FAKES, FORGERIES
AND THEFTS

Criminal activity in the art world, or art crime, is a subject that incorporates a range of illegal approaches to the ownership, integrity and identity of cultural objects. It is a multi-billion-pound black market that is extremely tempting for criminals through the accessibility of the objects involved, combined with the potentially very high rewards that come from works that break auction sale records. Theft by dispossession, theft by deception and theft by destruction collectively define our understanding of criminal activity in the art world, and these three phenomena provide the framework with which we will approach our analysis of this intriguing subject.

Theft by dispossession is manifest through the three distinct criminal offences of larceny, robbery and burglary. The motivation to engage in art theft ranges from ideological repatriation and protest against taxation, to money-laundering and financial advantage. However, the greatest challenge facing the art thief is the conversion or resale of the stolen object, as ownership records are widely available on the internet and the establishment of provenance is an important criterion to determine prior to the purchase of cultural objects. The following case studies aim to illustrate the challenges facing the art thief and the range of motivations behind their actions. On 21 August 1911, Vincenzo Perrugia, an employee in the Musée du Louvre, stole Leonardo da Vinci's *Mona Lisa* (1503–19) by concealing himself in a closet overnight and removing it from the museum concealed under a sheet. For Perrugia, stealing the painting was the first stage in what he viewed as a noble act of repatriation; his intention being to return the painting to its native Italy in the belief that it had been illegitimately acquired in the eighteenth century by Napoleon Bonaparte (1769–1821) as a war trophy. However, the ownership of the painting legally resided with the French state because it had been purchased by François I (1494–1597) upon the artist's

death. Perrugia's act of political defiance illustrates one motivation for stealing the work; intriguingly, exactly 50 years later another act of political protest presaged the theft of a portrait of Napoleon's most famous military opponent. On 21 August 1961 John Bunton climbed over a back wall in London, slipped through an unlocked window of the National Gallery and stole the portrait of the Duke of Wellington (1812–14) by Francisco de Goya (1746–1828). Bunton's father, Kempton, used the media attention generated by the theft to highlight the financial difficulties faced by pensioners such as oppressive TV licensing fees. Four years later, the painting was recovered by the police and Kempton Bunton was charged under the Larceny Act of 1916. However, his conviction only amounted to the theft of a frame as they were unable to prove that he intended to permanently deprive the National Gallery of the painting. As a consequence of this episode, the Theft Act (1968) was enshrined in UK law, which eliminated the condition of 'intention to permanently deprive', and incorporated Section 11 which specifically applied to the 'removal of articles from places open to the public'. Although this event successfully captured the public imagination, not all art theft is ideologically motivated, as the audacious robbery of an important North American museum illustrates.

Early one morning on 18 March 1990, two thieves dressed as police officers gained entry into the Isabella Stewart Gardner Museum in Boston, Massachusetts. They handcuffed the two security guards on duty and stole 13 works of art, which included five works by Edgar Degas (1834–1917), three by Rembrandt (1606–69) and a single Vermeer (1632–75). Although the incentive for the theft was financial, its notoriety and those of the objects stolen made their potential resale on the open market virtually impossible. The current location of the works remains unknown and the museum continues to offer a $5 million reward for any information leading to their recovery. This incident reveals the challenges for criminals who attempt to convert stolen objects into currency, and highlights the ways in which art theft can be used as an instrument for organised crime. Art detective Charles Hill reinforces this appraisal of their motivation, especially as the stolen works have not resurfaced on the open market in over 25 years.

