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**The modality principle and work-relativity of modality. A comment on David Davies' *Art as Performance***

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*Abstract*

Davies argues that the ontology of artworks as performances offers a *principled* way of explaining work-relativity of modality. Object oriented contextualist ontologies of art (Levinson) cannot adequately address the problem of work-relativity of modal properties because they understand looseness in what counts as the same context as a view that slight differences in the work-constitutive features of provenance are work-relative. I argue that it is more in the spirit of contextualism to understand looseness as context-dependent. This points to the general problem - the context of appreciation is not robust enough to ground modal intuitions about objective entities. In general, when epistemology dictates ontology there is always a threat of anti-realism, scepticism and relativism. Davies also appeals to the modality principle - an entity's essential properties are all and only its constitutive properties. Davies understands essentiality in a traditional way: a property P is an essential property of an object *o* iff *o* could not exist and lack P. Kit Fine has recently made a convincing case for the view that the notion of essence is not to be understood in modal terms. I explore some of the implications of this view for Davies' modal argument for the performance theory.

**1.**

*Art as Performance* (Davies 2004) is not only a wonderful book on philosophy of art but covers also some intriguing issues in ontology and modal metaphysics. As his general framework in addressing ontological issues in art Davies proposes the 'pragmatic constraint':

Artworks must be entities that can bear the sorts of properties rightly ascribed to what are termed "works" in our reflective critical and appreciative practice; that are individuated in the way such "works" are or would be individuated, and that have the modal properties reasonably ascribed to "works", in that practice. (Davies 2004: 18)

Although I sympathize with the idea that the artwork is what our reflective critical, appreciative, and evaluative judgments are judgments about, I shall nevertheless critically address the last part of the pragmatic constraint. Davies himself remarks that in our critical practice we are rarely interested in how a given work might have been, but only in how it is

(Davies 2004: 103). One might expect that given the spirit of the pragmatic constraint modal intuitions will play only a marginal role in the proposed ontology of art. Not so, modal intuitions and essential properties play an important role in Davies' ontology. They guide is in questions of identity, constitution and individuation of artworks.

In this comment I will question the role of modality and modal intuitions as they emerge in our evaluative and appreciative practice. Davies argues that the ontology of artworks as performances offers a *principled* way of explaining work-relativity of modality. Object oriented contextualist ontologies of art (Levinson) cannot adequately address the problem of work-relativity of modal properties because they understand looseness in what counts as the same context as a view that slight differences in the work-constitutive features of provenance are work-relative. I argue that it is more in the spirit of modal contextualism to understand looseness not as "slightness" but as context-dependent. Part of my criticism is aimed at the general perspective according to which the epistemology of appreciation (evaluation) dictates ontology. Another part is more specific, I criticise the modality principle – an entity's essential properties are all and only its constitutive properties. Davies subscribes to the standard definition of essentiality – a property P is an essential property of an entity *e* iff *e* has P at every world at which *e* exists. Kit Fine has recently made a convincing case for the view that the notion of essence is not to be understood in modal terms. I explore the implications of Fine's view for Davies' thesis that our modal intuitions about works are our guide in addressing the problem of individuation. It turns out that the role of modality has been overstretched.

## 2.

According to the 'Performance Theory' artworks of all kinds are to be identified with generative activities of artists as completed by their artistic products. A work of art is best construed as that temporarily extended object, the 'performance' that was the construction of the object (Davies 2004: 80). In agreement with contextualism Davies emphasizes the ontological importance of history of making of the product – various features of provenance (the context of agency, time, art-historical context ...), are constitutive for artworks. But he parts from contextualism in claiming that the work of art is not the product of the creative process, rather it is the process eventuating in that product.

In developing his case against contextualism Davies presents his ‘modal’ argument based on the work-relativity of provenance properties. Modal properties of a work identify ways that the work might or might not have been in counterfactual situations. Let us take *Prairie Snowscape*, "a hypothetical work, painted by a naïve occasional painter living in the Midwest at the very same time as Warhol was producing his first Brillo Boxes" (Davies 2004: 108). It seems that *Prairie Snowscape* could have been executed a few years earlier or later. But if Warhol had exhibited a pile of Brillo boxes at another time he would have been creating a different work.

