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Introduction

The authors published in this volume consider Drucilla Cornell's contribution to and impact on the several academic disciplines in which she works. They do so from quite diverse perspectives. To comprehensively address Cornell's contributions in one volume is impossible, given that she is actively writing in and widely read in philosophy, political theory, literary criticism, legal studies, women's studies, and lesbian and gay/queer studies. Further, Cornell takes a significantly undisciplined approach to these "disciplines." She draws upon feminism, psychoanalysis, and such very different philosophical voices as Kant, Lacan, Adorno, and Derrida to argue for traditional demands such as rights, dignity, and equality. The quality of these demands becomes radicalized in her hands. The life we would live if they were realized as she describes them becomes open-ended, perhaps more undisciplined in the best possible sense, and certainly more imaginative. Her writing inspires the thinker, the theorist, the academic to consider the lives that are affected by thought in action and encourages activists to think and rethink the ontological and ethical lineages that structure their discourses and practices.

Cornell is on an intellectual journey that leads her in an uncommon direction toward what we might call "postmodern liberalism." We give it a name reluctantly because naming is too often a device of regulation. Naming the "postmodern" has served primarily to obscure fundamental differences among those identified as such but for whom critics wish to have a convenient label against which to work. Worse, it can draw Cornell's writing into relation with the conventional despite its disruptive force. However, while we do not wish to predict where she will go next or from which resources she will find further inspiration for thinking about justice and human dignity, we do believe that the phrase *postmodern liberalism* captures something about the trajectory of Cornell's thinking and practice.

Cornell's thinking moves across a vast range of disciplines and issues, offering the reader complex syntheses and new insight into the salience of theorizing to the quality of lived experience. Within this range, there are several critical themes and concepts developed throughout Cornell's work. The first is the rescue of the ideals and practices of justice from conflation with the law. She takes this on in the *Philosophy of the Limit* (1993) as well as in many essays that follow, most recently in *Defending Ideals* (2004). Cornell engages with positivists—those who believe that positive law exhausts the possibilities of justice—and with critics of positivist legal theory, pointing out the positivist impulses implicit in their own work. Why rescue justice from law? Because justice cannot be realized in a final fashion while laws most certainly can, most notably in the form of punishment and death. Further, the law and legality are not mere instruments of justice for Cornell. Law is ultimately about coercion. This fact, along with the regulatory quality of law, shuts down imaginative responses to how implementation of the law always already potentially produces injustices. However, justice is the aspiration that sustains us in thinking critically about and challenging the laws.

When imagining what feminist justice might look like, Cornell moves us beyond the equality/difference debate in feminism. She takes up this theme with the intent of displacing “gender” and thinking instead about “sex” as the focal point. Gender keeps us trapped in the dualism of seeking equality for already identified men and women and sustains a paradigm wherein women are compared to men. Further, it fails to recognize the fluid and changeable quality of sexed or sexuate being. Cornell wants to shift our attention from gender to sex and, perhaps even more important, to include the discussion of freedom in our legal strategies that address equality. She says:

Of course the demand to be freed from this measure of gender comparison is made in the name of freedom, not in the name of neutered selves. Indeed, because sexual freedom demands that we be able to recognize the hold that gender forms have upon us, both as confinement and as exclusion, the questions of who we are as sexed creatures must be asked at the beginning of every theory of justice. Further, a concept of right that recognizes this freedom must be tailored to provide space for imagining sexual difference. (*At the Heart of Freedom: Feminism, Sex, and Equality*, 1998, 6, hereafter HF)

In moving beyond the equality/difference debate to discuss such issues as abortion, pornography, sexual harassment, and kinship/family arrangements, Cornell deploys an original concept for understanding the self affected by these questions. We cannot understand Cornell's critique of mainstream and feminist legal theory without describing her conceptualization of the ‘imaginary domain.’ The imaginary domain is the place of the self in relation. Cornell develops her thinking about the imaginary domain in a book of that title, with a subtitle, *Abortion, Pornography, and Sexual Harassment* (1995, hereafter

