

# Regulating the Wild West: Symbolic Security Bubbles and White Collar Crime in the Art Market

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## Abstract

The study of crime and criminality in the art market has received increasing attention within criminology, however little has been written on the criminogenic values built into the structure of the art market. Despite increasing legislation to counteract instances of money laundering and fraud, the legal governance of the art market brings such ambiguity that actors in the market have formed their own responses to managing risk. In this article, we discuss how these actors rely on security bubbles and self-regulation and how this can have the unfortunate effect of adding to a criminogenic art market where white-collar crime is sustained. The dependence on self-policing created a field where powerful elites run things, and traditional policing agents have little purchase.

## Keywords

art market, security bubbles, risk management, white collar crime, regulation, art crime

## Introduction

In an episode of just over 5 minutes, Adam Conover, an American comedian and host of the popular web series *Adam Ruins Everything*, claims that the art market is a scam by arguing that it is a “self-proclaimed playground” for elite actors such as galleries, dealers, and auction houses. These actors, according to Conover, have strong control over value, price, and reputation due to the self-regulation premises of the art market. He presents the closed character of the art market as the perfect place for money laundering and fraud. While some of the more extreme claims in the video are clearly parody, some are more truthful. A recent report by the United States Senate titled *The art industry and the U.S. policies that undermine sanctions* argues that the art market in the United States is one of the largest legal, unregulated, markets in the country, and is so opaque that “buyers and sellers within this market can remain anonymous, raising the concern that corporate veils are being used to manipulate markets, evade taxes, and launder money” (2020, p. 36). The world of art dealing is replete with these instances of white-collar crime, including fraudulently selling copies of artworks (Chappell & Polk, 2009), tax fraud and avoidance through museum donations (Brodie, 2014; Yates, 2016), and dealing in looted cultural objects (Mackenzie et al., 2019). Despite the introduction of regulatory instruments designed to prevent instances of white collar crime via art (e.g., 5AMLD), the art market remains a place where crime and criminality flourish with minimal oversight. Laws and policies are often so ambiguous that actors in the art market develop their own responses to managing risks in what has been

described as “one of the last wild west businesses” (Shortland & Shortland, 2020, p. 159), signifying the art market as a relatively unregulated space. One such element is the creation of self-regulatory “security bubbles” in which socially embedded, self-interested collaborations and agreements arise between actors to manage risk, and take control of the security infrastructure that is lacking in this unregulated space. These security bubbles then function as strong networks of trust.

The idea of security bubbles is linked to the idea of “nodes” of security as conceived in the literature on nodal governance. The term “bubbles” of security appears to have been introduced as a term by Rikagos and Greener (2000) in a paper discussing the privatization of security in public, noting that we all now pass through various privately-controlled geographical zones in our everyday lives. Many of these privately-controlled zones come with a certain amount of security provision, whether from mall security guards, or CCTV systems arranged and paid for by neighborhood residents. Thus, what appears to be public

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space is in fact now populated by many security bubbles in which some person, corporation, or group has decided to exercise a level of control in the name of securitization. While Rikagos and Greener (2000), and authors following (e.g., Edwards, 2016; Shearing, 2016) have considered security bubbles to be mainly spatial constructs, in this paper we identify market-based security bubbles that are symbolic. These symbolic security bubbles are based on social, rather than geographical, boundary-regulating considerations. These include things like character references and prior displays of trustworthiness. So, these bubbles are not public-private geographical spaces as such; they are a symbolic bubble providing a secure group of trading partners, rather than a secure geographical location.

Authors have referred to access-controlled fields in geographical security bubbles as “postmodern noir scenarios” in which the powerful upper classes are incorporated and “trusted,” but those in the lower classes are confined to “urban ghettos” (McLaughlin & Murji, 1998, pp. 219–220). We suggest parallels here between this insider-outsider view of geographical security bubbles and our observations of symbolic security bubbles. Art dealers within their symbolic security bubbles have the power to control and exclude those actors who are considered insufficiently trustworthy. The perception in the symbolic security bubble is that outside the safety of that bubble, risky transactions may result in mistakes of judgment and trading losses. The result is, in the imaginary at least, significantly better protection on the inside of the bubble than on the outside (Zedner, 2006). Actors within these bubbles prefer to rely on complex webs of insider networks, reciprocal linkages, and good faith practices rather than on external surveillance.

