

Anthony S. Banout
Public Reason as *Taqiyya*
Response to Vincent Cornell's *Reasons Public and Divine*

Vincent Cornell has written an engaging and thought-provoking essay arguing for the compatibility of the religious commitments of Muslim citizens of the United States and the norms of U.S. citizenship. His skill and effort in navigating inter-disciplinary terrain too often only partially broached by either Islamicists on the one hand or political theorists on the other is, in my opinion, quite commendable. Nonetheless, I believe that Cornell's position, suggested right from the start in the Rawlsian-tinged distinction he draws in his title, raises more questions than it answers.

Let me say at the outset that I am quite sympathetic to Cornell's desire to show that there is no duplicity demanded in one's political duties as a U.S. citizen and one's moral and religious duties as a believing Muslim. On this point we are in full agreement. The question becomes how such duties are drawn in relationship to one another, and whether this construal actually lives up to the task of illustrating the compatibility that Cornell is after. In the appropriation of John Rawls and Alasdair MacIntyre as the philosophers upon whom Cornell relies both for his diagnosis of the "epistemological crisis of Islam," and the proposed solution to that crisis, serious and troubling questions are raised. Ultimately, I remain unconvinced that these conceptual resources succeed in making his case for compatibility. On this point, Cornell and I have a fundamental disagreement. In spite of my earnest sympathy to his intent, I will argue that the theoretical resources Cornell has selected end up doubling back against his thesis. Thus, I will focus my comments on the political and moral theories Cornell has adopted;

constraints of space dictate that I focus primarily on Rawls, but I will tie my comments to concepts within the Islamic tradition.¹

It seems clear that for Cornell, both Rawls's public reason and his overlapping consensus furnish the moral blueprint through which believing Muslims (and all citizens, for that matter) ought to respectively (1) comport themselves in civil society, and (2) affirm constitutional norms *qua* citizens of the United States. On his account, what we might call the political *adab* (to use what is to my mind the most appropriate Arabic word for proper etiquette or norm in this context) demanded of American Muslims from Rawlsian political liberalism is perfectly compatible with their moral and religious commitments *qua* Muslims. This compatibility argument is buttressed by Cornell's agreement on "theological and legal grounds" with Imam Feisal Abdul Rauf's position that the "universal rights embodied in US constitutionalism make the United States a 'Shari'a compliant' state." To arrive at this position, Cornell affirms (with Abdul Rauf) *ma qāṣid al-sharī'a*, or the higher objectives of the law, as in conformity with the demands of citizenship made by the U.S. constitution.² We would be wise to note here that just like the terms democracy, justice, and freedom are contested concepts, as Cornell admits, so is "US constitutionalism." Yet, here Cornell seems to provide a Rawlsian gloss, suggesting a retrojective grafting of what I take to be truly innovative concepts that

¹ Cornell is not alone as an Islamicist who works in conversation with Rawls, by and large adopting major strains of political liberalism. Two additional examples are Andrew March's *Islam and Liberal Citizenship: The Search for an Overlapping Consensus* (Oxford: Oxford University Press, 2009) and Mohammad Fadel's "The True, the Good and the Reasonable: The Theological and Ethical Roots of Public Reason in Islamic Law" (March 2007), University of Toronto, Legal Studies Research Paper No. 977206. Available at SSRN: <http://ssrn.com/abstract=977206>.

² To the best of my knowledge, the explicit naming of *ma qāṣid al-Sharī'a* has its roots in the 14th Century Sunni *faqīh* (legal scholar/jurist) Imam Abu Ishaq Al-Shatibi. See Ahmad Al-Raysuni's *Imam Al-Shatibi's Theory of the Higher Objectives and Intents of Islamic Law* (Herndon, VA: International Institute of Islamic Thought, 2005).

mark Rawls's later years - public reason and the overlapping consensus - onto preeminent figures of the liberal tradition.³

Cornell never gets around to explaining why Rawls is *right*, and so why his framework should be privileged with defining the proper conception of U.S. constitutionalism against which American Muslims should measure their political *adab*. I happen to think Rawls is wrong. What Cornell does not discuss when discussing Rawlsian public reason is the self-censorship of religious reasons on the part of religious citizens that Rawlsian political liberalism views as necessary for the stability of the state and the justification of coercive democratic power.⁴ On this Rawls is lucid, and this position, while broadened in his essay "Public Reason Revisited," nonetheless views the expression of religious reasons on behalf of citizens, when publicly discussing constitutional essentials and matters of basic justice, as destabilizing and ultimately insufficient.⁵

³ Cornell's claim that an overlapping consensus is "foundational for classic social-contract theories of civil society, such as those proposed by Locke, Paine, and Jefferson" seems to obfuscate the significant idiosyncratic developments the concept takes under Rawls's direction. One can hardly use the term overlapping consensus without evoking Rawls. More basic still is a question of method: that is, the fundamental distinction between the historical origin of a concept and its moral and political validity. Thus, even if Cornell succeeds in showing that historically U.S. constitutionalism has demanded a Rawlsian overlapping consensus, he would still have not succeeded in showing why religionists should be bound by this demand. In support of his core thesis, the historical argument is far from sufficient for the moral argument.

