



The Owl of Athena

CONTRATYRANNOS

The Natural Law Theory of Human Progress Website

EXCURSUS #23

One of a series of monographs that expands the discussion of important topics examined in *The Natural State of Medical Practice*.¹

THE NATURAL LAW THEORY OF HUMAN PROGRESS

Summary: The Natural Law Theory of Human Progress, as derived from study of medical practice over the ages, proposes an explanation for human progress in the past and provides a path for human progress in the future. Although based on civil liberties arising from adherence to natural law in the Judeo-Christian West, its tenets are not relativistic and therefore applicable to all societies and cultures. In providing this explanation, the Natural Law Theory of Human Progress can be considered evidence for (1) the existence and goodness of natural law, (2) the existence of natural rights from which civil liberties are identified using natural law, and (3) the inevitability of human progress in a free society.

¹ The Natural Law Theory of Human Progress is the principal topic of the four volumes of *The Natural State of Medical Practice* as published by Liberty Hill Press:

Vol. 1 – *The Natural State of Medical Practice: An Isagorical Theory of Human Progress*

Vol. 2 – *The Natural State of Medical Practice: Hippocratic Evidence*

Vol. 3 - *The Natural State of Medical Practice: Escape from Egalitarianism*

Vol. 4 – *The Natural State of Medical Practice: Implications*

NOTE: With this excursus, the *Isagorial Theory of Human Progress* is hereby renamed the *Natural Law Theory of Human Progress*.

The original term, “isagorial,” is derived from the Greek ἰσαγορία. Its etymology associates ἴσος (isos, equal to) with the classical Greek ἀγορά (agora, the assembly of the people). Thus, an isagorial society is one that demonstrates “equality in speaking openly in public assembly” (i.e., freedom of speech and freedom of assembly) and, by extension, “equality before the law.”² Because of that etymology I mistakenly thought that “isagoria” would tempt readers to explore its meaning and significance by examining the volumes of *The Natural State of Medical Practice*. “Isagoria,” however, perhaps because it is not found in dictionaries, after ten years remains unrecognized by readers of any category. I have therefore decided to display its full significance in this new title, rather than leaving it to the reader to deduce from “isagoria” the significance of the work.

With minor changes in text, the natural law theory of human progress remains characterized thus:

1. It is the basis of all apolitical human progress up to the present time.³
2. It is voluntary, inclusive, autochthonous, and independent of other social factors.
3. It is facilitated by and protected by democracy, but democracy is merely a permissive step for development of a society that protects the natural rights of its citizens.
4. It is not a political force and has no coercive function.
5. It is qualitatively proportional to the degree of protection of natural rights.
6. It is quantitatively proportional to the diffusion within society of natural rights.
7. It is temporally proportional to the institutionalization of natural rights.
8. It is most effectively expressed through collegial voluntary and independent groups of free individuals with the focused intent of self-betterment having equal opportunity to state their opinions without fear of retribution, groups identified herein by another Latinized ancient Greek word, the “koinon.”

The definition of the “natural law theory of human progress,” given below, is also unchanged from that of the “isagorial theory of human progress.”

² ἰσαγορία was used by Herodotus in his *Histories* (Bk. 5.78) in comparing virtues of Persians and Greeks. Although he was reticent in his admiration for democracy, he could not avoid concluding the obvious, that freedom could be a great good, for it explained the military successes of the Greeks over vastly larger Persian forces. A term for equality before the law is “isonomial.”

³ Volume 4 (Excursus 18) of *The Natural State of Medical Practice* will also show, at its conclusion, that the natural law theory of human progress applies to political (social) as well as apolitical progress.

1. Background

If one were to ask interested citizens of today's Egypt, India and China "What is the greatest foundational medical writing of your civilization?," the answers would be, respectively: *Papyrus Ebers*, *Charaka Samhita*, and *Huang Ti Nei Ching Su Wen*. Cuneiform writing in the Middle East makes early written works less accessible to the average citizen, but scholars would also identify the *Treatise of Medical Diagnosis and Prognosis* from ancient Mesopotamia with much of its wisdom originating in ancient Sumer. If then asked when the wisdom in those works began to be accumulated, the answers would be, respectively, approximately 3000 BC, 2000 BC, 2500 BC and 3000 BC. Latest scholarly estimates suggest more recent dates, but both popular opinion and scholars agree that they are products of the earliest years of their respective civilizations, perhaps even bordering on the Late Neolithic. Modern academic opinion of the wisdom and objectivity of those nascent medical works is, while quite selective and given the *tabulae rasa* from which they arose, highly favorable. Hippocratic medicine had a similar beginning about 700 BC, but, despite its disappearance two thousand years ago amid the transgressions of the Roman Empire, it retains its proud legacy today after 2500 years.⁴

All five examples of ancient medical wisdom failed, however, to intrinsically improve over many centuries, as described below. Thus, the three points of instruction are:

- (1) The great lesson to be learned from their primitive efforts lies not in their ultimately ineffectual medical heritage but instead in the nature of the society in which they dwelt. Thus, their medical wisdom can be viewed as a marker of a society that transiently permitted inherent human ingenuity to emerge, engage others, and initiate medical progress. From this marketplace of ideas is derived the Natural Law Theory of Human Progress.
- (2) In all five instances authoritarian political dynamics forestalled any potential for progress that would have benefitted mankind.
- (3) There is no evidence that the medical knowledge accumulated by those ancient practitioners has any foundational relevance to modern Western medicine and its unprecedented and global prolongation of life expectancy.

