

Philosophy in Review



Andrea Baldini, "A Philosophy Guide to Street Art and the Law."

Matteo Ravasio

Volume 40, Number 3, August 2020

URI: <https://id.erudit.org/iderudit/1071510ar>

DOI: <https://doi.org/10.7202/1071510ar>

[See table of contents](#)

Publisher(s)

University of Victoria

ISSN

1206-5269 (print)

1920-8936 (digital)

[Explore this journal](#)

Cite this review

Ravasio, M. (2020). Review of [Andrea Baldini, "A Philosophy Guide to Street Art and the Law."]. *Philosophy in Review*, 40 (3), 91–93.
<https://doi.org/10.7202/1071510ar>

Copyright ©, 2020 Matteo Ravasio



This document is protected by copyright law. Use of the services of Érudit (including reproduction) is subject to its terms and conditions, which can be viewed online.

<https://apropos.erudit.org/en/users/policy-on-use/>

érudit

This article is disseminated and preserved by Érudit.

Érudit is a non-profit inter-university consortium of the Université de Montréal, Université Laval, and the Université du Québec à Montréal. Its mission is to promote and disseminate research.

<https://www.erudit.org/en/>

Andrea Baldini. *A Philosophy Guide to Street Art and the Law*. Brill 2018. 106 pp. \$84.00 USD (Paperback ISBN 9789004394032).

Andrea Baldini's *A Philosophy Guide to Street Art and the Law* is a book-length analysis of the relation between street art and the law. We can distinguish two main threads in the book's investigation of this relation: first, its impact on the definition of street art; and second, the role that the law should play in the protection of street art and artists.

Baldini's view is that street art is an aesthetic-political practice, aimed at challenging the 'corporate regime of visibility,' that is, the commodification of public spaces (7). Legally sanctioned uses of public spaces sustain this regime: visibility on the street can be purchased in the form of billboards; spontaneous recreational activities are increasingly subject to restrictions; public spaces are progressively being reduced to physical facilitators for financial transactions. Street artists reclaim public spaces by challenging these implicit or explicit norms.

Given this analysis of street art's main purpose, one might think that Baldini ought to consider illegality to be necessary for a work to count as street art. He actually does not, and he offers an interesting argument in support of this position. If illegality were to be considered essential to street art, then a court of law could turn an artwork into a non-artwork, or vice-versa, just by deeming the relevant work legal or illegal. This, Baldini plausibly contends, is a *reductio ad absurdum* of the view (24).

Illegality is also insufficient for something to count as street art, as illegal practices carried out in public spaces could have purposes that are quite clearly at odds with that of challenging the corporate regime of visibility—from the sale of counterfeit goods or illegal advertisement.

Baldini subsequently addresses the relation between street art and vandalism. His view is that vandalism, much like illegality more generally, may be used as a tool to generate subversiveness. Therefore, while vandalism is not necessary to street art, sometimes street art is art *because it is vandalism*.

As mentioned above, the relation between street art and the law also animates the book's other main theme, namely the question of how legal strategies should be employed in order to protect street art and artists, with particular reference to the debate over copyright protection. The question here is a normative one: rather than discussing whether existing copyright law protects street art and artists, Baldini is interested in determining whether and how it should do so. (64)

In considering these issues, Baldini's concern is that copyright may put street art's subversive nature at risk (65). It follows from his answer to the definitional question that any form of legal protection that challenges street art's subversiveness would also threaten its main goal. More generally, Baldini argues that copyright should not be considered a gold standard of cultural value and recognition. In assessing the opportunity of its extension to street art, one has to carefully evaluate the consequences of this move. Baldini questions arguments relying on overly optimistic views of such consequences.

He first criticizes the creativity argument, according to which copyright protection fosters creativity, in that recognition for one's work may constitute a source of personal motivation. According to Baldini, the history and practice of street art belies this claim. In fact, the emergence and rapid flourishing of street art occurred in the absence of any sort of legal protection, and was in fact met by open hostility (66-67).

Baldini then goes on to discuss two arguments in favour of copyright protection, both due to Enrico Bonadio. According to the profit argument, copyright could help artists generate revenue from

their work. Baldini agrees with this point, although he rightly points out that it does not clearly apply to street artworks themselves, but rather to the sale of their reproductions and other merchandise. The underlying worry here is that this sort of profit could favour a commodification that contrasts with street art's goals (70-71).

