

AT THE HEART OF HUMAN GOOD: A CRITIQUE TO A LIBERAL READING OF KANT

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1. Introduction: good, freedom, and emancipation

In emancipatory fields, reflections about the notion of good and the warrant of freedom are tied together. To consider women and men as free human beings implies to let them enjoy equal access to opportunities, resources and capabilities that have to do with the recognition of their personalities and the respect to their life options. The protection of freedom requires a serious acknowledgment of the subject's capacity to self-determine the particular conception of welfare and good life that is going to lead her life.

Drucilla Cornell is one of many feminist thinkers who have thought about the the connection between freedom and goodness in relation to gender issues. In her book *At the Heart of Freedom* she argues that a society must treat each individual as autonomous so that each subject ought to be able to choose her own ends in life. Cornell contends that such a view corresponds to a liberal reading of Kant. I will try to show here that there is a fundamental mistake in her attribution. The clarification of the mistake aspires not only to avoid a philosophical injustice to the Kantian project; but also to point out how contemporary feminism could benefit from Kantian ethics, when correctly understood.

The presentation will proceed in the following way. First, I will present Cornell's main ideas on freedom and equality. Then I will show how they contradict Kant's view of morality. Last, I will briefly comment on some of the advantages of the Kantian approach for contemporary feminism.

2. Cornell revisits Kant

1. Introduction

Drucilla Cornell [say something about her] presents her [last] work, *At the Heart of Freedom: Feminism, Sex, and Equality*¹ as a contemporaneous development of Kantian ethics. She supports her appeal to Kant by her acknowledgement of the central role that autonomy and freedom play in individual action. For her, the recognition of autonomy and individual freedom protect any agent from the illegitimate restrictions that other people might exert over her actions.

The basic premise in her argument is that the individual ordination of preferences is not to be discussed, for there is no common instance from which to impose a unique vision of good. In other words, there is no universal criterion to judge each subject's notion of goodness. Cornell's approach implies that the individual ordination of preferences is a question of taste, interest, or personal convenience; hence, and translated into Kantian terms, a question more of inclination than of rationality. Such an approach would neglect to ask why we have certain preferences, as well as whether their construction along time has been rational.

In my opinion, though, Cornell's appeal to Kant is *sui generis*, to say the least. Why? Because Kant combines, in a coherent albeit sophisticated manner, the following two theses. On the one hand, each subject has an individual but indeterminate conception of happiness; the notion of good is thus individual –as Cornell well states. On the other hand, however, for Kant a correct moral action is never governed by the agent's notion of happiness, for the agent ought not to take into account her own happiness when judging what she ought to do. As a consequence of these two theses, Kant sustains that although the content of happiness is not universal, good moral action

¹ Cornell, Drucilla, *At the Heart of Freedom: Feminism, Sex, and Equality*, Princeton NJ, Princeton University Press, 1998, (*En el corazón de la libertad: Feminismo, sexo e igualdad*, Madrid, Cátedra, 2001). (La paginación de las citas corresponde a la versión española.)

is one and the same for every human being. In fact, that is exactly the essence of Kantian ethics: the claim that the supreme principle of morality is universal because the notion of good is based on the agent's reason, not on her inclination towards happiness.

Hence, my criticism to Cornell is that, against her purpose, her approach goes directly against the essence of Kantian ethics, i.e., formal universalism. Since formal universalism is the core of Kantian ethics, it will be necessary to conclude that Cornell's interpretation and use of Kant is fundamentally mistaken. Thus whatever her liberal reading may be about, she cannot truly claim to be an heir of Kant.

2. Cornell walks along Kant's path

Cornell's feminist project is inserted within certain interpretation of the liberal tradition, whose fathers she locates in Kant, Rawls and Dworkin. Her main concern is with women's freedom, over and above what has up to now been the most frequent demand of feminism, i.e., formal equality with men. According to Cornell we have to shift the focus so that instead of being concerned with the kind of freedom that is necessary to be equal, we start focusing on the kind of equality that is necessary to be free. It is about time that we talk straightly of women's freedom for "the freedom of each person to pursue his or her own happiness in his or her own way, is crucial to the ability of any person to enjoy the glories of life".

Cornell defends that the notion of freedom includes the freedom to conceptualise gender relations and to act in relation to them, and especially the freedom to react against any kind of enforced sexual choice or identity. This extensive definition of freedom is, according to her, based on the Kantian conception of a free subject as a self-determinating agent. In particular, it is based on the existence of, what she calls, "the imaginary sphere". The imaginary sphere refers to a space where we (re)imagine and (re)configure ourselves, that is, a space that allows us to define and evaluate who we would like to become.

Cornell's defence of "the sanctuary of the imaginary domain" explicitly underlines the right to create ourselves as sexual beings — much in the line of Judith Butler's approach. Particularly, such freedom includes the right not to behave according to a pre-defined conception of what female or male identities are. Therefore, the recognition of freedom that Cornell advocates, will protect our right to represent or own

sexuality, promote the emancipation from any sexual options that the State might impose, and facilitate the struggle against the frequent reinforcement of common and unifying patterns by basic institutions of society.

