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## SAME-SEX MARRIAGE MAY LEAD TO POLYGAMY, BUT SO WHAT?



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**P**eter Sprigg, a Senior Fellow at the Family Research Council, recently published a predictable slippery-slope argument against same-sex marriage and polygamy in [Religion News Service](http://religionnews.com/2016/06/20/why-same-sex-marriage-will-pave-the-way-to-polygamy/)(<http://religionnews.com/2016/06/20/why-same-sex-marriage-will-pave-the-way-to-polygamy/>). Having legalized the one, the other will surely follow. And that is bad—very, very bad according to Sprigg. His position rests on two separate lines of argumentation: the curtailment of freedom of religion and harm to children. Both are rather spurious.

Sprigg is still trying to make the case that same-sex marriage is a social ill. It is a social ill that will lead to another social ill, namely polygamy. Both are closely related perversions, implicitly at least, of the one good adult relationship—monogamy between an opposite-sex couple.

Unlike many who would reject Sprigg’s claims out of hand, I accept the slippery-slope argument. But I don’t see this as necessarily a bad thing. Indeed, I made a case for a more positive valuation of the move from same-sex marriage to polygamy almost a year ago in [these pages](http://religiondispatches.org/whos-scared-of-polygamy-a-restrained-case-for-the-slippery-slope-argument/)(<http://religiondispatches.org/whos-scared-of-polygamy-a-restrained-case-for-the-slippery-slope-argument/>). Sprigg’s piece compels me to rejoin the fray.

Attacks on the “freedom of conscience and religion” serve as Sprigg’s evidence for the most immediate negative outcome of legalizing same-sex marriage in the wake of *Obergefell v. Hodges* (2015). He claims, “Before *Obergefell*, we were assured that redefining marriage would have no impact on anyone except same-sex couples. Yet today, LGBT activists increasingly wage attacks against even the mildest measures to protect religious liberty.”

What does Sprigg mean by “religious liberty”? Fortunately he cites his pamphlet “[The Top Ten Harms of Same-Sex ‘Marriage](http://downloads.frc.org/EF/EF11B30.pdf)”(<http://downloads.frc.org/EF/EF11B30.pdf>),” which includes a long section on freedom of religion, to help us answer that question. In this pamphlet, Sprigg argues, rather compellingly, that “[r]eligious liberty means much more than liturgical rituals.” He extends it also to “individual

believers trying to live their lives in accordance with their faith not only at church, but at home, in their neighborhoods, and in the workplace.” Nondiscrimination laws threaten this sense of liberty, Sprigg asserts, because they impede some people from doing things like denying same-sex couples wedding cakes.

Yet Sprigg’s account of religious liberty is deeply misleading. Partially given away by references to the “church,” Sprigg’s religious liberty is something meant to protect, first and foremost, certain Christians (and not the pro-LGBT kind). Notice, for instance, that the religious liberties of religious LGBT people do not factor into his thinking. What are the state’s obligations to them in terms of the first amendment? Are LGBT couples and individuals not free to be religious? As religious persons, do they not qualify “to live their lives in accordance with their faith not only at church, but at home, in their neighborhoods, and in the workplace”? If they do, then LGBT religious folks get to make the same claims on public life, including wedding services, as their non-LGBT peers. And would this not also apply to non-religious LGBT people since they surely have rights to the “freedom of conscience” that Sprigg ties to freedom of religion as well?

Do not polyamorist and polygamists, furthermore, have such legal rights too? Is not marriage—including polygamy—a way to live one’s life in accordance with a person’s religion? Many non-LDS Mormons and some Muslims (among others) certainly seem to think so. Why does their religious liberty not matter?

What Sprigg wants from “religious liberty” is a de facto establishment of religion—his religion, his Christianity—when it comes to family law in the United States. As I argued in the context of the Kim Davis controversy, many Protestants of different stripes are lamenting the collapse of this particular establishment of religion. Sprigg’s piece can be read, among other ways, as a manifestation of grief over the increasing loss of Protestant control of sexual mores and laws in the United States. The legalization of polygamy would only mark the next step in the decoupling of church and state with regard to matrimony.

But Sprigg does not rest his case against polygamy (and same-sex marriage) on religious liberty claims alone. He banks on conservative gay activist Jonathan Rauch’s case against polygamy to stress the social harms of polygamy. After summarizing some of Rauch’s points, Sprigg claims, without much elaboration, that “the arguments against polygamy are very closely parallel to the arguments against redefining marriage to include same-sex couples.” Rauch and Sprigg raise the issue of “child welfare,” and thus the specter of child neglect and abuse, to cast the forms of social relations they respectively despise in a dark light.