Four years later organised crime would again play a key role in thefts from a German museum and underscore the complexities facing those

participating in their recovery. On 29 July 1994, two paintings by J.M.W. Turner (1775–1851) from the Tate Britain collection were stolen while on loan to an exhibition at the Schirn Kunsthalle in Frankfurt. After receiving a $35.52 million indemnification payment from the insurers, the gallery repurchased legal title to the works in 1998 for $13.04 million, with an additional $5.7 million in expenses apportioned to the recovery process. Although the specifics of these recovery payments attracted criticism for potentially establishing a benchmark for financing information, the paintings were successfully returned to the Tate by 2002. During their absence the paintings had functioned as collateral within the criminal market, with the potential to be traded for alternative illegal goods or services. This clandestine exchange value has been estimated by experts to be up to 10 per cent of open market value, and the recipients of the objects also have the option to return them to the legal owner in exchange for a potential ransom or recovery fee. These thefts were a manifestation of organised crime in which the criminals were motivated by financial gain, through the perceived black-market exchange value of the works and a potential ransom payment. Monies were distributed to facilitate their eventual repatriation to the Tate Gallery, which highlights the importance of preserving channels of communication throughout the negotiation process.

These four case studies highlight the various motivations for criminals engaging in art theft and the inherent difficulties of converting stolen property on the open market. And yet art thefts continue to occur and, although stolen art databases exist, a comprehensive public repository of information is yet to be established. It is vital that the market increases its self-enforcement as theft is often conducted with the aid of art market insiders, whose awareness of collections and market trends perpetuates this criminal activity.

Art forgery is the creation and selling of works of art which are falsely attributed to others. Forgers commonly target artists who use an abstract or simplified pictorial language, especially modernist painters, and often emulate the work of artists achieving high prices on the secondary art market. In contrast to the earlier examples, forgery is more distanced from organised crime, as although the motivation for the forger may be financial, it is more often a reaction to the critical reception of their artistic practice. Han van Meegeren, for example, created forgeries not only to demonstrate

that his technical skill was aligned with that of eminent painters, but also to challenge the authority of leading critics and connoisseurs responsible for authenticating art. In fact, in 1950s Paris, the first investigator of this phenomenon was the policeman Guy Isnard, who established a specific unit designed to prosecute perpetrators of art forgery. Forgery persists as an evolving challenge to the art market in a number of ways. Firstly, denouncing an object as a forgery requires sufficient weight of argument against its authenticity. An idiosyncratic feature of this process, and indeed perhaps symbolic of the art market in general, is a lack of consensus regarding the various methodologies employed to determine the authenticity of cultural objects. Scientific and technical analysis, together with connoisseurship, are some of the most important tools employed by researchers to help identify forged works (see 'Connoisseurship and Authenticity'). On occasion, however, it appears that even the experts can be misled.

Han van Meegeren began his career as an art teacher but was unsuccessful in his ambition to establish himself as a professional artist. This dissatisfaction motivated him to undermine his critics and the art establishment by creating multiple forgeries, including those purporting to be by the artist Johannes Vermeer. By exploiting what he considered the credulity of art experts eager to discover an overlooked original, Van Meegeren used themes, motifs and techniques from the artist's catalogue to create a number of credible forgeries. Through the careful manipulation of paint and artist materials he was able to emulate the age and physicality of works by Vermeer, such as *The Supper at Emmaus* (1936–7), which at the time was considered an autograph original by contemporary experts. After the Second World War he was charged with high treason for selling *Woman Taken in Adultery* (1942), again purportedly by Vermeer, to Nazi Field Marshal Hermann Goering. The gravity of his trial required him to substantiate his authorship of the work within the courtroom setting, by painting *Jesus Among the Doctors* during proceedings to prove his deceit to the assembled experts. With hindsight these works appear to be fairly clumsy copies of the Delft master's art, but not all deception in the art world is exercised on canvas; it can also be applied to the memory or historical integrity of a work.

