

2011

## The appeal to nature implicit in certain restrictions on public funding for assisted reproductive technology

Drew Carter  
*University of Adelaide*

Annette J. Braunack-Mayer  
*University of Wollongong, abmayer@uow.edu.au*

Follow this and additional works at: <https://ro.uow.edu.au/sspapers>



Part of the [Education Commons](#), and the [Social and Behavioral Sciences Commons](#)

---

### Recommended Citation

Carter, Drew and Braunack-Mayer, Annette J., "The appeal to nature implicit in certain restrictions on public funding for assisted reproductive technology" (2011). *Faculty of Social Sciences - Papers*. 3796.  
<https://ro.uow.edu.au/sspapers/3796>

---

# The appeal to nature implicit in certain restrictions on public funding for assisted reproductive technology

## Abstract

Certain restrictions on public funding for assisted reproductive technology (ART) are articulated and defended by recourse to a distinction between medical infertility and social infertility. We propose that underlying the prioritization of medical infertility is a vision of medicine whose proper role is to restore but not to improve upon nature. We go on to mark moral responses that speak of investments many continue to make in nature as properly an object of reverence and gratitude and therein (sometimes) a source of moral guidance. We draw on the work of Ludwig Wittgenstein in arguing for the plausibility of an appeal to nature in opposition to the charge that it must contain a logical fallacy. We also invite consideration of the moral plausibility of some appeal to nature. Finally, we examine what follows in the case of ART. Should medicine respect as natural limits that should not be overcome: the need for a man and a woman in reproduction; menopause; and even declining fertility with age? We must first ask ourselves to what degree we should defer to nature in the conduct of medicine, at least in the particular if not the general case. This will involve also asking ourselves what we think is natural and in what instances and spirit might we defy nature. Divergent opinions and policies concerning who should receive ART treatment and public funding are more easily understood in view of the centrality, complexity and fundamental nature of these questions.

## Keywords

nature, appeal, implicit, certain, restrictions, public, funding, assisted, reproductive, technology

## Disciplines

Education | Social and Behavioral Sciences

## Publication Details

Carter, D. & Braunack-Mayer, A. J. (2011). The appeal to nature implicit in certain restrictions on public funding for assisted reproductive technology. *Bioethics*, 28 (Special Issue 8), 463-471.

This is a pre-publication version of the article:

Drew Carter and Annette Braunack-Mayer. The appeal to nature implicit in certain restrictions on public funding for assisted reproductive technology.

*Bioethics*. Volume 25, Issue 8, pages 463–471, October 2011.

Please do not quote from this pre-publication version, since it differs from

the final, published version, which is available at

<http://onlinelibrary.wiley.com/doi/10.1111/j.1467-8519.2011.01925.x/abstract> .

Please direct correspondence to:

Drew Carter

School of Population Health

The University of Adelaide, AUSTRALIA 5005

e-mail: [drew.carter@adelaide.edu.au](mailto:drew.carter@adelaide.edu.au)

---

THE APPEAL TO NATURE IMPLICIT IN CERTAIN RESTRICTIONS  
ON PUBLIC FUNDING FOR ASSISTED REPRODUCTIVE  
TECHNOLOGY

KEYWORDS: appeal to nature, assisted reproductive technology, equity of access, medical infertility, social infertility, Wittgenstein, philosophy of medicine

## ABSTRACT

Certain restrictions on public funding for assisted reproductive technology (ART) are articulated and defended by recourse to a distinction between medical infertility and social infertility. We propose that underlying the prioritization of medical infertility is a vision of medicine whose proper role is to restore but not to improve upon nature. We go on to mark moral responses that speak of investments many continue to make in nature as properly an object of reverence and gratitude and therein (sometimes) a source of moral guidance. We draw on the work of Ludwig Wittgenstein in arguing for the plausibility of an appeal to nature in opposition to the charge that it must contain a logical fallacy. We also invite consideration of the moral plausibility of some appeal to nature. Finally, we examine what follows in the case of ART. Should medicine respect as natural limits that should not be overcome: the need for a man and a woman in reproduction; menopause; and even declining fertility with age? We must first ask ourselves to what degree we should defer to nature in the conduct of medicine, at least in the particular if not the general case. This will involve also asking ourselves what we think is natural and in what instances and spirit might we defy nature. Divergent opinions and policies concerning

who should receive ART treatment and public funding are more easily understood in view of the centrality, complexity and fundamental nature of these questions.

[MAIN BODY]

What requests for assisted reproductive technology (ART) are worthy of medicine as a vocation and of active support from the public in the form of funding? This question is passionately debated in view of the profundity of its stakes. It is also philosophically complex, this paper demonstrates.

