AI Policy and Ideological Polarisation in Art Ownership: Constructing a Discourse between Walter Benjamin and Yukio Mishima.

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CHAPTER 1 INTRODUCTION

Recent advancements in neural networks, machine learning, and deep learning, owing to exponential increases in data availability, have made AI both palpably useful, and strikingly capable. The technology's accessibility, as prompted by widely accessed generative platforms, has showcased AI's ability to perform complex tasks with remarkable efficiency and accuracy to the masses. This growing recognition of AI's capacity has therefore prompted optimistic reactions pointing to the technology's potential to drive innovation and improve productivity, while pessimistic reactions have emerged simultaneously, highlighting potential impacts on human wellbeing, the values of human communication and the meaningfulness of human creativity among various other ethical concerns. These moral considerations, specifically on the meaning of being human (as a creative actor), have met and intersected with industry concerns over property ownership in discourses regarding generative art.

The diverse range of debated opinions on AI and AI art renders policymaking a more difficult and contentious endeavour. Topics of contemporary AI policy debate (particularly those pertinent to AI art) range from addressing: the proper consideration of generative technology in the IP landscape, misinformation and potential threats to freedom of expression, potential risks in the current cybersecurity (and data security) framework, and the maintenance of national borders while engaging with multilateral efforts, to wide-spread anxieties over undue effects on the job market. For legislative, regulatory, or other such policy bodies to make evaluative decisions on such topics, it is necessary to research various potential ethical considerations surrounding generative AI. The difficulties faced by the public sector to properly research AI have been stressed in white papers and strategy papers focusing on AI regulative bodies, underlining the need for domestic governmental actors to collaborate. Whether through international and/or private sector partnerships, collaboration is required for the public sector to meet a research economy of output at the scale necessary for generative technologies. Furthermore, the interconnected ethical implications of debated policy topics, alongside increasing debates among the wider public, serve to imply a compacted, wicked nature of AI policy. The appropriate integration of AI cases into pre-established industries (to not lose-out on potential economic benefits), is necessarily coupled with efforts to ascertain the feasibility, necessity, and contents of *regulation* curtailing potential harms.

The main focus of this thesis is the investigation of 'art ownership' in relation to contemporary AI-focused public policy discourse. The thesis will approach this focus by utilising a conceptual framework provided to via analysis of Yukio Mishima's and Walter Benjamin's works. Both Mishima and Benjamin have made clear the political stances embedded within their views on aesthetics and the ownership of art. Located notions of aesthetic terrorism in Mishima's works reflect on a nationalistic endeavour: the aesthetic metaphor of *seppuku* in his short story *Patriotism*, and attempted *coup d'état* reveal conceptual distinctions between true values, and the corporeality that keeps it captive. The ideal form of Nippon requires an eradication of its corporeality Japan holding it captive from aesthetic flourishing: an eradication of corpus (physical body) portrays an act of reactionary transcendence and radical conservatism. Benjamin, on the other hand, makes explicit in The Work of Art in the Age of Mechanical Reproduction that his writing served as a bulwark against fascist conservatism, and the need to politicise art. These prescriptions parallel views expressed in his Theses on the Philosophy of History: to pull the breaks and relieve the victims of history, to completely open all human endeavours to critical history (akin to theories of leftist populism, and the ontological deconstruction and conceptual widening of post-Marxism). Critiques of this linearly derived valuation of art relates to Benjamin's broader critiques of historicism, requiring an emancipatory (critical) approach to put into crisis assumptions of a teleological history. This thesis' comparative analysis, between Benjamin and Mishima, will: define 'art' in each oeuvre's case, define ownership in relation to art, detail such aesthetic prescriptions, analyse the relationship between these aesthetically-concerned claims and their wider theories, and evaluate the implications of these ideas' framings and implications. Utilising their key premises, including conceptual terms and their location within wider politically-concerned arguments, this thesis will construct 'Benjamin-ian' and 'Mishima-ian' frameworks by which to evaluate AI policy.

The objective of this thesis is to illuminate the ideological underpinnings of AI policy debates. As literature on contemporary AI policy is saturated with quantitative and systematic investigation, this thesis offers theoretical insights to inform future methods applied in policies of the arts. This research question applies focus on the ideological dispositions that may underpin partisan debate, shedding light on the potential dispositions that complicate case topics in AI policy: how do Benjamin and Mishima's views on 'art ownership' offer insight into the legal and policy issues of generative AI? Current AI policy moves have largely sought practical calculations of the technology's impact in preparation for its integration and regulation. Despite topic-specific debates, this fundamental agreement on the treatment of

advanced technological process in the public policy landscape lends this thesis its practical focus, to serve as an exercise in seeing how the AI policy paradigm might better be understood through theoretical rigor.

CHAPTER 2 METHODOLOGY

Chapter 1 has introduced the thesis' investigation, with its principal research question being 'how do Benjamin and Mishima's views on 'art ownership' offer insight into the legal and policy issues of generative AI?' This chapter will detail this thesis' methodological scope, not limited to its research design, approach, research setting and context, strategy, analytical framework, and limitations.

The qualitative approach used in this study is phenomenological, aiming to uncover the essence of aesthetic-political positions to rigorously apply unto the contemporary case study of AI art policymaking. Therefore, the focus of this approach is to understand the conceptual pillars that lie foundational to aesthetic and political viewpoints of Benjamin and Mishima, with such phenomena thereafter being applied to the contemporary case to engage more deeply with the perspectives shared in the policy space reacting to AI art. The case study of this thesis, through thematic analysis, seeks to understand the complexities of AI policymaking within its *polemical* and *ideological* context as a social endeavour, beyond utilitarian or economic calculations, and situated in intellectual history.

While the exploratory question on how the authors offer insight into the issues of generative AI requires a case study approach to better explain the complex issues within its real-life context, the thesis also offers a phenomenological approach aimed at delving into how individuals may perceive, interpret, and make sense of their reactions to AI art as embedded in polemical aesthetic positions.

The core phenomenon that is this thesis' focus is the relevance of political philosophy context, of intellectual history and the linkages between ideas, to contemporary policy debates. This involves identifying bylines between partisan positions in the contemporary, and historical and ideological positions on similar philosophical concepts. This is important in face of academic research on policy debates being largely concentrated on economic grounds, and therefore this research seeks to position itself polemically within the policy research space by asking itself if such paradigmatic agreement could come to include further classical, theoretical, and abstract approaches.

The context of this study is therefore deeply embedded within the academic environments that shape public policy research. Academically, this study is atypical for the established methodological practices of public policy research, where quantitative approaches have traditionally dominated, reflecting the broader trend in the social sciences that prioritises empirical data, statistical analysis, or for qualitative insights, interview-based or case study approaches. This study seeks to question these prevailing norms by advocating for a more abstract approach that highlights conceptual factors to mapping ideological bylines in reactions to 'art ownership': a concept fundamental to tackling AI art.

This thesis' focus on AI art policy encompasses its technological, cultural, social, legal, and organisational contexts. Technologically, Chapter 3.1 details the historical progression crucial to understanding the term 'Artificial Intelligence' and other such technical definitions in its practical and evolving context. Cultural and social perceptions of AI art outside of the immediate policy realm is detailed in Chapter 3.2.4 and 5.2.1, encompassing survey data from human artists, how artists have created in reaction to developments in AI, and the changing role of both the artist and art industry in society. Legal and organisational contexts are detailed throughout Chapter 3, and are put against aesthetic concepts revealed through analysing the works of Yukio Mishima and Walter Benjamin. As such, policy contexts of AI are analysed inclusive of its technological, cultural, social aspects through an ethics and literary-focused approach, utilising the works of the two authors to locate ideational linkages between various AI-related policy issues which have previously been handled as wicked, multifaceted and inextricable from each other.

With the nature of the research problem explained, this chapter will now move to determining the type of information necessary to address the thesis' focus, identifying the factors that need to be explored to seek answers to its research question. Mishima and Benjamin's works are relevant to the central themes of AI art policy, being polemically, politically, and aesthetically rich in concern, as well as these views contrasting with each other to enable this thesis to explore different approaches. The methodology used in this thesis analyses the two contrasting authors to delineate the ideological foundations of divergent political and aesthetic perspectives, evaluating the applicability of their derived frameworks are to the contemporary case to reveal potential theoretical characteristics that shape today's policy vantage points.

This study combines narrative analysis and thematic analysis, exploring both the structure and content of the narratives (the works of the two authors) as well as identifying broader conceptual themes of such retrieved data. This integration starts with narrative analysis, where Mishima and Benjamin's works are analysed in Chapters 4 and 6 respectively to explore the relationship between political and aesthetic dimensions conveyed. In finding the

relationship between these aesthetic and political issues, this thesis' narrative analysis aims to construct a 'Mishimaian' and 'Benjaminian' conceptual framework to uncover polemical linkages found in AI art policy debate. This thesis will thus move to thematic analysis after analysing the two authors' works, identifying common themes between the analysis conducted and the contemporary case.

By starting with narrative analysis, the themes identified in the thematic analysis are further grounded in the context of the frameworks created, providing more nuance and flexibility in the range of concepts analysed. This range allows for a more robust and dynamic approach to the topic of AI art policymaking by including conceptual rigor to a mostly quantitative and utility-based research field.

As the location, focus, objective, and method of this thesis have now been articulated, Chapter 3 will define and detail the contemporary AI art policy case which it investigates. Thereafter, Chapter 4 and 6 will introduce the key concepts of use in this thesis from Benjamin and Mishima, respectively. Chapters 5 and 7 will evaluate these concepts' applicability to the contemporary case. Chapter 8 will construct and evaluate the Benjamin-ian and Mishima-ian frameworks, from which Chapter 9 will analyse the key policy takeaways from the frameworks' application to the contemporary policy case. This thesis will finally conclude with Chapter 10, which will evaluate the macro-level policy implications of this endeavour.

CHAPTER 3 THE AI CASE

To determine the extent to which disagreements on 'art ownership' provide insights toward contemporary legal and policy discourse on generative AI, three key elements must be defined before any ideological evaluation.

Firstly, the term 'generative AI' must be unpacked. AI, despite recent interest from media outlets and policymakers, has had a long history both conceptually and as a point of technical research. Its history, recent commercialisation, and technical progression from the 1940s must be understood before undertaking ethical discussions on its relation to concepts such as human agency and art ownership.

Secondly, the contemporary legal and policy discourse must be detailed with reference to the issues it seeks to address. The major themes have here been organised into national security (counterintelligence, security breaches to sovereign states), threats to democracy (the potential violation and manipulation of social opinion), violations of human rights (algorithmic bias and privacy rights), job security (influences on labour demand), and copyright (property rights). Many analyses of AI governance have highlighted that such discursive issues interlink to form compacted wicked issues in public policy, making understanding and collaboration central to the policy design process rather than a pre-established, targeted solution (Holtel, 175-177; Straub, 4-7, 11; Gurumurthy and Chami, 9-13; Rindzevičiūtė; 829-835). Critical analyses of public policy case issues and surrounding debates have been provided by Grozdanoff, particularly in his quantification of key ethical concepts to provide better communicative devices bridging autonomous technology fields and the traditional discipline of ethics from the humanities (Grozdanoff, *Graph*, 109).

While these undertakings have provided plenty insight into the issues faced by policymakers, as well as the ethical concerns presented by the technology itself, this thesis will focus on the comprehension of aesthetically concerned, ideological concepts that can be lifted from the debates held presently. To aid comprehension of the ethical issues presented by the plethora of various stakeholders, it is necessary to develop cognisance of the ideological and interpretive foundations making up AI perceptions. Therefore, this chapter will analyse legal and policy discourse, evaluating that these issues ultimately stem from a conceptual

disagreement on the boundaries of ownership between various actors. For example, if one does not own their online data, data gathering would not be considered as a violation.

Thirdly, the scope of current legal and policy discourse on generative AI must be mapped and articulated more fully to legitimately define the space in which Mishima and Benjamin's aesthetic dispositions will be utilised. This chapter will define this thesis' scope of the discursive landscape on AI as fundamentally pertaining to 'ownership-as-responsibility'. Proposed policy measures to regulate AI have focused on ensuring transparency, archiving, and limiting misinformation, algorithmic bias, and discrimination; these approaches are made distinct through their various interpretations of where responsibility (as tied to ownership) lies. By defining this landscape, evaluations of various 'ownerships' can be better interpreted using the academic concepts provided by Mishima and Benjamin's literature.

3.1 Background

Myths and tales have long illustrated artificial intelligence as a concept of a crafted being endowed with human-esque capabilities. The Talmud narrates that a golem, created from mud, can act as companion to those close to God in an imperilled Jewish community (Honigsberg, 137-145). Warnings of misusing this obedient and mute creature are in the various re-tellings of Judah Loew ben Bezalel, a Talmudic scholar, and his creation of a golem using powers from the Kabbalah in Prague (Dekel and Gurley, 241-242).

Similarly, Shelley's *Frankenstein* reflects a similar iconographic tale of the innate dysfunction contained in humans creating artificial beings in their own mortal image. Shelley's tale portrays the unavoidable delusions of the human condition, unable to act in accordance with the actualisation of their ambitions. Once his fervour for knowledge is fulfilled, the doctor shuns the creature he had spawned: Shelley depicts the doctor's transition into the modern Prometheus, and the creature a monster (Shelley, 19; 35-37;.271-277). In such tales the dangers of Faustian bargains, even within oneself, are highlighted. These underlying worries surrounding artificial intelligence differs little tale-to-tale, despite the various forms the being may take.

In the 19th and 20th Century, scientific approaches within philosophy contained analyses combining linguistics with formal logic, setting the precedent for codified language; Alan Turing drew from Bertrand Russell's mathematical logic in the years developing his concept for his machine (Hodges). The Turing machine is conceptually capable of implementing any computer algorithm through its capacity to, in theory, infinitely loop its memory tape that holds

a finite set of symbols containing the components of the machine's 'language' (De Mol). For its breakthroughs in the theoretical realm of computation in its ability to 'read' and process inputs, the Turing machine is a conceptual model for modern central processing units.

Turing's *Computing Machinery and Intelligence* (1950) considered whether machines 'think' and contained definitions for the words 'think' and 'machines' to conceptualise the topic of artificial intelligence (433). In this paper, Turing proposes to test the accuracies of a machine by its imitation of human outputs, presupposing that it is *not* contemplation or the cognitive processes that are in question but that any testing would have to concentrate on the operations of a machine and its outputs (435-442).

Similarly, machine learning and AI research fields approached their machines with this theoretical foundation of operational definitions, utilising methods from symbols and formal language theories, statistics, probability theory, and generally contained within its inherited paradigm, rather than cognitive approaches (Harnad, 1-4, 15, 25-26). The 1950s saw the advent of AI research teams in the US, followed by decades of funding from the British and American governments into a potential breakthrough that could compete with the advent of the Trinity modern personal computer and the New Mexico nuclear weapons test just prior (Crevier, 6,117,298). Despite a relatively short period of reduced interest in AI research after failures in machine translation and speech recognition, the roadmap had been set for the eventual success in machine learning in the 1960s. Machine learning, a subfield of the academic discipline, specialised in whether machines could identify and create algorithms to solve problems through pattern recognition, inductive 'reasoning', logical and probability theory, and statistical approaches. While the Mark I Perceptron of the early 1960s was an unpopular and academically controversial materialisation of McCullough and Pitts' conviction of neural network research, the core premise that artificial neural networks could exist with complex linkages between varying mathematical processing inputs (neurons) has continued into the foundations of the 'deep learning' innovations we have seen in the contemporary (Crevier, 102-105; McKim, 38).

Although neural network research was near-abandoned following the Mark I Perceptron, breakthroughs in automated pattern recognition led to further discussion of machine learning—the most prominent example being the Annual Conference of the American Society of Public Administration in 1964 (McKim, 38). Outlining the need for the upper echelons of public management to understand the long-term impact of automation on public administration, considering the distinct nature of the government to move in discrete steps in contrast to the linear expansive flow of progress seen in private industries, the conference concluded that the government was undereducated and over-managed compared to the rapid

rate of automation development (Lindsay, 81). Insights in this conference included comments on the usefulness in permitting society to enjoy the fruits of automation to make social life easier and more creative, worries regarding the 'traumatic process' in the workforce for public organisations, and disappointment that automation had become 'a political football' (Lindsay, 79-80).

Matters developed little slower than the surprising forecasts made by those in the late 60s. As the notion of interactive computational units gained more traction with the rise of interdisciplinary cognitive sciences (namely connectionism), the founding pillars of neural networks gained a resurgence of interest in the early-to-mid 1980s, coinciding with Japan's launch of their 10-year public-private partnership to produce AI: the Fifth Generation Computer Systems (第五世代コンピュータ) (Crevier, 211-216; De Spiegeleire et al, 33; McKim, 40). With droughts of funding after both the bubble for AI interest and the Japanese economy had burst, AI researchers seemingly returned to the materialist notions espoused by Turing: they abandoned their ambitions to develop machines with human likeness as a parsimonious discipline, and instead fragmented to solve testable problems and applications (De Spiegeleire et al, 34; Crevier, 203-209, 212).

Yet, the resurgence of neural network research acted as a foundation for the development of deep learning algorithms. Deep learning differs from machine learning in its 'ontology'; the types of data it can process, and the methods it utilises and learns. The level of pre-processing required for deep learning is minimal compared to that of classical machine learning (which would necessitate a level of structure). For example, deep learning algorithms can not only sort, but highlight the key features necessary *to* distinguish and sort (IBM, *What*). Artificial neural networks serve as conceptual and practical key pillars for deep learning, which utilises an interconnected relationship between units of information.

These artificial neural networks provide Large Language Models the ability to process, for example, a dataset as large as '8 million documents' in the case of Chat GPT-2 to generate predictions for the next word given the previous words within some text (Radford et al, 3). Although GPT-2 was a training model not intended for public release due to concerns about the malicious applications of the technology, a smaller model was released in 2019 for research purposes on the cloud-based software development platform GitHub. The first iteration of the GPT (generative pre-trained transformer) series by OpenAI similarly predicted the next word in a sentence and was introduced in June 2018, developing into the more advanced translation and text-generation 2020 model GPT-3 that had led to a widespread acknowledgement of the

technology (Marr). The most recent published iteration as of April 2024 in the series is GPT-4, which developed the software's adaptability to user feedback, and other improvements in accuracy.

3.2 Literature Review

In academic, policy, and various media outlets, there are five main topics of discourse with varying degrees of input from stakeholders. These topics were also addressed in the March 2023 Liberal Democratic Paper (LDP) White Paper promoting AI Acceleration in the public and private sectors, prepared by the 'Project Team on the Evolution and Implementation of AI', notably lacking in the much-discussed copyright issues levied by legal firms and the media (7).

3.2.1 National Security

The LDP White Paper names the 'risk of abuse' of Generative AI 'such as the proliferation of sophisticated fake information whose authenticity is difficult to discern,' due to the developments of various types of media including image generation (3-4). Similarly, cyber-attacks, violations of privacy, and the military use of AI are named as potentially dangerous risks (4).

Bipartisan discussions on a US Algorithmic Accountability Act (AAA) have necessitated continual Congressional negotiations due to the divergence in partisan goals regarding national security: while the Democrats focused their claims on misinformation, the Republicans focused their claims on discrimination against conservatives (Mökander et al, 756). The EU AI Act similarly proposes mandates to standardise risk assessments and postmarketing monitoring plans for the use of automated decision systems such as generative AI and other machine learning variants but also details categories of risk with corresponding regulatory measures (European Commission, 11-28).

While the LDP names its hesitation for implementing further regulations until Japan can align with its EU and US partners on the cross-border technology, their definition of national security risks contains potential 'violations of privacy' and AI use by the military or for intelligence: this may be a grey area still left within the EU AI Act. Although foreign intelligence would be handled outside of the act itself, the gathering of domestic intelligence or the violation of citizen fundamental rights may persist. The EU Act contains exemptions for Member States on the prohibition of real-time biometrics and facial recognition technologies for law enforcement, if it is 'for important public security reasons, and the appropriate judicial or administrative authorisations are granted' (Madiega, 5; European Parliament). Meanwhile, China has introduced a bundle of regulations specifically on the use of deep synthesis such as deepfakes (Interesse).

Although national security concerns have appeared in LDP discussions, recommendations surrounded the need for the government and private sector to catch up and have a competitive advantage over the technological development in other countries (6). Namely, the government's 2021 'Social Principles of Human-Centric AI' was principally concerned with broadening and deepening research around AI to develop better risk assessment using the technology, rather than recommending a direct regulation to minimise abuse risks before its occurrence (9).

Furthermore, deeply intertwined with issues concerning 'human rights', concerns have been levied against AI technology highlighting the need for the public sector to better understand the cybersecurity vulnerabilities presented by AI (Grozdanoff, *Looming*). These concerns are in retort to claims of AI transparency by using open-source systems, pointing to the general lack of oversight and inconsistent quality control of such systems, potentially leading to security vulnerabilities akin to the 2014 discovery of the 'heartbleed bug' in the OpenSSL cryptography library (Grozdanoff, *Looming*, 102-103).

3.2.2 Threats to Democracy

The White Paper details risks of undue intervention in the democratic process, such as interference with elections or inciting public opinions to sway by spreading false information on topics such as 'historical recognition and culture' (19). This specification on topics surrounding national identity could be interpreted as a nod to Japan's contemporary tensions with China, the DPRK, ROK, and the Peninsulas of Southeast Asia.

In respect to the indication of foreign intervention, considering the LDP's longstanding geopolitical positions, industry concerns over the lost decades of Japan take an urgent turn in the public sector and whether the Japanese workforce (both within public and private sectors) are equipped to make well-informed, decisive judgements in technological risk assessment. Particularly, the bureaucratic bloat found in government agencies, who face further difficulties in hiring young digital talent, domestic companies, and the judicial process, may lag decisions on new technological risks.

As such, there have been deregulation moves prompted by the cabinet, implemented through the newly established Digital Agency, to rectify so-called 'analogue' legal provisions

to both increase Japan's competitiveness and potentially increase the speed at which public sector decisions can be implemented (Digital Agency, 地方). The Special Commission on Digital Administrative Reform finalised their review policy on approximately 9000 legal 'analogue' provisions stipulated as outdated for the present digital society (Digital Agency, *September*, 20). With further inspections and reviews scheduled, the revision of so-called analogue provisions coincides with a FY2022 4.51 billion JPY budget to catalogue various digital technologies owned by private-sector companies to further support digital infrastructure and the development of sales channels for venture and SME tech companies (読売新聞,*民間* 企業).

3.2.3 Human Rights Violations

The White Paper proposes AI regulations surrounding human rights violations to address serious risks such as AI being used for crime, for citizen surveillance, or other such privacy violations (18). Partial measures regarding privacy violations have been made in preparation for the use of generative AI in all Tokyo bureaus in August 2023: officials banned inputting personal or confidential information, with the chief of the Digital Service Bureau stating that using AI in a safe manner is a top priority (NHK). Although the LDP has expressed that the soft 'laws' (official guidelines) published in the 2019 "Principles for a Human-Centred AI Society" does not incorporate AI-specific privacy concerns if such technology is used by individuals in the medical or transportation fields, they have stated their reluctance to implement a national independent regulatory framework due to 'national security risks' (LDP, 19). The assumption is presumably that privacy rights would be protected under the umbrella of the Act on the Protection of Personal Information instead of implementing AI-specific regulations. Notably, the Hiroshima AI Process was spearheaded by Japan to help guide G7 discussions on a common regulatory framework particularly between themselves, Europe, and the US (OECD, 3; LDP, 18-19).

