

Reply to Drucilla Cornell

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Source: *Critical Inquiry*, Vol. 26, No. 1 (Autumn, 1999), pp. 140-146

Published by: The University of Chicago Press

Stable URL: <https://www.jstor.org/stable/1344150>

Accessed: 13-09-2019 19:50 UTC

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Critical Response

II

Reply to Drucilla Cornell

John Brenkman

I am extremely grateful to Drucilla Cornell for her thoughtful and spirited response to my essay, and to *Critical Inquiry* for the opportunity to reply (see Drucilla Cornell, “Enlightening the Enlightenment: A Response to John Brenkman,” *Critical Inquiry* 26 [Autumn 1999]: 128–39). I would like first briefly to clarify my view on three specific questions she raises and then give a more ample response to her argument that John Rawls provides in *A Theory of Justice* a viable vision of a radically egalitarian society.

First, the clarifications:

1) While Cornell’s reading of my essay is extraordinarily attentive and respectful at every turn, in her penultimate paragraph she represents my position in terms that are almost unrecognizable to me. She argues that I need to recognize that the ideals I am defending—publicness, including the publicness at play in the judgment “this is beautiful,” personhood, and so on—are “configurations” and therefore “can always be contested and judged again for the moral and political effect they have in the form they give to our public life” (p. 139). In the closing paragraphs of my essay I meant to stress just that. In saying that the *zoon politikon*, “one’s own understanding,” the “worth of others,” and “your body is a temple” are all *figures* of personhood, I wanted to underscore that these concepts are drawn from symbolizations of moral experience and are therefore intrinsically polyvalent in their moral and their political significance. In the same vein, I also think that the decisive universalistic moment in political and social criticism—“this is unjust”—elaborates or

Critical Inquiry 26 (Autumn 1999)

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draws on resonant symbolizations of harm. It is why no concept, in the sense of a theoretically consistent proposition or even a universal maxim, can exhaust the experienced symbols of injustice or forecast where new points of social upheaval and political struggle will come from. The innovativeness of a claim to justice lies in the unprecedentedness of the claim itself, the fact that it does not simply apply a fixed principle to a new situation. The new situations change the meaning of the principle. My remarks on the political modernism of Douglass, DuBois, and King were meant to indicate how important that dialectic has been to African American politics and citizenship.

2) In her elaboration on Kant's *Critique of Judgment*, Cornell very astutely draws the implication that the "enlarged mentality," which Kant attributes to the *sensus communis* involved in aesthetic judgment, is a kind of horizon in the communicability of feelings. As a consequence, "the *sensus communis aestheticus* to which Kant refers always points us to a projected *ought to be* of a shared community," rather than an achieved or required community. Accusing Jürgen Habermas of "collaps[ing] the *sensus communis aestheticus* into the *sensus communis logicus*" in his supposition of "an overarching concept of *communicative reason*," Cornell provocatively asks, "just how much of a Habermasian" am I (pp. 130, 131)?

Well, on this question I am not a Habermasian at all. I share Cornell's impulse to dialogize Kant's faculty of judgment and to construe its universalistic moment—the appeal to the agreement of everyone or the capacity of putting oneself in the place of everyone else—as a horizon. In fact the horizon of the *sensus communis aestheticus* is more virtual and problematic than Kant himself thought. In the historical context in which he wrote, Kant saw in the *sensus communis* of the emergent public sphere around him and in the tastes of its bourgeois and aristocratic participants a relatively homogeneous "community sense" and more importantly had the expectation that the gradual expansion and inclusiveness of that public sphere would little alter its tastes, discursive decorum, or sense of community. He thus could believe that there was a relatively short distance between the concrete *sensus communis* he participated in and humanity as a whole. As we now know, he was wrong. The actual development of the public sphere through the nineteenth and twentieth centuries looks nothing like what Kant anticipated. For criticism today, the moment of aesthetic judgment—with its tacit claim or appeal to the agreement of

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everyone—is immediately caught up in the differentiated, contoured, contradictory dynamics of the public sphere.

3) Kant's slogan "*Enlightenment is man's emergence from his self-incurred immaturity*" exemplifies, in its very syntax and vocabulary, the language of modern social and political criticism. He designates Enlightenment as a process of emergence; he does not define it as a completed achievement or the unique possession of a particular society. The standard is the negative one of "immaturity," collective "self-incurred immaturity" defined as the inability to use one's own understanding "without the guidance of another."¹ Doctrines, authority, autonomy-robbing forms of socialization, unexamined prejudices—all types of "self-incurred immaturity" were alive and well in Kant's society and are in our own. Enlightenment as learning process and as public criticism is the unending process of emergence from them. I followed in Kant's negative spirit by saying that the "beyond" implicit in the post-Enlightenment stance of Arjun Appadurai and Carol A. Breckenridge hardly represents a "maturing" of contemporary thought insofar as it abandons the supreme value Kant puts on the aim of using "one's own understanding without the guidance of another." I do not believe some cultures are "mature" and others not; a culture, one's own or another's, cannot be evaluated whole-cloth in any sense.

