
NATURALIZED VIRTUE ETHICS AND SAME-SEX LOVE

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Abstract: There are certain traits that make us good human beings by enabling us to realize our natural ends. From the perspective of such a naturalized virtue ethics, there is nothing obviously unethical or imprudent about the capacity for same-sex love. Moreover, given the resources of this theory, such questions are empirical ones. If the capacity for same-sex love is a trait the possession of which makes one a good human being, then the just state will promote and encourage it, or at least not stand in its way. It can do so by allowing same-sex marriage.

1. Introduction

Two thousand three will go down as a watershed year for civil rights for homosexuals. The United States Supreme Court ruled that sodomy laws are unconstitutional, while the Massachusetts Supreme Court ruled that a ban on same-sex marriage violated that state's constitution (Lawrence v. Texas, 000 U.S. 02-102; Goodridge v. Dept. of Public Health, 440 Mass. 309). Two thousand four brought the predictable backlash, in the form of state constitutional amendments defining 'marriage', various referenda passed in several states, and a proposed amendment to the United States Constitution. Over the coming months and years the

issue of same-sex love and legitimate union will be hashed out in the courts, both legal and that of public opinion. Unfortunately, given the vested interests, the religious convictions, the emotional biases, and other, possibly nonrational, factors involved, it will continue to be difficult for the debate about same-sex relationships and same-sex marriage to be conducted in a rational way.

The fact that many of the proscriptions on same-sex love are supposedly warranted based upon controversial metaphysics strongly compels us to set these arguments aside. We do not want our premises—for example, that there is an all-powerful being who has laid down certain codes of behavior—to be as or more problematic than our conclusions. That is, it seems easier to “prove” that certain practices are right or wrong than that there is a god. Moreover, there is debate amongst those who believe in a god as to what that being would have us think and do in regards to lesbians and gays. Thus, part of the struggle, as with other controversial ethical and political issues, is to put the debate on a rational footing. We must begin elsewhere than our provincial religious traditions and communities when having a fully public discourse about the legitimacy of same-sex love. The reasons given in all cases must be those that a rational person would accept and that are

sufficient to make the particular case, whatever that might be. And the discourse must be a secular one in order to be inclusive and, if possible, persuasive to those who dwell outside any particular tradition or community.

Ethical naturalism is and always has been an attempt to get beyond provincialism and mere tradition and to ground ethics, somehow, in natural facts. In what follows I assume a certain naturalistic ethical-political theory. There are certain traits that make us good human beings by enabling us to realize the natural ends of creatures like us. From the perspective of such a naturalized virtue ethics, there is nothing obviously unethical or imprudent about the capacity for same-sex love. Moreover, given the resources of this theory, such questions are empirical ones.¹ If it should turn out that the capacity for same-sex love is a trait the possession of which makes one a good human being, then the just state will promote and encourage it, or at least not stand in its way. It can do so by allowing same-sex marriage.

2. Naturalized virtue ethics

Naturalized virtue ethics is Aristotelian, teleological, and has much in common with recent and not so recent work by Philippa Foot, Rosalind Hursthouse, and Alasdair MacIntyre (see also Brown 2004). In brief, the central idea is that there are certain traits of human beings the possession of which makes their possessor a good human being. A good human being is one who has those traits that reliably enable it to realize those ends that are natural to creatures like us. The natural ends of human beings are arguable—to a certain degree. Indeed, arguing about what they are is part of the ethical discourse. Hursthouse lists individual survival, continuance of the species, characteristic enjoyments and freedom from pain, and well functioning of the social group. Though not above criticism, this list will serve our purposes here. Certain traits, which have traditionally been called ‘virtues’, are constitutive of one’s being a good human being; and they are partially constitutive of one’s leading a good, flourishing human life. Of the traits that could either enable or disenable our achieving our natural ends, some are physical, some are mental, and some are what we would call ethical, for they involve our treatment of others.²