2. The Natural Law Theory of Human Progress explicated

Definition of the Natural Law Theory of Human Progress: a theory ascribing all apolitical advances for the betterment of mankind to autonomous associations in which each member seeks self-betterment and has equal opportunity to speak freely and to openly share ideas about the group's

⁴ How could such ancient knowledge retain its popular appeal, given the miracles of modern science, so much so that Ayurveda and Traditional Chinese Medicine continue to grow in popularity (the wisdom of ancient Sumer and Egypt for the most part having disappeared by about 300 BC)? There are five reasons: (1) ethnocentricity and the appeal of legend, (2) inexpensiveness, (3) unawareness of an alternative, (4) organized promotion, and (5) incorporation of elements of modern scientific medicine, often under the guise of tradition. Of the five reasons, there is an element of historical truth in legend. And Ayurveda and Traditional Chinese Medicine are much cheaper than Western medicine, the latter having been promoted by the Chinese communist government since it came to power in the 1940s, with more expensive Western medicine purposely delimited and with the institutionalization of "barefoot doctors" in the 1960s, and in more recent years in India with commercial promotion of Ayurveda by government. Melding of Western medicine with Traditional Chinese Medicine and Ayurveda has been occurring for years.

common interest without fear of retribution. Axiomatically it excludes “betterments” that have been stolen, copied, derived by exploitation, or used for subjugation of others.

The following observations from my survey of medical practice over the ages led to the Natural Law Theory of Human Progress, each observation beginning with relevant words from the above definition of the theory:

- A. “To speak freely and openly share without fear of retribution;” the importance of civil liberty. There must be an element of freedom of speech, assembly and expression, with no interference from governance.
- B. “Self-betterment;” the importance of motivation. If there is no need for something, it will not be sought. The inherent incompetence in authoritarian governance, which includes the social kinship, replaces personal motivation with the three “d’s,” mandated direction, duty, and dedication, thus limiting attempts to both initiate and retain progress.
- C. “Ingenuity.” This universally present and uniquely human characteristic that fosters progress can be crippled but not eradicated.
- D. “Common interest.” Several individuals are necessary to initiate progress: their combined ingenuity and motivated coalition to solve a common problem provide a firm base for practicality, safety, and horizontal dissemination of a new idea or product, something an individual is unlikely to do.⁵
- E. “Without fear of retribution;” the importance of choice. Purposeful marginalization of subpopulations of society by governance, usually by coercion, reduces opportunities for their self-betterment.
- F. “Autonomous associations.” This is the nucleus of specialization necessary for progress within a society. Individual discovery and invention in response to motivation and curiosity is the natural course of mankind. Associations free from government interference will improve the practicality, safety, commercial dispersion and generational passage of those discoveries and inventions.
- G. “Betterment of mankind.” A motivation that produces a “good” will also be beneficial for society as a whole, as proven by today’s longer life expectancy. Freedom of individual expression to seek self-betterment thereby leads to progress of society *if society itself is fully able to access, appreciate, and propagate that betterment.*

3. The Natural Law Theory of Human Progress: a brief review of the evidence

The natural law theory of human progress was derived from observations on medical practitioners over the ages. The wisdom of rational medical documents from ancient Sumer, Egypt, India, China and Greece mentioned above first appeared during the earliest years of their civilizations and could only have been accumulated by a group of collegial practitioners. That such wisdom was acquired by the individual savant, peripatetic practitioner, barefoot doctor or

⁵ There must be community, not just to achieve a definition of a society but for transmission of opportunity to sufficient persons that generational passage is possible. A nomadic social grouping of fifty will never progress. And there must be enough people motivated similarly about specific needs or problems that are able to freely communicate new ideas in their group and thereby improve their product. This means the community size must be sufficient to support specialization that will attempt to manage previously unmanageable problems and opportunities. Professions can then be born in societies having no prior experience with such

sadhu is impossible. The nature of the wisdom in the documents could only have been acquired by several colleagues (or more) working in a populous region, probably urban, that permitted individual observations to be confirmed with some degree of confidence, a step toward scientific medicine.

The natural law theory of human progress was suggested by evidence of a degree of civil liberty occurring during early urbanization that permitted formation of collegial associations of primordial medical practitioners to improve their services. The urban shift came when individuals left their kinships to join commercial enterprises and began to spontaneously organize in urbanizing populations, a phase termed “settlement hierarchy” by anthropologists. Previously unknown specializations spontaneously appeared, including nascent medical practitioners. The details supporting this statement have been published.⁶ Thus, these early civilizations attained the first phase of medical beneficence, professional medical practitioners.

But the nature of their developing cities was such that the knowledge, and sometimes the practitioners themselves, promptly became canonized and bent to purposes of political leadership: the Sumerian practitioner, the *azu*, was subordinated by the exorcist-priest, the *asipu*; the Egyptian *swnw* became a pharaonic priest; Indian practitioners came under the direction of the Brahmins; and select Chinese practitioners became servants of the dynastic state and unavailable for the unprivileged masses. The acquired ancient medical knowledge then remained static or regressed during subsequent authoritarian regimes imposed on all four civilizations, this being the conclusion of modern scholarship. From the preceding, the natural law theory of human progress was developed that identified early medical progress as a spontaneous component of early urbanizing populations having no prior experience with specializations. Unfortunately, in all four civilizations this promising development was co-opted by political autocracies, thus condemning their unprivileged citizenry to millennia of medical ignorance and suffering. The second phase, an increase in life expectancy for the general population, was not achieved, although this may not be entirely accurate for ancient Greece.⁷

4. Natural Law Theory of Human Progress and its proofs

Proof I: Twelve ancient lesser civilizations/protocivilizations with relatively large and durable population centers were studied for evidence of medical practices. None were found. The absence of medical practitioners in the twelve civilizations was analyzed in conjunction with the five civilizations mentioned above that had such evidence. The absence of medical practitioners was statistically associated with their prominent kinship affiliations rather than population size, area of domination, duration of the civilization, *inter alia*. The inherent authoritarianism of the kinship is therefore considered as *preventing the initiation* of medical practice, whereas subsequent political authoritarianism of the five civilizations *prevented the maturation* of medical practice. This, therefore, is evidence for a broader significance of the natural law theory of human progress in implicating authoritarian governance as restricting human progress.

Proof II: Once formulated, there was the question of whether natural law theory of human progress was supportable by credible objective evidence. The mere presence of true medical practitioners rather than shamans or medicine-men, while suggestive, does not prove they were

⁶ See reference (1), especially volume 1.