For contextualists certain types of features of provenance are constitutive for all works, so they can not account for the ‘work-relativity of modality’- the fact that our modal intuitions differ with respect to different artworks. According to Davies aspects of provenance bear upon our modal judgments with a *variable* force that reflects *our overall sense of what is to be appreciated* in a given work (Davies 2004: 112). Davies argues that our modal intuitions about works track our modal intuitions about the particular performances whereby focuses of appreciation are specified. The ontology he proposes offers a *principled* way of excluding aspects of provenance not determinative of properties of the focus of appreciation from the appreciation of works. We should think of our modal judgments about works as having the following grounding:

- (1) In appreciating the work, we arrive at a perspicuous representation of the performance whereby the work focus was specified; (2) it is relative to that representation that we decide when we have the same performance in counterfactual situations and (3) it is these judgements about sameness of performance that ground and explain the work-relativity of our modal judgements about works. (Davies 2004: 116)

Davies argues that the principled work-relativity of essential properties is available if we take artworks not as contextualized products but as performances completed by products. And then he makes two further claims:

- (5) An entity's essential properties are all and only its constitutive properties (*the modality principle*); so (6) our modal intuitions about works are our guide in addressing the problem of individuation.

It is the last two claims that I find problematic.

### 3.

Davies concedes that the contextualist is not without strategies with which to address the problem of work-relativity of modal properties, but he argues that the more obvious strategies are not promising. Levinson suggests that "the most appealing view is probably to regard the constituents of the type as indeed essential to it - structure, context, title - while recognising a measure of looseness in what counts as the *same* structure, *same* context, *same* title" (Levinson 1990: 163, quoted by Davies 2004: 113). Davies interprets this view as suggesting that any *slight* difference in the work-constitutive features of provenance can be overlooked when we ask about the essential properties of a work. But then he points out, rightly, that sometimes slight differences in the constitutive features of works *are* relevant to work identity. So, according to Davies, "the proposed strategy lacks the resources to provide us with principled constraints on our willingness to be flexible in our judgments of sameness and difference," (Davies 2004: 113).

But the contextualist need not interpret looseness in what counts as the *same* context as a view that *slight* differences in the work-constitutive features of provenance are work-relative. Maybe this is true for Levinson, but it is not in the spirit of *modal* contextualism in general. Take David Lewis, who, in the context of exploring essentialist claims such as the Kripkean claim that some properties of an object's origin are essential to it, argues that

those philosophers who preach that origins are essential are absolutely right—in the context of their own preaching. They make themselves right: their preaching constitutes a context in which *de re* modality is governing by a way of representing (as I think, by a counterpart relation) that requires match of origins. But if I ask how things would be if Saul Kripke had come from no sperm and egg but had been brought by a stork, that makes equally good sense. I create a context that makes my question make sense, and to do so it has to be a context that makes origins not be essential. (Lewis 1986: 252, quoted by Paul 2004: 179)

For Lewis, to say that  $e$  is possibly  $P$  is to say that a counterpart of  $e$  (an individual that is similar to  $e$ , but is not  $e$  itself) in another possible world is  $P$ . Essentialist claims like " $e$  is essentially  $P$ " are not true in virtue of objects having properties such as being essentially  $P$  absolutely—rather, an object is essentially  $P$  only relative to a context. When we say that  $e$  is essentially  $P$  we establish a context which highlights a property  $P$  of  $e$ , and then pick out counterparts of  $e$  that are  $P$ , i.e., otherworldly objects that are suitably similar to  $e$ , where suitable similarity, in this context, includes having the property  $P$ . The idea is that when we claim that  $e$ 's being  $P$  has a certain modal status, we create a context in which we pick out counterparts of  $e$  that conform to the claim about  $P$ 's modal status (compare Paul 2004: 179).

Not that I am any partisan of modal contextualism, but it seems to me that it is more in the spirit of contextualism to interpret looseness in what counts as the *same* structure and the *same* context as, indeed, context-dependent. The degree of looseness will be determined by facts important for appreciation, but those facts are variable, as Davies correctly notes. When we say that time is essential for  $e$ , we establish a context which highlights a particular location in time of  $e$ , and then pick out counterparts of  $e$  that are suitably similar to  $e$ , where suitable similarity includes being created at the "same" time as  $e$ , given the facts which determine our appreciation of  $e$ . Suitable similarity will be, say, a year or a few years in the case of *Brillo Boxes* and a decade or a few decades in the case of *Prairie Snowscape*. In this way time is always essential, but we recognise context-dependency in determining what counts as the *same* time.