However, it is important to note that the conversations over the US AAA exist in a backdrop of general artificial intelligence litigation. In 2023, class action lawsuits have been made against Google's AI products (under Alphabet Inc), OpenAI (including their parent Microsoft and tools ChatGPT, VALL-E (speech generator), and DALL-E), on counts of not being transparent enough regarding data gathering practices, and violating privacy and property rights, respectively (Valente et al, 1-2). Plaintiff claims on the violation of privacy rights appear inevitably tied to claims on property rights, as even facial recognition cases (against software

developer NeoCortext in April 2023 or Prisma Labs in February 2023) pertained the common law right of publicity, and interpretations of ownership in face of the First Amendment and the federal Copyright Act (Valente et al, 5).

3.2.4 Job Security

Yutaka Matsuo, a Professor at the University of Tokyo, has stressed the societal impact of a widespread implementation of AI technology as it would be 'likely to affect nearly every whitecollar job' (LDP, 2). Following the 2013 estimate that 47 percent of total US employment would be at high risk from computerisation, jobs have already reportedly been affected by developments in Deep Learning and Large Language Models in computer programming, copy writing, and graphic design despite ongoing discussions on *whether* (now that AI has broken into wider discursive spaces) developments *could* affect *some* jobs (Chakravarti; Williams; Mok and Zinkula; Frey and Osoborne, 41; Napolitano; Challenger, 7). Studies by economists Daren Acemoglu and Pascual Restrepo showcase that despite technological change displaced workers at roughly the same rate to creating new employment opportunities in the former half of the post-war period, labour demand since the 1980s declined at a faster pace than technology could create new opportunities: nodding to a further bleak picture on the near-term labour market effects of generative AI (Hatzius et al, 12; Acemoglu and Restrepo, 16-26).

Outside of labour demand, there is also a precedent of litigation regarding algorithmic bias in the US through its federal agency, The Equal Employment Opportunity Commission, to enforce anti-bias laws (Burgo and Hughes). The lawsuit, eventually settled, claimed that a tutoring company had illegally screened out (through an AI-powered hiring selection tool) female applicants over 55 and male applicants over the age of 60 (Burgo and Hughes). While this case has centred the HR department and the need to ensure compliance while adopting automation tools, bias has been of great partisan debate in the US. As the control of potential algorithmic bias would necessitate some policy control of the scope in training material (and therefore the output of automation tools), Democrats have largely concentrated on ways to enforce anti-hate laws and mitigate the spread of misinformation, while Republicans have expressed the concern for government oversight on the information citizens receive with the potential inability to receive information supporting conservative opinions. The US AAA considered a benchmark for automation tools to be evaluated on these biases in comparison to prior decision systems (for example, human decision-makers in the HR team), requiring organisations to explain the transition into automation and whether it can bring more accurate,

and in theory 'less biased' results that are more appropriate to other laws such as those enforcing anti-discrimination (Mökander et al, 753).

Japan generally has not implemented regulations specifically constraining the use of AI (the government has largely concentrated on regulatory reform to promote its implementation) in regards to bias as, in theory, they are still subject to the Transparency Act^{*1} requiring transparency in advertising, search results, and user data related to searches, purchases, and views^{*2} (2.5.2.1d).

3.2.5 Copyright, Trademarks, and IP

The LDP White Paper acknowledges the widespread 'discussions on the interpretation of intellectual property laws' regarding generative AI despite their position that such property issues are legal and treated as separate from government regulatory requirements (20). Although they note the worthiness of considering 'active use of guidelines' to prevent the 'abusive use' of AI, the need to develop the content industry, 'one of Japan's strengths,' through technology was stressed (21). The application of guidelines also may nod to wider moves toward deregulation.

Japan has been dubbed as a 'machine learning paradise'*³ due to its amendments to the Copyright Act (Ueno, *Text*; Ueno, $\exists \forall A$; Warren et al; Tosaki et al;). Alongside the Copyright Act amendments in 2017, clarifying that processing or downloading data to develop AI models is exempt from infringing copyright, the Unfair Competition Prevention Act was also amended in 2019 to promote machine learning through relaxing regulations surrounding data gathering unless data is misused or acquired without authorisation (Habuka, 5). However, the amendments made to the Copyright Act that have consequently dubbed Japan as a 'machine learning paradise' make it so that for copyright infringement to be established, the purpose of exploitation must satisfy the enjoyment of 'the thoughts or sentiments expressed' in the original work, and the exploitation concerns unreasonable prejudice to the interests of the copyright owner (Tosaki et al, 2). In cases where one may use various copyrighted artworks in their training datasets for a for-profit AI tool to third parties, if the development of AI using these

^{*&}lt;sup>1</sup> Translation is my own, there are no official translations of this act. Full Japanese title is as follows: 特定デジ タルプラットフォームの透明性及び公正性の向上に関する法律 [*Tokutei dejitarupurattofōmu no tōmei-sei* oyobi kōsei-sei no kōjō ni kansuru hōritsu].

^{*&}lt;sup>2</sup> Interpretation based on own translation from the original Japanese as above, for the corresponding article and section.

^{*&}lt;sup>3</sup> Translation from the original Japanese is my own, but similar translations can be found in Storia Law's article, URL = <https://storialaw.jp/en/service/bigdata/bigdata-12>.

works is not for the purpose of generating the 'thoughts and sentiments expressed in the copyrighted works', the court may likely find that the requirements are satisfied to make such case exempt from copyright infringement (Tosaki et al, 3). Therefore, although Japan has been dubbed as a 'machine learning paradise,' generative AI cases may provide more varied interpretations due to the question of output and whether it is too similar to the benefits gained from the original materials used.

Meanwhile, policy-wise, the Copyright Subdivision of the Cultural Affairs Agency's Culture Council have recently begun discussions within a subcommittee to clarify these issues surrounding artificial intelligence. Specifically, the meeting included discussion on the inadequate consideration of the potential negative impacts AI may hold when the amendments were made in the revision of the Copyright Law: the creation of Article 30-4 (読売新聞, *Discussions*). Suggestions from meeting attendees included that a portion of profits by those who utilise gathered data for system development should be given back to the providers of such data (読売新聞, *Discussions*).

Diet member Takashi Kii had stated that, during a meeting of the House of Representative's financial oversight committee, Minister Nagaoka of MEXT had clarified that regardless of the method or content, AI can obtain information for both non-profit and profit purposes (Kii). Model trainers could then viably gather publicly available data, including data provided by the private sphere, without licence or authorisation requirements. Pressure was levied in August 2023, with four publishing and media organisations issuing a joint statement stating their strong concern for the unclear nature of the interpretation of copyright laws, naming the risk that unethical AI could be developed utilising pirated content, and that large amounts of content could be created without benefit to copyright holders (making it difficult for publication companies to continue business), stressing the necessity to clarify and determine if the Copyright Law should be revised and called for a forum where copyright holders could exchange opinions (読売新聞, 生成AI). In the same month, major international news organisations (largely concentrated in the EU) published an open letter calling for enhanced transparency of training sets and better protection of copyrighted material (Hanson et al).

In terms of AI generated artwork, this causes a further concern of potential imitation practices. While information analyses for text generation may gather a wide range of data and research to produce viable outputs, art generation not only requires pictures made by others, but platforms can receive inputs to create drawings in the style of individual artists. As each AI piece is in theory unique, it is difficult to fully argue that AI generated artwork is complete replication despite the threat to job security: evidenced by a 2023 Arts Workers Japan survey revealing that 58.5% of artists were worried about losing jobs, with 25.1% unsure of such prospects (6).

Meanwhile, the US has seen many cases whereby AI programmers or companies owning AI technology were denied their copyright registration application, as the US copyright law only protects works of human creation (Hanson et al). These moves have not yet been made in a less litigious Japan, especially considering the high barrier of such a registration with this precedent in the US and the lack of a large, generative AI company native in Japan.

3.3 Case Study Scope

The following section will define the scope of this paper's interest, namely on the concept of ownership, and its position as a foundational supposition for the preceding five major points of interest in public and private AI discourse: national security, threats to democracy, human rights violations, job security, and copyright.

The two topics national security and threats to democracy both concern some external force to interfere with the state's operation, whether a means to coerce the state through guiding internal partisan discourse, exercising strategic communication operations, or gathering intelligence for their own benefit. In addition to these exogenous forces, there are internal types that include a breach of civilian dignity with potential 'capturing' of the technology for domestic military, political, or intelligence usage – this can culminate in human rights risks. Other internal threats can include disinformation and the subversion of 'proper' political debate, cyber-attacks, and leaks of sensitive and confidential information.

Exogenous threats, if utilising generative AI including artworks, are a concern to a state due to their seemingly uncontrollable nature. This uncertainty in turn incites fear with the ambiguity of other state's intentions, making the perceived possibility of using such power to coerce viable. In these scenarios, debates on what measures to implement to heighten national security is made difficult when this intangible mechanism can in theory exponentially progress. Combined with potential internal threats, conversations (showcased by the discussions in the US Congress surrounding AAA) can devolve into whether it is politically transparent and healthy for democratic powers to control/oversee the output of generative technology and, on the other side, whether there are threats of algorithmic bias that may subvert citizen perspectives on critical matters. Despite either party's concern on exogenous threats, the very measure necessary to prevent such a risk would necessitate an expansion of 'emergency' powers by the domestic political infrastructure, leading to further concerns about technocratic leadership, potential corruption, and deeper psychological operations within the state's mechanism itself.

These concerns all stem from the difficulty in locating the responsibility of something that takes from so many sources, acquires so many inputs, and can potentially be controlled or (mis)guided by so many. Although current measures have concentrated on making AI 'transparent', whether it be data sets, the various limitations on what it can process, or people who publish generated works, the concept of transparency only works against these responsibility issues if the level of control and understanding of the technology was truly equal. In the US' case, since there are measures already guiding the AI's output (misinformation and hate speech), generative technology companies and domestic political parties hold certain levels of control over the generative works. Transparency measures are then misleading in-ofitself if the capacity to control (by political instruments or corporations) are not addressed itself: the contents of what is controlled/processed is of less concern than the legal ability for the control to exist in the first place. Ownership of the tools of information is then the key ethical contention within 'national security' and 'threats to democracy' arguments: the grounds of citizen interpretation, language, and perception, would lie in the hands of those who own information's dispersion. This would be the same key issue for human rights issues and the risk of privacy violations.

If we briefly take 'ownership' to be an interpretative signifier in which someone 'owns' something if an outsider can recognise that fact, policies making data sets more 'transparent' may cause further concern. If one makes and 'owns' information X, and it is (consensually) used to provide for generative tools which uses X, in theory the outputs from the tool would at least partially be a derivative of X as the machine had identified complex patterns with information X, Y, Z and beyond. There would at least be some public recognition of the original owner, even if the output is completely different in form than the final product – this is purely in terms of perception, and not a legal standard. In such case, if policy makers are regulating AI so that it does not (to the best of their ability) create misinformation or hate speech, does the training data set have partial responsibility in public perception for the output created? Clearly the training data and those who have contributed to it should not be held responsible, but how could one then still maintain the viability for contributors to still 'own' part of the output and its development?

These ethical dimensions surrounding the concept 'ownership-as-responsibility' are also fundamental to the discourse surrounding job security in the face of generative technology. Although the right to employment may not be considered strictly a right in its most natural form, conversations concerning the stability of white-collar jobs and potential measures to mitigate large spread job loss is still pertinent to economic stability and societal wellbeing. Current policies, as abovementioned, place importance on antidiscrimination laws at the hand of AI bias in the EU, and in Japan METI has largely concentrated on the incorporation of AI into curriculum both at educational institutions (Geidai being the pertinent example incorporating AI Art), private institutions, and general workforce development including to those in the public sector.

In the EU's case, the concentration on discriminatory AI-usage in recruitment omits the very discriminatory nature in incorporating AI itself: jobs may not be directly 'replaced' by AI, but the use of AI programmes can be worrying for the future demands in various graduate outlooks (such as in coding), and a potential downsizing of job sector demands. With machine learning, it is also a clear possibility that these job sector fluctuations are not only a transitional effect, but all job sectors can continuously be affected by an ever-expanding technological capacity. The responsibility is then placed on AI tools that may produce discriminatory outputs, yet responsibility is not placed (instead it is encouraged) to incorporate machines that can adapt to replace jobs in the near future.

3.4 Conclusion

Therefore, the concept of ownership is pertinent to the major policy measures currently discussed. These debates involve further policy discourse surrounding various industries, the importance of culture and heritage, education, geopolitics, and even regional and workplace development. In the realm of AI Art, which follows the same ethical and legal conversations as AI overall, the same concept of 'ownership-as-responsibility' is foundational to the policy manoeuvres: that regulators distinguish between owners to levy responsibility toward the proposed legislation. The following chapters will therefore proceed with investigating the concept of art ownership (and if the 'AI-turn' in art changes these ideas) in Mishima and Benjamin's literature to evaluate the policies as such.

CHAPTER 4 WALTER BENJAMIN

A major work in the history of aesthetic-political criticism, Walter Benjamin's *The Work of Art in the Age of Mechanical Reproduction* proposes that the advent of technological reproduction (film and photography) signified great social upheaval. By supposing that the advent of technological reproduction (re-)shapes the contemporary aesthetic experience alongside man's reception of his existence and purpose in modernity, Benjamin critiques an otherwise attenuated and circumscribed relationship with art. These material developments in creative technology allowed for democratised and heteronomous access to sharing and experiencing perspectives, serving as a bulwark against an autonomous societal relationship with art, akin to a ritual of art, wherein the irrational dream of the art world was categorically separated from man. Rather, with media becoming oriented to the masses, art became underpinned by the political.

Benjamin's arguments and their potential applicability and relationship to the case study of generative AI policy in Chapter 5 require further definitional clarification and analysis. The distinctions between 'cultic' (traditional) art and 'mechanically reproduced' artwork, as well as the suppositions required to hold the position that the technological developments constituted a fundamental shift in art conception, further require consolidation and elucidation.

Firstly, this chapter will analyse Benjamin's concept of 'cultic art', the conservative form of art ownership, in contrast to the proposed ideal form of art ownership that had emerged from the development of mechanical reproduction.

Secondly, this chapter will introduce the concept of the 'flâneur', a man who wanders through the cityscape, observing contemporary life through both its physical manifestations and his informed imagination. This will aid in understanding how his cultural criticism relates to his wider theoretical oeuvre.

Thirdly, relaying Benjamin's stances on subjectivity and the 'rational', this chapter will argue that Benjamin's arguments to incorporate the irrational and the subjective into social notions of 'reality' exist in a larger stance of modern man's existing in a cultural cityscape, depicted through his essays criticising Surrealist art.

Fourthly, the relationship between Benjamin's political and aesthetically-concerned argumentation, alongside the conceptual vehicles used to illustrate them, will be analysed to highlight his broader metaphysical stances. This fourth section will furthermore evaluate the expressly *political* aspects of his arguments, clarifying where the political lies in relation to his papers on culture. These wider political conclusions on man's modern tragedy will be later differentiated with Mishima's in Chapter 8.

4.1 Cultic Value and Mechanical Reproduction

Benjamin' *The Work of Art in the Age of Mechanical Reproduction* proposes the cultural and political implications of revolutionary reproduction: namely, a cultural critic of the 'uniqueness' of artworks with the rise of photography and film. Benjamin defines traditional works through uniqueness and duration, as these values are deeply intertwined with the acknowledgement of them as works of art (10).

The reason for the ascription of traditional artwork's uniqueness as a pinnacle value follows the functional motivations for the oldest works of 'art'. Older artworks are described to have emerged from ritual-magical intrigue, and through classical and medieval times becoming more religiously ordained and inspired (10). The one-of-a-kind value of traditional works of art thus falls under this ritualistic value. While religious or ritualistic works were created for their functions toward belief and inspiration, being a force of utility or derived purpose, the progression of such works is described to contain a 'cultic value' (10-11, 40). Even if a piece of traditional artwork lacked an ordained or religious purpose, the effect of a genuine piece of work to capture the imagination of the perceiver, and the intrigue that the work itself espouses (to see *the* artwork) purports an exclusionary, special, and cultic value in-of-itself. Benjamin's 'cultic value' is then not exclusive to works that are directly religious, but the work itself is acknowledged as if it were an instrument of magic, with its existence an intrigue, inciting the artwork to be perceived as exceptional or spectacular owing to its rarity.

Works of art that contain such cultic value similarly espouse an 'aura': what shrinks or is lost when the work of art can be mechanically reproduced (7). This aura lies beyond the realm of art since the work of art remains and is reproduced. What instead shrinks may be akin to the values placed *upon* the 'original' work and the experience of it, including its cultic or exclusionary elements, regardless of the pure *form* of the work itself.

Benjamin introduces these concepts as an explanatory foundation for how mechanical reproduction is revolutionary for culture and for critical history. Reproduction, of early fixed images and the success of camera images, was met with the movement *l'art pour l'art*, being that photography was seen as presenting a degenerative social crisis, particularly with

developments in modern socialism in France and Russia. Benjamin argues that art-for-art'ssake proponents were reacting to photography with a 'theology of art', a negatively defined endeavour where 'pure' (and real) art rejected social functions and subjects (11-14). While the reaction indicated an inherently political motivation, such as a romantic or futurist view of art mirrored by reactionary or historicist perspectives, the advent of photography itself propelled a departure from ritualistic or cultic-derived art production, becoming instead underpinned by politics.

Photography, by shrinking the 'aura' surrounding traditional works through its mechanical reproduction, increases 'display' values, making artistic functions incidental as cultic value decreases (13). While the increase of display value reflects the decline of cultic value, the portrait form of early photography indicates the persistence of traditional perceptions of art. As the use for photography within its early development were mostly to preserve images of family members and the wealthy, photography's introduction still contained glimpses of auric and cultic value, owing to its functions toward capturing and protecting images of subjects for after their passing. However, the late 19th and early 20th century developments towards the mass commercialisation of photography led to wider uses of the camera, namely toward reportage and permeating the more immediate functions within illustrated press (4-5, 13-15). Despite the grasp of cultic value in early mechanical reproduction developments, Benjamin argues that the evolution of the camera's social functions marked the triumph of display value, and the loss of its auric counterpart (14-15).

Furthermore, Benjamin's normative claims follow: 'mechanical reproduction orients reality toward the masses, and the masses toward reality', as thought and perception are both democratised in widening interaction with the medium, and the experience of art therefore socialised (10). Access to authorship, especially in film as the screen actor, a production participant, and viewer, all require an entrenched relationship with the camera to sympathise with the narrative. Distinctions between artist and viewer therefore become blurred, and with them, the camera-free aspects of reality become as artificial as the reality depicted through the camera (22-23). Romantic or nostalgic elements of a camera-free, 'genuine' reality of human experience are therefore most acutely captured through the lens, allowing man's experience to be granted greater significance.

The crisis of art and the cultural departure from cultic values can therefore be read in conjunction with Benjamin's conclusion, where art is alienated from itself and 'allows its own destruction to be savoured as an aesthetic pleasure of the first order', an 'aestheticization of politics that Fascism pursues. Communism's reply is to politicise art' (38). Crisis is given either

aesthetic and ritualistic or political meaning. In fascism, the presented social crisis is given aesthetic meaning through destruction, to maintain a structural 'integrity' of art as illustrated by art for art's sake sentiments. In communism, the same crisis is given political meaning through emancipatory, inclusionary, and encompassing resolutions. Opposition is thus constructed between ritual and politics, cultic and display values (Osborne and Charles). These contrasts provide the foundations for contextually pertinent claims on political ideology, and their solutions to crises brought on by technological developments.

4.2 The Flâneur

'Flâneur' is a French term meaning someone who strolls, and 'flânerie' is the act of strolling. Taking inspiration from Charles Baudelaire, a French poet working as an art critic and credited as being one of the first prominent Modernists, Benjamin uses the figure of the 'flâneur' as an archetype and conceptual vehicle to depict the modern experience (Berman, 131-134; Eiland and McLaughlin, xii; Baudelaire, IV). In Benjamin's oeuvre, the flâneur first makes a prominent appearance in his collection of passages regarding the Paris arcades, which Benjamin considered to be one of the foremost architectures of the 19th century (Eiland and McLaughlin, ix). The collective publications of these writings are presently more commonly known as *The Arcades Project*.

The Arcades Project features topographies and motifs that blend the artistic, sociological, and theological crises presented by historical shock of modernity, with the flâneur acting as a vehicle which presents unrepentant realism alongside an enraptured and illusory idealism. In this regard, Benjamin articulates the purpose of his use of typographies and characters, such as the flâneur, to reflect on a 19th century view of the world as consisting of endless series of facts (*Arcades*, 14; Eiland and McLaughlin, xii). Benjamin argues that a linear perspective of history is necessarily limited to inventories of humanity's congealed points, minimising the experiential and spirited elements that transforms relationships between the past and the present (*Arcades*, 14).

As such, secondary literature on *The Arcades Project* widely agrees on the purpose of its fractured, patchwork-esque form featuring illustrative quotations and ambiguous narratorship: a critically modernist historiographical endeavour to weave the traces left by historical object detritus with perceptions and cultural transmissions held within those who wander the present (Buck-Morss, 219; Frisby, 13, Sussman, 170-171; Calderbank, 1). *The Arcades Project*, as primarily a literary and creatively historiographical endeavour in a modernist encapsulation of historically-informed perceptions, lends secondary literature to agree on Benjamin's use of: dialectical images and quotations (stemming from the montage-esque form); Nietzschean 'eternal return' (as a cosmological implication whereby there is a recurrence of conditions), and the phantasmagorical (Frisby, 13; Silvello, 4; Sussman, 169; Cohen, 23, 253; Nguyen, 132; Butler, 12-13). Despite this broad agreement, secondary literature range in their interpretations of the Marxist elements that make up *The Arcades Project*, particularly in the degree to which Benjamin's work (alongside his wider oeuvre) provides a Marxist-akin dialectical materialism, and the relationship of Benjamin's (Marxist) materialism with the quasi-messianic notions of language and placed significance of dreams/phantasmagoria (happenings that blur the line between the real or imaginary) (Rollason, 272-273; Silvello, 3; Butler, 16; Lowy, 2-3).