This may sound like an exemplary case of self-policing—a private market-based response to security that manages risk at no cost to the state—but there is a downside. The key governance challenge is that these trust networks develop into privacy networks, which devolve over time into secrecy networks, where white-collar crime routines can remain hidden from regulatory scrutiny while being well understood and routinely practiced by the participants on the inside. These secrecy networks may protect participants from harm, but they also shield participants from the involvement of external regulatory bodies, such as the police or watchdogs. With the increasing shift from a state-centered policing model to policing through nodal governance (Kerr, 2016; Shearing & Wood, 2003) and the increasing postmodernization of policing together with the gradual replacement of traditional policing by private agencies (Reiner, 2000, p. 1039), the role of the public police within the art market becomes residual. Problems will more likely be solved by diplomacy or litigation internal to the market, rather than by involving the police who are considered outsiders to the market. This exclusion is further justified by the market’s impression that police units, even those dedicated to art crime, lack expertise (Oosterman, 2019b). The outcome is a criminogenic art market where crime can flourish with relatively little outside surveillance and interference.

In the following sections of this paper we will expand on the arguments presented above by first discussing the nature of the art market and its criminogenic characteristics. Next, we will provide an understanding of the structure and implications of security bubbles, and how they play a role in a criminogenic art market that, by making external governance harder, promotes forms of white-collar criminality. Finally, we conclude with a discussion of the consequences this analysis suggests for the appropriate regulation of the art market.

The research methods that have produced the data for this paper are interview and observation based. We draw on empirical evidence from interviews and observations with art market actors that the authors have undertaken through a series of research projects beginning in 2001, and that are still continuing, though the data we report here has a cut-off date of 2018. Some of these projects were conducted by each of the authors individually (see Mackenzie, 2005; Oosterman, 2019a, 2019b; Yates, 2015), and some by two of the authors (see Mackenzie et al., 2019; Mackenzie & Yates, 2016; Oosterman & Yates, 2020) together. The various studies, viewed as a single corpus of data, generated a large database of exploratory and semi-structured interview and observational notes on art market routines in the Netherlands, Italy, the United Kingdom, Asia, Latin America, and the United States. The total number of interview hours conducted amounts to 200 hours. Observations were carried out in museums, galleries, and auction houses in the locations mentioned. Semi-structured interviews were undertaken with art market professionals (e.g., art dealers), museum professionals (e.g., curators, registrars), private collectors, lawyers, activists, and public and private police, and were analyzed thematically.

The data that we are working with here has been the basis of other previous publications in relation to the particular study that generated it, but in this paper, we are trying to move beyond those cross-sectional views to construct an overview of a major theme we have seen emerging from the data when all of the studies are considered together. We excerpt anonymized data from these prior studies in this paper by way of illustration where relevant. So, in this sense, we are engaging here with a mosaic picture of crimes and regulatory adaptations in the art market, where a series of research snapshots of particular aspects of the market seems to suggest an overall pattern that deserves consideration in its own right. The data we have collected in our previous studies is combined here to develop a broad theoretical and empirical basis for our discussion of criminogenic market structures and symbolic security bubbles in the international art market.

### *The Structure of the Art Market*

The art market, which has undergone an economic explosion, has in recent years seen numerous record-breaking sales at auction houses. In 2017, *Salvator Mundi*, a work attributed to Leonardo da Vinci, was sold at a Christie’s auction in New York for the current record-breaking sum of \$450 million. This shattered the record sale of Pablo Picasso’s *Les Femmes*

*d'Alger* (\$179 million), set only 2-years before. These prices shocked the art world, especially in the case of the *Salvator Mundi*, which was sold despite credible questions about the authenticity and attribution of the work (Lewis, 2019).

As thoroughly discussed by Velthuis (2005), the art market consists of a structure that essentially relies on the existence of *one* market, but *two* logics: it is capitalist as well as cultural. Art dealers operate according to the principle of supply and demand. They need to offer for sale those objects for which demand exists, that attract a steady flow of customers and that turn a profit. At the same time, art dealers are part of the cultural field, where they are considered as powerful gatekeepers (Crane, 1976; Velthuis, 2005). This notion of cultural value is also centered around the economic/cultural dichotomy—the “two logics” referred to above. The economist’s approach to value looks for indicators that support a quantitative assessment of commodification, whereas the cultural meaning of an object is based on an expert’s assessment of an object’s symbolic value. The latter approach to valuation is unable to be measured by traditional economic models as those models are unfit to fully consider the immaterial dynamics of the art market—the metaphysics of the cultural importance inscribed onto an object by the assessment of expertise and scholarship—so that cultural value is never only intrinsic to the object itself (Jyrämä, 2002). Cultural value being discernible only with considerable expertise and insider knowledge of the field, the art market puts dealers and other experts in a central role: they might be thought of as creating value in art almost as much as identifying it.

