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ART LAUNDERING: CULTURAL ASSETS IN CROSS-BORDER TRANSACTIONS AND SANCTIONS-RESISTANT WEALTH

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Abstract

This article examines how cultural assets, particularly works of art and antiquities, are used within cross-border transactions to launder wealth and evade sanctions. The unique structural characteristics of the global art market — high value, confidentiality, subjective pricing, and portability — make it a vulnerable conduit for illicit financial flows. Drawing on international legal frameworks, comparative national approaches, and enforcement responses, the article assesses existing regulatory gaps and proposes legal reforms to mitigate risks without undermining legitimate trade and cultural exchange.

Keywords: Art, art laundering, money laundering, global market, international law

1. Conceptual Framework: Art Laundering and Sanctions Evasion

Art laundering refers to the exploitation of art transactions to integrate illicit or sanctioned wealth into the legitimate economy. Illicit actors can mask the source, ownership, and movement of funds through inflated sale prices, anonymous intermediaries, shell companies, and repeated resale across jurisdictions.

The market's opacity — low transparency, high reliance on intermediaries, and limited regulatory reporting — exacerbates this risk.

In *Money Laundering and Sanctions Evasion Using the Art Market* (Basel Institute on Governance, 2022), Andrew Dornbierer underscores that the structural characteristics of the art market—its reliance on intermediaries, fragmented regulation, subjective valuation practices, and entrenched norms of confidentiality—generate systemic vulnerabilities that are uniquely attractive to actors seeking to obscure beneficial ownership and circumvent sanctions regimes. He emphasizes that unlike traditional financial institutions, art market participants have historically operated outside comprehensive AML/CFT frameworks, enabling high-value transactions to occur with limited customer due diligence and minimal scrutiny of source of funds. Dornbierer further argues that the cross-border mobility of cultural assets, particularly when combined with freeports, offshore corporate vehicles, and private sales, facilitates the layering and integration stages of money laundering while simultaneously allowing sanctioned individuals to store and transfer value beyond the effective reach of financial sanctions. Importantly, the study situates these risks within a broader regulatory asymmetry: while global banking standards have tightened under FATF guidance, the art sector remains unevenly regulated, creating a form of market displacement whereby illicit capital migrates toward less supervised asset classes. This analysis supports the contention that cultural property must be understood not merely as an object of heritage protection, but as a financial instrument embedded within transnational risk networks. [1]

2. Sanctions-Resistant Wealth and Art

Sanctions-resistant wealth involves assets and financial structures that allow individuals or entities subject to sanctions to preserve and move value outside the reach of enforcement mechanisms. Cultural assets, particularly those transacted privately or stored in freeports, can be strategically used to evade regulatory detection and to preserve economic value when financial channels are restricted. Hufnagel and King's comparative legal analysis elucidates how the recent incorporation of art market intermediaries into anti-money laundering (AML) regimes reflects both the structural vulnerabilities of the sector and the broader regulatory challenges of aligning cultural commerce with financial crime controls. They observe that measures such as the European Union's Fifth Anti-Money Laundering Directive have extended compliance obligations to art dealers, galleries, and auction houses, yet this expansion arises largely in response to longstanding concerns that the opacity and informality of art transactions create fertile conditions for laundering illicit proceeds. The authors further demonstrate that the application of AML criminal law and preventive requirements in practice can expose legitimate commercial actors to significant legal risk, including potential prosecution for routine business activities, underscoring the tension between effective deterrence and disproportionate regulatory burden. Moreover, the uneven implementation of AML controls across jurisdictions — particularly in contexts where high-value dealers have traditionally operated outside of formal supervisory frameworks — underscores a persistent gap in global oversight. This unevenness, they argue, not only complicates enforcement but may inadvertently incentivize the migration of illicit capital through less regulated art market channels, thereby amplifying risks related to cross-border wealth concealment and sanctions evasion. [2]

3. The Legal Landscape

From a treaty-law perspective, the international regulatory framework addressing cultural property and financial crime remains conceptually fragmented. The 1970 UNESCO Convention, formally the *Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property*, establishes a preventive regime centered on state cooperation, restitution, and the safeguarding of cultural heritage; however, its normative architecture is primarily directed toward the protection of cultural patrimony rather than the suppression of financial crime or asset-concealment schemes. [3] The Convention does not impose anti-money laundering (AML) obligations, nor does it require due diligence standards analogous to those applicable within the regulated financial sector. By contrast, the Council of Europe's *Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime* (CETS No. 141, Strasbourg Convention) mandates the criminalization of money laundering and facilitates transnational cooperation in asset tracing and confiscation. [4] Yet, while expansive in scope, it operates in a sector-neutral manner and does not specifically address the structural vulnerabilities of art markets or cultural asset transactions.

