

MUSINGS OF THE MONTH

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Introducing: January Musings of the Month

At the crossroads of creativity, culture, and the law, fresh perspectives illuminate the ways we safeguard, critique, and reimagine our shared heritage. HALO's January *Musings of the Month* uplifts these voices — spotlighting diverse and timely contributions that continue to push these conversations to the forefront.

In this January edition, we turn to pressing questions of authority, access, and legitimacy across the global art and cultural landscape. From an examination of enduring dysfunction in art authentication paired with a timely analysis of AI authentication mechanisms to our first-ever contribution featuring cartoon imagery as part of a visual constitutionalism project, these articles explore how historical systems of governance, armed conflict, structural inequality, and institutional norms continue to shape artistic creation and preservation worldwide.

This month, we feature four insightful muses:

- **Dr. Gabriele L. Stark-Lütke Schwienhorst** traces the erosion of artistic freedom in twentieth-century Germany, examining the ways criminal law and authoritarianism in the Weimar Republic and under the Nazi regime transformed constitutional guarantees of *Kunstfreiheit* into tools of repression.
- **Paris Sistilli** documents the systematic erosion of cultural heritage amid the ongoing civil war in Sudan and highlights urgent, Sudanese-led efforts to safeguard museums, archives, and historic sites against further destruction that threatens the preservation of collective memory.
- **Suhani Baheti** introduces SketchVidhaan, a visual constitutionalism initiative designed to democratize access to India's Constitution by translating complex legal principles into culturally resonant imagery.
- **Hadassa Trau**, a member of our Editorial Staff and first-time *Musings* contributor, confronts the art market's reliance on conflicted expert authority and explores whether AI authentication can resolve coordination failures that render courts, forensic science, and even truth itself market-irrelevant.

Each piece in this month's *Musings* reveals the ability of institutions to endanger, and safeguard, artistic expression and cultural heritage. Together, they ask who is empowered to protect art, who is excluded, and what is lost when the law fails to implement the conditions necessary for culture to endure. Through this series, we continue to cultivate a space for reflection and dialogue that connects scholarship, practice, and advocacy that sits at the intersection of art and law. We invite our readers to join us in this ongoing conversation and to submit their musings for consideration as we work to uplift collective consciousness surrounding the creative arts.

We hope you enjoy.

Sincerely,
Charlotte McCarthy

Kunstfreiheit and its Criminal Law Limits in the Weimar Republic and Nazi Germany



Image Source: [Otto Freundlich](#)

Pictured: The cover of the 1937 catalogue for the Nazi's propaganda art exhibition, "Degenerate Art"

**Dr. Gabriele L. Stark-Lütke Schwienhorst*

I. Introduction

In Germany, the legal protection of *Kunstfreiheit*, a constitutional guarantee of artistic freedom – understood primarily as a defensive right against state interference – has always reflected broader struggles between state authority and individual expression. Historically, the *Kunstfreiheit* was often profoundly deeply limited or nullified by criminal law, political ideology, or authoritarian power. This tension was most evident in the twentieth century, when criminal law was often used to restrict or suppress artworks deemed politically or morally threatening.

Anyone seeking to understand the evolution of the *Kunstfreiheit* in Germany must in particular consider two eras that were fundamentally different in their political and legal structures: the Weimar Republic and the National Socialist regime. The Weimar Republic (1919–1933), the first democratic state to emerge from the First World War on German soil, was marked by political crises and economic upheavals, as well as an unprecedented cultural renaissance. Although the *Kunstfreiheit* was explicitly guaranteed in the constitution for the first time during this period, this guarantee was often merely an empty promise, primarily due to criminal laws and a conservative interpretation of justice.

The Weimar Republic came to an abrupt end when the National Socialists seized power in 1933. The Third Reich (1933–1945) established a dictatorship under which art was no longer free. Instead, it was brought into line and degraded to become an instrument of ideological rule. Anything that did not align with National Socialist ideology was defamed, banned or destroyed. The term ‘degenerate art’ still symbolises the systematic persecution and suppression of artistic expression today.

Against this historical background, the following article aims to shed light on the status of the *Kunstfreiheit* during both periods. It looks at how far legal protection actually went, the part played by criminal law in limiting the *Kunstfreiheit*, and the impact of political powerplays on decisions about the *Kunstfreiheit*.

II. *Kunstfreiheit* During the Weimar Republic

Art. 142 of the Weimar Constitution (WRV), which came into force on 14 August 1919, provided constitutional protection for the arts throughout the Reich [for the first time](#). Art. 142 WRV stated: “The arts, science, and their teaching are free. The state shall grant them protection and participate in their cultivation.” (“*Die Kunst, die Wissenschaft und ihre Lehre sind frei. Der Staat gewährt ihnen Schutz und nimmt an ihrer Pflege teil.*”) Additionally, some state constitutions of the Weimar Republic contained their own guarantees of Freedom of Art.

