

Transnational Crime, Local Denial

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Field and Habitus in the Antiquities Market

BOURDIEU'S HABITUS IS A FORM OF "PRACTICAL KNOWLEDGE" (BOURDIEU, 1996: 1) and an attempt to provide a model for the mediation of structure and agency; it is a method for conceptualizing:

the way society becomes deposited in persons in the form of lasting *dispositions* or trained capacities and structured propensities to think, feel, and act in determinate ways, which then guide them in their creative responses to the constraints and solicitations of their extant milieu...individual and group history sedimented in the body, social structure turned mental structure (Wacquant, 2005: 316).

The concept of the habitus therefore brings together at once several well-rehearsed features of social existence—disposition, agency, strategy, structural reproduction, body, mind, choice, unconsciousness—without setting each off against the other in the traditional manner of polarization and antagonism. At its simplest, then, as Wacquant indicates, habitus provides a means of incorporating into our social analysis recognition that internal mental structures exist that generally are aligned with external social structures:

Indeed there exists a correspondence between social structures and mental structures, between the objective divisions of the social world...and the principles of vision and division that agents apply to them (Bourdieu, 1996: 1)... [The habitus composes] systems of durable, transposable dispositions, structured structures predisposed to function as structuring structures... (Bourdieu, 1990: 53).

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The mental structures so "deposited" by "society" will not necessarily reflect extant social conditions or norms, if those conditions or norms have changed. Of course, the process of individual internalization of norms is not instantaneous, which suggests that at any moment the habitus may not be fully synchronized with the normative conditions of the social context with which it continues to engage. Again, it is useful to return to Wacquant, citing Bourdieu:

[Habitus] introduces a lag, and sometimes a hiatus, between the past determinations that produced it and the current determinations that interpellate it: as "history made nature," habitus "is what confers upon practices their relative autonomy with respect to the external determinations of the immediate present. This autonomy is that of the past, enacted and acting, which, functioning as accumulated capital, produces history on the basis of history and so ensures that permanence within change that makes the individual agent a world within the world" (Wacquant, 2005: 317; citing Bourdieu, 1990: 56).

This will be particularly so in times of rapid social change. When a field changes rapidly, one effect is to remove the context within which the set of dispositions constituting the habitus would feel at home. The reflexive individual is therefore presented with the disjuncture between their dispositive impulses and the field within which those dispositions operate. This may result in: (1) on a dispositive level, an actor with a feel for a game that is not the game now being played, and (2) on a more instrumental rational level, the realization that previously effective strategies for the accumulation of capital within the field have been rendered useless or problematic, necessitating the development of new strategies more attuned to the opportunities for reward the field now offers and any new obstacles that stand in the way of the realization of those opportunities.

If the preceding analysis is correct, it implies in times of rapid social system or subsystem change an escalation in rational strategizing, informed by the habitus in terms of prior internalized dispositions ("history made nature") and the desire to preserve a trajectory of capital accumulation, symbolic and financial. This phase of strategic adjustment will result in the formation of new routines. In this way, in the evolving dialectic of habitus and field, neither is static or unitary, and during periods of "dispositional anomie," when the habitus is given drift, as it were, by the changes in the field, there may be a changing balance between routine and innovative instrumentalism, both of which compose practical logic, with innovation coming to the fore. Here, then, there is a disjuncture between mental structures and social structures that generate practice, and it is contended that in that instance practice is more likely to bear the hallmarks of rationality than when it is generated by a correspondence between the two types of structures. In the latter case, rational strategy will still obtain, but perceived strategic options will in that circumstance be more firmly framed by this very correspondence between habitus and field.

Bourdieu has set up and investigated the innovation to which structural change in a field can give rise, as well as theorizing the relationship between innovation at such times of crisis and the production of new mental structures that resolve the tension between habitus and field, a condition he calls hysteresis, by producing a new alignment between the two (Bourdieu, 1984; 1988). What becomes relevant for analysis in this model of social change is: (a) the historical development of the habitus and its internalized schemes of perception and classification as it stands at point A, prior to developments in the field that we might say characterize a "field-shift"; (b) an exposition of the nature and extent of the field-shift between point A and the present, point B; and (c) an analysis of the now somewhat strained relationship between the habitus and the field at point B.