ID). She returns to the nature and importance of, and further develops her thinking about, the imaginary domain in *Heart of Freedom*. The imaginary domain is more a set of possibilities than a thing. Conceptually it presupposes several arguments that Cornell takes up in various places in her work: “that a person is not something ‘there’ . . . but a possibility, an aspiration which, because it is that, can never be fulfilled once and for all” (ID, 5). That sex is a (not “the”) definitive aspect of the self. “Sex is so basic to who we are that when we imagine ourselves, sex is always already in the picture. Most of us know that on some level. All of us live as sexed beings” (ID, 6). This notion of sex as basic to who we are leads Cornell to identify us as “sexuate beings” and to claim that sexuate being is not easily subjected to rational scrutiny, assessment, regulation, or construction. This latter argument emerges from Cornell’s commitment to a modified Lacanian framework for understanding not only the imaginary domain but also how it is that under current conditions sexuate being is distorted and disciplined under the weight of heterosexist and patriarchal norms. Cornell argues we see ourselves so deeply and profoundly from the inside as always already sexed beings that we cannot easily, if at all, separate ourselves from what she calls our “sexuate self.”

Cornell places the right to the development of our sexuate being as central to her conception of justice, suggesting, perhaps controversially, not only the essential importance of our sexedness to our sense of self but also that the capacity of each person to develop an integrated sense of a sexuate self is one of the most important aspects of personhood the law can protect. As her position develops in the *Imaginary Domain* and *Heart of Freedom* through discussions of abortion, pornography, and adoption, among other issues, it is clear that her sense of the terms on which our “sexed self” develops, if left as much alone as possible by the law, is quite open-ended. While abiding by and deploying the harm principle (famously articulated by John Stuart Mill) Cornell clearly wishes to deconstruct the deeply moralistic and normative effects legal interpretation and practices (and some feminist interpretation and practice) have had as they identify and enforce “appropriate” limits to sexuate being. One need only refer to the controversy over gay marriage to see how deeply those moralistic and normative beliefs are held by those who promote them. Cornell’s work is an excellent intervention and counter to dominant legal practices regarding sexuality and sexuate being that reflect and enforce those beliefs.

While Cornell has a radical feminist’s sensitivity as to the harms done to the feminine sexed identity by patriarchy (thought in Lacanian terms by Cornell) and by apparently neutral legal categories, she takes a very different path, which, drawing heavily upon the liberal tradition dating from Immanuel Kant, places strict constraints on the law. She critiques any reliance on the law that suggests it can or should offer the gift of freedom. Her liberalism shines through as she argues the limits of law in making us “be good,” by positively identifying community norms and legislating accordingly. For Cornell, the

law is there to prevent harm being done, not to promote the good. It is the subtle differences in Cornell's argument that make all the difference, however, between her liberal legalism and a more mainstream liberal legalism. For example, quoting Kant, Cornell argues, "No one can compel me to be happy in accordance with his conception of the welfare of others, for each may seek his happiness in whatever way he sees fit, so long as he does not *infringe* upon the freedom of others to pursue a similar end which can be reconciled with the freedom of everyone else" (ID, 11). We emphasize "infringe" because Cornell will replace it with the more precise "degrade." As long as we do not degrade the rights of others to pursue their definition of happiness, the law should not intervene. It is the degradation of marginal identities—whether those identities are associated with femininity, homosexuality, the transgendered, or transsexuality, all having to do with sexuate being—that Cornell is most concerned with. She argues that "infringe" throws too wide a net to capture the harms that matter. To degrade is to deny the worthiness of the self in question to pursue sexual happiness.

From her very earliest work it becomes clear that Cornell is centrally concerned with developing a critical philosophy that will transform our present without quite knowing what that transformation might bring in the future. The relationships among the past, present, and future that she addresses in different places in her writings are complex. She is an unabashed idealist, centrally concerned about how we imagine ourselves, not how we "know" ourselves either in terms of our material circumstance or in terms of our capacity for reason. We should in fact take special note, as we think about the place of the ideal in Cornell's work, that the imagination displaces knowledge as the critical moment. Even if we "know" something cannot be fully achieved, for example, a coherent self, our imagining of that self, of that possibility, in the moment is nonetheless critical to the ongoing project of becoming a person. It is this freedom to imagine rather than to know in any final way who we are that Cornell emphasizes. This sustains her argument in light of powerful critiques of essentialism and of identity politics recently put forward in the field of feminist political theory.

