University of Glasgow

School of Social & Political Sciences

Criminology Dissertation

White-collar art crime:

a criminological reading of anti-money laundering regulation on the Brazilian art market

A dissertation submitted by

Diogo de Oliveira Machado (0000000)

in partial fulfilment of the requirements for the Degree of Master of Science in Transnational Crime, Justice and Security at the University of Glasgow

Supervisor: Dr Donna Yates

Date of Submission: 4th September 2017

Word Count: 16,254

Contents

Acknowledgement

Of all the great experiences and opportunities I have had, few have taken me so far as education. I express my sincere gratitude to Dr Donna Yates for having taken me further not only by virtue of her attentive guidance through each step of this research, but also by sharing her academic enthusiasm for art. I see this dissertation as an outcome of her welcoming reception when I entered the University of Glasgow, inspiring me to explore opportunities beyond the programme's regular courses and encouraging me to learn more on criminal matters associated to the art world.

I am also thankful for the scholarship support I have received that has helped me develop professionally and academically, network extensively and build lasting positive relationships with the United Kingdom.

Abstract

Anti-money laundering regulation on the art market, is it a friend or a foe? This research builds on criminological literature regarding white-collar crime to contribute new insights to test possible answers to this question. Theories on rational choice, situational crime prevention, routine activities and crime patterns are applied to the case study of Ordinance 396/2016/IPHAN, enacted in Brazil to establish compliance measures to be followed by art and antiquities dealers to control money laundering practices. Economic, social and cultural features of the art market shape the challenging balance between privacy and crime control management, with influential consequences for opportunities to engage in money laundering. A pyramidal regulatory model suggests a conjunction of self-regulatory measures, administrative sanctions and criminal penalties as useful instruments to mitigate these opportunities. This study focuses on the administrative initiatives requiring art professionals to undertake anti-money laundering due diligence measures and it critically analyses the extent to which they may rearrange the relations between dealers and clients and even the structure of organisations trading in art, which should allocate resources for compliance policies. The contributions of the regulatory framework are recognised in so far as it shows itself able to meet societal aspiration for a respectable art market through a shrewdly responsive intervention rather than just formal bureaucratic constraints.

1. Introduction

The intersections between money laundering and art businesses reveal the extent to which this market may serve the purpose of integrating illicit capital into the formal economy. Ill-gotten assets have been historically laundered in trades of real estate properties, gambling, precious metals and stones, among others and, more recently, money from predicate offences has also searched for legitimacy in the art market, with major cases being reported in press (De Sanctis, 2013: 114-118; see also Culture Crime News [news.culturecrime.org] for a database of popular press articles on the subject of art crime). Some examples of money laundering related to cultural objects reveal the significance of the subject. The *Metallica* Operation was launched in Italy to investigate an international racket and members of mafia-like organisations who acted introducing cultural objects – either counterfeit or originals, illegally obtained in foreign countries – into the formal market with the purpose of trading them as a means to disguise the illicit origin of the profits obtained by the organisation from other predicate offences (Nistri, 2011: 189-190). Another major case happened in France where Operation *Boucher* revealed groups of tomb raiders working in cooperation with a network of dealers who were able to sell the cultural objects. The money laundering scheme operated through the trading of Italian antiques paid for by deposits in a French bank. The cultural objects were sold either on the black market or in public auctions and art galleries; the profits gained were reinvested in real estate properties (Nistri, 2011: 190).

Some scandals can be so massive and outrageous that society may call for a proportional response (Benson et al., 2016: 12), as happened in Brazil. That is the particular case study that inspires this research aiming to take the anti-money laundering regulation on the Brazilian art market (Brazil, 2016b: Ordinance 396) as

an expedient for applying criminological theories to gain a nuanced understanding of the main criminological concerns regarding regulation in art businesses.

This research relies on Sutherland's offender-based approach to defining white-collar crimes, the category framing the study of money laundering practices in the art market (Sutherland, 1949). The study initially proposes two crucial questions thereof: why do people commit white-collar crimes in the art world and how do they do it? Inputs from rational choice theory and situational crime prevention theory can contribute to interpreting the reasons why powerful people engage in criminal behaviours, both from a personal and an organisational perspective (Hopkins-Burke, 2014; Huisman, 2016; Vaughan, 1998). Moreover, routine activities theory and crime pattern theory offer tools to understand how white-collar criminals meet opportunities to offend (Cohen & Felson, 1979; Grabosky, 2009). The research takes advantage of this dependable knowledge to analyse white-collar crime in the art world, with a focus on money laundering, an offence that can show the trail of money, hence providing revealing evidence of a broad range of criminal structures seeking to disguise the illicit origin of their ill-gotten assets (Murray, 2013).

This study subsequently investigates the art world and its decent profits, social prestige and cultural aura (Mackenzie, 2011a), features hardly associated with culturally denounced practices such as crime (Bourdieu, 2010). Instead, these capitals are likely to hold art businesses above all suspicions and, thus, they do not challenge the lack of transparency and anonymity as traditional features of the market, which, despite their reasonable motives, provide attractive opportunities for those with criminal purposes (Yates, 2016: 175). This context makes the art market vulnerable to motivated offenders who may take advantage of the paucity of capable guardians to engage in criminal behaviours (Grabosky, 2009).

This criminological framework notwithstanding, and despite the general significance and the academic interest on the topic, there are still few studies on money laundering in the art market (De Sanctis, 2013). This research seeks to fill that gap by connecting this framework to the anti-money laundering regulation relevant to the Brazilian art market through a critical approach. It does not only apply this criminological literature to the art market to provide a better understanding of what is happening in Brazil, but it also raises critical concerns about the applicability of this theoretical framework to gain a new understanding of theory itself. The timing is favourable for this research because, at the time of writing, the corresponding Ordinance regulating the market in Brazil was recently enacted, not more than one year past, hence the topic is currently on the agenda.

For the purposes of this work and for conceptual accuracy, the art market is understood in a broad perspective, as the commerce of fine artworks, cultural objects and antiques. The reason that differences among these markets will not be emphasised in this work is that Brazil's Ordinance 396/2016, the focus of this study, clearly states that it applies to individuals and organisations selling antiquities or artworks of any nature (art. 1). Therefore, the regulatory model has a comprehensive reach in Brazil, where the mandatory due diligence measures are thought over concepts provided by diverse international standards, such as the 1995 UNIDROIT Convention on Stolen or Illegally Exported Cultural Objects (UNIDROIT, 2011) and the anti-money laundering recommendations of the Financial Action Task Force (FATF, 2012). Art dealers are mandatorily subjected to undertaking due diligences measures, regardless of the nature of the artwork being sold; otherwise, they may be sanctioned for not complying. This relocation of responsibilities for crime prevention to private people (Garland, 1997) is a strategy that raises critical concerns about the state’s capacity to

tackle white-collar crime without the assistance of whistle-blowers and about the dilemmas posed for professionals who must wear multiple hats: the traditional one, as art dealers building a trusted and reliable relationship with their clients through privacy and confidentiality; and the other, as surveillance agents acting as the eyes of the law to control money laundering.

This study explores the extent to which anti-money laundering regulation over the art market fills the administrative approach missing in the middle of the pyramidal model that comprises criminal penalties at the top and self-regulatory initiatives at the bottom (Mackenzie, 2011a). The Ordinance regulating the topic in Brazil adopted a comprehensive perspective of the problem by fomenting an educational approach aiming to motivate professionals to report suspicious transactions not only by threatening sanctions, but moreover by arousing conscience and conviction. Training and monitoring are mandatory for medium and large sized organisations whose leadership must be directly involved in implementing permanent and institutionalised compliance policies. It stimulates a culture of compliance based not only on punishment, but rather on persuasion (Alder & Polk, 2007: 355) as an instrument to shape compliant behaviours by fomenting ethical values that should convince employees that it is legitimate to undertake due diligences measures (Tyler, 2009: 202). This strategy is likely to prioritise responsive regulation over regulatory formalism (Braithwaite, 2002: 29). In short, the reflections of this research offer plenty of opportunities to address criminological concerns regarding future thinking on white-collar crime and art.

2. Critical literature review

2.1 Conceptualising white-collar crime

The first criminological studies on the influence of power in defining who is and who is not criminal were embryonically alluded by authors such as Lombroso and Ross between the end of the nineteenth century and the dawn of twentieth century (Lombroso & Lombroso, 1911: 107-110; Ross, 1907: 53). Nevertheless, it was not until 1949 that a theory about crimes committed by the powerful was properly developed under the social sciences framework, a theory coining the concept of white-collar crimes (Sutherland, 1949). A common topic among these first criminologists to explore crimes committed by the powerful is their focus on the offender's profile. They argued that perpetrators with a profile of a privileged position, good endowments, culture and means have been historically immune to the state's punitive interventions (Geis, 2016: 27).

Sutherland's chooses *white-collar crime* as the central term conceptualising his theory of crimes of the powerful as a means to stress the respectable character of offenders working in positions of high social status (Sutherland, 1949: 9). His approach linked the upper classes to crime, challenging the common sense that criminal behaviours were only those customarily judged in criminal courts, usually reinforcing the stereotypes associating crime with lower class. (Slapper & Tombs, 1999: 3). This notion had been supported by data showing figures that related deviant behaviours to pathologies and poverty. Sutherland interpreted these data as misconceptions induced by the methods used to compile statistics and the dynamics of the criminal justice system, which looked for crime mainly where it was previously expected to be found (Monaghan & Prideaux, 2016: 3). The expression *white-collar*

connotes the high social status of some offenders which is influential enough to serve as a shield to protect them from being labelled as criminals. It is interesting to note that this new perspective of crime was first built over a concept which refers to the clothes wealthy people wear, clearly focusing on the offender's profile rather than the legal definition of the criminal act itself. That is the reason why Sutherland's perspective is known as the offender-based approach or the status-based definition (Benson el al., 2009: 176).

White-collar crime is not a categorical concept. Edelhertz (1983: 110) disputes Sutherland's perspective to propose an offence-based approach, arguing that law enforcement agencies should not act based on the offender's profile, but rather on the illegal nature of the behaviour. This alternative perspective stresses the definitional elements of white-collar offences, as the non-violent nature of crime and the non-physical illicit means - such as concealment, guile and abuse of trust - used to obtain business or personal advantage (Edelhertz, 1970: 3). The new approach sought to respond to critiques censuring the offender-based perspective for creating a gulf between research investigation and practitioners dealing with white-collar crime. The definition of illicit activities based on people's high social status was taken as incongruous with the operational dynamics of the criminal justice system, which could mislead law enforcement policies. The offence-based approach was an attempt to provide a legal definition more familiar with current criminal law doctrines (Edelhertz, 1983: 110).

Defining white-collar crime grounded on the offence rather than on the offender is not consensually accepted by criminologists. Both approaches agree that white-collar crimes differ from street crimes in terms of the social backgrounds of the offenders. Nevertheless, the perspective focusing on the offence tends to trivialise the

core considerations arising from the offender-based approach because it dilutes crucial discussions about the serious crimes of elites aiming to illegally obtain money or property into multifarious small non-violent misdeeds (Pontel, 2016: 45). Indeed, the offence-based definition disregards the innovative potential of research activity exploring wrongdoings committed by the powerful and the reasons for the shortage of laws criminalising these harmful practices or the meagre enforcement of existing norms proscribing them (Pontel, 2016: 53). In other words, focusing on the offence rather than on the white-collar offender neglects discussions on second codes [1] eventually linking the criminal environment to lower classes, as revealed by statistics that draw a picture in which crime is associated to poverty. This was one of the main concerns that Sutherland tried to answer when developing the concept of white-collar crime.

The different focus adopted by the status-based and the offence-based approaches implies that electing one or other perspective inevitably shapes the object of the study (Benson et al., 2016: 1). Indeed, the offender-based approach seems to provide a more homogeneous picture of the actors engaged in illegal activities than the offence-based perspective. For the purposes of this work, the status-based approach seems to be an appropriate theoretical framework for analysing the extent to which the art market's high prestige makes this business field vulnerable to white-

[1] Second code is a concept that highlights the difference between general social norms and interpretive social norms. The former denotes socially and objectively valid rules, such as ethical and legal norms. The latter, the interpretive norms, communicates second codes, the ones that interpret the official law through common-sense perceptions of crime. They influence criminal prosecutions by defining the content of the law based on social mechanisms and structures of power and domination, such as prestige and material wealth. Despite being unofficial, second codes are fundamental to understand how social relations are regulated and how society reacts to deviant conducts (Baratta, 2011; Berla, 2010: 309).

collar crime. The focus on the offender's profile seeks to analyse the means available to those with power to influence trading practices in art businesses.

2.2 Why do people commit white-collar crimes?

Criminological studies about white-collar crimes are frequently concerned with the reasons for engaging in such high-class criminal behaviour. Rational calculations, reputational risk, neutralisation techniques, social reaction and organisational settings are some of the variables that offer potential explanations on why people commit white-collar crimes.