Calderbank, within his discussion of Benjamin's 'rejection' of a Marxist economic base of causality and reflection, highlights Benjamin's usage of Freudian dreams as merely interpretable within the totality of waking reality: that dreams are embedded into the fabric of reality as much as reality is an organic whole *with* dreams (8). However, outside of the specifically 'Marxist' materialism debate that lies outside the confines of this topic, this thesis finds Nguyen's argument compelling on a reflective and psycho-analytically-concerned Benjamin. While Calderbank's argument concerning Benjamin's rejection of an economic base is partially agreeable insofar as the very concept of a perceptible or staunch ideological structure is criticised, Nguyen provides a compelling articulation on how such an economic base is intertwined with the psycho-analytical (Calderbank, 8; Nguyen, 133-136). The innate materialism embedded within *The Arcades Project*, found in piecemeal commentaries on Parisian life, blends the experiences in being with the structures that house them: through factory labour, a worker may perform a passive activity of repetition that disrupts the possibility of 'true' experience with such drudgery (phenomenologically) impeding the process of temporalisation that would otherwise linearly constitute time (Nguyen, 135-136, 141).

The literary aspects of *The Arcades Project* thus lend credence to scholarly agreements on Benjamin's critique of a linearly conceptualised teleological history, while also highlighting the importance of human experience as constituting his critical endeavour. In a similar manner, writers have utilised Benjamin's conceptual elements to analyse contemporary psychologically embedded cases, such as financial risk calculations and 'Black Swan' events in the financial sector, curation practices experimenting with the applicability of Benjamin's phantasmagoria in the digital age, and topographical studies of commodity capitalism in Tokyo, amongst others (Loui, 13; Giannini; Khatib, 2; Estrada, 13). This thesis will similarly place emphasis on 'cultic value', 'mechanical reproduction', 'the flâneur', and 'dreams', relating such concepts to each other to locate them in Benjamin's wider theories, to analyse their significance and relation to underlying dispositions held within the current public sector discourse surrounding AI.

Benjamin speaks to the importance of reading the presence of such a past through a disposition toward 'phantasmagoria': lingering spirits and their manifestations (*Arcades*, 14-15). This viewership necessitates the flâneur, a character acutely aware of their 'thrownness' into the present, to be in part continually subjective (as their perspective is overwhelming in their narration) while maintaining a level of distance as a spectator of the past's remains: he is present in the space but no longer treats it his native ground ([J66a,6]). This artist figure can understand multifaceted layers of experience, while also encompassing their understanding with symbolic aspects of life. Through the symbolic conceptual vehicle of the flâneur, Benjamin explores the dialectic between the miseries and luxuries of modernity; the dually experiential (phenomenological) and structural (symbolic) aspects of modern life.

The flâneur takes form two-fold, as the unencumbered and abstracted self, and the embedded and situated self. The flâneur is not disembodied in that they exist within the social fabric they are thrown into, as without such attachment the recognition of the cityscape as reflecting socioeconomic divides would be impossible (*Arcades*, 10, 86-88). He similarly does not make judgement on his selfhood, nor does he ever decidedly 'choose' to be the flâneur. It is through a perpetuated discovery, whether dialectically opposed to the world around him or otherwise, that he narrates the world around him. To identify the horizon line, the flâneur requires a level of detachment between himself and the world to effectively experience the aspects of being 'within' the social fabric while providing the structural and symbolic aspects of modern life ([D,1]). In his flânerie, whereby he experiences (and is intermeshed) within the social fabric, he is embedded. Yet he is also free to wonder as if he were an abstract individual (merely a concept of an individual) *within* a deeply embedded *society*. It is here that individualistic notions, of an abstract individual meet the deeply historical and entrenched fabric in which the flâneur necessarily belongs.

This proposes two levels of conflict. On the unit level, the self faces tensions between understanding one's freedom in defining itself (and similarly in garnering knowledge of itself in relation to the world it finds itself in), and the limitations in such freedom through the entrenched fabric they find itself inherently a part of (that freedom is found only within being in the present embedded self). On the more macro level, the flâneur presents tensions between the private and public, with the implication being that the division cannot exist, and further should not exist, to bring the private into the public sphere for full understanding of both experiential and structural aspects of modernity. The self is thus implied by the figure of the flâneur to be a product of society: a communitarian approach. This is contrasted with the liberal perspective of the self as preceding society, striking a similarity with the flâneur's implicit critique of embedded-ness through his conceptual ability to align the entrenched phenomenological and symbolic aspects of modern life in a genealogical investigation of its victims.

Therefore, the flâneur can be seen as a self-aware product of modernity, especially in its similarity to the Freudian conception of psychoanalysis: the subject is created, sustained, and decentred from itself via a dialectical interplay of the conscious and the unconscious (Ogden, 517; Whitebook, 97). Benjamin's flâneur proposes a decentred self that lacks a core ego, yet is narrated through a floating presence/absence dialectical relationship, illustrating the embedded nature of the self with its surroundings. Through this illustration, the flâneur is built on the interplay of different dimensions of subjectivity: blending the subjective and 'irrational' as conscious and experiential with the emergence of the unconscious as presenting themselves through structural forms.

4.3 Dreams

In *The Arcades Project*, the flâneur, characterised as a leisurely stroller, experiences an 'anamnestic intoxication' specific to the context of 19th century urban environments ([M1,5]). While absorbing the sensory stimuli of being physically in the city, he also assimilates abstracted knowledge and historical facts. Abstracted historical facts, 'dead facts', can merely be experienced and lived-through ([M1,5]). Knowledge dissemination of such abstracted, mortal facts is typically communicated between generations through 'word of mouth' (and in the nineteenth-century, via literature) ([M1,5]). The rich literary tradition surrounding urban life can therefore serve as a backdrop for the flâneur: the storied landscape supposing the grounds to which dreamlike contemplation emerges. In this manner, studying texts becomes a less direct act, as it predisposes the flâneur to be in a dreamlike state, treating the cityscape as a canvas on which to idly contemplate as he reinterprets the same experiences. A steep slope is re-experienced by the flâneur, subconsciously building upon the abstracted facts of the need for an extra draught horse for the omnibuses passing the streets of Paris ([M1,1]).

Illustrating how historical facts embedded in literature can enrich the present experience of flânerie, Benjamin utilises the conceptual figure of the flâneur as the symbiotic relationship between both experiential elements of the city life, and elements of its compounded structure: the flâneur transforms historical facts and the senses into lived experiences. Dreams are therefore inherently rational or 'real' endeavours, as the 'abstract', nightmare-ish, or fantastical, constitute a necessary element in assimilating historical knowledge and the provision of rich, multifaceted lived experiences.

Benjamin's endeavour to utilise the flâneur as a vehicle to elucidate the dreamlike as immanent in knowledge implies a thymotic aspect of dreams as they desire realisation and recognition. Benjamin's *Surrealism*, a deeply poetic and enigmatic political literary critique written in 1928, further unpacks the thymotic-yet-tragic characteristic of dreams. The essay provides an unforgiving eye toward Surrealism (as a wider cultural movement, encompassing both the visual arts and the literary endeavours headed by Brêton, of a disdain for literal meanings and opting for esoteric 'dream-inspired' poetry).

This realism, however—that is, the belief in a real, separate existence of concepts whether outside or inside things—has always very quickly crossed over from the logical realm of ideas to the magical realm of words. And it is as magical experiments with words, not as artistic dabbling, that we must understand the passionate phonetic and graphical transformational games that have run through the whole literature of the avant-garde for the past fifteen years, whether it is called Futurism, Dadaism, or Surrealism.

(Benjamin, Surrealism, 51-52)

In response to the supposed decomposition of literalism to emphasise poetic undercurrents (akin to a Freudian subconsciousness or other experiential phenomenon as being entrenched within layers of esoteric poetic history), Benjamin argues that Surrealism necessarily supports the very realism it seeks to destroy. To depict an ambiguous and malleable relationship between the overt (the overtones of a poem) and the 'undercurrents' (the implied esotericism and experiential) requires a self-referential experimentation of long-standing structures, such as phonetics and other communicative devices. This necessitates a separation, therefore, between the 'logical' and 'magical': while the endeavour of creating words may be magical and experimental, the implication is that logic is required as a separate entity for its endeavour.

The aesthetic of the painter, the poet, en état de surprise, of art as the reaction of one surprised, is enmeshed in a number of pernicious romantic prejudices. Any serious exploration of occult, surrealistic, phantasmagoric gifts and phenomena presupposes a dialectical intertwinement to which a romantic turn of mind is impervious. For histrionic or fanatical stress on the mysterious side of the mysterious takes us no further; we penetrate the mystery only to the degree that we recognize it in the everyday world, by virtue of a dialectical optic that perceives the everyday as impenetrable, the impenetrable as everyday. [...] The reader, the thinker, the loiterer, the flâneur, are types of illuminati just as much as the opium eater, the dreamer, the ecstatic. And more profane. Not to mention that most terrible drug—ourselves—which we take in solitude.

(Benjamin, Surrealism, 55)

In this regard, Surrealism, through referencing itself as the detractor of literalism through implied meanings and woven mythologies of poetic history, treats the inherent experiences of being as mystical. The implication, then, that the mystical necessarily lies as a *separate* entity to the real or logical: rather than the mystical as being equally entrenched and compositional to the recognition of the real.

In the world's structure dream loosens individuality like a bad tooth. This loosening of the self by intoxication is, at the same time, precisely the fruitful, living experience that allowed these people to step outside the domain of intoxication.

(Benjamin, Surrealism, 48)

Contradiction thus emerges for Surrealism under Benjamin's criticism: while supposing their free imagination throughout the dialectical process, the magical treatment of poetry that creates its idiosyncratic elements of shock merely realises Surrealism as squatting intelligentsia within the dialectical process. At the same time, this magical treatment of poetry also falls short of illuminating or unsettling the subconscious, rather serving to support the hard walls of logic by pointing to the absurdity and magic of itself.

4.4 The Historical and Political

Benjamin's criticism of surrealism helps to constitute his wider prescriptions on embodying subjectivity into the fabric of reality; an argument carried into his later essay *The Work of Art in the Age of Mechanical Reproduction*. Even when paintings and photography are attempting to be brought to the masses, cultic and display values 'squat', obstructing the alleviation of subjectivity from its shackles as juxtaposed to its counterpart: reality.

In his previous essay critiquing Surrealism, Benjamin had highlighted the necessity to distinguish between the 'real' and the 'sur-real' for it to subvert expectations and provide the element of shock. Similarly, *The Work of Art* argues that previous attempts to bring non-reproduced (original) artwork to the masses necessarily debases and shocks due to the inherent division implied between cultic value, the medium utilised, and mass reception. In galleries, a Picasso painting that may 'disrupt' the interpretation of 'reality' through his deconstruction of the figurative can be taken as backward to the masses due to the medium's presupposed value (26-27). Paintings, due to their minimal reproduction and redistribution being contained within the gallery or salon audience, emit a preconceived notion of high or elitist nature. A disruptive artist that may be enjoyed by the masses is therefore disruptive, and backward, due to the subversion of the medium and value's expectation. On the other hand, 'base' comedy (slapstick, for example) such as Chaplin's is received as progressive, due to the scale in which film is reproduceable, making the art medium inherently made and received toward the simultaneous reception by large masses of people (27).

'Shock' reactions, or artworks attempting to elicit such reactions, are therefore emblematic to the crisis of art value in the face of mechanical reproduction. Surrealism presented its works as a disruptive force, to upheave the distinctions between structure (linguistically, in the case of poetry, or in terms of 'form' or 'subject/object', in the case of the traditional arts) and experience: utilising the element of shock to jolt viewers into the 'sur-real'. Benjamin's criticism illuminated the counteractive nature of said works, as the element of shock, in conjunction with their disruptive project, served merely to point toward the existence of the distinction, rather than embodying experience within the structure to blur their respective boundaries. In a similar fashion, audiences might find confusion or shock upon seeing a disruptive original art piece (or one that is less catered to the masses, owing to the scale of reproducibility, or the otherwise perceived display value of the piece) due to the juxtaposition between expectation (formed via past perceptions of art values) and what is presented in front of them (seen therefore as degenerative). Benjamin's normative claim, to realise the conjunction of symbolic structure and experience, therefore provides criticism for socialpolitical reactions to mechanically reproducible art, and for the culminating crisis for art value.

The politically normative elements of such socio-aesthetic critiques are made more explicit in conjunction with Benjamin's work *On the Concept of History*: an essay detailing the tragic predicament in which man finds himself, through his relationship with the progression of history. Paul Klee's painting *Angelus Novus* is utilised as a visual motif, whereby the depicted 'angel of history' cannot see the future and can merely look back to the past's detritus

of devastated men left in history's progression. Benjamin dubs the momentous storm propelling the grudging angel forward what we may call 'progress' (249). Consequently, the devastated past is left with the storm's path extended, creating a self-fulfilling and relentless liberal (progressive) historicism in which the Geist abandons the experiences the present had built itself through. Yet Benjamin's ultimate tragedy may be the angel's inability to address his devastation's wake; the implication being that a romantic or innately nostalgic sensibility merely points toward the present issue, rather than upheaving the storm that perpetuates such a tragedy. In this regard, nostalgia merely points to the present condition. Man looks back toward the romantic past or may squint at the continued path forward with dread. Nostalgia, meanwhile, merely points to the tragedy in linear terms, akin to the Surrealists pointing to the absurdity of experiential-structural divides in the arts. Rather, the prescriptive implication is to put in crisis the crisis itself:

Marx says that revolutions are the locomotive of world history. But perhaps it is quite otherwise. Perhaps revolutions are an attempt by the passengers on this train—namely, the human race—to activate the emergency brake. (Benjamin, Paralipomena, 402)

4.5 Conclusion

Instead of the gathering of emancipated peoples or the recognition of present injustice, socioaesthetic criticisms as conceptualised through the flâneur are the central arguments for Benjamin's political positions. The experiential aspects of life (those which are phenomenologically describable), are dreamed alongside the structural aspects of the present day. In combination, the flâneur's particular exercise of spatial anthropology *embodies* subjectivity, and therefore fulfils the previously juxtaposed past and future in a continued realisation of critical history. Flânerie thus opens the linear trajectory of progress through dismantling the distinctions placed between past experiences and the structures that guide toward the future.

Similarly, the reactions toward the decay of 'cultic value' are criticised due to its holding firm the boundaries that divide form (the object of art, whether mechanically reproduced or not) from the phenomenon it espouses. The elevation of film as 'democratising' is then primarily due to the medium's blurring between the physical 'reality' in which the audience spectates, and the (often times more) 'real' experiences elicited when watching the curated piece. All parties know of film's farcical nature, yet the medium highlights the realities

embedded within the fabric of human experience, making the medium ultimately a disruption of the boundaries between dream and form.

CHAPTER 5 BENJAMIN AND AI POLICY

Chapter 4 had concluded with an evaluation of Benjamin's aesthetically-concerned political positions. Namely, the critical recognition of present and historical injustices through recognising the unshakable experiential aspects of life, embedded into structural forms of understanding one's interactions with the world they find themselves in. The arguments presented in Chapter 4 will now serve as a lens to analyse contemporary legal, policy, and civil discourses on generative AI.

This chapter will first compare the characteristics of film and photography as presented in Benjamin's The Work of Art in the Age of Mechanical Reproduction and the characteristics of AI art. This endeavour will find that AI art is not mechanical reproduction but could have similar normative and cultural effects such as diminishing the cultic value of artwork, increasing display values, and thus increasing experiential notions. It will also present the material circumstances that must be met for AI to achieve these prescriptive social changes relayed. AI must be able to produce large volumes of artwork and must be accessible to further masses. These requirements are investigated in the second section of this chapter, through an analysis of democratisation arguments on AI (that creation or knowledge is made further accessible through the technology) in relation to Benjamin's culturally concerned arguments toward critical and emancipatory history. After investigating the degree to which AI artwork is accessible and scalable, the third section will utilise the evaluations on the material conditions of AI and its applicability to Benjamin's normative arguments to analyse potential policy responses and criticisms that culminate from such critical or emancipatory notions. While there are difficulties in constructing a 'policy solution' from an approach that may counter the fundamentals of economic or utilitarian calculations, current policies can be critiqued from the lens garnered from Chapter 4 to give light to hermeneutical, cultural, and behavioural aspects of social-political life.

5.1 AI and Mechanical Reproduction

AI art is not mechanical reproduction, in that Benjamin had specifically utilised the concept in reference to the technical progression of the camera in film and photography. AI is a different 'medium', insofar that it propels itself through (multi-layered and webbed) deep learning and

pattern recognition to create outputs that are self-processed and respondent to additional data. The further automated, or more so self-reliant, nature of AI programmes make them distinct from a photographer's camera.

Against a protective and exclusionary notion of culture and politics as presented by reactionary modernists or fascists, Benjamin utilises the concept 'mechanical reproduction' to propel emancipatory and critical ideology (*Work*, 24-26, 37-38, 45-46; *Arcades*, 14-15, [M1,5]). Therefore, this section will analyse the characteristics of mechanical reproduction as presented by Benjamin in comparison with the characteristics of AI art, to further evaluate its potential ideologically inclined effects. In terms of what mechanical reproduction and AI are, the two are distinct. However, mechanical reproduction's characteristics and effects are two-fold: it diminishes cultic values of art, and in turn increases display values of cultural media (*Work*, 7, 13-14). As argued in Chapter 4, these social effects work to serve Benjamin's more ideological and normative prescriptions critiquing historicism and promoting emancipatory, critical history—that art enjoys an increase in experiential notions. To assess the theoretical applicability of Benjamin's normative arguments on mechanical reproduction to the case of generative art, these two main characteristics must be compared.

AI may further the normative effects of mechanical reproduction if:

- 1. AI increases the display value of artwork, and
- 2. AI diminishes cultic valuation of artwork, and
- 3. AI, due to the former two characteristics, increases experiential notions.

Mechanical reproduction decreases cultic value. Cultic value, also known as auric and cult value, refers to the veneration of artworks as divine, or something to be worshipped. For artwork to hold cultic value, it requires retroactive social valuation through it being an original work: it is then in reaction to copies and sentiments of inauthenticity, being that true art is an original (evoking values of tradition) makes it distinct from other 'art' (*Work*, 9). Thus, an artwork's exclusivity and mystique are indispensable for its receiving cultic valuation (*Work*, 11). Mechanical reproduction, namely photography, diminished cultic value due to the scale in which it could produce. This correlates with the subjects explored, and the themes depicted in photography as the camera was industrialised. With the increase in volume of artwork, and the increase in general access to the camera, art became further oriented to the masses in a fashion of utility and consumption, rather than one of exclusivity or preservation (*Work*, 14-15). Therefore, display value had come to dominate the social oeuvre in place of its cultic counterpart.
Chapter 4 had concluded that Benjamin's aesthetic claims were not a centrally *historical* argument, instead presenting a historical phenomenon to evaluate the decline of *historicising* social perspectives due to the diminishing importance of authenticity. As the scalability of mechanical reproduction orients values toward the masses, it diminishes the importance of cultic value, typically of a static object of adoration that is important due to inherited notions of authenticity and uniqueness (*Work*, 14-23). Simultaneously, mechanical reproduction highlights perceptive structures and experiential notions of the masses: notions that break down historicist, teleological, and linear preconceptions and potentially allowing for more critical and emancipatory views of man's present relationship with history. In essence, the emancipatory act of breaking down linear trajectories that suppose a transfixed and stationary passing of times, compartmentalised into 'events', is akin to the politicisation of art previously underpinned by ritual (*Work*, 10-12).

As the historical case study of photography and film was evaluated by Benjamin in a principally historiographical argument, the purpose of delineating any relationship between AI and 'cultic value' is to serve as a methodological vehicle: with the term 'cultic value' meaning any remnants of sacrosanct 'auric' values maintained in reaction to AI. For AI to potentially diminish cultic value is not to be taken literally from a historical perspective, but as academic practice to elucidate how AI artwork may relate to the characteristics of the described 'mechanical reproduction'. Following from the characteristics of mechanical reproduction, for AI to diminish cultic value the following logical prerequisites must be met:

- 1. that AI produces artwork at a large scale,
- that the scale decreases the importance of auric values (the sacred aspects of an 'authentic' piece),
- 3. that AI artwork is accessible for anyone,
- 4. and AI artwork is not necessarily cheapened (and held in disdain) in value (from the masses' perspective) through its scalability.

Mechanical reproduction increases the display value of artworks. As photography shrinks the 'aura' surrounding traditional works through its ability to reproduce mechanically, it effectively contrasts display values with the cultic values. With the art's reproducibility, cultic value decreases alongside the increase in the artwork's accessibility. Display value increases due to the scale in which the artwork can be shown. As such, Benjamin illustrates how, with the industrialisation of the camera, display value had made a complete triumph in place of its auric counterpart (Benjamin, *Work*, 14-15, 33). Therefore, the following perquisites must be met for AI to increase display value:

- 1. that AI produces artwork at a large scale,
- 2. the scale decreases the importance of exhibiting singular pieces and is further oriented to the masses,
- 3. AI artwork has demand for consumption and thus requires avenues to display it.
- 5.2 Heuristic and Educational Aspects

Benjamin's central argument revolves around advocating for critical history by dismantling historicist perspectives. This approach is both emancipatory and heuristic, offering a normative framework for cultural critique. Rather than focusing on the gathering of emancipated peoples or acknowledging present injustices explicitly, Benjamin's socio-aesthetic criticisms take centre stage in his political critique of historicism.

Chapter 4 has articulated through the *flâneur* Benjamin's distinction between experiential and structural elements of life. Benjamin prescribes the blending of phenomenological descriptions with present-day realities. The *flâneur*'s spatial anthropology embodies subjectivity and facilitates the ongoing realization of critical history by bridging past experiences with future trajectories. This is a normative and ideological position, contextually serving as a bulwark against the rising tide of fascism and other such romantic or nostalgic prejudices found in reactions to modernity: these latter perspectives implicitly criticised for resting on the preposition of a teleological or linear history.

By engaging in *flânerie*, Benjamin disrupts the linear notion of progress by erasing distinctions between past encounters and the guiding structures of the future. He critiques reactions to the decay of 'cultic value' for reinforcing boundaries between art forms and the phenomena they represent. Benjamin sees film as 'democratizing' primarily because it blurs the lines between physical reality and the heightened experiences it evokes in viewers. While acknowledging film's artificiality, Benjamin emphasizes its ability to reveal truths embedded within human experiences, disrupting the divide between dreams and tangible forms. In essence, film becomes a powerful force for challenging established boundaries and reshaping our understanding of reality. In practical terms, photo and film production serve empirical values in that they can depict and articulate new information previously unseen to the human eye (Benjamin, *Work*, 6). A key example may be Leland Stanford and Eadweard Muybridge's zoopraxiscope (a device projecting sequential images tracing photographs unto glass discs), showcasing the working stages of a horse's gallop. This raises the question of what new

heuristic or empirical values AI artwork could bring, despite its utilising human-made works in training datasets.

5.2.1 Galleries, Libraries, Archives, and Museums (GLAMs)

Firstly, AI may potentially bring new light to curation and heritage preservation fields. Released in 2015, DeepDream is a computer programme utilising a convolutional neural network (type of deep learning) to enhance images with a visualisation of the image-recognition processes it goes through: creating dream (or nightmare)-ish versions of the inputted media. Its output is therefore an explicit visual interpretation of the programme. Emulating aspects of human perception, the visualisation output had been argued in 2017 (2 years after the founding of OpenAI as an AI research organisation) to potentially aid culture heritage purposes, with the developments in image technologies underlining the importance of iconography and formalism in art historical research to in-turn interpret generated images (Spratt).

