

The Natural Law Ordering of Human Sexuality to (Heterosexual) Marriage: Towards a Thomistic Philosophy of the Body¹

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“Caught in a Net of Warring Duties”

NEAR the climax of J. R. R. Tolkien's *The Lord of the Rings*, one reads of the treason committed by a certain Beregond, guard of the Citadel of the great City of Minas Tirith.² The deed consists in Beregond's abandoning his post without leave of Denethor, the Lord of the City, which is forbidden by law, in order to save Faramir, captain of the White Tower and son of Denethor. Having lost his mind to despair and under the mistaken impression that Faramir is dead, Lord Denethor has given orders to have Faramir and himself burned on a pyre. Thus Beregond finds himself “caught in a net of warring duties,” to quote the text, as he must “choose between orders and the life of Faramir.” What is more, in order to save Faramir, Beregond must not only disobey the law of the City and the Lord Denethor's direct orders, but he must slay, in the very Hallows of the Citadel, two men of the Guard who stand steadfast in their obedience to the Lord Denethor. Since it is forbidden to spill blood in the Hallows, some among the Guard curse Beregond for this fell deed, “calling him outlaw and traitor,” and the Lord Denethor denounces him as “renegade.” Confronted by Gandalf the Wizard, who joins Beregond's

¹ I wish to express my gratitude to Russell Hittinger, whose remarks on an earlier draft of this essay have helped to improve its quality.

² This is recounted in the third part of *The Lord of the Rings* (New York: Houghton Mifflin, 1954), namely, *The Return of the King*, bk. 5, ch. 4, “The Siege of Gondor,” and ch. 7, “The Pyre of Denethor.”

side, Denethor steadfastly invokes his right “to command (his) own servants” according to his own will. Gandalf replies that the Lord of the City’s will may be contested when it has “turned to madness and evil.” He notes that the Lord of the City does not enjoy the authority to “murder (his) own kin [in order] to ease (his) own death.”

Few readers of *The Lord of the Rings* sympathize with the charge that Beregond is an outlaw and traitor to the City of Minas Tirith. With Gandalf, the reader knows that, “but for the treason of Beregond,” the innocent Faramir would have burned on the pyre. And this leads us to ask, what is the status of Beregond’s “treason” and of the “net of warring duties” in which he finds himself? In this case of “warring duties,” which duty is higher, his duty to obey the law of the City and the orders of his Lord, or his duty to preserve the life of the innocent Captain of the White Tower? Who is to decide which duty is higher, and on what grounds does one determine which duty holds precedence over the other? Is the law of the City so absolute that it requires obedience in all cases, no matter the circumstances, and does Denethor’s right to “command his own servants” demand similar absolutist compliance? Does the Lord of the City’s own will determine the law as such, or is there a higher law to which his and the City’s laws must conform? Can Beregond claim he is obeying this “higher law” in his very act of breaking the law of the City?

It is impossible to answer these questions adequately, much less make proper sense of this episode from *The Lord of the Rings*, without appeal to what the Catholic moral tradition (to which Tolkien was deeply committed) terms the natural law.³ Beregond experiences “warring duties”: the one to the law of his City and to his Lord, the other to another law he knows in his conscience, namely, the law forbidding murder, or the law requiring one to take reasonable measures to help others when their lives are in danger (or as Leviticus 19:16 puts it, that “you shall not stand by idly when your neighbor’s life is at stake”). And in his conscience he knows, however intuitively, that this latter law takes precedence, since he knows all people know it in their consciences as well. That is, he knows, again however intuitively, that the law forbidding murder issues from a

³ Tolkien’s express commitment to the natural law is on open display in his poem *Mythopoeia*, which constitutes his defense of mythology against those “who said that myths were lies and therefore worthless” (from the dedication), in as much as myth (or sub-creation, as he calls it) imitates the natural law: “Dis-graced he [man] may be, yet is not dethroned, / and keeps the rags of lordship once he owned, / his world-dominion by creative act: / . . . The right [to sub-create] has not decayed. / We make still by the law in which we’re made.” J. R. R. Tolkien, *Tree and Leaf including the poem Mythopoeia*, 2nd ed. (London: Unwin Hyman, 1988), 97–101, at 98–99; emphasis added.

moral precept implanted in his mind because it is inscribed in the very fabric of his being. It issues from a norm of moral action inscribed in the nature he holds in common with all other men, and to which all men are thereby bound and measured. Hence the name “natural law”: the measure, the rule, of human nature.

The Push to Redefine Marriage

This norm, this rule or measure of human nature, and the questions that give rise to it, bear direct pertinence to the current cultural debate swirling about the definition of marriage. We live at a time, of course, where “nature,” often perceived as the tyrannical enemy of sexual expression, has become irrelevant in this debate. Seeking in fact to empty the notion of nature of all real meaning, our modern culture dares us, in a manner akin to Shakespeare’s Lady Macbeth, to “unsex” ourselves in wholly unnatural ways through wholly unnatural acts.⁴ To this end, there is nothing more or less natural, we are told, about the union of a man and a woman, just as there is nothing more or less natural about the sexual union of two men or two women (except, of course, for the homosexual persons themselves, for whom, biology notwithstanding, it is supposedly “natural” to feel sexually inclined to persons of the same sex, and thus perfectly appropriate for said individuals to engage in what remain objectively unnatural acts). With this in the backdrop, it is not uncommon to hear it asserted, for instance, that defenders of traditional marriage simply “hold fast to outworn arguments and old attitudes,” as no less an authority than the President of the United States, in the person of Barack Obama (himself a lawyer), recently alleged when addressing a gay-activist organization.⁵

Evermore citizens of this good land, like Beregonde of *The Lord of the Rings*, find themselves caught in their own “net of warring duties,” as they must choose between honoring what the state decrees, usually arrived at through some judicial redefinition of marriage, or honoring common sense and their own consciences, wherein they know same-sex unions are, at bottom, unnatural. And if the recent referenda on marriage in California and Maine (and in twenty-eight other states, as of this writing) are

⁴ Who can forget Lady Macbeth’s memorable prayer in Act 1 to the “spirits that tend on mortal thoughts” that they “unsex” her and that “no compunctious visitings of nature shake [her] fell purpose”?

⁵ “Remarks by the President at Human Rights Campaign Dinner,” Oct. 10, 2009 (posted on whitehouse.gov; Oct. 11, 2009). President Obama then followed this with the charge that those who defend traditional marriage seek to “enshrine discrimination into our Constitution.”

any indication, there are more than a few Beregond-like citizens among us who will not abandon their consciences and who remain convinced that the effort to spread the mantle of marriage to cover same-sex unions is to grant legal sanction to pure “madness and evil.”

Lest one consider this last statement hyperbole, we need only bear in mind the kind of untold “madness and evil” that the push to redefine marriage has invited. Take, for instance, the polyamory movement, which advocates the right to group marriage (marriage with multiple partners), and which touts itself as the next generation of civil rights for sexual preferences.⁶ There are more egregious examples, such as that found in the field of artificial intelligence, where some researchers think western society will one day legalize marriage between humans and robots.⁷ Put simply, we must not be naïve—and many are not—to the plain reality that if the authority of marriage is grounded not in nature but in human opinion, then the principle is in place for human opinion, however it can be swayed, to sanction a whole gamut of unions and call them all “marriage.” Clearly we must appeal to an authority higher than that of human judgment if we are to prevent such “madness and evil” from taking western society over the cliff.

Yet in a land where tolerance is considered the highest virtue, where “consent” (grounded in an autonomous view of freedom) and the principle that one often hears loosely formulated as “so long as no one gets harmed” are looked upon as placing the only limits on sexual conduct, where pleasure is seen as the greatest good that our sexuality targets, and where it is assumed that one opposes gay marriage merely on grounds of religious faith, the appeal to the higher authority of nature becomes an extremely hard sell. Indeed, these cultural presuppositions, in addition to the justice issue (namely, that denying legal recognition to same-sex unions as equivalent to marriage constitutes an injustice), often intimidate defenders of traditional marriage into near total silence.

In the interests, then, of recovering a proper notion of “nature” in the current debate on marriage, and building upon my previous essay in this same journal on the procreative-unitive meaning of human sexuality, I

⁶ As reported by abcnews.com, June 18, 2009.

⁷ “My forecast is that around 2050,” says the artificial-intelligence researcher David Levy of the University of Maastricht, the Netherlands, “the state of Massachusetts will be the first jurisdiction to legalize marriage with robots” (as reported by Fox News LiveScience [foxnews.com, October 15, 2007]). Levy continues: “once you have a story like, ‘I had sex with a robot, and it was great!’ appear someplace like Cosmo magazine, I’d expect many people to jump on the bandwagon. . . . Love and sex with robots are inevitable.”

would like, in this essay, to give brief reconsideration to the way the natural law orders our sexuality to heterosexual marriage.⁸ No matter the strength of the aforementioned cultural presuppositions, which this essay will keep squarely in view, the simple fact remains that the ordering of our sexuality to heterosexual marriage belongs to the natural law. It follows that the authority which the intended order of nature, issuing from the Maker of our nature, holds over our sexuality trumps the authority of autonomous freedom and consent. Nature, not consent, acts as the ultimate arbiter of appropriate sexual conduct. Certainly, cultural mores, if corrupt, can deeply impact our moral sensibilities, to the point even of making us tone deaf to the natural law. But the aforesaid referenda have shown us that, when it concerns the commonly accepted understanding of what type of sexual union constitutes marriage, this has not happened to the majority of Americans—at least not yet—despite the deafening clamor bellowing forth from the gay marriage camp.

“To All Men of Good Will”

Because inscribed in the common nature we all hold and because accessible to reason as such, the natural law has the benefit of addressing itself to “all men of good will”—to quote the opening address of Pope Paul VI’s encyclical letter *Humanae Vitae*—and not simply to those who profess the Christian faith. Natural law boasts a powerful allure for the believer and unbeliever alike, as it offers more substance to persons of faith by providing a philosophical foundation for what believers otherwise know through God’s revealed word, at the same time that it culls a larger audience regardless of religious adherence. If it is true, in other words, that the ordering of our sexuality to heterosexual marriage belongs to the natural law, then we can insist that “all men of good will” are bound by it. We can insist, for instance, that such a vision of sex is normative for those in the secular professions for whom matters of human sexuality are of direct concern, such as clinical psychologists, bioethical scientific researchers, counselors, social workers, teachers, and reproductive health care professionals, as well as lawyers, judges, and legislators.

So while much current discussion in Catholic circles on the meaning and purpose of human sexuality centers on Pope John Paul II’s theology of the body, this school of thought remains for all its deserved accolades just that: a *theology* of the body. Its insights are drawn from the Gospels and from the Genesis creation narrative, and thus from the light of faith.

⁸ See my “The ‘Inseparable Connection’ between Procreation and Unitive Love (*Humanae Vitae*, §12) and Thomistic Hylemorphic Anthropology,” *Nova et Vetera* (English Edition) 6 (2008): 731–64.

Such are the merits of the natural law, however, that we find in it a broader *philosophy* of the body, knowable by human reason alone.

To be sure, the same Pope John Paul II, in his encyclical letter *Veritatis Splendor*, issued the rather arresting directive that natural law should hold a prominent place in the renewal of moral theology (§§35–53), and, more particularly, that “one must consider carefully . . . *the place of the human body in questions of natural law*” (§48, emphasis his). Later in his encyclical letter *Fides et Ratio*, John Paul II echoed this same view with his more general assertion that a “sound philosophical vision of human nature” must underpin any moral theology worthy of its name (§68).

Pope Benedict XVI, for his part, has taken up his predecessor’s charge and has been tireless in his endeavor to remind western thought of its ancient and venerable tradition of natural law, and of human reason’s ability to grasp the intended order (law) of nature. Making the natural law an unmistakable focal point of his early pontificate, Pope Benedict has singled out the recovery of natural law as the antidote to the false understanding of human sexuality which abounds in western society today.⁹ In honoring the fortieth anniversary of *Humanae Vitae*, Pope Benedict appealed to the foundational role of the natural law in this encyclical’s teaching on contraception, asserting that “[t]he transmission of life is inscribed in nature, and its laws stand as an unwritten norm to which everyone must defer.”¹⁰ Beyond human sexuality proper, Pope Benedict

⁹ This occurred, for instance, in his address to the Roman Rota on the integrity of marriage on January 26, 2007, and in his annual address to the Vatican diplomatic corps a year later on January 7, 2008. In the latter, Pope Benedict appealed to the natural law as the proper ground for the defense not only of human rights, but also of “the integrity of the family, founded on the marriage of a man and a woman” (as reported in “Pope’s ‘State of the World’ Address: Natural Law Is Main Theme,” *Catholic World Report* 18 [March, 2008], 5). Then in his weekly Wednesday audience on December 16, 2009, the Holy Father noted that there exists “an objective and immutable truth, the origin of which is in God, a truth accessible to human reason and which concerns practical and social activities. This is a natural law from which human legislation, and political and religious authorities, must draw inspiration in order to promote the common good.” He went on to single out “laws that respect the dignity of marriage between a man and a woman” as an example of truly “equitable” laws, that is, laws that respect “the relationship between natural law and positive law” (as reported on the Vatican website, www.vatican.va, December 16, 2009).

