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SUBSIDIZING THE ARTS: A DEMOCRATIC DEFENSE

by

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ABSTRACT

Subsidizing the Arts: A Democratic Defense

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This dissertation defends state support of the arts as an educational public good. It begins with a critique of the traditional justification for subsidy, the appeal to cultural perfection. By challenging the perfectionist position from two distinct perspectives -- political and aesthetic -- this critique reveals the potential value of constructing a plausible, nonperfectionist alternative. The dissertation then works to develop such an alternative by appealing to the instrumental potential of art as an educational public good. Unlike the perfectionist approach based on the intrinsic value of art, this justification is founded on a general commitment to democratic self-rule. After defending a particular account of this commitment and its implications for educational policy, the dissertation works to show how art can serve as a valuable component in an overall scheme of democratic education.

The positive argument for art's democratic value consists of three distinct elements. The first draws on Aristotle, Kant, and Hannah Arendt in explicating several structural similarities that exist between aesthetic and political judgments. The second element describes how interpretation is essential to both engaging art and participating in politics. Taken together,
these first two elements of the argument describe how art and politics both engage -- and thus practice -- many of the same skills and abilities. The third element of the argument explores the potential political value (and political risks) of the state's encouraging citizens to engage a diversity of cultural expressions.

The dissertation concludes by describing several policy implications of the democratically-based justification of subsidy (e.g., increased local control over subsidy decisions), and by evaluating the justification in light of the best arguments against subsidy. These include a libertarian argument from self-ownership, Joel Feinberg's argument based on the Benefit Principle, an objection from moral offense, and several objections from state neutrality.
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INTRODUCTION

This dissertation examines the philosophical underpinnings of government support for the arts, and it defends such support as an educational public good. Its guiding question is whether one can justify invoking the state's coercive powers of taxation to support the production and dissemination of contemporary art. Many people assume that my interest in this topic stems from the controversy that has recently surrounded publicly-funded art. "What a timely and controversial topic!" they often say, or "Can you believe that the government gave money to that crazy artist who urinated into a jar and called it art?" Yet as intriguing as these examples may be, my interest is not in controversy per se but in the philosophical issues that underpin such controversy. And in the case of arts subsidy, I believe that these controversies reveal the existence of substantive philosophical disagreements -- both political and aesthetic -- within our society. The political disagreements center on questions about the proper role of the state, with critics arguing from a variety of standpoints that subsidizing art is simply not a proper or justifiable function of government. From the aesthetic perspective, real disagreement (and perhaps disillusionment) exists among citizens about the value of contemporary art, with critics claiming that contemporary art offers little of real value and much that is offensive.

Yet these disagreements have a long history. Heated debate took place in this country over 150 years ago concerning the wisdom and value of
federally-funded art, when in 1832 the U. S. Congress awarded a $20,000 commission to Horatio Greenough to create an artistic tribute to George Washington (See Figure 1). In language strikingly similar in tone to that used recently in condemning works funded by the National Endowment for the Arts (NEA), Greenough's sculpture of our first president received scorn and ridicule when it was unveiled in 1842. One critic wrote that the work made Washington look "like Venus of the bath ... undressed with a huge napkin covering his lower extremities. ..." And U.S. Representative Henry Wise of Virginia argued that the statue's head should be preserved, but that the body should be thrown into the Potomac River, "to hide it from the eyes of the world, lest the world should think that that was the people's conception of the nation's founder." The work was eventually removed from the Capitol grounds and placed into storage.¹

The character and aims of this dissertation can be viewed in several ways. First, it seeks to develop a plausible alternative to the predominant approach to justifying subsidy, the appeal to cultural perfection. I shall argue that this is needed because perfectionist justifications face not only several well-known political criticisms but also an 'aesthetic' criticism that I raise here for the first time. Second, this project explores what sort of justification for subsidy, if any, can be developed using a shared commitment to democracy as the primary political assumption. By

Figure 1: Horatio Greenough's controversial sculpture of George Washington (ca. 1841). Smithsonian Institution Photograph No. P6450.
avoiding direct appeal to any comprehensive liberal political philosophy, the dissertation seeks to find a democratic alternative to the seeming impasse that has crept into the arts subsidy debate, an impasse between the lofty aspirations of perfectionists and the cautious demands of those advocating state neutrality. A third distinctive feature of my approach is that unlike perfectionist justifications, which appeal to the *intrinsic* value of art, the justification offered here appeals to art's *instrumental* benefits. Specifically, the justification appeals to art's potential for improving the quality of democratic deliberation. And fourth, this project attempts to cast new light on the issue by arguing that arts subsidies are most properly classified as educational expenditures. I shall argue that this classification not only makes intuitive sense, but also that it provides practical guidance in developing concrete subsidy policies.

The justification for arts subsidy offered here is unconventional, and some may find its conclusions controversial. It is unconventional because it appeals to ideas not previously associated with the arts subsidy issue. Primarily, it draws on Kant's notion of aesthetic judgment, especially as his writings on the aesthetic have been interpreted as having a strong political dimension. Thus, rather than claiming that art should be subsidized because it uplifts us personally and privately, the justification claims that engaging art can provide concrete *public* benefits, primarily as a mode of practice for developing our faculty of judgment. Additionally, while I do argue in favor of government funding for the arts, the justification's underlying commitment to democratic principles carries with it policy
constraints that some subsidy proponents may find controversial or uncongenial. The concrete policies that emerge from this justification include increased local control over subsidy selections, an emphasis on disseminating existing works rather than creating new works, and the permissibility of refusing to fund controversial works.

A word should be said here about the tone and aspirations of this project. In offering an alternative justification of subsidy, my work proceeds from an assumption -- argued for in Chapter One -- that our present approach to justifying support for the arts has faltered and stands in need of fundamental change. If state spending on the arts is to be sustained in our dual climate of reduced government spending and controversial art, then subsidy proponents must provide a new and clear statement -- faithful to the nature of art -- of why art has a political relevance and value that makes it worthy of taxpayer monies. And because what is needed most at this point is an influx of new ideas, I decided in this dissertation to push my claims about art's democratic value rather than to restrain them. In the final chapter, after having presented the entire account I will step back and reflect on exactly what has and has not been achieved, considering the status of both the justification's principled claims and its empirical assumptions.

The dissertation is organized into five chapters. Chapter One presents and critiques the prevailing approach to justifying arts subsidies, the appeal to cultural perfection. Chapter Two lays some necessary groundwork for my proposed justification by arguing that our commitment to democracy is
distinct from our commitment to liberalism, that this commitment to democracy is founded on the Kantian principle of respect for persons, and that it is sufficient to serve as the basis of a political justification. Chapter Three presents the justification itself, which is comprised of three distinct arguments for the claim that engaging artworks can help develop the skills and abilities needed for successful democratic participation. Chapter Four examines the most powerful arguments against subsidizing the arts, showing along the way that a strength of the proposed justification is its ability to respond effectively to many of these traditional criticisms. Chapter Five then outlines several concrete policy implications of the proposed justification and briefly examines the justification's empirical assumptions.

A word should also be said here about the task of political justification itself, because for many persons it is not intuitively clear why state spending on the arts requires any justification at all. For instance, some persons view spending on the arts as self-evidently good. On the other hand, the artist Claes Oldenberg once said that the most important thing about great art is that it be unjustifiable. From this latter standpoint, one might well view the project of justifying arts subsidies as incoherent. I believe that neither of these extremes is correct. In the context of this project, 'political justification' refers to the arguments that one gives in favor of the supporting the arts, i.e., the philosophical reasons why we believe art to be worthy of taxpayer monies. For while there may be some truth to the notion that art is a private, autonomous activity, forcing citizens to pay taxes to support the arts is very much a public matter, and as
such it entails the need for public accountability, deliberation, and reasoned debate.

Also, there are several theories about what constitutes an acceptable political justification. A representative example is Joel Feinberg's 'indignant taxpayer' model. Feinberg envisions a 'philistine' taxpayer who objects to subsidies on the grounds that she personally receives no benefits from the spending. Feinberg asks us to imagine a taxpayer that hates art and even goes out of her way to avoid encountering an art museum or gallery. The indignant taxpayer simply wants to obtain a fair return on the money she pays in taxes, and because she receives no benefits from art, she objects to being forced to support its production. On what basis do we legitimately tax this person to support the arts? Further, how should we interpret the demands of this model. Does political justification require that we actually persuade the indignant taxpayer to acquiesce to the needed taxation, or does it entail only the weaker requirement that we respond to the taxpayer's complaint by providing good and adequate reasons in favor of subsidy? This is an interesting question in itself, but it is beyond my present scope, and so in this project I simply assume the response/reason-giving account of justification. At the same time, however, it is my hope that the justification will ultimately prove persuasive, as well. For because politics is at most only partially theoretical, no political justification can succeed in a purely theoretical atmosphere. That is, if the theoretical defense of arts subsidy developed here is to succeed as a political justification, it must also -- and no less importantly -- be able to withstand the rigors of public deliberation and democratic decision-making.
CHAPTER ONE
The Tradition of Subsidy: Art and Cultural Perfection

This chapter critically examines the most prevalent strategy for justifying
government support for the arts, the appeal to cultural perfection. The
first section presents the basic strategy of the perfectionist model, and the
remaining two sections each examine a distinct mode of criticizing this
model. One set of criticisms arises from concerns of liberal political
type, and the other from issues within the philosophy of art. The
primary goal of this chapter is to make explicit some problematic issues
that accompany the appeal to perfection, thereby revealing the motivation
for (i.e., what stands to be gained by) constructing a non perfectionist
justification of subsidy. Constructing such a justification is then the task of
the remaining chapters.

I.

In the mission statement of America’s primary institution for federal arts
subsidy, the National Endowment for the Arts (NEA), one finds a
revealing passage that lays out specific claims as to why art is important to
the nation. According to the preamble of the Endowment's charter,

Throughout the ages, humanity has striven to go beyond the limits of
the immediate physical world to create that which was not there
before and thus nourish the human spirit. The first record of our
perception of the world around us was through art scratched on cave
walls, carved in stone, or modeled in clay. Our need to make,
experience, and comprehend art is as profound as our need to speak. It is through art that we can understand ourselves and our potential.¹

By claiming that art serves to 'nourish the human spirit,' and that we need art to understand ourselves and reach our 'potential,' the framers of NEA's enabling legislation have offered a particular argument as to why the government ought to be involved in arts subsidy. Filling in some unstated premises, this argument runs along the lines that:

(1) art has certain 'transcendent' qualities that speak deeply to our human spirit and that consequently provide unique opportunities for enabling humans to develop their potential (i.e., to flourish);

(2) it is a proper role of government to promote the flourishing of its citizenry;

(3) Therefore, it is a proper role of the government to promote the arts through subsidy.

This argument or something close to it can be said to be the philosophical justification behind the creation of the NEA. Before examining the character of this particular justification and the problems inherent to it, it should first be pointed out that the justification for NEA's activities need not have been this particular one. For instance, in writing NEA's enabling legislation the Congress might have chosen to subsidize the arts on economic grounds, perhaps adopting some version of the claim that a robust arts community contributes to economic prosperity by generating increased tourist revenues. Other justifications appearing in the literature

include that exposure to art maximizes the citizenry's welfare (either general welfare or a special 'aesthetic' welfare); that art has a positive, moralizing effect on a citizenry; that art can serve as a type of social salve helping to "prevent social unrest and alleviate social pathologies;" and, that the experience of art offers therapeutic effects to persons in prison and those suffering from mental health disorders.² It has also been argued that the machinations and character of a modern consumer/industrial society such as ours are harmful to the arts, and consequently state support is needed to insure their continued existence.³

The particular justification that one chooses will have profound effects on the particular policies of subsidy that are eventually implemented. For example, as one varies the justificatory reasons for funding the arts one can expect different policies to emerge regarding which art should be funded. A justification based on economic stimulus will, for instance, fund those works of art that will provide the maximum amount of economic stimulus, which of course may or may not be the best works of art per se. And the same holds for claims of increased tourism, rehabilitation, aesthetic welfare, and so on. For this reason, if one wishes through subsidy to encourage production of the very best art possible, then one might prefer to tie the justificatory basis as closely as possible to ends inherent to art itself, thereby minimizing the influence of non artistic criteria such as

³For a general discussion of these various approaches, see Noël Carroll's Can Government Funding of the Arts Be Justified Theoretically. Journal of Aesthetic Education, Vol. 21, No. 1, Spring 1987, pp. 21-35.
economic stimulus. This is a primary reason why the justification utilized in creating the NEA has the force that it does. That is, we generally believe that the value of art lies not in its ability to stimulate the economy but rather in its ability to speak to the more profound human concerns upon which a monetary value cannot be placed. Edward Banfield even claims that justifications for art subsidy must be made for reasons inherent to art itself, drawing on Monroe Beardsley's distinction between a work's inherent and its incidental value. Citing Beardsley's example of a metal sculpture's potential for being used as ballast, Banfield writes that "If (to use Beardsley's ad absurdum example of an incidental use) sculpture were useful as ballast, this would not help to justify a program of support to the arts." 

The various alternative justifications mentioned above are presented here only as a means of bringing into relief the particular justification that in fact lay behind much arts subsidy in this country today, that of appealing to art's intrinsic ability to actualize human potential and excellence. This chapter focuses exclusively on this particular strategy of justification, not simply because it is the strategy chosen by the NEA, but more importantly because it involves a commonly used and in many ways compelling appeal that has a rich philosophical tradition.


\footnote{Democratic Muse, pp. 28, 204.}

\footnote{Rather than examining this appeal because it undergirds NEA's activities, it is more accurate to view the fact that this approach was chosen for the NEA as an indication of its pervasive appeal as a justificatory strategy.}
In the Western philosophical literature this strategy is termed the appeal to *cultural perfection*. The philosophical roots of perfectionism date to antiquity. Aristotle, for instance, held that humans ought to strive toward realizing their potential *qua* humans, that humans naturally desire complex activities over simple ones, and that human excellence is something to be encouraged within the *polis*. Within contemporary social and political philosophy, the appeal to perfection has taken on specific meaning within a debate over the proper level of state involvement in questions concerning how citizens ought best to live their lives. Broadly speaking, contemporary perfectionists hold that some forms of life or activity are simply better than others, and that the state acts properly in encouraging citizens to adopt the desirable over the undesirable. For instance, if it is indeed the case that "the life of contemplation [is] inherently superior to other forms of human life, such as the life devoted to bestiality and the eating of one's excrement,"7 then a perfectionist will maintain that the state may -- and perhaps even morally ought -- to enact policies that encourage the lifestyle of contemplation over either of the latter two.

Fully understanding the perfectionist appeal requires at least a brief look at its underlying value theory. Vinit Haksar describes the classic formulation of perfectionism when he describes a perfectionist as someone who believes that "Some forms of human life are intrinsically (or inherently) inferior to other forms of human life."8 The key terms to focus on here are

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'intrinsically' and 'inherently.' Perfectionists believe that their claims about the relative merit of competing forms of life have an objective status, or at least claim that they rest on something more than one's subjective personal preferences at the present moment. And it is precisely this objective status that justifies, in the opinion of the perfectionist, the state in using its coercive powers to promote these forms of life. That is, because the forms of life in question are in fact superior (independently of particular individuals' like or dislike of them), then the state is justified in coercively encouraging their adoption. Many perfectionists also claim that any citizen possessing perfect knowledge of a given situation will in fact prefer the superior over the inferior, and that anyone professing to prefer the inferior simply lacks sufficient knowledge of the alternatives or is perhaps deranged or irrational. For a perfectionist the state acts properly when it acts in ways that tend to 'bring its citizens around' to leading what is in fact the good life.

To say that perfectionists agree on the objective status of values is not to say that they all espouse the same values, nor is it to say that they agree on the content, quantity, or basis of these values. Aristotle, for instance, held there to be one clearly superior form of life for man -- the life of contemplation. He based this claim on the assumption that rational contemplation was the highest form of activity of which mankind was capable, and hence it was his telos, or most apt end.\(^9\) Contemporary

\(^9\)Aristotle also held admiration of beauty to be an intrinsic good for man, but he viewed it as a subordinate good to the highest good of rational contemplation. Also, I am ignoring here certain controversies about whether Aristotle actually held rational contemplation to be the single best life for man. The perfectionist
perfectionists are less likely to claim that there is a single best form of life, and they also are less likely to ground claims of superiority on assumptions involving a universal telos for all humanity. Contemporary perfectionists such as Joseph Raz and Charles Taylor hold there to be a multiplicity of valuable forms of life, each grounded in a particular social form existing within a living community. This is not, however, a capitulation to relativism. Raz, for instance, claims that the value of each of these forms of life indeed has objective status, and that among this plurality of objectively valuable forms of life there may be conflicts and incommensurabilities. Raz's perfectionism involves the claim that while there is no one form of life superior to all others, there is a pluralism of objectively valuable forms of life whose flourishing may be encouraged through state action. Raz writes that "Belief in value pluralism is the belief that there are several maximal forms of life."\textsuperscript{10}

Up to this point perfectionism has been considered from a global perspective, as a principle for directing and ordering society and its institutions. Now it is appropriate to look at how perfectionism applies to the specific question of justifying state support of the arts, and here there would appear to be at least two ways in which the perfectionist thesis could be interpreted. One way to pitch the perfectionist justification is to say that the state ought to support working artists simply because artistic activity is one of those superior forms of life that should be encouraged. In this way

state subsidy would be directed toward developing the talents of gifted
individuals, culminating in a society with a maximized amount of
developed artistic talent. This approach reflects Nietzsche's dictum that

Mankind must work continually to produce individual great human
beings -- this and nothing else is the task . . . for the question is this:
how can your life, the individual life, retain the highest value, the
deepest significance? . . . Only by your living for the good of the
rarest and most valuable specimens.11

One this view arts subsidies might thus be considered as a form of
incentive, reward, or compensation for persons who possessed artistic
talents and chose to develop them. And in point of fact there is some
sympathy in the contemporary artworld for this view. That is, there are
informed persons who think that the money given to artists need not
actually go directly into the production of art but can rightfully be applied
toward paying, say, an artist's personal expenses such as food and housing.
On this view state funding need not be indexed to the production of a
particular artistic project(s), but rather it is seen as a reward to the
recipient for pursuing artistic activity, for past excellences achieved, and as
encouragement for further artistic exploration.12

But this is certainly not the most cogent way to formulate the perfectionist
justification for funding. Even though this may be a coherent
interpretation of the perfectionist position, and even though there may exist

12This view was expressed during interviews with NEA officials in Washington, DC, July 12-16, 1993.
This view expresses neither a majority opinion on the issue nor an official position of the NEA.
some sympathy in the real world for this view, it places inordinate and almost exclusive emphasis on the artist, and it considers him in isolation from the general society that the state is presumably meant to serve. That is, presumably we want the state to encourage the arts not because this will produce great individuals (e.g., artistic geniuses) but because it will produce great art to which society as a whole will then be exposed. Persons may for instance become great individuals through the discipline and competitiveness required to play some sports, but this alone does not constitute a justification for subsidizing an individual's pursuit of, say, track and field events. Pitching the perfectionist justification in this way ignores the distinction between public and private benefits, making it particularly vulnerable to Rawls' criticism that, unless they are unanimously supported, "there is no more justification for using the state apparatus to compel some citizens to pay for unwanted benefits that others desire than there is to force them to reimburse others for their private expenses."\textsuperscript{13}

A more plausible approach is to interpret the perfectionist as saying not that being an artist is the highest form of human activity, but rather that the best forms of life are those which include contemplation and appreciation of great art, and that by subsidizing art the state is facilitating the general populace in leading this type of life. Ronald Dworkin captures the essence

of this perfectionist view in describing what he calls the 'lofty' approach to justifying arts subsidy. Dworkin writes that

The lofty approach . . . concentrates on what it is good for people to have. It insists that art and culture must reach a certain degree of sophistication, richness, and excellence in order for human nature to flourish, and that the state must provide this excellence if the people will not or cannot provide it for themselves.\(^{14}\)

Again one sees a linking of art to the ideal of human flourishing. This perfectionist justification rests on the contention that a state's citizenry can, through art, achieve a level of human flourishing that otherwise would be unobtainable, and it is properly the state's role to see that they have the opportunity to do so. But this appeal to 'human flourishing' is still too general to allow full explication of the perfectionist position. Making this claim more specific requires determining how a perfectionist would answer the question of why exposure to art facilitates human flourishing.

Generally, perfectionists see exposure to art as one element in an overall orchestration of 'the good life.' In Reasons and Persons Derek Parfit asks the question "What would be best for someone, or would be most in this person's interests, or would make this person's life go, for him, as well as possible?" One possible answer to this question Parfit labels the Objective List Theory of the Good, a list of purportedly 'objective' goods that includes 'awareness of true beauty.'\(^{15}\) Now while the category 'true

\(^{14}\)Dworkin, A Matter of Principle, p.221.

\(^{15}\)The other entries on Parfit's list include: moral goodness, rational activity, the development of one's abilities, having children and being a good parent, and knowledge. See Parfit, Derek. Reasons and Persons. Oxford: Clarendon Press, 1984, p.499.
beauty' would include the beauty found in nature (and so has implications for policies of natural resources management), most consider it to encompass works of art as well. On this reading a perfectionist would justify arts subsidies with something resembling the following argument:

(1) the state is justified in seeking to make its citizens' lives go as well as possible;

(2) an awareness of true beauty makes persons lives go better;

(3) art is a primary means for achieving an awareness of such beauty;

Therefore, the state may justifiably use its powers of taxation to support the arts.\textsuperscript{16}

With the argument presented in this form, one sees that three conditions must obtain if a perfectionist justification of arts subsidy is to be successfully defended: first, one must accept the claim of premise (1) (i.e., that the state is justified in taking actions aimed at making its citizens lives go well); second, the value assumed in premise (2) must be an objective good (i.e., it must indeed make persons lives go better, whether they realize it or not); and third, there must be a reasonably close 'match' between this objective good and the effects of a citizenry's exposure to art.

\textsuperscript{16}For the sake of simplicity, this presentation omits a suppressed premise in the perfectionist argument, which is that state subsidy will indeed result in more persons choosing to engage the arts.
II.

Having presented the basic perfectionist argument for justifying arts subsidies, I must now focus on some of its problems. In this section I raise a series of criticisms that arise from viewing perfectionism as a political principle. These criticisms will be familiar to readers of contemporary liberal theory, for they include many of the reasons typically offered in defense of state neutrality. Because they involve claims regarding the proper role of the state *vis a vis* how people ought best to live their lives, these criticisms pertain to premise (1) of the perfectionist justification offered above (i.e., that the state may act so as to make its citizens' lives go as well as possible).

Before proceeding, a methodological point is in order. For my overall argument to be successful, I need not show conclusively that the perfectionist view is untenable, either as a general political principle or as a workable justification for arts subsidy. By explicating several difficult problems the view, my goal is to illuminate what stands to be gained by avoiding an appeal to perfection. Some of the objections presented here will be pressed harder than others, and some will be more convincing than others, but taken as a whole, the various criticisms should illuminate the desirability of formulating a defensible nonperfectionist alternative. And if certain of the objections raised here are correct, then more than this minimal goal will be achieved, perhaps throwing into question the aptness of perfectionism as a justification for art subsidy.
I turn now to the objections from political theory. These objections can be classified into two basic types, which I shall call 'liberal' and 'libertarian.' Both the liberal and the libertarian objections attack the first premise of the perfectionist justification, but they do so for very different reasons. Briefly stated, libertarians reject this premise because they claim that levying taxes for any purposes over and above providing for national defense and protecting the free market is always and in principle an illegitimate use of state power. The libertarian grounds this position on the idea that liberty of transfer renders the free market morally necessary for all exchanges of property, and that taxation for any reasons other than protecting this market (e.g., for helping citizens lives go better) constitutes unjust appropriation by the state. Such taxation violates one's right of self-ownership, which includes a right to one's talents and the fruits resulting from the use of those talents, including one's justly acquired possessions.

The libertarian objection has broad implications, for if correct it undercuts not only state funding for the arts but also a great many other government activities, including welfare redistribution, health care delivery, and education. Now the libertarian challenge needs to be addressed, not only because of its theoretical strength but also because in one guise or another it is tirelessly marshaled by persons seeking to block all types of interventionist government programs. The libertarian approach is rhetorically effective, even if question-begging, for if one accepts a theoretical limit to the justifiable sphere of government activity, then any programs extending beyond this limit are rejected by definition and without reasoned consideration of their likely consequences. Furthermore,
the libertarian line is probably the most often-cited objection to federal arts subsidies, perfectionist or otherwise (e.g., "Art is simply not something with which the government ought to be concerned or involved!"). But because the theme of this chapter is perfectionist justifications, and because the broad-based scope of the libertarian objection argues against any sort of justification for arts subsidy (including the democratic justification proposed here), its treatment will be deferred to Chapter Four.

I turn then to the liberal criticisms, which generally focus on that element in perfectionist politics advocating state involvement in questions regarding the way people ought to live their lives. Now unlike the libertarian, the liberal does not in principle reject the idea of the government's working to make its citizens' lives go better; rather, the liberal is just wary and critical of the perfectionist approach to doing so. Because perfectionism rests on the fundamental claim that some forms of living are superior to others, as well as that the government may use its coercive powers to promote these forms of living, many liberals describe perfectionist politics as paternalistic, unjust, and dangerous. For example, in reviewing some common criticisms of what he calls the 'lofty' (i.e., perfectionist) approach to justifying arts subsidy, Ronald Dworkin writes that

[T]he lofty approach seems haughtily paternalistic. Orthodox liberalism holds that no government should rely, to justify its use of public funds, on the assumption that some ways of leading one's life are more worthy than others, that it is more worthwhile to look at Titian on the wall than watch a football game on television.\footnote{Dworkin, R. \textit{A Matter of Principle}, p. 222. Elitism is another common charge against perfectionist justifications of art subsidy, and it is mentioned by Dworkin as well. This charge consists of the claim that}
The claim underlying liberal criticisms of this sort is that the government ought to remain neutral concerning questions of what constitutes the good life. This 'neutrality thesis' pervades contemporary Western political thought, a phenomenon that Sher succinctly describes when he writes that

[Neutrality is] a picture that no contemporary Westerner can altogether escape. Though barraged by competing ideologies and social schemes, we have all absorbed, by a kind of cultural osmosis, the ideas that self-expression, choice, and diversity are paramount, and that how a person lives is far less important than whether he lives as he prefers and chooses. We also worry, unfortunately with justification, that by tolerating departures from official neutrality, we risk allowing the state's coercive apparatus to be captured by fanatics, bullies, or worse. Neutralism also draws support from our uncertainty about where our deepest values lie and which ways of living really are best...  

But while neutralists deny the perfectionist claim that the state may encourage people to live their lives in certain (objectively good) ways, neutralists need not (unlike libertarians) oppose in principle the government's seeking to make people's lives go better. In fact, many neutralists agree that the government may do things to help its citizens flourish. But unlike perfectionists, neutralists limit such actions to those

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18Sher, George. *Beyond Neutrality: Perfectionism and Politics*. Cambridge: Cambridge University Press, 1996 (forthcoming), ch. 1, p. 3. Sher and many others also distinguish two types of neutrality: neutrality of outcomes and neutrality of reasons, or as Kymlicka puts it, consequential and justificatory neutrality. The first defines a non neutral policy as one with effects that benefit one particular conception of the good. This definition makes the neutrality ideal too stringent to be workable, and so most if not all neutralists defend neutrality of reasons, or justificatory neutrality, which holds that a non neutral policy is one based on reasons that seek to privilege one conception of the good.
that do not (or only minimally) reflect substantive conceptions of the good, such as building roads, requiring the use of safety belts, or, more controversially, providing a minimum economic social net. For instance, while John Rawls thinks that his hypothetical contractors would adopt neutralism rather than perfectionism as a principle of societal ordering,\(^1\) he is not in principle opposed to active government involvement in questions regarding the citizenry's welfare. However, he remains a neutralist by identifying a bundle of 'primary goods,' i.e., 'neutral' goods that everyone will want and need regardless of their lifestyle or particular conception of the good life (e.g., income, wealth, and opportunity), and then limiting government activity to the (re)distribution of these primary goods in accordance with a just scheme of societal ordering.

But while Rawls and other neutral liberals reject perfectionism as a political principle, the price of this move may be to rule out the possibility of justifying arts subsidies. This impasse betrays a profound tension existing in the liberal literature on arts subsidy, which is that many liberals recognize the intuitive cogency of the perfectionist account of art's value yet at the same time find perfectionism unacceptable as a political principle. An example of this tension can be seen when Ronald Dworkin writes that even "if we begin, as many of us [liberals/neutralists] do, by wanting to find some justification for a generous level of state support... to make our culture excellent," we still must "pause to notice [the paternalistic/elitist]"

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\(^1\)Basically Rawls thinks that his hypothetical contractors would not select perfectionism because it would "be to accept a principle that might lead to a lesser religious or other liberty." See *A Theory of Justice*, p. 325-29.
warts" of a 'lofty' (i.e., perfectionist) appeal. On the other side of this dilemma we find the neutralist Rawls questioning the wisdom of a society devoid of perfectionist goals when he writes that "[e]ventually of course we would have to check whether the consequences of doing without a standard of perfection are acceptable, since offhand it may seem as if justice as fairness does not allow enough scope for ideal-regarding considerations."20 Thus in the literature one finds liberals both eschewing perfectionism and at the same time unable to avoid appealing to it when seeking to construct a justification for arts subsidy.

To see more specifically why neutralists find perfectionist justifications objectionable, one may again examine Rawls' views as representative. Rawls views arts subsidies as unjust. His argument rests on the contention that art is not a primary social good because such things as artworks, higher education, and cultural achievement as a whole are not neutral vis a vis competing conceptions of the good. That is, artworks are not neutral in the fashion of roads or other forms of economic infrastructure -- they embody and often celebrate particular cultural values and sentiments. Thus, if the government is only justified in providing its citizens with primary (i.e., neutral) goods, and if art is not a primary good, then subsidizing the production of particular artworks is unjust because it privileges certain conceptions of the good over others. Another way to view Rawls' position is to say that because artworks are not primary goods, not everyone will want them (and in fact many people hate and despise

20A Theory of Justice, p. 331.
some works of art). And for Rawls, taxing people to support goods they do not want, in this case artworks that they disapprove of, is an injustice. Rawls seems especially dismissive of perfectionist justifications when writes that his two principles of justice

    do not permit subsidizing universities and institutes, or opera and the theater, on the grounds that these institutions are intrinsically valuable, and that those who engage in them are to be supported even at some significant expense to others who do not receive compensating benefits.\textsuperscript{21}

Now while Rawls may be wrong in claiming that the taxpayers receive no compensating benefits from such subsidies (i.e., they get whatever benefits accrue from experiencing the subsidized artworks), Rawls does appear correct in claiming that artworks are non neutral goods. As paradigm examples of objects reflecting the particular values of the cultural milieu from which they were created and from within which they must be interpreted, artworks certainly reflect substantive conceptions of the good, and they do so much more robustly than, say, roads or safety belt laws. If one couples this with the fact that many persons do not value -- and in fact find patently offensive -- many contemporary artworks, then a strong case emerges against classifying art as a noncontroversial primary good.\textsuperscript{22} But once this premise is established, then (neutral) liberals who advocate arts subsidy face an impasse. Caught between the demands of neutrality and the

\textsuperscript{21}A Theory of Justice, p. 332 (emphasis added).
\textsuperscript{22}A primary example of this contentiousness is the recent confrontation surrounding Andres Serrano's work Piss Christ, which consisted of a crucifix submerged in what the artist claimed was a jar of his own urine. This work offended the Rev. Donald Wildmon and his American Family Association, who publicly demanded that the NEA retrieve the federal funds received by Serrano and dismiss the NEA employee responsible for the grant. See discussion in Chapter Four, and also Figure Two.
aspirations of perfectionism, these liberals must either: (1) abandon neutrality as the state's guiding political principle; or, (2) abandon perfectionism as a justificatory strategy for arts subsidy. And if one chooses the second route, then one may either (3) concede defeat in the attempt to justify arts subsidies (i.e., Rawls), or (4) formulate a cogent nonperfectionist justification. The remainder of this section works to establish the implausibility of option (1) (abandoning neutrality), and therefore it argues in favor of option (2) (rejecting perfectionism). The final section of this chapter offers an argument not against perfectionism generally but specifically against its use as a strategy for justifying arts subsidy. The rest of the dissertation can then be seen as an attempt to develop option (4), that of producing a cogent nonperfectionist justification.

Perfectionism clearly possesses an intuitive appeal, and most people -- if pressed -- would agree that theatre is better than wrestling, and that contemplation is better than bestiality. Furthermore, it seems reasonable on first glance that if the government can take actions that will promulgate the more desirable options, then it should do so, especially when such actions would be relatively simple and painless. For as Sher points out, "[i]t is, to say the least, not self-evident that even the weightiest of perfectionist reasons -- reasons that should and often do guide our personal conduct -- should have no weight at all in our deliberations about law and public policy."23 So while Rawls' argument for the unjustifiability of arts

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23 *Beyond Neutrality: Perfectionism and Politics*, ch.1, p. 22 (author's emphasis).
subsidies may be valid, its soundness has yet to be determined, for the truth of its fundamental premise -- that the state ought to be neutral -- has yet to be established.

So far, the case against perfectionism has really only amounted to a set of vague, intuitive concerns about paternalism. But this is insufficient, for in judging perfectionism one must consult not only intuitions but reasons. A sensible strategy for criticizing perfectionism is to examine the best arguments for neutrality, for if any of them hold, then perfectionism will as a consequence be defeated. And as noted earlier, the general argument of this paper requires only a minimal case against perfectionism in order to go forward. What is needed then, is not a conclusive defeat of perfectionism but only one good argument or set of reasons casting sufficient doubt on the wisdom of embracing perfectionist policies. Fortunately, however, there exists not just one but many cogent arguments for neutrality in the literature. I will now present some of these arguments, and for those I take to be the strongest, I will extend some of the argumentation to show how perfectionists' dismissals of these arguments have been premature.

George Sher conveniently groups the various arguments for neutrality into three general types: (1) arguments from autonomy; (2) arguments from safety and stability; and, (3) arguments from skepticism. So far in this paper, most of the reasons canvassed for neutrality have been versions of the argument from autonomy. In general terms, arguments from autonomy claim that by making certain decisions for its citizens -- by
acting paternalistically -- the state denies these citizens their status as
autonomous agents and decision makers, which in turn amounts to denying
them an essential element of their humanity. 24 John Stuart Mill forwards
this sort of argument when he writes that

... There is a part of the life of every person, ... within which the
individuality of that person ought to reign uncontrolled either by any
other person or by the public collectively. It is the privilege and
proper condition of a human being, arrived at the maturity of his
faculties, to use and interpret experience in his own way. 25

And Sher points out the anti-paternalistic strain in the arguments from
autonomy when he writes that they

[assert] that when governments promote particular conceptions of the
good, they invert the proper relation between the person and his
ends. To qualify as autonomous, a person must formulate, execute,
and monitor his own life-plan. He must make his own decisions
about what is valuable or best for him. But when the state promotes
a conception of the good, it channels citizens in directions they have
not (yet) chosen, and so pre-empts their autonomous choices. Thus,
indefensibly, it substitutes its judgment about how they should live
for their own. 26

Appeals to autonomy have a particular cogency because they resonate with
a pervasive intuition in Western society that persons should be allowed to

24 Sher distinguishes two distinct ways of interpreting the appeal to autonomy argument. One of these
interpretations holds that government interferences with autonomy inevitably reduce overall value (an appeal
to the value of autonomy). The second interpretation does not evaluate whether allowing full autonomy
maximizes value, but rather it places a deontological constraint on the government's preemting
autonomous choice. This interpretation protects autonomy from being 'trumped' by other values, and for
this reason Sher dubs it the 'appeal to respect for autonomy.'
conduct their lives as they see fit. That is, arguments from autonomy jibe with Will Kymlicka's claim that

no life goes better by being led from the outside according to values the person doesn't endorse. My life only goes better if I'm leading it from the inside, according to my beliefs about value.²⁷

Arguments from autonomy have profound philosophical underpinnings in the Kantian ideal of persons as autonomous rational agents, as well as in the contention that undermining autonomy amounts to violating a moral imperative to treat others as ends in themselves. Autonomy is among the great historical legacies of liberalism, constituting what John Gray describes as one of the "weighty ... rights [that liberals claim] are owed to all human beings, regardless of their cultural inheritances or historical circumstances, just in virtue of their standing as human beings."²⁸ Thus, many liberals reject perfectionism precisely because they see it as directly undermining the profound sense of individuality, choice, and freedom inherent in the concept of human autonomy, a concept the development of which has been no small feat in the history of modern political thought.

The arguments from autonomy provide a highly-principled and well-grounded set of reasons for espousing neutrality. But while the weight and the historical importance of these arguments is undeniable, one may be less than totally satisfied by their abstract nature. That is, in the realm of political action, one may be more impressed by practical rather than theoretical reasons, or one may at the least prefer that the theoretical

arguments from autonomy be bolstered by claims of a more concrete sort. Fortunately, this is precisely what the next group of arguments seeks to do. In contrast to the arguments from autonomy, the arguments from safety and stability are less idealistic and more pragmatic in nature, focusing on the undesirable consequences that can result when governments act on specific conceptions of the good. For example, one version of this argument claims that while a government may mean well, any paternalistic measures it adopts will most likely cause more harm than good. John Stuart Mill expressed sentiments of this sort when he wrote that "People understand their own business and their own interests better, and care for them more, than the government does, or can be expected to do." And Mill's quote raises the additional concern that a government will be less motivated to protect and promote a person's interests than will that person himself.

But while Mill's concern may in fact be legitimate (i.e., a well-meaning government may decrease utility because it is uninformed or insensitive), a more worrying problem with perfectionist politics, and hence a stronger argument for neutrality, comes from the concern that a government vested with the power to enforce perfectionist ideals may become intolerant or oppressive. Thus, perhaps the strongest argument against perfectionism turns on a claim of unacceptable risk: while perfectionist politics does not entail oppression and fascism, both of these potential outcomes are so egregious that adopting a politics that does not rule them out simpliciter

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constitutes an unacceptable risk to the freedom and well-being of the citizenry. The issue concerns the potential for abuse that exists once a government acquires powers enabling it to enforce claims regarding the best way to live one's life.