⁷ A small, 4-5 years, but statistically significant, increase in Classical Athens has been claimed: Angel, J. L., *The Length of Life in Ancient Greece*, in *J. Gerontology*, 2:18-24, 1947.

beneficial. To do that, evidence of a resulting “good” is necessary. Merely introducing a primordial scientific process is, in itself, insufficient. Also, that “good” cannot be subjective or a good for some but not for others. Thus, an uncontested good, an increase in life expectancy, was analyzed in the eighteenth civilization, one with sufficient data for analysis. That eighteenth civilization is our own modern Western civilization.

But when did our modern civilization begin? To avoid unnecessary discussion, the Wikipedia definition of 1500 AD is adopted. The more specific reason will be discussed later. But chronologically, following the early 16th C European Reformation there was increasing recognition that leaders, whether religious or political, were not superior to their subjects. There was a trend toward popular involvement in governance in 17th C parliaments, and by the 18th C the concept of natural rights became codified. The ingenuity of the common citizenry in the West was thereby unleashed and local medical practitioners evolved collegial associations to share their knowledge. The result of the latter was a medical base that would increase life expectancy for all citizens beginning in the 19th C, spreading globally in the 20th C. The appearance of the medical professional came two and a half centuries after the onset of the European Reformation.

Remarkably, the same period saw abolition of slavery become a national priority in the West, suggesting that both the ingenuity and morality of the common citizenry were unleashed simultaneously following the Reformation and beginning to affect, for the first time in the history of mankind, the course of a civilization, in this case our own Western civilization. As in Proof I, this is both a proof of, and evidence for, a broader significance of, the natural law theory of human progress. It provides both a statistical proof of the theory by its longer life expectancy and it extends the significance of the theory to include the political realm as well as the apolitical by legislation that ended slavery in the 19th C.

We have, therefore, two proofs of the correctness of the natural law theory of human progress, one “good” being a longer life (see Table below and Excursus 3) and the other “good” being the moral and subsequent physical eradication of a “bad” (Excursus 18).

Mean Stature and Median Life Expectancy of Males and Females in Prehistory and History⁸

	Mean Stature (ft.)		Median Life Expectancy (yrs.)	
	M	F	M	F
Paleolithic	5.81	5.47	35.4	30.0
Mesolithic	5.66	5.24	33.5	31.3
Early Neolithic	5.57	5.10	33.6	29.8
Late Neolithic	5.29	5.06	33.1	29.2
Bronze/Iron Ages	5.46	5.06	37.2	31.1
Hellenistic	5.64	5.13	41.9	38.0
Medieval	5.56	5.15	37.7	31.1
Baroque	5.65	5.18	33.9	28.5
19th C	5.58	5.17	40.0	38.4
Late 20th C (USA)	5.72	5.36	71.0	78.5

⁸ This Table is modified for convenient scanning from that used by: Wells, S., in *Pandora's Seed: The Unforeseen Cost of Civilization*, New York, 2010, p. 23. Measurements of stature could reflect nutritional status, but the consistent male/female difference in height over all eras suggests a degree of validity in the longevity data.

5. Arguments against the natural law theory of human progress and their rebuttal

- A. Progress, as indicated by an increase in life expectancy, may be caused by an enlarging population that will naturally include a larger number (but not percentage) of an older and therefore wiser population.⁹

The increase in life expectancy of modern times might be attributed to progress as an inevitable consequence of an enlarging population that included an equal increase in older, and thereby wiser, members. The wisdom of the patriarch, the sage, old wise men and women, church elders, oral histories, and biblical declarations (Job 12:12 – “Is not wisdom found among the aged? Does not long life bring understanding?”) has reportedly been objectively confirmed.¹⁰ Is a society where children usually do not know their grandparents inherently disadvantaged? If so, then most societies since the first man and woman have been so disabled, and this might explain the slow evolution, perhaps by thousands of years, of progress among humankind. And it is true that there are two periods that are usually considered to have significantly longer life expectancies: modern times (proven) and the Classical Age of Greece and Rome (unproven). These two eras are credited with great success in advancing human progress, and if a larger mature and experienced population can be shown to inevitably explain the periods of progress, then the natural law theory of human progress has been a waste of time.

Response: The significance of an increase in life expectancy in Greco-Roman times will remain unknown, for a society that is structured to include a servitude class will naturally tend to longevity among those whose daily burdens are shouldered by others. And the idea that a concentration of a large number of persons will inevitably lead to invention, discovery and progress is easily refuted by noting that ancient large population centers containing hundreds of thousands had no medical progress whatever in their societies. Although instituting Western public health knowledge improved peasant health above its preceding nothingness, what medical progress benefiting mankind was produced by Mao’s “barefoot doctors” in the 1960s amidst a Chinese population of 700,000,000? No, throughout history, except for the post-Reformation West, concentrated populations got bigger but not better. The issue is readily resolved for modern times, for life expectancy and population should increase prior to evidence of progress if progress is their inevitable consequence rather than a cause. A recent analysis confirms a significant increase in European populations by 1850, first evident in western Europe and then in eastern Europe.¹¹ Using a significantly increased life expectancy as it relates chronologically to new health-related practitioners and practices, Europe at baseline (1770s) did not have a significant increase until

⁹ “Progress” is a social concept based on the awareness, by the citizens of a society, of the improbability of the human condition. For the individual, progress is better defined as movement toward a goal. J. B. Bury, in his *The Idea of Progress: An Inquiry into Its Origin and Growth* (New York, 1932), makes clear his conclusion that the intellectual concept of “progress” is a recent human development that can be traced back only to the 17th C AD. This is in marked contrast to the present work, which views progress as being repeatedly attempted in all societies since mankind’s origin, its absence from the prehistorical and historical record being a consequence of its inhibition rather than want of attempts at initiation.

¹⁰ See: Li, Y., et al., *Compensating Cognitive Capabilities, Economic Decisions, and Aging*, in *Psychology and Aging*, 28:595-613, 2013.