In fact, the powerful seem to be strongly inclined to consider rational choices when committing an offence (Vaughan, 1998: 27). Economically motivated actors are perceived to be calculating people, skilled at making rational decisions when exposed to situations requiring risk assessment in the workplace. When it comes to white-collar crime, the economically oriented nature of offences suggests that criminals may put the benefits of illicitly profiting on one side of the scale and, on the other side, the costs of the risk of being caught for not complying with the law, to make a rational choice (Paternoster & Simpson, 1996: 553). Notwithstanding its importance for understanding white-collar crimes, this *rational choice theory* neither is exclusively applied to the crimes of the powerful nor it addresses all the issues related to economic criminality.

Rational choice theory benefits from the prior development of a classical criminological framework, developed in the seventeenth and eighteenth centuries, arguing that crime is committed by choice and will, as a result of an individual rational equation balancing the favourable and unfavourable consequences of engaging in a criminal activity (Hopkins-Burke, 2014: 79). Later models have

succeeded rational choice theory and, nowadays, engagement with white-collar crime is not interpreted as a mere result of an objective economic judgement on whether crime pays, but it also involves sensitivities related to reputational wear and tear from engaging in illicit behaviour. In both a personal or corporative context, prestige is a crucial asset for the powerful, therefore threats to their respectability may have strong deterrence effects on their engagement with crime (Benson et al., 2016: 7). Altogether with moral and ethical considerations, these values constitute further components besides mere rational choice influencing the commitment of a crime (Simpson, 2013: 317).

Whether moral concerns may serve as a restraining pressure for white-collar criminals, this barrier is undermined if the action can be socially admitted and justified. Ultimately, reputation is not under threat if the offender can neutralise the unorthodox activities in acceptable terms (Willott et al., 2001: 444). Indeed, neutralisation techniques regarding white-collar crimes are consistent with public attitude towards them and history shows that it has not been long since light was shed onto the problem. It emerged as a general public concern in the late 1970s with wide-reaching scandals, such as the Watergate (Cullen et al., 1983: 486). Since then, subsequent high-profile cases, such as Enron, and economic depressions, as the 2008 financial crisis, have been increasing public awareness of white-collar practices (Holtfreter et al., 2008: 50). The public perception of these activities tends to associate their dangerousness with the physical harm directly caused. In that sense, crimes with identifiable victims are likely to be perceived as more serious and crimes causing diffuse damage or monetary losses tend to be taken as less harmful (Michel, 2015: 128). This public perception of crime can tell about neutralisation techniques for white-collar offences.

The detrimental effect of the offence is not the only factor that incites a particular public reaction to white-collar crimes. The high status usually attributed to these offenders seems to command deference rather than blemish reputations. A well-educated person, holding a distinguished professional occupation and moving in tight social circles is not the character people usually associate to criminals, which can mitigate their perceived blameworthiness (Michel, 2015: 138). The social, economic, cultural and political affluence hinder devilling business people, not only by virtue of their social prestige, but also by their political connections. The more powerful the offenders and the more widely harmful are the consequential damages, the more high-level governmental authorities may intervene in order to avoid being blamed for poor management and to reduce collateral damage (Levi, 2009: 62). Even when white-collar cases come to surface, civil society faces challenges to following up on the case, for accountability. Indeed, the time lapse between the illicit act and the final stages of the proceedings eventually opened to prosecute it is usually too long. The length of time also dilutes the connections between the act and its effects, disallowing claims of real victims (Braithwaite, 2010: 624). All these circumstances frame a context that reveal why the powerful may feel shielded when engaging in high-class crimes.

White-collar criminals may deny that their actions injure victims. They may deny their responsibility by claiming entitlement to proceeds, arguing that everyone else in their workplace engages in that behaviour. They may appeal to higher loyalties and deprecate those who prosecute them (Gottschalk, 2011: 173). All the neutralisation techniques to which white-collar offenders resort notwithstanding, there are some circumstances that may foment moral panics in relation to this class of criminals. Moral panic is a concept developed over the phenomenon of popular

concerns flamed by circumstantial events with a moral component that is able to shape a collective irascible hostility against a set of people, occasionally named folk devils (Ben-Yehuda, 2009: 1). Although crimes of the powerful do not seem to have been an inspiration for coining the original model of moral panic in the 1970s, recent criminological literature has made use of the tools provided by this concept with the aim of understanding social reaction to white-collar crime (Cohen, 1972; Levi, 2009). In principle, the stronger the moral panics, the more people are likely to label folk devils as criminals. Therefore, moral panic may counterbalance techniques of neutralisation in relation to white-collar crimes. It may happen when media depicts a scandal through a Manichean view, emphasising its damaging outcomes and demonising powerful politicians and authorities. Harmful effects over the economy and the prevailing social morality favour the panic effect, notably if provoked by offenders who do not perfectly match the elite's picture (Levi, 2009: 62).

The context framing white-collar crimes goes beyond the social perceptions of these offences. It requires understanding the organizational setting where the illicit activities are usually committed. The individual dimension concerning engagement in criminal behaviours is better understood when conjugated with organisational features framing the possible choices available (Vaughan, 1998: 28). With the different courses of action considered, an organizational culture of unaccountability tends to make deviant activities less costly, since no importance is attached to the supervision of employees' compliance with ethical standards (Benson et al., 2016: 8). When it comes to compliance principles, theory must translate into practice. In this sense, the way organisations deal with misdeeds is more elucidative about their internal culture than any code of ethics or compliance policy statement.

Besides culture, the structure of an organization may also influence the choices

employees make for achieving their professional goals. Poor management of compliance with legal obligations may lead to organisational offending, eventually even unintentionally, not by virtue of a wilful choice to commit a crime, but rather of incompetence to enforce mandatory duties (Huisman, 2016: 439). Organisations are ordinarily submitted to numerous rules and regulations, often sparse rather than compiled. Complying with all of them demands financial and human resources that not all companies can properly invest, notably small and medium sized ones. The lack of structure to deal with complex and sometimes ambiguous legal obligations may further illicit practices even when unintended (Benson et al., 2016: 9). Therefore, not only the pursuit of illegal gains may lead to white-collar crime; organisational routines also play a significant role in fomenting and preventing deviance. In short, situational crime prevention theory draws from concerns on why some opportunities are more attractive to white-collar offenders. Possible answers are because they are accessible, easily concealed, rewarding, justified by professional leniency and eventually condoned (Benson et al., 2009: 183).

2.3 How do people commit white-collar crimes?

Criminological research is not only focused on the reasons that make white-collar crimes appealing. It also investigates how white-collar criminals access their opportunities, exploring the link between criminal actions and routine activities. According to routine activity theory, motivated offenders, suitable targets and incapable guardians are criminogenic elements framing the picture of a crime (Cohen & Felson, 1979). When applied to white-collar crimes, the theoretical model identifies ambition for power, profiting, social status and thrill-seeking in risk-taking behaviour as the most common motivations for individual offenders. Competitive advantage is

the most common motivation for organisational deviance (Grabosky, 2009: 131). This means that the very values of the business world can motivate white-collar crime offenders. The globalised world makes them almost ubiquitous, since wealth itself has become more transnational, following the - legal or illegal - displacement of people and money. Indeed, transnational companies and financial agencies in the globalised world are more prominent that ever before (Michalowski & Kramer, 1987: 40).

The same global world expands risks and threats beyond exclusive local concerns, which increases the number of potential vulnerable targets of white-collar criminals. In fact, globalisation is a key concept for understanding the contemporary context where interpersonal and business relationships are affected by networks flowing worldwide, connecting distant places and allowing transactions to happen faster than they did in the past (Beck, 2000: 11; Giddens, 1990: 64). Digital technologies are prominent tools of this process as they foment interaction among people in unprecedented ways. Once space and time become more compressed, events happening in distant places have fast and long-reaching consequences. White-collar crime has seized these emerging opportunities, improving communication capabilities for increasing business activities worldwide, broadening opportunities for reaching new targets, be they people or companies (Loader & Sparks, 2007: 89).

Theorising on white-collar crimes requires attention to the blurring line between legal and illegal activities, especially when considering mechanisms aiming to prevent engagement in criminal behaviours. The capable guardian is the concept used by routine activities theory to refer to surveillance strategies aiming to prevent individuals and organisations from committing crimes (Grabosky, 2009: 134). When it comes to white-collar crimes, capable guardians may face particular challenges. First, the flow of capital through different jurisdictions all over the world makes it

difficult to differentiate licit and illicit movements because money seems to head to the same places - tax heavens and offshore banks - either for criminal purposes or for licit tax incentives (Aas, 2010: 433). Second, business activities performed by white-collar criminals usually have a complex nature that makes it easier to develop ingenious strategies for validating doubtful practices and, as a consequence, it is challenging to scrutinise individual and organisational conduct, moreover when norms regulating these activities are ambiguous (Benson et al., 2016: 7). Third, global markets tend to oppose governmental initiatives aiming to place constraints on businesses, such as surveillance mechanisms for compliance (Grabosky, 2009: 134).

Most crime is opportunistic. This is the main concept of opportunity theory, which stresses situational factors influencing the crimes people are more likely to commit (Cohen & Felson, 1979: 588). Indeed, white-collar criminals commit crime because they can. Their position usually provides them a range of opportunities they access by virtue of their professional duties, which are legitimate by their very nature, since they are related to lawful occupations. What makes the business environment vulnerable to white-collar crime is its likelihood to create a gravity over the essential opportunity to choose financial gain regardless of the lawfulness of the corresponding means (Benson et al., 2016: 9). In other words, potential white-collar offenders access vulnerable targets through legitimate professional channels and the transactions they deal with also appear to be legitimate, at least at a superficial level. This rightful appearance is crucial for understanding the how crime is committed, since it may shield illicit opportunistic behaviours.

Since white-collar professionals are introduced to criminal opportunities while performing their routine activities, they are more likely to commit crimes through procedures they are very familiar with and to reach targets they are used to dealing

with. In art businesses, for instance, around 90% of crimes is committed by insiders, participants in the market (De Sanctis, 2013: 53). The convergence of opportunities concentrates the distribution of crime in time and space, consolidating a crime pattern. According to the crime pattern theory, nodes and paths converge to edges where white-collar crimes are more likely to occur (Benson et al., 2009: 180). Nodes are the organisations, both the ones where the offenders work and those they reach out to achieve their goals. These nodes are connected through paths, which means the procedures and networks to which the offenders resort when doing business. When paths successfully interconnect nodes, an edge is formed, furthering deviant behaviours, especially in the absence of mechanisms of surveillance able to identify illicit activities along the path (Benson et al., 2009: 182). Edges are likely to appear closer to the offender central node. The farther the edge is from this node, the less probable it is that an offence will be committed or the more probable it is that the offender is relying on paths to connect with distant nodes, closer to the edges where crime is being perpetrated.

The framework of white-collar crimes provides useful tools for understanding how offenders access particular opportunities to engage in high-class crimes and why these opportunities appear to be interesting. Choosing to concentrate this analysis on the offender frames the focus of this work on powerful, profit-seeking people, whose capital gives them opportunities to deal with sophisticated transactions worldwide. Regardless of the offence committed to profit, if the origin of the proceeds is illicit, offenders are probably endeavouring to conceal the tainted source of the assets. This practice is called money laundering, a procedure that white-collar offenders holding ill-gotten assets are likely to resort to.

2.4 Money laundering

Opportunity structures are not homogeneous within the broad category of white-collar crimes. Particular types of crimes have specific processes shaping the corresponding opportunities where the business world intersects with crime (Benson et al., 2009: 185). In that sense, this work focuses on money laundering, a profit-driven crime based on processes to which offenders resort with the aim of making "dirty money" appear to be "clean money" (Grabosky, 2009: 135). Money laundering might not be necessarily called a white-collar crime, especially taking into consideration the offender-based approach. Not every money launderer suits the profile of white-collar offenders. The exceptions notwithstanding, white-collar crime is likely to frame the references to money laundering in this work because the analysis brought in the next chapters is mainly built over a high level art market operating within an interconnected economy in a contemporary world which runs globally. In this sense, the usual white-collar offender is the one regularly accessing complex financial transactions flowing worldwide, usually towards money laundering havens (Aas, 2010: 433).

"Follow the money" seems to be the commandment for understanding the processes of integrating ill-gotten assets into the financial system. Investigations concerning money laundering practices are relevant for revealing the cash spine of criminal structures (Murray, 2013: 103). Indeed, money laundering processes have the purpose of maintaining the dynamic functioning of an illicit activity while profiting from the dividends it generates. Economic gain is simultaneously the ultimate goal of this crime and the driving force of its own subsistence. Understanding the financial motivations of money laundering suggests the opportunities available to counter it effectively. In other words, illicit practices with economic purposes denote that

counterbalance strategies will succeed in controlling these crimes in so far as they unsettle the illicit flow of money (Kilchling, 2001: 264).

