

The Value of Art*

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Why do we think that art is important? We share the view that it has a profundity that merits our special attention. We also think that art has a value that sits uneasily with our usual property rules of resource allocation, because it seems some great works of art cannot really be owned in the ordinary way. It is at least questionable that someone can buy a great painting just to keep it in a bank vault for years while it appreciates in value. Nor do great works of art appear to be like the normal sort of public good, like water, or gas, or a national railway. Yet when we compare art's worth to, say, that of technology, it is not clear why art is so grand. We could not view the classical Roman columns everywhere in London without reinforced concrete and mathematical formulae, for example, and, while technology can feed, shelter, clothe and heal us, art can do none of these things.

In order to solve these problems, I shall attempt to establish that art shares, with some other objects, a special status, which requires decisions about the distribution and ownership of art works to be made differently from normal arguments about individual or community rights to property.

Art as feelings. Consider how we approach a work of art. We might identify its personal value to us, viewed as a matter of the subjective experience that it instils in us, perhaps in the form of heightened feelings. When we go to a Vermeer exhibition, we experience feelings of beauty that Vermeer conveys to us. The idea that art is good because it induces feelings in us has been common amongst writers. Tolstoy, for example, said that something could be art 'only if the spectators are infected by the feelings which the artist has felt':

'The activity of art is based on the fact that a man receiving through his sense of hearing or sight another man's expression of feeling, is capable of experiencing the emotion which moved the man who expressed it. To take the simple example: one man laughs and another, who hears, becomes merry; or a man weeps and another, who hears, feels sorrow. A man is excited or irritated, and another man, seeing him, is brought to a similar state of mind. By his movements or by the sounds of his voice a man expresses courage and determination or sadness and calmness, and this state of mind passes on to others.'¹

Tolstoy thought that a corollary of this view was that the quality of a work of art was to be judged in terms of the quality of the feelings evoked. We determine a work's status as art, and its quality, he said, by reference to expression of the individuality, the clarity and the sincerity of the artist's feelings. He thought in some cases individuality of feeling predominated over clarity and sincerity, in others sincerity predominated, and so on, such that a complex judgement about the work could be made according to the difference in degree of these three conditions. Nevertheless, in the end, the important criterion was that of the invocation of human feelings.

There are, however, notorious problems with thinking art is just about evoking feelings. First, our appreciation of art seems to depend more on a critical assessment of the worth of a painting, or piece of music, or a play. By virtue of this assessment, we value the painting, or whatever, in a more complex way than by merely reporting the feelings we have

* I am grateful for discussions with Eva Pils about this paper.

¹ Leo Tolstoy, *What is Art?* Trans. Maude (London: OUP, 1930) p.171

had. The more natural way of looking at a painting is to make some initial judgement about its worth and then have a feeling about it (awe, say) and that is a reaction to our judgement about it. One way of supporting this point is to consider whether, if someone expresses a feeling of awe about a painting, that feeling is supported by a reason. Why is it, you might ask, that you have that feeling? Sometimes, of course, the answer is simply 'I don't know why – I just have it' but that itself is consistent with supposing that there is a reason but that the person cannot articulate what it is. The same sort of point can be made about morality. It is not enough just to report a feeling one has about some action to determine whether that action has the quality it is claimed to have. 'The thought of abortion makes me feel sick' is not a sufficient argument to support the conclusion that abortion is wrong. Rather, it is the judgement that abortion is wrong that moves that person to have those feelings she claims to have about abortion.

In fact, the argument goes further than just establishing that judgement comes before feeling, because, once we have made a critical assessment about a work of art's value, we discover, not only whether a feeling we have about it is appropriate or not, but whether any person's feeling about it is appropriate. Our judgements about such matters, in other words, imply some degree of objectivity, and this is as true for judgements about art as it is for judgements about morality. Our judgement about the value of *King Lear* will make us critical of someone who found the play 'a great laugh'. We can therefore detach the idea of art-as-feelings completely from any particular feelings that people have on viewing, or experiencing it. Indeed, if we supposed that what was happening when we viewed art, was merely 'having feelings', then we might be motivated to avoid some of the greatest works of art of all, because the emotional experience would be too harrowing. The eye-plucking scene in *Lear* would have people running from the theatre!