According to this picture the context of appreciation contains an "empty counterfactual time slot" so to speak. In view of what we value (novelty, audacity, sincerity, directness, emotionality, profoundness, conceptual inspiration, ability to provoke reflection ...) this slot gets filled with time-spans of variable duration. *Brillo Boxes* could not have been produced a few years later and remain the same work of art, but even *Prairie Snowscape* could not have been produced in 14<sup>th</sup> century and remain the same work of art. Davies claims that we can better accommodate our modal intuitions if we consider what we value in the performance. We then see how the essentiality of the *exact* time of creation is work-relative. A revised or principled contextualism acknowledges that time is always essential, but agrees with Davies that the essentiality of the *exact* time is work-relative.

Can we read the work-relativity of the provenance properties from the properties that are detectable in the *object* itself? Matravers (this issue of *Acta Analytica*) argues that we might account for the modal intuitions simply by reference to the content of the work considered as object, rather than by a perspicuous representation of the performance. My proposal for a revised object-type contextualism supports this claim, but it is not decisive. Davies gives other arguments for the ontology of "performances." However, modal contextualism leads to a more difficult and pressing question for any type of theory which describes artworks as entities that have the modal properties reasonably ascribed to "works" in our reflective critical and appreciative practice.

#### 4.

Davies must accept that the context of our appreciative engagement with a work of art: (i) favours performances over products in the sense that judgements about sameness of performance give us a *principled* way of excluding nonessential aspects of provenance; (ii) is robust enough to ground stable modal intuitions which allow us to assign objective essential properties to works of art. Essential properties must be objective since according to *the modal principle* a work's essential properties are also its constitutive properties and the constitution and identity of an artwork, is, presumably, something objective. There is, however, a general problem with this second requirement, connected with the very notion of individual essential property.

If we follow Fine there is an informal way of saying that an object essentially has a certain property. We say "the object must have that property if it is to be the object that it is" (Fine, 1994: 3). If the object undergoes a change in a certain property and remains the object that it is, then the property is not essential. But what does it mean to say the "the object that it is"? We can ask two questions. Firstly, if the object undergoes a change in a certain property, is the object still the individuum of the same *kind*? Or, if the object undergoes a change in a certain property, is the object still one and the same *individuum*?

The first type question is usually associated with Aristotle, the second with Leibniz. According to Aristotle only generical or kind properties are essential. They explain what makes a certain individual a member of a kind. Essential properties are shared. According to Leibniz every individual possesses an individual essence – property or properties not shared

by any other individual. Naturalistically minded philosophers accept general essential properties as classificatory properties which, so we hope, follow the order of nature. Those properties are essential because they are explanatory ultimate, they explain causal relations and the possession of other properties (molecular structure of a certain substance explains its transparency, smell, chemical reactions ...).

Individual essences, on the other hand, are idiosyncratic. It is mysterious how an individual essence makes it the case that the individual possesses another property or has the causal potential it has. A despair of a naturalist with individual essences is nicely expressed in the following quotation:

When Segovia plays the Bach chaconne on the guitar, is he playing one and the same piece as the chaconne that is played on the violin? If my parents' only child had been conceived a month earlier, would it have been me?

These are questions about individual identity. And I suspect that answers to them rest ultimately on answers to questions about individual essences. I must confess that I do not know the answers to questions about identity or about individual essences. Not only do I not know the answers, I also do not know how one goes about looking for the answers, or how one goes about evaluating the answers that have been proposed by philosophers from Aristotle to Kripke. Part of my puzzlement arises from the fact that I cannot connect the intellectual endeavor in which one seeks these answers to others areas of metaphysics, to questions like, what sorts of things exist? what is the structure of the universe? what is causation? It seems to me that the discipline in which these latter questions are asked is intimately tied to science, and that one can hope to learn how to approach them by trying to understand the nature of the scientific enterprise and of the structure of scientific theories. And in turn, if answers are found to these latter questions, these answers will teach us significant facts about science. It is just because questions about individual essences seem so protected I from what happens in science that I despair of discovering an acceptable philosophical method of approaching them (Enç 1986: 403).