Spratt's study similarly points to the potential for such developments to further understand human perception and the classification process, through comparing the typographies DeepDream and other methods may create, and mapping reasons as to why differences and errors in each typographical processes may occur: revealing different valuations of visual information (Spratt, 4). These potential research avenues were found more fulfilling for these programmes rather than the output itself as 'artwork', considering that DeepDream's visualisation outputs are recognisable and cannot hold as a viable art tool due to its lack of range in style, despite previous attempts to showcase the potential for DeepDream to be used as a tool for image enhancements (Spratt,9).

AI-powered 3D modelling and scanning technology similarly hold realistic opportunities toward curation, art history, and preservation measures. AI's potential applications in GLAMs has been investigated in Yale University's Pixplot, which uses machine learning and data visualisation to group images by similarity (Gu; Yale Digital). Luma AI, a 3D capturing tool for photogrammetry, has Neural Radiance Fields capabilities which turns complex visual inputs into 5D coordinates (Luma, *NeRF*; Luma, *Difference*). When such coordinates are synthesised with camera rays, the technology can render volume and photorealistic 3D images digitally (Luma, *NeRF*; Luma, *Difference*).

While this may make animation or traditional life studies more efficient, it holds further potential for widespread digital and physical copies of original statues and other such exhibited works. This can provide educational benefits for those wishing to study these forms, as well as for exhibition purposes. Even as recently as March 8th, 2024, a Swiss artificial intelligence model determined with 82% certainty that a drawing that drew controversy over whether it was by Albrecht Dürer was indeed by him through analysing against a dataset of 144 genuine Dürer sketches (Schrader). The Italian Institute of Technology (IIT), a private foundation funded through public funds in line with the National Technology Agency (in foundation, a governmental organisation), has propelled research into the use of artificial intelligence tools in implementing conservation measures, specifically through their Centre for Cultural Heritage and Technology (Robbiano). Researchers from said institute, alongside other researchers from public universities in Israel, have garnered a 3.5-million grant from a European Commission fund in an ambitious project to reconstruct Pompeii's ruins through AI-powered robotics in 2021 with new ground yet to be seen (Dafoe; Pinkowski).

5.2.2 Art Experimentation

Secondly, generative artwork can potentially hold potential for new experimentation by artists, whether in the traditional field or not. Generators such as DeepArt, which allows users to re-'draw' images using another image's stylistic elements, and Artbreeder, which allows users to create variations and mixes of publicly accessible images, can be similarly used by art students to explore different styles and use it as a tool to visually conceptualise a variety of creative ideas. The MIT Media's Affective Computing group investigates emotional expression in AI, including research into how AI (and humans) may recognise and localise sentiments within artwork, exploration of how sound can enhance human emotions, and the impact of music on physiology and psychology (MIT, *Pharmamusicology*; MIT, *Image*; MIT, *Sound(e)scape*). This may provide insight for future artists to understand human recognition of sentiments through audio-visuals, by enriching the relationship of creative expressions to various areas of crowd and behavioural psychology.

The more ubiquitous AI art generator platform, Openart AI (powered by OpenAI's machine learning algorithms) includes image-generation models such as DALL-E, the text-tovideo model Sora, and music-generation model Jukebox. OpenAI itself runs a collaborative server for its users, including those utilising the various models mentioned. This collaborative server is found on Discord, in which people can ask questions to moderators (and developers) on various questions, can read logs of previous prompts and how both the models and user have developed their outputs through repeated prompts. These can further serve as templates for others who similarly would like to experiment with models, and various plugins to develop specific stylistic requests (Abe).

5.2.3 Academia-Industry Collaboration

Thirdly, the wave of interest brought on by AI developments unto the art space may propel further interest into creative disciplines and allow for artists to break into further 'mainstream' industries. Art universities such as Geidai (Tokyo University of the Arts) have created a Center of Innovation to explore the synthesis of arts and science. This group is largely sponsored by the JVCKENWOOD Corporation, but also features an array of collaborative sponsors including SoftBank Robotics, NHK Engineering system, YAMAHA, and NIKKEI (COI). Collaborative projects and research initiatives can enable both students and universities to stay updated on AI advancements, while shaping industry practices.

Art universities have also been prompted by the widespread buzz around generative technologies to supply further educational opportunities outside of the traditional mould of discursive groups. AI-powered feedback to student work has been used in as an efficient avenue for enhancing discursive and heuristic processes in formal education, leveraging advanced algorithms to provide feedback. Currently, academic institutions such as UC Berkley and Boston University have used the services of the AI-assisted assessment tool Gradescope for written exams, class grade insights, coded assignments, and auto-grades for multiple choice assignments (UC Berkley; BU). Efforts to incorporate AI into academic teaching have been propelled by widespread graduate student protests and strikes, graduate students who are typically needed to teach and grade student work (Cutler). Additionally, countries that have recently highlighted digital skills gaps, such as in the UK economy, have propelled initiatives to address such issues through support for computing education (Industrial Strategy Council, 5, 14-15, 27-28). While the UK government has launched the National Centre for Computing Education, offering professional development courses for teachers to enhance their IT curriculum including dedicated courses in AI, the government has also made investments to support teachers across England to utilise AI-marking and lesson-planning tools (NCCE; Department for Education). On the other hand, art education has long emphasized the importance of group evaluative practices and feedback literacy, recognizing that an artist's growth often hinges on constructive criticism from peers. However, the traditional feedback loop can be time-consuming and similarly reliant on human expertise as in other academic fields. Kadenze (a platform for online creative courses) has publicised their AI grading bots'

ability to provide written feedback to students through identifying specific drawing techniques, composition, narrative structure, transitions in animations, and use of colour (Kronk). This augmentation of traditional critiques by AI has the potential to significantly streamline feedback processes, albeit with certain implications for the nature of the academic discipline. While the integration of AI in art critique holds immense potential for heuristic purposes, it also raises concerns about cost-cutting in academia and universities, potentially bypassing traditional graduate pathways and sparking protests from those seeking better job prospects.

Outside of formal academic institutions, the current capabilities of AI in art, exemplified by models like DALL-E 2, allow for the generation of artworks with sophisticated understandings of composition, rivalling that of a graduate student's portfolio, in a matter of minutes. This rapid production of art not only expedites the creative process but also enhances feedback literacy among students. By engaging with AI-powered critique tools, students could actively prompt further developments in their own work, tracking various changes in arrangement and iterating on feedback loops more efficiently. Furthermore, AI art critique accelerates the development of aesthetic values, particularly in compositional arrangement, leading to faster turnaround times for art production. This phenomenon echoes historical trends referred to by Benjamin in fields like photography and film, where technological advancements have enabled rapid production and innovation.

5.3 Issues: Ownership of AI Programmes and Data Centres

The integration of AI into society, driven primarily by public policy, raises important questions about the democratizing potential of AI. While public initiatives allocate significant funding for AI research and incentivize its use in artistic expression, there are concerns about the centralisation of AI and its impact on creative autonomy.

Public policymakers often allocate funds to support AI research within the humanities or in art schools, aiming to explore AI's potential in artistic expression. However, even wellfunded research institutions struggle to afford the AI systems and servers necessary for comprehensive analysis of growth potentials. The European Union's Horizon 2020, the eighth framework programme initiating scientific and technological research, funded multiple projects featuring the collaboration between artists and generative technology. These projects included the utilisation of generative technology to develop an evidence-based framework to strengthen opportunities for the arts to address climate change, researching the use of AI arts into choreographic processes, and the applicability of AR (Augmented Reality, requiring AI to enable real-time analysis) to urban and architectural design: the three named projects together costing a total of €7389873.71 (Cordis, Creative; Cordis, E2-Create; Cordis, MindSpaces). When researching AI, specifically to achieve economies of scale and scope, it would be necessary to have joint scientific and technological efforts to pool fiscal resources, data, and expertise (Furman and Gaule, 12; Kerry et al, 3; Zhang et al, 74-77). AI programmes and neural networks' physical limitations for scale cast doubt on the public sector's ability to foresee longterm issues in the private realm, particularly concerning archival and privacy concerns that demand additional server space. Public-private partnerships are formed to bridge the gap between industry, academia and/or government organisations especially in technologies such as AI which necessitates large-scale budgets and expertise. On the one hand, partnerships with private industry and support from the government, such as The Vector Institute in Canada or Japan's RIKEN AIP Center, can facilitate knowledge exchange between researchers, the commercial space, and practitioners (Vector, 3-8; MEXT; RIKEN). However, on the other hand, as cooperation is necessary to garner resources, free-rider issues may arise. Similarly, there are stark differences between the capacities and interests of participants. The private sector, who may have further expertise and budgets, may be at odds with the public sector's interests concerning the protection and limited sharing of data. Therefore, issues in navigating between these stakeholders for mutually beneficial research and risk-sharing judgements are not limited to short-term costs, but whether decision-making on long-term, more ethically ambiguous risks, are sound.

Although these claims that joint research endeavours are pertinent for AI development (and sustainable, successful progression of safely integrating AI into the regulatory sphere) are typically depicted in an optimistic light, comparing the technological progress to other 'moonshot' projects, the need for many willing collaborators points to the limitation on 'true' accessibility or democratisation of the creation of AI programs itself (Kerry et al, 74). While AI may be readily accessible as a tool, the limitations to access or 'own' the means itself points to a technocratic physical reality, despite efforts to make access to programs as wide as possible from public sectors. This lack of accessibility undermines the democratizing potential of AI, as not everyone has an equal opportunity to leverage its creative capabilities.

However, Benjamin's emancipatory ideal throughout his elevation of experiential factors and critical history propels his conception of art ownership, as previously discussed in Chapter 4, with little importance placed on owning the means of producing film relative to the social spirit it births through *consumption*. To destruct closed, structural factors of interpretation (of cultic and auric ways of perceiving value), it is important for art to obtain

value from the masses, and the artwork in-turn evaluates itself through whether it can be displayed. Thus, the spirit of the age turns toward depicting, inciting, and mutually referencing experiences rather than squatting on its own historically obtained prestige of it being an 'Art'. Art then requires a function to be seen and cannot exist as a value in its own right: the importance of generative intelligence becomes less the ownership of the programme and its workings, but moreso the access of utilising and interacting with its processes. Therefore, the physical limitations of AI concern the conceptual lens of Benjamin utilised here insofar as it may create technocratic and centralised implementation, rather than difficulties for social individuals to obtain the tool in origin.

5.4 Issues: Economic Perspectives versus Creative Freedom

In essence, while public policy initiatives aim to promote AI in the arts and foster innovation, there are inherent tensions between economic incentives and artistic freedom. Japan's Ministry of Economy, Trade and Industry, noting the need for 'major national reform' to address the country's 'sharp decline' in international competitiveness of their digital industry, have unveiled their roadmap toward a nationwide implementation of quantum computing and an allphotonics network, foreseeing the full-scale implementation of multi-edge computing using mostly renewable energy power sources (METI, 1-2, 8). From a generalised emancipatory or socially concerned perspective, it is concerning whether the furthering of Japan's world digital competitiveness in this manner would at all equate with a democratization of AI art. Rather, it would appear that from such an ideological perspective, AI tools would require a socialisation of itself: that addressing issues of accessibility should not be limited to user-access calculations, but that opportunities in owning the program and its means entirely would also be required. However, the accessibility in which the prescriptive claims were concerned for Benjamin was principally as a retort against protectionist values for 'Art' (as if it were an inherent or ideal value in-of-itself, and required no functionary value for its definition as such): this opening of the definition for 'art' necessitates economies of scale in users of the tool (such as the industrialised camera), not necessarily access to owning the manufacturing of the tool. The experiential factors underscored by Benjamin in his criticism of the historicist perspective is entrenched within his distinction of physical limitation in accessing a *function* and in accessing a tool itself.

The person who stands in contemplation before a work of art immerses himself in it; he enters that work – as legend tells us happened to a Chinese

painter on once catching sight of his finished painting. The distracted mass, on the other hand, absorbs the work of art into itself.

(Benjamin, Work, 33)

While mass users and mass consumption can change tides in what the social age may value, and how the age perceives time and their own culture, the ownership of the physical means from which this emerges matter little. In all mediums of art, Benjamin writes that there are different fashions in how forms are used and perceived: 'in a tactile fashion and in an optical fashion' (34). Following from this, Benjamin argues the importance of wide human perceptual interaction with artwork for great historical upheaval as much as tactile receptions of new instruments, which in turn requires man to become acquainted with the tool (34-35). To integrate a tool into an artist's habit necessitates a level of distracted process, rather than wholly being contemplative.

Film pushes back cult value not only by persuading the audience to adopt an appraising stance but also by ensuring that this appraising stance in the cinema does not include attentiveness. The audience is an examiner, but a distracted one.

(Benjamin, Work, 35)

True upheaval then necessitates a mass consumption by distracted participants that can delve into the media produced, while also knowing their own distance from the consumption: experientially involved with the artwork and its reception, yet understanding the structural interaction in that they are an entity receiving the reception. This combination of perception, knowing the structural and ontological distinctions between art and self while immersing completely into the art consumed, is what enables film to push back cultic value. If creative autonomy was at the normative forefront, for individuals to freely express themselves through AI technology in an artistic manner, publicly derived *access to* data centres and multi-edge computing through access to AI programmes are ideal. However, in Benjamin's lens, this creative autonomy is not at the forefront: it is the ability for the masses to perceive both immersed into the consumption of the medium, dually with the understanding of its structural nature.

Yet, the treatment of art, or AI art, as a commodity within an economic framework raises questions about its true democratization, and whether it could be viewed as some propellent of social emancipatory spirit. AI presents a specifically sticky issue when the technology is highly packaged in its function, whereby if generative art were to be evaluated as creating more issues than benefits, those issues would have to be considered in reference to uses of AI outside of artistic functions. Thus, the technology's various functions, and predicted benefits, necessarily limit policy circles from making any comprehensive decision toward AI. When creative expression is treated within a swath of cost-benefit analysis, treated as a public function or as an industry requiring government incentives for AI enhancements, it risks serving under a technocratic approach in centralising the purpose for creative expression and stifling the freedom in expression inherent in artistic practice.

5.5 Conclusion

While public policymakers are ultimately tied to international cooperation or public-private partnerships (of various stripes) when it concerns regulation and research, they are similarly bound to the necessity of integrating AI. Integration, and therefore regulation, is logically necessary despite the ambiguity in fully comprehending the technology and its potential effects. Considering its breadth of potential uses and its cross-market, uncaptured, characteristic, it is tricky to fully regulate the technology in a specific market. Therefore, policymakers virtually face a complex issue of AI in which they are forced to integrate the technology, especially considering the conceivably lucrative AI solution-ware both for and outside of creative and artistic uses. While protectionist measures may jeopardise the future market size, national approaches to such technology could potentially read as a zero-sum game.

Recent public policy debates highlight the tensions inherent in regulating digital spaces and IP issues between a more centralized and technocratic perspective that the high cost of AI research may lend itself to, and a perspective valuing normative ideals of democratization and accessibility. An illustrative example are cases where publishers and distributers were compelled to remove AI-generated books due to concerns regarding the resemblance of its images and content to real individuals (Tapper; Futatsugu). This incident underscores the complexities and challenges surrounding the regulation of AI-generated content and the balance between protecting individuals' rights and fostering artistic freedom. Underlying motivations driving legal frameworks for copyright law, particularly propelled by discourses such as the Trans-Pacific Partnership, have remained contentious with the recent acknowledgement of AI technology (Greenberg & Lieberman; Leung, 19). Previous legal frameworks had faced criticism from figures like Diet Member Ken Akamatsu, who had pointed out that widespread copyright measures could potentially stifle self-published works

and underground artistic endeavours that have traditionally found refuge under transformative fair use clauses (Akamatsu; Leung, 19). The Japan Society for Studies in Cartoons and Comics have levied similar criticisms of a later shelved proposal by the Agency for Cultural Affairs to tighten IP regulations in the digital space particularly on social media platforms, such as copyrighted material on Twitter (日本マンガ学会;文化庁, 2). The backlash presented to the Agency largely concentrated on the indiscriminate manner of such regulation, punishing manga artists whose techniques were built upon sharing materials for study, utilising the integrated and participatory culture of social media, without financial or threatening motivations (日本マ ンガ学会). Tightening regulations, especially in terms of intellectual property, may inadvertently limit creative expression and decentralization and serve to rather uphold industry players who can afford litigation, appeals, and enforcement. This is particularly concerning, as access to the resources necessary for creating AI programs, coupled with the financial and educational barriers, could disproportionately benefit established tech industry giants, leaving individual artists and smaller creators at a disadvantage in the evolving landscape of AI-driven artistic exploration. This ethical dilemma, left unaddressed under Benjamin's focus on mass consumption and perception, will be compared to Mishima's more possessive understanding of art.

CHAPTER 6 YUKIO MISHIMA

Yukio Mishima is mostly known for the intricacies between his biography, his failed coup d'état and culminating sacrificial suicide (*seppuku*), and his concern for the beautiful in his literary evocations of the past. Secondary analyses of his political motivations and artistic output both fundamentally agree that his political prescriptions are twinned to his grand convictions on aesthetics and vice-versa, without causal or hierarchical relations.

This chapter will assume a position that Mishima's aesthetics point to an existential and self-affirming tension between 'beauty', 'artwork', and the spectator. Beauty is depicted as perpetually inciting observers to ache for its fleeting nature, necessitating the capture of its essence into an imperfect material form such as artwork, ultimately situated at the precipice of a transcendent, immortal abyss. Protagonists in Mishima's bildungsroman novels such as The Temple of the Golden Pavilion find themselves affirming their own life and overcoming existential ennui through terrorising artforms. Mishima depicts artwork as only pretending to house 'real' beauty. 'Real' beauty is the intangible and ideal value of beauty that is captured by art *form* (the physical work itself). The intangible, ideal value of beauty requires its physical captor to be sacrificed for 'real' art to be self-realised and fulfil its *telos*. While the artwork is mortal due to its physicality (painting, sculpture or otherwise), the actor must destroy such work for beauty (the ideal form) to achieve its truest immortal release. Mishima depicts art ownership as a battle between metaphysics and mirrors the internal conflicts of man-whether the ideal form of art should only be a transfixion of the human imagination, should be tied to a physical 'art form', or that true 'art' can only be revealed to those who negates its physical body.

Mishima's aesthetic convictions and its applicability to the case study of generative AI policy requires his definition of art, as well as its metaphysical presuppositions, to be unpacked. Firstly, this chapter will articulate two definitions of art Mishima alludes to throughout his oeuvre and analyse their relationship. Secondly, this chapter will analyse the metaphysical assumptions foundational to these definitions to further unpack the two definitions in relation to each other. Thirdly, the nihilistic overtones of Mishima's aesthetic convictions will be detailed as ultimately political in nature, pertaining to the enmity between actors who wish to own and capture beauty. To fully articulate these concepts clearly, this chapter will use the

academic language given to by Nietzsche. Contextual factors of Mishima's manifesto, attempted coup d'état, and political short story *Patriotism* will only be referenced to explicitly illustrate the political elements foundational to Mishima's aesthetic arguments.

6.1 Two Arts as One

This section will delve into Mishima's 'art ownership' by first clarifying his definition of 'art'. To understand Mishima's notion of art ownership, we must first explore the dual definitions of art that emerge in his literary works. Beauty, the distinguishing value of art, takes at times a phenomenological, intangible, and everlasting form, but also can take a tangible, physical, and ultimately mortal form. These two definitions may appear contradictory at first, but once the relationship between the physical and ideational form is clarified as informing Mishima's political and epistemological convictions, the distinctions between them make up his symbiotic definition of 'art' itself.

Firstly, I will identify Mishima's physical, tangible existence of 'art', via its ephemeral, fluctuating nature. Secondly, this section will analyse these forms' relationships through the author's explicit inspiration from Nietzsche's ontological and epistemological use of the Dionysian and Apollonian. The academic language provided by analysing the applicability of the Dionysian and Apollonian to the two initial forms of art will allow for the articulation of the 'tangible' and 'fluctuating' forms' symbiotic relationship. This relationship, in the interaction of seemingly contradictory conceptions, makes up Mishima's understanding of 'art'. This section will argue that the two sides showcased by Mishima's literature unify into one consolidated definition. Thirdly, this section will tie these concepts to Junichiro Tanizaki's essay on the distinctive nature Japanese aesthetics to identify the national characteristics inherent to Mishima's phenomenological definition and identify the peculiarity of its implied metaphysical conception.

Mishima's *The Temple of the Golden Pavilion*, published in 1956, is loosely based on the arson of the Kinkaku-ji in Kyoto by a Buddhist acolyte in the same decade. The novel, set at the end of World War Two, follows the friendless protagonist Mizoguchi, the son of a Buddhist priest. Mizoguchi fears air raids where he resides, in turn propelling his frustrations of his speech impediments into a fixation on an imaginative relationship with the temple. The novel follows Mizoguchi's perceptions of the world and himself, centred around his evolving relationship with the temple.

Having grown up hearing of the Golden Temple from his father, Mizoguchi described his middle school years as a time of fascination with the described temple in textbooks. One spring holiday during this time, his father, considering his declining health, took Mizoguchi to Kyoto to introduce him to the Superior (Chief Monk) of the Golden Temple. Prior to seeing the actual temple, Mizoguchi describes his hopes that it will 'have darkness bearing down on it from all sides' with only 'a faint light from inside' (Mishima, *Temple*, 19). Significantly, the copper-gold phoenix on the roof of the temple was imagined as 'flying eternally through time on its shining wings,' as 'time struck those wings' and rendered it purposefully motionless (19). These hopes are starkly contrasted with his description in seeing the real temple and its 'reflection of the back of the eaves [being] too dazzling and clear' as if the temple was 'proudly bending itself back': the 'small, dark, old, three-storied building' had 'aroused no emotion' within the young spectator (23). The question remaining for Mizoguchi after seeing the temple's real figure comes to haunt the rest of the novel; can beauty be as unbeautiful a thing as this?

Mizoguchi elevates shadowy, latent beauty over any calculable or material form of aesthetics in his evaluation of the temple. The empirical reality of the temple, the restlessness of the stark and glaring reflections, was in disharmony with the latency he had hoped for, a taunting darkness with a silent display of delicate steadiness. Only after the loss of 'details of its form' could Mizoguchi appreciate the beauty of the temple, as it had 'transcended [his] own image' with a beauty 'that bore no relation to any form of evanescence!' (42, 59). The temple had become removed from meaning and rationality, impenetrable to its observer.