Although given lip-service in the literature, this criticism has not been adequately answered by the perfectionists. Perfectionists typically contend that the problem is theoretically real but that in practice it can be circumvented. For instance, recall Raz's value theory, which assumes a plurality of objectively valuable forms of life and holds that the good life for a person entails having the skills and opportunities needed for autonomously choosing between these competing valuable forms of life. Raz contends that one necessary condition of autonomy is that citizens have a sufficient range of lifestyle options from which to choose in deciding the course of their lives, and to this end he maintains the legitimacy of a government's acting to preserve a diverse range of cultural options. But being a perfectionist, Raz limits the government's duty here only to the protection of 'worthwhile' options. He writes that "the autonomy principle permits and even requires governments to create morally valuable opportunities, and to eliminate repugnant ones."\(^{30}\) He claims that such limiting will not be harmful to the citizenry because "only very rarely will the non-availability of morally repugnant options reduce a person's choice sufficiently to affect his autonomy."\(^{31}\) But one must ask: From what

\(^{30}\) *The Morality of Freedom*, p. 417.

\(^{31}\) *The Morality of Freedom*, p. 381.
standpoint can one legitimately distinguish the 'worthwhile' options from the 'repugnant'? Furthermore, how can one be sure that what is considered repugnant today (e.g., oppressive cultural conformity) won't become seductively fashionable tomorrow? Avoiding this problem would require one to get 'outside' of the particular moral situation at issue -- perhaps to Nagel's 'nowhere' -- for only then could one have hope of objectively fixing the moral basis of terms like 'repugnant.' But we are inevitably situated not on the outside but on the inside, and the 'nowhere' of objectivity is chimerical. The problem for Raz, then, comes in providing an account of how determinations of the repugnant or the worthwhile can be legitimized into something other than expressions of the moral tastes of those in power. Furthermore, he must demonstrate that such determinations can be made in a way that avoids the unacceptable risk of legitimizing oppression.

Raz and other perfectionists often (vaguely) point in the direction of democracy as the best means for deciding public issues of value. For instance, concerning decisions about which perfectionist values/lifestyles should be encouraged by the state and which should be discouraged, Raz suggests that the state should adopt those measures "which command a large measure of social consensus."\(^{32}\) But this will not do, for while democratic methods will indeed produce decisions, they will still be vulnerable to the risk of oppression, as Mill and others have pointed out in discussions of majority tyranny. In the end Raz himself recognizes this, for he eventually

\(^{32}\) The Morality of Freedom, p. 429.
places a significant caveat on his entire project by saying that not all societies will be able to safely adopt nonneutral policies, for the risk of oppression and tyranny may be too great. Raz concludes that

[The autonomy based doctrine of freedom] cannot disguise the dangers inherent in the concentration of power in few hands, the dangers of corruption, of bureaucratic distortions and insensitivities, of fallibility of judgment . . . The study of these issues belongs to the theory of political institutions which must supplement any inquiry into political morality to give it concrete content applicable to the circumstances of a particular country. I mention their relevance because their presence affects in a radical way the degree to which one is willing to entrust any government with the tasks whose existence is indicated by the doctrine of freedom advocated [here].

Sher faces similar obstacles. For example, in defending his perfectionist scheme against the charge that it could legitimate discrimination based on race, he writes that

... such worries are groundless. To the suggestion that a perfectionist politics would prevent us from condemning discrimination, the obvious reply is that even if no reasons for political action are in principle off limits, it hardly follows that all reasons are equally weighty, or even that every alleged reason must be taken seriously. It is, for example, quite clear that 'reasons' of race, caste, and the like have no moral weight. They are, quite simply, bad reasons.33

But again, from what standpoint are they 'bad'? To a community committed to its own racial supremacy, reasons such as race and caste would in fact appear to be good if not optimal reasons on which to base state action. Sher's response extends our particular society's general

33Beyond Neutrality: Perfectionism and Politics, ch. 1, p. 11.
rejection of such reasons and elevates them to an objective status. That is, while it is clear that in our society we do in fact generally abhor racial discrimination and think it a bad reason on which to base state action, this fact is only contingent, not necessary. Both Raz and Sher seem to imply that in a perfectionist politics the 'good' reasons will be fixed and determinable, but this is to ignore the reality that actual governments and people do not always agree about what constitutes a 'good' reason, and that what constitutes a good reason to one group (e.g., one committed to their own superiority) may seem abhorrent to others. Recent events like the nationalistic internments in the former Yugoslavia and the passage of anti-homosexual legislation in Colorado and other American states illustrate this fact.

Regarding the proper means for deciding which values the government should promote, Sher, like Raz, points in the direction of democracy when he writes that

    a democratic polity may, through its representatives, induce or even compel its own members to live what it collectively judges to be good lives.\textsuperscript{34}

But again, while democratic procedures will indeed produce decisions, relying on democratic procedures does not avoid the risk of oppression, because tyranny by the majority is tyranny nonetheless. Sher recognizes this, and he addresses it by claiming that a non neutral state "can retain most, if not all, of the classical liberal protections" by adopting a

\textsuperscript{34}Beyond Neutrality: Perfectionism and Politics, ch. 1, p. 12.
constitutional frame imposing a separation of powers, civil liberties, and procedural civil rights. But that a perfectionist government may choose to organize itself within such a prophylactic frame is no assurance that it will, and so it is therefore no assurance that a democratic polity will refrain from enacting oppressive legislation. By definition, any government organized under perfectionist principles will have fewer safeguards against tyranny than will a neutral state. If it did not, then it would in fact be a neutral state. The unacceptable risk remains.

Before moving to the third and final set of objections, it should be pointed out that the perfectionists' appeals to democracy as the preferred means for deciding which forms of life the government should encourage also seems to conflict with their overall objectivist value theory. That is, perfectionism logically depends on the existence of objective values (or at least on the existence of nonsubjective values). As described above, the objective status of these values is what gives them the normative force needed to justify the state's encouraging their adoption even (potentially) against the express desires of the citizenry. Put another way, perfectionism subordinates what people want to what is in fact best for them. But if this is the case, then appealing to democratic procedures in deciding which values to adopt would seem to be of no big help to a perfectionist. If preferences don't matter, then of what value will a vote -- an expression of preferences -- be in determining questions of value? Further, if the perfectionist scheme depends on objective values, then its advocates may be at loss to explain how the democratic polity may, over time, select different values or ranks these values differently. It is also possible that in a
universe populated with a finite list of objective goods that a democratic polity might choose to foster a good that is not on this list (i.e., they may make a mistake). Thus we see that to the extent that one depends on democracy to settle questions of value, the meaningfulness of claiming that such selections pick out 'objective' values becomes suspect. And the weaker these claims of objectivity become, the weaker becomes the justification for a perfectionist politics.

This last point connects with the third set of arguments for neutrality, those of skepticism. These objections generally run that the government ought to remain neutral because any actions it takes to encourage the good life rest on an always dubious claim that it knows what the good life really is. As Sher points out, such skepticism can be centered on the impossibility of knowledge generally, on the impossibility of moral knowledge, or on the impossibility of knowledge of the good. Now while these arguments certainly carry some force, I will only mention them here, for I believe that Sher is right in dismissing these as generally 'proving too much.' That is, if one takes the radically skeptical line on these matters then one is left unable to marshal reasons in defense of neutrality itself.

However, while these particular arguments prove ineffective, there are variants of this approach that do merit further consideration. In discussing the second of the alternatives listed above, skepticism about the possibility of moral knowledge, Sher presents what he takes to be the most radical formulation of this thesis, one forwarded by Bruce Ackerman when he claims that
there is no moral meaning hidden in the bowels of the universe. All there is is you and I struggling in a world that neither we, nor any other thing, created.\textsuperscript{35}

Now in evaluating this claim Sher notes but dismisses as irrelevant its implicit moral anti-realism: "the fundamental issue is not anti-realism but skepticism, and the fundamental worry is that any appeal to it will prove too much."\textsuperscript{36} But perhaps this is moving too quickly. If the anti-realist is right, then the question is not one of skepticism at all, for skepticism involves claims about what we can come to know and not about what there actually is. Said another way, if the moral anti-realist is right, then the question is not one of skepticism but of nihilism. This would render the skeptical arguments moot, for if there are no transcendent, objective values, then skeptical arguments miss the mark -- there would be nothing to be skeptical of. But while this may be good news for opponents of skepticism, it raises difficult problems for perfectionists, for it denies the existence of the objective values upon which their scheme depends. Now this is not an espousal or defense of anti-realism; rather the intent is merely to point in the direction of a potentially devastating anti-realist critique of perfectionist politics. Developing such a critique would require (and deserve) a separate treatment of its own.

Another criticism similar in structure and force to that of the nihilists can be mounted against perfectionism from the opposite extreme of moral ontology, from the perspective of what John Gray calls 'objective

\textsuperscript{35}Ackerman, Bruce. \textit{Social Justice in the Liberal State}. p. 369.
\textsuperscript{36}Beyond Neutrality: Perfectionism and Politics, ch.\textsubscript{6}, p. 2.
pluralism. This view rejects both the nihilist claim that there are no objective values, as well as the perfectionist claim that there is a hierarchically-privileged value or set of values that hold validity for all humans. Rather, the objective pluralist maintains that there is a plurality of objectively valuable, often incommensurable, forms of life. This view enjoys a good degree of current popularity, notably expounded by Joseph Raz and John Gray. Gray traces its lineage to Isaiah Berlin, who wrote that

There are many objective ends, ultimate values, some incompatible with others, pursued by different societies at different times, or by different groups in the same society, by entire classes or churches or races, or by particular individuals within them, any one of which may find itself subject to conflicting claims of uncombinable, yet equally ultimate and objective, ends.

According to Gray, objective pluralism "destroys the very idea of perfection" because it denies the possibility of rationally adjudicating between competing and incommensurable claims about the objective nature of the good.

On the pluralist view, . . . [d]ifferent forms of life may embody virtues and excellences which, though they are each of them recognizably great, cannot rationally be ranked or weighed against each other. As between the life of a bushido warrior and a Renaissance scientist, say, there is on the pluralist account no scales whereby they could be put in the balance.

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37The objective basis for these values comes not from their being selected as preference satisfiers but from the social forms from which they emanate. See Gray, pp. 306-313.
38*Post-liberalism*, p. 290 (emphasis added).
39*Post-liberalism*, pp. 291, 293.
In contrast to the nihilist contention that there can be no justification for perfectionist politics because there are no objective values to serve as its ground, the objective pluralist contends that there can be no justification for perfectionist politics precisely because there is a *multiplicity* of objective values. A government will be unable to justify privileging one conception of the good over any other, for any objective-pluralistic epistemology will be non hierarchical, in that incommensurability precludes objective rankings or weightings of ultimate values. It will therefore refrain from prioritizing or privileging any one form of life -- say, the life of rational inquiry, of contemplation or wealth-creation, of prayer or selfless devotion to others -- as the best for the human species. Unlike the Millean moral epistemology, it will not suppose that moral inquiry will eventuate in a Peircean ideal convergence. Rather, as a species of objective pluralism in ethics, it will expect inquiry to issue in an ultimate divergence of ethical perspectives.40

Now this position has clear affinities with Raz's pluralistic value theory, for both admit a plurality of morally acceptable ways to live. But whereas a perfectionist like Raz claims there to be a finite number of morally worthwhile options that which can be distinguished from a (perhaps unlimited) number of repugnant options, Gray's scheme is more radical in that he denies the possibility of establishing the superiority of one conception of the good over any other.

Now if one accepts Gray's arguments that we live in a world of objective value pluralism, and that objective pluralism entails the impossibility of a

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40*Post-liberalism*, p. 295.
hierarchical value structure, then perfectionist politics, at least in its traditional form, will be blocked. In its stead Gray advocates a minimal and almost libertarian role for the state, principally that of preserving our historical political inheritance -- 'civil society.' And he thinks that an essential characteristic of civil society is that "the state does not seek to impose on all any comprehensive doctrine." So although he espouses neutralism, his foundation for this position is philosophically modest. Gray awards philosophical privilege to civil society not because of, say, some universal right of autonomy owed to all human beings, but rather due to the "the rich variety of human flourishing that it shelters." His argument is a pragmatic one, contending that "civil society itself [is] a condition of prosperity and peace for any modern civilization" and that without civil society, "no modern society can expect to enjoy peace or commodious living." And so while Gray espouses neutrality, his brand of neutrality differs in nature from many classical liberals in that its justification makes no claim to universal validity: for Gray, the justification for neutrality rests on the simple claim that in a pluralistic world of incommensurable values, a neutral civil society is required if we are ever to forge a positive answer to the question "People, . . . can we all get along?"

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41 By civil society, Gray roughly means a tolerant, pluralistic society, governed by rule of law, possessing the rule of private property, and enjoying civil liberties such as freedom of association, conscience, and expression.
42 Post-liberalism, p 314.
43 Post-liberalism, pp. 315, 320.
III.

Without coming to definitive conclusions, the previous section demonstrated that perfectionist politics clashes with several deeply held and plausible tenets of liberalism, and thus that a successful defense of a perfectionist state faces formidable hurdles. Additionally, we saw that the defenses offered by perfectionists such as Raz and Sher -- especially regarding the risks of oppression -- are not without controversy. And yet, even if perfectionists can meet these political criticisms, there is another line of criticism yet to be addressed. This criticism does not concern perfectionism as a political principle but rather arises from concerns within the philosophy of art. More specifically, it questions whether most contemporary art is compatible with perfectionist ideals at all. Arthur Danto captures the general idea behind this criticism when he writes that "What makes the art from 1962 to the present so difficult to deal with is that so much art criticism continues to be based on Modernist criteria but is applied to art that rejects those criteria altogether."46

Perhaps the best starting point for explicating this criticism is by returning to Derek Parfit's Objective List Theory of the Good. While Parfit himself does not discuss arts subsidies, his objective list theory is influential and adopted in one form or another by many perfectionists. As discussed above, the value on Parfit's list most appropriate for justifying arts

45Because this line of criticism relates to issues in the philosophy of art rather than in political philosophy, it does not cut against using perfection as a principle general societal ordering, but rather it criticizes attempts to use perfection as a justification for arts subsidies.
subsidies is that of 'appreciating true beauty,' or stated more completely, that the best forms of life are those that include an appreciation of true beauty. The perfectionist then argues for subsidy on the grounds that art is a primary vehicle for cultivating such an appreciation.

But as a claim about the nature of art, this formulation is clearly false, for it is simply inaccurate to assume that the nature of art is essentially to produce artifacts exemplary of true beauty. Now the claim here is not that art and beauty have no connection with each other. Clearly there exists much beautiful art, and for this art a perfectionist appeal to the value of 'appreciating true beauty' would be appropriate and cogent. Rather, the claim is that the connection between art and beauty (i.e., the 'aesthetic') is only an historically contingent one, and that subsuming all art under the category of 'the beautiful' is to ignore this contingency. A quick survey of the last 100 years of art history provides ample evidence that beauty is not an essential characteristic of art. Counterexamples such as the 'found' objects appropriated by the Dadaists come to mind first, but one need not take such extreme examples to illustrate the point that art and beauty have no necessary connection. One would be hard pressed to describe as beautiful the works produced by artists working within such artistic movements as cubism, Russian suprematism, and abstract expressionism, yet all three contain noncontroversial examples of important -- arguably great -- works of art. The same holds true for myriad other artistic styles and movements that have appeared over the last half century.
Much of the contemporary thought that closely links the two has its source in a fundamental conflation of two distinct notions found in Kant's third critique: the judgment of artworks and the judgment of the aesthetic. Contrary to much current opinion, Kant did not equate the experience of art with the experience of beauty, for unlike pure aesthetic judgments (i.e., judgments of beauty rendered under certain ideal conditions culminating in a free play of the faculties) Kant saw our engagement with art as involving something more than nonpurposive free play. Specifically, artworks contain for Kant 'aesthetic ideas,' or roughly speaking, metaphors in need of active interpretation. But because this distinction has been often overlooked, Kant's influential thoughts on the aesthetic have become ingrained into much Western thinking not only about the aesthetic but also about the nature of art, to the end that the experience of artworks is often (but erroneously) thought to be synonymous with the experience of the aesthetic.\footnote{This has led to a corpus of art theory and criticism based on the notion of 'aesthetic experience.' The leading advocate of this approach is Monroe Beardsley.} And of course much art throughout history has been concerned with creating the beautiful, typically for purposes of glorifying deities or monarchies. But this paradigm of art as 'the beautiful' was more or less abandoned a century ago.\footnote{The High Aestheticism of the late 19th century marked the zenith of this paradigm, where artists pursued the purity of aesthetic experience disinterested from any social or political concerns. Pieter Burger suggests that this autonomous status of art was the primary target of the historical avant garde, who were objecting to what they saw as excessive catering to facile bourgeois sensibilities.} Thus the close link between art and beauty required by the perfectionist argument manifests a pervasive but mistaken contention that the historically contingent association of art and beauty is in fact an essential association. And more to the point, any policy of subsidy
based exclusively on the criterion of 'beauty' will by definition exclude from subsidy much important but non beautiful art, regardless of any merits it may otherwise possess.

Noël Carroll discusses a roughly equivalent issue when he considers an argument for state subsidy based on the claim that artworks satisfy an inherent need that human beings have for aesthetic experience -- their 'aesthetic needs.' Now we need not examine how this 'aesthetic needs' appeal differs from that of the perfectionist appeal to true beauty, for what is important here is Carroll's reasoning in rejecting the contention that meeting such a need is inherent to the nature of art. He writes that

The problem here, of course, involves what is meant by 'aesthetic.' It is not synonymous with 'art.' Generally, it is associated with the beautiful and the sublime, or it is associated with the qualititative appearance of things. An aesthetic need, under this reading, would be a need for experiences of the beautiful, the sublime, or for the experience of objects and environments with marked expressive qualities such as warmth, friendliness, or Joyfulness. Much art, including, significantly, much contemporary art, is not dedicated to producing aesthetic experience. Indeed, much contemporary art is even avowedly anti-aesthetic. If an artist makes a junk-yard piece to portray modern life, it seems curious that he should expect funding on the basis of alleviating aesthetic privations. [Such an argument] will not support prospective arts funding as we know it... . Non-aesthetic, anti-aesthetic, reflexive, and certain darkly expressive artworks will not be defensible in the name of aesthetic experience.49

Now a perfectionist can go one of two ways at this point. One way is simply to agree that these non-aesthetic works of art should not be funded.

The perfectionist could do this with consistency, for the value being appealed to is the 'beautiful' (or the 'aesthetic'), not art per se. In taking this approach the perfectionist would be saying that the issue is not one of art but of beauty, and he would in effect be grouping art in a class with natural wonders such as the Grand Canyon. But while making this move would allow the perfectionist to coherently accept the conclusion that only beautiful works may be funded, this approach appears to be far from satisfying. First of all, it raises the question of whether adherents of this strategy are really interested in subsidizing the arts or rather in subsidizing public beautification. And even assuming that these perfectionists are indeed seeking to subsidize the arts, implementing a subsidy policy based on this reasoning would go against the general and expert consensus within the artworld that many nonaesthetic artworks have great value. Such a policy would thus exclude from subsidy many possibly important artworks. A third and related problem with a 'beautiful-only' policy of arts subsidy is, as Noel Carroll has pointed out, that it would likely bias the production of art against certain (i.e., nonaesthetic) modes of expression. In discussing such a policy, Carroll writes that

proponents of art funding... should be disturbed by this. For if the government places large investments behind one type of art, the evolution of the art world will undoubtedly be affected. Whole avenues of artistic development will appear less viable than the production of aesthetic art. And from the contemporary art world's point of view, this kind of prospective arts funding might be regarded as having a regressive effect overall.50

50Carroll, pp. 28-9.
With these problems noted, the second way for perfectionists to go on this issue seems more promising, which is to jettison the appeal to true beauty and substitute for it some other objective value. Returning to Parfit’s list, a perfectionist could concede the mismatch between art and beauty, opting then to replace 'appreciation of true beauty' with some other value, such as 'awareness of cultural excellence' This value also would resonate well with the overall perfectionist project of encouraging persons to realize their full human potentialities. The argument would remain structurally identical, justifying subsidy on the grounds that art is a primary vehicle for achieving, and promoting an awareness of, the value 'cultural excellence.' But while such a move would improve the perfectionist case by increasing its inclusivity (i.e., it would encompass more than just beautiful works), it, too, faces problems. Not only does it run aground on the issue of defining 'cultural excellence' in a society that contains a plurality of cultures and values (basically Gray’s claim of incommensurability), but it also faces questions from the artworld, and once again they concern how well the goal of perpetuating 'cultural excellence' matches with the intent of much contemporary art.

The first step in explicating these problems is to define what a perfectionist might mean by 'cultural excellence,' a task which has received surprisingly little attention in the perfectionist literature. One interpretation would be that by cultural excellence the perfectionist means excellence in technique or subject matter, such as a Michelangelo ceiling fresco or a highly skilled and practiced (i.e., perfected) ballet performance. A variation on this interpretation would be to claim that the artist fosters cultural excellence
by producing meticulous representations of human or societal ideals. For instance, much Greek art celebrated the human form and exalted its perfection through realist sculpture. In effect, this art served to supply society with representations of ideal human forms and activities, and it did so with realist works requiring high levels of skill and craftsmanship to create.

But if this is the perfectionist interpretation of 'cultural excellence,' then any justification for arts subsidy based upon it will be unsatisfying because it will be incomplete. Under such a justification certain artforms like classical ballet and music will be supported, but many nontraditional genre will be excluded. In the way that the 'beautiful only' policy would exclude nonaesthetic genres, this approach would be biased against those artforms not heavily dependent on practiced and refined artistic technique. Thus the criticisms here are similar in structure to the criticisms of the 'beautiful only' policy discussed above -- large segments of critically acclaimed and important artworks would be excluded from subsidy under such a policy because of a mismatch between the artworks under consideration and the justification used to determine subsidy decisions. In fact, the irony of such a policy surfaces more clearly when one reflects on the fact that some contemporary artworks receive their motivation precisely from a desire to criticize this notion that art must be the product of traditional (i.e., European masters) training. The emphasis on randomness as manifest in the abstract expressionists' 'drip' paintings, as well as the appropriation of consumer advertising images by the pop artists, illustrate this phenomenon.
Perhaps a more successful way for the perfectionist to interpret art's relation to cultural excellence is to view the artist as member of a cultural vanguard whose works identify and make manifest the 'leading edge' of culture. On this interpretation artists are viewed as cultural leaders, society's engines in a continual process of cultural development. One version of this view, popular in the mid-20th century and epitomized by the phenomenon 'cult of genius,' sees artists as possessing unusual abilities to experience and to interpret the world, and consequently, as capable of expressing ideas and emotions about the world that ordinary humans (e.g., the nonartists) cannot. For instance, the role of the sublime in modernist painting was sometimes accompanied by the idea that the artist was a person of special mettle who could withstand closer encounters with these primordial realms of experience unfaceable by the average person.

Another and less dramatic version of the idea of artist as cultural leader places artists as within what practitioners of what Rosalind Krauss terms the 'discourse of originality.' She writes that

The avant-garde artist has worn many guises over the first hundred years of his existence: revolutionary, dandy, anarchist, aesthete, technologist, mystic. He has also preached a variety of creeds. One thing only seems to hold fairly constant in the vanguardist discourse and that is the theme of originality... The self as origin is the way an absolute distinction can be made between a present experienced de novo and a tradition-laden past. The claims of the avant-garde are precisely these claims to originality.51

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Here again one finds the artist being revered as cultural vanguard, constantly pushing the envelope of culture forward by constantly creating innovative works. Harold Rosenberg terms this the 'tradition of the new,' and he described the value that society has placed on this view of the artist when he wrote in 1961 that

Through Modern Art the expanding caste of professional enlighteners of the masses -- designers, architects, decorators, fashion people, exhibition directors -- informs the populace that a supreme Value has emerged in our time, the Value of the new, and that there are persons and things that embody that Value... [T]he only thing that counts for Modern Art is that a work shall be new.52

A perfectionist adopting something like this view of cultural excellence would be claiming that artists should be subsidized because they constitute a perpetually innovative and inspirational force in the society's cultural development. And if a perfectionist were to employ this notion of the 'new' as a definition of cultural excellence, then the resulting arts subsidy policies would surely be more inclusive of diverse artistic styles and genre than would policies based on technical difficulty or beauty, and this inclusivity weighs positively in evaluating the desirability of 'the new' as a criterion for state subsidy. However, this alone does not render it wholly acceptable, for while this mode of thinking may persist in some circles, the paradigm of artist as cultural leader, as perpetually creating 'the new,' is no longer generally accepted within the artworld. Suzi Gablik writes in her book The Reenchantment of Art that

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As the great juggernaut of modernism, ruled for a century by the notion of perpetual innovation and the creation of new styles, reaches its fateful closure, the idea of participating comfortably in the old discourse of 'originality' and change no longer seems possible... The avant-garde, which used to be the cultural 'cutting edge,' has been defeated and rendered impotent by its absorption into the mainstream.53

Now determining the intent of 20th century avant garde artists is a highly complicated and controversial exercise, and it is one that will not be tackled here.54 The point most relevant for this discussion and that argues against this interpretation of cultural excellence is that many contemporary artists simply and straightforwardly deny being saddled with this imperative to create 'the new.' Further, there has recently been a line of questioning as to whether art even has any essential need to be original. Suzi Gablik discusses how some contemporary artists have rejected the imperative of originality and of creating 'the new,' and she begins by quoting artist and critic Ronald Jones

"[Drifting] is one way of refusing our assigned role," says Jones. "Instead of creating anything new, we move into slow motion where nothing seems to change. We create a 'hover' culture. Throwing things into neutral becomes the most radically charged gesture of the moment." 'Hovering' is about negating the modernist idea of change. The artist refuses to feed the culture's demand for new shows and innovative works, renouncing both authorship and originality. It is the kind of low-frequency effort exercised by Sherrie Levine, for instance, when in 1981, instead of creating her own 'original' photographs, she rephotographed the work of Edward

Weston and Walker Evans, two well-known photographers, and exhibited it as her own work. This action violates our sense of acceptable behaviour; but it also refuses to serve the old modernist notions of originality and ‘who came first.’

Now one can argue about whether Levine's work is as radical a break with artistic tradition as has been claimed by some. I think that in fact the theory of art to be assumed in Chapter Three accommodates Levine's work as well as it does Picasso's, and so in an important way she is as firmly placed in the Western tradition as are her more traditional predecessors. But for now the point to emphasize is that whatever Levine and these other 'anti-originality' artists are up to, it would not seem to be about creating 'cultural excellence,' at least in the interpretations of it examined here.

And as alluded to earlier, some of this work can be interpreted as arguing directly against the very possibility of cultural excellence. This art is deconstructive, aimed at debunking what artist Craig Owens calls "the mastering position," the hegemonic, masculine authority that has been vested in Western European culture and its institutions. [And] one way it does this is to simulate mastery -- to undermine the fixation with originality -- which still dominates our ideas of cultural production."

Now certainly not all contemporary art is as exclusively deconstructive as is Levine's. Gablik points this out when she identifies two central 'schools' of contemporary work, the deconstructive and the reconstructive. Both schools assume the same deconstructivist assumptions and agree that many

\[55\textit{The Reenchantment of Art, p. 16.}\]
\[56\textit{The Reenchantment of Art, p. 17.}\]
of the tenets of modern art are simply myths that must be debunked. But while the deconstructivists simply stop there and 'hover,' the reconstructivists attempt to forward some sort of positive answer to the nihilism of deconstruction. One way in which reconstructivist theory has played out in practice is with the artist working to raise social consciousness about issues such as environmental preservation, human sexuality, or societal oppression. But returning to the perfectionist argument, even in this role of social ombudsman the artist is far from pursuing a unified notion of cultural excellence; instead, the corpus of these works constitutes an often fractured set of political agendas. Furthermore, these agendas are usually controversial and at times even antithetical to prevailing community values. So while this reconstructivist art may retain traditional artistic tenets such as originality, justifying subsidy for these works under the rubric of cultural excellence will face the formidable political obstacles of defining a coherent and minimally unified criterion of this excellence. That is, pursuing this path leads one again to deal with the political problem discussed by John Gray, that of adjudicating between conflicting and perhaps incommensurable cultural ideals.

From this section's brief examination we see that as a criterion for describing the value and purpose of contemporary art, problems beset both Parfit's 'appreciation of true beauty' as well as two interpretations of 'cultural excellence.' From this we cannot conclude that the perfectionist approach can never be made to work, for it is always possible that someone may eventually develop a workable criterion. However, it must be remembered that the perfectionist scheme requires an objective value at its
base to provide the normative force needed to justify its enforcement through the state's coercive powers of taxation. This requirement makes the prospects of developing a suitable criterion more difficult, for the more closely one tailors the criterion to the nature of contemporary art, the more one risks moving away from what perfectionists have traditionally been willing to class as objectively valuable. Thus, this examination has shown that perfectionists seeking to justify state arts subsidies must do more work in establishing a link between their set of objective values and some plausible conception of art. They must demonstrate that at least one objective value they hold can produce a criterion for subsidy that possesses reasonable inclusivity of artistic styles and genres.\textsuperscript{57} And while the perfectionist might deny the need for this reconciliation, claiming instead that art ought to conform to their objective standards and not the other way around, it must be recognized that subsidy policies rooted in this view would, as Noël Carroll has pointed out, bias the character of future artistic production. Such a policy would at best lead to distortions in the natural development of artistic consciousness; at worst it would entail that funded works must exemplify values 'approved' by the state, with the government then occupying the thoroughly paternalistic and untenable role of cultural czar.

\textsuperscript{57}This claim reflects my assumption that a political justification should generally 'match' (or at least be compatible with) the nature of the activity being justified.
CHAPTER TWO
The Commitment to Democracy

Chapter One illuminated a set of political risks and aesthetic criticisms that could be avoided entirely by formulating a plausible nonperfectionist justification of arts subsidy. The remainder of this dissertation works to develop such a justification. The approach involves claiming that art can be instrumentally valuable to the processes of democratic self-rule, thereby avoiding the problematic perfectionist appeals to intrinsic value and human flourishing. I will argue that if there is indeed a distinct and fundamental commitment to democratic self-rule across society, then a defense of arts subsidies can be developed based on the claim that the state may justifiably subsidize activities that foster democracy itself. But that is getting ahead of the story. This chapter performs the essential preliminary task of explicating this assumed commitment to democracy. It begins by briefly contrasting democracy to liberalism, thereby demonstrating that democracy is sufficiently valued and sufficiently distinct from liberalism as to warrant being the foundation of a political justification. The chapter then delves into our specific commitment to democracy by exploring two fundamental questions: (1) On what grounds do we privilege democracy over other forms of government? and (2) Of the many conceptions of democracy available, which version garners (or ought to garner) our allegiance? Through examining these closely intertwined questions, the chapter suggests that the account of democracy that most plausibly captures our contemporary political sensibilities is what Amy Gutmann terms
'deliberative democracy.' The chapter concludes by discussing what sort of obligation we have, if any, to educate and prepare citizens for the tasks of democratic participation. This will provide the normative support for Chapter Three's claim that because it can improve the quality of democratic participation, art ought to be -- or at least justifiably may be -- supported through state subsidy.

I.

Applying the label 'liberal democracy' to contemporary Western society has become so commonplace as to suggest that the terms 'liberal' and 'democracy' are in this context inseparable. For instance, it is not difficult to imagine a thoughtful citizen assuming democracy to be somehow the 'logically correct' form of government for a liberal society. Under such an assumption, one might think it inappropriate and unnecessary to speak of a separate and distinct commitment to democracy. But democracy and liberalism are not inseparable in practice or in theory. Liberalism is a set of values defining the proper scope of state activity vis a vis the private lives of its citizens. Traditional, 'negative' liberals such as J. S. Mill claim that the role of government is properly limited to protecting citizens from external harms, protecting their freedoms of thought, speech, and association, and also to respecting a citizen's freedom to pursue life plans of his or her own choosing. The antipathy of these values would be reflected in a life in which free thought and speech were discouraged and personal decisions were mandated by the government or made under
conditions of coercion. Other accounts of liberalism also maintain that the state is justified in promoting certain 'positive' values beyond protecting individual freedoms. As we saw in Chapter One, these 'positive' liberals may for instance advocate that the government arrange society's goods in a way that insures for each citizen a relatively equal chance of flourishing, including a fair share of society's resources, equal access to a quality education, and equal opportunity in the competition for society's positions and offices.

Democracy, on the other hand, is not a set of values about governing but is itself a form of governing. It is a form of governing in direct contrast to monarchy, aristocracy, dictatorship, or any other forms of governing in which public decisions are imposed on a citizenry from without. Yet compared to liberalism's lofty and principled commitments to protecting a sphere of individuality and effecting a just societal ordering, democracy's ambitions might appear a bit mundane. After all, isn't democracy merely a set of procedures for making public decisions? Pure democracy does not in principle protect freedoms of expression or association (except, perhaps, to the extent that these freedoms are essential to democracy itself), and it certainly does not guarantee any of the so-called 'positive' liberal values such as a fair distribution of society's resources and opportunities. Furthermore, democracy is notoriously vulnerable to becoming a 'tyranny of the majority,' a phenomenon which at its worst turns the idea of self-government into simple mob rule.
With such a mundane agenda and all of these warts, one might well wonder why we so easily pledge allegiance to democracy, as well as whether democratic rule actually constitutes one of our fundamental social values. And more to the point, one may question the plausibility of making democracy the cornerstone of a political justification for taxing citizens to fund the arts. While it will take the bulk of this chapter to elucidate adequately the distinct value that democracy possesses for us, I can here offer a few facts and observations suggesting that our commitment to democracy is indeed both profound and distinct.

While it is true, strictly speaking, that democracy is no more than a procedure for making public decisions, it is a procedure made special by the fact that it seeks to bestow a legitimacy upon political decisions that is not possible through other means of governing. Some have even claimed that democracy is the only form of government capable of legitimacy.\(^1\) Because democracy affords primacy to the issue of who decides political questions rather than to the substantive content of what gets decided, democracy displays special sensitivity to that peculiar aspect of public decision-making that requires compliance by all citizens, even those who may vehemently oppose the correctness of a given decision. Public decisions assume this added legitimacy in a democracy because they are rendered not by any external authority (however benevolent), but by the very people who must abide by the decisions -- the governed.

But if democracy and liberalism are fundamentally distinct, one may rightly ask Why the two are so often conjoined? James Madison answered this question by claiming that democracy is the form of government most likely to protect individuals against tyranny. Seen in this light democracy's worth is instrumental: democracy is valuable to the extent that it helps secure a distinctly liberal value -- individual freedom. If this instrumentalist account were correct, my claim of a distinct commitment to democracy would be torpedoed, for any claim about democracy's value would collapse into a claim about one or another liberal values. Fortunately, however, this instrumentalist account of democracy's value is unconvincing. First of all, its fundamental empirical claim -- that democracy protects personal liberties -- has never been demonstrated and is at best only contingently true. Democratic decisions can just as easily infringe basic liberal rights as protect them, a fact evidenced both by democratic initiatives in Colorado banning equal treatment for homosexuals and by the recent electoral successes in Russia of ultranationalist Vladimir Zhirinovsky. These and other examples point out the irony of the instrumentalist account: liberal values can be protected as well or better within nondemocratic forms of government. A dictator need not trample her subjects' right of free speech, of association, or even a right to fair shares of societal wealth. A benevolent dictator could declare a list of liberal rights sacrosanct and then enforce this declaration using her absolute political powers. In contrast, citizens of a democracy can always

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in principle choose to abolish any or all liberal rights by subjecting them to a popular vote. Thus, while democracies may be more likely than tyrannical regimes to protect liberal rights, democracy's full value cannot rest solely in this instrumental role, a claim supported by the fact that we continue to choose democratic rule over other forms of governing that would accomplish this instrumental role more effectively.

This last point suggests the converse and perhaps more common account of democracy's relation to liberalism. This account claims that because democracies may choose not to enact liberal protections, pure democracy must be tempered by liberal values so as to avoid the excesses of pure majoritarianism (e.g., majority tyranny). Here liberal values such as free speech and fair treatment limit the range of acceptable outcomes resulting from democratic decision-making. This is an approach Amy Gutmann and many others have identified when they distinguish populist democracy from constitutional democracy. The former emphasizes the legitimacy of unmediated decisions made by the populace, whereas the latter places constitutionally-based restrictions on what the populace may choose to enact. These restrictions typically reflect values (e.g., free speech, freedom from harm, and freedom of association) that constitutional

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3Constitutional democracy seeks to avoid this possibility by "placing personal freedoms effectively beyond popular control," an approach reflected in the American Bill of Rights. However, as unlikely their repeal may be, the Constitution makes provision for repealing any and all such amendments through (an albeit stringent) process of popular vote. See Gutmann, Amy. "The Disharmony of Democracy," in Democratic Community, John W. Chapman and Ian Shapiro, eds., New York: New York University Press, 1993, p. 151.

democrats think ought to be placed "beyond popular control." This view considers democracy to be an incomplete political ideal, a method of governing that is blind to the injustices that are possible when decisions are made solely by popular rule.

Clearly there is some truth in this position. But to view democracy in this way is again to underestimate the real (although perhaps obscured) value that we place on democratic self-rule per se. Recent global events provide one indicator of this value. For instance, the shift to democracy in eastern Europe and the former Soviet Union has been accompanied by great hardships that in some cases have left citizens bitter and virtually destitute. Yet without claiming that these citizens would be willing to suffer indefinitely in pursuit of democracy, the fact that democratization continues to be applauded and pursued suggests that democratic self-rule is considered worth pursuing even at considerable (though hopefully short-term) cost. And to point out the distinct value we place on democracy as opposed to liberalism, one need only recall that the clamor of anti-apartheid political dissent in South Africa would stop nothing short of enfranchising all citizens within a democratic body politic, this despite the fact that many of the radically illiberal policies descried against the South African government (e.g., notorious human rights abuses and unjustified racial practices) could have been abolished without the additional step of democratic enfranchisement.

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The goal of this discussion is not to sort out the precise relation between democracy and liberalism but to show rather that democracy can be sufficiently distinguished as a societal value so as to warrant a distinct philosophical appeal. I believe that even this brief discussion points to the perhaps unsurprising conclusion that living under a system of democratic self-rule constitutes something we value in itself.\(^6\) It is a value distinct from any of the so-called liberal values such as freedom of speech and equality of opportunity, and its value to us is not exhausted by any instrumental ability it may have in securing these liberal values. Living under the conditions of democratic self-rule constitutes a value that most of us would committedly pursue even if we lived within a society that otherwise secured for all citizens every other liberal right.

Of course, nothing has been said so far about why we value democracy. So far I have claimed only that we have a commitment to democracy that cannot be fully accounted for by our commitment to liberalism. I must of course add specificity to these claims, a task that will require (1) supplying principled arguments (or at least reasons) as to why we value democracy; and, (2) using these reasons to defend a particular version of democracy. But before tackling these tasks, a short digression is needed now to avoid confusions later.

\(^6\)This is not to say that we cannot give reasons why we value democracy, but rather to claim that we value democracy apart from any instrumental value it may have in securing other, distinctly liberal, values or ends.
II.

