

MARK GOLDFEDER

Legalizing Plural Marriage

THE NEXT FRONTIER
IN FAMILY LAW

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*Judge Alex Kozinski,
Court of Appeals for the Ninth Circuit*

There are many books about polygamy, written from a variety of perspectives. This one stands out, however, because it is grounded in legal research. Unlike the fields of ethnography, sociology, and anthropology, legal academics rely mostly on secondary rather than primary sources. Top-notch legal scholarship is often based on fundamental texts, previously accepted scholarship, and logical arguments, sewn together in an innovative way. This book is a fine example, in addition to being accessible, well written, and timely.

Goldfeder's intention is not to break new ground on the study of polygamy but to demonstrate that polygamy is more accessible than it may seem. He believes polygamy is the next frontier in family law after same-sex marriage, and as such, it must be addressed from a legal perspective. Goldfeder leads us step-by-step through a well-grounded thought experiment that begins with detailing how advocates might argue for the legalization of polygamy. He then provides a roadmap describing how — if it is to be legalized — this legalization should be handled. By simply adding up the pieces, Goldfeder shows that polygamy is neither farfetched nor far off; in keeping with American legislative values and freedoms; on a practical level, not particularly difficult to manage; and on a technical level, not hard to administer or accommodate within our existing legal system.

To be clear, this is not advocacy but rather a scholarly effort to distinguish between legally valid and invalid arguments for and against polygamy. Goldfeder argues that there may be a constitutionally based right to polygamous marriage, and that polygamous marriage will be inevitably legalized unless we can identify a non-legal basis to ban it. Certainly there are other perspectives, but the focus of the book is not whether polygamy should be legalized but whether it *could* be. Put simply, the book asks whether we could make a valid legal case for polygamy, and the answer it demonstratively and quite convincingly comes to is yes.

It's no secret that we are experiencing a critical moment in legal and sociological history, a time of familial upheaval, crisis, and opportunity. We are in the midst of a family law revolution that will no doubt leave the world looking fundamentally different in our own lifetimes. Ethical challenges to long-standing ideas have prompted important questions, such as how, why, and when people actually obey the law, as well as how, why, and when they should and should not do so. Goldfeder's background in journalism allows him to tackle these questions from the practical standpoint of an observer chronicling change, while his legal training equips him to act as a guide for others to understand what is happening, why it's happening, and what we can expect to happen in the future. One can also sense that Goldfeder, a rabbi and rabbinic judge, draws on his Jewish law background to paint the practice of polygamy as something more complex than an abstraction used for good or evil, or a historical phenomenon that can be fully understood by its past failures. Polygamy, in living color, is a practice that needs to be revisited generationally, carefully, and thoughtfully. Goldfeder does just that, with a multidimensional approach that makes for a compelling and worthwhile read.