



## POLITICS

## It's Time to Legalize Polygamy

Why group marriage is the next horizon of social liberalism.

By FREDRIK DEBOER | June 26, 2015

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Welcome to the exciting new world of the slippery slope. With the Supreme Court's landmark ruling this Friday legalizing same sex marriage in all 50 states, social liberalism has achieved one of its central goals. A right seemingly unthinkable two decades ago has now been broadly applied to a whole new class of citizens. Following on the rejection of interracial marriage bans in the 20th Century, the Supreme Court decision clearly shows that marriage should be a broadly applicable right—one that forces the government to recognize, as Friday's decision said, a private couple's "love, fidelity, devotion, sacrifice and family."

The question presents itself: Where does the next advance come? The answer is going to make nearly everyone uncomfortable: Now that we've defined that love and devotion and family isn't driven by gender alone, why should it be limited to just two individuals? The most natural advance

next for marriage lies in legalized polygamy—yet many of the same people who pressed for marriage equality for gay couples oppose it.

This is not an abstract issue. In Chief Justice John Roberts' dissenting opinion, he remarks, "It is striking how much of the majority's reasoning would apply with equal force to the claim of a fundamental right to plural marriage." As is often the case with critics of polygamy, he neglects to mention why this is a fate to be feared. Polygamy today stands as a taboo just as strong as same-sex marriage was several decades ago—it's effectively only discussed as outdated jokes about Utah and Mormons, who banned the practice over 120 years ago.

Yet the moral reasoning behind society's rejection of polygamy remains just as uncomfortable and legally weak as same-sex marriage opposition was until recently.

That's one reason why progressives who reject the case for legal polygamy often don't really appear to have their hearts in it. They seem uncomfortable voicing their objections, clearly unused to being in the position of rejecting the appeals of those who would codify non-traditional relationships in law. They are, without exception, accepting of the right of consenting adults to engage in whatever sexual and romantic relationships they choose, but oppose the formal, legal recognition of those relationships. They're trapped, I suspect, in prior opposition that they voiced from a standpoint of political pragmatism in order to advance the cause of gay marriage.

In doing so, they do real harm to real people. Marriage is not just a formal codification of informal relationships. It's also a defensive system designed to protect the interests of people whose material, economic and emotional security depends on the marriage in question. If my liberal friends recognize the legitimacy of free people who choose to form romantic partnerships with multiple partners, how can they deny them the right to the legal protections marriage affords?

Polyamory is a fact. People are living in group relationships today. The question is not whether they will continue on in those relationships. The question is whether we will grant to them the same basic recognition we grant to other adults: that love makes marriage, and that the right to marry is exactly that, a right.

Why the opposition, from those who have no interest in preserving "traditional marriage" or forbidding polyamorous relationships? I think the answer has to do with political momentum, with a kind of ad hoc-rejection of polygamy as necessary political concession. And in time, I think it will change.

The marriage equality movement has been both the best and worst thing that could happen for

legally sanctioned polygamy. The best, because that movement has required a sustained and effective assault on “traditional marriage” arguments that reflected no particular point of view other than that marriage should stay the same because it’s always been the same. In particular, the notion that procreation and child-rearing are the natural justification for marriage has been dealt a terminal injury. We don’t, after all, ban marriage for those who can’t conceive, or annul marriages that don’t result in children, or make couples pinkie swear that they’ll have kids not too long after they get married. We have insisted instead that the institution exists to enshrine in law a special kind of long-term commitment, and to extend certain essential logistical and legal benefits to those who make that commitment. And rightly so.

But the marriage equality movement has been curiously hostile to polygamy, and for a particularly unsatisfying reason: short-term political need. Many conservative opponents of marriage equality have made the slippery slope argument, insisting that same-sex marriages would lead inevitably to further redefinition of what marriage is and means. See, for example, Rick Santorum’s infamous “man on dog” comments, in which he equated the desire of two adult men or women to be married with bestiality. Polygamy has frequently been a part of these slippery slope arguments. Typical of such arguments, the reasons why marriage between more than two partners would be destructive were taken as a given. Many proponents of marriage equality, I’m sorry to say, went along with this evidence-free indictment of polygamous matrimony. They choose to side-step the issue by insisting that gay marriage wouldn’t lead to polygamy. That legally sanctioned polygamy was a fate worth fearing went without saying.

To be clear: our lack of legal recognition of group marriages is not the fault of the marriage equality movement. Rather, it’s that the tactics of that movement have made getting to serious discussions of legalized polygamy harder. I say that while recognizing the unprecedented and necessary success of those tactics. I understand the political pragmatism in wanting to hold the line—to not be perceived to be slipping down the slope. To advocate for polygamy during the marriage equality fight may have seemed to confirm the socially conservative narrative, that gay marriage augured a wholesale collapse in traditional values. But times have changed; while work remains to be done, the immediate danger to marriage equality has passed. In 2005, a denial of the right to group marriage stemming from political pragmatism made at least some sense. In 2015, after this ruling, it no longer does.