As regards the Rushdie affair or international human rights more generally, the key questions are about modern states and regimes, not "cultures." The *fatwa* was issued by a head of state, not a culture or an Other. When a head of state pronounces a death sentence and bounty on a writer, licensing his murder by anyone anywhere, the decision of other governments, Western or not, to protest and apply diplomatic and economic pressures hardly qualifies as ethnocentric fear run amok.

Cornell questions the skepticism in my claim that cultural and social critics today lack a viable vision of a radically egalitarian society. Rather than looking to a theory of justice to guide commitments to democratic politics and radical social equality, I take a kind of hermeneutic view that the disparate traditions of democratic thought and practice—liberal, civic-humanist (or republican), and social-democratic—provide a fund of norms that have to be continually reinterpreted, often critically, and applied to the changing conditions of modern society. Democratic political theory continually debates the relationship among the heterogeneous norms produced by these different traditions: rights, liberties, equality and equalities, goods, entitlements, obligations, duty, opportunity, fairness, and so on. The task of arguing for and attempting to institute a more libertarian public sphere and civil society and more egalitarian so-

1. Immanuel Kant, "An Answer to the Question: 'What Is Enlightenment?'" *Kant's Political Writings*, trans. H. B. Nisbet, ed. Hans Reiss (New York, 1970), p. 54.

cial relationships has nothing to gain, in my view, from trying to adduce a systematic theory of justice out of this rich and ambiguous fund of norms.

At some level Cornell and I disagree on this question. But whether the disagreement amounts to an irreconcilable difference in our respective understandings of the role of theory in political and social criticism or merely a difference in intellectual sensibilities and conceptual style I cannot tell. It may not therefore be all that important. But just in case it is, I'll address directly the challenge she makes to me by claiming that John Rawls provides a viable vision of radical egalitarianism.

I read Rawls as one effort among many important projects that have, in significantly different ways, tried to rethink the relationship between democracy and socialism. Twentieth-century history has made it clear to these progressive social and political thinkers, first, that neither capitalism nor socialism is intrinsically democratic; second, that democratic commitments do not therefore organically gel with either the defense or the critique of capitalism per se; and, third, that a theoretical reflection that attempts to articulate, in the sense of express *and* conjoin, democratic and socialist commitments cannot be accomplished within the discourse of Western Marxism. This last recognition drives many fertile, immensely relevant projects in contemporary social and political theory besides Rawls's political liberalism—especially Habermas's transformation of the Frankfurt school's critique of capitalism into a theory of political and social democratization; Michael Walzer's quasi-communitarian, quasi-pragmatist theory of complex equality; Pierre Bourdieu's theory of the multiple forms of capital; the work of Nicos Poulantzas, Ernesto Laclau, and Etienne Balibar after their break with Althusserianism; and the work of Claude Lefort and Cornelius Castoriades.

Rawls took up the problem from a peculiarly American perspective. *A Theory of Justice* (1971) was written during the 1960s in the midst of the revival and extension of the New Deal in a decade that inaugurated the War on Poverty, the Great Society, new immigration laws, and civil rights legislation. Political liberalism's intellectual and historical roots were sunk deep in the supposition that capitalism is the economic foundation of democracy and, conversely, that democracy is the organic political form of a capitalist society. The philosopher set out to show that unprecedented redistributions of wealth and new conceptions of civil rights could in fact be justified with complete conceptual coherence on the basis of liberal tenets of universal rights and in the liberal idiom of abstract principles of justice. The book is a tour de force. It shows how a liberal can become a social democrat without even suffering a hangover the morning after the paradigm shift.

But a paradigm shift it is. *A Theory of Justice* embraces two ideas that were more or less explicit in the Great Society reforms: first, the notion that social inequalities are just only so long as the freedoms and initiatives

of those who are better off are, in their actual effect, to the advantage of those who are worse off (this justifies such policies as the progressive income tax, corporate contributions to workers' retirement funds, regulated wage increases, and Social Security); and, second, the notion that all citizens or members of society have a right to an equal opportunity to pursue their aims in life (this justifies school desegregation, Head Start, welfare benefits, and mass public education). Rawls's project is to show that these principles of social-democratic reform (the "difference principle" and the "fair equality of opportunity principle" respectively), far from being un-American constrictions on free enterprise, are based on "pure procedural justice" and derive from the original social contract that "free and rational persons concerned to further their own interests would accept in an initial position of equality as defining the fundamental terms of their association."²

To imagine the deliberations of this imaginary collection of free and equal and reasonable persons, Rawls puts them behind his famous "veil of ignorance." They deliberate without knowing their social identities, class position, and wealth, or their abilities and plans. Voilà! They come up with the "difference principle" and "fair equality of opportunity," adverting a vision of a just society not through the learning processes of political struggle and the ordeal of democratic persuasion but rather through an ideal procedure of unanimously agreed-upon reasoning.³ Talk about a *sensus communis logicus*. As a matter of intellectual sensibility, I find this whole style of thinking very alien. It is premised on the idea that to arrive at a vision of social justice we must first forget our social being.