¹¹ See: Max Roser (2018), “*Life Expectancy*.” Published online at OurWorldInData.org. Retrieved from: ‘<https://ourworldindata.org/life-expectancy>’ [Online Resource]

1900, and this includes a significant decrease in infant mortality.¹² As medical progress and movement toward the natural state (i.e., no autocratic intervention) of medical practice began in 18th C Europe, these data confirm that medical progress in Europe, and subsequently in the global populations, preceded its population growth and increased life expectancy.¹³

B. Modern progress results from building on progress received from prior or contemporary civilizations.

The wisdom of Hippocratic practitioners is widely acknowledged in modern Western medicine. Some argue that even five-thousand-year-old wisdom of the Egyptian Papyrus Ebers and the Mesopotamian (Sumerian) *azu* is considered foundational medical knowledge of our civilization. This is explained by the transmission of that earliest knowledge to the ancient Greeks and thence to us. Even the ancient Ayurvedic concept in ancient India of the balance and imbalance of bodily humors is considered by some to have been transmitted to Hippocratic medicine, and humoral theory remains popular even today.

Response: Hippocratic medicine was completely lost during the European Dark Ages. During that dismal period there were no physicians, and it was the monastic system and its lay clergy that did their best to fill that gap in medical care. And even when Hippocratic works were rediscovered and taught in medieval universities it was the word, not the practice, of Hippocrates that was canonized, and the profession of medicine remained a farce. As for the humoral theories, wherever their source, they were a fantastic sophistic invention with no basis in fact. Their transmission, like that of “temple incubation,” is, therefore, automatically irrelevant to medical progress because they were not medical progress and might have been forgotten altogether but for the advocacy of Galen in the 2nd C AD.¹⁴ As a final point, there is no evidence in the 5th C BC Hippocratic works of any significant medical truism or intrusion from an outside source. There are occasional similarities in botanical therapies, clinical findings, and therapies that might seem to indicate a common bond among medical endeavors around the world, but the obvious is repeatedly discovered. And, of course, their interpretations vary: Egyptian papyri describe juniper berries as laxative and antidiuretic, whereas Galen describes them as having a mild diuretic and constipating effect. Spontaneous discoveries are the normal heritage of all mankind and imply no causal relation between societies.

C. “Great Man” theories explain human progress.

The fortuitous association of a particular talent and opportunity, the former usually classified as “genius” and attributed to individual military, scientific and social achievers, is proposed as the basis for human progress. The common men and women are incapable of inventing and discovering those things that have produced the conveniences and prolongation of life to which

¹² See: Riley, J. C., *Estimates of Regional and Global Life Expectancy 1800-2001*, in *Population and Development Review*, 31:537-543, 2005, and Haines, M. R., *The Population of Europe: The Demographic Transition and After*, in *The Encyclopedia of European Social History*, Encyclopedia.com, 10 December 2018.

¹³ Complexities of demography are great, however, and just how much benefit can be ascribed to medical progress and to other factors is a matter of debate, but not here.

¹⁴ For a scholarly review of the many and complex versions of humoral theory see chapter 5 of *Ancient Medicine* (New York, 2005) by Dr. Vivian Nutton, and *The Body in Balance: Humoral Medicines in Practice*, Oxford, 2013, Holden, P. and Hsu, E., editors, especially chapter 1, *Female Fluids in the Hippocratic Corpus* by Helen King.

we are now accustomed. A genius is not a product of the social environment and is born with the potential for greatness that, at the appropriate time, may become manifest. Even genetic natural selection, especially neurological, can be offered as an explanation for the individual genius responsible for the good fortunes of society. We can therefore attribute our modern medical progress to the genius of Hippocrates, Galen, Auenbrugger, Jenner, and Fleming, to name a few.

Response: It is uncertain that there was a medical giant named Hippocrates, some authorities being quite certain he did not exist, his assumed writings being the work of numerous 5th and 4th C BC practitioners. Galen as a prolific writer of medicine was primarily a “promoter” of Hippocratic works and himself. Auenbrugger developed percussion after watching his father use that technique to detect fluid levels in wine casks, Jenner is credited with vaccination for smallpox even though the idea and its first positive results were by a friend, and the antibacterial effect of penicillium molds was a fortuitous discovery by Fleming, as he himself stated, one that others developed using modern scientific method. Although probably quite competent, Einsteinian genius was necessary in none of the preceding. In volume I of *The Natural State of Medical Practice* I have detailed the valuable work of seven “greats” of medicine, and it is clear that the reason for their fame is based on their perseverance and the clinical relevance of their work, not the popular concept of genius as a sign of intellectual superiority.

D. Increase in human intelligence over thousands of years has made human progress inevitable.

Culture, sociability and a variety of other nongenetic variables have been suggested as causes of the miracle of modern progress, theories claiming our ability to progress is due to increasing human intelligence that reflects organic alterations of the central nervous system. Our predecessors’ increase in intelligence over several millions of years has allowed us to be far more adaptable to changing circumstances than other species, thereby increasing our ability to survive. Nutritional status has also been considered a factor, but studies are inconsistent on its role in generational passage of intelligence.

Response: Three important factors argue forcefully against modern theories of increasing human intelligence. One is the fanciful nature of those modern theories, which to the nonspecialist suggest Lamarckism and Lysenkoism. Another is that prior to about two centuries ago human life expectancy for the average citizen in every society was no greater than that of the Neanderthals of forty thousand years ago, about thirty-five years, and was exceeded by the gorilla and orangutan. That “genius” gradually evolved by natural selection or variations thereof is absurd. A third objection is that the increase in human life expectancy detected about two centuries ago occurred suddenly. There had been no gradual increase in life expectancy over the preceding ten thousand years. Even if one discounts the object of this excursus, the tying of increased life expectancy to the Decalogue and medical progress that attended protection of the Judeo-Christian civilization system of natural rights, our species had tens of thousands of years over which to display a progressive increase in longevity, and this simply did not occur.