Mishima's inspiration from Nietzschean 'amor fati' (originally utilised in Nietzsche's Übermensch and his acceptance of the tides of fortune in life) is found in his four-part Greek tragedy in Suzuke no Metsubou, and in his personal life, building a 'vaguely Italianate, vaguely Spanish' veranda looking over a garden adorning a marble Apollo statue: 'my despicable symbol of the rational', Mishima's adoration for Nietzschean works and their incorporation into his own philosophy has been widely established (Mishima, 朱雀家の滅亡について; Cardi, 164-172; Starrs, 20-22; Nathan, 48, 150). Nietzsche's ontological interplay of the Dionysian and Apollonian will be used as an academic framework to understand the symbiotic relationship between Mishima's two forms of 'art'. The seeming juxtaposition between the two arts can be examined through analyses of the two philosophical Hellenistic concepts interpreted by Nietzsche in *The Birth of Tragedy*. Nietzsche explores the two antithetical concepts as being fused in the Hellenistic era to produce an 'art' distinct to Greek tragedy (xviii, 21-22). Under Apollo where art can be shaped and thus controlled, the individual retains a passive role in which they acquire beautiful appearances designed as a deliverance from existence itself: man is passive as he can understand and utilise the world he has been endowed (21). The Apollonian provides to man through the comprehensive and representative world in which he lives, and man can similarly express his Apollonian will by shaping the comprehendible world he finds himself in. This Apollonian essence provides man, a passive actor, with dreams and inspiration in which he can feel whole: the experience of the primal source of the universe can reveal itself through a perceptible and intelligible symbolical dream (xix-, 29). Man's vehement 'will', longing to continue existing, can likewise take an Apollonian essence in artwork showcasing dazzling representations of heroic acts where a protagonist can triumph over grand contemplation and despair (36-38).

Under the Dionysian, who is represented by a non-malleable art, the individual takes on a strenuous journey of 'becoming' to flourish, self-realise existence, and tirelessly attempt self-consciousness (21). All the while, the individual is acutely aware of the same Dionysian force as being capable of violent destruction in its artistry of ecstasy (28). Burst from nature without any mediation with humankind, the Dionysian's impulses are only satiated by direct and sudden bursts regardless of the dreams conjured by men under the Apollonian influence (however powerful, intellectual, or culturally spirited these dreams may be) (28-29). The Dionysian can construct, destroy, and self-abnegate in an immediate manner regardless of man's perpetual drive to continue his dream-like application of the Apollonian world, and the existential horror in knowing of the lowly Dionysus' capacity causes his inward reflections contemplating his loneliness (xviii-xix, 31).

Although Nietzsche finds in all forms of artistic expression the Apollonian and Dionysiac, he does not suggest an extension of these forces beyond the field of art (or attempt to apply them to forces being applied theologically or literally unto the world) (Dolson, 241-250). While the Apollonian finds expression in all dream-like static arts (the world of pictures), the Dionysian includes passionate, intoxicating, and fluctuating forms such as music and poetry (23-24). This intoxication of Dionysian art makes man 'no longer an artist [as] he has become a work of art'; his artistic power is revealed in 'the tremors of drunkenness' as if his animation were a unified extension of the created fervour (27).

In *Human, All Too Human*, however, Nietzsche describes the human will as an unshakeable force that creates mirrored worlds (outside of the 'real' world) he is more capable to be a master of; the world of language, and other such expressions found within the field of art (29-32). Utilising the two forms, it can be interpreted that Nietzsche posits the modern basis

of rationalism itself as unrecognising of the unwitting existence of perspective bias of man as self-aware of his historicity, miring metaphysical concerns to his existential condition. Dreams ground themselves in the logic that they are primitive acts of searching and reasoning for the excitations of feelings novel to the bodily system. Similarly, the Apollonian influence and man's will allows for him to conjure dreams. While man cannot depart from his self, he has the capacity to create conceptual worlds distant from such humbling knowledge to divulge in a myth of rationality and evade the tragic foundations in which he exists. The hero in the modern world must construct new worlds in which man can apply their will, an Apollonian construct of dreams despite the mortal coil.

Akin to the interactions of Nietzsche's Dionysian and Apollonian concepts, Mishima's seemingly contradictory depictions of 'art' coalesce into a full and tragic landscape. It is in the Apollonian essence that Mizoguchi 'understood the psychology of revolutionaries' when he had come to be infatuated with his conviction to burn down the Golden Temple (185). Invigorated by the prospect that the 'golden rule of [society's] lives will be turned upside down [and that] laws will be without effect' made him happy, despite a brief admittance of his capacity to be able to 'bury' himself in life like those his age, he ultimately chose not to be 'caught up once more in the charm of life' (185). The revolutionary fervour when Mizoguchi decides to commit arson is then in-part a precursor to the Apollonian redemption in the modern world. The myth of rationality, built through an ahistorical immersion into a supposed division in metaphysical worlds devoid of an acknowledgement that man narrates and is situated within this immersion, heightens the rule of civilisation for developing it in-and-of-itself in a façade of notional self-sustenance. This must be demolished to allow for the human will, in its creative and destructive forces, to express its origins in existential tragedy.

The metaphysical and artistic attitude described through the Dionysian and Apollonian brings light to the joy of dreams and the spectacle, in contrast to delivering depictions of 'real' experiences; the despair and suffering of existence (xix-xx). This torture of being obliged to create, a 'real' phenomenon insofar as it is acutely experienced by the artist, is a Dionysian instinct (xix-xx). Mishima had described his lifelong fascination with *The Birth of Tragedy* and *Zarathustra*, with his mother leaving a copy of the texts on Mishima's shrine after his death, and his father describing his son's intense interest in the Dionysus and Apollo (Mainichi).

This juxtaposition, between the empirical reality of the object of beauty and the latent darkness that is imagined by the spectator is epitomised by a later scene where Mizoguchi stares at a woman's naked breast. At first, he sees 'proof of the dreariness of existence', but gradually comes to recognise that its state of 'mere flesh' is instead an 'unfeeling, immortal substance related to eternity' (143). This scene further incites Mizoguchi to see the temple as 'simply a nihility' due to his conviction that the structure was filled with a similar 'heavy, luxuriant darkness' to the woman's breast (144). This nihility, a contemplative disillusionment casted as an epiphany, realised Mizoguchi's own insignificance among all other empirical realities, relative to the eternal and absolute darkness of the Golden Temple (149).

Toward the end of the novel, Mizoguchi's aesthetic nihilism completely relegates metaphysical significance in favour of an eternal transcendent underbelly, one that evades all reality (163). With Mizoguchi's affection for beings turned 'inside out like rose petals and expose[d] to the spring breeze and to the sun', he seeks to dominate the beautiful darkness held within flesh (54). Mizoguchi's infatuations thus culminated in the act of arson on the temple to affirm his existence in his bildungsroman, winning over the temple and the transcendental ennui of existence through its physical destruction. Mishima thus writes his closing sentence, 'I wanted to live' (247).

Furthermore, the concept of aesthetic intrigue, between the empirical and transcendental, has a distinctive Japanese cultural significance, as revealed by Junichiro Tanizaki's essay In Praise of Shadows. This essay reflects on the conflicts between the conveniences imported into modern Japan, and the elegance Japanese aesthetics had traditionally offered through the metaphor of 'shadow'. Shadows hold elusive beauty through their suggestive nature: light that obliterates shadows that lurk in corners, destroys with it the expectation of suggestive mysticism as light exposes the mere void (Tanizaki, 33). In a similar fashion, Mizoguchi hopes for a shadowy temple with a suggestion of a deep-seated pulse of light inside, rather than the existing structural form of the temple. Akin to the wider context of Mishima's political endeavours, Mizoguchi's infatuation with the distinction between ontological and metaphysical realms mirrors the setting he finds himself in: the tumultuous transition from the 'idealist' and patriotic nation from where identity is provided, to the ontological reality of modern Japan as a state. Mizoguchi presents a heroic case in this symbiotic relationship between the two forms (Dionysiac and Apollonian) as both a spectator and sufferer for beauty. Mizoguchi does not beget beauty, and instead demolishes the ache of longing, opposing the passivity innate in duelling beauty, to affirm his life as a historical man situated in the immortal precipice of crisis.

In summary, this section has clarified Mishima's foundational definitions of 'art,' and has further set the stage for a deeper exploration of the metaphysical assumptions that underpin these definitions. The next section will unravel these assumptions in an explicitly political context, drawing on comparisons of Mishima with Georges Bataille.

6.2 The Metaphysics of Art

Mishima's aesthetics are largely concentrated on the relationship between forces provided for in his metaphysical suppositions. The pessimism within Mishima's literary oeuvre regarding his political milieu has been widely established as a concern over the decay in Japanese 'spirit' as guided by sociological and philosophical concerns, owing to his metaphysico-artistic sensibilities. Therefore, the political in Mishima's works is often contrasted with other authors, who similarly use eroticism as a tool to ground their metaphysical horizon. Particularly, owing to Mishima's crediting of Bataille for inspiration shortly before his death in 1970, comparative analyses have been thoroughly made between the two authors (Blinder, 21; Lac; Hagiwara, 64; Wyschogrod, 118; Carroll, 44; Mishima, *Georges*, 9-21). Comparative analyses between Bataille and Mishima hold academic intrigue for the purposes of understanding the latter's conception of art in relation to the historical man and political philosophy.

Astrid Lac explores Mishima's melancholy, indefatigable, and death-driven nature by underscoring the role of the 'erotic' as a shared phenomenon between Mishima and Bataille. This articulation of their relationship through a theoretical 'discourse' unveils the inseparable connection among the political, psychological, and metaphysical convictions of Mishima *through* a concern over *corpus* (flesh) (Lac, 433). Lac's analysis exposes the interplay between sadomasochism and ritualistic death, posing a theoretical interpretation of Mishima's political eroticism as being fulfilled via ritualistic death. However, Lac's exploration gains further clarity when coupled with an analysis of the eroticism as part of an explicit aesthetic view that incorporates Mishima's political *into* the aesthetic. Like Bataille and Nietzsche, Mishima positions the rational acknowledgement of the orthodoxies of the age (nostalgia as incited by the signifier of civilisation and culture) against the beastly and more-fundamental spur of man as an individual, discontinuous, and pleasure-seeking being willed to assert their own existence: an aesthetic foundation to which the political rests upon (Bataille, xi).

The *Golden Pavilion* follows Mizoguchi coming to the realisation of his intent to act upon the beautiful outer artform of the temple to alleviate his painful attachment to his inner experience in a self-affirming catharsis. Lac supports this view of a 'death-driven' Mishima, where flesh is depicted as both masquerading and capturing (into mortality) the true ideal spirit of beauty, with the hero needing to eradicate the *corpus* to nihilistically affirm the 'real' phenomenological foundations of his life (433). Only by eliminating the physical form can latent beauty be liberated from its deceptive captor. Despite the violence, Mizoguchi's personal growth is depicted as an act of existential heroism.

6.3 Action On and For Art

Upon analysing Mishima's metaphysico-artistic politics, this section will consolidate the discussed definitions in relation to 'art ownership'. Mishima depicts art as taking various forms that incite an acknowledgement of both beauty and pain within the perceiver. Despite the multitudinous expressions of art, ultimately, it must be created in some physical (or experienceable) form. Additionally, the onus of defining art is necessarily placed upon the individual experiencing the art in question, making the definition further ambiguous and personal.

Despite this definitional aspect, there is an additional national and cultural tradition inherent to Mishima's depicted art. In the case of *Golden Pavilion*, Mizoguchi inherits the knowledge that the temple is beautiful via stories told by Mizoguchi's father, his teachers, school textbooks, and Superior. *The Sailor who Fell from Grace with the Sea* similarly depicts the sailor's primitive yet civil, cultured infatuation by the sea as he 'mounts the sea and rides her and yet is constantly denied [...] nature surrounds a sailor with all these elements so like a woman and yet he is kept as far as a man can be from her warm, living body' (35).

Like the consistent metaphor of the sea to harken to an innately masculine and nostalgic sentiment of a past muscular Japan found throughout *The Sailor who Fell from Grace with the Sea*, political shifts in Mishima's works are often interpreted as a response to Japan's perceived decaying 'spirit' (Mishima, *Sailor*, 127-128; Iha; Frențiu; Hagiwara). In *Golden Pavilion*, Mishima refers to a catechetic Zen problem initially told by the Temple Superior following the announcement of Japan's defeat in World War 2 (61). The Zen problem stories a little kitten found by a monk, becoming the object of a dispute between the East and West Halls of the temple as to who should keep the beautiful cat (61-62). Father Nansen threatens the cat's life due to the dispute, and ultimately kills the kitten. Afterwards, Chief Disciple Joshu visits the Father, places his sandals on his head, and leaves the room. Father Nansen laments that if Joshu had been there, the kitten's life would have been saved. In the Superior's interpretation, Father Nansen had cut away the illusion of the self by eradicating thoughts of desire from the mind, while Joshu had depicted the practice of Boddhisattva (62).

On the other hand, Mizoguchi's friend Kashiwagi interprets that the problem concerns overcoming the pain of beauty, as Nansen had exposed the true matter of beauty. The kitten, being an empirical reality had created strong attachments within the monks who had found it beautiful; Nansen 'gouged out beauty' to reveal the cat for what it truly was—a physical form merely *posturing* as beauty (135-136). According to Kashiwagi, Joshu showed Nansen that

there was no solution other than to endure the pain, and to allow the physical form to bury itself in the inner experience of observers, despite the pain it manifests. Kashiwagi describes himself in this scene as Nansen and Mizoguchi as Joshu, but that these roles can switch overtime; Mizoguchi, then, eventually becomes Nansen when he commits arson to the temple (203-204). Despite the violent unravelling of physical forms, Mizoguchi's journey ultimately illustrates the triumph of the human spirit, transcending the constraints of corporeal existence and affirming the enduring essence of beauty.

Rankin argues that Mishima's aesthetic convictions on the realm of 'non-being' are epistemologically driven by the novelist's elevation of a transcendental and hidden ideal only revealed in non-being. In other words, the historical man must act on the ages' morality he tragically finds himself in, nullifying mortality to transcend the ahistorical *corpus*. Mishima's epistemology lies in the miring of the aesthetic ideal (that only manifestations can be observed and rationalised by man, with its true form merely experientable and typically out of direct reach) and the corpus (that one is self-aware, and material existence is considered a tragedy as it stops one from direct relations with the ideal). Rankin's analysis, through depicting the extremes of Mishima's epistemological thought, implicitly reveals an either/or tension between his metaphysical pessimism and aesthetic overture. Man is depicted as perceiving his metaphysical concerns (a political force) as negating or being negated by the aesthetic (and ethical) freedoms of man. Nietzsche similarly describes the nature of man as creating elaborate structures of language, arts, morality, and theologies to dominate the world in which he finds himself. This propels the endless desire to know the forms fundamental to the manifestations of existence; this will is propelled by the Dionysian reminders of the *fatale*.

The hero of this tension must 'realise' the ideal beauty by destroying its corporeality. Yet, while the search is feverous, it is made so by the fear of the Dionysian forces unknowable to man: beauty can only be perceived against a background of *potential* destruction. Mishima writes of Mizoguchi's perspectives as a political force whereby his metaphysical distinctions of beauty, largely unrecognised by the protagonist, are placed in the horizon of war, death, and destruction. Mishima's own political manifesto in his attempted coup d'état contrasts the ideal forms of the nation with the political body of Japan. This mirrors Mizoguchi's understanding that the chrysanthemum, both an emblem for the Imperial family and associated with funeral traditions, was 'no longer beautiful because of its form, but because of that vague name [and] the promise contained' (149).

6.4 Conclusion

This chapter has defined 'art' in Mishima's literature as a coinciding relationship of its two expressions: the empirical reality of the object (the object of beauty that can be considered as an art 'form'), and the elusive allure from the mind of the observer that captures his vision (a more 'real' and pervasive, transcendental experience that can be considered as 'beauty').

The nature of this relationship has been characterised by Mishima through conflict. Although 'art' can only emerge in Mishima's works through the existence of both expressions, these expressions are fundamentally in-tension: conflicts emerge when the ebbs and tides of both expressions, with their territorial nature trying to win either ontological or spiritual ground, mirror the conflict between existential and metaphysical considerations of the observer themselves. The art form is ontological and thus captured in mortal space, yet still speaks to the remainders of our acknowledgements of the past. While the observer can spiritually be incited to believe the impalpable feeling and significance of the past, the ontological reality captures history into a signifier of fact. Art form is *de facto* insofar as it speaks to its own existence, whereas latent beauty poses a *de jure* scepticism if the feelings that emerge from such invocations are reasonable.

The tragic man, thrust into the *zeitgeist* of political and spiritual (albeit theological) change, is mirrored by the violence of art. The existential-metaphysical tensions within the *geist* man finds himself in is reflected on whether to maintain the clear distinctions between the ontological art world and the perceptive art world. Overcoming the ache of maintaining this distinction, Mishima writes a protagonist that absolves himself from such burdens through total immersion into the world of perception, destroying the art form, and appreciating the radical freedom of a tragic *actor*. Mizoguchi's 'nihility', therefore, emerging from the juxtaposition between form and beauty, was revealed to him both as an epiphany and a contemplative disillusionment regarding the insignificance of all empirical realities (including his own), relative to the eternal and absolute darkness of a golden temple that had transcended symbolism. As man attempts to consummate his relations with the world of art and expression (through asserting his total comprehensive and active dominance), he also embarks on a mirrored (and similarly 'real') journey to understand his place within his time and concretise his historicity.

It is then that Mishima's characterisation of 'art ownership' emerges as an existential concern. The ability to assert oneself to destroy the physical reality of art is depicted as an expression of the human will to triumph over a world in which contemplation can provide only self-abnegation or lowly fear. Man's existence is consolidated through directly engaging his radical freedom against the squatting *de facto* signifiers of the past that attempt to incite contemplation. Man is then able to own the territory of the physical world he finds around him,

as well as the spiritual and dream-worlds it can incite through violence. In such a scenario, man is marked by a characteristic by which he wishes to own both physical and latent worlds, regardless of their importance or actual reality. Form and spirit are in perpetual conflict with each other, and man, trapped pushing against opposite walls attempting to crush him, is of central position. Mishima provides consideration that both form and spirit are owned by man insofar as, if he accomplishes his true will, he can destroy and apply his essential freedom onto both.

In Chapter 7, I will discuss Mishima's characterisation of 'art ownership' and its applicability to the case of AI Art policy. Mishima's fundamental suppositions will also be contrasted and compared with those made from contemporary examples of legal, policy, and civil discourse.

CHAPTER 7 MISHIMA AND AI POLICY

This chapter will discuss the prior chapter's analysis of Mishima's 'art ownership' in relation to the case of AI Art policy. The suppositions relayed in Chapter 6, namely the two definitions of art in a tenuous and violent symbiotic relationship, will be compared with the characteristics of art ownership implied by contemporary legal, policy, and civil discourses on Generative AI.

7.1 Definition(s) of Art

This chapter will recap Mishima's definition of art as ascertained in Chapter 6 and will articulate the currently accepted definition of art in policy AI debates to then investigate the applicability of Mishima's 'art' to contemporary debates.

Chapter 6 defined 'art' in Mishima's literature as a relationship between the empirical reality of the art 'form', and the elusive allure in the mind of those experiencing the form. The latter is depicted as a more 'real' and pervasive, transcendental experience, that makes up the value one supplants unto art. Art is a value that requires recognition for it to exist. This inherently social notion of art, requiring recognition, dually serves as a relational definition between viewer and form, as well as a condition of man to infatuate over his own inspirations in expressing his will. These inspirations, although stemming from viewing the artwork, are a departure from the physical art form, and take a parasitic and idealistic notion of 'beauty' transfixing the mind. The social notion of art soon turns antisocial, as the ideal image is in juxtaposition with its physical counterpart, and man then wishes to exert his own destructive will onto the physical form to release himself of this tension between corpus and essence.

In policy and legal debates, the currently accepted definition can be typographically separated into two distinct categorisations for the purposes of simplification in this chapter: the 'US definition' and 'Japanese definition'. Although the EU merges both definitional presuppositions, the two definitions identified can serve as typologies to broadly contrast each other.

7.1.1 The 'US Definition'

The US legal definition of art, stemming from the practice of common law, is perhaps most clearly demonstrated by the judgement made in the case *Naruto v. Slater*, filed in 2018. Wildlife photographer David Slater had set up and left a camera unattended on the island of Sulawesi, capturing a series of selfies taken by a curious monkey named Naruto. Upon publishing a wildlife photography book featuring these photos taken by Naruto, People for the Ethical Treatment of Animals (PETA) filed a complaint against Slater and the publisher, arguing that Naruto should have copyright rights as the 'true' photographer. The claim, containing an appeal that authorship by non-human species can be considered under the Copyright Act's terms of novelty and 'authorship,' culminated in an explicit refusal from the Copyright Office to register a claim if a human did not create the work, while omitting consideration for works 'by machine or mere mechanical process that operates randomly or automatically without any creative input or intervention from a human author' (Compendium, 313.2). The Bureau of Economic Analysis in this case expressed that 'this monkey-and all animals', since they are not human, '[lack the] statutory standing under the Copyright Act', citing 17 U.S.C. § 101 (4, United States Court of Appeals for the Ninth Court).

Although US copyright law does not specifically address artificial intelligence, copyright was reasserted to meet certain requirements: that the artwork is an original work of authorship, fixed in a tangible medium, and has at-least a minimal amount of creativity. For the purposes of this chapter, the definitional criteria of *creative* art can be found in the US legal system: 'an age-old practice, firmly rooted in tradition and so commonplace' or 'mechanical or routine' output would *not* possess the minimal degree of creativity to make the work original and sustain a copyright claim (Compendium, 308.2).

The definitional code further contains boundaries for various mediums of creative output. The US code defines a 'work of visual art' as a 'painting, drawing, print, or sculpture, existing in a single copy, in a limited edition of 200 copies or fewer that are signed and consecutively numbered by the author' (similarly for sculptures and photographic images produced for exhibition purposes). Copies are further detailed as 'material objects, other than phonorecords, in which a work is fixed by any method now known or later developed, and from which the work can be perceived, reproduced, or otherwise communicated, either directly or with the aid of a machine or device.' Similarly, 'material object' can be inferred as an object as distinct from an idea, considering that the code stipulates the definitional term of 'ownership of copyright' as distinct from 'ownership of material object'. In this manner, the definition of visual art can include digital works or copies, as the term 'material' stipulates that ideas (rather than non-tangible works) are not included within its scope.

The US legal definition of art is therefore indicated by the scope of what is considered 'creative', 'material', 'fixed', as well as by the limitations of such considerations. Artwork is categorised firstly by its creative criteria: the minimal requirement being that it is not completely derivative from natural/commonplace practices and sources. Secondly, the artwork must be authored by a human hand in its process in a creative (non-derivative) manner. AI generated art, even if the produced work itself appears original and non-derivative, would be considered as being generated mechanically (therefore, not meeting minimal creative requirements) when applying the requirements that copyright must be for a *human* author.

7.1.2 The 'Japanese Definition'

The second category of policy definition of art can be found in what this section dubs the 'Japanese definition,' where more flexible discussions of creative outputs are considered.

Japan's Copyright Act (Act No.52 of 2021) defines a work as '思想又は感情を創作 的に表現したものであつて、文芸、学術、美術又は音楽の範囲に属するもの' [creatively produced expression of thoughts or sentiments that falls within the literary, academic, artistic, or music domain] (著作権法, 1.1.2-1). With such a definition, there is a basis for an automatic provision of divulgence, authorship, modification control (or adaptation), reproduction, communication, and other medium-specific extension of rights for those handling and producing creative works (i.e. performers, phonogram producers, broadcasters etc). The contentious amendments in 2017 further stipulated the conditions where it is permissible to exploit a work.