By their very nature, effective anti-money laundry policies focus on tracking the money, which makes them successful at serving the purpose of controlling illegal financial transactions. Indeed, money laundering itself is a crime whose description refers to the sequential stages of money flowing: placement, layering and integration (Seymour, 2008: 374). The first stage, placement or concealment, consists in making the money less visible. At this point, the "dirty money" is still closely related to its origin, so that evidence gathered at this is stage may be especially useful for revealing structures requiring money to be laundered (Murray, 2013: 103). The proximity of money to its criminal source presumably makes offenders more vulnerable to being caught at this stage and that is the reason they seek to misrepresent the illicit origin of money by placing it into circulation (De Sanctis, 2013: 10). The layering process, also known as monitoring or dissimulation, aims to make the money's origin difficult to determine by detaching all evidence as to how it was originally obtained. It usually entails moving the money abroad, by use of cross-border transactions eventually involving multiple countries, so that the audit trail is discontinued and the connection with the original crime is severed (Seymour, 2008: 375). Integration is the last stage, when previously-laundered money is reincorporated into the formal economy through what seem to be legitimate and normal businesses earnings (De Sanctis, 2013: 10).

The existing literature brought to consideration shows the knowledge of the field on organisational structures and opportunities that support deviant behaviours among the upper classes, characteristically cushioned by a position of trust in their business activities. This discussion is placed into a breadth context of competitive and globalised businesses inducing an environment that welcomes any profitable choices

regardless of the correspondent liability. This setting backgrounds the factors underlying the choice of engaging in white-collar crime and the techniques of denying, justifying or excusing such a decision. The literature review also addresses the nodes between white-collar crime and money laundering, exploring the main characteristics and stages of money laundering in the globalised world.

Understanding the nodes is a necessary step before linking the white-collar criminal profile with actors dealing within the art market and analysing how criminal money management may take form of investments in the art market, as a strategy to launder money. The theoretical categories concerning white-collar crimes are the framework for analysing the intersections among this class of offence and art crime. The next chapter builds on this context to explore the features of art businesses that makes it a grey market vulnerable to white-collar crimes. The significance of this next step is to raise awareness of the organisational setting and the routine activities of art professionals and to critically assess how they create white-collar art crime patterns.

3. White-collar crime in the art world

Criminology has provided insightful theories and models of thought on why some particular opportunities seem to be more available to white-collar criminals and how they access these opportunities. The structures that have been developed to understand white-collar crime provide the framework to explore nodes between this class of crime and the dynamics of the art market. The high cultural and social capital around art businesses expectedly bolsters their economic potentialities, which undoubtedly attracts those who have large amounts of money available and who are interested in placing this money in circulation (Mackenzie, 2011a: 139). Art professionals conceivably welcome investment in their businesses, whose particularities, such as the subjective nature of price tag assignment, allow unclear strategies for setting values of artworks. Trading assets whose price is variable, depending on the appraisal, is a practice that raises concerns about the business' vulnerability to illegitimate interests (Mackenzie, 2011b: 78; Yates, 2016: 176). The volatile worth of art is useful for justifying moneymaking, especially when these monetary increments are unusual and the evidence of wealth cannot be explained through legitimate means. The lack of transparency in art businesses may also serve to fulfil illegitimate needs to create plausible pretexts to explain ill-gotten assets (Naylor, 2008: 272). In short, this chapter explores the extent to which money, subjectivity and secrecy may compose a triad allowing the art market to be misused as a shield by those who want to take advantage of it for criminal purposes.

3.1 Arts economics

The market for cultural objects is profitable, as it runs into the billions every year (UNESCO, 2005: 37). In 2007, the global art market reached US$ 64 billion in

value (Graham, 2014: 322). How much of this money is illicit is a question that is difficult to answer, though, since illicit deals are concealed by nature. Therefore, accurate information about the complete art market, including those from illicit sales, is unlikely to be found. In any manner, similarly to other crimes involving financial assets, calculating the ill-gotten values circulating in the art market must eventually consider hidden figures. That is a common concern when it comes to criminal statistics, since not all crimes come to be known by law enforcement agencies, so that the unknown must also be considered when interpreting criminal data (Maguire, 2012). Taking hidden figures into account, the United Kingdom claimed the total value of art theft around the world as £ 3 billion in the 1990s (Lane et al., 2008: 243). For the same period, the United States estimated the amount of money involved in illegal trades concerning fine arts and antiquities around the world at US$ 5 billion, a rate that should have reached US$ 6 billion in 2008 (Lane et al., 2008: 244). UNESCO reportedly appraised the amount of international traffic in artworks at up to US$ 1 billion annually (De Sanctis, 2013: 15).

The different estimates of ill-gotten profits indicate the challenges of determining the amount of illicit money circulating in the art market. One of the reasons is that art itself is not an easy concept and its definition may relate to such subjective observations such as aesthetics, sensitivity, function, culture (Manacorda, 2011: 18). In other words, what is or is not recorded as criminal activities related to art may depend on what one considers to be art. Another reason may be that national statistics are usually not gathered with the art market as a classification criteria. They often relate to the circumstances of the offence, rather than to the type of the object involved in the crime. It means that one may find statistics on money laundering, tax evasion, fraud and other usual white-collar crimes within national crime statistics, but

it may not be clear which particular cases relate to the art trades. Another challenge to determining the precise amount of money circulating within the art market is that the price of an artwork is subjective and it is unclear which value should be considered (Interpol, 2017). The methodological limitations notwithstanding, the previous cited figures support a consensus among experts that the art market provides a profitable criminal environment (e.g. see De Sanctis, 2013; Mackenzie, 2011b: 79; Naylor, 2008; Yates, 2016).

3.2 Art as a social and cultural capital

The high-profit figures of the art market denote the economic capital held by high-end art dealers. A large amount of money is not their only capital, though. Art dealers usually also hold social capital (Bourdieu, 2010: 8), assumed by their profile of knowledgeable, well-educated people who have studied in qualified universities (Mackenzie, 2011a: 140). Their profit-driven behaviour and their well-developed reasoning abilities associate them with the propensity to rationally balance pros and cons before acting, either with licit or illicit purposes (Vaughan, 1998: 27). The economic and social capital held by business professionals in the art market joins their cultural capital (Bourdieu, 2010: 18), as their sophisticated work is perceived of as conveying a civilising purpose of transmitting cultural values, important to the heritage of humankind. This profile fits Sutherland's definition of a respectable, white-collar business and it offers tools to understand the crimes of the powerful based on the offender's character (Alder & Polk, 2007: 351; Sutherland, 1949: 9). The high-end art dealers' profile gives them resources to hold sway over political and legal powers exercised by corporative-representative bodies and lobbyists with the power to promote the image of a high culture market whose distinction would sweep away

any connection with unlawful practices, such as money laundering and tax evasion (Bourdieu, 2010: 18; De Sanctis, 2013: 61). It is as if the art market's potential to instigate cultural and intellectual interest could have the power to make art crimes seem philanthropic (Mackenzie, 2011a: 142; Ruggiero, 2007: 172).

This high-cultural aura shields art businesses and it may neutralise perceptions of eventual wrongdoings committed within the art world, making it seems as if the art market is impermeable to unlawful practices. The enlightening role of art as one of the most creative means for conveying the highest human capacities throughout history links it to ideas as honour and deference, not crime (De Sanctis, 2013: 58). Public perception towards the art market is that it is a reputable field driven by respectable people; it is not associated with dangerousness and harm. Indeed, as with white-collar offences, art crimes are usually not violent, which challenges the traditional picture of criminals and victims. Both are somehow made invisible when it comes to financial crimes in the art market because the link between crime and damage is more elusive, as it detaches cause from effect.

Financial crimes create a mistrusting atmosphere in the art market and it sounds as though *bona-fide* investors should not bankroll a mistrusted market (De Sanctis, 2013: 54; Graham, 2014: 320). However, it is not easy to directly associate meagre investments to criminal practices, especially considering the long-time span between the wrongdoings and their consequences, a common feature of white-collar crimes (Braithwaite, 2010: 624). Harm itself is difficult to measure since it is neither physical nor, in the case of art related crime, does it necessarily jeopardise identifiable victims. Instead, financial crimes in the art market are more likely to cause scattered damage and monetary deficits, consequences usually associated with crimes perceived as being less pernicious (Michel, 2015: 128), and therefore amenable to neutralisation

techniques. In other words, art crime is an ink-stained offence rather than a blood-stained one, which somehow creates a sense of a moral neutrality towards it (De Sanctis, 2013: 43).

3.3 An organisational shield

Art collectors and dealers act in a market whose organisational setting frames their professional activities. These structural dynamics of the art market are an important dimension for understanding criminal behaviours usually associated with it. In fact, social-economic, cultural and political capital is not monopolised by individuals. Organisations, such as museums, galleries and auction houses also hold these capitals (Naylor, 2008: 269) and the way they may use them for keeping the market away from any association with crime denotes their internal culture regarding how to deal with misdeeds. If art is not associated with illicit practices, there is no need to pay attention to claims for increased transparency in the trade or for undertaking due diligence research prior to the purchase of an artwork. This approach foments an organisational culture of unaccountability, which foments negligent behaviours rather than ethical and lawful practices (Benson et al., 2016: 8).

Denial, however, does not change realities or solve problems. Instead, it hinders discussions to overcome issues such as weak regulation and misuse of secretive practices, which make the art market vulnerable to criminal purposes (Mackenzie, 2011b: 76). If the capital supporting the protective shield of the art market resists the prognosis of unlawful practices (De Sanctis, 2013: 61), it dispels demands for shrewd diligence being applied in order to make purchases of artworks more transparent. This ambivalence seems to be a crucial feature of the art market, where artworks are on display, but information about them is hidden under strict secrecy policies

(Mackenzie, 2011a: 137).

The art market works under a dynamic balance between legitimate claims for privacy rights and the risks associated with unaccountable trades, such as eventual illicitness they may cover. It is usual for people trading artworks to do business discreetly, away from ostensive attention. If the seller does not want to reveal the details of the transaction, buyers and dealers will make little effort to oppose this decision (De Sanctis, 2013: 54; Yates, 2016: 176). This ambivalence in the art market may be identified as a business culture linking market practices to white-collar crimes. The risks arising from this lack of transparency are not properly managed, but rather shifted among traders, which brings a suspicious atmosphere over the business (Mackenzie, 2011a: 147). This context turns the art market into a "grey market", where licit and illicit practices are intertwined, making a prestigious market attractive to deals with criminal roots (Bowman, 2008).

3.4 Opportunities to engage in white-collar art crime

It is said that opportunity makes the thief. Indeed, opportunity theory is concerned with situational structures framing the circumstances eventually prompting space for crime (Cohen & Felson, 1979: 588). Regarding the art business, it is worth investigating which routine activities and which crime patterns may create opportunities for engaging in criminal behaviours (Benson et al., 2009: 178). This investigation intends to address queries on the reasons motivating offenders, the factors that make targets particularly vulnerable and, lastly, the tools that can properly guard the art market against criminal actions. Ultimately, criminal patterns may be identified by analysing the nodes, paths and edges that structure the art market.

3.4.1 Motivated art offenders

White-collar criminals are usually motivated by interests consistent with the high status that comprises the definitional concept of the offender-based approach of white-collar crime (Sutherland, 1949: 9). The art market is worth billions of pounds, including transactions that may singly reach millions, which inevitably attracts profit-driven stakeholders (UNESCO, 2005: 37). This could be enough to motivate offenders, but art business may inspire even more criminal activity by virtue of the price volatility of works of art, naturally appraised by subjective means. In fact, determining the price of an artwork depends on a myriad of factors which may be manipulated to artificially set its value (Yates, 2016: 177). The antiquities market, for instance, counts on strategies to keep demand and prices artificially high (Campbell, 2013: 126). Similarly, the mere presence of particular buyers at auctions may influence the price of the artwork being sold. Competition among prestigious collectors for an item inflates its price and, conversely the lack of attendance of important dealers at an auction may decrease the price of the artwork. In other words, the value of a work may be determined by the potential buyers rather than by the quality of the artist (Pinho, 1989: 100). Art critics and academics may also influence the price of an artwork by publicising their knowledge about its historical context or any other aspect that can draw attention to it, such as its recent discovery (De Sanctis, 2013: 53).