But there is a stronger objection to the idea that art is about feelings. Art's value, I suggest, is to be found in the value of its own existence, independent of its doing anything for us. We admire art because of this independent value, and so admire it as 'art for art's sake'. Looking at art this way introduces us to art's austere quality, through which we respect art, not for anything it 'does' for us, but because understanding it properly requires understanding of something of importance, perhaps great importance, about the world. And so we say that we want to look at a painting by Van Gogh because it is wonderful, not that it is wonderful because we want to look at it. This way of looking at art borrows from the great German philosopher Kant, who not only asserted art's independent value, but took the point even further. The appreciation of art, he thought, was akin to moral appreciation and capable of expressing our highest aspirations.

'Taste makes, as it were, the transition from the charm of sense to habitual moral interest possible without too violent a leap, for it represents the imagination, even in its freedom, as amenable to a final determination for understanding, and teaches us to find, even in sensuous objects, a free delight apart from any charm of sense.'²

Intrinsic or sacred value. If we view art as having value in this independent way, we can say, following Ronald Dworkin, that art has 'intrinsic' value, meaning that art is valuable in itself, and independent of what people enjoy, or want, or what is good for them.³ We can describe

² Immanuel Kant *The Critique of Judgement* Trans. Meredith (Oxford: Clarendon, 1952) p.225

³ Ronald Dworkin *Life's Dominion* (Harper Collins, 1993). See chapter 3 entitled 'What is Sacred': 'The idea of intrinsic value is commonplace, and it has a central place in our shared scheme of values and opinions', he says (p.70) and his definition is that '[s]omething is intrinsically valuable ... if its value is *independent* of what people happen to enjoy or want or need or what is good for them'. (p.71). Further discussion is in Ken O'Day's 'Intrinsic Value and Investment' *Utilitas* 1999 Vol. 11 No.2, p.194. Also see G.E. Moore 'The Conception of

this kind of value in different ways. We can say, for example, that art is ‘inviolable’, meaning that something important is lost by its destruction. Horror at the destruction of the giant Buddha in Afghanistan by the Taliban is not dependent on the loss of pleasure that we ourselves would have gained from it – for I can feel that horror, without contemplating that I might ever have seen it. Instead, the horror arises from the fact that something unique, and of great significance, has gone forever. It is that it no longer exists, even though I might never have seen it had not been destroyed, that is the important point. Of course, one could say that what is wrong with its destruction is precisely that no-one can every again see it, but this would not be to capture the point. If the giant Buddha had not been destroyed but, say, had somehow been deposited intact on the surface of the moon, no-one would be able to see it, but, it seems to me, something of value has still been saved.

Expressing the same point, we could also say that art has a ‘sacred’ quality. That something is sacred is independent of our judgement of the difference that its being a sacred object would make to our lives. This is what the idea of the sacred means. ‘Being sacred’ has independent meaning for us, a meaning which requires careful reflection, not in terms of the benefit that sacred objects might bring to us (although we might believe that, too), but in terms of the intrinsic value that they possess in themselves. The idea that God is sacred must be quite independent of whether or not we would find God useful in our lives. Indeed, it is blasphemous to suggest that God’s sacredness, or His intrinsic value, is dependent on his use or benefit to us because it suggests that, as soon as he is no longer of benefit to us, we can dispense with Him altogether. Rather, it is because He is sacred that we make our lives useful to Him (although we might benefit from doing so). The idea is fundamental to religious belief, of course, but I see no necessity for restricting its use to religious objects, and it seems that it is the same kind of importance that we attach to sacred objects that we attach to intrinsic objects. It is important to turn our attention to this special category of the intrinsic because, of course, many intrinsically good objects of art are, at the same time, sacred objects, such as the giant Buddha.

