An Alternative to "Rules" in Practice Approaches to Distinguishing Art Kinds

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Volume: 17 (2019), ARTICLES

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Larry Shiner

Abstract

Numerous contemporary philosophers have invoked the idea that art is best understood as a social practice in order to distinguish among art kinds or to distinguish Art from closely related practices such as Design. Many general accounts of social practices and of art practices in particular claim that sets of shared assumptions or norms are a key constituent of practices. But some standard accounts of social practices interpret these shared norms with the concept of "rules" or "agreements." I argue that the idea of rules or agreements is theoretically inadequate and should be replaced by what the philosopher of science, Joseph Rouse, calls "mutual normative accountability." I then illustrate the theoretical value of such a replacement by discussing the differences between Art practices and Design practices.

Key Words

agreements; art; design; fine art; mutual accountability; norms; practices; roles; routes of circulation; rules

1. Practices and the "pragmatic constraint"

I have been encouraged to consider a practice approach to distinguishing art kinds by the way Amie Thomasson, Sherri Irvin, Noel Carroll, Gary Iseminger, Peter Lamarque, and David Davies, have each in their different ways developed positions in the ontology of art that treat practices as a "pragmatic constraint" on theorizing.[1] More recently, both Nicholas Wolterstorff and Dominic Lopes have developed accounts of art practices, and Lopes has offered a persuasive account? of

aesthetic practices.[2] Given the widespread invocation of the concept of social practices in aesthetics today, it would still seem worthwhile to address some theoretical issues surrounding practices.[3] As an exploratory venture, this paper will focus on a critique of the idea that "rules" or "agreements" are a crucial element in the shared assumptions identifying practices.

2. Terminological ambiguities

Before proceeding, I need to address a couple of terminological ambiguities. First, what some writers call "practices" others call "institutions," as in George Dickie's "institutional" definition of art or in John Searle's influential social ontology.[4] In this paper, I *distinguish* between practices and institutions, treating institutions as one aspect of the larger set of activities and relations that constitute an identifiable social practice.[5]

A second terminological problem arises from the fact that some social scientists and philosophers have used "art world" for what others call art practices.[6] Even Gary Iseminger's book, *The Aesthetic Function of Art*, which has a very helpful discussion of the "practice of art," ends up making practice interchangeable with the idea of the "art world" as an informal institution.[7] In this paper, I will use "practice" throughout to avoid confusion with institutional definition projects, and to emphasize social ontology rather than the empirical study of institutions, although the results of the empirical sciences are important to a fully adequate theoretical account as Dominic Lopes has argued. [8]

3. Some elements of social practices

A practice approach, as I see it, would focus on the network of relations within which works or performances are constituted *as arts* of one kind or another. What sorts of things make up these "networks of relations"? Here are just a few elements often referenced in general discussions of social practices,

1) Shared, but contested, *assumption* or *rules,* and

2) Shared, but contested, *histories*, which inform patterns of activities such as

3) typical *roles* and their behaviors as well as

4) typical routes of circulation and their institutions

Of course, the above list of elements is not meant to be exhaustive and I have used "typical" and "contested" to stress that most social practices are a matter of ongoing constitution in which the participants are constantly interacting with each other concerning both the ends and means of the practice, including which parts of its history are most relevant. Moreover, if we were to look at art or aesthetic practices in particular, other

elements such as *intention* and *media* would come into play. This paper will consider primarily the place of shared assumptions, rules and norms.

4. Stability, identity and rules

Given the multi-faceted character of art practices, and the frequent emergence of new practices, do named practices like fine arts or design arts have enough stability to make the concept of practice useful for analysis? Among philosophers, the primary way of explicating the coherence of practices has traditionally been by way of an analysis of their *shared assumptions* articulated as *rules*, which are often conceived on an analogy with formal games.[9] In what follows, I will propose that reconceiving the idea of shared assumptions as *mutually accountable norms of action* might give us a more useful practice concept in general and for the arts and aesthetic experience in particular.