In this section I briefly address two ancillary issues, one substantive and one methodological. The substantive issue concerns a possible misconstrual of my project to construct a specifically democratic justification of arts subsidy. It is necessary here to contrast my proposal to what has become known in the literature 'democratic perfectionism.' Recall the problems created by perfectionism's need for an objective value to ground its justification for arts subsidy: what justified government intervention to encourage certain forms of living was that these forms were objectively superior to others. The criticisms of this approach centered on its paternalistic overtones, overtones exacerbated by skepticism over whether such objective values actually exist, and if they do exist, whether or not we -- and especially a government -- can ever possess knowledge of them.

In response, many perfectionists and democratic theorists contend that these problems can be assuaged if decisions about which values the government ought to encourage are made through democratic means (e.g., elections; public debate). That is, these theorists believe that many of the thorny political problems involved in implementing perfectionist policies can be assuaged by letting the citizenry decide for themselves what values the government ought to promote. For instance, Amy Gutmann uses this approach in criticizing John Rawls' claim that perfectionist justifications of
government intervention can lead to repression. She counters that "Democratic perfectionism sanctions state subsidy of culture only if it is publicly approved, and then only if it satisfies the standards of nonrepression and nondiscrimination." She supports her position by quoting Thomas Scanlon, who writes that "[There is] nothing objectionable about an argument among equal citizens about what is to be recognized as good." Rather than appealing to a set of theoretical values, democratic perfectionists recast the traditional perfectionist project by appealing to democratically-sanctioned statements of value as the basis for government intervention (e.g., popular voting to decide whether art should be subsidized, as well as to decide which particular artists and artworks should receive such subsidy).

Now I cannot here go into a thorough evaluation of democratic perfectionism. I will only say that while democratic perfectionism does appear to constitute a marked improvement over traditional perfectionism, it likely faces many of the same criticisms. But its relative success or failure

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7Gutmann summarizes Rawls' criticism as follows: "The problem with perfectionism, as Rawls suggests, is that it provides an inadequate response to the criticism that governments should not force citizens to subsidize goods that do not contribute to their own or the public welfare. The claim that citizens must support art because it is intrinsically valuable not only is unlikely to persuade anyone not already convinced, it opens the door to more troubling claims. If the intrinsic value of great art is great enough, it may be invoked as a sufficient ground for restricting the liberty of some citizens to pursue lower forms of culture. It is, as Rawls suggests, both easy and dangerous to fall back on notions of excellence and intrinsic value when appeals to justice fail." Gutmann, Amy, Democratic Education. Princeton: Princeton University Press, 1987, p. 258.

8Democratic Education, pp. 258-9. emphasis in original.

9Democratic Education p. 259.

10Now clearly democratic perfectionism is less objectionable than is perfectionism in its more elitist varieties, for in maximizing the citizenry's role in determining which values to encourage, paternalism is minimized. And questions regarding the existence and knowability of so-called 'objective' values are at the least side-stepped. However, while these improvements are real, democratic perfectionism remains problematic for two reasons. One is that the possibility of repression simply appears in another guise:
is irrelevant here, for I mention democratic perfectionism only to emphasize what my project is not: in suggesting the possibility of a specifically democratic justification of art subsidies, I am not advocating that we simply decide the arts subsidy issue by popular vote. Rather, my project involves the claim that art can, both in its production by artists and in its contemplation by subjects, perform an educative and developmental function that improves the quality of democratic participation itself. The nature of this strategy makes the work of the present chapter -- elucidating a defensible conception of our commitment to democracy -- all the more important.

I must now discuss a controversial methodological issue. In general terms, the task of 'justifying' democracy involves explicating democracy's superior value vis a vis other forms of governing. That is, to justify democracy is to offer a cogent account of why we ought to select democracy as the privileged means of administering the coercion integral to governing. Traditionally, philosophers have approached this task using what I will call 'principled' or 'foundational' strategies. Such strategies seek to justify democracy first by positing the truth of some universal social principle(s), for instance 'human equality,' and then by claiming that democracy is the form of governing that best reflects or respects that principle(s).

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repression by an elite few is exchanged for repression by the majority, which typically carries with it a dangerous air of legitimacy. Furthermore, democratic perfectionism still faces the problem discussed in section III of Chapter One, that perfectionist justifications for subsidy simply do not accommodate much critically-acclaimed contemporary art.

11 At the same time, however, I do not believe that a successful justification can altogether escape some step of democratic legitimation.
Recently, however, the universal aspirations of these foundationalist strategies have been strongly criticized. Some critics follow McIntyre and Engelhardt in claiming that to speak today of foundational or universal principles is to do no more than perpetuate lingering aspirations of a failed Enlightenment project. Others have followed J.F. Lyotard in claiming that to posit foundational principles is merely to construct 'meta-narratives' within a contemporary world characterizable -- *if in no other way* -- precisely by its "incredulity to meta-narratives."^{12} These critics seek not so much to block democracy as to limit philosophy's more grandiose aspirations: they would reject a universal grounding for democracy because they reject universal groundings *per se*.

Such criticisms suggest several methodological options, options differentiated by the stance each assumes regarding democracy's foundational underpinnings. Not coincidentally, each of these different stances reflect fundamentally different views about the nature of philosophy itself. Any of these options may in principle be adopted, although each will produce a justification that differs widely in scope and applicability. One option is exemplified by 'traditionalists,' those who would deny the force of the above 'post-modernist' criticisms and maintain that democracy can in fact be justified using universal principles. The justification that will emerge from this traditional approach will be the most ambitious, for if successful it will justify democracy as the best form

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of governing across time and across all human societies. At the other extreme of the spectrum are those who would deny any such foundational aspirations and assimilate philosophy (ala Richard Rorty) into ordinary discourse as just another (nonprivileged) form of 'conversation.' To such persons the project of 'philosophically justifying' democracy (or anything else) would appear fundamentally misguided and pompous.  

A third option between these two extremes involves denying that democracy can be justified omni-temporally and omni-societally, claiming instead that democracy happens to be the best form of government for us. John Gray takes such an approach in justifying liberalism, and I think one may be able to extend his argument to democracy. In justifying liberalism, Gray claims that the best one can do is to offer an 'historical' and specifically nonuniversal argument for liberalism. Gray writes that

[T]hough it is not the case that a liberal civil society ... is the only, or necessarily the best society from the standpoint of human flourishing, nevertheless it is the only sort of regime in which we -- in our historical circumstance as late moderns -- can live well. There is an historical argument for liberalism, in other words, which maintains that a civil society constitutes the only sort of society through which modern civilization can reproduce itself. . .

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13The philosophical methodology of this paper can be placed somewhere between the extremes of universal foundationalism and Rortyan 'conversation' on the other. Although I do not agree with his practical interpretation of these methodological assumptions, John Gray does describe the assumptions well when he writes that "The view defended here ... radically restricts the ambitions of 'philosophy' by denying it prescriptive authority; it concurs with Wittgenstein ... that philosophy should not (and indeed cannot) engage in the 'bourgeois' project of founding any specific practice. This is not to deny that philosophical inquiry may have definite results, still less, absurdly, to assimilate philosophical argument to conversation." *Postliberalism*, p. 321.
The worth of civil society for us as moderns (or post-moderns) is that it permits the peaceful coexistence in a modus vivendi of incommensurable values and perspectives on the world.\textsuperscript{14}

Analogizing from Gray's justification of liberalism, one might run a justification for democracy based on the idea that we need it to reproduce as a society -- perhaps because democracy allows us to manage the inevitable acrimony that lurks among disparate groups of a fractured moral society.\textsuperscript{15} That our society developed in the way it did is historically contingent, and we would be mistaken to project our particular need for democracy as being universal. Gray even suggests that in some situations and societies (e.g., post-Soviet Russia) Western democratic institutions may simply be inappropriate and therefore unjustifiable.\textsuperscript{16}

Now while Gray's latter claim is more problematic, I sympathize with the post-modernist line of criticism generally (at least in its less extreme forms) and specifically with Gray's historically-contingent approach to justification. However, because I believe that our commitment to democracy involves more than a commitment to peaceful conflict resolution, I am more optimistic than is Gray about explicating democracy's value in terms of moral principles. For these reasons I will pursue here a variation on Gray's approach, one in which I offer a principled but non universal justification of democracy. This is to accept an essential kernel of the postmodernist critique (i.e., abandoning the

\textsuperscript{14}Postliberalism, p. 288.
\textsuperscript{15}Postliberalism, p. 288.
\textsuperscript{16}Postliberalism, pp. 210-14., 288, 314.
aspirations of universality), but it is to reject the idea that justifications are impossible or that they cannot appeal to moral principles. For instance, while I do utilize the language of principles and foundations (e.g., the Kantian principle of respect for persons), my approach does not require that these principles carry universal validity. Rather than insisting that democracy is appropriate for every society and every time, it is sufficient for my purposes to elucidate a limited justification of democracy based only on extant values within our particular society. Appealing to such principles while stopping short of asserting their universal validity is neither inconsistent nor does it constitute a wholesale rejection of the tradition from which these ideals arose. Rather, it is to recognize these principles as part of our contingently-derived 'historical inheritance.'

III.

While a protracted discussion of democracy may at times seem far afield from the issue of arts subsidy, it is needed to secure a solid, normative foundation for the justification of subsidy to be offered in Chapter Three. This section seeks to describe in some detail what I take to be the nature of our commitment to democracy. My method will be to examine systematically and critically several different accounts of democracy's value, drawing together key insights from the best existing justifications in order to construct a comprehensive and philosophically-viable account of our commitment to living under democratic self-rule.
Initially it should be noted that accounting for democracy's value requires addressing two distinct questions: (1) On what grounds do we justify adopting democracy over other forms of government? and (2) Of the many conceptions of democracy available for consideration, which garners (or ought to garner) our allegiance? In his book *On Justifying Democracy*, William Nelson claims that these two questions inform each other to such a degree that they can only be answered in tandem. He claims that to do otherwise is in effect to 'build in' many substantive claims about either democracy's definition or its justification. To avoid this problem, Nelson advocates a methodology based neither on distinct definitions nor on distinct justifications, but rather one utilizing integrated theories of democracy. Each such theory includes "an account of what democracy is, an evaluation of democracy so conceived [its justification], and an account of its feasibility."\(^\text{17}\)

Now while I share Nelson's thesis that questions of definition and questions of justification are tightly connected, I do not agree that they can only be answered in tandem. Rather, I think that the question of justification is prior, and that the interconnectedness of the two questions is better accounted for by recognizing that the particular value placed on self-rule in a society properly drives decisions about the best form of democracy for that society.\(^\text{18}\) Thus, I accept Roland Pennock's claim that justifying

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\(^{18}\)For instance, if a society valued self-rule primarily because it fosters civic and political involvement, then that society would best serve this value by adopting a version of democracy that emphasized its participatory qualities, as opposed to version that emphasized, say, the aggregation of individual preferences.
democracy requires "both an ideal and a practical, or technical definition, the first of which tends to be more substantive and the second formal or procedural."19 However, unlike Pennock, I think that these two types of definition actually address two very different questions. In claiming that the particular value we place on self-rule ought to drive decisions about the form of democracy that should be adopted, I utilize Rousseau's distinction between democracy as a form of sovereignty and as a form of government. This terminological shift recognizes that democracy is not necessarily the only mechanism of self-rule, a fact that makes it possible to subordinate the question of the best type of democracy to the question of why we value self-rule. Thus, I follow Pennock in offering an account of democracy at both the ideal and technical levels, although I think a more precise way to characterize these two levels is to consider them in Rousseau's terms. Justifying democracy at the ideal, or substantive level, is to justify democracy as a form of sovereignty; justifying democracy at the technical level is to justify it as a form of government. My approach reflects this dichotomy, for I will first try to establish the values underlying our commitment to self-rule and then make claims regarding which form of democracy best reflects these values.

The best way to begin explicating my account of our society's commitment to democratic self-rule is to examine critically some of the many ways that others have sought to justify democracy. Framing the discussion within this broader 'geography' of democratic justifications facilitates

understanding how my account both draws on and departs from these traditional accounts. Following John Arthur, virtually all justifications of democracy can be classified into one of three broad categories: (1) popular will theories; (2) best outcome theories; and, (3) procedural theories.20 I will consider each of these in turn.

Popular will theories seek to justify democracy on the grounds that it is the only form of government capable of expressing the 'will of the people.' And while they might now be judged of more importance to the history of political thought than as a viable contemporary justification, popular will theories persist in our thinking, if perhaps only rhetorically.21 For instance, the day after the Russian people adopted a democratic constitution in December 1993, United States President Bill Clinton remarked that "This now lays the foundation for a long-term legitimacy for democracy and for expression of popular rule..."22

But if this appeal is to be more than mere flag waving or question begging, its advocates must adequately define 'popular will,' and they must explain why basing government on the popular will is desirable. Jean-Jacques Rousseau offered the most influential and interesting definition with his notion of the 'general will.' Although difficult to pin down, Rousseau's idea is that the act of creating a sovereign government (i.e., consummating

21 I base this claim on the fact that the most eloquent and important defenses of popular will theories appeared in the 18th and 19th centuries (Rousseau and James Mill), as well as on the fact that compared to the other justificatory approaches popular will theories receive less attention in the contemporary literature.
the social contract) creates a "public person... formed by the union of all the individual members." Such a public person constitutes "a moral and collective body" capable of exhibiting a unity of will, and it is both our civic duty and in our self-interest to obey the dictates of this will. This is not to say that individual citizens will not possess and pursue individual interests that may conflict with this unified general will, nor is it to claim that society's members will have a tendency to compromise in the interests of the whole. Rather, Rousseau claims that the social contract establishes that "form of association which may defend and protect with the whole force of the community the person and property of every associate, and by means of which each, coalescing with all, may nevertheless obey only himself, and remain as free as before."23 Thus for Rousseau, basing government on the general will allowed persons to accord themselves the benefits of being governed while at the same time preserving their freedom.

Now if it were defensible, Rousseau's account would provide a strong basis for defending 'popular will' justifications of democracy, for it would tie decision-making to an independent, discrete, unified, and distinctly political entity. There would be a 'referent' for the term 'popular will' and thus a criterion for determining whether a given political decision reflected that will. James Miller writes that

The 'general will' is Rousseau's designation for that collective ability to do and to forebear doing that arises through this 'act by which a

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people is a people.' It is the free will of each, reincarnated through
the 'contract' as a shared power to define and direct the affairs of a
community.\textsuperscript{24}

But almost as important as Miller's helpful description of the general will
is his caveat in the very next sentence: "At this point, we enter the realm of
rational fiction."\textsuperscript{25} And unfortunately, contemporary ears rightly find
Rousseau's 'rational fiction' overly romantic and unjustifiably organic.
While positing a unified general will is perhaps a comforting notion, the
fractured and contentious reality of contemporary democratic politics leave
us no real reason to believe that such a metaphysical 'fiction' exists. Or if
it does exist, apparently we are either unable to know it or unable to utilize
it.

In contrast to Rousseau, James Mill offered a popular will theory that he
thought could be justified on utilitarian grounds. As Arthur describes it,
Mill thought democracy was justified because "democratic governments
allow the will of the majority to override the will of a minority, thereby
increasing the total good in society. Instead of serving only a few,
government serves the collective interest."\textsuperscript{26} Again one finds the appeal to
a collectivity, but unlike Rousseau's this is a collectivity defined in terms of
interests; further, it does not require us to posit anything analogous to
Rousseau's ethereal and problematic 'general will.' Mill's account appeals

\textsuperscript{25}Rousseau: Dreamer of Democracy, p. 62.
\textsuperscript{26}Rousseau: Dreamer of Democracy, p. xii. It is a curious anomaly in Mill's account, however, that he
favors a limited, representative, form of democracy in which decisions are made by a few elected officials,
and that he does so because "It is obviously impossible that the community in a body can be present to
afford protection [from abuses of power] to each of its members." \textit{Rousseau: Dreamer of Democracy}, p. 44.
only to the *expressed* interests of *actual* citizens, a characteristic also implicit in the work of contemporary 'preference theorists' of democracy, such as Brian Barry.\(^{27}\)

But while Mill adds needed determinacy to Rousseau's account of democracy as the expression of popular will, his account still does not encompass the full range of our commitment to democracy. To begin, his account appears to conflate interests and preferences. For a citizen to vote is for a citizen to express his or her preferences. Therefore to cast democracy's worth in terms of its ability to maximize the *interests* within society is to assume that persons' preferences will always coincide with their best interests. But this assumption is clearly false. One might try to address this problem by moving to representative democracy, where relatively disinterested professional legislators may be better able to distinguish and act on the citizenry's interests rather than simply their preferences. Mill himself advocated representative democracy (although it was for preventing abuses of power, not for distinguishing interests from preferences). However, as Keith Graham has pointed out, this will not definitively solve the problem because

\[ \text{[W]e simply do not know, in advance of a complicated weighing of evidence, whether a system in which elected leaders initiate policies with only indirect influence from the populace at large will serve the interests of the populace. . .} \] \(^{28}\)

\(^{27}\)These theorists analyze democratic tenets such as majority rule by assessing their ability to express aggregate preference satisfaction. See for instance Brian Barry's classic railway car example in "Is Democracy Special?" in Peter Laslett and James Fishkin, eds. *Philosophy, Politics and Society*, 5th series. New Haven: Yale University Press, 1979, pp. 156-171.

And even if we did know such a thing in advance, defining democracy’s value in terms of its ability to satisfy interests would still fall short of adequately capturing our particular commitment to democracy. The kernel of truth in this account and in other popular will theories is their requirement that public decisions emanate from the persons being governed. But unlike the problems that beset Rousseau’s account and the preference-satisfaction account, the interest-satisfaction account portrays democracy as overly individualistic. In reducing democracy’s dynamics to the task of maximizing aggregate interest-satisfaction, this account undervalues other central elements within our democratic ideal, such as deliberation, consensus-building, leadership, and compromise. Thus, the picture of democracy that emerges is both overly egoistic and mechanical.29 Further, as Graham suggests, any account resting exclusively on interest-satisfaction will inevitably stumble on the issue of *motivating* popular compliance with public decisions. Graham writes that

> It may display the appeal of a system which most of the time [statistically-speaking] serves an individual’s interests; but it does nothing to explain why such an individual should accept the decision of that system on a particular occasion when to do so will run counter to his or her interests. On the contrary, for as long as we continue to think solely in terms of the individual’s interests, it displays the appeal of going along with the system when its deliverances, in the form of majority verdicts, coincide with one’s own wishes, but of abandoning it when this ceases to be so.30

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29See for example William Nelson’s chapter on economic theories of democracy in *On Justifying Democracy*, pp. 72 - 53.

30*Democracy: Theory and Practice*, p. 70.
With these problems and the one particular strength of popular will theories recognized, I now move on to the second general category of democratic justifications, best outcome theories. Best outcome theories all claim that democracy is justified because of its good effects, although of course they differ on what these good effects are. These theories are often utilitarian, but they need not be. That is, they may either make a utilitarian appeal that democracy's effects maximize overall societal good, or they make the more modest appeal that, even if they do not maximize societal good, the good effects of democracy constitute a state of affairs sufficiently valuable to justify adopting democracy over other forms of government. John Arthur's description suggests the latter interpretation when he writes that best outcome theories "see democracy as a means to encourage . . . certain forms of life that are thought valuable."31 When stated in these terms, best-outcome approaches assume a clearly perfectionist tone.

The first of the three best outcome theories I will examine claims that democracy is the form of government most protective of individual rights. As mentioned earlier in this chapter, James Madison defended this view. He argued that full political enfranchisement of a nation's citizenry "makes it less probable that a majority of the whole will have a common motive to invade the rights of other citizens. . . [makes it] more difficult for unworthy candidates to practise with success the vicious arts, by which elections are too often carried. . . [and poses] greater obstacles opposed to the concert and accomplishment of the secret wishes of an unjust and

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interested majority."32 The basic idea of this approach is that nonelected,
nonaccountable rulers will be less inclined to protect individual rights than
will be democratically-elected leaders who know they are subject to recall
by the people.

In evaluating this approach, it must immediately be pointed out that these
examples assume a representative form of democracy. And besides its
practical necessity in anything but the smallest of democratic communities,
representative democracy is often advocated for these same prophylactic
reasons.33 Therefore, whatever cogency the above arguments possess may
be due in part to their emphasis on representation, and this element would
need to be isolated and extracted before a full evaluation of democracy's
ability to protect individual rights could be made. But even supposing that
the representative element does not exhaust their value, these arguments are
ironically insufficient as a justification for democracy proper. This irony
stems from the fact that one of democracy's most notorious shortcomings is
precisely its insensitivity to individual rights. Recall again the legislation in
Colorado banning equal treatment for homosexuals, or more generally,
democracy's notorious vulnerability of degenerating into majority tyranny.
More troubling is the fact that rights violations can assume added
legitimacy when they come about through democratic methods. Many
theorists have claimed that because 'populist' democracy is so obviously

33For the classic defense of representative government, see John Stuart Mill's Considerations on
Representative Government. In a representative democracy, clearly this democratic element of accountability
plays an important role in ensuring quality representation. Thus, my evaluation here should not be taken to
deny this value but rather to point out its shortcomings as a justification for democracy proper.
vulnerable to violating individual rights, constitutional democracy, i.e., a system of popular elections tempered by a constitutionally-mandated constraints on outcomes, may be the only plausible approach to democratic theorizing. Without having to accept this last claim in its entirety, the irony of basing democracy’s value on protecting individual rights should be clear. Even Friedrich Hayek, who thinks that this argument “historically has been the most important and . . . is still very important,” admits in the end to its shaky empirical ground:

[I]f the prospects of individual liberty are better in a democracy than under other forms of government, this does not mean that they are certain. The prospects of liberty depend on whether or not the majority makes it its deliberate objective. It would have little chance of surviving if we relied on the mere existence of democracy to preserve it.\textsuperscript{34}

Abandoning the idea of protecting individual rights, a more plausible best outcome theory claims that democracy is justified because "the laws emerging from democratic political structures tend to be more just than ones emerging from other political forms."\textsuperscript{35} Under this theory the good effects of democracy are the just laws that it produces. The most cogent proponent of this approach is William Nelson.\textsuperscript{36} Like constitutional democrats, Nelson thinks that popular rule must be tempered by deontological constraints limiting the range of acceptable outcomes. But whereas constitutional democrats typically seek to minimize such

\textsuperscript{34}Democracy: Theory and Practice, p. 101.
\textsuperscript{35}Democracy: Theory and Practice, p. 156.
\textsuperscript{36}Nelson presents and defends this theory in On Justifying Democracy, perhaps the most systematic treatment of democracy's justification in the literature.
constraints in order to maximize popular rule, Nelson claims that governmental decisions should be bounded by the entire range of moral concerns ("Morality determines the limits of the permissible for systems of laws and institutions as well as for individual conduct. . . " 37). Thus, for a government to be justified, it must produce laws that comply with society's basic moral conceptions; democracy is justified because it is the form of government most likely to accomplish this goal.

Much of Nelson's argument depends on the particular conception of morality he adopts. Nelson defines morality as "a system of constraints on conduct which people could jointly acknowledge as the constraints determining the form of their association together. . . [and] which could serve as the fundamental charter of a well-ordered society." 38 The Rawlsian overtones are intentional and acknowledged, and Nelson goes on to claim that "a good system of government is a system that leads people to formulate mutually agreeable conceptions of fundamental constraints." 39 Thus, because the acceptability of governmental decisions is a matter of morality, and because morality is a matter of achieving consensus among members of society, democracy is justified because this is precisely what it has the ability to do: democratic institutions "tend to foster consensus on adequate principles of morality, and consequently tend to produce law and

37 On Justifying Democracy, p. 100.
38 On Justifying Democracy, p. 118. See also Nelson's discussion of a well-ordered society on pp. 102-105.
39 On Justifying Democracy, p. 118.
policy decisions consistent with these principles." Nelson believes that democracy has this tendency because it requires participation

[W]hen matters of public policy are subject to frequent public debate, [both] citizens ... and political leaders ... will have to formulate principles and conceptions of the common good in terms of which they can justify their positions. ... Such justifications will have to be capable of gaining widespread public acceptance. ... a kind of consensus. ...

Furthermore, Nelson claims that an acceptable set of constraints is not something that can be settled once and for all, say with the drafting of an acceptable constitution. Rather, determining these constraints is part of an ongoing process of democratic participation in which a common morality serves as the criterion for acceptable legislation. Because his account so heavily emphasizes the participatory aspects of democracy, Nelson recognizes his debt to John Stuart Mill and especially Carole Pateman.

Nelson's account is sophisticated and interesting. He rightly emphasizes the value of participation and deliberation, aspects that I believe are integral to our conception of democracy's value. However, while participation and deliberation have great value to us, I think Nelson miscasts this value if he is claiming that such processes lead us, in any significant sense, to a 'morally right' answer. That is, one can interpret Nelson's project in a strong and a weak sense. In the strong sense, which is what I think Nelson's project needs, the 'morality' that manifests itself through democratic procedures consists of real moral claims that may conflict with

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40 On Justifying Democracy, pp. 110-111.
41 On Justifying Democracy, p. 117.
the results of popular elections. In such conflicts the moral claim takes
priority over the popular results, thus constraining the range of acceptable
outcomes. On the other hand, the weak sense would interpret this morality
as really no more than the results of public debate (i.e., democratic
procedures), and these could never constitute a constraint on democratic
outcomes because they would simply be the democratic outcome restated.

Thus it may be that Nelson's project requires a stronger, more objectively-
based, morality than the contractarian morality he adopts. But if he moves
to this more objective morality, a whole host of problems will arise, most
significantly the issue of whether such a common morality can even exist
within highly pluralistic cultures (see chapter one's discussion of moral
incommensurability). Further, it seems that one of the fundamental
functions of democracy is to provide a mechanism for agreeably settling
precisely those public issues about which there is no moral consensus.
Requiring that public decisions be constrained by a moral consensus thus
appears to be either redundant (interpreting Nelson's project in the weak
sense) or at best puzzling (when interpreted in the strong sense).

But let us step back to a higher level of abstraction and evaluate Nelson's
idea in a different way. Does it not seem reasonable to say that public
decisions ought to be constrained to avoid problems like majority tyranny,
and that if this type of injustice should be disallowed then other similar
injustices ought to be forbidden as well? That is, disregarding the problems
of value theory discussed above, isn't Nelson's general idea a sound one?
In answering this question there is first the empirical concern of whether democratic regimes actually do produce just laws consistently. Counterexamples have already been discussed in this chapter, and Nelson himself writes that "A good question for empirical study is the question under what conditions the 'moralizing' tendencies of democratic politics will tend to produce desirable results and under what conditions they will not."

Further, Nelson concedes that "The argument for democracy, as conceived here, is an argument in terms of its long run tendencies. In the short run, it requires faith." But let us provisionally (and generously) concede to Nelson that democracy is the governmental form most likely to produce good legislation. Granting this empirical assumption, we can still ask two questions: Does this constitute an adequate justification? and Does it capture the values underlying our particular commitment to democracy?

The answer to the first question may very well be that producing just laws is indeed a sufficient justification for privileging democracy over other forms of government. But while it may constitute an acceptable justification, this does not entail that it constitutes our particular commitment to democracy. And in fact I believe that this account leaves out a significant aspect of our commitment. I contend that our commitment to democracy is not exhausted by the fact that democracy produces just laws or other good outcomes (assuming empirically that it does). The value we place on democracy stems not merely from a desire to produce good outcomes, but also from a fundamental commitment to self-

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42 On Justifying Democracy, p. 119.
rule. Because self-rule entails hard choices by persons who are always capable of making mistakes, self-rule entails making mistakes as well. Faced with a choice between (fallible) democratic self-rule and rule by an omniscient, 'moral' monarch, the value we place on self-rule would encourage us to select self-rule, even though the monarch would in a sense always 'get it right.' Thus, Nelson's account ignores an implicit aspect of our conception of democracy, what might be termed the 'right to be wrong.'

Yet another best outcome theory seeks to justify democracy on the grounds that it produces good citizens. Carole Pateman is the leading contemporary proponent of this approach, although her theory of 'participatory' democracy also draws heavily on the writings of both Rousseau and John Stuart Mill. In developing her theory Pateman credits Rousseau with having "turn[ed] our minds . . . to considering how the social order affects the structure of human personality," and she claims that "it is the psychological impact of social and political institutions that is Rousseau's main concern." Pateman claims that Rousseau's ideas offer a plausible argument that

[T]here is an interrelationship between the authority structures of institutions and the psychological qualities and attitudes of individuals, and [a] related argument that the major function of participation is an educative one. . . . As a result of participating in decision making the individual is educated to distinguish between his

own impulses and desires, he learns to be a public as well as a private

citizen.\textsuperscript{44}

Pateman claims to find additional support for her theory in the writings of
John Stuart Mill. She draws on Mill's idea that a government's most
important aspect is not day-to-day administration and protection of
'material interests' but rather its aspect as "a great influence on the human
mind." She also agrees with Mill that the criterion by which to judge
political institutions is

'. . . the degree in which they promote the general mental
advancement in intellect, virtue, and in practical activity and
efficiency.' . . . \textsuperscript{45}

This account differs sharply from Nelson's in that Pateman wants to
evaluate the quality of government not by the moral acceptability of the
laws it produces but by the level of mental and perhaps moral development
it fosters in its citizens. Thus, this approach rests on an underlying appeal
to the value of a virtuous, mature, educated, and socially-responsible
citizenry. As Nelson describes it, for Pateman "a participatory society is

\textsuperscript{44}\textit{Democracy: Theory and Practice}, 109. Pateman's list of the educative aspects of democracy is actually
much longer than I suggest here. William Nelson summarizes the list nicely when he writes that: the
effects on character which Pateman focuses on '. . . fall into several groups. First, active participation is
supposed to lead people to develop a 'responsible' character, to enhance group harmony, develop a sense of
cooperation and sense of community, and to lead to willing acceptance of group decisions. Second, it leads
people to feel that they are free, that they are their own master, and to increase their sense of political
efficacy, and it teaches them how to participate effectively. Finally it leads them to develop active, non-
servile characters, democratic or nonauthoritarian personality structures, and it leads them to broaden their
horizons and to appreciate the viewpoints and perspectives of others. The foregoing is not an exhaustive
list of all the character traits Pateman mentions, but it is a representative collection." \textit{On Justifying
Democracy}, p. 49.
desirable in itself, not for its legislative consequences." Thus, democracy is desirable because it is the most participatory of all forms of government.

Like Nelson, Pateman should be praised for emphasizing the value of democratic participation and especially deliberation. For as I will discuss more fully in the next section, participation and deliberation comprise essential elements of our conception of democracy's value. Furthermore, I believe that democratic participation does indeed exhibit the empirical effects that Pateman -- following Rousseau and Mill -- suggest. That is, democratic participation indeed constitutes a form of 'social training,' training which in turn fosters both greater public-mindedness and enhanced critical abilities among the citizenry. And perhaps it is even true that a participatory society is desirable in itself. However, I think Mill and Pateman overstate the case when they claim that the primary criterion for evaluating political institutions is 'the degree in which they promote . . . general mental advancement.'

As an independent justification, appealing to the fact that democracy promotes mental advancement or that it more generally tends to produce desirable citizens places insufficient emphasis on the distinctly political aspects of justifying a government. Do we really value democracy primarily because of the type of citizen it produces? Or rather is it not that we value democracy because it is the best mechanism for allowing persons to exercise political control over their lives, to exert maximum (or at least

\[46\] On Justifying Democracy, p. 48.
a modicum of) influence over their political destiny? It seems that to deny
them such control and influence is to show profound disrespect for their
inherent status as self-directing, autonomous agents. In emphasizing the
value of participation, Pateman and the tradition that she follows have
isolated an invaluable aspect of democracy, one that clearly warrants
according democracy a special status; however, in casting this particular
aspect as the primary value of democracy, their theories—like perhaps all
consequentialist justifications—undervalue this deeper theoretical ideal.47
That is, the good effects of participatory democracy constitute a strong
reason to adopt democracy, but they do not constitute the entirety of our
particular commitment to democracy.

I now move to the third general category of democratic justifications,
procedural theories. As their name suggests, these theories claim that the
justification for democracy lies in the peculiar nature of its procedures,
most typically 'one person-one vote' and 'majority rule. While nearly all
procedural accounts focus on these two aspects, the accounts differ as to
why these aspects should privilege democracy over other forms of
government. Of the two accounts I will examine, one claims that

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47 Peter Jones has forcefully criticized consequentialist justifications of democracy, claiming that (1) "They are contingent in character... and involve empirical assertions which may or may not hold true"; (2) because of their contingent character, "they do not constitute principled commitments to democracy as such. If it turned out that the desired result would be better achieved by a non-democratic system of government, then we should abandon democracy"; and (3) they "fail to account for our sense that democracy constitutes a fair decision procedure. That is, they do not accommodate the idea that irrespective of what decisions are made, a democratic system constitutes a fairer way of making decisions than one in which some are excluded from the process of decision-making and others are accorded a privileged status." Excerpts from "Political Equality and Majority Rule," reprinted in Democracy: Theory and Practice, p. 210.
democracy's procedures are 'inherently fair,' and the other claims that
democratic procedures 'reflect the ideal of equal citizenship.'

In his book *Democracy and Disobedience*, Peter Singer claims that
democracy can be justified because of its inherent procedural fairness.
Singer's account is both contractarian and game-theoretical. For instance,
he writes that "It is the fairness of the compromise by which force is
avoided that gives rise to the stronger reason for accepting the decision-
procedure of the [democratic] association,"\(^{48}\) and he defines 'fair decision
procedure' as the procedure that persons would select in their capacity as
rationally self-interested agents. Examining three possible decision
procedures (e.g., decisions made by a unilaterally self-appointed ruler;
decisions made by the oldest member of an association; and decisions made
by majority rule), Singer claims that

The decision-procedure of the [democratic] association, in which all
members have equal say in decisions, and then accept the result, is a
paradigm of fair compromise. It is, obviously, a beneficial
compromise, since a peaceful settlement of disputes is better than
settlement by force. . . [O]nly in the third association [is] it possible
for everyone to refrain from acting on his own judgment about
particular issues without giving up more than the theoretical
minimum which it is essential for everyone to give up in order to
achieve the benefits of a peaceful solution to disputes.\(^{49}\)

William Nelson points out that Singer's notion of democracy as 'fair
compromise' echoes Rawls' idea of 'pure procedural justice,' i.e., justice
deriving not from the attainment of any particular outcome but "from the

\(^{49}\)Democracy and Disobedience, p. 32.
operation of a fair procedure." And Nelson also suggests that Singer's account merely uses different words to emphasize the desirability of any decision procedure satisfying A. K. Sen's two conditions of formal equality: anonymity and neutrality.

In contrast to Singer, Carl Cohen has offered a procedural justification based on the claim that democracy reflects the ideal of equal citizenship. Rather than appealing to whatever inherent fairness democracy may possess, Cohen thinks that political justification is a matter of distributive justice and that one can justify democracy on the grounds that it constitutes all persons as political equals. Cohen argues along the lines that

(1) As Kant proposed, each person possesses dignity, or infinite worth;

(2) this dignity is an "essential quality which justifies our treating [each person] as the equal of every other;"

(3) equals ought to be treated equally;

(4) democracy treats people equally because it equally distributes "the right to a voice in community decision-making;"

Therefore, democracy is justified because it treats all persons as political equals.

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50 On Justifying Democracy, p. 23.
51 On Justifying Democracy, p. 19. Nelson writes that "Anonymity requires that the outcome of an election be unaffected by who votes on which side: each person's vote counts the same, and the outcome depends only on the number of persons voting one way or the other. Neutrality requires that the procedure be neutral among the proposals being voted on. It requires that every proposal have an equal chance of winning. The simple majority rule satisfies these conditions."
Regarding the need to constrain democratic outcomes with substantive moral values, procedural democrats "try to restrict those values to those that are necessary to preserve the democratic process itself."\textsuperscript{52} Thus, procedural democrats will advocate restrictions designed to protect freedoms of speech, press, and association, but they will reject any claim that decisions resulting from democratic processes are only valid if they can be judged 'acceptable' in light of a more substantive set of moral criteria. On this point, the views of procedural democrats and popular will theorists converge.

Now procedural justifications reflect an important insight, which is that in emphasizing procedures, these justifications emphasize precisely what distinguishes democracy from other forms of governing. It would not be incorrect to say that the only way to describe democracy is as a set of procedures. Said another way, democracy is essentially characterizable and definable by procedures such as one-person/one vote and majority rule, and no cogent justification of democracy can ignore these procedural aspects. If one strays too far from democratic procedures, one risks losing sight of democracy.

But while no cogent justification of democracy can omit procedural considerations, neither Singer's nor Cohen's accounts capture the full

\textsuperscript{52}"Moral Disagreement in Democracy," unpublished manuscript by Amy Gutmann and Dennis Thompson. Brian Barry puts this point well when he writes "I reject the notion that one should build into 'democracy' any constraints on the content of the outcomes produced, such as substantive equality, respect for human rights, concern for the general welfare, personal liberty or the rule of law. The only exceptions (and these are significant) are those required by democracy itself as a procedure." From "Is Democracy Special," reprinted in Democracy: Theory and Practice, p. 60.
nature of our commitment to democracy. Singer presents a somewhat bankrupt view of democracy by casting it as the decision procedure in which persons can "avoid giving up more than the theoretical minimum which it is essential for everyone to give up in order to achieve the benefits of a peaceful solution of disputes." Even if we grant to Singer that democracy is the form of government that rational persons would select in this way 'beforehand,' Singer's account places an artificial emphasis on the abstract value 'fairness.' Singer is not wrong to claim that democracy's procedures are fair, yet fairness is not the primary reason we think democracy is the best form of governing. Nelson is right when he remarks that

What is odd about the attempt to justify democracy in terms of its intrinsic fairness, its fairness as a procedure taken in isolation, is that it seems to treat the right to influence political decisions as an end in itself.53

Indeed, rather than being the bedrock value underlying our commitment to democracy, the value of fairness is better construed as being instrumental to the more profound goal of achieving political self-directedness. We value procedures such as majority-rule and one person/one vote not because they are intrinsically fair or constitute the 'optimal' choice of rationally self-interested maximizers, but rather because we believe that their fairness is instrumental to the higher goal of political self-directedness. We are much less likely to live self-directing lives if our society is governed by political procedures that do not accord us at least

53On Justifying Democracy, p. 22.
formal political equality, as reflected in the procedural tenet of one person/one vote. One way to conceptualize the shortcomings of Singer's account is to return to Rousseau's distinction between democracy as a form of governing and democracy as a form of sovereignty. By attempting to justify democracy solely in terms of its procedures -- even the substantive moral notion of 'fairness' is defined by Singer in procedural (e.g., game-theoretical) terms -- Singer aspires to justify democracy solely in terms of its character as a form of government. What this omits, however, is the distinctly political aspect of justifying democracy: democracy as a form of sovereignty. Singer shows us why it may be rational to select democracy as a form of government, but he tells us very little about why we should choose to possess sovereignty over ourselves.