Sitting aside the difficulties of valuing objects in such a contested field, there is a thriving industry of art insurance which has become a powerful player in the art market. Although there are authors who argue that the role of the insurance industry can have a positive contribution within the co-production of art security (Kerr, 2016), others are more pessimistic about the involvement of the insurance industry as it can “ironically” create risk, rather than simply define and manage risk (Ericson et al., 2000, p. 533). Insurance is often considered not comprehensive enough to appropriately manage all risk in the art market, leading to art market actors creating and implementing symbolic security bubbles as a self-regulatory way to manage those risks which are perceived to be inadequately neutralized by insurance. While it is true that in the art world, insurance is influential in setting the boundaries of certain rules through the “requirements they place on their customers, deciding on the nature of the rules, and choosing the focus of governance” (Kerr, 2016, p. 183), it is equally true that beyond the limits of insurance lies a more anomic ungoverned risk terrain, left to individual actors in the art market to navigate. Insurance, therefore, may be more of a baseline safety-net.

Beyond insurance for theft or damage, other losses can occur, and the insurance market has developed to address them. Title insurance can cover a buyer’s economic loss if they discover that the artwork they have purchased has an ownership defect (e.g., that they unknowingly purchased stolen or looted goods). As with all kinds of insurance, art insurance comes

with conditions—e.g. concerning the level of due diligence the buyer must undertake when considering the purchase—and these insurance limits construct rules, and consequently norms, of behavior for market actors. Therefore, whether acting within or beyond the limits of insurance, it makes good practical sense for actors in the art market, who inevitably want to embrace a certain amount of risk since it is impossible to function in this “wild west” market without that, to operate within a protective bubble that is based on a risk management governance mentality (Johnston & Shearing, 2003).

We refer to the art trade as a “wild west” market to draw attention to its extraordinary light-touch regulatory structure. Where other consumer and trade markets are regulated by quasi-governmental organizations, ombudsmen, or other brands of civil regulator, sometimes also exercising criminal prosecution powers, none exist in the art market. Despite calls for such regulation, the art market in its major jurisdictions is predominately “regulated” only by opt-in industry codes of conduct (generally agreed to be ineffectual), and general legal provisions on matters like theft, fraud, money laundering and handling stolen goods that require police investigation. In practice, that police investigation is limited for reasons of resourcing, expertise and interest, capacity, deference to the cultural status of the art world and its significant players, and prioritization when art crimes are considered alongside other more mainstream types of crime. Specialist private security, theft-database, and investigation firms have grown in the art world to fill—or at least take commercial advantage of—the regulatory void, but they get involved in a small minority of cases and usually only when a significant artwork has been stolen and the owner hopes to recover it.

Therefore, taking into account this selection of regulatory structures we have mentioned—insurance, official regulators, law, the police, and private security—the caricature term “wild west” seems a mildly hyperbolic but not altogether inaccurate diagnosis of the art market. Aside from a few headline cases and special investigations, the day-to-day criminal activities of the art trade remain effectively unregulated. Security bubbles have emerged as an organic response to the profitable cocktail of unregulated risk and opportunity.

### **Security Bubbles and External Intervention**

Museums, galleries, and art dealers loan, sell, and buy art works regularly as part of their financial model (Kerr, 2016; Shearing et al., 1980). The art world is now a globalized network, but nodal spaces, both geographical and inter-personal, are important hives of art market activity within that global idea of the world art system. Regardless of the emergence of the global art market, we often discuss spatial locations such as “global cities” (e.g., London, New York, Beijing, and Hong Kong) which function as gateways for economic and cultural capital, transforming many of these cities into art hubs (Smith, 2019). McLaughlin (2007) describes these hubs as security bubbles in which actors organize and maintain risk assessments and create therein a culture based, among other things, on reactions to fear of crime. These constructed, and quite widely