A. Rule-based accounts of practices

The problem with rules, as Wittgenstein argued, is that their application can lead to an endless regress of interpretations. Yet Wittgenstein believed there *is* "a way of grasping a rule which is *not* an *interpretation*, but is exhibited in what we call 'obeying the rule' and 'going against it' in actual cases."[10] Later, he says that if he has exhausted attempts to justify an action, "I have reached bedrock, and my spade is turned. Then I am inclined to say, 'This is simply what I do.'"[11]

Recent approaches to practices as rule-governed follow Wittgenstein to the extent of emphasizing constitutive rather than regulative rules. The most influential account comes from John Searle, who claims that we can codify the rules that "constitute" or make social institutions possible.[12] Like chess or baseball, he argues, institutional facts such as money only exist so long as people continue to accept them as constituted. Searle grants that most people will not be conscious of the actual rules underlying practices, but claims that humans have evolved a "set of dispositions that are sensitive to the rule structure."[13]

Despite the many virtues of Searle's account, his way of explicating rules by analogy with games like chess and baseball obscures the dynamic nature of many social practices. Formal games have codified rules and fixed boundaries. But many social practices not only overlap neighboring ones, but are more like the spontaneous games children devise where the "rules" are often invented on the spot and subject to revision as one or another player calls out some new twist. Searle believes that all such informal social practices, even "friendship, dates, cocktail parties" could be codified, even though codification, he admits

,would deprive us of "flexibility, spontaneity and informality."[14] This admission underlines a major problem with his "structure of rules" account of practices; it suggests a static view of patterns of activity, whereas many practices are constantly undergoing varying rates of change.

B. Dialogical approaches to practices

Both Peter Lamarque, reflecting on literary practices, and Joseph Rouse, reflecting on scientific practices, distance themselves from the primacy of rules, although Lamarque clings to a form of the rules approach that he calls "agreements." Lamarque's careful exegesis of Wittgenstein's views on practices and rules leads him to say: "there is more to a practice than being constituted by rules and it is more illuminating to think of conforming to a practice as engaging in activities of a certain kind . . . than merely to emphasize" the rules.[15] But Lamarque goes on to say that "agreement in action" is not separable from rules, and in fact that "there has to be a bedrock of agreement for there to be any kind of stability" to a practice.[16] Literary practice, for example, requires agreement on a canon and on reading in terms of form, style, and theme.[17] Although Lamarque's account of the place of rules is suppler than Searle's, by insisting on a "bedrock of agreement," Lamarque's account still tends to minimize the importance of the ongoing debates and innovations that are part of artistic practices.[18]

I believe Joseph Rouse's discussion of scientific practices offers a way to better articulate how practices can be both open and yet relatively stable. Rouse argues that we should not look for some pre-existing, underlying agreement on the nature of science, but see the practices of science as held together by what he calls their "mutual normative accountability," an accountability which is expressed in the way individual scientific performances "bear on one another" in a "network of mutual interaction."[19] Thus, each move in developing a scientific theory or designing an experiment is accountable to other participants in the practice, who will repeat, translate, infer, correct, refute, or confirm it. As a consequence, science's "patterns of interaction" are temporal through and through since mutual accountability also includes past participants. Alasdair MacIntyre's discussion of ethics in *After Virtue* also stresses that the continuity and identity of many practices is defined in part through the struggles that make up the history of that practice.[20] Like MacIntyre, Rouse claims that the interaction with other performances within a practice only becomes normative when it occurs "in a way that can be understood to be for the sake of something at stake in the interaction."[21]

But that means the mutual accountability is equally directed to the future since the aims and issues for the sake of which the

participants are interacting are never finally decided and no one perspective on a practice is "privileged in advance."[22] Accordingly, unlike Searle, who tends to reduce norms to rules, Rouse *contrasts* "norms," understood as mutual accountability in action, with the idea of "rules" when they are conceived as fixed and pre-existing agreements. Rouse concludes that the coherence of scientific practices is determined by the "mutual accountability of constituent performances to issues . . . whose resolution is always prospective."[23]

5. Application to distinguishing design arts from fine arts

I believe the general form of Rouse's account of the normativity of scientific practices can illuminate how art practices, which are constantly subject to debate and change, can nevertheless have an "always prospective" identity. Trying to guarantee stability through "rules," or "agreements," on the other hand, can easily lead us to underplay the major advantage of a practice approach, namely, its concern with patterns of activities. Here, it is worth remembering that the "bedrock" Wittgenstein speaks of hitting with his shovel is not a set of rules or agreements, but "simply what I do."[24] In a practice approach to art kinds, then, it will be at least *as* important to understand the roles, behaviors, routes of circulation, and other activities that constitute a practice, as it will to articulate a set of shared assumptions believed to be implicit in the practice as a whole.