Offenders may also be motivated to operate in the art market by speculative interests and tax optimisation strategies. Fraudulent means may be used to juggle prices and influence the value of an object (Grabosky, 2009: 137). If the purpose is to attribute an inflated price to an artwork, a common strategy is to export it declaring a higher price for it, and the export documentation should create the paper trail

associating that particular price to the artwork. On the other hand, if the goal is to decrease tax rates, one may declare a lower price when exporting (De Sanctis, 2013: 85). The figures and balances among traders may be settled through parallel accountancy, with money being sent to unknown accounts or by means of other modern channels of money transferring (Naylor, 2008: 269). Overpricing and underpricing artworks when exporting them is a fraud that is difficult to detect. Even when artworks are monitored and identified, it requires expertise to understand their particularities and appraise their value. This sets art apart from other illicit goods, and the complexities of valuing art are sometimes unreachable to customs agents who do not have the proper means to assess the veracity of values declared. Border controls are usually poor and rarely include specialised officials who are able to detect illicit exportation or importation of cultural objects (Mackenzie, 2011b: 77).

Motivations and opportunities to engage in criminal behaviours may change within markets that are strongly influenced by economic fluctuations. Differences in the amount of money flowing into businesses naturally influence their attractiveness to criminal enterprises, making white-collar crimes sensitive to periods of economic prosperity and recession (Benson et al., 2016: 14). The art market – like the financial market and the foreign currency market, for instance – is subject to fluctuations that temporarily make prices oscillate (Graham, 2014: 322). The speculations arising from this volatility influence artworks' owners to decide whether they should act as art sellers or purchasers, depending on the prospects for profit that lie ahead. These situations in which the price of the artwork experiences a significant change in a short period of time can motivate art collectors, who may have originally acquired artworks for their personal aesthetic delight, to act speculatively (Pinho, 1989: 153). This context foments market practices likely to forge circumstances for profiting, either

legal or illegal.

3.4.2 Vulnerable targets in art businesses

White-collar criminals use the course of their legitimate occupation to reach their targets. Art businesses are particularly vulnerable to this class of crime because the market's practices are mostly concealed and not easily comprehended. It puts art dealers in a privileged position, since their expertise is not commonly held, which gives them an unshared knowledge of how to do business, increasing the chances to shield their unlawful practices under the complex nature of the market behaviour dynamics. It is a diverse market, dealing with objects ranging from antiquities to fine art, frequently with items not even consensually identified as holding artistic value (Manacorda, 2011: 18). It is a highly specialised and hard to reach business, so few lawmakers and regulators know how the art world works (Bator, 1982: 306; Yates, 2016: 180). It makes people dealing in art business attractive targets for offenders as money launderers, willing to disguise the proceeds of their crimes.

Artworks are a discreet alternative for white-collar criminals searching for opportunities to invest ill-gotten profits. People who hold a large amount of money obtained as proceeds of crimes may need to convert these assets, in order to conceal their illicit origin. The conversion may be made by purchasing luxury assets such as real estate properties, yachts, jewels, fancy cars and even artworks (Chappell & Polk, 2011: 110; Commonwealth Secretariat, 2006: 8; Nistri, 2011: 190). All these goods are extremely expensive, which is useful for criminals in need to dispose of large amounts of money. Real estate properties and artworks have values particularly amenable to economic speculation and criminals may not face rigid controls to purchase them, due to their eventual association with the right to housing and to

culture, i.e. non-financial purposes, which makes the corresponding trades less restrictive (Purkey, 2010: 128).

The opportunities to buy luxury assets notwithstanding, it is worth noting that most luxury goods are ostentatious, which makes them risky options for criminals: luxury goods are noticeable and they may not serve the purpose of disguising the "dirty" money. Unlike other luxury goods, artworks are usually considered more discreet, allowing white-collar criminals to enjoy their illicit profits inconspicuously (Passas & Proulx, 2011: 62). Discreetness is not the only quality criminals search for in artworks, though. White-collar criminals may also long to enhance their respectability by purchasing cultural objects. The art world is directly associated with prestige and social, economic and cultural status. Therefore, offenders may use their profits to buy art as a means to denote their belonging to posh society (Alder & Polk, 2007: 351).

Globalisation potentiated the vulnerability of traders in the art market as targets for white-collar offenders. Money, people, information and cultural impulses flow worldwide, endorsing a process that fosters interdependence and that exponentially multiplies the possibilities of reaching geographically distant markets (Aas, 2010: 431). Business relations have become more transnational and the art market is part of this globalised world, connecting artists, dealers, gallerists, collectors, critics, experts, investors and museums all over the world. The expansion of the art business also means spreading risks and participants of the art world may turn out to be vulnerable targets of close and distant white-collar offenders. The opportunities presented by globalisation took the art market to an international expansion of unprecedented scale (Passas & Proulx, 2011: 64). The art market moves huge sums of money through transactions made possible by the multiple opportunities available through digital

technologies connecting a world economy. Illicit money also flows through these new channels for trading artworks, connecting financial criminal practices, such as tax evasion and money laundering, to the art market (Chappell & Polk, 2011: 110).

Insurance companies are particularly vulnerable targets to white-collar criminals acting within the art market. High-value artworks are commonly protected by insurance policies, which may describe the object and determine its value, according to an appraisal which assigns the amount that should be paid in the case of theft of accidental damage (ICOM, 2017: 29). Art is a creative field and the diversity of works produced requires flexibility when negotiating contractual clauses of insurance protection, which allows companies and clients to contract freely since the terms are not incompatible with general policies of insurance. The benefits of freedom of contract notwithstanding, this context allows insurance fraud practices, a concerned expressed by high-level authorities in the art field who claims for checking insurance liability regimes (Alder & Polk, 2007: 351; UNESCO, 2016: 6).

Insurance contracts are documents that serve as official records of the price paid for an artwork, therefore they may be used as a tool by those who are interested in attributing a particular value to the artwork. That is the reason why appraisals for insurance purposes may raise conflicts of interest if the appraiser is a dealer or someone able to trade it afterwards. In fact, appraisers could take advantage of their role and decrease the price of the artwork that they intend to subsequently acquire, through a practice of manipulating the price settling for illegitimate gain (Naylor, 2008: 269). Besides that, appraisers can also artificially raise the insurance price for money laundering purposes, fraudulently producing bogus invoices with the intention to make illegal money used to buy the artwork appear to be legitimate, as a result of a high insurance premium, for instance (De Sanctis, 2013: 62).

3.4.3 Art guardianship

Besides motivated offenders and vulnerable targets, according to routine activities theory, the triad of criminogenic factors is completed with the absence of capable guardians. Business transactions in the art market are commonly confidential and the lack of transparency may hamper initiatives for controlling its misuse for criminal purposes. Markets traditionally used for money laundering have developed their own watchdog procedures for monitoring illicit practices in the financial market, such as the use of stooge third parties or offshore banks as means to invest ill-gotten money without raising suspicions (De Sanctis, 2013: 56). These procedures have inspired white-collar offenders to invest in businesses where capable guardians are less present, such as the art market.

The complicated dynamics of the art market makes crime detection mainly dependent upon internal whistle-blowers or insiders, such as buyers and sellers; they are the ones who may act as capable guardians. Their deep knowledge of the art market behaviour notwithstanding, merchants may not spontaneously find incentives to report wrongdoings (Mackenzie, 2011a: 148). Expectedly, whistleblowing is likely to succeed when the market interprets an action as blameworthy. Otherwise, when a misconduct is tolerated as a common practice, it is usually seen as part of the business culture, even if it is conducted off the record, and it is improbable that co-workers will denounce it (Gottschalk, 2012: 177). The art trade is often described as a grey market because lawful and unlawful practices are intermixed, licit and illicit money sponsor the trade of cultural objects, neglecting matters such as reliability of provenance and attested authenticity (Mackenzie, 2011b: 72). Capital speculation, financial transactions flowing through tax heavens, opaqueness, lack of law enforcement, tax evasion, money laundering, misuse of art mutual funds and illegitimate gains are

some features "greying" the art market (Naylor, 2008: 272). Hence, if the definition of a grey business applies to the art market, its participants will be unlikely to spontaneously whistleblow and report wrongdoings, since these dubious practices are part of the culture of the market.

3.4.4 Art crime patterns

The model provided by the crime pattern theory recognises nodes and paths framing the edges circumscribing white-collar criminal practices in the art market (Benson et al., 2009: 180). Participants in art businesses are usually familiar with the way money flows within the market and they eventually learn the interdependence between the licit and illicit economy, understanding that they do not operate separately, but rather that they both are part of the same market dynamics (Glenny, 2009: 14; Mackenzie, 2005). Outlining how legitimate processes in art businesses are parasitized by illegitimate processes requires an understanding of the contemporary forms of networking arrangements that shape interactions among art professionals. Merchants, connoisseurs, artists, artwork authenticators, collectors and investors interact with each other through their original node, i.e. their spot in the art world, such as galleries, museums, companies, studios. These interactions are established following their own interests, through well-known manners, but based on free articulation (Proulx, 2011: 21). The paths they use to reach out to one another are based on their networks, structured on fluid connections, set and triggered according to their specialised knowledge and skills (Campbell, 2013:116; Mackenzie, 2005). This interaction is often built upon minimal transparency, for the protection of privacy and anonymity of buyers and sellers (Yates, 2016: 176).

The regular activities developed by art professionals, eventually related to an

organisation or institution, combine with the channels available for them to connect with their network and, hence, form the edges framing their sphere of influence. This space usually encloses the boundaries of the professional's awareness about the art market's structure and of its clientele's profile. This knowledge creates particular opportunities for them, which can be eventually used for illicit purposes, representing recognisable patterns of white-collar crimes practices within the business (Benson et al., 2009: 182). For instance, changes to art buyers' profile – from knowledgeable collectors to business-oriented investors lacking cultural capital and interest for art history – stimulate arrangements for speculative capital being used to manipulate the price of artworks, artificially altering them, for illegitimate gain (Mackenzie, 2011b: 78). Identifying this edges in the art market is crucial for understanding art crime, notably because participants in this business are responsible for the clear majority of crimes perpetrated in this field (De Sanctis, 2013: 53). It means that strategies for controlling white-collar crimes in the art market must consider the space of action of merchants, appraisers, employees of museums and specialised companies and even academics. These edges tell where white-collar art crime is likely to happen and how offences are perpetrated. For instance, crimes committed far from the original node of a particular offender may denote collaboration with professionals associated with other nodes around which crimes are being identified, drawing a pattern on where and when the art market is more vulnerable to wrongdoings.

Bearing all that in mind, it seems reasonable that white-collar offenders may find opportunities to invest in a multibillion-pound business in which artworks are unique enough to be appraised by unaccountable methods and are subsequently traded through transactions shield by secrecy claims. Preventing these criminal threats from happening requires the art business to adopt approaches in which legitimate interests

for confidentiality do not lead to a market where privacy or secrecy are the general responses when an art dealer is asked about the lawfulness of a particular sale of an artwork (Renfrew, 2000: 113). The next step is to explore the substantial criminological knowledge developed to propose alternatives on this matter, such as the pyramidal model (Braithwaite, 2002: 30; Mackenzie, 2011a: 145) for the regulatory setting of the art market. This model suggests that criminal law enforcement measures on the top of the pyramid may conjoin with regulatory initiatives on the bottom. In this specific case, the purpose is to present shrewd due diligence in art businesses as an opportunity to promote an anti-money laundering agenda and a sustainable, transparent market.

4. Anti-money laundering regulation on the Brazilian art market

The framework of white-collar art crimes provides useful tools for understanding opportunities to launder money through artworks. The demand for laundering the dirty money comes from offenders seeking to conceal the origin of proceeds of crimes previously committed, in order to enjoy the gains safely. Although it is not necessarily classified as white-collar crime, money laundering is often presented as a variety of transnational white-collar crime (Grabosky, 2009: 135). The adoption of the offender-based approach to understanding the crimes of the powerful frames the focus of this work on a particular launderer's profile: the one who relies on high-end art market professionals whose businesses deal with sophisticated financial transactions, usually flowing through money laundering havens. This perspective is important to understand the features that may influence regulatory initiatives to control money laundering in art businesses. Thereupon, this chapter explores these discussions over the Brazilian regulation enacted to establish due diligence measures aiming to dismantle opportunities to use the art market for money laundering purposes, with a critical approach that favours responsive regulation over regulatory formalism.

4.1 Anti-money laundering regulation in the wake of major scandals

Brazil serves as an illustrative case study of how successive money laundering cases involving artworks may lead to the enactment of rules and regulations to prevent new damages. The regulatory framework for anti-money laundering measures in the Brazilian art market came in the wake of such scandals. The case known as *Banco Santos* was an emblematic one, as the former owner of a financial institution was convicted of laundering money through over twelve thousand artworks, among

them paintings, photographs, sculptures, canvases from contemporary artists and antiques going back to the ninth century (De Sanctis, 2013: 105). In another major case, Juan Carlos Ramirez Abadia, an influential drug dealer, was arrested under *Farrapos* operation and some of his artworks were forfeited and appraised at more than US$ 3,800,000 (De Sanctis, 2013: 98). Moreover, the last and the most famous of the scandals is the *Lava Jato* (Car Wash) operation, an investigation which led to judicial proceedings concerning many political parties involved in a wide net of criminal practices in Brazil. Hundreds of works of art were seized during the *Lava Jato* operation, under claims that they were used to launder money. Most of them are under assessment in the Oscar Niemeyer Museum, which was chosen to keep the artworks as it had adequate technical capacity to preserve them while their authenticity is confirmed and their value appraised (MON, 2017).