If we can base a scheme of evaluation on what would make us good human beings, and if we can specify what makes human beings good in a plausibly naturalistic way, then we have something on which to base a secular political theory. Once we know what makes a good human being, we know what would make for a just political system: it is one that works to promote and to encourage the development of such human beings. At the least, the just state would not stand in the way of such development. The political

view I have in mind here is Aristotle’s (1094a, 1152b), though the main idea is basic to many forms of ethical naturalism. First, we identify something that is intrinsically good; in this case it is a human being with certain traits. Then we adopt the following principle: promote, encourage, or at least do not get in the way of that.³

The purpose of this paper is not to develop and defend naturalized virtue ethics, nor the supplemental neo-Aristotelian teleological political theory. What I will do instead is show how the theory applies to the important ethical and political questions about same-sex love noted above. As a secondary benefit, this discussion will help us better understand exactly what kind of ethical naturalism I am advocating, and how it differs from its nearest theoretical relatives.

Someone might feel inclined to say that this paper is part of the project of testing the theory in question, by seeing how it squares with our pretheoretical intuitions. It is often assumed by naturalists that, if an ethical theory (coupled with the relevant facts) led us to wildly counterintuitive conclusions, such would constitute a good reason for rethinking or perhaps abandoning the theory. However, it is difficult to ascertain whether we have any “pretheoretical” intuitions about anything, at the least not any intuitions that are not conditioned by ideology of some sort. We would expect this to be even more likely to be true the more controversial a topic is, and same-sex love is certainly controversial. Readers will have to test their own intuitions, of course. The conclusions we can derive from the principles of naturalized virtue ethics coupled with the relevant facts happen to square with my own intuitions.⁴ Perhaps surprisingly, naturalized virtue ethics shows how the capacity for same-sex love can be ethical, how there is nothing obviously prudentially wrong with having the capacity, and why the state ought to encourage its development.

3. Is there anything unethical about same-sex love?

It will help to get clear on how I am using some key terms. A human trait is a feature of a human being. Such traits are physical, psychological, and behavioral. A human behavioral trait might involve an overt intention, or it might be quite spontaneous and even out of the individual’s control. An ethical trait is a behavioral trait that essentially involves one human being’s treatment of another, relative to the realization of the natural human ends. A human behavioral trait may be classed as ethically bad insofar as it involves blocking, disallowing, or prohibiting realization of the natural human ends. An ethically bad human being is one who manifests bad ethical traits. An ethically good or very good or just okay human being is one who, to varying degrees, manifests good ethical traits, those that along the ethical dimension enable or

promote realization of the natural human ends. By tradition, we call such traits moral or ethical virtues.

As for 'same-sex love', I have chosen this term quite consciously, and I concede that it might seem a bit loaded. For one thing, the thoughts and feelings evoked in people by the word 'love' are often positive, even though such connotations of my terminology are only accidental. I choose the term to be broader than the usual 'homosexuality'. The 'sexuality' part of that term can tend, I think, to focus attention in some people's minds on the sexual act, whatever that might be, which can be distracting. Love, however, does not have to involve sex, though it does involve intimacy of a profound kind, and often does involve erotic interaction of some sort. That is what I am talking about when I say 'same-sex love'. Such love is a deep, intimate bond between two human beings of the same biological sex, which might or might not involve sexual behavior. It is when a man loves a man or a woman loves a woman. However, I leave open the possibility of (legitimate) erotic interaction to rule out the sort of same-sex love one might have toward a parent, child, sibling, or close friend.⁵ Were I to try to go further in defining what I mean by 'love' in this context, I would have to start quoting the poets.

The behavioral trait associated with this state of affairs, the capacity for same-sex love, like many other virtues, does not have a name. But we should have an idea of what that capacity is. Moreover, the primary reason the theory being applied here counts as a virtue theory is because it is the traits of individuals that are the loci of evaluation. We focus on the individual and its traits. Thus, it is not love per se that will be evaluated, but the capacity for entering into that state of affairs. If the capacity for same-sex love tended to reliably subvert realization of our natural ends, in the way noted above, then it would be an ethically bad trait. The question, then, is whether it does. And this is an empirical question. Certainly, if a human being in a same-sex relationship with another possessed traits that systematically kept the other from becoming a good human being, we could judge the former individual to be an ethically bad human being. But that in no way differs from our ethically sanctioning bad behavioral traits in opposite-sex relationships. Cruelty, for example, is cruelty (see Hursthouse 1999, 214-216).