#### IDENTIFYING THE CENTRALITY OF THE ‘MEDICAL’

Variations in eligibility criteria for ART treatment and funding continue to exist both in Australia and internationally. Barring certain exceptions, South Australian and Western Australian legislation require that a person be medically infertile in order to qualify for treatment.<sup>1</sup> By contrast, in 2008 the Australian State of Victoria amended its legislation: ART is now accessible to, among others, any woman who, without it, is unlikely to

---

<sup>1</sup> South Australia’s ‘infertile’ has been interpreted to mean this while Western Australia specifies ‘medical reasons’. SA, ASSISTED REPRODUCTIVE TREATMENT ACT 1988 – SECT 9(1)(c)(i–ii) ; WA, HUMAN REPRODUCTIVE TECHNOLOGY ACT 1991 – SECT 23(1)(a)(i).

become pregnant, to carry a pregnancy or to give birth.<sup>2</sup> ART is thereby available to menopausal and post-menopausal women and to women without a male partner (single women and women in a same-sex relationship, for instance). Technically, however, the treatment still needs to be privately funded, as public funding, flowing from the federal and not the state government, continues to require the presence of a medical condition.<sup>3</sup>

In 2006, for instance, a federal government ART Review Committee explained that ‘Medicare benefits are not payable to single women or same sex couples who access ART treatments unless they are clinically infertile’.<sup>4</sup> The Committee implied that this was non-discriminatory: ‘Reimbursement through Medicare is dependent upon the presence of a medical condition determining a clinical need and not dependent upon partner status.’<sup>5</sup> The report did not challenge the prevailing arrangement whereby solely ‘clinical need’ warranted public reimbursement. And it considered it self-evident that such need was absent in single women and same-sex couples.

Such need has also been thought attenuated in the case of older women seeking ART. As part of their rationale for limiting ART public funding to women aged 37 and under, the Southern Health Care Region of

---

<sup>2</sup> Vic, ASSISTED REPRODUCTIVE TREATMENT ACT 2008 (NO. 76 OF 2008) – SECT 10(2)(a)(i–ii).

<sup>3</sup> See Carol Nader. 2007. No Medicare for Lesbians’ IVF. *The Age* 19 Dec.

<sup>4</sup> Assisted Reproductive Technologies Review Committee. 2006. Report of the Independent Review of Assisted Reproductive Technologies. Australia: Commonwealth Department of Health and Ageing: 43.

<sup>5</sup> *Ibid*: 52.

Sweden cites ‘a normal-deviant scale’.<sup>6</sup> This implies that infertility in older women represents less of a deviation from the norm than infertility in younger women and that, as such, older women have less need for ART. This implicitly conceives of medicine as properly limiting itself to the correction of (burdensome) deviations from the norm.

A German survey of over 3000 people representing a range of stakeholders found three ‘major normative convictions’ to be ‘statistically associated with support for [complete ART] public funding’: (1) ‘Infertility is a disease’; (2) ‘Having children is a basic opportunity every human should have’; and (3) ‘Infertile couples with an unfulfilled desire for children are usually in need of assisted reproduction’.<sup>7</sup> Indeed, the authors found it ‘interesting’ that:

respondents’ views regarding financing ART associated with theoretical assumptions that are also key issues in the philosophical and ethical discourse on financing ART, i.e. infertility as disease, having children as basic human opportunity and assisted reproduction as a medically necessary versus non-necessary treatment.<sup>8</sup>

---

<sup>6</sup> Håkan Lindström & Susanne Waldau. Ethically Acceptable Prioritisation of Childless Couples and Treatment Rationing: “Accountability for Reasonableness”. *Eur J Obstet Gynecol Reprod Biol* 2008; 139: 176–186: 182.

<sup>7</sup> O. Rauprich, E. Berns & J. Vollmann. Who Should Pay for Assisted Reproductive Techniques? Answers from Patients, Professionals and the General Public in Germany. *Hum Reprod* 2010; 25(5): 1225–1233: 1231–2.

<sup>8</sup> Ibid.

These three ‘major normative convictions’ can interact in different ways. Is it solely in view of how basic or important is the opportunity of having a child that we identify in infertility a disease and/or need for treatment? (A parent’s love and sacrifice amply testify to the importance and potential dimensions of that opportunity.) Do we identify a need for treatment more in view of the important opportunity, the disease (qua biological or functional abnormality, say) or both? If solely the important opportunity, then medical and social infertility alike necessitate treatment. Answers to the question, then, shape views on who should receive ART.

Prominent among rationales for ART public funding is the notion that ART rightly meets a ‘medical need’.<sup>9</sup> But ambiguities exist around the meaning of ‘medical need’. Even those suffering ‘social’ infertility may lay claim to a ‘medical need’ precisely to the degree that (1) *medical* treatment can assist them and (2) they testify to *a need*. Women without a male partner have oft been described as suffering (merely) ‘social’ as opposed to (properly) ‘medical’ infertility. It can be argued that menopausal and post-menopausal women also suffer infertility of more social than medical origin

---

<sup>9</sup> Philipa Mladovsky and Corinna Sorenson review observed rationales: ART should be publicly funded because: (1) infertility is a disease or medical condition; (2) ART meets a ‘medical need’; (3) ART fulfils a human right; (4) health inequalities are inequitable; and (5) publicly funded ART will increase a country’s Total Fertility Rate and reduce population ageing. In our view, the first four rationales conceptually reduce to questions concerning the second, while the fifth, Mladovsky and Sorenson stress, ‘needs to be treated with caution, not least because there is very little experience with it and minimal supporting evidence’. Philipa Mladovsky & Corinna Sorenson. Public Financing of IVF: A Review of Policy Rationales. *Health Care Anal* 2010; 18: 113–128.