These ideas, that art’s worth is a matter of judgement, that it has intrinsic, and independent value, that art is in some sense ‘inviolable’ or ‘sacred’, invite comparisons between art and aspects of the natural world as both are subjected to aesthetic judgement. Take, for example, great landscapes, or wonderful plants, or the existence of various animal species, or even the idea of human life itself. It would be tragic if the Grand Canyon ceased to exist, or the Canadian redwood tree, or the Giant Panda bear, or human life, became extinct. It is natural to say that one of the most important reasons for protecting these things from destruction is that their existence is unique. There is only one Grand Canyon. Further, in the case of plants and species, there are unique types of existence – as opposed to single instances - such as the Canadian redwood, or the great white shark.

Intrinsic Value’ *Philosophical Studies* 1922. The idea is essentially Kant’s. Incidentally, Nietzsche ridiculed Kant here (Eva Pils pointed this out to me):

‘Kant thought he was doing art an honour by pushing to the forefront as predicates of the beautiful those characteristics which constituted the glory of knowledge: impersonality and universal validity. This is not the place to discuss whether this was not for the most part a mistake: the only thing I wish to emphasize is that Kant, instead of viewing the aesthetic problem from the experience of the artist (the creator) like all philosophers considered art and the beautiful exclusively from the point of view of the ‘spectator’...But if only the philosophers of the beautiful had been sufficiently familiar with this ‘spectator’ at least!’ ...Compare this definition with that offered by a genuine ‘spectator and artist’ – Stendhal, who once described the beautiful as *une promesse de bonheur*. Here in any case the very aspect of the ascetic condition which Kant emphasized at the expense of all others – *le desinteressement* - is rejected and crossed out. Who is right, Kant or Stendhal? – If our aestheticians admittedly never tire of arguing on Kant’s behalf that under the spell of beauty it is possible to contemplate *even* statues of naked women ‘without interest’ one is entitled to have a little laugh at their expense...’ (See Nietzsche, *The Genealogy of Morals* trans. Smith Oxford: OUP, 1996 p.84).

Nevertheless, there are advanced, at times, strong arguments in favour of the destruction of some beautiful landscapes, and some animal species, on the grounds that it would enhance our lives, outweighing the good to be gained from their continued existence. These are not always tragic cases, since there are often important ways in which our lives can be advanced in comparison to some minor intrinsic loss, say, where a hydroelectric dam will produce green, cheap power.⁴ But it is normal to expect in such cases strong resistance. The reason is that something is lost to the world when these things go, such that we understand the argument that says it would be a tragedy should it happen. And so endangered landscapes and endangered species each share with art a special quality of intrinsic value, and that intrinsic value provides a good argument for their protection.

Evaluating the status of intrinsic objects requires scrutiny when it comes to understanding how the value of art fits with our ordinary concepts of property. For it will not always be clear how far rights over a particular object extend. Imagine someone rich enough to buy up the Louvre, who, through a sudden whim, decides to destroy its contents. I suggest that we would feel not more than just ordinary unease, but outrage, at this exercise of the right to do with one's property what one wishes. This would be particularly true of those works of art that are believed, in some sense, to 'belong' to the community. Such works of art have been characterised usefully as 'belonging to the national patrimony'. So, for example, such objects would be of a 'long-standing' nature, would 'contribute in an integral way to the cultural identity or tradition of a country or region'. With this definition in mind, it is reasonable to conclude that such objects are not ordinary items, subject to the usual laws governing trade and commerce.⁵ However, the argument might be placed on an even wider basis. If my adoption of the Kantian approach to art is correct, then it is not just the question whether art 'contributes' in some way to cultural identity or tradition that is at stake. That would be to suggest an instrumental approach to the value of art. It is, rather, the fact that art, once created, has intrinsic value and something is lost in its destruction independently of its contribution to humankind. It would follow from art's intrinsic nature that it is not obvious that even the artist herself would have a right to destroy her own work of art even if that art made no contribution whatsoever to cultural identity or tradition.