In what follows, I shall focus on delineating and expanding upon points (b) and (c)—the nature of the field-shift I identify in the antiquities market over the last 30 to 40 years, and dealers' responses to this shift. This is not to underestimate the importance of the development of an adequate conception of the matters in point (a), but space does not permit such a full exposition; a picture of the "incipient" habitus in the antiquities market can be constructed from information available elsewhere (Mackenzie, 2005a, 2005b), and the data presented in respect of point (c) in this article will involve allusions to the habitus as is, and therefore also as was (we might feel we can assume).

In the international antiquities market the field-shift can be identified as consisting of two components of change: law and morality. Antiquities dealers have thus in recent years found themselves operating in a market characterized by increased legal regulation and by greater scrutiny of the ethical questions surrounding the collection and sale of excavated objects.

The legal element of the field-shift, as experienced by market participants, might best be conceived of in terms of the metaphor of the net of control (*cf.* Cohen, 1985). At the turn of the 20th century, there simply was no net. There were no domestic laws in source or market countries, much less international laws, to restrict the transit of, or dealing in, cultural property taken from the ground anywhere in the world. The net first appeared in the early to mid-1900s, as source countries began to pass legislation vesting title to underground antiquities in the state (Prott and O'Keefe, 1984). Further strands of control were added to the legal net with two international conventions (UNESCO, 1970; UNIDROIT, 1995). Between 1970 and the millennium, source countries continued to pass state vesting legislation and introduce export controls, and market countries made slow and tentative moves toward recognizing these laws for the purpose of their own internal prosecutions. Moreover, the introduction in the U.K. of the *Dealing in Cultural Objects (Offences) Act 2003* represented the first piece of criminal legislation worldwide that specifically targets dealing in illicit antiquities.

So the mesh of the regulatory net has become thinner. Many holes remain, however. The offense in the 2003 Act is symbolic at best, since it was drafted so

so as to make a successful criminal prosecution extremely difficult to achieve (Mackenzie and Green, forthcoming). The offense it contains is of dishonestly dealing in a "tainted" cultural object (including looting, where the looting is a theft by the law of the source country), knowing or believing that the object is tainted. The Act contains no prohibition against dealing in an illegally exported object. Most important, however, it makes a prosecution unrealistic where a dealer claims "honest dealing"—that he did not know or believe the object to have been stolen. In a market where most objects, licit and illicit, are bought and sold with no systematic or reliable evidence of provenance, it will be very difficult for prosecutors to prove knowledge or belief. This is reflected in the fact that at the time of writing, three years after the introduction of the Act, there have been no concluded prosecutions in terms of the offense it creates. We have, then, a mesh-thinning of the legal net in symbolic terms, if not a practical crackdown on dealing in looted artifacts. It is symbolic in terms of the outline of a principle, a shadow of control-to-come, and a compromised compromise between the three core groups—distantly interested, distracted government, core cadre of politically active and energetically noisy moral entrepreneurs, and economically anchored dealers eager to join the regulatory circus to defuse from the inside whatever explosive possibilities may be in store.

At the same time as the legal net has appeared and its mesh thinned, the moral field has shifted. Indeed, the growth of the legal net can be quite accurately correlated to increasing moral sensitivity to the issue of the international transport, collection, and sale of antiquities. Through the writing and lobbying of moral entrepreneurs in this area, such as Clemency Coggins and Ricardo Elia (Coggins, 1969, 1970, 1971, 1998; Elia, 1991, 1993a, 1993b, 1994, 2001) in the United States and Lord Renfrew of Kaimsthorn in the U.K. (Renfrew, 1993, 1995, 1999, 2001), what was once an international business community serving a perceived moral end (the historical and cultural benefits of the preservation and diffusion of the ancient art of other cultures) has come to find itself the subject of such morally pejorative labels as "looting" and "smuggling." This moral shift has largely remained the business of this small community of moral entrepreneurs, having failed to attract much support from a generally apathetic and uninvolved public. Still, the persistence of the archaeologists and legal writers, helped by Lord Renfrew's considerable political acumen and relentless pursuit of the cause, has been influential in promoting in the U.K. the political attractions of regulatory activity. Such persistence has brought the matter into the peripheral vision of the governmental agenda as an issue where being seen, or thought, to be "doing something" is considered sensible insurance against future allegations of insular cultural nationalism that may arise if the moral climate continues to warm. The moral component of the field-shift thus provides a significant and escalating source of antagonism for the habitus of dealers, both in itself and through its legal effects.