And it is on this point that Cohen's account is superior to Singer's. While I think Cohen subsequently misinterprets the implications of this principle, he is absolutely right in tying the justification for democracy to the Kantian ideal of 'respect for persons.' Cohen asks

> What is the sense upon which the justification of democracy in the body politic depends? It is, simply, that beneath all the undeniable differences among men there is in every human being an element, or aspect, or essential quality which justifies our treating him as the equal of every other in the largest sphere of human life. . . Just this thought is expressed in the now commonplace remark that the dignity of every human being must be respected.\(^54\)

But while Cohen makes a good theoretical opening move, he does not develop its real potential as a political justification. Instead of developing

\(^{54}\) *Democracy: Theory and Practice*, p. 204-5.
from this fundamental Kantian premise a cogent account of why we value self-sovereignty, Cohen, like Singer, chooses to consider democracy only as a form of government. That is, Cohen takes the significance of Kant's ideal to be the requirement of equality, and he concludes from this that democracy is justified because it is the form of governing that best treats people equally (e.g., democracy 'distributes the right of participation equally'). Cohen is thus forced, like Singer, to reify the value 'equality.' Again, he is not incorrect to claim that democratic procedures treat people equally; what he is incorrect about is his claim that the reason we desire sovereignty over ourselves is that this will result in equal treatment of all people. Such a claim really makes little sense. Nelson offers a relevant criticism:

> If we try to justify democracy on the ground that people are morally equal or have equal rights, don't we need to worry about the possibility that the majority will violate the rights of a minority? 'Equal rights to a cake would not be satisfied if the majority walked off with the whole cake.'

Thus, Cohen must answer the old empirical question of whether democracy really does protect individual rights, and he must do so in a way that prevents his account from reducing to yet another (albeit more theoretically-based) best outcome account.

But these problems relate not to the foundation of Cohen's argument but to the fact that he interprets this foundation -- Kant's idea of the dignity of persons -- as requiring equal treatment for all people. Trying to justify

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55On Justifying Democracy, p. 22.
democracy in terms of equal rights is problematic because in fact
democratic procedures do not always protect equal rights. A more
promising approach is to retain Cohen's foundational premise, but to
interpret it in terms of respect for persons rather than equality among
persons. That is, instead of claiming that human dignity requires equality
of treatment, one can claim that human dignity requires that we treat all
persons with respect, which includes respecting them in their capacity as
self-directing agents. Interpreted in this way, Kant's claim of the dignity
of persons could serve as the basis for arguing that democratic self-rule is
justified because it best respects personal self-directedness in its
unavoidably political dimension.

Many of my views about our commitment to democracy have been
revealed already, but they need to be tied together and presented more
directly. I have reviewed many different accounts of democracy's value
and its justification, and while none of these proved totally sufficient, many
of them contained bits of truth that I wish to draw upon in constructing my
own account of democracy's value. Four such truths, or insights, have
emerged from this survey:

(1) The claim of popular will theorists that democratic decisions
must in some significant sense emanate from those being governed;

(2) Cohen's claim that our commitment to democracy rests on the
Kantian ideal of respect for persons;

(3) The claim of procedural theorists that democracy is in a sense
definable only as a set of decision-making procedures; and,

(4) The claims of participation theorists such as Pateman that
democracy is special because of its socializing effects on a citizenry.
The first of these claims supports the idea of a distinct commitment to democracy as a form of sovereignty as opposed to a form of government, and it is no coincidence that the writer who best exploited this distinction, Rousseau, also took the task of formulating the ideal of a 'popular will' most seriously. Isolating democratic sovereignty in this way and coupling it with my reinterpretation of Cohen's insight of a connection between democracy and Kant's ideal of respect for persons results, I think, in an adequate justification for democracy as a form of sovereignty. Because an integral part of respecting a person's dignity is respecting their ability to direct their own lives, and because no one can truly direct his or her own life without possessing at least a minimal level of political sovereignty, then the ideal of respect for persons entails the ideal of self-rule. To deny persons self-rule is to disrespect them as persons. Again, anti-apartheid activists would not settle for a simple end to human rights violations by the (minority) South African government, but rather these activists have insisted on full political enfranchisement. I contend that this goal of full enfranchisement reflects a conviction that anything less would constitute a fundamental disrespect for black South Africans as persons.

So far I have spoken about democracy only as a form of sovereignty, not as a form of government. And so how does one move from justifying self-sovereignty to justifying substantive democratic procedures? The answer is that democratic procedures such as majority rule and one person/one vote

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56 Grounding our commitment to democracy on a respect for persons also offers a point of reconciliation between democracy and liberalism, for it seems reasonable to say that respect for persons could also serve as a sound basis for justifying basic liberal rights.
simply constitute the best method yet devised for exercising self-directedness in its unavoidably political dimension. Thus, I agree with the those who consider democracy's procedures to constitute an essential part of its value; however, I deny that these procedures or any inherent fairness they may possess constitute the foundation of our commitment to democracy. Rather, we value democratic procedures because they are partly constitutive of the political dimension of living a self-directing life.

I expect a literal reading of my remark that democratic procedures constitute no more than the best method yet devised for exercising self-directedness. For while these procedures may be the best yet devised, they often disappoint us. For instance, the practice of 'one person/one vote' is perhaps the most fundamental democratic procedure, for it is the mechanism whereby persons receive their political enfranchisement and their formal status as political equals. No person denied suffrage can be considered fully self-directing, for some aspects of self-directedness require political participation. However, while political suffrage is necessary to political equality, it is often not sufficient, due to the problem of persistent minorities and to the fact that wealth and social position can give some persons greater political influence than others.

Majority rule disappoints us as well, for it can guarantee neither the protection of individual rights nor the prevention of majority tyranny. Such flaws have led some to claim that our only real allegiance to a procedure like majority rule lies in the fact that the alternatives are worse:

The alternative is to impose the claims of the minority on the majority, and this assumes that some citizens' moral convictions
count for more than those of others. Such an assumption cannot be justified to people who consider themselves political equals.\textsuperscript{57}

We rightly consider majority rule to be \textit{generally} the best method of implementing our commitment to popular sovereignty. But to see that majority rule only \textit{serves} the ideal of popular sovereignty rather than being constitutive of it, one need only remember that other methods may at times serve the ideal of popular sovereignty better. For example, a plausible case can be made that a parliamentary electoral system, in which competing political parties band together in pluralistic coalition, will produce a government better reflecting the ideal of self-rule (i.e., one representing the political will of more citizens) than will systems based on 'winner takes all' majoritarianism (e.g., the American electoral college system).

Thus, our allegiance to the traditional set of democratic procedures is an ambivalent one. These procedures represent the best ideas of our best political minds, and often they do serve the ideal of popular sovereignty well. Nonetheless, they have very real flaws that have forced some to claim that democracy is paradoxical in at least two distinct senses. Such despair would be justified if it were not for the fact that our moral commitment attaches not to democratic procedures but to democracy as a form of sovereignty. Viewing matters in this way reminds us that there exists a fixed ideal for structuring our democratic institutions: any democratic procedure should be evaluated in terms of how well it serves the ideal of respecting persons as self-directing agents.

\textsuperscript{57}"Moral Disagreement in Democracy." Gutmann/Thompson, unpublished manuscript, p. 6.
IV.

If I am right in describing the nature our commitment to democracy, then two conclusions would appear to follow. The first is that implementing a commitment to democracy based on respecting persons as self-directing agents is best-achieved by adopting a form of democracy that encourages citizens to deliberate. Second, to the extent that we are serious about our commitment to living democratically, then we should also, at least to a degree, educate citizens for democratic participation. This section briefly develops these two conclusions.

Claiming that deliberation is an important part of living a self-directing life may appear to some as a truism. That is, if we are to direct our lives in any but the most haphazard fashion, then we must deliberate. Further, deliberation appears to be not merely conducive to a self-directing life but in fact to be one of its constitutive elements. This is true not only because living such a life entails that we evaluate competing options and decide between them in some sort of 'rational' manner, but also because deliberation is the requisite mode of conducting such evaluation. And further, because living a self-directing life has an inescapably political dimension, it is but a small additional step to conclude that deliberation is also constitutive of our particular 'autonomy-based' commitment to democracy, and therefore that encouraging deliberation should be a primary aim of our democratic procedures and institutions.

Casting deliberation as an essential aspect of democracy is not a novel idea, but rather it is one with both historical precedent and contemporary
support. Besides a clear indebtedness to Mill, James Fishkin finds clear emphasis on deliberation in the writings of both Madison and Hamilton. Fishkin writes that

Hamilton, in Federalist no. 71, clearly distinguished the "temporary delusion" of "inclination" or "transient impulse" from the public's consideration of its interests when there was "opportunity for more cool and sedate reflection." According to Hamilton, "the deliberate sense of the community should govern."\(^{58}\)

But rendering decisions under cool and sedate reflection is only part of the deliberative ideal. Contemporary democratic theorist Amy Gutmann has recently coined the phrase 'deliberative democracy' to describe a conception of politics in which "people routinely relate to one another not merely by asserting their will or fighting for their predetermined interests, but by influencing each other through the publicly valued use of reasoned argument, evidence, evaluation, and persuasion."\(^{59}\) Many proponents of deliberative democracy also stress that we must shift our democratic thinking away from the theoretical and toward the practical. For example, Benjamin Barber criticizes traditional democratic theorists for employing philosophical abstractions far removed from the realities of political life. Barber writes that

In substituting reason for common sense, [these theories] have declared the sense of commoners to be nonsense. Rights are philosophically vindicated, but only as abstractions that undermine the democratic communities that breathe life into rights; justice is given an unimpeachable credential in epistemology, but no firm hold


\(^{59}\)The Disharmony of Democracy, pp. 140-141.
on action or on the deliberative process from which political action stems. . . 60

Yet while deliberative theorists do stress that political action must stem from the citizenry, they clearly want to differentiate their ideas from those of the popular will theorists. For example, Gutmann writes that

Whereas populist democracy assumes that the expression of popular will is an overriding good, deliberative democracy argues that the primary value of popular rule lies in its encouragement or expression of the broadest possible degree of public deliberation, not in its mere expression of popular will. . . Deliberative democracy values popular rule to the degree that it manifests or supports autonomy in politics, not simply for the expression of majority or plurality will. . . The aim of deliberative democracy is not popular rule but autonomy.61

Basing democracy on its ability to promote autonomy is clearly compatible with, and perhaps at times indistinguishable from, my ideal of self-directedness.62 And thus I contend that if we follow Raz in claiming that two conditions of autonomy are (1) the appropriate mental abilities for considering and deciding between various options and (2) the existence and knowledge of an adequate range of options from which to choose, then it is the deliberative model of democracy that best reflects, and is indeed constitutive of, our commitment to respecting persons as self-directing

61The Disharmony of Democracy, pp. 140, 144.
62I do not use the term autonomy in this chapter primarily to avoid the negative connotations that some have attached to that term. For instance, critics of liberalism such as Charles Taylor have claimed that the liberal ideal of an 'autonomous' person produces an overly atomistic account of society. These critics not only claim that this view unrealistically portrays persons as capable of living in radical disengagement from their communities, but also that this atomistic view is biased against forms of living that stress not individual choice but community attachment. See Taylor, Charles. "Atomism," in his Collected Papers II.
agents. Active political deliberation fosters both of these conditions by honing the citizenry's mental abilities for deciding among options, and by promoting an awareness of options of which citizens may have been otherwise unaware. In the Millean sense, deliberation both contributes to the marketplace of ideas and makes each citizen a more discerning consumer in this marketplace.\textsuperscript{63}

Yet while all this may be true, the marketplace metaphor is incomplete because it omits a central difference between political self-directedness and market savvy. That is, it omits the fact that while one may be a discerning 'market consumer' in isolation from others, such isolation is incompatible with being politically self-directing. This is because, as Barber writes

\ldots political judgment [is] a function of commonality that can be exercised only by citizens interacting with one another in the context of mutual deliberation and decision. Solitary individuals may make moral or aesthetic judgments, solitary judges sitting on the bench may render legal judgments, but citizens can render legal judgments only as a body acting corporately.\ldots Political judgment is thus 'we-judgment' or public judgment or common-willing (in Rousseau's phrase, general-willing). I cannot judge politically, only we can judge politically; in assuming the mantle of citizenship, the I becomes a we. This transformation naturally requires an understanding of citizenship more vigorous and mutualistic than the one favored by

\textsuperscript{63}There are other arguments for deliberative democracy, as well. For instance, in her more recent writings Amy Gutmann has moved away from this autonomy-based argument and toward the claim that only deliberative democracy offers an adequate procedural mechanism for incorporating moral argument into public decision-making. Gutmann claims that there are four reasons that we ought to incorporate moral deliberation into the democratic process: (1) moral deliberation adds legitimacy to democratic decisions, for people will be more likely to accept decisions they do not like if they know that their side of the issue has been given real consideration; (2) deliberation encourages citizens to take a broader view of public issues when these issues are deliberated; (3) deliberation can clarify the nature of moral conflict; and (4) deliberation tends to foster changes of mind rather than mere shifts in power.
modern social scientists, which identifies citizens as private agents pursuing private interests in a political marketplace.\textsuperscript{64}

Similarly, when Gutmann writes that "Because autonomy requires that we deliberate, it presupposes . . .a system of popular rule that encourages citizens to think about political decisions," she cannot mean 'think about' in the market sense of disconnected individuals seeking to maximize their interests in isolation from others. And indeed she does not mean this, for she recognizes an inherent democratic disharmony "that is rooted in the tension between living your life as you see fit, and recognizing that to live your life as you see fit, you must share political power with many other people and therefore you may not be able to live every part of your life just as you see fit."\textsuperscript{65} Gutmann's reasoning is that only through deliberating with others will I acquire an awareness of how my options relate to the aspirations and ideas of others, and thus only through deliberation can I see how the aspirations of others can straightforwardly limit what I can realistically expect to accomplish politically.

Yet even this formulation retains an excessively market-oriented tone. I submit that an important value of deliberation, one that Gutmann and other theorists do not sufficiently stress, is that only through deliberation can I hope to achieve a relatively full sense of the meaning and significance of my political options. When I deliberatively engage others and thereby gain exposure to their aspirations, desires, and ideals, I may indeed alter or

\textsuperscript{64}The Disharmony of Democracy, pp. 200-01.
\textsuperscript{65}The Disharmony of Democracy, p. 156.
drop some of my own aspirations, but this will not always be because I simply see that they have the political power to stop me. Rather, sometimes it will be because I better understand how my aspirations relate to the aspirations of others in the community. In this way deliberation allows me to learn the meaning of a particular option, event, or course of action. Deliberation may also allow me to learn something about how my actions might be judged historically. Some would even say that this kind of awareness can lead to greater empathy among citizens, although of course empathy is not identical with agreement. But while democratic deliberation can never guarantee agreement, it can make citizens more 'public-minded' in judging political matters: "To judge is to disengage our private perspective and engage a public sympathy."66

We must now turn to the question of whether we have any obligation to educate citizens for democratic participation. This question is especially important because such an obligation, if it exists, will provide a strong normative foundation for my justification of arts subsidies. Here there are really two questions to address: (1) What activities and institutions do in fact promote deliberative democracy? and (2) Given the desirability of deliberative democracy, what sort of responsibility, if any, do we have to insure its flourishing? The first question admits of a relatively straightforward answer: deliberative democracy ought to flourish whenever the citizenry possesses the requisite opportunities, desires, and skills to carry it out. I will focus here only on the third condition, for in

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66Strong Democracy, p. 197.
some ways it is the most fundamental -- no matter what their opportunities or desires, deliberative democracy will be impossible to achieve if the citizenry lacks the requisite skills.

What are these requisite skills? John Dewey argued generally that democratic citizens must develop the "full use of intelligence," and that their education must have clear interconnections with "the realities of everyday life." More specifically, Amy Gutmann has claimed that democratic citizens must possess not only general literacy but also the "capacities for criticism, rational argument, and decision making [that come from] being taught how to think logically, to argue coherently and fairly, and to consider the relevant alternatives before coming to conclusions." Gutmann also considers this 'deliberative character' to encompasses a moral dimension. For instance, she claims that citizens should possess the "capacity to understand and to evaluate competing conceptions of the good life and the good society, . . . [and be] "predispos[ed] . . . to accept those ways of life that are consistent with sharing the rights and responsibilities of citizenship in a democratic society." Citizens should possess both an awareness of their culture's moral sensibilities and the ability to apply their critical skills to questions that involve these sensibilities -- they must be able to feel "the force of right reason."

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68 *Democratic Education*, pp. 50-1.
69 *Democratic Education*, p. 42.
70 *Democratic Education*, p. 43.
I mentioned briefly above and will develop further in the next chapter, is the skill of reflecting upon prospective political actions in order to interpret the 'meaning' of these actions.

And while this list of deliberative traits might at first seem to possess something of an undesirable 'grab-bag' character -- literacy, critical reasoning, moral sensibility, empathy, open-mindedness -- I think the list can be unified by considering it under the rubric of judgment. To be a good democratic citizen, a person must possess a well-developed faculty of judgment, and 'training in judgment' might therefore be used to refer inclusively to the types of activities that tend to produce citizens who are well-equipped to function within a democratic society. As Gutmann writes

Training of this 'didactic' sort is desirable because it enables citizens to understand, to communicate, and in some cases to resolve their disagreements. Without this sort of mutual understanding, we could not expect to achieve widespread toleration of dissent and respect for differing ways of life. Nor could we expect minorities to convince majorities, or to be convinced by them, of their point of view.

Opportunities for this sort of 'democratic education' occur throughout a person's life, beginning with 'exemplary' character training for preschoolers by their parents, development of rational, critical, and persuasive skills in primary and secondary schools, 'free thinking' within the ivory

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71As will be seen, the ideal of political judgment that I appeal to is typically considered a product of the Kantian tradition (as developed most notably by Gadamer and Arendt), although as Barber points out, a more complete account acknowledges the ideas of Americans such as C. S. Peirce, Richard Bernstein, Richard Rorty, and Charles Taylor. On the other hand, Gutmann does not explicitly use the language of judgment, even though it encompasses most of what she includes in her ideal of 'deliberative character.'

72Democratic Education, pp. 50-1.
towers of higher education, and finally, various educational activities for adults no longer engaged in formal education.73

But identifying the ideal traits and training of democratic citizens is only a part of the work. We still must ask, given our particular commitment to democracy, whether we have an obligation to foster these traits among current and future citizens. Are these traits merely reflective of a nice but nonbinding ideal, or do they reflect an ideal to which we have at least a *prima facie* obligation to bring about? Gutmann's particular answer to this question is to portray democratic education as one element of a society's overall educational program, and then to make the strong claim that fostering 'the ability to participate in the democratic process' should be given lexical priority over all other educational aims.74 She privileges this particular 'nonneutral' educational goal on the grounds that "We are committed to collectively recreating the [democratic] society we share."75 Gutmann's is thus the strong assertion that 'If we are going to educate our citizenry at all, then our first priority must be to educate them as democratic citizens.'

Now it is beyond my scope here to determine our precise obligation *vis a vis* democratic education. Sher has pointed out that Gutmann's strong claim cannot stand without further support, for while "it is one thing to show that [democratic education] is needed if future authority is to be

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73 *Democratic Education*, pp. 38-52, 256-81.
75 *Democratic Education*, p. 39.
apportioned in the best way, [it is] quite another to show that apportioning future authority in the best way is more important (let alone lexically more important) than any other educational aim." 76 But even if democratic education is not lexically-prior, even if it is in fact only one of many competing educational priorities, it would nonetheless appear to carry an especial weight in that it shares in our general commitment to living under a system of democratic government and democratic sovereignty. And because this commitment to democracy appears to be one of our most strongly-held social values, then the task of educating for democratic participation surely must be something more than just another undistinguished option. It seems reasonable to assume that a commitment to self-rule entails at least some commitment to doing those things that will make self-rule robust and persistent over time. 77

This approach turns provocative to the extent that one accepts my claims in the next chapter that engaging artworks can be of specific educational value to a democracy by offering opportunities for developing many of the same skills used in political deliberation. For if I am right, then the case for arts subsidies shares in the force of this commitment to perpetuating democratic sovereignty over time. This is a distinct advantage, for unlike the

76 "Educating Citizens," p. 80
77 It would be useful to systematically compare our duties regarding democratic educational activities to those regarding democratic procedures. For instance, the government has the obligation of insuring: access to voting places; that no one votes more than once; that candidates abide by campaign finance laws; that persuasive campaign literature and other advertising does not appear closer than specified minimum distances from polling places; that votes are counted accurately; that ballots are clearly written; and that candidates be given equal access time in the journalistic media. On the other hand, government responsibility does not seem to extend to organizing and sponsoring debates, a central precondition of an informed electorate.
perfectionist appeal of promoting human flourishing, my approach appeals to a distinctly political value -- promoting the maximal functioning of democratic processes. Because of this, my approach may indeed better justify government involvement in the arts, for I believe that most people will consider the goal of promoting the quality of democratic participation to be more clearly a proper function of government than the goal of 'promoting human flourishing.' Benjamin Barber writes in his book Strong Democracy that "To speak of democratic political judgment is to speak of civic education and also of styles of political participation that go well beyond occasional voting." In the next chapter I shall argue that perhaps we should consider the possibility that engagement with art may constitute part of this education and one of these styles.

CHAPTER THREE
Democratic Education, Political Judgment, and the Case for Art

The preceding chapter presented the normative foundations of a democratic defense of arts subsidy. It explored our commitment to democracy both as a form of sovereignty and as a set of procedures, in the end privileging deliberation as the procedural ideal most reflective of our fundamental democratic commitment to respecting persons as self-directing agents. That chapter also introduced 'democratic education' as a means for promoting this deliberative ideal, briefly outlining how our commitment to democratic self-rule suggests at least some commitment to democratic education, as well.

With this normative groundwork in place, the present chapter presents my own positive arguments for state support of the arts. Rather than claiming that art should be subsidized because it is objectively valuable, my approach draws on art's instrumental potential as a form of education. More specifically, it draws on the democratic foundations of the previous chapter in asserting the plausibility of including engagement with art as one component of an overall program of democratic education. In general terms the project might thus be characterized as offering a set of principled descriptions outlining art's potential as an educational 'public good.' If successful, this approach will produce a justification of subsidy with a distinctly political relevance, one based on a commitment shared by virtually all citizens, i.e., the commitment to living under and promoting
democratic self-rule, and one that draws on whatever value we attach to educating future democratic citizens. In this chapter I shall approach the task of describing art's relevance to democratic education from three distinct perspectives. The first appeals to the concept of judgment, drawing on several apparent commonalities that exist between the formal structure of aesthetic and political judgment. The second appeals to a commonality of function between judgments in art and in politics, which is that both possess interpretation as a constitutive component. The third and final perspective appeals to the subject matter, or content, of particular works, sketching the potential political value to be had from encouraging citizens to engage a diversity of artistic expressions.

I.

As sketched above, my strategy requires that I support the thesis that engaging works of art can, at least potentially, make citizens better democratic participants. While on the face of it the connection between art and democracy may seem at worst nonexistent and at best obscure, I believe that such a connection exists and that it can be explicated with some precision. The point of issue concerns whether engaging art can be of sufficient educative value in a democracy to justify taxing citizens to pay for its production. Engaging art need not, and surely cannot, be the sole source of such an education, for the many facets and aims of a complete democratic education simply cannot be realized through any single activity. Nonetheless, I shall argue that engaging art can make a valuable
contribution toward achieving several important aims of democratic education, and that the nature of this contribution can be uniquely differentiated from democratic education in any of its more traditional forms.

A good starting point for discussing the potential role of art in educating democratic citizens is with the writings of John Dewey, for Dewey wrote extensively on art, on education in general, and on democratic education in particular. In *Democracy and Education*, Dewey maintained that democracies have the greatest interest in a systematic education of the citizenry, for unlike other forms of governing democracies must guard against citizens becoming overly rigid in their thoughts and ideas. Such rigidity can lead to an 'isolation' of citizens that is inimical to successful democratic life, and in some cases can even encourage a 'slave mentality.' Dewey thought that education could reduce this risk of rigidity and isolation, although to do so the education must exhibit certain specific qualities. For instance, effective democratic education must lead citizens to realize the "full use of [their] intelligence," and its methods must provide a 'diversity of stimulation,' for "Diversity of stimulation means novelty, and novelty means challenge to thought."

And while it may seem intuitively evident that art would be apt and relevant to an education aiming to stimulate novelty, challenge thought, and encourage the full use of one's faculties, a broader and more unified

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expression of this point appears in Dewey's writings on the educational value of the imagination. Dewey argued from a variety of perspectives that if education is to support the processes of democracy effectively, then it must engage, stimulate, and develop the citizenry's powers of imagination. I consider these claims to be especially relevant to a justification of subsidy because, given its characteristic modes of challenging us to understand and interpret novel associations and unexpected metaphors, stimulating the imagination is an educational aim that art would seem especially -- and perhaps even uniquely -- suited to achieve. According to Dewey, the imagination constitutes a vital precondition for citizens' learning "to develop initiative in coping with novel situations." Such initiative is important because, as a constitutive aspect of democratic life, the need to interact constructively with other citizen occurs most effectively when participants have the ability to 'cope' with views and circumstances that may be both unpredictable and unfamiliar. Dewey cogently argued that a well-developed imagination tends to reduce the 'static fixity' of one's habits, a fixity which often leads to dogmatism and political isolation, both of which are fundamentally undemocratic and can disable what is perhaps the democratic polity's most effective tool -- the ability to compromise.\(^2\)

Yet while Dewey's ideas here provide a good start, they do not alone constitute a justification of subsidy. This is not to say that Dewey's claims are incorrect as much as it is to say that they are vague. I believe in fact

\(^2\)Democracy and Education, p. 58-60.
that Dewey is fundamentally correct in emphasizing the importance of the imagination to successful democratic participation. Yet, I also recognize that to be philosophically viable such claims need to be made more specific. One way to add such specificity would be to describe with precision how it is that we utilize the imagination in democratic life. A second appropriate task would be to specify more concretely how it is that engaging artworks can foster the imagination. I think the best way to address both of these tasks is by appealing to some ideas implicit in the account of deliberative democracy introduced in Chapter Two. This move not only should go a long way toward providing the justification's needed specificity, but it should also provide a more direct continuity with the democratic foundation already in place.

In the previous chapter we saw how Gutmann, Barber, and Fishkin all argued that in one form or another it is deliberation that holds the key to revitalizing our political institutions and thought. In explicating this ideal, we saw that deliberative democracy encourages the rendering of decisions under conditions of 'cool and sedate reflection' rather than transient impulse; that it extols the value of common sense over theoretical knowledge; and, that it strongly encourages us to 'disengage our private perspective and engage a public sympathy.' Yet by casting the ideal of deliberative democracy in this way, these writers have -- perhaps unwittingly -- made contact with a distinct tradition of inquiry that, while sharing many of these same desiderata, encompasses much more than political decision-making or even democracy per se. This is the tradition of philosophical inquiry into the nature human judgment. And because of
the apparent intimacy between the two, my strategy will be to expand upon
the ideas of Chapter Two by recasting the task of democratic education as
one of fostering sound political judgment. Using this strategy, my task will
no longer involve defending the vague claim that engaging art somehow
'improves democracy,' but rather it will now consist of the somewhat more
concrete task of illustrating how art can be of instrumental, educative value
in developing skills required of deliberation and judgment.3

The first step in pursuing this strategy is of course to sort out the meaning
of the term 'judgment.' Judgment in the sense I am using it here has its
roots in Aristotle's notion of *phronesis*, or practical wisdom. For
Aristotle, *phronesis* consists of an epistemologically-distinct faculty that,
according to Ronald Beiner, "involves seeing particular situations in their
true light in interaction with a general grasp of what is it to be a
complete human being, and to live a proper human life."4 *Phronesis* stands
in direct contrast to scientific inquiry, for it is a faculty directed
exclusively to managing the particulars of practical, everyday living.
Whereas science seeks universal truths, *phronesis* seeks to apprehend "truth
relative to the particular (and contingent) situation of men in contexts of
action."5 And whereas scientific knowledge is concerned with

... things that are universal and necessary ... [and] whose
originative causes are invariable, ... practical wisdom on the other

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3In pursuing this strategy, nothing should be lost because the two traditions have as their aim the same
general goal; yet, by making available the insights of a second perspective, what stands to be gained is both
a clearer grasp of how art can contribute to the quality of democratic participation, as well as a more
sophisticated understanding of the 'deliberative' in deliberative democracy.


5*Political Judgment*, p. 92.
hand is concerned with things human and things about which it is possible to deliberate...; no one deliberates about things that cannot be other than they are. . .

By casting the issue in terms of particulars and universals, we find already in Aristotle's writings an essential motif of the literature on judgment, one that Peter Steinberger in his impressively comprehensive book *The Tradition of Political Judgment* calls the 'tripartite model of judgment.' Steinberger writes that

Any judgment -- as the bringing together somehow of a universal and particular -- would seem to require at least three things: (1) the universal *qua* concept must be identified . . .; (2) the particular must be identified. . .; and (3) there must be a mental faculty that allows us to establish some kind of demonstrable and explicable connection between the universal's features and the particular's characteristics such that we can say with some justification that "X is (or is not) Y."  

By casting *phronesis* as a matter of bringing particulars and universals into appropriate relation, Aristotle's account clearly conforms to Steinberger's model, at least in its first two elements. But what about number (3)? Assuming that there is something more to good judgment than just good guessing, how is this 'other something' to be accounted for?

Clearly Aristotle recognized this problem, for while he insisted that *phronesis* involves neither scientific knowledge nor true opinion, he also claimed that it must consist of something more than merely the knack for

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'shrewd guessing' (e.g., 'skill in conjecture'). But while he may have recognized the problem, he struggled in describing the kind of middle ground between science and guessing that would account for it. His struggle is really not surprising, however, because accounting for this third element is in essence the real 'problem' of judgment -- i.e., judgment does not involve scientific certainty yet we nonetheless believe both that some judgments are better than others and that some persons generally possess better judgment than others.

But while he never provides a definitive account, it will still be helpful to review some of the characteristics that Aristotle does ascribe to the activity of *phronesis*. For instance, Aristotle clearly views *phronesis* to be not a haphazard form of guessing but rather a form of reasoning.

Deliberation involves reasoning," [and] "He who deliberates inquires and calculates. . . To deliberate and calculate are the same thing.9

Furthermore, in Chapter Nine of the *Ethics* Aristotle reveals a normative, epistemological dimension of *phronesis* when he writes that excellence of deliberation is a "correctness of thinking," where correctness is defined as "that which tends to attain what is good."10 And one of the most important clues that Aristotle provides about the nature of *phronesis* appears in the *Rhetoric* where he writes that its use is called for when we are " . . . without arts or systems to guide us."11 This point portends an important

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8 *Nichomachean Ethics*, 1142b.
10 *Nichomachean Ethics*, 1142b
idea found in Kant's account of judgment, which is that judgment is never simply a matter of rule-following. That is, if it were possible in a given situation to determine the right course of practical action by somehow 'cranking it out' of a set of rules (a sort of utilitarian calculus, perhaps), then this situation is quite simply not one requiring the true exercise of judgment.

Another relevant aspect of Aristotle's account arises in connection with his claim that "one should deliberate slowly . . . but carry out quickly the results of one's deliberation." On first glance it is tempting to draw analogy here to the way people play a game like chess: the players calculate a long time about the best course of action (i.e., their best move) and then take it. But while such an analogy carries some truth, it distorts Aristotle's view by underestimating the degree to which he saw practical judgment as essentially a social act. Unlike making a chess move, rendering a sound practical judgment can never occur in social isolation. Rather, a person of sound practical judgment possesses an ability to "project himself into the genuine situation of another." For Aristotle, this 'fellow-feeling' or 'friendship' constitutes an essential aspect of sound judgment, for it allows access to something essential to calculating the best course of action: a "common view of what is just." Judgment, as "the right discrimination of the equitable," would be impossible for Aristotle without this sense of

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12Nichomachean Ethics, 1142b, 5.
13Political Judgment, 78.
14Political Judgment, 80.
community, or 'situatedness.'\textsuperscript{15} Furthermore, it would be a mistake to interpret Aristotle as claiming that a person of practical wisdom is one who simply sacrifices individual self-interest for the sake of others. Such a reading is incorrect not only because it reduces the problem of judgment to a rule, but also because Aristotle does not see practical judgments as inherently self-effacing. While Aristotle writes that persons of good judgment can see 'what is good for men in general,' these same persons can also can explicitly see 'what is good for themselves.'\textsuperscript{16}

Yet while certain aspects of Aristotelian phronesis are indispensable to constructing a plausible account of political judgment, (i.e., its emphasis on practical action), it is questionable whether phronesis alone can constitute a complete and adequate model of political judgment. Peter Steinberger argues this point by claiming that Aristotle simply provides an insufficient accounting of how this practical faculty operates.\textsuperscript{17} Yet while explicitness may indeed be a virtue, this criticism seems a bit unfair, for after all the difficulty of accounting for good judgment is precisely what makes it philosophically interesting. A stronger argument against directly appropriating phronesis as a model of contemporary political judgment

\textsuperscript{15}Gadamer describes this phenomenon when he writes that "[W]e discover that the person with understanding does not know and judge as one who stands apart and unaffected; but rather, as one united by a specific bond with the other, he thinks with the other and undergoes the situation with him." Hans-Georg Gadamer, \textit{Truth and Method}, New York: Seabury Press, p. 288.

\textsuperscript{16}Nichomachean Ethics, 1140b, 10.

\textsuperscript{17}Steinberger writes that even though Aristotle is correct in describing phronesis as "an epistemologically distinct faculty that is rooted in a quite special and unique kind of perception or aisthesis," he concludes that Aristotle does not sufficiently establish this claim. According to Steinberger, "... while Aristotle asserts the distinction between scientific insight and practical insight, and hence between different kinds of perception, it is not clear that he provides an adequate account of the nature of that difference or its epistemological importance. \textit{The Concept of Political Judgment}, p. 126-7.
concerns its reliance on a univocal notion of the good. That is, while the Greek *polis* may have exhibited a univocal notion of human good, contemporary democratic society is thoroughly pluralistic. The contemporary *phronimos* would thus not only need to balance his own interests with those of society, but he would also be charged with the unenviable task adjudicating between competing conceptions of what actually constitutes society's general interest. And as democratic theorist Gutmann herself suggests, many of today's most fractious political debates specifically stem from disputes involving competing claims about how best to live -- about the nature of the good life.

Even a perfect people with ideal institutions could not eliminate the disharmony of democracy that is rooted in the tension between living your life as you see fit, and recognizing that to live your life as you see fit, you must share political power with many other people and therefore you may not be able to live every part of your life just as you see fit. Some of the most divisive political controversies in the United States today, including the battles over abortion, capital punishment, drugs, and pornography entail fundamental conflicts among goods.\(^{18}\)

But rather than simply reject Aristotelian *phronesis* as irrelevant to a contemporary account of political judgment, it seems more appropriate to say that it is merely incomplete. That is, I agree with Ronald Beiner when he claims that Aristotelian *phronesis* constitutes one of two 'ineliminable poles' of judgment, *phronesis* being ineliminable because of its role in discerning the substantive ends, or teleology, of such judgment.\(^{19}\)

\(^{18}\)Gutmann, "The Disharmony of Democracy," p. 156.
\(^{19}\)Political Judgment, p. 102-3.
The second of these ineliminable poles is the account of judgment found in Kant's *Critique of Judgment*, and it is here that we find the first comprehensive and philosophically-viable account of this elusive faculty.\(^{20}\) In developing his own, transcendental account of judgment, Kant adopts many of Aristotle's views on the nature of judgment, including the idea that judgment involves ordering the particulars of experience under appropriate universals; that the ability to judge is something that -- with practice -- can be possessed by virtually anyone; and that true judgment is called for precisely in those situations where 'we are without arts or systems to guide us.' And yet perhaps the most significant aspect of Kant's account for my project is not a similarity it shares with Aristotle's account but rather a difference, and this difference is that while Aristotle considered *phronesis* to be essentially a tool of practical wisdom, the paradigmatic judgment for Kant was the *aesthetic* judgment. And while this difference may initially appear striking, a closer examination of Kant's account reveals that the essential 'task' that both he and Aristotle sought to describe is the same. Just as *phronesis* is the skill of judging particular situations when we are 'without arts or systems to guide us,' aesthetic judgment for Kant is never merely a matter of systematically applying a set of rules or criteria. This is because for Kant there can be no concept, or definition, of 'beauty' that

\(^{20}\) Steinberger sings the praise of Kant's efforts in writing that "The modern theory of judgment culminates in Kant's Third Critique, and it is there that we find for the first time a systematic attempt to provide a satisfactory philosophical account of the faculty of judgment. Among other writers, the notion of good judgment or taste is presented largely without analysis, as though its features were self-evident, and the fact of its existence merely asserted... Kant's effort, on the other hand, is to describe the logic of aesthetic judgment, and to provide a 'transcendental proof' of its existence. As such, his work provides by a good measure the most important and powerful account of judgment that the West has yet produced." *The Concept of Political Judgment*, p. 130.
one can apply in a rule-like manner to determine whether or not an object is beautiful -- i.e., claims of beauty are always particular, subjective judgments. And yet, just as Aristotle recognized that some practical judgments are better than others, so Kant recognized that not all assessments of beauty are equally valid. Thus we see that just as Aristotle sought to account for how practical wisdom could lack scientific certainty and yet possess a validity greater than that of mere guessing, in the *Critique of Judgment* Kant sought to resolve an analogous problem, or 'antinomy,' of aesthetic taste. This antinomy stemmed from a curious fact Kant observed about aesthetic judgments, which is that while judgments of beauty are purely subjective (i.e., not based on a concept), they nonetheless assert a normative validity as if there was an objective right or wrong of the matter (i.e., as if they were based on a concept).\(^\text{21}\)

I believe that these parallels between practical and aesthetic judgment reveal something important about the task of judging more generally. In describing a person of practical wisdom, Aristotle claimed that excellence of deliberation consisted of an ability to see practical situations in their 'true' light, even though he recognized that one can never know practical truths with the same certainty or confidence as fixed, scientific truths. The analogous problem facing Kant's person of 'taste' is that while one never comes to know with scientific method or certainty that an object is beautiful, a person of taste clearly possesses certain skills and abilities that leads him or her to discern true beauty more often than a person lacking

\(^{21}\text{Critique of Judgment, SS 56-57.}\)
such practiced skills and abilities. In this way taste is rightly described as a 'critical' faculty.\textsuperscript{22} Thus, I think that one might accurately claim that *phronesis* and taste both involve learning to navigate successfully an epistemological 'middle ground' between scientific certainty on the one hand and subjective conjecture, or guessing, on the other. This middle ground is that of judgment, for while judgment is never a matter of objective, scientific fact, a sound judgment nonetheless possesses a foundation and validity that mere guesses lack. And a *person* of judgment is someone who consistently 'knows' or 'sees' how to render sound judgments despite the absence of objective guidance. Without claiming that *phronesis* and aesthetic judgment are identical, I do think that the root epistemological 'problem' as I have sketched it here constitutes a common, essential task facing both the *phronimos* and the person of taste. Because of this, I would argue that the difference between the two is primarily one of application: the Aristotelian *phronimos* encounters this epistemological problem of judgment in managing practical affairs, while the Kantian person of taste encounters the problem through the task of judging beauty.

