Canadian national identity present implications that remain unaccounted for when relying solely on a harm framework. These narratives highlight the relationship between family and security; recent policy amendments illustrate the desire to maintain a specific version of

the family: the monogamous, nuclear family. The narrative of polygamy as a foreign, anti-Canadian practice frames further punitive measures as necessary to protect our borders from "barbaric" family values. Foreignness is thus both an external and internal threat; those living in polygamous familial arrangements constructed as undesirable are not only a detriment to the security of our borders, but also the security of the monogamous Canadian family. When it comes to protecting the monogamous family unit, the internal foreigner is as dangerous as the one who has yet to be granted access (Abu-Laban and Dhamoon, 2009). Discourses of security, citizenship, foreignness and family therefore intersect, establishing an immigration system that allows "only those that are permissible until such time as they too are deemed to be threatening to the nation, and keeping those as acceptable in line with national norms" (Dhamoon, 2010: 261).

Finally, these narratives further distinctions between "desirable" and "undesirable" citizens. The normalization of monogamous privilege has allowed the state to (re-) produce an understanding of Canadian national identity that disciplines sexual behaviour; in its framing of polygamy as culturally foreign, intimate interactions are regulated through citizenship. While the state should develop legislation rooted in gender equality and social justice, it is important that we recognize that when it comes to state treatment of polygamy, gender inequality is not the only thing at stake. The interconnectedness of sexuality, race and foreignness in these narratives highlight the ways in which monogamy and whiteness are mutually constitutive, and that citizenship continues to be allocated along these lines despite the more neutral language of our citizenship laws today. Relying solely on a harm framework to analyze state treatment of polygamy ignores these intersections. Ultimately, discussions of citizenship cast monogamous families as "desirable" Canadian citizens and polygamous families as "undesirable" outsiders.

Arguing that relying solely on a harm framework fails to account for the complexities inherent in Canadian state treatment of polygamy and ignores the ways in which the state benefits from upholding a system of monogamous privilege is not to suggest that we as a society should not be concerned about situations of abuse that take place in polygamous familial arrangements. Moreover, it is not to argue that a harm framework is ineffective with respect to deconstructing and analyzing the impacts of polygamy. The protection of vulnerable parties in familial arrangements, regardless of numerical makeup, should be taken seriously. What a critical citizenship framework does is challenge the idea that legislative bans on polygamy are solely to prevent harm. In addition to protecting women and children from harm, state treatment of polygamy highlights the desire to preserve a particular type of citizenship. The good Canadian citizen is the monogamous citizen. A critical citizenship framework complements discussions of harm, by drawing attention towards the ways in which narratives of harm

are used to justify targeting the "undesirable" polygamous non-citizen. Simply put, answering the question "Why monogamy?" is more complex than a harm framework suggests. The realities of polygamous living in Canada therefore warrant a more robust discussion about the role of monogamy in the Canadian national fabric and, as a result, the provision of citizenship.

Endnotes

1 S. 293 of the Criminal Code states that "Everyone who a) practises or enters into or in any manner agrees or consents to practise or enter into i) any form of polygamy, or ii) any kind of conjugal union with more than one person at the same time, whether or not it is by law recognized as a binding form of marriage, or b) celebrates, assists or is a party to a rite, ceremony or consent that purports to (i) or (ii), is guilty of an indictable offence and liable to imprisonment for a term not exceeding five years."

2 Analyzing discourse obtained from parliamentary Hansard, evidence from committees, governmental documents, press releases, and news articles, this paper examines state narratives used to frame bans on polygamy and polygamous immigration.

3 Since its inclusion in the Criminal Code, there have only been two successful prosecutions of polygamy: *R. v. Bear's Shin Bone (1899)* and *R. v. John Harris* (1906). The first criminal investigation into Bountiful took place in 1990 (despite the community being established in the mid-1940s); however, authorities concluded they lacked sufficient proof and decided not to press charges.

4 Peck's report referenced a "substantial body of scholarship supporting the position that polygamy is socially harmful" without any specific references; moreover, the report made no reference to empirical work that suggests women in polygamous relationships can be autonomous agents (Campbell, 2010: 346; Peck, 2007: 2).

5 To be clear, polygamy is not a majority practice in Islam; moreover, the interpretation of polygamy in Islamic scripture continues to be debated.

6 It is important to note that while the NDP was critical of the act, they took issue with the language of the bill rather than its intentions, former NDP MP Lysane Blanchette-Lamothe qualifying, "I want to start by saying that the NDP supports the intent of this bill. I am making a point of mentioning this because a number of members have accused us of not supporting women or of not explicitly condemning violence against women" (Canada. House of Commons. *Debates and Proceedings.* [41, 2] (June 16, 2015). Ottawa, Queens Printer, 20151).

7 While the Conservative Party of Canada is no longer in power, the Liberal party, led by now Prime Minister Justin Trudeau, voted in favour of all of these bills. The Liberal government's party election platform included a promise to revisit these acts; however, the extent to which these policies will be altered and/or reversed remains to be determined.

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