¹⁰ This came in Pope Benedict’s address on May 10, 2008, to a conference held by the Pontifical Lateran University honoring the fortieth anniversary of *Humanae Vitae* (as reported on cwnews.com, May 12, 2008). Benedict reiterated this at a conference honoring the same on October 3, 2008, as reported on cwnews.com, October 5, 2008.

has made crucial appeals to the natural law, such as in his remarks at the White House South Lawn inaugurating his apostolic visit to the United States in April, 2008, and in his address to the United Nations General Assembly during the same visit.¹¹ And in a private audience with members of the International Theological Commission, who recently issued a document on the natural law in the effort at advancing its retrieval, Pope Benedict reiterated the view that the natural law signifies a norm of human conduct that “has its basis in human nature itself.”¹² He gave particular emphasis to the same in his audience with members of the Pontifical Academy for Life in February, 2010.¹³

St. Thomas as Guide

To serve as our guide in considering the natural law’s ordering of our sexuality to heterosexual marriage, this essay shall turn to that Catholic thinker whose natural law doctrine has become part and parcel of the Church’s “own teaching on morality,” to quote *Veritatis Splendor* (§44), namely, St.

¹¹ At the White House South Lawn, Pope Benedict cited the Declaration of Independence in his mentioning of “the laws of nature and of nature’s God” as providing the foundation for the “moral order based on the dominion of God the creator” (pulled from the website of the United States Conference of Catholic Bishops, www.nccbuscc.org). And in his UN address, Pope Benedict maintained that only by firmly establishing human rights on “the natural law inscribed on human hearts and present in different cultures and civilizations” can we hope to escape the moral relativism that has otherwise usurped discourse on human rights. This latter appeal to the natural law, while embedded in a complexly developed argument, was so key that the Catholic World News website (cwnews.com) opened its lead article on April 18, 2008, with the headline, “Pope Affirms Natural Law in UN Address.”

¹² The Pope delivered these remarks on October 5, 2007, as reported by Catholic World News (cwnews.com; Oct. 5, 2007). Published in 2009, the International Theological Commission’s “The Search for Universal Ethics: A New Look at Natural Law,” as of this writing, has been issued only in French and Italian. Joseph Bolin, however, has posted an unofficial English translation of the text on pathsoflove.com.

¹³ In this audience on February 13, 2010, Pope Benedict insisted that “human dignity as an inalienable right has its first foundation in (the natural moral) law,” with the result that “conjugating bioethics and natural moral law is the best way to ensure the dignity that human life possesses from its first instant to its natural end” (posted on Vatican Information Service; Feb. 13, 2010). Further, in his message for the World Day of Peace, issued on December 8, 2009, Pope Benedict observed that “man’s relationship with the natural environment” demands respect for “the natural moral law,” as well as “close contact with the beauty and harmony of nature” (§§2,12–13).

Thomas Aquinas.¹⁴ If the Church has so appropriated this element of Aquinas's thought, it is because, this author believes, his natural law doctrine is a living one that yields not merely a penetrating account, but a true account of "the place of the human body in questions of natural law," to cite again *Veritatis Splendor* (§48).¹⁵ Further, while Aquinas's natural law doctrine provides us with a philosophy of the body, this doctrine at the same time points toward the theological, and thus toward a proper theology of the body. We see this amply confirmed in Thomas's decision to place his comprehensive treatise on natural law not only alongside his treatise on the divinely revealed (Mosaic and Evangelical) law (*Summa theologiae* I–II, qq. 94–114), but within a *summa* of theology, that is, within a comprehensive treatment of Christian theology as a whole.

We should note that Aquinas's natural law doctrine, because imbedded in a scholastic system of thought that is not always accessible to a contemporary audience, presents challenges to the current discussion on the meaning and purpose of human sexuality, especially since the language of Christian "personalism" dominates this discussion. To this end, this essay shall draw upon the principles of Aquinas's natural law thought, making adaptations where necessary, so as to forge a vision of the nuptial meaning of our sexuality that can aptly engage this discussion.

Indeed, if we keep in mind Aquinas's notion of law as teacher, that is, that the principal purpose of law, *any* law, is to instruct us of our proper

¹⁴ In his *The First Grace: Rediscovering the Natural Law in a Post-Christian World* (Wilmington, DE: ISI Books, 2003), Russell Hittinger rightly underscores the fact that in *Veritatis Splendor's* treatment of the "fundaments" or principles of moral action (cf. the encyclical's subtitle: *De fundamentis doctrinae moralis Ecclesiae*), "[n]atural law figures prominently" (xxxviii), and that even if the terminology of natural law in this document is somewhat novel, "the definitional scheme [of its conception of natural law] is virtually the same as that of St. Thomas" (xl). He goes on to observe that "natural law as a 'fundament' of moral theology" is certainly to be found in the writings of Popes Leo XIII, Pius XI, Pius XII, and John XXIII (xliii). For more on this, cf. idem, "Natural Law as 'Law': Reflections on the Occasion of 'Veritatis Splendor,'" and Romanus Cessario, "Moral Absolutes in the Civilization of Love." Both of these essays are reprinted in J. A. DiNoia and Romanus Cessario, eds., *Veritatis Splendor and the Renewal of Moral Theology* (Huntington, IN: Our Sunday Visitor, 1999). We should also note that Vatican II's Declaration on Religious Liberty, *Dignitatis Humanae* (§3), explicitly grounds its view of religious liberty in Aquinas's natural law doctrine.

¹⁵ For enlightening expositions of the natural law thought of Aquinas, besides Russell Hittinger's *The First Grace*, see, for instance, John Goyette, Mark S. Latkovic, and Richard S. Myers, eds., *St. Thomas Aquinas and the Natural Law Tradition: Contemporary Perspectives* (Washington, DC: The Catholic University of America Press, 2004); and Fulvio Di Blasì, *God and the Natural Law: A Rereading of Thomas Aquinas* (South Bend, IN: St. Augustine Press, 2003).

good and end, and thus of what proper human flourishing consists in, the natural law's bearing on our sexuality will play an indispensable role in instructing us of the true meaning and purpose of human sexuality.¹⁶ So while the moral system of Aquinas, not without good reason, is often denoted as virtue-oriented rather than as duty-oriented, we should not take this to mean that duty, or law, plays an unimportant or purely ancillary role in this system. At bottom law provides one of the necessary means by which our lives attain their proper happiness and fulfillment, since legislation for the purpose of instruction about the true human good sums up Aquinas's doctrine of law.¹⁷ Proper human happiness and fulfillment in the sexual arena will follow strictly, then, upon our living in close harmony with what the natural law demands of human sexual comportment.

More specifically, the principal thrust of this essay shall center on the role of the inclinations of nature in Thomas's natural law doctrine, since this is where we can see how the natural ordering to heterosexual marriage is inscribed in the metaphysical fabric of our being. The language of natural inclinations makes clear the fact that human sexuality targets not merely the good of sexual enjoyment or pleasure (as western culture would often have us believe), but the two higher co-essential goods of procreation and unitive love-making (into which sexual pleasure is subsumed). And as nature intends these goods always to be united, nature orders our sexuality, our sexed bodies, to heterosexual marriage alone. More than this, God our Maker has implanted in our minds a moral precept, known through the natural light of human reason, directing the use of our sexuality always and everywhere to marriage as its end. The order of nature, inclusive of our sexuality, is imbibed with moral meaning and purpose which our minds, imprinted with the moral precepts of the natural law, can know and understand. This essay shall close with brief consideration of related issues, such as how our natural ordering to heterosexual marriage concerns our mental well-being and

¹⁶ In the prologue to his treatise on law in the *Summa theologiae* (hereafter cited as *ST*) I-II, q. 90, Aquinas writes: "[T]he extrinsic principle moving [the human being] to the good is God, who both instructs us by means of his law and assists us by his grace." Hence John A. Cuddeback's insistence that, for Aquinas, law is first and foremost an affair of reason as directing action to an end ("Ordered Inclinations," in *Philosophical Virtue and Psychological Strength: Building the Bridge*, ed. Romanus Cessario, Craig Steven Titus, and Paul C. Vitz [Currently under review by Eerdmans, Grand Rapids, MI]).

¹⁷ This point, among others, marks the principal thrust of John A. Cuddeback's essay, "Law, Pinckaers and the Definition of Christian Ethics," *Nova et Vetera* 7:2 (2009): 301–25.

happiness, and how it concerns discussion in the public square as well as public and social policy-making.

One last preliminary observation. While nothing sounds quite so foreign, or inimical, to modern ears than the idea that nature determines normative guidelines for human action, we need not see the intended order of nature as the supposed rival to the notion of “consent.” For, we might ask, why must sex be consensual in order to be considered morally good? On what grounds can one argue that sex must be consensual, unless one implies a deeper ontological sense of what it means to be human, and thus a deeper sense of the order of nature, of an objective human nature? If most individuals, for instance, consider acts like bestiality or rape or sexual abuse of children as abhorrent and subhuman, is it *merely* because such acts are non-consensual? Is it not *ultimately* because these acts, as all know even if merely intuitively, are opposed to what is appropriately human, that is, opposed to the inherent moral worth of our common humanity? In short, appeals to the notion of consent imply a deeper standard of measure, one that we could call the standard of acting according to what is proper for a human being *as a human being* (that is, as an individual endowed with a human nature) to act: namely, that to be human is to be free, and that humanly appropriate sex must subsequently be consensual sex. Hardly endowing us with the raw ability to choose whatever we wish as a kind of end in itself, freedom (autonomy) instead serves our nature by assisting us in becoming the creatures we were made to be, to be what we *are* in truth.¹⁸

The Inclinations of Nature and the Common Attraction of the Good

We turn, then, to the inclinations of nature. On Aquinas’s account, God has designed us with a tri-partite package of natural inclinations in order that our entire being might operate under the common attraction of the good in a three-tiered fashion: first, we own an inclination to the preservation of our being at the lowest level, namely, at a level common to all things (at the physical level, this inclination is assisted by the body’s inherent ability to heal and protect itself, such as in the way blood immediately clots when our skin suffers a cut, or when our hands instantaneously recoil from a burning pan without any conscious choice or command on our part); second, we enjoy an inclination to procreation and the rearing of offspring at the animal or sentient level, to which our sexuality first

¹⁸ This, in short, sums up the principal thesis of Georges Cottier, theologian of the pontifical household under Pope John Paul II, in *Deviens ce que tu es* (Paris: Parole et Silence, 2003), which constitutes his commentary on *Veritatis Splendor*.

and foremost belongs; and, third, we possess an inclination to knowing the truth and to living in society, which is proper to us as rational beings.

The common attraction of the good unifies the three-tiered inclinations of nature in an organic, hierarchically ordered whole.¹⁹ Taken together, the inclinations, which play an indispensable role in any sound exposition of the natural law, signify the “charge” whereby God orders us, in both physical and moral ways, to the good, indeed, whereby God communicates his own wisdom and goodness to us, and in which our freedom flourishes.²⁰ They signify our sharing in the very power and ability of God himself to order the world, since the inclinations of nature endow us with the capability of bringing proper moral order to our lives.