"次に掲げる場合その他の当該著作物に表現された思想又は感情を自 ら享受し又は他人に享受させることを目的としない場合には、その 必要と認められる限度において、いずれの方法によるかを問わず、 利用することができる。ただし、当該著作物の種類及び用途並びに 当該利用の態様に照らし著作権者の利益を不当に害することとなる 場合は、この限りでない。"

[not a person's purpose to personally enjoy or cause another person to enjoy the thoughts or sentiments expressed in that work; provided, however, that this does not apply if the action would unreasonably prejudice the interests of the copyright owner in light of the nature or purpose of the work or the circumstances of its exploitation.]

(3.5.30-4)

Therefore, for the establishment of this permissible exploitation of copyright works, the purpose of exploitation must not be for oneself or others to enjoy the thoughts and sentiments expressed in the original work (Tosaki et al, 2; Fukuoka et al, 2). The focus on the 'thoughts and sentiments expressed' is not a utilitarian or consequentialist calculation on the outcome of what is received from the output, and includes works of 'artistic craftsmanship' akin to the Berne Convention for the Protection of Literary and Artistic Works insofar as their form (2.1; 著作権法, 1.1.2-2). Yet a subtle difference in interpretation is allowed in-contrast to the US' case, whereby the minimal criteria of 'creativity' is levied. Similarly in the Berne Convention's case, the stipulation that such works or artistic craftsmanship must have features capable of being 'identified separately from, and are capable of existing independently of, the utilitarian aspects [detailed in] the article' (2.1).

The added article quoted can be interpreted as allowing for flexible interpretation of existing copyright exceptions, in IP High Court, due to the lack of general clause on copyright exceptions such as on fair use or fair dealing provisions in-comparison to the US definition (Ueno, Flexible). Its concentration on the 'purpose' of those utilising copyrighted works, and whether they intend on propagating the 'thoughts and sentiments' of the original work may therefore read as surprisingly vague. However, the definition of 'work' is similarly wide and interpretive, potentially allowing for a further-reaching *de facto* applicability to copyright holders. The additions to the Act in 2017 similarly allow the production of new works utilising original art forms insofar as they contain different values (purpose of expression). The latter half of the article details further circumstances in which a case would not require the previous 'purpose' clause, such as the nature of its exploitation in testing or developing practical-use technologies, data analysis, computer data processes, or other such means by which the exploited work is not perceived directly by the human senses. However, Ueno reveals a hypothetical interpretation of this non-enjoyment clause: if cheeses could taste and smell better after exposure to a music sample, even the copying of a musical work from a CD without authorisation of copyright holders to play it to the cheese would not involve the human senses to perceive expressions by the musical work, and rather enjoy the cheese: this act of copying would be permitted under such clauses, if it were to be conducted in Japan (Ueno, Flexible).

7.2 The Generative in Mishima's 'Art'

As both Mishima's definition and the currently accepted definitions of art in legal and policy debates surrounding generative AI have been clarified, this chapter will now move to analyse how the two definitions relate to one another. This analytical process will highlight how Mishima's 'art' can be applicable within current policy discourses, albeit while retaining tension on whether generative artworks could be considered mortal, and whether those who experience the artwork are able to destroy the outward form the work takes.

Considering the immaterial, transcendental, and idealistic form of Mishima's art, this chapter will first analyse whether generative artwork might be dealt with in the same light as the temple. If generative artwork originates from complex codes and can only 'exist' as a beautiful or acknowledgeable and aesthetic form upon interpretation through digital language processing, might it be perceived similarly to the 'art' inspiring Mishima's convictions? As generative art is made on the identification of complex trends and patterns to derived pattern recognition relevant to the prompt rather than through contemplation or emotional fervour, the artwork could be considered as a product of purely rational behaviour.

This could be contrasted to spirited processes involved with an idealistic 'artistry', such as the Black Paintings series made by Francisco Goya during his most withdrawn and impassioned time in his mental and physical despair. If these Black Paintings were accessible to the programme within its training data and one was to ask the generative software to make a 'Goya-like' stylisation of a different image, the question remains whether the more impalpable values (the pure emotive elements elicited from the image) that existed for the 'new' images' production could be retained in the generative product. Although human artists are similarly inspired by visual representations, traditions, culture, linguistics, and other such derived material around them and thus create further works that are (linearly or not) produced as an outcome of being inadvertently inherited by their artistic ancestors, the identifiable 'animalistic' spurs uncontrollable by the rationale of the fatale artist (emotions and incomprehensible dedication) appears as missing in the 'pattern recognition' processes of generative AI.

In *Golden Pavilion*, when the individual aspects of the temple are recognised and analysed by the protagonist under stark light, it is not considered as beautiful. The ideal form of art requires an obfuscation of the tangible matter for it to emerge: the spirit of beauty can only emerge once the corpus is clouded. If one were to interpret generative works as a purely cold and intellectual endeavour, made up of key linguistics distillable into 'units,' the production of artwork could be considered as starkly distinct from the outcome of spirited fervour. However, the gathering of large sets of data to construct an aesthetic rationale is like an architect of a zen temple—the temple cannot emerge without calculation or evaluation of aesthetic and cultural principles, nor the generative computer an output without training data to base compositional or styling techniques from. The spirited beauty of art can only emerge from the viewer or the one experiencing the form, and Mishima's idealistic form of art can still hold in the case of generative art. This experience can be the same for any other artwork created, whether printed out, on canvas, sculpture, digital and viewable, coded and process-able, as long as it has a form which can be defined as 'mortal' akin to flesh/corpus. Mishima's ideational art form is a violent infatuation with *perceived* beauty, implying that the advent of generative art is not necessarily a threat to his definitions. The 'real' aesthetic value lies in the beholder's mental construction, beyond any creative process but endowed unto whomever may experience and capture it.

7.3 The Corpus in Mishima's 'Art'

A more contentious question remains on whether Mishima's physical form of art, that requires an element of mortality or corpus capable of being acted on and destroyed, can still hold in the case of AI.

In what was previously detailed as the 'Japanese definition', a 'work' is a means of 'creatively produced expression of thoughts or sentiments' indicating the impalpable communicative elements, yet the stipulations on the production's physical form are still vague aside from illustrative examples of select mediums (such as novels, paintings, academic maps, photographic works etc). Despite the breadth of what one may interpret to automatically fall under copyright, the Right of Reproduction (that the author of a work has the exclusive right to reproduce the work) and the definitional clauses of 'recordings' to supplement clauses on Print Rights (to fix sounds or images or producing additional copies) necessitate some prior captured form of the work in question for its reproduction, printing, copying, or broadcasting (著作權法 21; 13; 14; 79-1).

On the other hand, under the 'US definition', the distinction between ideas and applicable works is made further explicit, with the scope of copyright coverage and applicability being limited to 'material objects' distinct from mental imagination, thus distinguishing the 'object' of creative output. Yet for such a form to be considered a 'corpus' capable of being destroyed or somehow negated by an actor, the 'material object' of art must have a semblance of mortality. In US Code Section 102, the term 'fixed' is further detailed as a necessary requisite for copyright protection to subsist.

"(a) Copyright protection subsists, in accordance with this title, in original works of authorship fixed in any tangible medium of expression, now known or later developed, from which they can be perceived, reproduced, or otherwise communicated, either directly or with the aid of a machine or device. Works of authorship include the following categories:

- (1) literary works;
- (2) musical works, including any accompanying words;
- (3) dramatic works, including any accompanying music;
- (4) pantomimes and choreographic works;
- (5) pictorial, graphic, and sculptural works;
- (6) motion pictures and other audiovisual works;
- (7) sound recordings; and
- (8) architectural works."

To be eligible for copyright protection of art, the authored artwork must therefore have at least the minimum requirement of creativity (for it to be an original piece), and 'fixed in any tangible medium of expression' by or under the authorisation of the initial author. Unrecorded improvised dance or some sort of expression that has not been captured in some way is therefore not protected by the US definition.

In this manner, works (in the US' case) 'perceived, reproduced, or otherwise communicated, either directly or with the aid of a machine or device' requires the 'tangible' physical body of art that can be destroyed. The distinction between 'idea' and 'expression' is seemingly clearer in the US' case as in principle, copyright protects the expression of ideas but not ideas in-and-of-themselves. In the Japanese case, despite stipulating that works are limited to 'creatively produced expression of thoughts and sentiments,' the term expression and its scope are implied through further codified rights enjoyed via the Copyright Act. Its definition of recordings as fixing images or sound into a physical object (or producing additional copies) implies that to enjoy the 'rights' from copyright applicability, works are also necessarily capable of being negated and destroyed. This makes the two typographical definitions, despite subtle differences, both applicable to Mishima's definition of mortal art.

In the AI case, due to the progression of the programme's internal 'logic' with continuous prompts, deep learning, and re-prompts, 'capturing' efforts are difficult and art's corpus hard to locate. Although the coding and form of the generative model can be archived, the preservation of all cross-sections of its methods *and* output is still ambiguous for both regulators and the private sector. Private actors such as OpenAI rely on Microsoft's worldwide cloud infrastructure (including through their public cloud platform Azure) and the cloud data platform Snowflake for data warehousing (OpenAI, *Subprocessor*). Despite the publication of OpenAI's data privacy guidelines, including details as to where data is shared to provide processing activities on customer data, answers onto whether (and in what manner) the software itself and clear information on archival initiatives to document continual development is hardly found.

It is further difficult to stipulate a requirement for private actors to continuously archive a perpetually mutating product outside of its different versions. An issue for regulators being aware of the level of archival processes in the private sector (to set standards, to manage, or to analyse potential risks) is that even large and highly funded research institutions cannot afford the AI systems and servers necessary to fully understand growth potentials (Fukuyama; Zhang et al, 8). These issues raise questions as to how likely it is that public-sector regulators can predict issues in the private realm in the long-run, especially regarding archival and privacy concerns that require further server space.

The corpus of generative AI art (as an output, and not as a process) can be applicable to study under Mishima's lens. Generative artwork can be (in theory) destroyed if 'lost' to all parties involved in its production (Google, OpenAI, Microsoft, and so on), through malware, or via the physical destruction of relevant hardware. However, it is highly unlikely even philosophically for a viewer of generative art to believe in the mortality of such artform characterised by its plasticity and only indirectly and synthetically accessible.

7.4 AI Ownership as Under a Mishima-ian Perspective

Both the Japanese and US definitions of art allow for the concept that once an original work is fixed, one is *de facto* an author and owner of said work. In this regard, ownership of the right provided for the work is different from ownership of the work itself (the owner of the work can transfer the rights of the work to the public or exclusive groups).

In the case of generative AI, if individual units of human-made data (photographs/artwork) are inputted as training material for the generative programme, the

programme is protected insofar as it is distinctly original and creative (whether by the nature of the programme being distinct from the processes of fine art, or by the output in-and-ofitself) vis-à-vis its inputted counterparts. Through it being made by generative programmes rather than painting or other such processes, generative art can be considered an original or unprejudiced endeavour insofar as it does not threaten its counterparts directly (the sentiments and expressions for its creation are not the same).

However, when viewed through the lens of Mishima's conception of art ownership, the relationship between man-made input data and the generative programme's output remains ambiguous and ethically contentious. Art, as a language, holds two functions. It is both a structural human enterprise on one hand, and is an imaginative and Apollonian expression of man's will. This fundamental characteristic of the social man and his condition becomes somewhat disenfranchised from the process of a deep learning programme. The programme transcends man's 'will' that propels language (including creative endeavours), as it departs from direct human rationale as it furthers its own capabilities in a 'self-reflexive' and nonlinear manner. Generative programmes can produce artwork as if they were similarly thrown into the human condition, owing to its human-provided training data: the endeavours to image or create, as inspired by man's tragic self-awareness that he is thrown between the existential and metaphysical, is fulfilled through its output in form. In this sense, the language of man becomes fractured. The fundamental human condition that had given to the creative outlets can be, in essence, separated from the product: without the need for the human condition to imaginate. The process of generative creation necessarily transcends the 'maker,' yet can provide the 'form': tradition can prevail despite the negation of man's condition. The civilisational and inherited processes of AI can be described as the pure triumph of the signifier (the constructed, such as language and other creative expressions) over the signified (existence in-of-itself, the de facto state of 'being'). With the propellant forces of existence unnecessary for creative expression thereby negated through the self-fulfilling processes of deep learning, the constructed realm, with all its outputs, becomes a pure signifier whereby it only relates to itself. In Mishima's terms, the latent beauty of art is then wholly enraptured by itself and needs no host for its existence. It can exist without the physical temple, and without Mizoguchi's physical presence.

In Chapter 6, I argued that the 'erotic' presented by Mishima is composed of man's latent forces, making him transfixed to the impalpable values of beauty, exhausted through his physical, beastly, and bodily means. The imaginative process of man is essential to the human condition, and Mishima characterises its expression as the relationship between the latent and

the physical. AI presents a real case in which the latent is conceptually self-sufficient and selfderivative, as the product of any latent desire or will can be produced without the need for beastly or bodily homage. Without the metaphysical-existential tension underpinning the human will, AI can derive similar outputs to the creative expression of human imagination. The merely civilisational and inherited process of AI omit the 'animalistic' or 'beastly' motivations within humans that give rise to the same creative output as the programme. While Mishima's prescription is to terrorise the physical body holding beauty captive (the artform itself), to free 'beauty', as an impalpable value, from the physical form that holds it. This requires an in-part recognition of the ownership that the artform has on this 'beauty'. As previously mentioned, it is still ambiguous whether it is possible to truly 'destroy' AI outputs as they, as artwork, code, or otherwise, exists multi-spatially and only accessible through indirect means. This further puts into question whether AI artforms could be considered as having a corpus at all.

Furthermore, using generative platforms to produce such works provides a different conception of 'capturing' than is found in contemporary intellectual property rights (hereinafter IPR). Unless outputs by generative AI can be provided for in IPR, whose exclusive rights presuppose a linear progression wherein one must 'innovate' to develop private self- interests, AI is difficult to 'capture' due to its perpetual self-correction ability to utilise its own outputs in furthering its own development. Under Mishima's lens, it might also be considered that the mutating form of art outputs (being used to inform various other outputs in an unpredictable fashion) would imply a continual self-negation of the artform. In such a manner, the signifier is then created as informed by other signifiers and so forth: that the iconographic outputs only associate with other such symbols, rather than relating to any originating subject itself.

These implications leave tension for the question of human agency in-place. In Mishima's prescription, the protagonist is satisfied and affirms his life through the destruction of form. In this case, the 'form' is self-referring, and the values incurred are similarly self-referential and contained. Although Microsoft Azure refers to its generative AI functions as 'copilot' (implying the user as the steering pilot), pilots are aware of the actions of those next to them and can predict their rational moves (Azure). Even in a present case, where man has agency over the inputs he types into generative programmes, the nature of the endeavour presupposes a limitation on man's Apollonian sensibilities when viewed from Mishima's lens.

7.5 Conclusion

As AI can degrade, evolve, terminate (kill) and (re-)generate both itself and its artworks independently of human influence captured in space-time, the absence of regulation may yield superior ethical and aesthetic implications when compared to regulatory measures found in the proposed US Algorithmic Accountability Act of 2022 and the EU Artificial Intelligence Act. A less regulatory approach would reduce the reliance on tangible constraints or superficial appearances, instead embracing a self-sufficiency of the AI mechanism rooted in pure civic tradition, in reference to the perpetual historical use of signifiers. The artwork produced by AI then represents the epitome of form, devoid of the limitations and physical manifestations that come with conventional signifiers (iconography, for example, is illustrative to reference a subject, and typically its origins are physically fixed in traditional art). With a lack of fixed space-time, AI art does not attain the status of 'beauty,' or possess inherent emotional depth for the viewer, given the absence of primal instincts and incited emotions, from either its creator or those intent on its death. The art's mortal coil is largely indirect and unseen. Furthermore, observers lack the grounds to perceive generative art as beauty in relation to an existential will. They lack the motivation to engage in the perpetual cycle of creation and destruction inherent to such a self-contained and self- referential force.

The most contentious point under Mishima's lens, then, is whether the lack of motivation to perceive AI art as existentially concerned has metaphysical implications for historical man. This chapter has argued that the case of AI exemplifies a potential philosophical autonomy of the latent, surpassing the need for corporeal homage. Unlike human artists, AI lacks identifiable 'animalistic' impulses, challenging the idea of emotional inspiration in its pattern recognition processes. The absence of such motivations in AI reveals a process rooted solely in civic tradition and self-referential developments, contrasting with Mishima's Apollonian protagonist who applies his will in terrorising the physical and space-time fixed body to alleviate imagination. Acknowledging the art form's ownership over beauty, the difficulty in truly 'destroying' multi-spatial AI artforms raises questions about their corporeal existence, and thus their mirrored image in man. If the existential concern becomes irrelevant, as it does in the supposed AI case, all concern becomes truly metaphysical, as does the endeavour of man as an inward contemplation over his nature and condition: a potentially dissatisfying and weary position, whereby the Dionysian tragedy encompasses and negates the Apollonian imagination.

CHAPTER 8 'DIALOGUE' BETWEEN MISHIMA AND BENJAMIN

This chapter will conduct a comparative analysis of the key points of tension presented in Chapters 5 and 7. Chapter 5 has presented Benjamin's emancipatory process as being propelled by mass interaction with artistic media. Mass participation, in this view, nurtures art to be evaluated as a function catered to the masses, thereby shifting the societal valuation of aesthetics and perspectives on history. Chapter 5 also highlighted a conceptual tension when these views are presented with the contemporary case of AI policy discourse, due to the technology's physical limitations such as high cost and limited resources, curtailing wide access to tangibly own the means of generative art. These limitations render the prospect of truly democratised and accessible data centres, and other such endeavours to curtail technocratic approaches, unsatisfactory, and these tensions were ultimately left unresolved in Chapter 5 after analysing Benjamin's stressing of mass *interaction* in favour of mass *ownership* of the original medium. Ethical dilemmas have thus been left unresolved, between the surface-level ideal of emancipatory or critical approaches, and the conceptual argument levied by Benjamin on putting the zeitgeist under an aesthetic, historical, and political revolutionary crisis.

On the other hand, Chapter 7 applied Chapter 6's evaluations to the AI case. Mishima depicted art as representative of a tragic battleground between man as an inwardly contemplative creature over his mortality, and man as an imaginative and productive figure placed into a world in which he can act upon. Art itself receives treatment as torn between its ontological form and its ideal: beauty as captured within a mortal corpus. In application to our contemporary case, tensions arose over whether AI artforms could be considered as corporeal, due to the practical difficulty in 'destroying' multi-spatial, digital works. In the case that man perceives AI artforms as having evolved beyond the need for a tangible physical body, Chapter 7 left unresolved whether the endeavour of man as an actor (a destroyer of corpus) is left unsatisfied where the inward, Dionysian sentiments of tragedy encompass and negate their Apollonian counterpart.

This chapter will dissect these aforementioned tensions, contrasting the two positions against each other and to elucidate more fundamental ethical and ideological contentions surrounding AI policy. Firstly, this chapter will unpack the tensions previously concluded in Chapters 5 and 7, and evaluate the main distinctions between the two conceptual arguments made. This comparison will find that there are two key contentious points: the different levels of importance placed unto physical form in constructing an aesthetic-political ideology, and distinct characteristics of the ideal artist. Secondly, this chapter will identify and analyse what 'form' is for each author, to construct two definitions of 'form' to use as vehicles to evaluate AI policy debates. Thirdly, this chapter will evaluate AI policy debates on the creative industry and other such educational and cultural arguments, utilising the distinctions made between ideological understandings of what the ideal artist should look like. This will entail evaluating contemporary debates under the conceptual mapwork (through the methodological vehicle of 'form') laid prior, analysing the ideological undercurrents and assumptions present in debates relating to AI art 'ownership'.

8.1 Tension

Emphasising the transformative power of widespread cultural engagement, Chapter 4 analysed Benjamin's prescriptive mass interaction with mechanically reproduced art for the purposes of placing societal attitudes towards history into crisis. However, Chapter 5 then concluded by presenting the challenge of applying Benjamin's theories to the contemporary landscape of AI. These points of tension were namely marked by AI's technological and physical limitations, such as high costs and restricted access to resources for both private and public actors. These constraints pose substantial hurdles in achieving truly democratized and accessible data centres, thereby impeding efforts to counteract technocratic tendencies effectively. Within this complex terrain, tensions emerge between the idealistic pursuit of creative autonomy, and the pragmatic necessity of understanding the structural and ontological distinctions inherent in the mass consumption of artistic media.

Both Chapter 4 and 5 stressed the importance for Benjamin's framework of experiencing the human condition and its expressions while understanding the structural dynamics at play for such information to be relayed. Through this combination, individuals would be positioned as both immersed participants and critical observers, such as the prescriptive ideals espoused through the concept of the flâneur. This dual perspective is crucial in transcending stagnant adoration and pushing back against cultic values attributed to traditional art, in which cultural output is concealed as to preserve its authenticity. However, the contemporary landscape presents a paradox whereby creative autonomy, while normatively

prized, takes a backseat to Benjamin's emphasis on mass *interaction*. This complicates efforts to navigate the intersection between aspirations for emancipation and the realities of technological and societal constraints. Benjamin's stress on participation (as including viewers of the medium) indicate that ownership of the technology on which to create the artwork is relatively unimportant. Consequently, ethical dilemmas persist, calling into question the feasibility of achieving this normative ideal within the confines of physical limitation. To address such ethical dilemmas, further analysis on the nature of *form* as between the participant and artwork is necessary.

Chapter 6 explored Mishima's portrayal of art as reflecting a self-conscious battleground characteristic of the tragic human condition, between man's introspective nature and his capacity for worldly action. Focusing on the tension between art's ontological form and its idealised beauty within mortal constraints, Chapter 7 had presented the challenge of reconciling a corporeal nature of AI art for man's perpetual expression of competing wills. The nature of AI art and its lack of a tangible physical body or form, and the practical impossibility of 'destroying' digital works existing across multiple spatial dimensions, was detailed in contrast to the Apollonian will in perpetual competition with its Dionysian counterpart for man.

Chapter 7 therefore presented a question on the role of humans as agents, regarding AI artwork, capable of shaping, destroying, and dismantling form. Contemplating AI's potential to transcend corporeality, as a form of expression, Chapter 7 introduced a metaphysical dimension to the AI discourse wherein human endeavours toward introspection over their own mortality and condition take precedence. To address these tensions left in Chapter 7, further analysis on *form* is similarly needed.

8.2 Mishima-ian, Benjamin-ian Dialogue on Form

This section will investigate Mishima-ian and Benjamin-ian definitions and interpretations of the concept 'form' as a frame of reference to find conceptual relationships located in instantiations of the AI policy discourse case study.