We open the volume with a chapter by Roger Berkowitz, which captures Cornell's commitment to imagination, to thinking beyond our selves as limited beings. He places Cornell's faith (always a future-oriented condition) in thinking against Heidegger's settlement with thinking (always a present-oriented condition with a problematic relationship, perhaps a nostalgic one, to the past) and outlines a challenge for critical legal theorists in an era when thinking (theorizing) feels like the last thing upon which anyone should be spending any time. As noted above, Cornell's work challenges those who would conflate law and justice or evacuate the possibility of justice from the law through positivist or avowedly realist/postmodern critique. According to Berkowitz, Cornell thus "rejects the spurious conclusion that the indeterminacy of rules requires the absence of justice. . . . Contra Stanley Fish, Cornell

argues that the uncontroversial fact of indeterminacy means that justice can never be reduced to a mechanism of validation” (15 this volume). Berkowitz fleshes out Cornell’s critical theory of the imagination. He shows her debt to Kant but also how she moves away from Kant’s command theory of law. In her rethinking of freedom, Cornell insists upon the pursuit of a community-in-law not grounded in reason but in a more open-ended sense of imagined possibilities. The philosophy of the limit is ultimately about living within the paradox created by the inherent finitude of being human and the needs of/for community. Law will be part of that, but not the final arbiter of justice. Berkowitz’s chapter shows us how Cornell works through these paradoxes inherent in the relations among freedom, community, and law.

If Berkowitz’s chapter elaborates and builds upon Cornell’s thinking about freedom in relation to law, Adam Thurschwell’s “Radical Feminist Liberalism” is a finely tuned exegesis of Cornell’s feminism. Thurschwell highlights how Cornell moves from an emphasis on equality, long struggled for by “radical” and “liberal” feminists, to an emphasis on freedom. Freedom is the ends to which equality is the means, after all. In and of itself, equality means little if it is not oriented toward what Cornell identifies as our freedom to imagine and become (perhaps never quite hitting the status of “being”) ourselves. Cornell radicalizes liberal notions about the protection of individual liberty with the conceptualization, described above, of the self as guided in its becoming through the imaginary domain. Thurschwell effectively shows how her liberalism proscribes the role of the state in ways many feminists may disagree with, arguing that if freedom is the end we seek, and not “equality” as an end in itself, then the imaginary domain must be allowed the space to range beyond the “normal” until, as mentioned earlier in this introduction, it moves to degrade what is other to it.

The issue of liberal universalism, the universalism of such ideals as equality and individual freedom, is quite current in feminist theory. Karin Van Marle’s chapter takes up questions related to liberal universalism through putting Cornell’s ideas into dialogue with those of Martha Nussbaum and Iris Marion Young. Her chapter carefully outlines the difference Cornell’s and Young’s theory makes in imagining/constituting just forms of human relations. She argues that they take particularity and difference into account as central rather than peripheral concerns as feminists think across and attempt to disrupt conventional boundaries that delimit identity. Van Marle takes Cornell’s ideas to ground, so to speak, in looking at decisions of the Supreme Court of South Africa about claims of substantive unequal treatment under the law, specifically Section 9 of the South African Constitution, which protects the right to equality. Reviewing two significant cases, she concludes that even the effort to attend to substantive equality fails as the Court continues to place persons in groups prior to examination of their particular context and situation. Whether the Court is placing individual claimants into groups of privileged background or in groups of disadvantaged background (vulnerable

and “needy”), this approach will not do justice to the particularity of the selves that come before the Court and ask for the freedom to continue to become who they are. We must somehow break with the habit of universalizing the context of the other, whether that other appears to be of the privileged class or of the disadvantaged. This is not to understand each person coming before the Court as an individual prior to his or her context. It is to see individuals as such *within* their context.

