Museums and Wealth

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The Politics of Contemporary Art Collections

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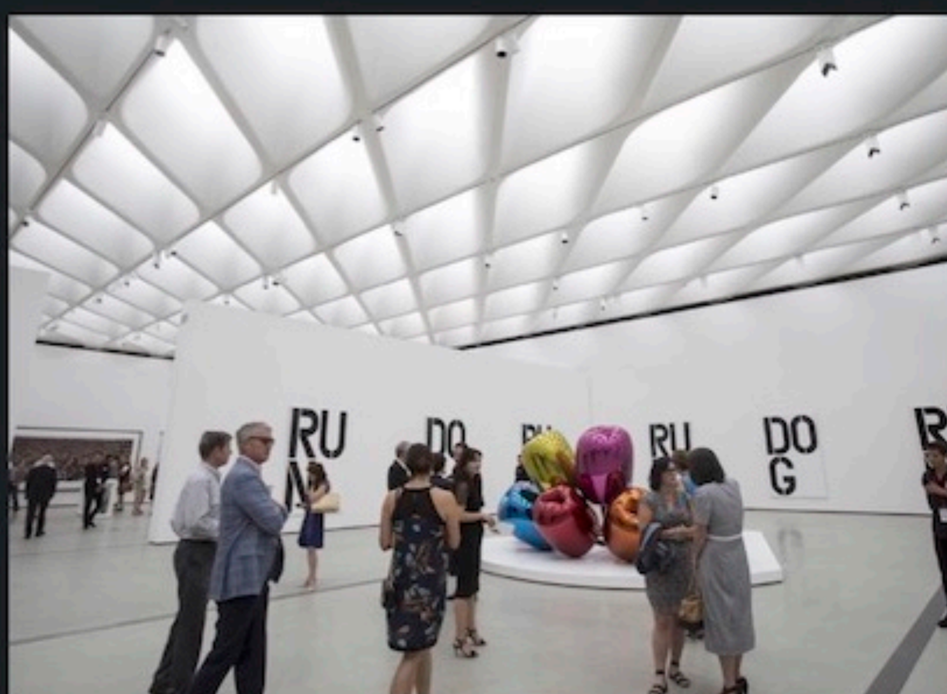

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"Finally, a book that does the heavy lifting of querying the obfuscated connection between economic and aesthetic value, addressing a blind spot in the critique of institutions. Shaked gives a solid account of the complicated entwinement of the art market and the exponential growth in the financial sector of first-world economies that increasingly rely on debt rather than on actual production. I cannot recommend this book highly enough for programs in critical curatorial studies."

Jaleh Mansoor, Associate Professor of Art History, The University of British Columbia, Canada

"This book issues a profound challenge to almost every aspect of the capitalist art world, revealing how many practices that are technically legal are nevertheless contrary to the public good. It offers a radical and specifically-targeted critique, surpassing the usual vague complaints over the commodification of art. It achieves a link between the critique of white supremacy (which has had a profound effect on the art world in recent years) and an economic critique of capitalism that has sometimes, if misguidedly, been opposed to 'identity politics'. The defense of a Marxist 'totalizing' perspective precisely for the purpose of abolitionist anti-racist work could not be more important in this moment. Although the solutions proposed may seem almost impossibly out of reach at present, so too did the idea of 'defunding the police' just a year ago, as the author points out. This book looks beyond incremental reforms to a thorough restructuring of the art/museum world, or rather of society itself, which is indeed what it would take to achieve the seemingly more modest goal of making museums truly serve the public."

Daniel Spaulding, Assistant Professor Of Modern And Contemporary Art, University of Wisconsin – Madison, USA

"Is there such a thing as a 'before' and 'after' in museum scholarship? Nizan Shaked's *Museums and Wealth* would be an example. This is a unique, dialectical study of the art museum, the practise of collecting, and the creation of value in art in contemporary capitalism (racial and gendered, as we know it). It is also an acutely critical reflection on why it is so hard for emancipatory politics to change the field, yet it offers hope about how to move forward. Moving between case studies and the big picture, *Museums and Wealth* is an extraordinary contribution to the struggle for an egalitarian (art) world."

Angela Dimitrakaki, Senior Lecturer in Contemporary Art History and Theory, University of Edinburgh, UK

Critically analyzing contemporary art collecting and the value form, Nizan Shaked shows why the current museum system, based on the nonprofit model, is unfit to administer our common collections. A history of how collections gradually turned public gives context. In the late Renaissance, externalizing collections helped legitimize the prince's right to rule, and later, with the bourgeois revolutions, public display consolidated national identity. But the rise of the museum in the United States reversed this trajectory, re-privatizing the collection such that individuals benefit from the public purse reputationally, politically, and financially. By the 21st century, this has become an international trend. A materialist description of the museum as a model institution of the liberal nation state reveals constellations of imperialist social relations. The book offers solutions for redistributive restructuring and diversity reform.

Nizan Shaked is Professor of Contemporary Art History, Museum and Curatorial Studies at California State University, USA.

PHILOSOPHY

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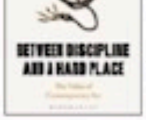

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ACKNOWLEDGMENTS

The Los Angeles art scene has been my career and social life for over twenty years, and where I spend numerous hours conversing both openly, and confidentially, with people from all aspects of the art world. I have mostly anonymized my interlocutors, to the extent of omitting most of them from the following acknowledgments. The eagerness of board members, museum personnel, artworkers, and artists to pour out their hearts and share their insights, is testimony to how disturbing the state of the field is to people who are deeply engaged with art. I thank them profoundly for their candor.

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This book has been written in part on the unceded land of the Tongva/Gabrieleño and the Acjachemen /Juaneño Nations. I thank them for their strength, perseverance, and resistance.

Chapter 1

The San Francisco Museum of Modern Art and Economic Inequality: Art and Imperialism

In 2019 the San Francisco Museum of Modern Art (SFMOMA) announced that it would be auctioning off a Mark Rothko in order to diversify the collection. As the press release stated: "The museum's primary goal with this deaccession and sale is to broadly diversify its collection, enhance its contemporary holdings and address art historical gaps."[1] With the $50.1 million fetched from the Sotheby's auction the museum bought eleven wonderful works of sophisticated quality.[2] While diversifying the collection is a primary goal, the idea that it can only be done by deaccessioning a rare artwork from the height of Rothko's career[3] is not an unfortunate reality, but a consequence of decision-making processes driven by private instead of public interest, and which distracts efforts from commitment to substantial change. After all, the SFMOMA has just invested an enormous amount of energy and resources on a capital campaign and building venture dedicated to housing the largely undiverse private collection of Donald and Doris Fisher, founders of the Gap fashion enterprise. If, as the press release cited above argues, selling the Rothko was in order to avoid duplication, how is adding twenty-two Gerhard Richter artworks from the Fisher collection to the existing twenty-one in the museum's holding not duplication? There is more:

> Fisher [Robert] also noted that this massive long-term loan inspired other collectors to donate generously—to the tune of three thousand additional artworks. "The Collections Campaign was a story that came across well to the community. People embraced it. SFMOMA was able to approach collectors and say, for instance, 'We don't have a Gerhard Richter stripe painting, so if you give it, it definitely will be shown.'"[4]

Why is it assumed that, in addition to forty-three Richters, the museum must also obtain a signature Strip painting? Why, of all the artists and practices available locally and nationally, does the public need to see work that can be seen in any number of museums internationally, work that has no specific connection to the Bay Area, the United States, or its people? This is not necessarily to advocate for a regionalist perspective, but rather to point out a major flaw in the criteria presumed by museum leadership. That in the past some of the most important collections in the U.S. have come from private individuals does not mean private collections are publicly important in the present.

This chapter uses the SFMOMA as a case study of how the nonprofit system allows a private agenda to drive what museums collect. It shows how the public museum is used to raise the value of privately held art, which, given that art is increasingly an investment vehicle and the scale and stakes of the market for contemporary art have been on a constant rise, is even more problematic now than it ever was before.[5] If the museum is being instrumentalized to stabilize or boost the status of asset-class and other market art, we have a conflict with the museum's claim to public benefit.

The SFMOMA has argued that borrowing the Fisher collection enhances the museum's existing holdings. But this is tautological, because Fisher was one of the trustees who worked to grow the museum's collections in the first place, in the 1990s. Like other donors, the Fishers privately own work by the same artists they gave or loaned to the museum. Driven by businessmen, this logic of collecting and exhibition is oriented to blue-chip art and its scope is limited at the onset by the market. Why is the museum posing this collection as the canon? After all, it is chosen by self-proclaimed laymen, as I will show. When we allow them to steer the publicly subsidized institution in the name of the public it is, at the very least, undemocratic. Although we do know the Fisher collection holds some Californian, as well as women and historically excluded artists, white-male market artists have been repeatedly highlighted when press releases and media accounts were arguing for this collection's significance. As a whole the Fisher collection is methodologically and demographically narrow, too random of a selection, and offers little by way of a thesis about contemporary art.

Exhibiting a ubiquitous set of brand-name artists, drives up a "winner-take-all" market, subject to a "network effect" of self-reinforcing celebrity brand recognition whose goal is investment certainty.[6] The latter is no accident.[7] That museums collect and exhibit the same art as its patrons is very much related to the fact that the price of the artwork stands to be boosted by merit of its museum inclusion. But this damages museums in the long run. When prices rise institutions lose their purchasing power and are left out of the market, becoming further dependent on collector patrons for gifts, loans, and rising operating costs. With the decline of public funding, patrons gain even more leverage and control. The claim then that the public benefits from private loans or donations is therefore debatable.

By catering to the vision of trustee collectors, the SFMOMA has failed its public promise. Had the museum refrained from adopting the Fisher collection, they would have been much nimbler and more flexible when attending to their recent mission to diversify the collection. There are ways to diversify a collection other than allowing an important and rare artwork to be lost to the public when, most likely, it is sold to private hands. Triage deaccessions cannot resolve the deep-seated problem that our museums do not reflect the culture of the public they claim to serve, or should be serving. Lack of diversity is a symptom of a deep problem of white supremacy that can only be surgically addressed from the ground up. Instead of vanity projects, historical and current exclusions manifesting in the demographics of collections, staff, and programming can be thoroughly and instantly addressed. But the SFMOMA, like most museums today, lacks a systematic approach to inequality, because when private interests are prioritized diversity appears as an afterthought.

To add insult to injury, the Fisher collection has not been given to the museum, but is rather on a 100-year loan (extendable by 25-year increments) that can easily find itself back in the hands of the Fisher heirs after its value has been enhanced by the authority and resources of the publicly subsidized institution. Further disconcerting is that several of the SFMOMA's exhibition of the undiverse Fisher collection have been supported by the meager public funding available in the U.S. Exhibitions partially supported by the National Endowment for the Arts (NEA) include: German Art after 1960: The Fisher Collection; Pop, Minimal, and Figurative Art: The Fisher Collection; Approaching American Abstraction: The Fisher Collection; British Sculptors: The Fisher Collection, May 14, 2016–October 6, 2017; and Alexander Calder, Motion Lab, May 14, 2016–September 10, 2017. From the titles of these exhibitions alone it is starkly evident that the demographic most represented is white-males. We can only speculate why NEA expert panels decided to grant money for the presentation of a private collection of extremely wealthy individuals who operate their own foundation. It represents either lack of critical awareness, or it proves that public support for private taste is accepted and normalized by the professional arts community. It also means that museum personnel (or contractors) spent their publicly subsidized time asking for public money to support these exhibitions of an undiverse private collection. The ambiguity between the private or public aspects of American museums allows individuals to leverage the public both symbolically and materially to serve their class interest.

My argument has two nesting components. On the first level, I criticize the existing administrative structure of museums that allows institutions to represent themselves as benefiting the public while concealing the ways decision-making is driven by the interests of wealthy donors. I show that market-driven decision-making is not unrelated to endemic lack of diversity.

The second tier is a critique of the political economy of the nonprofit institution that reveals its role in sustaining extreme inequality locally and globally. In the case of the SFMOMA the connection is explicit and direct, as the wealth of its major donors is built on exploitation. Like many major museums with wealthy donors, the SFMOMA is a conduit between the globalization of production and American welfare. We use it here to demonstrate how art, in the name of the public and for the sake of doing good, becomes an agent of imperialism. Here, imperialism is used not in its historical sense of territorial conquest, but as a term characterizing globalized production, as Tony Norfield explains in the context of global banking:

> Under imperialism – by which I mean the present stage of capitalist development, where a few major corporations from a small number of countries dominate the world market – access to finance both reflects economic power and is a means of retaining that power. While poor countries also have banks, and while their companies may also issue bonds and equities, their ability to gain privileges by way of the global financial market is equally poor. This is because they have to operate in a system run by the major powers, one in which they take the prices offered to them and have little say over the terms of the deal.[8]

Beyond banking, this extremely biased system also structures production, generating superprofits for imperialist countries, part of which fund the nonprofit art system.

The ambiguous status of American art museums

Most American museums are structured as nonprofits and as such are neither entirely governmental or otherwise public nor entirely private, the latter because they receive their nonprofit status for the purpose of serving the public good. This allows the organization itself to be tax-exempt and donors to the institution can deduct their donations from their income tax, if they itemize their expenses. Significantly, the latter is a practice reserved for high-income taxpayers only, which is already discriminatory as working and middle classes do not receive any advantage for donating.[9] Generally, museums are organized either as private operating foundations, funded by a single donor (such as The Broad in Los Angeles) or public charities.[10] The SFMOMA is a public charity that meets the Internal Revenue Service (IRS) "public support test."[11] Nevertheless, it can still be classified on their tax return as a private foundation. The elasticity of categories allows the museum to claim the term "public" in publicity, fundraising, grant applications, and tax purposes, but declare it is private when it comes to scrutiny of decision-making, finances, or its partnerships with philanthropists.[12] In his thorough criticism of the SFMOMA/Fisher deal, reporter Charles Desmarais underscored how the museum is shielded from accountability:

> A request for more details, including a look at the loan agreement, was repeatedly avoided or ignored by the museum's public relations team.
>
> As a private, nonprofit institution, SFMOMA is not technically required to release such information. But even basic facts, such as when the loan term ends, were not forthcoming – until the museum learned this story was planned.[13]

But transparency cannot be left up to the museum's discretion. Because it is funded in part by the city's hotel-tax money, receives donations in lieu of foregone taxes, and has been a recipient of multiple NEA grants, the SFMOMA should be open to public scrutiny and held accountable to public benefit criteria. To ask what is the public benefit of the museum adopting the Fisher collection is to systematically ask broader questions of all such public benefit museums. This is not a criticism of the Fishers and their taste. They are not unique among the top donors/collectors. The criticism here is leveled at the state structure that allows this to happen. The SFMOMA is a model, an example evincing why the current nonprofit system is ill-suited to democratically serve the museum's public.

The Fisher collection deal: what we know and what are we asking

The first round of talks between Fisher and the SFMOMA in 2005 failed. Fisher wanted a degree of curatorial control that the executive trustee committee and director Neal Benezra decided not to give. Then, San Francisco's Presidio park trust rejected Fisher's plan to build a private museum on the historic landmark. What remains a mystery is why a new deal with the SFMOMA was then heralded in 2009 as a success. Witness the tendency of public officials not only to wax superlatives, but to literally misrepresents facts:

> "This amazing collection belongs right here in the City of San Francisco," said Mayor Gavin Newsom. "Doris and Don Fisher have made an incredibly generous offer, and SFMOMA is the ideal partner and location to house this collection. This collaboration deserves our unanimous support and appreciation. This is a gift for the ages."[14]

Except the deal is neither a gift nor is it for the ages. What exactly is generous about a temporary loan that is also quite short in museum years? Nothing guarantees that the heirs of the Gap empire will not take their loan back when the deal expires.[15] Surely, the SFMOMA knows this happens: recanting heirs and donors have cost them a Picasso, just as it presumably gained them a Calder that was lost to the Whitney.[16] A few years prior, the United Kingdom experienced a dramatic temporary-loan cliff-hanger, when the Duke of Sutherland almost sold two of his Titians that have been on view at the National Gallery of Scotland since 1945, along other works from his famed Bridgewater collection.[17] Luckily, an arrangement was reached, granting the National Galleries in Scotland and London a favorable joint purchase, therefore ensuring that the work remains in the public domain and on display. Significantly, there is a monumental difference between the Bridgewater and Fisher collections. The former includes exceptionally rare historical works by Raphael, Rembrandt, and Poussin, to name a few examples. The Fisher, although undoubtedly containing some important and excellent works by Agnes Martin, Joan Mitchel, or Martin Puryear, to name a few, as a whole is not comparable with the Bridgewater. The urgency of the SFMOMA to borrow the entire Fisher collection remains in question.

The SFMOMA used the Fisher loan to kick-start a capital campaign that supported its 10-story expansion, adding 170,000 square feet of new and renovated indoor and outdoor galleries. We know that a committee of trustees chose the architecture firm and the design,[18] and that the "galleries [have been] tailored to the collection."[19] But since buildings are ideally permanent, and the Fisher is not a gift, we ask: what will happen to the building if and when the collection leaves? Furthermore, will the fact that it has been designed to house standard painting and sculpture dictate the museum's future orientation toward traditional artistic practices?

We know that a single law firm advised and counseled both sides, helping in kind to fundraise for the $305-million-dollar building expansion, and a $610-million-dollar campaign to enlarge the endowment and raise operating costs.[20] But what warranty do we have that our best interests are protected if the same lawyers represent both sides? As Gap Curator and now Fisher Foundation executive director revealed: "From the view of the Fishers, maintaining ownership of the objects is in their best interest."[21] Yet, as this book shows, the interests of the donors and that of the public inherently contradict.

Surprisingly, mainstream press was largely accepting of the SFMOMA's transformation, except for Desmarais, whose sharp criticism outlined the key problems early on, focusing especially on how much of the museum's display space would be going to the Fisher collection:

> It turns out, for instance, that the once-a-decade schedule for showing the collection in what Benezra calls a "monographic" presentation is the tip of a much deeper iceberg. Those huge galleries on the fourth, fifth and sixth floors that carry the Fisher name? Unlike in other spaces designated to honor big donors, which might hold a range of different works and exhibitions, the Doris and Donald Fisher Collection Galleries are required to contain primarily Fisher works at all times. No more than 25 percent of what is on view may come from other lenders or donors.
>
> This stipulation has major implications. It means that something like 60 percent of SFMOMA's indoor galleries (not counting free-admission areas that serve as combination lobby and exhibition spaces) must always adhere – or, at least, respond – to a narrative of art history constructed by just two astute but obdurately private collectors.[22]

Not only are the donors receiving curatorial control and the glorification of their name, they enjoy a set of benefits that transfer public resources to private hands. True, under its broader umbrella, the museum collects and showcases many types of practices and demographics; however, what it does do right cannot be used as justification for giving over 60 percent of the museum to an undiverse collection.

Here, the ambiguity of private versus public benefit is exacerbated by information opacity. The Fishers, who have been regular supporters of the museum, contributed toward the campaign, but the museum has not disclosed who donated what. For example, it is unclear who is paying for the expenses of storage, shipping, conservation, and insurance, although it has been noted that the Fisher pieces "will get the same care, scholarship, and conservation as every other work in the museum":[23]

> Once the transfer has been made, the artwork will be under the stewardship of the museum. In other words, the museum will be responsible for conducting and funding conservation, storage, and security. However, any artwork that is not on display at SFMOMA will be free to be exhibited at Gap or at the Fishers' private residences. Any requests to loan artwork to other institutions would be subject to approval by both the Fisher Foundation and SFMOMA. All of these terms are outlined carefully in the confidential legal documents that solidify the agreement.[24]

Critical information about the deal remains opaque.[25] The Fisher Foundation's tax returns show expenses for the art's upkeep, but we cannot find out which of the loaned Fisher artwork it covers, or who, for example, pays for shipping and insurance when artworks travel between its private and public use.[26] Importantly, the Fisher Foundation itself is also tax-exempt, such that much private-enjoyment expenses are publicly subsidized. We also know that the Foundation lists Doris Fisher and her three sons as trustees, leaving any type of supervision in-house. This is all legal. The problem is with the law itself.