Davies approaches questions about individual essences of artworks from the viewpoint of our reflective critical and appreciative practice. This, of course, is still contextualism, the novelty

comes from its ontological proposal. A contextualist claims that an essentialist thesis is not made true or false by the modal facts as they stand, but only relative to the specification of some parameter supplied by context. Forbes (1986: 23) develops a useful distinction between "debunking" and "nondebunking" kind of contextualism. A contextualist of any sort says that a sentence-type of a particular kind does not express a proposition capable of being absolutely true or false, but expresses only a function from contexts to truth-values. The nondebunking kind of contextualism is involved when the sentence-types in question contain indexical expressions whose references are certain contextually salient items. But the features of context that determine the reference are objective, they are not established by convention or involve matters of contingent fact about human psychological states. Once the value of the contextual parameter is supplied, an absolute truth-value can be ascribed to the relevant statement. The debunking contextualist will claim that sentence-types do not have absolute truth-values, the features of context that determine the reference are not objective.

As I understand it, Matravers (this issue of *Acta Analytica*) proposes (using Danto's theory) a nondebunking object-type of contextualism. The content of a work of art contains an "indexical" element – a relation to the background of art theory and art history in which it was made. In the case of *Brillo Boxes* the content is a function of the relation between the object and the background at the time it was made. Still, the features of the context that determine modal properties are, presumably, objective. Modal ascriptions are absolutely true or false once the relevant features are specified.

But is the nature of that to which value statements are relative really properly described as objective? If not, then the contextualism will be debunking. What I fear is that the context of appreciation is not robust enough to ground objective modal intuitions. True, one might concede the context relativity of modal ascriptions, but still hope that within the *same* context modal intuitions are stable. Forbes (1986: 22) gives the following example: in the context of a discussion of historical facts, it may be speculated how so-and-so would have behaved had he been born in an entirely different epoch; in such a context, character traits are held fixed and origin is allowed to vary. But in the context of discussion of biological facts, speculations involving large variations in the grosser features of organisms may be made, the context determining that origin is to be held fixed. Still, in one and the same context, modal features are fixed.



It seems to me that convention and matters of contingent historical facts play an indispensable role in our reflective critical and appreciative practice. According to Davies, knowledge of the history of making of a product of artistic activity bears upon the appreciation of the resulting work. Intentional states are features of the context of creation that must be incorporated into the adequate characterization of the originating performance. But often we are unaware of those intentional states (think about ancient epics), sometimes we are unsure about the authorship (think about Homer), sometimes purely non-aesthetic considerations are important for our evaluation (Leni Riefenstahl), sometimes appreciation undergoes historical changes (perhaps de Sade), sometimes our appreciation changes with the discovery of new historical facts (discoveries about the role of *camera obscura* in painting, mentioned by Davies) and sometimes, so it seems to me, there is a purely conventional element in our critical, appreciative, and evaluative judgment about work of arts. Critical practices do change, after all, they are also culture-dependent.

My realist intuition tells me that in our evaluation of artworks we could all be wrong about something existing independently of our critical practices. Not so according to the proposed construction of modal properties. In general, when epistemology dictates ontology there is always a threat of anti-realism, scepticism and relativism. Anti-realism – works of art are not entities existing independently of our reflective critical and appreciative practice. Scepticism – unaware of original intentions and other provenance properties that matter, do we ever know all that is relevant about what is done in a certain performance? Relativism – if critical practices change, then so do works of art. Of course, Davies could still claim that once all the relevant factors about the performance are taken into consideration we can expect the "ideal" context of appreciation to yield a unique determination of modal properties. But "relevance" is notoriously pragmatic and context dependent. There is, therefore, a real danger that even in one and the same context of appreciation modal features of artworks are not fixed. With a further thesis that modal intuitions guide our ontological intuitions we get an unpleasant implication that works of art not something objective.