The Weimar National Assembly’s deliberations did not include a detailed discussion of the reasons for explicitly including the *Kunstfreiheit* alongside academic freedom in Art. 142 WRV.

While the Freedom of Expression stated in Art. 118 para. 2 WRV expressly provided for specific restrictions, such as censorship, “to combat trashy and obscene literature and to protect young people at public exhibitions and performances”, there was no comparable provision in Art. 142.

Under the Weimar Constitution, the *Kunstfreiheit* can primarily be understood as a defensive right against the state. Its inclusion in the constitution was a reaction to the widespread suppression of new forms of artistic expression through authoritarian measures at that time (cf. the decision of the German Federal Constitutional Court, BVerfGE 119, 1, 21 – *Esra*). Despite its unconditional wording, the *Kunstfreiheit* was not unlimited (*Kitzinger* in: Nipperdey, Reichsverfassung, Art. 142 S. 1 WRV, p. 449). It was widely held that the

Kunstfreiheit was entirely subject to the limits of criminal law (cf. the decision of the Reich Court, RGSt 62, 182, 184).

Although there were some progressive voices in academic literature calling for an extensive *Kunstfreiheit* (e.g. *Kitzinger* in: *Nipperdey, Reichsverfassung, Art. 142 S. 1 WRV*, p. 450), Art. 142 WRV was considered essentially meaningless by the overwhelming majority, and could be restricted to a large extent, or even entirely (e.g., *C. Schmitt, Legalität und Legitimität*, pp. 263, 330).

Furthermore, during the Weimar Republic, it was not possible to assert a violation of a fundamental right before a constitutional court. This further weakened the inadequate protection of the *Kunstfreiheit*.

Although the Weimar Republic formally guaranteed *Kunstfreiheit*, the [state strongly influenced artistic creation](#). Forms of reprisal such as bans, censorship, confiscations, criminal prosecutions, and arrests of artists were integral to state policy.

This was largely due to art's growing role as a vehicle for [social and political criticism](#). This critical stance is exemplified in the works of [Otto Dix](#) and [George Grosz](#), who were both subjected to severe persecution.

The criminal proceedings against artist *George Grosz* and his publisher, *Wieland Herzfelde*, are among the [most famous art trials of the Weimar Republic](#). The trial stemmed from the drawing "Christ with a Gas Mask," which depicted Christ on the cross wearing a gas mask and soldier's boots. The image was accompanied by the caption: "Shut up and keep serving!" ("*Maul halten und weiterdienen!*").

Grosz was initially acquitted, but the Reich Court [overturned the ruling](#), holding that the ability to give a "blasphemous impression" was sufficient grounds for criminal liability under Sec. 166 of the Reich Criminal Code. The court deemed it irrelevant whether the work was intended as art or satire. By doing so, the court clearly prioritized the protection of religious feelings over the *Kunstfreiheit*.

Although *Grosz* was acquitted again later, the Reich Court [ordered the drawings and printing plates destroyed](#) in an attempt to remove the image from circulation.

Other artists and publicists, such as [Oskar Panizza](#), [Carl von Ossietzky](#), [Kurt Tucholsky](#), and [Heinrich Zille](#), were also prosecuted for their work. In 1931, for instance, journalist *Carl von Ossietzky* published a *Tucholsky* commentary in his magazine "Die Weltbühne" containing the phrase "[Soldiers are murderers](#)" ("*Soldaten sind Mörder*"), a formulation that has by now acquired an almost proverbial, one might say near-legendary, status well beyond legal circles. Legally, the statement sparked considerable controversy. Prosecutors tried to treat it as a [criminal insult to the Reichswehr and its members](#). Although *von Ossietzky* was not convicted — the Reich Court concluded that it was a [blanket criticism](#) not punishable by law — this

case exemplifies how swiftly unpopular artists and their publishers were prosecuted under criminal law during the Weimar Republic.

This development was facilitated by the fact that the Weimar Republic's jurisprudence largely adhered to the [conservative artistic ideals of the Wilhelmine era](#). Only “pure art,” which was considered politically acceptable, was protected by artistic freedom. In contrast, unpopular art classified as “obscene,” “atheistic,” or “political” was often subject to criminal prosecution (J. Hoffmann, *Die Kunstfreiheitsgarantie des Grundgesetzes und die Organisation einer Mediengewerkschaft*, p. 182). Consequently, the legal concept of art remained blind to the actual developments of modernism. Movements such as Naturalism, Impressionism, and the deliberate provocation of the “ugly” and avant-garde received little recognition in case law (J. Hoffmann, *Die Kunstfreiheitsgarantie des Grundgesetzes und die Organisation einer Mediengewerkschaft*, p. 182). Photography and pictorial satire were also often not considered art. Thus, the legal understanding of art lagged far behind artistic creation's reality and was unable to reflect its diversity and change adequately.