At the level of global standard-setting, the Financial Action Task Force (FATF) has acknowledged the susceptibility of the art and antiquities trade to money laundering and terrorist financing risks, particularly given the sector's opacity, high-value transactions, and cross-border mobility. [5] Nevertheless, as of 2025, art market participants are not comprehensively embedded within the FATF's designated non-financial businesses and professions (DNFBPs) framework in the same systematic manner as lawyers, accountants, or real estate agents. This regulatory asymmetry contributes to uneven implementation across jurisdictions and leaves residual compliance gaps that may be exploited for sanctions evasion and cross-border wealth concealment.

4. Key Vulnerabilities in Art Markets

One of the most persistent structural vulnerabilities of the art market lies in its entrenched culture of confidentiality and its historical reliance on private, intermediary-driven transactions. As Don Thompson observes, the contemporary art market operates through networks of dealers, advisors, auction houses and collectors in which discretion is not merely incidental but constitutive of market practice; pricing negotiations, identity of buyers and sellers, and transaction structures are frequently shielded from public disclosure. [6] This opacity is further reinforced by the routine use of agents and corporate vehicles, which may legally separate beneficial ownership from formal title. A second vulnerability arises from the inherently subjective and socially constructed nature of artistic valuation. Unlike commodities traded on regulated exchanges, artworks lack standardized pricing mechanisms; value is shaped by reputation, scarcity narratives, curatorial endorsement, and speculative demand. [7] As Thompson demonstrates, pricing in the high-end art market often reflects symbolic capital and brand positioning rather than intrinsic material worth, resulting in significant price elasticity even within short timeframes. [8]

This indeterminacy of value creates opportunities for deliberate overvaluation or undervaluation in order to facilitate illicit financial integration

5. Policy Recommendations

The integrity and traceability of provenance should be significantly enhanced through the systematic development of comprehensive digital registries and secure record-keeping mechanisms. Such systems provide verifiable documentation of ownership and transactional history, limiting opportunities for artworks to function as opaque repositories of wealth detached from accountable oversight. By establishing clear and enduring chains of custody, these measures not only bolster market transparency but also facilitate the identification of suspicious activity before assets are mobilized across jurisdictions.

Complementing internal record-keeping, the strengthening of cross-border cooperation is essential to effectively monitor and recover cultural property implicated in illicit financial schemes. Coordinated networks connecting national regulators, customs authorities, and international law enforcement bodies enable timely information exchange, unified investigative responses, and the enforcement of asset recovery measures. This integrated approach ensures that high-value cultural goods cannot easily evade detection or enforcement, thereby reinforcing both regulatory compliance and the broader integrity of transnational art markets.

As global sanctions regimes evolve, cultural assets in the art market remain a notable avenue for laundering wealth and evading enforcement. Robust legal frameworks, informed by international cooperation and balanced regulation, are essential to mitigate these risks without undermining the sector's cultural and economic contributions.

References:

1. Dornbierer, A. (2023). *Money laundering and sanctions evasion using the art market* (Basel Institute on Governance Quick Guide 29). Basel Institute on Governance. ISSN 2673-5229

2. Saskia Hufnagel and Colin King, 'Anti-Money Laundering Regulation and the Art Market' (2020) 40(1) *Legal Studies*, pages 131-150

3. UNESCO, *Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property* (adopted 14 November 1970, entered into force 24 April 1972) 823 UNTS 231

4. Council of Europe, *Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime* (adopted 8 November 1990, entered into force 1 September 1993) ETS No 141 (Strasbourg Convention).

5. Financial Action Task Force (FATF), *Money Laundering and Terrorist Financing in the Art and Antiquities Market* (FATF 2023).

6. Don Thompson, *The $12 Million Stuffed Shark: The Curious Economics of Contemporary Art* (Palgrave Macmillan 2008).

7. Olav Velthuis, *Talking Prices: Symbolic Meanings of Prices on the Market for Contemporary Art* (Princeton University Press 2005).

8. Don Thompson, *The Orange Balloon Dog: Bubbles, Turmoil and Avarice in the Contemporary Art Market* (Palgrave Macmillan 2017)