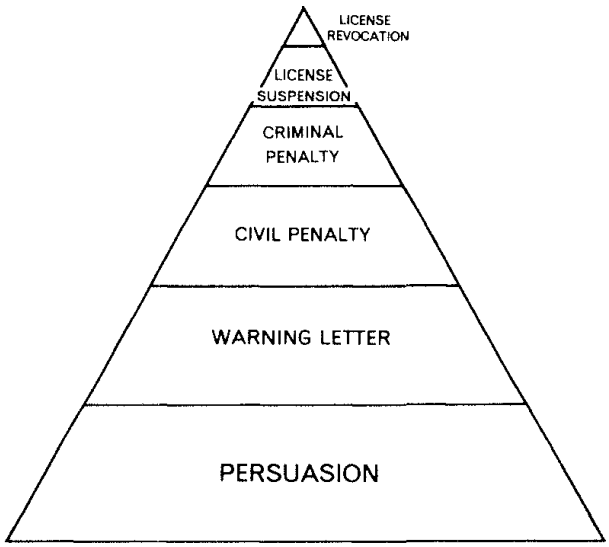
All the operations mentioned were widely broadcasted by the media, highlighting the harm to the Brazilian economy as a consequence of diverting public money through large corruption and money laundering schemes. The moral panic that has spread among society was of such magnitude that the *Lava Jato* operation was used to justify the impeachment of the former President, Dilma Rousseff (Brazil, 2016a). Regarding the art market, the popular appeal of the operation inspired the Oscar Niemeyer Museum to organise an exhibition of some seized artworks (MON, 2017). This moral panic may reveal why there was a social reaction to these money laundering practices that is different from the resignation that public opinion eventually holds towards white-collar crimes (Cohen, 1972; Michel, 2015: 135-137). Therefore, political circumstances authorised the development of a regulatory framework applying international anti-money laundering standards to the Brazilian art market. Although moral panic usually seems to be followed by counterproductive

regulation (Levi, 2009: 65), that was the national context when the Ordinance 396/2016 was enacted in Brazil by the National Institute for Historical and Artistic Heritage (IPHAN, in the Portuguese acronym) to establish compliance measures to be followed by art and antiquities dealers aiming to control money laundering practices. The Ordinance regulates provisions of the Brazilian Anti-money laundering Act (Brazil, 1998: Law 9.613) requiring individuals or legal entities to undertake due diligences procedures when trading works of art and antiquities (Brazil, 1998: Law 9.613, article 9, sole paragraph, subsection XI).

4.2 Pyramidal regulatory model

Braithwaite (2002: 30) draws a pyramidal model for a regulatory setting: criminal law enforcement measures at the top, civil and administrative penalties in the middle and self-regulatory initiatives at the bottom. The shape of the pyramid explains how the model works. Its base, the largest level, relies on persuasive measures as the first alternative to deal with wrongdoings. The preference for self-regulatory initiatives is aligned with the strategy to develop a culture of compliance that would persuade rather than punish criminals in the world of art (Alder & Polk, 2007: 355). They are effective in most of the cases regarding business regulation and the least expensive response (Ayres & Braithwaite, 1992: 19). Nevertheless, this approach may fail to discourage rational calculators when benefits from engaging in illicit behaviours exceed the corresponding costs (Braithwaite, 2002: 31). In that case, the response must have a more deterrent nature, which would make it rational to comply. The next level of the pyramid, the middle, comprises civil and administrative enforcement measures with tougher sanctions being applied (Ayres & Braithwaite, 1992: 35). When escalating the problem to mid-level sanctions is not enough, the top

of the pyramid, narrower than the lower levels, provides a more punitive approach, applying criminal penalties to offenders. They are the most severe and expensive punishments, thus the *ultima ratio* of the model for business regulation (Ayres & Braithwaite, 1992: 36). The following picture brings a visual example of the pyramid model:



(Ayres & Braithwaite, 1992: 35)

In short, the regulatory framework comprises initiatives to intentionally and systematically introduce diligent practices in environments such as art businesses, initiatives that consider the choices available to professionals, their social norms and cultural views. In this sense, and for the purposes of this work, regulation may be conceptualised as follows:

> "regulation is the sustained and focused attempt to alter the behaviour of others according to defined standards or purposes with the intention of producing a broadly identified outcome or outcomes, which may involve mechanisms of standard-setting, information gathering and behaviour-modification" (Black, 2002: 26).

Regarding the market in cultural objects, the pyramid extremities are at least partially fulfilled, although its middle lacks provisions for administrative sanctions and incentives (Mackenzie, 2011a: 145). Applied to the art market, the model proposes that it can benefit from a combination of criminal penalties, administrative coercive measures and self-regulatory resources, as three pillars contributing to the control of money laundering practices. Illegal behaviours may be punished through criminal proceedings, which usually require a high standard of proof, as their corresponding sanctions are commonly heavier. In Brazil, the Anti-money laundering Act constitutes the law criminalising illegal practices to disguise the illicit origin of assets. The law explicitly recognises the art market as a vulnerable sector, as it mentions the commerce of works of art and antiquities among the markets subject to money laundering control mechanisms (Brazil, 1998: Law 9.613, article 9, sole paragraph, subsection XI). The criminal approach coexists with measures of administrative nature, steering due diligence practices to be undertaken by art professionals when performing their business duties. That was the missing middle, which has been recently filled by the Ordinance 396/2016. Lastly, codes of ethics and trading policy statements serve as self-regulatory resources, guiding routine activities of merchants, artists, appraisers, directors of museums, collectors and investors (Mackenzie, 2011a: 146).

4.3 A concept of due diligence applied to the art market

The concept of due diligence adopted by the Ordinance 396/2016 was inspired by recommendations issued by the Financial Action Task Force (FATF). The FATF is an inter-governmental body responsible for promoting international standards for controlling the illicit flow of money worldwide (Grabosky, 2009: 144). In 1990, it

issued 40 recommendations regarding legal, regulatory and operational tools against the misuse of the international financial system by means of illegal practices such as money laundering. All countries - either members of the FATF or of one of the FATF-style regional bodies - are expected to follow the FATF recommendations, otherwise they are subject to sanctions that critically affect their capacity to maintain commercial transactions with other countries. The penalties are established under recommendation 19 of the FATF[2] (FATF, 2012: 17).

The FATF issued specific guidance on powers and responsibilities assigned to people dealing in markets identified as vulnerable to unlawful businesses transactions. They are required to undertake due diligences when doing business, such as acknowledging the customer's identity through reliable sources, identifying the final beneficiary of a particular business transaction and scrutinising ongoing dealings throughout the course of the business relationship with the purpose of matching it against the previously-built customer risk profile (FATF, 2012: 12). The directive of the European Parliament and Council on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing (EU Directive

[2] According to recommendation 19, the FATF calls on countries and financial institutions to apply enhanced due diligence measures to business relationships and transactions made with persons or financial institutions from countries the FATF classifies as risky, i.e. not compliant with its recommendations. In practice, the enhanced due diligence measures strongly discourage conducting business transactions because the onus of undertaking them are overbalanced, therefore they financially isolate the country classified as non-cooperative with the FATF (FATF, 2012: 17). In June 2017, the inter-governmental body identified the following countries as currently having strategic deficiencies to compliance with its standards: Bosnia and Herzegovina, Ethiopia, Iraq, Syria, Uganda, Vanuatu and Yemen. Besides that, the FATF called on its members and other jurisdictions to apply counter-measures to protect the international financial system from the terrorist financing risks emanating from Democratic People's Republic of Korea and called for the appliance of enhanced due diligence measures proportionate to the risks arising from Iran (FATF, 2017).

2015/849/EC) has the same concept of due diligences under article 13. Both, the FATF and the European Council Directive 2015/849, comprise due diligences measures for general anti-money laundering policies.

Art business is an idiosyncratic commercial realm, though, and taking it for a regular commodity market may be a misperception, as it has peculiar features (Alder & Polk, 2007: 356). It relies on the unique nature of the art object, which is as subjective as, on the one hand, to fulfil aesthetic and emotional aspirations, and, on the other hand, to serve as speculative investments from art funds and art investment groups. These features help to understand why the art market may keep profiting even in withstanding vicissitudes of global recession (Graham, 2014: 324). This uniqueness brings a broad range of risks to the art market and, for what it concerns to money laundering, the concepts of due diligence embodied in international standards, such as the FATF recommendations, should be read altogether with obligations provided by codes of conducts, legal standards and conventions on art.

The 1995 UNIDROIT Convention on Stolen or Illegally Exported Cultural Objects frames an art-related terminology for due diligence. It conceptualises diligent practices referring to what is reasonably expected to be done when trading a cultural object, such as verifying the circumstances of the deal, the price settled, the integrity of the parties and the extent to which they made use of any accessible information and documentation – such as the ones provided by agencies and registers of stolen cultural objects – concerning the object (UNIDROIT, 2011: 465). Moreover, the International Council of Museums (ICOM) developed its Code of Ethics, whose glossary provides a definition of due diligence as applied to the art market:

"[due diligence is] the requirement that every endeavour is made to

> establish the facts of a case before deciding a course of action, particularly in identifying the source and history of an item offered for acquisition or use before acquiring it" (ICOM, 2017: 47).

The attempt of art-related normative instruments to define due diligence serves as evidence of the societal aspiration for a more transparent market. Expectedly, it addresses concerns that go beyond money laundering, but it simultaneously tackles this offence by reinforcing investments in database development, in reliable sources to acknowledge the buyer's identity and whether the buyer is indeed the final beneficiary of a particular transaction. In that sense, it inspires regulatory norms to challenge the risk-shifting dynamics in art businesses, eventually indulgent with a culture of conscious negligence about the illicit activities within the market (De Sanctis, 2013: 57; Naylor, 2008: 288).

The Brazilian regulatory framework combined international standards on anti-money laundering and due diligence practices applied to the art market, establishing obligations to (i) keep records of transactions over BRL 10,000; (ii) keep records of clients and of those involved in the corresponding trading, such as representatives, agents, consignors, owners of artworks, intermediaries, auctioneers and final beneficiaries; (iii) establish and implement anti-money laundering internal procedures and controls accordingly to the volume of trading; and (iv) report to the Council for Financial Activities Control (COAF, in the Portuguese acronym) every transaction paid in cash over a threshold of BRL 10,000. These due diligences procedures established by the Ordinance 396/2016 provide rational conditions for deterring money laundering by increasing the risks of detection of ill-gotten assets sponsoring art businesses. People interested in "cleaning" their tainted assets, knowing that suspicious transactions will be reported to the authorities, should be rationally

discouraged to consider the art market as an opportunity to disguise the illicit origin of their money (Vaughan, 1998: 27). In short, the regulatory framework intends to make money laundering opportunities less attractive in the art market, which is a crucial dimension of situational crime prevention theory (Santos, 2001: 175).

4.4 Who should undertake due diligence measures to control money laundering?

It is worth noting that the FATF recommendations to control money laundering do not necessarily address art market professionals. Casinos, real estate agents, dealers in precious metals and in precious stones, lawyers, notaries, other independent legal professionals, accountants and trust and company service providers are the core businesses and professions designated by the FATF as mandatorily required to undertake customer due diligence measures (FATF, 2012: 17-18). The same applies to the European Union Directive 2015/849. It states that anti-money laundering procedures must be undertaken by auditors, external accountants, tax advisors, notaries and other independent legal professionals, trust or company service providers, estate agents and providers of gambling services in the European Union (EU Directive 2015/849/EC art. 2). In the case of the European Directive, though, art dealers must comply with the general provision stating that every dealer trading in goods for payments in cash over a threshold of EUR 10,000 shall undertake anti-money laundering diligences, whether the transaction is carried out in a single operation or in several operations which appear to be linked (EU Directive 2015/849/EC art. 2).

The claims on the vulnerability of the art market to money laundering notwithstanding (De Sanctis, 2013: 84; Mackenzie, 2011b: 80), merchants, art dealers or auction houses are not specifically identified among the professionals and entities

subject to compliance duties neither in the FATF recommendations nor in the European Union Directive 2015/849. This may suggest that the ways and means used to disassociate the art market from crime are successful somehow. The view of the refined work with an enlightening purpose performed by cultured and respectable people seems to prevail over the idea that the economic capital of the art market may benefit from ill-gotten assets (Mackenzie, 2011a: 140). The socio-economic, cultural and political capital held by the art market virtually resists eventual connections with illegal practices, such as money laundering, as if art and crime were immiscible (Bourdieu, 2010: 18; De Sanctis, 2013: 61). Nevertheless, it does not mean that art professionals are released of compliance policies. The risk-based approach is the FATF main axis, which means that countries should assess their own financing risks and allocate resources to mitigate them. According to that perspective, the higher the risks, the more efficient the regulation to challenge them must be (FATF, 2012: 9). This is important to the art market, where risk is somehow crystallised, given the risk-shifting culture among professionals who would disregard suspicious practices rather than properly manage the risks before completing a highly profitable transaction (Mackenzie, 2011a: 147).