Of course, the essential question for my project is whether this commonality can be rightly claimed of political judgment as well, for if it can, then we will be on much firmer ground in asserting an instrumental connection between engaging art and rendering political judgments. But

\textsuperscript{22}Technically, aesthetic judgment for Kant involves the Understanding and the Imagination achieving a state of harmony or 'free play,' and it is this harmony that accounts for the pleasure we feel from experiencing beauty. Yet it is important to note that the aesthetic judgment is not based on the pleasure we experience in contemplating beauty, but rather it is judgment itself (i.e., the harmonizing of the faculties) that gives rise to the pleasure. See *Critique of Judgment*, SS 9.
before addressing that issue in the next section, this is an appropriate point for making explicit a fundamental assumption of my project, which is that there exists a direct relationship between good judgment and practice. Now inasmuch as this is an *assumption* of my project, strictly speaking I need not argue for it; nonetheless, I want to briefly review why I take it to be relatively uncontroversial. First of all, the claim that developing judgment is a matter of experience and practice is assumed by virtually all writers in the tradition. For instance, Aristotle writes that

\[\ldots\] it is thought that a young man of practical wisdom cannot be found. The cause is that such wisdom is concerned not only with universals but with particulars, which become familiar from experience, but a young man has no experience, for it is length of time that gives experience. \[\ldots\]  

Likewise, Kant considered experience and practice to be a necessary condition for developing aesthetic taste. He writes that of all the abilities of which the mind is capable, the skills of judgment are "the hardest to attain and can in fact be attained only after repeated compliance \[\ldots\] has become a skill." This idea is echoed in Kant's writings on artistic genius as well, where he claims that

Since, then, [the artist's] natural endowment must give the rule to (fine) art, what kind of rule is this? It cannot be couched in a formula and serve as a precept, for then a judgment about the beautiful could be determined according to concepts. Rather, the rule must be abstracted from what the artist has done, i.e., from the

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24 *Critique of Judgment*, p 162.
product, which others may use to test their own talent, letting it serve them as their model, not to be copied but to be imitated.\textsuperscript{25}

Kant distinguishes here between copying and imitating to make the point that it is best for aspiring artists not merely to copy beautiful works of art, for while copying will indeed produce beautiful objects, such objects will not really be products of taste. Rather, they will be the result, in a sense, of mechanically following a rule or formula for producing a beautiful object. And while the taste exhibited by a person of genius -- or a person of taste in general -- can never be 'taught' in the sense of supplying the student with a set of rules to be mastered (e.g., mathematical theorems; physical laws), it is possible for aspiring artists to acquire a competence greater than that of mere copying: they can study beautiful works, learn to judge them as beautiful, and from this come to imitate in their own works the manner of their beauty. Thus, while Kant did not think that practice could make someone a genius, he did maintain that sufficient practice could indeed lead a person to develop aesthetic taste.

And while these examples are instructive, one really need not delve into the details of Kantian aesthetics or Aristotelian \textit{phronesis} to see the intuition that lay behind claiming that judgment accrues through practice. It can be seen in the fact we routinely cite experience as a necessary condition of judgment in many fields. For instance, the wisest court judges are never considered wise solely because they graduated in the top of their law class, but rather because in addition to their intellectual acumen they possess

\textsuperscript{25} \textit{Critique of Judgment.}, p. 177. (original emphasis)
years of successful experience *applying* this theory to particular, nontheoretical cases in the courtroom. Similarly, few if any countries allow children or persons under the age of eighteen to vote, but this is not because children are inherently incapable of understanding political ideas or theory. Rather, it is because children typically do not have the appropriate breadth or depth of experiences needed for successfully judging the wisdom (for society as a whole) of pursuing a particular political course. Even in sports, thoroughly memorizing the rule-book does not automatically make one a good referee. Rather, the best referees are those with enough skill and experience to apply these rules within the context of an actual contest, a task that sometimes even requires having the good judgment to know when *not* to enforce the rules explicitly. Yet while this list of examples could be extended, the intuition underlying the assumption that good judgment entails practice should by now be fairly clear.

And so with this assumption now explicit, it will be useful to end this section with a roughly-hewn presentation of my argument in numbered-steps. This presentation ignores many subtleties yet to be explored in this chapter, and so it is of necessity highly abstract. Furthermore, I am hesitant about this presentation on the grounds that political justification can never proceed solely on the basis of abstract deduction. Nonetheless, I think it is an appropriate move at this point for orienting the reader to the overall chain of thought, and it also reflects my decision (discussed in the introduction) to push my ideas about art’s political value rather than
restrain them. With those caveats in mind, the basic argument goes like this:

(1) Our commitment to democracy is positively served when citizens possess well-developed skills of judgment;

(2) developing the skills of judgment requires not theoretical study but the practice of rendering actual judgments;

(3) engaging art provides opportunities for obtaining such practice through the rendering of artistic and aesthetic judgments;

(4) the state is justified in taxing persons to promote activities that offer the opportunity for improving the processes of democratic self-rule;

Therefore, the state is justified in taxing persons to pay for the production of art.26

Presenting the argument in this way makes it clear that the work of this chapter concerns establishing premises (2) and (3), with premise (4) being left for examination in the next chapter (I take premise (1) to follow from Chapter Two.) Having already addressed the less controversial second premise that judgment accrues only through practice, the rest of this chapter will present several arguments designed to establish the third and more controversial premise that engaging art offers opportunities for developing one's faculty of political judgment.

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26There is an implicit empirical premise that I do not address here, which is that state subsidies will in fact increase the degree and frequency of public engagement with art. While this obviously would not be the case for all subsidy programs, it seems reasonable to assume that subsidy programs with this effect could be constructed. Another and perhaps more important empirical issue is the degree to which subsidizing the arts will in fact bring about the desired development of skills. It is for this reason that I cast the justification in terms of the opportunities that art offers for developing the skills of judgment. The degree to which persons choose to exploit these opportunities -- as with any form of educational opportunity -- does not diminish the value of the opportunity itself. I explore this issue further in Chapter Five.
II.

At this point we have sketched the broad outlines of an account of judgment, most importantly suggesting the essential, epistemological problem at issue and making explicit a key assumption concerning the relationship between good judgment and practice. But even assuming that judgment is indeed developed through practice, we are still a long way from justifying subsidy. For while it is one thing to claim that the practice of judging artworks improves a person's aesthetic judgment, it is quite another to claim that judging artworks can improve a person's political judgment. In this section I will offer the first of three arguments for the plausibility of this crossover between the aesthetic and political. The method of argument will primarily involve delving more deeply into the details of Kant's account of aesthetic judgment and taste, and then using these details to show that aesthetic judgment and political judgment are structurally similar and that they share many of the same constitutive features. This analysis will reveal not only that Kant's account of aesthetic judgment offers a plausible solution to the general epistemological 'problem' of judgment, but also that many of the characteristics that Kant ascribes to sound aesthetic judgment are appropriate to invoke as desiderata of sound political judgment, as well.

Even among those sympathetic to the argument as it has been presented so far, surely there will be questions about its political applicability. For instance, some might question the appropriateness of including phronesis in an account of political judgment, claiming that it is more properly a moral
rather than a political skill. In response I might say that because my argument depends much less on *phronesis* than it does on Kantian aesthetic judgment, criticisms of *phronesis per se* miss the mark and so can be ignored. Yet while this may be true, I believe a stronger response is simply to show that Aristotle would most likely agree with my general claim. Now clearly, *phronesis* is most often interpreted as the exercise of moral virtue, sometimes cast as the 'master virtue' by which one comes to order, possess, and exhibit each of the particular moral virtues. Nonetheless, it is also clear that Aristotle saw *phronesis* as having at least some political relevance, as evidenced by his straightforward assertion that "Political wisdom and practical wisdom are the same state of mind..."\textsuperscript{27}

Furthermore, in places he seems virtually to equate the two.\textsuperscript{28} And yet even if one does maintain that *phronesis* is more properly a moral notion, I think that the distinctly 'public' nature of its primary constitutive component -- deliberation -- justifies not only a claim of political relevance, but it also accounts for Aristotle's own tendency to associate *phronesis* with the political. That is, the common 'state of mind' Aristotle is referring to reflects the fact that both morality and politics involve particularistic, 'socially-situated' encounters that by their very nature require -- perhaps even command -- the taking of concrete action. One might well wonder if it is morality or politics that Aristotle has in mind when he writes that

\textsuperscript{27}Nichomachean Ethics,1141b.  
\textsuperscript{28}Nichomachean Ethics, 1141a, 20.
... [N]o one deliberates about things that ... are not directed to some end, an end that is a good attainable by action.  

And yet for whatever similarities and dissimilarities one finds between *phronesis* and political judgment, it is in canvassing the political relevance of Kantian aesthetic judgment that the greatest dividends for my project reside. The political relevance of Kant's account has been noticed by many writers, including most notably Hannah Arendt. While acknowledging that it never addresses political judgment *per se*, Arendt thought that "the *Critique of Judgment* contains the outlines of a powerful and important political philosophy [albeit] one that Kant himself did not develop explicitly."  

Indeed, Arendt saw the third *Critique* as more significant in this respect than even Kant's explicitly political efforts such as *Perpetual Peace*, a work which Arendt claims Kant himself did not take seriously and at times even dismissed as a "mere pleasure trip."  

And Arendt is not alone in her assessment, for others such as Steinberger and Beiner consider Kant's writings on aesthetic judgment to be absolutely essential to constructing a viable account of political judgment.

The reason for this is not only that Kant's account of aesthetic judgment offers a plausible answer to the epistemological 'problem' of aesthetic taste, but also that the particular form of his answer suggests that aesthetic judgment and political judgment share a similar -- if not identical --

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29 *Nicomachean Ethics*, 1139a;1141b.
31 *Lectures on Kant's Political Philosophy*, p. vii.
character. The most basic commonality between the two is that aesthetic and political judgment are both instances of what Kant termed 'reflective' as opposed to 'determinative' judgment. Kant posited this distinction as a means of reconciling the antinomy of taste, and he considered it to capture the essential difference between scientific, logical judgment on the one hand and nonscientific, aesthetic judgment on the other. Kant differentiates determinative and reflective judgment by saying that

If the universal (the rule, principle, law) is given, then judgment which subsumes the particular under it, is determinative . . . But if only the particular is given and judgment has to find the universal for it, then this power is merely reflective.32

A straightforward example of determinative judgment occurs in the syllogism, where the argument's conclusion follows from, or is 'determined' by, the meaning of key terms and concepts introduced in the premises. More significantly, Kant also considered determinative judgments to be the stock of scientific inquiry. For instance, a claim of empirical knowledge such as 'This is a big yellow dog' is a determinative judgment, for here one is given both the 'particular' to be judged (i.e., the particular phenomenon of my sensory experience) and also -- and most importantly -- the 'universal' (i.e., the appropriate concept(s) such as 'big' and 'yellow' and 'dog').33 That is, in a determinative judgment I not only encounter a given particular, in this case one with four legs, yellow hair

32Critique of Judgment, IV, 18-19.
33Judgments of pure logic and geometry are also determinative judgments, these being extreme cases involving no particulars at all but only universals or concepts. Some may object here that the 'principles' of experience are the only true determinative judgments.
and a propensity for barking at the mail carrier, but I also possess the concept 'dog' to which I can compare this particular and determine in a rule-like manner whether it properly falls under the concept dog. For Kant, determinative judgments are constitutive of all genuine knowledge claims, for it is through rendering determinative judgments that the Understanding systematically 'subsumes' nature under its concepts, as described in the Critique of Pure Reason.

But Kant recognized that we do not render aesthetic judgments in this manner of subsuming a particular under an objective concept. Aesthetic judgments cannot be determinative judgments because, as discussed earlier, there exists no determinate concept of 'beauty' to serve as the defining criterion of such a judgment. Instead, Kant sought to reconcile the antinomy of taste by claiming that aesthetic judgments were 'reflexive' rather than determinative. In situations where the Understanding possesses only particulars, Kant thought that judgment must proceed through a process of 'reflecting' back upon these particulars in order to find for itself an appropriate concept, i.e., to find for itself a way of 'thinking' these particulars. Not coincidentally, Kant thought that rendering reflexive judgments was more difficult than rendering determinative judgments, for reflective judgment requires not only an act of the Understanding but also one of the Imagination.\textsuperscript{34} That is, imagination is integral to reflective judgment, for it is only through an imaginative act that one can ever "rise above particulars as given in sensory perception in order to subsume them

\textsuperscript{34}Political Judgment, pp. 52-3.
under a universal, rather than remaining wholly bound to the given particulars . . . [In this way], imagination enters into the very structure of judgment."  

Now clearly, judgment in the practical and political spheres would appear to be much more like reflective than determinative judgment. First of all, consider the fundamental parallels between Kant's account of reflective judgment and Aristotle's distinction between scientific inquiry and phronesis. That is, just as Aristotle maintained that scientific knowledge is of the fixed and invariable, Kant claimed that determinative judgments yield knowledge based on fixed, objective concepts. And conversely, just as phronesis seeks "truth relative to the particular (and contingent) situation of men" and is called for exclusively when we are "... without arts or systems to guide us," Kantian reflective judgment always concerns the particularity of experience and never obtains through mechanically following rules or applying fixed concepts.  

But one need not rely on a formal comparison with Aristotle to see the appropriateness of classifying political judgment as reflective rather than determinative. In political deliberation there are no rules or concepts (i.e., objectively-valid universals) that can tell us the best course of action in every situation, and therefore the 'logic' we use in rendering a political judgment is never that of a syllogism or other deductive argument. Rather,  

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it is one in which we consider each particular situation individually, deliberate about that situation, and determine to the best of our abilities the meaning and the significance of various alternatives. In fact, 'reflective' seems an especially apt descriptor of the way we perform these political tasks, i.e., by reflecting on the particular facts and, instead of subsuming them under a fixed and objective concept, 'assigning' a meaning to these facts in light of our overall stock of experiences. Furthermore, even if a person does at times utilize rules when deliberating (e.g., by employing a utilitarian calculus, perhaps), that person must still be able to apply such rules, and no set of rules can be of further help here. Hans-Georg Gadamer calls this problem 'the hermeneutic problem of application,' and it reinforces the fundamental idea that true judgment is never solely a mechanical task and that the only way one comes to possess good judgment is through a process of trial and error.37

And yet while Kant's category of reflective judgment does seem to account for the structure of both aesthetic and political judgments, establishing this fact has actually left us with an even bigger question to address. Because reflective judgments are subjective and not based on determinate concepts, on what grounds are we to discriminate between better and worse reflective judgments? In claiming that it is reflective rather than determinative, Kant has plausibly enough explained the subjective aspect of aesthetic judgment, but as yet we have seen nothing about how he accounts for the 'objective' side of the antinomy, i.e., that aesthetic judgments are

made 'as if they were based on a concept.' Explicating Kant's answer to this problem is the key to understanding how he resolves the antinomy of taste. Fortunately, it is also where the political relevance of his account appears most clearly.

We have already seen Aristotle grapple with this same problem of judgment in his claim that excellence in deliberation involves a kind of *nonscientific* knowledge. Kant on the other hand denies this distinction and claims that real knowledge is impossible without determinate concepts. But in claiming that aesthetic judgments are reflective, Kant must either offer some other way of adjudicating between subjective judgments, or he must accept the conclusion that all judgments are equally valid and culturally relative. Kant avoids the relativistic conclusion by arguing that sound reflective judgment possesses a *nonepistemological* validity that, while short of that exhibited in scientific knowledge, nonetheless allow for discriminating between better and worse judgments. I think that what Kant is after here is nothing other than the elusive, epistemological 'middle ground' of judgment discussed earlier, a validity residing somewhere between the extremes of objective, scientific certainty on the one hand and purely subjective guessing on the other. Or as Steinberger describes it, Kant is seeking "to vindicate the Aristotelian defense of nonlogical, nonscientific thought . . . that seems nonetheless to embrace an important part of what it means to have genuine knowledge." Kant explicates this

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38 For Aristotle, a knowledge of what is 'good' for humans serves as the criterion, or *telos*, of good judgment without which we would be unable to differentiate between bad judgments and good.

39 *The Concept of Political Judgment*, pp. 128, 133.
validity by describing the essential characteristics exhibited by 'exemplary' judgments. Strictly speaking, these 'validity conditions' attach not so much to the judgments themselves but refer rather to the conditions under which a sound judgment of taste is rendered, and because of this a person of taste might well be defined as someone who has cultivated a consistent tendency to assume the standpoint of these conditions when judging. Thus, while Kant thinks that aesthetic judgment indeed requires one to 'imaginatively reflect,' he also thinks that such reflection cannot be without bounds, "For if the imagination is left in lawless freedom, all its riches [in ideas] produce nothing but nonsense..."\textsuperscript{40}

Scholars have discerned many characteristics of Kantian aesthetic judgment, but it will suffice for my purposes to emphasize only three: (1) judgments of taste are disinterested; (2) judgments of taste are 'public'; and (3) the validity attaching to judgments of taste is that of 'subjective universality.' Disinterestedness is for Kant an essential moment of pure aesthetic judgments. The basic idea behind aesthetic disinterestedness is that when we set out to judge whether an object is beautiful, ideally we should possess no existential interest in that object, for such an interest will make our judgment impure and thus more susceptible to error. To take a simple example, I may contemplate the presentation of an aesthetically-pleasing plate of gourmet food, whereby I may indeed judge disinterestedly that this plate is beautiful (e.g., I contemplate the formal arrangement of the various foods on the plate, perhaps including their shapes and textures).

\textsuperscript{40}Critique of Judgment, SS 50.
However, if I attempt to render this judgment while I am also very hungry, perhaps having been lost in the wilderness for some time without food, my hunger creates within me an existential interest that likely will skew my judgment. The desire for gratifying my hunger will skew my judgment about the aesthetic quality of the presentation, perhaps leading me to purport its beauty based on its ability to gratify my hunger. Kant writes that

[I]f the question is whether something is beautiful, what we want to know is not whether we or anyone cares, or so much as might care, in any way, about the thing’s existence, but rather how we judge it in our mere contemplation of it. . .  

This can work in the opposite direction as well. In an example with clear political overtones, Kant writes

Suppose someone asks me whether I consider the palace I see before me beautiful. I might reply that I am not fond of things of that sort, made merely to be gaped at . . . [and] I might even go on, as Rousseau would, to rebuke the vanity of the great who spend the people's sweat on such superfluous things.  

Here we see how existential considerations, such as one's sensitivity to issues of social inequality, can lead to a negative bias in one's assessment of beauty as well. Kant concludes this discussion by saying that

We can easily see that, in order for me to say that an object is beautiful, and that I have taste, what matters is what I do with this presentation within myself, and not the [respect] in which I depend on the object's existence. Everyone has to admit that if a judgment

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41 Critique of Judgment, SS 2.
42 Critique of Judgment, SS 2.
about beauty is mingled with the least interest then it is very partial and not a pure judgment of taste.\textsuperscript{43}

In considering the plausibility of extending Kant's notion of aesthetic judgment to the political realm, disinterestedness may initially seem to be a curiously inappropriate and perhaps even contradictory requirement, especially given that many people consider politics to be by definition a battle of competing interests. Nonetheless, disinterestedness is the characteristic of aesthetic judgment that Hannah Arendt relies on most heavily in adapting Kant's aesthetic writings to the political sphere. Arendt claims that it is precisely the political spectator rather than political actor who is in the best position to discern the meaning and significance of political events, for judging requires "disinterestedness, detachment, distance... [and] the paradigm for understanding [these characteristics] is the case of the aesthetic spectator."\textsuperscript{44} The political actor, engaged in the heat of battle, cannot really judge the significance of political events because he or she is too close to these events to perceive them without strong bias. This is not to condemn the political actor but to point out that it is only by assuming -- at least to a degree -- the stance of the spectator that one is ever likely to render sound political judgments on a consistent basis. About the political spectator Arendt claims that

\begin{quote}
What he saw counted most; he could discover a meaning in the course taken by events, a meaning that the actors ignored; and the existential ground for his insight was his disinterestedness, his nonparticipation, his noninvolvement. The onlooker's disinterested
\end{quote}

\textsuperscript{43}Critique of Judgment, SS 2. 
\textsuperscript{44}Political Judgment, p.104.
concern characterized the French Revolution as a great event. . . .
[This notion] is as old as the hills; it is, in fact, among the oldest,
most decisive, notions of philosophy. The whole idea of the
superiority of the contemplative way of life comes from this early
insight that meaning (or truth) is revealed only to those who restrain
themselves from acting.45

As an issue of independent interest, I think Arendt is incorrect in
exclusively emphasizing the spectator over the actor, and because of this
her view borders on the emptiness of a 'political aestheticism.' It is more
plausible to view Kant's requirement of disinterestedness as an essential
supplement to Aristotle's claim that judgment is 'situated action.' That is,
while Aristotle is right in saying that practical judgment consists of
searching for the best course of action while embedded within a particular
community, it is Kant's contribution here to point out that it is not actors
but spectators who are in the best position to judge. And indeed, Beiner
claims that these two aspects of judgment -- actor and spectator --
"correspond to two irreducible aspects of political life."46 Aristotle's
account emphasizes the 'situated actor,' and the substantive ends of
judgment, while Kant's account emphasizes the formal requirements of
autonomous judgment, in this case the ability to assume the distance of a
spectator. Nonetheless, even if it only as a supplement, the value of
developing an ability to abstract from one's actual interests and assume the
standpoint of spectator when judging seems undeniable. Sheldon Wolin
captures this duality nicely when he writes that "If people are to act

45Lectures on Kant's Political Philosophy, pp. 54-5.
effectively, they must be able to make rational judgments about their real interests. Such judgments presuppose the capacity of the self to stand back from its immediate feeling and acquire some 'distance.' 

A second exemplary condition of Kantian aesthetic judgment -- and again one with clear political implications -- is that aesthetic judgments are always public. This condition manifests itself in two ways, both of which appear at first glance to recall elements of Aristotle's account of judgment. The first is that just as Aristotle emphasized that good judgment requires not great intellect but rather a sufficient measure of common sense, Kant also considered aesthetic judgment to be the product of a faculty that is available to everyone regardless of their particular level of intellectual endowment. About the capability to render sound judgment Kant writes that "we are talking here not about the power of cognition, but about the way of thinking [that involves] putting this power to a purposive use; and this [is possible] no matter how slight may be the range and the degree of a person's natural endowments." Kant refers to this broadly-held capacity for judging as common sense, or sensus communis.

Common human understanding which, . . . is looked upon as the least we can expect from anyone claiming the name of man, has therefore the doubtful honor of having the name of common sense (sensus communis) bestowed upon it; and bestowed, too in an acception of the word common . . . which makes it amount to what is vulgar. . . . However, by the name sensus communis is to be understood the idea of a public sense, i.e., a critical faculty which in its reflective act takes account (a priori) of the mode of representation of everyone

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47 Quoted in Political Judgment, p. 104.
48 Critique of Judgment, SS 40.
else, in order, as it were, to weigh its judgment with the collective reason of mankind.\(^{49}\)

On the face of it, one is understandably tempted to draw comparisons here to Aristotle's claim that good judgment requires a 'fellow-feeling' or 'friendship' between the judging subject and his or her community. But it would be wrong to attribute such a view to Kant, for he specifically rejects the idea that judgments of taste are bound to the standards of a particular community. Kant thinks that if one defines sensus communis in terms of community standards, then aesthetic judgments no longer express what is truly beautiful but rather what is merely estimable or agreeable to members of that society. And Kant's interest is clearly not in accounting for any such contingent 'consensus' about the agreeable or estimable, for that would be of no use in accounting for the 'objective' pole of the antinomy of taste; rather, Kant's target is to account for judgments of true beauty that by their nature are 'binding upon all men.'\(^{50}\)

This brings us to a point of crucial importance in understanding the political relevance of Kant's account, and it is that an exemplary aesthetic judgment is one rendered under the condition of a 'broadened' or public perspective. In a passage that Arendt and others have interpreted as the foundation of a modern political liberalism, Kant writes in the Critique of Judgment that

\(^{49}\)Political Judgment., p. 50. Critique of Judgment, SS 40; I:151. Kant thinks a proof of the existence of this common sense can be had found in the fact that we can universally communicate our judgments ("We assume a common sense as the necessary condition of the universal communicability of our knowledge."

\(^{50}\)Political Judgment, p. 43.
The following maxims may serve to elucidate the principles [of the sensus communis]: (1) to think for oneself; (2) to think from the standpoint of everyone else; and (3) to think always consistently. The first is the maxim of an unprejudiced, the second of a broadened, the third of a consistent way of thinking.  

And while one might agree that all three of these maxims recommend themselves highly as guidelines for the democratic citizen, it is the idea of broadened thought that I want to emphasize here, for it is the basis of Kant's contention that judgments of taste rightfully lay claim to universal validity. This ideal was implicit in the passage quoted earlier, where Kant defined sensus communis as "... a critical faculty which in its reflective act takes account (a priori) of the mode of representation of everyone else." Kant expounds on this ideal when he writes in the same section that it "indicates a man with a broadened way of thinking if he overrides the private subjective conditions of his judgment, into which so many others are locked, as it were, and reflects on his own judgment from a universal standpoint (which he can determine only by transferring himself to the standpoint of others). Thus we begin to see why Arendt has claimed that "enlarged mentality' is the sine qua non of right judgment." For in what again is essentially an imaginative act, we are required as judging subjects to 'think ourselves' into the position of all other possible subjects, thereby insuring that the judgment we render is one that rightfully will be 'binding upon all men.'

51 Critique of Judgment, SS 40.  
52 Critique of Judgment, SS 40.  
53 Lectures on Kant's Political Philosophy, p. 73.
It must be emphasized, however, that while exemplary judgments of taste lay claim to universal validity, such validity is never that of objective universality. Aesthetic judgments never produce knowledge because they never involve determinate concepts. A corollary of this is that without recourse to determinate concepts, the validity of an aesthetic judgment admits of no demonstration, for as Steinberger writes

[S]uch concepts make it possible to specify rules of subsumption such that one can objectively decide whether or not a particular judgment has proceeded according to the rules and is, therefore, correct. In aesthetic judgment, on the other hand, where determinate concepts are unavailable, . . . one cannot demonstrate the validity of bringing together a universal and a particular. There is, in short, absolutely nothing that I can do or say to prove or justify my claim that the flower is beautiful.\textsuperscript{54}

Thus the validity of judgments of taste is one of subjective universality. If I judge a flower to be beautiful, I can never prove the validity of this judgment, even though in making this judgment I am in a sense commanding the assent of all others. But while I may have no recourse to proof, I can nonetheless attempt to woo, or persuade, others to agree with my judgment, which is precisely what we often do in political deliberation. Perhaps I can persuade those who disagree that they have been prejudiced in their assessment, or have not considered it from a sufficiently enlarged perspective, that they have not truly achieved Kant's ideal of sensus communis. Of course those with whom I disagree may employ the same strategy in seeking to convince me that I am the one that has judged

\textsuperscript{54}The Concept of Political Judgment, pp. 138-9.
erroneously. A final quotation might be useful here, one in which Kant reminds us that it is the sensus communis that allows us to compare our own judgment with human reason in general and thus escape the illusion that arises from the ease of mistaking subjective and private conditions for objective ones, an illusion that would have a prejudicial influence on the judgment. Now we do this as follows: we compare our judgment not so much with the actual as rather with the merely possible judgments of others, and [thus] put ourselves in the position of everyone else, merely by abstracting from the limitations that [may] happen to attach to our own judging... Now perhaps this operation of reflection will seem rather too artful to be attributed to the ability we call common sense. But in fact it only looks this way when expressed in abstract formulas. Intrinsically nothing is more natural than abstracting from charm and emotion when we seek a judgment that is to serve as a universal rule.\textsuperscript{55}

The significance of Kant's notion of 'subjective universality' has been often underestimated by contemporary writers on judgment, and this has led to undue criticism that his account is radically incomplete. For instance, there is Ronald Beiner's claim that no comprehensive account of political judgment can exclude a substantive, teleological dimension of judgment such as that supplied by Aristotelian phronesis. And Beiner is indeed right in saying this, for to attempt such an exclusion is surely to deny the inescapably 'situated' nature of social life, what MacIntyre might term the 'constitutive narrative' of such life, and what Gadamer terms the 'hermeneutic situation' from which necessarily all interpretation and judgment occur. In fact, such an exclusion is precisely the Kantian legacy strongly criticized in Truth and Method, a work in which Gadamer rejects

\textsuperscript{55}Critique of Judgment, SS 40.
both Kant's restricting of knowledge to the cognitive sphere, as well as the thoroughly 'subjectivized aesthetic' to which such a restriction ultimately leads.\textsuperscript{56}

But while generally accepting Beiner's dualistic model, I would cast Kant's specific contribution to this model somewhat differently. Beiner simply overstates his criticism when he claims that "Kant offers no principle (say, a conception of wisdom) by which one might discriminate, epistemologically amongst various bearers of judgment."\textsuperscript{57} While strictly speaking Beiner is correct to claim that Kant offers no substantive account of wisdom, I think he underestimates the resources that Kant does provide for discriminating between judgments. While no account of political judgment can dispense entirely with a substantive teleology, Beiner's account ignores the epistemological 'middle ground' that Kant accounts for in terms of exemplary validity. A person who renders judgments form a standpoint approaching the ideal of disinterestedness and an enlarged mentality will consistently render more public-minded, less provincial judgments than a person who makes no effort to check the influence of his or her personal interests. And while such an ideal is exactly that -- an ideal that can in principle never be fully achieved -- Kant's account of judgment provides real guidance for persons seeking to judge well. In essence, we ought to judge prospectively as though we were spectators looking back on our own actions, and to do so from the widest possible perspective. And

\textsuperscript{56}See Truth and Method, Section I.
\textsuperscript{57}Political Judgment, p 62.
not coincidentally for my project, assuming this disinterested, enlarged perspective is the precise paradigm embodied in our reflections and judgments of beauty.

I want to conclude this section by pointing out several points of contact between the account of judgment presented here and the account of democracy defended in Chapter Two. First of all, in conceptualizing sound judgment in terms of its exemplary conditions rather than in terms of coming to know *the* right answer, this account of judgment resonates with the common intuition that in politics there typically is no single right answer, or that there may be more than one solution to a political problem or confrontation. For instance, Amy Gutmann writes that the ideal of deliberative democracy

[L]egitimates the collective judgment resulting from deliberative procedures, even if deliberation does not yield a uniquely correct resolution to a political controversy (What process could produce a uniquely correct resolution?) . . .

This point is related to another idea discussed in Chapter Two, which is that democracy is fundamentally concerned with sovereignty and self-determination rather than with always 'getting things right.' While we almost by definition expect a person of good judgment to get things right most of the time, it is also the case that we can honestly say of some decisions that even if they resulted in bad outcomes, they nonetheless reflected good judgment given the facts of the situation at the time they were made. That is, we can honestly say of these judgments that given the same circumstances, we would judge them no differently today. In this
way, accounting for good political judgment less in terms of epistemological correctness and more in terms of the exemplary conditions of its exercise better reflects the nature of our commitment to democracy, which is a commitment based on popular sovereignty rather than efficiency, and a commitment that reserves the 'right to be wrong.'

Defining good judgment in terms of the conditions under which it is rendered allows for the possibility of discriminating a range of 'better' or 'acceptable' judgments, while rejecting the contention that there exists a single correct answer to political disputes or that all answers are somehow equally correct.

A second commonality between the account of judgment recommended here and the account of democracy defended in Chapter Two concerns the 'logic' of each. To the extent one accepts an extension of the Kantian/Aristotelian model of judgment into the political realm, then it follows that the logic of political judgment is not that of rational proof but of persuasion. "Judgments of taste . . . are like political opinions, persuasive."58 This conclusion derives from several aspects of the model, including primarily its essentially nonprivate (i.e., public) nature and its assumption of the 'general communicability' of our judgments. Steinberger claims that these conditions imply that

the validity of judgment is quite different from that of logic or cognition. Logical or cognitive validity means truth, and that in turn involves notions of proof and universality . . . But as we have seen, judgment is not primarily concerned with truth at all. The validity

of judgment thus involves not proof or demonstration but, rather, the possible and actual assent of others. My judgment is valid if I can persuade others to subscribe to it.\footnote{The Concept of Political Judgment, pp. 66-7.}

And just as the account of political judgment portrays the 'logic' of judgment as being a matter of persuasion and agreement more than of logical entailment and scientific proof, so the account of deliberative democracy defended in Chapter Two portrays the effective democratic citizen as being a person possessing "the willingness and ability to shape one's private or public life through deliberation, informed reflection, evaluation, and persuasion that allies rhetoric to reason."\footnote{The Disharmony of Democracy," pp. 140.} But while the two traditions arrive at a common conclusion on this point, it must be remembered that their arguments are distinct and different. That is, whereas the theorists of judgment base their claims on an examination of the process of judgment \textit{per se}, the democratic theorists value persuasion because it is particularly reflective of the moral underpinning of democracy itself.

In a deliberative democracy, people collectively shape their own politics through persuasive argument. Persuasion is of course a form of power; it is the most defensible form of political power because it is the most consistent with respecting the autonomy of persons, their capacity for self-government.\footnote{The Disharmony of Democracy," pp. 140-1.}

Again, I raise this point not so much to extol the value of persuasion to politics (hardly a controversial assertion), but rather to point out a moment
of convergence between what have historically been thoroughly distinct inquiries.

One final line of thought recommends this model of political judgment, and it is quite simply that Kant's notion of 'subjective universality' seems to describe aptly the kind validity to which our political and moral judgments do actually aspire. Peter Steinberger adopts this view in a strong sense when he baldly claims that

Moral/political thinking, as distinct from logical/scientific thinking, is a matter of 'subjective universality.' As such it is noncognitive and involves no element of knowledge, proof, or rational justification... and is entirely nonobjective. [Yet] it does presuppose a rejection of mere caprice and private satisfaction, and hence a quest for, and presumption of, universality.⁶²

But while Steinberger offers a good opening move by taking what was for Kant a distinctly aesthetic notion and asserting its relevance for the moral and especially the political realms, he unfortunately goes on to exploit this idea more in its negative than its positive dimension. That is, while Steinberger rightly emphasizes how certain recalcitrant problems of judgment can be avoided through an appeal to subjective universality (i.e., it accounts for the possibility of 'right' judgment without true knowledge), he ignores the apparent accuracy of subjective universality as a phenomenological description of our actual judgments. For instance, a person may well believe that there exist many valuable forms of living, and that trying to adjudicate between, i.e., rank, these forms is fundamentally

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⁶²The Concept of Political Judgment, p. 147.
misguided and objectionable. But even if one intellectually embraces such a pluralism, his or her own judgments about these values rarely reflect such open-mindedness. That is, even though we may intellectually believe that it is wrong to condemn another person's way of living or impose one's values onto others, when we make concrete moral and political judgments we impute strong -- typically universal -- validity to these judgments. If a person considers infidelity to be wrong, this person typically does not express his or her conviction by saying 'While theoretically recognizing that I ought to remain tolerant, that my values are not universally grounded, and that there can be no compelling proof that my values are superior or 'correct,' I nonetheless judge infidelity to be wrong.' Rather, this person says simply that 'Infidelity is wrong!' My claim is that our judgments generally take the form of universally valid assertions, even though upon theoretical reflection we may admit that the source of this universality is actually subjective. Joseph Raz implies such a moral phenomenology in his discussion of toleration in morally pluralistic societies. Raz writes

    Competitive pluralism not only admits the validity of distinct and incompatible moral virtues, but also of virtues which tend, given human nature, to encourage intolerance of other virtues. . . one is tolerant only if one inclines or is tempted not to be.63

Without pushing this too far, toleration is only possible when our convictions are strong enough to lead us toward intolerance. Regardless of how we may view the issue from some meta-theoretical level, and even if

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63 The Morality of Freedom, pp. 403-4.
we believe that human value is in fact pluralistic, we will typically defend our particular values as if they were in fact the 'right' values (i.e., we make universal assertions). Arguing this point seriously would require the tremendous effort of defending a comprehensive phenomenology of value, which of course cannot be done here. So rather than argue the point conclusively I must be content merely to offer it as a bit of evidence -- albeit underdeveloped evidence -- suggesting the appropriateness of extending Kant's account of aesthetic judgment to the political and social arena.

III.

In this section I add an important non Kantian element to my account of art's educative value. Having examined several structural similarities between judgment in politics and judgment in aesthetics, including the claim that both are reflective rather than determinative judgments and that both are ideally rendered under 'exemplary conditions' of disinterestedness and a broadened, public perspective, I present in this section an essential commonality of *function* between judgment in politics and judgment in art. The claim here is that judgment in art and judgment in politics both have interpretation as an essential, constitutive element, and that engaging artworks utilizes and practices the same interpretive skills employed in one's political deliberations.
Before presenting these claims about the role of interpretation, it should be noted that the argument in some ways now shifts in emphasis and in some ways remains the same. The argument remains the same in respect to the act of political judgment. While some might consider the act of voting to be the paradigm of political judgment, I consider voting to be nearer the endpoint of a longer process rather than as the judgment itself. Thus, in using the term political judgment, I am throughout this chapter referring to a process whereby the democratic citizen 'discerns the meaning' of various political alternatives, with the subsequent decision to pursue one or another of these options (e.g., to vote for a particular candidate; to join the political resistance) being dependent on the meaning that an individual citizen judges each of these options to possess or represent.

