continents. We do, however, come across the tantalizing claim that “the divergent paths [of] religion . . . differentiates the United States from Europe perhaps more than any other single social, political, or cultural factor.” Yet, besides a few passing references to Europeans’ bemusement at Americans’ “Puritanism,” Markovits never fully substantiates this claim. If he did—and in doing so incorporated more non-German voices—then this illuminating book could be recommended even more heartily. As it stands, the book merits a serious reading. Markovits’s own political leanings and nuanced analyses disarm accusations of a politically motivated “anti-anti-Americanism.” The book makes clear, too, that the future of Europe and the future of transatlantic relations involves far more than a tangle of policy disputes to work through. Longstanding and embedded questions of cultural perception and cultural divergence are in play in a way that they have not been in recent memory. They are unlikely to disappear soon.

**Saving a Bad Marriage: Political Liberalism and the Natural Law**

*J. Daryl Charles*

**Natural Law Liberalism** by Christopher Wolfe  
(Cambridge, UK: Cambridge University Press, 2006)

The author of this important volume writes with the awareness that political liberals and natural law theorists seem highly unlikely bedfellows. The former, tracing their roots to Hobbes, Locke and Mill, are by nature skeptical of the possibility of both recognizing and agreeing on a range of objective human goods. As a result, the essence of political life for them is to defend the rights of individuals to pursue their own ideas of the good. Proponents of natural law, by contrast, proceed on the assumption that human beings indeed can recognize objective human goods and that these goods constitute a moral fund that must regulate civil society.

Christopher Wolfe believes that both positions can be wed to the extent that this “marriage” is based on shared conviction and a complementarity of perspective. While the differences between the two may breed certain tensions, the marriage nevertheless holds great promise. The nature of this wedding, of course, is not without its difficulties, as the political narrative of the last 250 years indicates well. During this period, natural law and political liberalism appeared to grow distant, skeptical of one another, and in the end incompatible. But, Wolfe reminds us, the two were originally “married” in the classical liberal political philosophy of John Locke. It is high time, then, that the
two partners be reconciled, particularly given the “crisis of liberalism” in our own day—a crisis that, in Wolfe’s view, is fundamentally intellectual and moral in nature.

Unquestionably, liberal democracy offers people a measure of freedom, fulfillment and well-being that no other form of government would appear capable of producing. At the same time, it is foremost procedural in character and cannot in and of itself renew or replenish the character of its practitioners and beneficiaries. The very goods that democratic liberalism claims to foster—for example, liberty, equality, and tolerance—become shibboleths at best and vices at worst when they are emptied of their moral content. When basic human goods requisite to civil society—for example, truth, piety, justice, neighbor-love, and self-sacrifice—are neglected, no form of government will be sufficient to the task.

Wolfe is acutely aware that for the last three centuries political liberalism and natural-law theory have been perceived as opponents, even enemies. But this perception, in his view, is rooted in a mistaken understanding of each by the other. To facilitate a reunion of the two traditions, Wolfe contends that both are in need of moderation. Liberalism must be moderated in such a way as to be compatible with “important intellectual and moral goods,” with “faith and reason,” and with “the moral virtues that regulate the passions and promote individual and social well-being.” At the same time, classical natural-law theory needs to be “separated from its original historical, political, and social context, purified of elements that are inconsistent with its most important principles, and adapted to modern circumstances.”

The initial task, as Wolfe sees it, is to identify key inadequacies of contemporary liberalism as advanced by its chief theoreticians. This undertaking constitutes Part One of the volume. Part Two, then, is devoted to exploring how political liberalism and natural law theory intersect and interact. Such requires a thorough examination of basic definitions, operating assumptions, goals and vision, not least of which is identifying precisely what human and moral goods are to be pursued and preserved. Only then can a viable public philosophy be propounded.

For Wolfe, the inability of liberalism’s major theorists to establish a plausible doctrine of public reason and liberal autonomy should raise serious questions and cause us to explore alternative explanations. The lack of plausibility is exemplified in the work of the late John Rawls, arguably liberalism’s most influential exponent, as expressed in A Theory of Justice (1971) and Political Liberalism (1992). Rawls’s invention was to claim a certain “neutrality” with regard to basic “comprehensive” views of polity. However, on Wolfe’s account, “Rawls was unable to vindicate this claim.” The reason for this is that Rawls’s political liberalism excludes traditional religious and moral views that qualify as “comprehensive.”

