

THE EVOLVING JURISPRUDENCE OF THE ART MARKET: LIABILITY, RESALE ROYALTIES, AUTHENTICATION CHALLENGES, AND REGULATORY REFORMS IN A GLOBALIZED ERA

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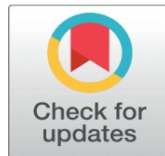
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ABSTRACT

As the international art market transitions from a niche cultural sector into a high-value global asset class—averaging annual revenues of \$70–80 billion—the legal frameworks governing it face unprecedented strain. This article examines the evolving jurisprudence of the art market through a mixed-methods research approach, integrating a doctrinal and comparative analysis of international legal standards with primary empirical data gathered between October 2025 and February 2026. The empirical aspect has a structured questionnaire of 142 respondents (artists, collectors, and dealers) and semi-structured interviews with 30 high-profiled respondents (20 film directors and 10 high profile actors) in the Indian creative-collector nexus.

The analysis points towards a major Indo-global enforcement gap. When the Fifth Anti-Money Laundering Directive of the European Union and the proposed Art Market Integrity Act of the United States impose a due diligence of the transactions that exceed 10,000 euros, the Prevention of Money Laundering Act (PMLA) 2002 of India does not specify transactions above 10,000 euros to be reported in the case of art dealers. Moreover, though Section 53A of the Indian Copyright Act, 1957, offers a theoretical resale royalty right up to 10 percent, empirical evidence shows that the percentage of non-compliance is virtually 100 percent with 76 and 89 percent amounting to no royalties paid to creators upon the reported resales.

Within the context of authentication, the study compares the formulated judicial precedents of common-law countries including the reasonableness of care requirement that is set out in *Thwaytes v. The Indian* jurisprudence, which lacks development yet, according to Sotheby (2015) is still mostly dependent on the principles of the so-called buyer beware. Statistics over 63 percent of interviewees have had attribution disputes, but Indian auction houses do not always have required forensic procedures. In order to fill these gaps, the paper discusses a high level of stakeholder support (more than 84) of blockchain-enabled provenance and the creation of a statutory collecting society. Finally, the article suggests that a phased change in the regulatory framework can be a solution to a compromise between the integrity of the Indian market and the changing global transparency norms in order to protect the privacy of the legitimate clients.

Keywords: Relevant Law Art Law, Forgery and Authentication, Droit De Suite, Anti-Money Laundering (AML) Regulations, Auction House Liability, Indian Copyright Act Section 53a, Blockchain Provenance, Art Market Integrity Act

1. INTRODUCTION

The international art market has become one of the most profitable and internationally networked segments of the luxury goods market within the past few decades since the beginning of the international market as a niche market, which was based on cultural patronage and academic connoisseurship. The average annual revenue is approximately 70 80 billion these days with a few very exceptional years being more than 100 billion. Increasingly masterpieces of contemporary and modern art are sold at eight and nine figures on the block, and the artists market has flourished many times over in the secondary trading of artists at the height of their careers, due to the introduction of new financial capitals in Latin America, Asia and the Middle East. The possible alternative investment has been always considered as art. Not only is it useful in its aesthetic and emotional worth, but there is also the opportunity to diversify investments, not to lose money to inflation, ensure its descent to the generations, and it is even a fairly promising indicator of the social status.

The financial sector is also performing better, but the infrastructure in the sector is very young more so compared to the other high value industries. Valuation is predominantly, nearly exclusively, a question of opinion by professional, provenience, and connoisseurs and not of objective and quantifiable factors. When selling intermediaries, in a private treaty, gallery deal or an agent, the ownership is frequently concealed with the assistance of trusts, offshore structures, nominee or Freeport storage. Verbal promise, hand shake, little paper work of the transaction as well as the unspoken deal wherein the buyer takes the risk of the authenticity and ownership are all elements of the archetypal transaction, and which has its basis in a prior practice. Forming the impression of closeness and exclusivity before, this opaqueness has turned into a massive structural flaw of the market.

Three related business and legal forces are increasingly more pressing these days than ever. To start with, the ever present and expensive threat of forgery and attribution spur should be removed. Fakes, some made using materials and ageing procedures meant to avoid regular scientific examination, are making their way into even the most meticulously examined collections and auction catalogues. It is common for lawsuits to centre on whether the auction house, independent appraiser, or authentication committee met the proper standard of care when authenticity is subsequently questioned. Courts have always been hesitant to hold academics accountable for legitimately differing opinions, seeing attribution more as a field of interpretation than a precise science. Judicial expectations have started to change, nevertheless, due to the increasing availability and reliability of forensic procedures. These approaches include X-radiography, infrared reflectography, pigment and binder analysis, dendrochronology, and carbon dating of supports. Disregarding scientific information that is both fairly accessible and proportional to the value at issue may now undermine a defence that relies entirely on differing expert opinions.