Let us be clear: the inclinations of nature signify not mere “biological processes,” as they are too often narrowly understood, as if imposing a kind of physical constraint upon us. On this score, we should not be fooled by the charge of “physicalism,” which critics often level against neo-scholastic natural law doctrine. In reality, the charge of “physicalism” (in other words, “too much biology,” or excessive importance placed upon biological processes and ends, like procreation) is nothing more than a ruse camouflaging an underlying Cartesian bias against the physical, or biological,

¹⁹ “All the inclinations of human nature . . . are reduced to the one first precept [namely, that good is to be done and pursued and evil is to be avoided].” *ST* I-II, q. 94, a. 2, ad 2. Commenting on this, Romanus Cessario (*Introduction to Moral Theology* [Washington, DC: The Catholic University of America Press, 2001], 87–88) explains: “The first directive or inclination of natural law, viz., that the good must be sought and done, forms the ground for all other natural law inclinations. . . . [This axiom] enshrines an actual direction by way of inclination toward proper moral conduct. In other terms, the basic principle of natural law, ‘Good is to be done and pursued and evil avoided,’ remains normative for every human act; it forms the pattern of a complete and fulfilled human life.” For more on this, cf. Jean Porter, *Moral Action and Christian Ethics* (New York: Cambridge University Press, 1995), 107–10. Cf. as well Servais Pinckaers, *The Sources of Christian Ethics*, trans. Mary T. Noble (Washington, DC: The Catholic University of America Press, 1995), 432–34, 442–47; and Albert Plé, *Chastity and the Affective Life*, trans. Marie-Claude Thompson (New York: Herder & Herder, 1966), 144–47.

²⁰ As for the inclinations of nature ordering us ultimately to God, Lawrence Dewan (“St. Thomas and the Divinity of the Common Good,” paper delivered at the conference “Providence, Practical Reason, and the Common Good,” Providence College, Providence, Rhode Island, April 26, 2008, p. 21) observes how “the first level [of inclination] presents the natural inclination *common to all substances* [emphasis his]. This is almost always read as though having reference merely to the individual and its individual good. It surely should be read as relating to the inclination which all substances have, viz. as including their love for God more than for their own selves, each mode of substance in the mode of love appropriate to it [cf. *ST* I, q. 60, a. 5, ad 3].”

order.²¹ Recognizing that God has, indeed, created us with *bodies* joined to rational souls, the Thomist natural law proponent should not hesitate to concede the charge of physicalism. If God should design us with a body-soul composite nature, we should not be surprised that the law which God writes into our nature, as exhibited in the natural inclinations, should have both physical and spiritual dimensions to it. We should expect the law of our nature to concern, because imbibed in, both our bodies and our souls as in a composite whole, and thus to be deeply physicalist—though not *merely* physicalist. While *beginning* in the physical order, the natural law is *finalized* in the spiritual and moral spheres. Natural law thought will not allow us to divorce the physical order of nature, inclusive of our bodies, from our overall moral good.

The Love that Moves Us toward Our True Good

With the foregoing in mind, we can see how the inclinations of nature provide the “metaphysical medium,” by which God the supreme Legislator measures or governs us. The inclinations represent the metaphysical means by which we act under the governance of divine Providence. Indicating the way God has “hard wired” us to live, so to speak, they serve as cues to proper moral conduct. And since the natural inclinations are implanted in us in a three-tiered manner, we can speak of our being hard

²¹ “Given the directions of modern moral philosophy, there exists the temptation to confuse the in-built structures of human nature with an inert physicalism, as if the Christian view of the body were that of a Cartesian machine.” Romanus Cessario, *Introduction to Moral Theology*, 73. One detects this Cartesian bias in the following scholars who, in one form or another, make this charge of physicalism: Richard McCormick, “The Consistent Ethic of Life: Is There a Historical Soft Underbelly?” in *The Critical Calling* (Washington, DC: Georgetown University Press, 1989), 211–32 (cited in R. Cessario, *Introduction to Moral Theology*, 72, n. 50), who criticizes Aquinas’s natural law theory for its treating “biological givenness as normative”; Philip S. Keane, *Sexual Morality: A Catholic Perspective* (New York: Paulist Press, 1977), 46, who advocates a moral theory that goes “beyond physicalism”; Daniel A. Helminiak, *Sex and the Sacred: Gay Identity and Spiritual Growth* (New York: Harrington Park Press, 2006), 92, who alleges that “the Catholic Church has co-opted the notion of natural law and uses it . . . to reduce sex to a mere biological function and [to] turn human sexuality into a barnyard-animal affair”; and Charles Curran, “Natural Law,” in *Directions in Fundamental Moral Theology* (South Bend, IN: University of Notre Dame Press, 1985). Even John Grabowski veers towards this negative physicalist charge against natural law in his *Sex and Virtue: An Introduction to Sexual Ethics* (Washington, DC: The Catholic University of America Press, 2003), 143–44 (additionally 81 and 129); cf. as well his “Mutual Submission and Trinitarian Self-Giving,” *Angelicum* 74 (1997): 489–512, at 501, n. 30.

wired from the ground up, as it were, namely, from what we share in common with all material beings to what is unique to us as human.

Put in other terms, since by means of these inclinations our lives are inscribed with profound moral meaning and purpose, they stand as powerful testaments to God's *love* for us. Just as the medieval poet Dante, deeply influenced by Aquinas's doctrine on the divine governance of the world, closes his *Divine Comedy* with the declaration that it is God's love that "moves the sun and the other stars," so does the natural law point to the divine love which moves us toward our true good, toward our true home.²² Pope Benedict XVI expressed this very point when, in his "State of the World address" in 2010, he remarked that the moral meaning of nature "expresses a plan of love and truth which is prior to us and which comes from God."²³

Natural law proponents know it is unwise to consider nature as irrelevant to our moral actions, since nature orders us to and safeguards our happiness. Natural law proponents see nature as given, dynamic, and goal oriented. They recognize that, as with all beings, man receives a nature with a kind of "hard wiring," with a predetermined structure, regardless of whether human nature has "evolved" to its present condition through evolutionary natural selection (which God can easily employ as a secondary instrumental cause in his design). To be sure, even cognitive neuroscientists, albeit in their own language, lend support to the view that we are endowed with natural inclinations: they commonly affirm, for instance, that human beings are characterized by a given set of goal-oriented dynamisms (they often use the term "mechanisms").²⁴ Goal-oriented to the good, the inclinations of nature act as the metaphysical or anthropological grounding for the entire moral life.

Contrary to the opinion, though widespread in the Anglo-American world, that God takes little interest in our sexual lives, the integral role that sexuality enjoys in our natural inclinations (namely, at the second-rung, animal-like dimension of our being), and thus in the natural law, shows us just the opposite: God takes great interest, indeed he takes *loving*

²² For more on this, see Fulvio Di Blasi, "Natural Law as Inclination to God," *Nova et Vetera* 7 (2009): 327–60.

²³ Pope Benedict XVI, annual address to the Vatican diplomatic corps, January 10, 2010 (posted on the Vatican Radio website [oecumene.radiovaticana.org; Jan. 11, 2010]).

²⁴ See, for example, Richard D. Lane and Lynn Nadel, eds., *Cognitive Neuroscience of Emotion* (Oxford: Oxford University Press, 2000). I am grateful to Kenneth Schmitz for bringing this point to my attention (in personal conversation).

interest, in our sexual conduct. We shall see in a moment the specifics of such “interest.”

Here we should clarify that mentioning God in reference to the natural law is to make not a theological or faith-based claim per se, but a philosophical one. It is to affirm attributes of God which the human mind on its own can know. Natural law doctrine understands that a supreme Author, a supreme Lawgiver, must stand behind the order of nature with its predetermined laws. Every law implies a lawgiver, the law of nature included; every law presupposes a mind which has formulated and promulgated it. Even the deist Thomas Jefferson, while a secularized proponent of natural law but a proponent of natural law as “written reason” nonetheless, understood this. When penning the Declaration of Independence, Jefferson inserted into the opening lines the phrase “the Laws of Nature and of Nature’s God” in order to establish the foundation of such “unalienable Rights” as “Life, Liberty and the pursuit of Happiness.”²⁵ By asserting “the Laws of Nature and of Nature’s God” in the Declaration of Independence, Jefferson was simply echoing the philosopher John Locke’s view that the “Law of Nature” is but the handiwork of “one Omnipotent and infinitely wise Maker.”²⁶

Furthermore, by seeing the natural inclinations as the metaphysical “bridge” to the moral life, I am consciously distancing myself from the so-called “new” natural law theory.²⁷ Accusing an ethical theory that

²⁵ Jefferson’s view of natural law as “written reason” can be found in Thomas Jefferson, *The Writings*, ed. Paul Leicester Ford (New York, 1898), 9:480; 18:1 (“The Batture at New Orleans”), 15:207; cited in Russell Hittinger, *The First Grace*, 64. Hittinger goes on to note how “the constitutions and bills of rights of both the United States government and the governments of the various states reflect a commitment to the idea of fundamental rights. Most everyone knows, or should know, that these rights were formulated in light of natural law theories of one sort or another” (71). Again, Pope Benedict XVI reminded Americans of the Declaration of Independence’s appeal to the natural law at the White House South Lawn when inaugurating his apostolic visit to the United States in April of 2008.

²⁶ Locke, *Second Treatise of Government*, ed. Peter Laslett, New American Library edition (Cambridge: Cambridge University Press, 1965), n. 6.

²⁷ Proponents of this new natural law theory, who appeal to St. Thomas for support, would include, among others, Germain Grisez, John Finnis, Robert P. George, Ronald Lawler, Joseph Boyle, and William E. May. *The New York Times* recently showcased the influence of this new natural law theory with a lengthy profile of Robert George (David D. Kirkpatrick, “The Conservative-Christian Big Thinker,” December 16, 2009). Here the *Times* does not hesitate to call George, professor of jurisprudence at Princeton University, “(America’s) most influential conservative Christian thinker,” who ranks “among the most-talked-about thinkers in conservative legal circles” and who acts as the American Catholic bishops’ “intellectual point man” and “pre-eminent Catholic intellectual.”

derives an “ought” from an “is” of committing the “naturalistic fallacy,” the new natural law theorists seek to ground the natural law not in a metaphysics of human nature, or in an objective human nature, nor ultimately in God. Rather, in a more Kantian than Thomist move, they ground natural law in the human consciousness, namely, in the mind’s pure intuition of a self-evident set of incommensurable goods that all can recognize as requisite for integral human flourishing.²⁸ But the natural law, as Aquinas presents it, is hardly this. Presupposing and building on the order of being, especially the body-soul unity in the human being, the natural law burgeons forth from this order into human action. The natural law, truly, bridges the metaphysical order with the moral order.

We should also stress the hierarchical ordering among the three-tiered inclinations, with the inclination to self-preservation occupying the lowest rung and the natural inclinations proper to us as rational beings standing at the top. The lower ones are subordinate to and finalized by the higher rational ones; indeed, the lower are for the sake of the higher. That the lower inclinations are not intended to give way to actions that remain isolated in a sub-human, “centaur-like” sphere of activity, but

²⁸ As Russell Hittinger, who provides the classic critique of this more Kantian than Thomistic theory in his *A Critique of the New Natural Law Theory* (South Bend, IN: University of Notre Dame Press, 1987), has pointed out to me (in personal conversation), deriving an “ought” from an “is” marks a commonplace fact of life. Consider, for instance, the situation in which a person is injured and in need of medical attention. If there is an individual on hand who “is” a doctor, who would deny that this person “ought” to be the one to provide the requisite medical attention? Further, in his review of Fulvio Di Blasi’s *God and the Natural Law: A Rereading of Thomas Aquinas* in *Nova et Vetera* 5 (2007): 694–98, Steven Jensen notes how “God as a final end of human life is essential to any Thomistic ethics, especially on account of Thomas’s natural law, which demands God as the lawgiver” (695). But as Jensen observes (*ibid.*), the Finnis, Grisez, et al. new natural law school of thought (of which Di Blasi is not a proponent) “leaves out the divine lawgiver, thereby transforming the precepts of natural law into mere counsels.” Jensen continues: “[The new natural law theorists] attempt to make morality autonomous, that is, arising from some internal source, which for (them) is our intuitive grasp of basic human goods. Unfortunately, this entirely internal morality becomes a set of counsels given by ourselves, rather than a set of commands that we must follow, for (this) view fails to recognize that the binding force of morality must arise from someone outside of ourselves, someone who directs us to the end” (696). Agreeing, Russell Hittinger (*The First Grace*, xii) notes what such a “free-floating” understanding of the natural law, which detaches it from a higher divine authority or even from a deeper metaphysical grounding, implies: “[N]atural law [comes] to mean the position of the human mind just insofar as it is left to itself, prior to authority and law. Natural law constitutes an authority-free zone.”

ought to become integrated into the properly human we see in the simple case of our drive to eat, a drive following upon our lowest inclination, that to self-preservation. Hardly a purely physical or animal activity, eating serves a profound human function, indeed, it becomes an art, in as much as we prepare our meals with the highest of nutritional, gustatory and even aesthetic quality in mind, we observe proper etiquette when consuming our food, and, typically the preferred occasion of shared human fellowship, mealtime satisfies deep social (i.e., rational) needs. Commensurate with the sensate or animal-like dimension of our nature, the inclination to procreation and to the rearing of offspring becomes properly *human* only when *integrated* into the rational dimension of our lives, and thereby made to serve the higher inclinations.