Conflicting agendas of private and public interest

Museum administrators and leadership know that the agenda of private donors and that of the public museum are not the same. As then-director of SFMOMA Neal Benezra explained: "Museums are complicated organizations. We have education. We have conservation.

We do a lot of things besides hang pictures on the wall. Sometimes private collectors are interested in the most basic function – of hanging pictures on the wall."[27] Indeed, it was the latter use of the museum that the Fishers sought for their art collection, in essence, a private agenda that sought to display the collection together:[28]

> According to Gap Curator, and now Fisher Foundation leader, Laura Satersmoen, the Fishers have always had between 90–95% of their collection on view at a given time, divided between the Gap offices, the collectors' private homes, museum loans, or traveling exhibitions . . . In the agreement with SFMOMA, the Fishers will [be] able to continue to display their artwork in all of these venues if the museum is not using it, which will allow more of the artwork to be on display. When asked if it was an issue of not wanting the art to be in SFMOMA's basement, Satersmoen says, "That's exactly right. Museums have maybe 5 or 10% of their collection up at any time and the rest in storage because they don't have the wall space for it. The Fishers have about the opposite ratio."[29]

But what applies for one's private quarters or business does not necessarily merit neither permanent public display nor subsidy. Ironically, in what is deemed a "partnership" the advantage nevertheless seems to substantially be on the side of the collectors, as Satersmoen confirms:

> Control. That's the biggest benefit. If we gave all the [Alexander] Calder mobiles to the museum and said, "Here you are, no strings attached," then they would undoubtedly sit in storage . . . that's the primary reason why you'd want to have a partnership over an outright gift.[30]

The collection itself consists of about 1,100 works, which may explain why it was impossible for the museum to commit to exhibiting most of it. We know that museums with substantial collections are only able to show about 10–15 percent of their holdings, due to space and other resource constraints. While of course this is not enough, and 30–40 percent may be an ideal, there are still good reasons why museums do not show everything, like conservation and care. We remember also that museums are not intended only as institutions of display, they are just as importantly storage spaces: for our collective treasures, for secondary and tertiary works that support our understanding of oeuvres and masterpieces, and for all other research or archival materials. Here we see an obvious contradiction between the interests of the donor who is out to get a good deal, and that of the public that undoubtedly will benefit more from seeing a broader range of artists and practices. As Judith Dobrzynski explained:

> I understand the pressure that SFMoMA director Neal Benezra must have been under to cut a deal with the Fishers. But it seems to me that he and the museum's board were out-negotiated. I–and, I think, others–will have to look at the museum differently, knowing these details. I hope other museums do not emulate Benezra and the museum's trustees.[31]

This paints a disconcerting picture of philanthropists outnegotiating the very institutions they tend to serve. But of course we know that "giving" is an outcome of wealth planning, not a symbol of generosity. As a student of the Fisher case verifies:

> During three separate interviews conducted while researching for this thesis, a collector, a scholar, and a curator all suggested that new tax laws implemented recently may have altered how collectors approach giving their artwork to museums . . . Laura Satersmoen has indicated that this law has affected how the Fishers approach their relationship with museums.[32]

The Fisher loan was touted as a breakthrough model, but it sets a dangerous precedent giving collectors tremendous negotiating powers. One can only imagine what smaller institutions might be willing to hand over for the right to show collections of even lesser quality.

The politics and aesthetics of private interest

That the museum—its personnel, officers, and trustees—are acting in good faith and aboveboard according to the existing law is not in question. As stated in the museum's tax returns, it regularly monitors and enforces conflict-of-interest policies. The problem, elaborated upon in Chapter 2, is that current definitions of conflict of interest have limited capacity to address the exploitation of public institutions for private gain. With the SFMOMA case we see how longtime fellow trustee and friend of Donald Fisher, Charles Schwab, brokered the deal, cochaired the campaign for art donations, and procured naming rights to the new entrance.[33] With his wife Helen, Schwab, an investor and financial executive, is also an underwriter of the named directorship. Since Schwab's influence is heavily felt all over the museum and its programming, we therefore ask: to what degree does the SFMOMA transmit or naturalize his philosophy and politics, which, not surprising for a financial executive, glorify capitalism?

> You have to reward those who innovate and create new products and markets. It's a core American value . . . An executive who has worked hard throughout his career, becomes a successful CEO and makes eye-popping money – I don't want to punish that.[34]

This last sentence is an example of a rhetorical fallacy. A government system that disallows individuals to make "eye-popping money" is not a form of punishment, it is a description of a democratic structure that aims to facilitate redistribution. Schwab wields negative argumentation to naturalize exploitation by rendering "eye-popping money" as a right, which it isn't. We have a right to freedom. There is evidence that wealth is an outcome of a biased system that prevents the freedom of those it exploits and marginalizes, not actually reward for hard work.[35] Logical fallacies aim to conceal the fact that in a capitalist economy, when one entity makes eye-popping money, they do not benevolently create it out of the blue, they siphon value from the total aggregate. This statement is actually not radical, it is based on the analysis of Adam Smith, the father of classical economy. This is not a question of worldview, but one of logic. Under the current system eye-popping wealth can be procured because a winner-takes-all system has been ideologically perpetuated by those for whom it is convenient. To sustain itself it severely punishes entire populations. Besides, it is not "eye-popping money" that is an American value, but equal opportunity. I am not saying innovation need not be rewarded, but I am saying that "eye-popping money" is always a product of collective effort, and should be shared accordingly. The system has been creeping for decades toward ensuring the enrichment of a few.[36] We have an ideological problem when our art and educational institutions participate in the cover-up.

Schwab's political position was revealed when he defended Donald Trump's trade war with China, in an ideological statement that went against the advice of his chief strategist. On March 2018, Schwab's company website published: "[I]t's unlikely that protectionism will turn around the U.S. trade deficit, or reverse the degeneration of U.S.

manufacturing."[37] In a June 2018 interview with Fox News, Schwab made the following explosive statement:

> In my view there is really no free trade as such, every country, particularly people like Russia, like China, like Japan, all have protective type tariffs . . . I think what Trump is doing, and it's the right thing to do, we have to have some negotiating positions on these things . . . today I think Trump is correct, we want to make America great again, we want to be competitive, stop the giveaways, and start working for ourselves.[38]

By stating that he, too, would like to "make America great again," Schwab does not leave room for much ambiguity regarding his political loyalties, and, whether he likes it or not, it amounts to endorsing the statement's racist implication.[39] Schwab donated $1 million to Trump's inaugural fund and $101,700 to his legal defense fund.[40] Also defending the president's tax cuts, Schwab proudly declared that the excess private money has brought a flow of new clients to his firm. This could be seen as a gauge for entrepreneurship, or it could be understood that Schwab's savviness allows him to make the current system work for him.[41] But does individual success in one sector, in this case business or finance, qualify a wealthy person to orchestrate everyone's culture? These individuals are not objective and neither is their approach to the judgement of art.[42]

The SFMOMA donor class does not seem to share aesthetic proclivities with the creative communities they ostensibly serve. A director of an alternative space tells us about the disconnect of the museum from local art circles:

> [Dena] Beard, The Lab director, said local artists also expect less of large institutions than in New York; they don't move here to be near SFMOMA. "We've seen our art institutions as ancillary to the art scene," she said, adding that local cultural life has been rooted in alternative spaces. "Artists here don't necessarily feel like SFMOMA was ever theirs to begin with."[43]

It is easy for a museum to lose sight of whom its public may be. Especially in a city like San Francisco, where the rapid growth of neighboring tech industries has resulted in a massive inflow of highly-paid creative industries workers and introduced rapid gentrification, causing rents to skyrocket, ultimately hurting artists. Yet, these tech creatives are not the same as the creatives who had made San Francisco the bohemian city of international reputation that it was. Rebecca Solnit renders this divide:

> One of the curious things about the crisis in San Francisco – precipitated by a huge influx of well-paid tech workers driving up housing costs and causing evictions, gentrification and cultural change – is that they seem unable to understand why many locals don't love them. They're convinced that they are members of the tribe. Their confusion may issue from Silicon Valley's own favourite stories about itself. These days in TED talks and tech-world conversation, commerce is described as art and as revolution and huge corporations are portrayed as agents of the counterculture.[44]

The astonishment of creative tech workers is not that different from that of the Los Angeles art world when it discovered it was not wanted in Boyle Heights.[45] Gentrifiers do not bring business and prosperity for the local residents, they cause rents to rise dramatically, displacing local communities and small businesses. Often enough, art-world participants are unable to register the significance of local contributions, while they impose their aesthetics upon extant cultural production.[46] It is not therefore fear of change that drives antigentrification, but a struggle against the neoliberal privatization that follows the art world. The fact of the matter is that, whether they are commercial or nonprofit, "creative" communities mostly work in support of the ruling class.

The shock of the arts community at the election of Trump in 2016 conceals the fact that this mostly liberal constituency has always been looking the other way on the conservativism of a small but powerful faction:

> Many SFMOMA trustees champion liberal causes, but the board's political profile, measured in donation dollars, skews conservative: Federal Election Commission data show 10 trustees gave mostly to Republicans and 31 gave mostly to Democrats in the 2016 election, yet the 10 outspent the 31 by more than $4 million. (34 of the museum's 75 trustees gave little or nothing.)
>
> . . .
>
> Securities and Exchange Commission filings further reveal at least 13 SFMOMA trustees or their spouses, who donate to the museum as pairs, are senior figures at firms invested in military contractors and arms dealers. The holdings include companies such

> as nuclear weapons manufacturer Aerojet Rocketdyne, which the government of Norway once deemed an ethically unfit investment vehicle for its public employees [*sic*] pension fund.[47]

The question is not only how many, but how much—how much power do a small number of conservatives wield? This is the brilliance of this system: it forces those who participate in it, whether they accord with it or not, to work in support of wealth and power concentration.

San Francisco has become an outstanding example of extreme inequality. In 2018 a special UN rapporteur described it as unprecedently cruel.[48] A contemporary class system keeps the upper-middle classes above the fray. The tech sector has been hiring private buses exclusively to transport its workers from the city to Silicon Valley, declaratively excluding the local residents. As Rebecca Solnit explained: "All this is changing the character of what was once a great city of refuge for dissidents, queers, pacifists and experimentalists."[49] Creative industries have been feeding off the culture and reputation of the city, while killing the host.[50]

But what is commonly understood as "artwashing" goes far beyond the local level. If we ask from where does the wealth that funds the SFMOMA—and which is typical of many museum boards—comes from, the larger picture is even more disconcerting.

Art and imperialism

The Fisher's wealth comes from the garment industry. Gap Inc. has been offshoring manufacturing since the 1990s.[51] The company has recorded instances of international labor-law violations, has refused inspection in its Bangladesh facility in 2012, and, along with Walmart, a major supporter of Crystal Bridges museum in Arkansas, has been late to ratify a building and fire safety accord in 2013, which critics argued was not sufficient anyway.[52] With its surplus, Gap raised wages for their American workers to $10 in 2014,[53] which nevertheless can hardly amount to a living income in any of their major urban retail locations, especially in their San Francisco hometown, where $10 looks pithy in comparison with the fights for $15 waged soon thereafter.[54] In this light, the millions or billions in donations and art of the Fisher family foundations can be seen not as giving, but a system driven by profit extraction, which seeks validation by an interlinked system of philanthropy. The amount of power this system affords individuals has been deemed by scholars to be undemocratic.[55]

> In terms of his presence in San Francisco and California public life, however, Fisher is all over the lot. He's spending portions of his vast fortune to change the way your kid goes to school, to influence the outcome of your local city hall or statehouse election, to alter the city's skyline, to refurbish your nearby park.[56]

Indeed, it could be argued that by "giving" from their excess wealth the Fishers contribute to the local arts economy, environmental causes, and charter schools with their other foundations. But why are lay individuals, with experience neither in art nor in education, allowed to make critical decisions regarding aspects of civil society and welfare?[57] Moreover, since part of their surplus is made by repatriating value created offshore, the Fishers, and other SFMOMA wealth that draws on offshoring industries, become a conduit by which the population of the northern hemisphere receives portions of their welfare from the exploitation of the global south.[58] Here again, the SFMOMA is a model for other large institutions and the criticism is structural, not particular or personal.

A totalizing view of the economy is necessary to understand the function of the arts within the larger system. A capitalist economy is a whole within which nonproductive sectors distribute value made in production. The understanding that there are sectors or activities that distribute or store value, rather than create it, comes from the father of modern economics, Adam Smith (who modified it from the insights of the French Physiocrats), in his foundational *The Wealth of Nations* (1776).[59] Marx applied this revelation critically, distinguishing the functions of labor power and money in the commensurability and equivalence that facilitates the economy (discussed further in Chapter 2). Both still provide a way for us to recognize that price does not represent value, but is a different type of category altogether. Evidencing its implication in great detail, he exposed how capitalism generates an inverted picture of the economy so vast that it is hard to spot, resist, and overthrow. Yet, once we understand that value in the economic process is first accrued in a general pool and only then distributed, we see that what appears on the surface as profit, is actually what different firms are able to pull from the general aggregate. When one product is more expensive than another it means that a firm is able to gain a larger share, which can be due to labor-saving technology, innovation, or brand monopoly, allowing it to capture more profit from the sector as a whole during the process of circulation. This is a fundamental aspect of the Marxist critique of the political economy. This is why anyone who is making "eye-popping money," is not creating it from naught, but always making it at the expense of someone else. The creative process that went into making one product more expensive than another—coding, design, packaging, advertising, etc.— doesn't create surplus, but rather distributes it. Significantly, even Adam Smith has clearly emphasized that this is a technical economic matter, distinctly separate from the question of what is useful or not for society. Productive and unproductive labor will be further discussed in Chapter 2. For now, we direct our criticism at the conventions and power structure that result in extreme overcompensation of work in some sections of the production chain over others. That the creative, executive, and investor classes reap disproportionate parts of the surplus created by labor is an outcome of the state structure and global imperial relations. It is not natural or organic. Moreover, while Adam Smith was right about productive and unproductive labor, his conclusion that the invisible hand of the market will balance the two is empirically wrong, because there is no such thing as a free market. Markets have always been regulated. The existence of borders alone is already a regulation of labor prices, just one example of the ways the markets are categorically subject to forms of regulation that are authored by those who stand to gain.

Although production is now global, networked nation-states fragment the economy of a world system into national accounts. This masks the extent of the contribution of (globalized) productive labor to the final prices that are measured toward Gross Domestic Product (GDP) in the rich countries. The problem with GDP, as John Smith shows, is that when it measures the profits made by transnational corporations in the northern hemisphere, it measures what it perceives to be "value added," which should instead be called "value captured."[60] In his comprehensive study *Imperialism in the 21st Century: The Globalization of Production, Super-Exploitation, and the Crisis of Capitalism*, Smith uses three case studies of prototypical commodities: the T-shirt, the iPhone, and the coffee cup, to show how, since the 1990s, transnational corporations gradually shifted foreign direct investment to manufacturing in developing countries with low organic composition (more manual labor and less automated machinery), forcing local producers to push wages below their value in order to facilitate greater surplus value, most of which is captured by high price markups in the northern hemisphere. This makes the way nations now measure GDP (generally speaking, the combined final value of all goods and services produced within a national economy) wrong.[61]

The contemporary use of the term "imperialism" describes how economies of leading nations exploit weaker nations through arms-length manufacturing, forcing local producers into conditions of superexploitation, where a (gendered) workforce works inhumanly long hours in squalid conditions. That this population is much larger than production can absorb allows pay to be pushed below a living wage. Andy Higginbottom shows how the depression of labor value below its actual value (the cost of its own reproduction) amounts to the superexploitation of labor, which results in superprofits for the capitalist.[62] The term "superexploitation" was largely developed by the Brazilian economist and sociologist Ruy Mauro Marini in the 1970s, to describe capitalism's dependency on indirect forms of exploitation throughout the system as a whole. In Chapter 3 I will show the longer arc of capitalist dependency, the world system as defined by Immanuel Wallerstein who demonstrated how, as early as the sixteenth century, the nascent forms of early capitalism in England could turn profit enough for accumulation only because, rather than consume pricier local grain, what fed workers was imported cheap wheat from eastern Europe.[63] Without this type of arbitrage, early systematic production would have never been able to turn enough profit to allow the development of what became fully-fledged capitalism.

Today still, the labor force in dominant nations generally enjoy better conditions because they benefit from the importation of raw materials and cheap foodstuff from weak nations, where exploitation takes place not only by extending the working day (absolute surplus value) in combination with wages that do not suffice workers to reproduce themselves (socially necessary labor time), but without investing in productivity-enhancing technologies (relative surplus value). Local populations survive by relying on informal economies to keep their communities afloat. Arms-length manufacturing ensures that when disaster happens, or labor violations and abuses are exposed, plant and sweatshop operators get blamed, while northern companies continue to profit with very little accountability:

> The full meaning of this was brought out by the rapid succession of catastrophes in Bangladesh: the Tazreen Fashions factory fire in November 2012, the Rana Plaza factory collapse in April 2013 and the November 2013 fire, all in Dhaka. Wal-Mart was implicated in all three. Besides Wal-Mart one can find in garments and apparel, sportswear and even fashion brands like Adidas, Christian Dior, Hugo Boss, Nike, Marks and Spencer's, Gap and H&M, which all thrive on workers, mostly women, paid wages far below even other sectors locally.[74]

Local factory owners (and owners of sweatshops in the northern hemisphere) have been squeezed by the brand companies that outsource the labor, and who repatriate the value-added from their seats at the oppressor nations, themselves complicit with such imperialist relations as they reap taxes and tariffs to fund the public purse.

Launched in 2013, the Bureau of Economic Analysis Arts and Cultural Production Satellite Account has been measuring the creative economy as part of the GDP. What these numbers do not consider is that portions of the values distributed by unproductive labor (design or retail, for example) come from the value registered by wealthy Western nations on their national accounts, despite the fact that it is actually produced offshore.

The same misconception of value is common sense in the arts field. According to the NEA Guide to the U.S. Arts and Cultural Production Satellite Account: "Value added is industry output minus intermediate inputs (i.e., energy, raw materials, semi-finished goods, and purchased services)—i.e., value added is the industry's contribution to the national GDP."[65] Yet, a Marxist perspective shows that value is only actually created by the transformation of inputs in the process of capitalist production, when abstracted living labor transforms raw materials into commodities that are then pooled into a common aggregate from which all other profits thereafter derive. The rest of the economy functions to distribute the value created in production.

Indeed, capitalists, whose doctrine is inherently based on the work of Adam Smith, are well aware of the difference between productive and unproductive labor. As the economist Brian Green exclaimed: "[F]irms know this very well. It is evidenced in their balance sheets!"[66] But, somewhere between the balance sheets of firms and the claims that they make on the political scene, the ideological system of capitalism has suppressed its own intellectual underpinnings:

> However difficult it may be to conceptualize or solve what has come to be called the 'transformation problem', values, which are prior to prices, *must be transformed into prices in a really existing process*. The consequences of this are profound. Once we open our eyes to the fact that, as part of the process of price formation, value generated in one firm may be transferred or reassigned to competing capitals, we are obliged to radically redefine value added to signify not the value it has added but *the share of the total value created by all firms* competing within the economy as a whole that this firm succeeds in capturing.[67]

Skeptics may argue that innovation and efficiency contribute to creating more value. I raise the clear and accessible analysis of the Great Depression by Joseph Stiglitz and Linda Bilmes, who are not Marxists, yet prove how the making efficient of agricultural production led to a chain reaction that contributed to the collapse of the American economy in 1929.[68] This is because prices do not reflect value but are rather determined by multiple factors, including the market. Since the economy operates as a whole, efficiency at one end may seem to contribute to the GDP, but might also throw the system into an imbalance that results in collapse. Crisis capitalism has survived since 1970s stagflation because of deregulation, globalization, and temporary phenomena such as the dot.com boom. Underneath these corrections lies an endemic crisis of production that results in the tendency of the rate of profits to fall, the latter a fact also plainly evident by any accounting of capitalism's long and short histories.[69] Capitalism can survive only because it is dependent on the free (gendered) labor of social reproduction and care work, the plunder and destruction of common natural resources, and the simultaneous existence of precapitalist economic forms.[70]

Two of the commodities John Smith traces around the globe, the iPhone and the T-shirt are especially pertinent to SFMOMA, which grooms the tech industry as collectors, by which it expands its pool of donors.[71] The creative industries benefit directly from these forms of exploitation, which, as we have seen, essentially means investors and executives are taking a disproportionate share from the value pool. With these excesses they can support the art market and the institutions that are networked with it. Under liberal logic, creative workers are deemed more productive and are therefore also paid much more than laborers. A creative worker or executive in Silicon Valley enjoys the fruits of this world system, just as the entire welfare and nonprofit system benefits recipients of imperialist nations.