E. The earliest inventions occurred in superior societies and spread globally via trade routes.

It can be argued that the natural law theory of human progress, which is said to explain

Western progress as documented by a markedly lengthened life expectancy, is disproved by the long list of important discoveries and inventions by famous people in all civilizations in all eras. For example, the famous historian and sinologist, Dr. Joseph Needham, gathered 255 examples of inventions from 4,000 years of Chinese history which he claimed included many that were ultimately exploited by the West but were the consequence of Chinese genius.¹⁵ He viewed much Western progress to be a consequence of Eastern genius.

Response: Needham, however, admittedly had difficulty in providing a clear definition of “invention,” and one of the inventions he identified was the Great Wall. But the concept of erecting a wall is unlikely to have been invented by a particular genius at one time and in one place on earth and then spreading globally. And take the invention of explosive powder in the Tang Dynasty (9th C). This was not a matter of genius. It was fortuitous and was detected by alchemists searching for substances to prolong human lifespan. Mankind is continually attempting self-betterment. Thus, *Datura* species and their psychoactive effects have been recognized by primitive man in Africa, South America, and Australia, as well as in Greco-Roman times. Because of commercial usefulness, the abacus, counting board and quipu as mathematical aids were invented, respectively, in 2500 BC Sumer, 100 BC China, and 1100 AD South America. The idea of a mathematical aid did not arise from a singular genius and spread globally. It developed multi-focally and uniquely, motivated by a need for managing numerical data, and dependent on local circumstance for its method. There is no singular curious or ingenious discoverer of the obvious.

- F. Without controls, there will be release of ideas and inventions, some dangerous and devastating, from all corners of society.

Mankind has devised all sorts of ideas, inventions, and uses of discoveries, some benevolent and some dangerous. Usually the dangerous ones will be purposeful and intended for some sort of transgression of the rights of others (as discussed above), but in others dangers may be unintended or unforeseen. Whether biological, physiological, mental, or physical, whether immediate or delayed, whether obvious or inconspicuous, the release of potentially harmful products onto an unsuspecting public cannot take place, and therefore their initial invention or production must either be under careful supervision or cannot be permitted.

Response: The hazards of invention are inherent when dealing with the unknown, such as radiation injury that followed the initial studies of X-rays. But whether meteorological, geographical, or physiological, assessing and taking risks is inherent in our species. For most inventions the benefits and the risks will be recognized and managed because the mechanism(s) involved will be understood by the inventor or by specialists. It is in the area of exclusive knowledge that the unexpected will be most susceptible to hazard. It may be relevant that the real risk of this sort can come from government itself, such as “gain of function” bacteriological research. Although modern technology requires separate consideration, few inventions intended for self-betterment by individuals that might lead to unintended harm will be brought to completion because their actions may harm the inventor or will be suspicious. And if a collegial group is doing the inventing, there will be a variety of perspectives that will likely identify problems intrinsic to the invention. The greatest protection, of course, comes from those who are expected

¹⁵ Needham, J., *Science and Civilisation in China*, Cambridge, 2004, vol. 7, part 2, pp. 217ff.

to benefit from the invention, for it is the potential purchaser who will determine risk and benefit upon commercialization of the invention. Safety and security are the dominant motivations in Maslow's pyramid of motivating factors. A suspicion of danger will in itself normally delimit the significance of an invention. After all, the purpose of invention is self-betterment, either through use of the invention by the inventor or through its commercial success. The risks of inventing that adhere to the inventor are part of normal human behavior, and as long as secrecy is avoided (there is patent protection) the risk to the public will be made public. As a final point, it is the public that will decide the popularity of an invention. If an invention is considered unnecessary, duplicative, risky, immoral, expensive, or otherwise undesirable, its demise will be automatic in a free society but almost impossible in an authoritarian one.

G. The forest vs. the trees: the many and complex issues involved in the social evolution of post-Reformation Western civilization do not justify such a simplistic theory as the natural law theory of human progress.

Whether the events are monumental, such as the Renaissance, the Enlightenment, the Counter-Reformation, the reign of Louis XIV, the Thirty Years War, or voyages of discovery, or seemingly singular, such as the divorces of Henry VIII, the philosophy of Descartes, the laws of Newton, the execution of Charles I in England, and *The Prince* of Machiavelli, the myriad of events and their individual significance and interactions in Western society in the centuries closely following on the Reformation provide such a vast intermingling of causes and effects that a simplistic theory of human progress whose plausibility is based on one perspective of one event, the consequences of the action of one man, Martin Luther, cannot be taken seriously. Without the inclusion of and dilation on that singular action, there would be no historical example of what is claimed to be protection of natural rights, and the natural law theory of human progress would be no more than a hypothesis. With sufficient study it might be possible in the future to understand enough about the individual trees to then comprehend the forest, but not now.

Response: The singular action of Martin Luther and the spread of Protestantism to much of northern Europe with the subsequent political implementation of natural law and recognition of natural rights and their social effects have been well documented in scholarly works. Their overwhelming importance of this is proven beyond doubt by the Papal response to Luther and by the cross-continental Counter-Reformation and its effectiveness in stopping the spread of democratic political ideas, as exemplified by the Age of Absolutism. It should also be pointed out that the natural law theory of human progress in its initial statistical formulation did not include the post-Reformation West.

Thus, medical progress in our Western civilization provides objective proof that the natural law theory of human progress is correct. By bundling post-Reformation events relating to civil liberty with historical and prehistorical events into one package, the forest can now be seen as overweening governance and the individual events (the "trees") are no longer anecdotal but part of a pattern.

6. Natural law and natural rights: proofs

A. Natural law theory of human progress and morality

That morality exists in every society is not debated. But the nature of its morality is important. When a few impose their concept of moral behavior on the rest of society, this is immoral. As morality is the ability to distinguish right from wrong, it is immoral because it is both subjective in substance and its definitions of right and wrong are exclusive. This is the orientation of morality in authoritarian societies. As a result, morality differs from one society to another and is a source of conflict, or an ally supporting conflict, between societies. The Aztecs would fiercely defend the morality of their vast human sacrifices and seek conflict to obtain more bodies, ignoring the hierarchical and perhaps even cannibalistic motivations that fostered it.

