

The Consequences of Ignoring Natural Law

In *Modernity and the Holocaust* (1989), Zygmunt Bauman observes:

Modern culture is a garden culture. It defines itself as the design for an ideal life and a perfect arrangement of human conditions. It constructs its own identity out of a distrust of nature ...

Modern genocide, like modern culture ... is a gardener's job. It is just one of the many chores people who treat society as a garden need to undertake. If garden design defines its weeds, there are weeds wherever there is a garden.

In this metaphor, garden is what we design and control, nature is what we do not. But the gap between them has been closing for a long time, so does nature still matter?

In jurisprudence, there is a tension between two methodologies, natural law and legal positivism, which John Finnis introduces in *Natural Law & Natural Rights* (1980):

In 1953 Leo Strauss prefaced his study of natural law with the warning that "the issue of natural right presents itself today as a matter of party allegiance. Looking around us, we see two hostile camps, heavily fortified and guarded. One is occupied by liberals of various descriptions, the other by the Catholic and non-Catholic disciples of Thomas Aquinas."

In constitutional republics with separation of powers, appointments to the judiciary have become political, because an independent judiciary can usurp the executive and the legislature—legislate from the bench. The motives for this are political, not judicial. If we like to think of this as more an American issue, with the overturning of *Roe v Wade*, the judicial persecution (and subsequent vindication) of George Pell suggests it is an Australian issue too. Legal positivism is the law of legal precedent, and for political reasons our legal jurisdictions have been

legislating against natural law for a long time.

The weeds in the modern garden are whatever prevents the garden from being perfect. In Nazi Germany, Jews were seen as weeds. In modern democracies, the weeds are whatever prevents paradise from materialising. The persecution of Pell parallels the overturning of *Roe v Wade* because reproductive control is an example of positive law legislating against natural law, the last frontier in abolishing the distinction between garden and nature. Powerful forces were marshalled against Pell, an influential advocate of natural law. He was anathema to those championing unfettered sexual freedom and women's rights, who insist the Church must be neutralised.

Abortion is always murder. Pope Francis equates it with hiring a hitman to solve a problem. As the murder is performed by someone other than the pregnant woman, it outsources the evil. Abortion can be a duty, in particular circumstances, but it is never a right. To call it a right to something—woman's choice, bodily autonomy, reproductive health, social justice—is to hide behind the sophistry and gaslighting that have dominated public discourse since the sexual revolution.

Big Fertility is the obverse side of this coin, making vast amounts of money creating human life in women who cannot conceive as nature intended (insofar as it is still possible to speak of nature's intention). The drama of a woman's hypothetical right to murder, vicariously, shadows the drama of her hypothetical right to conceive, vicariously. In both cases, there is wilful refusal to engage with the morality of what is happening. To extend the garden metaphor, modern woman demands the right to control her fertility without reference to the biological consequences. Pell had to be sacrificed on the altar of feminism's desire to free woman from the biological rhythms which interfere with her theoretical self-actualisation (treating life as her shopping list).

Early in 2024, the Alabama Supreme Court ruled that embryos created through IVF were “unborn children” for the purposes of civil liability under the state’s wrongful-death statute. This means someone can be held liable for destroying them. Again, the someone is other than those who provide the male and female gametes (the sperm, the egg) necessary for fertilisation, since IVF is a vicarious process wholly alienated from nature. Miscarriages occur often in nature, for many reasons, but destruction of a fertilised embryo (an unborn child) by IVF always involves human agency. While it is unknown whether the ruling involved natural or positive law, it is known that for every successful IVF pregnancy, many frozen embryos are killed.

In natural law, there is a connection between human law and a universal order intelligible through reason. In legal positivism, no connection is required, the law is whatever legal authority decrees and enforces, it is the precedence of legal fact based on social fact (what people do). The problem with natural law is the loss of consensus about what the universal order includes, or excludes, and how reason is defined and measured. The problem with legal positivism is the potential for unrestrained authority to commit atrocities (Hitler was a legally elected authority).

If natural law can be said to have a history, it shadows the history of metaphysics. It begins with Aristotle’s empiricist response to the pure rationalism of Platonic idealism, Plato’s mental distinction between material things and their essences in the Theory of Forms. Aristotle’s compromise, his teleology, looks for final causes—“that for the sake of which”—to explain the nature and structure of reality. Thomas Aquinas incorporated Aristotelian teleology into medieval scholasticism, by positing that humanity’s end—its *telos*—is revealed in nature, by reason, independent of scriptural revelation.

Finnis quotes from Aquinas’s *Summa Theologica*:

whatever is contrary to the order of reason is contrary to the nature of human beings as such; and what is reasonable is in accordance with human nature as such. The good of the human being is being in accord with reason, and human evil is being outside the order of reasonableness.

This means that, for Aquinas:

the way to discover what is morally right (virtue) and wrong (vice) is to ask, not what is in accordance with human nature, but what is reasonable. And this quest will eventually bring one back to the *underived* first principles of practical reasonableness—principles which make

no reference at all to human nature, but only to human good.