But while the argument remains unchanged concerning the nature of political judgment, in this section it does shift from being an argument about aesthetic experience generally to being an argument about art per se. And because of this a few words need to said concerning my assumptions about the nature of art. I consider it uncontroversial to claim that interpretation is essential to our experience of art, primarily because it is a fundamental tenet of a widely-accepted account of art presented by Arthur C. Danto in *The Transfiguration of the Commonplace*. Using the problematic example of Andy Warhol's "Brillo Box" as a point of departure, Danto seeks to explain how it is that Warhol's appropriation of a

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64 Since I have canvassed this distinction already in Chapter One, I will not rehearse it in detail here, other than to say that I take aesthetic experience and judgment to involve issues of beauty while the experience of art need not involve beauty at all.
commonplace consumer product can be a work of art when it bears absolutely no discernible differences from its counterpart on the grocery store shelf. Danto claims that the explanation arises from an ontological, but of course indiscernible, difference between the artworks and nonartworks. About this difference Danto writes that

\[\ldots\] [T]he phenomenon of confusable counterparts belonging to distinct ontological orders arises only when at least one of the confusable things bears a representational property: where at least one of the counterparts is about something, or has a content, or a subject or a meaning. It is because one \ldots is representational that it has \ldots structural properties lacking in its nonrepresentational counterpart.\textsuperscript{65}

But of course while all artworks may indeed be representations, it is clear that not all representations are artworks. Danto recognizes this fact and proposes the following limitation on the class of representations that can be art

\[\text{[W]orks of art, in categorical contrast with mere representations, use the means of representation in a way that is not exhaustively specified when one has exhaustively specified what is being represented. This is a use that transcends semantic considerations (considerations of Sinn and Bedeutung). [An artwork] expresses something about [its] content.}\textsuperscript{66}\]

This means that for Danto the structure of artworks, like that of metaphor, is \textit{intensional}.\textsuperscript{67} The meaning of an artwork, like that of a metaphor, can

\textsuperscript{66}\textit{Transfiguration}, pp. 147-8.
\textsuperscript{67}\textit{Transfiguration}, p. 179. \textquoteright\textquoteright\ldots it being the mark of such [intensional] structures that they resist substitution of equivalent expressions.\textquoteright\textquoteright
never be exhausted through paraphrase, nor can such paraphrase ever substitute for actually experiencing the work itself. And this analysis holds true not only for problematic works such as "Brillo Box," but also for more traditional works, including those that we typically consider to be emotionally expressive rather than representational. That is, the act of 'expression' is for Danto a matter of style, a matter of choosing a particular metaphor for representing a particular content.

[T]he concept of expression can be reduced to the concept of metaphor, when the way in which something is represented is taken in connection with the subject represented... Metaphor presents its subject and presents the way in which it does present it.68

And yet as interesting as all this may be in the abstract, its practical implications for the project at hand reside in the foundation that it secures for a related claim, which is that artworks in their essence stand in need of interpretation.

An object o is then an artwork only under an interpretation I, where I is a sort of function that transfigures o into a work: I(o) = W. Then even if o is a perceptual constant, variations in I constitute different works. Now o may be looked at, but the work has to be achieved...69

And it is precisely in this requirement that a work of art is something that must be 'achieved' by the viewer that we find the idea of central importance. As a metaphor, a work of art stands ontologically in need of interpretation by a viewer. One might say that my justification thus

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68 Transfiguration, pp. 189, 197.
69 Transfiguration, p. 125.
assumes a view of art in which to passively gaze at, say, a painting is not really to experience that painting as a work of art. Unless it is to be experienced merely as decoration, a work of art cannot be received passively (i.e., 'looked at'), but rather it must be engaged actively (i.e., 'achieved') through an act of interpretation. The primary example of such interpretation include constituting the meaning of the work, an act which requires considering not only the 'literal' content of the work but also the cultural milieu in which it was created. Other examples include judging the work's quality and aesthetic character, as well as evaluating its relevance or lack of relevance for one's own life. None of these activities can be simply 'read' from the work discursively or literally in the way one reads a newspaper or a diagram, but rather they require constructing interpretations that go beyond the work's 'factual' content. The kind of activity I have in mind here in describing our engagement with artworks is fundamentally similar to Max Black's description of the 'interaction' view of metaphor, in which a reader must actively combine the often disparate elements of a metaphor in order to generate a new, unstated idea.

At this point some readers may react that my claims about interpretation ring true enough as an account of our interaction with art, but what of politics? Is judgment in the political sphere really as much a matter of interpretation as it is in art? I think that indeed it is, and I would defend

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70I use the term 'factual' rather than 'literal' here because I intend my claims to encompass not only literature but the visual arts as well.

this claim first by pointing to writers such as Ronald Dworkin, Charles Taylor, and Ronald Krausz, all of whom in one form or another maintain that interpretation is inherent and essential not only to our experience of art but to all of our cultural and social practices. For instance, in Law's Empire, Ronald Dworkin demonstrates how our most basic social practices, such as courtesy, inevitably require our interpreting what the concept of courtesy calls for in a particular situation. Dworkin cogently extends this analysis to argue that law itself -- perhaps our most fundamental political category -- rests not on bedrock foundation but rather on acts of interpretation. What is the basis of law? Dworkin asks, only to show subsequently that no answer escapes real controversy. Does not law simply reside in the written statutes, there to be literally read and followed? No, this clearly cannot be the case, for legal scholars as well as the most thoughtful judges often fundamentally disagree on the meaning of a given statute. Indeed, Dworkin reasons that discerning what 'the law' says in a given instance -- i.e., moving from what the physical words of a given statute literally state to what the law contained in that statute actually means -- is an interpretive act, and it is fundamentally the same act that we perform when interpreting a work of literature. Dworkin draws direct analogy to literary interpretation in describing the process of legal interpretation.

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72Taylor goes so far as to claim that "We have to think of man as a self-interpreting animal. He is necessarily so, for there is no such thing as the structure of meanings for him independently of his interpretations of them; for one is woven into the other." Taylor, Charles. Philosophy and the Human Sciences: Philosophical Papers, vol.2, Cambridge: Cambridge University Press, 1985, pp. 26-27. See also Krausz, Ronald. Rightness and Reasons: Interpretation in Cultural Practices. Ithaca: Cornell University Press. 1993.
Literary critics all agree about what poem "Sailing to Byzantium" is in the first sense. They agree it is the series of words designated as that poem by W. B Yeats. But they nevertheless disagree about what the poem is in the second sense, about what the poem really says or means. They disagree about how to construct the 'real' poem, the poem in the second sense, from the text, the poem in the first sense. In much the same way, judges before whom a statute is laid need to construct the 'real' statute -- a statement of what difference the statute makes to the legal rights of various people -- from the text in the statute book.\textsuperscript{73}

This common function of interpretation is also suggested in Paul Ricoeur's definition of interpretation, a definition that seems equally applicable to judgment both in art and in law

\begin{quote}
Interpretation . . . is the work of thought which consists in deciphering the hidden meaning in the apparent meaning, in unfolding the levels of meaning implied in the literal meaning.\textsuperscript{74}
\end{quote}

Of course, visual works of art have, strictly speaking, no literal meaning because they represent pictorially rather than linguistically. Nonetheless, the interpretive model still obtains, for with visual artworks the literal meaning is simply the 'factual' content of that work, which can be either easily recognizable or completely abstract. For instance, while one might 'factually' describe Monet's "Water Lilies" as "blurry pictures of some flowers and a bridge," artistically speaking their meaning would not be exhausted by such a description. And it is precisely the work of interpretation to 'get at' this more significant meaning, just as in law it is

the work of interpretation to get at the legally significant meaning of a statute.

There is a second important sense in which law can be seen to have an essentially interpretive dimension, and it is that we typically consider our worst practicing judges to be precisely those who do not make interpretations in rendering their decisions. That is, we consider the worst judges to be those who apply the law literally and mechanically, without exercising interpretive judgment so as to allow for the exigencies of each particular case. As Dworkin writes

Thoughtful lawyers and judges . . . [tell us that] law is instinct rather than explicit in doctrine, that it can be identified only by special techniques best described impressionistically, even mysteriously. They say that judging is an art not a science, that the good judge blends analogy, craft, political wisdom, and a sense of his role into an intuitive decision, that he 'sees' law better than he can explain it, so his written opinion, however carefully reasoned, never captures his full insight.\textsuperscript{75}

Indeed it is this ability to 'see' or discern that is precisely at issue throughout the entire tradition of judgment. And this is true whether what is being discerned is the meaning of a legal statute, the significance of a political action, the right course of practical action, or the meaning of a work of visual art. I submit that the difference between these varied acts of interpretation is one of application rather than one concerning the nature or function of the interpretive act itself. In all these applications one is seeking to discern a kind of truth about a particular experience, a truth that

\textsuperscript{75}Law's Empire, p. 10.
lacks the certainty of science yet nonetheless can be defended with reasons aimed at wooing the assent of others.\textsuperscript{76} This suggests that the process at issue in all of these varied applications is essentially one of interpretation and persuasive reason-giving. For while judges may not be able to explain discursively the precise and complete chain of logic that led to a particular judgment, they can (or at least they should be able to) provide reasons as to why they judged the way they did. In the difficult cases, some reasons will clearly stand out as more relevant and cogent, yet perhaps none will alone be decisive. Nonetheless, reason-giving of this sort is the basis for evaluating the soundness of a legal judgment.

Interpretation and reason-giving is an apt description of other, nonlegal, instances of political judgment as well. I am reminded of a favorite weekly public television program in which two political columnists meet to discuss the politically significant events of the week.\textsuperscript{77} In nearly every instance, these writers clearly agree on what these events are in fact (e.g., opinion polls show that a particular conservative political candidate rising in popularity; a Western state enacts legislation to restrict immigration). But while they may agree on the factual content of these events, they inevitably differ in their interpretation of what these facts mean. One may interpret the rise in popularity of conservative candidates as signaling a fundamental political realignment, while the other may see it as simply reflecting a

\textsuperscript{76}This is not to say that interpretation is not at work in similar ways in the conduct of science. But this is a topic worthy of independent study and well beyond my present scope.

\textsuperscript{77}In developing this particular example, I am indebted to several very enjoyable discussions with J. Hemstreet and N. Fitzgerald.
transient and cyclical aberration, or perhaps as merely reflecting positive public reaction to that candidate's personality. The two analysts will jostle back and forth about which interpretation is correct, giving reasons designed (presumably) to persuade viewers as to the correctness of his particular interpretation. Peter Steinberger nicely captures this dynamic of interpretation and reasoned persuasion in political life when he writes

[I]nsofar as judgment necessarily eschews universal proof, its power to persuade depends upon the presumption that different people will 'see' certain things in the same way. This similarity or commonness of vision allows the person who judges to point to and describe what he or she senses in the hope that others will sense it as well. Perhaps I cannot prove that Lord Jim is a great novel, or that building the B-1 Bomber is a good idea; but if I can identify certain important shared observations and assumptions about the world and give an account of their relevance to the question at hand, I can perhaps convince others that my judgments are sound.\footnote{The Concept of Political Judgment, p. 68.}

This description also clearly echoes Gutmann's ideal of deliberative democracy canvassed in Chapter Two, an ideal which depends on the ability and willingness of citizens to shape their "public life through deliberation, informed reflection, evaluation, and persuasion that allies rhetoric to reason."\footnote{"The Disharmony of Democracy," p. 140.}

With this view of political activity and evaluation in mind, I submit that engaging artworks provides a similar if not identical sort of practice in interpretation and persuasive reason-giving. For example, consider two persons who have engaged a particular work of art and developed
independent interpretations of its meaning. Both may agree completely on what that work is in a factual sense (i.e., they may agree about its composition and content), and yet each may interpret the meaning and significance of that work in vastly different ways. And even if both agree that there exists no objectively 'correct' interpretation of that work, each will likely consider his or her own interpretation to be in a sense the 'correct' interpretation, and each will likely be willing to defend it as such.80

A key point to emphasize here is that presuming that these two attempt to discuss and reconcile their differences, the method each interpreter will use in defending his or her interpretation will be that of providing reasons as to why that interpretation better accounts for the 'facts' of that work. For instance, one interpreter may claim to possess important historical knowledge about that work that the other interpreter lacks. Assuming that such knowledge is historically accurate, the other interpreter is faced with a choice of either revising his interpretation in light of the new information or of offering reasons why such information is irrelevant or does not affect the validity of his initial interpretation.81 This does not mean that the two

80 There is a large debate in the literature over the status of interpretations, including whether an interpretation can be true or false, and whether only one or more than one interpretation can be true. For a good overview of this debate, see Margolis, Davies, and Stecker in the Symposium Issue "Relativism and Interpretation" of The Journal of Aesthetics and Art Criticism, vol. 53, no. 1, Winter 1995.

81 I think the best way to account for the role of such historical information is to consider it as a factual difference. That is, if one interpreter possesses important historical knowledge that the other lacks, then the two interpreters are not in fact interpreting the identical object. Once they both come to possess the same historical knowledge, they may still interpret the work differently, but at least they will then actually be interpreting the 'same' work. It is also important to note that some may disagree with my sharply distinguishing fact from interpretation, claiming that one does not come to know the facts without interpretation as well. I think this is correct, but nonetheless I believe that a working distinction between
persons will in the end come to espouse the same interpretation, nor is it to defend the superiority of interpretations based on expert knowledge. Rather, it is simply to illustrate that in contemplating works of art and in deliberating political events, we are engaging in a strikingly similar -- if not identical -- activity. Judging artworks and judging political events both essentially involve interpretation, interpretation that is (at least ideally) conducted in the manner of examining facts, assigning meaning to these facts through interpretation, and then defending one's interpretation through the give and take of reason-giving aimed at persuading others. It is this kind of similarity that makes it fundamentally plausible to think that engaging art can have a political relevance and value. And would it not seem wise for us first to develop these skills as best we can by engaging a few artworks, where the ramifications of error are relatively private and nonharmful, rather than to practice them immediately in the political arena where the consequences of our errors enjoy no insulation?

IV.

It is important to distinguish here that the educative value of aesthetic and artistic judgment described to this point has been based exclusively on claims about the formal structure of these experiences rather than on claims about the content of any particular work. That is, in appealing to the two can plausibly be drawn. Furthermore, if interpretation is indeed essential in discerning facts, the value of developing interpretive skills becomes even greater.
the category of reflective judgment, the ideal of a properly distanced spectator, and the metaphorical ontology of the artwork, I have suggested how it is that engaging art encourages the development of the reflective/interpretive skills required of judgment in a general sense. But if this activity constitutes what might be called the 'formal' contribution of art to judgment, perhaps a similarly valuable contribution could be claimed for engaging the content of artworks as well. I will in this final section sketch the outlines of such an argument.

Clearly, the structure of an artwork is only engaged through engaging its content, and so even the argument as it has been presented so far does require some engagement with content. Furthermore, it is notoriously difficult to isolate an artwork's form from its content in any meaningful way. And yet I think a workable distinction can be drawn for my purposes between the sort of 'formal' educational value described above (i.e., the 'practice' of engaging an object that by definition requires reflection and interpretation) and the possibility of a 'contentful' educative value that may obtain from engaging the content of particular works. An initial suggestion would be to cast artistic content as constituting novel contributions to society's 'marketplace of ideas,' for as the classic argument goes, liberal society's spirit of innovation and progress vitally depends upon a perpetual influx of new and diverse ideas. According to Mill's formulation of this dynamic in *On Liberty*, a fundamental characteristic of liberal society is its encouraging diversity of thought and then winnowing out the kernels of truth in such diversity through 'fearless and frequent debate.' Thus, given the diversity of artistic expressions available, and
given the increasingly political nature of much contemporary art, an initially plausible suggestion would be to cast artistic content as making potentially valuable contributions to this cultural marketplace.

But while it may indeed possess such a value, we overlook art's full potential if we conceive of its value in the way Mill describes in *On Liberty*. One reason for this is such a formulation effectively reduces artworks to the level of literal assertion, which is to ignore the complex metaphorical structure that distinguishes artworks from other sorts of expression. Such a reduction is not only inaccurate as a description of art, but it would have undesirable practical implications if used as the basis of subsidy. For instance, it would expand the argument for arts subsidies into an argument for subsidizing newspapers, magazines, radio and television news programs, think tanks, citizen debates, and most any other activity that contributed to the marketplace of ideas. This is not to say that such funding would be necessarily misguided or without merit, but rather it is to recognize that on a practical level it would extend the scope of the justification far beyond its intended boundaries. Thus we see that if the content of artworks is to be made a part of the basis for justifying subsidy, then the nature of this contribution should be cast in a way more faithful to its peculiarly artistic -- rather than linguistic -- content.

A better move to make at this point would be to emphasize art's ability to engage people's minds and emotions in ways that more literal forms of expression are simply incapable. Justifications of subsidy have in fact been offered that located the value of art in its potential for effecting
psychological transformation and therapy, and even for "alleviating social pathologies."\textsuperscript{82} And Schiller famously maintained that aesthetic education was essential to our ability to achieve moral sensibility and virtue.\textsuperscript{83} But inasmuch as we seek a justification of subsidy, it would be best if we could identify a value with distinctly political relevance. For instance, it would clearly be of general political value if it were the case that an artist, by offering a particularly subtle or moving representation of a political issue, could in the end reduce public acrimony by fostering empathy among citizens who otherwise stridently disagreed about that issue. A strong form of this claim might hold that through a work of politically-motivated art, viewers would actually come to agreement about a contentious issue. A weaker form of this claim would envision a political opponent who, upon experiencing the artwork, admits that "Well, if you put it that way, I can at least understand why you would think such a thing. . . ."

But we must question at least the strong version this approach on two grounds. First, it is an empirically contingent and far from certain claim that engaging artworks will in fact foster agreement. Rather, it seems just as likely -- indeed some would say more likely -- that such engagement would actually increase acrimony. That is, a powerful or particularly moving presentation of a controversial political viewpoint would just as likely crystallize opposition to that view as encourage reconciliation. The


likelihood of this more pessimistic assessment is borne out by recent events surrounding public funding for the controversial work of Robert Mapplethorpe. In exploring, documenting, and celebrating homosexual life through his artistic photography, Mapplethorpe may have garnered empathy from some, but just as clearly his work offended and incited an angry and vocal opposition.

A second reason to be pessimistic about this strategy is that its root notions appear to go against some fundamental tenets of judgment as presented earlier in this chapter. Most importantly, in her political interpretation of the Critique of Judgment, Hannah Arendt specifically rejects the idea that political judgment is a matter of agreement or empathy, even concerning its exemplary condition of assuming an enlarged mentality. While on the one hand Arendt argues that good judgment can never be a solitary act, requiring as it does that we consider the viewpoints of others, on the other hand she issues the following caveat:

I must warn you here of a very common and easy misunderstanding. The trick of critical thinking does not consist in an enormously enlarged empathy through which one can know what actually goes on in the mind of all others. To think, according to Kant's understanding of enlightenment, means Selbstdenken, to think for oneself, "which is the maxim of a never-passive reason. To be given to such passivity is called prejudice."84

When Kant claims that judgment requires the ability to assume an 'enlarged' mentality, or that one of the essential maxims of judgment is to think from the standpoint of others, he does not mean that we must come to

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84Arendt, Lectures on Kant's Political Philosophy, p. 43.
an actual agreement with others. Nor is he suggesting that we take a vote about what is beautiful or politically best. Rather, his is a challenge to enlarge our thought in a way that maintains our integrity as liberal thinkers -- i.e., the enlargement must still essentially involve thinking for ourselves. This tension in Kant's aesthetic writings is one that Paul Guyer describes as the competing demands of autonomy and integrity.\textsuperscript{85} And if we set our aspirations in judging on achieving the actual assent of others in our community -- or if we cast the political value of artistic content as that of fostering empathy or agreement -- we effectively abandon Kant's essential insight that exemplary judgment asserts validity for \textit{all possible judges}. Such a move replaces this transcendental ideal of judgment with the much more pedestrian task ascertaining what a given community finds estimable. And it is also, as Arendt points out, to risk succumbing to passivity and prejudice in one's political thinking.

But if it is not to foster empathy among citizens, what could be the basis for the (intuitively plausible) claim that exposure to a diverse range of competing expressions contributes positively to one's ability to interpret and judge the best course of action in a politically diverse society? What is needed is a way to reconcile the potential enrichment of one's perspectives to be had from experiencing the content of artworks with the transcendental requirement that such enrichment not be 'bound' by the particular standards of a specific community. A good place to begin

digging out of this impasse is by considering an aspect of aesthetic judgment that so far has perhaps been under-emphasized, which is Kant's consistent description of aesthetic judgment as highly mediated. This mediated character arises from the fact that the pleasure associated with judging an object to be beautiful is never caused by the *actual* sensation of that object but rather is always grounded in reflection upon a *presentation* of that object. Beiner describes this dynamic when he writes

> [T]he judgment of taste, as opposed to the judgment of sense, is 'reflective,' because, while it refers to the feeling of pleasure evoked in the subject, this pleasure arises from a second-order representation that is not limited to experience of the object as immediately pleasing but, rather, 're-flects,' or turns back upon, the object of our experience. The pleasure on which aesthetic judgment is based is a mediated or second-order pleasure, arising out of reflection; it is not immediate gratification.\(^86\)

One thing Kant achieves by describing aesthetic judgment in this way -- i.e., as a reflection upon a mediated 're-presentation' rather than as the direct sensation of an object, is to describe the conditions for the possibility of achieving the 'distance' of an exemplary spectator. We have already canvassed the political relevance the properly distanced spectator, including how this ideal integrally involves an act of imagination, for it is the "Imagination alone [that] enables us to see things in their proper perspective, to put that which is too close at a certain distance so that we can see and understand it without bias and prejudice."

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\(^{86}\) Beiner, "Hannah Arendt on Judging," in *Lectures on Kant's Political Philosophy*, p. 132.
But it is not distance but engagement that is at issue here, i.e., how to account for the political value of engaging artistic content. Nonetheless, I think Kant's claim about the mediated character of aesthetic experience can be of help here, for it suggests a way of reconceptualizing the nature of our engagement with artistic content. That is, I think we have been conceiving of this content too simply and too literally, more as literal expressions to be tossed into the Millenian cultural marketplace than as an integral part of the intensional, metaphorical, ontologically-peculiar entities that artworks appear in fact to be. Rather than conceptualizing the content of artworks as literal expressions designed to garner our agreement, we should recall that our reflective judgments of artworks -- as with our most thoughtful, reflective judgments of the political -- are mediated acts of reflection in which the imagination plays an essential role. Kant writes that the genius of the artist resides

in the ability to exhibit aesthetic ideas, and by an aesthetic idea I mean a presentation of the imagination which prompts much thought, but to which no determinate thought whatsoever, i.e., no [determinate] concept, can be adequate, so that no language can express it completely and allow us to grasp it.87

We have in our analyses once again been unable to resist the temptation to reduce the indeterminate richness of the aesthetic idea down to the determinate quality of a rational concept. To the extent that an artwork can lead us to an empathy with others -- as perhaps it can -- such empathy will never stem solely and directly from paraphrasing its content into

87_Critique of Judgment_, p. 182.
literal assertions to debate in the cultural market. The mediated character of aesthetic reflection gives artworks a potential much greater than that of merely presenting us with the literal ideas of others, for as Kant suggests, at its best art seeks to *generate* thought rather than to assert any particular thought or its normative correctness.

I believe that it is indeed in terms of its potential for enlarging our thought that we should locate the value of engaging artistic content, and yet it is crucial for us be clear about the precise nature of art's potential in this regard. Using a particular painting by Rembrandt as his point of departure, Arthur Danto has offered the conclusion that

> What, then, is interesting and essential in art is the spontaneous ability the artist has of enabling us to see his way of seeing the world -- not just the world as if the painting were like a window, but the world as given by him. In the end we do not simply see that naked woman sitting on a rock, as voyeurs stealing a glimpse through an aperture.  

Danto is alluding here to a distinction very similar to the one I seek to draw between the literal and non-literal conceptions of artistic content, and it is important now to press this distinction further. To use Danto's terms, when we consider the content of an artwork literally we effectively reduce that work from the status of art to that of a 'window' or 'aperture.' But while peaking through a window may enlarge our thought in a sense, this sort of enlargement is really of no greater value than that available from reading a newspaper. What this conception overlooks is that the relation of

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88 *Transfiguration*, p. 207.
an artwork to its content is not one of assertion but one of representation. Furthermore, an *artistic* representation -- i.e., a metaphor -- is never literal in the way that, say, a diagram is a literal representation of a set of scientific facts. An essential corollary of this is that only with representation does one have the possibility of style. Unlike artworks, diagrams can have no style. Style in art emanates from an artist's *choosing* to represent his or her content in a particular way, choosing *this* particular metaphor rather than another, and it is in this decision that one finds the grounds for Danto's assertion that 'Style is the man.' Another way of saying this is that the content of art does not simply depict the world but rather expresses a *way of seeing the world*. "With those qualities referred to as style, the artist, in addition to representing the world, expresses himself, himself in relation to the content of the representation. . . "89

Perhaps engaging art can after all enlarge our mentality in a way that remains faithful to the transcendental conditions of judgment. These conditions require us to subjectively 'imagine ourselves' into the position of all others, or as Guyer reminds us of Kant's formulation, it "requires a person to criticize 'his own judgment from a universal standpoint (which he can only determine insofar as he transposes himself to the standpoint of others)"90. Enlargement in this sense is not a matter of agreement but of enrichment, and anything that can enrich not just our stock of ideas but the very breadth of our engagement with the world should certainly qualify as

89 *Transfiguration*, p. 198.
a politically meaningful and relevant form of enrichment. If Danto is right in his claims about the nature and importance of style, then engaging art can indeed provide excellent opportunities for 'imagining ourselves' into the standpoint of another. Furthermore, it may even offer opportunities for glimpsing (from the inside, so to speak) what Wittgenstein termed another 'form of life.' For in engaging art we often find ourselves -- at least with the best art and in our best moments -- achieving a new way of seeing.
CHAPTER FOUR

The Two Questions of Subsidy

In Chapter One, criticisms of two very different sorts were raised against the prevailing approach to subsidy, the appeal to cultural perfection. One sort of criticism stemmed from issues in aesthetics and the philosophy of art, while the other involved issues distinct to political philosophy. The distinctly aesthetic issue arose from the need for subsidy proponents to provide a plausible answer to questions such as What is art’s value to society? or How will society benefit from supporting the arts through public subsidy? In contrast, the political dimension of the problem involved answering the question To what extent, if any, should the government be in the business of ‘making people’s lives go better?’

Although the point was not pressed at that time, the distinctness of these two criticisms reveals that justifying arts subsidies actually consists of two distinct problems. Furthermore, because the aesthetic and political issues are so distinct, the benchmark of a successful justification of subsidy would seem to be the extent to which that justification can adequately address both of these issues. Thus, the project of offering a plausible, nonperfectionist justification of arts subsidy cannot be completed without first revisiting its starting point. This chapter will examine the proposed democratic justification in terms of the dual framework introduced in Chapter One. This should both reveal more details about the justification’s character as well as provide a useful means for evaluating its political effectiveness.
I.

Because the aesthetic question has already been examined in some detail, I will not devote great attention or space to it in this chapter. Nonetheless, before turning full attention to political issues, it will be helpful here briefly to review both the nature of that question and the particular answer that the democratic justification offers to it. The aesthetic question first arose in connection with the perfectionists' attempts at explicitly accounting for art's intrinsic value. In Chapter One we considered many traditional and not-so-traditional answers to the question of art's societal value, including the claim that art fosters an appreciation of true beauty, and several interpretations of the claim that art fosters cultural excellence. These interpretations included the claim that art exhibits highly refined and practiced technique; that art supplies society with realistic representations of ideal human forms and activities; and that art provides society with a source of perpetual innovation and originality. However, none of these answers were found to be wholly acceptable, primarily because they were at odds with the expressed intent of many of the potential subsidy recipients themselves, i.e., contemporary practicing artists. Many of these artists reject and sometimes directly attack such traditional artistic notions as aestheticism, autonomy, and originality, offering instead what might be considered anti-art or anti-aesthetic art, or what is often (virtually literal) social and political statement.¹

¹It is interesting to note that while my justification is based on a distinctly political value (i.e., democracy), the definition of art it assumes (i.e., metaphorical expression) would result in its excluding from subsidy much overtly contemporary political art. This is not because such art is political but only because political art is often literal rather than metaphorical expression.
In an effort to overcome these shortcomings, Chapter Three offered what I believe is a plausible, nonperfectionist answer to the question of art's value to society. That chapter focused on art's potential as a form of democratic education, describing in a variety of ways how engaging art utilizes -- and hence practices -- many of the same faculties, abilities, and skills used in democratic politics. For instance, in describing what he considered to be the most appropriate aims of education in a democratic society, John Dewey explicitly claimed that education in a democracy needs to stimulate the imagination and generate diversity in thought, a task for which art would seem especially well suited. Dewey believed that a robust imagination was a precondition for learning "to develop initiative in coping with novel situations" and for creating an environment in which citizens routinely make 'full use' of their intelligence, both of which he argued were essential to effective democratic life.

Yet while Dewey's claims were a good start, the need for greater specificity led to the concept of judgment, where we found a surprising degree of structural similarity between aesthetic and political judgments. For instance, we saw that both share a common epistemological character, that both are 'reflective' rather than 'determinative,' and that both are ideally rendered from a disinterested and 'public' standpoint. Further, we saw how Kant's solution of the antinomy of taste, i.e., his claim that the validity of aesthetic judgments is one of 'subjective universality,' is an apt way of describing the validity that obtains for our political judgments, as well.
Second, we examined a functional commonality of aesthetic and political judgment, which was that both essentially involve an act of interpretation. While it may seem intuitively obvious that interpretation is involved in our experience of art, we supported this intuition with a theoretical account of art and its interpretive character. And because it may not seem at all obvious that politics involves interpretation, we examined a variety of ways in which interpretation is a constitutive element of deliberation and judgment in the political sphere. For instance, we saw how determining the meaning of legal statutes is essentially an interpretive task, and we saw how our best judges are those who, instead of mechanically following the literal words of the law, render their decisions by interpreting how best to apply that law given the facts of each particular case. Yet just as important as these legal applications, we also saw how interpretation plays an essential role in everyday political deliberation, where one's ability to render sound judgments depends upon the ability to interpret the meaning and significance of political alternatives.

In addition to these claims based on art's formal structure, Chapter Three concluded by exploring the potential political value of engaging a diversity of artistic content. This value was found to rest in the peculiar ability that only art seems to have for expressing not just a particular content but for expressing *something about* its means of expression. That is, the mediated, reflective, metaphorical nature of artistic expression makes art capable of expressing not just the artist's subject but his or her *way of seeing*. And any activity that encouraged the citizenry to go beyond their own
individual way of seeing would certainly seem to be of instrumental value to the arts of deliberation and compromise essential to democratic life.

While my answer to the aesthetic question may indeed reflect a novel approach to justifying subsidies for the arts, the answer itself is in several ways both conservative and modest. Part of this conservatism stems from the fact that it draws upon an account of judgment that is well established within Western philosophy, dating back to Plato and his distinction between craft activities and experience activities.\(^2\) Also, the account is conservative in that while I have described art's democratic value from four distinct perspectives, these perspectives display a surprising degree of unity. That is, all of the four major elements of my account find unity in extolling the value of the imagination. Dewey's formulation was the most direct in drawing an instrumental connection between democracy and the imagination, and the other three elements of the account -- i.e., the imaginative nature of reflective judgment; the role of the imagination in interpreting metaphor; and, the imaginative projection involved in viewing the content of works of art -- each add needed specificity to Dewey's more general claims.

A third conservative aspect of my proposal is that it rests on a widely-accepted conception of art. Its roots of go back at least to Kant and his category of 'aesthetic ideas,' and it appears as well in the hermeneutic tradition exemplified by Hans-Georg Gadamer. I draw most heavily on an

\(^2\) Steinberger claims that Plato's distinction of craft and experience activity constitutes a fundamental 'dichotomy of judgment.' See The Concept of Political Judgment, pp. 94-106.
influential Anglo-American variant of this account, the analytic philosophy of art offered by Arthur Danto. Danto's fundamental assumptions are that art's structure is metaphorical and that its 'esse ist interpretari.' A distinct advantage of employing this account is that because its basic assumptions concern art's ontological structure rather than the content of any particular work, the resulting justification is much less prone to excluding important artworks simply because they fall outside narrowly defined criteria such as 'the beautiful,' a problem which plagued several perfectionist definitions considered in Chapter One. While it won't admit everything as art, it does consider the domain of potential artworks to be extremely wide, so wide in fact that the difference between art and non art must be accounted for in ontological rather than perceptual terms For that reason, Danto's account displays an impressive ability to explain how works as diverse as the "Mona Lisa" and "Brillo Box" can both be plausibly considered as works of art.

The modesty I attribute to the claims of Chapter Three stems from the fact no attempt has been made to provide an exhaustive accounting of art's nature or its value to society. Unquestionably, art possesses and creates many sorts of value other than the purely instrumental value for democracy appealed to here. Perhaps art even has intrinsic value as the perfectionists claim. But my case does not depend on a complete accounting of art's nature and value; rather, it depends only on it being true that art possesses the particular characteristics that I have attributed to it, namely (1) that art's essential ontological structure is metaphorical, and (2) that actively engaging metaphor constitutes a kind of 'practice' that helps develop skills of interpretation and judgment. If my descriptions are
true, then art would indeed appear to have important educative potential for democratic society. Whether or not these principled claims are true cannot be further argued here, although in Chapter Five we will more closely examine the argument's empirical assumptions. However, what can and must be further argued in this chapter is how well my proposed justification addresses the distinctly political aspects of the arts subsidy debate. It is to these issues that we must now turn.

II.

The need to address the political aspect of the subsidy problem cannot be overemphasized, for the political question itself is logically prior to the aesthetic question. This is true not only because making a person's life go well involves quite a bit more than exposing that person to art, but also because even though a person may be thoroughly convinced that appreciation of great art is a constituent element of the good life, this same person may with no inconsistency claim that the government should not act to promote that (or any other) conception of the good life. Put as a question, even if my claims about art's democratic value are correct, does this value constitute an adequate justification for government subsidy? After some necessary preliminary discussion, this section and the next will work to answer that question, primarily by evaluating how well the justification can respond to the best available arguments against government involvement.
In sorting out how my proposed democratic justification would answer the political aspects of the subsidy question, the most important general observation to make about its character is that it classifies engagement with art as an educational activity. Under this view subsidy programs such as those currently administered by the NEA would, pace Gutmann, be viewed as creating forms of educational opportunity outside of the classroom. The aims of this education could be cast in at least two ways. The weaker interpretation would emphasize art's generic value to education, perhaps following Dewey in appealing to the general educational value of stimulating the imagination. The stronger and more important interpretation casts art and art subsidies as a form of democratic education. This stronger claim advocates the inculcation of a specific type of virtue, what Gutmann terms 'democratic virtue.' A person of democratic virtue possesses the various skills needed for participating effectively in democratic politics, thus insuring that the citizen can participate in 'consciously reproducing' the democratic society to which he or she is committed.³

Casting arts subsidies as educational expenditures distinguishes my approach from others in the literature. To recognize this difference, one need only consider the nature of some of these other claims. For instance, perfectionists justify subsidy on the grounds that the government is justified in promoting those activities possessing intrinsic value, a view that strictly speaking does not require them to enumerate any specific benefits to be had

³Democratic Education, pp. 45-47.
from that subsidy. Others claim that the government is justified in promoting certain valuable states of affairs, such as pleasure, and that engaging art provides a special sort of pleasure for those who view them -- perhaps thus satisfying an inherent 'aesthetic need.' Still others have claimed that art should be subsidized by the state because it provides a source of inspiration to the citizenry. This last approach has also been recently invoked in justifying public spending on space exploration, the idea being that despite any real economic benefits that might accrue from such spending, perhaps the most compelling reason to explore outer space is because it uplifts the human spirit.

Compared to these approaches, justifying arts subsidies as a form of democratic education may sound a bit mundane. But I believe that this is more a sign of strength than of weakness. For one thing casting the issue in terms of democratic education reduces the vagueness inherent to many of these more ambitious justifications, for the explicit goal of fostering democratic virtue constitutes a specific aim that proponents can point to in claiming what these subsidies are designed to accomplish as well as specifically why the government ought to be involved in the issue at all. In this way the proposed justification exhibits a measure of compliance with what Harry Brighouse terms the requirement of 'publicity' in political justifications.\(^4\) Second, and perhaps more importantly, this approach eliminates any appeal to intrinsic value, thus avoiding the host of political

criticisms and aesthetic difficulties raised in Chapter One against appeals to intrinsic value. All of those problems are avoided in the proposed justification, for the appeal is purely instrumental -- art may justifiably be subsidized because of its educational value for democratic society. And third, classifying arts subsidies under the rubric of education makes intuitive sense. Not only is this already how we classify several related subjects such as art history and studio design classes, but more substantively, it seems that even on the perfectionist model of encouraging citizens to live in certain 'intrinsically valuable' ways (i.e., to live a life that includes the appreciation of art), it is most plausible to conceptualize the government's role here as educational. Even on a practical level, the sphere of education and educational institutions would seem to be the most effective venue for achieving the perfectionist aim of encouraging citizens to live in certain ways rather than others.

I must also mention the fact that while my work is heavily indebted to Amy Gutmann's ideas regarding democratic education, my specific approach to justifying subsidy differs from hers in several significant respects. The first is that while Gutmann wants to defend the justifiability of arts subsidies, and while she appeals to democratic means to do so, she does not defend these subsidies as specific instances of democratic education. "Democratic perfectionism," as she terms her approach,
not sufficient) condition of justifying public support for high culture is that it be democratically approved, but it need not be approved for instrumental reasons.\footnote{Democratic Education, p. 260.}

This 'collective pride' argument as I call it is perfectionist in that it appeals to claims of intrinsic value. And while Gutmann does classify arts subsidies under the rubric of education, this particular argument does not appeal to the ideal of democratic education as she describes it elsewhere. Thus, Gutmann's claim here about the educational value of art would appear to be that art is worth studying because it is intrinsically valuable, not because it constitutes a form of democratic education.\footnote{In addition, Gutmann seeks in her work to respond to certain objections to subsidy based on the justice or injustice of the requisite taxation, a topic that we will address shortly. She rightly points out that the legitimacy of democratic procedures carries sufficient weight to overcome the claim that individual have an absolute right to their pre-tax income.}

Perhaps one explanation for our differing approaches is that I am seeking to expand somewhat the scope of democratic education. In describing her ideal of democratic education, Gutmann exclusively emphasizes the rational, discursive elements of educating democratic citizens. If citizens are to be able to consciously reproduce their society, they must for instance be literate, and they must be capable of rationally deliberating about competing conceptions of the good life. But as should be clear from the arguments of Chapter Three, I believe that in addition to this rational dimension there is also an essentially 'metaphorical' dimension to educating democratic citizens.\footnote{I see nothing inherent to this 'extension' of democratic education that makes it incompatible with Gutmann's existing scheme. Whether or not there are such difficulties is a matter of independent interest, but one that cannot be further pursued here. A promising point of departure in exploring these differences is} Learning to judge the significance of one's actions
and decisions cannot occur solely though discursive analysis. One does not
(and cannot) judge the subtleties of public life solely through rational
thought and debate, although these are indeed important components of the
process. Rather, the more complete ideal of a democratic citizen entails
being able to assign meaning to political events, and this occurs in much the
same way that a spectator, critic, or historian assigns meaning to such
events. One arrives at judgments of meaning only through the trial and
error process of interpretation.