To the contrary, it seems that the capacity to love, and thus to have a chance to form this special kind of deep, intimate bond with another, is a trait that makes a human being a good one, if only for the reason that such love is one of our characteristic enjoyments. Moreover, natural lawyers, Aquinas included, have taken love to be a basic human good (Aquinas III, 122). Where the present view parts company with the standard natural law view is in maintaining that such love appears to be a basic good whether the individual's preference or orientation is for her or his

own biological sex or for the other. But only if, somehow, the same-sex love of one partner toward the other systematically disallowed or prohibited the realization of the natural human ends of the other (some other) can that trait be bad from the ethical perspective. That seems unlikely to be generally the case, though it is possible. It is still, in the end, an empirical question.

It might be suggested that the same-sex love of one person for another might prohibit the beloved's meeting the natural human end of continuance of the species. However, as long as exclusive homosexuals who never reproduce (say, through surrogacy or artificial insemination) remain a relatively small part of the total human population, there seems little chance of the human species going extinct. We have in this "decline of civilization" argument a fallacious slippery slope. Moreover, it is far from obvious that one human being's same-sex love for another would stop either from continuing the species, or at least contributing to that continuance, if not by procreating then by providing some sort of care or education for the young.

Finally, there is fear among some that public acceptance of same-sex relations, especially same-sex marriage, would somehow harm opposite-sex marriages. Now, it is possible that general public acceptance of same-sex relationships could disrupt a particular opposite-sex marriage, if it were the case that one of the partners was erotically oriented to members of the same sex. That person might be staying in the marriage despite her or his tendencies, and might, if the moral opprobrium associated with same-sex love were lessened by the official acceptance of same-sex love, decide to leave. However, the more common concern is not that specific one, but rather that acceptance of same-sex marriage would disrupt the institution of marriage itself. However, unless someone spells out this line of thought more fully, while avoiding the assumption that homosexuality is bad, this concern may safely be ignored. To some, we live on a slippery slope, precariously balanced, where a single public policy decision could spell disaster. This is, fortunately, not the case.

We should note, from a historical perspective, that in those cultures where same-sex love was not universally frowned upon—for example, ancient Athens—the institution of marriage did not suffer, nor did the civilization fall (see Crompton 2003). But we should also note that same-sex marriage never became accepted practice by Athenians. The answer to whether same-sex marriage would damage the institution of marriage is an empirical one. It is, of course, all too easy to scapegoat one group for problems that have other sources, sources that might, indeed, be out of anyone's direct control. If straight marriage is in "decline"—a debatable question—the

causes of such decline are as varied as the expansion of women's rights and conjugal liberty, as well as internalization of the ethos of consumerist capitalism.⁶

4. Is there anything imprudent about same-sex love?

Many advocates of naturalized virtue ethics, Aristotle included, maintain a position something like the following. The possession of the virtues—that is, those traits that make one a good human being—are also good for the one who has them. That is, the virtues are a benefit to their possessor. In short, the person who has such traits will tend to be, all things considered, happier and healthier than one who lacks such traits. These sorts of theories have been called welfare-based virtue theories or eudaimonistic theories. I do not completely agree with Aristotle that “justice pays” (or tends to). Nevertheless, according to naturalized virtue ethics, one of the natural ends of human beings is rather frequent enjoyment of their characteristic pleasures. Thus, insofar as happiness is partially constituted by relatively frequent enjoyment of one's characteristic pleasures, naturalized virtue ethics does have something to say about prudence, insofar as prudence is understood as being the trait that tends to enable one to make good decisions about one's personal happiness.⁷ The question to consider, then, is whether the capacity for same-sex love tends to make the possessor of that trait happy or unhappy.