Where conflict might arise between the various inclinations, the rational (or properly human) ones, aiming more properly at the common good, should “override” the lower ones. We see this illustrated in the case of the soldier who dies defending his country. Here the inclination to the common good of communal living, for whose conservation the soldier dies, takes precedence over the inclination to the preservation of life (his life), a private good. In the case of those select individuals called to celibacy, the inclination to knowing the truth about God takes precedence (for them) over the inclination to procreation.²⁹

The Natural Inclination to Marriage

With the foregoing in mind, we are now in a position of seeing how (heterosexual) marriage, nuptiality, is inscribed in our very natural inclinations in an especially remarkable way. Let us briefly sketch this.

The natural inclination to procreation and to the rearing of children ensues specifically upon our sexed bodies, which again is commensurate with the sensate or animal-like dimension of our nature. Yet for the human being, this inclination to sexual union remains incomplete, or in need of finalization, since our animal-like inclination to procreation becomes properly human only when integrated into human rationality, that is, only

²⁹ “If a man refrains from bodily pleasures in order more freely to give himself to the contemplation of truth, this is in accordance with right reason. Now holy virginity [celibacy] refrains from all sexual pleasure in order more freely to have leisure for divine contemplation.” *ST* II–II, q. 152, a. 2. In ad 1 of this article, Thomas explains how the duty to obey the natural law precept of procreation falls on the human race as a whole, not on every human individual. This is where the new natural law theorists of the Finnis and Grisez school run into difficulty, since for them the grounding of the natural law is not the inclinations of an objective human nature, but the mind’s intuiting of basic goods that are “incommensurable,” that is, unable to be hierarchically ordered.

when it is integrated into the human being's ordering to knowledge and love, to friendship (wherein knowledge and love are united).

This integration and finalization is achieved by the inclination to living in society, one of the inclinations following upon our rationality. And the only human society that can embrace the procreative inclination to bodily sexual union is, obviously, marriage. To be sure, while the inclination to communal living orders us to many forms of social institutions, that society which represents the bedrock of all other societies is what Aquinas terms "the society of domestic fellowship" (*domesticae conversationis consortium*), namely, marriage.³⁰

In short, the inclination to living in community joins with the inclination to procreation and to the rearing of children in the way that form (representative of human rationality) joins with matter (representative of our animal-like bodies) in order to inscribe in the deepest fabric of our being a most powerful inclination to marriage.³¹ This hylemorphic-styled

³⁰ *Summa contra Gentiles* (hereafter cited as *ScG*) III, ch. 123. For more on the development in Thomas's views on marriage belonging to the natural law as found in his Commentary on the *Sentences* of Peter Lombard and in his later work *Summa contra Gentiles*, cf. Angela McKay, "Aquinas on the End of Marriage," in *Human Fertility: Where Faith and Science Meet*, eds. Richard J. Fehring and Theresa Notare (Milwaukee, WI: Marquette University Press, 2008), 53–70. Repeating a long-held Catholic teaching, Vatican Council II's Pastoral Constitution on the Church in the Modern World, *Gaudium et Spes*, §12, affirms that marriage is the bedrock of all social institutions. This view can also be found in Aristotle, *Nicomachean Ethics*, bk. VIII, ch. 12 (1162a17–19); for Thomas's commentary, *Sententia Libri Ethicorum*, bk. VIII, lect. 12 (nn. 1719–23); trans. *Commentary on Aristotle's Nicomachean Ethics*, by C. I. Litzinger (Notre Dame, IN: Dumb Ox Books, 1993).

³¹ This is essentially Thomas's argument in *ST* Suppl., q. 41, a. 1 (pulled from his commentary on Peter Lombard's *Sentences*, bk. IV, d. 26, q. 1, a. 1), where, in answer to the question of "whether matrimony is of the natural law," Aquinas replies in the affirmative, as we are inclined by nature both to "the good of offspring" and to "the society of marriage," whereby the spouses render to each other "domestic service" (*mutuum obsequium . . . in rebus domesticis*). Granted, Thomas considers the first inclination the "principal end" (*principalem finem*) of marriage and the second inclination its "secondary end" (*secundarium finem*). But this is because he sees sexuality as owing first and foremost to our bodily distinction between male and female, whereby we participate in the power to procreate enjoyed by the entire animal kingdom. Furthermore, it would be a grave error to read "secondary end" as signifying "accidental" or "non-essential." The conjugal act has a per se ordering both to procreation, its per se primary ordering, and to unitive love (or to what Thomas calls the society of marriage), its per se secondary ordering. As the moralists John C. Ford and Gerald Kelly (*Contemporary Moral Theology. Vol. 2: Marriage Questions* [Westminster, MD: Newman Press, 1963], 76; emphasis theirs) put it: "the secondary, personalist ends, while remaining essentially subordinate, are nevertheless truly essential ends of marriage, just as the primary ends are." Analogously,

inclination to marriage means our sexuality targets not merely the good of sexual enjoyment or pleasure, but the two higher co-essential goods of procreation and unitive love-making (or spousal friendship), into which sensual pleasure is subsumed. And since nature targets these goods *together*, it intends them always *to be together*, which only (heterosexual) marriage accomplishes; nature orders our sexuality—expressive of our body-soul composite nature—to heterosexual marriage alone.

Nuptiality, heterosexual marriage, operates, then, as a kind of intrinsic measure of what constitutes proper sexual activity—for *every* human individual. If the natural inclination to offspring builds on and imbibes with moral direction the procreative dimension of our sexuality, which is expressive of our sexed animal-like bodies, the inclination to living in society builds on and gives moral aim to what today we call the unitive or personalist dimension of our sexuality, which is expressive of our rational souls. After all, the unitive or personalist dimension pertains to nothing other than the friendship (or *consortium*, as Thomas calls it) shared by husband and wife (thereby showing just how “personalist” a Thomist natural law account of human sexuality truly is). As our bodies become human only in their being informed by our rational souls, so does the inclination to procreation and to the rearing of children become properly human only when it is informed by, that is, integrated into, our inclination to communal living. And as body and soul must always be found together, so must the procreative and unitive dimensions always remain united, accomplished in (heterosexual) marriage.³²

consider the co-essential primary and secondary ends of a mother preparing a meal for her family, where the secondary end of serving good-tasting food is no less essential than, even if subordinate to, the primary end of providing wholesome nutrition to her family. Thus the misleading observation of Marie Leblanc (“Amour et procréation dans la théologie de saint Thomas,” *Revue thomiste* 92 [1992]: 433–59, at 434) when he writes: “The gift of life in view of human progeny stands out clearly and constantly in the works of St. Thomas as the primary and essential end [of marriage]; on this point he does not modify his thought” (translation my own). I read this as implying (wrongly) that, on Aquinas’s account, procreation marks the only essential end of marriage. It is no doubt on account of the confusion that the term “secondary” engenders that the 1983 Code of Canon Law simply drops out all language of primary and secondary ends altogether when holding in canon 1055 that marriage “is by its nature ordered to the good of the spouses (*ad bonum coniugum*) and the procreation and education of offspring” (*Code of Canon Law: Latin-English Edition*, trans. Canon Law Society of America [Washington, DC: Canon Law Society of America, 1984], 387).

³² For much more on this, see my previous essay, “The ‘Inseparable Connection’ between Procreation and Unitive Love (*Humanae Vitae*, §12) and Thomistic Hylemorphic Anthropology,” *Nova et Vetera* 6 (2008): 731–64.

The Spurious Appeal to Nature in the Marriage Debate

Thus the hijacked notion of “nature” by which homosexual persons claim it is “natural” for them to feel sexually drawn or “inclined” to members of the same sex. The problem here is that, without further ado, such a line of reasoning could be used to justify any tendency as a “natural inclination” by the sheer fact that it is a tendency for the individual in question. This would include adults who feel sexually drawn to children, or, say, those who feel prone to setting fires.

Clearly, subjective tendencies or desires on their own do not rise to the level of “natural inclination” in the way signified by natural law theory. Only tendencies or inclinations that belong to our species as such attain to this level. Hence Pope John Paul II’s insistence in *Veritatis Splendor*, §51, that one cannot separate individual freedoms (as acting upon personal tendencies) from the nature we all have in common. Supposed “natural” tendencies found within certain individuals must be weighed against the objective goods which our common nature as such targets or inclines us towards. And homosexual tendencies are opposed to the objective goods to which our sexuality orders us, namely, the joint goods of procreation and unitive love. With this opposition in mind, the Congregation for the Doctrine of the Faith in 1986, with Cardinal Ratzinger as prefect, famously observed that the homosexual tendency, while “not a sin” in itself, nonetheless “must be seen as an objective disorder.”³³ There is only one natural inclination of our sexuality, and it is to heterosexual marriage.

To be sure, since human nature includes biology, nothing truly “natural” can be opposed to our physical, biological makeup as objectively constituted. It is disingenuous, to say the least, then, for same-sex proponents to dismiss nature as irrelevant at the common level of our species, inclusive of our biological design, but then, in the same breath, appeal to nature as decisive at the level of the individual in the case of those persons who, no matter our biological design, feel sexually inclined to members of the same sex. At the risk of stating the obvious, one cannot ignore biology and still lay claim to its being natural.

Furthermore, Aquinas’s use of the term *consortium* in reference to marriage helps us see how deeply shallow and misleading it is to view marriage as a mere “private agreement,” as is implied in most legal defenses

³³ “Although the particular inclination of the homosexual person is not a sin, it is a more or less strong tendency ordered toward an intrinsic moral evil, and thus the inclination itself must be seen as an objective disorder.” Congregation for the Doctrine of the Faith, *Letter on the Pastoral Care of Homosexual Persons* (Vatican translation, 1986), §3.

of gay marriage. While *consortium* is usually translated as “society” or “social union,” the term carries a yet stronger sense. More than a communion or friendship, and certainly much more than a private agreement, the *consortium* of marriage is an *institution*, that is, a social union that marks a permanent aspect of the social order and which is of interest to everyone in society.³⁴ Even if marriage fails to provide all the goods requisite for human flourishing (which only a polity can do), it does unite knowledge and love in a communion of persons as nowhere else. Marriage unites human persons in the most intimate communion of body and soul possible. Marriage unites man and woman in “highest friendship,” *maxima amicitia*, to use Aquinas’s bold term in the *Summa contra Gentiles*.³⁵ Little wonder the Genesis creation narrative holds up the conjugal union as the most fulfilling of human friendships, in as much as God creates a woman, not a man (!), to fulfill Adam’s longing for companionship.

Goods We Ought to Pursue

The natural inclinations extend to the realm of actual legislated precepts because they are expressive of God’s hardwiring in us and thus of how God our Maker intends us to live. Aquinas, in fact, observes that our minds “naturally apprehend (the inclinations of nature) as being good, and consequently as objects of pursuit.”³⁶ The inclinations of nature direct us to goods we *ought* to pursue. After all, every type of law, including the natural law, must legislate toward a predetermined end.

Existentially, we see this exhibited in the fact that all humans make judgments on what they consider constitutes good and bad behavior, and thus on how they *should* act, and that most persons agree along very general lines on what good or bad behavior consists in. For all persons

³⁴ These insights I owe to Russell Hittinger, both from personal conversation and from his lecture “Social Justice: Devolution or Subsidiarity?” delivered at Providence College, Providence, Rhode Island, October 23, 2007.

³⁵ ScG III, ch. 123. This qualification of marriage as *maxima amicitia* is all the more significant in light of the fact that, as Charles J. Reid (*Power over the Body, Equality in the Family: Rights and Domestic Relations in Medieval Canon Law* [Grand Rapids, MI: Eerdmans, 2004], 105) observes, canonists and lawyers since the twelfth century had stressed “the sense of obligation (*debitum*) [rather than friendship] that bound [married] parties together.” At the same time, Reid does explain how “women and men were recognized [in twelfth- and thirteenth-century theology] as spiritual equals, who benefited equally from Christ’s salvific acts. Men and women alike and in equal measure have gained eternal life through Christ’s death and resurrection” (99). For more on male and female equality in Aquinas, cf. Michael Nolan, “The Aristotelian Background to Aquinas’s Denial that ‘Woman is a Defective Male,’” *The Thomist* 64 (2000): 21–69.