What makes intrinsically valuable objects intrinsically valuable? Nevertheless, examining how the value of art impinges on the property regime requires examining what confers upon art, and similarly intrinsically valuable objects, their special value. I suggested that intrinsically valuable things are unique. One good reason for ascribing to them their intrinsic quality is that there is something unique in their creation, whether by mankind, as in the case of art, or by nature, in the cases of the Canadian redwood tree, the Giant Panda and great landscapes. The idea of 'uniqueness' is a difficult since it could not possibly be a sufficient argument to say that, because an object was unique, that it thereby had intrinsic value. Many things are unique. That speck of dust on your coat lapel, for example, is unique in the sense that it is the only speck occupying that particular spot at this particular time. It follows, therefore, that uniqueness could at most only be a necessary condition for saying whether an object had the status of intrinsic value. Nevertheless, it must be an important

⁴ See, for example, the 'snail-darter' case, discussed by Dworkin in his *Law's Empire* (Fontana, 1986) ch.1.

⁵ See O'Hagan and McAndrew, 'Restricting International Trade in the National Artistic Patrimony: Economic Rationale and Policy Instruments' *International Journal of Cultural Property* Vol.10, No.1 p.32, who declare: (p.51): 'There is a fundamental belief that artworks belonging to the national patrimony are outside the framework of economics – that such objects should not be traded in the marketplace like other goods and services.'

criterion of art since our feelings about destruction or loss of art – as with species - is so clearly bound up with the idea that such loss is complete.⁶

Another reason for attributing intrinsic qualities arises from an object's special association with particular communities, such as national emblems or flags, or special monuments. One very important type of associative intrinsic value arises through a community's identification with its culture. Maori, as well as Aborigine and Navajo Indian, for example, attach great significance to particular lands. The lands are not sacred through being something that, say, Maori people want, just because it would contribute to their needs, or enrich their lives. It is that Maori land is of intrinsic and sacred importance to Maori, as part of their identification as Maori. It is through the intimate association between Maori and land that the value of particular areas of land gains sacred character. Analysed this way round, we should say that it is because of its sacred character, of course, that Maori people want it, or, because of the land's sacred character, it plays an important instrumental role in enhancing Maori life.

We cannot, however, avoid making judgements about the relative worth of the intrinsically valuable, and I have not intended to equate 'intrinsic' value with any form of absolute value. Just as there are wonderful paintings, there are not very good ones. There are some of Nature's intricate creations that we could probably do without, such as the AIDs virus, or the staphylococcus group of bacteria. But it is still possible to distinguish what is intrinsically worthwhile or valuable about these things. The AIDs virus is a marvel of nature because of its chemical ability to replicate a reverse image of the immune system. Staphylococci are astoundingly adaptable to warding off immune system attack. There are good reasons why such entities should be preserved for their own sakes if proper safeguards were in place. We can understand how the swastika was sacred to the ardent Nazi, although we should probably conclude it has no intrinsic value because it associated with unacceptable values. To emphasise this point, various items do not come to us ready labelled as 'works of art' or 'of intrinsic worth'. Arguments for and against their sacred value have, of course, to be separately weighed.

What is the work of art? What is intrinsically valuable in art will also depend on the difficult question of identifying what the work of art is. If, for example, the Giant Panda's genes could be preserved for reproduction, and all the Giant Pandas died, perhaps what would be of intrinsic importance would have been saved. It would mean that the Giant Panda was not entirely lost, as the giant Buddha lying on the surface of the moon is not. A similar situation arises in music, because there, reproduction is relatively easy. The Bach Chaconne is reproduced many times, but it would survive, even if there were no performances, as long as the notation, or its memory survives. In fact, destruction of a piece of music is difficult for it requires the notation to be destroyed forever and the last note to have faded from memory. Unreproduced paintings, and irreproducible national monuments, however, are relatively easy to destroy. These forms of art create special problems about the identity of art. If a perfect copy of the Elgin marbles could be recreated, using the same marble, with a robot that made the cuts and strokes identical to those made in their original construction, one could argue that this copy of the marbles were 'the Elgin marbles' themselves. We don't say that the first Ford Escort from the assembly line is the Ford Escort, and that all the rest are merely copies, or examples. They are all the Ford Escort.