While Thurschwell and Van Marle take up Cornell’s postmodern liberalism in an affirmative fashion, J. Bernstein critiques her work with the argument that her thinking about the imaginary domain is incomplete. He wants to bring recognitive theory and an awareness of the embodied status of identity to bear on Cornell’s thinking. He says that “what she requires is an account that binds what it is to have a sexual identity *uberhaupt* to the imaginative projection of that identity, and then, further, make that imaginative projection a necessary condition of individuated action.” (84 this volume) In other words, to prevent the imaginary domain from being merely mental space, or “imagination” in the traditional sense, Bernstein argues it must be a component of action, of projection, of recognitive relations with otherness. He suggests that Sartre’s theory of action “that ties action and imagination together through the projection of a revisable identity that forms the horizon of all one’s action,” (84 this volume) with Simone de Beauvoir’s feminist assertion that there is no “I” without a gender qualification works to supplement Cornell’s Lacanian thesis about the self.

Benjamin Pryor also suggests an absence in Cornell’s thinking, but a far more present absence than that identified by Bernstein. Pryor wonders at the absence of Nietzsche in Cornell’s work, given that the philosophers with whom she engages, Derrida, Irigaray, Heidegger, Levinas, are “Nietzschean” in orientation. He wonders about the significance of this absence and about the implications for her work if Nietzsche were to be made more present. Pryor writes specifically in response to Cornell’s well-established commitment to liberal ideals. He acknowledges the radical fashion in which she approaches these ideals but wonders at the quality of the approach itself. As discussed in several of these chapters, for Cornell, values are the limit, not the precondition of the law. Even given the “not there yet” quality of our relationship to ideals that Cornell emphasizes again and again, Pryor suggests hesitation is called for in the presence of the “demand that values and ideals orient our approach, even to questions of law.” What does the presence of Nietzsche, a presence only indirectly present in Cornell’s actual work, do to the presentation of ideals so central to Cornell’s thinking?

While the chapters discussed above consider Cornell’s thinking about liberalism and freedom, the next three take up the themes of evil and the possibilities of witnessing. Carolin Emcke’s and Sara Murphy’s meditations on dignity and the problem of witnessing take up the challenge Cornell issues as to how the force of thinking, of philosophy, is indeed an active, transformative force in the world, even in the light of the most difficult and ambiguous of social

relations, those of bearing witness to the suffering of others. Their chapters address the question of whether our “thinking,” in this case, Cornell’s thinking and writing about her mother’s death in her book *Between Women and Generations* (2004, herein BWG), understood by Cornell as an act of witnessing, can make any difference at all. Clearly they believe it can. Emcke, however, challenges Cornell to come to terms with the potential for the total erasure of dignity and to sustain her commitment to bearing witness in spite of that erasure. Murphy suggests that Cornell is indeed engaged in a project of bearing witness to women’s dignity throughout this book but that in assuming a dignity prior to the web of relationships she describes each of the women in the book to be caught up in, she obscures the radical potential of her own work.

Emcke asks whether dignity is a kind of capacity to act, to resist in the face of overwhelming odds, the most extreme being ongoing, systematic torture, the end of which the victim cannot see. This is classically represented as the treatment of those interned at Auschwitz but could apply to those currently at Guantanamo Bay or in the prisons of Saudi Arabia and Burma. Cornell argues for human dignity as something only “we” can recognize or acknowledge, “even in the face of the dead piled up as corpses that calls us to witness to the full horror of what we have done to each other” (“Thinking the Future,” 4). Nazis typically are a kind of “other” in the imagination of the West. Critical theorists ranging from Adorno to Foucault (indirectly) have shown that “they” are indeed always potentially “us.” Cornell suggests as much in calling the Holocaust something “we have done to each other” rather than claiming that we can, through the recognition of dignity as a metaphysical fact, see how horrible “they” are. In a sense this shows the importance of arguing dignity as a metaphysical fact, suggesting that the Nazis would have been capable of acknowledging the dignity of those they identified as “others,” making their crimes all the more horrific. However, it begs the question Caroline Emcke raises as to whether dignity is not a metaphysical fact, but can be “seen” only in its denial, in the confrontation with bad treatment, in the moment of resistance, as a transgressive assertion of humanity, which, for example, Cornell’s mother implicitly engages in spite of statutory laws against assisted suicide and God’s law against suicide generally. This relates to Sara Murphy’s questioning of Cornell’s assumption that dignity is related to autonomy. Does dignity demand the presence of the other in the act not only of witnessing as argued by Emcke, but also in the very project of subject constitution? Is not the difficulty of witnessing wrapped in our “inescapably heteronomous origins” as always already constituted subjects? If dignity is contextual in the way suggested above, only seen in resistance against historical phenomena, then it is not a metaphysical fact. It is something to be valued and witnessed but is not a predictable point of departure as to setting out rules for human conduct or human relations.

