

University of Pennsylvania Carey Law School

Penn Law: Legal Scholarship Repository

Faculty Scholarship at Penn Law

1988

Reply to Cornel West

William Ewald

University of Pennsylvania Carey Law School

Follow this and additional works at: https://scholarship.law.upenn.edu/faculty_scholarship



Part of the [Ethics and Political Philosophy Commons](#), [Jurisprudence Commons](#), [Law and Politics Commons](#), [Law and Society Commons](#), [Legal History Commons](#), and the [Politics and Social Change Commons](#)

Repository Citation

Ewald, William, "Reply to Cornel West" (1988). *Faculty Scholarship at Penn Law*. 1285.
https://scholarship.law.upenn.edu/faculty_scholarship/1285

This Article is brought to you for free and open access by Penn Law: Legal Scholarship Repository. It has been accepted for inclusion in Faculty Scholarship at Penn Law by an authorized administrator of Penn Law: Legal Scholarship Repository. For more information, please contact PennlawIR@law.upenn.edu.

Reply

William Ewald

I found much to agree with in Professor West's article; the differences between us are less great than he supposes. He condemns CLS for its "theoretical mediocrity" and for its "thoroughly negative attitude towards liberalism." He accuses it of playing "childish games" and of leading to "shallow dilettantism." He observes that Unger's work is "overrated by some CLS people" and that "for the less disciplined ones, his texts serve as a substitute for homework." He dismisses Unger's most influential work as "an old decrepit doghouse." These words are somewhat harsh, but I am sympathetic to their spirit.

The rest of his piece I found less persuasive. I regret in particular that he has misunderstood the point of my article.

My article was not about politics, nor, except in passing, was it about CLS. It was about Unger and his contributions to philosophy. According to West, "Unger stands at the intersection of the Jefferson-Emerson-Dewey insights and the Rousseau-Marx-Gramsci formulations," and his work "is, by far, the most significant attempt to articulate a Third-Wave Left romanticism."¹ In light of the importance attached to Unger's philosophical work in comments like these, I thought that it would be illuminating to examine his theories.

My methodology was straightforward. I looked at Unger's most influential writings and discussed his central arguments and his principal scholarly assertions. West raises several objections to my analysis:

1. *Choice of Texts.* West accuses me of spending too much time on *Knowledge and Politics*. He says it was "abandoned by Unger long ago," and that Unger has engaged in extensive self-criticism of his earlier work. I am agog to see the evidence, but West provides no citation. Nor does he appear to notice that I explain, in the opening and closing paragraphs, why *Knowledge and Politics* remains worthy of discussion. *Knowledge and Politics* is Unger's most influential book. It is also his best book. His admirers agree that his subsequent contributions to legal theory build upon it.² And I explained, in my discussion of his CLS article, how Unger's arguments against "formalism" and "objectivism" repeat the mistakes of his earlier work.

1. West, *Between Dewey and Gramsci: Unger's Emancipatory Experimentalism*, 81 *Nw. U.L. Rev.* 941 (1987).

2. Their words are quoted in my Article at note 3.

Unger has indeed changed his terminology. He no longer speaks of “organic groups.” Instead, he speaks of “superliberalism” and the “disentrenchment of formative structures” and “empowerment.” But I criticize all of these theories. Unger’s visionary writings do not rely upon one another, but they all suffer from the same flaw—namely, wild implausibility. His early theory of “organic groups,” for all its shortcomings, is a more plausible blueprint for political action than his recent theory of “cultural revolution.” Unger has in fact built a string of doghouses, and my article shows that his workmanship has gotten worse with the years.

2. *Choice of Standards.* My standards of criticism are straightforward and utterly banal. Unger pins his refutation of LIBERALISM on a peculiar reading of Aristotle, Hume, and Quine; I pointed out that his learned footnotes bear no resemblance to what those thinkers actually say. Unger attempts to knock down a vague, timeless, ahistorical set of six self-contradictory principles that nobody ever held; I pointed out that this strategy is inadequate to refute what he calls “the dominant and central element in modern thought.” Unger is eager to display his knowledge of mathematics and logic; I pointed out that he gets into a twist every time. Unger declares his admiration for the Chinese Cultural Revolution; I pointed out that he forgets to mention the unpleasant historical facts.

West does not attempt to dispute these criticisms. Instead, he declares that the criteria of historical accuracy and sound argument are “being contested on a deeper intellectual and institutional level,” and claims that I invoke them “as if they are context-free, universal standards untainted by ideological prejudgments and outside of power-struggles and political conflict.” This seems a desperate line of reasoning; it is no better than the argument that you cannot violate the rules of poker because then you must be playing not-poker.

3. *Liberalism.* West’s remarks on the “open texture” of liberalism seem to me entirely apt, and I accept them without reservation. But he confuses me with Unger. Unger is the one who thinks liberalism is “a single mode of thought”³ that can be summed up in six abstract principles. I am the one who thinks it is vague and open-textured.

4. *Reading Unger.* West chides me for not engaging “in a detailed reading of Unger’s later philosophy,” and promises to give us “a more useful reading” of Unger’s texts. That would be an instructive project, but the rest of West’s article is about CLS, not about Unger. In a footnote, he offers his recent article on *Politics* as an example of a better kind of Unger scholarship. Readers who consult it will, I fear, be disappointed.⁴

3. R. UNGER, *KNOWLEDGE AND POLITICS* 3 (1975) (quoted in my Article at note 39).

4. The central thesis of West’s article is that “Roberto Unger’s distinctive contribution to contemporary social thought is to radically deepen and sharpen John Dewey’s notion of social experimentation in the light of the crisis of Marxist theory and praxis.” West, *supra* note 1, at 941. West’s thesis is handicapped by the fact that, although the index to *Politics* contains references to most of the

5. *Unger's Popularity*. I quoted several of Unger's followers who compare him to Marx, Durkheim, Weber, Spinoza, Dante, and Virgil. I had naively assumed that Unger was being compared to these thinkers because of his intellectual and scholarly accomplishments. West offers a different theory: Unger's followers praise him because of his exciting political stance and because they find law school "boring, tedious, and irrelevant." This may well be so. But Unger has an obligation to the world of scholarship as well as to the world of revolutionary struggle. I was concerned to point out that his scholarly obligations have not been met.

thinkers and political events of world history, it does not once mention Dewey. Moreover, as West himself rightly notes, Unger's one passing comment on Dewey makes three factual mistakes. Rather than reconsidering his thesis, West makes this curious argument: "I do believe Unger has simply slipped in his brief mention of Dewey. Yet this slippage is significant because Dewey could provide Unger with some enabling insights and tools for his project." *Id.* at 948. West makes no attempt to explain how Unger could be "building upon" the work of a thinker he scarcely mentions. Instead, he spends most of his article on Dewey and Gramsci. Although West admonishes us that Unger's new work ought to be read with "close attention and scrutiny," *id.* at 951, he does not seem particularly interested in a scholarly reading of Unger's text: All of his footnotes are to the first and slenderest of the three volumes of *Politics*, and (with one exception) they are all to the opening pages and to the conclusion.

Incidentally, West finds it "shocking" that, having once footnoted Professor Boyle's review of *Passion*, I did not also quote another passage by the same author. But that passage occurs in a different journal; it deals with another subject; and I am unable to see its relevance to anything in my article.