The art market risks were highlighted by Belgium and Switzerland when assessing their sectors vulnerable to money laundering, according to the FATF recommendations. The large sums of cash usually handed by antiquities and art dealers in Belgium made them particularly vulnerable to offenders willing to launder money (FATF, 2015: 27). In Switzerland, although the art trade is not covered by the anti-money laundering legislation, the risk assessment undertaken by the country identified this business sector as vulnerable, given its economic importance and its usual position in the spotlight (FATF, 2016: 36). As a leading art marketplace,

Switzerland took measures to mitigate the risk assessed: the Federal Office of Culture must supervise the origin of cultural goods, and free ports which store artworks must identify their corresponding document of origin and owners. Regarding the means used to purchase the artworks, merchants and dealers are only legally obliged to report cash payments above CHF 100,000. The legal provision notwithstanding, some auction houses may undertake enhanced due diligence procedures for cash payments over CHF 10,000 (FATF, 2016: 39). Switzerland is also the host country of the Responsible Art Market Initiative, which provides anti-money laundering guidelines specifically applied to the art market (Responsible Art Market Initiative, 2017).

4.5 Art guards: relocating responsibilities for crime prevention

The international standards analysed – the FATF recommendations and the European Union Directive 2015/849 – exemplify the extent to which professionals are being individually required to take responsibility in response to safety concerns arising from business transactions in a globalised world. Indeed, globalisation intensifies commercial trades with its potential to connect people living in distant places and to allow financial transactions to be completed with unprecedented efficiency (Giddens, 1990: 64). It spreads risks and increases the number of potential vulnerable targets, which rearranges expectations over the state's capacity to act as the capable guardian against crime. The new context demands different ways of thinking about crime control policies. Nowadays, procedures to deal with wrongdoings are also undertaken by a network of stakeholders, operating through a fragmented new rationality, more diffused than a unitary source of control, in a context where crime management is not a government monopoly (Garland, 1997: 179). In that scenario, individuals and organisations play a central role in preventing wrongdoings as they

are requested to manage their vulnerability to crime and to act accordingly to the risks (Aas, 2010: 435).

Ordinance 396/2016 followed the strategy to demotivate offenders by appointing insiders, i.e. professionals trading in arts, to act as gatekeepers guarding businesses against misuse for criminal purposes. The model ratifies the tendency to set mechanisms of surveillance to prevent illegalities based on the scrutiny of individuals (Grabosky, 2009: 134). This is especially suitable for the detection of white-collar crimes, which are more likely to depend on whistle-blowers being able to identify suspicious activities and report them (Levi, 2009: 57-58). Commissioning responsibility for crime control into the hands of private persons has been critically received by criminologists (Loader & Sparks, 2007: 82). It is not the traditional approach to crime, which has been to prohibit professionals from engaging in criminal behaviours. The new perspective adopted by the Ordinance is that criminalising some practices is not enough; the state goes beyond, not only to authorise individuals and legal entities to supervise the suspicious behaviours of their clients, but also to relocate part of its investigative competence by requiring professionals to match different sources of information about their clients with the purpose to explore and identify eventual wrongdoings. Hence, the duty of watching business transactions and finding criminal evidence is shared between public authorities and citizens trading in art.

The new role of professionals who must manage their own crime risks seems to give them prerogatives traditionally attributed to law enforcement agents, but in a fashion that it can be exercised under the cover of a business relationship (Gómes-Jara Díez, 2009: 219). The duty may arguably bring controversial responsibilities to professionals trading in art: to take the blame should they be unable to acknowledge a

suspicious transaction; or even worse, to be accused of participation in an offence for being paid with money whose illicit origin they failed to identify. In this sense, it is essential to bear in mind that the main scope of anti-money laundering diligence is to track the money, to ensure that the capital can be traceable so that public authorities can draw the path between the offence and the destination of the corresponding assets, revealing the financial support of criminal structures (Murray, 2013: 103). The compulsory cooperation required from art dealers should first serve this purpose rather than command these professionals to investigate the means through which the money was acquired. In fact, their main contribution is not to act as detectives investigating whether the fees they earn are lawful. This is not the only controversy concerning the relocation of responsibility for crime prevention into the art market, though.

Once a suspicious transaction is identified, the art dealer must report it to COAF (Brazil, 2016b: Ordinance 396 section V). However, reporting trade details is not a familiar practice within the art market, which has been historically developed as a business with minimal transparency and supervision (Yates, 2016: 175). The privacy of sellers, buyers and donors is the rule in the art market, a tradition that conflicts with the obligation to report, within 24 hours of the payment, every transaction over a threshold of BRL 10,000 paid in cash (Brazil, 2016b: Ordinance 396 art. 6), among other hypothesis of suspicious operations (Brazil, 2016b: Ordinance 396 art. 7). In that sense, art traders may be puzzled when, on the one hand, they must deal with the duty to report and, on the other hand, they must value their tradition of courtesy and respect to the confidential relationship they establish with artists and clients. These relationships have been classically built over bonds of trust favoured by secrecy and privacy, which has allowed families in financial ruin to sell their artworks discretely

and sellers to buy them without posing as profiteers (Yates, 2016: 175). Undoubtedly, when art dealers must act as informers or whistle-blowers, it radically changes their professional activity and the nature of the relationship they hold with their clients.

4.6 An organisational approach to prevent money laundering in the art market

The competences of each player in art businesses tell about the contribution they can bring to counteracting practices that aim to integrate ill-gotten assets into the formal economy. Auction houses, for example, have been prominent in selling artworks. In the United States, they represent half of annual sales (DuBoff et al., 2010: 1). The auction houses of Sotheby's and Christie's alone trade around 75% of global art sales, reaching 90% of the money invested in the market (De Sanctis, 2013: 74). Auctions also grew popular in Brazil, which required dealers to adopt a more professional attitude towards potential buyers and art lovers. Following the boost of the art market in Brazil in the 1980s, auction houses were built in wealthy rooms located in noble areas and they currently remain outstanding agents of art businesses in the country (Duran, 1989: 198-199). Actually, auction houses trade a vast number of artworks, intermediate the relationship between buyers and sellers, steer market practices, influence price references and methods of payment, which makes them crucial partners when considering initiatives to prevent illicit financial transactions in the art market.

The prominence of legal entities in the art market explains why the regulatory framework in Brazil is concerned with the organisational settings making art businesses vulnerable to money laundering. Due diligence mechanisms comprise duties for identifying customers, maintaining updated records of them and keeping up-to-date records of all transactions. In case of organisations, they must also adopt

compliance policies, procedures and internal control mechanisms, compatible with their size and the volume of operations they trade. Moreover, Ordinance 396/2016 stipulates that when organisations have over ten employees, the anti-money laundering internal procedures and controls must be expressly formalised by the highest management authority (Brazil, 2016b: Ordinance 396 section II). The compliance policy requires staff to access these internal procedures through permanent institutionalised channels, relying on training and monitoring to periodically verify the effectiveness of the controls adopted.

Training is a crucial feature of anti-money laundering strategies, as the educational approach foments internal motivations by awakening employee's ethical judgements, which is believed to exercise a strong influence for successfully complying with policies to prevent white-collar crimes (Tyler, 2009: 195). Indeed, employees are expected to behave more ethically when they acknowledge the compliance procedures as being fair. Given the claims of lack of training in the art market as one of the causes of its vulnerability to money laundering (De Sanctis, 2013: 62), it is worth noting that the Ordinance 396/2016 frames a regulation that seems to properly fit the pyramidal regulatory approach, whose model combines administrative penalties at the middle with self-regulatory initiatives at the bottom, such as incentives through guidelines, training programs and codes of conduct (Mackenzie, 2011a: 146).

Organisations, such as auction houses, may have different arrangements with artists regarding the trade of their works. The more transparent are these agreements, the more accountable the transactions regarding anti-money laundering practices. When artist and house agree to trade a particular work by consignment, the corresponding document may record the personal data of the artist, a description of

the piece of art, its price and the fee charged by the auction house (Art Dealers Association of America, [n.d.]; De Sanctis, 2013: 75). This register is confirmed with the assistance of auction house's experts, after assessing the artwork itself regarding its authenticity and price. Since the auction house usually profits by claiming a percentage of the artwork's sale price, both artist and auctioneer are interested in getting the highest price for the work, an enthusiasm that may be shared by money launderers whose willingness to legitimise illicit gains makes it more important to find a discrete alternative to clean the money than to secure the best financial opportunity. It is worth noting that there may be a conjunction of interests among buyers, sellers and artists, who may feel pleased to bring money into the market, regardless of its licit or illicit origin, as money ultimately means investment to art businesses. This highlights the need for a regulatory framework as an instrument to protect the market against misuse when gatekeepers do not have incentives enough to spontaneously reject profiting from illicit means when doing businesses.

The model applied to control money laundering is not without precedent. It is comparable to the emergence of a regulatory system on transnational corruption control, which already relied on much of the strategies found on Ordinance 396/2016, such as internal compliance controls and self-regulatory systems within organisations (Grabosky, 2009: 144). The strategy to implement anti-money laundering internal procedures in organisations focuses on the nodes, i.e. on the primary business or institutions art dealers work within. In fact, crime pattern theory argues that opportunities to engage in criminal behaviours tend to be found in places where offenders develop their routine legitimate activities (Benson et al., 2009: 180). In the absence of an effective regulatory framework, the skills of successful art dealers – such as very specialised expertise, the capacity to make use of a personal network and

to influence others by their personal authority – may sound risky, given the broader context of vulnerability of their businesses to illicit activities (De Sanctis, 2013: 56). Distinctively, regulation may catalyse these same skills to encourage professionals trading in artworks to use their sphere of influence in their nodes to prevent money laundering practices. Therefore, the choice to spotlight art galleries, auction houses, museums and other legal entities dealing with art means that the Ordinance engaged the most familiar nodes to art professionals with anti-money laundering policies. The purpose is to inspire the network that eventually comprised the paths used for illicit purposes to serve as a reliable source to gather information about people involved in a particular transaction, as recommended by compliance policies. Therefore, the regulatory framework virtually reduces the opportunities for forming edges where crime is likely to happen.

4.7 Responsive regulation over regulatory formalism

The persuasive nature of administrative sanctions seems to be paramount to promote compliance policies, given that markets usually oppose constraints on business (Grabosky, 2009: 134). In other words, markets are profit-seeking and they are unlikely either to claim responsibility to prevent the circulation of ill-gotten money or to invest in anti-money laundering policies because that means more expenditure. It is important indeed to highlight the costs of regulation over the budget of professionals and legal entities trading in art. It may represent a burden, notably for organisations that face difficulties to afford significant investments, to enforce compliance policies. In fact, they must efficiently allocate the correspondent financial and human resources to undertake due diligence measures, otherwise, it leads to failure to comply with mandatory norms, which may imply organisational offending,

regardless of the intention to do so (Huisman, 2016: 439).

The risk of neglecting the creation of structures needed to implement the internal procedures and controls against wrongdoings may lead organisations to engage in uncompliant practices and, therefore, make them subject to penalties. It is beneficial that regulation inspires organisations to invest in training and monitoring initiatives over employee's performance regarding the compliance standards to prevent white-collar crimes (Benson et al., 2016: 9). Nevertheless, regulatory norms should be reasonable when establishing obligations to be followed, otherwise, they may create situations of widespread non-compliance, jeopardising the effectiveness of the regulatory framework itself. Ordinance 396, for instance, was enacted on September the 15th, 2016 and stated that by December the 31st of that same year all individuals and legal entities subject to that norm should be registered at the National Register of Art and Antiquities Dealers (CNART, in the Portuguese acronym) (Brazil, 2016b: Ordinance 396 art. 2). That included all individuals and legal entities that commercialise antiquities or artworks of any nature, directly or indirectly, including by means of receipt or consignment, import or export, intermediation of purchase or sale, electronic commerce, auction, fairs or informal markets, on a permanent or occasional basis (Brazil, 2016b: Ordinance 396 art. 2). As not all those individuals and organisations could register themselves in the short time given, IPHAN had to step back and enact another Ordinance, extending the deadline to June 30, 2017 (Brazil, 2017: Ordinance 114), as to avoid creating a situation of widespread non-compliance.