The foremost example of where Mishima's 'form' is found in his reference to a catechetic Zen problem throughout *Golden Pavilion*, previously analysed in Chapter 6. The various interpretations of the Zen problem, initially introduced by the Superior's lecture immediately after Japan's defeat in WW2, confronted issues of 'the matter of beauty' (61-62, 135-137, 201-203). The kitten is interpreted by those around the protagonist Mizoguchi to be a physical form posturing as beauty, inciting pain in those who behold it: leaving the only
solution to exert the utmost will unto the form and destroy it. By doing so, it is interpreted that Father Nansen had eliminated the outer experience that falsely attached itself to inner experiences, the dichotomy being the source of nagging pain and desire (136-137). Similarly, *The Sailor who Fell from Grace with the Sea* presents thematic issues of masculine loss, and nostalgia as juxtaposed to glory. The story follows the various narratives of Noboru, the protagonist, and his prospective stepfather: a sailor romantically reminiscing over the seas to the young boy, as he is progressively besotted with the concept of becoming a husband and father figure (54-57, 69-70, 140-142). On the other hand, Noboru becomes further angered by the feeble entropic lamentations of a once-great voice of glory, as the sailor falls in love, deciding to settle down (31-34, 123-125, 131). The only cure for such pathetic perfidiousness, for Noboru and his friends, is to kill the sailor for his unrepairable sins (128-131, 142-143).

Similar examples, on the spurs of violence, pain, and desire through form, are found in the more erotic sections of Mishima's oeuvre. The masculinity of the thematic issues presented by *Sailor* is heightened through the sexual overtones of the sea, both in the sailor's imagination and in Noboru's premature descriptions of sex (Hagiwara, 36-42). The *Golden Pavilion* also presents the problem of form's erotic nature: Mizoguchi articulates the allure of a woman's breast as being beautiful only when it transcended 'mere flesh' to become immortal, as 'related to eternity' (143-144). Actions to expose the 'luxuriant darkness' of flesh, to turn beings 'inside out like rose petals,' and to dominate and 'expose' the substance within, strikes a parallel with Mizoguchi's affection for the evanescence of the temple's shadow as it was 'more beautiful than the building' (144, 54, 23, 42). Action, as the expression of will, is highlighted as a masculine endeavour emerging from the complex relationship of pain and glory, both aesthetic sources of tension.

For Mishima, 'form' therefore has definitional importance in distinguishing the metaphysical boundaries to which aesthetic and political will impart meaning. Scholars have commonly interpreted political themes in Mishima's work as centrally reflecting concerns about Japan's spiritual decline (Iha; Frențiu; Rankin, 122). For instance, in the aftermath of Japan's military defeat, the Superior delivers a lecture on the topic 'Nansen kills a cat' (62). Intertwining aesthetic considerations, this lecture opens the door for multitudinous opinions on killing as a tragic solution to the metaphysical nature of beauty. Mizoguchi applies this idea to chrysanthemums, which symbolise the Japanese Imperial family and death in funeral traditions. He realises that the beauty of the chrysanthemum lies not in its physical form, but in the abstract idea and promise contained in its name (149). This notion, that form is the physical banality that holds 'real' beauty captive, echoes Mishima's own political views, where he contrasts the

ideal forms of the nation with the political reality (body) of 'Japan' (Stokes, 23). Throughout his oeuvre, but most notably in *The Golden Pavilion*, Mishima utilises metaphor to endow murdering the object of beauty, to affirm one's own power and life, with political meaning. Mishima strategically constructs Mizoguchi's aesthetic perspectives as a political force, drawing on metaphysical distinctions of both nation and art in his invocations of patriotism.

Mishima's 'form' serves to distinguish between an entropic and superimposed body, and an ideal immanent value awaiting actualisation via death. While Benjamin's 'form' is similarly found as a common theme, centrally utilised in investigating metaphysical concerns alongside cultural critique, linguistics, and the intersections of structure and experience in history, Benjamin's 'form' is conceptually used against itself. His 'form' requires critical evaluation, understanding the fundamental premise of the separation of experience and structure. Benjamin proposes an absolute definition of 'form,' one which *includes* both experiential and structural manners of perception within its bounds.

Benjamin's early essay, *Experience*, attempts to define the metaphysical experience of 'spirit' in relation to the cultural ideals espoused by the German Youth Movement. In *Experience*, Benjamin highlights an evaluative distinction between an unartistic life, in which one lives through 'experiences' devoid of spiritual content, and the perpetual absorption into experiences of a dream-like and imaginative spirit, referring to Nietzsche's *Zarathustra* (*Experience*, 3-4). This early analysis of spirit, as combined with evaluations on the concept of experience, shed further context upon Chapter 4's analysis of Benjamin's 'experience' as a theoretical notion to which structural methods of knowledge and communication are coupled; the flâneur evocates an artistic sensibility through layering structure and experience.

This separation between structure and spirited experience is similarly made in his analysis on the nature of language, wherein he argues that language is not solely a mathematical or mechanical endeavour, 'animate or inanimate' (Benjamin, *On Language*, 62). Rather, all experience and all mental endeavours including perception are linguistic and creative (Benjamin, *On Language*, 62-64). This argument undermines any limitations operating in a rationalist or expressly logical description of linguistics, where a distinction between subject and object must fundamentally be supposed. Benjamin's conception combines the subject and object to turn the concept of language into an experiential, yet functional relationship constantly placed into a state of flux; a postulation akin to the anti-historicist or anti-surrealist arguments analysed in Chapter 4. Therefore, form matters as a concept fundamental to the creation of concretised units within an otherwise fluctuating and harmonious, critical state.

In other words, speculative metaphysics puts into crisis the distinctions between previously structured units of form. Benjamin's critique of history presents a 'messianic' view of history in which one does not view history as a linear path of progress with a *telos* or end, but as an immanent state of crisis in the belief that a break could manifest at any moment.

Benjamin's and Mishima's 'form' have now both been defined, located, and identified within their wider theoretical works. The following section will now compare both Mishimaian and Benjamin-ian 'forms' by describing AI policy discourse as a function of each: how can AI policy debates be perceived, interpreted, or is changed, through the lens of Mishima's/Benjamin's 'form'?

8.3 The Nature of AI Art and its Form

Benjamin's concept of 'form' proposes an encompassing definition to merge experiential and structural perceptions, dismantling traditional distinctions between subject and object. Advocating for a dynamic understanding of language, culture, and historical narrative, Benjamin's 'form' challenges historicist thought, seeking the potential for messianic disruptions in history's linear progression. In this regard, AI produces a novel perspective regarding the notion of image authenticity. Marking a departure from traditional understandings, where one understood the photo to be real as it touched the documentation of itself, digital images generated by AI transcend the traditional paradigm by synthesising data from numerous sources, rendering a statistical representation of averages and probabilities (Chomsky et al; Troemel). For photography, objectivity or the 'truth' of an image was tied to indexicality, where the light in a scene interacted *physically* with a camera's film, or a physical trace of its existence.

Chapter 4 and 5 highlighted that Benjamin, while acknowledging film's artificiality, emphasizes its ability to reveal truths embedded within human experiences, disrupting the divide between dreams and tangible realities. Actors, the subjects, must align themselves with the camera to effectively convey emotions, while authors construct narratives that embrace artificiality. Viewers, cognizant of the inherent artifice of cinema, can immerse themselves in the depicted story while simultaneously recognising their role as distant observers. In essence, film becomes a powerful medium, making mechanical revolution a crisis for societal relationships with form. For our contemporary case, AI's authority is derived from its ability to visualise a probability chart, devoid of direct physical referents, and therefore resembling Platonic ideals shaped by existing media and beliefs. In traditional photography, the truthfulness of an image relies on its indexicality: the light in a scene physically interacts with the camera's film, and a photograph's authenticity is the tangible mark of its presence in the scene. AI-generated images on the other hand are not merely 'captured' moments of reality, but are synthesised through the manipulation and analysis of vast amounts of data. Unlike photography, which aims to convey an element of factual accuracy (documentation) or acknowledge such aims with experiments on the concept of subjectivity and a photographer's integration with the subject, AI images openly acknowledge and are recognised for their synthetic nature.

Yet, consumers find this open acknowledgment an appeal of AI itself. Paradoxically, the open acknowledgement of generated images' artifice can be enjoyed in pulling the rug from under a divide of reference, subject, truth, and thus form. The paradoxical nature of the enjoyment of generative art mirrors that of inauthenticity, breeding the sense of 'real' experiential authenticity in Benjamin's articulation of film's societal strengths. Benjamin argues that photography and film turns their authority over truth unto itself, whereby the perception of 'genuineness' and the medium's authority is perpetually put into crisis, when the material duration and historical witness of its origin is removed from human perception when the medium is enjoyed by the masses (*Work*, 7). In essence, film puts cultic and auric values into crisis due to its ability to remove values of material duration (of an object of 'artwork') and bearing historical witness as it is reproduced for the masses, while still maintaining its authority: this liquidates 'the value of tradition in cultural heritage' (*Work*, 6-8). Similarly, AI's open acknowledgement of its output as in-physical and hyper-derivative is in-itself its authority, further placing material duration, historical witness, and physical relation (and inspiration) into crisis while maintaining its attractiveness.

On the other hand, for Mishima, 'form' refers to the underlying structure and essence of art, containing aesthetic, conceptual, and philosophical dimensions. Aesthetically, 'form' distinguishes the transcendental ideal of beauty from the fixed mortal body of art. However, 'form' encompasses not only the aesthetic but also the existential implications of artistic creation, as such creative endeavours stem from man's assertion of power and life. The physical body of art is destroyed in a process of man re-asserting his will, marking a parallel with Mishima's political concerns on the ideal nation, a decaying state, and patriotism. Therefore, the metaphysical implications of art interplay with human consciousness and man's dual inspiration of transformative assertion, and contemplation.

Importance is then placed onto how artworks are fixed, physical, and capable of being destroyed for man to assert his will over them. Conceptually, for the ideal form of beauty to be

realised, the physical form must be destroyed. Although in analog intelligence when the brain dies, the knowledge dies, digital intelligence can transfer the same connections to another computer, and even if all digital computers die, the connection strengths can still be stored and transferred (Rothman). In Chapters 6 and 7, it was emphasised that due to AI art lacking a fixed physical form, there were human existential and metaphysical challenges in destroying digital creations spread across various dimensions from a Mishima-ian point of view. The nature of AI art contrasted the Apollonian drive, which perpetually competes with its Dionysian counterpart in human affairs. Chapter 7 raised an inquiry regarding human agency concerning AI artworks, including the ability to shape, dismantle, or destroy them. Since the Apollonian will cannot be applied (as AI art lacks a mortal body), this presents a disconcerting conceptual prospect whereby the Dionysian will might overshadow and nullify Apollonian assertion and intentions. The difficulty in completely erasing multi-dimensional (and in theory, perpetually re-accessible, through different computers) AI art prompts reflections on their corporeal presence, and its reflection in the human condition. When existential concerns fade away, as in the case of AI, the focus may shift to the metaphysical realm of introspection and unfulfilled cogitation. The transformative, dream-propelling spirit of the Apollonian may thus be overwhelmed by a resignation to Dionysian reminders of man's mortal fragility.

8.4 The Art Scene: Education and Collaboration

In analysing discourses on AI art, the concept of 'form' holds significant importance due to concerns over the potential marginalisation of physical art forms in favour of AI-generated artworks and digital experiences. The inclusion of AI-generated artworks or experiences has met several strategic goals for the cultural industry, not only to opt-in on the buzz of a new technology, but also to fulfil a pre-established issue for museums to smoothly transmogrify and meet contemporary demands. However, the tangible presence of traditional art and its cultural, aesthetic, and economic values are in stark contrast to motivations for digital integration. If digital integration brings museums or other cultural outlets closer to a one-to-one representative, participatory, or equalitarian optic, 'traditional' art remains a potential rhetorical counterpart to be preserved.

Benjamin had portrayed the battle of cultic value in reaction to mechanical reproduction, even in photography whereby the first functions were to preserve memories of loved ones or esteemed peoples. The 'form' then remains a bulwark against its more fleeting and duplicable counterpart. In cinemas, those seated must view the same film. This has caused disruptive issues for large production houses, who have faced similar problems as museums, namely that the need for representation required a stance, usually perceived as a political stance, and they then potentially lose out on a section of a demographic whichever stance they make (Desta; Morris, *Little*; Barnes and Qin; Toh et al). It therefore becomes pertinent for corporations to create a modular background to best fit one-to-one needs, such as an algorithmic, data-mining, and individualised based service like Netflix or other such streaming platforms. The use of generative technology to achieve such goals is made more feasible with the 2024-published programme Sora by OpenAI, a text-to-video generation model, and similarly its adoption seems likely in light of the widely integrated and accepted use of MASSIVE (multi-agent simulation system in virtual environment) software package first revealed in 2001 to generate crowd-related visual effects (Failes; McPheeters).

Concerns about the future of art in the digital age have been amplified by the recent media flurry covering AI-generated artwork and other AI-related controversies, raising questions about AI's impact on the traditional art market and the physical form of fine art itself. Tokyo's reinvigorated art market was fuelled by increasing international interest (both in terms of tourism and foreign investment), and propelling deregulation (to aid the former process), consequently bolstering large-scale events and hubs such as Art Week and Art Basel Tokyo. The solidifying of Tokyo's position as a leading art destination also came coupled with the relative decline of 'competitors' abroad in Hong Kong and Shanghai due to geoeconomic sensitivities, seeing a variety of Japanese locations further foreign investment, namely in Roppongi, Naoshima, Tennōzu Isle, and even in a sub-culture revival through high-budget marketing budgets in the Omotesando-Harajuku area. Meanwhile, lead pop (and fashion) artist Takashi Murakami collaborated with the Non-Fungible-Tokens and Augmented Reality (powered by AI) digital artifacts studio RTFKT (recently acquired by Nike) with extensive coverage through events at Geisai, the Tokyo University of the Arts festival (Swanson; Sekido; Zara; Nowill). Cryptocurrency is often coupled with AR/VR/Meta functions to raise the prospective marketing value of the investment, considering the perceived stability of the asset with the functional aspects in holding it. These projects have thus presented further incentives for mainstream artists and galleries to increase digital integration of AI art into the traditional space, despite fears that the physical form of fine art will become marginalised if galleries prioritise the high production capacities and traction that AI might yield.

The contemporary context of museums and the museum industry is necessary to evaluate the values beneath via Mishima-ian and Benjamin-ian 'form'. Previously, museums have had a pedagogical and andragogical approach to their exhibits, with customers seeking either a transformational or educational experience (Weber, 19-22; Duh, 88). However, with the rise of the need for representation from the customer base, specifically the younger generation more engaged with social media and promoting self-depiction, museums have struggled to maintain a connoisseurial position of public cultural taste while presenting the appearance of being an egalitarian equal beholden to their demands (Groys). Such an issue presented itself most pointedly with large, noteworthy, and ambitious firings and hirings: the most prominent of which was the firing of the Museum of Contemporary Art's chief curator Helen Molesworth, leading media outlets to dub similar moves across museums as indicating 'identity crises' and portraying 'scapegoat' acts to partially mediate claims of organisational racial prejudice (Vankin; FRIEZE; Molesworth; Lewis; Hotchkiss).

Facing public pressure, it became increasingly pertinent for museums to adopt a new paradigm in which transformation was less valuable, and where heightening representative experiences was paramount. The new wave of 'the selfie' or 'the Instagram' museums, combined advertiser financing with low-cost installations of backdrops in which customers could reframe themselves as being both the author and subject of art displayed, even providing established artworks such as Yayoi Kusama's mirrored 'Infinity Nets' installations a renewed interpretation and method of interaction in the 2010s (Goldstein, *8*; Kwun; Morris, *Fields*, 3-4; PHAIDON). The open space for any viewer to take the place of both subject and author have allowed museums an ability to house a one-to-one ratio of exhibit to audience identity, a total representative model where an endlessly niche, target-advertised exhibit could be customised and achieved.

Advancements in digital technology, as well as the new paradigm in museum curation, have led to collaborations between cultural institutions and tech companies, resulting in innovative experiences such as virtual reality tours and personalised museum exhibits. These initiatives therefore dually reflect a broader trend towards digital integration in the cultural sector, and the increasing importance of participatory user experience. In response to the late demand for more direct representation, coupled with public-led incentives to opt-in on digital service, many initiatives were made to combine both strategies. The Louvre Museum collaborated with XR and blockchain program HTC VIVE Arts in a 2019 Virtual Reality experience of Mona Lisa, the Bloomberg Philanthropies' held digital initiatives to increase 'create your own' exhibits in museums such as Tate Britain, and longer-term investment projects into NFTs and AR were unveiled by groups Pace Gallery and collaborator TeamLab (Louvre; Tate; Pace; TeamLab). Public policy has also more directly funded similar projects, namely the Korea Advanced Institute of Science and Technology, a public institution in

Daejeon, South Korea, funding research into the 'K-Culture Time Machine Project', which aggregates a cultural heritage database in which to develop a mobile AR platform to visualise such content, and enhance user experiences through personalised tour guides of heritage sites (Kim et al, 1-3).

If museums are enjoying a representation paradigm to meet one-to-one demands, instead of the transformative paradigm once employed, does this still adequately meet the educational and heuristic prescriptions of mechanical reproduction by Benjamin? Discussions of new wave of exhibition curation appear contentious on the matter of whether such curation is educational or beneficial to culture. The growth and popularity of the 'selfie museum' was coupled with a rise in the interactive nature of creative workspaces. Stanford 'd.school'-esque spatial design of organisations to nurture creative processes point to a similar use of AI and open, dynamic interior design to stimulate creativity (Doorley and Witthoft, 13-15). Criticisms of such narratives centrally point towards the simulation-driven nature of their popularity, that individuals do not choose to go to an exhibit or redesign their office by its appeal in-and-of-itself, but due its popularity, and the contradictory nature of labelling such linearly, hierarchical, and deterministic views as enhancing art or producing creativity (De Paoli et al, 36-40; Guse).

However, as analysed in Chapter 5, Benjamin's prescription included the premise that true social upheaval necessitates a mass consumption by 'distracted' participants that can delve into the media produced, while also knowing their own distance from the consumption; they are experientially involved with the artwork and its reception, yet understand the structural interaction insofar as they are an entity receiving the reception (Work, 33-35). This combination of perception, knowing the structural and ontological distinctions between art and self while immersing completely into the art consumed, is what enables film to push back cultic value. Benjamin writes that the initial backlash against film and its effects on society pointed to the 'superficial aspect' of the 'greater masses of participation' (Work, 33). Critiquing this, he also highlights the necessity of supposed superficiality, that those who contemplate over a painting may allow a work of art to immerse itself into them, but the distracted mass can wholly absorb the work of art into the fabric of reality as it is (33). The viewer of a painting in a museum only contemplates through the recognition that the painting is a painting; the contemplation exists in hand with the separation of the artwork and participant. On the other hand, the distracted masses, while acknowledging the separation of the work and themselves, allow themselves to be 'fooled' into its superficiality as part of existence: such as an architectural piece that cannot possess canonical value merely through contemplation, but tactile and optical reception and 'man's getting used to them' (35).

Therefore, in other words, the participatory nature of AI, or the drive for museums to opt-into the technology to create more representative and inclusionary experiences (rather than that of contemplative transformation) is ideologically akin to the prescriptive benefits of film. The masses can wholly absorb the generated art and its aesthetic values as reality itself, rather than maintaining an examiner's distance between the art and self.

On the contrary, under the Mishima-ian perspective, this case, of the art world utilising and heightening the access to generative art, may speak toward an entropic and fatigued outlook on society. Mishima's aesthetic distinction between the object that holds beauty and beauty itself (the ideal form) is coupled with an assertive and political tension for one's affirmation of life. While man's nature is depicted as an innately assertive, yet fearful, creature, the physical form is presented as an obstacle for man to realise his seeking of beauty. Creative expression, including physical artworks and language, consists of signs that contain meaning both within and outside of experiential contexts: the pragmatic interpretations of context mix with the semantic, structurally-derived interpretation of natural and linguistic signs (Berardi). Generative art, like its linguistic counterpart, can recognise semiotic and visual series to generate images through a coherent recombination of the signifying units and patterns (Berardi). Generative art's abilities may point to a worrying effect on human social muscles: if the evolution of machines can make humanity more efficient in producing communicative works with the machine, may it render humans less competent in communicating experientially and within innate human contexts? Man, as described by Mishima, is made of actions and will, typically destructive in nature, to transform the *corpus* (art *form*) for the alleviation of beauty. Completely derivative and digitised AI artwork, that lacks appeal to historical witness or physical imprint, may only appeal to man's introversion rather than inciting man to transform the world he finds himself in.

8.5 Conclusion

While the Mishima-ian perspective is pessimistic on the ideological consequences to man's relation to himself, the Benjamin-ian perspective highlights an optimism on the confrontation of a linear (and ultimately unjust) history. The level of optimism surrounding the nature of AI and its potential effects on society, therefore, rests upon the position of *form* in relation to the self. Now that the theoretical discourse over AI policy through 'form' has been presented, mapped, and evaluated, the next chapter will more specifically analyse potential policy implications of this endeavour.

CHAPTER 9 POLICY IMPLICATIONS

This chapter will analyse potential policy implications of the theoretical distinctions, points of contention, and prescriptive argumentation, found throughout this thesis. Chapter 8 articulated the two concepts of form that make up the theoretical map on which to analyse AI policy debates. The Mishima-ian form points to the distinction between ideal values, and the entropic, mortal body which curtails the value's real fruition as an impalpable force. Man relates to this distinction by creating or destructing physical forms, an expression of the Apollonian will, characterising the human condition as a cycle of tragedy and catharsis. On the other hand, the Benjamin-ian form points toward a distinction between structural and experiential elements of communication. While the structural elements can be considered as units, oral history, or other forms of linearly constructed memory and derived knowledge, experiential elements require no recollection to a specific point in space or time. Experiential aspects of communication and life merely points toward the *present* intimacy of man's inescapable historical entanglement. Prescriptively, the Benjamin-ian form points to the necessity for art, alongside technological developments, to blur the line between structure and experience. By blurring such distinctions, the fundamental presupposition of linear time, and argumentations rested on the rhetoric of progress or of nostalgia, are put into crisis. This chapter will evaluate the ideational distinctions of AI policy debate through the interplay of the two 'forms' articulated in this theoretical map.

9.1 Job Security

The speculative value of modern works in traditional galleries, the major market bulk of the fine art space, has been characterised as consisting of tax evasion and insider trading in a reputation laundering scheme (Wieczner and Heimer; Grant; Spiegler; Kinsella; Goldstein, *Collector*; Adam; Mattei). Tech innovations have only recently been introduced into the traditional art market by and large for sellers to reinforce information asymmetries, and the late adoption of social media by galleries has similarly worked to consolidate the power around a concentrated network of elite sellers and clientele (Resch, *Shining*; Keefe; Rea; Jones; Masterworks). In a similar vein, the art world has rated poorly in comparison to other industries for graduate unemployment (Cascone; Feldman, 1-2; Garcia). In maintaining the downward pressure in wages, artists often work for free toward a chance to exhibit. Artistic investment

value is therefore not based upon the work produced, but in the exhibitions in which they were a part of, their constructed persona, and social network (Fraiberger et al, 827-829; Resch, *Management*, 66, 68-69, 73, Paumgarten; Masterworks; ArtRank).