when their fertility has suffered as a result of some deferral of the active attempt to conceive that has been more social than medical in nature (namely, not attributable to some biological or functional abnormality). Some argue that those suffering ‘merely’ social infertility do not represent appropriate candidates for ART treatment, while others limit their arguments to the context of public funding.<sup>10</sup>

## PROPOSING THE CENTRALITY OF THE ‘NATURAL’ TO THE ‘MEDICAL’

In the general case, medical need is variously thought to obtain where there exist: diseases; symptoms of diseases; discomforts; dysfunctions; abnormalities; pathologies; deviations from the typical and predictable; or disruptions in normal species function that threaten a fair equality of opportunity.<sup>11</sup> Might ‘nature’ be the elephant in this room? We might see in this catalogue simply paraphrases of, say, ‘problematic deviations or

---

<sup>10</sup> For relevant discussion see M.M. Peterson. Assisted Reproductive Technologies and Equity of Access Issues. *J Med Ethics* 2005; 31: 280-285; Maurice Rickard. 2001. *Is It Medically Legitimate to Provide Assisted Reproductive Treatments to Fertile Lesbians and Single Women?* Australia: The Department of the Parliamentary Library. Available at: [www.aph.gov.au/library/pubs/rp/2000-01/01RP23.pdf](http://www.aph.gov.au/library/pubs/rp/2000-01/01RP23.pdf) [Accessed 1 Nov 2010]; J.A. Parks. A Closer Look at Reproductive Technology and Postmenopausal Motherhood. *CMAJ* 1996; 154(8): 353-355.

<sup>11</sup> For such a list see Ibid: 117–119 . The last phrase borrows from Norman Daniels. 1985. *Just Health Care*. Cambridge: Cambridge University Press.

failures in nature'. That would be one plausible interpretation. On one view, medicine finds its reason for being in addressing these deviations or failures. It restores the proper functioning and being of nature whenever it (and especially our own bodily nature) causes us problems sufficiently egregious. Here medicine ought not alter nor seek to improve upon nature, at least in its fundamentals (to fix creation, as it were).<sup>12</sup> We may say that nature is here respected, obeyed or deferred to.<sup>13</sup> This paper increasingly explores precisely what 'nature' does or might mean and what morally normative weight it does or might carry, both in the conduct of medicine and more broadly. An appeal to nature can lie at the heart of some views concerning the proper use of ART treatment and funding. In evaluating those views, it is critical to explore how – and how defensibly – an appeal to nature might be made.

In May 2009, the president of the Australian Medical Association (AMA), obstetrician Andrew Pesce, asserted that:

Fertility treatment is there to treat diseases that cause infertility, it shouldn't be there as a lifestyle choice...For example, single women (who choose IVF) don't have a disease, they just don't have a partner.

---

<sup>12</sup> See Andrew Dutney. 2001. *Playing God: Ethics and Faith*. East Melbourne, Vic: HarperCollinsReligious.

<sup>13</sup> We do not see that a retreat from the 'natural' to the 'normal' (or from 'nature' to 'normal species function') is much of one at all. The same connotations or morally normative dimensions can exist in both talk of the natural and talk of the normal.

Same-sex couples, they don't have disease [sic] but they are using an option that gets around the natural order of things.<sup>14</sup>

Pesce later rescinded his comments, describing them as 'clumsy'.<sup>15</sup> They had provoked opposition from those who considered them discriminatory (while a number of reader comments expressed support for them). Former AMA president Kerryn Phelps pilloried his deference to 'the natural order of things': 'If male/female couples (receiving IVF treatment) followed the 'natural order' of things then they would remain childless'.<sup>16</sup> Her counterpoint did not directly speak to Pesce's original emphasis on disease as the proper object of medicine. Rather, it supplanted Pesce's implied vision of and for medicine with another. For Pesce, we may infer, medicine properly opposes nature only when the latter problematically deviates, declines or falters, not when we face any need whatsoever. On such a view, medicine seeks to restore nature but not to improve upon it, as it were. Medicine does not bend nature to its every will. The content of that will is relevant and important.

Let us expanding on Phelps's riposte. Is it not odd to appeal to nature when it comes to medicine, which so often opposes nature 'taking its course'? And is it not doubly so in an area of medicine that has been

---

<sup>14</sup> Eleni Hale. 2009. AMA President Dr Andrew Pesce Says Gay People Should Not Have IVF. *News.com.au* 2 Aug. Available at: <http://www.news.com.au/ama-president-dr-andrew-pesce-says-gay-people-should-not-have-ivf/story-0-1225757116159> [Accessed 1 Nov 2010].

<sup>15</sup> *Ibid.*

<sup>16</sup> *Ibid.*

variously dubbed ‘assisted’ and ‘artificial’ reproductive technology?  
Indeed, the distinction between ‘assisted’ and ‘artificial’ is suggestive.  
Medicine may be viewed as essentially in agreement with nature, ‘assisting’  
it to get back on track, to awaken from dormancy or to realise what is proper  
to it. Alternatively, medicine may be conceived as essentially opposing  
nature (where desirable) with a power of its own. Here medicine (as  
‘artifice’ or contrivance, of human origin) may defy nature whenever the  
(higher) service of humankind commends. This could be called an  
anthropocentric conception of medicine, as opposed to a nature-deferential  
one.