³⁶ ST I–II, q. 94, a. 2.

know, even if merely intuitively, that we *should* do the good and avoid the bad (the first principle of all the natural law precepts), that we *should* take care of our bodily life, that we *should* procreate and rear our children, that we *should* be honest with each other, and that we flourish when we do so. How could this be if we did not all possess a basic inclination (“hard wiring”) to the good in the very core of our being?

Accordingly, Aquinas holds that the precepts of the natural law (what the natural law commands us to do) follow the order of the natural inclinations.³⁷ Further, that all persons possess an intuitive basic moral sense is evidence for Aquinas that the natural law’s generalized precepts not only work in tandem with our natural inclinations, but they also mark an “imprint” (*impressio*) on our minds by God himself: “God instilled the natural law into (our) minds,” Thomas famously writes, “so as to be known by (us) naturally.”³⁸ Thus Russell Hittinger observes that the natural law signifies “the communication of moral necessities to a created intellect.”³⁹

So while Thomas attaches the word “extrinsic” (*exterius*) to the natural law to signify a divinely legislated or measured ordering to the good, he would not want this to shield the fact that the natural law is at the same time deeply interior. Not an external imposition, the natural law is inscribed in the received fabric of our being, and this makes moral compliance (as opposed to physically coerced compliance) with the natural law possible.

From this it follows that sexual intercourse and the rearing of offspring, to which we are naturally inclined, are goods that we “naturally know” as something we *ought* to pursue, as something that our very moral flourishing hinges upon. This does not mean the natural law commands us to pursue sexual intercourse without further ado—something akin to mere beasts. Recall, again, that the three-tiered inclinations are hierarchically ordered; the lower is for the sake of the higher. The inclination to

³⁷ “Since good has the nature of an end, and evil the nature of its contrary, all those things to which man has a natural inclination are naturally apprehended by reason as being good, and consequently as objects of pursuit, and their contraries as evil, and objects of avoidance. Wherefore according to the order of the natural inclinations is the order of the precepts of the natural law. Because in man there is first of all an inclination to good in accordance with the nature which he has in common with all substances.” *ST I-II*, q. 94, a. 2.

³⁸ *ST I-II*, q. 90, a. 4, ad 1. In question 91, article 2, Aquinas writes: “[T]he light of natural reason, by which we discern what is good and what is evil, which is the function of the natural law, is nothing but the imprint (*impressio*) of the divine light on us.” We shall see in a moment what the precepts that God imprints upon our minds are.

³⁹ Hittinger, *The First Grace*, xxiii.

procreation and to the rearing of offspring becomes properly human only when integrated into the rational dimension of our lives, namely, when integrated into the communion of marriage.

Innate Knowledge of Our Ordering to Heterosexual Marriage

Since the natural law is “instilled into our minds so as to be naturally known by us,” every human being, by virtue of the natural light of reason and independent of religious faith, has the ability to grasp the nuptial ordering of our sexuality. Every human individual can and should know in his conscience that we have been endowed with the gift of sexuality for the purpose of marriage.⁴⁰

Even a generation ago most Americans would probably have affirmed the fact that our sexuality owns a *per se* ordering to marriage. Still today, though, countless aspects of our present culture, no matter what it might otherwise trumpet, give tacit, unreflective witness to the simple truth that, at bottom, the institution of indissoluble heterosexual marriage stands as the rule and measure of sexual comportment. To take one simple and seemingly trivial example, in the 2006 remake of the film *Poseidon*, one of the main characters of the film, the former mayor of New York City (played by Kurt Russell), is at one point caustically derided by another character (a drinking gambler played by Kevin Dillon) for failing to make his marriage last. In a culture of unrestricted divorce and remarriage, and where “consent” establishes the norm, such derision makes little sense. *If*, on the other hand, heterosexual lifelong marriage is the moral norm that we would all instinctively recognize, because inscribed in our nature, if we were but honest with our consciences, then poking fun at a man for his failed marriage does not seem so out of place.

Admittedly, to affirm the natural human ability to know the ordering of our sexuality to marriage invites wider consideration of the notion of synderesis, whereby our minds (the mind as ordered to action) know the first principles of good moral action. And it is conscience that allows our minds, through the judgments we reach about what to do in particular

⁴⁰ From his theology-of-the-body perspective, Pope John Paul II calls this the “spousal meaning [that every human person has] of his own body, of his own masculinity and femininity.” *Man and Woman He Created Them: A Theology of the Body*, trans. Michael Waldstein (Boston: Pauline Books, 2006), 200; from the general audience of February 13, 1980. This spousal meaning, the late Pontiff continues in the same passage, “is important and indispensable for knowing who man is and who he ought to be, and therefore how he should shape his own activity.”

instances, to apply the principles known through synderesis to concrete acts. Such wider consideration, however, would take us too far afield.⁴¹

We might simply mention that knowledge of the first principles of good moral action, and subsequently of the precepts of the natural law, does not come “automatically,” as if detached from our own experiences and moral development. Thomistic natural law precepts communicated from God’s mind to ours are not the Kantian equivalent of a delineated or clearly stipulated moral code (or “moral imperatives,” as Kant calls them) which our reason somehow knows independently of or prior to our experience.

Firstly, the content of this knowledge, on Aquinas’s account, does not extend much beyond the most indeterminate of notions of doing the good and avoiding the bad. God imprints a general moral “sense” upon us, nothing more. The natural law precepts provide the “seeds” (*semina*) of good moral conduct, as Thomas says in one suggestive passage, often times requiring experience and instruction for their sprouting forth, such as when a child, after having stolen candy from the local grocery store, needs instruction from his parents in order to know clearly that stealing is wrong.⁴² Thus the door remains easily ajar to our reaching erroneous judgments on what constitutes morally appropriate conduct.

As for how these “seeds” of good moral conduct find formulation in natural law precepts, Aquinas ranks them according to three successive

⁴¹ In a word, synderesis and conscience introduce the *practical* dimension of the natural law, and thus sit over and above the *ontological* dimension of the natural law, or the natural law *qua* inscribed or imprinted in us. The principal *locus* for Aquinas’s discussion of synderesis and conscience is *ST* I, q. 79, a. 12 (for synderesis, which Thomas calls a *habitus* of the mind and which he defines as “the first practical principles bestowed on us by nature”) and a. 13 (for conscience, which he sees as an act of the mind and defines as reflective moral judgment); cf. as well *ST* I–II, q. 94, a. 1, ad 2 (“synderesis is a habit containing the precepts of the natural law, which are the first principles of human actions”); *De malo*, q. 3, a. 12, ad 13; and *De veritate*, q. 17, aa. 1–2. For the confusion of conscience with synderesis, cf. Romanus Cessario, *Introduction to Moral Theology*, 86–87. Cf. as well Servais Pinckaers, “Conscience and Christian Tradition,” and “Conscience and the Virtue of Prudence,” in *The Pinckaers Reader: Renewing Thomistic Moral Theology*, ed. John Berkman and C. S. Titus [Washington, DC: The Catholic University of America Press, 2005], 321–55; the latter essay offers a response to the attempt of Joseph Ratzinger (“Conscience and Truth,” in *Catholic Conscience. Foundation and Formation* [Braintree, MA: The Pope John XXIII Center, 1999], 19) to supplant the term *synderesis* with *anamnesis* because of what Ratzinger (before becoming pope) perceives as the drawbacks of the former term.

⁴² “[C]ertain seeds or first principles of acquired virtue [that is, of good moral conduct] pre-exist in us by nature.” *ST* I–II, q. 63, a. 2, ad 3.

“grades” (*gradus*), from more generalized yet better known to more determinate (though still generalized) but not so easily known. At the most generalized and fundamental level, we find the twofold moral duty which requires no instruction from the wise to know, namely, that we should “behave well towards the head of the community” and that we should “behave well towards one’s fellow and partner in the community.”⁴³ And so the first-grade natural law precepts, which Thomas affirms are the only truly “self evident [ones] to reason,” are that we should love God (the ultimate head of the community) wholly and that we should love our neighbor as ourselves.⁴⁴ The second-grade natural law precepts follow upon these self-evident ones as more determinate applications or specifications of the first-grade precepts. The Decalogue gives well-known expression to these second-grade moral precepts (honoring God properly; respecting each other’s lives, wives, and property; being honest in speech; etc.).⁴⁵ Finally, the third-grade precepts give further specified application of the second grade precepts, such as the duty to respect the aged, which is a further application of the duty to respect one’s parents. These third-grade precepts for the most part, Aquinas observes, almost always require experience and instruction from the wise in order to be known.⁴⁶

For St. Thomas, though, “instruction from the wise” is a broad notion and may include societal traditions, both past and present. We can learn a great deal from the basic agreements human cultures have reached on what constitutes morally right behavior (examples would include being honest in our speech, safeguarding our lives, respecting each other’s property, and the like) and morally wrong behavior (such as lying, stealing, murdering, etc.).⁴⁷ What we learn, for instance, when we read in the

⁴³ *ST I-II*, q. 100, a. 5.

⁴⁴ “Loving God and other human beings is the *ratio* of natural law, and it is therefore the central truth that all people should understand by their reason if they have to act righteously,” Fulvio Di Blasi, “Natural Law as Inclination to God,” 331. For the precepts of loving God and loving neighbor as the only natural law precepts that are self-evident, see *ST I-II*, q. 100, a. 3, ad 1, and a. 4, ad 1.

⁴⁵ See *ST I-II*, q. 100, a. 1 (cf. as well a. 3, ad 1, and a. 4, ad 1). One finds this view already in the early Church Father St. Irenaeus, *Adversus Haereses*, bk. IV, 15, 1 (*Patrologia Graeca* [ed. J. P. Migne]: 7/1, 1012).

⁴⁶ *ST I-II*, q. 100, aa. 1 and 11.

⁴⁷ I owe this point to John Cuddeback, “Ordered Inclinations,” who in turn cites the following important passage from Jacques Maritain (*Man and the State*, [Chicago: University of Chicago Press, 1951], 92: “Those inclinations *were really genuine* which in the immensity of the human past have guided reason in becoming aware, little by little, of the regulations that have been most definitely and most generally recognized by the human race, starting from the most ancient

Babylonian *List of Sins* that it is evil to despise one's father and mother, in Exodus 20:12 that we should honor our father and our mother, in the ancient Stoic philosopher Epictetus that it is a moral duty to care for one's parents, in Hindu wisdom that our first duty is to honor our father and mother, and in native American tradition that old men should be taken care of, is that the duty to care for one's parents, or, more generally, for the aged, marks a moral precept binding on all because it is written in the very fabric of our being.⁴⁸

Returning, then, to our natural ordering to heterosexual marriage, we might ask how this is stipulated in a natural law precept. Earlier it was suggested that God has implanted in our minds a moral precept directing the use of our sexuality always and everywhere to marriage as its end. If we attend to Aquinas's way of looking upon the Decalogue as offering generalized or indeterminate natural law precepts which allow for further correlative determinations (such as, again, how the duty to respect one's parents extends to the correlative duty to respect the aged), we will have found our answer. Because it places us in an arena of moral precepts that sum up "the first elements of law," as Thomas calls them,⁴⁹ or whole classes of moral duties, the Decalogue offers two commandments, namely, the sixth ("You shall not commit adultery") and the ninth ("You shall not covet your neighbor's wife"), that encapsulate the natural law ordering of our sexuality to the joint goods of procreation and unitive love, that is, to heterosexual marriage.⁵⁰ Thomas himself lists the prohibitions against

communities. For the knowledge of the primordial aspects of natural law was first expressed in social patterns rather than in personal judgments: so that we might say that that knowledge has developed within the double protecting tissue of human inclinations and human society."

⁴⁸ C. S. Lewis compiles this list, as well as many other common moral and legal directives spanning ancient Babylonian, Egyptian, Greek, Roman, Old Norse, Hindu, Chinese, Anglo-Saxon, and native American cultures, which testify to the universality of the natural law, in his *The Abolition of Man* (New York: Macmillan, 1947), "Appendix: Illustrations of the *Tao*," 93–121, at 104–5.

⁴⁹ ST I–II, q. 100, a. 5, ad 6.