True human morality, in contrast, does not favor one society or culture over another, is universal, objective, and unchanging, its effects being most prominent in democratic societies where the varieties of experience with moral issues can come together in a “marketplace” for morality and affect its interactions, consequences, beneficence and, ultimately, its laws. There is evidence that elements differentiating between right and wrong are present in infancy, early childhood and pre-adolescence as distinct from parental guidance and related sources. And just as communal benefits of a potentially moral action are recognized, outliers of morality can also be identified. As it has so developed, the happy interaction of a degree of personal freedom and moral evolution that has fostered a secure and progressive society has been the fortunate legacy of Western civilization. Its first manifestation is found in the confederation of Hebrew tribes in the Near East over three thousand years ago, from which the beneficence of limited authoritarianism and attention to what we now call “natural law” as religiously ordained in our Judeo-Christian heritage has now led to global beneficence (Excursus 16).

The natural law theory of human progress, after analyzing civil liberties of a variety of civilizations/societies and based on technical successes rather than moral ones, has described the mechanism that leads to human progress. As it turns out, the two features overlap, the implication being that technical progress (with increased life expectancy defined as a “good”) will not appear in the absence of true morality. The natural law theory of human progress is based on civil liberty, not a theory of morals, but without true morality there would be no theory, just as Frederick Douglass declared that without freedom there could be no virtue.

B. Natural law

Elsewhere (Excursus 3) I have proposed the following as inductive proof of the existence of natural law. Margaret Mead claimed all primitive societies recognize natural law: it is a “species-specific capacity to ethicalize.” But then why are primitive people’s lives so short and their lifestyle so dismal and, in Hobbes’ words, brutish? In a word, *why* does natural law exist? There is no *a priori* reason to consider natural law as beneficial, for, if such an assumption is made, natural law outside the realm of theology becomes merely a philosophical invention, as all that relates to it is deductive. The traditional response therefore has been that the goodness of natural law, *i.e.*, our conscience, is easily overcome or ignored by human laws, greed, and social pressure. But this is an assumption, not proof. To determine if and why natural law exists, some characteristic of society that depends on it and appears to coexist with it needs to be analyzed, its

usefulness or hinderance to society *as a whole* determined, and a causal relation thereby established by inductive reasoning.

It is possible that identifying the true purpose of natural law is impossible or is even forbidden to human knowledge. But assuming it is possible, and that the Judeo-Christian Decalogue is its briefest description, its role is to protect us from each other and therefore it promotes community (Excursus 6), and in identifying what is right and what is wrong its protection is founded on morality. As Thomas Aquinas held, “bonum est faciendum et prosequendum, et malum vitandum.” (Good is to be done and continued, and evil avoided.)

We first consider objective evidence of the existence of natural law. A summary of the argument is the following. First, the Decalogue (*i.e.*, natural law) is directed at *you*, not your society or at the other person; grammatically in Hebrew it is second person singular. It is your conscience. It protects your neighbors from *you*. But it is also telling every other individual in your society to do the same, thus protecting you from them. Logically, by identifying right and wrong and although directed at the individual, natural law thereby fosters community. From this the entirety of a society should benefit. The similarity with the Golden Rule has been duly noted. In short, the Decalogue is an inviolable statement on individual liberty, and transgressions of the rights (such as life and property) of others violate natural law and are immoral. In contrast, freedom of expression, discovery, invention, and open discussion are not entailed.

Second, if natural law exists as an inviolable statement on individual liberty and has as its purpose the betterment of human life, then the freer the society, the better off it should become. And if it can be agreed that a longer life is a “good,” a point not generally in dispute even by those who are already long-lived, then a society that acquires a longer life for all its citizens, not just the privileged few, has acquired an incontestable “good.” And if a society that acquires a longer life for all its citizens is a free society, and if many societies that do not acquire a longer life for their citizens are authoritarian societies, then we have inductive proof for both the existence and the goodness of natural law. As stated earlier, we have identified such a society. It is our own Western civilization, and, as it is the foundation for the miracle of global human progress presently under way, it can more appropriately be named the Judeo-Christian civilization and it should become a guide for all nations.

Although in all ages there have been brave and ingenious individuals and groups who have attempted to realize on a large scale the introduction of natural law concepts into governance, it is only over the last five hundred years that its realization has come to fruition. Thus, just as the post-Reformation West is proof of the correctness of the natural law theory of human progress, *we in Western society are living proof of the existence and the goodness of natural law.*

C. Natural rights

Natural rights do not exist according to philosopher and reformer Jeremy Bentham:¹⁶

“Rights are, then, the fruits of the law, and of the law alone. There are no rights without law – no rights contrary to the law -no rights anterior to the law. Before the existence of laws there may be reasons for wishing that there were laws – and doubtless such reasons cannot be wanting and those of the strongest kind; - but a reason for wishing that we possessed a right, does not constitute a right. To confound the existence of a reason for wishing that we possessed a right,

¹⁶ *Pannomial Fragments*, chapter 3 in volume 3 of *The Works of Jeremy Bentham*, published under the Superintendence of his Executor, John Bowring (Edinburgh: William Tait, 1838-1843), 11 vols., Vol. 3.

with the existence of the right itself, is to confound the existence of a want with the means of relieving it.”

Natural rights do exist, according to philosopher and physician John Locke:¹⁷

“Man being born, as has been proved, with a title to perfect freedom and an uncontrolled enjoyment of all the rights and privileges of the law of Nature, equally with any other man, or number of men in the world, hath by nature a power not only to preserve his property – that is, his life, liberty, and estate, against the injuries and attempts of other men, but to judge of and punish the breaches of that law in others...”

The idea of natural rights, unlike natural law, is unconvincing to many so long as there is no objective proof. But the problem has always been in its definitions.

Can the same objective argument for the existence of natural law be made for natural rights? Can some characteristic of an individual (*not* a society) that depends on and coexists with natural rights be analyzed, its usefulness or hinderance to that individual determined, and a causal relation thereby established by inductive reasoning?