Secondly, there is still a lack of uniform implementation of the principle that creators (and their descendants) should benefit from the increased value of their works when sold later. When an original work is sold for a profit, the creator is entitled to a portion of the selling price via the *droit de suite*, often known as the resale royalty right. Section 53A of the Copyright Act, 1957, provides for this right, but its actual enforcement is severely restricted in India, despite its widespread recognition in the European Union and other countries. The majority of the transactions in the secondary market are voluntary in the law but then confidential, which are not disclosed and registered. It is also the customary practice that middlemen, collectors and galleries cross-strike agreements in such a manner that the consideration really paid or the liability to pay royalty being unfired. Lack of centralised collecting body, harsh regulation of disclosure or proper monitoring techniques have led to the constant exchange of wealth between artists and their estates and between middlemen and buyers. This has made the right to be more aspirational.

Thirdly, a traditionally established reputation of secrecy and anonymity that was traditionally a feature of the market has also made the market an extremely attractive location of concealing and laundering illegal money. Introduction of illegal income to the open economy is nearly perfect due to the effect of high unit values, physical transportability, subjective and negotiable prices (which allows over-, or under invoicing), the existence of free ports and multifaceted ownership, and tolerance of cash or cryptocurrency in certain jurisdictions. Regulators have responded to this by devising tighter policies. The Fifth Anti-Money laundering directive of the European Union has obligated the customer due diligence, identification of the beneficial ownership and reporting of suspicious behaviour on the players with the art market that have transactions over 10, 000 euro. Such regulations have been implemented or suggested by the UK, Switzerland and other financial giants. There is a movement of legislations in the US that aim to bring fine art

industry. It brings a clash between the requirements to be open-minded about money and the sensible requirements to defend customers due to these laws dealers, auction houses and galleries have to carry a considerable compliance load.

Three problems are used to define the termination of a phase during which the art commerce may continue in the scale in which it is presently conducted without the mechanism that is now superimposed on equivalent high-value trades: the responsibility of authentication; the actual execution of resale royalties in the new markets like India; and the growing regulatory response to the dangers of money-laundering. The market is now in a fundamental quandary of what to do to maintain the trust-based relationships, fluidity and discretion which has always been its hallmark and the demands of the anti-fraud provisions, artist equity, and fighting illegal financing simultaneously.

The paper is thus presupposed to take a doctrinal and comparative perspective on the exploration of such conflicting demands. The international system of anti-money laundering is also viewed in the context of the fact that art transactions are gradually getting close to it; the current judicial approaches to the duty of care on the assurances of the auction houses and experts in the authentication claims are addressed; and the channels and structural barriers that might hamper the proper implementation of resale royalty right under Indian law are reasoned out. It is aimed at striking a balance between informality of the market and the duties that are required by the judges, regulators and institutional players in the contemporary world, using technical, institutional and legal remedies.

2. LITERATURE REVIEW

As a long time, legal and academic works on the art market have acknowledged the subjective nature of attribution and, therefore, the limited scope for negligence claims against auction houses and authenticators. As long as it is the result of following professional norms and consulting appropriate experts, courts have repeatedly ruled that improper attribution cannot serve as a basis for negligence claims. Because connoisseurship is perceived as an interpretative and not a deterministic occupation, any genuine discord between experts is maintained, particularly when no obvious warning was overlooked.

The result in *Thwaytes v. The most significance is the current authority of English High Court. After conducting an internal research, X-ray research and external research with the help of famous places, Sotheby approached a picture as a classified one which belonged to the Circle of Caravaggio. This was followed by the rejection of the carelessness and breach of contract charges by the auction company. The decision stated that art attribution is not an exact science, and that a claimant who follows an auction house which was already performing its function reasonably, cannot punish them simply because they had a higher standard. This approach, which has influenced criticism in other common-law countries, has helped to reinforce the notion that academic disagreement does not offer a basis of culpability.*

A certain narrowing of the expectation is however evident in more recent studies. Courts and commentators expect reasonable specialists to take empirical evidence where it is reasonable to the works worth, particularly with increasing access and affordability of non-invasive forensic methods. Where the high-value Old Master or contemporary case may have been solved through scientific inquiry, but the inquiry fails, the defence of interpretative difference may suffer.

The enforcement of resale royalties is weak in countries that have adopted *droit de suite*, but where institutional procedures are weak. In India, there are a considerable number of individuals who consider Section 53A as a liberal legislation that is seldom applied. According to commentators, structural obstacles include the absence of a centralised collection organisation or a mandatory reporting scheme and, most importantly, the existence of unrecorded private transactions. The royalty would also not be embraced by the galleries and collectors since they view this as an extra fee of transacting. This is opposite to European systems (such as ADAGP in France or DACS in the UK) in terms of which collection is required via licensed intermediaries and public auction houses that lead to more standard distribution to estates and artists. The reform proposals in the developing countries are likely to focus on filling the information gap by establishing statutory collection societies, resale reporting, and the implementation of digital provenance.