The “first principles” of political liberalism are thought by Rawls to be constitutive of our political culture—among these, the freedom and equality of citizens and fair terms of social cooperation. Justice as fairness, in Rawlsian thought, embodies a baseline conception of the good. But how does society arrive at what is just, particularly when any number of comprehensive views might clash in the wider culture? Rawls’s answer is an appeal to public reason. Political liberalism assumes the fact of a pluralism of comprehensive frameworks, whether they are religious or non-religious, wherein “reasonable” people cooperate along the lines of a “just” society.

Because Rawls has few rivals in shaping late-twentieth-century political theory,
the weaknesses in his system are worthy of attention. Supremely problematic, for Wolfe, is the internal inadequacy of Rawls’s notion of “public reason.” It matters very much to Rawls that political liberalism be “neutral” with respect to the philosophical question of what society should tolerate, what behavior should be discouraged, and why reasonable people should cooperate. But Rawls refuses to acknowledge the illusory character of a liberal neutrality.

Wolfe rightly observes that both our definition of tolerance and the particular form of tolerance are decisive in the recognition of political rights and individual autonomy. According to one notion of tolerance, ideas should not be suppressed by force. A second understanding holds that persons have an inherent right to believe what they want about the human good. The problem with the second is that it easily fades into a subjectivism that undermines the common good. But political liberalism chafes under the idea that, according to religious or moral truths, some things are inherently “wrong.” What matters, then, is not whether something is “true or false” or “right or wrong,” but rather whether members of society cooperate with one another. Public reason, according to Rawls, is the supra-moral agency that permits “reasonable” people to achieve social cooperation, whereas comprehensive views only tend to divide. A further criticism leveled by Wolfe against Rawls’s political philosophy is that it is powerless to address—at both the theoretical and practical level—the “totalitarian temptation.” How do relatively free societies evolve into totalitarian regimes, and what is to prevent this tendency?

Similarly, in Liberal Virtues Stephen Macedo argues that liberalism is constituted by principles of justice that are impartial. This requires an environment of pluralism in which arguments can be publicly stated, debated, and accepted. Logically, this means that those arguments cannot be private, complex, or of a nature that is rejected by otherwise reasonable people. And religious belief, because it is viewed by Macedo as a private phenomenon, is automatically disqualified from the realm of “public reason.”

Wolfe finds weaknesses in Macedo’s argument akin to that of Rawls. Macedo’s position, which rejects natural-law reasoning, is unable to proffer an argument against, say, slavery or abortion. Historically, both issues have been divisive, and opposition to both at any given point might be viewed as a minority position. And on neither issue is it possible—let alone plausible—to achieve a “reasonable” middle ground. Macedo’s assumption that religion is private is equally problematic for Wolfe, since religion claims to be both rational and public in its manifestation. In the end, “liberal public reason” is not a plausible doctrine. Its assumptions are philosophically flawed, it measures are unclear, and its program is susceptible to partisan manipulation.

Another form of excluding moral argument from public debate is found in Amy Gutmann and Dennis Thompson’s Democracy and Disagreement. One of the requirements for democratic deliberation, according to Gutmann and Thompson, is the principle of reciprocity: that is, the capacity to seek mutually fair terms of social cooperation. This means, theoretically, that each citizen must offer reasons in public argument that are acceptable to others, which in turn depends on their commonality and their verifiability. Such, of course, would exclude claims made by religious fundamentalists.

But the argument from “reciprocity,” too, suffers from the illusion of objective neutrality. Moreover, morality is ultimately not necessarily empirically verifiable, nor will it necessarily be shared by most citizens. Indeed, people can find public justifi-
cation for what they wish rather than what is right. Wolfe, quite properly, suggests broadening Gutmann and Thompson’s definition of reciprocity so that it “asks people to direct reasonable arguments to their opponents—with reason being defined broadly, not in Rawlsian terms—and to be willing to listen and respond to their arguments with civility.” For Wolfe, the problem with the Gutmann-Thompson thesis, as with Rawls and Macedo, is that public argument can rule “out of order direct appeals to many people’s deepest moral and religious convictions in political discourse and decision making.”

Central to most conceptions of contemporary liberalism is the notion of autonomy. The state’s purported “neutrality” is typically thought to maximize the autonomy of individual citizens, and hence, their freedom to choose whatever lifestyle they wish. Such, therefore, invites a critique of Ronald Dworkin, whose work in Taking Rights Seriously⁵ and Sovereign Virtue: The Theory and Practice of Equality⁶ exemplifies for Wolfe the contemporary “purification” of “paternalistic” aspects of classical political thought. This unenlightened paternalism, which for Dworkin must be rejected, manifests itself in a variety of ways but errs fundamentally in assuming that some objective standard of the good life might transcend any circumstances in which people find themselves. In Wolfe’s view, Dworkin ultimately errs in assuming that no transcendent ethical standards exist whereby human behavior is to be evaluated. Wolfe is cognizant of the fact that all people draw the ethical line between acceptable and unacceptable; the difference is where that line is drawn. In the end, the goal of “paternalism” properly construed, according to Wolfe, is to facilitate free choice of the good, not merely to constrain people externally. This, of course, presupposes that a shared notion of the “common good” exists.