Baldini then questions Bonadio's subversiveness argument, according to which copyright could help street art retaining its independence from corporate appropriation (72). While Baldini obviously agrees with the importance of protecting the subversiveness of street art, he doubts that copyright is the right tool for the job, as it belongs to the very establishment the practice is questioning and opposing. Copyright favours commodification, and it threatens therefore the autonomy of an art form that seeks to challenge the corporate regime of visibility.

This point is not a purely conceptual one, resting on a schematic opposition between copyright and subversiveness. Rather, Baldini's concern is practical, as copyright infringement lawsuits are more likely to favour those whose position is already financially and politically secure, thus effectively undermining at the root street art's subversive character.

Despite all of these reservations, Baldini still thinks that copyright could play a role in the defence of street art from corporate appropriation. He favours an approach in which commissions, and not individuals, decide whether a certain appropriation of an artwork is acceptable or not. Commissions should be built from the ground up, in order to ensure representation and protection of those artists who cannot afford legal expenses. Baldini argues that such commissions would also be less likely to be tempted by out of court settlements (which have lately been the norm in lawsuits involving street art), thus resisting the commodification of the art kind (84).

While Baldini's work is best situated in the tradition of Anglo-American analytic philosophy of art, the book is remarkable for its interdisciplinary approach. Baldini engages with legal technicalities at a level that is likely to generate interest from legal scholars. In addition to this, the book is written in a remarkably clear and accessible language, and avoids unnecessary jargon. It is an exemplary work for its capacity to be at once informed, precise, and pleasant to read.

A few words on this book's position in the debate on street art within analytic philosophy of art. In this work, Baldini does not explicitly discuss the influential view advanced in Nick Riggle's 'Street Art: The Transfiguration of the Commonplaces' (*Journal of Aesthetics and Art Criticism* 68:3 (2010), 243-257), although he has done so elsewhere (Baldini, 'Street Art: A Reply to Riggle,' *Journal of Aesthetics and Art Criticism* 74:2 (2016), 187-190). He engages more explicitly with Sondra Bacharach's work ('Street Art and Consent,' *British Journal of Aesthetics* 55:4 (2015), 481-495), as she also focuses on the illegality of street art. It seems to me that Baldini is closer to Bacharach than he is to Riggle, in that they both think that there is an essential relation between street art and the law—one which is absent from Riggle's account. An important difference, however, is that Baldini holds graffiti to be paradigmatic street art, whereas Bacharach is inclined to consider them a different practice altogether. The root of their disagreement lies in the following point. According to Bacharach, graffiti and tags struggle to qualify as street art because they do not challenge a viewer's perception and experience of a public space or convey socio-political messages, and because they are often not made for the general public, but rather for other members of the graffiti community. Under Baldini's account, none of these features constitutes a reason to exclude graffiti and tags from street art. Insofar as these tags challenge the established use of public spaces, they are central examples of street art, even in the absence of any further goal or agenda (9).

I conclude with a brief remark on a potential ambiguity in Baldini's account of street art's relation to the law. Baldini holds street art to be possible because of its opposition to the law. However, in his account, the aspects of the law opposed by street art are not just any aspects. Rather, they

are those that generate and sustain the corporate regime of visibility, which regulates the use of public spaces. The question I wish to raise is whether Baldini is claiming that street art is essentially related to the particular restrictions on the use of public spaces from which it arose. For it is possible to conceive of a candidate street art practice, opposing legally sanctioned uses of public spaces in a society in which such uses are not determined by a corporate regime of visibility, but rather by some other set of restrictions. The commodification and privatization of public spaces is after all a historically contingent phenomenon, concerning primarily the contemporary Western world. It is absent from many other societies, in which acceptable uses of public spaces are mainly determined and controlled by political or religious ideologies. Would a political-aesthetic practice challenging such uses count as street art under Baldini's account? Such practice would stand in essential opposition to the law, and challenge the use of public spaces, but none of this would require its opposition to a corporate regime of visibility.

Matteo Ravasio, Peking University