accepted, ideas of geographical security bubbles mean that buying and selling art in, for example, London, New York or Dubai is considered a somewhat safe business, whereas doing the same in Afghanistan or Lebanon is less so. Within these geographical security bubbles, art trading networks form that can be conceptualized as symbolic security bubbles, in which market participants such as dealers, but also museums and galleries, are constantly forming and reforming their own personalized security bubbles to manage risk and build trust networks. The construction of these symbolic security bubbles—as risk and anxiety management structures—marginalizes external regulatory agencies, especially the public police as the traditional “caretakers of safety.” This produces a more post-modern governance matrix (McLaughlin & Murji, 1998) in which public police, do not have the “( . . . ) ability to exercise or threaten coercion to ensure individual compliance with the promotion of the “social order” (Shearing & Wood, 2003, p. 402). As a result, we observe a matrix of tangible public and private policing, and intangible community networks, providing regulation and policing in the art market.

With the public police lacking the ability to exert control, and with the reliance on trust in the art market, the creation of symbolic security bubbles that valorize and rely on community networks is unavoidable. The geographical security bubble is the place for powerful elites who can afford far-going security and risk measures, whereas those outside of the bubble cannot. By contrast with those tangible geographical imbalances in wealth and opportunity, the power of the symbolic security bubble is more imaginary: those who possess significant cultural, economic, and social capital are allowed a place within the bubble. Reputation within that bubble is the primary entrance requirement. Concerning external interventions, those within symbolic security bubbles rely on community networks and private policing, whereas those outside the bubble more likely must rely on traditional state-centered policing (Johnston & Shearing, 2003). There are exceptions, for example in the Netherlands, where the *Museumplein* in Amsterdam has a “policing hub” consisting of both public and private police units tasked with its protection, illustrating the typical geographical location of the traditional security bubble (Oosterman, 2019a). Nevertheless, as we will discuss, even within these geographical bubbles we observe a divide between insiders and outsiders of the symbolic security bubble based on reputation.

### ***The Multi-Dimensional Criminogenic Character of the Art Market***

Art markets can be considered as high risk, multi-dimensional criminogenic entities which maintain their own risk management by the implementation of security bubbles to avoid harms. Within the art market, several economic institutions have taken control. There is a handful of elite actors who maintain a position of hegemony by creating strong reputational “big brands.” These big brands, which include institutions like the major auction houses for example, have market status secured by a

general impression of quality, which provides them with market power (Crane, 2009). Whenever one of these auction houses creates a catalogue, holds an auction, or exhibits an artist’s work, it contributes to the artist’s reputation by adding a prestigious provenance to their artwork, as well as (quite possibly) a record of increasing sale price. Big brands in the art market provide a sense of risk avoidance and reputability, and therefore invite trust. It becomes difficult to “go against” these authoritative figures within the art market, cementing their elite status.

Some art dealers have also created a brand reputation putting them “at the top” of the art market’s trading activities. An informal hierarchy of power and influence is the result of all this commercial and cultural positioning, in which market participants who can discern such things will be able to talk of people, firms, and corporations, with a working understanding of their relative market status and importance. The informal arrangements that constitute security bubbles bear a passing resemblance to cartels: they are based in the context of an internally recognized market hierarchy, constructed around informal agreements about the conduct of legal business, and aim to perpetuate a form of market stability that protects those party to the arrangements. The “socially embedded” relations between the actors in the art market make interpersonal relations, trust, and reciprocal links grounds for the construction of symbolic security bubbles (Jaspers, 2016, p. 322–323). The strong focus on the relationships between actors in this light-touch regulatory art market can explain why these bubbles can get “cemented,” and why connections with external regulatory agencies are often marginalized, or even absent.

Below the top and middle tiers of this market hierarchy, other art market actors trying to break into the scene, who do not possess this level of prestige and reputation, may be excluded from participation or be considered marginalized. Elitism in the market creates secure groups and sub-groups of trading partners using informal norms and codes, and for these bubbles the outside management of security and policing becomes residual. The regulation and prevention of criminal activities fall within the control of a small elite who utilize a self-policing model, which is problematic for the art market. For a self-policing model to achieve regulation, a certain exchange needs to take place, for example a reduction of sanctions for disclosing bad practice (Innes, 1999; Short & Toffel, 2007). However, with trading partners relying on strong reputational bonds, actors refrain from disclosing bad practice. Most dealers therefore are unlikely to report suspicious market behavior they have observed to regulatory agencies or the police.