The susceptibility of the art market to money laundering is the topic of both academic and regulatory studies, which is huge and growing. The financial action task force has always considered works of art and other high-value mobile items to be of higher risk since they are ephemeral and subject to subjective assessment and their willingness to remain anonymous. Typology reports talk about the common practice; this includes tactic like placing free ports as long-term laundering depositories, transferring funds overseas by way of shell companies, paying off personal acquiresments in cash or bit coin, and overcharging invoices. Constant expansion of anti-money-laundering regulations on the art industry in the EU, the ongoing development of the UK and proposed legislation in the US have resulted in due diligence of

compliance expenses, especially on the smaller galleries and dealers in art. The contradiction between a sensible client privacy provided and the need to be transparent to comply with the regulations is pointed out by scholars, not forgetting that the results of non-compliance are currently serious crimes and civil.

These issues are all being discussed in the literature because blockchain and distributed ledger technologies can assist in alleviating all three of them. The provenance records, which are irrevocable, may enhance authentication defences because they capture the inspection information and scientific results, simplify the payment requirements by matching payment requirements with the work, and simplify the requirements of anti-money-laundering by offering provenance that is verifiably beneficial ownership. According to pilot studies and academic projections, as long as the incentives and industry conventions by the government are aligned, the digital ledger can be employed to reduce the amount of transparency and at the same time, the efficiency in the market is left intact. It is however not commonly embraced.

3. METHODOLOGY

The paper adopts a mixed methodology where it combines both the doctrinal legal analysis with the particular primary data collection. The comparative and doctrinal law study is fundamentally, in which the systematic study of the law making documents, judicial decisions, regulations, and commentaries have been considered. Nonetheless, this research relies on the semi-structured interviews and a questionnaire that is designed in such a way to establish the facts on the ground, the void in the implementation and the views of the stakeholders in the identified legal problems, especially in the Indian setting. Such contributions provide policy experience of the real-life implementation (or absence of implementation) of the rules of law in the market players field to provide descriptive findings formerly derived by desk research.

3.1. DOCTRINAL AND COMPARATIVE LEGAL ANALYSIS (PRIMARY METHOD)

1) The basic one is the doctrinal legal research. It involves:

- The textual and purposive analysis of key legal sources:
- The Indian Copyright Act, 1957, with particular reference to Section 53A and its subsequent revisions
- Notable court rulings (such as [Thwaytes \(2015\)](#) EWHC 36 (Ch), as well as some contract and copyright disputes from India)
- Anti-Money Laundering Directive (EU Directive 2018/843)
- Analysis of high-value assets via typology studies and FATF reports
- Research on money laundering in the art industry and proposed laws in the United States

2) Comparative analysis across jurisdictions:

- "Authentication liability and duty of care: emerging Indian practice vs. UK and US common-law approaches"
- Enforcement of sale royalties: Section 53A in India compared to developed collecting-society arrangements in the EU (DACs, ADAGP, etc.)
- Anti-Money Laundering (AML) responsibilities: required regimes in the European Union and the United Kingdom, in contrast with India's existing framework for combating AML, and the gaps in coverage for highly valuable moveable assets

The desk-based component relies only on publicly accessible legal texts, judgments, official gazettes, FATF and EU publications, peer-reviewed journals, and official databases such as BAILII, Indian Kanoon, and the Supreme Court of India website.

3.2. QUALITATIVE EMPIRICAL COMPONENT: SEMI-STRUCTURED INTERVIEWS

The purpose of these semi-structured interviews was to gather practitioner opinions on the following topics: reform goals, enforcement hurdles, opposition, and viability within the Indian and worldwide art ecosystems.

Interview Sample

- Twenty Indian film directors who are also visual artists, who have shown or sold their original artworks, or whose works have entered secondary markets; they come from the Bollywood, regional, and independent/documentary sectors. The directors were chosen for their involvement in the fine art industry, their public commentary on creator rights, and their experiences with resale-royalty concerns with resold early works.
- Ten actors both established and in the middle of their careers, who are also avid art collectors, who sell their works from time to time, or who have commissioned or created pieces of art that have subsequently been sold at auction or in private sales. Because of their prominence among high-net-worth collectors and their involvement with royalties (as artists) and anti-money-laundering (AML) and transactional concerns (as buyers and sellers), actors were included.