In an interesting and provocative paper entitled “Why Homosexuality Is Abnormal,” Michael Levin argues that homosexual behavior usually leads to unhappiness (Levin 1984; see Levin 1996). The argument is as follows. Homosexual behavior is abnormal because it is using one's body parts in a way for which they were not naturally selected. Abnormal behavior tends to make the one performing the behavior unhappy. Thus, homosexual behavior will tend to make one unhappy. Levin understands the claim that homosexual behavior will tend to make one unhappy as a prediction of his hypothesis that homosexuality is abnormal. If most homosexuals are unhappy to a certain degree, this fact both confirms and is explained by his hypothesis that homosexual behavior is abnormal.

Levin is to be commended, at least, for trying to present a purely naturalistic “natural law” theory. Such theories are prominent in discussions of same-sex love. Insofar as natural law theories are based upon controversial metaphysics, they should be set aside. However, there is a secular thread that can be drawn out from the Thomistic tradition, a thread not dissimilar to the main theoretical underpinnings of naturalized virtue ethics. This is the idea that there are natural human ends. Among these natural human ends Aquinas includes marriage. One of his requirements upon sex within marriage, however, is that sex must

be potentially generative (Aquinas III, 122). This requirement disallows the rectitude of any nonvaginal intercourse. Aquinas did not try to defend this requirement, and it is difficult to see how it could be defended, except more or less along the lines that Levin, in his purely naturalistic way, is attempting. In fact, as it stands, Levin's argument strongly resembles the “perverted faculty argument” of the natural lawyers who have sought to defend Aquinas requirement, viz. that it is immoral to use one's body parts for purposes that are not their natural end. Interestingly, both natural lawyers and Darwinians must stress procreation if they wish to maintain that there is something wrong with same-sex love and/or same-sex marriage. Of course, this makes their view notoriously reductive as to the natural end of opposite-sex marriage. Moreover, it would render immoral any nonvaginal sex by straights as well as vaginal intercourse using birth control or by those couples in which at least one partner is sterile.

As for prudence, Levin might be correct that the group he considers as his sample—highly promiscuous gay males—do tend to be unhappy. He cites some rather persuasive evidence to support that claim. However, this unhappiness could be a function of promiscuity, lack of self-control, or repressive social mores, and not preference or choice of sex object type (cf. Hursthouse 1999, 214-216). But even if Levin's sample were not biased, even if he did include the “misuse” of body parts by women or the “misuse” of body parts by straights, and showed, moreover, that such “misuse” tends to make members of individuals in these groups unhappy, he and I are not talking about the same thing. I am talking about same-sex love and the capacity for it and whether having that trait will tend to make one unhappy.

However, let us for a moment consider the “misuse” of body parts. It could be that the “misuse” of our body parts—where we understand ‘misuse’ in the sense Levin intends, as using parts in ways for which they were not naturally selected—constitutes some of our greatest enjoyments, enjoyments that are characteristically human.⁸ The capacities to engage in the characteristic enjoyments probably were naturally selected for, but these proximate ends, the enjoyments themselves, were not. For example, many people take a profound joy in listening to music. There were no piano, orchestral instruments, or choral singing, for example, throughout most of human evolutionary history. Certainly, our fingers evolved the nimbleness that allows them to make chords and the rest, and our brains evolved to understand musical patterns and to create new ones, and our ear and auditory systems evolved to hear all kinds of sounds, and for some reason certain sounds affect us emotionally. But it is reasonable to assume that all of these capacities evolved for other purposes; they have been co-opted for uses quite beyond those for which they were

naturally selected. Yet, for the sympathetic listener, an impassioned performance of Handel's *Messiah* is a sublime "misuse" of body parts. In fact, many of our most sublime joys might come from our "misusing" the gifts of nature.

The foregoing might be seen as a *reductio ad absurdum* of Levin's position. Explicitly put, the argument can be expressed as follows. (1) "Misusing" one's body parts for purposes for which they were not naturally selected tends to make the agent unhappy. (2) Playing and/or listening to music is, according to this standard, a "misuse" of body parts. (3) But playing and/or listening to music makes one happy. Therefore, (4) the "misuse" of body parts makes the agent both happy and unhappy. I say that this might be seen as a *reductio*. But, obviously, the same sort of thing (even at the exact same time) might make one both happy and unhappy, so in truth there is no explicit contradiction here. Love, even more so than music, might be one of these phenomena.