I now want to test such a reliance on "mutual accountability" rather than "rules" or "agreements" in our understanding of art practices by attempting to disentangle some issues raised by current claims that such instances of design as fashion or perfume should be treated as fine art (rather than design art). The curator, Zoë Ryan, has claimed that the conceptual approach of the fashion designers whose works she exhibited at the Art Institute of Chicago in 2012 is "elevating" their designs to "the status of fine art."[25] Another curator, Chandler Burr, exhibited a dozen commercial perfumes at the Museum of Arts & Design in New York in 2013, claiming that perfumes are "actually works of art, equal . . . to painting, sculpture, music, architecture, and film."[26] Some critics have responded enthusiastically to such claims with talk of "blurred boundaries" and "border crossings." But I believe we need a more nuanced theoretical account of the relation of Art and Design. Art status claims like Ryan's or Burr's raise the question of whether there are theoretical grounds for distinguishing between Art and Design as practices constituted not by fixed rules or agreements, but by always prospective norms based on mutual accountability.

First, I need to make a methodological clarification. In briefly contrasting Art and Design practices in the next paragraphs I will

focus on fine art and design art as umbrella categories, although one might apply a practice analysis to various sub-categories *within* either set, for example, to product, fashion or graphic design. Second, we need to keep in mind that the term "design" is often used in a verbal sense to designate a *process* common to all sorts of practices, including the fine arts, whereas I will be considering the concepts of "design" and "fine art" as referring to named sets of social practices or professions.[27]

I will consider only two norms of action in typical design practices and fine art practice, the norms reflected in *roles* and in *routes of circulation*. If we look at the normative *role* involved in the activity of designing, it is clear that designers' actions are constrained by the practical needs and desires of users. In the activity of fine artists, by contrast, attending to practical constraints is purely optional, since the norms of contemporary artistic practice permit artists to perform, use, make, or commission, anything, in any way, for any reason. As for the recipients of designed objects, their roles typically involve using or consuming them, though often with a concern for aesthetic as well as practical satisfaction. The roles of audiences for the visual fine arts, by contrast, have become as variable as the freedom of contemporary artists, who now solicit from audiences many forms of cognitive and affective engagement, including participation in bringing works into being.

Turning to *routes of circulation*, designers obviously circulate their creations through standard commercial channels, reviews in design, product or lifestyle publications, and occasionally their works may end up in design galleries or a special section of art museums. Although most fine art works typically circulate through art exhibitions, art galleries, art museums, and periodicals, there is a long history of trying to get art and life back together through installations, performances, and events outside traditional venues, although such works usually end up circulating through images in fine art venues, including art-identified electronic media.

Yet, in apparent contravention of these normative roles and routes, individual artists or designers may temporarily assume one another's roles. Some designers and architects have created paintings or sculptures and certain works of contemporary fashion, product or architectural design are themselves highly sculptural and sometimes quite impractical as well, so that some design works do seem to straddle the boundary between design and art. From the side of contemporary art practice, artists sometimes shift into the role of designers by accepting the constraints of practicality as in Andrea Zittel's series of living units.[28] As for overlapping routes of circulation, one of the things that got me thinking about the issue of rules in practices,

was the way some art curators take instances of fashion or perfume design out of their normal patterns of circulation and insert them into fine art circuits.

Yet, to more fully understand these intersecting roles and routes, we also need to consider the intertwined histories of art and design. When the category of Fine Art first emerged in the 18th century, most theorists included architecture in its core extension, but often excluded the applied or decorative arts. In the 19th century, this exclusion was reinforced by the creation of separate museums for the applied or decorative arts in Europe, and separate departments for decorative arts within American museums, sometime renamed departments of design in the early 20th century. Thus, until the early twentieth century architectural design was considered a fine art whereas the applied arts or design art sub-disciplines were usually given a subordinate position.

What has changed over the last half century is the expansion of the old disciplinary list of the visual fine arts, originally centered on painting, sculpture and architecture, then opened to photography and film, and now to conceptual, installation, performance, and participatory practices and numerous mixtures. In this post-disciplinary atmosphere, in which anything can become a vehicle for art, the fact that designers and artists can switch roles and curators can manipulate routes of circulation is the kernel of truth in the claims that the boundaries between Art and Design have blurred.