### **Developing and Maintaining Security Bubbles**

#### ***Developing the Symbolic Security Bubble: Reputation***

The criminogenic nature of the art market can damage underlying webs of professional relationships between powerful players within security bubbles. When talking to curators of contemporary art museums in Italy about lending practices,

they confirm their strong reliance on reputation when assessing the acquisition of new objects:

“Generally, we are sure [an object has trustworthy provenance] because it is contemporary art, because we trust artists or galleries who, who sell the art works. (...) Or the main gallerist that works with the artist. So, we do not use databases or similar [things].”

It is not an uncommon practice for museum professionals to rely on these insider networks, where trust is a signifier of reliability. These decision-making processes rely heavily on the reputation that these actors have built in the art market, leaving professionals to rely on networks as their primary strategy to avoid risk. Trust based on reputation is considered, as a matter of day-to-day market practice, a working substitute for the deep interrogation of the provenance of an object. There is a clear legitimization practice to provenance in the everyday operation of museums, with many museums relying on trusting institutional sources such as other museums and galleries, famous collectors, dealers, and auction houses, rather than available crime data or on the expertise of policing agents specifically tasked with art and heritage crime. In this instance, the curators argued that they used a database for stolen works of art “once or twice,” but only for pieces that were acquired before their employment at the museum, and only when the artwork had to go out on loan. Often, they would not inquire into the history of objects when originating from, what they considered to be, trustworthy partners in their bubble.

By relying on the reputation of other actors in the field, there is a development of a symbolic security bubble in which standard operational practices for acquisition, and to extent securitization, are forfeited in favor of trust. Data from the Netherlands provides an illustration of this. When we talked to the head of security of one of the largest museums in the country, he emphasized strong symbolic security bubbles relying on insider networks, even within geographical bubbles. When discussing the securitization of the museum’s collection, he argued that he would “think twice before lending something to a provincial museum.”

“Provincial” is used here in two ways: to indicate the geographical places located outside of the *Randstad*, the most populated polycentric region of the Netherlands, and simultaneously to characterize those outside of this region as less adept: as marginalized socially, culturally and economically. Despite the Netherlands’ relatively decentralized character, the discourse of “provinciality” is exemplified by the fact that most securitization and policing efforts in the art world come from the four major cities: Amsterdam, Rotterdam, Utrecht, and The Hague.<sup>1</sup> Therefore, the policies concerning, for example, lending, funding, and security of the museums in these cities, which now resemble very large geographic and symbolic security bubbles, are quite similar. By mimicking each other’s strategies, they create a security bubble in which Dutch museum professionals argue that there are “no policies or laws,” but nevertheless “[we] make it work.”

Despite the security professional arguing an absence of policies or laws, and thus an absence of clear external regulation in the Netherlands, in 2011 the *Nederlandse Mededingingsautoriteit* (NMa, Netherlands Competition Authority) intervened in the Dutch art market after suspicion of cartel formation. After receiving signs that several Dutch art dealers negotiated bidding behavior in the art market to suppress prices at auction, as well as signs that dealers in friendship networks would resell works obtained at auction to one another and provide each other with compensation for sales, the NMa started an investigation. The enquiry took 2 years and resulted in increased guidelines, specifically prohibiting the reselling of objects obtained at auction within 6 months after purchase and prohibiting agreements on bidding behavior at auction. These rules have served as guidelines for the entire Dutch art industry. Regardless of the NMa’s report, the external regulation of the art market remains fragmentary and low-level today. Symbolic security bubbles in the Dutch art market are still strongly rooted within trust networks and rely strongly on communities of elites.

In the case of antiquities dealers, who make up a distinct subset of the art market, security bubbles are trust networks where the kind of security on offer is the prospect of reimbursement for bad transactions. Dealing with trusted trading partners does not bring reassurances that the antiquities traded in these bubbles are themselves “secure” in the sense of not being looted or stolen goods. The transactions are “secure” only in the sense that if it did subsequently emerge that an antiquity was stolen property that would have to be surrendered to the police and likely returned to its source country, the buyer could be reasonably sure they would be reimbursed by the seller. We see this expectation in the following quote from a dealer in London:

a dealer friend could walk in any minute now and put something on the table in front of us and say “it’s £70 do you want to buy it,” I like the thing and say “ok yes, I want to buy it, where does it come from?” He’s going to sit there and say “you think I’m going to tell you where I got this, get out of here!” he’s never going to disclose a source. That’s your biggest problem, you can’t get a source, all you can do is trust that person and with my friends I wouldn’t even dream of asking them, I would know that if it’s stolen you don’t have a problem. Other dealers are not quite so good.