#### 4.

In his 'cumulative' argument against contextualism Davies uses *the modality principle*: an entity's essential properties are all and only its constitutive properties (Davies 2004: 104). He

accepts the view that work-denoting terms: *Guernica*, *Ulysses* . . . ., are rigid designators and then argues:

First, if work-denoting terms are rigid designators, then what we are asking, when we ask about the modal properties of a work - say, Turner's *Snowstorm* - is which properties of the entity  $e^*$  denoted by "Snowstorm" in the actual world must be possessed by  $e^*$  in every possible world in which it exists. Since the constitutive properties of  $e^*$  are just the properties that distinguish it as a painting and individuate it from other works of its kind, however, they are presumably the very properties that allow us to make sense of talking counterfactually about one work, *Snowstorm*, rather than another work that differs from this in some constitutive property. So, if work-denoting terms function as rigid designators in modal contexts, the essential properties of a work are the constitutive properties of the entity that is the work in the actual world (Davies 2004: 123-124).

Constitutive properties of  $e$  specify what we are saying of  $e$  when we say it is *this* K. Davies follows Wiggins in explaining individuating conditions of  $e$  as those conditions which individuate it as a thing of type (sortal) K. A move from being essential to being constitutive is further explained in the following paragraph:

If P is a property that  $e$  must have in any world in which it exists, then it is a property  $e$  must have in the actual world if  $e$  actually exists. If it is not a property directly pertaining to the more general kind of thing that  $e$  is (say kind K), then, given that it is variable for things of that kind, it is reasonably taken to be among  $e$ 's individuating properties in virtue of which it is differentiated, as this K, from other K's (Davies 2004: 125).

The following standard definition of essentiality is suggested in those paragraphs:

A property P is an essential property of an entity  $e$  iff  $e$  has P at every world at which  $e$  exists.

Recently, however, this definition has been questioned. Kit Fine has made us rethink the traditional connection between essentiality and necessity. It seems possible to agree on all of the modal facts and yet disagree on essential facts. Here are some of his examples:

Consider Socrates and the set whose sole member is Socrates. It is then necessary, according to standard views within modal set theory, that Socrates belongs to singleton Socrates if he exists; for, necessarily, the singleton exists if Socrates exists and, necessarily, Socrates belongs to singleton Socrates if both Socrates and the singleton exist. ... But, intuitively, .... it is no part of the essence of Socrates to belong to the singleton. There is nothing in the nature of a person, if I may put it this way, which demands that he belongs to this or that set or which even demands that there be any sets. (Fine, 1994: 4)

Consider two objects whose natures are unconnected, say Socrates and the Eiffel Tower. Then it is necessary that Socrates and the Tower be distinct. But it is not essential to Socrates that he be distinct from the Tower; for there is nothing in his nature which connects him in any special way to it. (Fine, 1994: 5)

Consider any necessary truth; it could be a particular mathematical truth, for example, or even the conjunction of all necessary truths. Then it is necessarily the case that this truth should hold if Socrates exists. But it is no part of Socrates' essence that there be infinitely many prime numbers or that the abstract world of numbers, sets, or what have you, be just as it is. (Fine, 1994: 5)

Consider the mind-body problem. ... We can imagine two philosophers agreeing on the modal facts; they accept that a person, his body and his mind are all distinct, that it is necessary that a person have just one body and one mind and that a mind or body belong to just one person, that a person necessarily has the mind and body that he has (if he exists) and that a mind or body necessarily belong to the person that they belong to (if they exist), and so on. But all the same, they may disagree on the essential properties of persons, bodies and minds. For the one philosopher may think of the body and the mind as some kind of abstraction from a person. For him therefore it is of the essence of a body or of a mind to belong to the person that they belong to, though not of the essence of a person to have the body or mind that he has. The other

philosopher, though, may think of a person and his mind as some kind of abstraction from the body. For him therefore it will be of the essence of a person and mind to belong to the body that they belong to, though not of the essence of a body to belong to the person or the mind. (Fine, 1994: 8)

I think that Kit Fine has developed a convincing case for the thesis that the notion of essence is not to be understood in modal terms. So how are we to explain essential properties? Fine explains essential facts as facts *sui generis* which are true in virtue of the identity of the objects in question. All essential properties are necessary, but the converse is not the case. The necessity of essentiality is sensitive to its proper source, which lies in the nature of the object.

