
'Asking for the moon' - A 'musing' on Cornell's *Beyond Accommodation: Ethical Feminism, Deconstruction and the Law.*

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The first writing of Drucilla Cornell that I ever read - and have reread many times thereafter - was her 1990 *Cornell Law Review* publication titled 'The Doubly-Prized World: Myth, Allegory and The Feminine.' *Beyond Accommodation*, published in 1991, can either be regarded as an elaboration of the ideas and thoughts raised in the 1990 article, or the latter could be regarded as a shortened version of the book. Be that as it may, Cornell, since the late eighties/early nineties, has been putting forward a multi-layered and complex feminist philosophy that no one can nor should attempt to summarise and from which no one should even attempt to take out the main themes or highlights. I can merely mention three notions put forward by Cornell in the book that not only influenced my engagement with feminist theory but also changed my understanding of law in a deep and profound manner. Firstly, the affirmation of sexual difference without relying on any given understanding or description of 'woman'; secondly, the insistence on the deconstructability of the law; and thirdly, her explicit focus on the 'heart.' These three notions all support what for me continues to be Cornell's greatest contribution - her consistent and infallible use of fable, myth, and the imagination that could push feminists, as she has it, following Derrida, to even 'ask[] for the moon' (Cornell 1991: 205).

'The story of sexual difference is continually affirmed' (2)

Cornell's affirmation of sexual difference without reverting to any given description of what 'woman' is or supposed to be remains one of the most important contributions to feminist thought. The well known and trite debates on sameness/difference, or whether we should focus on difference as an issue of dominance, relationality or care were left behind by Cornell's 'mamafesta.' Joining postcolonial and critical race feminists, Cornell underscores the importance of race, class and ethnicity for women's freedom and justice. But her careful play with these aspects prevented any form of rigid identity politics. Similarly important is that she manages to take the material suffering of women as an extremely serious matter while not limiting women to any given presentation. As Cornell states:

Writing the mamafesta, as I rewrote it here, is a fable for the elucidation of Her-story such that feminine "reality" can be written. In the fable as I have rewritten it, the opposition between the literal and the textual is undermined. Undermined, but not obliterated. The material suffering of women is not being denied in the name of a process of writing that

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continually transforms the representation of the feminine as if the rewriting itself could put an end to patriarchy. Instead, the fable emphasizes the deconstruction of a reality that stands in as the unshakable, literal truth, so that the more that has yet to be written from the side of the feminine is not shut out as non-existent. No woman can claim that hers is the ultimate reality excluding all others, based on a concept of gender identity or on the uncovering of the essence of Woman. Thus, the writing of the *mamafesta* does not attempt to resolve the riddle of femininity once and for all, by locating women's specificity in a pre-given nature of sexual difference. (2)

'Deconstruction points us beyond legal reform to justice' (111)

Cornell's refusal to accept any given description of what woman is or what women's subordination entails has significant implications for law and legal reform.

The "subject" is never just the hostage of its surroundings, because these surroundings cannot be consolidated into an unshakable reality that defines us and by so doing necessarily limits possibility to the evolution of what already "is." (107)

The reliance on *differance* as continuously subverting the claim that 'this is all there is' and disclosing the 'trace of Otherness' that always remains, exposes the limits of any attempt of legal reform to legitimately respond to women's subordination (108-109). Following Lyotard, Cornell explains how any given description of the real ('the tyranny of the real' (109)) will exclude some from the system and deny some voices to be heard. Feminists in their quest for justice must heed this. Cornell follows Lyotard, who instead of defining justice, defines injustice, because any attempt to describe justice will amount to 'confining resistance within itself' (110). According to Cornell, deconstruction can have an important bearing on feminist jurisprudence because it illustrates how, by reinterpretation, the law could be challenged and transformed. However, these possible challenges and transformations should not be confused with justice.

To be just to justice, we must not conflate justice with any given context, even the context that ended a particular injustice for women and the silence surrounding a claim unspeakable within a particular tradition. (112)

'Hearts starve as well as bodies' (xv)

From her very first writings Cornell has been firm about the notion that feminism should be about 'changing woman's place in the world' (xv). 'But' as she rightly asks 'what does changing the world entail?' (xv). She notes that it most definitely entails change in women's material reality, about how goods and resources are redistributed. Feminism, in particular second wave feminists, have focused on the importance of women's bodies. However, Cornell underscores that 'hearts starve as well as bodies' (xv). In an era in which women's rights, socio-legal and specifically empirical approaches are in full force, women are mainstreamed through international, regional and local treaties and conventions, and are counted and measured, Cornell's claim for a feminism inspired by idealism -

what she names ethical feminism - is of great importance. Psychoanalytic theory is also crucial for ethical feminism: 'By centering attention on the form of the free person, we are confronted with what psychoanalytic theory has called psychic laws, the law of how human beings are enculturated' (xvi). However, Cornell's engagement with Lacan is not straightforward. Although she follows his insights to a certain extent she departs from his claim that the feminine is ultimately unrepresentable. The representation of woman can take many forms, and of course we should be cautious not to attempt to capture or lock 'woman' to any given description. However, through myth, fable and allegory we could continue to seek to affirm feminine sexual difference without reverting to old stereotypes:

The affirmation of the feminine may be impossible as other than the reversion to the old stereotypes. Undecidability cannot be wiped out in an appeal to knowledge if there is no ontological given to the feminine we can appeal to as our truth. ... But the possibility that we might be approaching a new choreography of sexual difference with every new step we take can also not be wiped out. (205)

I have been relying on Cornell since the beginning of my academic career. In 1994 I began research for my LLM dissertation on the possibility of legal transformation with specific reference to how pornography was treated in a then very 'new' South Africa. Cornell's ethical feminism, the nuanced engagement with women's sexual difference and the problems of representation steered me to formulating an approach to the regulation of pornography in a society with many newly founded freedoms. In my LLD thesis I again drew on Cornell in order to argue for an ethical interpretation of equality as a response to the developing equality jurisprudence that was heavily based on Canadian substantive equality approaches. These early research projects provided me with what Njabulo Ndebele (2003: 82) calls 'an angle of approach' for future endeavours focused on notions of transformation, critique and the becoming of a post-apartheid jurisprudence. For me the greatest contribution of Cornell as ethical feminist is that, in her problematisation of traditional boundaries, she discloses alternative approaches for others to follow in feminism, law and life. Being a feminist researcher in post-apartheid South Africa, Cornell's work has been and will remain inspirational for a long time to come. 'Such a new choreography may be asking for the moon, but through asking for the moon, we speak and write' (205).

References

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