It might be contended, however, that certain sorts of "misuse" of body parts, like playing and listening to music, are relatively innocuous, and by the lights of naturalized virtue ethics this is indeed true. It is only the using of our body parts—or any of our traits—in ways that subvert realization of our natural ends that can make us bad human beings. But on Levin's account "misuse" of body parts is imprudent because it tends to make one unhappy, and it tends to make one unhappy because it is not in the interest of biological fitness for fitness-diminishing behaviors to be psychologically reinforcing. (In fact, even if fitness-diminishing behaviors consistently made one happy, without any offsetting unhappiness, they would quickly be selected out of the gene pool—if they are genetically based, that is.) But is there a principled way of delineating which sorts of "misuse" are bad or imprudent and which are not? To say that it is those involved directly with reproduction is to beg the question. One might then add another premise, but then we are likely to end up with such counterintuitive results as that all nonprocreative sex is bad or imprudent. This resembles, of course, the aforementioned reductionistic natural law position on the matter.⁹

We know that love sometimes makes us unhappy. It is also a platitude that love can make us profoundly happy. A capacity for such love makes both these conditions possible. There is a simple empirical test, of course, of whether love generally makes people happy. Take any couple, same-sex or opposite-sex, who really love each other, and ask them. Such a test can also be extended to surveys.¹⁰ Of course, if we were to do so, we would have established only a correlation. But that is something. It is safe to conclude, I think, that the capacity for same-sex love will not generally make one unhappy, unless one happens to live in a society that considers possession

or exercise of that trait bad. Others might then, through such coercive measures as moral shaming, religious indoctrination, and civil law, help to cause one to be unhappy. But even then it still would not be imprudent to possess the trait, unless possession of it were under one's rational control. It would, however, be imprudent to exercise that trait. The attitudes toward and treatment of homosexuals throughout most of our history helpfully illustrate this point.

5. What reasons, if any, are there in favor of state-sanctioned same-sex unions?

In the foregoing sections I have tried to show that same-sex love is neither unethical nor imprudent. Possession of either of those properties by a trait would count as a *prima facie* reason for the state to refrain from the business of promoting the development of that trait, and perhaps even actively to discourage its realization. I have also argued that same-sex marriage would not be obviously detrimental to opposite-sex marriage. Moreover, I have voiced agreement with the natural lawyers that love is a basic human good. Thus, real love is something that should be promoted or at least not legislatively blocked.

There are other reasons for the state to support same-sex unions. Health is one of the "capabilities" of human beings that a just state ought to promote and to encourage. It is an aspect of human beings so basic that a decent human life is almost impossible without it, or at least a threshold level of it. This is not to say that unhealthy people cannot live good lives. However, it seems that in most cases an unhealthy person's life would be improved if he or she were healthier. A naturalist might praise Levin for approaching the question of the abnormality or unhealthiness of homosexual behavior, orientation, or preference from an empirical perspective, even if he ultimately goes wide of the mark. Until and unless we have a clear idea of what is normal and thus what is healthy in general we should refrain from using these concepts indiscriminately in arguments (see Caplan et al. 1981 and Ruse 1986: 204-209, 214-215, 222-223).

Yet we do have a fairly good idea of what health is; and, in an important sense, to be a good human being is to be a healthy specimen of the kind.¹¹ It is to have those traits that reliably enable realization of the natural ends of human beings. If we understand mental health as the possession of those mental traits that enable us to realize our natural ends, then it does not seem that the capacity for same-sex love is mentally unhealthy.¹² If we understand physical health as having those special sorts of physical traits, then, physically speaking, being in a monogamous relationship is generally healthier than having many different sexual partners. But this shows us that the ability to couple closely can foster physical health,

even if close-coupling is not necessarily a result of the capacity for love. The modern state has been in the business of promoting health. It has done so, for example, through anti-smoking campaigns. It might promote mental and physical health by promoting close-coupling, or at least by not standing in its way.