We must now turn to the issue of how well the proposed democratic
justification fares against the political criticisms of subsidy. It is helpful to
point out that virtually all these criticisms fall into one of two general
types. One type criticizes the taxation needed to finance the subsidies,
while the other claims that supporting art is simply beyond the bounds of
proper government activity. The claims underlying each type of criticism
are significantly different, revealing that the political issues of justifying
subsidy has two distinct sub-components. Yet while these underlying
claims are distinct, they are not completely independent of each other. In
some cases the difference between the two appears to be simply a matter of
emphasis, with the assumptions of one driving the conclusions of the other.
Such is the case with libertarianism, where assumptions about what

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Gutmann's claim that the ideal of democratic education is to bring each citizen up to the 'democratic
threshold,' meaning that "no educable child may be excluded from an education adequate to participating in
the political processes that structure choice among good lives."⁷ With this starting point, one might then
ask whether the kind of interpretive training I am suggesting is a necessary part of an 'adequate' democratic
education. If so, then Gutmann's ideal of a 'threshold' of democratic education should be extended. If not,
then perhaps what I have identified is a kind of training that brings students not to the 'threshold' of
democratic participation but to something beyond the threshold. But in either case, the aims of the
education itself remain unchanged.
constitutes just taxation drive conclusions about the proper role of the state. Furthermore, in some cases the distinction may break down entirely. Nonetheless, the distinction is at least helpful in organizing a systematic response to the numerous objections to subsidy found in the literature. I will consider each set of objections in turn, beginning with the objections based on claims of unfair taxation.

Objections based on claims of unfair taxation comprise what is perhaps the most common strategy for attacking state support of the arts. These objections also have the dubious distinction of being espoused by many of the most vocal arts subsidy critics. Such critics typically pursue one of two approaches, either giving fundamental privilege to individual property rights, or claiming that the only valid basis for government subsidy is that the activity produces some universal benefit to the citizenry. In this section I will consider three taxation-based objections, which I term (1) the libertarian objection; (2) the objection from the benefit principle; and (3) the objection of the offended taxpayer.

The libertarian objection rests on the seemingly sensible claim that each individual possesses certain inviolable rights. In delineating these rights, Robert Nozick draws on Locke's description of the state of nature, where individuals are in "a state of perfect freedom to order their actions and dispose of their possessions and persons as they think fit, with the bounds of the law of nature, without asking leave or dependency upon the will of
any other man."\textsuperscript{8} Libertarianism has often been interpreted as invoking a 'thesis of self-ownership,' whereby "each person is the morally rightful owner of his own person and powers, and consequently that each is free to use those powers as he wishes, provided he does not deploy them aggressively against others."\textsuperscript{9} As the self-ownership thesis implies, libertarians maintain that all persons have a right to live their life as they see fit (as long as they do not harm others), a right to keep what they have earned from applying their labor and talents, and a right to keep what they have acquired through just transfers. According to the libertarian view, any action that violates these rights, whether it be by an individual or by the state, is illegitimate. In this way libertarians specifically reject many sorts of taxation that are today commonplace, such as taxation for the purpose of redistributing wealth. This practice cannot be justified on the libertarian view, for it both violates individual property rights and more generally infringes on individual liberty (hence Nozick's oft-quoted claim that "Taxation of earnings from labor is on a par with forced labor."\textsuperscript{10})

From these premises a particular view of the state emerges. Because the state may justifiably levy only a minimal amount of taxes, it can support only a minimal level of functions, namely no more than protecting citizens from harm and ensuring just market transfers. Nozick writes

Our main conclusions about the state are that a minimal state, limited to the narrow functions of protection against force, theft, fraud,

\textsuperscript{10}\textit{Anarchy, State, and Utopia}, p. 169.
enforcement of contracts, and so on, is justified; ... any more extensive state will violate persons' rights ... Two noteworthy implications are that the state may not use its coercive apparatus for the purpose of getting some citizens to aid others, or in order to prohibit activities to people for their own good or protection.\textsuperscript{11}

From this brief description, it is not be hard to imagine how a libertarian objection to arts subsidy would run. If the state cannot justifiably tax its citizens to satisfy the moral demands of distributive justice, how could it possibly justify taxing its citizens to support art? Arts subsidies seem doomed in two ways. Subsidies are clearly ruled out if they are viewed as a form of redistributive 'aid' to the artists receiving them, and they are also in trouble when cast in perfectionist terms, for perfectionists openly seek to influence how people choose to live their lives.\textsuperscript{12} In either case, the libertarian will argue that in levying taxes to support the arts, the state is violating fundamental rights of its own citizens. Even Rawls reveals his libertarian leanings on this point, arguing that the only legitimate way to publicly fund not just the arts but also universities is through \textit{voluntary} contributions by citizens to an 'exchange branch.'\textsuperscript{13}

One of the most oft-quoted critics of art subsidy, Edward Banfield, utilizes the libertarian strategy in his book \textit{The Democratic Muse}. There Banfield

\textsuperscript{11}Anarchy, State, and Utopia, p. ix.

\textsuperscript{12}Strictly speaking, this last argument is more an argument based on claims about the proper role of the state. Its appearance here reveals the close interrelation of such claims with claims about just taxation.

\textsuperscript{13}Rawls writes: "[T]he principles of justice do not permit subsidizing universities and institutes, or opera and the theater, on the grounds that these institutions are intrinsically valuable, and that those who engage in them do not receive compensating benefits. Taxation for these purposes can be justified only as promoting directly or indirectly the social conditions that secure the equal liberties and as advancing in an appropriate way the long-term interests of the least advantaged." \textit{A Theory of Justice}, p. 332. For a discussion of the exchange branch, see pp. 282-3.
credits Nozick with 'strenuously affirming' the Lockean underpinnings of the American system, or what Banfield terms 'natural law liberalism.' On this view "the sole legitimate function of the state is the protection of its citizens against force and fraud," and "the preservation of liberty is the only justification for infringement upon it."\(^\text{14}\) Banfield claims that although the drafters of the American Constitution did "allow a large sphere for such intervention by government as the people deem necessary to establish preconditions for the development of a competent citizenry," they nonetheless "ruled out projects for the regulation of private life by the national government."\(^\text{15}\) Furthermore, "to find any warrant for [subsidies in the U.S. Constitution] one must interpret the 'general welfare' clause in a way that Madison called absurd," and in the end this approach fails as well, for

\[\text{[E]ven if government support of the arts contributed significantly to the welfare (pleasure, satisfaction, enjoyment, and so on) of the great majority of individuals, that in itself would not make it a legitimate activity of the government. The principles of the American regime require that the individual be left free to pursue his happiness in his own way except as governmental constraints upon him (e.g., taxation for the support of art) are expected to benefit the body politic (i.e., the public viewed as an abstract entity).}\(^\text{16}\)

I must admit that I find Banfield's distinction between an 'abstract' body politic that can receive benefits distinct from those received by the individual members of that politic to be puzzling at best. But leaving that

\(^{14}\text{The Democratic Muse, pp. 8-10.}\)
\(^{15}\text{The Democratic Muse, p. 10.}\)
\(^{16}\text{The Democratic Muse, pp. 11, 197-98.}\)
matter aside, we now possess enough facts about the libertarian position to begin formulating a response.

One response to this objection is to attack the soundness of the libertarian argument itself. For instance, it seems far from clear that individual rights, especially the right of self-ownership, actually carry the kind of force that the libertarian claims. Let us assume for a moment that the basic idea of self-ownership is correct, that persons do have a right to their labor and talents. And let us assume further that a 'coercive taking' of one's possessions does constitute a violation of such individual rights. But while it is one thing to claim that such a person has had his or her right of self-ownership violated, it is quite another to claim that self-ownership can justifiably proceed, even through just transfer, to unlimited acquisition of wealth (i.e., that self-ownership can lead to 'world-ownership'.\textsuperscript{17} Persons have many sorts of rights and many sorts of duties, and libertarians have not sufficiently shown that the right of self-ownership has the (near) lexical priority that their argument requires. This is most clearly apparent with the issue of distributive justice, which Nozick and others reject simply on the grounds that redistributive taxation violates self-ownership. Is there not much more work to be done before one reaches that conclusion? Not the least of this work would be to demonstrate that the right of self-ownership has lexical priority over other relevant moral claims, such as the right to a minimal standard of living or a fair share of societal wealth.

But whatever the force of this general criticism, the fact that libertarianism is so often invoked in connection with the arts subsidy debate forces us to press further and respond to the libertarian objection on its own terms. Fortunately, I believe that whatever force the libertarian objection has, it is most effective against the more traditional approaches to justifying subsidy, such as those viewing art as a means of obtaining pleasure or as a source of objective value (with or without concrete benefits). The proposed democratic justification views the value of art in neither of these ways. By casting the justification of arts subsidy in terms of its potential educational benefits, I believe we can defeat the libertarian objection on its own terms.

Given the libertarians' emphasis on preserving liberty and free markets, one might argue that because education is essential to democracy, and because democracy appears to be the mode of governing most conducive both to preserving liberty and to ensuring the smooth functioning of free markets, then taxation to fund education -- especially democratic education -- would surely be justified. And then as a form of democratic education, arts subsidies could justified as well. But while we might pursue this strategy, this argument has several assumptions that would need extensive defense, most notably the claims that democracy is the form of government most conducive to preserving liberty and the free markets. And in Chapter Two we saw some of the difficulties and weaknesses inherent to any argument founded on claims about democracy's empirical effects.

Besides, I don't think we need to be this elaborate to defeat the libertarian. The basic question to ask the libertarian is whether he or she views
education as a legitimate state activity. If the libertarian denied the justifiability of the state's imposing taxes for the purpose of educating its citizenry, then I believe that the credibility of the libertarian view would collapse, for such a view would simply clash with too many of our other intuitions and values. Quite simply, education is one of the fundamental activities that we do believe the state is both able and perhaps even obligated to perform. And even using Nozick's own 'utopian' approach to social philosophizing, it seems that any truly utopian community, i.e., any community "that people will want to live in and will choose voluntarily to live in," would never be one that did not provide for the citizenry's education.

But while it may seem that we have strayed far afield from the goal of justifying arts subsidies in the face of the libertarian challenge, we have in fact made significant progress. For if we have won from the libertarians a commitment to fund education, then we are a step closer to responding to their objection. That is, if we have agreement that levying taxes to support education is a legitimate function of the state, we can then refocus the problem, moving it away from taxation and the proper role of the state and toward the issue of educational authority, or the issue of deciding whether any given educational program will in fact be included in the curricula. If the decision is made to subsidize, arts subsidies would then be included as just another element of state educational expenditures.

\[18\text{Anarchy, State, and Utopia, p. 319.}\]
As we will explore further in Chapter Five, the content of educational curricula in a democracy is ideally decided through a process of deliberation and public decision, much the same way as any other democratic decision. There is nothing in the tenets of libertarianism itself that would argue against this method of deciding the content of educational curricula, nor there is anything there to suggest that any particular subjects should or should not be included. Yet the libertarian objection seeks to take arts subsidies off the educational agenda from the start, concluding from a point of abstract argument that supporting the arts is simply outside the realm of legitimate state functions. A democratic polity may of course decide not to include a given subject in the curriculum, as has been the case with sex education in some areas of the country. But this does not mean that sex education should have been blocked from consideration in the first place. Blocking an idea from even appearing on the educational agenda appears to be the most unreasonable of all views, and it seems at odds with the general intent of the libertarian enterprise itself, which is to promote maximal liberty for all individuals. Limiting the scope of educational debate seems an odd way indeed of maximizing individual liberty.

Having outlined a response to the libertarian objection, we must now turn to a second taxation-based objection to subsidy, the objection from the benefit principle. While not himself an opponent of subsidy, this objection has been most forcefully explicated by Joel Feinberg, who casts the problem of justifying arts subsidies as one of persuading the 'indignant' taxpayer. Feinberg writes
The problem raised by the indignant taxpayer is whether there is justification for using government funds derived from mandatory taxation of all citizens in order to promote the esoteric projects of a small number of people. Indeed there is a prima facie case for the proposition that such subsidies are unfair to those who are made to pay, not to protect their neighbors from harm, but to secure benefits for some of their neighbors that they (the complaining taxpayers) are not able to share. The principle invoked by the indignant taxpayer is that 'Justice requires that persons pay for a facility in proportion to the degree they benefit from it.'

According to Feinberg, this 'benefit principle' places a great argumentative burden on proponents of subsidy, for it requires them to show that "artistic endeavors supported by general tax revenues . . . are somehow universally and equally beneficial." Something like the benefit principle underlies the economists' concept of a 'public good. Public goods, such as clean air or secure national borders, can be justifiably subsidized through mandatory taxation because the benefits they secure cannot be withheld from any member of society, i.e., they accrue universally. But in the case of art, Feinberg points out that the benefit principle suggests that the only justifiable way to satisfy the demands of justice, i.e., the only way to satisfy the indignant taxpayer, is to fund subsidies not through general tax revenues but by charging 'user fees' on those who voluntarily choose to view the art. Such fees would be similar to the admission fees now charged at national parks, designed to insure that the financial burdens of the

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providing and maintaining the services fall most directly upon those who choose to utilize them. 21

This view has an intuitive appeal to many persons. Part of its appeal is the very argumentative burden that it generates, for if subsidy proponents can ever satisfy such a stringent standard, then the result would certainly be a satisfactory justification of the subsidies themselves. It also has certain resonances with the libertarian view, although it stops short of making any claims about the proper role of government. Instead, it simply argues that if a citizen pays taxes, then justice demands that he or she realize some proportionate benefit in return for the burden incurred. And indeed, if we could rely solely on user fees to publicly fund the arts, then we would virtually do away with the need for a political justification, for the needed funds would all be voluntarily rather than coercively contributed. 22

But contributions to our cultural support institutions are not voluntary, and user fees alone are unlikely to provide sufficient revenue support subsidy at current levels. In either case, money from general tax revenues is needed, and so the problem of justification appears all over again. At this point, some might agree with Feinberg in his suspicion that the Benefit Principle is "too great an argumentative burden to sustain." 23 And yet even Feinberg is not prepared to give up quite yet. In seeking to defend the subsidies,

21 This is of course not to say that such fees would perfectly satisfy the demands of justice, for because such fees would likely not cover the entire cost of the projects, some additional taxation from general sources would be needed. But the fees would at least allocate some of the burden in a way that that directly reflected the degree to which a given citizen received any of the benefits.
22 Again, see Rawls' idea of an 'exchange branch.'
23 Public Affairs Quarterly, p 102.
Feinberg's move is to deny that 'benefit' and 'value' are synonymous, and then to claim that an activity, i.e., art, can have value even if it does not produce direct benefits. Here Feinberg quotes Thomas Nagel: "Some things are wonderful in a measure quite beyond the value of the experiences or other benefits of those who encounter them." Feinberg's approach is an appeal to intrinsic value, and it is an appeal that he believes justifies subsidies over the objections of the indignant taxpayer. Because he believes that part of the 'logic' of value judgments is that they are judgments that express the worthiness of our taking a particular attitude toward what is being judged, Feinberg reasons that

If that is correct, it would seem odd to admit that something is objectively worthy of being valued (esteemed, treasured, cherished, etc.) and then deny that the possession of such a property is any kind of reason -- or a reason of significant weight -- for requiring people to protect or support it. Even the egoistic philistine taxpayer, I should think, would have to admit that the possession in high degree of intrinsic value is not a gross irrelevancy. . .

Thus, Feinberg 'reinterprets' the taxpayer's objection, i.e., reinterprets the benefit principle, so as to accommodate appeals to intrinsic, or objective, value. It is now a perfectionist argument, and like other perfectionist arguments it rests on the basic assumption that the government may justifiably go against the wishes of its citizens for the purpose of promoting objective value.

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25Public Affairs Quarterly, p. 120.
But while Feinberg may be right in claiming that art objects have an objective value that makes them worthy of state support, his 'reinterpretation' of the benefit principle no longer captures the indignant taxpayer's original complaint. That is, by shunning the requirement of direct benefit, Feinberg begs the question that the benefit principle was intended to capture. Richard Manning describes this point succinctly in saying that "Since the benefit principle is indifferent to intrinsic value, a showing that art objects are intrinsically valuable is simply irrelevant to challenges based on that principle." While Manning thinks that arts subsidies can indeed be justified, he recommends a different strategy for overcoming the burden of the benefit principle. Instead of trying to meet the burdens of the benefit principle head-on, Manning suggests that what we should do is reject the benefit principle altogether.

The demands of justice may be met even where a taxpayer receives no benefit whatever from a project funded with her dollars. . . A tax levied for purposes of sending aid to starving Somalis may beyond question be just even if the interests of the burdened taxpayers are positively hindered, let alone not advanced. The third world is simply overpopulated and dangerous from the point of view of our mundane interests; it cannot benefit us to help feed its masses. Imagine a taxpayer who, on top of this, just dislikes Somalis, so that he receives no good feeling of any kind from altruistic measures.

27However, Manning does agree with Feinberg's claim that the government may justifiably support an activity even in the absence of any direct, universal benefits for the indignant taxpayer. That is to say, Manning believes that the demands of the benefit principle may be met even when the indignant taxpayer claims to be receiving nothing that he or she considers to be of any value. To hold otherwise, Manning maintains, is either to embrace a false empirical assumption that a person is always the best judge of her own good, or to embrace a false metaphysical view of the self as 'individual creator.' Public Affairs Quarterly. pp. 134-138.
Justice permits his taxation, which certainly cannot be reconciled with the benefit principle. . . So the benefit principle is false.\footnote{Public Affairs Quarterly, pp. 138-9.}

Of course, it is not clear that Manning's example is appropriately analogous to the issue of justifying arts subsidies, for the potential loss of human lives in his example certainly constitutes something of greater moral significance than anything involved in the issue of arts subsidy. Perhaps Manning's objection could be made more appropriate, but nevertheless his argument does suggest that in at least some instances the benefit principle admits of exceptions. Thus, even if Manning has not shown the benefit principle to be false, he has placed the burden of argument back onto adherents of the principle, who now must show why it ought to apply in the case of arts subsidies.

But even if Manning is right to conclude that the benefit principle is false, his as well as Feinberg's response to the indignant taxpayer seem somehow disingenuous, almost as if a straw man were lurking. That is, both Feinberg and Manning seem compelled to answer the challenge of the indignant taxpayer, and yet neither seems to take the challenge seriously, for neither responds to the indignant taxpayer on his own terms. Rather, each begins with one conception of political justification -- answering the taxpayer's challenge -- but then each slips into a quite different conception of political justification, one requiring the existence of objective value. Put in the form of a dilemma, either the problem of politically justifying arts subsidies is one of persuading the philistine or it isn't. If it isn't, then we
need not concern ourselves with the claims of the indignant taxpayer at all. But if it is, then clearly we do need to concern ourselves with constructing a response, something neither Feinberg nor Manning have done. Indeed there appears to be a real ambivalence on the part of both Feinberg and Manning about the benefit principle. I suspect that it resides in a conflict between the desirable strength of the principle itself (i.e., if it can be satisfied it would produce perhaps the stingiest of all justifications), and a suspicion shared by both philosophers that art is an activity that can never satisfy the principle’s strong requirements. As to the status of the principle itself, Manning seems closest to the mark in saying that while he believes the benefit principle is false "this does not mean that prudence does not support something like a benefit principle. It is perhaps good for government to forego programs that do not benefit those who pay for them." 29

I cannot here exhaustively examine the benefit principle. Clearly, any examination of it would need to evaluate the kind of moral trade-offs that strict adherence to the principle would seem to require. This is the force of Manning’s example in which the demands the benefit principle conflict with the moral demand to save human lives. Another important issue in evaluating the benefit principle would be to determine its status vis a vis the political obligation of democratic citizens to comply with the results of democratic procedures. Or put as a question, Can a violation of the benefit

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29Public Affairs Quarterly, p. 139.
principle justify a citizen's noncompliance with a democratically-sanctioned public decision, such as a decision to build a road or to fund the arts? My intuition is that it cannot.

But regardless of whether the principle is in some strict sense 'true' or 'false,' the intuitive force of the taxpayer's objection remains. Fortunately, I believe that the proposed democratic justification can go along way toward answering the taxpayer's challenge. But rather than meeting this challenge by appealing to intrinsic value or by rejecting the very possibility of accounting for the benefits to be had from subsidy, mine is a claim that art is instrumentally valuable to something that we virtually all have a commitment to -- democratic self-rule. To the degree that engaging art educates, and more specifically to the degree that it fosters 'democratic virtue' of the sort sanctioned by a robust commitment to democracy, then even the indignant taxpayer must admit that this is a reason of considerable argumentative weight. Of course, he or she may disagree with the empirical fact of the matter, but this answer is still superior to simply dismissing the taxpayer's concerns by saying that art has some mysterious, inexpressible, 'benefitless' value. Thus, even assuming that the benefit principle is right on target, this justification comes very close to satisfying the very argumentative burden that makes the principle so appealing in the first place.

Before moving on to examine objections to subsidy based on claims about the proper role of the state, I shall briefly examine one final taxation-based objection to subsidy, which I call the objection of the offended taxpayer.
Unlike Feinberg's indignant taxpayer who objects to art subsidies on the grounds that they provide no benefits, the offended taxpayer objects to subsidies because they are sometimes used to create artworks that the taxpayer finds morally offensive. This line of objection has become very popular, both in arguments aimed at abolishing arts subsidies altogether and in arguments aimed at enacting content restrictions on NEA-supported works. And although it is an objection that I believe can be defeated fairly easily, its frequent appearance in arts subsidy debates makes it deserving of some attention here.

One of the most well-publicized instances of this type of objection occurred in connection with NEA monies awarded to the artist Andres Serrano in 1987. One of Serrano's works, a photograph entitled *Piss Christ*, "depicted a crucifix submerged in what [the artist] says was his [own] urine."\(^{30}\) (See Figure 2) Some time after it went on display, the work and the NEA's involvement with it were attacked by the American Family Association (AFA) and its director, Rev. Donald Wildmon. Wildmon and others demanded that the work be withdrawn, that the NEA retrieve its monies, and that the NEA official responsible for the grant be fired, all on the grounds that the art being supported by the government monies was offensive to the group's religious beliefs and way of life.\(^{31}\)


Figure 2: *Piss Christ*, by Andres Serrano. Reprinted with permission of Paula Cooper, Inc.
Two often overlooked facts about this notorious case should be noted. First, none of the federal money Serrano received came directly from the NEA. Rather, the NEA made a larger grant to the Southeastern Center for Contemporary Art (SECCA) in Winston-Salem, NC, and in its annual Awards in the Visual Arts Program this Center in turn awarded a portion of the NEA's funds ($15,000) to Serrano. And second, Serrano claims that he did not intend the work as an attack on religion at all, claiming in subsequent statements that the work was intended as a protest against the exploitation of religion by unscrupulous practitioners who sought to 'commodify' religion for personal gain. But regardless of Serrano's intent, I am interested neither in defending Piss Christ nor in denying the real offense that Wildmon and others appear to have experienced in connection with the work. Rather, I am interested in the philosophical question of whether moral offense such as occurred in the Serrano affair renders the taxation involved in some way illegitimate or unjustified. In evaluating this question, the first thing to note is a distinction between a taxpayer's being morally offended by some action or activity and a taxpayer's merely objecting to that activity. Clearly, the claim of the offended taxpayer must involve something more than a simple objection to the subsidies, for if mere disagreement with a policy by a (minority) group of citizens could render that policy illegitimate, then representative

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32 As a side note, if this were in fact Serrano's intention, he would have been well-served by making that fact a bit more clear up-front, for it is difficult to believe that he did not realize that his work would be devisive and controversial. This case raises interesting issues in interpretive theory, namely the relevance and propriety of considering the artist's intentions in evaluating a work of art. See Monroe Beardsley's classic article "The Intentional Fallacy," with William Wimsatt, in The Verbal Icon, Chapter 1, University of Kentucky Press, 1954.
government and even democracy itself would be close to impossible.\textsuperscript{33} Instead, this claim must involve something like the much stronger assertion that the artworks in question offend the taxpayer's most deeply-held beliefs and values. And yet even on this interpretation the objection appears to be of only limited efficacy. One need only consider a few other scenarios of taxpayer offense to see why this is so.

First, consider a taxpayer with strong pacifist convictions, convictions that are perhaps even religious in origin. While this taxpayer acknowledges the need for law enforcement and a national military presence on some scale, he finds many law enforcement and military tactics morally offensive, such as the use of high-tech weaponry or weapons of mass destruction. Another taxpayer finds it morally offensive that his government spends billions of dollars on advanced weaponry while many of its citizens go in need of adequate shelter. Or consider a nonmilitary example, this time a zealously self-reliant taxpayer who finds welfare programs morally offensive, claiming that redistributive aid programs demean and degrade the humanity of the welfare recipients themselves.

In all of these examples it seems that moral offense, while a factor in determining the legitimacy of a government activity, does not by itself render the activity itself nor the taxation needed to support it illegitimate or unjustified. The welfare example is perhaps the most instructive. The fact that a citizen finds welfare as degrading to human dignity does not

\textsuperscript{33}Furthermore, 'disharmony' in a democracy is is neither inescapable nor undesirable. See Gutmann and Thompson, "The Disharmony of Democracy."
render the associated taxation unjustified, if for no other reason than the fact that many other citizens may be just as offended by these same recipients being allowed to starve or go homeless. In this case the objection moves too quickly from an instance of individual moral offense to a claim of political legitimacy. Or said another way, one citizen's moral offense does not equate to political right, at least without a generalizing step of political legitimation.

In the arena of arts subsidy, the offended taxpayer can be defeated on virtually any interpretation of his own demand. For instance, one interpretation is the claim that the taxpayer ought to be relieved from that portion of his or her tax bill dedicated to arts subsidies. But this raises both practical and theoretical problems. On the practical side, paying taxes is not a pick and choose affair, where one pays only for the programs one supports. If people were allowed to pay only for programs they supported, or even if they were only required to support those programs demonstrated to be public goods, then free rider problems and other problems of fair use would surely arise in connection with these optional programs. And form a theoretical perspective, exempting persons from taxes based on moral offense raises deep issues of representative government and democratic compliance. A fundamental tenet of political representation is that citizens necessarily abdicate a portion of their political power to elected representatives. In return for this, these citizens receive not only a

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34 Although we do make some concessions of this type when we exempt pacifists from combat duty by granting them the status of 'conscientious objector.' At the same time, however, we do not exempt such persons from paying the taxes need to fund military operations.
'mouthpiece' in the legislature, but also the benefits of leadership and compromise that can only come from the machinations of a small, deliberative body of (professional) legislators. But this representative system would be virtually impossible if each citizen could, upon finding moral offense, issue his or her own private 'veto' and thus effectively undercut the legislature's ability to apportion funds for its decisions. Furthermore, such vetoes would undercut not only the spirit of representative government but also that of democratic compliance. Allowing citizens to 'opt out' whenever they find a particular program or decision offensive, especially when the decision to pursue that program came about through legitimate democratic procedures, is to undercut the fundamental notion that democracy depends on rule of law and on citizen compliance with the results of valid democratic procedures.

As opposed to being an argument for tax relief, another interpretation of the offended taxpayer's objection would be to claim that because some of the art produced with state subsidy may offend some tax-paying citizens, the government should subsidize no art whatsoever. But this is again to give the wishes of the offended taxpayer too much weight. The burden of argument would be to show that the objections of the offended taxpayer(s) has (absolute) priority over several other weighty considerations. One of these considerations is that, while they recognize that some works may offend, many citizens still support government subsidy for the arts. Presumably this is because these citizens derive some benefits therefrom, or perhaps it is because they consider art to be intrinsically valuable. But if we abolish all subsidy in order to satisfy the wishes of the offended
taxpayer, what about the wishes of the many people who want and derive benefit from the subsidies? Would not the halting of subsidies lead to their losing something of significant value? Again, the welfare example seems instructive, for it demonstrates how the public nature of political justification requires that an issue be considered from many different perspectives. In the case of the offended taxpayer, perhaps this means that we need somehow to compare and to rank the moral offense incurred by the (presumably) few with the loss of benefits incurred by the (presumably) many. At the least, the loss of benefits incurred by halting subsidy would need to be factored into the equation and not simply dismissed as irrelevant. As it stands now, the offended taxpayer has yet to give sufficient grounds for asserting that his claim of offense has the (virtually lexical) priority that this argument assumes.

In considering how the proposed democratic justification of subsidy fares against the offended taxpayer objection, the first thing to note is that if my argument about art's educative value is correct, then the offended taxpayer is effectively claiming that his or her offense must be addressed and remedied even at the considerable expense of a program that may have significant public benefits. Now of course the offended taxpayer may think that the harm outweighs the benefits in this case, but if art has the sort of educative potential that I suggest, then the taxpayer's objection must now also be of sufficient weight to overcome the loss of benefits that will be foregone if subsidy is suspended. And if one is less concerned that a justification balance benefits and burdens than that it be based on sound reasons, then at the least one must admit that the offended taxpayer has
been offered a weighty justificatory reason for this offense, weighty because of its direct, instrumental connection to a commitment shared even by the offended taxpayer himself: the commitment to robust and sophisticated democratic deliberation and participation.

There is one final, if controversial, interpretation of the offended taxpayer's objection left to be considered, and it is that the government may justifiably subsidize the arts in general, but it may not justifiably subsidize offensive works. This may indeed be the most plausible interpretation of the objection, given that the original objection stemmed from the offense incurred only from particular works and not from art in general. The interpretation is controversial because it is the precise reasoning that lay behind the so-called 'Helms Amendment,' considered but rejected by the U.S. Senate in 1989. This amendment would have prohibited the awarding of any federal tax monies for production of art deemed indecent, pornographic, or obscene, or that "denigrates the objects or beliefs of the adherents of a particular religion." 35 This amendment was assailed as censorship by many subsidy proponents, although that clearly is not the case. As a matter of some side interest, I believe that very little about the arts subsidy issue connects with censorship at all, unless perhaps one construes that word in very unconventional ways. Controversial decisions about subsidy -- even to withhold funds for overtly political reasons -- does not constitute censorship because that act alone is not preventing the artist from expressing his or her view, or from making

any kind of art. Withholding funding may make the artist's task more difficult, but that alone does not constitute censorship.

I believe that the proposed democratic justification is actually compatible with -- and in certain situations may even endorse -- this interpretation of the offended taxpayer's objection. While the objection itself may not carry the argumentative weight that its adherents would like to claim, the fact that an activity funded with federal tax dollars strongly offends some of the citizens who had to divvy up those dollars is clearly a consideration of at least some justificatory significance. Furthermore, it seems that the ideal way of respecting this significance is by assigning it a strength proportional to its actual strength within the citizenry, something I think the proposed justification can (at least theoretically) do. That is, given that the justification is grounded on a fundamental commitment to democratic self-rule, then it would also seem committed to implementing concrete subsidy policies that maximized the program's overall democratic character. And assuming that the offended taxpayers are in the minority on this issue, then not only should these policies guard against the offended taxpayers trumping the wishes of the majority, but they should also guard against the offended taxpayers becoming a 'persistent minority' and effectively having no say in the matter at all.

The justification's emphasis on democracy suggests that an appropriate way to incorporate the wishes both of the offended taxpayer and of the subsidy advocate would be by allowing greater local control over funding decisions. Given that moral offense of the sort involved here is often a
phenomenon related to differences in moral standards across geographical regions of the country, implementing a system of increased local control would both allow and encourage these cultural/geographic differences to receive their proportionate expression. Not only would this allow subsidy opponents a greater relative voice in debates over what gets funded, but it would also allow for a greater sensitivity to local 'community standards,' perhaps even including the adoption of locally-generated content restrictions. Thus, with sufficient motivation, the offended taxpayer has a much greater chance under a system of decentralized decision making of influencing which art will be supported in his or her locality, and thus of discouraging the funding of what he or she finds offensive. And while this decentralized approach is already practiced to some degree by the NEA, and while other justifications certainly do not disallow such democratic considerations from being incorporated into subsidy policies, it is a peculiar characteristic of the proposed justification that it would give primary emphasis to considerations of democratic representation and equality. Because of this it seems particularly sensitive to the issue of fairly representing the claims of the offended taxpayer, and thus it appears better able to constructively respond to the kernel of truth that the objection contains. We will revisit this issue in Chapter Five in connection with the issue of allocating educational authority in democratic society.

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36NEA has traditionally been required by Congress to award 28.5 percent of its funds directly to state arts agencies who in turn distribute these monies as they see fit. Beginning in FY 1996, however, this percentage has increased to 40 percent. Furthermore, the NEA no longer grants any funds directly to individuals, with the 60 percent of their funds not awarded to states awarded directly to local arts institutions and arts companies. Data from talk given at the Museum of Fine Arts, Houston, TX, by A.B. Spellman, Director of Guidelines and Panel Operations, National Endowment for the Arts, February 21, 1996.
Before leaving the taxation-based objections to subsidy, it may be helpful to
draw the discussion together with some general observations and
conclusions. As a whole, the objections from taxation overestimate the
strength of claims from self-ownership and individual rights. Although
they often begin from a seemingly reasonable premise such as self-
ownership or the right not to be harmed, these objections often fail to
balance these premises against other relevant factors. As a result, their
conclusions are typically much less plausible than the originating premises,
such as in the case of the indignant taxpayer's view that 'If I don't want it,
then I can't be taxed to pay for it.' Second, the taxation-based objections
utilize an incomplete account of political justification, for politically
justifying a government activity or program surely involves more than
simply responding to every individual claim of unfair taxation. Robust
political justification requires the additional steps of providing and
evaluating reasons why an activity should or should not be supported,
which as we have seen may include both claims of moral offense as well as
claims of benefit. Third, these objections present an incomplete and
distorted view of the relationship between government and citizen. In the
case of the benefit principle, this relationship is cast too heavily in terms of
market players. The relation of the government and its citizens is much
more complicated than the market model allows, sometimes arising
precisely because there exist needs and values within society that the free
market is simply not suited to provide. And finally, the benefit principle
ignores the fact that not every government action always produces benefits
for every citizen who pays taxes. Not only are benefits sometimes absent
for some citizens, but sometimes citizens receive benefits that are not always deserved. This is true not only because of schemes of rotational justice, where in the end everyone receives about the same level of benefit albeit through differing distributions, but also because, as Manning writes

Increases in the property of individuals routinely result from governmental action which are in no measure compensation for the benefited individual’s labor, and which in like fashion decrease the property of others without regard to desert. To suggest that government may on the one hand bestow upon me a significant financial benefit I cannot be said to merit but that it cannot then tax my additional wealth unless it gives me additional benefit back is absurd. If there was no obligation for government to create my extra wealth, there can be no obligation for government to let me keep it, let alone to compensate me for the additional tax I incur.\textsuperscript{37}

And yet even though the demands of the benefit principle and the other taxation-based arguments may be unreasonably strong, I believe that the proposed democratic justification comes closer to actually satisfying these heavy demands than any other justification of arts subsidy so far offered.

III.

We must now turn and examine the proposed justification in light of objections to subsidy based on claims about the proper role of the state. These objections were first encountered in Chapter One, specifically concerning the debate between perfectionists and neutralists. The arguments from neutrality generally aim at defeating the view that the state

may actively privilege and encourage (i.e., be non neutral towards) certain conceptions of human good and flourishing. More specifically, these arguments seek to defeat the perfectionists' view that the state may justifiably promote those activities possessing intrinsic value (i.e., a value grounded in something other than the subjective preferences or mental states of citizens). Because many justifications for subsidy assume some form of the view that art should or may be subsidized because it is intrinsically valuable, the arguments from neutrality are often the primary hurdle for these proponents to overcome.

As canvassed in Chapter One, the claim for neutrality is not a single argument but a collection of arguments, and it is a collection which Sher groups into three general types: (1) arguments from autonomy; (2) arguments from safety and stability; and, (3) arguments from skepticism. Some of these arguments warned against the practical dangers of acting on claims of intrinsic value, others claimed that non neutrality would in the end cause more harm than good, and still others expressed skepticism about the very existence of intrinsic value or about our ability to have any knowledge of it. Now Sher and others have demonstrated that there is at least some reasonable doubt about the success of the various arguments for neutrality. And clearly, if these arguments fail, then there is no need for my proposed justification of subsidy to respond to them. However, given that I sided with the neutralists back in Chapter One, it would be misleading for me to side with the perfectionists at this point, and so I must offer some response to these arguments now. That is, I must respond to the charge that my approach, which values and seeks to sustain among the
citizenry a life of democratic sovereignty, is simply perfectionism in another guise.

My response to these charges would start by reiterating that all of the arguments for neutrality seek to defeat a common opponent, the perfectionist, whose fundamental claim is that it is a proper function of the state to promote activities possessing intrinsic value. The perfectionist seeks to justify arts subsidies solely on the grounds that art is intrinsically valuable. But while the perfectionists may indeed be right about this, my response to the neutralist is quite simply that the proposed democratic justification makes no appeal to intrinsic value at all. Indeed, one of the original goals of this project was precisely to avoid appeals to intrinsic value. And so the neutralist criticism and the proposed justification never really meet. That is, while the arguments for neutrality take aim at appeals to intrinsic value, the proposed justification casts the value of art strictly in instrumental terms: art should be subsidized in virtue of its instrumental value to the processes of democratic self-rule. Quite simply, then, because the proposed justification depends solely on claims about art's instrumental benefits, these neutralist criticisms carry little force.

Now critics might respond at this point by saying that I have simply switched the burden of argument, and that while I may have indeed avoided the need to defend claims about the intrinsic value of art, I now must defend claims about the intrinsic value of democracy. But this is incorrect as well, for in Chapter Two the particular commitment to democracy that I described was historically-contingent in nature. This commitment did not
entail that democracy was necessarily and universally the best form of
government. Rather, the claim was the more modest assertion that we, as a
matter of historical fact, have a commitment to live under a system of
democratic self-rule. As John Gray might describe it, our commitment to
democracy is an essential element of 'civil society,' which in turn is an
element of our particular 'historical inheritance.' And so again, while it
may be correct to claim that both art and democracy possess intrinsic
value, the proposed justification depends on neither.

At the same time, however, a critic might yet respond that while the
proposed justification does not assert the intrinsic superiority of either art
or democratic self-rule, it nonetheless seeks to privilege and promote a
particular way of living, and in so doing it is not neutral and may therefore
be paternalistic. The charge of paternalism is a criticism that all
proponents of subsidy must answer, and so I shall give it separate attention
here. Most everyone has an intuitive sense of what paternalism is and why it
is undesirable, but perhaps the best way to make these intuitions more
explicit is to rely on Sher's description of one particular argument for
neutrality, which he terms 'respect for autonomy.' This argument captures
the essence of the paternalist objection, even if Sher is not so much
interested in paternalism per se as he is in defeating the neutralist. That is,
while paternalism is not Sher's main target, paternalism might well be
defined as the direct contrary of respecting a person's autonomy.