Denial and the Antiquities Market

If the recent history of the antiquities market is one of a moral and legal field-shift, some intriguing and important empirical questions arise. Is there, as might be hoped, a straightforward translation of field-shift into (better) market action? Once the structural work is done, morally and legally, what response follows from the market? The arrogance of law and the conceit of morality both suggest that once matters are in their hands, social problems will be solved. The regulatory discourse of illicit markets—and in this respect the antiquities debate is no exception—is awash with sentiment emanating from these two poles of apparent pragmatism, suggesting the need for more and better laws, and for programs of education that will heighten sensitivity among consumers, thus reducing demand (O'Keefe, 1997; Polk, 2002). As Polk has said, setting out the apparently sensible argument for market education:

The goal is to eliminate the demand for unprovenanced cultural heritage material, and thereby remove the basic force that drives the illicit market in antiquities, and thereby stop the plunder. How might this be accomplished? What we would propose is that market centres accept the proposition that only cultural heritage material that has documented and acceptable provenance would be offered for sale, and that consumers be educated and trained to demand such documentation before they buy such objects (Polk, 2002).

Polk is among the more reflective and balanced observers of the market, and one can find many less refined commentaries in which the ivory trade and the fur trade are put forward as popular exemplars of the obvious success of consumer consciousness-raising. Social scientists should be wary of such claims, which in many respects have achieved such unreflective currency that they approach folk-myth status. Moreover, they should pursue detailed investigation of the assumption that what may seem to have worked for one illicit market will work for another. Our empirical data collected on the antiquities market suggests that the education that has occurred so far in the market has had little impact; at present, the legal and moral interventions into the market have not produced conformity to an upgraded set of normative precepts, but denial.

Let us consider three forms of ideal-typical denial in the illicit antiquities market. Two of these are in the manner of constrained communication (Bourdieu and Wacquant, 2001: 2). Both of these are also forms of symbolic violence. These two forms of denial are silence and the entrepreneurialism of categorization, which seeks to impose a certain linguistic construction of a situation as the proper frame of reference within which to discuss the matter, and resolve any problems raised. The third category of denial we might call "career confusion," which takes the form of a more honest incapacity to grasp the new meanings attributed to one's action.

Silence

Silence in the antiquities market is the most common form of denial. It is a form of "passive" denial, as opposed to the active nature of categorical denial (see below), insofar as categorical denial must involve an argument that an act should be seen as "this"—morally, legally, culturally, etc.—rather than "that." Rather than engaging in categorical entrepreneurialism, many participants in the antiquities market choose to remain "off radar" in the debate as far as commentators and regulators are concerned. The most common, and therefore important, element of all of the research I have undertaken into the problem of illicit antiquities has been non-response, and the peculiar nature of that non-response. This is an interesting case study of the relationship between the individual and the group in respect of public appearance on the group's behalf when group interests are threatened (*cf.* Macy, 1995).

Overwhelmingly, over the course of five years of research, antiquities dealers, collectors, and even auction houses have declined the various invitations sent to them seeking their anonymous participation in our projects. Although many of these refusals have been implicit—straightforward non-response to invitation letters and follow-up e-mails—in a significant number of cases the researchers have had personal contact with non-respondents, either through "chasing" telephone calls, or in a few instances through face-to-face site visits. We therefore have some limited data on the reasons for "purposive" non-response (as opposed to those who did not respond through lack of interest, lack of time, or forgetfulness), collected ad hoc through these approaches. Targets who consciously declined to participate in the research did so for one of two reasons: denial of responsibility (Sykes and Matza, 1957) or strategic reticence.

Denial of responsibility took the form of a flat refusal to contemplate involvement in the chain of illicit supply. Here is an example, taken from an e-mail received after a follow-up invitation to participate: "I can see no point in engaging about debate on this. I do not import at all—all items I sell are sourced at public auction here in the U.K." (dealer, London).