⁵⁰ For agreement, see Servais Pinckaers, *Morality: The Catholic View*, trans. Michael Sherwin (South Bend, IN: St. Augustine's Press, 2001), 104. We should note that the *Catechism of the Catholic Church* does the same by outlining the Church's vision of the meaning and purpose of human sexuality under the heading of "The Sixth Commandment" (§§2331–2400). We should also note that the Genesis creation narrative makes clear the fact that our sexuality is ordered to marriage, in as much as it encompasses the joint goods of procreation (Gen 1:27–28) and unitive love (Gen 2:18–25). This creation account thereby establishes the proper moral and anthropological foundation that sets in relief the Decalogue's prohibition of adultery and the whole class of sexual sins associated with it.

prostitution and the “unnatural sins” (he has in mind homosexual acts and bestiality, but we could add incest, masturbation, contraceptive intercourse, and the like) as examples of correlative duties following upon the prohibition against adultery.⁵¹

Veiled Knowledge of Natural Law Precepts

There is a second reason Aquinas gives for why knowledge of the first principles of good moral action does not come easily or with clarity. Moral corruption—sin—has “obscured” (*obscurata*) the natural law precepts God imprints upon our minds. Sin—both at the personal and at the larger cultural level—makes us calloused to the innate moral sensibilities implanted within us by the natural law, sometimes even to the point of “blotting out” (*deletur*) these sensibilities, to use Thomas’s term.⁵² Such corruption helps explain why we find natural law precepts reiterated in the Decalogue, a law revealed by God to persons of faith, in as much as this law “reminds” us of our moral duties which are imbedded within all of our consciences, whether or not we are persons of confessional faith, but which have become shrouded by sin.⁵³ (Citing Julius Caesar’s *Gallic Wars*, Aquinas refers to the ancient Germans’ failure to consider theft wrong as an example of this shrouding.)⁵⁴

Concretely, the dulling of our moral sensibilities happens, as St. Thomas observes, by “concupiscence or some other passion,” by “bad influence” (*malas persuasiones*), or by “perverse customs and corrupt habits” (such as the just-mentioned German view on theft).⁵⁵ Here Thomas’s words are not far removed from our contemporary situation, where “perverse customs and corrupt habits” abound, whether we are speaking of rampant cohabitation and extra-marital sex, no-fault divorce, auto-sexual practices including internet voyeurism, contraceptive intercourse, or homosexual

⁵¹ “[O]ther moral precepts which are added to the Decalogue are reducible to the precepts of the Decalogue after the manner of so many corollaries (*per modum cuiusdam additionis ad ipsa*). . . . Thus to the sixth commandment, which forbids adultery, is added the prohibition against prostitution, according to Deuteronomy 23:17 . . . as well as the prohibition against unnatural sins, according to Leviticus 18:22–23.” *ST I–II*, q. 100, a. 11. Previously in article 4 of question 100, in fact, Thomas relates the proscription against adultery “to the concupiscence of the flesh,” and thus to all those sexual immoralities which stem from disordered sexual desire. Cf. *ScG III*, ch. 122.

⁵² *ST I–II*, q. 94, a. 6.

⁵³ “There was need for man to receive a precept about loving God and his neighbor, because in this respect the natural law had become obscured (*obscurata*) on account of sin.” *ST I–II*, q. 100, a. 5, ad 1.

⁵⁴ *ST I–II*, q. 94, a. 4; and Julius Caesar, *De bello Gallico*, VI, 23.

⁵⁵ *ST I–II*, q. 94, a. 6.

unions. Indeed, it is impossible to underestimate the *malas persuaciones*, the bad influence, which the widespread acceptance of the same-sex lifestyle, to the point of its growing legal recognition, exerts on the ever increasing denial of the ordering of our sexuality to heterosexual marriage.⁵⁶

No matter the spreading influence of this denial, though, the obvious merits of a natural law account stem from the fact that it proposes a vision of human sexuality which targets the true human good, true or ultimate human flourishing. Catholic moral teaching, rooted in a Thomist account of natural law, invites us to embrace our teleological ordering to ultimate happiness by respecting the nuptial meaning of our sexuality, even if this respect demands of us a kind of self-mastery over our sexual instincts which many today regard as “retrograde” or excessively repressive and dehumanizing.

So let the Catholic moralist operate with the conviction that the Thomist vision of human sexuality, because grounded in the natural law, resonates deep within the truest part of ourselves, in the deepest fabric of our being. It targets a good that all ultimately yearn for, even if one’s habits have succeeded in blotting out what otherwise marks the key to genuine sexual freedom. Human sexuality is, first and last, symbolic of man’s procreative-unitive ordering.

Natural Law and the Separation between Religion and Politics

While it is clear the natural law argument in this essay addresses itself to all persons of good will because it stands on the authority of reason alone, discourse in the public square today, especially in the United States, often assumes that one opposes something like the same-sex lifestyle exclusively on the basis of religious faith. Not infrequently one hears the

⁵⁶ A recent survey conducted by the Knights of Columbus and the Marish College Institute for Public Opinion bears out such *malas persuaciones* among Catholic millennials (Catholics between the ages of 18 and 29) in particular (see “New Survey of Young Catholics Shows Promise and Challenges for the Catholic Church,” posted on the Knights of Columbus website [kofc.org]; February 11, 2010). This survey found, for instance, that only 37% of this group of Catholics think same-sex marriage is wrong, 35% think homosexual relations are immoral, and only 20% think pre-marital sex is wrong. Yet, as Romanus Cessario (*Introduction to Moral Theology*, 98) points out, it is our relationships that suffer as a result: “When a sexual partner is chosen outside of the stability that the permanent and exclusive commitment between husband and wife both generates and demands, broken relationships and hearts give testimony to the raw destructive power of intemperate passion. Such passion can lead both men and women to act, even habitually, in a way that contravenes the principles of natural law. A similar analysis can be made of persons who negate the inherent relational character of sexual relations by engaging in auto-sexual activities.”

charge that opposition to same-sex unions threatens to compromise the separation between church and state, or religion and politics. Such a charge, which many Catholics themselves believe and even echo, grossly misrepresents natural law teaching in general and the traditional Catholic position in particular.

Even if it is true that many oppose gay marriage on the grounds of strict religious faith, especially for those Christians who lack appreciation of or familiarity with the natural law, this does not mean that arguments against same-sex unions which appeal to the authority of reason alone cannot be formulated.⁵⁷ Discussion on the compatibility of homosexual relations, or, for that matter, abortion, premarital sexual relations, the use of artificial contraceptives, and the like, with the truths of faith does not and should not *de facto* exclude discussion on the compatibility of these acts with the truths of reason.

This holds especially for those democratic societies that stand upon the bedrock principle of freedom of speech in the public square. It is more than ironic to witness, at least in the United States, the ever increasing social trend to exclude opposition to same-sex unions, or more generally to the homosexual lifestyle, from the public square. Generally speaking, it is outright assumed that the same-sex lifestyle stands above moral reproach and condemnation, and that no moral argument can be made against this lifestyle. As a result, many same-sex advocates are attempting to ban from the public square those voices that argue against homosexual unions on the grounds that such arguments constitute homophobic “hate speech.”

As all are aware, more and more this push by same-sex proponents is securing judicial and legislative support, such as through the extension of hate crimes laws—as occurred recently at the federal level in the United States—to include those victimized on the basis of sexual orientation.⁵⁸

⁵⁷ While it has been standard since Karl Barth to hold that the Reformers’ view on the corruption of human nature by sin leaves no room for the natural law—how, after all, can a law of nature be followed if nature itself inclines to sin?—John Witte in his magisterial *The Reformation of Rights: Law, Religion, and Human Rights in Early Modern Calvinism* (Cambridge: Cambridge University Press, 2007) has shown that, in fact, the idea of natural law and of natural rights was a vibrant and integral element of early Reformation thought.

⁵⁸ The United States Congress passed legislation (approved by the House of Representatives on October 8, 2009, and by the Senate on October 22, 2009) extending hate crimes to include crimes committed on the basis of sexual orientation, which President Obama signed into law on October 28, 2009. However, while most western European nations race toward the same goal, there are exceptions, as Italy’s parliament voted down, also in October of 2009, an effort

Indeed, fearful of “hate speech” lawsuits and of federal funding that would be withdrawn as a result, and no matter the U.S. Constitution’s protection of freedom of religion, some Catholic universities in America are currently advising their faculty members not to “advocate” the view that the homosexual lifestyle is inherently disordered. Certainly, it remains to be seen whether hate crimes legislation covering sexual orientation stands as a threat to religious freedom and whether opposing homosexuality on religious or natural law grounds shall be seen as constituting criminal behavior. It is a telling commentary on a society that, on the one hand, allows vocal public support for the same-sex lifestyle in the name of “diversity” and “freedom of speech,” but then, on the other hand, revokes that same right to diversity and freedom of speech (not to mention freedom of religion in the case of Catholic institutions) when opposition to the homosexual lifestyle is voiced.

Current reforms in the educational system, especially in the United States, testify to the way in which the trend to exclude opposition to the homosexual lifestyle is taking firm root in western society. Touted by some as the embodiment of “tolerance and diversity” and as standing “at the frontier of sex education in the United States,” some school systems in America (and Britain), for example, are requiring health education courses at the middle-school and high-school levels to offer lessons on homosexuality.⁵⁹ Others are imposing a pro-homosexual curriculum on

to introduce the equivalent of the American hate-crime legislation. As Catholic World News (catholicculture.org; October 14, 2009) reports: “Opponents [in Italy] argued successfully that the legislation was unconstitutional insofar as it gave unequal protection to favored groups. One prominent Catholic lawmaker, Rocco Buttiglione, noted that homosexuals already enjoy full protection of law against violent crime. ‘The legal protection exists, and it is the same protection that the law accords to every other citizen,’ he said.”

⁵⁹ This as reported by *The New York Times* on August 15, 2007, on its website (nytimes.com) in particular reference to the situation in Montgomery County, Maryland. Barring any last-minute court action, this school system was set to offer lessons on homosexuality, including videos demonstrating how to put on condoms, in its eighth- and tenth-grade health education courses. *The New York Times* hails this as an example of “respect and acceptance of the many permutations of sexual identity.” As for the United Kingdom, the British Parliament’s Joint Committee on Human Rights declared in its report on the implementation of Sexual Orientation Regulations (February 26, 2007) that even religious schools (Catholic or otherwise) cannot offer instruction in which “homosexual pupils are subjected to teaching, as part of the religious education or other curriculum, that their sexual orientation is sinful or morally wrong.” Then in 2009, the United Kingdom’s General Teaching Council, a professional regulatory body, passed a revised code of conduct which requires that teachers, even those at Catholic schools, “proactively challenge discrimination” and “promote equality and value

even lower educational levels, including kindergarten.⁶⁰ In the name of “tolerance,” the view that favors the same-sex lifestyle is being imposed on western society, by legal force if need be, whether some members of this society—perhaps even a majority—like it or not.

Mental Health, Clinical Therapy, and the Natural Law

Because the natural law orders our sexuality to the joint goods of procreation and unitive love, and thus to marriage, any sexual act that opposes the nuptial meaning of human sexuality by opposing one or both of these dimensions can be said to frustrate God’s wise providential ordering of our sexual lives to the good. As such, they mark intrinsically disordered acts and allow for no proportionalist-like exceptions.⁶¹ Inherently disordered acts are always morally bad for us and can never contribute to our genuine happiness, no matter the circumstances.

The point to stress here is that the moral good, of which the natural law instructs us, provides the whole foundation for human flourishing. The fruits of living in accordance with the human moral good extend to the whole of our lives, and are determinative of our emotional and psychological well-being. This fact stands in contrast to the way our culture encourages us to adopt a compartmentalized attitude toward our moral lives, as if we could ignore or lay aside our moral duty as we would lay aside a note from our parents, with little discernable impact on other parts of our lives, namely, on the emotional or psychological dimensions of our lives. But if the common human experience of casting aside the moral good, particularly in the arena of human sexuality, can teach us anything, it is that engaging in behavior contrary to God’s natural design and intention leaves nothing but wreckages of human relationships and broken lives in its wake. Sexual habits which thumb the natural law are

diversity in all their professional relationships and interactions” (as reported by the Daily Mail Online, www.dailymail.co.uk, March 2, 2009).

⁶⁰ This is the situation in Alameda, California, whose school board approved a “safe schools curriculum” on May 26, 2009. This curriculum requires respect for the homosexual lifestyle to be taught to kindergartners through fifth graders with no right for students to opt out. The curriculum will include the book *And Tango Makes Three*, by Justin Richardson and Peter Parnow, about two gay penguins who raise a baby penguin.

⁶¹ Cf. *ST I-II*, q. 94, a. 5; and Ralph McInerny, *Ethica Thomistica: The Moral Philosophy of Thomas Aquinas* (Washington, DC: The Catholic University of America Press, 1982), 61. To remind the reader, proportionalism, or consequentialism, holds that there are no intrinsically evil acts; rather, an act is accounted good solely on the grounds that its good effects outweigh, or are in greater proportion to, its bad effects.

deleterious not only to our moral well-being, but also to our *entire* well-being as human persons, including our mental well-being.