Marcus Aurelius made a striking observation that we can draw on  
here:

*Wherever it is in agreement with nature, the ruling power within us  
takes a flexible approach to circumstances, always adapting itself easily  
to both practicality and the given event. It has no favoured material for  
its work, but sets out on its objects in a conditional way, turning any  
obstacle into material for its own use. It is like a fire mastering  
whatever falls into it. A small flame would be extinguished, but a  
bright fire rapidly claims as its own all that is heaped on it, devours it  
all, and leaps up yet higher in consequence.<sup>17</sup>*

---

<sup>17</sup> Our emphasis. Marcus Aurelius. 2006. *Meditations*. Translation and notes by Martin  
Hammond. London: Penguin: 23.

In light of its opening, this observation may accord with Pesce's implied vision for medicine. However, it may instead lend succour to one closer to Phelps's if we dare to imagine that *every* attempt to reproduce is in fact 'in agreement with nature'. Here a single woman and a conventional couple employ ART in a manner that equally agrees with nature to the degree that they both try to realise something perfectly natural, indeed, we may say, 'the most natural thing in the world': the call to have, rear and love young.

#### EXPANDING THE PARAMETERS OF THE 'NATURAL'

Aurelius articulated a vision of human ingenuity which thrives when in agreement with nature. Differently, Peter Singer and Deane Wells argued that *all* artifice, including medicine, is 'perfectly natural' if directed toward certain ends: even 'The father of modern conservatism, Edmund Burke, said 'Art is man's nature', by which he meant that we were most truly human when exercising our specifically human capacities.'<sup>18</sup> This view implies that humankind can only defy nature by failing to sufficiently exercise those capacities (toward certain ends).<sup>19</sup> We may wish to assert that ingenuity or,

---

<sup>18</sup> P. Singer & D. Wells. In Vitro Fertilisation: The Major Issues. *J Med Ethics* 1983; 9: 192–199: 193.

<sup>19</sup> Singer would later argue that people fundamentally aim at the satisfaction of their preferences. The views of Aurelius and Singer and Wells are reconcilable if our ends are conceived as natural.

differently, mercy is deeply natural to humankind.<sup>20</sup> Under these lights we might identify ART as natural.

Sue is infertile and Mia is her friend. We could comprehend Sue's interpretation of her infertility as nature telling her that she should not have children. We could equally comprehend Mia, who, like her friend, often defers to nature, parting ways on this occasion and imagining Sue gravely mistaken. Mia may come, and invite Sue, to question the normativity, and even very idea, of nature. Alternatively, Mia may hold fast to those and seek to convince Sue (1) that ART is natural or (2) to take a leap of faith in (seeming or actual) defiance of nature in the name of love or some higher service (which may or may not be conceived as natural in a different, potentially more ultimate sense).

Talk of the natural runs the dangerous risk that other *people* may themselves be seen and treated as 'problematic deviations or failures in nature'. Many have long suffered such ostracism and consequent cruelties.<sup>21</sup> But it is interesting to note that one means of redressing these is not altogether to buck nature as a category of any use or authority, but rather to defer to it with ever increasing acuity and resolution. 'But it feels natural to me!' This protest implies the importance of the 'natural' as a category

---

<sup>20</sup> Alternatively, we may wish to assert that they are more important than regard for whatever may be natural.

<sup>21</sup> Michel Foucault opposed *all* conceptions of what is natural to human beings (all conceptions of human nature) precisely because he took them to 'straightjacket'. He took them to limit, via universalising norms of behaviour, the full range and depth of potential belonging to human individuality. For instance, see Christopher Cordner. Foucault and Ethical Universality. *Inquiry* 2004; 47: 580–596.

more than it does its dispensability in the light of conflicting views about precisely what is natural. We might seek to reclaim one of nature's own, as it were, and to sustain talk of nature as valuable. This may be what Mia does in (1) (and potentially (2)). This may largely have been done with masturbation, by way of further example. What was once thought (and by some still thought) a 'cheating of nature' science now generally considers natural or a normal species function. It has its place in 'the natural order of things'. Ideas about precisely what is natural have been updated many times, but in itself this need not weaken the relevance and potential value of the word. It may instead mark a shift (even progression) in its parameters and use. Does this risk expanding the concept of nature to the point where it is no longer useful because a mere proxy for another (the 'good', for instance)? We later answer 'no' after tracing Ludwig Wittgenstein's vision of concepts.

#### HOW A DEFERENCE TO NATURE MIGHT BE ARTICULATED AND DEFENDED

Tom Frame invites our deference to nature in his book, *Children on Demand: The Ethics of Defying Nature*. The book examines arguments and evidence concerning parenting arrangements that differ from the age-old tradition of biological mother and father. (It is in this context that ART comes into Frame's view.) Frame defends the traditional parenting arrangement as both natural and in the best interests of the child. The

majority of his book appeals to those best interests, but the book ends by more explicitly making good on its subtitle:

Nature dictates that a man and a woman are required for procreation and this limitation should be acknowledged and respected because, I contend, it discloses something of the purposes and providence of nature: that a child's best interests are served by it having a mother and a father.<sup>22</sup>

When it comes to altering the *fundamentals* of nature – and Frame sees as one of them a biological mother and father raising their child – we must defer to nature in the absence of certainty (or at least justified confidence). Frame places the burden of proof on those whose position runs counter to nature, which, he suggests, we are right to take as a general guide, both prudentially and morally.