In *The Art of Forgery* (2015) Noah Charney identifies the phenomenon of the 'provenance trap', whereby the ownership and transaction history

of an object is deliberately manipulated to legitimise it and affect its market performance. This forgery of the narrative is particularly pervasive in its subterfuge, as the deception targets not only the connoisseur but also the provenance researcher. Perhaps the most egregious example of this was committed between 1987 and 1994 by John Drewe. During this period, Drewe commissioned approximately 200 forgeries of important nineteenth- and twentieth-century artists from the painter John Myatt (b.1945), and systematically fabricated their official provenance records within the collections of various London art libraries and museums. By manipulating the records to incorporate the forgeries within official catalogues, he legitimated their perceived authenticity to subsequent provenance researchers.

More recently, in 2011, the prestigious Knoedler Gallery in New York became embroiled in a scandal involving the transaction of forgeries emulating artists such as Jackson Pollock (1912–56) and Mark Rothko (1903–70). The gallery sourced the works through third parties who assured their authenticity and provenance. The works were then sold for substantial sums to a number of important collectors. But in truth these paintings were produced over a number of years by Chinese painter Pei-Shan Quian (b.1940), and the gallery has subsequently closed as a result of ongoing legal proceedings. These works were considered forgeries so it is important to consider how they can be distinguished from fakes, as these terms are often used interchangeably or incorrectly applied. A forgery is an intentional imitation of an artist or style that is fraudulently represented to be authentic. The fabrication of a work with the intention to deceive classifies it as a forgery. In contrast, a fake is an original object that has been tampered with or modified from its original state to appear as the product of another artist. It is a genuine item that has been altered by someone at a later date to misrepresent its nature and origin. For example, the application of a false signature to an object with the intention to deceive a recipient over the nature of its authorship classifies it as a fake. For either of these processes to be prosecuted in court, a crime, usually fraud, must have been committed and the object must have entered the market. This contingency is important because the history of art is replete with examples of artists emulating their predecessors for practical training or inspiration. The recent reattribution

of a purported portrait of Martin Luther is an interesting example of the incorporation of fake works into national public collections.

The *Portrait of Alexander Mornauer* (1460–88) was acquired in 1990 by the National Gallery in London as a depiction of Martin Luther by Hans Holbein the Younger (*c.*1497–1543). It was included in the 2010 exhibition *Close Examination: Fakes, Mistakes and Discoveries*, which revealed the process of scientific analysis through which it was identified as a fake and its authorship reattributed. Amongst other clues, the Prussian blue pigment used in the background to alter the curvature of the subject's hat was unavailable until the eighteenth century, well after Holbein had died, and may have been applied to increase the stylistic resemblance to other works by the famous artist. The application of this pigment may have been intended to deceive subsequent owners, which classifies it as a fake; in contrast, a forgery intends to deceive the viewer from the moment of its inception. The work has now been reattributed by the National Gallery to the Master of the Mornauer Portait. Circumstances such as this in which the authorship of a work is reattributed may have a negative impact upon its perceived market value. The authenticity of a work impacts upon its desirability for potential investors, which increases the potential for it to be considered as a store of value. Accordingly, deception within the art world is not confined to the brush of the atelier, but it also emerges in a more banal incarnation through the process of money-laundering.

The financialisation of art and the publicity given to high prices in the mainstream media has prompted investors to incorporate cultural objects within investment portfolios. This increases the potential for money-laundering as art is often considered a safer store of value than alternative assets or commodities. This risk is further compounded through the comparative portability of art objects, which enables them to be easily transported across the world. Discretion and anonymity are intrinsic components of the art trade and participants, such as dealers and auction houses, are obliged to conduct due diligence to identify the origins and legitimacy of transacted funds. For example, in the UK, Her Majesty's Revenue and Customs (HMRC) has established a $17,000 (or equivalent) cash purchasing threshold over which transactions may be monitored, in order to help identify and combat the transfer of illegitimate funds into the market. Although

the same threshold applies across the European Union, it decreases to approximately $10,200 in the United States and increases to $104,300 in Switzerland. The art market remains a global network of personalities and transactions in which variants such as these coexist, which presents a challenge to participants seeking to establish a harmonised and effective approach to money-laundering regulation.