While my view of Rawls runs counter to Cornell's claims on behalf of his theory of justice, I think that her appropriation of Rawls in *The Imaginary Domain* is in fact consistent with my reservations about his theory. Turning the tables a bit, I think Cornell's compelling and original concept of the imaginary domain exemplifies the kind of innovative admixture of discourses and traditions I am advocating; indeed, it helps to show that the unavailability of an overarching theory of justice is not so debilitating after all. Drawing on the Kantian-Rawlsian tradition to define the basic universal rights of free and equal individuals, including their dignity as persons before the law and as citizens, Cornell quickly tears away the veil of ignorance and asks a feminist question: what are the rights "necessary for the establishment of the minimum conditions of individuation for women"?⁴

Drawing on psychoanalytic theory, novels, and biographical testimonies, she argues that individuation is an ongoing ordeal and process in

2. John Rawls, *A Theory of Justice* (Cambridge, Mass., 1971), p. 11.

3. See *ibid.*, pp. 136–42.

4. Drucilla Cornell, *The Imaginary Domain: Abortion, Pornography, and Sexual Harassment* (New York, 1995), p. 53; hereafter abbreviated *ID*.

which an individual needs the “psychic space”—the imaginary domain—in which to establish or repair bodily integrity, narrate or renarrate his or her history, project a self and a possible future. Once she has shown that sex and sexuality are inevitably central to the imaginary domain, she is able to reframe a variety of legal and political questions concerning abortion, sexual harassment, and pornography as questions of rights and “the equal protection of certain minimum conditions of individuation” for women (*ID*, p. 4). Cornell’s commitment to the Kantian-Rawlsian perspective allows her, first, to foreground the universality of rights rather than the contingency of goods within a feminist perspective. With the concept of the imaginary domain and sexual difference, she then breaks, or overrides, Kantian-Rawlsian proceduralism. At that point it seems to me that the difference between her view in *The Imaginary Domain* and the one I advance in “Extreme Criticism” and here vanishes. For example, she argues that feminism “demands much greater room for political contestation over the conception of justice than is left open in *A Theory of Justice*” (*ID*, p. 14). And she rejects any “conception of justice that successfully resolves the tension between . . . freedom and equality in and through a Kantian constructivist conception of the person. For me, there will always be a tension between freedom and equality” (*ID*, p. 243 n. 2). And, finally, her arguments throughout the book are continually attentive to the fact that, in light of the disputes and conflicts within feminism itself, no theory can purport to reconcile equality and difference.

When it comes to the interlocking but conflicting traditions of democratic thought, I also suspect that Cornell and I basically share the same, let us say, configuration of commitments and values: I’m committed to liberal rights and freedoms but interpret them against the grain of liberalism; I’m an anticommunitarian republican in the sense of putting a high value on citizenship and participation while rejecting the idea that the cohesiveness of political community, or the polis, requires its members to share a wide array of quasi-religious moral and “cultural” values; and I’m a radical social democrat in that I support extensive redistributions of wealth via the state apparatus. Yes, this is a hodgepodge of values and commitments, devoid of any unifying philosophical justification and subject to reshufflings in the context of particular social struggles or political controversies. And it draws on values and historical experiences and symbols from all three of the conflicting traditions of democratic politics. My theoretical argument is simply that so do everyone else’s actual political commitments and values in a modern democracy.

Conservatives were the last to reject any commitment to the use of the state to structure society—it’s what distinguished them philosophically from social democrats—but they gave that up in embracing Reaganism and now aggressively use the state to redistribute income—upward—and to craft social policy to reshape civil society (controlling sexual and reproductive life, segregating and immiserating inner cities,

desecularizing mass education, and so on). Leftists have long been wary of embracing any notion of negative liberty, principally because classical liberalism uses negative liberty as the linchpin of its philosophical defense of capitalism and because Isaiah Berlin coined the phrase in a cold war context to differentiate liberal capitalism (which he seemed not to notice had already transformed itself into state capitalism) and Marxism (which he illegitimately identified purely and simply with Soviet state socialism).

We need to rethink this wariness, for negative liberty is vital to the conception of freedom. In *The Imaginary Domain* Cornell asserts that “a crucial aspect of my legal theory of equality is the move beyond the dichotomy between positive and negative liberty” (*ID*, p. 240 n. 3). That move does not scuttle negative liberty. For what is it that carves out the space for an independent pursuit of happiness by individuals always in the process of individuation, always engaged in their own ordeal of autonomy, if not negative liberty? My criticism of Judith Butler’s *Excitable Speech* focuses on the fact that she forgoes a commitment to negative liberty as the limitation or, better, the fracturing of state power that opens the space of individual initiative and expression. Likewise, she forgoes a commitment to positive liberty in the Arendtian sense by not acknowledging that the citizen is socialized to citizenship; her conception of the “subject” reduces socialization to the subject’s subjection to or constitution by power. Cornell and I both see in *Excitable Speech* the spirit of individual liberty that animates Butler’s convictions and rhetoric. So why forgo a strong defense of *individual* liberty, negative and positive?