Frame warns that it can be very dangerous to interfere with – more strongly, to defy – the fundamentals of life before they are fully understood. In this he is knowingly conservative, in the literal sense. More than this, Frame may be taken to identify a certain *authority* belonging to the purposes and providence that he discerns in nature. Victor Hugo offered a striking expression of awe before nature:

---

<sup>22</sup> Our emphasis. Tom Frame. 2008. *Children on Demand: The Ethics of Defying Nature*. Sydney: New South: 21.

the contemplar falls into unfathomable ecstasies in view of all these decompositions of forces resulting in unity. All works for all.

Algebra applies to the clouds; the radiance of the star benefits the rose; no thinker would dare to say that the perfume of the hawthorn is useless to the constellations... Enormous gearing, whose first motor is the gnat, and whose last wheel is the zodiac.<sup>23</sup>

Hugo divined in nature a unity, indeed, a kind of workers' solidarity. Such reverence as he expressed for it need not *depend* upon some (logically antecedent) recognition (or ascription) of authority. Rather, it can *be* (or take the form of) just such recognition or ascription.<sup>24</sup>

As with reverence, so too with gratitude. Gratitude before nature can be precisely the recognition (or ascription) of a certain authority (connected to bounty or generosity). That most basic and universally shared practice among mortals may be to find physical sustenance in nature. Here we find the origin of the idea of 'natural goods'. Physically we spring from and depend upon nature – it is no wonder that we should ever defer to it, in gratitude as in reverence. What is more, nature rarely inspires gratitude and

---

<sup>23</sup> Victor Hugo. 1994. *Les Misérables*. Introduction and notes by Roger Clark.

Hertfordshire: Wordsworth Editions Limited: vol. 2: 606.

<sup>24</sup> Following Wittgenstein, Raimond Gaita has argued that remorse need not depend upon or merely attend some acknowledgement of wrong-doing: rather, it can be (or take the form of) precisely such acknowledgement. A great deal can be made of the difference between acknowledging (or recognising) something and *ascribing* it, but in this paper we do not enter into that difference. See Raimond Gaita. 2004. *Good and Evil: An Absolute Conception*. 2 edn. Abingdon: Routledge: ch. 4.

reverence more than it does at the conception and birth of a child. In these inspirations nature is capable of providing more than simply physical sustenance.

Accusations of the unnatural need not be merely prejudicial, as they were implied to be by Pesce's opponents (at least in that particular case).

They need not derive merely from what is often reductively mocked as the 'yuck' factor.<sup>25</sup> They may also derive from, among other things, the reverence and gratitude that the natural world can inspire in us and the authority to which we may thereby take ourselves to be answerable.

Christopher Cordner argues that many of our moral responses and appeals make the sense that they do against a more general background in which individuals are loved as irreplaceably unique and unconditionally valuable.<sup>26</sup>

Similarly, we argue that many appeals to defer to nature make the sense that they do against a more general background in which a certain authority is identified in nature by virtue of its capacity to inspire reverence and gratitude.

Frame's conservative approach to interfering with any perceived fundamentals of nature is shared by many on different fronts. For example,

---

<sup>25</sup> For instance, see Daniel Sokol. Sokol implies that all moral intuitions must be externally justified, 'underpinned by solid reasons'. This is contested by, among others, Raimond Gaita and Christopher Cordner. Daniel Sokol. 2010. What Is Society's Problem with Elderly Mothers? *BBC News* 26 Jan. Available at:

[http://news.bbc.co.uk/2/hi/uk\\_news/magazine/8480641.stm](http://news.bbc.co.uk/2/hi/uk_news/magazine/8480641.stm) [Accessed 1 Nov 2010]; Ibid; Christopher Cordner. 2002. *Ethical Encounter: The Depth of Moral Meaning*. Houndmills: Palgrave.

<sup>26</sup> Ibid: 1–19.

there exists widespread moral opposition to medical efforts to radically oppose the natural ageing process, to clone human beings, and to hybridise human beings with animals. We may also note comparable opposition to the destruction of elements unique in nature, such as endangered species or ecosystems. Some intrinsic and not merely instrumental value is given to belong to the natural in this way. An authority is identified in it at least to the degree that it has some claims – they may not be decisive. In this paper we propose that nature is a very widespread and potentially profound notion capable of much more than oppression: it resides deeply and centrally in many of our lives and informs many of our moral judgements (not just the worst of them). We argue that appeals to nature, in particular those often moderating the provision and public funding of ART, are at the very least intelligible and defensible. They are so partly by reference to a range of connected and widely shared responses (reverence and gratitude) and analogous judgements (placing moral limitations on medicine).