If essential properties are not based on our modal judgments, what exactly is then the role of *modality* in the modality principle? Recall the principle: an entity's essential properties (features it must have in any counterfactual situation in which it exists) are all and only its constitutive properties (those features in virtue of which it is a particular instance of the type of thing that it is). If we accept Fine's diagnosis and Davies' traditional characterisation of essentiality, then the "if" part of the principle (essential in the sense of necessity, if constitutive) is true, but the "only if" part (essential in the sense of necessity only if constitutive) is false. The step from essentiality interpreted as necessity to constitution fails. If, alternatively, we accept Fine's conception of essentiality, then essential properties of *e* specify the nature of *e*, the identity of *e*. And constitutive properties of *e* specify what we are saying of *e* when we say it is *this* P. It turns out that essentialists ascriptions are based on judgments about constitution almost by definition! The modality principle becomes trivial.

Fine's theory must be bad news for the modality principle, but how bad is it for Davies' overall project? Since all essential properties are necessary Davies's argument against Currie's claim that achievement properties are not necessary yet they are constitutive will not be affected. But at other places the argumentation will require some reworking. Consider the following argument (Davies, 2004: 113):

All and only constitutive provenance properties are essential.

Essential properties are work relative.

So, constitutive provenance properties are work relative.

The first premise is either false (essentiality as necessity) or trivial (essentiality as nature). If trivial, it can no longer offer any support for the conclusion which is now equivalent to the second premise. But all essential properties are still necessary, so the following argument might be suggested:

All constitutive provenance properties are essential in the sense of necessity.  
 Properties which are essential in the sense of necessity are work relative.  
 So, constitutive provenance properties are work relative.

This argument is valid when the second premise is understood in the sense “All properties which are essential in the sense of necessity ....” Yet this premise is false in this reading – some necessary properties are not work-relative (for instance, "being a general kind of thing that the work is") and the argument would need some further reworking.

According to Fine, essentialists intuitions just are intuitions about the identity and constitution. So claims like: work-relativity of modality entails work relativity of constitution will now read (almost) as: work-relativity of constitution entails work relativity of constitution. Essentialists intuitions about an object depend on prior intuitions about the nature and identity of the object, so modal intuitions can not be our guide in addressing the problem of individuation. The ontological claims will get no evidential support from unqualified modal intuitions.

The loss of the independent modal evidence for the daring ontology will undercut some of the dialectical force of the argumentation. But all is not lost. Consider:

... if a work's essential properties are also its constitutive properties, then the performance that specifies the work-focus must also partially determine the constitutive properties of a work. ... A work just is the performance whereby a work-focus is specified, the very performance to which we have just appealed in accounting for the work-relativity of the modal properties of works. (Davies 2004: 148)

What happens if we just drop the appeal to the modal principle in this passage? If the essentialists intuitions are just intuitions about the constitution and the performance explains

the principled work-relativity of constitutive properties of works without the route through modal properties, this is still an advantage over the objectual ontologies, if they can not achieve this result. Also, the argument offered for the performance theory is, as Davies stresses, 'cumulative' in the sense that the individual considerations adduced acquire more weight as it becomes clear how they fit into an overarching theoretical framework for thinking about artistic practice and our discourse about art. Other parts of the argument in support of the performance theory seem to be independent from the modal principle.

## **6.**

If we accept Fine's theory then modal properties, contrary to the modal principle, are not an independent guide to constitutive properties of an artwork. Rather, they depend on a prior decision on the identity of a work. Of course, all essential properties are necessary, so those modal intuitions which track the nature of the object in question still remain a guide to essentiality. But in the first part of my comment I expressed a fear that even those modal intuitions are not a reliable guide, they do not fix something objective and unique. Individual essences are murky properties and I am afraid that our appreciative engagement with a work of art can not offer objective answers about them. My scruples could be read as scruples about contextualism in general and not directed specifically to Davies' proposal. Anyway, maybe this is the price we have to pay if we evaluate ontological proposals on the basis of their fit with a more comprehensive philosophical framework that makes sense of our artistic practice as that practice is 'codified' upon rational reflection.

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