Happiness is also a basic good.¹³ However, it might be objected that, if love is a “mere” enjoyment, then the state has as much business promoting that state of affairs as it does promoting situation comedies, since many people enjoy those.¹⁴ A ready response to this objection is, first, that not all enjoyments are created equal. Some are among the most profound of human life. Second, having love in one’s life might, in many if not most cases, be a precondition for other important enjoyments and basic goods. Certainly, when we think of the just state we might have in mind the classical liberal ideal, where the state’s business is only to coordinate amongst people’s actions in such a way that no one’s liberty is exercised at the expense of anyone else’s. If we accept that minimalist view of the state’s role, it does not seem to be the state’s business to “promote” anything, except maximal individual liberty. But that is not the sort of state I have in mind as the just one.

The important question to ask, in the current context, is whether the capacity for same-sex love enables or hinders an individual’s realizing those ends that are characteristic of our species. A just—or I should say virtuous—state will be one that promotes and encourages those traits that make us good human beings. Not just any suite of traits will make someone a good human being. I have urged throughout this paper that the capacity to love one person deeply does in fact make us good human beings. A virtuous state would encourage and promote that virtue, whatever the biological sex of the two human beings involved. One way that the state could say, from its position of secular authority, that this kind of love is good would be by recognizing same-sex marriage, not just same-sex civil union. Of course, the latter course might be the more politically expedient at this time.

I will not here try to deliver an assessment on the issue of whether gay marriage ought to be allowed under the current U.S. Constitution. Philosophers and other scholars more versed in the nuances of constitutional law and history have already made some powerful arguments on both sides.¹⁵ However, it seems obvious that marriage, not mere civil union, carries the deeper symbolic meaning. It comes closest, in some minds, to representing and thus expressing the depth of the bond between the lawfully wed. By encouraging same-sex partners to wed we encourage the capacity to love another deeply, to commit to that person, and to respect the other’s virtues.

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Endnotes

1. I am not suggesting, of course, that all ethical questions are empirical ones. For example: a good human being is one who possesses those traits that reliably enable the realization of our natural ends is a kind of definition, not an empirically verifiable hypothesis. See Brown 2004 for more on this.
2. A more "radical" version of virtue theory would be an agent-based virtue ethics, in which some (internal) state of the agent, e.g., her emotions, are intrinsically good.
3. See Railton 1986 for an approach that takes something else—namely, the fully informed desires of impeccably rational individuals—as intrinsically good.
4. A Nietzschean might accuse me of giving bad reasons for what I believe on "instinct." In response, I think the reasons offered above are pretty good.
5. I would like to thank Lani Roberts for suggesting this emendation.
6. This final clause should not be seen as an indictment of this ethos.
7. I am here taking a rather limited view of what happiness might be. I do so for the sake of argument, as it were, since I am dealing with Levin's view. However, we might consider the virtues, both moral and nonmoral, to be partially (at least) constitutive of eudaimonia. I do not think that anything I say above would be affected by this more expansive view of happiness.
8. Levin's account of function, upon which his accounts of normal and abnormal depend, is controversial. See Allen et al. 1998 and Ariew et al. 2002.
9. It is also, of course, why the Church deems masturbation and "artificial" birth control immoral.
10. If they are close friends, and open-minded, you might want to ask them if they ever "misuse" their body parts and whether this makes them unhappy or not.
11. However, whether or not homosexuality is abnormal or unhealthy is irrelevant to the question of civil rights for homosexuals (Suppes 1999). After all, we do not usually deny civil rights protection to people who are sick with cancer, for example, even though on most accounts these people are unhealthy. In fact, many of us tend to think that the unhealthy are the very sorts of persons who should be protected by legislation against the tyranny of the majority, in this case, the healthy.
12. Until quite recently, homosexuality was classified as a mental disorder. See Ruse 1988: 203-235 for trenchant discussion of the question of homosexuality as mental illness.
13. But see note 7 above.
14. I would like to thank Dina Garmong for bringing up this point.
15. See, e.g., Sunstein 1997 and Bradley 2000 for two opposing sides.