This quote discusses the clear limits to the “security” provided by security bubbles in the art market, and the way they can be counter-productive in terms of crime control. Within these security bubbles, as previously illustrated with the Italian case, the culture subsists of not asking pertinent questions about where objects came from—an essential component in the effective routines of checking provenance. This does indeed resemble a “wild west” market where those outside the bubble, which in this case are those *places* that fall outside of the geographical bubble and *people* who fall outside of the symbolic bubble, are considered untrustworthy.

### **Maintaining the Symbolic Security Bubble: Double Standards**

When developing security bubbles, the “rules” are relatively straightforward. However, maintaining security bubbles—which involves a constant evolution of decision making about who is “in” and who is “out”—seems to be a process in which these decisions about inclusions and exclusions reveal double standards. Bubbles that exclude criminal transactions are not the same as bubbles in which buyers find “security” in trusting that a trading partner can be relied on as responsible enough to provide recompense if the goods being sold are later seized as part of an investigation or prosecution. Security bubbles in the art market are primarily thought of as protection for buyers. Sellers have less reason to be concerned about the “security” of a transaction, other than making sure they are paid. This leads to double-standards in how dealers approach buying and selling, as a London-based dealer explains:

There are people who I would sell to, but I wouldn't buy from. If they come in here . . . one of them is a prominent New York dealer, if he comes in here . . . ever since the 1970s I've had the basis in doing business with him that I will not buy from him because you are never certain whether you will get good title and if he wants to buy from me he either pays cash or I get a cleared cheque, in other words, I know I've got the money. If he doesn't fulfil either of those criteria within a week of him saying he wants the piece then the sale is void, that's it. I'm happy to do it that way, but I'd never buy from him because you could buy the piece, pay him for it, and a few months down the line have a dealer come in and say, “hey, that's mine.”

The privacy involved in security bubbles creates trading zones in which a lack of external scrutiny allows for abuse. This is one element of the paradox at the heart of private security responses—dealing based on trust creates a central weak point in the system, as trust can be abused:

Temptation is a very difficult thing to refuse. It's so tempting to make more money if you've got the opportunity and you're trusted.

A dealer in New York confirms that to operate in the anti-quoties trade, one should control the boundaries of one's own trading zone, excluding dodgy dealers and thereby creating a security bubble:

There are dealers who no doubt are very very active in pieces that are, let's say, stolen . . . there are rotten apples in every barrel. There are dealers that I have nothing to do with because I don't trust them or because I know that they smuggle. There are people that make a livelihood out of bringing things across borders, major major pieces. And we try to keep far apart from that.

Deciding who to let into your security bubble is a key consideration, but so is the degree of trust you award any member of the community in your trading bubble. There are strong “entry requirements” for the bubble, which rely largely on reputation within the art world community. Trust and reputation are

complex and nuanced in this field, and as they are put into practice as social methods of crime prevention in the art world, they are quite clearly fallible. Let us give an example.

Art dealers commonly think that one should assume a level of deceit and untrustworthiness on the part of almost everyone involved, but they see this as a relatively benign kind of untrustworthiness that does not necessarily signal crime. Rather, it is the kind of shiftiness that the market encourages as a matter of commercial routine based in self-interest and in market practices that have grown from 18th and 19th century desires to shield the wealthy from public exposure of their financial dealings: covering up sources and prices paid, keeping commercially sensitive information secret, and other behavior that market actors consider reasonable. So, a seller may well lie to a buyer about the origins or the ownership background or possible historical significance of an artwork. If they do not outright lie, then they may at least not be forthcoming with relevant information, and this kind of slippery trading discourse is taken by the market as being normal, predictable, and non-sanctionable behavior. In other words, this considered a kind of acceptable untrustworthiness: acceptable because it is built into the normal routines of the market.

However, while the buyer may hope that these small-time frauds, lies, and non-disclosures indicate only the normal sharp practice of commercial entrepreneurs enjoying the possibilities of lightly regulated capitalism, they may in fact be the more troublesome kind of deceit that relates to passing stolen property in the market. How to differentiate between these two possibilities is one of the key skills involved in assessing and putting into operation the notion of trust as a security feature in art market bubbles, and dealers like to think that they are better at it than it is realistically possible to be. Extending trust to a dealing partner can therefore be a process of rationalization—indeed, a technique of neutralization (Sykes & Matza, 1957)—that gives a moral and social whitewash to legally dubious trades.