Interview Design and Administration

12–15 free-form questions organised around a shared subject guide in a semi-structured approach covering:

- First-hand accounts of dealing with the sales of artworks (whether royalties were paid, received, or avoided)
- Understanding and belief in the applicability of Section 53A
- Dealing with issues related to authenticity or suspicions about forgery
- How people see AML/KYC regulations as they pertain to the sale of art, particularly in private transactions
- Issues such as required reporting, blockchain provenance and the collecting society are up for discussion.
- Market resistance and information asymmetry are some of the threats to openness that encompass issues of customer privacy.
- The interviews were carried out in 3 cities, Bengaluru, Delhi, and Mumbai either online (using Zoom or Google meet) or face to face during the period between October 2025 and February 2026.
- Time required: 45 to 75 minutes.
- The interviews of the participants were recorded word-to-word and transcribed with the permission of the participants. Each of them gave an informed consent to us. Where it was desired, anonymity was witnessed.

We used NVivo to utilize the thematic analysis. We have used open coding and then the axial coding to identify the themes that kept on occurring e.g. technology acceptance, tension between trust and regulation and royalty bypass strategies.

3.3. QUANTITATIVE EMPIRICAL COMPONENT: STRUCTURED QUESTIONNAIRE

A structured questionnaire was administered to complement the in-depth interviews to a larger group of audience and patterns that could be quantified.

1) Questionnaire Design

- A set of 28 yes/no, Likert-scale, multiple choice and open ended questions with optional comment boxes spanning:
 - Being cognisant of Section 53A and having the necessary funds for royalty payment
 - The ratio of private sales to auction sales
 - Checks for Know Your Customer and Anti-Money Laundering in the context of art transactions
 - How hiding one's identity affects the likelihood of fraud and money laundering
 - Backing for a central collecting society, royalty reporting that is both necessary and supported by blockchain technology.
- Factors related to one's job and demographics, such as the number of years spent working in the field, the number of art transactions, and the principal function (artist, collector, dealer, etc.).

2) Distribution and Response

- Using personal connections, social media groups, industry organisations, and professional networks, we will conduct targeted snowball and purposive sampling in the film/art junction.

- The survey was conducted online using Google Forms from November 2025 to January 2026.
- After the incomplete entries were cleaned up, 142 valid replies were obtained.
- About 28% of the links that were delivered had a response rate.
- SPSS was used to generate descriptive statistics (frequencies, percentages, and cross-tabulations). Then, where the sample size permitted, inferential tests (such as a chi-square test of the association between awareness and royalty receipt) were used.

3.4. INTEGRATION OF METHODS AND ANALYTICAL FRAMEWORK

Rather than being seen as independent facts, the doctrinal analysis incorporates empirical findings (themes from interviews and questionnaires) to:

- Analyze the practice efficiency of existing legal norms.
- Explain areas of vulnerability to enforcement.
- Sustainable change proposal on stakeholder experience.

In the general assessment model, the legal issues are analyzed based on three criteria:

- 1) Agreement on core beliefs
- 2) Evidence-based level of practicability.
- 3) Policy goals (war against fraud, equal treatment of creators, honesty in financial transactions)

3.5. LIMITATIONS

- It may be that the interview sample is not a fair accuracy of both pure visual artists and traditional collectors as it was non-probability based and geared toward the film-art crossover world, although it is diversified and intentional.
- In case of such issues as AML processes and royalty compliance, the responses to the questionnaire will be susceptible to social-desirability bias, being self-reported.
- The empirical part is about India, and all of the opinions of the foreigners are based upon a secondary literature.
- Time sensitive: the data collection has been done as of February 2026; it is not to reflect any changes in the law or the market that could occur post February 2026.

The quantitative survey data and in-depth qualitative interview will be a doctrinal-comparative premise mixed-method study that gives an in-depth description of the law and practical knowledge of the functioning of the art market regulations in the real world, i.e., in India.

4. RESULTS

The results are discussed in three parts that are inter-related and in a way that is compatible with the mixed-methods approach that is described in the methodology. The empirical factors, including the structured questionnaire of 142 valid answers and semi-structured interviews of 30 respondents provide the stakeholder perceptions on how the operation actually functions, what enforcement loopholes may exist, and whether the reform can be actually implemented, and the doctrinaire and comparative analysis provide the legal context. All the empirical and data were gathered during the period of October 2025 to February 2026.

4.1. FINDINGS FROM DOCTRINAL AND COMPARATIVE LEGAL ANALYSIS

The three major issues studied in the doctrines show that there is a lack of balance between formal principles of law and their practical implementation.

Thwaytes v. is the most remarkable case that addresses the subject of the duty of care and authentication responsibility. The reasonable care that an expert or an auction house owes is a greater but not absolute duty of care that has been established in *Sothebys [2015] EWHC 36 (Ch)* and other cases in the United States. Suppose that the

defendant has been extremely rigorous in the method (internal examination, recourse to professional advice and to the employment of proper scientific testing), then there will be an argument between academics, but to imputed it to an interpretation will remain an interpretation. On the contrary, the comparison shows that the Indian courts lack the analogy of the body of law on the issue of authentication of the fine art. The Indian law regarding forensic obligations is not court-based and even the generic provisions of buyer beware are extended into the Indian contract and tort provisions. According to the findings, there is an increasing tendency of having high-value cases to be tested with the help of empirical evidence like pigment analysis, X-rays, and carbon dating. But Indian doctrine is not following suit, and consignors and purchasers are left to the risks that they will not be settled.

