

DISSERTATION ABSTRACT

Artistic Expression, Aesthetic Value, and the Law

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The aim of my dissertation is to develop a legally relevant theory of artistic value, based on which a judge can reliably determine whether a work has sufficient such value to be granted constitutional protection, even though it would otherwise count as obscene.

Within this framework I argue that a moral flaw can count as an aesthetic virtue in a narrative work, at least when the audience learns something from the immoral imaginings that the work prescribes.

Since expert testimony is sometimes required in legal cases about artistic value, I also develop a legally applicable theory of aesthetic testimony, such that expert testimony can be used to determine the valence of aesthetic properties, which is essential in determining a work's overall artistic value.

My theory of which properties of works are relevant to their aesthetic evaluation depends both on which categories the work is appreciated in, and on the conventions of those categories. I address these issues within Canadian and American legal contexts.

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