The supposed threat to artists within the upscale art world of galleries by AI thus appears minimal, considering galleries' need for artists to enforce scarcity and provide interpersonal networks: attributes that AI cannot provide. Yet, freelance artists have voiced concern over labour demand, as articulated in Chapter 3 (6; Carter; Felten et al, 22-27; Eloundou et al, 16; Yup; Art Workers Japan). Felten et al. and Eloundou et al.'s papers highlighted the high AI occupational exposure risks to creative jobs, namely for the various types of commercial and digital designers (Felten et al, 22-27; Eloundou et al, 16-18). The Benjamin-ian form suggests the prescriptive necessity for galleries to face pressure from mass participation with art via AI, to turn the captivation of art valuation and elitist position in on itself. Hyper-integration of AI and participatory notions in the gallery space would therefore be prescriptively promoted, owing to the incorporation of a representative notion that dually negates the elitist structure typically associated with the presentation of artworks.

However, Eloundou et al.'s paper had noted the high variance of AI exposure for graphic designers due to the potential for GPT-powered software to save workers a significant amount of time, but does not necessarily suggest their tasks can be fully automated by the technology (Eloundou et al, 16). The flexible nature of a designer's tasks therefore leaves room for advocates and artists to have viable anxiety, upheld by the amount of media coverage of the potential effects of AI on job markets, while also opening critique of the current art market, and the necessity for a re-evaluation of the uniqueness of 'human creativity' (Natale and Henrickson, 2-3, 7-14; Mikalonytė and Kneer, 10-12; Mazzone and Elgammal, 1-2). The Mishima-ian form suggests a new light in respect to the conclusions appealing to either job security (fear of labour market change) or 'real' creativity. Appeals to true creativity are not viable, considering ceaseless characteristic of man's transformative will, while concerns over job security are in themselves not viable considering the flexible applicability of said creative wills. The flexibility of artists, if their artistic value emerges from the ability to be creative in some meaningful manner, would allow for the transformation of imaginative wills to an expression.

The Mishima-ian perspective therefore agrees with the variation in AI effects on the labour market conceptually, while disagreeing with rhetoric utilising concepts of 'human creativity' as informing policy prescriptions. The Mishima-ian concern over the lack of a tangible body for AI expression (as capable of being physically destroyed) does nod to similar public policy anxieties over the extent of human creativity-related concerns, specifically in the diminishment of culturally derived notions of art and national heritage (Mastandrea et al; Darda and Cross). The latter concern, of the potential diminishment of national culture, is a potential avenue which the current Japanese policy landscape may successfully address. As the Mishima-ian framework depicts man's transformative wills as expressing cultural, national, and *aesthetic* dispositions, MEXT is uniquely situated to merge both the current policy treatment of AI as a technological concern, and the treatment of AI as a cultural and artistic concern. In this manner, this thesis, through the Mishima-ian framework, suggests the need to provide an aesthetic lens *alongside* the industry-concerned lens that has dominated legal evaluations and policy status thus far. This aesthetic lens, as provided to by the Mishima-ian lens, is primarily a concern surrounding national culture and heritage, and thus long-term strategy as related to national identity.

9.2 Misinformation and Freedom of Expression

Large Language Models, whose engineers have admitted their inability to describe how the algorithms work, generated images that derive truth from a faceless and difficult to reverseengineer 'black box' (Hassenfield; OpenAI, *GPT*, 13-14; Bowman, 9.3; Anwar et al, 10-15). The inherent technocratic authority of this 'black box' is evident in the manner of which AI receives its legitimacy, and the ambiguity surrounding whether AI developers can shape the source of this legitimacy. AI garners its legitimacy as a creative tool from social valuation: through its users, it can garner authority it may not otherwise hold.

The ambiguity over the nature AI and its source of legitimacy has incited cautions over AI potentially developing perfect fake realities as well as exposing them, a signal of the 'beginning of an existential epistemic transformation', necessitating new conceptions of truth and artifice (Grozdanoff, 107). Despite public policy's assumption on the public's *inadvertent* consumption of misinformation, that there is a demand for misinformation, with the demand for 'facts' being an elastic subset of a wider demand for *content*, akin to the creative tradition of telling (false) stories and (fake) narratives (Horning, *Another*; Simon et al, 3). From a Benjamin-ian perspective, policy should allow for the widest participation with AI *due to* the ambiguities over its legitimacy to truth and capacity to bear historical witness. The ambiguities make generative art a technology that curtails boundaries laid between structurally derived knowledge and experience. In other words, AI inadvertently diminishes the need for a medium to 'fix' historical fact or 'touch' the subject, making the boundaries between subject, object,

past, present, true, and false, inextricably intertwined. Similarly, concerns over whether AI tools in-built to phone cameras (such as the Google Pixel 8's 'Magic Eraser) may 'photoshop our memories' and cheat our future selves, can be questioned utilising the Benajmin-ian prescription to diminish social preciousness of fidelity (Chokkattu; Horning, *Another*; Warzel; Parham). Since human experience and memory are transient and distorted, the need for media to be objectively accurate and transfixed into documenting valued space-times is constructed as reality *opposed* to the falsities of human experiential factors. The Benjamin-ian form suggests the need to blur the constructed boundary between the two realms: making distortion *embedded* in the same reality of what is currently deemed 'factual documentation'.

While 'truth', for the Benjamin-ain form, requires a negation of itself to transform social valuation of 'truth' as ordained linearly or hierarchically further, it is prescriptively necessary for the masses to receive artwork that is legitimate, yet does not require a fixed spacetime to become an authority of truth. For the Mishima-ian form, the lack of a recalled spacetime, an indexical nature, or a fixed authoritative author, is the point of ethical concern. Concerns over the lack of a fixed author are reminiscent of arguments made against regulations to limit misinformation, calling to the potential for nudge-based social engineering by the dissemination of spurious adjacencies between beliefs, (unidentifiable and unseen by consumers of the AI medium), and the potential for misinformation to be utilised as a pretext for intangible, inconspicuous, and imperceptible behavioural control (Yeerk; Troemel). From a Mishima-ian perspective, the state of flux as suggested by AI's paradox over truth, historical witness, legitimacy, and materiality is cause for concern. If the object of legitimacy and authority (AI as speaking to 'art') is not tangibly perceivable and is further inaccessible as a physical form in its entirety, there are concerns of human entropy vis-à-vis the inability to express corporeal will to power. In other words, the 'will to live' as experienced by Mizoguchi after setting the temple alight becomes impossible if the temple were a mere mirage. Rather, man would have to internalise his struggles to an extent that metaphysical concerns on the nature of reality turn inwards, reflecting the inertia of an existentially concerned man in a disengaged struggle with the meaning of life.

9.3 Intellectual Property

The issues of data-aggregation, misinformation, and intellectual property become compacted when considering the freedom to creatively utilise AI. Art generation necessitates the use of existing images in order to generated from textual prompts or open-ended tasks, but also to produce drawings that resemble specific artists' styles. If it is a given that misinformation is a pretext for censoring expression, the use of human-made artwork for training data, and the generative capability to mimic human artistic styles, regulations to curtail harmful or untruthful content entail the worst aspects of both policy concerns: the unlimited 'theft' of data to fuel the generative programmes, alongside the limitation of its output. If artists are concerned about the use of their works in training datasets, regulations curtaining the output of programmes utilising such man-made artworks limit the realm of artistic freedom and creative security further, making both policy issues further contentious. However, the devaluation of physical or mortal works, by not treating human made works with precious gloves, is seen positively under the Benjamin-ian perspective (owing to the diminishment of theologically treated art). This lends a positive outlook to the current intellectual property landscape, especially the Japanese case, in which programmes can utilise copyright works for its own development. Increasing regulations, particularly regarding intellectual property laws, might unintentionally stifle creative freedom and decentralization, ultimately favouring industry incumbents capable of navigating legal processes like litigation and enforcement. While this can be worrisome for those who seek to limit or define 'true' creative (or artisanal) practices, since the accessibility of resources for developing AI applications, along with financial and educational hurdles, could disproportionately benefit major tech corporations, the Benjamin-ian emphasis on mass consumption provides a solution for this ethical quandary, via relaxed regulations at the same time as promoting AI integration.

This perspective on the IP landscape is contrasted with Mishima's more possessive view of art. Through a Mishima-ian lens, the free interaction of tools (regardless of the morality of the transformation intended) is a more pertinent issue. If training datasets can utilise and transform the works of man, man must feel able to freely transform (and dominate) the tools that are AI programmes. In the current landscape, particularly within technical debates on misinformation research and the capacity for AI developers to fully comprehend the nature of their programmes, the ability to interact freely and creatively with AI is put into question. Namely, evidence for LLMs to, upon user feedback, reduce the diversity of their outputs, and other such research highlighting the limitations to finetune LLMs to 'forget' potentially dangerous information after feeding unvetted training datasets, may incite similar technocratic concerns utilising 'black box' rhetoric as made in the defences against misinformation regulation (Padmakumar and He, 9; Hassenfield; Zhao et al, 11-12). In this regard, debates surrounding intellectual property rest upon similar foundational contentious over

decentralisation, technocracy, creative freedom, and transparency, as the debate over misinformation.

9.4 Data

Similarly to debates over 'mis(/dis-)information', data security debates often point toward the undue accumulation of personal, individual data, or to the breach of national security. Such debates, detailed previously in Chapter 3, stem from the position that the ownership of data shapes structural, institutional, and other means of asserting control and power. Data abstraction simplifies various complex phenomena into manageable approximations to allow for statistical analysis, providing structure, and governance to justify decisions, making the epistemological importance of data, rooted in a belief in the objectivity of mathematical processes, part of an ideological perspective to promote utility, optimisation, and growth (Wiggins and Jones, 84-89; Brooks; Horning, *Three*). Worries over the further risk of breaches in data security follow similar anxieties over general network infrastructure cybersecurity, such as the concentration of data in cloud computing being held by a small number of large providers (resources being centralised in the providers' clouds) (Doty; IBM, *Cost*, 20, 38, 43-47). In the AI realm, a more case-specific anxiety surrounds the capacity to farm further data and further information from the mass quantities of data gathered through the user access to the technology, and through using the technology for data abstraction.

Data-farming and mass interaction with AI chatbots and AI platforms for art generation presents potential issues under the Benjamin-ian lens. If the distinction between fact and emotion becomes blurred, due to either AI advertising by instrumentalising emotions through chatbots, generative platforms, or other such uses in the creative industries, emotions effectively transform into tangible entities to be accumulated and/or distributed. The control and systemic administration of emotions, as already seen in cultural industries such as in social media platforms to garner engagement and 'likes', may potentially further conceptually divide emotions and reality (things of matter/fact). Moralising criticisms against technological escapism (to escape 'reality' through an over-reliance on technologically derived emotions) may emerge as a reaction against such over-consumption, while those deeply engaged with media outputs could be labelled as unable to integrate into reality, clouded by the artificiality and inauthenticity of AI-ran interactions (Horning, *Paralogisms*). This division inevitably pushes back the prescriptive goals of the Benjamin-ian form, which seeks to blur and encompass the two realms (of the dream-like and transient, and of what is considered as factual, historical, 'reality').

Wiener claimed that 'cybernetics', a definition for the feedback-based operations of the 'cybernetic machine' as distinct from 'mechanical machines', had overcome conceptual oppositions between mechanism and vitalism (Wiener, 169-179). Cybernetics was based on a nonlinear form of causality and thus less fragile and recursive, and Wiener argued that these machines were philosophically promising in investigating man's feedback relationship with, and distinction to, the machine (21-23, 169-170, 177-179). As the linear mechanism was fragile due to its inability to regulate its own mode of operation, mechanical machines lacked exponential growth in their 'reasoning' unless ordained by their developers (Hui; Wiener, 34, 39-43).

Similarly, the simplified structure of neural networks and the feedback relationship between users and generative programmes together indicate a cybernetic relationship. This relationship, under a Benjamin-ian lens, reveals further ideologically prescriptive outlooks on the use of AI as transforming previous conceptions of man's relationship to 'data' as only a hierarchically organisational function. Cybernetic relationships imply that the reflective operation normally associated with humans also applies to the modern machine, challenging the anthropomorphic distinctions made between man, machine, and beast. In practice, arguments in favour of AI to liberate artists from repetitive tasks, or to assist in the creative process, may indicate a transformational capacity of machines innate in the cybernetic relationship. Conceptually, the nonlinear, reflective, and participatory nature of generative programmes dually dispels the conceptual myth of singularity and linear or traditional economic perspectives in favour of homeostatic or circular processes. Despite this nonlinearity, however, cybernetic logic supposes the perpetual pursuit of a telos. If AI is asked to conduct a task inputted, the end is already determined as one that is calculable, or at least attempted through feedback mechanisms with the user. Although AI may not create truly 'unknown' or purely experimental, creative tasks as if it were a 'being' (and not merely an entity to achieve ends), thereby making the cybernetic logic dubious in this regard under the Benjamin-ian perspective, the concept of ownership over data and linearity does indicate a similar prescriptive notion.

The Benjamin-ian lens offers conceptual support for promoting mass AI integration and interaction, to de-structure the form necessary to claim ownership of data, and to dissolve the linearity that forms apocalyptic or bulwark views against existentially concerning technology: specifically, through the cybernetic interpretation of user relations to generative programmes.

This theoretical argumentation, to promote the dissolution of distinction, puts into crisis reactive rhetoric and, more fundamentally, secularised politically theological arguments supposing a historical or 'ordained' linearity. The Benjamin-ian notion is therefore contrasted by its Mishima-ian counterpart, which highlights anxieties over the dissolution of tangible authority or linear and perceptible power.

9.5 Conclusion

This thesis has attempted an academic and aesthetic endeavour, applying it to current policy discourses surrounding the topic of AI. This chapter has elucidated the public policy implications of the two conceptual theories, garnered from analysing Mishima's and Benjamin's works on art ownership. These micro-level policy implications, namely the conceptual foundations of unit-level policy debates detailed in Chapter 3, suggest the value of this aesthetically concerned approach to elucidate fundamental ideological assumptions found within policy discourses. Following from this, the thesis will conclude by evaluating the macro-level implications of the current AI policy paradigm from this academic endeavour.

CHAPTER 10 CONCLUSION

Chapter 3 established that policy practitioners face a difficult issue balancing the weight of interconnected AI pressure points: job security, misinformation (and freedom of expression), research capacity necessitating joint efforts, enhancing digital expertise, economic benefits, and data security. Chapter 8 articulated the micro-level implications of the frameworks introduced, focusing on the major topics discussed regarding AI policy. As this thesis has found the applicability of its method, the micro-level findings of highlighted policy topics summarised in Chapter 9, the individual case studies lend a hand to wider implications of AI policy as a whole, contrasted with the Benjamin-ian and Mishima-ian frameworks.

The Benjamin-ian perspective was found more suitable to the current policy paradigm as compared to its Mishima-ian counterpart. Overall, this stems from the Benjamin-ian positive view of high-level AI integration to the current cultural landscape: prescriptively, for the disillusion of an elitist position (or stationary position of authority) in valuation of art, and for widening the access to interacting with AI art as analysed in Chapters 7 and 8. These pro-AI tendencies identified in the Benjamin-ian conceptual framework are therefore more suitable for the pro-AI tendencies in applied public policy seeking to integrate and regulate. Moreover, the concept of an imminent value beneath all methods of perception and communication was seen as respectively connected to ideals of negating linearly derived knowledge, and opening social perception to a holistic understanding of their historical nature. Within the AI case, policy has conceptually nodded to similar heuristic values as the theoretical framework, particularly in the attempts to integrate AI into education and cultural streams to broaden public participation with the technology. This was found to be the case most acutely within the EU, whose agencies and funded organisations sponsored the development of AI art education into galleries, museums, medicine, and tourism. Elements in which the Benjamin-ian framework had disagreed with the conclusion of public policy proposals, such as in topics of misinformation and data security issues, also came out of evaluative terms. These evaluations surrounded whether AI's dubious authority over truth is good or bad, and similarly whether the supposed threat to data security may inadvertently open the question of stratified 'ownership' further. These disagreements are therefore resolved through lessening or avoiding regulation on such cases, and the framework was still found suitable for discussing them.

On the other hand, the Mishima-ian perspective was found difficult to apply directly to many policy criticisms, albeit with exceptions in academic rhetoric concerned with the long-term ethics of AI. The Mishima-ian lens was found most suitable in discussions of freedom of expression utilising AI, and in concerns over job security. Freedom of expression arguments, made primarily in reaction to regulation curtailing misinformation, were evaluated positively utilising the Mishima-ian lens, considering that if training datasets can utilise and transform the works of man, man must also be able to freely transform (and dominate) the AI programme tools themselves, regardless of the morality of the transformation intended. Regarding job security, the Mishima-ian perspective provided criticism of the topic, due to the conceptual ability for man to assert his will as an innate nature—not as a public-derived or public-supported (or protected) endeavour. Fundamentally, 'expression' requires physical fragility for a sacrificial ideal to potentially be realised, and for physical entropic structures to release man's own struggles comprehending the present day. In the AI case, this was found to be a romantic and perhaps inherently nostalgic reactive position, difficult to locate within the realm of public policy unless criticising proposed policy measures.

In more practical terms, recent trends stressing decentralised principles underscores the importance of evaluating aesthetics, social trends, and philosophical elements driving social perception, particularly in understanding AI public policy issues. For example, the Web3 movement, epitomised by the fusion of decentralised principles and AI's transformative capacities, offers a pioneering avenue for artistic dissemination, exemplifying a social shift towards decentralised frameworks and token economies (Murray et al, Contracting, 15; Cao, 7, 15; Ray, 215-217, 225-226). In the music scene, Grimes, a pop artist, invoked ideological topics of accelerationism and a tech future in which society is freed from labour, and introduced an AI service for vocal transformation and distribution (Pequeño IV; Romo; Singh). Holding similar claims of decentralisation and the potential to nurture a 'true' sense of self identity, Web3 represents a novel evolution of the internet, encompassing blockchain technologies and token-based economies (Murray et al, Promise, 4). Coined by Gavin Wood, a co-founder of Ethereum, this concept has attracted attention from cryptocurrency enthusiasts and venture capital firms (Wood; Shead; Zuckerberg; Feiner; Ethereum). This novel information system envisions decentralised autonomous organisations (DAOs), decentralised finance (DeFi), decentralised AI (DeAI), and the notion of self-sovereign identity, aiming to circumvent reliance on OAuth or other such authentication systems (Cao, 8-9; Ray, 218-221, 224, 243; Wang et al, 17; Woods). Despite scepticism, as exemplified by James Grimmelmann's critique of Web3 as vapourware in 2021, the vision of Web3 continues to captivate interest as it promises to revolutionise internet infrastructure through decentralisation and self-sovereignty regardless of its apparent contradictions (Read; Ryder, Allyn). The convergence between AI, cryptocurrency, token-based economics, and other such venture technology services, underscores the importance of understanding aesthetics, as it aligns with an emerging cultural appetite for decentralised technologies and creative experimentation: through understanding its emergence, AI as a *social* (and wicked) issue can be better understood. The ideological and philosophical elements, imbedded in the rhetoric of self-sovereignty and decentralisation found increasingly integral to digital innovation narratives, are crucial for public policy to navigate AI issues as they shape the trajectory of technological development and its societal impacts.

This chapter has summated thus far the distinct political theories and approaches by Benjamin and Mishima, and the ideologically correlated thematic concepts unearthed in this thesis. This aesthetic endeavour is underdeveloped in academic efforts on public policy. Returning to our specific conceptual frameworks, the Mishima-ian and Benjamin-ian application unto the AI policy space has revealed the conceptual importance of the private sphere in relation to the public. The Benjamin-ian lens provided perspectives in which the public sphere is in an embedded relationship with the private sphere. Considering the focus on social valuation, perceptions of history, and the reception of the world around the self as much irrational as rational, *societal* behaviours and assumptions put into crisis the foundational (linear) assumptions of teleological thought. On the other hand, the Mishima-ian lens, while centrally emerging from the assertive nature of man, provide a distinction between the world he finds himself in (or the art form perceived) and himself: a boundary only crossed *through* the assertive will to transform.

The current AI policy landscape seeks to integrate AI considering the economic benefits and perceived democratisation of access to artistic creation, and at the same time is required to uphold the integrity of the governmental body through implementing protective regulations. The perpetual balance-making of such considerations, while lacking self-sufficient or independent resources (or cohesive agreement between policy actors) to fully research the technology, has been found to nod to a fundamental consensus in policymaking: the balancing between private and public spheres, of autonomy and positive freedoms, found in liberal political theory at large. These potential implications indicate avenues for academic research to further investigate technology integration *consensus* in aesthetically concerned, ideological terms. The case of art ownership, particularly in AI policy, was found as an exemplifying case for these tensions within liberal discourse. It is in this contemporary case where liberal ideational tensions shine practical light, where the borders between privacy, the public sector, and the scope of what it owns, the individual, and their freedoms in experiencing the world, must perpetually be balanced.

This thesis has provided a clearer contemporary case of the rift between the two contrasts of modern public policy: policy as applied utility and efficiency, and policy as a social art. The calculable utility perceived by the public sector concerned with economic calculations, including costs and risks, has been found as facing impalpable conceptual devices driving what it may mean to be creative, or the valuation of artwork as impacting culture. Under the Benjamin-ian lens, AI's embodiment of legitimacy as not stemming from captured, indexical space-time references, in its subversion of fixed truths, is the value making it a prescriptive technology to be widely participated with. However, policy endeavours to potentially limit, and reduce the harms of, its processes and output may inadvertently curtail the very prescriptions for AI's adoption. The protective impetus to create oversight on AI, particularly to limit misinformation, undermines the values of creative freedom that have propelled the integration of AI as a call to innovation, despite the changes it would incur unto the creative industry and labour market. This thesis found, through analysing the applicability of aesthetically concerned conceptual devices, that AI art is not a complete paradigm shift in the art world or in the philosophical concepts of human agency. Under the Mishima-ian lens, the realm of private motivations in enduring the suffering of mortality, as presented through the unfulfilling beauty in art *form*, is made further introverted and introspective by AI's self-referential art.

The consensus on access to art and its production, akin to the Benjamin-ian framework, suggests optimism regarding AI art and its industrious benefits. Despite this optimism, potential policy regulatory endeavours to limit misinformation stemming from AI might be contrary to the values underpinning this optimism. On the other hand, despite the differences in how applicable this thesis has found both frameworks, the macro-level implications of this research endeavour suggest a commonality regarding the general contemporary AI policy infrastructure. The Benjamin-ian framework, alongside its more pessimistic Mishima-ian counterpart, suggests an inherent power as lying beneath man who perpetually endeavours to liberate art from its physical form. The distinction between experiential and structural forms for Benjamin, or the ideal and corpus for Mishima, is mirrored between art and man: the distinction between the private self and the public sphere lies in the existential, as divided by form. The ideological prescription to negate the tragedy inherent in facing mortality, and relieving the lowly ache of historical suffering, is the destruction of the tangible, with intangible communications aiding the distinction of forms' triumphant disillusion.

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