Once having analysed the idea of freedom, Cornell is ready to take her second step in the argument, that is, to reflect about the kind of equality that will allow us to exercise our freedom. To this purpose, she engages in a lively discussion of a great variety of today's hot issues, like for example, the regulation of prostitution, the rights of rental mothers and of adopted children, the reform of family law, the reactionary father's movement, the rights and duties of parents, and the international agenda of human rights. Cornell is conscious that the theoretical framework she employs does not determine a unique position in relation to each of these issues, for the same ideal of freedom and protection of the imaginary sphere could give rise to opposite views about them. However, she claims that universalising the sphere of the imaginary contributes firmly to discard stereotypical answers. The hope being that, by giving a fresh impetus to the traditional lines of debate, new foundations for future dialogues could be settled down.

I think her reflections are a good proof of what she hopes for. The great advantage of her approach is that it helps clearing the path from stagnant perspectives. Definitely, some old themes deserve new approaches.

For if we really conceive freedom as related to the self-determination of one's goals in life, then we will have a powerful tool to test gender equality. After all, it is still the case that most women do not enjoy equal access to the same opportunities, resources and capacities that have to do with the recognition of their personality and with the respect to their chosen ways of life as most men do. The strength of this thesis continues to be revolutionary.

3. Cornell walks away Kant's path

As we have seen, Kant's influence on Cornell shows in her emphasis on freedom, self-determination, and autonomy, as well as in her consideration of the imaginary sphere as the empty space, which each subject fills on their own. The fact that women have historically been denied, in theory as in practice, the appropriation of these concepts, makes necessary to continue to reflect on them and to demand that their

application be universal. In my view, this aspect of Cornell's' appeal to Kant is impeccable.

However, I do not agree with considering another premise of her discourse as Kantian, despite her much insistence on it. For there are two aspects of Cornell's exposition that are not coherent with a Kantian perspective. First, Cornell seems to take freedom for granted, as if it were an ontological feature of any human being. By contrast, Kant conceives of freedom as a condition of possibility for morality; it is neither a given ontological feature nor an ideal to be fulfilled by social conditions. In Kant's view, the existence of freedom cannot be guaranteed; we rather have to suppose it for the morality to be possible. Just this is the transcendental element of Kant's theory, which ought not be overlooked. (More technically exposed, we would say that freedom is a "postulate of reason", a "transcendental condition of possibility" for morality).

Second, in Kant's approach freedom has nothing to do with the agent's search for happiness but, quite on the contrary, with her duty to act morally. That means that we have to suppose that the moral agent is free to preserve her autonomy, in other words, to warrant that she can give to herself a rule of conduct independently of her inclinations. Freedom is not the capacity to do what we feel like doing; but the capacity just not to do what we feel like doing. This is precisely the formal universalist element of Kant's theory, which should also not be disregarded.

Being oblivious to these two essential Kantian premises, Cornell seems to be thinking too frequently that the consideration of the subject as a free agent contributes to her enjoyment of happiness. That to acknowledge the agent's freedom will facilitate her fulfilment of welfare. Unfortunately, such a perspective corresponds, however, more to a consequentialist program of general welfare *à la* Mill than to a formal universalist ethics such as Kantian is. The fact that Cornell goes astray from Kant in these two essential points must be stressed.

At this point, it could be convenient to recall some central aspects of Kantian ethics. In particular, it might even be helpful to our purpose to present the content of the categorical imperative, as it is expressed in the third formula. Our presentation will be brief and aims to facilitate the eventual understanding of Kant's benefits for ethical feminism.

3. Kant: third formula of the categorical imperative

1. A formal rule, which is at the same time strictly universalist and radically individualizing

The third formula of the categorical imperative expresses the idea that we ought to act in such a way that our will, being rational, could turn into a will giving general laws. The so-called principle of the autonomy implies that the will “is not being subjected simply to law, but is so subjected that it must be regarded as giving itself the law, and for this very reason is subject to the law of which it may consider itself the author“.

According to Kant, when the will acts that way, it gives itself the law, i.e., it is autonomous. It is precisely because such a will does not take into account any particular interest, not even the agent’s interests, that it can be universally lawgiving and ground an unconditional imperative. (...) It is therefore possible that someone accepts a law that he gives to himself, and that the law be at the same time universally binding.

Thus, the third formula of morality entails that to be a person means to be competent to determine one’s ends for oneself. Kantian ethics underlines that to act morally right does not simply imply to refrain from doing any harm to others. Also, we ought to respect the other’s ends, that is, each person’s peculiar idea of happiness, and, furthermore, we ought to help others to achieve happiness as well.

In sum, Kantian morality combines the following two ideas: On the one hand, everybody has the faculty of self-determination so that each person chooses his or her ends individually and looks for happiness in her or his particular way. On the other hand, any agent ought, when acting morally, to further the others’ achievement of happiness.

