

CHAPTER TWENTY-THREE

THE ART OF FREE-PORTISM: A DISAPPEARING ACT¹

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In recent years, a phenomenon has emerged in the global art world that deals solely with the concealment of works of art. The 2008 financial crisis prompted new players to take part in the art market and increased the need for the storage of works of art in protected spaces. Huge warehouses called “freeports” or “offshore” were constructed on the outskirts of cities and in ex-territories. These facilities have become popular with investors who choose art as a means of investment, diversifying their investment portfolios, or to guarantee a loan.

This idea of storage facilities for valuable goods is based on an earlier phenomenon: facilities for safe-guarding property were established in antiquity in transit areas, for example on the way between one country to another, and were typically used as protection from highway men.

The Warehouse of Curiosities

Storage facilities of goods are also reminiscent of *wunderkammern* or cabinets of curiosities set up during the Renaissance to protect the clergy’s and nobility’s wealth and power. But unlike such cabinets located in castles and estates, today’s cabinets are huge warehouses the exterior of which reveals nothing about their innards. Surrounded by electric fences, armed guards, CCTV cameras and climate control systems, works of art,

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expensive wines and bars of gold (some of which have not seen daylight since they arrived) are packed in wooden boxes and stored in a “safe haven”. These facilities are essentially similar to free trade zones and financial centres located outside state borders. Because of their fuzzy legal status and of the fact that they offer two particular services to those wishing to keep their fortunes hidden, security and confidentiality, they are attractive to the rich.

From a legal perspective, the art stored in these warehouses is technically located in a transit zone. As long as they are housed in these facilities, their owners do not pay import taxes or duties. Once a work of art exits the premises – whether when it is sold, donated to a museum or displayed in an exhibition – it is subject to the sales tax valid at its destination.

Spaces of Uncertainty

The German filmmaker, artist and theorist Hito Steyerl was among the first to recognise the conceptual importance of this contemporary phenomenon.² Steyerl recognised these facilities as being a “Silk Road into which things disappear, as into an abyss of withdrawal”.³ According to Steyerl, “duty-free art [...] travel[s] inside a network of tax-free zones and also inside the storage spaces themselves”.⁴ Their transition corresponds to market fluctuations: an increasing or decreasing value affects their interior and exterior movements. Once sold, they continue their journey to their new owners and may even be stored in a neighboring safe place at the same facility. Steyerl recognised these facilities as places of uncertainty; spaces which the authorities overtly prefer to avoid and, paradoxically, in which they controllably lose control.

Following Steyerl, the German Professor of Art at the Academy Düsseldorf Stephen Heidenreich coined the term “freeportism”.⁵ In an attempt to grasp the significance of this phenomenon in the field of art he states that in the age of “freeportism, successful artworks require [...] a strong artistic brand, ample liquidity in the form of tradable artworks, galleries operating as market makers, and photogenic material objects that

produce likable images on platforms such as Instagram and Facebook”.⁶ Freeportism, one of the first “-isms” coined in the twenty-first century, was an answer used by Heidenreich and other contemporary artists to the art market’s demands for a steady supply of “unique objects”. By controlling their “product” within the market, artists put to use aesthetic means to maintain equilibrium between supply and demand, avoiding overproduction and maintaining liquidity of their art in the market.

According to the annual analysis produced by the ArtBasel art fair and UBS shipping company, in 2018 the value of the art market was estimated at USD 63 billion.⁷ Currently, freeports and offshore facilities are leading players in the global art market. According to the Deloitte Report (2014), 42% of all the art collectors interviewed said there was a reasonable chance that their business activities would eventually be assisted by the services of a freeport. The International Chamber of Commerce (ICC) reports that in 1975 only 79 free-tax zones operated around the globe. According to the Financial Action Task Force (FATF), an organisation that tackles money laundering, in 2008 the number of free-tax zones, or FTZs, has grown to 3,000 facilities operating in 135 countries.