Even so, the existence of boundary crossings and borderline or hybrid works does not excuse us from thinking through the *normative* differences that still exist among practices. By focusing on *networks of mutually accountable norms of action* that constitute practices, we can account for the existence of cross border traffic and so-called "blurred boundaries," but at the same time show that producers and receivers within each practice act in different, if sometimes exchangeable roles, circulate works along different, if sometimes intersecting, routes, and reference different, if intertwined, histories. In sum, the practice approach I am exploring distinguishes among art kinds by analyzing the *normative patterns of activities and histories (rather than "rules") that give a prospective identity to various art kinds.*

That said, there are several objections one might raise, as well as further issues that need to be addressed. I will briefly mention and comment on two objections and three issues.

6. Objections and issues

Objections:

1) *Can a practice approach avoid circularity?* Yes, since even though the same kind terms may be used as a modifier for several practice elements, the latter form a network of distinct activities that could be described in other terms.[29]

2) *Are practice approaches inherently conservative as Richard Shusterman claims?* Not unless we think of practices as constituted by static rules. As indicated above, any characterization of a practice is itself an intervention in the process of mutual accountability that constitutes norms.[30] Such interventions may have a conservative effect, but they may also tend to push a practice in a new direction.

Issues:

1) *At what level of generality is a practice analysis most effective?* Not for separating art in general from non-art since the idea of art in its broadest sense is less a distinct practice than a vast continuum of human practices, or, as Sonia Dedivy has put it, using Wittgenstein's analogy, "art is like a thick rope made of many different intertwining fibers."[31] In *Beyond* Art, Dominic Lopes has offered a detailed argument against continuing the quest for a definition of the category of (fine) art or the fine arts as a group rather than focusing our energies on analyzing the practices of particular arts.[32]

2) *What is the explanatory scope of a practice approach without rules?* It is meant to inform but not substitute for such things as developing an ontology of the work concept or a theory of aesthetic judgment.[33] For a practice approach to be applicable to individual works, it also needs to be combined with a theory of intention or sanction along the lines suggested by Sherrie Irvin, since individuals can chose various roles and routes.[34]

3) *Can a practice approach without rules offer a principle that will determine which elements of a practice are central or how many such elements are needed to distinguish among art kinds*? In the practice view I am suggesting, the point is to replace talk of fixed rules or principles by the idea of a *prospective identity* through the mutual accountability of performances within the on-going history of a practice.

In closing, I want to return briefly to some curatorial claims that got me thinking along these lines in the first place. My guess is that one reason Zoë Ryan and Chandler Burr insist on "elevating" fashion or perfume into fine art is the honorific connotations still clinging to the category of fine art or to Art with a capital "A." But "fine art" is not simply a status epithet. It also signifies a historically distinctive, if constantly changing, set of practices in contrast to the practices of the applied and design arts.[35] Thus, although I agree that the latter are as important and deserving of respect as the fine arts, I believe the

normative practices of the design arts and fine arts continue to constitute different *kinds of art* and to that extent it is useful to maintain a distinction between Art and Design, so long as we do not regard it as a hierarchical relation implying superior aesthetic and cultural value for Art over Design.

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End Notes

[1] Amie L. Thomasson, "The Ontology of Art and Knowledge in Aesthetics," *Journal of Aesthetics and Art Criticism* 63:3 (2005), 221-229; Sherri Irvin, "The Ontological Diversity of Visual Artworks," in Kathleen Stock & Katherine Thomson-Jones, eds., *New Waves in Aesthetics* (Basingstoke, England: Palgrave-Macmillan, 2008); Gary Iseminger, *The Aesthetic Function of Art* (Ithaca: Cornell University Press, 2004); Peter Lamarque, *Word and Object: Explorations in the Metaphysics of Art* (Oxford: Oxford University Press, 2010); David Davies, "The Primacy of Practice in the Ontology of Art," *Journal of Aesthetics and Art Criticism* 67:2 (2009):159-171, and Davies' *Art as Performance* (Oxford: Blackwell, 2004), pp. 16-25 for an extended discussion of the "pragmatic constraint." Noël Carroll has increasingly tended to emphasize the narrative or historical aspect of practices. See "Art, Practice, and Narrative," *The Monist* 71:2 (1988), 140-56 and the essays on the definition of art in *Art in Three Dimensions* (Oxford: Oxford University Press, 2010).