This is nonsense, of course: there have been many cases of looted antiquities turning up in public auction sales (see, among many possible others, Lowenthal, 1994; Watson, 1997; Pomfret, 2003). Those caught in the hands of the auction house are usually withdrawn from sale, while those not caught at auction are sometimes reclaimed from unfortunate buyers. Either way, such matters are the subject of quite some publicity and cause such ripples in the community of dealers that the comment above is either a form of self-deception or a straightforward lie.

The second form of silence is strategic reticence. Predominantly, non-respondents who subsequently explained their reluctance to participate explained that they did not want to draw attention to themselves and run the risk of being singled out for law enforcement investigation, or to attract the critical rhetoric of the archaeologi-

cal lobby. They were conscious that this was a difficult decision to make, in that this strategy might ultimately work against the interests of the market, but overall their immediate individual preference for relative anonymity in a difficult moral and regulatory climate dictated a discounting of their long-term interest in fighting for their moral turf:

London dealer: [I] am no longer dealing in Asian antiquities except those with provenance and have no further comment.

Bangkok dealer: I must turn down your offer of interview because traditionally we as antique dealers are not very keen on expressing our views on this sensitive issue.

London dealer: considering the environment of the governments of the west as well as India, I am hesitant to put my name.... I would like to help you but at the same time do not want to come to the lime lite (*sic*).

Combined with this reluctance to put individual heads above the parapet was a perceptible hope that if a general silence were maintained, then perhaps the whole issue would just blow over. Though there are good practical reasons for silently denying one's part in a troublesome network of wrongdoing, such as the obvious attractions of obscurity in the regulatory gaze, the two categories of silent denial noted here—denial of responsibility and strategic reticence—share a foundation of literal denial (Cohen, 2001): if we do not talk about this issue, then it doesn't exist; whatever may be wrong does not trouble me; it has nothing to do with me; I am not involved in this.

Categorical Entrepreneurialism

A small proportion of the market has actively attempted to influence the construction of the issue. These individuals have been very keen to talk to researchers, with this talk being consistent with their instrumental strategy of "categorical entrepreneurialism"—a claim to authority in definition. The screen discourse of the marketers of cultural heritage rests on several philosophical pillars that present themselves as reflections of "the way the world works." In fact, they are historically constitutive of that world in the reproduction of its fashionable truths and functional in providing mechanisms for the psychosocial neutralization of wrongdoing. One of these pillars is the triumph, and therefore normalization, of neoliberal ideology, which makes many things "obvious" to (re)producers of its structures. Neoliberal thought constructs property as a right, legitimizes harm in as much as it is an essential product of any competitive strategy, and as a driver of globalization is unilaterally universalizing, imposing its thought-structures across cultural and geographical divides, judging distant agents by its own precepts and castigating them when they fail to perform as the market might hope (some of these assertions

are brought out in greater depth by other contributors to this volume). It has been suggested that a property of globalization is to make a "transnational relation of economic power appear like a natural necessity" (Bourdieu and Wacquant, 2001: 3), and this is one of the tactics, linguistic and ideological, implemented by the categorical entrepreneurs in our sample:

London dealer: I believe in the free circulation of works of art.

London dealer: Personal ownership is a jolly good thing.

New York dealer: We're still back to the assumption that if you have a farm in South Africa and you go dig a hole and you find a lump of gold in that hole that happened to be carved by someone a hundred years ago or a thousand years ago, it doesn't belong to you. Somehow by the divine right of archaeological something-or-other, it belongs to the archaeologists or to the State.

The ideological benefits of a global property-owning democracy are thought to weigh against any problematic issues for the market, such as looting. In some cases, the ideology is strengthened by a further screen discourse—again, that of literal denial. Although the literal denial of the phenomenon of looting is totally unsustainable in light of the evidence, the unreflective comfortable "knowledge" that looting is not a genuine phenomenon is sometimes seen in the narratives of the dealers. This literal denial is never sustained under interrogation, although sometimes the forces behind its construction are revealed:

There's just nothing coming across (from Thailand), because it really has been stopped. And that's an amazingly good thing....

