

OPENING COMMENTS

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- Interpol put the value of art stolen internationally each year at between \$5.5 billion and \$7.5 billion a year. The items listed on the Art Loss Register alone are valued at \$3 billion. Many items are not reported to the register. Also there are countless antiquities pillaged from archaeological sites and museums which need to be included.
- Interpol has ranked art and cultural related property crime the third largest illicit trade in the world after drugs and weapons , with money laundering coming a close fourth.
- Interpol has recently compiled a CD-Rom containing 17,000 photographs and descriptions of valuables. The information is made available to the police, museums, auction houses and dealers in the 177 countries that are members of Interpol.
- The recovery rate for stolen art has been estimated to be as low as 10 per cent. The demand in the market for goods increases the likelihood of the goods being stolen, that is, if thieves have a ready market they are more likely to offend.
- People who supply the illegitimate art market include professional/organised criminals, petty thieves with drug habits, collectors who steal given an opportunity and foragers. The majority of burglars have committed a range of property offences. Art thieves are more likely to be versatile professional thieves, willing to commit any type of theft and possibly other crimes because, as part of the range of criminal activities, art crime reduces the thief's risk of apprehension.
- Historically, in Australia, art has not been considered as a major area of fraud. However, as with many other crimes, there is a high level of under reporting and information coming to light now shows that it is a huge area for concern.
- For art theft to occur, three factors are usually present. The art must be suitable for stealing, there must be an absence of effective security measures and a presence of motivated offenders.
- Art theft has cultural ramifications when irreplaceable property is destroyed or damaged, creating an additional loss that cannot be measured in monetary terms. As well, society pays the price of theft in the form of higher insurance premiums and extra security costs. Indirectly, these costs are passed on to the art viewing public with less work being displayed by galleries, works on show becoming less accessible as they are placed behind more glass, barricades, and showcases and fewer private people purchasing art as the costs of insuring and securing art have escalated.
- Added to this are costs arising from fakes and forgeries. The forgery market runs into millions of dollars each year. There are costs associated with loss of

reputation and business when a gallery is revealed to have sold a fake and money lost through investing in art which is later determined to be a fake. One exposure of this type of activity in Australia has left many investors with tens of thousands of dollars tied up in fakes. One investor, in particular, thought they owned six Whitely paintings which had been valued at \$94,000. These are now worthless.

- Lack of confidence and uncertainty experienced by investors when the existence of fakes is publicised can depress sales of the particular artist or school that is the subject of the forgeries. At the auction sales, held one week after one particular incident of forgery revelations, large numbers of works attributed to well-known Australian artists in whose style the paintings were copied, failed to sell. It is unlikely that all the paintings offered for sale were by fraudulent. Rather, public confidence in the authenticity of these artists' work was lacking. From one auction, the inability to sell paintings by artists named as subjects of the fraudulent "innuendoes", there was an estimated loss of \$150,400 in potential profit. Fakes and forgeries can also result in indirect costs to collectors and institutions associated with determining whether works in their collections are bogus or authentic.
- Only a few weeks ago some of the works of art offered for sale by a Melbourne auction house were quietly withdrawn from sale when it was recognised that that some of the works advertised in the catalogue were fraudulent. In the same catalogue, a well-known Australian artist recognised a copy of one of their own paintings which was signed with the signature of another artist. This particular painting had been stolen from a private collection.
- The reasons the black market in art is flourishing aren't hard to find. Great works, whether recent or ancient, are unique. New sophisticated technologies have facilitated art fraud.
- Art lends itself to money laundering. Money laundering occurs when luxury goods are purchased for the purpose of converting illicit cash into 'clean' assets, together with concealing the source or use of the funds. The source or use of the black money is concealed when assets are purchased and then hidden or disguised. Therefore a criminal who buys expensive works of art for personal enjoyment with proceeds of crime is not, prima facie, engaging in money laundering.
- The art industry, as part of the luxury goods industry, is an industry attractive to money launderers for a number of reasons. Firstly, most people find it difficult to determine the value of a fine painting. Illicit funds can be used to buy an item of considerable value and the true value understated, or the item concealed to avoid suspicion. The value of art varies markedly, with some quality individual pieces worth millions of dollars. It is only an experienced art valuer who can recognise the value of art. For this reason, art is a potentially

successful laundering vehicle as the true value of a product can potentially be concealed from law enforcement agencies or members of the public.

- Secondly, the introduction of reporting requirements under the *Cash Transaction Reports Act 1988* and the tax file number quotation rules for investments under the *Income Tax Assessment Act 1936* have discouraged money launderers from depositing cash into financial institutions. Many luxury items provide an opportunity for the money launderer to convert cumbersome cash amounts into a more convenient form, and often one which is unlikely to raise the suspicion of authorities.
- There are no uniform controls, regulations and administrative procedures across the luxury goods industry.
- Money laundering with art may affect and be affected by the price and level of supply and demand for art in the legitimate market where the art is obtained through legitimate channels of distribution.
- As the legitimate art market has traditionally been an international market, the illegitimate market is not restricted by national boundaries either. It has been claimed that art crimes are almost always international.
- Regulation through traditional legal measures and industry actions aimed at increasing the security of art and the detection of forgeries before they reach the distribution point are important. Each of the major elements in the market system models (demand, supply, suppliers, distribution, purchasers) represent areas of the market at which regulatory strategies designed to disrupt the flow of goods through the market can be aimed.
- Informal and formal self-regulation of the industry by legitimate dealers may provide avenues for market regulation. For example, labelling requirements in relation to prints and copies could also be enforced by industry bodies to assist purchasers make informed decisions and reduce the problem of buyer ignorance.
- Industry bodies can censure members' behaviour and enforce adherence to a code of ethics. Formal regulation may be achieved by fining or banishing members whilst informal regulation could be maintained through the refusal of members to trade with people who contravene these mores.
- Market regulation can be achieved through the creation of conditions which permit the operation of market forces. Regulatory strategies involving a backdrop of statutory requirements can be implemented which alter the length and efficiency of the distribution chain and thus the profitability and attractiveness of market to potential participants. For example, mandatory checking of provenance by dealers and auctioneers would reduce the efficiency

of the distribution chain. And subsequent profits, potentially discouraging unscrupulous players in the art market operating for short-term financial gain.

- The purchasing power of large auction houses and dealers could be utilised in the regulation of art crime. These players could consider requiring vendors to produce detailed and legally binding documents testifying to the authenticity and legal title of the works being offered for sale.
- Regulatory objectives may be furthered by required third-party vigilance and disclosure. In the art market, this mandatory participation could be required of dealers acting as brokers between purchasers and vendors and insurance valuers, who would have to report instances of illegitimate art encountered to appropriate law enforcement agencies. This address the failure of art world professionals to report such crimes.
- Reporting art crimes can result in the removal of illegitimate art from the market as soon as it is identified, rather than it being left for the next person who comes across it to deal with it.
- Punishments for failure to comply with disclosure requirements would have to be extremely tough because as long as the illegitimate art market exists dealers stand to profit from ignoring the illegitimate history of a work of art.