The point of this comparison with the workers producing the cheap commodities we all enjoy is to say that we owe these people our solidarity. Most significantly, a struggle for public funding for the arts should take the problem of imperialism into account. For this reason, we might want to take a longer perspective and reconsider the default left or liberal common assumption that a fight for government money for the arts is necessarily the best strategy.

Fighting for crumbs: problems with defense of public money in its current form

Like Ronald Reagan in the 1980s, Trump has attempted several times to eliminate the NEA or to severely cut its budget.[72] The antagonism of both Republican presidents to public funding for the arts reflects their ideological inclination to small government, privatization, and the conviction that arts should be supported solely by the private sector. However, as organic as it may seem, we ought not assume that right-wing politics inherently entails a belief in the privatization of art. Quite the contrary is seen in "A Conservative Plea for the National Endowment for the Arts," an opinion by Mike Huckabee, Arkansas governor from 1996 to 2000, and a staunch Trump supporter, imploring the president to preserve the federal granting agency. Huckabee's argument is economic:

> The arts are a $730 billion industry, representing 4.2 percent of our gross domestic product—more than transportation, tourism and agriculture. The nonprofit side of the arts alone generates $135 billion in economic activity, supporting 4.1 million jobs . . . The American arts generated a $30 billion trade surplus in 2014, on the strength of $60 billion in exports of various arts goods.[73]

Huckabee's perspective and sources are echoed in the advocacy of groups as varied as Americans for the Arts, or the College Art Association.[74] That a defense articulated by a conservative aligns with the ongoing attempts of liberal arts activism to save the little public support that the U.S. has for the arts reveals a core similarity between the two worldviews—neither is a critic of capitalism.

There are conservatives who recognize that meager arts funding not only sustains the system, but can be leveraged in support of private accumulation. The received knowledge on both sides of the isle is that the arts contribute to the economy:[75] "NEA grants provide a significant return on investment of federal dollars with $1 of NEA direct funding leveraging up to $9 in private and other public funds, resulting in $500 million in matching support in 2016."[76]

So far we have witnessed two major problems. The first is that public money, here NEA money, is used to support institutions driven by private interest, and they end up further enriching the rich as discussed above. The second is that these private individuals, toted as entrepreneurs, are becoming ultrawealthy by exploitation. Significantly, this system serves both a right-wing agenda and a democratic establishment that assumes it to be structurally unchangeable and therefore engages the battle only on the ground of reform. Reform is a slippery slope. Those who believe that the system has the capacity to evolve toward more social justice end up fighting harder and harder for less and less.[77] The recent history of public arts funding in the U.S. is a story of such compromise and decline.

In "Reagan's Revenge," a 1990 analysis of diminishing NEA appropriations, Carol Vance recalls how the arts community set differences aside to mount a forceful defense of public arts funding, where the liberal constituency found itself in alliance with the (at the very least) fiscally conservative:

> [P]hilanthropists and donors to cultural institutions testified that federal funding for the arts was essential, rejecting Reagan's contention that private philanthropy could take up the slack. Paradoxically, the boards of many major institutions seemed thick with supporters of supply-side economics who nevertheless wanted continued subsidies for their museums and symphonies.[78]

It is not lost on conservatives that their contribution to public investment enriches them; they would not be doing it otherwise. It is therefore not surprising that conservatives align with arts advocates on the issue of public seed money for the arts. Government funding provides a basis for the operation of the nonprofit system, and the nonprofit system is, in part, how the government subsidizes the economy that benefits the wealthy.[79] Ample critical research, a substantial portion coming from people that work within the system, forcefully argues that the nonprofit system is not making good on its promises.[80] Throughout the neoliberal period, as cuts to public services increased, the nonprofit system carried more and more of the burden foregone by the declining welfare state. In many ways the nonprofit system became a vehicle for the privatizing of the welfare state and of civil society.[81] As the wealthy get wealthier,[82] they gain more tax advantages through philanthropic giving,[83] in some cases supporting their business agendas directly with tax money that the public has essentially foregone.[84] They receive from the public a combination of tax advantages and influence in areas they see fit, on top of which the wealthy are also rewarded with abundant gratitude. Conforming to the given structure, the arts community has time and time again defended the interests of the wealthy, and ignored, if not occasionally attacked, the interests of the working class.

Let me be clear, I do not mean to discourage advocacy. Advocacy is a means to consolidate community, have people's voices heard, and nurture political participation. But it is also important to point out when advocacy is set up as a means to ensure obedience and prevent more consequential activism. For example, arts funding based on competitive grants pits institutions one against the other, ensuring that they remain divided, entrenched in the exhausting battle for funds, public and private. We have watched how competition for funding affected conformism at critical moments. As Vance identifies, George H. W. Bush (president, 1989–93) used the sex panics generated around AIDS to help further Reagan's original defunding agenda. In the aftermath of the culture wars waged around NEA funding, Vance tells us that fear of losing funding discouraged risk-taking.[85]

Given the circumstances, it is understandable that arts advocacy activists fight for preserving the little we have, and that they do so within the parameters and means set up by the system itself. Yet, such reactive strategy has allowed conservatism to dictate the terms of the struggle, pushing advocates into a tighter and tighter corner, demarcating the parameters of possibility by the logic of capitalism and subjecting us to its mercies.

"Grateful for small abuses": diminishing public support

Despite resistance, Reagan was ultimately able to significantly reduce funding for the arts, and the National Endowment for the Humanities (NEH), nominating conservative personnel to key agency and council positions, which further influenced content selection:

> In fact, the 1982 cuts were severe. The arts appropriation dropped from $158.8 million in fiscal 1981 to $143.5 million the next year. The NEH lost close to 14 percent of its $151.3 million budget in 1982 and would not regain its 1981 level of funding until 1989. In an era of double-digit inflation this represented a real dollar cut of approximately 50 percent over the course of the 1980s—an amount consistent in the end with the Reagan administration's original objective. The NEA, which had a more effective lobbying network in well-known performing arts advocates and a large and dedicated institutional base of arts organizations, did return to (and exceed) its 1981 appropriation by 1984; however, even that did not keep pace with inflation.[86]

Significant cuts also took place under Clinton's Republican-dominated congress,[87] such that between 1978 and 1998 appropriations for both endowments declined by roughly 85 percent in inflation-adjusted dollars.[88] The promise that philanthropy would fill in the gap was also a fallacy, keeping the U.S. per-capita support dramatically under that of Europe.[89] Cynthia Koch tells us about the Clinton years:

> But like the strange sense of relief experienced by arts people five years earlier, when the final 1990 appropriation legislation carried a compromise version of the original punitive Helms amendment on obscenity [consequence of the "Culture Wars"], the $5 million rescission seemed more a relief than an assault. Or, as it was put in a retrospective memo sent to humanities councils: "By March, a lot had happened. We avoided a serious rescission, and the councils were fortunate to take no cut at all. Did we dodge a bullet, or the bullet?" Like the arts advocates who had faced years of vocal attack that threatened their core purposes, now the humanities constituency was grateful for small abuses.[90]

"Grateful for small abuses" is a cautionary tale. Since then, the support for arts has continued to decline in real dollars.[91] Diminishing public support for the arts resulted in intensified advocacy efforts, which meant more energy spent on obtaining funding from a declining pool:

> Substantial staff cutbacks and wholesale program reorganization have cut into its expertise and its ability to systematically affect entire fields or disciplines. Persistent political criticism and a bureaucratic siege mentality have diminished its capacity for program innovation, policy entrepreneurship, and national leadership.[92]

The fight to preserve diminishing public funding is inherently defeatist. It functions as a topical solution to a deep-seated problem of programming and collections homogeneity, itself an outcome of a long institutional history of concessions to private interest.

Arts funding and diversity

Diminishing public support always hurts historically excluded groups first. Moreover, since what we see diminishing was already inadequate, we need to reconsider struggle strategy altogether. In the larger picture, meager and unequal subsidy for the arts perpetuates a system that, as a whole, extends the conditions of disenfranchisement. It leaves historically excluded communities in a state of perpetual dependency, competition, and emergency. It is ironic then, if not cynical, when the advocacy by historically excluded groups is front and center in the defense of public subsidy for the arts, because in the larger picture they remain so underfunded.[93] Exclusion has also been enacted historically by the classification of art forms into hierarchical categories such as craft, folklore, community arts, art therapy, or social welfare, skewing an objective assessment of merit and significance, and under this pretence blocking entire demographics of artists and professionals from fair representation in the field. From the late 1960s on, excluded groups were gradually given the chance to participate in national culture and be collected by and exhibited in major institutions, but nevertheless, heavily biased notions of quality continued to determine what institutions collect. Signed into law in 1965 by Lyndon Johnson, the NEA was to remedy historical imbalance, and like many other initiatives, it was successful just as it was limited.[94] Thus, even if the NEA has given seed money to smaller organizations and helped lift some underrepresented artists from total marginalization, at the end it overwhelmingly supported mainstream art institutions that tended to be demographically white.[95] The NEA budget grew roughly ten-fold under the bipartisan appeal of the legendary Nancy Hanks (NEA chair 1969–77). The expansion was mostly directed to large-scale, mainstream, cultural institutions producing hegemonic art programs, serving a predominantly white, middle to upper class demographic. In effect, during the years that the NEA was more robust, its support was heavily allocated to mainstream metropolitan culture. While later it saw a broader set of cultural forms and geographic localities supported, this also coincided with reduction in real dollar funding. But the point is not to argue that the NEA be abolished because it is elitist and discriminatory, as some conservatives have.[96] The point here is to find a way to transform the system into a vast egalitarian public arts economy, by changing its structure, not by pushing or pulling it back and forth in its current form.

Under Jimmy Carter, Livingston Biddle (chair 1977–81) attempted to democratize and regionalize the agency. This was seen by conservatives to be promoting social programs rather than art. Then Reagan, for all his claims to base criteria on merit, chose not an arts professional but rather a career bureaucrat, Frank Hodsoll (1981–9), who aggressively intervened into the agency decision-making process, overturned competitive peer-based choices (even those approved by the National Council), appointed conservative personnel, and invited collectors and dealers to sit on panels.[97] Radical, community, or identity-based manifestations were seen as political and propagandistic.[98] "Merit" became a code word for measuring art by so-called universalist criteria, led by market preference, traditional canon, or a claim to formalist objectivity. In essence, it was the deskilling of criteria and assessment.

Complex outcomes emerged in the late 1980s and early 1990s. Since the broader project of multiculturalism was well on its way, giving a degree of visibility to art by underrepresented groups—just enough to instill a dread that it was taking over—it evoked a backlash on all sides of the aisle. In contrast to perceptions, art outside a Western-centric canon remained underrepresented and underfunded.[99] The reasons are evident in the conduct of our case study—the SFMOMA—where the bigger commitment to donor will and a market-based taste in art overwhelm the attempt to balance the collection.

Art finance and wealth management: questioning the public merit of private collections

Against market criteria

The SFMOMA's publicity and the media repeatedly named Georg Baselitz, William Kentridge, Roy Lichtenstein, Cy Twombly, Willem de Kooning, Richard Diebenkorn, Ellsworth Kelly, or Brice Marden as the major focus of the collection, in addition to those listed in the press release:

> The Fishers' collection is a perfect complement to SFMOMA's already strong holdings of artists like Gerhard Richter, Andy Warhol, and Philip Guston, and gives us new strength in our representation of major figures like Alexander Calder, Anselm Kiefer, Richard Serra, and Chuck Close.[100]

But this is a self-fulfilling prophecy. It is true simply because of the fact that the same people influenced the museum's holding when the new building opened downtown in 1995:

> Almost immediately, Schwab and Fisher set out to find great art to fill it. As entrepreneurs the two men had a natural rapport, which they had bolstered by serving on each other's corporate boards. "Our shared quest for contemporary art was an important part of the

> relationship," Schwab says. Adventures together included a jaunt to Japan. "We went to buy art from a Japanese bank that had a vault full of art that had been securing debt," he recalls. "A lot of the art we collected on that trip would eventually go to the museum."[101]

Lack of transparency prevents us from knowing what these collectors bought for themselves, and what they gave the museum.[102] It is though implied that there is overlap, such that beyond impacting what the museum will hold for the public or for posterity collector-patrons are potentially guaranteeing, or enhancing, the value of the art that they themselves collect. The museum they govern as public service is providing public significance to the art they privately own.

We also need to ask why a present-day museum is collecting the type of art held in a bank's vault? Indeed, we know that this is the art that is highly priced, but other than this can we really say that this is the most significant art? The equation of quality with price is artificial. Posterity does not measure quality or significance by the price art fetched at its time. Dramatic historical fluctuations in price is evidence that prices may rise and fall according to taste, and that contemporaneous fashion does not always ensure lasting significance.[103]

Everything said above is exacerbated in the twenty-first century, when the attempts to corral art collecting in the service of the finance industry has reached a maturity that puts it at obvious odds with the public institution. Much of the art market's unprecedented growth is intimately related to the relative liquidity granted to it by the monetization and financialization of the art object, which has made it an easier means to both store and (partially) liquidate capital, incentivizing investors and an influx of new collectors. As Business Development Director for Christie's France explains:

> The safe-haven status, attributed to works of art and collectibles (including wine, jewelry, watches, etc.), their inclusion in wealth investment and diversification strategies, or also the development of the online art market, highlight the nature of these structural changes. The accumulative effects of these drivers of growth have allowed the art market to rapidly recover from the 2008–2009 financial crisis and reach, in the intervening years, both historically unprecedented global sales totals and price levels.[104]

This expert opinion is published in the Deloitte report on art and finance, where one of the world's largest accounting firms that has also expanded its services to private and public art consulting and wealth management brings specialists to analyze the state of the field. Made abundantly evident throughout this document is the assumption that the role of the publicly subsidized museum is to support the health, if not growth, of the market.[105] Repeatedly, numerous art-market experts testify that information is one of the most sought-after resources and which is sorely lacking. The museum not only has information to offer, it generates it. What is not said in this report is that it is *not* the role of the publicly subsidized institution to be an agent of inequality by supporting the financial industry.

Although the type of museum and donor relations I am describing do not constitute conflict of interest in strictly legal terms, in any other industry such a relationship, giving individuals a business advantage over the public, would be illegal.[106] Individuals serving in governance or committees have access to information and influence on collecting and programming at the same time that some are privately involved in buying art, advising clients on collecting, and/or wealth management; owning shares in auction houses with which the museum does business; or borrowing or lending capital against art with past or future museum display record. This does not happen just at the SFMOMA:

> "Like investing, collecting is about pattern recognition; it's about doing your due diligence, it's about assessing intrinsic value, and it's about knowing what and when to sell," said Anne Dias, a trustee at the Museum of Modern Art and the Whitney Museum trustee and former hedge fund manager who now runs her own family office, speaking at the Deloitte conference.[107]

The museum has been cast into the role of stabilizing the art and finance industry not only indirectly, through the total system, but directly, by virtue of owning, caring for, and displaying the same art on both the public and private sides. Why is it the job of the publicly subsidized art institution to offer stability for art driven to bubble prices by acting as collateral in a lending and insurance market?

Significantly, art collateralization is becoming a major vehicle in financial management and, as experts have identified, it is "not a minor phenomenon either, considering that in the U.S., art collections come in a close fourth as the most common collateral loan after commercial real estate and merging securities."[108] To be worthwhile collateral art must be expensive. This ties the criteria for quality assessment that the museum can provide to speculative debt leveraging. While in many cases the connection between quality and price is inevitable (as with the market for singular and rare historical works), with contemporary art the need for verification is higher, and hence the stakes of its institutional dependency. When financial stakes are this high for museum donors and trustees, it compromises the ability of curators and directors to objectively assess art's significance.

The problem of judgment is exacerbated with art by living artists. Not coincidentally, some savvy artists have designed strategies to produce high volumes of signature-style work that can nevertheless be cast as singular, thus justifying high prices. But we need to remember that it is not the role of the museum to generate the symbolic backing to make this type of work expensive.

Private collections: a curatorial history perspective on the question of quality criteria

There are also qualitative reasons why institutions should be unlinked from the task of sustaining or raising art prices. The Fisher collection is unabashedly lay:

Don Also, I don't think I'm smart enough to be able to pick out the emerging artist who is going to be great.

Benezra So you don't consider yourself a talent scout.

Don Correct. Although I think we have put together a wonderful collection, it's difficult to determine what makes an artist great. History will be the judge.

Doris Yes, but we generally veer toward work that we find more aesthetic.

Don That's right. That's a very good description. We bought works that were visually appealing to us.[109]

As the Fishers themselves attest, they collected art that was not "too tough in terms of content."[110] So now approximately 60 percent of the SFMOMA display is subject to what was visually appealing to individuals self-described as not smart enough to objectively judge art. They nevertheless seemed smart enough to have fashioned the institution into supporting the art they own. The nonprofit institution should do exactly the opposite of what the SFMOMA did, that is, serve art that *is* difficult in form and content. In order to experiment with new, radical, marginalized, or otherwise unmarketable forms and ideas, museums have to be sequestered from the pressures of populism, ratings, and individual personal taste.

When helping the Getty Museum in Los Angeles implement a collection policy, Otto Wittmann, legendary for having put a small museum in Toledo, Ohio, on the international map, explained in a memorandum: "The basic reasoning behind developing such a policy was that there is a difference in concept between collecting by an individual and collecting for a museum in order to enhance public knowledge."[111] A student and mentee of Paul Sachs, time and again Wittmann underscored the need to acquire masterpieces and the finest examples—quality stressed over quantity. On the limited availability of quality art Wittmann advised the board to practice "acquiring art in areas that were at that time weak or nonexistent in the museum and that were neglected and out-of-fashion in the market."[112] The idea to collect out-of-fashion art is profound. It can be both a means to enhance diversity, and balance the power of the market. It also demonstrates in retrospect that price does not represent significance. The ostentatious declaration that "the best art is the most expensive, because the market is so smart" is a fallacy, historically incorrect, and I would hedge my bets that the speaker knows this very well.[113]

James Soby, who directed the Department of Painting and Sculpture at the MoMA from 1943 to 1944, strongly advised against acquisitioning entire private collections. In a report to the trustees, Soby contrasted the rare and outstanding instances of the Frick and Wallace collections, as he outlined the fundamental distinction:

> As Professor Sachs so eloquently pointed out at the Trustees meeting of Jan. 11, 1945, there is a great natural difference between the collector's viewpoint on acquisitions and the Museum curator's. This was said then and is repeated here, not to minimize the importance and function of private collections, an altogether valid preparation for the responsibility of making acquisitions for a public institution. But I believe, too, that it is valid only in so far as the collector is able to keep in mind the contrasting problems relating to private collecting on the one hand, museum acquisitions on the other it is not always easy to keep these problems in mind—I know that it was often difficult for me to do so, as director of Painting and Sculpture, after fifteen years of private collecting in the Museum's own modern field.

> For that reason I would like to list here some of the contrasts in approach.[114]

Soby goes on to contrast the two types of collecting in parallel columns.