[2] Nicholas Wolterstorff, *Art Rethought: The Social Practices of Art* (Oxford: Oxford University Press, 2015). Dominic Lopes takes a practice approach to understanding the individual arts in *Beyond Art* (Oxford: Oxford University Press, 2018), pp. 147-159, and to aesthetic value in *Being for Beauty: Aesthetic Agency and Value* (Oxford: Oxford University Press, 2018), pp. 119-123. To

attempt even a sketch of Lopes' rich account of practices would take us too far afield for purposes of this paper.

[3] Of course, a practice approach extends well beyond the philosophy of art. The idea of practices plays a central role in Alisdair MacIntyre's *After Virtue* (Notre Dame: University of Notre Dame Press, 1981) and in Joseph Rouse's *How Scientific Practices Matter: Reclaiming Philosophical Nauralism* (Chicago: University of Chicago Press, 2002). Many social scientists have described their primary object as social practices, although sociological theories of practice as behavioral regularities have been heavily criticized by S. Turner, *The Social Theory of Practices: Tradition, Tacit Knowledge, and Presuppositions* (Chicago: University of Chicago Press, 1994).

[4] George Dickie, *Art and the Aesthetic: An Institutional Analysis* (Ithaca: Cornell University Press, 1974). Peter Bürger also speaks of art as an "institution" throughout his *Theory of the Avant-Garde* (Minneapolis: University of Minnesota Press, 1984). Searle sometimes speaks of practices occurring within institutions. John R. Searle, *The Construction of Social Reality* (New York: Free Press, 1995) and *Making the Social World: The Structure of Human Civilization* (Oxford: Oxford University Press, 2010).

[5] MacIntyre argues that institutions tend to corrupt practices. *After Virtue*, pp. 194-95.

[6] Howard Becker, *Art Worlds* (Berkeley: University of California Press, 1982); Sarah Thornton, *Seven Days in the Artworld* (New York: W.W. Norton, 2009).

[7] Iseminger reasonably suggests that when "there are practices of absorbing interest to those who engage in them" we commonly speak of the "*worlds* of those practices." These worlds, he continues, are informal institutions by virtue of "a web of mutual recognition" rather than explicit membership requirements. With these concepts in place Iseminger can conclude that "art is a practice and those who participate in it are members of the informal institution of the artworld." *The Aesthetic Function of Art*, pp. 67-68.

[8] Dominic Lopes, *Aesthetics on the Edge: Where Philosophy Meets the Human Sciences* (Oxford: Oxford University Press, 2018). Another reason I follow a practice approach rather than trying to *define* design and fine art is that I agree with Aaron Meskin that shifting the definition project from art in general to the particular arts may run into the same problems that have led many to abandon the definition project for art in general. "From Defining Art to Defining the Individual Arts: The Role of Theory in the Philosophies of Arts," in *New Waves in Aesthetics,* pp. 125-149.

[9] Classic statements can be found in John Rawls, "Two Concepts of Rules," *The Philosophical Review* 64:1 (1955), 3-5 and Peter Winch, *The Idea of a Social Science and its Relation to Philosophy* (London: Routledge, 1958).

[10] Ludwig Wittgenstein, *Philosophical Investigations, I* (Oxford: Blackwell, 1953), Â¶ 201.

[11] Wittgenstein, *Philosophical Investigations, I*, Â¶ 217. There are two very useful recent discussions of Wittgenstein on practices and rules in relation to art. Peter Lamarque, "Wittgenstein, Literature, and the Idea of a Practice," *British Journal of Aesthetics* 50:4 (2010), 375-388, and Sonia Dedivy, "Art from a Wittensteinian Perspective: Constitutive Norms in Context," *Journal of Aesthetics and Art Criticism* 72:1 (2014), 67-82. Although I have found Dedivy's essay particularly helpful and congenial to my own perspective on practices, it came too late for me to fully incorporate its interpretation of Wittgenstein.

[12] Searle, *Construction of Social Reality*, pp. 28-29. 43-51.

[13] *Ibid.*, p. 145.