In this respect, the field of clinical psychology would provide an invaluable service to natural law teaching, as indeed to Catholic moral thought, by conducting serious empirical research on the way sexual habits and customs impact our mental health. Ideally, these studies would target first the normative good of human sexuality, namely, fulfilling heterosexual marriages, and from there move to maladaptive or aberrational sexual practices.

One finds a beginning attempt at this in the work of the positive psychologist and former president of the American Psychological Association, Martin Seligman. Admittedly concerned not with problematic marriages but with “solid” marriages in “good shape,” and equipped with statistical evidence for support, Seligman sees marriage and family, understood in its traditional sense, as an important and necessary means to happiness and fulfillment.⁶² This fits within Seligman’s larger project of correcting what he views as a glaring weakness in the field of clinical psychology, namely, its expertise in mental *disease* without a complementary expertise in what constitutes mental *health* (analogous, say, to the moral theologian who knows mostly about sin and little about holiness and virtue). The object of clinical research and therapy, in other words, is more often than not the person of mental imbalance rather than the person of mental health.

In addition to the pioneering work of the positive psychologists, there are a few studies that exist which can help chart the course briefly sketched here. For instance, there is the highly reputable New Zealand study showing that abortion increases the risk of such mental health problems as depression, anxiety disorders, suicidal behavior, and drug and alcohol abuse (substance use disorders).⁶³ There is also the Johns Hopkins

⁶² See, for instance, Seligman’s *Authentic Happiness* (Boston: Nicholas Brealey, 2002), esp. ch. 11, “Love,” 185–207, and ch. 12, “Raising Children,” 208–46. Cf. as well Christopher Peterson and Martin E. P. Seligman, eds., *Character Strengths and Virtues: A Handbook and Classification* (Oxford: Oxford University Press, 2004). For an even more serious beginning attempt at charting the course initiated by Seligman, cf. Craig Steven Titus, ed., *The Psychology of Character and Virtue* (Washington, DC: The Catholic University of America Press, 2009).

⁶³ David M. Fergusson, L. John Horwood, and Elizabeth M. Ridder, “Abortion in Young Women and Subsequent Mental Health,” *Journal of Child Psychology and Psychiatry* 47:1 (2006): 16–24. What is significant about this Christchurch Health and Development Study, the largest of its kind internationally and funded mainly by the New Zealand government, is that, according to Ruth Hill (“Abortion Researcher Confounded by Study,” *The New Zealand Herald*, January 5, 2006),

Hospital and University study which throws into serious question the prevailing view among psychologists that sexual identity is more a matter of social conditioning than of biological constitution; this study found that, in general, sex-change operations performed in the 1970s (typically with the blessing of psychologists) either for sexually confused adults or for male infants born with malformed, sexually ambiguous genitalia (hermaphrodites) succeeded only in causing further psychological harm.⁶⁴

"[t]he researchers expected to find no evidence of harmful effects of abortion. But they found the opposite." Indeed, one of the researchers and authors of this study, the psychologist and epidemiologist David Fergusson, supports unrestricted access to abortion and is a self-proclaimed "atheist, rationalist and pro-choice [advocate]" (quoted by Julie Robotham, "Abortion Linked to Mental Problems," *The Sydney Morning Herald*, January 3, 2006). In this study, the researchers tracked more than 500 women over a twenty-five year period. It is telling that, whereas Fergusson and his team of researchers normally find little difficulty in getting their work published, this study was sent to four different journals before it was accepted for publication.

⁶⁴ This study was conducted by Paul McHugh ("Surgical Sex," *First Things* 147 [November 2004]: 34–38), who at the time was psychiatrist-in-chief at Johns Hopkins Hospital and University Distinguished Service Professor of Psychiatry at Johns Hopkins University. McHugh's research, which challenges the "deep prejudice [amongst clinical psychologists] in favor of the idea that nature is totally malleable," was aided by other studies performed by the psychiatrist and psychoanalyst Jon Meyer and by the psychiatric services of the Clark Institute in Toronto. In sum, McHugh's study consisted of a systematic follow-up analysis of the individuals who received this sex-change surgery. In the case of the sexually confused adults, McHugh found the patients "little changed in their psychological condition . . . [and that t]he hope that they would emerge now from their emotional difficulties to flourish psychologically had not been fulfilled. . . . [From this] I concluded that to provide surgical alteration to the body of these unfortunate people was to collaborate with a mental disorder rather than to treat it." The sex-change procedure for the male infants born with malformed, sexually ambiguous genitalia that psychologists were sure would lead to sound female sexual identity "if backed up by familial and cultural support" produced similar results. With the help of his resident psychiatrist William G. Reiner, who published his own findings in the January 22, 2004 issue of the *New England Journal of Medicine*, McHugh discovered that "re-engineered males were almost never comfortable as females once they became aware of themselves and the world. . . . The children transformed from their male constitution into female roles suffered prolonged distress and misery as they sensed their natural attitudes." McHugh's final conclusion: "We have wasted scientific and technical resources and damaged our professional credibility by collaborating with madness rather than trying to study, cure, and ultimately prevent it." There exists an almost identical study on a case where a boy, after a botched circumcision, was transformed into a girl by castration, surgery, hormonal treatment, and subsequent "feminized" nurturing, all with the blessing of a Freudian psychologist. This resulted in a very maladjusted adolescent "girl"

One could point to other studies as well: there is research that correlates advances in artificial contraceptives with the sharp rise in the divorce rate, and thus with marital disorder. This same research reveals a much lower divorce rate (around five percent) among married couples who practice (the morally licit) natural method of birth control.⁶⁵ Additionally, a sociological study out of Ohio State University found that depressed people received a “greater psychological boost” from being married.⁶⁶ Research has also documented the deleterious effects of pornography on marriage and family.⁶⁷

who, upon learning the truth of “her” condition, opted for a surgical return to manhood. For this study, see Milton Diamond and H. Keith Sigmundson, “Sex Assignment at Birth: Long-Term Review and Clinical Implications,” *Archives of Pediatric and Adolescent Medicine* 151 (1997): 298–304. Choosing to ignore these findings, Children’s Hospital of Boston has opted to offer the “Gender Management Service Clinic” in order to provide hormonal treatment for young people seeking to change their gender identity, as reported by Catholic World News (cwnnews.com, May 5, 2008).

⁶⁵ Cf. John F. Kippley, *The Legacy of Margaret Sanger, the Foundress of Planned Parenthood* (Couple to Couple League International, 1988). The natural family planning center Kippley has founded has tracked how the founding of the National Birth Control League in 1913 (which in turn was succeeded by Planned Parenthood in 1939) in the United States sparked the widespread use of artificial contraceptives in the 1920s, and along with it the American divorce rate rose 92 percent from one out of eleven marriages in 1910 to one out of 5.75 marriages by 1930. The divorce rate continued to rise sharply, coinciding with the FDA’s approval of the birth control pill in 1960, so that by 1977 the national divorce rate had reached one out of every two marriages, marking a 470 percent increase since 1910. While opining that “[t]he Catholic Church’s opposition to birth control can be critiqued,” David P. Gushee (*Getting Marriage Right: Realistic Counsel for Saving and Strengthening Relationships* [Grand Rapids, MI: Baker Books, 2004], 28) nonetheless acknowledges that Catholic leaders “were right” in fearing that artificial birth control would “undermine the links between sex, marriage, and procreation and [would] underwrite a cultural practice of casual or marriage-free sex.”

⁶⁶ This as reported by Melinda Wenner, “Study: Marriage Greatly Counters Depression,” on the FoxNews LiveScience website, June 4, 2007. The study was conducted by Adrienne Frech and Kristi Williams and is to be published in the *Journal of Health and Social Behavior*. The findings surprised Frech, who “expected the depressed to have worse marital quality and therefore benefit less from a transition into marriage.”

⁶⁷ See the psychologist and researcher Patrick F. Fagan, “Pornography—and Marriage,” *The Catholic Thing* online (nfiproofs.com); January 29, 2010; and “The Effects of Pornography on Individuals, Marriage, Family and Community,” from the Family Research Council website (frc.org); December 2, 2009). Among the “documented effects [of pornography] on family life” that Fagan enumerates, one finds: infidelity and divorce; a loss of interest and satisfaction in sexual intercourse

There is also serious psychological research casting doubt upon the permanence of the homosexual orientation, and thus upon the widespread view that the homosexual orientation enters unalterably into the intrinsic part of a person's identity. Studies show that clinical therapy, alternatively called reparative or conversion or reorientation therapy, can often modify the homosexual orientation to the point that persons with this orientation can attain a satisfactory heterosexual lifestyle.⁶⁸ In this

with one's spouse; emotional distancing from and general dissatisfaction in one's spouse; the perception of infidelity by the other spouse (usually the wife), resulting in a sense of "betrayal, loss, mistrust, devastation, and anger," as well as of sexual inadequacy, if not in outright depression; a strong tendency by men who engage in voyeurism to view women as "commodities or as 'sex objects'"; etc.

- ⁶⁸ See especially Robert L. Spitzer, "Can Some Gay Men and Lesbians Change Their Sexual Orientation? 200 Participants Reporting a Change from Homosexual to Heterosexual Orientation," *Archives of Sexual Behavior* 32:5 (October 2003): 403–17. A prominent psychiatrist from Columbia University, Spitzer, it should be noted, was viewed as a champion of gay activism and was instrumental in the removal of homosexuality from the American Psychiatric Association's list of psychosexual disorders in its 1973 edition of the *Diagnostic and Statistical Manual of Mental Disorders*. Spitzer notes that, while "complete" change in orientation was not common, most of the participants did report a change from a predominantly or exclusively homosexual orientation before therapy to a predominantly or exclusively heterosexual orientation after therapy. This leads Spitzer to assert in his conclusion that "mental health professionals should stop moving in the direction of banning therapy that has, as a goal, a change in sexual orientation." Spitzer's study was confirmed and expanded upon by Elan Y. Karten's doctoral dissertation at Fordham University's Department of Psychology. Spitzer's study was also confirmed by Stanton L. Jones and Mark A. Yarhouse, "Ex Gays? An Extended Longitudinal Study of Attempted Religiously Mediated Change in Sexual Orientation," presented at the American Psychological Association's annual convention on August 9, 2009; consider, for instance, their conclusion: "[T]he findings of this study would appear to contradict the commonly expressed view of the mental health establishment that sexual orientation is not changeable and that the attempt to change is highly likely to produce harm for those who make such an attempt." For other studies supporting the possibility of change in homosexual orientation, see the website of the National Association for Research and Therapy of Homosexuality (NARTH) (narth.com). The founder of reparative therapy is the psychologist Joseph Nicolosi, who boasts over thirty years of successful experience in offering reparative therapy; see his *Reparative Therapy of Male Homosexuality: A New Clinical Approach* (Oxford: Rowman & Littlefield, 2004); and idem, *Healing Homosexuality: Case Stories of Reparative Therapy* (Oxford: Rowman & Littlefield, 2004), though Nicolosi does offer some failed cases in this latter work in order to show that the success of this therapy is not guaranteed. John C. Cahalan ("A Liberal Case Against Gay and Lesbian Rights," *New Oxford Review* 61:10 [1994]: 8–15) claims that the results of such studies show that "[p]eople with a homosexual orientation [whether bisexual or exclusively homosexual] can achieve a happy heterosexual marriage."

respect, that the American Psychological Association (APA), in the face of the contentious debate over whether there is a genetic predisposition to homosexuality, came out in 2008 with the extraordinary statement that “no findings have emerged that permit scientists to conclude that sexual orientation is determined by any particular factor or factors” is most significant.⁶⁹ For, if there exists no “single” factor leading to homosexuality, then one cannot point to a so-called “gay gene” as *the* cause of homosexuality. And if, as the APA goes on to affirm, every client owns the autonomous “right to self-determination,” then this would, in principle, seem to open the door to the possibility of genuine therapeutic change, particularly for those homosexual patients who desire heterosexual “self-determination.”⁷⁰ With the current state of research indicating that there exists no simple biological predisposition to homosexuality, the APA, which does regard the homosexual orientation and lifestyle as “normal aspects of human sexuality,” despite the disproportionate number of persons who claim a homosexual orientation, has inadvertently given a not-so-gentle tug on the plug of “I was born gay and this is who I am and why I can’t change.”⁷¹

⁶⁹ American Psychological Association, “Answers to Your Questions for a Better Understanding of Sexual Orientation & Homosexuality,” March 2008 (posted on the APA’s website: apa.org). What is even more extraordinary is that this document was produced with “editorial assistance from the APA Committee on Lesbian, Gay and Bisexual Concerns.” The APA also admits here that it is difficult at the adolescent stage to determine what a person’s ultimate outcome will be relative to sexual attraction, sexual orientation, or sexual identity.