Collector:	**Museum curator:**
1. The gratification of private taste and love of the arts. 2. Absolute freedom of choice within financial limits. 3. Expenditure of one's own money. 4. A free hand in changing the contents of a collection through sale, disposal or trade, following the dictates of personal taste. 5. Freedom from public pressure and from responsibility toward living artists.	1. The broad educational program of a public institution. 2. The necessity for covering all significant aspects of a given field. 3. Expenditure of somebody else's money, given in faith and confidence to a public institution. 4. A professional responsibility in making sure that personal changes in taste do not lead to eliminations which will a) Be hasty and perhaps a mistake b) Break the continuity of a public collection which should illustrate changes in taste, with reasonable limits, rather than be reconstituted entirely according to these changes. 5. The need to consider carefully pressure from public groups, to refute it if ill-founded, to weigh it if it appears fair. 6. A tremendous moral responsibility toward living artists whose careers and fortunes can be drastically affected by the Museum's support or lack of it.[115]

Soby concludes that, while they each serve a different purpose, "The standards of the first cannot be applied to the second without attendant limitations of function which are of the utmost seriousness."[116]

It is clear that the Fisher collection cannot live up to this standard, since it represents a limited range of individual taste. Naturally, only some of its pieces are truly distinct: "Museum director Neal Benezra identifies a 'core collection' of 400 especially important works, about 90% of them created since 1960."[117] Even by conservative standards it seems hard to justify overall "quality" because Benezra's assessment roughly leaves only 36 percent of the collection as "especially important." There is no reason to doubt Benezra's appraisal, yet a nagging recollection persists: his position is handsomely endowed by Charles and Helen Schwab. In other instances of named positions, universities, for example, scholars holding endowed chairs or professorships do not have such close and extensive contact with their benefactors, and even under these conditions, the objectivity of persons receiving endowed positions are rightfully questioned.[118] For this reason, it is impossible to ask Benezra to remain objective under such circumstances. Thus, if we consider that he might have given the Fisher collection a generous assessment, this means that at least 66 percent of works taking up 60 percent of the museum are not so important.

But, must a museum like the SFMOMA only display important works? The answer is: absolutely not. A museum should definitely display experimental and controversial work, works of quality yet unknown, revisionist perspectives that are still in question, etc. But the Fisher collection does not meet these criteria either, because as Satersmoen identified: "There's no Piss Christ in the collection. Or Anything made with Elephant dung, or anything like that. It's kind of classic, blue chip."[119] In contrast, the display of the SFMOMA's own permanent collection boasts fantastic treasures of California art, the Bay Area figurative movement, works by Joan Brown, Jay DeFeo, Wallace Berman, Bruce Nauman, and many others that one would like to see in depth in the major Northern California institution, some of which are rarely seen elsewhere. When traveling to San Francisco one can imagine rooms full of work by legendary artist and Black Panther Emory Douglas, or artists of the California Clay tradition, to give just two key examples. Instead, a limited selection of local work is on view, the permanent collection display is overcrowded in a marginal set of galleries, while a temporary private collection dominates the institution. Where are the iconic local contributions of Beat culture, experimentalism, the Black Panthers, Berkeley's radical past, the gay and queer and universes developed above and underground, or the complex and imaginative works of art and activism that responded to the AIDS crisis—all the histories that have made the Bay Area unique? Why not continue in the legacy of the first museum to have shown Judy Chicago's "Dinner Party" (1979)? Where is the West-Coast emphasis Henry Hopkins focused on in the 1980s?[120] We know the museum has collected Bay Area video and performance art; wouldn't it make much more sense to build a museum around this legacy? An attempted cosmopolitanism seems misplaced.

The SFMOMA was never set up to build a canonical collection:

> For the most part, old line San Francisco families did not collect art. They lived with a few pieces that helped create a pleasant environment, and when they died, their heirs tended to sell the work. That's why, in

comparison to New York, Chicago, Boston and Philadelphia, local museums had such weak collections.[121]

This could have been an opportunity to build a different museum. Instead, wealthy patrons chased a vision of generic internationalism.[122] The SFMOMA could have taken a cue from the Tate Modern, which has managed to turn a weak collection into a strength, emphasizing local and peripheral Modernisms. Even before announcing that it would revamp, the permanent collection display at the Tate Modern in London foregrounded examples of South American and North African Modernism, alongside artists such as Gwen John or Meredith Frampton. This is not to necessarily elevate the Tate over the SFMOMA. The Tate suffers its own ethical compromises in terms of funding and is a pioneer in the museum branding trend and its emphasis on the marketing of experience and the homogenization of culture.[123] It is simply to show another mainstream model that does not overemphasize artists central to the art-finance nexus.

Neo-expressionism in San Francisco: the conservatism of Georg Baselitz

The SFMOMA holds at least six works by Georg Baselitz, all of which belong to the Fisher collection with dates ranging from 1965 to 2007. What does it mean for a museum that purports to advance diversity to promote the work of an artist who continuously repeats that women are inferior?[124] Speaking with Kate Connolly from the *Guardian*, Baselitz said: "If women are ambitious enough to succeed, they can do so, thank you very much. But up until now, they have failed to prove that they want to. Normally, women sell themselves well, but not as painters."[125] Gasp. The proposition that women "sell themselves well" is nothing short of verbal violence. If Baselitz's opinion rings familiar it's because he made nearly identical comments in 2013: "Women don't paint very well. It's a fact." He backed up his claim by saying that women don't pass "the market test" or "the value test."[126] The tests Baselitz doesn't pass are history and critical thinking. Market success is not a consequence of fair competition or assessment of quality, but compatibility with contemporaneous taste and a lot of luck.[127] Surely Baselitz knows that Van Gogh was not passing any market or value tests in his time. While we can attribute the offensive opinion of historical figures to bygone worldviews, it would be hard to argue that we should also do so in the present. Herein the differences in the public and private collection of art make themselves starkly clear. If the Fishers wish to collect the work of an artist famous for his conservative practice and out-of-touch worldviews, so be it. If the SFMOMA chooses to endorse it, they, as a public charity, elect to perpetuate a discriminatory culture.

In art historical circles it is commonly understood that the success of neo-expressionist artists such as Baselitz is part of a conservative backlash.[128] In the chapter "The Postmodern Museum," from his landmark study *On the Museum's Ruins,* Douglas Crimp distinguishes between a progressive postmodernism rooted in critical practice, and a reactionary one seeking to return to the modernist mythologies of artistic genius and self-expression.[129] Crimp's Foucaultian analysis of the museum as a space of exclusion and confinement has "subjected the reigning idealism of mainstream modernism to a materialist critique and thereby showed the museum—founded of the presuppositions of idealism—to be an outmoded institution, no longer having an easy relationship to innovative contemporary art."[130] Crimp shows how such institutional practices underrepresented, or altogether excluded, a range of radical practices (and we can extrapolate demographics), essentially falsifying art's history. In adopting a collection heavy in art reliant upon outmoded notions of originality or artistic genius, the SFMOMA is perpetuating again those very mythologies that have been criticized since the 1960s and 1970s, and again by the critical analysis of race, gender, and sexuality in the 1980s and 1990s. The practices collected by the Fishers, and most museum supporters, usually represent but a narrow range in decades bursting with new forms of making and critical thinking.[131] Crimp wrote about the 1980s and the shift to neoliberalism, which since its rise in the late 1970s has exacerbated economic inequality and resulted in the recent global resurgence of authoritarianism, misogyny, nationalism, racism, and xenophobia. Museums promoting such outmoded perspectives without proper context are failing the education of their audiences.

Formulas for beauty: Gerhard Richter's cottage industry of singular-multiples

As opposed to Baselitz, the significance of Gerhard Richter's contribution to art's history is not in question. I do though, as does he, question his prices. This is evidenced in an interview:

> "How do you feel when a Gerhard Richter painting [sells] for tens of millions of dollars?" Richter answers: "Ambivalent. On the one side, I

> am proud that they pay so much for this little painting I did that was extremely cheap. And on the other hand, I think that's not good … They shouldn't pay 30 million for a painting. Even for a Picasso that's too much."[132]

Something has changed in the logic of art. Usually rarity is a weighty cause of art's high cost. Yet, the fact that Richter has produced thousands and thousands of artworks has not adversely affected his market.[133] The problem here is that his prices are connected to a publicly subsidized system, which has been corralled by private interests and is part of an agenda to keep prices soaring.[134]

The argument is that the only way for his works to live up to their conceptual significance is if they were cheap. As the painter Liat Yossifor concludes, "Richter is for the masses."[135] One artist can perhaps make thousands of artworks, but technically speaking, the vast majority of them are simply not masterpieces.[136] Major aspects of his practice, from his turn to abstraction and on, are based on device-produced multiples. They are not singular historical works, but parts of series whose conceptual significance is in many ways derived from this fact. When Richter stopped making his Strip Paintings, a series of digital prints produced by photographing, scanning, stretching, and mirroring slices of an earlier abstract painting to form a stripe pattern, he announced: "After 4,000, you can't see the difference. You'd have to look through a microscope. It wouldn't make any sense."[137] It also doesn't make any sense, neither from a conceptual standpoint nor from a formal one, to make 4000, or even 40. In series where the art-historical significance relies on a conceptualist logic, the only works that are truly important are the first, the last, and the ones where consequential transitions took place. The only reason to make 4,000 is to sell them. What makes even less sense is for so many museums to own so many of these works.[138] All the important issues this work raises about history, photography, or memory; figuration versus abstraction; or about painting's death and resurrection, do not justify more than a few key examples in museum collections. The rest might be stunningly beautiful, but they are not publicly significant. They ought to stay in private collections or on the market.

Richter himself is the first to admit that his paintings are not masterful. He has clarified that his smudging techniques are a means to overcome flaw, lack of detail, and to ensure the paintings are easy on the eye:

> I'm never really sure what that word means, but however inaccurately

> I use it, 'classical' was always my ideal, as long as I can remember, and something of that has always stayed with me, to this day. Of course, there were difficulties, because in comparison to my ideal, I didn't even come close.[139]

While the artist cannot be held accountable for his market, he can be for his practice. On the one hand, claims that his is a critical practice rely on comparing his work with the serial strategies developed by minimalist and conceptualist artists, on the other, they are sold for the price of singulars as products of a fetishized genius, which would contradict the conceptual underpinning. The significance of Richter's paintings is anchored not to the modernist logic of the painterly practice, but rather to Andy Warhol's postmodernist print production, where the techniques, and therefore the scale of output, were more akin to an artisanal cottage industry.[140] Warhol, who referred to his studio as "the factory" and declared intensions to mesh art and business, was working in defiance of modernist conventions and their emphasis on the unique artwork.[141] Warhol's was clearly a critique rather than an embrace, especially when viewed in light of his overt queerness, nonconformist lifestyle, and reverence of pop culture.[142] His deliberately off-register prints established a critical tension between the artisanal multiple and the singular masterpiece. Clever use of catchy design, camp, and celebrity recognition set the stage for the posthumous assent of his secondary-market prices. In contrast to Warhol's acerbic humor that informed his circuit and its context, Richter is surrounded by a mythologizing reverence.[143] The outmoded ways in which art is dealt with in popular media support the perception of virtuosity and singularity, necessary for the art market to continue and fetch skyrocketing prices. With his ratcheted serial production Richter is intellectually double-dipping in both conceptualist and pictorial traditions. I echo Jaleh Mansoor's observation:

> Having taken the assertion of the totalizing determination of everyday life in which all creativity is replaced by product innovation as a point of departure, I would like to explore an emergent lining in the economy of the work, a negative space in which, to put it idiomatically, Richter 'has his cake and eats it too'.[144]

If Richter intended his color-chart paintings to be, in his words, "an assault on the falsity and the religiosity of the way people glorified abstraction, with such phony reverence,"[145] they nevertheless end up being and selling as exactly that which was meant to be placed under attack. Richter's output mimes the logic of mass-produced fashion, where a House that has gained its reputation by creating couture is now manufacturing prêt-à-porter on a sliding scale of price and availability. This can be seen in how some of his major works are sometimes accompanied by series of derivative prints, available in various sizes. The difficulty is that his prices are not retail. Since this art's status is dependent upon its publicly subsidized sector verifying the significance of his "couture" pieces, we should be able to regulate Richter like we regulate any other type of creative industry.

As Benjamin Buchloh points out, we can no longer sustain the assessment of Richter within the singular logic of the modernist paradigm:[146]

> Further reflection on the differences between Richter's and Stella's paintings reveals quite a bit more about the precarious conditions of abstraction in the period of transition from gesture to spectacle, from critical modernist self-reflexivity to a seemingly inescapable terminus in which all of the structural, chromatic, and gestural forms that abstract painting can conceive in the present end up as corporate decoration.[147]

T. J. Clark, who has referred to some Richters as "shrieking abstractions," confirms:

> The word 'glazing' comes up; but glazing – that precious resource of oil painters from Burgundy on, in which colour was given depth and intensity by being made to shine through a foreground translucency – now botched, magnified, hypertrophied, presented to us as 'device'. ('Glazing' as in eyes glazing over.) The paintings, alas, have a corporate glossiness.[148]

The use of device, a strategy used critically by Jasper Johns to mock the idea of the "artist's hand," has been emptied of its critical potential, and leveraged instead to produce contradictory singular-multiples.

Richter is repeatedly raised as an example of a contemporary artist against which art-finance services are happy to loan cash. It leaves a lingering sense that such artists are being promoted for reasons other than the work's significance, that this is because it is easier to obtain funding for shows or donations because of the role brand-name art plays in wealth management.[149] For these reasons, the argument that viewing this work benefits the entire arts community and society is questionable. Trickle-down economy, even if it is supported by arts philanthropy, is a myth.[150] If collectors were removed from decision-making and influence we might see a more equitable distribution of opportunities and concomitant price.

As simultaneously a living artist, the name brand behind an asset class, and because his work is collected by some museums by the dozens, Richter is a case to reinforce the argument that it is not the role of the museum to inflate or sustain artificial prices for a single artist—a model for why and how such a market can be regulated. In Chapter 4 I will discuss the idea of taxing the secondary market, such that the prices of an artist like Richter would potentially be evened out, and better reflect the mass appeal of his product. This is not an argument against populism. Populist art can be excellent. Television, for example, has produced monumentally important social realist work like *The Wire* (2002–8). Wrong though is the condition where publicly subsidized institutions, and the professionals salaried by them, are part of the cycle that makes these works overpriced.

Conclusion

The institutional structure of museums today facilitates inequality by its economic organization, governance choices, and concomitant aesthetics. That deals cut between patrons and the museum are made to appear desirable or inevitable does not make them ethical or acceptable. Savvy collectors negotiating museums to serve their personal desires is an outcome of an economic system in which a starving public sector has been replaced by the rapid growth of the nonprofit system. This is funded by philanthropists with their excess earnings or assets in return for tax deduction. The argument is not that individuals abuse the system, although some of them certainly do, the argument is rather that the ability of private interests to leverage the public sphere are structural, and individuals manipulate the system because they can. Professionals in the field— artists, dealers, museum personnel, grant panelists, art writers, and so on—collaborate with the system because it is their means of livelihood and career. Nevertheless, if we are to work our way out of this predicament, we must face the place and role of art in the broader circuits of the political economy.

Examining the SFMOMA and its sources of funding is one example of art's relation to global value chains and their exploitative outcomes.

Surplus appropriated through superexploitation of labor in the global south is used, through the nonprofit system, to support welfare and leisure in the U.S. When it is repatriated and distributed where products are consumed, value transformed into profits is taxed, or donated for the purpose of tax reduction (hence it is a form of public money since it was earmarked for this purpose), as I substantiate in Chapter 2. Through the nonprofit system, public tax money and tax foregone in lieu of donations (in other words, what should have been public tax money) is revolved and used to support the further accumulation of private wealth, as seen when museums involve donors in activities by which they can gain beneficial information, ideological control, and even monetary advantages, all the while enhancing the value of private collections.

While significant, current struggle for public funding for the arts is a fight for declining resources. It also ends up using public resources to fundraise for what ends up supporting private interests. Historically, public funding has been discriminatory of underrepresented groups. Advocacy for declining public funding keeps weak constituencies in service of the system that serves the wealthy and promotes a market-driven taste in art. Diversity is introduced as an afterthought rather than being a driver for social and economic justice at the base.

The anxiety of the art world that without philanthropists there will be no arts funding is a narrow perspective ignoring what could be done, for example, with a massive increase of marginal tax, as well as substantial taxation of capital gains, dividends, business income, and the idea to introduce a special resale tax for art. Yet, while there are necessary and important steps ahead, they ultimately can address only part of the deep-seated problems that can neither be measured, nor resolved, within national economies. The conventional understanding of the economy predominant in the art world is that art adds value to the economy, which supports the conclusion that some vocations are owed more than others. A just conception of a fair distribution of resources and income go hand in hand with recognizing that art distributes value, it does not make it, as will be discussed in the next chapter.

Chapter 2

The Substance of Symbolic Value: Museums and Private Collecting

Introduction: the private appropriation of public value

"A museum retrospective can often boost the value of an artist's work, particularly when the piece at issue is included in the show," Carol Vogel tells us in a 2008 article about a shaky auction season following the financial crisis:[1]

> That may explain why Jennifer Stockman, president of the Solomon R. Guggenheim Foundation, is parting with "Pine House (Rooms for Rent)," a 1994 painting by the Scottish-born artist Peter Doig.
>
> The canvas, which was featured in a show of the artist's work at Tate Britain in London earlier this year, is expected to bring $4.5 million to $6.5 million.
>
> "Talk about timing," Ms. Stockman said of the consignment. She said she secured a guarantee, so "it became almost impossible not to take advantage of the sale."[2]

A guarantee means the auction house, or a third party, assures the seller a minimum price above which the extra profit is usually split between the selling parties.[3] Based on Stockman's insinuation it was presumably a high minimum. In a volatile and competitive art market, auction houses have been actively seeking out desirable works, and offering incredible deals to potential sellers.[4] By 2014 the price of this work shot up to $18 million.[5] This is intimately related to the artist being included in museum exhibitions and collections.[6] Jeffrey Deitch, art dealer and former director of the Los Angeles Museum of Contemporary Art (MoCA), confirms this common understanding in a conversational example:

> The irony is—we were working together at MoCA, Carolyn [Clark Power] was on the board—in a museum show it's all supposed to be

> non-commercial, however, for example, when we did the Urs Fisher show, it wasn't really a commercial show, a lot borrowed from collectors, but then I calculated: just on the pieces that were available, I think Larry Gagosian made 10 million dollars. So that's the crazy irony: the museum show, that the tax payers pay for all this, and art dealers use it as a show room. That's the system.[7]

Yet in a self-perpetuating cycle between museum exhibition and the market, when museums are complicit in serving the wealthy patrons, they ultimately undermine their own ability to purchase work and collect on behalf of the public. As former J. Paul Getty Museum director John Walsh revealed in 1989, "[T]he irony here is that museums have mostly been put out of the acquisitions game partly by what museums themselves have been doing to create art consumers."[8] The current mandate of museums to self-regulate is therefore here under question.[9]

Museums are state-chartered institutions that administer collections on behalf of the public. The public is the categorical justification that grants the institution subsidies, tax-exempt status, public funding, and of course the public is also a direct source of revenue. Although most American museums, whether they are charitable trusts or nonprofit corporations, are technically "private" institutions, in this chapter I refer to them as public because that is how they actually should be defined, and because, from a legal standpoint, the charitable purpose of the foregone tax money is designated for public purpose and should therefore carry it throughout its journey to its end goal.[10]

Art gains symbolic value from its collective status. The public is the entity in the name of which an art object obtains the status of cultural patrimony or heritage, used here as terms for work that merits collecting for posterity. In this context it is never a single piece of art that is at stake, but rather the piece as it relates to the collection as a whole unit.[11] For art to become a promissory note, bearing potential to be realized as money, it needs the larger system of meaning.[12] As noted in the previous chapter, art can realize value, but it does not make it. This chapter will show in depth that art siphons value from surplus created in enterprises that abstract concrete acts of human labor in order to make profit, all of which take place on a social scale. Since the value of art is socially created it only makes sense that it be shared accordingly. If we understand that art's value potential is collectively endowed we need to ask: why is Stockman, or Christie's for that matter, pocketing the profit they made on the Prince sale after the artist's Guggenheim show? The public is the reason the work has gained in price, so why does the profit not belong to the public? Paying back to society through tax is not enough. Donating in lieu of tax, even less.

This chapter has three sections, each addressing one level of how private individuals stand to gain, in obvious and hidden ways, from value made collectively. The first, "institutional advantage," demonstrates the flaws in the current system. The second, "symbolic value and ideology," shows how the status quo works to mask the real "substance of symbolic value," which is explained in the third section that also shows where value is actually made and why it therefore must be collectively shared.