There is a further problem with interpretation here since, independently of the question of the difference between type and example, we have to make some interpretative

⁶ Dworkin is successful, I think, in his accounting for a sense of loss, and regret, that both sides of the debate over the morality of abortion feel over the destruction of a foetus, in his argument that something that the foetus is a 'unique' creation of nature. See *Life's Dominion*.

judgement as to what would count as identification. Ronald Dworkin, for example, says that to interpret art ‘constructively’ or ‘creatively’ is to ‘make sense of it’ or to ‘grasp its point’. The attractiveness of this idea lies in its ability to unite a description of some object with an account of what that object might ideally be. At least to begin with, there is something ‘there’ about which the interpreter says or does something that puts that ‘thing there’ in a particular kind of light. But this does not just mean that we are enabled to look at the thing from some special sort of angle, or new perspective, or point of view. Interpretation, rather, allows you to suppose, not only that there is an object there with which you engage but also that you can ‘make it your own’. Your convictions about things – about what art ought to achieve, or what art is about, and so on – are brought to bear in a way that, when properly understood, the gap between the interpreter and the ‘thing interpreted’ narrows.

All forms of interpretation seem to require something outside interpretation, which stands in relation to the interpreter in a relatively fixed way. One way of fixing the ‘thing to be interpreted’ would be to assume the truth of some account of it.⁷ So a detective might ask himself, ‘Assuming the suspect did commit the murder, how would he have disposed of the body?’ Thinking like this sensibly drives the imagination and intellect towards conclusions which only might later turn out to be true. Assuming that Andy Warhol’s brillo pad is a serious depiction of something, as opposed to a straightforward silk screen printing of a brillo pad, to give another example, we can get on with discussing whether it is a good or bad. Just as in the case of the detective, this is not to say that the assumed proposition – that the work is serious, and so qualifies as art - is unarguable or uncontroversial. Rather, it is accepted for the time being, as sufficiently true for considering its merits as a serious depiction.⁸

Nevertheless, returning to the analogy with the Ford Motor Works, it is clear that not all art can be understood in the same way. That analogy only works where flawless reproduction is possible. Some art has, in addition to intrinsic worth through beauty, intrinsic worth by association. To say that the flawless copy of the Elgin marbles was the Elgin marbles, would be to ignore the other way that the – we might say – ‘original’ Elgin marbles have special value, which is through their association with a great culture, the influence of which has permeated so many other cultures since. When you see the original, it is not just that you are struck by their beauty, but by their history. ‘This stone’ you say ‘was the very one that was part of the actual structure, made by those who actually constructed it’. This clearly has intrinsic significance in a way we cannot say of the Chaconne. Saying, on listening to it, ‘this is the actual piece that Bach actually wrote’ does not mean much, since music, as soon as it is written, or first performed, in some way belongs to everyone. I think it is true of most art, however, that if flawless reproduction were possible, as in music, the identity of the original would, on the whole, be of relative insignificance. Some would feel proud about driving the first Ford Escort, but no intrinsic importance could be attached to that.

Settling the question of the associative impact on the sacred character of the Elgin marbles is not, however, an easy one. Since the culture of ancient Greece has been so pervasive in its influence, there is weight in saying that the original marbles should be protected in the name of Western culture in general. But I suggest that the ingredients for a considered decision about the Elgin marbles are present. They lie in striking the right balance

⁷ See Dworkin, *Law’s Empire*.

⁸ ‘Sufficiently’, since it could be argued that Warhol’s *Brillo Pad* is not such a good work of art because it teeters on the ‘photographic representation’ end of the spectrum and so is a work of art, but only a ‘photographic sort of work of art’. These sorts of judgement merge two levels of interpretation.

between particular property rights and the marbles' intrinsic value based on both their beauty and the historical association of the original.⁹

Art and the enrichment of a community's life. I now want to suggest how an understanding of intrinsic value would help our understanding of what a government's attitude to art should be. Since it is reasonable to suppose that governments have duties towards its citizens to protect their interests equally, it is useful to contrast the idea of intrinsic value with that of the protection of those interests through rights. Governments are justified according to underlying principles, and that is why governments have duties to ensure that our interests in physical security, and our interests in property, are protected by a scheme of rights. The detail of what rights people have, or should have, forms the core of much of what lawyers, judges, and legislators argue about.

