

PROMOTION RECOMMENDATION  
The University of Michigan  
Law School

Nicolas B. Cornell, assistant professor of law, Law School, is recommended for promotion to professor of law, with tenure, Law School.

Academic Degrees:

J.D.	2010	Harvard Law School, Cambridge, MA
Ph.D.	2014	Harvard Law School, Philosophy Dept., Cambridge, MA
A.B.	2004	Harvard University, Philosophy, Cambridge, MA

Professional Record

2017-Present	Assistant Professor, Law School, University of Michigan
2013-2017	Assistant Professor, Legal Studies and Business Ethics Department, Wharton School, University of Pennsylvania
2011-2012	Law Clerk, Associate Justice John A. Dooley, Vermont Supreme Court

Summary of Evaluation

Teaching: Professor Cornell has taught Contracts and Contract Law Theory at the Law School. Contracts is a required first-year course taught at every law school. Contract Law Theory is a specialized seminar. Professor Cornell has been a successful and well-regarded teacher. In their written evaluations and in interviews, students refer to his teaching with words such as “amazing,” “wonderful,” and “engaging,” and with assessments such as “the best teacher I had” and “by far my favorite class.” The Law School student body selected Professor Cornell to receive the L. Hart Wright Teaching Award for excellence in teaching, the school’s highest teaching award, in 2019. Law School colleagues who have witnessed his teaching found him to be clear, knowledgeable, and generally highly effective. They were also impressed by his ability to effectively use the Socratic method and make use of different teaching strategies to engage students, generate student participation, and test knowledge of the material. Professor Cornell is already an excellent teacher, and he teaches a large, foundational, and important first-year required course.

Research: Professor Cornell’s scholarship challenges an orthodox view in philosophy and law that wrongs are just violations of rights. In one set of articles, Professor Cornell deploys examples from tort law, contracts, antitrust, literature, and everyday life to demonstrate how rights and wrongs come apart in a number of different contexts, so that one can be wronged without having had an antecedent right to be free from the treatment that constituted the wrong. Professor Cornell’s writing is so comprehensive and persuasive that it has already caused many prominent moral philosophers who oppose his view to reconsider their deeply held beliefs. In another related line of research, Professor Cornell seeks to show that appreciating his decoupling thesis can lead to novel explanations for discrete contracts doctrines that better reconcile law and morality while also illuminating the ex post nature of contract law. He discusses how aspects of third-party beneficiary law, substantive unconscionability doctrine, and smart machine contracting support his argument that wrongs exist independent of rights violations and also serve as building blocks to support an innovative view of contract law as a purely remedial institution designed to

demarcate the circumstances under which parties can hold each other accountable. In yet another thread of his work, Professor Cornell addresses issues of interpersonal standing and asks across a few different contexts when people have standing to address each other and hold each other accountable. In general, Professor Cornell has built slowly – piece by piece – toward his larger claim that wrongs need not be connected to underlying rights violations deploying countless examples from many different areas of law to tease out subtle differences and carefully parse distinctions all the way down. In so doing, he has become (already) one of the leading voices in how moral philosophy applies to and informs private law theory.

Recent and Significant Scholarship:

Complicity & Hypocrisy (with Amy Sepinwall) (work in progress)

Competition Wrongs, *Yale Law Journal* (forthcoming)

What Do We Remedy? in Civil Wrongs and Justice in Private Law (Oxford Univ. Press, eds. Miller & Oberdiek) (forthcoming)

The Possibility of Preemptive Forgiving, 126 *Philosophical Review* 241 (2017)

Contracts Ex Machina, 67 *Duke Law Journal* 313 (2017) (with Kevin Werbach)

Wrongful Benefit & Arctic Drilling, 50 *University of California Davis Law Review* 1845 (2017) (with Sarah Light)

A Complainant-Oriented Approach to Unconscionability and Contract Law, 164 *University of Pennsylvania Law Review* 1131 (2016)

Wrongs, Rights, and Third Parties, 43 *Philosophy and Public Affairs* 109 (2015)

The Puzzle of the Beneficiary's Bargain, 90 *Tulane Law Review* 75 (2015)

A Third Theory of Paternalism, 113 *Michigan Law Review* 1295 (2015)

Service: Professor Cornell's service record is excellent. Within the Law School, he has served effectively on governance committees; has given numerous talks in various settings in the Law School to faculty, students, and prospective students; and is a key participant in the intellectual life of the Law School, attending and offering insightful comments at numerous lectures. At the university level, he has been active in the Department of Philosophy, participating in their weekly Ethics gatherings and providing helpful feedback to colleagues in that department on their work. Outside of the university, Professor Cornell has served as a formal commentator fourteen times since becoming a tenure-track professor; has given referee reports for 12 different peer-reviewed journals; has played an active role in participating in and organizing conferences; and has presented his ideas at conferences around the country and abroad.

External Reviewers:

Reviewer A: "In my opinion, Cornell is one of the top three [junior] scholars of contract in the United States. He is philosophically sophisticated but also a real lawyer. He is adept at connecting abstract conceptual points with legal doctrine. He brings analytic refinement to his readers' inchoate intuitions, helping to explain why we find some questions easy and others hard. From his writing as well as oral comments at conferences, he appears to take the existing literature seriously but also is not afraid to reject basic assumptions that risk stagnating the field. ... I unequivocally recommend Cornell for tenure at the University of Michigan Law School. His scholarship is well-regarded by myself and others in the field, and my review of four early pieces in his body of work confirms his promise and talents as a scholar. ... I expect that those of us writing in contract law

will always find it worthwhile to read Cornell's work, and that he will have a substantial impact on our field.”