Institutional value: price advantages for collector/trustees

The private metabolism of a public good

Institutional advantage is the benefit that trustees accrue because a public system works to sustain the worth of their private collections. Stockman's private gain from the sale is a consequence of the public status of the institution she serves. Museum exhibitions not only bring extra public and media attention to the artwork, they gain it scholarly interpretation and potentially a bibliography. Even when the work is not part of the exhibition, the general boost to the artist's reputation will result in a rise in what the work can fetch on the market, as Vogel further reports:

> Ms. Stockman's guarantee from Christie's includes other works she is selling as well, including one of Richard Prince's nurse paintings, "Last Resort Nurse," from 2003, which is expected to fetch $5 million to $7 million.
>
> Although it was not included in a recent retrospective of the artist's work at the Guggenheim Museum, prices for Mr. Prince's nurse paintings have skyrocketed recently.[13]

Nothing reported by Vogel was illegal. It can nevertheless be understood to constitute an appearance of conflict of interest, leading the art writer Lee Rosenbaum to exclaim about Stockman: "[D]id she really say that?"[14] Indeed, the Guggenheim trustee was openly revealing things that in the past were left unsaid, breaking the gentlemen's agreement upholding the appearance that board members serve for altruistic reasons.

Since the Gilded Age, it was an open secret between the ruling bureaucracies of the United States and the capitalist class that the latter would be supported in stockpiling unimaginable wealth as long as they "gave back" to society. The rapid amassing of great wealth at public expense and violence by the so-called Captains of Industry earned them the title "robber barons." They tended, for many reasons, to donate widely to the construction of libraries, universities, research centers, hospitals, and, of course, museums. This shaped a social structure dependent on philanthropy for welfare and the funding of civil society. But the system of welfare by philanthropic giving has never been benign. It was mostly designed to suit the needs of the wealthy and their heirs. Throughout the twentieth century, and still, tax law allowed philanthropists to disproportionately gain private advantage as they generated public resources designed to sustain their power.[15] Here again, it is the law that is faulty. Why are wealthy individuals allowed to gain at public expense? They are already getting honor, authority, and control that assures their continued dominance.

Increasingly, strong critiques of the structure of philanthropy are voiced in mainstream and academic circles. But the case of art is distinctly faultier, as the monetary advantage for the philanthropist is amplified because of art's complex status as both private and collective asset. The difference between a trustee in an art museum and other nonprofits is that in the latter the trustee does not share a financial interest in the assets owned by the charitable organization they serve. In art museums, board members are highly likely to be collectors of works similar to those owned by the institution. With contemporary art there is even more of a discernible overlap and much more vulnerability to market manipulation. A distinct pattern emerges from what museums are exhibiting and collecting. Enough to support the claim that contemporary collections are largely orchestrated by the interest of the upper class.

Contemporary art institutions are more vulnerable to conflict because the long-term significance of work by living artists remains in question, while prices can nevertheless be outlandish. Pressure by laymen collectors or financially interested dealers can lead to exceptionally biased outcomes. An anecdote shared with me by an internationally known painter of weighty market success who was also a board member at a major Los Angeles institution, can serve as an example. In front of the board was a choice between an abstract work by a white-male artist in his thirties or a key 1970s feminist, whose historical consequence has long been established by an independent bibliography and generations of younger artists influenced by her work. My board-member colleague was barely able to dissuade his fellow collector/board members from making the blatant mistake of buying an unverified artist over one whose place in history is already assured. Board members were forcefully arguing that the abstract artist's prices are about to rise, as if that was proof of quality. But not all museums are lucky enough to have a powerful voice balancing their decision-making process, and many are accessioning unimportant works into their collections. This is a disturbing trend given that there are more contemporary art museums today than ever before, and that many encyclopedic and survey institutions are also now collecting contemporary art.[16]

Personnel, whose salaries are publicly subsidized, spend a tremendous amount of energy cultivating relationships with potential donors.[17] Curators, for example, help private collectors by accompanying them to galleries and art fairs, giving advice, or leading museum collector groups. The logic is that collectors may end up donating to the institution that helped them. Although it may not be considered unethical if the curator is not paid by the collector,[18] and the mutually beneficial relationship serves the museum, such arrangements nevertheless ensure that museum personnel and administrators remain loyal to the monied class.[19] One collector describes the relationship as that where "curators help the collector to develop worthy collections ... and it's good to remember to give a little back."[20] A little is precisely the point. As this book shows, the patron (capitalist) class receives disproportionally more than it gives.

One measure to try and balance boards of trustees has been to include artists or other advisors who are not of the collector class. In the Los Angeles case described above, this proved beneficial. The role of artist trustees, however, has no impact on deeper administrative or funding structures. It is also apparent that museum directors are not spending any time or expertise on changing the system.[21] This is ensured by the fact that they are constantly preoccupied with fundraising, and also that they are essentially competing one against the other for the same funds. Museums are agents of the status quo, shaped to orbit in the circuits of crisis-bound financial capitalism.

Art's role in the financial growth regime

Françoise Chesnais describes how the U.S.-led growth regime is driven by debt, and how it has spread to several European countries.[22] His definition of financialization, "different from what is today generally called financial capital, namely concentrated money capital operating in financial markets," refers to the work of banks and investment firms of all types.[23] But since the former is a prerequisite for the common use of the term "financialization," Chesnais's criticism applies to both as he described today's dangerously imbalanced economic order:

> [Richardo] Bellofiore gives a good description of this regime: 'wage deflation, capital assets inflation and the increasingly leveraged positions of households and financial corporations were complementary elements where real growth was doped by toxic finance'. It permitted the expansion of the automobile, housing and construction sectors and experienced its climax in 2003–6 in the US housing bubble. The over-building of houses and over-capacity in the construction industry were fuelled by debt-supported securitisation and unsustainable levels of leverage. Despite the financial crisis, it remains the growth regime to which finance capital aspires to return.[24]

Unfathomable wealth is being made in financial speculation:

> In 1975, about 80% of foreign exchange transactions were related to the real economy and 20% to financial speculation. By the beginning of the 1990s, the first category had fallen to about 3% and the second had risen to 97%. Even the inclusion of hedging by TNCs as an obligatory trade and investment-related practice, only added 20% to the economy-related total.[25]

If we correctly understand the actual sources of value, these numbers become extremely alarming, as they represent the increasing circulation of promissory notes for which there is no backing. We know that the United States recorded a government debt equivalent to 106.90 percent of the country's GDP in 2019 and this is only predicted to increase.[26] Even leading capitalists have been warning about the reluctance to invest in production. Larry Fink, Chairman and Chief Executive Officer of the world's largest asset manager, BlackRock, sent a letter in 2015 to the S&P 500 CEOs in the U.S. and to the largest companies that BlackRock invests in, warning them about the failure to reinvest in production.

> As I am sure you recognize, the effects of the short-termist phenomenon are troubling both to those seeking to save for long-term goals such as retirement and for our broader economy. In the

> face of these pressures [shareholders seeking immediate returns, velocity of capital, 24/7 news cycle, and public policy failing to encourage truly long-term investment], more and more corporate leaders have responded with actions that can deliver immediate returns to shareholders, such as buybacks or dividend increases, while underinvesting in innovation, skilled workforces or essential capital expenditures necessary to sustain long-term growth.[27]

First, notice the role of the state in failing to curb these crisis-bound cycles. Second, recall that the hordes of wealth made in destructive speculative finance need places to be parked. Enter the art market.

The financialization of art

Historically, art was an illiquid asset, bought for personal use or conspicuous consumption. Its ability to greatly appreciate has long captured the eye of business-minded investors. Earlier attempts to corral art's asset potential were followed, since the 1970s, by various attempts to establish art investment groups, collection by mutual funds or pension plans, and finally the development of loan collateral tools, until, by the twenty-first century, art collecting services became a standard part of wealth management. The formalization of art-secured lending, and the use of these loans in insurance hedging, has come to be generally referred to as "art financialization." This gave art some liquidity potential. Significantly, the more collectible an artwork, the more lenders were willing to loan against it. Managing Director for J.P. Morgan Private Bank explains:

> We lend against a variety of periods and have no particular affinity for any single era or style. The key variables when providing a loan include the number of pieces, their value, and diversification. One of our largest loans was against an Old Masters collection. Some contemporary artists have good characteristics (Gerhard Richter, for example) and we will happily lend against them.[28]

Since most lenders will only accept highly verified art, the museum inevitably plays a key role in establishing the credibility of an artwork as loan collateral.[29] Market actors see this trajectory as positive. Since, again and again, we hear that one of the biggest obstacles facing art investing is information opacity, museums are called upon to resolve this. An art and finance report casually expounds:

> One of these stakeholder groups is the non-commercial art sector (museums and non-for-profit institutions). This sector's deep knowledge and access to expertise, combined with its market neutrality, could ensure that it plays a very important role in bringing more trust and transparency to the art market through education, and the sharing of expertise, knowledge, and information with the wealth management sector.[30]

But this is actually *not* the museum's role. These wrong presumptions point to the very problems at the heart of museum bias. Significantly, as Chapter 1 demonstrates, museums are frequently governed by the agenda and taste of collectors and their special interest. Moreover, these museum patrons are frequently the same people that benefit directly from systemic inequality.[31] Even museums who are not directly governed by their board of trustees are enlisted through a complex system of dependency to serve the upper echelon. For example, art museums in states that don't have use tax (such as New Hampshire, Delaware, or Oregon) often exhibit art that gives the lenders a sales-tax break.[32] What seems like a win-win situation, sending expensive art to smaller museums for display, is in fact the subordination of educational institutions to a limited inventory of taste in contemporary art, narrowing, rather than opening, the horizons of art judgment and reinforcing an international monoculture based on name recognition.

The dramatic growth of the art market is directly related to the formalization of art lending.[33] A wealth management executive speaks about a new generation of collectors driving demand for financial innovation:

> The art trade itself has also provided a significant impetus for the development of art financing in an effort to bring stability and lower levels of risk to the market . . . Those wealth managers and family offices which now offer art advisory services and provide expertise in matters of artistic quality are forming strategic partnerships with experts and art professionals.[34]

Sébastien Montabonel and Diana Vives explain the incorporation of arts collecting into wealth management, its rapid growth echoed by that of the art-collateral lending market. Implicated are the ways in which all these wealth-generating and circulation instruments are not properly taxed. I quote it at length for its data and evidence:

> Wealth managers are in a unique position to offer sound and impartial advice on other matters such as art succession planning, fiduciary services, governance and art philanthropy, and the ranks of wealth managers offering art advisory services grew steadily according to Art & Finance Report 2017 survey, from 67% in 2014 to 70% in 2016, to 83% in 2017, with an estimated US$1.62 trillion of UHNWI wealth allocated to this sector in 2016. In the same period, the art-secured lending market in the US grew by an estimated 13.3%, reaching around US$17-20 billion in 2016 ... [W]ealth managers are now able to structure loans on artworks, offer a host of related financial services and occasionally even broker works between their clients.
>
> Ultra-high-net-worth clients can today structure a bank loan on blue-chip artwork at attractively low interest rates of between 2.5–3.5%. As specified in 2017 Art & Finance Report, the work that previously had to be held in a Free- port as collateral, can now remain on the wall or be loaned to international museum shows, which further enhances its market value.[35]

The ostensible public benefit museums offer remains the reason that ultrawealthy art collectors receive preferential tax treatment by the state. Why would we allow judgment of art guided by these tendencies to sway museum content? This system works only for a very small sliver of blue-chip artists, subordinating the rest to market-competition logic that runs contrary to experimentation and diversity.

Because of art's financialization, the public institution is positioned to enhance the wealth of private individuals on a much larger scale than ever before. A bigger market and higher-priced art means higher stakes, exacerbating conflict of interest between collector/trustees and museums holding similar assets. Given the limited availability of quality historical art, we also have to ask what role public museums have played in the fact that the contemporary art market has doubled in a decade.[36] The problem here is not with proliferation of contemporary art, but with leveraging, financialization, exorbitant prices, and the lack of equal distribution of resources in the field. Under these circumstances, work done by the museum has the potential to add symbolic value to art that can disproportionally benefit private parties at the expense of what is better for the public.

"Conflict of interest": and its inadequate applications

Vogel's *NY Times* market report had more information about museum trustees selling works, which, according to Rosenbaum, should have been first offered to the museum. Rosenbaum based her argument on the 1981 handbook "Museum Trusteeship" by the American Association of Museums, a landmark publication that came at a time of heated debate about museum ethics:

> The trustee's own acquisitions must not compete with his museum's; he is obligated to put the collecting ambitions of his institution before his own.
>
> . . .
>
> The trustee who collects could be liable to the museum for profits he makes as a provable consequence of actions taken by the museum if his participation was a major influence in the institution's decision to take those actions . . . Whether his objects were exhibited or not, there is a conflict of interest and potential liability to the museum in this situation.[37]

A variety of conflicts abound, but unfortunately we do not have the legal tools or the regulating mechanisms to enforce them. One problem is lack of transparency. We have little access to transactions and agreements made behind the scenes. Yet, despite information opacity and with anonymity being a standard condition for speaking, evidence nevertheless leaks.

In his investigation of museum trustees, Milton Esterow lists several types of "strings" that come attached to their donations or service. The following quotes represents the words of museum directors recalling what trustees said or did:

> "I'll give this if you do this."
> "Looking over the director's shoulder."
> "They interfere with everything from how work is installed to marketing."
> "They try to get curatorial control."
> "Making decisions over exhibitions."
> "Wanting to come to staff meetings."
> "Allowing an artist's dealer to pay for part of a museum exhibition, which can—but not always—be a conflict of interest."
> "Insisting that the donated works have to be all together."
> "Pressure to exhibit artists whose works they collect."[38]

We learn more from a conversation between the artist Andrea Fraser and the curator Helen Molesworth, quoted at length for the testimony it provides:

AF I've never talked to a museum professional (until now!) who would publicly admit that trustees had *any* influence on programming.

HM Part of this is due to the nuance of group dynamics and internal psychic mechanisms. This influence isn't as draconian as a trustee sauntering into a board meeting and saying, "I demand you show this artist, and here's the money for it." (Although I've seen that happen!) More often it's soft power that goes something like: "I think we could get the money from so-and-so because they like this."

AF This is coming from a director?

HM Yes, and from the curatorial ranks as well.

AF Ingratiation and access again!

HM There's an enormous amount of internal bargaining.

AF Do you mean internal within oneself or inside an institution?

HM Both. The internal logic has become as transactional as the board logic. If I do this, then I'll get this; both share a kind of phantasmatic professional quid pro quo that is never explicitly stated.

AF I've heard museum people say things like that publicly, though framed in a way that has more to do with popularity than patron support—that they'll do popular shows to pay for esoteric shows.

HM But patron support and the box office are frequently intertwined. There's such an identification of expertise with elitism that I fear boards may feel as if curators only like work that the public hates, whereas they know what the public likes, the "real stuff"—Koons, Hirst, and Murakami.[39]

Molesworth recalls the pressures to conform:

> I don't think there is a curator in this country who has the kind of exhibition history I have . . . who hasn't struggled with the pushback around our stated interests . . . That pushback comes in many forms. Sometimes it comes in the form of the very clear-cut, demonstrable insistence that the exhibition schedule be more 'balanced'—code

> word ... I've been told that I have lot of 'swagger'—code: gay, code: black. I have been told: Do I have to look at *everything* through the lens of identity politics?[40]

Molesworth was fired from the Los Angeles MoCA for allegedly having "undermined the museum."[41] "Undermining" seems to have been a euphemism for refusing to compromise her intellectual integrity.[42] The following report is quoted at length as it demonstrates donor attitude:

> Multiple sources say that Molesworth was not interested in the diplomacy and statecraft practiced by many chief curators, who approvingly tour private collections and lead donors around art fairs. If she was not excited by a particular collector's holdings or an artist's work, she did not hide that fact. And she told some that she was not particularly interested in art made by white men. Instead, she pursued projects by lesser-known women and artists of color—an agenda that some powerful donors and members of the board did not share.
>
> ...
>
> But in the clubby Los Angeles art-collecting community, Molesworth's particular focus also sometimes rubbed donors—and perhaps more importantly, potential donors—the wrong way. One collector said he ultimately decided to donate a significant work to another museum instead of MOCA after Molesworth came to see his collection and made her lack of interest apparent.
>
> "It made me feel naked—it made me feel uncomfortable because she came to see my collection and made me feel like she really didn't like it," the collector told artnet News. "She didn't even pretend to like it." The exchange was particularly stark compared to friendlier encounters he had had with chief curators from other museums, he said.[43]

Only under the assumption that the role of the museum is to serve the donors can professional honesty register as some type of offense. That a collector believes he is entitled to blanket praise, so much so that he complains about it to the press, reveals his motive for engagement. Most disconcerting is also the question of why the publicly subsidized time of the curator is supposed to be spent catering to private collectors.

Obviously, not all board members have self-serving intentions. In her reply to Rosenbaum, Jennifer Stockman clarified:

> The director and the curators, not the trustees, of the Guggenheim make all decisions as to the exhibitions that are shown at the museum.

> I in no way influenced the Guggenheim's decision to hold the 2007 retrospective of Richard Prince's work. In fact, at the time I purchased "Lake Resort Nurse" in 2003, I was not aware that the Guggenheim would hold the retrospective and had been collecting works by Richard Prince since 2000. "Lake Resort Nurse" was not loaned to or included in the Guggenheim's Prince exhibition. The Guggenheim's conflict-of-interest policy for trustees provides that no confidential information may be used by a trustee for personal gain. I did not act upon confidential information.[44]

But even if Jennifer Stockman did nothing wrong, she still made a profit because of a shared construct. This is not only a personal conflict of interest, but an administrative one that cannot be resolved or regulated by declarations about the personal ethics of the stakeholders. The problem with Stockman in this case is not when or why she bought the work, but when it was that she was selling it, and the law is not equipped to say anything about this matter.

Earlier in the twentieth century, some museums used to charge a fee if work exhibited was sold. It makes the appearance of conflict apparent because of the potential to sway curatorial decisions for gain.[45] This practice is now discouraged. While, obviously, the incentive of sales puts curatorial integrity at risk and was never a good idea, museums nevertheless seem to have come out the losers of the move to eliminate fees, while the market and collectors did not. The next logical step would be to conclude that if the duress of museum gaining from sales is so obvious, then the influence of trustee collecting on curatorial work should definitely be discouraged. Why is it still okay for trustees to own and sell work by the same artist collected by the institution they serve?

A more blatant quid pro quo is seen in shows like the Giorgio Armani (October 19, 2000–January 17, 2001), where it was reported that the designer donated $15 million to the Guggenheim, or its The Art of the Motorcycle (June 26–September 20, 1998), which was sponsored by BMW and Lufthansa and featured several BMW motorcycles. The problem with both shows is not with the mixing of the commercial with so-called high art, it is that a nonprofit should not become high-end advertisement for profit-making companies. Of course, there is broad interest in fashion and motorbike design and they merit museum shows, but we could, for example, curate shows based on archival research and scholarly comparisons without elevating one brand.

Conflict-of-interest policies for curators, directors, and trustees cover only partial topics such as payment or gifts in exchange for expertise, personnel collecting guidelines, or self-dealing. But even then the conventions defining conflict of interest seem to favor the commercial market over the museum. Codes of conduct do not cover all the ways in which trustees stand to gain from the institution they serve, regardless of intentions.[46] They have little supervisory capacity or enforcement power. Member organizations such as the Association of Art Museum Curators or Association of Art Museum Directors can only provide general guidelines for professional practice ethics, asking that museums write their own guidelines in more detail (which some do). In extreme cases (mostly concerning deaccessioning) the American Alliance of Museums can de-accredit museums, but of course only those that have sought accreditation in the first place.[47] Accreditation is not a condition for tax exemption. Moreover, accreditation can be reinstated, and amnesia of institutional misconduct soon kicks in. Only the district attorney can sue an institution, and this only happens in rare cases of gross violation. Even when potential donors have clearly manipulated the museum or the community, sometimes in blatant and shocking acts of bad faith, there is rarely a suit, as institutions fear of appearing litigious and alienating future patrons.[48] Since objective third parties are habitually left outside of the negotiating rooms, conflicts, large and small, go unenforced.

