

Natural-Law Liberalism

Christopher Wolfe

Cambridge, United Kingdom: Cambridge University Press,
2006 (257 pages)

Christopher Wolfe of Marquette University is a decorated veteran of the academic front of the culture wars. He is even a member of the general staff, having established the American Public Philosophy Institute. The academic “battle of the books” today takes place in the broader context of a contest between progressives and the orthodox in the United States. These terms come from James Davison Hunter’s seminal *Culture War: The Struggle to Define America* (1991). The Orthodox believe in an “external, objective, and transcendent” source of “moral authority,” typically some form of Scripture and authoritative tradition, but some among them (also) appeal to a morally elevated “natural law.” For Catholics (and for some other Christians), the two are not exclusive, of course, and, as a Catholic, Wolfe can draw from reason as well as faith. In his written work, he exclusively employs reason, but he makes clear his sympathy for adherents of biblical religion, including relatively unsophisticated ones. He wants to defend them from their intolerant liberal despisers.

Progressives (here again Hunter is speaking) are modernists who want to advance the *zeitgeist*; they adhere to value-neutral, tradition-debunking notions of science; and they work to ever more fully envisage and promote ideals of human equality and autonomy. They tend to seek not merely legal tolerance but social acceptance of human differences, including sexual ones. They have many academic exponents in eminent positions. In part 1, Wolfe critically discusses John Rawls, Stephen Macedo (twice), Amy Guttmann and Dennis Thompson, Ronald Dworkin, and Joseph Raz.

Wolfe brings significant credentials and intellectual resources to the enterprise. His doctor of philosophy degree from Boston College in political science prepared him well for his work. He knows the history of political philosophy—classical as well as modern. He thus has an intellectual perspective that transcends relatively limited contemporary intellectual horizons. Classical political philosophy provides him with such essential conceptual and normative notions as “the regime,” the educative function of law, a robust notion of reason, and an appreciation for prudential judgment—judgment at the service of human goods, informed by due attention to circumstance and likely effects. It also helps to know the longer tradition of liberal thinking: Newer does not always mean better.

He also received grounding in the founding principles of the American political order. His first book, *From Constitutional Interpretation to Judicial Activism*, nicely periodized the history of American constitutional jurisprudence and clearly showed the radical departures of the Warren and Burger Courts from the gold standard of the Marshall Court. Wolfe’s knowledge of “con law” enables him to stand toe-to-toe with liberal legal thinkers; frequently their legal knowledge and reasoning pale in contrast to his.

He also was introduced to the wealth (and tensions) in the Catholic tradition of social and legal thought, chiefly by the example and work of the late Father Ernest Fortin,

A. A. Wolfe's Catholicism is orthodox, learned, and self-critical. It embraces a substantive understanding of reason. Reason can know real human goods, including the common good; reason can hear and articulate dictates of conscience and reason can be architectonic, as well as humbly self-conscious of its limits.

In *Natural Law Liberalism*, Wolfe essays a new strategy in the war. He offers an olive branch to the left. They can become allies is his proposal. While it stretches credulity to believe his opponents will take him up on the offer, it will not be because of lack of effort on Wolfe's part. He confesses theoretical and practical errors on the part of adherents of the natural law tradition. "Contemporary natural law," for example, "has moved to a greater awareness of and sensitivity to the importance of liberty." He tries to show the more-than-tactical compatibility of the two long-time opposing traditions, natural law and liberal. He sincerely praises liberalism and its fruit, liberal democracy. True, he also critiques contemporary liberals (rather devastatingly), but he does so primarily in order to show them that liberalism needs something like natural law to ground or safeguard its most cherished tenets: human equality, human dignity, and limited government.

On the evidence he provides, the minds he dissects are quite made up. One of the most intriguing features of Wolfe's exposition of his interlocutors is how often reason is twisted and tailored by them to fit predetermined commitments. It is an instructive, if sad, spectacle.

Throughout, Wolfe attends to what we could call an ideal-type, "liberal soul." It wants to emancipate human beings, to give them politically and intellectually almost total *carte blanche* for self-determination or self-creation. This, at best, is a pathetically false so-called romantic understanding of human possibilities. It detaches human beings from any notion of sovereign truth, of determinative good and evil. To do so, it narrows reason itself, as well as exercising its ingenuity to debunk substantive claims about human goods. All the while it believes itself to be compassionate, rational, and a defender of *the* human good—autonomous freedom—from oppression and potential tyranny. It is the stuff of tragedy and comedy, although Wolfe throughout maintains a moderate and sober tone.

One thing he does to mollify and entice his opponents is to invoke a respected third party whom both may claim: Alexis de Tocqueville. Tocqueville said he was a liberal (but, he added, of a strange or distinctive sort). He accepted the justice of the democratic claim of equal liberty, and he welcomed the separation of the church from the state. He also famously declared that a free society requires the moral convictions that only religion can provide, and he praised Americans for combining "the spirit of religion" with "the spirit of liberty."

Wolfe's opponents are almost guaranteed to bristle at the suggestion of a welcome and somewhat official place given to moral-minded religion in the liberal polity. Wolfe again meets them part way: He is talking about a requisite "public philosophy" for a viable and estimable liberal order, not a confessional state. This public philosophy respects rights of conscience or religious liberty. Wolfe sketches it—but only sketches it—here, and promises a more substantive treatment in a sequel. That will be important. The notion of "public philosophy" sounds like an oxymoron, debasing the substantive by means of the adjective.

The tension between philosophic thinking and public awareness or convictions, a tension of which Wolfe is quite aware, may help account for the variety of formulations he employs. Most broadly, he seeks “a certain intellectual and moral framework” for liberal democracy. Like Tocqueville’s, Wolfe’s “liberalism seeks to place the drive for equality and liberty in a certain intellectual and moral framework that helps to direct that impulse, and to protect it from taking forms that would undermine the well-being of society and its citizens.” More specifically, this has to be “a natural law intellectual framework, rooted in truth and morality.” Finally, though, he declares, “I use natural law in a broad sense that includes not only natural law ethics, but also the philosophical anthropology and metaphysics associated with the classical natural law teachings of Thomas Aquinas.” Rationally *and* publicly combining ethics, anthropology, and metaphysics is a tall order. Even its more limited core, which Wolfe sketches in thirteen propositions, is ambitious. They move from the human awareness of real distinctions between good and evil to the substantive, and not just instrumental, character of the common good. None is implausible, but the entirety requires major intellectual work.

As I indicated earlier, I do not believe that Wolfe’s main intended audience can be convinced academic liberals. Who, then, are the appropriate readers of this text? My brother, I believe. My brother, an intelligent nonacademic, is a concerned citizen, very much a family man, and deeply concerned about America’s culture and our politics. In an older phrase, he is a proponent of “ordered liberty.” He sees a lot of disorder around him and wants help sorting things out. Wolfe provides him much of what he needs; his book in fact has a primer character to it.

Its first part takes the nonspecialist reader through major contemporary liberals and their theories. It shows that the emperor’s clothes, if existent, are quite shabby. Then Wolfe provides a compact but largely accurate and useful history of natural right and natural-law thinking, as well as of the fascinating tradition of liberal thought. The nonspecialist’s views are thus lengthened and deepened. The *sketch* of a natural law public philosophy then provides him with a map and checklist for his own thinking and analysis. Its admittedly incomplete character indicates appropriate modesty, an intellectual and political virtue. For those who have care for such people—whether students, neighbors, or siblings—Wolfe’s book is to be recommended, and we academics should look forward to his substantive sequel.

—Paul Seaton

St. Mary’s Seminary, Baltimore