Reviewer B: “Judged in terms of sheer quality, this is simply the best work by a scholar at Cornell’s stage that I can remember reading. It is all wonderfully conceived, tightly argued, and extraordinarily clearly, even beautifully, presented. The writing is razor sharp and philosophically incisive. I did not read Cornell’s entire corpus, but what I read certainly meets any reasonable standard for tenure and promotion, even at the very best universities. ... Cornell’s work is invariably at the highest level. I [feel] when reading it that ... my eyes are being opened to really deep aspects of a topic that I had thought about for years and thought I had already seen my way to the bottom of, only to be shown that I hadn’t—that there was something different and more interesting than I had seen so far and that there was/is much more interesting philosophy to be done. You are very lucky to have Nico Cornell and should do everything you can to keep him.”

Reviewer C: “Cornell’s overall corpus can reasonably be regarded as the strongest among [others who are a]t the top of their peer group. ... [T]o the question at hand my answer is unequivocal. Professor Cornell’s record of scholarship clearly supports promotion and tenure.”

Reviewer D: “Professor Cornell combines an outstanding eye for doctrinal detail, careful and sophisticated knowledge of the law, and exceptional theoretical insight to produce deep and powerful scholarship which builds on itself towards a genuinely important research agenda. This is exactly the sort of work that a world-class law faculty should produce; and that is why I think that this is an easy case for an enthusiastic promotion to tenure.”

Reviewer E: “I think it is fair to say that Cornell is considered a star of his generation. His work challenging the assumption that to wrong someone is to violate a right is widely known among moral philosophers and scholars of private law. I have myself benefitted a lot from reviewing his work for this letter. Initially skeptical, I have become convinced that he has identified a neglected dimension of the moral and legal normative landscape. Asked to compare Cornell to others in his field coming up for tenure, I draw a blank—which says something. ... [T]hough I would not sign on to all of what he proposes, I do come away from this body of work puzzling about an issue I had entirely neglected. I think that this says a lot about the importance and originality of the work. It is, overall, a significant achievement that shows him to have clearly met the [tenure] standard[s].”

Reviewer F: “I am happy to report that I am very favorably impressed with Cornell’s scholarship. ... The work I reviewed is of excellent quality and portends a productive career going forward. ... I heartily endorse Dr. Cornell’s application for tenure and promotion and look forward to reading his work in coming years.”

Reviewer G: “Based on my reading, I can recommend without reservation that Professor Cornell be granted tenure and promoted to the rank of Professor. He easily meets, indeed exceeds the standards outlined. ... [Y]our letter of request said that my letter should be ‘truly evaluative.’ Here is my true evaluation: Professor Cornell’s work is excellent, he shows great promise, and he is worthy of tenure at a top law school.”

Reviewer H: "Each [article I read] shows substantial intelligence, theoretical sophistication, strong abilities at synthesizing and drawing connections between philosophical and legal issues, a sensitivity to detail as well as to a wide range of sources of insight (including literature as well as law and philosophy) and an original perspective on central matters. The work is serious, ambitious, and enjoyable to read. They represent a rigorous, model approach to interdisciplinary research. As a set, they make a strong case for tenure. ... He's very productive and publishes in excellent journals. He writes substantial pieces of high quality that articulate original, bold, and thought-provoking claims. He has a good amount of breadth in his topics (paternalism to forgiveness to hypocrisy to unconscionability to third-party beneficiaries, to name a few). At the same time, there is a systematicity to his topics and theses that gives his overall work thematic unity. He's one of a very small handful (2? 3?) of legal philosophers in his generation who are working on private law topics with this level of intelligence, moral sensitivity, ambition, and creativity."

Reviewer I: "My bottom-line conclusion is that Professor Cornell easily meets the standard for promotion .... Professor Cornell has produced a body of work that is extremely impressive in both quantity and quality. He compares very favorably to scholars in private law theory both more senior and junior to him. He is extremely productive, he writes well, and he is a deep and original thinker. He shows a remarkable ability to make significant, novel contributions to long-running theoretical and doctrinal debates. He also has a nose for interesting underexplored questions. And his work operates at multiple levels, illuminating interesting and important doctrinal questions in new ways while at the same time shedding light on foundational normative questions.... He is a deep and original thinker and very productive scholar who seems destined to become one of the most important private law theorists of his generation."

Reviewer J: "The papers you have asked me to comment on are all significant contributions to discussions in moral theory that have direct relevance for the philosophy of law. The papers are interesting, well-argued, and important. Taken together, they are at least as impressive as any philosophical work I have seen in a long time from a professor in a law school, and are comparable in quality and significance to the best work being done by the younger generation of philosophers working on issues in normative ethics ... Taking these four items together, I would say that they are work of extremely high quality, which clearly meets the qualitative expectations for promotion to tenure at institutions of the first rank (including my own). Cornell has a keen eye for interesting and puzzling normative phenomena, and he has trenchant and original things to say about them that genuinely advance philosophical debate. His work seems to me comparable in quality and philosophical significance to the very best contributions by scholars at his approximate career stage working in normative ethics, political theory, and philosophy of law."

Summary of Recommendation:

Professor Cornell is an unusually prolific scholar (having published 18 pieces in the past five years) who has made a significant contribution to scholarship in the areas of philosophy of law, contract law theory, and private law theory more generally. He is already considered one of the nation's leading scholars in applying moral philosophy to private law. He is also an excellent teacher, and has provided first-rate service to the Michigan Law School, the university at large, and his field. With the enthusiastic support of the Law School faculty, I am pleased to recommend Nicolas B. Cornell for promotion to professor of law, with tenure, Law School.



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Mark D. West  
Dean, Law School  
Nippon Life Professor of Law

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