These responses and judgements can be part of (and help to constitute) entire ways of speaking and valuing. Appeals to nature can be made – and can make the sense that they do – as part of broader ways of speaking and valuing that, we think, good faith commends not dismissing out of hand. Again, that is not to say appeals to nature need be decisive, for other concerns will compete. With reference to Wittgenstein we go on to explain what we mean by ‘entire ways of speaking and valuing’. In this we explain one way in which appeals to nature can be marked out as intelligible and defensible.

## APPEALS TO NATURE NEED NOT BE FALLACIOUS

The word ‘natural’ carries connotations as well as denotations. The very concept or, perhaps more accurately, our variegated use of the word has a normative – and very often *morally* normative – dimension ‘built into it’, as it were. Generally, it is considered good for a thing to be natural. Likewise, a good thing is often thought therein to be natural. Such thinking is considered by many to be fallacious, but one of our central aims in this paper is to argue that it need not be.

What is known as ‘the appeal to nature’ may indeed be a formal or logical fallacy (specifically a fallacy of relevance) to the degree that the natural and the good do not always correlate (that is, they are not perfectly synonymous).<sup>27</sup> What is natural may not always be good, and vice versa. (‘Malaria is natural but not good’, ‘artificial pacemakers are good but not natural’.) However, we would argue that the natural and the good can often correlate not by force of logic alone but by force of *a* logic internal to (and partly constitutive of) an entire way of speaking and valuing, a certain ethical orientation or faith, for instance, with all of its associated vocabularies and webs of meaning. Here a different picture of logic is emerging.

---

<sup>27</sup> The same charge might conceivably be made against any pair composed out of the beautiful, the true, the good, and the healthy.

## WITTGENSTEIN'S VISION OF CONCEPTS

Wittgenstein famously turned in his thinking upon pondering a man as he flicked his fingertips outward from along his throat and chin in a traditional gestural insult recognisable to Sicilians. What 'object' in the world corresponded to *that*? What underlying, universal 'logical form' did that represent but one local variation? Increasingly Wittgenstein explored the manner in which particular practices (including the use of words and gestures), to varying degrees shared across a community, seemed to betoken general rules (of the kind 'this means that' or 'this goes with that'). Those rules seemed variously flexible and open-ended like those of improvised games or creatively used punctuation. Practices and oft spontaneous responses seemed to reference – even, on some interpretations, spin – webs of meaning and value in relation to which community members variously lived their lives. Wittgenstein did not seek to *enforce* any rules, mind you, nor to trap us in webs; that is, on the latter point, he did not dogmatically declare, nor logically deduce, that customary, meaningful connections bind us as insuperable limits to our experience, knowledge and communication. Rather, he sought to free the fly (from the 'fly-bottle', if not quite the web). That is, he sought to deliver us from unnecessary confusions (in terms of which he characterised much of the philosophical work that preceded him). In answer to confusions, Wittgenstein went 'back to the round ground' of our everyday practices and locutions, back to our lives with words, in order

to ‘look and see’ what similarities and differences existed between them.<sup>28</sup> In this he furnished less a positive *theory* of language and, more generally, of meaning than he did a *method* (and, by personal example, a sensibility): pay patient attention to the ways in which the meaning of words appear rooted in different everyday uses and other connected practices. This may help you not only clear up confusions, which boil down to confusions about what you mean when you say this or that, but also newly enliven you to connections and (not simply origins but) conditions of meaning which might formerly have evaded you. There is considerable scope for going ‘back to the rough ground’ when it comes to what we can and do mean by ‘natural’ and how such meaning figures into our lives.

#### A GENERAL DEFINITION OF THE ‘NATURAL’ IS NOT LOGICALLY NECESSARY TO MAKING SOME APPEAL TO WHAT IS NATURAL

We have variously presented and implied particular uses of the word ‘natural’: ‘we ought not to defy nature’, ‘ART is used by some as an option that gets around the natural order of things’. We have done this not by way of building toward a general definition of the ‘natural’ (for use as a premise in argumentation) but, indeed, instead of it (as part of an invitation to accept the moral and logical plausibility of appeals not to defy nature). Socratic adduction literally ‘brings’ us ‘to or towards’ a general definition by

---

<sup>28</sup> Ludwig Wittgenstein. 2001. *Philosophical Investigations*. Translated by G.E.M.

Anscombe. Oxford: Blackwell Publishing Ltd: §107, §66.

examining particular instances of a word's use then identifying the common element. The common element, when put into words, equates to the general definition.<sup>29</sup> Wittgenstein, by contrast, when examining particular uses of a word, came not to assume the existence of a single common element.<sup>30</sup> Instead, he observed that some uses share some common elements while other uses share different common elements. Put another way, some uses of a word appear to resemble one another, or overlap in meaning, in certain ways, while other uses appear to resemble one another, or overlap in meaning, in different ways. In this way Wittgenstein likened the many instances of a word's use to so many fibres of a thread: some fibres overlap along one section of the thread while others overlap along a different section. The thread has no core, no single fibre running through its entire length: 'the strength of the thread [and, indeed, its very existence] does not reside in the fact that some one fibre runs through its whole length, but in the overlapping of many fibres'.<sup>31</sup> One such fibre is precisely an appeal that 'ART is used by some as an option that gets around the natural order of

---

<sup>29</sup> See Plato. 1969. *The Last Days of Socrates*. Translated by Hugh Tredennick.