But Rauch would reject([http://www.jonathanrauch.com/jrauch\\_articles/gay\\_marriage\\_5\\_its\\_good\\_for\\_kids/](http://www.jonathanrauch.com/jrauch_articles/gay_marriage_5_its_good_for_kids/)) Sprigg's claims about same-sex monogamy failing children compared to opposite-sex unions, and Sprigg's claim on this front noticeably lacks solid supporting evidence([http://www.slate.com/blogs/outward/2015/02/12/what we know about lesbian and gay parenting making sense of the studies.html](http://www.slate.com/blogs/outward/2015/02/12/what_we_know_about_lesbian_and_gay_parenting_making_sense_of_the_studies.html)).

Obviously domestic violence, child abuse, and so forth must be steadily and consistently redressed and minimized whenever and wherever possible. But the legality of forms of marriage cannot rise or fall based upon them without any context.

Polygamy and monogamy are both malleable social institutions shaped by history, culture, and circumstance. After all, to take just one example, the debates over marital rape in monogamous unions in the latter half of the twentieth century weren't just esoteric legal logic games. Feminists and allies spent decades making monogamy less harmful to women and children. Yet, apart from a small minority of radical leftists, people were not (and are still not) calling for the outlawing of monogamy based on the social ills associated with this form of marriage.

Monogamy, in other words, is not and has never been held to a certain standard of associated wellbeing for it to remain a legal form of marriage. Why should polygamy be held to a different standard? The argument is, of course, that it poses a greater threat to child welfare. But, after studying polygamy among non-LDS Mormons, anthropologist Janet Bennion(<http://www.upcolorado.com/utah-state-university-press/item/2747-the-polygamy-question>) has recently argued that the social harms associated with polygamy for women and children tend to fall away when such unions are practiced in full view. She has also shown that there are differences in the amount of harms associated with different groups(<http://www.upne.com/1611682625.html>) of non-LDS Mormons who practice polygamy. Popular television shows like *Sister Wives* and *My Five Wives* show non-harmful versions of polygamy.

Legalizing polygamy, then, will help solve the problems people concerned with social harms raise rather than exacerbate them. It will help further integrate people practicing polygamy into public life, reduce rates of people being part of reclusive communities, and help women have greater leverage in their family lives by being able to access legal and other support systems that have helped to improve monogamous women's wellbeing.

In other words, it would make polygamists more like the polyamorists who come from mainstream American culture. In her substantial study of polyamory,

[Elisabeth Sheff](https://rowman.com/ISBN/9781442253100/The-Polyamorists-Next-Door-Inside-Multiple-Partner-Relationships-and-Families) found no significant evidence for the kinds of harms that Rauch and Sprigg point to among consensual non-dyadic adult relationships. But she did highlight places where having legal recognition would aid children, such as in dealing with school systems (e.g. who can pick up a child from school), in medical situations, and for community recognition regarding who counts as family for a given child. Not incidentally, these are very similar to the types of problems that same-sex marriage advocates argued would be solved were gays and lesbians allowed to marry.

Interestingly, however, these social harms-based arguments against polygamy are not new. Instead they are a continuation of similar arguments made in the nineteenth century, usually against Mormons. Political theorist [Sarah Song](http://www.upcolorado.com/utah-state-university-press/item/2747-the-polygamy-question) has persuasively argued that assaults on polygamy as being bad for women and children served largely, but not only, to distract people from first wave feminist critiques of monogamy in the United States and, in turn, upended some limited advances Mormons made for women's access to divorce and suffrage.

While the stakes are not exactly the same for today's debates over polygamy, there's quite a bit of rhetorical and political continuity between the nineteenth-century anti-polygamy cause and today's. Claims that same-sex marriage and polygamy are social experiments that will adversely affect children serve to limit women's (and other people's) options. Sheff discovered, for instance, that triads with one woman and two men were the most stable form of polyamorous relationship. Legalizing polygamy would be a way to increase the cultural value of, and protections around, polyamorist women's relational options. By extension, legalizing polyandry and other forms of polygamy could also improve the security and rights of children in those unions.

All of which is to say, will same-sex marriage likely lead to legalizing polygamy? Perhaps. But so what?

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## Why this observant Jew is proud to be a 'pervert'

**I am profoundly proud of what the LGBTQ community has achieved and of what we are yet to achieve. I will be marching in Jerusalem to express that pride, but also to protest that which is shameful and abhorrent.**

By Yehoshua Shohat Gurtler | Jul. 20, 2016 | 7:21 PM

Last week, a prominent Israeli rabbi who heads a mainstream Yeshiva referred to queers as “perverts.” Another – the incoming IDF chief rabbi, no less – called us “sick.” Their remarks were merely the latest in a long list of similar expressions by rabbis and religious leaders throughout Israel. The public debate around these statements, coincidentally corresponding to the height of the annual “Pride” season, has re-focused attention on Thursday’s Jerusalem March for Pride and Tolerance.