⁷⁰ While this document by the APA offers a negative, though nuanced, assessment of reparative or conversion or reorientation therapy—“To date, there has been no scientifically adequate research to show that therapy (sometimes called reparative or conversion therapy) is safe or effective”—it makes no mention of those studies, noted above, which do corroborate the effectiveness of said therapy. (American Psychological Association, “Answers to Your Questions for a Better Understanding of Sexual Orientation & Homosexuality” [March 2008].) This omission leads the psychologist Scott Hershberger (lifesitenews.com; May 13, 2009) to say this: “The orderly, law-like pattern of changes in homosexual behavior, homosexual self-identification, and homosexual attraction and fantasy observed in Spitzer’s study [see above] is strong evidence that reparative therapy can assist individuals in changing their homosexual orientation to a heterosexual one.”

⁷¹ “Both heterosexual behavior and homosexual behavior are normal aspects of human sexuality. Both . . . these orientations represent normal forms of human experience. Lesbian, gay, and bisexual relationships are normal forms of human bonding.” APA, “A Better Understanding of Sexual Orientation & Homosexuality” (2008).

Adding to the debate is the body of research showing higher rates of mental disorder among homosexuals.⁷² These findings might rekindle debate over the American Psychiatric Association's controversial and rather extraordinary decision to remove, without any body of research, homosexuality from its list of psychosexual disorders in its 1973 edition

⁷² According to the psychologist A. Dean Byrd ("APA's New Pamphlet on Homosexuality De-emphasizes the Biological Argument, Supports a Client's Right to Self-Determination," *narth.com*; March 6, 2008), this research "clearly demonstrates that homosexuals are at greater risk for some forms of mental illness [such as suicidality, depression, anxiety disorder, substance abuse]." Hence the remarkable assertion of the APA's "A Better Understanding of Sexual Orientation & Homosexuality" (2008), when, flatly ignoring such research, it writes: "Research has found no inherent association between any of these sexual orientations [lesbian, gay, and bisexual] and psychopathology." Published research contradicting this claim and to which Byrd is referring would include the following: B. Riess, "Psychological Tests in Homosexuality," in *Homosexual Behavior: A Modern Appraisal*, ed. J. Macmor (New York: Basic Books, 1980), 298–311, which used the Minnesota Multiphasic Personality Inventory to show that homosexuals are prone to "personal and emotional oversensitivity"; G. Remafedi, et al., "The Relationship between Suicide Risk and Sexual Orientation: Results of a Population Based Study," *American Journal of Public Health* 88 (1998): 57–60, which found that homosexuals were six times more likely to attempt suicide; D. M. Fergusson, et al., "Is Sexual Orientation Related to Mental Health Problems and Suicidality in Young People?" *Archives of General Psychiatry* 56 (1999): 876–80, which showed a much higher rate of depression, anxiety disorder, substance abuse, and suicidal attempts among active homosexuals; and T. G. M. Sandfort, et al., "Same-Sex Sexual Behavior and Psychiatric Disorders," *Archives of General Psychiatry* 58 (2001): 85–91, which showed higher levels of mental health problems among homosexuals in the Netherlands (the authors were surprised at this, given that tolerance of homosexuality in the Netherlands is perhaps greater than anywhere else in the world). Even a recent issue of the Brown University Medical School's magazine, *Brown Medicine* ("The Doctor Is Out," 12:1 [2007]: 33–38, at 37), acknowledges that homosexual persons suffer from a "higher incidence of substance use and mental illness, namely depression and eating disorders" and that "the rate of attempted suicide [is] three to seven times higher in gay and lesbian youth." Further, despite its goal of promoting positive exposure to "Queer Med," Brown University's gay-lesbian-bisexual-transgender medical student organization, this article admits that "research has shown [that health issues] are more prevalent among gays and lesbians, such as other sexually transmitted diseases, substance use, mental health issues, and certain types of cancer" (36). Obviously, proponents of the same-sex lifestyle would argue that these higher rates of mental disorders among homosexual persons result from the stigma the homosexual lifestyle has traditionally suffered in western society. But from a natural law perspective, such higher rates give evidence of the fact that we are here dealing with an inherently disordered lifestyle, a *malum in se*.

of the *Diagnostic and Statistical Manual of Mental Disorders*.⁷³ While political correctness would have us believe same-sex attraction and activity remain “normal aspects of human sexuality,” to quote again the APA, and thus beyond moral and even medical reproach, natural law reasoning can help us question the wisdom of such correctness. Natural law reasoning can help us see that we should not always equate “normal” with “normative” behavior.

These studies stand at the tip of an immense iceberg. What the natural law tells us is requisite for moral, and thus psychological, health still needs the backing of significantly more empirical psychological research. If what has been outlined above on the natural law’s ordering of our sexuality to our true good, to our true human flourishing, is correct, such clinical research should only corroborate this.⁷⁴

⁷³ As is well known, whereas previous editions of the American Psychiatric Association’s *Diagnostic and Statistical Manual of Mental Disorders* classified homosexuality as a psychosexual disorder, the 1973 edition dropped this classification. Few doubt that this omission was politically or socially, and not scientifically, motivated; Stephen Worchel and Wayne Shebilske (*Psychology: Principles and Applications* [Englewood Cliffs, NJ: Prentice Hall, 1983], 406), for instance, plainly admit that “the difference in the two classification systems is largely the result of greater acceptance of homosexuality in today’s society as compared to the attitudes that were common just a few years ago.” The end result is that now it is commonplace for therapists to suspend any moral or psychological judgment on the role of homosexuality in mental health; cf., for example, *Gender Identity Disorder and Psychosexual Problems in Children and Adolescents*, by the psychiatrists Kenneth J. Zucker and Susan J. Bradley, and in particular the chapter “Homosexuality in Adolescence,” 339–53. For an analysis of the APA’s handling of this issue, cf. Ronald Bayer, *Homosexuality and American Psychiatry: The Politics of Diagnosis* (New York: Basic Books, 1981), esp. 179–95.

⁷⁴ In his Mapping America project, which studies the volumes of data concerning sexuality and family life, the psychologist and researcher Patrick F. Fagan (“The Data that Do Not Fit,” *The Catholic Thing* [nfnproofs.com], March 9, 2010) does not mince words as to what such data, no matter politically correct sensibilities, clearly shows: “marriage (is) fundamental to individual well-being and to the normal functioning of society . . . [Indeed, while] social scientists [might] often disagree with the Church [in its vision of the true human good], their data do not . . . In the social sciences, [then,] the abuse lies not in directly falsifying data (where the punishment is also severe), but in deliberate avoidance or blocking of investigation of a host of ‘politically incorrect’ topics such as the effects of abortion, the psychogenesis of homosexuality, or the consequences of contraception . . . [For] I suspect investigation of the data may actually bolster traditional natural law . . . and witnesses to the potential power of the social sciences to confirm natural law and help the Church help man be true to himself.”

What about Civil Law and the Natural Ordering to Heterosexual Marriage?

Our ordering to heterosexual marriage via the natural law has obvious implications for human jurisprudence and the just ordering of civil society. The simple reason for this, of course, is that in Thomas's doctrine of law the very purpose of civil law (or positive law, as he calls it) is to make specific applications, in accordance with the particular determinations of the societies in which we live, of the otherwise generalized precepts of the natural law. Our natural law ordering to the good is merely generalized or indeterminate. Since we live in the concrete, in the here and now, the natural law's indeterminate ordering to the good must be made more determinate and concrete if it is to serve us in our actions. And this is what human man-made (positive) law accomplishes.

Thus Aquinas's famous observation that civil law "enjoys the nature of law in the very measure that it derives (*derivatur*) from the natural law."⁷⁵ Not simply a reformulation of natural law precepts, civil law truly *adds* to the natural law, and this because the natural law equips us with the necessary moral sensibilities by which our minds can render such adjudications.⁷⁶ Not a "closed system," the natural law, as intended by God, is meant to be *completed* by the laws we pass. For Aquinas, civil law does not "rival" the natural law; it *complements* it: "Human law is necessary," writes Russell Hittinger, "for the purpose of making, changing, and applying rules left indeterminate by natural law."⁷⁷

With respect to our natural ordering to heterosexual marriage, then, civil law completes or concretizes the natural law when our legislative bodies pass laws upholding and safeguarding the institution of heterosexual marriage, that is, when our societies codify the nuptial meaning of human sexuality.⁷⁸ Any civil law impinging upon our sexuality will enjoy the force of law only to the extent that it enshrines the nuptial meaning of human

⁷⁵ ST I-II, q. 95, a. 2.

⁷⁶ "Having received a law, the human mind can go on to judge and command according to that law." Russell Hittinger, *The First Grace*, 97.

⁷⁷ Hittinger, *The First Grace*, 102.

⁷⁸ ScG III, ch. 123: "Since then there is in the human species a natural exigency for the union of male and female to be one and indivisible, such unity and indissolubility must needs be ordained by human law. . . . [And] since all other factors in human life should be subordinate to that which is the best thing in man, it follows that the union of male and female must be regulated by law, not from the mere point of view of procreation, as in other animals, but also with an eye to good manners, or manners conformable to right reason, as well for man as an individual, as also for man as a member of a household or family, or again as a member of civil society."

sexuality, or the body-soul (procreative-unitive) symbolism of our sexuality. Most fundamentally, this happens when societies ascribe the legal recognition of marriage *exclusively* to the union of one man and one woman, as Pope Benedict has observed.⁷⁹ But it also happens in less obvious ways, such as in what the same Pontiff has called “family-friendly fiscal policies.”⁸⁰ Examples would include extending tax benefits to married couples, or the granting of a special family allowance to married couples with children, an allowance that would increase with the birth of each successive child, as is the current practice of some western European governments.⁸¹

Certainly, much more could be said on this point. But that would be the subject of another essay.

Conclusion

In a world that has lost its bearings on the meaning of nature in its headlong rush to redefine marriage, Thomistic natural law theory offers a sober return to reason and common sense. While the desire to extend “tolerance” to alternative lifestyles is an understandable one, the order of nature is not so fluid as to allow us to throw it to the prevailing cultural winds no matter what we wish to accommodate. When, in an analogous case, the Roman emperor Caligula notoriously sought to redefine, so to speak, the office of Roman consul by attempting to appoint his horse Incitatus to a consulship, this emperor, in his madness, resorted to pure nominalist double speak. Caligula could say or believe whatever he wished, but his imperial authority could not change the simple fact that a horse lacks the requisite nature, and thus the intrinsic authority, to hold the office of Roman consul.

⁷⁹ As already seen, in his weekly Wednesday audience on December 16, 2009, Pope Benedict pointed to laws that respect “the relationship between natural law and positive law” as truly “equitable” laws, in as much as such laws attest to the fact that there exists “an objective and immutable truth, the origin of which is in God, a truth accessible to human reason and which concerns practical and social activities. This is a natural law from which human legislation, and political and religious authorities, must draw inspiration in order to promote the common good” (as reported on the Vatican website, www.vatican.va, December 16, 2009).

⁸⁰ In his talk to European family associations on May 16, 2008, Pope Benedict promoted a “family-friendly fiscal policy” whereby governments would “examine taxes, fiscal policies and government programs from the perspective of how they would affect family life,” as reported by Catholic World News (cwnews.com, May 16, 2008).

⁸¹ The family allowance is also the practice of the small liberal arts school St. Thomas Aquinas College in Santa Barbara, California. This college is to be commended for faithfully implementing the demands of social justice as it pertains to marriage and family.

It holds the same for any judicial or legislative action seeking to confer the title of marriage, and the civil rights attached to it, upon same-sex unions. Thomistic natural law, appealing to the authority of reason alone, makes clear the fact that our sexed nature is “hard wired” for heterosexual marriage, in that we enjoy a natural inclination to the joint goods of procreation and the rearing of children and of unitive love. These goods rank as the highest that our sexuality targets, and it targets them together. Since they are not by nature ordained to procreation, nor to unitive love (with no bodily complementarity, there can be no real bodily union), same-sex unions lack the requisite nature, and thus the intrinsic authority, needed to enjoy the juridical status of marriage. They are opposed to the true human good and can never contribute to genuine human flourishing. Only heterosexual marriage can. N V