How are practical reason and human good defined and measured? Aristotle used *eudaimonia*—human flourishing—to describe human good. But surely *eudaimonia* is higher than practical reason? Benedict XVI identified the problem in his Regensburg Lecture: “When Kant stated that he needed to set thinking aside in order to make room for faith”, he “anchored faith exclusively in practical reason, denying it access to reality as a whole”. This reality, the Logos—with its many meanings including word, reason, story, theory, ratio, proportion, definition—cannot be limited to the practical sphere. For Heraclitus, it is what we must learn if we are to understand the world’s true significance. For Benedict, it is “God who has revealed himself as logos and, as logos, has acted and continues to act lovingly on our behalf”. In the beginning was the Logos (John 1:1).

Worldviews with a *telos* revolving around Christian logos are attacked for challenging the totalitarian utopianism of the sexual revolution, the idea that anyone can do whatever they want—sexually—and nothing bad will happen to them or their society. No culture in human history has succeeded in realising such a utopia. It is irrational, impossible, dangerous, against nature (including human nature), and opposed to *eudaimonia* itself. But it is seductive. We erroneously call it freedom. We desire it, even as it destroys us.

Evolutionary biologists Heather Heying and Bret Weinstein introduce *A Hunter Gatherer’s Guide to the 21st Century* (2021) by emphasising their commitment to first principles, foundational assumptions—like mathematical axioms—that cannot be deduced from any other assumption. This helps them avoid the naturalistic fallacy, the idea that “what is” in nature is “what ought to be”. Heying and Weinstein are concerned with interpreting the data of evolution correctly. For them, this means doing science correctly by following the scientific method strictly. Their lens describes evolution ecologically, how organisms adapted to nature, construed as the forces of climate, predators, and parasites over millions of years. But their lens must now account for the dire and unhealthy pace of social constructionism. Humans have become their own dominant competitor within their evolutionary niche and are destroying themselves as a result.

Their book explores the tensions between their lens and what they call the hyper-novel challenges of the twenty-first century. As evolutionary biologists they “have done empirical work on sexual selection

and the evolution of trade-offs, senescence, and morality". They believe humans are unique within their niche, as evolved biological sexes (man and woman). According to the evidence of evolution—the data—maleness and femaleness predate modern humans by millions of years. Binary sexual characteristics are not social constructs of patriarchy, to be deconstructed by Cultural Marxists. They represent hierarchies older than society itself. Heying and Weinstein believe "humans are extraordinarily well adapted to, and equipped for, change". But change is happening at a pace too rapid for brains, bodies, and societies to adapt. Most worrying, "some of the most fundamental truths—like the fact of two sexes—are increasingly dismissed as lies".

What are the consequences of treating homosexuality and heterosexuality as functionally equivalent? Heying and Weinstein believe lesbians and gay men are both attracted to individuals of the same sex, yet the differences between them, in terms of their evolutionary origins and how their relationships play out, are large and consistent in evolutionary terms. Female homosexuality cannot be separated from female evolution (being a woman, having a female sexuality). Male homosexuality cannot be separated from male evolution (being a man, having a male sexuality). Despite these adaptations, "heterosexuality remains the norm" and is the best mating system.

This is as close as Heying and Weinstein get to saying heterosexuality is normal. But all concepts of normal, irrespective of how they are derived, are anathema to those who see humans as blank slates, raw material independent of biology. Anything less than believing humans can become whatever they want to become—free from biology (nature)—is now understood as conservative or religious prejudice. Still, it is one thing to avoid the naturalistic fallacy and another thing entirely to proceed with the normalisation of homosexuality as if heterosexuality does not matter.

When Heying and Weinstein say "heterosexuality remains the norm" or suggest that heterosexual monogamy is the best mating system, they do so from the perspective of evolutionary biology. The knowledge they present about this is self-evident—to them and those who think like them—but it is now regarded as lies by those who control the humanities, the social and natural sciences, and increasingly other branches of the sciences too. Now that gender ideology is hegemonic, protected by public policy, enforced by legislation, aided and abetted by the media, one cannot publish what was once an accepted fact about sexual differences in biology—for example, puberty is real and does different

things to boys and girls—without being censored.

When the Anglosphere decided it was a human good (*eudaimonia*) to treat homosexuals and heterosexuals as functionally equivalent, it did so without a full knowledge of homosexual experience—its world of half-truths. When it allowed homosexuals to marry and have children, it did so without serious debate about the normative role biological parents (fathers and mothers) play in human procreation, and in the lives of their biological children (sons and daughters). Whatever passed for debate was framed as progress, or human rights—rather than human responsibilities or biological imperatives—while chanting the fatuous mantra Love-is-Love. To stray from the progressive script was to be accused of hate speech and be regarded as unworthy of belonging to liberal democratic society.

