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When Bad Science Meets Bad Law

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Last Thursday an Iowa district court judge struck down the state's law limiting marriage to a union of a man and a woman. Judge Robert Hanson of Polk County, Iowa, ruled that the Iowa law is unconstitutional because it denies homosexual persons the right to marry and enjoy the legal rights and protections granted through marriage.

As *CNN* summarizes:

The 63-page ruling, written by Judge Robert Hanson states: "Couples, such as plaintiffs, who are otherwise qualified to marry one another may not be denied licenses to marry or certificates of marriage or in any other way prevented from entering into a civil marriage pursuant to Iowa Code Chapter 595 by reason of the fact that both persons comprising [sic] such a couple are of the same sex."

The law describing marriage as between a man and a woman, "constitutes the most intrusive means by the state to regulate marriage. This statute is an absolute prohibition on the ability of gay and lesbian individuals to marry a person of their choosing," Hanson wrote.

Judge Hanson's decision is a demonstration of judicial audacity in the extreme. His decision includes much that is now recognizable from similar decisions handed down elsewhere (especially Massachusetts) but goes beyond similar decisions in at least one crucial aspect.

The Iowa judge limited all evidence in the trial to what he characterized as the findings of empirical science. Thus, the court disregarded as irrelevant all testimony that was not based in what this judge ruled to be empirical, scientific, or technical research.

For example, the court refused to accept the testimony of Dr. Allan Carlson of the Howard Center for Family, Religion, & Society. As Judge Hanson wrote in his decision, Dr. Carlson, though holding impressive academic credentials, was disqualified because he is an historian of family life rather than a social scientist. Since Dr. Carlson is not a social scientist, the judge reasoned, he lacks the "scientific, technical, or specialized knowledge" to advise whether (heterosexual) marriage is important for the nurture of children.

The result of all this is not only a victory for homosexual activists, but for the worldview of scientism. Homosexual rights activists celebrated Judge Hanson's decision as giving them a sweeping victory that exceeded their expectations. But the ideology of scientism won an even greater victory — all other data and points of view were excluded from consideration.

Add to this the fact that the "science" in this case is social science, a field commonly more driven by ideology than empirical research. There is a big difference between the scientific finding of the atomic weight of the cesium atom and the "findings" of social science. This is even more true when speaking of human sexuality. The twisted legacy and corrupted research of Dr. Alfred Kinsey should serve as ample warning. Yet the "findings" of Kinsey, now known to be based on nothing close to a representative population, are still trumpeted as "facts." The same is true for the research of persons such as the late anthropologist Margaret Mead. Her research was shown to be fallacious, but her "findings" are

accepted as facts.

The clearest example of this kind of intellectual fault is found in Judge Hanson's decision as finding number 57:

Homosexuality is a normal expression of human sexuality. Although homosexuality once was classified as a mental disorder or abnormality, empirical research since the 1950's consistently has failed to provide an empirical or scientific basis for this view, which has been renounced by professionals in multiple disciplines.

Judge Hanson simply excluded any evidence that would have countered this claim. Furthermore, he never even acknowledged that the decision of the American Psychiatric Association that removed homosexuality from its official list of disorders came in the 1970s, not in the 1950s, and was the result of what all parties concede was an explicitly political action – a decision driven not by science but by political pressure.

Judge Hanson stayed the impact of his own decision pending appeal, but not before at least one homosexual couple was married in the state.

More than anything else, Judge Hanson's decision is both tragic and noteworthy because of its purported reliance upon science and empirical findings. Science can tell us many things, but not the most important things — including questions of meaning and morality. Judge Hanson's methodology excludes principle in favor of data points drawn from ideological science. As such, it sets a dangerous precedent for matters that go far beyond sexuality and marriage.

“Finding” number 57 is but one example of where this leads. When bad law collides with bad science, expect a disaster in the making.