In 1995, the Nolan committee in the U.K. outlined the Standards in Public Life as: selflessness, integrity, objectivity, accountability, openness, honesty, and leadership. Referring to the Nolan committee the author of an article sporting the questionable headline, "Contemporary Art Museums Can't Avoid Conflicts of Interest – but We Need to Trust Their Directors," concludes:

> The trouble is, such principles do not cover the fine grain of the dealings between the public and private parts of the art world. And the Nolan rules certainly don't apply in the United States, where the competition is even fiercer and the relationships closer, especially with the presence of so many significant collectors on boards. In Britain, the unspoken rules that applied 10 years ago have loosened. It is no longer *infra dig* for a commercial gallery to run a selling show at the same time that an artist is having a public exhibition. Galleries may be prepared to contribute, say, to the transport costs involved in a public show. They can help to sponsor a show, which seems to be acceptable as long as it is not an exclusive deal.[49]

The title asks us to trust museum directors, but how can we be asked to place trust in professionals whose high salaries are partially subsidized, and sometimes even directly endowed, by trustees with whom they closely work? Trustees who spend much time and energy devoted to the museums they serve, and of course those who contribute art, money, or both, see themselves as generous. Museum leaders and professionals naturally gravitate to this frame of mind, when they perceive the trustee to be the hand that feeds. It is humanly impossible to not be swayed by such close relations, where one party is in a state of perpetual gratitude. As former curator and director of the National Gallery of Art in Washington, D.C., John Walker wrote in his memoir: "A museum director is a little like one of those donors in primitive paintings. He is always on his knees with his hands together in prayer."[50] Donors are thanked everywhere in the museum: from labels, to public speeches, to naming opportunities the size of buildings. Yet these are not "opportunities," but rather the *selling* of naming rights. They create the perception that the public somehow owes the wealthy gratitude. But we don't. The money they give is already public, and there is a long historical arc to prove it.

History and legal theory of the public/private distinction

The original wealth that enabled capitalism to rise was made by appropriating the commons, enclosing land and water as private property. The law historian Morton Horwitz chronicled the separation of the private and public realms in English law since the sixteenth and seventeenth centuries, demonstrating how the concept of the private was gradually formed through the transformation of law and its enforcement over a 200-year process. Initially, monarchs owned lands as feudal lords:

> Increasingly, English law defined a second category of crown lands—in essence, public lands—which he could not alienate. Here we see an example of the gradual emergence of a distinctively public realm, which in the field of crown ownership of land finally crystallized in seventeenth-century struggles over the King's power to alienate land between high and low watermark.[51]

Easements, such as the land between the high and the low watermarks, are still considered public in the U.S. today. In contrast, the status of foregone tax money (money diverted to donations) as either private or public remains in debate. Significantly, the history of tax monies shows that they have been alternately considered to be private and public at different stages. Horwitz shows how sixteenth-century England did not initially see tax as an extraction by the state, but a gift of the taxpayer as donor—a consensual private transaction that was merely arranged by parliament. Public office was also seen as private property and potentially hereditary. In the seventeenth century, with the development of theories of sovereignty and nascent idea of the nation-state, taxes were established as public. While the idea of a distinctively private realm is grounded in the seventeenth-century natural-rights liberalism of John Locke and his successors, the actual distinction between the private and the public occurred in English and American law after the eighteenth century, when "the emergence of the market as a central legitimating institution brought the public/private distinction into the core of legal discourse during the nineteenth century."[52]

Horwitz's profound insights own much to Karl Polanyi's classic 1944 work, *The Great Transformation: The Political and Economic Origins of Our Time,* which chronicles the transition between the feudal society that has exchange markets, to a market society where the entire governance of human life is built around, and geared toward, commodity production and exchange for profit:

> Ultimately, that is why the control of the economic system by the market is of overwhelming consequence to the whole organization of society: it means no less than the running of society as an adjunct to the market. Instead of economy being embedded in social relations, social relations are embedded in the economic system.[53]

Often, when conditions emerge, the view of how problems had been formed at their core is already lost. Only a longue durée perspective can reveal how concepts, considered to be fundamentally unchangeable, did eventually transition and evolve. Polanyi gives an example:

> The rise in rural pauperism was the first symptom of the impending upheaval. Yet nobody seemed to have thought so at the time. The connection between rural poverty and the impact of world trade was anything but obvious. Contemporaries had no reason to link the number of the village poor with the development of commerce in the Seven Seas. The inexplicable increase in the number of the poor was almost generally put down to the method of Poor Law administration, and not without some good cause. Actually, beneath the surface, the ominous growth of rural pauperism was directly linked with the

> trend of general economic history. But this connection was still hardly perceptible. Scores of writers probed into the channels by which the poor trickled into the village, and the number as well as the variety of reasons adduced for their appearance was amazing. And yet only a few contemporary writers pointed to those symptoms of the dislocation which we are used to connect with the Industrial Revolution. Up to 1785 the English public was unaware of any major change in economic life, except for a fitful increase of trade and the growth of pauperism.[54]

Like Polanyi, Horwitz shows how the law responded to, and has been changed by, ideological tendencies driven by economic considerations. The distinction between the private and the public realm was not so much driven by independent ideals as by goal-oriented approaches that either functioned to curb the market, or, conversely, allowed it to reign, corresponding to the politics of those in power. Driven by conservative judges who wanted to extricate the law from politics, "one of the central goals of nineteenth-century legal thought was to create a clear separation between constitutional, criminal, and regulatory law—public law—and the law of private transactions-torts, contracts, property, and commercial law."[55] As Horwitz shows, their agenda was to facilitate what they saw as "neutral ground" to form the base for business transactions. Business transactions could then be seen as nonpolitical. This corresponded with the political-economy theories of the nineteenth century, which aimed to render the market as a neutral system that merely distributes reward. Essentially, the conservative exercise of the law was counteracting the redistributive tendencies of budding democracy.[56] One example is the shift in the status of contracts from serving a regulatory function to being seen as private agreements between consenting parties. Common law itself was also gradually transformed from its more technical assignment of enforcing existing law to actively setting precedent and actually shaping legal doctrine—a function previously relegated to the legislative body and statutory law.[57] Again, the separation of public from private law was a way to detach the law from politics, by agents holding a worldview that aimed to remove the state from intervening into the realm of the market as an expression of private rights.[58]

While the conservative liberalism of the nineteenth century aimed to establish an appearance of neutrality for the market, the progressive liberalism of the early twentieth century regarded the law and the state as means to curb private greed. The 1920s and 1930s saw the influence of legal realism, an approach that considered the public good in jurisprudence, and which exposed the conservatism of the public/private distinction:

> By 1940, it was a sign of legal sophistication to understand the arbitrariness of the division of law into public and private realms. No advanced legal thinker of that period, I am certain, would have predicted that forty years later the public/private dichotomy would still be alive and, if anything, growing in influence.[59]

While early in the twentieth century it was clearly understood that private hands could not successfully deliver public interest, a backlash came on the heels of World War II, when fear of totalitarianism allowed interest-group pluralism and a market theory of public interest—wielded by whomever won the battle on the market—to become the new face of progressivism. Important means to curb greed and domination were lost in the process.

Horwitz wrote in the early 1980s, undoubtedly responding to the backlash represented by the election of Margaret Thatcher and Ronald Reagan, both committed to undoing the welfare state and deregulating the economy, initiating an escalating trajectory of privatization, deregulation, globalization, and militarization (generally termed "neoliberalism") that resulted in the Great Recession of 2008 and its aftermath[60] A further development since is the dramatic privatization of the law that has been termed "neofeudal," as I will discuss in Chapter 4.

The nonprofit sector as shadow state

The American legal system, as Horwitz tells us, evolved from a libertarian view that wanted to cast the state as a neutral playground for business into a tendency to see the state as a means to curb endless accumulation. The latter ended after World War II, as the welfare state continued to develop in that brief "golden age" of capitalism that survived till the 1970s, by the end of which the neoliberal shift commenced. John Bellamy Foster takes the long view of the doctrine that shaped our present:

> The term *neoliberalism* had its origin in the early 1920s, in the Marxian [Max Adler] critique of Ludwig von Mises's *Nation, State, and Economy* (1919) and *Socialism: An Economic and Sociological Analysis* (1922), both of which were written as virulent anti-socialist tracts, constituting the foundational works of neoliberal-capitalist

> ideology. In these works, Mises, then employed by the Vienna Chamber of Commerce, insisted that the "old liberalism" had to be "relaid" in such a way as to defeat socialism. In the process, he equated socialism with "destructionism," insisted that monopoly was consistent with capitalist free competition, defended unlimited inequality, and argued that consumers exercised "democracy" through their purchases, which were equivalent to ballots. He strongly condemned labor legislation, compulsory social insurance, trade unions, unemployment insurance, socialization (or nationalization), taxation, and inflation as the enemies of his refurbished liberalism.[61]

Neoliberalism, promoted again as a viable model under the ideological leadership of Milton Friedman at the University of Chicago, was heavily brought to bear on the national and international economic policies of Thatcher and Reagan, expanded globally by imperialist maneuvers and markets. The U.S. Democratic and U.K. Labour governments of the 1990s have not reversed the neoliberal trajectory, and neither did Barack Obama.[62] The neoliberal period saw a massive transfer of wealth into a limited range of corporate entities and private hands. The freeing up of more resources for the wealthy allowed and compelled them to pour into their pet social projects, creating a growth of the charitable sector and with it the expansion of arts philanthropy.[63] This was followed by repeated attempts to reduce taxes on corporations and the rich, while efforts to argue that tax monies should be considered private were reinvigorated.

In "How Public Is Private Philanthropy?" the Philanthropy Round Table has attempted to argue that philanthropic assets, charitable tax exemption, and tax deduction are private monies. The Philanthropy Round Table does not hide its conservative agenda to seek charitable independence and a return to "traditional principles of self-governance and private decision-making."[64] The document claims that tax money is the property of an individual who therefore has the right to determine its use and distribution. This philosophy is rooted in the liberal conception of personal liberties, but contradicts a liberal democratic agenda, as it places tremendous powers in the hands of the few over the many. To justify private supervision is to justify wrestling more resources and control away from the population, facilitating the dictatorship of the rich.

Here we witness how a nonprofit organization is used to influence tax reduction and deregulation policies, which then place even more wealth in the hands of fewer people who can then have more influence not only on the policies that govern them directly but also on everybody's civil society. The American tax code is such that the liberty to write off charitable donations is not afforded to the majority of Americans.[65] All this runs counter to the claim that the nonprofit system promotes pluralism.

Neoliberalism has perfected the task of subordinating the state to the need of wealth accumulation, as political scientist Nancy Fraser summarizes:

> Consider the epochal transformation of capitalism that began in the 1970s and is now unraveling. The structural aspect of that transformation is well understood: whereas the previous regime empowered states to subordinate the short-term interests of private firms to the long-term objective of sustained accumulation, the current one authorizes global finance to discipline states and publics in the immediate interests of private investors, including by divesting from social reproduction and imposing austerity.[66]

Divestment from social reproduction and the holes created by the retreat of the welfare state have been replaced in the U.S. by nonprofit institutions. Like NGOs, they are a vehicle for substituting defunded infrastructural state functions with these semi-privatized social services.[67]

The expansion of a gray area that is semiprivate and semipublic was neither one-sided nor decisive, but the combined and uneven development of "the shadow state," as Wolch showed. Her detailed 1990 multipronged investigation of municipal, state, and federal government services provision describes the process:

> The transfer of social responsibilities from state to voluntary sector has occurred in the context of growing international economic competition, restructuring of domestic relations of production, public economic management strategies, and welfare state reorganization and change.[68]

Up to the point of Wolch's study, research only focused on supply-side questions such as: "degree of optimizing behavior, productive efficiency, speed of supply response, income-generation behavior, and patron control."[69] In contrast, her questions addressed the social change that took place as the relation between the voluntary sector and the state shifted in ways that, although complex to quantify, nevertheless showed the machinations of increasing privatization as it took place through and by the delegation of services from the state to the nonprofit apparatus. Wolch's work was central to another key critical text that characterized the nonprofit system as a type of "industrial complex." INCITE!, the moniker for Women of Color Against Violence, who edited the influential, now classic, volume, *The Revolution Will Not Be Funded: Beyond the Non-Profit Industrial Complex*, exposes how the tax exemptions of the charitable sector work to ameliorate, if not eliminate, radical socially-oriented organizing. As such they run contrary to their pluralistic promise. As Dylan Rodríguez writes,

> This popularized and institutionalized "law and order" state has built this popular consensus in part through a symbiosis with the non-profit liberal foundation structure, which, in turn, has helped *collapse* various sites of potential political radicalism into non-antagonistic social service and pro-state reformist initiatives.[70]

The pluralism facilitated by existing charities thus runs the gamut between an extreme or libertarian right wing and a liberal consensus, diminishing as we go left of center. How does this unfold? Justin Laing provides an example:

> Attorney General Robert F. Kennedy convened a group of foundation leaders in 1961 and asked them to put money into an initiative called the Voter Education Project. His idea was to encourage civil rights organizations like the SCLC, the Student Nonviolent Coordinating Committee (SNCC), the Congress of Racial Equality (CORE), and the NAACP to turn their attention to voter registration rather than the direct-action strategies such as sit-ins and freedom rides. His argument to those groups was that voter registration would have a bigger impact on discriminatory policies than smaller local efforts such as sit-ins. However, writers in both the book and the report contend that much of the Kennedy administration's motivation was to take pressure off the federal government to provide protection for the activists, because providing that protection would alienate Southern white voters.
>
> These anecdotes bring interactions among government, institutional philanthropy, program officers, and the civil rights movement into focus in a way that is troubling. They appear to illustrate an attempt to coerce civil rights leaders to alter either their behavior or their theory of change.[71]

Scholars, practitioners, and audiences share the sense that nonprofit dependency has coercive consequences and is thus contrary to economic justice. This is also evident in the type of diversity promoted, which generally tends to be the kind whose criticism of the system can be contained.[72] Another problem of privately driven pluralism is that it remains unsupervised, and unaccountable, especially when it purports to measure its success with its own tools.

We conclude that the system cannot solve its problem with its own means. The nonprofit system fails the social-good parameters on two levels, even by its own ethical standards. The first are the direct uses of private philanthropies to promote policies favorable for the business agenda of the donors, or to coerce any radical demand for change. The second is unintended misuse, as in the case of Stockman, who seems to have benefited by circumstances. While we should fight the first head-on, our job with the second is to see how, in the larger picture, they are not actually accidental because state structure has been shaped to facilitate economic and political domination of a narrow class.

Tax monies: private or public

The voluntary sector is accompanied by a network of secondary-level nonprofits whose mission is to support the system through analysis and advocacy. But this advocacy tends to be heavily biased toward supporting the interests of the wealthy—a bias rooted in lack of historical perspective. This leads to an inability to see that the present state is an outcome of the process of the law having favored the powerful. We need to consider that the scale here is massive. For perspective on the scale: "[I]n the United States, for example, subsidies for charitable contribution cost citizens at least $50 billion in foregone federal tax revenue in 2016."[73] This means that $50 billion of money changing hands through unregulated arrangements, many of which are opaque to public scrutiny and therefore accountability. The claim that donor-directed foregone tax monies are private makes sense only if we disregard major developments in the concept of society in the twentieth century that have changed the composition of what we mean when we say "public."

Ironically enough, when "How Public Is Private Philanthropy?" authors Evelyn Brody and John Tyler summarize the arguments of their opposition, they seem to make the idea that tax money is public even more sound:

> Historically, proponents have relied on three groups of arguments for their conclusion: (1) foundations and other charities must serve

> public rather than private purposes, for which the state Attorney General has traditionally provided oversight; (2) foundations and other charities are chartered by the state or otherwise qualify as state actors or quasi-public bodies; or (3) foundations and other charities receive tax-favored treatment.[74]

Indeed, a charter does not exactly grant a charity governmental status, as I discuss, but it does, as I show in Chapter 3, facilitate individual organizations that do perform state-replacing activities.

The first problem with Brody and Tyler's argument is that they use "public" to mean the government. In contrast, arts administration specialist Margaret Jane Wyszomirski makes a necessary distinction:

> One can argue that an artist who is commissioned by a government agency to produce an art-work for a public plaza and who is paid with taxpayers' money is not engaged in a private activity . . . [T]here was a time when even major arts institutions—museums, orchestras, opera and ballet companies—essentially were the creation of individual patrons. This is seldom the case today. Rather, the greatest of these institutions have acquired the informal status of national treasures. In other words, much artistic and philanthropic activity, particularly that of a large institutional character, has become more public and less private than was previously the case . . . Thus, "public" has meanings other than governmental and has come to encompass that which is of societal or community importance.[75]

Legal scholar Christopher Stone demonstrates the need to define the meaning of respective terms within specific contexts:

> [A]ny grand effort to collect and unify all the diverse functions public/private plays, context to context, would produce a large compendium, but little insight. In this area, scholars would better aim to identify the context-specific criteria for public and private, and even to encourage the development of more precise surrogates (open, governmental, secret) when other needs of the law, such as reckonability, require . . . A good society needs a commitment that public/private matters, even allowing that the terms are destined, over time, to matter in different ways in different areas.[76]

For this reason, I have deliberately refrained so far from defining "public." What is clear is that I do not associate it only with the hand of the government, but something like an abstract will (or need) of the people, which is necessarily negotiable and subject to change. While the next chapter will outline one trajectory of several historical developments of the term and its uses, a more robust definition will be amassed by this book's conclusion. The point for now is that the definition of the public does not mean government. This is clear in the case of museums because a major stakeholder is the concrete entity of the visiting public. There is overlap between the sociologically described public and the abstract beneficiary for whom nonprofit and tax law employ the term "public." Public money is money designated to benefit the actual or potential visiting public of the museum. Brody and Tyler make long semantic arguments about the definition of "nonprofit" and what type of organization its nondistributive definition covers. But these are not consequential to the question of whether a charity's assets are public or private. Even if foregone tax money was private, it does not mean that the use of tax-defraying deductions should be decided by individuals. If the purpose of the foregone tax money was intended for public charity, this purpose should be carried through to the end goal. In defense of their argument, Brody and Tyler cite foundation presidents as authorities. Unsurprisingly the latter would be biased, for as Upton Sinclair famously quipped, "[I]t is difficult to get a man to understand something when his salary depends on his not understanding it."

Another line argued by Brody and Tyler is that if assets are considered public they will be in danger of liquidation in case of a financial emergency. Yet, as we have seen with the fate of Detroit's art collection following the city's bankruptcy in 2013, even though the artworks were bought by the city or given to it, that is, they belonged to a public entity, they nevertheless were only momentarily at risk of being auctioned to pay the city's deficit. It is precisely because of anticipated legal difficulties that the "Grand Bargain" was negotiated, such that foundations and businesses paid to have the work transferred to another foundation and the art remained in the public trust. We also cannot simply look at the law without any context. We will only get a partial picture if we fail to ask, in the case of Detroit, how and why does a city come to be bankrupted in the first place? The collective city coffers were emptied by the type of privatizing ideology Brody and Tyler support, which included offshoring jobs for the sake of profit that resulted in reduced tax revenues for the city.[77] Thus, to argue that privatizing tax money shields charitable assets from emergency is deceptive, because it is a measure necessary only in a world where private accumulation goes untaxed and drains public resources.

Another fundamental problem with the Brody and Tyler argument is that the authors leave out the fact that private and public are discursively and historically specific formulations that have meant different things in respective historical periods.