Murphy further articulates the difficulties of doing a genealogy of women’s relationships in a culture saturated with symbolic images of male genealogies.

Cornell's story shows that women's lives are lived in relation, but not relations of their own making. The demand to bear witness to these relations is no less urgent. Feminism is about engaging the impossible. That is precisely Cornell's project, as Murphy argues, in this volume, and I would suggest, in the rest of her work as well.

In his meditation on evil, Martin J. Beck Matustík identifies a suspicion at the heart of our affirmation of ideals and at the heart of the imaginary domain. He argues through a reading of Cornell in relation to Adorno (through Kant) and Benjamin that to conceive of the ideal of humanity and the resistance to radical evil it entails is to think evil as the limit of those ideals. The task of critical theory is to mark and to measure the radical limit of ideals in the banality of evil, the reverence for progress, and the cruelty—he names it religious cruelty—at the heart of the desire to inhabit truth. Matustík raises the possibility not only that evil limits ideals in our most devoted and reverent attempt to realize them but also that Cornell's cautious idealism—recalled in other essays as her constant attention to threats to dignity that inhabit law, legal philosophy, and institutions in the context of a recollection of justice—can lead us to recall our humanity even as we acknowledge the possibility of cruelty that is its inheritance. Matustík asks us to judge our “selves” as human in what he seems to think are our most intensely human moments (of despair, zeal, cruelty, reverence, and failure) from a perspective that is at once open and excessive, like the imaginary domain. His chapter appeals to us to admit that the ever-present possibility of failure before the wholly other is there at the limit of ideals and, for the critical theorist, shows us a way out of cruelty.

Our volume concludes with a three pieces related to the question of multiculturalism. The piece by Cornell and Sara Muphy, and that written by Pheng Cheah, are reprinted from a symposium originally published in *Philosophy and Social Criticism* (2002). The final piece is by Elizabeth Grosz. Grosz takes her thinking from an original response to Cornell and Murphy's piece and weaves it into a discussion of her recent critical work on feminist thinking about evolution/history, or, as it is more commonly discussed, the “nature/culture” divide in feminism. We chose to reprint the first two chapters as they bring the complexly interwoven strands of the theoretical work accomplished by Cornell to bear on a well-worn issue. They show how, as in the case of the equality/difference debate in feminism, her thinking infuses life into this issue by raising new questions about apparently trampled political ground. Grosz's chapter is an excellent end piece for this volume as it exemplifies feminist theory that draws apparently unrelated issues together into an unexpected relation and thus moves theory forward.

Pheng Cheah asks, “If we say that the recognition of authentic cultural identity is ‘bad’ because it violates human dignity, then we have to ask, what is the nature of humanity ‘as such’ that it possesses this thing called ‘dignity’ that should not be violated?” (204, this volume) Like Carolyn Emcke, Cheah asks Cornell, what is the relationship between being human and having dig-

nity? What is this thing called “dignity” that we must have in order to be recognized as fully human by others?