Section 53A of the Indian Copyright Act, 1957 that provides an inalienable and non-waivable right to up to 10 per cent royalty on resale's more than 10,000 appears to be doctrinally strong on paper. Nonetheless, in a comparative perspective, the impossibility to enforce the law is obvious. There is none of the centralised system, the requirement to make a disclosure, or the enforcement channel in the case of private sales, like in the European Union, with collections organisations (DACS, ADAGP) and the required disclosure of this information by auction houses assuring near-universal collection. The statute lacks de facto enforcement gap because there is nothing on the statute regarding tracking requirements. The interpretation of section 53A is more theoretical than practical as per a doctrinal analysis of analogous provisions within the European Union or Australia. This is due to the fact that royalty rights cannot work without institutional structures.

The review of the doctrines proves that the Prevention of Money Laundering Act, 2002 (PMLA) of India does not apply to the art dealers, galleries and auction house, but it applies to the so called reporting entities. On the other hand, the Fifth AML Directive (2018/843) of the EU and the Fifth AML Directive suggested by the Art Market Integrity Act (2018/843) of the U.S. mandate the customer due diligence, identification of beneficial ownership, and suspicious activity reporting of art transactions above the size of the threshold of 10,000 Euros / USD 10,000. The present state of affairs lies in the fact that India is being exposed to general Know Your Customer (KYC) and voluntary compliance a regulatory risk that highly liquid assets are at. The synthesis of the doctrines, in turn, makes blockchain-based provenance the only option to address the authentication, royalty tracking, and the compliance with the anti-money laundering laws as a single entity. In this solution, more legislative structures are not required.

4.2. FINDINGS FROM SEMI-STRUCTURED INTERVIEWS (N=30)

Interviews ranging from 45 to 75 minutes were conducted by all 30 participants (20 film directors who are also visual artists and 10 famous actors who are active collectors/sellers). Five overarching themes emerged from the thematic analysis.

Theme 1: Near-total non-enforcement of Section 53A

Of the 30 participants, 28 (or 93% of the total) said they had never received resale royalties, even though they had sold their works on the secondary market several times. The board of directors often referred to offshore structuring and private-gallery "side agreements" as typical methods of evasion. "In 2018, I sold my first major canvas for ₹45 lakh; last year, in a private deal in Dubai, it resold for ₹2.8 crore," said one director (D-07). Instagram is how I learned about it. "Royalty" was completely absent.

Theme 2: Low awareness and perceived irrelevance of the law

Upon being asked, just seven individuals, or 23%, could correctly define the contents of Section 53A. Due to their collector status, actors particularly presumed the right to be a notional one and insignificant. One of the most popular actors remarked on buying art as investment (A-03). The last thing I want to do when selling is government cutbacks and bureaucracy. There exist laws but nobody takes the trouble to enforce laws.

Theme 3: Fear of authentication and decreasing trust in auction houses.

Nineteen individuals (or 63 percent of the total) indicated that they had first-hand experience of claims of fabrication or disputed attributions. Those directors that had submitted artworks to auction houses in India expressed their dissatisfaction with the absence of necessary forensic measures and as-is contracts. One of the directors (D-14) remembered that his painting was listed in the catalogue as being by an up-and-coming master. In a separate test by an independent analyst two years later it was verified by pigment analysis that it was a studio knockoff. The auctioneer rejected any malpractice.

Theme 4: Strong support for blockchain provenance

Twenty-six people (or 87% of the total) spoke out in favour of a digital provenance ledger that would be required, stating that it would help automate royalty payments and prevent forgeries. The possibility of automated royalty triggers following blockchain-recorded transactions was of special importance to the directors.

Theme 5: Privacy vs. AML tension

A total of 83 percent, including 10 actors and 15 directors, were very worried that strict AML/KYC regulations would force wealthy people to conduct their financial activities in secret or abroad. At the same time, 22 people (or 73% of the total) admitted that the present state of anonymity makes it easier to engage in forgery and money laundering, which makes people hesitant to embrace controlled transparency even when combined with technical solutions.