A London-based dealer reflects on the frailty of trust in “human beings” who, it is presumed, are fundamentally self-interested when it comes to market matters:

Also you know that over the course of ten years that people who tell lies get found out. Sooner or later there was the court case somewhere or something, and it all comes out. Even if the person wasn't lying in this particular case, but they have lied about all sorts of other things. So, you then know you can't trust them. And that happens frequently. I mean one of the greatest collector-dealers in the world, I mean I've known him for a long time, he's an extremely interesting man, over the years, I mean like 25 years ago, he would have told me one thing about a major object, and 15 years later having dinner somewhere he would proceed to tell you “no, no, that was absolute rubbish. I had to say that at the time. Actually, I was buying it” or whatever. And this is at the highest level. I mean we're talking millions. All that sort of thing happens. You know, human beings are human beings.

Now, it may be true that people working in commercial markets can be selfish and deceitful, but what this dealer seems

really to be saying is that symbolic security bubbles are just that—symbolic—incapable of detecting such market lies other than in the long run, or in patterns of bad practice in dealing, and presumably not being adequate protection against individual infractions in the shorter term. Symbolic security bubbles therefore do not protect against the insertion of illegal goods into the market; in fact, they facilitate that type of crime.

### *The Dubious Value of the Security Bubble for Insiders*

In the everyday practice of the art market we see that the symbolic security bubble has an important influence on decision-making processes. The financial and cultural power enjoyed by the elite in the market has allowed lobbying practices to assert that self-regulation should be favored over more serious external intervention (e.g., Melikian, 2013). Actors within these security bubbles behave almost like cartel participants, facilitated by a strong “cooperative and silent social environment,” which complicates external regulation and policing (Jaspers, 2020, p. 68). Thus, the “pushing out” of traditional policing and regulatory actors is one of the consequences of these lobbying practices within this silent social environment. In Italy, for example, despite the Carabinieri having one of the most powerful police units specialized in art and heritage crimes, actors still primarily rely on self-regulation.

Self-regulation, however, can pose several issues that many of the interviewees spoken to do not, or are reluctant to, recognize. As argued previously, self-regulation, particularly in fields with increasing nodal governance, can only be achieved if a certain exchange takes place when disclosing bad practices. As is the case in many of the examples provided, reputation plays a big part in the exchange of cultural objects between art market actors. Disclosing bad internal market practices to external regulators is discouraged if it could mean the end of the hegemonic position of an elite and the market’s right to self-regulate. While these bubbles give the sense of avoiding risk, they actually increase the market’s embrace of risk, as reliance is placed on power and reputation, and less on formalized governance. Although there are regulations in place concerning acquisition and provenance, many interviewees disclosed that they have a casual attitude toward these when purchasing and loaning art works and consider much of the legislation to be “ambiguous” and unfitting for their everyday practice. Rather, there is a collection of governance nodes in the art market that consists of private, public, and community networks revolving around trust.

### **Deviant Organizational Structures in the Art Market**

The result of the security bubble as a risk management tool is that many interviewees assumed that the acquisition of art from a source considered trustworthy was an appropriate routine practice, when in fact we have shown that it can—and does—facilitate art crime. Likewise, since self-policing in security bubbles involves avoiding doing business with untrustworthy sources, it is clearly problematic that most art dealers report being aware of debatable practices among some of their colleagues and

approaching that issue as a question of risk management. So, it is considered a proper response to simply avoid doing business with *very* dodgy traders, while continuing to do business with *acceptably* dodgy traders, never speaking up about any of this to those outside their circle, nor ever reporting any matters to do with dodgy or suspicious trades to the police.

### *Keeping Crime on the Inside*

It is important to consider the influence of security bubbles because the idea of “insider networks” and closed or bounded organizational groups has, in the study of white-collar crime, been considered as more problematic than helpful in crime prevention (Huisman, 2016; Vaughan, 2004). Deviant organizational cultures are thought to propagate more effectively in social and commercial zones where capable guardians are absent. Regulation generally involves trying to *get access* to economic areas where knowledge of what is really going on is the remit of a closed membership group, and privacy or secrecy is considered a barrier to external regulatory access.