Regulatory norms should also be clear on the sanctions to be eventually applied. This is missing in Ordinance 396/2016, as it neither established sanctions for non-compliant behaviours nor explained the monitoring procedures to be carried out by

IPHAN. The uncertainty is worrying because it does not offer effective guidance to individuals and organisations trading in art, thus compliance officers cannot confidentially design a plan to implement the regulatory framework nor calculate its cost. It is advisable that IPHAN, as the regulatory body, act promptly to clearly explain the sanctions to be applied in case of failing to implement the compliance internal procedures and controls established under Ordinance 396/2016. These sanctions should be proportional to the administrative nature of the norm, neither mingling with penalties applied in criminal convictions nor merely serving as optional guidelines and principles compiled in self-regulatory documents (Greco Filho & Rassi, 2014: 741).

The pyramid is an important model for art market regulation because it acknowledges that sanctions can be effective when they are a proportional response to a particular misdeed. When wrongly applied nevertheless, they may bring unwanted consequences that risk the effectiveness of the sanctions (Braithwaite, 2002: 31). For instance, applying a criminal punishment to someone held liable for an administrative wrongdoing does not suit the different levels of the pyramid, each one with a different nature. Likewise, intervening with soft persuasive measures in a criminal case may hamper the capacity to properly enforce the regulatory norm. It does not mean that each level is isolated from the others, though, as illustrated by similar initiatives to regulate business activities in Brazil. The anti-corruption regulation stipulates that administrative and civil sanctions can be softened when applied to legal entities that had previously developed internal mechanisms and procedures for integrity, auditing and encouraging the reporting of irregularities, as well as initiatives to effectively apply codes of ethics and conduct within the organisation (Brazil, 2013: Law 12.846 art. 7). It is an example of a constructive understanding of the pyramidal model that

brings a comprehensive approach to regulation.

The same way that a reward system within an organisation can stimulate white-collar crime (Benson et al., 2016: 9), regulatory norms that reward compliance can foment successful policies for crime control. In other words, responsive regulation means the need of a response that should be flexible enough to effectively fit a particular situation and respond to a particular wrongdoer, rewarding internal procedures and controls against misdeeds and punishing non-compliant behaviours. This is a concern the regulatory body must address when drawing each part of the regulatory pyramid, applying administrative sanctions when guidance is not enough and escalating to the more punitive criminal approaches when civil measures cannot offer the most appropriate solutions (Braithwaite, 2002: 30), always considering the particular factors related to the specific case to praise what needs to be encouraged and to punish what needs to be countered. The art market is enigmatic and sophisticated, hence the need of a shrewd comprehensive anti-money laundering regulation to responsively meet its standards.

5. Conclusion

Criminologists have developed theoretical frameworks to understand crimes of the powerful relatively recently. It was not until the mid-twentieth century that research into white-collar crimes, as they were called, began to shed light on deviant behaviours among affluent social classes (Sutherland, 1949). The new concept raised discussions on the reasons why privileged people commit offences and the extent to which variables as rationality, reputation, neutralisation techniques, social reaction and organisational settings could explain deviation (Benson et al., 2016; Holtfreter et al., 2008; Levi, 2009; Paternoster & Simpson, 1996). Criminological thinking was also concerned with the means white-collar criminals use to access opportunities and how business environments might work as nodes connecting offenders and targets (Cohen & Felson, 1979; Grabosky, 2009). This is the main instrument available to criminologists researching the financial crimes that emerge as risks of a globalised world. As such, this was the theoretical framework used in this study to analyse money laundering in the art market and the corresponding regulatory initiatives to mitigate it (Murray, 2013; Seymour, 2008).

This dissertation built on this existing knowledge to apply criminological thinking to the art market, as a locus of sales being priced on a truly subjective basis, celebrated under the seal of secrecy (Yates, 2016) and totalling multibillion pounds annually (UNESCO, 2005). This high-end market is led by knowledgeable people who are perceived to deal with one of the most sublime cultural manifestations of humankind. The interchanges among the economic, social, political and cultural capitals (Bourdieu, 2010) held by art professionals were explored as crucial elements shaping their place among the powerful and associating their crimes with those known as *white-collar*. This work analysed the conjunction of these elements framing

the incongruous setting of a grey market shielded against criminal associations (Bowman, 2008). This shield was challenged by the identification of motivated offenders, vulnerable targets and the absence of capable guardians in art businesses (Benson et al., 2009: 178; Grabosky, 2009: 131). They were understood within the complex dynamics of the art world, which did not allow such a watertight categorisation, but the research rather correlated them with the culture of the art market, the risks of a global economy and the entanglements of compliance policies that can lead to misdeeds, even unwittingly (Huisman, 2016: 439). Therefore, the analysis was developed within the context of a market that benefits from licit and illicit resources, and where criminal opportunities are explored based on the art market's structure as a network of professionals interacting through different nodes and paths (Benson et al., 2009).

Through the application of this theoretical framework to a contemporary case study, this research provided a nuanced understanding of the Brazilian anti-money laundering regulatory framework of the art market, particularly Ordinance 396/2016. The regulation was critically analysed from a national and an international perspective. Nationally, it followed major scandals of money laundering through artworks which created the political context for a social reaction to the problem. Internationally, it responded to the FATF evaluation on initiatives to mitigate money laundering risks in Brazil (FATF, 2012) and to other standards, such as international conventions. The solid fundamentals of the regulatory framework notwithstanding, the Ordinance is not clear about the sanctions to be applied for non-compliance. As a regulative norm that is closely associated with anti-money laundering criminal norms, it is crucial that the sanctions be established coherently with the administrative nature of the norm, ratifying it as a support structure in the middle of a pyramidal regulatory

model, rather than making of it a misapplication of criminal penalties or of persuasion measures, prevalent in the top and at the base of the pyramid respectively.

The short period of time since the Ordinance was enacted, in September 2016, and the time of writing, neither allowed accurate research on the benefits nor on the costs of implementing the anti-money laundering regulation. The deadline for those subject to the regulation to register themselves at CNART was originally the last day of 2016, but it was extended to the 30th of June 2017, hence the National Registry is supposed to have the information about individuals and legal entities under the regulation only very recently (Brazil, 2016b: Ordinance 396 article 2). These traders are supposed to report even when no suspicious transaction is identified throughout the year and the first opportunity to do so is January 2018 (Brazil, 2016b: Ordinance 396 article 9); therefore time is still needed for analysis of the effectiveness of the Ordinance as an anti-money laundering system and for the burdens of its implementation to become clear, especially with regard to smaller organisations that lack the structure needed to implement programs able to comply with the regulatory obligations.

Further research is also encouraged regarding the perception of art professionals over what constitutes suspicious transactions, whether they are based on an articulate rationale or not, and the extent to which it affects the reports being made. This analysis is important for assessing if the framework provides an optimal level of regulation by holding professionals liable when needed and by not applying disproportional sanctions to professionals who are not necessarily negligent with money laundering practices (Saperstein et al., 2015: 1). Researching money laundering in the art market is an interesting project connected with contemporary criminological issues, as white-collar crimes, globalisation, risks and criminal

patterns, among others. Money laundering has a strong potential to encourage additional criminological surveys aiming to deepen the knowledge about the extent to which anti-money laundering policies may control other wrongdoings. It is a crime necessarily associated to predicate offences and it counts on specialised law enforcement strategies, therefore it has inspired criminologists to foresee its beneficial potential to the art market in a broader perspective, such as to control the trafficking in antiquities, for instance, and even to recover cultural objects that have been illegally taken (Chappell & Polk, 2011: 110).

It is a novel aspect of Ordinance 396/2016 to demand private individuals to act as capable guardians against money laundering in the art market, blurring the barriers between law enforcement and regular commercial activities. It is innovative to require organisations to invest in compliance departments that are properly structured to prevent companies from laundering "dirty" money, holding them liable for failing to do so. It is exceptional to impose oversight measures over the art market, historically preserved against any association with the criminal world.

For now, art guarding is avant-garde and, as with everything new, the outputs of these policies remain to be seen. The benefit of this research is to contribute some insight which should raise awareness of the topic and inspire further investigation.

References

Aas, K.F. (2010) Global Criminology. In McLaughlin, E. and T. Newburn (eds). *The Sage Handbook of Criminological Theory*. London: Sage. 427-443

Alder, C. and K. Polk. (2007) Crime in the World of Art. In Pontell, H.N. and G. Geis. *International handbook of white-collar and corporate crime.* Springer: New York. 347-357.

Art Dealers Association of America. [n.d.]. *Code of Ethics and Professional Practices - About - ADAA*. (Available online at: http://www.artdealers.org/about/code-of-ethics-and-professional-practices [Accessed 06/08/17]).

Ayres, I. and J. Braithwaite. (1992) *Responsive regulation: transcending the deregulation debate*. New York: Oxford University Press.

Baratta, A. (2011) *Criminologia crítica e crítica do direito penal*: Introdução à sociologia do direito penal. 6th edn. Trans. J.C. dos Santos. Rio de Janeiro: Revan.

Bator, P.M. (1982) An essay on the international trade in art. In *Stanford Law Rev*iew 34(2). 275-384.

Black, J. (2002) Critical reflections on regulation. In *Australian Journal of Legal Philosophy* 27. 1–35.

Beck, U. (2000) *What is globalization?* Cambridge: Polity Press.

Benson, M.L., S.R. Van Slyke and F.T. Cullen. (2016) Core Themes in the Study of White-Collar Crime. In Van Slyke, S., M.L. Benson and F.T. Cullen (eds). *The Oxford handbook of white-collar crime*. Oxford University Press. 1-22.

Benson, M.L., T.D. Madensen and J.E. Eck. (2009) White-Collar Crime from an Opportunity Perspective. In Simpson, S.S. and D. Weisburd. *The criminology of white-collar crime*. Springer: New York. 175-193.

Ben-Yehuda, N. (2009) Foreword: moral panics - 36 years on. In *The British Journal of Criminology* 49(1). 1-3.

Berla, G.V. (2010) Reincidência: uma perspectiva crítica de um instituto criminógeno. In *Revista Brasileira de Ciências Criminais* 82(18) jan-fev. São Paulo: RT.

Bourdieu, P. (2010) *Distinction: a social critique of the judgement of taste*. Trans. Richard Nice. Routledge: Abingdon.

Bowman, B.A. (2008) Transnational crimes against culture: looting at archaeological sites and the "grey" market in antiquities. In *Journal of Contemporary Criminal Justice* 24(3). 225-242.

Braithwaite, J. (2002) *Restorative Justice and Responsive Regulation*. New York: Oxford. University Press.

_____. (2010) Diagnostics of white-collar crime prevention. In *Criminology & Public Policy* 9(3). 621-626.

Brazil. (1998) *Law 9.613*. Dispõe sobre os crimes de "lavagem" ou ocultação de bens, direitos e valores; a prevenção da utilização do sistema financeiro para os ilícitos previstos nesta Lei; cria o Conselho de Controle de Atividades Financeiras - COAF, e dá outras providências. Presidency of the Republic. (Available online at: http://www.planalto.gov.br/ccivil_03/leis/L9613compilado.htm [Accessed 27/08/2017]).

_____. (2013) *Law 12.846*. Dispõe sobre a responsabilização administrativa e civil de pessoas jurídicas pela prática de atos contra a administração pública, nacional ou estrangeira, e dá outras providências. Presidency of the Republic. (Available online at: http://www.planalto.gov.br/ccivil_03/_ato2011-2014/2013/lei/l12846.htm [Accessed 27/08/2017]).

_____. (2016a) *Resolution n. 35/2016*. Dispõe sobre sanções no Processo de Impeachment contra a Presidente da República, Dilma Vana Rousseff, e dá outras providências. Congress. Senate. (Available online at: http://legis.senado.leg.br/legislacao/ListaTextoIntegral.action?id=250852&norma=270259 [Accessed 22/12/2016]).

_____. (2016b) *Ordinance n. 396*. Instituto do Patrimônio Histórico e Artístico Nacional, IPHAN. (Available online at: http://portal.iphan.gov.br/uploads/legislacao/portaria_396_compiilada_prazo_junho_2017.pdf [Accessed 28/07/17])

_____. (2017) *Ordinance n. 114*. Instituto do Patrimônio Histórico e Artístico Nacional, IPHAN. (Available online at: http://portal.iphan.gov.br/uploads/legislacao/dou_portaria_114_2017.pdf [Accessed 28/07/17])

Campbell, P.B. (2013) The illicit antiquities trade as a transnational criminal network: characterizing and anticipating trafficking of cultural heritage. In *International Journal of Cultural Property* 20(2). 113-153.

Chappell, D. and K. Polk. (2011) Unraveling the "cordata": Just how organized is the international traffic in cultural objects? In Manacorda, S. & D. Chappell (eds.). *Crime in the art and antiquities*

world: illegal trafficking in cultural property. Springer: New York. 99-113.