Hence, the categorical imperative is, at the same time, both strictly universalist (for it applies to all agents equally) and radically individualizing (since it requires that the agent perceives and supports the specific needs of others).

In my opinion, the requirement that the agent’s actions ought to be taken autonomously together with the acknowledgement of the role need, welfare and

happiness play in human lives, turn the categorical imperative into an extremely helpful tool to analyse and evaluate gender issues.

2. The importance of Kantian approach for ethical feminism

Certainly, Kant's moral philosophy can be of much relevance to feminist understanding of equality. For Kant's treatment of the relation between human good and freedom serves to illustrate the kind of moral justification that lies at the feminist claim for equality. As we have seen, Kant distinguishes the fact that everyone aims for happiness and conceives it in a particular way, from the command that the agent ought to be free when acting morally, i.e., that she ought not to consider her achievement of happiness when deciding how to act morally right. In Kantian terms, the only right motive to act morally well is duty, not search for happiness.

Now even if her own happiness is never a right motive to decide what to do, the agent is still morally obliged to take into account the other's happiness. In fact, it is only by putting into brackets our inclinations towards happiness that we exercise our freedom, that is to say, that we can reason and act independently of our situation, interests, desires, hopes, needs, etc. Only under that condition it makes sense the moral precept to respect the other's happiness.

Why then is Kantian thought powerful for feminism? Because it justifies that the promotion of a woman's happiness be a reason to act. Naturally, this thesis must be correctly understood. The point is not, as Cornell seems to have taken, that the female agent is allowed to pursue her own happiness; rather that any agent is obliged (when acting morally right) to help others achieve their happiness, indistinctively of their gender.

When we apply this command to analyse practical matters from the perspective of gender, we realise how different the treatment is when the other is a man or a woman. For once and again social, economical, political, religious and cultural studies show that when the other happens to be a woman, she does not get so much respect, recognition and promotion of her self-determined idea of welfare, happiness and goals in life as when it happens to be a man. To this respect, Kantian ethics is beneficial for feminism not only because it helps diagnose a wound that is still open, but especially because it

helps developing the kind of conceptual and moral treatment that would be needed to heal it up.

IDEAS FOR DISCUSSION

Economical forces

Despite the interest and suggestiveness of her discussion, however, a caution has to be mentioned here. Cornell pays little attention to the economical forces that constrain our freedom, nor to the economical conditions that would help to establish it. After all, sexual freedom is not completely independent of economical justice

Examples of the application of the Kantian approach to gender issues (drawn from Nagl-Docekal ²)

The appeal to the categorical imperative reveals numerous defects in the treatment that women obtain based on their gender. A project like this will focus on the following two essential aspects of the moral law:

First, the duty to respect the ends that the others determinate for themselves (as long as they are subject to certain moral limitations). In general, because of the gender roles assigned to them, women are presented with limited options, and therefore offered less opportunities of personal fulfilment. For example, women, unlike men, must frequently choose between career and family, or are able to maintain both projects with more effort and tensions that what men need to devote. To a large extent, it is precisely in relation to body matters, sexual identity, maternity and work issues that women gain or loose our right to imagine who we want to become.

Second, the precept to contribute or further that human beings fulfil their self-determined ends. This aspect of the categorical imperative forces us to ask to what degree women find support in their individual search for happiness. The question here is, what can be done to enable women to seize *de facto* the opportunities (e.g., in terms of educational, occupational, and political equality) that are accessible to them *de jure*? In this respect, measures such as programs for affirmative action and quota regulation acquire their moral justification as attempts at ending a situation in which women are denied moral treatment in the sense of support for their self-chosen ends.

² Herta Nagl-Docekal: "Feminist ethics: How it could benefit from Kant's moral philosophy?" in Schott (ed.): *Feminist Interpretations of I. Kant*. Penn State, 1997.

The problem should not be framed just as conflicts of interest

Applying the categorical imperative to concrete gender asymmetries renders apparent the moral character of problems otherwise likely to be regarded merely in terms of conflicts of interest. Hence, Kantian ethics is extremely interesting for the development of an ethical feminism.

The judgement is by comparison with men's situation, not ideally

Es necesario garantizar que las mujeres accedan (en la misma medida en que lo hacen los varones) a las oportunidades que legalmente les corresponden y de las que depende (idealmente) que vivan el tipo de vida que cada una escoja.

En cualquier caso, y a fin de evitar cómodas objeciones de partida que califiquen el proyecto de utopía fantásica (en el sentido negativo de impracticable), debe quedar claro que el patrón de medida con el que valorar moralmente las distintas situaciones, es simplemente que las mujeres consigan lo mismo que disfrutaban en términos generales los sujetos masculinos, ni más ni menos.

Final caution

And, yet, a final caution has to be mentioned. Including the other's ends among my own ends is, no doubt, a beautiful definition of love, which can lead to further moral and political analysis and conclusions. However, it is still an open question whether political action can and should be built upon this premise: that the ethics commands us to love can (or not) be considered an excessive duty.