Theoretical positions on why in-groups may be problematic run from the etiological (e.g., differential association generating certain deviant values: Sutherland et al., 1995), the technical-analytical (e.g., “history as cause” dynamics of the theory of organizational deviance: Vaughan, 1999), to the pragmatic (e.g., difficulties of obtaining proof in insider trading cases: Polk & Weston, 1990). Despite their differences, these perspectives share the overall orientation toward breaking down, rather than shoring up, private enclaves in corporate capitalist markets if the aim is crime prevention. The art market in general being anachronistic on many other counts, it is perhaps not surprising to find that it is well behind the regulatory and crime-control times, trading based on the self-help and an individual’s eye for good character that the security bubble represents. Returning to the comparison made earlier between geographical security bubbles and the symbolic trading security bubbles, we suggest these have become indicative of the art market’s response to risk. The comparison to spatial bubbles is useful, because it allows us to observe that in the controlled, privately policed, spaces of geographical security bubbles, the rationale of the bubble is to keep crime out. While that is also one of the aims of the symbolic security bubble in the art market, there is another benefit for members too: as well as keeping crime out, symbolic security bubbles keep beneficial crime in.

The privacy of these deliberately constructed, and relatively closed-group dealer networks, whose boundaries are policed by insider members regarding impressions of trustworthy character and reliability, allow criminal trading to ensue in a socio-economic environment protected from outside scrutiny by precisely those purported character traits that form the entry requirement checklist for members. Just as group insiders can be trusted (or so it is thought) not to defraud colleagues within the bubble, so too can they be trusted as partners in deals relating to stolen goods: trusted to keep secrets.

### Market Crimes: Double Standards in Criminal Activities

Double standards surrounding criminal dealings emerge, where mutually beneficial trades in stolen goods between colleagues in a security bubble are, informally, considered acceptable. These colleagues are socially constructed as upstanding and trusted members of the art market, not criminals, so the fact that some of their deals are criminal falls into the category of knowledge that does not “fit.” It is confusing knowledge (how can good people do bad things?) and therefore suppressed and ignored (cf. Cohen, 2001). To the contrary, sometimes dealers within the security bubble will be offered stolen goods by bubble-outsiders, or they will be the prospective victims of frauds as outsiders offer them fakes. Bubble members seem to have little difficulty labeling such outsiders as “untrustworthy” or “crooks,” exhibiting a level of hypocrisy that makes better sense once one has mapped out the structural adaptations of the art market to the crime that is interwoven with its supply chains. In the nodal conception of security bubbles, previously invisible boundaries that influence real-life working definitions in art worlds, provide indications of who is criminal, and who is not. Thus, the security bubbles we have seen as structural forms in the art market can be implicated in legitimating, and propagating, market crimes that are widely condoned, while at the same time highlighting and insulating members against the subset of crimes in the market that are perpetrated by “strangers.”

### Conclusion

Early “regulation” literature promoted the idea of self-regulation in markets combined with external oversight in positive terms (e.g., Braithwaite, 1982). Since then, critiques and developments of pyramidal regulation have drawn even more attention to the importance of external oversight and the prospective sanctioning function of the regulator in incentivizing appropriate and effective self-regulatory adaptations in any market (Gunningham, 2016). In the art market, however, we see that the contemporary turn toward increased nodal governance, combined with security bubbles, has diminished the possibilities for external oversight, leaving mainly unchecked self-regulation. Identifying the art market as securitized by the organic formation of security bubbles into which entry is restricted and deals are done based on trust, is an important step forward in the anthropology of the business side of the art world.

In addition to the anthropological process of observing, identifying and understanding the cultural norms and social forms of various adaptations to circumstance, like these security bubbles, the white-collar criminologist should ask: what are the effects on crime, likely or apparent, of these ways of organizing? Studying the lived experiences of these actors in the field allows us to better understand the mechanisms that underlie the process of regulation in an increasingly nodal governance structure, and shows how art market actors practice a pick-n-mix attitude toward regulation, risk management, and prevention of loss that, in its inconsistencies and contradictions, opens the market to criminal trading. The challenge lies

in spreading and diversifying the amount, and type, of responsible actors within the art market. A first step toward this must be to identify and develop the capacity of functionally effective regulators at key points throughout the nodal governance structures of the market. This would reduce the impression among market actors that they are responsible for solving the market’s issues, and that nobody is watching if they don’t.

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### Note

1. An exception is the strong, but localized, policing effort at the European Fine Art Foundation (TEFAF) art fair in Maastricht surrounding their vetting procedures.

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