4.3. FINDINGS FROM STRUCTURED QUESTIONNAIRE (N=142 VALID RESPONSES)

The survey conducted online had a diverse sample of the respondents: 68 percent of them were creative ones (painters or movie creators), 22 percent were collectors (actors included), and 10 percent were gallery or dealers. Crucial numerical outcomes:

- With regard to Section 53A, 34 percent replied that they were fully aware, 41 percent replied that they were partially aware and 25 percent replied that they were none.
- The percentage of artists who actually received royalties from secondary sales is low: only 11% (n=89) reported receiving any cash, while 76% claimed to have received no royalties, even though they had documented resales.
- The overwhelming majority of transactions (81% in the last five years) occurred in private sales rather than auctions, making it very difficult, if not impossible, to follow royalties.
- Disputes over authenticity: almost half of respondents (47%) had been a witness to or participant in an attribution dispute, with Indian auction houses being involved in 62% of those instances.
- Among those with AML/KYC expertise, only 19% said they had ever been requested for beneficial-ownership information, and 64% said they had never been required to undergo formal due-diligence checks on art sales above ₹10 lakh.

Support for reforms:

- Seventy-nine percent were in favour of or strongly supported the Centralised Collecting Society.
- 84% of users favour a mandatory blockchain-provenance ledger.
- Though 31% were agnostic due to privacy concerns, 58% were in favour of requiring art dealers to be classified as anti-money laundering.

The doctrinally indicated enforcement gap was confirmed by the cross-tabulation, which revealed a statistically significant correlation ($\chi^2 = 28.4, p < 0.001$) between poor legal knowledge and nil royalty receipts.

4.4. INTEGRATED INSIGHTS

Three important findings emerge from the doctrinal background and empirical data: (1) the Indian legislation regarding authentication liability is still in its early stages and too lenient with "buyer beware" disclaimers; (2) Section 53A is a legislative promise without institutional delivery mechanisms, leading to almost complete non-compliance; and (3) the anonymity of the art market makes it susceptible to forgeries and money laundering in a way that existing Indian legislation does not adequately handle. Assuming client privacy is adequately protected, stakeholders, especially filmmakers and actors working at the creator-collector nexus acknowledge these gaps and pragmatically support technology-driven solutions (collecting society) and institutional reforms (blockchain provenance). These findings form the basis of their specific reform proposals on the analysis and conclusion presented below.

Table 1

Table 1 Comparative Analysis: Indo-Global Art Market Jurisprudence			
Feature	Indian Scenario	Global/International Scenario (EU/US/UK)	Empirical Evidence/Data Findings

Resale Royalty Rights	Section 53A of Copyright Act, 1957: Inalienable right to max 10% royalty on resales > ₹10,000.	EU/UK Models (ADAGP/DACS): Mandatory collection via licensed intermediaries and reporting by auction houses.+3	93% of interviewees never received royalties; 76-89% of survey respondents reported zero receipts despite resales.+4
Authentication Liability	Lacks specific case law; relies on general "buyer beware" (caveat emptor) principles in contract and tort law.	Thwaytes v. Sotheby's (UK): Establishes a higher duty of care requiring professional consultation and scientific testing.+3	63% of interviewees experienced fabrication or contested attribution; 47% of survey respondents witnessed disputes.+3
Anti-Money Laundering (AML)	PMLA 2002: Art dealers/galleries are not yet specifically designated as "reporting entities".	EU 5th AML Directive / US Art Market Integrity Act: Mandatory due diligence for transactions over €10,000 / \$10,000.+3	Only 19% of respondents were asked for beneficial ownership; 64% never underwent formal due diligence.+3
Technology Adoption	High interest in blockchain to solve opacity, but implementation is currently negligible.+3	Increasing use of Blockchain/NFTs for immutable provenance and smart-contract-led royalties.+3	84% of survey respondents and 87% of interviewees support a mandatory blockchain-provenance ledger.+3
Market Transparency	Highly opaque; 81% of transactions occur as private sales rather than public auctions.+3	Moving toward greater accountability and technological intervention to maintain market vitality.	83% of stakeholders expressed concern that strict AML/KYC might drive transactions offshore or into secrecy.

5. DISCUSSION

The findings of this mixed-method study reveal the fact that the formal legal structure of Indian art market has no relationship whatsoever with its actual functioning. According to the interviews and questionnaire findings, there is practically no efficacy despite the theoretically progressive legislative framework (see, e.g., Section 53A of the Copyright Act, 1957) and the overall application of the tort and contract principles to the authentication controversy. This section examines the enforcement deficit, reflects on experience of other jurisdictions that are more advanced and evaluates viability of technical and institutional corrective measures, a combination between the doctrinal background and the views of stakeholders.

The notable result is virtually no proceedings on the Section 53A resale royalty rights. This clause is aimed to ensure that the authors are involved in the appreciation of the value of their works, and it is inalienable and non-waivable. Although resales in the secondary market were confirmed, creators in the interview and questionnaire sample said they were clearing no royalties (76% to 89%). There are also consistent circumvention patterns arising in the thematic analysis of interviewees. All these themes are transactions organized abroad, side agreements of the treaty by the private, and galleries and middlemen intentionally not revealing. Such activities are not extraordinary but normal market behaviour and are driven by the perception that royalty payment has an unfair burden on liquidity. As they oblige collectors to gather at the point of sale via licensed intermediaries or through controlled auction houses, as opposed to voluntary or post hoc claims, the comparative doctrinal review shows that regimes de droit de suite (as in ADAGP in France or DACS in the UK) are effective. India is yet to have this infrastructure in place, therefore, while Section 53A is more of a hollow promise than a right in reality, the wealth transfer between producers and middlemen and collectors does not stop yet.