Harmondsworth: Penguin Books Ltd: 10.

<sup>30</sup> In other words, he came not to assume that the Sicilian insult mentioned above must share some core of meaning with all other such insults.

<sup>31</sup> Wittgenstein, *op. cit.* note 27, §67. To Wittgenstein, such overlapping in meaning appeared ongoing and open-ended as we continued to speak and live. Threads of meaning are not static but transforming to varying degrees as we live with language. To use a different simile, Wittgenstein principally likened a word's different meanings to family resemblances. No one trait appears to be common among all the members of a family: certain members share some traits while other members share different traits. Just as a family exhibits different traits, a word exhibits different meanings.

things'. We write 'appeal' and not 'location of a particular instance satisfying the conditions of some general definition'. The appeal itself can serve to expand the range of meanings that 'natural' can have just as it can gain its meaning from less a general (abstracted) definition than the overlapping of so many previous and similar uses of the word. The appeal can contribute to an overlap in meaning just as it draws on others: it can add to the thread of meaning just as it borrows from it. On such a Wittgensteinian view, the use of a word in a particular context does not supply evidence for a general definition of the word's meaning as much as it (along with other uses, practices and responses) co-constitutes that very meaning (in the action of 'overlapping').

Particular uses of a word can be absorbed into the meaning of that word (contribute to the thread by overlapping) just as the word itself can be called upon given a particular meaning (or the overlapping present among a cluster of fibres, namely former and similar uses). In this way there occurs an *interdependence* of the particular and the general (or, more precisely, of the particular and other clustered or overlapping particulars). The particular use does not derive its meaning from any general definition of the word 'out there' but rather in the overlap of countless previous and similar uses, to which any particular use might also contribute.

On the Wittgensteinian view of meaning that we are tracing, locutions alone do not overlap in meaning. Included among the 'fibres' are all manner of responses, practices, and ways of carrying on with things following communication break down or success. (I can consider and treat something as natural without ever using that word.) Cora Diamond accents

not the word but ‘the human commerce with the word...how the commerce with the word ‘fear’ [for example] is *interwoven* with the rest of the *lives* of the people who use the word’.<sup>32</sup> With the word ‘lives’ Diamond invites us to imagine the fullest range of activities, interests and deemings significant. Diamond’s imagery of weaving is apposite to Wittgenstein’s thread simile.

Such an appeal to nature as issued above may be interwoven with a whole way of speaking and valuing (that is, a life). Any such whole way of speaking and valuing will take the form of a kind of open-ended network (fabric) of meanings, with its every thread itself a collection of overlapping fibres (meaningful instances). To the degree that any appeal to nature may partake of (and partly constitute) such a whole way of speaking and valuing, we would argue that it is reductive – and potentially dismissive of people’s deepest convictions, orientations and locations of meaning in life – to dismiss the potential relevance of the ‘natural’.

How, then, do we contest the use of any word, or differentiate between use and misuse? We do this partly by reference to consistency with other uses (nearby overlapping fibres) but also *by the value we discern in the entire way of speaking and living* of which those uses of the word are a part. How or by what criteria do we discern that value, especially if our criteria themselves are subject to just such evaluation? That is a good question, and the degree to which any circularity here is problematic or vicious must be examined elsewhere. For the moment, we are left with a

---

<sup>32</sup> Our emphasis. Cora Diamond. 1989. Rules: Looking in the Right Place. In *Wittgenstein: Attention to Particulars: Essays in Honour of Rush Rhees (1905–1989)*. D.Z Phillips & Peter Winch, eds. Houndmills: Macmillan: 14–15.

fundamental contest about what are the best ways of speaking, valuing and, more pointedly, of conducting medicine and sharing resources.

If you do share a background (or participate in a ‘web’) of reverence or gratitude before nature, then you will at least find *intelligible* (understandable, comprehensible, defensible, not absurd) someone’s morally deferring to nature in some instance. You will find it intelligible that here nature is an appropriate object of reverence, obedience or some similar response, even if you yourself do not defer to nature in this instance. You might do so in another. That is part of what it is to share that background.

WHAT DOES SAYING ‘IT’S NATURAL’ ADD TO SAYING ‘IT’S GOOD’? AREN’T THEY PERFECTLY SYNONYMOUS IN ANY APPEAL TO NATURE?

Saying ‘it’s dark’ is not perfectly synonymous with saying ‘it’s black’. Each can add a kind of elaboration or support to the other (as per overlapping fibres). Saying that something is natural can offer succour and support to saying that it is good or okay. I weep at the death of a loved one. ‘Weep’, a friend consoles, ‘it’s good, it’s natural’. I desire a loved one. ‘Desire me’, they encourage, ‘it’s good, it’s natural’. That ‘natural’ may offer a consolation or encouragement that adds to and extends beyond that offered by the ‘good’ (and potentially vice versa). If it did, would I obviously be mistaken? No, we suggest.