Like natural law, it is possible that identifying the true purpose of our natural rights is impossible or is even forbidden to human knowledge. But let us assume there is such a goal: the survival and benefit of the individual (*not* the society). That this goal is logically appropriate is obvious in that natural law exists to benefit human society, and without individuals there would be no society to benefit.

The reality of natural law was relatively easy to grasp because it was codified in ancient times, its biblical relevance and specificity relieving us of some of the nebulousness surrounding the concept of natural law. Natural rights have no such obvious biblical counterpart. Ancient philosophers considered some natural rights to exist, although rights were often confused with correctness.

But perhaps it is unnecessary to have a codifiable list of rights such as have been proposed in political thought in recent centuries. There is a hint of this in that Thomas Aquinas did not discuss natural rights. Perhaps he did not think individual rights needed expression if everything was sufficiently protected by natural law. The political philosophies of Locke, Hobbes and Paine, however, less generous to mankind, considered rights to exist and indicated a need for their protection:

John Locke, *Two Treatises of Government*, Essay 2, chapt. IX – Of the Ends of Political Society and Government:

If man in the state of Nature be so free as has been said, if he be absolute lord of his own person and possessions, equal to the greatest and subject to nobody, why will he part with his freedom, this empire, and subject himself to the dominion and control of any other power? To which it is obvious to answer, that though in the state of Nature he hath such a right, yet the enjoyment of it is very uncertain and constantly exposed to the invasion of others; for all being kings as much as he, every man his equal, and the greater part no strict observers of equity and justice, the enjoyment of the property he has in this state is very unsafe, very insecure.

Thomas Hobbes, *Leviathan*, chapt. XIV – Of the first and second natural lawes, and of contracts:

The right of nature, which Writers commonly call Jus Naturale, is the Liberty each man hath, to use his own power, as he will himself, for the preservation of his own Nature; that is to say, of his own Life; and

¹⁷ John Locke, *Two Treatises of government*, Treatise Two, Chapter 7, Of Political or Civil Society.

consequently, of doing any thing, which in his own Judgement, and Reason, hee shall conceive to be the aptest means thereunto.

Thomas Paine, *The Rights of Man*, part I (p. 52 of the 7th London edition):

Natural rights are those which appertain to man in right of his existence. Of this kind are all the intellectual rights, or rights of the mind, and also all those rights of acting as an individual for his own comfort and happiness, which are not injurious to the natural rights of others.

Relevant to this discussion is the role of natural law as succinctly expressed by Prof. Randy E. Barnett: “The purpose of natural law is to preserve our natural rights.”¹⁸ He points out that natural rights govern how others should act toward natural rights holders, not how rights holders should act to others. As I am a natural rights holder, others are directed by natural law not to transgress my rights. From this, it can be concluded that your natural rights and my natural rights refer to the same list of items protected by natural law, *i.e.*, life and property.

When we are born we immediately come under the influence of society for our nurture and safety, observing and picking up appropriate responses to daily happenings as they occur. Thus, the idea that humans enjoy a “state of nature” and choices without limit before they learn normal or civil behavior is not an accurate description of unblemished human nature. The latter, of course, like the concept of infinity, is a convenient fiction useful for a null hypothesis. But for present purpose, it is convenient to assume that the extreme of potential actions in the “state of nature” is unlimited, that anything and everything is fair game at the time of our entry into the maze of life. In such a hypothesis, what are our natural rights? The answer is, we can do whatever we please, as Locke, Hobbes, and Paine state, and our actions can be good, bad, altruistic, selfish, and even self-destructive. There are no restrictions on our natural rights as individuals.

But the right to do anything in a society can be mean and nasty because the strongest will dominate. Again, but for one thing: the morality of our inbred and shared natural law. Thus, the moral use of natural rights is what natural law permits. It is natural law, our conscience, that sets things aright. Natural law protects our natural rights directly by moral enforcement of our choices. Importantly, natural law tells us there are things we can’t do to each other and leaves other things alone. Two things result: we behave morally because we avoid evil, and, because the good rights remain untouched, the individuality of individuals, nations, and cultures can co-exist. The latter differences need no natural law moderation because they do not transgress rights of others.¹⁹

Specific “rights” in recent centuries have been expansively defined as needing protection, although, as condemned by Lord Acton, some have attempted to justify transgression of natural law by claiming a “right,” as realized in the French Revolution.²⁰ This moral obfuscation of a natural right produced heinous results. Acton was no fan of natural rights outside their biblical context.²¹ In some situations natural rights may seem crude and boundless. But a better way of looking at them is as a range of prerogatives, not ideals, available to humans. We are privileged to have choices. They can a jumble of good and bad choices in which individuals can, willfully or unwittingly, pick and choose their favorites. Some might argue that all this is just another

¹⁸ See Dr. R. E. Barnett, *A Law Professor’s Guide to Natural Law and Natural Rights*, in *Harvard Journal of Law & Public Policy*, 1997, summer issue.

¹⁹ This does not mean we are not answerable to our society and its democratically arrived at positive laws.

²⁰ See: Lazarski, Christopher, *Lord Acton for Our Time*, Cornell Univ. Press, 2023.

²¹ <https://lawliberty.org/classic/the-primacy-of-liberty/>, 11-16-2022.

way of saying that there are no natural rights. But *natural rights are ours to do as we wish, and we require no proof of their existence. They are instead proof of our existence as willful beings.* It is those who would immorally misuse their natural rights to abuse ours that we should fear.

Ideally, we should not have to worry about asking for the right of freedom of expression, as others have been warned by their conscience (natural law) against interfering. It is, however, obvious that there are many, indeed most, who will at times disobey natural law and transgress someone else's freedom of expression, and this is especially important when coming from government itself. Thus, certain specific "rights" have been selected in Western political philosophy as so critical to society that they are "inalienable," and their legal protection by positive laws is an extra guarantee maintaining our civil liberties. The American Constitution, by providing direct protection of those rights is letting potential transgressors know that, rather than just a bad conscience, harsh man-made penalties will result.