While important legal and practical questions remain unresolved, with the Supreme Court’s ruling and broad public support, marriage equality is here to stay. Soon, it will be time to turn the attention of social liberalism to the next horizon. Given that many of us have argued, to great effect,

that deference to tradition is not a legitimate reason to restrict marriage rights to groups that want them, the next step seems clear. We should turn our efforts towards the legal recognition of marriages between more than two partners. It's time to legalize polygamy.

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**Conventional arguments** against polygamy fall apart with even a little examination. Appeals to traditional marriage, and the notion that child rearing is the only legitimate justification of legal marriage, have now, I hope, been exposed and discarded by all progressive people. What's left is a series of jerry-rigged arguments that reflect no coherent moral vision of what marriage is for, and which frequently function as criticisms of traditional marriage as well.

Many argue that polygamous marriages are typically sites of abuse, inequality in power and coercion. Some refer to sociological research showing a host of ills that are associated with polygamous family structures. These claims are both true and beside the point. Yes, it's true that many polygamous marriages come from patriarchal systems, typically employing a "hub and spokes" model where one husband has several wives who are not married to each other. These marriages are often of the husband-as-boss variety, and we have good reason to suspect that such models have higher rates of abuse, both physical and emotional, and coercion. But this is a classic case of blaming a social problem on its trappings rather than on its actual origins.

After all, *traditional* marriages often foster abuse. Traditional marriages are frequently patriarchal. Traditional marriages often feature ugly gender and power dynamics. Indeed, many would argue that marriage's origins stem from a desire to formalize patriarchal structures within the family in the first place. We've pursued marriage equality at the same time as we've pursued more equitable, more feminist heterosexual marriages, out of a conviction that the franchise is worth improving, worth saving. If we're going to ban marriages because some are sites of sexism and abuse, then we'd have to start with the old fashioned one-husband-and-one-wife model. If polygamy tends to be found within religious traditions that seem alien or regressive to the rest of us, that is a function of the very illegality that should be done away with. Legalize group marriage and you will find its connection with abuse disappears.

Another common argument, and another unsatisfying one, is logistical. In this telling, polygamous marriages would strain the infrastructure of our legal systems of marriage, as they are not designed to handle marriage between more than two people. In particular, the claim is frequently made that the division of property upon divorce or death would be too complicated for polygamous marriages. I find this argument eerily reminiscent of similar efforts to dismiss same-sex marriage

on practical grounds. (The forms say husband and wife! What do you want us to do, print new forms?) Logistics, it should go without saying, are insufficient reason to deny human beings human rights.

If current legal structures and precedents aren't conducive to group marriage, then they will be built in time. The comparison to traditional marriage is again instructive. We have, after all, many decades of case law and legal organization dedicated to marriage, and yet divorce and family courts feature some of the most bitterly contested cases imaginable. Complication and dispute are byproducts of human relationships and human commitment. We could, as a civil society, create a legal expectation that those engaging in a group marriage create binding documents and contracts that clearly delineate questions of inheritance, alimony, and the like. Prenups are already a thing.

Most dispiriting, and least convincing, are those arguments that simply reconstitute the slippery slope arguments that have been used for so long against same sex marriage. "If we allow group marriage," the thinking seems to go, "why wouldn't marriage with animals or children come next?" The difference is, of course, consent. In recent years, a progressive and enlightened movement has worked to insist that consent is the measure of all things in sexual and romantic practice: as long as all involved in any particular sexual or romantic relationship are consenting adults, everything is permissible; if any individual does not give free and informed consent, no sexual or romantic engagement can be condoned.

This bedrock principle of mutually-informed consent explains exactly why we must permit polygamy and must oppose bestiality and child marriage. Animals are incapable of voicing consent; children are incapable of understanding what it means to consent. In contrast, consenting adults who all knowingly and willfully decide to enter into a joint marriage contract, free of coercion, should be permitted to do so, according to basic principles of personal liberty. The preeminence of the principle of consent is a just and pragmatic way to approach adult relationships in a world of multivariate and complex human desires.

Progressives have always flattered themselves that time is on their side, that their preferences are in keeping with the arc of history. In the fight for marriage equality, this claim has been made again and again. Many have challenged our politicians and our people to ask themselves whether they can imagine a future in which opposition to marriage equality is seen as a principled stance. I think it's time to turn the question back on them: given what you know about the advancement of human rights, are you sure your opposition to group marriage won't sound as anachronistic as opposition to gay marriage sounds to you now? And since we have insisted that there is no legitimate way to oppose gay marriage and respect gay love, how can you oppose group marriage and respect group

love?

I suspect that many progressives would recognize, when pushed in this way, that the case against polygamy is incredibly flimsy, almost entirely lacking in rational basis and animated by purely irrational fears and prejudice. What we're left with is an unsatisfying patchwork of unconvincing arguments and bad ideas, ones embraced for short-term convenience at long-term cost. We must insist that rights cannot be dismissed out of short-term interests of logistics and political pragmatism. The course then, is clear: to look beyond political convenience and conservative intransigence, and begin to make the case for extending legal marriage rights to more loving and committed adults. It's time.

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