In this vein, Wolfe believes that Joseph Raz’s appraisal of “moral paternalism” also needs comment. What distinguishes Raz from most liberals is that he does not assert autonomy as an unqualified good. What Raz in principle opposes is the idea that, as long as other people are not directly “harmed” by an individual’s behavior, government should coercively restrain personal autonomy. Not surprisingly, the test-case for Raz is how society responds to homosexuality. Raz worries that homosexuals do not enjoy full “citizenship” when they face public and private discrimination, resulting in “homophobic prejudice.”

Here, as Wolfe correctly perceives, two clarifications are necessary: an alternative definition of coercion and the rationale for government’s preserving the common good. So, for example, a person deprived of the opportunity to murder has not lost “autonomy”; nor can coercion be thought the equivalent of being “manipulated.” Rather, intention and the common good must inform a society’s understanding of “coercive” restraint. Thus, in restricting homosexual acts via public policy society gives tangible expression to its commitment to uphold the well-being of all citizens. To the extent that Raz is preoccupied with forms of “bigotry,” Wolfe believes that his understanding of liberalism “may be an invitation to a form of liberal tyranny.” For on Raz’s account, parents and public schools and civic organizations all must tolerate homosexuality; to do otherwise would be “intolerable.” In the end, Raz’s attempt to delegitimize discrimination on grounds of sexual orientation, without recourse to assumptions about the moral rightness or wrongness of related acts, is for Wolfe “a failure.”

Having assessed the contours of contemporary liberalism, Wolfe seeks to broaden the definition of “liberalism” as “a tradition of political thought extending over
centuries.” Liberalism, he maintains, is no single, seamless political philosophy. Yet, it is characterized by several defining features—among these, the notion of human dignity and equality, political rule by consent, the protection of rights, limited government, and the rule of law. These core values, alas, happen to correspond with the natural-law and Christian moral tradition.

Following a brief history of the natural-law tradition that extends from Aristotelian thought through Stoicism to Augustinian and Thomistic thought, Wolfe identifies several core elements—objective value, human nature, the natural order of ends, and human flourishing—that inhere in natural-law thinking. These combine with the common ground shared with classical liberalism—human dignity, consent, the centrality of rights, limited government, and rule of law—to maintain and fortify civil society. Where the natural-law tradition serves as a corrective to contemporary liberalism is its moral realism (over against the latter’s optimism), its reversing of the priority of freedom over truth, its openness to (rather than rejection of) revealed religion, and its concern to protect the family as a social unit.

But how does “natural law liberalism” cash out? A useful test-case, in Wolfe’s view, is its approach to religious liberty, since it is thought to protect “a broad form of religious liberty while maintaining a firm belief in the existence and intelligibility of religious truth.” Undergirding Wolfe’s overall thesis is the presupposition that reason has an important role to play in claims to divine revelation. Hence, religion cannot merely be relegated to the private sphere, for to inquire about the meaning of life, about human nature, and about human goods is very much a public matter. After all, social policy proceeds on certain assumptions about each of these questions. What is distinctive about natural-law reasoning is that it seeks to preserve the common good, whereby both the individual and the community are safeguarded.

Ultimately, in Wolfe’s view, “natural law liberalism” is more respectful of the social nature of human beings as well as the importance of the moral ecology affecting their development. While attendant to the strengths of liberalism—for example, equality and human rights—it helps alleviates contemporary liberalism’s problematic tendencies, which tend to truncate the intellectual and moral underpinnings of the very tradition from which it springs.

Doubtless some readers will initially come to this volume somewhat skeptical of the “wedding” being proposed by the author. A fair reading of Wolfe’s argument, however, should convince the reader not only of the plausibility of his thesis but of the necessity of the “marriage.” For if we assume as our basis, with Wolfe, the classical liberal political philosophy of Locke rather than contemporary versions thereof which have jettisoned the intellectual and moral underpinnings of the broader tradition that birthed them, we indeed discover common ground with the natural-law tradition that is necessary to safeguard “civil society.” And in the post-consensus cultural climate pervading the West, this wedding needs to occur sooner rather than later.