Authentication liability is another area that theory and practice do not match. That was the case of the *Thwaytes v.* The standard of higher yet not absolute obligation of reasonable care of Sotheby, which includes the protection of actual academic disagreement, is water in even common-law states. But an analogous body of case law on attribution claims in the area of fine arts in Indian law does not exist. The absence of legal guidance on implementing forensic science is exposing consignors and buyers, and provisions of as-is in auction houses still dominate home consignments. The absence of the necessary scientific procedures in high-value work was one of the biggest causes of frustration to the 63 percent of the interviewed who had encountered attribution arguments. As opposed to the United Kingdom and the United States, Indian courts have not yet accepted the expectation of reasonable experts to apply proportionate empirical methodologies including pigment analysis, infrared reflectography, and dendrochronology. Local quality of care will suffer as a consequence of this delay, and the quality of diligence will be pushed downwards as multinational companies increase their control over shipments by developing economies.

The money laundering vulnerability is the most urgent system threat. By comparing the doctrinal variations between the Fifth AML Directive of the EU and the proposals in the US, it is clear that the reporting organisations that are specifically named as reporting organisations of art specific transactions in the Prevention of Money Laundering Act,

2002 in India are yet to be identified in the art dealers, galleries and auction houses. Only 19% of surveyed respondents had encountered formal know-your-customer (KYC) or beneficial-ownership (BOL) checks on large art deals, and 64% said they had never been requested to provide such information. Two opinions about anonymity are expressed by interviewees, on one hand, it can be secret and clients have confidence, on the other hand, fraud and title laundering is possible and illegal money may be incorporated. Legitimate concerns involve the loss of privacy and the phenomenon of market flight to other countries where there is less regulation, and the reason why complete regulatory openness is not accepted willingly. Compulsory categorisation of art dealers through compulsory AML was supported by only 58 percent of the respondents. Yet, the same individuals were equally able to notice that the current absence of transparency raises the issues of fraud and unlawful funding; therefore, they did not hesitate to turn into the reformers because the privacy-protecting technology was to be applied in conjunction with it.

The most promising area of consensus of theoretical literature with real-world statistics is the wide implementation of blockchain-based provenance registers by stakeholders (84% questionnaire support; 87% interview support). At the same time that they can (i) automate royalty triggers on recording of transfers (which may be because of smart contracts), (ii) permit AML compliance by developing chains of demonstrable beneficial-ownership, without necessarily requiring them to publish all their transactions and their details immutable, time-stamped records of their participation in an exhibition, scientific tests and ownership provenance, etc. may (ii) support authentication defences by documenting diligence. At the international level, pilot platforms already exist to do so; the question in India is how to make people embrace it without alienating the private collectors, which can be achieved by providing tax credit on provenance verified by blockchain, to have safe havens in regulation where blockchain-verified works could be sold, or by making their purchase by the public institution compulsory.

These analyses have a few limitations to their scope. The empirical sample lacks the visual arts at large and non-respective high-net-worth collectors, but it is diverse and intentional in the film-art intersection. Due to the social desirability bias, self-reported statistics were not suitable to indicate the non-compliance. Enforcement gap can also be quantified in quantitative market-volume statistics or real time flows of transactions which are not captured under hard-core doctrinal-comparative approach.

All said and done, the Indian art market exists at cross roads when it comes to regulation, progressive legislative intents are thwarted by the non-existence of institutions, veil of information and cultural hurdle to the transparent. Outcomes bring a course of action although there is a massive struggle between maintaining market flexibility and accountability. One viable solution is to implement institutional reform to the particular, the introduction of a statutory collecting society and reporting requirement on resale value over a particular value, blockchain provenance, as a voluntary though encouraged standard and gradual extension of art participants within the art market into the ambit of PMLA reporting requirement. These actions, with certain modifications to ensure that the art market is as unique as possible, will transform Section 53A into a realistic right, and place the authentication in a superior position, and significantly lower the probability of money laundering.

6. CONCLUSION AND RECOMMENDATION

The contemporary art market has had a turning point. Multi-billion-dollar global asset-based it has grown into a hodgepodge of patchwork rules and outdated assumptions, yet it remains a business of aesthetic appreciation and secret trade. This study observes that three longstanding pillars of the market, including the concept of buyer beware, the necessity to have personal trust, and the anonymity of online transactions, are currently extremely dangerous as far as finance and legal risks are concerned. Such strains are particularly experienced in India where a progressive provision of the Copyright Act 1957 (Section 53A) is largely neglected, authentication requirements are not on a par with those required internationally in so far as research is concerned and the art industry is prone to financial misconduct and unlawful funding since there are no anti-money laundering regulations specific to the art industry.