Cheah explores this question by thinking about the quality of the faculty of “imagination,” more fully than Cornell does in her work. The quality of this faculty is not, however, where his concern with Cornell and Murphy’s chapter lies. His chapter takes up the meaning of the term they use to describe the giving of recognition to others, *affordance*. Who or what will afford the space for the imagination, as it conceives and reconceives the self in a world bereft of theological or naturalized sources of authority? Cheah turns to Heidegger to theorize ‘affordance’ as self-giving and the imagination as a process of giving that “does not emanate from human consciousness but instead from the irreducible temporalization that makes possible (human) existence” (14). Cheah concludes that Cornell and Murphy’s critique of authenticity and subsequent affirmation of a more limited form of multicultural identification is adequate to the historically specific context of constitutional democracies wherein civil society (in the Hegelian sense) is developed and may “afford” such space. However, in other contexts conditioned by global capitalism, this “self-giving” is not so affirmative. Aboriginal persons whose lives in communities have been made possible by their proximity to resources global capitalism now wants may take up forms of artificially authentic identifications that necessarily trap them, subjecting them to governmentality, even as it frees them from what Benedict Anderson described as “malign neglect” as the resources that give them life are plundered by capitalist interests. Such trade-offs are not taken into account in Cornell and Murphy’s piece. They must be taken into account if we are to have an adequate accounting of who, what, when, and how affordance of psychic space (as reconceptualized by Cheah) is freeing.

Elizabeth Grosz’s chapter brings together discussions of the concept of ‘futurity’, of ‘evolution’, and of ‘identity politics’. It begins by highlighting an otherwise oblique theme in Cornell’s work, that of the relationships among the past, present, and future. Feminists have taken what Grosz identifies as two approaches to the question of the future, one extrapolating directly from present conditions to argue (discover?) the future implicit in them and another creating new worlds, probably utopian, but always other than what is. Grosz suggests that Cornell, following Irigaray, takes another approach to futurity, which suggests the new is sustained within present conditions but unseeable with them. The future is never, thus, predictable, but open-ended. For Cornell it is the concept of the ‘imaginary domain’ that does the work of holding open the possibility of freedom that is the future. Grosz then offers a gloss on her recent work on the critical potential of thinking about evolution for undermining the tenacity of the now unhelpful nature/culture divide in feminist thought. She goes on to take up Cornell and Murphy’s chapter on multiculturalism, critiquing their continued adherence to a paradigm of recognition for thinking about identity and political/social/cultural rights. Ultimately Grosz draws a connection between her understanding of evolution and

a Nietzschean understanding of the subject as protean, an effect rather than a cause of activity and forces beyond its control but always ultimately subject to its impact. It is this subject Grosz suggests will be the subject of the “new” world of multicultural justice. Grosz’s chapter does work on multiple levels within feminist theory, exemplifying the kind of interdisciplinary approach and the bringing together of unexpected ideas and concepts that has also made Cornell’s work so helpful in moving feminism forward.

The chapters in this volume are eclectic in form and substance. They are written by authors from various disciplines. Some are more meditative and suggestive and some more traditionally scholarly in tone. The volume as a whole is a provocation to be “undisciplined” as we seek out the theoretical and intellectual resources that will help us see past a present conditioned by reactionary and regressive politics. They do not pretend to engage all the possibilities Cornell’s work opens up but lead us down different paths, pushed by the urgency of the questions provoked by her work.

Inspired by the critical readings published here, Cornell’s response to the papers offers the reader further clarification of, but no final conclusions about, her thinking. She elaborates on her thinking about the concept of the imaginary. She expands on the relationship of her theorizing to Kant and Hegel and to Levinas and Heidegger. And, importantly, she defends the somatic quality of the feminine personhood we might imagine beyond the reach of patriarchy. She offers breadth and depth in her response while exploring the significance of symbolic objects as they highlight the urgency of questions raised in her work. Her response provokes thinking about self/other relations, what it is to become a self, and about recollective/collective memory and its relationship to the imagined future.

Cornell clearly understands thinking to be a form of action. I have always had a tangled relationship to my “role” as a thinker/teacher. Cornell’s work and avowed commitment to thought as radical practice does not settle anything for me. However, her response, and indeed this volume as a whole are emblematic of the potential radicalism inherent in ongoing, respectful yet determinedly agonistic dialogue among those of us who choose to think beyond what is given and imagine beyond what seems possible.

It is in light of the above that we might mention Cornell’s initiation and involvement in the Ubuntu Project in South Africa. She mentions this work briefly in her response at the conclusion of this volume. However, readers may become more familiar with it as described in Cornell’s own words by going to www.fehe.org and clicking on Drucilla Cornell. They will find there a preliminary report or reflection on interviews Cornell has conducted and further projects that have stemmed from her visits to South Africa over the past several years.