Cohen, S. (1972) *Folk Devils and Moral Panics*. Oxford: Blackwell.

Cohen, L. and M. Felson. (1979) Social change and crime rate trends: a routine activity approach. In *American Sociological Review* 44(4). 588–608.

Commonwealth Secretariat. (2006) *Combating money laundering and terrorist financing: a model of best practice for the financial sector, the professions and other designated businesses*. Commonwealth Secretariat: London.

Cullen, F.T., J.B. Cullen, G.A. Clark and R.A. Mathers. (1983) Public support for punishing white-collar crime: Blaming the victim revisited? In *Journal of Criminal Justice* 11(6). 481-493.

Culture Crime News. (2017) *About — Culture Crime News*. (Available online at: https://news.culturecrime.org/page/about [Accessed 04/08/2017]).

De Sanctis, F.M. (2013) *Money laundering through art: a criminal justice perspective*. Springer: New York.

DuBoff, L., M. Murray and C. King. (2010) *The Deskbook of Art Law*. 2nd ed. New York: Oceana.

Duran, J.C. (1989) *Arte, Privilégio e Distinção*: artes plásticas, arquitetura e arte dirigente no Brasil. São Paulo: Perspectiva.

Edelhertz, H. (1970) *The Nature, Impact and Prosecution of White-Collar Crime*. Washington: Department of Justice.

_____. (1983) White-collar and professional crime: the challenge for the 1980s. In *American Behavioral Scientist* 27(1). 109-128.

European Parliament and Council, EU. (2015) Directive 2015/849 of 20 May 2015 on the Prevention of the Use of the Financial System for the Purposes of Money Laundering or Terrorist Financing. (Available online at: http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32015L0849 [Accessed 23/07/2017]).

Financial Action Task Force, FATF. (2012) *International Standards on Combating Money Laundering and the Financing of Terrorism & Proliferation*. (Available online at: http://www.fatf-gafi.org/media/fatf/documents/recommendations/pdfs/FATF%20Recommendations%202012.pdf [Accessed 23/07/2017]).

_____. (2015) *Belgium Mutual Evaluation Report*. (Available online at: http://www.fatf-

gafi.org/media/fatf/documents/reports/mer4/Mutual-Evaluation-Report-Belgium-2015.pdf [Accessed 24/07/2017]).

_____. (2016) *Switzerland Mutual Evaluation Report*. (Available online at: http://www.fatf-gafi.org/media/fatf/content/images/mer-switzerland-2016.pdf [Accessed 25/07/2017]).

_____. (2017) *Public statement*. (Available online at: http://www.fatf-gafi.org/publications/high-riskandnon-cooperativejurisdictions/documents/fatf-compliance-june-2017.html [Accessed 23/07/2017]).

Garland, D. (1997) Governmentality and the Problem of Crime: Foucault, criminology, sociology. In *Theoretical Criminology* 1(2). 173-214.

Geis, G. (2016) The Roots and Variant Definitions of the Concept of "White-Collar Crime". In Van Slyke, S., M.L. Benson and F.T. Cullen (eds). *The Oxford handbook of white-collar crime*. Oxford University Press. 25-38.

Giddens, A. (1990) *The consequences of modernity*. Cambridge: Polity Press.

Glenny, M. (2009) *McMafia: seriously organised crime*. Vintage Books: London.

Gómes-Jara Díez, C. (2009) El criterio de los honorarios profesionales "bona fides" como barrera del abogado defensor frente al delito de blanqueo de capitals. In Bajo Fernández, Miguel (ed). *Política criminal y blanqueo de capitales*. Marcial Pons: Madrid. 207-224.

Gottschalk, P. (2011) White-collar crime and police crime: rotten apples or rotten barrels? In *Critical Criminology* 20(2). 169-182.

Grabosky, P. (2009) Globalization and white-collar crime. In Simpson, S.S. and D. Weisburd. *The criminology of white-collar crime*. Springer: New York. 129-151.

Graham, J. (2014) Art Exchange? How the International Art Market Lacks a Clear Regulatory Framework. In Vadi, V. and H.E. Schneider (eds.). *Art, cultural heritage and the market: ethical and legal issues*. Springer: Heidelberg. 319-340.

Greco Filho, V. and J. Rassi. (2014) A corrupção e o direito administrativo sancionador. In Paschoal, J.C. and R.M.J. Silveira (org). *Livro homenagem a Miguel Reale Junior*. GZ Editora: São Paulo. 741-752.

Holtfreter, K., S. Van Slyke, J. Bratton and M. Gertz. (2008) Public perceptions of white-collar crime and punishment. In *Journal of Criminal Justice* 36(1). 50-60.

Hopkins-Burke, R. (2014) *An introduction to criminological theory*. 4th edn. Taylor & Francis: Routledge.

Huisman, W. (2016) Criminogenic organizational properties and dynamics. In Van Slyke, S., M.L. Benson and F.T. Cullen (eds). *The Oxford handbook of white-collar crime*. Oxford University Press. 436-462.

International Council of Museums, ICOM. (2017) *Code of Ethics for Museums*. (Available online at: http://icom.museum/fileadmin/user_upload/pdf/Codes/ICOM-code-En-web.pdf [Accessed 28/07/17])

Interpol. (2017) *Works of art*. Frequently asked questions. (Available online at: https://www.interpol.int/Crime-areas/Works-of-art/Frequently-asked-questions [Accessed 04/04/17]).

Kilchling, M. (2001) Tracing, seizing and confiscating proceeds from corruption (and other illegal conduct) within or outside the criminal justice system. In *European Journal of Crime, Criminal Law and Criminal Justice* 9(4). 264-280.

Lane, D.C., D.G. Bromley, R.D. Hicks and J.S. Mahoney. (2008) Time crime. The transnational organization of art and antiquities theft. In *Journal of Contemporary Criminal Justice* 24(3). 243-262.

Levi, M. (2009) The shaping of folk devils and moral panics about white-collar crimes. In *British Journal of Criminology* 49(1). 48-67.

Loader, I. and R. Sparks. (2007) Contemporary landscapes of crime, order and control: governance, risk and globalization. In M. Maguire, R. Morgan and R. Reiner (eds.) *The Oxford Handbook of Criminology* (Fourth edition). Oxford: Oxford University Press. 78-101.

Lombroso, C. and G. Lombroso-Ferrero. (1911) *Criminal man: according to the classification of Cesare Lombroso*. London: G.P. Putnam.

Mackenzie, S. (2005) *Going, going, gone: regulating the market in illicit antiquities*. Institute of Art and Law: Leicester.

_____. (2011a) Illicit deals in cultural objects as crimes of the powerful. In *Journal of Crime, Law and Social Change* 56. 133-153.

_____. (2011b) The market as criminal and criminals in the market: reducing opportunities for organised crime in the international antiquities market. In: Manacorda, S. and D. Chappell (eds.) *Crime in the Art and Antiquities World: Illegal trafficking in cultural property.* Springer: New York. 69-86.

Maguire, M. (2012) Criminal statistics and the construction of crime. In: Maguire, M., R. Morgan and

R. Reiner (eds.). *The Oxford Handbook of Criminology*. 5th ed. Oxford: Oxford University Press.

Manacorda, S. (2011) Criminal law protection of cultural heritage: an international perspective. In Manacorda, S. and D. Chappell (eds.). *Crime in the art and antiquities world: illegal trafficking in cultural property*. Springer: New York. 17-48.

Michalowski, J. and C. Kramer. (1987) The space between the laws: the problem of corporate crime in a transnational context. In *Social Problems* 34(1). 34-53.

Michel, C. (2015) Violent street crime versus harmful white-collar crime: a comparison of perceived seriousness and punitiveness. In *Critical Criminology* 24(1). 127-143.

Monaghan, M.P. and S. Prideaux. (2016) *State crime and immorality: the corrupting influence of the powerful*. Policy Press: Bristol.

Murray, K.R. (2013) A square go: tackling organised crime where it doesn't want to be tackled. In *Journal of Money Laundering Control* 16 (2): 99-108.

Museu Oscar Niemeyer, MON. (2017) *Obras sob a guarda do MON*. (Available online at: http://www.museuoscarniemeyer.org.br/exposicoes/exposicoes/obraguardamon [Accessed 02/08/17]).

Naylor, R.T. (2008) The underworld of art. In *Journal of Crime, Law and Social Change* 50(4). 263-291.

Nistri, G. (2011) The experience of the Italian Cultural Heritage Protection Unit. In Manacorda, S. and D. Chappell (eds.). *Crime in the art and antiquities world: illegal trafficking in cultural property*. Springer: New York. 183-192.

Passas, N. and B.B. Proulx. (2011) Overview of Crimes and Antiquities. In Manacorda, S. and D. Chappell (eds.). *Crime in the art and antiquities world: illegal trafficking in cultural property*. Springer: New York. 51-67.

Paternoster, R. and S. Simpson. (1996) Sanction threats and appeals to morality: testing a rational choice model of corporate crime. In *Law & Society Review* 30(3). 549-583.

Pinho, D.B. (1989) A arte como investimento: a dimensão econômica da pintura. In *Revista de Administração de Empresas* 29(4). São Paulo: Nobel and Universidade de São Paulo.

Pontel, H.N. (2016) Theoretical, empirical and policy implications of alternative definitions of "white-collar crime": "trivializing the lunatic crime rate". In Van Slyke, S., M.L. Benson and F.T. Cullen (eds). *The Oxford handbook of white-collar crime*. Oxford University Press. 39-56.

Proulx, B.B. (2011) Organized criminal involvement in the illicit antiquities trade. In *Trends in Organized Crime* 14(1). 1-29.

Purkey, H. (2010) The art of money laundering. In *Florida Journal of International Law* 22(1). 111-144.

Renfrew, C. (2000) *Loot, legitimacy and ownership: the ethical crisis in archaeology*. London: Duckworth.

Responsible Art Market Initiative. (2017) *Guidelines on combatting money laundering and terrorist financing - Responsible Art Market*. (Available online at: http://responsibleartmarket.org/guidelines/guidelines-on-combatting-money-laundering-and-terrorist-financing/ [Accessed 05/08/2017]).

Ross, E.A. (1907) *Sin and Society: an analysis of latter-day iniquity.* New York: Houghton, Mifflin, and Company.

Ruggiero, V. (2007) It's the economy, stupid! Classifying power crimes. In *International Journal of the Sociology of Law* 35(4). 163-177.

Santos, C.M.C. (2001) *O crime de colarinho branco*: da origem do conceito e sua relevância criminológica à questão da desigualdade na administração da justiça penal. Coimbra: Coimbra.

Seymour, B. (2008) Global Money Laundering. In *Journal of Applied Security Research* 3(3-4). 373-387.

Simpson, S.S. (2013) White-collar crime. In *Annual Review of Sociology* 39. 309–331.

Slapper, G. and S. Tombs. (1999) *Corporate Crime*. Harlow: Longman.

Saperstein, L., G. Sant and M. Ng. (2015) The failure of anti-money laundering regulation: where is the cost-benefit analysis? In *Notre Dame Law Review Online* 91(1). (Available online at: http:// scholarship.law.nd.edu/ndlr_online/vol91/iss1/4 [Accessed 14/08/17]).

Sutherland, E.H. (1949) *White Collar Crime*. New York: Holt Rinehart & Winston.

Tyler, T.R. (2009) Self-regulatory approaches to white-collar crime: the importance of legitimacy and procedural justice. In Simpson, S.S. and D. Weisburd. *The criminology of white-collar crime*. Springer: New York. 195-216.

United Nations Educational, Scientific and Cultural Organisation, UNESCO. (2005) *International Flows of Selected Cultural Goods and Services, 1994–2003*: Defining and capturing the flows of global

cultural trade. Montreal: UNESCO Institute for Statistics. (Available online at: http://unesdoc.unesco.org/images/0014/001428/142812e.pdf [Accessed 23/06/17]).

_____. (2016) *Fourth Session of the Subsidiary Committee of the Meeting of States Parties to the Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property*. (Available online at: http://www.unesco.org/fileadmin/MULTIMEDIA/HQ/CLT/pdf/SC_Final_Report.pdf [Accessed 23/06/17]).

UNIDROIT. (2011) *Convention on stolen or illegally exported cultural objects*. Rome, 24 June 1995, United Nations Treaty Series, vol. 2421, n. 43718, p. 457, available from https://treaties.un.org/doc/Publication/UNTS/Volume%202421/v2421.pdf

Vaughan, D. (1998) Rational choice, situated action, and the social control of organizations. In *Law and Society Review* 32(1). 23-61.

Willott, S., C. Griffin and M. Torrance. (2001) Snakes and ladders: upper-middle class male offenders talk about economic crime. In *Criminology* 39(2). 441-466.

Yates, D. (2016) *Museums, collectors, and value manipulation: tax fraud through donation of antiquities*. In *Journal of Financial Crime* 23(1). 173-186.