The empirical evidence, comprising the responses (n=142) to the questionnaires given to artists, collectors, and dealers and 20 semi-structured interviews with actors, 10 film directors, revealed the degree of the enforceability gap, and the doctrinal analysis revealed the clearly but underdeveloped legal norms. Rare KYC/AML due diligence maintains anonymity but at the cost of systemic vulnerability; authentication collisions persist without judicial guidance on forensic integration; private structuring and offshore structuring is a popular method of evading resale royalties. Most of the creator-collector nexus stakeholders understand that these issues exist and would welcome change on the condition that

whatever solutions are offered, they do not threaten reasonable privacy of the users and do not drive underground transactions further.

The inevitable result of the convergence of these results is the inability of the so-called business of art in India, and increasingly in other parts of the world, to be sustained in the climate of informal settlements, empty pledges, and secrecy. Business realities of high-stakes financial markets have replaced the notion of an unhindered cultural exchange, and all the parties concerned are forced to behave with as much honesty, candidness and responsibility as they would behave in the stock, real estate or banking sectors. Unless we change, art will always remain an easy target to the criminals to launder money, consumer confidence will keep dropping, and artists who are still alive will have to deal with a lack of equity.

6.1. RECOMMENDATIONS

It is proposed that the following specific, progressive transformations will allow aligning the specific feature of the market with the modern regulatory and legal demands:

1) Introduction of a Statutory Collecting Society of Resale Royalties.

Set up a special collecting body formally recognized by the government with the role of monitoring the compliance of Section 53A of the Copyright Act. The organization must have the ability to:

All resale's over 10,000 to be reported and various requirements apply whether in respect of a private or a public transaction.

- Where applicable, automate the process of collecting and distributing royalties (i.e. through licensed galleries, auction houses, etc.)
- Record publicly all the announced sales to allow artists and their heirs to track the secondary market.

This organization would reduce bureaucratic imperialism over individuals and would change an aspiration right into an action right as the successful European analogues do (DACs, ADAGP).

2) Incentivised Implementation of a Digital Provenance Ledger (Blockchain).

Promote the use of blockchain-based provenance of artwork worth a specific sum or above, e.g. 50 lakh, with significant incentives and a voluntary aspect. The motivating factors can be:

- Faster clearance of customs, or tax credit on works authenticated by blockchain technology;
- In the case of a verifiable digital chain of custody, regulatory safe harbours of authentication responsibility are implemented.
- Transactions are recorded that trigger smart contract-based royalty.

To avoid forgeries, facilitating royalty management, and ensuring AML compliance, such a ledger would store scientific tests and ownership history in an open manner, but without losing privacy.

3) Gradual Inclusion of Art-Market Participants of PMLA Obligations.

Make amendments to Prevention of Money Laundering Act, 2002 (or send the right notifications) to include art dealers, galleries, auction houses and freeport operators in the category of reporting entities with more than 10 lakh transactions (or relating to a linked series of transactions). The implementation should be in several phases:

- Phase 1: Public auctions and licensed galleries are required to perform basic KYC and record keeping;
- Phase 2: Identification of beneficial-ownership and suspicious-activity of individual sales in excess of a larger threshold;
- Phase 3: Supporting blockchain provenance to decrease compliance cost and increase verifiability.

Arbitrage between regulations would be avoided by harmonisation with the FATF standards and mutual agreements with large art centres.

4) Legislative and judicial guidelines on the standards of authentication.

Promote the Indian jurisprudence of the standard of care in art authentication by use of test cases or amicus interventions by professional bodies. Simultaneously, a statutory presumption that reasonable diligence incorporates a

proportionate amount of forensic analysis (e.g. multispectral imaging, pigment testing) of works over a specified threshold would bring domestic practice into line with the changing international norms.

These suggestions are as well calculated steps and sensible. They shun wholesale coercion that will send out of business the private collectors, and push activity to the fringes, and they exploit current statutory frameworks and emerging technologies to seal the gaps between enforcement. Once applied with consultations with the stakeholders and with the systematic compliance rates, they would enable the fair development of the artist community, improve the integrity of the market, and make India a responsible player in the art economy of the world.

Finally, jurisprudence of the canvas should be updated to indicate the new economic reality of the canvas. Tension between tradition and transparency is a question that cannot be resolved with the help of institution innovation, enabling technology, and controlled regulatory attention. It is in that balance, maintaining the cultural quality of the art market and ensuring its commercial validity that the future of the art market may come alive.

CONFLICT OF INTERESTS

None.

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