⁴ "[T]wo points are central to political liberalism. First, questions about constitutional essentials and matters of basic justice are so far as possible to be settled by appeal to political values alone. Second, again with respect to those same fundamental questions, the political values expressed by its principles and ideals normally have sufficient weight to override all other values that may come into conflict with them." See *Political Liberalism* (New York: Columbia University Press, 2005), 137-8 [henceforth, PL]. This is another way of expressing Rawls's concept of the *priority of right* over understandings of the good pertaining to religious views and other "comprehensive doctrines."

⁵ On the wide view of public reason Rawls develops in this essay, "reasonable comprehensive doctrines, religious or otherwise, may be introduced in public political discussion at any time, provided that in due course proper political reasons – and not reasons given solely by comprehensive doctrines – are presented that are sufficient to support whatever the comprehensive doctrines introduced are said to support" (PL, 462).

While Cornell readily references Jeffrey Stout's *Democracy and Tradition*, his lack of attention to Stout's relevant critique of the disingenuousness that Rawls demands of religious citizens suggests his disagreement on this point. Stout convincingly argues that U.S. democracy functions for the better when we as citizens actually know the real reasons that each of us have for endorsing our particular positions, and so he openly embraces the expression of religious reasons by religious citizens in political discourse. If we could momentarily bracket its strict referent as a key *Shi'i* political concept, and the abuses it now suffers through the frequent reactionary Islamophobic deployments of the term, what Rawlsian political liberalism ends up demanding of citizens is what the Islamic tradition might see as *taqiyya*, or dissimulation (a concept mentioned by Sherman Jackson in his response, although I am employing it to different ends).⁶ Or, we might alternatively say that morally good citizenship in the Rawlsian framework demands duplicity from religious adherents.

The theorist that Cornell uses in diagnosing the "epistemological crisis" facing contemporary Islam is strikingly different than Rawls in both style and method, and, as Brett Wilmot correctly observes, has profound problems with Rawls's approach. Limitations of space prevent me from a more thoroughgoing critique of MacIntyre here, but I will say that while *Whose Justice, Which Rationality?* does expand on the traditionalist position MacIntyre outlines in *After Virtue*, his theory continues to be marked by vacillation between, on the one hand, conceptions of tradition that *wholly* limit moral epistemology to the traditional location and, on the other, the more open intra-traditional epistemology that Cornell turns to when appropriating MacIntyrean

⁶ The Islamophobic uses are so ubiquitous that I think it most effective to simply advise the curious reader to do a web search for the term *taqiyya*.

epistemological crisis. Both versions of traditionalism face a severe problem of Archimedean perspective. More to the point, the first conception would make it impossible for political norms to be valid across traditions—and thus impossible to meet the challenge of constitutional norms in a body politic comprised of diverse traditions. This leads me to question if pluralistic democracies could find any moral grounding at all from within this framework. The second conception also strains this possibility while tending to depict traditions as hermetically sealed entities in their (imagined) pre-crises days of efflorescence. Because of this vacillation, whenever MacIntyre is invoked I am too often left wondering, “Which MacIntyre, Whose Traditionalism?” Whichever is the case, I do not think that MacIntyre’s approach is ultimately viable in resolving Cornell’s problem of establishing a valid and just relationship between the moral demands of citizenship and those of Islam for Muslim U.S. citizens.

Returning to the contested term “U.S. constitutionalism,” I think we can say that in spite of its differing interpretations, it requires democratic self-government through a deliberative process. I would see this as a part of what Sherman Jackson calls the constitutional “agreement,” but I would go a step further than him in pointing out that the agreement in fact implies substance, and therefore also implies normative commitments expected of U.S. citizens *qua* citizens. That normative substance is the commitment to open discourse across lines of religious and philosophical differences in the work of collaborative, democratic self-government. Because neither the Rawlsian nor MacIntyrean frameworks can ultimately justify political norms as valid across all traditions within a pluralistic, democratic body politic, neither can show how the commitment to discourse is valid for all citizens. This deficiency persuades me that the

theories promulgated by Rawls and MacIntyre cannot unify a diverse body politic on moral grounds, and so invite arrangements such as the millet multiculturalism of Kwame Anthony Appiah that Cornell references, or a *modus vivendi* that Rawls is trying desperately to avoid. A more promising opening – and one that is represented from within the Islamic tradition – is reflected in the words of Abdolkarim Soroush: “It is reason that defines truth, justice, public interest, and humanity, that attributes these properties to a particular religion (or else it would not become a rationally acceptable religion), and that undertakes the task of understanding the teachings of religion. In these tasks, reason would be undermining itself if, eschewing its general principles concerning truth, justice, and humanity, it assigns a different set of interpretations on those principles for religion.”⁷

In other words, the “public” reason politically required for the functioning of deliberative democracy should not be imagined as separable from that “divine” reason which can assess the validity of religious claims bearing on truth, justice, and humanity. Why would we then ask citizens of faith to censor their religious reasons and rely only on public reasons in support of a freestanding, overlapping consensus on a political conception of justice? *Contra* Rawls, and in full moral affirmation of First Amendment freedoms of speech and religion, no *taqiyya* is required for good citizenship.

⁷ Abdolkarim Soroush, *Reason, Freedom, and Democracy in Islam: Essential Writings of Abdolkarim Soroush*. Ed. Mahmoud Sadri and Ahmad Sadri. (New York: Oxford University Press, 2000), 127.