The Best Museum in the World

In 1888, the first free-tax zone was established in a large facility located in the city of Geneva, Switzerland. In 2012, the number of items in the facility was estimated to amount to 1.2 million. In a newspaper interview with Jean-René Saillard, one of the investors of the British Arts Foundation operating in Geneva, he declared that the freeport in Geneva “would be probably the best museum in the world if it was a museum”.⁸ Numerous masterpieces are stored on the premises, including 78 paintings by Picasso that Catherine Hutin, the artist’s stepdaughter, preferred to store in this facility rather than to display permanently at a museum.⁹

In 2016, the theft of Middle Eastern archeological findings prompted the authorities to search the premises in Geneva where they found antiquities looted from Palmyra, Syria and other ancient sites in Libya and

⁶ Heidenreich 2016.

⁷ McAndrew 2018.

⁸ Foulkes 2013, 2.

⁹ See: <https://www.nytimes.com/2016/05/29/arts/design/one-of-the-worlds-greatest-art-collections-hides-behind-this-fence.html> (accessed 28 April 2019).

² Steyerl 2017.

³ Steyerl 2017, 82.

⁴ Steyerl 2017, 83.

⁵ Heidenreich 2016.

Yemen.¹⁰ In 1995, objects stolen by a group of smugglers under the leadership of Giacomo Medici from archaeological sites in Italy were found in the same facility.¹¹ A unit of the Italian military police specialising in the protection of the country's cultural heritage raided the facility and found tens of thousands of items, including a sarcophagus stolen from Rome and a red-figure krater from Athens dated to c.515BC.¹²

In 2015, the director of the Louvre Museum in Paris, Jean-Luc Martinez, submitted a report dealing with World Cultural Heritage Preservation to UNESCO.¹³ In his report, Martinez denounced the freeports and accused them of cooperation with the trafficking of stolen artefacts. Martinez, specified countries and regions allegedly involved in the smuggling and concealing of precious artefacts in freeport facilities.

Residents of cities, in which these secret facilities are located, heavily criticise the authorities' turning a blind eye and the fact that masterpieces are stored in their neighbourhood, while not being accessible to the public. In accordance with a survey published in a local newspaper, if the Geneva bonded warehouse were operating legally, it would produce CHF 300 million for the local cantonment.¹⁴ A local lawyer therefore proposed a bill challenging Switzerland's tax benefit policy by opening the facility's gates and turning it into a public institution. Unsurprisingly, the proposal was rejected and the city's residents are left to guess which masterpieces are stored in their city in the hope that some day they will be able to visit these shady facilities.

Distorting Global Economy

In 2016, the "Panama Papers", over 11 million confidential documents originating from a Panama law firm called "Mossack Fonseca & Co." were published.¹⁵ The documents, leaked by an anonymous whistleblower, included correspondence from the years 1977 to 2015 that dealt with companies established solely for the purpose of concealing assets and money laundering. By uncovering over 200,000 fake companies and offshore facilities, the documents demonstrated how art had become a

¹⁰ News Network Archeology, 2006.

¹¹ Slayman 1998.

¹² Trafficking Culture 2015.

¹³ Martinez/AMA 2015.

¹⁴ Maurisse 2014.

¹⁵ Bronstein 2017.

commodity used for multiple purposes, including loan guarantees and divorce settlements. The "Panama Papers" therefore highlight the link between the international art trade and the secrecy provided by tax havens. As Dean Starkman and Will Fitzgibbon of the International Association of Investigative Journalists (IAIJ) write, "The offshore industry is a sprawling behemoth so secretive its very size can only be guessed and yet understood to be so large as to distort the global economy".¹⁶

One of the significant names mentioned in the "Panama Papers" is the Nahmad family, a lineage of collectors of Jewish-Syrian origins. The documents reveal that the family stores its collection, USD 3 billion worth of art, at the Geneva facility. A particularly sensitive issue, however, is the history of one particular painting from the family collection. A letter found in the Panama Papers database indicates that the Nahmad family refused to return the painting "Seated Man with a Cane" by the Jewish-Italian painter Amedeo Modigliani to its original owners. The family refused the restitution request, despite the compelling proof specified by the letter writer that the painting was owned by his grandfather, a Jewish art dealer, during the Nazi regime. In response, the Nahmad family stated that it did not own the painting, valued at USD 25 million. According to them, the true owner of the painting is "The International Art Center", a company registered by the family through the "Mossack Fonseca & Co." law firm in Panama.¹⁷