Our post-Reformation civilization has, therefore, proposed unique proofs of the existence and goodness of natural law and natural rights. As a result, one produced a "good," the other an eradicated of a "bad." Both were moral victories achieved by obeying natural law. How? (1) In the West, but especially in America, we evolved a form of governance that was not permitted to restrict selected natural rights, defined as liberties, of its citizenry. The "good" was improved medical care and a longer life expectancy. (2) The eradication of the "bad" was achieved by a related method: Western governments were not permitted to disobey natural law by condoning slavery (Excursus 18). That military might of the American government was required for enforcement of that infraction of natural law may seem an inconsistency, but that response was imposed on it by a confederation of slavery-condoning States under the guise of States' rights.

7. The natural law theory of human progress, a panegyric

The natural law theory of human progress, in its definition, is rhetorically uninteresting and commonplace. It evinces none of the ingenuity and invention it proposes as the basis for human progress. The attractiveness of the theory is also not in its cleverness or unique insight. In fact, the theory is unavoidably inelegant precisely because it is so simple and obvious. Philosophical subtlety and sophistic adumbration is lacking. So what is the reason for a panegyric? What does the natural law theory of human progress have or do that justifies our special attention? The answer is: its great practical value lies both in its historicism and in its validation of natural law as a protector of natural rights.²² To disregard the former and its proofs that convict authoritarian governance of tragic delays in human progress over millennia will, if we renege on our promises to protect the latter, guarantee reversion to tyranny for future generations.²³

The key points it has disclosed are these:

²² Here we tread on the contentious subject of historicism, which is treated briefly in *The Natural State of Medical Practice* (vol. 3, p. 299). Its opponents question whether we can justifiably base present-day political decisions on analyses of causation derived from the study of history. To this it can be responded that the concept of human liberty is so basic that the complexity and unpredictability that may be found in related issues are insufficient to alter conclusions based on the concept of liberty alone.

²³ The role of massive computerization of human thought on mankind's future is unknown, unless its control is in the hands of the authoritarian, and that is certain. But the nature of man will remain unchanged and will fight to remain unchained. It is therefore absolutely predictable that the use of computerized thought will have the goal of homogenizing the human race and ultimately its doom but for one thing: natural law protection of natural rights.

1. In human society the potential for betterment is always present. It does not need to be purposefully devised, initiated, imposed, assisted. It is intrinsic and inevitable as long as it is not obstructed, and it will occur in any people and any era as the need and occasion permit. All that is required is the protection of natural law.
2. Human ingenuity is a counterpart to natural law in that natural law protects us from each other and thereby protects our natural rights, by which ingenuity protects us from adversity.
3. Natural rights, while not specifically defined, are intrinsic to a willful life, and, as the natural law theory of human progress confirms that predictable goodness emanates from their preservation as permitted by natural law, it provides objective evidence of the goodness of natural law and the existence of both.

This excursus does not propose that conclusions from the natural law theory of human progress be imposed, in whole or in part, on society. This would require an authoritarian approach to replace or remove much that represents valued tradition and social stability and would be unacceptable by such implementation and as a goal. Furthermore, natural law such as is defined in the ethical Decalogue is seemingly explicit, but it is uncommon for human affairs to be so clearly understood that, given extenuating circumstances, literal interpretation of natural law can be applied. Judgments and severity of penalties vary. And it is but common sense that if natural law is understood to be an inviolable statement on human liberty, the boundaries among people as they express their individual nature will often require judgment when they advertently or inadvertently collide. Society needs law and order. But that system of justice and order will be far different from the relativism of authoritarian regulation and justice. The latter may be simple, immediate, efficient, and therefore attractive, but it is wrong.

In authoritarian regulation and justice, right and wrong are based on the convenience of, and defined by, those who guide the State, with social uniformity of the citizenry as a goal; in a free society, variety of opinion, while sometimes uncomfortable, is preferable. In authoritarianism, therefore, power becomes concentrated as more and more of those who disagree with authority are marginalized, inevitably leading to a relative few who dominate all. In a free society power is dispersed. In the supreme authoritarian societies of today, massive military might is wielded, directly or indirectly, by four persons: Putin, Xi, Kim, and Ali. It is the will of four human beings upon whom the fate of billions of human beings depends. In free societies the fate of each individual is to a great extent determined by himself or herself. But in the world of today where both exist, much effort of the free society is necessarily oriented to protection against those four persons and their ilk. That protection also must be oriented at millions of mini-Putins who would, if they could, internally or externally, impose their idea of right and wrong on a free society that, if just left alone, would, without any direction other than a desire for self-betterment and an appreciation of natural law, continue to improve the status of all mankind.

Fortunately, it is apparent that the integration of natural law/natural rights-based civil liberty into existing authoritarian social fabric can permit some progress even if only of degree. It will, however, occur slowly and may cease in a society with the least degree of liberty. As long as there is some protection of natural rights there will be potential for human betterment.

Unfortunately, it is also apparent that there will always be some totalitarian decrees that, for political convenience, will be consistent with natural law and natural rights. This can confuse

the immoral nature of that form of government, just as the replication and theft of the ingenuity of the West can camouflage the profound disregard for natural law in the East.²⁴

Civil liberty, here equated with natural rights, is conducive to bettering the human condition by releasing the ingenuity of mankind, and, if natural law is meant to protect civil liberty, *the most important point of the Natural Law Theory of Human Progress is that we need not do anything to implement it. It will properly implement itself if we but get out of the way and do not interfere with its natural course.*

²⁴ Today China seems prosperous and progressive, but governance remains solidly authoritarian and will remain so. Had the West not offered a helping hand to Asia the Chinese would still exist in the 16th C world of the Ming governing millions impoverished farmers who had life expectancies of thirty years. And it is to this world they will return unless (1) like other prominent civilizations in history, China satisfies its needs by conquest, or (2) it frees the common citizenry. For the moment it appears to have chosen (1). It did not need be like this. Had the inherent ingenuity of the Asian population that became modern China been permitted natural human freedoms a century ago, China might today be a leader in progress and its beneficence for all mankind, rather than being an ungrateful recipient of the fruits of freedom of the West.