A brief history of the legal distinction between the private and public realms

As Horwitz shows, the conception of private banks, transportation, or insurance companies inherited from eighteenth-century English legal theory was that they *were* arms of the state, so much so that they were granted monopolistic privileges based on priority (for whomever it was that set up an enterprise first):

> As it became bound up with a state policy of promoting development, private investment was also regarded as an extension of state efforts to further economic growth. The legal system thus rarely distinguished between public and private forms of investment. But as development proceeded, the early monopolistic strategy for encouraging economic growth soon became a legal barrier to further growth.[78]

In order to encourage economic development, judges began adjudicating in favor of competition, even considering incidental injury permissible. By the early nineteenth century, as part of a larger agenda, corporations were separated from public law and from being considered as an arm of the state:

> Certainty and predictability of legal arrangements became incompatible with sustained economic development. Previous state concessions to private interests thus had come to represent obstacles to continued growth, and for the first time state efforts to encourage economic growth began to diverge from private efforts to preserve existing legal expectations. Under the continuing pressure to encourage further investment, the legal system gradually began to distinguish between public and private interests.[79]

Importantly, Horwitz proves that the transition to privatization was done under the assumption that private economic growth takes precedent because it is for public benefit. He takes care to underscore that what may have been done with the intention of serving the public good, felicitous or not, may have nevertheless failed to deliver on the promise for all sorts of reasons, be them ideology or shortsightedness. His long view reveals how the concept of public benefit is, again and again, transformed to serve commercial interests that frequently fell short of delivering. This was extended to the U.S.:

> During the eighty years after the American Revolution, a major transformation of the legal system took place, which reflected a variety of aspects of social struggle. That the conflict was turned into legal channels (and thus rendered somewhat mysterious) does not obscure the fact that it took place and that it enabled emergent entrepreneurial and commercial groups to win a disproportionate share of wealth and power in American society.[80]

Horwitz shows in detail how sweeping transformations in legal thought retooled concepts such as "public benefit" over time. Significantly, the growth of the American economy between the eighteenth and the nineteenth century went hand in hand with a process of dramatic change that, unique to the American case, took place not by legislation, but by the exercise of common law:[81]

> By the end of the eighteenth century, the new American states had become involved in the process of promoting economic development by granting corporate charters and franchises to private investors. Though this pattern has often been portrayed as economically inevitable, it actually seems to have arisen out of conscious considerations of policy. In every state after 1790 a political decision to avoid promoting economic growth primarily through the taxing system seems to have crystallized. While economic disarray and postrevolutionary suspicion of government partially explains this turn of events, historians have never really attempted to understand the effects on the distribution of wealth that an alternative taxing policy might have entailed as compared with the system of private financing that actually came into being.[82]

The point here is that what was passed as public benefit was in fact serving an uneven distribution of wealth.

Brody and Tyler base their claim—that a charter does not make an organization an arm of government and is therefore not public—on their interpretation of the foundational 1819 Supreme Court case *Trustees of Dartmouth College v. Woodward,* where the private institution fought the attempt of the state of New Hampshire to convert it into a public university. The college was established in 1769 under a corporate charter from King George III of England, and the Supreme Court adjudicated that a charter is a contract, giving primacy to its original intent over its potential public benefit. They rely on the oft-cited concurring opinion of Justice Story, a landmark for clarifying differences between private and public corporations. They conclude:

> Justice Story's understanding is essential to a political and economic system founded on respect for the distinction between public and private and on the principle that governmental authority, absent the most exigent circumstances, is subordinate to liberty and individual rights.[83]

Although *Dartmouth* is considered a victory for private corporations over state interest, Brody and Tyler address an idealized political system as if it is monolithic and unchanging. They ignore the monumental shifts in demographics, economy, ecology, and politics that have profoundly transformed the United States and its identity since the logic shaping Judge Story's opinion was common sense. Story's ideas were formulated during a period of underdevelopment, not the current state of rampant and imbalanced overproduction. The liberal philosophy at the core of the argument operates under the assumption that growth and competition are positive. It relies on the nineteenth-century axiom that economic growth promotes public purpose. These ideas should never have crossed the threshold into the twenty-first century.

Responding specifically to *Dartmouth*, Horwitz cites another case that adjudicated on the public good:

> In 1809 the Virginia Supreme Court upheld a legislative act amending the charter of an insurance corporation. "With respect to acts of incorporation," Judge Spencer Roane observed, "they ought never to be passed, but in consideration of services to be rendered to the public . . . It may be often convenient for a set of associated individuals, to have the privileges of a corporation bestowed upon them; but if their object is merely *private* or selfish; if it is detrimental to, or not promotive of, the public good, they have no adequate claim upon the legislature for the privileges."[84]

Nevertheless, the law governing corporations morphed into a system that established structural means for sustaining the processes of wealth accumulation:

> No longer primarily representing an association between state and private interests for public purposes, the corporate form had developed into a convenient legal device for limiting risks and promoting continuity in the pursuit of private advantage. The general incorporation laws which had begun to crop up in the thirties [1930s] expressed this tendency to regard the corporation as just another form of business association. Yet, even after the private nature of corporations was recognized for the purpose of limiting the state's power over vested property rights, the anomaly persisted of regarding them as essentially public bodies entitled to share in the historic privileges conferred on arms of the state.[85]

Brody and Tyler argue that there is no distinction between nonprofit and for-profit corporations, as both are chartered by the state, and both should protect the interests of shareholders, and therefore, charities "should enjoy the same freedom of self-determination as business corporations—if not more so, because of the important associational and non-market interests they serve."[86] But the public *is* a shareholder in the work of any nonprofit. The idea that only holders of money shares deserve to have influence on decisions that concern everybody else, especially holders of other forms of interests like a museum's public, is resolutely undemocratic. Are we back at a world where only property owners can vote? There is a difference between what the public needs and what might benefit an individual. To collapse and confuse the two results in false logic.

Brody and Tyler treat nonprofit corporations as if they were individuals. Perhaps we can consider this question through the subsequent 2010 ruling of the Supreme on the case of *Citizens United v. Federal Election Commission*, which granted corporations individual rights. The ruling does not affect 501(c)(3) organizations, as their type of tax exemption prohibits them from endorsing or opposing candidates in federal elections. It thus may be possible to argue that the 501(c)(3), which is by far the largest category of charity organization type, is public, because clearly it is considered public enough to be barred from possessing the same rights as individuals.

When Brody and Tyler claim that "after all, it is a private decision that determines which charitable purposes to serve and how to serve them,"[87] this is not an argument, but a description of the outcome of a man-made political system. As law philosophers Liam Murphy and Thomas Nagel argue convincingly,

> Private property is a legal convention, defined in part by the tax system; therefore, the tax system cannot be evaluated by looking at its impact on private property, conceived as something that has independent existence and validity. Taxes must be evaluated as part of the overall system of property rights that they help to create.

This is a good lesson in rhetoric. Murphy and Nagel remind us that property is a convention, even though it might seem natural because we are born into this preexisting system. It takes critical distance to understand that the modern economy is only possible because of the framework provided by government support, funded by taxes:

> This doesn't mean that taxes are beyond evaluation—only that the target of evaluation must be the system of property rights that they make possible. We cannot start by taking as given, and neither in need of justification nor subject to critical evaluation, some initial allocation of possessions—what people originally own, what is theirs, prior to government interference.
>
> Though a consistent application of sophisticated libertarian political theory leads to deeply implausible results that hardly anyone actually accepts, in its naive, everyday version libertarianism is taken for granted in much tax policy analysis.[88]

As they themselves testify, Murphy and Nagel are not radicals, declaring that capitalism is the best system for democracy. Nevertheless, they show that the charitable donation deductions system allows private individuals to direct funds away from the treasury, on top of which they are given the added bonus to decide how such resources are allocated. Political economist Rob Reich argues convincingly that today "donors are not exercising a liberty to give their money away; they are subsidized to exercise a liberty they already possess."[89] Instead, Murphy and Nagel suggest:

> We have to think of property as what is created by the tax system, rather than what is disturbed or encroached on by the tax system. Property rights are the rights people have in the resources they are entitled to control after taxes, not before.[90]

For this reason, to argue that foregone tax monies are private is in fact a logical fallacy, as it confuses, or perhaps deliberately obfuscates, what is given and what is constructed. In other words, it mystifies truth.

Brody and Tyler admit that museums, and also public hospitals, have a more obvious governmental status. Clearly, that in Europe museums are governmental institutions is proof that the autonomy of museums from government is not natural, but a decision that reflects the specific administrative structure of the nation. This is not necessarily to advocate for government control of museums, but to point out that the dichotomy of charitable sector autonomy versus government control is misleading. Most certainly the logic of philanthropy is not conducive to change because it is reactive, tending to narrow cause-and-effect analyses when identifying a problem only as it appears and only offering topical solutions. To reconceptualize public redistribution, we need a deeper view of the public/private distinction.

Symbolic value and ideology

From a radical perspective, Ann E. Davis in her article, "The New 'Voodoo Economics': Fetishism and the Public/Private Divide," uses the concept of commodity fetishism to identify the false distinction of the state as "public" versus the market as "private." Marx used the term "commodity fetishism" to describe the process by which the social nature of value is masked by exchange relations and the function of price, making it appear as if value is created in exchange and is identical with price. Davis describes the role of the state as a "financial intermediary," where the market is in fact:

> [t]he composite effect of social production . . . The social nature of commodity production, or the wealth of the entire nation, backs the credit of the state and its power to issue currency . . . Once the role of a particular commodity or paper currency is well established, the money token can represent the entire power of total social labor.[91]

Davis quotes Marx: "[M]oney itself is a commodity, an external object, capable of becoming the private property of any individual. Thus social power becomes the private power of private persons."[92] The wealth of the entire nation is used to facilitate private exchange:

> Currency is used, in turn, as a vehicle for the circulation of "private" commodities and the expansion of value through the exploitation of individual workers in private factories. The expansion of value then helps to finance the role of the state through tax collections. Without

> the social production of private commodities, the currency would be worthless and the state coffers empty. On the other hand, the individual capitalist's ability to borrow currency on credit, to purchase the commodities of labor power and raw materials *before* production and sale, depends on the ability of the state to issue currency based on the production of commodities as a whole.[93]

The same goes for art. The market establishes the precedent for prices, while the common institutions provide stability and a symbolic guarantee through ongoing storage, research, and display of the art that is held in common for posterity. This way, private individuals then reap personal gain when they deal in what is socially established.

This second section shows how art's value is constituted by a combination of the economic and symbolic/ideological dimension. It is only as a socially established symbolic vessel that art can siphon and hold value, that is, come to be filled with money when it is sold, or used as loan collateral. To be an economic object, art needs symbolic value. The symbolic becomes economic when it endows the object with the potential to realize value by fetching a price. This relies on art's social status that is established interdependently by the museum and the market. The museum's role is corralled by the market to symbolically guarantee the worth of art. The symbolic worth of art is established in the name of the public, for a privately realized economic advantage.

Ideological frameworks allow us to see museums and their collections as benign institutions that serve the public, while in effect, by enhancing the value of work that is privately collected, the museum perpetuates inequality on both symbolic and economic levels. In the third section I will apply what Beverley Best calls the "value theory of ideology" to show how the symbolic and the economic work in concert.[94] Briefly here, value in capitalism is only created by organized and abstracted labor power that transforms raw materials into commodities; it nevertheless appears to have been made by the capitalists and belong to them in the process of production. The fetishism of commodities, the misunderstanding of how this system functions and who it is that creates surplus value, conceals the hidden abode of labor. Art does not create the value it carries. Art can siphon value because of the symbolic power given to it by collective agency, and which is facilitated by the institution. Here, a social system of art provides the public alibi for art's symbolic value because the symbolic can only be established by collective agreement. The entire cycle looks like this: when art realizes its symbolic potential through sale it fetches a price, paid in money, which has been transformed from the surplus value created in commodity production by rationalized and abstracted labor. But first, we need to address what is symbolic value, and what is wrong with the common use of the concept "symbolic capital."

Bourdieu's symbolic capital

In her cultural history, *High Price: Art Between the Market and Celebrity Culture Today*, Isabelle Graw argues that the artwork is both a commodity and an asset, and is "split into a symbolic value and market value."[95] But this is not exactly how it works; art is not split, its value is established by two dynamic interdependent systems. Graw's study is pioneering and important, and she is right to assert that market value needs symbolic value for its legitimacy. However, the sociological terms, based in Pierre Bourdieu's theory of cultural and symbolic capital, leave something to be desired. Graw refers to the rise in an object's price as *surplus value,* as if the increase is of art's own accord. Indeed, it is a consequence of the authority of the institution, be it the market, the museum, or the authority of art critics or historians.[96] But what is happening is a rise in art's price, which is an utterly different category than value. The price of art realizes value transformed from revenue. Art itself cannot produce surplus value, as it is not an activity that is productive for capitalism. When Marxist art historians don't underscore that this surplus value is made elsewhere in production, they are passing on a mistake that sustains the fetishizing capacities of bourgeois culture.

Extending Bourdieu, Graw develops concepts such as "intellectual surplus" and "symbolic surplus," in what amounts to metaphorical usage of a material category. There is no such thing as intellectual or symbolic surplus value. The work of historians, critics, or institutions, which is unproductive labor, does not add value to the work; it enhances its absorbency, its ability to draw, adding to its *price* not its value. Ignoring this allows us to indulge in the illusion that we can change the world by changing things on the symbolic level, as the sociologist Dylan Riley has shown in his criticism of Bourdieu's class theory:

> Bourdieu's account of symbolic power promises a transformation of the social world through a transformation of the categories through which the social world is understood. Social change can thus be achieved without identifying an external nonacademic agent that might carry that change forward.[97]

Although Bourdieu shows how prestige or authority generates power that ultimately translates into monetary reward, his use of "capital" to describe it obfuscates the actual meaning of capital and therefore the concomitant political implications. Collapsing sociological and economic categories, Bourdieu suppresses the question of where the substance infusing the symbolic with monetary value actually comes from. The explanatory power of the term "capital" is then lost.

In his article "The Forms of Capital," Bourdieu indeed begins with defining value for what it actually is, "accumulated labor," and he applies the concept of monopoly, but he claims that social organization is as equally determining as economic organization in ways that do not clarify their imbrication.[98] His is an attempt to explain the reproduction of society and its class stratification as an outcome not only of economic forces, but a set of social properties he also refers to as "capitals." Bourdieu developed Louis Althusser's canonical formulation of how ideological and state apparatuses sustain the reproduction of a stratified social order.[99] He nuanced them as dispositions and institutions. Acquired early or later in life, they arrange individual actors into groups, which, for the most part, are consequently kept in their designated social role. His various typologies of "capital" explain how people embody and perpetuate ideology. Bourdieu produced a complex account of class stratification, developing the term "fields" to describe arenas of struggle between different constituencies, and "habitus, as a socially constituted cognitive capacity."[100] But this is predominantly a theory of individual actors, with no collective potential. Conceivably, it is a theory of the middle class. But the middle class is not a revolutionary class, rather one that has historically collaborated with the ruling class against the interests of the working class. Riley contends:

> Thus, as a way of empirically demonstrating the connection between class and habitus, Bourdieu attempts to demonstrate a connection between class position and differences in aesthetic tastes. His work in this area, however, suffers from two problems. Bourdieu fails to specify either an empirically tractable meaning of the term "class," or to show any compelling evidence for the existence of "habitus" in the sense of a "generative mechanism" that can be applied to numerous domains. This is most evident in the book that many consider to be his masterpiece, *La distinction* (*Distinction*, in English).[101]

Published in 1979, *La distinction* was based on rigorous sociological research, after which Bourdieu concluded that museums, as national social institutions, serve to retain class immobility rather than opening the possibility to transcend class determination. Undoubtedly he was right, and his work has been widely used in museum analysis, but this approach led to class as a question of representation, while both capital and class are economic categories. The problem Riley describes is crystalized in Bourdieu's 1986 theory of capital's forms, where none of the additional social dynamics Bourdieu calls "capital" are actually capital. This changes the outcome of cultural and institutional analysis. What Bourdieu calls capital is actually a form of power, which can result in monetary reward, but money is not capital. Capital is money invested in production in order to make more money from surplus created by abstract labor. Money is not capital unless it is invested in purchasing means of production and labor power in order to make more money (which is why, for example, Marx refers to financialized gains as "fictitious capital").[102] Bourdieu identifies economic, cultural and social typologies of capital.[103] He breaks cultural capital itself into three types: embodied, objectified, and institutionalized:

> [Cultural capital] thus manages to combine the prestige of innate property with the merits of acquisition. Because the social conditions of its transmission and acquisition are more disguised than those of economic capital, it is predisposed to function as symbolic capital, i.e., to be unrecognized as capital and recognized as legitimate competence, as authority exerting an effect of (mis)recognition, e.g., in the matrimonial market and in all the markets in which economic capital is not fully recognized, whether in matters of culture, with the great art collections or great cultural foundations, or in social welfare, with the economy of generosity and the gift.[104]

In short, "symbolic capital" refers to all of the forms of capital that are represented, rather than material, but significantly, they authoritatively represent something that is constructed, not innate.[105] "Symbolic capital" is a potential, an empty vessel. That it can be rewarded in monetary gain because of the advantages it gives the subject who possesses it and therefore has a relationship to wealth that is directly or indirectly a result of capital is correct. But naming it "capital" does not render the process by which this happens, leaving the systemic nature of it undescribed.

To describe the complete process, we must stick to the materialist definition of capital as an outcome of social relations where surplus value is extracted from the unpaid wages of productive labor (the wages appropriated by the capitalist as surplus). "Symbolic capital" exists, but to understand its power correctly we need to accurately name it. We know very well that in the so-called democratic societies equal opportunity is a myth, and that the wealthy have exponential advantages anywhere they turn, very much along the lines that Bourdieu describes.[106] We also know that racism is a means of social stratification. But, again, these are outcomes, neither cause nor the basic operating principle of social relations. Symbolic capital is the gravity, by social agreement (conscious or not), to pull value from elsewhere, which is where we locate the characteristic social relations of art. For this reason, I forego the term "symbolic capital" and use "symbolic value" when referring to art endowed with institutional or market authority (with the historical understanding that without museums there would be no global market for art).

Art functions not as capital, but on the contrary, as a means to withdraw money from production and circulation. As an asset art is hoarded revenue, it has a potential to be realized as money, it is a promissory note. If you sell your Van Gogh you can invest it in an enterprise, but until then art is money withdrawn from circulation and money withdrawn from circulation is not capital.[107] In fact, money withdrawn from circulation, money accumulated and hoarded, is a threat to the economy. Here, it is not art that is a threat. The danger is in the construct that allows some art to be so massively expensive. The financialization of art and its entry into the hedging and lending circuit has only exacerbated this condition. To understand the role of symbolic value in this scheme we need an economic theory of art's ideology.

An economic theory of art's ideology

Value is a set of relations, or outcome thereof. Value is not a property of any actual commodity. It is an ideological construct that allows art to siphon more value from the general aggregate, thus serving the wealthy. Museums have a role in this scheme. And a "value theory of ideology" helps us understand how it all happens.

In "Distilling a Value Theory of Ideology from Volume Three of *Capital*," Beverley Best argues that ideology-critique has been abandoned by Marxists all too soon, leaving open the question of how, despite the extremely obvious conditions of inequality, consent is manufactured and sustained. Best challenges Althusser's psychoanalytic reading of ideology as a mechanism for subjective formation that works when subjects are interpolated into misidentification. This offers a limited modality of subjectivity with no political potential for social organizing.[108] Instead, showing that Marx replaced the concepts of fetishism and mystification with his earlier use of "ideology," Best proposes "a value theory of ideology," derived from his analysis of the perceptual economy: "the particular essence-appearance dynamic that is immanent to capital."[109] Specific to this theory is the ability to distinguish between neutral ideological critique that can identify and narrate the lens by which we come to know the world, and a critical ideological critique that offers tools for identifying where and how our perception of reality is inverted such that what appears as objective runs counter to capitalism's actual movement. But even this is not enough.[110] The deeper cause of such inversion is inherent to the structure of capitalism, hence "perceptual *economy*." In other words, in concealing the true origin of value under capitalism, the perceptual economy is the ideological operation that makes it seem like entrepreneurship (or art) "makes" rather than takes value. It is echoed in the mainstream belief that art-making adds value to the general aggregate.[111]

The substance of art's value

It is not a qualitative judgment but rather an economic description to identify that under capitalism the social relations governing art's making render it an object of circulation rather than the creations of value. Only abstracted labor that makes more value than it costs can add value to commodities and therefore to the general aggregate. The abstraction of labor is its organization on a massive social scale, and the equalization of all human labor into a common substance, as Michael Heinrich explains:

> Abstract labor is thus not a special type of labor expenditure, such as monotonous assembly-line labor as opposed to artisanal, content-rich carpentry. As labor *constituting use value,* monotonous assembly-line labor is just as much concrete labor as carpentry. Assembly-line labor (just like carpentry) *only constitutes value as equal human labor,* abstracted from its concrete character, or, in short: assembly-line labor and carpentry only constitute value as *abstract labor.*
>
> As "crystals" of abstract labor, commodities are "values." Marx therefore describes abstract labor as the "value forming substance" or as the "substance of value."[112]

Socially combined living labor, abstracted labor, is distinct from individual acts of labor. It is labor in the aggregate, pooled and equalized as labor itself, rather than specific and concrete acts of labor. In the contradiction between labor and capital, where the interest of one group runs contrary to the other, the goal of the capitalist is to push to a minimum the cost of labor (the "cost of labor" being one example of the abstraction of human beings into numbers), so they can garner more surplus. Abstract labor, the source of surplus value, is historically determined, rationalized, and organized (through Taylorism, or Fordism) for the sole purpose of producing commodities for profit. Capitalists produce goods not for the welfare of consumers, but for profit. Commodities usually need to be either useful or desirable so as to encourage exchange. All else follows. This is the logic undergirding the economic organization of the world today and what we wish to change.