In his book *The Lost Museum: The Nazi Conspiracy to Steal the Great World Art Works* (1997), the Puerto Rican journalist Hector Feliciano sheds light on the fate of some 20,000 works of art that the Nazis looted from Jewish families.¹⁸ Feliciano traced these works and found them in museum collections and offshore facilities. Vincent Van Gogh's *Watermill at Gennep* (1884), for example, serves as evidence that offshore facilities play a significant role in such shady transactions. A museum in Madrid, named after the collector Carmen Tyssen-Bornemisza, purchased the painting through a company located on the Cook Islands in the Pacific, considered a tax free zone; thus no tax was paid on the transaction.¹⁹

Another example is the career of former Israeli diamond dealer, Erez Daleyot, who purchased an art collection worth USD 28 million. Daleyot's

¹⁶ Starkman and Fitzgibbon, 2017.

¹⁷ Gilbert 2018.

¹⁸ Feliciano 1997?

¹⁹ Hudson 2013.

collection is stored at Geneva and comprises works of art by Jeff Koons, Joan Miro and Andy Warhol. Currently, Daleyot is charged with tax evasion amounting to millions of dollars. His case was also uncovered as the result of the exposure of a company, surprisingly named “Equalia”. It was handled by the founder of the company’s collection, i.e. Daleyot.

The fact that these are not only a few select cases is attested by the testimonial of Georgina Adam who in her book *Big Money: The Art Market Explosion in the 21st Century* describes the role of the art market in such shady transactions:

The art market’s famed and openly acknowledged opacity concerning prices, ownership and transactions, coupled with the easy portability of art, have made it an easy target for all sorts of skullduggery from the just-legal to out-and-about criminality. With few in the trade keen on revealing what is going on behind the scenes – and aggressive lawyers protecting the interests of the biggest players – it is difficult to prove wrongdoing, although some recent and high-profile lawsuits have tweaked the curtain aside a little.²⁰

It is interesting to note that aside from her concern for the art world’s misdeeds, Adam gained attention for her account of the rise and fall of a separate “-ism” symptomatic of the twenty-first century but not disconnected from Freeportism. The term “Zombie Formalism” was coined by artist and critic Walter Robinson (2014), describing a recent “product” of mostly male artists, involving generic abstract painting. In an economic sense, “Zombie Formalism” might explain the surge in the art market of the first decade of the twenty-first century. When turning young artists into speculative investments, investors consume art from a young generation of artists who create instagrammable pieces for a relatively low price that subsequently doubles or even triples quite quickly.

“Duty free art” or “freeportism” evolved into significant manifestations in today’s art market and collecting. These phenomena clearly seem to demonstrate the inherent contradiction of many contemporaneous works of art: they are at once and at the same time a commodity – with the potential to hide the owners’ intentions – as well as a critical stimulant for the debate about its very role in the art market’s “food chain”.

²⁰ Adam 2014, 162.

One quite extreme example of this two-sided coin is the installation by the Italian artist Paolo Cirio *Loophole for All* (2013). A website created by Cirio serves as an interventionist and participatory work of art that deals with phenomena of offshore warehousing. On the project’s website, Cirio gives advice – in four simple stages – to those who would like to hack a Cayman Island company.

As companies existing “on paper” and producing fictitious signed sale certificates of over 200,000 companies operating in the Cayman Islands’ tax havens, *Loophole for All* is a work of art that creates a stimulating aesthetic space, in which the debate on the ethical perspectives of economic inequality in the context of financial secrecy may come to the fore.

Offshore facilities and freeports belong to the most deceptive schemes of today’s global economy, combining art with shady businesses. As intellectuals and artists, it is our task to develop methods that create spaces for the acknowledging and conceptualisation of phenomena that slowly but surely spread in the art scene. By utilising the same logic as devices for tax evasion, Cirio’s art project is a compelling example of a work of art that produces awareness and gives materiality to what is many times invisible to general perception.

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