

finished, “but the strength of law lies in its commonplace character; and it becomes feeble and untrustworthy when it expresses something different from the common thoughts of men” (from *A Record of the Commemoration, November Fifth to Eighth, 1886, on the Two Hundred and Fiftieth Anniversary of the Founding of Harvard College*, 92–96 [John N. Wilson and Son, 1887], 92–96).

We should only wish that Professor Katz’s book were titled *Explaining Why the Law Is Not So Perverse*.

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## Art in Public: Politics, Economics, and a Democratic Culture

**Lambert Zuidervaart**

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To his credit, Lambert Zuidervaart acknowledges there is plenty of blame to be assigned to both sides of the public art-funding debate. Those concerned about the transgressive tendency of modern art often fail to notice or credit the social importance of art’s unique contribution to cultural self-knowledge; many of those who produce modern art fail to respect their audiences or recognize the legitimacy of aesthetics. This balanced assessment is refreshing, especially from an arts advocate, but the contribution *Art in Public* makes to this debate beyond this is a more complicated matter.

The book’s overall goal is to develop a justification for governmental funding of the arts that navigates the Scylla and Charybdis of much modern discourse on art and public arts funding. Understandably, one has to wait until the book’s final chapter for the rather complicated argument to come full circle, but an unfortunate fact remains once the argument does so: we have indeed traveled in a circle, arriving nowhere different from where we began.

Zuidervaart’s argument breaks down to this: Society requires what he calls imaginative disclosure, something like the consciousness-making power of art; art’s ability for imaginative disclosure is threatened by both the administrative state and the market economy; in order to ensure what Zuidervaart calls democratic communication, cultural communities and institutions, especially those marginalized, must be able to speak in the public square and participate in imaginative disclosure; the state’s obligation to safeguard public justice and democratic communication requires the state not only to protect cultural organizations and social institutions (such as arts organizations), but also to support them; this is especially so for arts organizations, since they are the primary way in which individuals participate in arts-based imaginative disclosure; direct subsidies do more to protect arts institutions than nondirect subsidies; therefore, direct subsidies are warranted both in terms of the government’s responsibilities and society’s needs. However, it must be noted that direct subsidies must uphold “cultural rights,” and must uphold the autonomy of art.

The bulk of the book is dedicated to unpacking the concepts above, but the devil is in the details, and one will find that, in order for Zuidervaart's argument to hold much water, one must share certain first principles about art and culture, principles that are themselves debatable. For example, there is the idea that arts organizations deserve special protection from the government because (1) they provide the primary way by which people participate in imaginative disclosure, and (2) because, unlike religious organizations, they do especially well at breaking down cultural barriers. Both premises are specious, and unless you are inclined to agree, this is one point at which Zuidervaart's argument warrants closer scrutiny.

There is also the matter of what constitutes a threat to the arts. Zuidervaart regularly reminds the reader that these threats are both the capitalist market economy and the administrative state. Why governmental support and subsidy are the cures for the disease that is the administrative state remains unclear, as does the reason why governmental subsidy protects the public sphere any more than the rule of law might. It is true, as Zuidervaart asserts, that "contemporary economic and political systems put enormous pressures on arts organization to align art with the logics of money and power." Why exactly governmental subsidy would not exacerbate this matter is a point the book leaves mostly untouched. While the book does present an insightful explanation of modern deficiencies in art, it is less insightful as to the causes.

In fact, early in the book, Zuidervaart all but admits that governmental subsidies in the context of an imperfect democratic system might actually pose risks to the aims of public justice. He does right by noting on a number of occasions that his proposal works only when government undergoes an "internal transformation," one "ever more attuned to the requirements of public justice." Even in the absence of the ideal government, "the absence of subsidies would make civic-sector arts in public even more vulnerable to systemic pressures," and therefore, "the worry that accompanies state subsidies is not too high a price for protection and support whose justification *and intent* would correct deficits that undermine civil society" (italics mine). The answer, it seems, is a common one from those advocating for governmental subsidy of any enterprise: Good intention is reason enough.

What is more, one may wonder why Zuidervaart suggests, as he often does, that private profit and cultural benefit are incompatible. As is the case for much of the book's analysis, one would have to accept its premise that "the capitalist system [is] inherently totalizing and exploitative." Is the market itself, for example, to blame for the perversions of artistic taste, for the "hypercommercialization" of art? Is capitalism itself to blame for the consumerist perversions of genuine cultural expression? To blame the market for consumerism is like blaming free will for original sin, and the reader would have to take for granted that markets actually hinder rather than encourage cultural development. For those interested in such matters, Paul Cantor's lectures on commerce and culture prove particularly enlightening on this point. ("Commerce and Culture" [ten-part lecture series], Mises Institute, July 2006, available on youtube.com.)

If the book does not offer a complete diagnosis of the causes of art's threatened state, then it also lacks a practical definition of cultural community. If the government were to justify real dollars going to real cultural organizations, it would have to define which were legitimate cultural organizations and which were not and which were engaging in true, honest, imaginative disclosure and which were not. Such a determination would need a baseline that would itself, it seems, need to be culturally and democratically determined. In other words, one must be willing to grant pluralism a great deal of truck for the book's argument to work, but it is not entirely clear how the book makes governmental pluralism practical without making it even more bureaucratic. This problem of practical definition is further complicated by Zuidervaart's concept of cultural community, which is, by definition, "never permanently fixed but always under construction and reconstruction."

For those who question the book's first principles, there are many other questions that remain. Why does Zuidervaart not assign to governmental subsidy the same stigma he applies to private, economic support? At what level of government is Zuidervaart advocating subsidy? Federal? State? Township? Most interestingly, if art contributes to a society's self-understanding, and therefore should be subsidized, why shouldn't other cultural institutions, such as religion, also be subsidized?

Zuidervaart gives little attention to religion in this work on culture (a curious fact when one considers he is based at the Institute for Christian Studies), but he suggests an answer to the question above when he says that institutions "dedicated to arts in public will look quite different from the middle-class enclaves that many cultural organizations have become," since, apparently, "religious and ethnic groups [are] more concerned to maintain their status and traditions than to learn from others or to share their own resources." Sideswipes like this one, not hard to find in the book, are part of what make it difficult to take the book as directed to anyone not already inclined to agree with Zuidervaart's view of the world—a view that is foundationally Marxist and pluralistic—with little room for business or tradition.

Therefore, the argument itself may work if you grant him his premises. Any reader inclined to do so will find an admirably argued case. In fact, even readers ill-disposed to his concept of society and freedom (the baseline issue, as Zuidervaart admits in the end) will find many nuggets worth reflection. Those inclined to think that one cannot both eat their cake and have it too, that political influence cannot be softened with political dollars no matter how good the intention, will likely walk away unsatisfied, disappointed that the arts subsidy debate has not progressed by the end of the book, even if we are better off for trying.

At the end of the day, it is refreshing to see someone recognize the important role artistic imagination plays in a culture's understanding of itself. There is certainly much to Zuidervaart's assertion that the artist has a role in "imaginatively disclosing matters of general concern." The poet has long been regarded (often by himself) as a sort of prophet or, as Shelley described it, the unacknowledged legislator of the world. Without a common understanding of what culture is, how the human economy works, and the role of the state

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in cultural matters, it is difficult, if not impossible, to discuss fruitfully how these artists are to find money for bread. At the very least, it remains difficult to see exactly why the poet actually has a claim upon a check from the people.

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