I pick him up on this, showing him pictures of looted sites in Thailand from the Cambridge "purple book" (Brodie, Doole, and Renfrew, 2001) and ask him to reflect on his denial of the issue.

Any collector feels the same way. They don't want to see, because, you know, we have an interest in it, a passion in it... (dealer, Melbourne).

Here, the dealer seems to acknowledge the motive underlying his denial. In this respect we might ask: To what extent can an ideology be said to be a purposive, knowing work of agentic choice or, alternatively, the ineluctable and unacknowledged indoctrination of a conscience with the particular knowledge-constructs of the field? In terms of denial, then, to what extent do we instrumentally implement rationalizations for the wrong that we do, knowing it to be wrong, but choosing not to think of it as such—talking or thinking ourselves out of the wrongdoing, as it were? An alternate hypothesis would be that ideology is a strong construct, in that it may prevent us from ever knowing of the wrongful nature of our conduct,

imbuing it from the start and at all times with the taint of right(eous)ness? Cohen (2001) has considered such things at length, noting that the matter presents an interesting subject of study insofar as it suggests both purpose and determinism, bad faith and an honest deficit of perspicacity. As Cohen suggests, however, and as is certainly the case with our research sample, there is no way empirically to tell through interviews whether categorical entrepreneurs are: (a) good liars who do not believe their own rhetoric, but see it as instrumental; (b) self-deceiving and persuaded by their own psycho-discursive rhetoric after a period (however short) of uncertainty; or (c) merely relaying their honest "always-held" opinion about the appropriate ethical status of their actions. This is not least because successful self-deception may begin with lying and end in sincerity, where the lie internally applied is ultimately believed.

Despite this deficit of the research method, we can ask what socio-structural factors might be responsible for generating such ideological discourse. Bourdieu gives us a conceptual framework within which to think that through. Although our conception of categorical entrepreneurialism focuses on the external indicators of "reality negotiations," this framework leaves open the question of whether these mirror parallel "ongoing internal reality negotiations" (Cohen, 2001: 38) in the minds of the interviewees. Bourdieu himself is on record as firmly behind the proposition that ideology is both internally and externally persuasive, talking of what we have called categorical entrepreneurialism as a "screen discourse...[that] deceives both those who are party to it and those who are not" (Bourdieu and Wacquant, 2001: 3).

An empirical view of ethics might bring out the importance of the linguistic and conceptual framing of a problem as instrumental in determining its resolution. The construction of a problem in certain terms rather than in others is based, in the profit-oriented world of the antiquities market (as perhaps elsewhere in societies that tend toward individualistic self-interest over communitarian duty), upon a self-serving ideology. Moreover, given a model in which the disjuncture between habitus and the moral/legal field is large, and therefore where rational strategizing becomes a more urgent priority for the actor than is normal, the creation of the ethical problem in terms that suggest a favorable outcome for the creator is transformed from a functional and largely unreflexive ideology that allows business as usual into a more vital and reflexive battle for definitional supremacy. Here we come to the symbolic violence of constrained communication: a denial of the value basis of the moral and legal field-shift and a struggle to appoint an alternative construction of the issue as sovereign. This, then, is not the ad hoc choice and implementation of an account from a pool of acceptable "reasons" to exonerate private moments of drift that have come to public attention (Sykes and Matza, 1957; Matza, 1964; Scott and Lyman, 1968), but a strategic and very public program of language-use that has as its aim the realignment of habitus and field, not by the gradual adapta-

tion of the internal structures of the habitus to the new legal and moral structures of the field, but by dragging the field back to its original position.

Thus, a discourse emerges in the market that is calculated to achieve public effect. Acts of dealing and collecting are cast as "preservation," "cultural edification," and "private right," and regulation is perceived as a paranoid response to the performance and enjoyment of such misunderstood duties and rights. Denial for the categorical entrepreneur is therefore a vital element in sustaining the future of antiquities dealing as a business enterprise. If one can sustain the illusion that the field has not moved, its reinstatement is made considerably more "possible." Rather than attempting to unwind a process that has already begun, and gathered some momentum, denial of field-shift, or of the applicability of the various elements of field-shift to the business of the categorical entrepreneur, allows the possibility of performing a perceptual slight-of-hand in the dramaturgical suggestion that what is lost is not lost, and if recovered it was in fact never gone. Denial is in this sense a necessary component in the symbolic discourse that limits and defines the social conditions of the possible.