The contrast of the value of rights, with intrinsic value, is instructive. For we can now see that the sorts of duties we have to protect people's rights are different from the sorts of duties we have towards those things that have intrinsic value. You and I do not have a right that all Matisse's works continue to exist. No one has a right that the Giant Panda, or a spectacular landscape be preserved. The reason is that, as I have argued, these things have value to be defined independently of people's interests. The logic of rights works differently. People have rights not to be murdered because to murder a person is to violate their interest in continuing to live. But, even if we accept, as some do, that animals have rights, we could not say that the Giant Panda has a right to the preservation of its own species. And the idea that, say, the Grand Canyon has a right to its own continued existence is even more nonsensical than 'nonsense on stilts', as Jeremy Bentham said of rights generally.¹⁰

We now have a useful wedge to insert between the rights that are claimed over some artistic object, and the unique and independent value that pertains to it. Anything that achieves the status of art is subject to the pull of two values, one deriving from the claim that someone has some interest in that art, the other detached from any person's particular interests. This conclusion is important, because it emphasises what is at stake in the claim that some work of art should be 'returned' to its rightful owners. It shows that such questions cannot be settled by invoking a property right, at least a property right in the way it is most ordinarily understood.

The 'top-down' effect of art. Finally, we need to consider the duties a government will have towards the protection of art. I propose that governments have a duty to ensure that our culture remains as rich and diverse as it can be, because that is a fundamental aspect of living our lives as freely as possible. The freedom here is not that of an elite who alone can afford to view great art. Quite the reverse, in fact, because great art, like other forms of intellectual endeavour, enriches our community from top to bottom. Think of the enrichment of our day-to-day language by Shakespeare, or the enrichment of our relatively ordinary built environment by the great architects of the classical world. On the other hand, think of how the idea of being 'cool' extends backwards through a fertile legacy of black music, modern art, and the informal elegance of modern dance.

A useful analogy is with the cultural experience of our language, the existence of which has the same intrinsic quality. It is important to keep alive as much as we can of the

⁹ If it is the originals that possess intrinsic value, then the question of their repair, upkeep and so on, is crucial. See the discussion of William St. Clair's well-known attack on the British Museum's upkeep of the marbles in Jenkins 'The Elgin Marbles: Questions of Accuracy and Reliability' *International Journal of Cultural Property*, Vol.10, No.1, 2001, p.55.

¹⁰ See *Nonsense on Stilts: Bentham, Burke and Marx on the Rights of Man* ed. Jeremy Waldron Methuen (1987) p.53

ancient Greek language, and there is intrinsic loss when the last speaker of a just forgotten language dies. There are sufficient reasons, other than the strictly utilitarian, for making the study of English compulsory in schools. It is a loss when English usage changes, so that people can no longer, say, distinguish between ‘compare to’ and ‘compare with’, but it is a distinct gain when the English language absorbs new influences and creates new words, or new meanings for old words. Art is the same. It is impossible to imagine life in our community today without art, and art’s influences, about us, shaping the way we perceive the world.

Conclusion. My argument has drawn attention to the special intrinsic value of art – its ‘sacred’ quality. This value is different from the values, protected by rights, which are the interests of particular individuals. Where intrinsic values are at stake, the normal regime for the protection of people’s property interests cannot fully settle the matter. Although intrinsic value cannot be defined in terms of the interests it serves, objects having intrinsic value will often be valuable and integral parts of human culture.

Since governments have duties arising from a general duty to enhance the freedom and development of their citizens, they have duties to encourage as much richness and diversity in their communities, as well as, so far as it is legitimate to do so, in the world community. I am not suggesting here that art cannot be owned, according to ordinary property principles. Rather, I am suggesting that the principles justifying governments are also the principles that require governments to respect art and religion, and other intrinsic values. These principles cannot be discounted in determining the proper scope of property rights. It follows that good decision-making will take into account the right balance between art for art’s sake, and the rights of its citizens.