The respect for autonomy argument rests on two fundamental premises.
One is a strong Kantian foundation that every person, "as a rational agent
who is capable of shaping his own destiny, " must be treated with respect and dignity. The second premise is that whenever governments act nonneutrally, i.e., whenever they encourage persons to live in certain ways rather than others, they fail to render such respect. As Sher interprets these claims, the argument casts autonomy not simply as one value to be weighed and balanced against other values, but as a 'constraint on the pursuit of value' that cannot be weighed, balanced, and sacrificed in the same way as other values. In this context one might view autonomy as a deontological requirement: governments may seek to promote value, but they may not do so in any way that disrespects their citizens' autonomy. And while encouraging persons to live in ways that they might not otherwise choose may certainly increase value, it disrespects the autonomy of its citizens and therefore is paternalistic.

With this much of the theoretical framework in view, we can see how the critic might well claim that my justification is paternalistic. Even if the critic agrees that the justification does not rely on claims of intrinsic value, he or she can still claim that it amounts to the state's encouraging citizens to live certain kinds of lives rather than others. On one level it encourages citizens to live lives that include active engagement with art. On a second and more profound level, it encourages citizens to live their lives within a particular system of government. This of course follows not only because the purported educative benefits from engaging art aim directly at improving a citizen's capacity for effective democratic participation (i.e.,

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38 Sher, manuscript. Ch. 4, p. 1
increased skills of judgment), but also because the justification itself rests on a fundamental commitment to democratic self-rule.

My response to this criticism begins with the admission that yes, strictly speaking, the justification is paternalistic. It privileges democracy over other forms of government, and it sanctions state action designed to encourage citizens to live more effectively under such a system. But having said this, I would reiterate that the proposed justification classifies arts subsidies as education. This is important to note because I think it provides the perspective needed for realizing that this line of criticism is not so much endemic to arts subsidies in particular as it is to education in general. Rather than a knockdown criticism of the proposed justification, I think what we have encountered with these paternalist criticisms is the age-old fact that all education is paternalistic. Some have called this the 'liberal problem' of education, for it illustrates a tension among several competing claims concerning education and the role of the state: many liberals claim both that the government should be neutral and that the government ought to provide education; but because education entails making choices about what to teach, thereby privileging some ideas over others, it can never be completely neutral.

But while the proposed justification may in this sense be paternalistic, two distinct lines of reasoning suggest that it is relatively less egregious than most other forms of paternalism. The first reply centers on the character of the paternalistic measures being employed by the state. Here I draw on two distinctions that philosophers have made in discriminating hierarchies
or degrees of paternalism. The first is between 'strong' and 'weak' paternalism. If the mode of action whereby a government seeks to promote certain ways of living include extreme measures such as violating a citizen's rights or forcibly restricting liberties, then the act constitutes strong paternalism. If on the other hand the action involves less coercive measures such as the limiting (or increasing) of opportunities, then the action constitutes weak paternalism. Both types of paternalism seek to bring about a state of affairs that the citizenry might not otherwise select on their own, the difference between the two turning on the means used to bring about that state of affairs.\(^{39}\)

Now to the degree that education is paternalistic, it would seem limited to the weaker version. For instance, decisions are made for students concerning the range of subjects offered, the particular content of those classes, and the books to be used. This applies as well to the broader issue of using education to support democracy. In these examples the state is providing and encouraging certain opportunities rather than violating a citizen's rights. About the only case in which education might be considered paternalistic in the strong sense is in cases where the education is compulsory. For instance, our general legal requirement that students must attend school until they are of a certain minimal age, often 16. But that claim is weakened in respect to the arts subsidy issue for two reasons. First, the requirement of compulsory education is complicated by the fact

\(^{39}\)I draw this distinction, based on conversations with George Sher, and from "Paternalistic Behavior," by Bernard Gert and Charles M. Culver, *Philosophy and Public Affairs* 6, no. 1 (Fall 1976).
that we generally think paternalistic acts are more often warranted when the targets are children rather than adults. Thus, pushing this objection would required separating out the issues of paternalism toward children from the issue of paternalism more generally. And second, a program of arts subsidy does not require anyone to actually go and engage the art. Now as will be discussed further in Chapter 5, the commitment to democratic ideals underlying the justification may indeed argue for implementing forms of arts education while students are still in the compulsory stages of schooling, and to this degree the issue of strong paternalism might indeed arise. But clearly, traditional subsidy programs such as administered by the NEA seek only to encourage the production and availability of art, and they in no way make it a requirement that citizens go and view the results. And as long as citizens are free to ignore the art produced and disseminated using state subsidies, then the charge of paternalism will remain at the weaker level.

As opposed to the distinction between strong and weak forms of paternalism, Ronald Dworkin has distinguished between what he terms 'primitive' and 'sophisticated' paternalism. Dworkin writes

> Paternalism is primitive when those in charge act in defiance of the preferences of those they govern, though supposedly in their interests. . . . Paternalism is more sophisticated when those in charge try, not to oppose preferences already established, but to create preferences they think desirable and avoid those they think harmful.⁴⁰

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It is not completely clear whether Dworkin views one of these forms of paternalism as less desirable than the other. I presume that he would consider primitive paternalism as more egregious in that going against developed preferences would likely cause more pain than would the creation of new preferences over time. But returning to the issue at hand, the paternalism involved in encouraging the perpetuation of democratic self-rule clearly cannot be paternalism of the primitive sort. Because the justification is based on the claim that as a society we have a generally-held commitment to living under a democratic government, then encouraging something that we already have a commitment to is not only not to go against established preferences, but it is actually to promote those preferences. As to the more sophisticated paternalism, while the proposed justification does indeed seek to perpetuate behavior of a particular sort, one might again doubt whether it seeks actually to create new preferences as much as it seeks to increase the citizenry's ability to act on extant preferences that the citizenry came to possess quite independently of, and typically prior to, the introduction of art subsidies.

These last considerations lead directly to my second reply to paternalist criticisms, which concerns the type of activity being encouraged rather than the methods employed in encouraging it. To see the force of this reply, first recall that our conceptual basis for classifying an act of the government as paternalistic was that it failed to respect the autonomy of the citizenry. Then, consider the fact that what is being encouraged through government subsidy of art is a constituent aspect of democratic virtue, which as Gutmann broadly describes it includes the ability to participate in
democratic politics, the ability to consider and select from a range of good lives, and perhaps most importantly, a commitment "to share the rights and the obligations of citizenship with people who do not share our complete conception of the good life."41 If we step down from this global perspective on democratic virtue and consider only the specific contributions of art to promoting democratic virtue, we see that these contributions consist of honing one's ability to interpret, to deliberate, and to project oneself into the position of others, all of which are constitutive elements of sound judgment. And finally, recall from Chapter Two that the commitment underlying the justification -- the commitment to live under a system of self-government -- is itself based on a commitment to respecting each citizen as a self-directing agent. From these considerations it would indeed seem peculiar to criticize the proposed justification as disrespectful of autonomy, for not only does it seek to promote each citizen's ability to participate in that form of government most respectful of autonomy, but it also is grounded in a specific commitment to perpetuate such a system of self-government.

It should also be noted that our commitment to democracy may in some sense require the use of education for the purpose of fostering democratic virtue. For instance, Amy Gutmann has argued that educating for democratic participation has a moral primacy over all other educational aims. Gutmann writes that

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41Democratic Education, pp. 42-47.
'P]olitical education' -- the cultivation of the virtues, knowledge, and skills necessary for political participation -- has moral primacy over other purposes of public education in a democratic society. Political education prepares citizens to participate in consciously reproducing their society, and conscious social reproduction is the ideal not only of democratic education but also of democratic politics. . . .

Now as discussed in Chapter Two, Sher has raised some important questions about whether Gutmann is right in claiming moral primacy for democratic education. But while it is beyond my scope to pursue the issue any further here, suffice it to say that if Gutmann is close in her claims about the moral primacy of democratic education, and if I am right in my claims about the potential of art as a form of democratic education, then some radical implications for our thinking about arts subsidies would seem to obtain. The issue of arts subsidy becomes more pressing on the public agenda, for it now has a status above its usual classification as a relative 'luxury' item. In subsidizing art, we are not simply beautifying our cities or even our minds, but rather we may well be fostering the substantive preconditions of our sovereignty. And if Gutmann is right, then this is something of much more than practical value. That is, depending on the strength of my claims about art's educative value, and depending on the nature and strength of our commitment to democracy, perhaps a plausible case may even exist for the claim that we have a prima facie moral obligation to subsidize art! Of course, supporting such an ambitious claim would require more exploration and argumentation, and in the end it may

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42Democratic Education, p. 287.
prove insupportable. But in any event, the simple fact that the conceptual frame of the democratic justification renders such an idea intelligible reveals something of its peculiar character *vis a vis* other justifications in the literature.
CHAPTER FIVE
Implications and Conclusions

Having presented a positive account of art's political relevance and educational potential, and having seen how this account provides a principled response to many of the best arguments against state subsidy, it is now time to step back and review the justification from a more applied perspective. First, this chapter will make explicit several potentially controversial implications of the proposed justification. These implications stem primarily from the justification's underlying commitment to democracy, as well as from its classifying of arts subsidy under the rubric of education. The chapter then concludes by reflecting on the success of the project as a whole. While this will include a brief reflection on the justification's principled claims, it will primarily involve responding to several empirical questions about the general claim that engaging art can yield political benefits.

I.

A curious implication of casting subsidy in terms of democratic education is that in a real way this strategy undercuts the strength of the justification itself. By this I do not mean that any particular aspect of the justification is in error, but rather that the justification's underlying commitment to democracy constrains what can legitimately be claimed of any abstract
political justification. The basis for this constraint resides in the fact that decisions about the substantive content of public education in a democracy cannot justifiably be made by individual fiat, decreed by a centralized educational authority, or determined *a priori* through abstract argumentation.\(^1\) Rather, a comprehensive commitment to democracy requires that decisions concerning educational curricula -- decisions integral to what future citizens will be taught and so how society will reproduce itself -- must be made through a decision-making process that is itself also democratic.

In drawing out the implications of this democratic consideration, it will be helpful first to review several of the competing ways one might choose to allocate educational authority. Gutmann describes four such possibilities: the family state; the state of families; the state of individuals; and, the democratic state. The family state is Platonic in origin. Because it assumes both that there is an objectively best life for each citizen (i.e., to live in accordance with one's talents and character type) and that the role of the state is to 'inculcate' in citizens a desire to pursue this life above all others, the family state model suggests that educational decisions are most effectively made by a central educational authority. In contrast to the family state is the 'state of families.' This view allocates educational authority exclusively to parents, thus recognizing not only a moral obligation of parents to educate their children, but also a parental right to

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\(^1\)Although Gutmann does argue that we can conclude *a priori* that education in a democracy must be both non repressive and non discriminatory, I distinguish between abstract arguments for such *constraints* on educational decision-making and the substantive decisions about the content of educational programs. See *Democratic Education*, pp. 41-47.
"predispose their children, through education, to choose a way of life consistent with their familial heritage."² A third view of educational authority is the 'state of individuals.' This view rejects the family state and the state of families on the grounds that both bias children away from some ways of living and toward others. It proposes instead that educational decision-making should remain neutral toward particular conceptions of the good, emphasizing the value of maximizing citizens' future freedom and opportunity for choice.

The fourth account of educational authority, the democratic state, is both endorsed by Gutmann and adopted in this dissertation. Although it is perhaps closest in nature to the state of individuals in that it seeks to develop citizens' capacities for deliberation, the democratic state of education is not itself neutral. Rather, it seeks to inculcate a particular kind of virtue, what Gutmann terms 'democratic virtue.' In describing this account, Gutmann writes

[A] democratic state recognizes the value of political education in predisposing children to accept those ways of life that are consistent with sharing the rights and responsibilities of citizenship in a democratic society. A democratic state is therefore committed to allocating educational authority in such a way as to provide its members with an education adequate to participating in democratic politics, to choosing among (a limited range) of good lives, and to sharing in the several sub-communities, such as families, that impart identity to the lives of its citizens.³

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²Democratic Education, p. 28. See also John Stuart Mill on the moral obligation of parents to raise their children. On Liberty, _____.
³Democratic Education, p. 42.
The aims of democratic education include not only teaching citizens how to be effective democratic citizens, but also preparing them for the more reflective task of 'consciously reproducing' the democratic society in which they live. An important corollary of this ideal is that democratic citizens may not fully delegate educational decisions to a central authority, no matter how wise or knowledgeable this central authority may be. Just as our ideal of democracy is based not on citizens always deciding rightly but on citizens deciding for themselves, how best to implement a democratic state of education is something that the citizenry must actively deliberate about and decide for themselves.

In concrete terms, what does a democratic state of education require? The basic model of educational authority advocated by Gutmann (and assumed here) relies primarily on the outcomes of local democratic procedures, although it does provide for disregarding these outcomes if they are either repressive or discriminatory.\(^4\) This account of educational authority recognizes and preserves the force of our commitment to allowing families and localities to influence educational policies, while at the same time recognizing that these local decisions may sometimes be in tension with democratic ideals. The constraints I attach to the democratic justification of arts subsidy follow directly from this account of educational authority. That is, if our commitment to democracy entails a commitment to something like the democratic state, then any brute claims about the proper content of democratic education -- no matter how well argued -- will still

\(^4\)Democratic Education, pp. 41-47.
stand in need of democratic legitimation. Because of this, I consider my justification to constitute no more than a set of reasons in favor of spending tax monies to support the arts. Granted, I believe that they are good and perhaps even compelling reasons, but nonetheless they do not constitute some kind of abstract 'proof' for the legitimacy of such spending. Rather, these reasons are put forth out of the intention that they be weighed and considered within a framework of public deliberation over the proper content of education curricula, especially as it applies to inculcating democratic virtue. This view is also consistent with the account of judgment canvassed in Chapter Three, where the 'logic' of political judgment was shown to be that of persuasion rather than conceptual demonstration or proof.

However, in emphasizing these democratic constraints I am not at all suggesting that the justification as it now stands amounts to nothing, for in providing a plausible account of why the arts merit serious consideration among our competing educational priorities, we have gotten something of real justificatory value -- a reply to the libertarian. Unfortunately, we can now begin to see that this victory brings with it some further argumentative burdens. This is because in defeating the libertarian we really have defended art subsidies in a relatively weak sense, for what we have done is to block the claim that subsidizing the arts is somehow illegitimate in principle. One might say that the case for subsidy as it has been presented so far possesses roughly the same status as Gutmann's 'collective pride' argument discussed in Chapter Four, where subsidies
were justified only on the condition that they have been democratically approved.

But it is unclear whether this is sufficient for justifying arts subsidy programs on anything but the local level. While it may indeed be plausible to justify a federal subsidy program such as the NEA by classifying it as a national education initiative, national education initiatives by their nature require a highly-centralized authority distribution that is more akin to Plato's family state than to Gutmann's democratic state, and thus the problem of justification seems to arise anew. Because of this we must consider whether there exists a fundamental conflict between the justification's underlying commitment to democratic decision-making and the nature of a federal arts subsidy program. This question is important because if such a conflict indeed exists, then my proposal may only be able to justify locally-sanctioned programs and not a federal institution such as the NEA.

In working out of this impasse, it may help to consider the issue from a broader perspective. That is, instead of considering the issue as exclusively one of arts subsidy, or even as one of democratic education, it is appropriate to view this issue as raising the more general question of whether our commitment to democracy entails that the state acts legitimately only when its actions have first been directly endorsed through direct democratic procedure. Can the state justifiably enact national educational incentives in the absence of a direct procedural endorsement? Clearly the answer to this question is 'yes.' Only in a direct democracy or
under the strict 'mouthpiece' view of representation could this not be the case, and our particular commitment to democracy entails neither of these views. We endorse a representative rather than a direct democracy, and we adhere to at least a weak form of the 'leadership' view of representation, whereby an elected representative may legitimately ignore or even go against the expressed wishes of the citizenry if he or she believes that doing so will promote the public interest. Thus, while our commitment to democracy does require that educational authority be allocated in a way that is sensitive to local views and preferences, the 'leadership' account of representation surely allows enough discretion for enacting federal programs of educational leadership and incentive, which I believe is a very plausible way of construing the work of an institution such as the NEA.5

5Viewing the issue from the perspective of representative democracy also gives us an additional perspective from which to view the actual work of a political justification. Whenever a government, through its elected leaders, is no longer bound to act in strict accordance with the expressed desires of its citizenry, then there will inevitably be 'gaps' between the actions that these leaders take and the wishes of the citizens they represent. Typically, this gap has two components. One is the gap that exists between the majority and the minority. Assuming that the leader is acting in accord with the wishes of the majority, then this gap consists of a mismatch between the action taken (i.e., the views of the majority) and the wishes of the minority. This sort of gap really is not peculiar to representative democracy at all and would exist even in a direct democracy, unless the particular issue being considered happened to enjoy unanimous support. On the other hand, if the leader acts against the wishes of the majority, then not only is the gap greater because the actor goes against the preferences of more citizens, but it also requires more justification because it is in a sense an instance of minority rule.

With this conceptual frame in mind, a political justification might well be defined as the response that the leader can or should give to those who fall on the 'wrong' side of the gap between citizen preference and government action. The greater this gap is, the greater the need for a cogent political justification. In the case of arts subsidies, a leader might respond to dissenters by saying "While it is true that there has been no direct vote on the issue, this program was enacted because it may well foster a stronger democracy, which I presume is something to which we are all committed." And again, the goal of strengthening democracy itself may well be the best possible answer that a democratic leader can give to justify an action that goes against the citizenry's wishes. It certainly seems more likely to be garner acceptance than does the perfectionist response, which might run something like "While it is true that there has been no direct vote on the issue, this program was enacted because a life with art is objectively superior to a life without art."
Given the justification's fundamental emphasis on democracy, we can also draw out several concrete implications for subsidy policies. One of these implications is the privileging of local decision-making authority in distributing federal subsidy dollars. As discussed above, a democratic state appears committed to an allocation of educational authority that allows families and localities to influence educational policies, as long as those policies are neither repressive or discriminatory. In more concrete terms, a democratic justification would thus seem to argue for increasing the percentage of funding distributed through block grants to state and local arts groups. This idea was endorsed earlier as a means of assuaging the problem of the offended taxpayer, and now we see that it receives further support from considerations of educational authority. While the democratic justification may not require delegating total spending authority to localities, if it is to remain true to the tenets of democratic educational authority described above, then it must concede a large portion of that authority. That is, in a large percentage of subsidy decisions, localities should possess the authority to allocate the monies as they see fit, and even to refuse the monies entirely.

However, this does not necessarily mean that we can or should dispense with the federal component altogether, even given the justification's

The primary difference between these two responses is that while the democratic justification appeals to a value that is presumably held even by those on the other side of the justificatory gap, the perfectionist approach can offer no such conciliatory gesture. Furthermore, in allocating educational authority to localities, the proposed justification may also actually help to reduce the size this gap, for the more that funding authority is exercised at the local level, then the greater the chance that local citizens, who on a regional basis may likely see the issue of whether or not to subsidize with much greater homogeneity, will be able to influence subsidy decisions.
emphasis on delegated educational authority. There are good practical reasons for maintaining a federal subsidy presence. For instance, Gutmann argues that a central 'watchdog' authority is necessary to insure that educational policies implemented on the local level comply with the democratic tenets of nonrepression and nondiscrimination.\textsuperscript{6} This watchdog function could be achieved through relatively passive means such as guidelines to localities on how to distribute funds in nondiscriminatory and nonrepressive ways, or through more active means such as periodic audits of local procedures and expenditures. Other practical reasons for a federal presence include providing general incentives, direction, and guidance to local programs on how to implement an effective subsidy program. This might be especially useful given the proposed justification's specialized (i.e., democratic) educational aims. Also, a federal presence could provide a needed mechanism for addressing any grievances arising from decisions made at the more local levels. Finally, it might also be argued that a certain percentage of subsidy monies should be retained for distribution directly from the federal level. Such direct funding could perhaps serve as a catch-all for obscure but valuable projects rejected at the local level, thus aiming to ameliorate what has been termed the 'Norman Rockwell Effect' -- i.e., the concern that delegated decision-making may result in the selection of projects with lower artistic merit. But while well-intentioned, this last claim is controversial. It risks a return to perfectionism, and as

\textsuperscript{6}Democratic Education, pp. 72-4.
such it may be insupportable given the justification's emphasis on
democratic control.

A second concrete policy implication of the proposed justification is that it
would likely privilege the dissemination of existing artworks over the
creation of new works. The democratic constraint of nondiscrimination
mentioned earlier implies among other things that whatever the polity
decides to include in its educational curriculum, this curriculum must be
equally accessible to all citizens, regardless of an individual citizen's
geographic location or financial ability. To the extent that we take this
requirement seriously and agree with Gutmann that geographic remoteness
is simply an "irrelevant reason" to justify a student's exclusion from public
education, then the goal of insuring access to publicly-subsidized culture
might well possess a form of limited priority over the goal of creating
highly innovative new works. Gutmann describes the realities of such
competing ideals when she writes that "Channeling federal and state funds
to local theater and art groups may produce less excellent performances but
more exciting experiences for people who otherwise could never attend a
live professional performance."

Clearly, the democratic basis of the justification does place dissemination in
a privileged position *vis a vis* other justifications in the literature. As an
example, consider an arts council faced with an exclusive decision between
funding a groundbreaking yet very expensive set of new artworks, and

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*Democratic Education*, pp. 265-6.
funding a less novel yet less expensive set of new works, with the residual monies going to support dissemination activities. The democratic justification would likely privilege the latter on the grounds that it maximized overall public access while maintaining an acceptable level of artistic quality. Of course, trade-offs of various sorts could always be made from year to year to insure an acceptable mix of the two goals over time, thus leaving open the possibility that even under a democratic justification the more expensive works could be selected instead. But while trade-offs could be made, what indeed seems unjustifiable under a democratic approach would be the persistent omission of funding for public access.

Some might conclude from this that the democratic justification leads inevitably to dissemination being the sole priority of subsidy policy. But although the democratic emphasis on dissemination is undeniable, I do not think that it must be exclusive. For while the democratic justification does not require that we fund the absolutely 'cutting edge' of artistic production (as some perfectionist justifications require), this does not entail that dissemination is the only relevant consideration. Rather, it seems more appropriate simply to recognize that the democratic justification gives extra weight to dissemination, but that there are other considerations -- such as novelty -- that should also carry weight in constructing and implementing concrete subsidy policies.\(^8\)

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\(^8\)The democratic ideal of nondiscrimination may also argue for increased accessibility in another sense. If citizens are to realize the educational benefits of engaging art as proposed, then they must also possess the minimal level of skills needed to engage the artworks. This is an especially important pre-requisite given that the educative claims being made for art require that citizens engage artworks in a very specific way,
The last policy implication to consider concerns the status of funding controversial works. It seems that a justification based on a fundamental commitment to democracy could, in certain circumstances, be compatible with a locality's refusing to fund controversial or offensive works. This idea was discussed earlier in connection with the offended taxpayer, where we saw that while a single offended taxpayer may not necessarily be able to trump the preferences of the majority, moral offense is nonetheless a reason of real justificatory significance. And in cases where significant segments of the citizenry object, it is not illegitimate -- through democratic means -- to reject subsidy for particular works. I revisit the issue again now only to point out how this conclusion receives more general support from the standpoint of promoting a democratic allocation of educational authority.

This problem might best be viewed as a tension between artists' freedom of expression and the public nature of subsidy. While artists do create their works in relative privacy, and while artistic expression enjoys the same political protections as all other 'non harmful' speech, the question of whether to fund art using public monies is neither private nor something outside of politics. Rather, it is very much a public, political issue, a fact that is especially germane when the justification for subsidy rests on a commitment to democracy. This tension between artistic expression and democratic control was clearly evidenced in the furor over Richard Serra's
publicly-funded sculpture *Tilted Arc*. In 1979 the U. S. General Services Administration, on recommendation of an NEA review panel, commissioned Serra to conceive and construct a site-specific sculpture for permanent exhibit at Federal Plaza in New York City. Serra completed and installed *Tilted Arc* in 1981, and it almost immediately drew complaints from the local citizenry (See Figure 3). Some complained that the 120 feet long, 8 feet tall, tilted and curved wall of steel was an inconvenience, disrupting the pattern of foot traffic on the plaza. Others thought it was an aesthetic disaster, making the Federal Plaza no longer an enjoyable place to visit. Over the next eight years Serra's work was blamed for a variety of municipal problems, with critics claiming not only that the sculpture attracted litter but also that it caused an increase in the neighborhood's rodent population.⁹

In this clash between artistic freedom and democratic control, democratic control won out in 1989 when unceasing citizen protest forced government officials to dismantle the work and put it into storage. Serra claimed that his artistic rights had been violated and many others descried censorship. But while the problem of subsidy and the problem of censorship are often conflated, the two are in fact thoroughly distinct. A democratic allocation of educational authority could never justify banning or closing down a private gallery simply because local authorities disliked the exhibit's

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Figure 3: *Tilted Arc*, by Richard Serra. Photograph reprinted by permission of the artist.
content. Doing so would almost certainly constitute censorship. But while an artist may always choose to operate with relative autonomy and freedom in creating artworks, if he or she seeks public funding to produce these works then the public nature of subsidy introduces democratic considerations that may indeed mitigate this freedom.

A government's refusal to fund an artist's work -- controversial or otherwise -- simply does not constitute censorship. It is not censorship unless the government prohibits the artist from making or displaying the work at all, and Serra was not prohibited from displaying his work at other locations. Furthermore, not only is this not censorship, but with sufficient objection from the citizenry, our commitment to democratic control over the use of public monies may even require that the government refuse to fund particular works. This is because no matter how great the artist and his or her work, a program of state subsidy (at least one based on a commitment to democracy) will always be subservient to the processes of democracy itself, the outcomes of which may not always be in keeping with the radical freedom of our best artists. Yet if the alternative is no justifiable program of subsidy at all, then perhaps this is a restriction we should be willing to accept.

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10 There would of course be standards of local decency to deal with, but even if the works were deemed indecent, this would be a decision based on claims of prudence, not educational standards.
II.

It was noted in the Introduction that because what the arts subsidy debate needs at this point is an influx of new ideas, my strategy in this project would be to push my claims about art's democratic value as far as they might reasonably go. The specific goal of that strategy was to find a way of justifying arts subsidy that avoided the problems inherent to perfectionist justifications, namely the appeal to intrinsic value and the apparent mismatch between perfectionist ideals and the aims of many contemporary artists. And at least in principle, I believe that this goal was realized. What has been offered is an instrumental justification of subsidy, one based on art's educative potential and supported by a long and well-established philosophical tradition. The justification not only avoids appeals to intrinsic value, but it also identifies and exploits a justificatory 'common ground' that exists among virtually all citizens (i.e., the commitment to democratic self-rule). Furthermore, the claims made about the democratic value of art are both true to art's ontological structure and compatible with the intent of contemporary artists.

But in assessing the overall success of this project, I would be remiss to consider only the justification's principled foundations and not its empirical assumptions. For despite the justification's apparent formal soundness, there exists this nagging empirical doubt: Will engaging art really improve the quality of a person's political judgment? Two interpretations of this doubt suggest themselves. The first is expressed by the question, Do people actually engage art in the interpretive, reflective way that the justification
requires? Isn't it rather the case that only a small minority of persons engage art in this way, with the vast majority -- if they view art at all -- considering it as something that simply looks pretty? Or to use Danto's language, isn't it more often the case that people merely 'look' at art objects rather than 'achieve' them as works of art through interpretation?

In response to this interpretation of the empirical doubt, I would point out that it rests on an uncertain assumption, which is that the majority of persons are either unable or unwilling to engage and interpret works of art. As to the claim that people are unable to engage art, I think that this is simply incorrect and unfair. No doubt people indeed find particular works of art confounding. But that they possess the ability to engage them interpretively is evidenced by the fact that if asked to describe their impressions of a given work, I believe that very few if any would be unable to give reasons that (at least partially) explained their reactions to that work. Of course a person may decide that a particular work is trivial rather than profound, but even this negative evaluation still requires one to render the precise sort of interpretive judgment at issue. That is, even in condemning a work a person must first aesthetically engage the (perhaps confounding) object and come to some interpretation of its meaning and value. If a person judges the work to be trivial, then in a sense he or she is judging that work to be devoid of meaning or importance. And this viewer should nonetheless still be able to give reasons in support of her judgment, including perhaps that it is not the interpreter but the artist who is lacking in abilities.
Rather than cut against the proposed justification for subsidy, this objection may instead illustrate the value of encouraging citizens to discuss their reactions to artworks with others. Discussion seems to be an important catalyst for developing a keen interpretive attitude, for it forces one to formulate reasons for or against a particular interpretation, something that simply cannot be done without taking the interpretive step from vague aesthetic engagement to concrete claims of meaning or quality. As a side note, I believe that we are closest to realizing this educational ideal in the study of literature. That is, in the traditional practices of reading a text, formulating interpretations, and discussing the viability of these interpretations with others, we are engaging in precisely the kind of educational practice that the democratic justification extols. Some might conclude from this that the justification is biased toward literature as opposed to the visual arts. Yet the fact that this educational ideal has been more fully realized in the study of literature does not imply that literature is the only art form that can be justifiably supported. My intent is to justify support for the visual arts as well, and I believe that this broader application is justified given the highly generalized account of art being assumed (i.e., metaphorical representation).

As to the claim that people are in some sense unwilling to engage artworks in the required way, I think several responses are appropriate. The first is to say that there will inevitably be 'indignant philistines' (to use Feinberg's phrase) who choose not to engage art. Perhaps they will do so because they deny receiving any benefits from art. But just as we saw that the objection from the Benefit Principle gives inordinate weight to the demands of the
indignant philistine, we must again ask whether the existence of a few persons unwilling to engage artworks in the required way can or should outweigh the opportunities for benefit that exist for the many. Of course, if an overwhelming majority refused to participate, then perhaps the justification would indeed founder. But the empirical success of my proposal surely does not depend on a one hundred percent citizen participation, and so the empirical issue here is really that of determining the actual number of persons who would refuse to participate. It is my suspicion that the number of citizens unwilling to engage art constitutes a small and perhaps even statistically-insignificant minority. Of course, not all of those who are willing will actually participate, especially due to disadvantages of income and opportunity. But those are precisely the kinds of disadvantages that a state subsidy program is best suited to address.

My second response to the claim that people are unwilling to engage art is to say that even if it is true, this criticism is not peculiar to the democratic justification of subsidy. Consider a perfectionist justification based on the claim that art is intrinsically valuable because it inspires persons to realize their human potential. Unless such inspiration can occur through passive osmosis, then the perfectionist account depends on willing participation as well. How similar this participation is to that required by the democratic justification is unclear, for the perfectionist claim is inexplicit about the precise mechanics of art's ability to inspire. Yet even if there are significant differences between these two modes of engaging art, the perfectionist justification still stands in need of a willing citizenry. Furthermore, my suspicion is that the kind of interpretive engagement
central to the democratic justification is inherent to the perfectionist approach as well, for it seems unlikely that one can be 'inspired' by an artwork if one has not first interpreted what that work means.

This leads to a broader point. It would seem that the most that can reasonably be expected of any educational program is that it provide adequate educational opportunities. Even compulsory education offers no guarantee of results, for while the state may be able to coerce children into the classroom, they cannot make them want to think or willingly participate. Because of this, it might be wise to consider whether the task of justifying educational expenditures is best conceived in terms of the actual results that a program achieves or in terms of the opportunities that it makes available. For instance, we generally consider expenditures for public education to be justified, even though we know full well that not everyone will take advantage of its opportunities, and that those who do take advantage of it may not in fact succeed.

Of course, even if it is true that spending on public education is best accounted for in terms of opportunities, this does not mean that all educational opportunities are of equal value. Questions of efficiency certainly arise, and thus we are left with the question of whether engaging art is the most efficient sort of educational opportunity for improving our skills of deliberation and judgment. While I can't be certain of its efficiency, I do think that engaging art in the manner described is indeed one of the few ways to practice the skills of interpretive deliberation outside of direct political involvement itself. And as mentioned earlier, art
offers opportunities for practicing these skills within a relatively 'insulated' and protected forum in which mistakes in judgment cause others no real harm. Furthermore, any lack of efficiency may well be offset by other factors. For instance, even if it is true that only a minority of persons will choose to engage art in the desired way, the benefit that these persons will receive (and that will indirectly accrue to democratic society as a whole) should be of a high qualitative value. That is, in contrast to instrumental justifications of subsidy based on benefits such as increased tourism or aesthetic pleasure, the specific benefit of improving one's skills of interpretive judgment is -- from a political standpoint -- qualitatively more valuable than either increased tourist dollars or aesthetic pleasure. And this qualitative differential goes even further toward mitigating concerns of inefficiency when combined with the fact that the amount of money needed for funding the arts is so small.\textsuperscript{11}

So far we have considered the question of whether people can and will engage art in the interpretive, reflective way that the justification requires. But there is a second interpretation of the empirical doubt, one which persists even assuming a positive answer to the first. For even if people do engage art in the suggested way, it is still possible to question whether this activity will actually yield the distinctly political benefit described. That is, one may still ask the question, Will engaging and interpreting artworks actually improve one's political judgment? In responding to this question it

\textsuperscript{11}The total budget of the NEA in FY 1993 was $175 million dollars. NEA's budget for FY 1996 has been reduced to $99.5 million. Data from A.B. Spellman, National Endowment for the Arts.
is crucial to be clear about the precise meaning of the claim that engaging art can improve political judgment. Perhaps the most common misunderstanding about my project is that it claims that engaging art will somehow 'transform' a person into a political statesman. My claims are not so grandiose, even though there does exist a significant philosophical tradition claiming that aesthetic education fosters socializing tendencies and moral sensitivity.\^{12} Will everyone who engages art become a statesman? Certainly not. Will engaging art insure that you always make the wisest practical decisions? Certainly not. If one interprets the empirical dimension of my claims in this highly ambitious way, then the justification will certainly disappoint.

The key to understanding and defending the empirical status of the proposed justification is to distinguish a second level of benefit to be had from engaging art. While it may indeed be implausible to claim that engaging art will with causal certainty make you into a statesman or \emph{phronimos}, it is both plausible and important to defend the claim that engaging art utilizes and thus practices many of the requisite skills and abilities of both the statesman and the \emph{phronimos}. Perhaps then my claim is really about art's ability to develop the preconditions, or mental tools, of statesmanship. For instance, engaging art encourages persons to be more reflective, and thus less prone to rendering judgments based on transient impulse. It promotes awareness of the need to achieve distance when

\^{12}See Friedrich Schiller's \emph{On the Aesthetic Education of Man}, as well as Herbert Read's \emph{Education Through Art}, both cited earlier.
judging. It encourages citizens to tolerate the uncertainty of rendering judgments in situations in which there exist no fixed rules or objective guidance. And, it provides the opportunity to view the world from the perspective of another person.

Yet while these skills and attitudes are indeed important to the political actor, perhaps art's greatest political value lies in the practice that it can provide for improving what Aristotle termed the ability of 'seeing' particular situations in their true light. Indeed, the first step toward sound political judgment would seem to be none other than the ability to examine the facts of a given situation and to formulate a defensible interpretation of their significance, which is precisely the task involved in engaging a work of art. The ability to judge competently the meaning of political alternatives does not guarantee that one will always make the wisest judgments, but lacking such an ability will almost certainly doom one's chances for judging wisely. Thus, it is perhaps most accurate to conclude that engaging art develops skills that are necessary and vitally important -- but not alone sufficient -- to a person's possessing sound judgment.

I hope this brief discussion has defused at least the most basic concerns about my justification's empirical status. Yet while I believe that these concerns can be met in the way described, it is also important to point out that the question before us is not really whether I have somehow 'proved' my case for arts subsidy, nor for that matter whether someone else using a different strategy has proved their respective case. For as Arendt has pointed out, judgment in politics -- as in aesthetics -- does not proceed by
way of logical proof. Rather, the question before us is whether we as democratic citizens will *judge* art to be worthy of support from public coffers. And if we do judge it to be of such value, then we should be free to act on that judgment, for if this dissertation has shown nothing else, then I think it has shown that there are no compelling arguments for the claim that subsidizing the arts is illegitimate in principle.

As one deliberates over the the issue of arts subsidy, I would point out that unlike *any* justification in the literature, this proposal enumerates a benefit of subsidizing the arts that is distinctly political. Furthermore, fostering the preconditions and skills of democratic deliberation and judgment would seem to be about the most compelling reason one could hope to find for justifying not just the arts but *any* activity. And as such, this reason might serve a useful role in sorting out our thinking about government subsidies more generally. For the libertarian Robert Nozick has observed that when it comes to justifying government subsidies, we may well be guilty of applying a double standard.

Nobody asks why we subsidize farmers the way we do. Is it justified by the public interest, by this that and the other thing? . . . Perhaps the correct principles wouldn't yield subsidy of the arts and humanities, but right now in our society, the correct, stringent principles are not being applied to any other area except the arts and the humanities. What kind of public announcement does this society make about valuing the arts and humanities when these are now held to a criterion and a standard that no other arena is held to? For other arenas, nobody is demanding they be shown to be public goods in the strict economist's sense. . . . . There is a special insult to that.
So, at least there is a case for either stopping the rest of the subsidies or starting one here.\textsuperscript{13}

Without pursuing this issue further, perhaps there are not only economic public goods that merit public subsidy but also 'political' public goods, the aim of which is to improve the quality of the political processes on which we all depend. If so, perhaps we have identified an additional criterion to aid in ranking the many competing claims on government funds, and perhaps we have also identified a sense in which arts subsidies should be moved up much higher on our list of priorities.

Many diverse issues go into making the judgment of whether to subsidize the arts. As we have seen, the problem of justifying state support for the arts involves political issues such as the justice of taxation, the proper role of the state, and the nature of representative democracy. It also involves aesthetic issues such as the nature of art and its value to society. Making a sound judgment about whether or not to subsidize the arts requires considering each of these issues, but perhaps even more unsettling it requires deciding \textit{how} to consider them. Reflection, deliberation, debate, rational analysis, and persuasive power are all relevant, although most likely not in equal measure. In essence, determining how to proceed in the midst of such uncertainty \textit{is} the task of judgment, for as Aristotle points out, true judgment is only needed when we are 'without arts or rules to guide us.' Ironically, the ability to find such a rule was also precisely how

Kant defined the genius of the artist -- a natural ability to 'give the rule' to art even though such a rule could never be discursively captured. And while Kant might be right to claim that genius cannot be taught, good judgment is something that I believe can be developed through practice. And if engaging art has anything like the political benefits that I have suggested, then one might well judge the relatively paltry sums needed to support the arts to represent a wise investment indeed. Our successors may judge us foolish if we do not make it.
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