In lesbian studies there is a body of ideologically driven qualitative research struggling to be accepted as mainstream in the scientific literature, which studiously ignores the fact that two women cannot reproduce without male participation of some kind. Political correctness protects lesbian couples from ethical questions about how they become pregnant. There is also the ethical question of whether the sperm donor has a right to be identified as the biological father (as he does in some jurisdictions). One lesbian couple sued their fertility clinic for discrimination, because the designer embryo they ordered turned out to be not what they wanted.

In the male gay world, there are high-profile attempts to gaslight the population by promoting the legal fiction that two men can give birth to their biological children. The role of surrogates (birth mothers) in these pregnancies is never discussed, or is kept hidden, lest the gaslighting narratives either evaporate or are subjected to moral scrutiny. This raises large questions: What is fatherhood? What is motherhood? Is a mother a fashion accessory gay men acquire for their designer children while pretending to be virtually normal?

The hyper-novelties and hypocrisies of same-sex procreation are a triumph of positive law over natural law and are dangerous for that reason.

The most insidious aspect of gender ideology—as an example of positive law usurping natural law—is invoking the exception to demonstrate the rule, and by every measure gender dysphoria is an exception. According to the data, without ideologically driven, state-sponsored clinical interventions, over 80 per cent of minors with gender dysphoria will grow out of it and become adjusted to their biological sex. Most dysphoric boys will become gay men; dysphoric girls may become lesbians, or may

not, since many of them are simply what was once known as tomboys. According to Abigail Schrier's *Irreversible Damage* (2020), adolescent girls presenting with gender dysphoria really suffer from social contagion. Like anorexia nervosa, this is a recent phenomenon, a trend, a hyper-novelty, an example of immature female self-actualisation gone awry.

The transgender moment is an example of how the scientific method has been corrupted by cadres on their long march, the new educated elite who manoeuvre the semiotic levers to maintain their grasp on power. This is particularly so in psychiatry and psychology, where there are inappropriate models of care (in addition to a replication crisis). The discipline has never successfully transitioned from mind philosophy to brain science, as the demonstrable evils of Recovered Memory Therapy show.

The origins of this failed transition are suggested by Isaiah Berlin in *The Roots of Romanticism* (1999). Romanticism replaced classicism's objective reality with indomitable subjective will:

You create values, you create goals, you create ends, and in the end you create your own vision of the universe, exactly as artists create works of art—and before the artist has created the work of art, it does not exist, it is not anywhere ... there is no structure of things. There is no pattern to which you must adapt yourself. There is only, if not the flow, the endless self-creativity of the universe.

This is neither the biblical testimony nor the scientific method. It is something else entirely.

If natural law's insistence on a connection between human law and a universal order intelligible through reason is—or should be—self-evident, positive law has been legislating against natural law since the sexual revolution. The denial of human being as a biological fact of nature has been pushed as far as it can without destroying human being. If the push began with romanticism, it has evolved through modernism and its posts, and the push must be reversed before it is too late.

The Catholic Church was mocked for promoting the rhythm method as the only acceptable form of contraception, but the Church has been proven wise, in retrospect, as the Pill is not without hormonal harms. Interfering with the body's natural rhythms comes with risks. This also applies to a rarely dis-

cussed aspect of abortion. If a woman has an abortion, she undergoes the same hormonal changes as if her foetus was carried to full term, so she is at the same risk of post-natal depression as a mother who gives birth naturally. If a woman's hormones influence her emotions, it is unethical (and pastorally derelict) to present abortion as a guilt-free procedure.

The ruling that embryos created through IVF are "unborn children" for the purposes of civil liability under a state's wrongful-death statute should draw attention to the ethics of reproductive technology. The ethics of allowing same-sex couples access to these technologies should be reconsidered. The intention should be assisting conception where it would otherwise occur naturally rather than creating a conception that could not otherwise occur. If homosexuals cannot reproduce naturally, this fact alone should remind us we

are neither nature nor God.

It is highly unlikely homosexuality would have been normalised—under natural rather than positive law—had treatments or cures not been found for the results of male-to-male sex in a population with significantly higher rates of sexually-transmitted diseases like HIV, syphilis and monkeypox. This is an aspect of homosexual experience gay men would rather be ignored, as a reminder that many aspects of twenty-first-century life depend on modern medicine saving us from the moral consequences of our behaviour. Anyone with experience of the gay world knows it is full of deception.

The transgender moment has been built on a lie—pushed by elites seeking to preserve their institutional power—that biological reality (nature) can be ignored, and social constructionism is all that matters. In the case of gender dysphoria, the chromosomal makeup of transgender individuals does not change. They must receive hormonal treatment for the rest of their lives. If treatment is stopped at any point, they revert to their biological sex.

The weeds in our modern garden are nature reasserting its reality. They are Chesterton fences—what we should not take down until we understand why they exist. If the Anglosphere is finally recognising the harms of the transgender moment, falling back on the idea that homosexuality is natural, normal by comparison, is just as harmful.

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