The source of value, crystals of abstract labor that are the content of capital, then take many forms through complex processes that mediate value:

> As Marx demonstrates throughout *Capital*, but which becomes the particular focus of Volume III, capital's content takes a form that then becomes the determination of subsequent forms, or the 'base' of a series of transformations of form that index different moments in the processes of production, valorisation and accumulation: for example, abstract labour takes the form of value, which takes the form of exchange value, which takes the form of price; the price-form is instrumental in the transformation of form that is the cognitive apprehension of surplus-value as profit, wages, rent, and so on.[113]

Mystification shapes the perception that it is the capitalist making value and not the worker. The wealth of nations is produced not by capitalists, but by productive workers, also as taxpayers, but predominantly as the source of the socially combined value that is transformed into profit and distributed to the unproductive sectors (for example, some of the wealth of Western nations is today produced in the global south, its fruits expropriated to the branding country, as discussed in Chapter 1).

But this fact is masked by the ideological view that fragments the appearance of the economy into units, presenting the process of labor as divided by firms. It makes us imagine value to be an outcome of advancement in technology, innovation, mechanization, successful design or branding by firms, all of which are in effect forms of monopoly (or brand monopoly today). But since the economy functions by the total aggregate, what actually takes place is that one firm is making more because it is taking it away from others in the capitalist production across the relevant social formation (competition in the sector, for example). Marx showed how the introduction of machinery that can initially give a capitalist enterprise advantage will ultimately result in lowering prices across the sector, an underlying cause of the law of the tendency of the rates of profit to fall, which we know to be an empirical fact.[114] That similar products may fetch different prices during exchange make it seem like value is produced at that stage. This type of worldview is actually confusing value-added with surplus value, while the former is only a transformed form of the latter.[115]

It is not for naught though that mainstream thinking is blind to how deeply concealed the domain of value creation is:

> That which needs to be clear, and which also contains a moment of real difficulty, is that the labor objectified in the exchange-value of a commodity does not correspond to the quantity of labor immediately spent in its production. Instead, it is the fruit of a mediation with socially allocated labor . . . as Marx [emphasizes] 'exchange-value in the singular does not exist', but because it presupposes a value determined quantitatively by labour individually employed in the production of this commodity, and not by social labour. This, on the other hand, is not a definite size once and for all. Rather, it is variable and its variability *retroacts* on the determination of the quantity of social labour contained in a commodity.[116]

The retroaction—the fact that price and value affect one another through a feedback loop connected to the consumption needs of workers making the commodity, its subsequent sale, and a host of other factors—is because they operate through a very large and complex system. This is why we cannot simply translate labor time into prices. Money mediates labor abstracted into value, but it is human labor that makes money commensurable, allowing money to function as a general equivalent for exchange. Diane Elson distinguishes Marx's approach from Adam Smith and David Ricardo's labor theory of value:

> [I]t is *money,* and not labour-time, which functions as the social standard of measurement, in Marx's *Capital,* as in capitalist society

> itself. The reason that labour-time is stressed as the measure of value, is to argue that money in itself does not make the products of labour commensurable. They are only commensurable insofar as they are objectifications of the abstract aspect of labour.[117]

Human labor is what creates wealth and establishes the equivalence underlying the capitalist economy. If we understand correctly how the economy functions, we will be able to calculate a fair and sustainable system of distribution. This is not pie in the sky. As Best shows, it entails measuring profit and surplus separately:

> The value of constant capital – raw materials and the used-up portion of tools and machinery – returns to the capitalist in the same quantity; the value of variable capital – labour-power – increases, i.e., produces surplus-value. Fortunately for the capitalist, when purchasing labour-power s/he does not receive what s/he pays for (as we saw earlier). The capitalist pays an equivalent to the value of labour-power, that is, the cost of reproducing labour-power. What s/he receives is 'living, value-creating labour-power that actually functions as productive capital'. What the capitalist pays for and what s/he receives are two different things and two different quantities of value. However, in the imagination of the capitalist (i.e., according to the surface story), there is no distinction between constant and variable capital, there is only the cost price of the production of the commodity, a value that enters circulation and returns valorised.
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> . . .
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> This appearance mystifies the source of capitalist profit, that the latter is actually surplus-value created in production through the agency of cooperative (that is, socially combined) living labour, realised in circulation, and appropriated as the private property of the capitalist: 'Profit is the [ideological-mystified] form of surplus-value'.[118]

In other words, if we wanted to calculate the aliquot share that actually belongs to the worker, we could. We have the theoretical tools to plan a just economy and enough knowledge to measure it.

The distinction between productive and unproductive labor is an important distinction for measuring the total economy. It would entirely alter the concept of GDP, for example. It is especially important for art precisely because art-making is unproductive. "Unproductive" is a technical term, not a judgment or qualification; it merely designates a type of social relation. Thinking about the economy of art can be extended to other forms of care and social reproduction. Simply put, we would measure and distribute them in similar ways, providing for all.

Productive and unproductive labor

Sungur Savran and Ahmet Tonak clarify the various steps for the classification of activities and products. The first is between productive labor in general versus labor that is productive for capital. The production of surplus value is the first condition to determine if the labor is productive. Surplus value is produced only when labor power is "sold as a commodity and the buyer of this specific commodity consumes its unique use-value, i.e., the capacity to produce more value than it embodies." [119] Savran and Tonak continue with another distinction:

> Hence, only labour which is predicated upon the sale of labour-power as a commodity can serve as productive labour under capitalism . . . Even the sale of labour-power, however, is not a sufficient condition for the existence of productive labour. And here we come to the distinction PUPL [productive unproductive labour] properly speaking. For this, one should also make a distinction between *labour exchanged against capital*, on the one hand, and that *exchanged against revenue*, on the other.[120]

If a domestic worker works for a cleaning firm and they clean the house of the capitalist, this labor is still not productive because it is exchanged against revenue and not capital, it is exchanged against the money garnered by the capitalist for personal use and not for reinvestment in productive economy. However, a cleaner that transforms dirty rooms into clean ones in a hotel is indeed producing a commodity because they are producing use values for exchange:[121]

> At the stage we have reached, the criteria for productive labour can be summarized as (1) that of commodity production, (2) that of the sale of labour-power, and (3) that of the exchange of labour-power against capital as opposed to its exchange against revenue. Yet these three conditions are still not sufficient to guarantee the production of surplus-value.
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> . . .
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> The secret of the paradox lies, of course, in the distinction between production and circulation.[122]

For us these distinctions matter greatly. Art can generate jobs, and, since it launched in 2013, the Bureau of Economic Analysis Arts and Cultural Production Satellite Account has been measuring the "value added" of the creative economy. But this does not mean that art generates surplus value for the common wealth. We need new methods to measure the economy so we can facilitate a new distributive system. Tomás Rotta explains:

> Despite directly consuming the surplus from productive endeavors, unproductive accumulation can well enhance labor productivity or even boost aggregate demand in productive activities, and therefore indirectly improve the creation of surplus value. Hence, there is a double effect under consideration: unproductive activity might *indirectly* increase labor productivity and it might also increase demand for productive activity, while it draws on the value that it does not *directly* produce. Even though un- productive activities *indirectly* impact productive accumulation, they do not *directly* add any new surplus value to the economy.[123]

Reworking orthodox data, Rotta develops an accounting system that distinguishes between productive and unproductive activities. The point is that we have the knowledge to conceptualize an economy that acknowledges the indispensability of creative and social reproduction work but calculate how to distribute if fairly. This goes hand in hand with a reorganization of the economy so the means of production are collectively owned and remuneration exists for all aspects of life, including social reproduction, care, and culture.

But under capitalism, art and all its auxiliary practices no matter their content are unproductive, since the entire sector is unproductive. Thus, even art that is not commodity art sells for lower prices, produced in less quantity, is conceptual, performance, or social practice—if it circulates anywhere in the broader field of art, if it is what Gregory Sholett referred to as "dark matter," it still either serves to sustain the symbolic sphere of art, or is part of the nonprofit system that is itself nonproductive.[124] As artists or art workers cannot reconfigure the social relations of their activity through individual practice, their only means of being political is working toward systemic change, and collectively thinking what alternatives would entail.

The appearance of value in art

Art is not a regular commodity because the work of making it is always private and particular, rather than rationalized, generalized, and abstracted. Once it circulates publicly, art enters into a relation with total social wealth and therefore with the value-form, which is the various ways in which (trans)formed value appears in exchange relative to all other commodities and equivalent to money, a relationship made possible because of the underlying equivalence of labor power. It is social wealth, the wealth created by a society as a whole, that allows a private aspect rooted in art's authorship to fetch a price, price being a representation of value that originates from productive abstract labor, which has now been transformed into other forms of value's appearance. Although this is not a structure we can dismantle at will or on a small scale, if we understand art's place in the process it can play a part of a larger restructuring.

As Dave Beech shows, art is exceptional to the capitalistic mode of production as it is not part of a system where capital outlays are invested to be valorized in the production process.[125] Art doesn't transform raw materials into commodities on a systematic scale, it doesn't contribute surplus value to a capitalist entrepreneur, or the national aggregate, rather art is bought with revenue, and is part of the mercantile circuit. Art is also subject to a different logic of competition, it resembles a Veblen good, a "conspicuous consumption" good aimed at reflecting affluence, distinguished by the fact that higher price is incentive, rather than a deterrent for demand.[126] For these reasons, a rise in art's value is not valorization, that is, the creation of value, but rather an appreciation of its price, or its potential to fetch a price (an enhancement of its symbolic value). It is through its relation to money that art enters into the circuit of the market alongside commodities. As Heinrich shows, all commodities carry a relation to the total labor of society:

> The magnitude of value of a commodity is not simply a relationship between the *individual* labor of the producer and the product (which is what the "substantialist" conception of value amounts to), but rather a relationship between the *individual* labor of producers and the *total labor of society*. Exchange does not produce value, but rather mediates this relation to the total labor of society.[127]

Asking how art fits into a typological classification of objects—merit goods (funded because they are necessary, like health and education), public goods (nonexcludable, like air and water), and nonrival (whose quantity does not diminish with marginal use like broadcast television)—Beech tells us:

> It is possible for an artwork to be a Veblen good, a luxury good and a public good and a merit good all at the same time. Sports cars and jewellery are not public goods or merit goods in addition to being luxury goods. Artworks, on the other hand, even if and when they are luxury goods, are more than luxury goods.
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> . . .
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> Art's relationship to merchant capital, which I have examined in terms of art's encounter with the gallerist and the collector, neither follows the pattern of the standard commodity nor conforms to any of the three main theories of luxury goods.[128]

So how is art "more than a luxury good"? How is art different, say, from wine or yachts? First, as Beech explains, the public can consume the art good along with the capitalist. But here we have to add another condition, and that is art's public aspect, the museum. It is only because the public also collectively own cultural patrimony that art is more than a luxury good, because it has common significance. To appreciate wine one must drink it, but appreciating a work of art does not diminish it. When it comes to art, to look is to use. This should, as an aside, also settle the question of whether art has use value or not. Art has use value because looking or thinking about art is use. But the difference is that the general audience can have access to the full use value of the art. We can look at luxury cars at a fair or at yachts at the boat show , but we can't drive them or go sailing. No shared aspect of any other luxury good comes even close to the status or magnitude of museum collections as collective institutions. This leads us to the second, and historically continuous, distinction of art as symbolic patrimony.

As Beech explains, the key to understanding what art is, categorically, is to ask from a Marxian economic perspective about the social relations of its production. We think here of the art object not through the description of its making, but through the typology of its production. In her analysis of the classification of services, Fiona Tregenna underscores the fundamental Marxist distinction between appearances and essences, showing that we cannot classify activities by inspection:

> In bourgeois economics, the typological method is primarily phenomenological: observing an activity generally allows for a determination as to which sector it falls within. The classification of an activity within a Marxian schema, by contrast, is contingent on the underlying social form of the activity. The fundamental issues in analysing an activity relate less to what a person is 'doing' in an

> observable way, and more to generally unobservable characteristics such as the relationship of the activity to the production and realization of surplus-value. Moreover, from a Marxian perspective a commodity is classified as such not according to its physical characteristics, but rather according to the way in which it was produced. Marxian economic categories thus have a fundamentally different epistemological basis from bourgeois economic classifications as used in national accounting, in mainstream economics, and also in non-Marxian heterodox economics.[129]

The question for Marxist classification of activities, and their outcomes, that is, commodities, is then whether they are productive or unproductive, not what sector they fall under. The same activity can be productive or unproductive, depending on the social relations through which the activities produce use values.[130] As discussed in Chapter 1, this is not a judgment but rather an observation. In fact, there is nothing positive about being a productive worker:

> In explicating the differentiation between productive and unproductive labour adopted by Smith, Marx separates the concept of the productive from its relation to the 'external thing [*Ding*]' and connects it to the social relation in which a labour is performed. The concept thereby reveals its relativity or its particularity [*Standpunktbezogenheit*]. That which, from the standpoint of capital, is productive because it forms surplus-value is not necessarily so from the standpoint of the preservation of life, and vice-versa. In capitalism, therefore, he states emphatically, it is not good fortune, but rather, 'a misfortune' to be a productive worker.[131]

Art, like social reproduction, is a necessary social need. Saying that it is unproductive is merely in order to know how to account for it when the discipline of economics and the national accounting system sober up and recognize that to conceptualize the measurement of the economy we need to account for its totality.

Conclusion: some immediate solutions

It is because art is collected on a social scale and for the broader public that art is *more* than a luxury good. Collections have been the content of representational institutions since rulers began using art as justification for their claims on sovereignty, through the development of museums as instruments of the nation-state, and into our present of a globally networked and international art scene. There is no city that respects itself today that does not boast at least one art museum, if not several. Art's value and its relation to the political and economic system in which it circulates is one orbit in a constellation that includes the nation-state, which prints and regulates money; the nonprofit or third sector, which operates as a shadow state; and museums as art collections—publicly constituted, but where private individuals reap the benefits. Stabilized by the role museums play in the associational and cultural spheres of civil society, the appreciation of art's prices takes place at a triple expense of the public. Collectors who exhibit works in public institutions or own works collected by museums profit by:

1. receiving the benefits of institutionally endowed symbolic power, that enhances the value of their own work by the public alibi of the museum;
2. gaining ideological influence on society at large;
3. privately benefiting from the socially constituted economy, itself necessary to establish a general equivalent (money) toward a system of exchange, where art is traded as a promissory note that siphons value from the general aggregate.

With the first, while it may not be illegal for collectors to exert direct or indirect influence on the professional process, it is nevertheless unethical even by the logic of liberal democracy. The second demonstrates how unjust social order is made to appear natural. And the third addresses the hidden abode where value is actually created. The second masks the third, allowing the first to take place, so much so that a newspaper like the *New York Times*, with which this chapter commenced, can report, without raising an eyebrow, about a collector benefiting enormously from the circuit related to an institution she is supposed to altruistically serve.

Established in the modern period, the above conditions, which have been exacerbated by the financialization of the art object, have been standardized by the twenty-first century. Collectors can borrow money against their art, because of the symbolic powers of the institution, made possible by its social scale. The art is worth more because it has either been loaned to the institution or it is made by the same artist the institution owns. If it is the museum that endows the art with an ability to siphon more money from the general aggregate, then we have private individuals making money off a common social structure, but not sharing it.

Art is an example of how ideology facilitates the perceptual economy, sustaining an economic order that subordinates the vast majority of the population to serve the interests of the upper echelons. Symbolic value facilitates an ideology that serves a double role in masking social relations. On the one hand, it supports the idea of museums as scholarly and impartial authorities, endowing it with power. On the other, it facilitates the siphoning of actual substance that is not "symbolic capital," but rather the ability of the symbolic to embody the fruit of abstract labor at the expense of actual living labor.

Although expanded by symbolically enhanced institutional means, when sold, the value of art is realized as money, which not only mediates the substance of value, it contains material crystals of abstract human labor. As financialized capital and art write more and more promissory notes, they suck away more and more value from the laborers who made it. The winner-takes-all market is vampiric. Money is one formal iteration of value. In the social order systematized and rationalized by the capitalistic economy, symbolic value and commodities made by nonproductive means are also assessed in terms of money. Since there is a finite amount of substantive value, but potentially infinite promissory notes in circulation, this means that by supplying the wealthy tools of asset-hoarding, investment, and financialization, art is playing an active role in sustaining, if not exacerbating, a crisis economy. The higher the prices of art the more the sector is sucking up abstract crystals of labor from the general aggregate without redistributing or replenishing the pot.

But it doesn't have to be this way. There are other ways to support living artists without contributing to the crisis-bound status quo. Here are a few suggestions for solutions that take the logic of liberal democracy and then aim them at redistribution.

Valuable art should not be in private hands. If a museum is deaccessioning works from their collections it should go to another public institution. Cultural patrimony laws could prohibit the sale of art that is socially significant to private hands. Mandating that public institutions get refusal rights that can sequester a public market for art, or place limitations on price, can make contemporary art affordable for institutions. Massively raising taxes on income, assets, inherited wealth, and all forms of financialization and capital gains. This should include the secondary art market, more specifically, the resale of art, where it is most likely to see gains on investment, taxed at rates so high as to discourage the use of art as a vehicle for financialized investment. This will retroactively balance the speculative drive of the primary market and its winner-takes-all character. Naturally, collectors will be barred from making any choices on what institutions accession or exhibit. Curatorial decisions, collecting and display in public institutions, could be reviewed or augmented by peer-based panels composed with demographic, disciplinary, and methodological diversity reflecting the museum's public. This can be a double-review system working in concert with volunteer specialist committees (art historians and/or curators from other institutions). We can allot percentages to public votes, we can pay artists who do not have object-based practices, we can collect locally and find more ways to thwart the brand-making machines, or to redistribute rather than accumulate. Museum funding and programmatic decision-making could, for example, be open to public scrutiny by way of open debate. There are ways to administer such activities without deskilling the field. The practices of the public institutions would thus become part of its programming, facilitating transparency. Transparency of other museum operations is also fundamental for scholarship and administrative analysis. If all museums had working archives, where scholars and specialists could gain access to documents, meeting minutes, and financial decision-making processes, we could share knowledge. While these examples raise as many questions as they do answers, their purpose is to demonstrate that there are simple ways to limit the reach that private individuals have into exploiting public resources for self-gain. Given the interdisciplinary nature of these questions, they need to be processed theoretically, empirically, and through debate with professionals and specialists from all the intersecting fields.

At this point in human history, we have the knowledge and ability to direct creativity and innovation (and even competition for those who insist that it is intrinsic to human nature) toward cooperative organization of life and production. As Best shows, it is simple to calculate the difference between the rate of surplus and the rate of profit, such that the elimination of profit as an inevitable form is not such an outlandish idea, as is the one that we can produce for consumption, not for exchange, and share in the outcome—abolish wages, and the capitalist war to reduce labor's share as a political driving force. Under such conditions we will be able to use common resources to support human creativity in myriad new ways.