[14] *Ibid.*,p. 88.

[15] Peter Lamarque, "Wittgenstein, Literature, and the Idea of a Practice," *British Journal of Aesthetics* 50:4 (2010), 384.

[16] "The rules are made apparent in the activities that ground the practice, and the agreements endorsed by practitioners. Shared assumptions by practitioners 'regulate' their 'activities' in responding . . . to literary works." "Wittgenstein, Literature, and the Idea of a Practice," pp. 385-386.

[17] Lamarque, "Wittgenstein, Literature and the Idea of a Practice," pp. 385-86.

[18] Lamarque's position is perhaps more ambivalent on this issue than I have suggested, as reflected in his comment just after the passage quoted above: "Whether a reader's response is in conformity to the 'rules' of the practice is shown not by looking up the response in a rulebook but by its endorsement, or otherwise by qualified practitioners. This is why agreement in action can seem more fundamental than following a rule, even though the two are not strictly separable." "Wittgenstein, Literature and the Idea of a Practice," p. 386. It seems that in the last analysis, "rules," for Lamarque, even when put in scare quotes, trump actions.

[19] Joseph Rouse, "Practice Theory," in *Handbook of the Philosophy of Science, Vol. 15: Philosophy of Anthropology and Sociology,* eds. Stephen Turner and MarRisjord (Amsterdam: Elsevier, 2006), p. 530.

[20] MacIntyre, *After Virtue*, p. 62.

[21] Rouse, "Practice Theory," p. 532.

[22] On the point about no perspective being privileged in advance, Rouse refers us to Robert Brandom, *Making It Explicit: Reasoning, Representing and Discursive Commitment* (Cambridge: Harvard University Press, 1994), pp. 660-661.

[23] Rouse, "Practice Theory," p. 533.

[24] It should be noted that Wittgenstein also speaks sometimes of "agreement in action" which he relates to "acting in accordance with rules." Lamarque has helpfully gathered several relevant passages as part of his discussion in "Wittgenstein, Literature and the Idea of a Practice," p. 384. Wittgenstein's views in this respect, of course, have been the subject of much debate and my few citations are not meant to claim any one position as *the* Wittensteinian view.

[25] Ryan, Zoë, *Fashioning the Object: Bless, Boudicca, and Sandra Backlund* (Chicago: Art Institute of Chicago, 2012), p.11, p 14.

[26] Quoted in Barbara Pollack, "Scents & Sensibility," *ARTnews,* 110:3, (2011), 92.

[27] I capitalize Design, following Glenn Parson's approach in his *Philosophy of Design* (Cambridge, UK: Polity Press, 2016).

[28] Alex Coles has gathered instances of the cross-over from the fine art to the design side in *DesignArt: On Art's Romance With Design* (London: Tate Publishing, 2005). The weaver, Ann Sutton, for example, once said, "I work . . . sometimes as an artist, sometimes as a designer, sometimes as a craftsperson." Diane Sheehan and Susan Tebby, *Ann Sutton* (Aldershot: Lund Humphries, 2003) p. 8.

[29] For a more developed version of this kind of argument against circularity see Searle, *Construction of Social Reality*, pp. 52-53.

[30] Shusterman makes his claim against Nicholas Wolterstorff and Noël Carroll in *Pragmatic Aesthetics: Living Beauty, Rethinking Art*, (Oxford: Blackwell, 1992), p. 43.

[31] Sonia Dedivy, "Art from a Wittensteinian Perspective," p. 80.

[32] Dominic Lopes, *Beyond Art*.

[33] See Peter Lamarque, *Word and Object: Explorations in the Metaphysics of Art* (Oxford: Oxford University Press, 2010).

[34] Sherri Irvin has pointed out an interesting interconnection between roles and routes of institutional circulation in contemporary art practice through her concept of the "artist's

sanction," which refers to the way artists often specify to galleries and museums how their works should be presented, including the role audiences should be permitted or encouraged to play "The Artist's Sanction in Contemporary Art," *Journal of Aesthetics and Art Criticism* 63:4 (2005), 315-326.

[35] To adapt the language of Searle's social ontology to my own ends, the category Fine Art has lost much of its extensional usefulness, retaining for many people only its status implications. Yet in Western culture and even globally, fine art as a set of practices with distinctive institutions remains.

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