In some contexts, the deeper concept or word – that doing the real normative work – will be the ‘natural’ more than the ‘good’. Somebody decries cosmetic breast enlargement as ‘unnatural’. We risk mischaracterising their claim by presuming to paraphrase it merely in terms of ‘not good’. Part of the mischaracterisation lies in the risk of losing the connection of the claim to others in the claimant’s network of meanings, or whole way of speaking and valuing. We may find it harder to locate or comprehend, for instance, their connected or corollary claim that *therapeutic* breast enlargement (post-cancer, say) is ‘good’ insofar as in agreement with nature and, at least in intention and spirit, restorative of nature. People may concur with these (moral) judgements without any reference to nature. In contrasting cosmetic with therapeutic breast enlargement, one may simply oppose vanity with mercy, for instance, and in this one would be making a judgement about the relative value of pursuits. But it would be inaccurate to ascribe to this judgement and the one deferring to *nature* a relation of perfect identity or synonymy. Their accent is different and they may well emanate from (and partly constitute) largely different ways of speaking and valuing (different ethical orientations, different lives). It is unnecessary and inaccurate to collapse these differences.

A deference to nature, it may be argued, does not ‘require justification’ in the same way that a respect for the life of another human being does not require justification. That very respect or deference can itself seem to supply the very conditions of moral justification. Those can be altered or opposed, on Wittgenstein’s view, but at the cost of altering or

opposing our whole way of speaking and valuing. Observations such as ‘we depend on the natural world but it does not depend on us’ can be *expressions* of a respect for nature as much as they can be ‘justifications’ for such respect.

It was once thought that humankind could morally weave but not dye natural materials, for dyeing would too greatly oppose nature. Have we merely expanded or fully thrown off the moral limits to such transformation? Most would intuit that morally we may dye our hair blonde, even blue, but not grow feathers or fur (via gene technology, for instance). A spectrum of moral assent and affront with respect to our transformations of nature would seem to persevere. Is an opposition to growing feathers or fur ‘justified’ or will time prove it as disposable as past opposition to dyed wool and blue hair? If all deference to nature is disposed of, then at the very least this comes at the cost of a fundamental shift in our morality. (The significance of this marks a further question, answers to which will radically differ.)

The label of unnatural can be unkind and abused: consequences can themselves be unnatural in the sense of ‘monstrous’ or ‘excessively cruel or wicked’. Moreover, ‘nature’ is often vague and variable in meaning and application across time and space. Disputes exist over whether a particular thing is natural or not. From this, however, it does not follow that any appeal or deference to nature is fundamentally indefensible. Any appeal or deference to nature need not be naïve – of the potential for cruelty and

oppression, of the degree to which cultures can shape perceptions, or of the logical fallacy that purportedly pertains.<sup>33</sup>

#### WHAT FOLLOWS IN CASES SPECIFIC TO ART?

In debate – over access to treatment and funding, for instance – some deference to nature cannot conscientiously be dismissed *in principle*. It must be considered on its merits in the particular case. Some deference to nature may simply give us pause or affect the spirit in which we do choose to defy nature, say, in the service of others. A question for political philosophy also arises. What is the role of the liberal state in enacting (in the form of funding arrangements, say) judgements of what is natural?

Should we respect as natural limits that should not be overcome: the need for a man and a woman in reproduction; menopause; and even declining fertility with age? In each case, one judgement must follow another of how fundamental to nature is that limit. That judgement, in turn, must follow one of how fundamental to our morality is a deference to nature in this particular case. That judgement, in its turn, must follow as rich and rounded as possible an appreciation of the place and importance of the natural in our lives. Where, how, and how deeply is the natural interwoven

---

<sup>33</sup> Michael Bess expresses basic support for our position when he writes “We need to...acknowledge that some distinctions [like ‘x is more natural than y’] will wind up relatively straightforward and satisfying, whereas others will leave us with a frown of nervous compromise and approximation”. Michael Bess. *Enhanced Humans versus “Normal People”*: Elusive Definitions. *J Med Philos* 2010; 35: 641-55: 653.

into our lives? When do we find it morally good to defer to or, by contrast, to defy or depart from nature, and why? Does ingenuity or mercy, more than any relation to nature, more deeply define a medicine worthy of the name? Are those things themselves in some sense natural? As well as arguing for the relevance of these questions, we have tried to conduct some prefatory work toward answering them.

#### ACKNOWLEDGEMENTS

In memory of Konrad Jamrozik. This work was undertaken as part of the ASTUTE Health study, funded by the National Health and Medical Research Council of Australia (NHMRC Grant ID 565327). Its Chief Investigators are Janet Hiller, Adam Elshaug, Annette Braunack-Mayer, John Moss, Janet Wale, and Heather Buchan. We are grateful to its investigators and staff for stimulating and informing our thinking, especially Janet Hiller, who encouraged the research direction and commented on successive drafts, and Amber Watt, who in addition to commenting on draft material provided much information and fruitful discussion on clinical, epidemiological and social dimensions to ART. We also thank John Maloney, Craig Taylor and Andrew Gleeson for clarifying our thinking about Wittgenstein, Andrew Dutney for discussion on ethical and legal matters, Dale Halliday and Stephanie Krawczyk for research assistance, and those who asked difficult questions at the 10th World Congress of Bioethics

in 2010, where this material was first presented. Drew Carter is employed under the 'Health Care in the Round' Capacity Building Grant in Population Health (NHMRC Grant ID 565501).