One of the more obnoxious criticisms leveled against the “Pride” movement and against pride parades is expressed through variations on the theme “What are you so *proud* of?” It is obnoxious because it belittles millennia of persecution and violence suffered by LGBTQ people, because it marginalizes the daily terror and abuse many continue to face around the world and because it flippantly dismisses the debilitating shame experienced by so many queer people (indeed, not so long ago even that term was pejorative, until being reclaimed by a community celebrating diversity).

Having been asked the question countless times, I’d like to list the things of which I am personally so proud:

I am proud of the loving relationship and of the home I have built with Lior, my partner of 15 years, and our amazing children. I am proud of our family members – those who have always supported us and those who have overcome their initial inhibitions to become steadfast allies.

I am proud of “Yachad Tel Aviv” – the Orthodox community which Lior and I helped found and to which we belong – which has become a home to countless LGBTQ Jews from Tel Aviv and further afield. I am proud of the rabbis and other faith leaders – though they be few – who have preached tolerance and acceptance, and of their followers and students who have pledged support for those values. I am tremendously proud of my sisters and brothers in the Orthodox Jewish LGBTQ community who, often in the face of

adversity, struggle to harmonize their beliefs with their sexual orientation and gender identity.

I am proud to have had the honor of serving my country as an IDF officer and of the IDF for its pioneering and progressive approach toward LGBTQ servicewomen and men. I am proud to be a partner in a law firm that is committed not only to superior professionalism, but also to the values of equal and diverse employment.

I am proud of Ayala Katz, who lost her son Nir ז"ל in the 2009 attack at the Barnoar, and of Mika and Uri Banki, whose daughter Shira ז"ל was stabbed to death at last year's Jerusalem pride parade. They have translated their personal tragedies to a call for an end to homophobic violence and oppression. I am proud of President Reuven Rivlin for his unwavering public support of the LGBTQ community, and of other Israeli and foreign leaders and politicians who have taken up the cause of our community over the years.

I am proud of the massive advancements made in preventing and treating HIV/AIDS and in the work of volunteer organizations, such as the Israel AIDS Task Force, to raise awareness and create support networks for those living with HIV.

I am proud of the countless organizations, volunteers, advocates and allies who work tirelessly to support our community – particularly our youth and other vulnerable groups – and to advance our community's struggle for safety and equality. I am particularly proud of IGY, Israel Gay Youth, which provides support and safe spaces to thousands and thousands of queer youth around Israel.

I am profoundly proud of what we have achieved as a community and of what we are yet to achieve.

I will be marching in Jerusalem to express that pride, but also to protest that which is shameful and abhorrent.

Rabbis and educators spewing bigoted, venomous and dangerous misogynist or homophobic rhetoric should be ashamed. Communities that expel or penalize members for coming out should be ashamed. Practitioners and advocates of so-called "conversion therapy" should be ashamed.

Prime Minister Benjamin Netanyahu should be ashamed for his refusal to acknowledge the LGBTQ community in public statements or stand up for its rights. The Israeli government should be ashamed for systematically

sandbagging legislation securing equal rights for LGBTQ people, including a bill that would have safeguarded the rights of the surviving same-sex spouses of fallen servicemen and women. Habayit Hayehudi MK Bezalel Smotrich, who once marched farm animals down the road to equate members of the LGBTQ community with beasts, should certainly be ashamed. Likud MK Amir Ohana and Zionist Union MK Itzik Shmuli, openly gay members of the Knesset, should be ashamed for standing by while LGBTQ Israelis are denied equal protection under the law. Those who acquiesce to the ongoing denial of gay men's access to surrogacy in Israel should be ashamed. Jerusalem Mayor Nir Barkat and Beer Sheva Mayor Ruvik Danilovich should be ashamed for snubbing their cities' LGBTQ populations out of fear of offending ultra-Orthodox locals.

The Israel Police should be ashamed for its cowardly failure to guarantee the safety of those wishing to march and demonstrate on Beer Sheva's main thoroughfare, for its failure to protect the safety of Shira Banki and for its failure to bring Nir Katz and Liz Troubishi's killer to justice.

Above all, those who turn their backs on their children, relatives and friends because of their sexual orientation or gender identity ought to be profoundly ashamed.

If it is perverse to stand against the shameful and disgusting sentiments recently voiced against the LGBTQ community by homophobic religious leaders and to oppose the values that underlie them, if it is perverse to struggle for equal rights and dignity, if it is perverse to celebrate progress, then I am a pervert indeed, and being one is what makes me so proud.

*Yehoshua Shohat Gurtler is a partner with Herzog, Fox & Ne'eman and an Israeli LGBTQ activist.*