Theft by destruction is the most pervasive, most common and immediate form of criminal activity affecting the art world at present. It is the dissolution of the meaning and cultural significance of objects and their relationship to their surroundings through erosion or displacement. It is important to contextualise the narrative and sociopolitical implications of this cultural destruction, as individuals, nation states and ideological forces continue to decontextualise our shared cultural record. Historical examples include the transfer of artefacts by wealthy aristocrats participating in the Grand Tour, the military campaigns of expansionist European empires, the expropriation and dissolution of religious institutions, the eradication of linguistic and cultural traditions through the imposition of colonial value systems, and the continued looting and destruction of archaeological sites by actors such as so-called Islamic State (Daesh). As perhaps the greatest current threat to our collective cultural identity, it is necessary to first consider the impact of this ideological assault on the archaeological record of the Near East. Looting is the illegal excavation of objects by non-professionals from their original context with the intention of resale on the international market. This financial benefit incentivises people to participate in the process, although Daesh is also engaged in the ideologically motivated destruction of ancient archaeological monuments. To this end, in August 2015 the international media reported the capture of Palmyra in Syria and the destruction of its UNESCO World Heritage Site. This was a signal to the international community that Daesh's iconoclasm was intended to destroy the cultural legacy of the subjugated areas of Syria and Iraq. In effect, their actions may be interpreted as a physical and ideological assault on the myriad cultural histories that afford meaning and context to these unique locations within both countries.

Although this cultural destruction has achieved a broad social impact, more localised examples also have a meaningful impact on their surrounding communities. An example of this occurred in 2011 when the bronze sculpture *Two Forms (Divided Circle)* (1969) by Barbara Hepworth (1903–75) was stolen from Dulwich Park in South London, having resided in the public space for over 40 years and being insured for approximately $650,000. Its removal caused resentment and anger among the local population. The financial value of the physical material was enough of an incentive for thieves to disregard its cultural significance and remove it for resale as scrap metal. As a result, Conrad Shawcross (b.1975) was commissioned to create another work to fill the space, and *Three Perpetual Chords* was unveiled in 2015.

Criminal activity in the art world occurs through multiple channels and for a myriad of reasons. However, as we have seen, its impact is widespread and pernicious. Buoyed by reportage of a robust and somewhat beguiling international art market, its attraction to criminals is both unsurprising and an immediate cause for concern. Theft by dispossession, theft by deception and theft by destruction all contribute to the dilution of our social identity and undermine our collective cultural record.

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CONSERVATION AND THE MARKET

Preservation, conservation, and restoration all play crucial roles in terms of how a work of art is maintained today, and ultimately how it will be viewed and valued in the future. For the owner and custodian of a work of art, there are several measures one can implement to ensure its safekeeping. Keeping a work of art in good condition relies upon a stable environment, appropriate handling, storage and display, and being able to assess when restorative measures are necessary. A trained, professional conservator can provide guidance and undertake treatments to slow deterioration, stabilise conditions and repair a work of art.

The term conservation has often been used in the art market as an umbrella concept to capture efforts to prevent, impede or repair the loss or deterioration of works of art. The contemporary viewpoint sees conservation and restoration as part of the same professional activity. As such, this discipline encompasses varied treatments that can be defined as preventative conservation, remedial conservation and restoration. Within the broadest context of contemporary practice, the term conservation has moved beyond preventative and interventive conservation practices to include information preservation, collections management, conservation science and research. Today the field has been broadened to deal with the challenges raised by modern and contemporary art practices. Advances in traditional materials, new media and technology within fine art require innovative treatment and technical study. The following will define the parameters of conservation practices, before exploring their relationship to contemporary art and the market.

Preventative conservation refers to any actions taken to stabilise the environment and minimise future loss of a work of art. While it is axiomatic that works of art, like all things, will age and deteriorate over time, preventative conservation is intended to slow deterioration; its objective is to mitigate the