Career Confusion

Of the market respondents in our samples, those who did not display much of the energetic loquacity of categorical entrepreneurialism tended to present a sense of bemusement at their place in the new morally and legally charged environment of their hitherto rather quiet and civilized niche, operating with "a semi-conscious [sense] of siege," as one of our interviewees put it (dealer, London). These respondents fell conceptually halfway between the silence of non-response and the spin of the screen discourse. Aware of field-shift, their talk was not constrained or instrumental, but questioning and uncertain. While the contradictions contained in the categorical discourse were hidden beneath the veneer of a public-oriented polemic, those in career confusion engaged in a more open exploration of the contradictions of their position. Theirs was a friendly, unrehearsed conversational style, which generally acknowledged the perceived difficulties in the market that characterize the field-shift, and sought a discussion about what they meant for dealers and how they might be resolved. As Cohen has noted, and Zerubavel (2006) has further clarified, denial is often a collective activity, and this is the cause of much of the "confusion" we have identified in the market. The international dimension of the field-shift leads inevitably to inconsistencies in legal and moral climates across states, and these jurisdictional differences, although taking place under the ambit of a "global" concern with the issue, result in superficial treatment of the issue in some regions:

You know, if you have archaeological material readily available in Hong Kong, all the shops there have fakes, real stuff, the reality is that everybody knows...its the same in Italy, it is a secret that everybody knows, is that

basically you can export objects, nobody will bother you, but obviously everybody knows that the majority of the material has arrived, you know, last week from China. So, it is all tainted material according to the law.... So, a lot of dealers in Chinese pots, bronzes, horses, things obviously coming from underground...they still don't know now how they should behave... (dealer, London).

Such open secrets add to the confusion of dealers who are thereby exposed to mixed signals. What, after all, are they supposed to be doing? The habitus is revealed in these market actors when they freely "confess" to wrongdoing without apparent realization that their accounts are of action that has now been expressly criminalized in many parts of the world. The disjuncture between field and habitus leads them sometimes to reflect on their position in a changing moral and legal climate, and at other times to reveal a routine pattern of behavior that is entirely contradictory to the new position of the field—no doubt aided by the contradictions evident in this process of field-shift. This is most clearly illustrated in relation to a dealer from Australia who, while of the opinion that recently looting had "gone ballistic" and was "incredibly destructive," said "I haven't got many pieces with provenance" (in other words he did not know whether they were looted or not) and then proceeded to show me a pot he was selling that he thought bore the hallmarks of looting:

Certainly, with the Chinese pieces, for example this pot (picks up pot off desk), you've got dirt in the crevices. That hasn't been out of the ground for long, so that's a recent, you know, within the last five years I'd say that one's been dug up. (He points to a striped indentation on the pot.) You can see that that's where the spade hit when they dug it (dealer, Melbourne).

Conclusion: Denial and Transnational Crime

Above all else, this study reveals the central place in regulatory problems of the generally overlooked effects of denial, myth, hearsay, routine, fuzzy logic, and constructivist ethics. These facets of the discourse-based projections of the habitus mediate the relationship of laws and agents, and obviate attempts at straightforward regulation-through-legislation.

Three types of denial found in the antiquities market are presented here as "ideal types." In practice, they are not as exclusive as they have appeared here; that is, although individual research participants tend toward one model rather than another, they resist such simple categorization, rarely displaying uniformly the characteristics of only one of our three types. Rather, various permutations of these denial-based responses were observed. Those who initially deployed silence became categorical entrepreneurs when persuaded to contribute to the project, for

example, and categorical entrepreneurs would sometimes vacillate between this tactic and moments of more reflective career confusion.

Though Dick Hobbs may have been correct to observe that, to paraphrase him paraphrasing Bruno Latour (1993), "everything happens locally" (Hobbs, 1998), including denial, it does so with reference to projections of the acts and intentions of distant actors, and (legally and morally, at least) with reference to the transnational discourse-networks of laws, irritant academics, and archaeologists whose words resonate in the moral field-shift.

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