This attitude became particularly apparent in the final years of the Weimar Republic, most clearly in [von Papen's government statement of 1932](#), which did not just hint at a determined fight against so-called cultural Bolshevism, but openly announced it.

III. The *Kunstfreiheit* During the Nazi Era

The political repression of art that was evident in the late Weimar Republic was systematically radicalized under the National Socialist regime and pursued with extreme measures. In *Adorno's* words: “What Hitler eradicated in art and thought had long since led a separate and apocryphal existence, whose last hiding places were swept away by fascism” (“*Was Hitler an Kunst und Gedanken ausgerottet hat, führte längst zuvor die abgespaltene und apokryphe Existenz, deren letzte Schlupfwinkel der Faschismus ausfegte,*” Adorno, *Minima Moralia*, p. 64).

Although the *Kunstfreiheit* was not explicitly restricted or abolished by the Reich President's Decree for the Protection of the People and the State of 28 February 1933 (known as the Reichstag Fire Decree, “Reichstagsbrandverordnung”, RGBl. I 1933, p. 83), there was [effectively no *Kunstfreiheit* during the Nazi era](#). Art was required to serve [Nazi ideals and purposes](#) and became completely [integrated into the state's system of power and control](#). The National Socialists not only ignored existing legal norms but also [created a façade of legality](#) by formally securing their measures through laws and regulations. For example, with the [Law on the Restoration of the Professional Civil Service](#) of 7 April 1933 (“*Gesetz zur Wiederherstellung des Berufsbeamtentums*”, RGBl. I 1933, p. 175), in short: the “[Professional Civil Servants Act](#)” (*Berufsbeamtengesetz*), they created a means of systematically removing Jewish civil servants and those who were politically or ideologically unwanted from public service.

The ideological instrumentalization of art was bluntly articulated. At the opening of the Reich Culture Senate (the Reichskultursenat) on 15 November 1935, Joseph Goebbels declared in his speech that artistic freedom must be confined to the limits set by political ideology rather than artistic ideology. *Alfred Rosenberg*, one of the [most influential ideologues of National Socialism and later the “Reich Minister for the Occupied Eastern Territories,”](#) provided a particularly revealing example of the racially motivated defamation of modern art in his work [“The Myth of the Twentieth Century”](#) (*“Der Mythos des 20. Jahrhunderts”*). Regarding *Picasso*, *Rosenberg* wrote, “But what Picasso still bashfully concealed behind geometric tricks came out openly and brazenly after the war: the mestizos claimed the right to present their bastard offspring, produced by mental syphilis and painterly infantilism, as expressions of the soul” (*“Was Picasso aber noch schamhaft hinter geometrischen Kunststücken verschwieg, trat nach dem Weltkrieg offen und frech hervor: das Mestizentum erhob den Anspruch, seine bastardischen Ausgeburten, erzeugt von geistiger Syphilis und malerischem Infantilismus, als “Seelenausdruck” darstellen zu dürfen”*, *Rosenberg*, [The Myth of the Twentieth Century](#), p. 299).

The systematic persecution of intellectuals and artists who opposed National Socialist ideas began early on. A symbolic beginning to this persecution was the [book burning](#) (“Bücherverbrennung”) on 10 May 1933. This event sought to destroy the works of numerous writers, as well as the ideological basis of dissenting forms of artistic expression. Books defamed as “cultural Bolshevik,” “decadent,” “degenerate,” or “Jewish” according to Nazi ideology were particularly targeted.

The “Gleichschaltung” (enforced conformity) of cultural life was finally formalized with the establishment of the [Reich Chamber of Culture](#) (“Reichskulturkammer”) on 22 September 1933. Subordinate to the Reich Ministry of Public Enlightenment and Propaganda (“Reichsministerium für Volksaufklärung und Propaganda”), this public corporation consisted of seven professional chambers that monitored all areas of culture. Membership in the Reich Chamber of Culture was required for any artistic activity. However, admission was subject to strict conditions, including a political reliability check and proof of Aryan ancestry, which systematically excluded undesirable artists. Not being admitted was tantamount to a [professional ban](#), which often meant financial ruin for the affected artists and effectively prevented them from pursuing their artistic careers. Two examples illustrate this: For example, the writer [Erich Kästner](#) was not granted regular admission to the Reich Chamber of Literature (“Reichsschrifttumskammer”) but rather temporary special permits. Ultimately, he was banned from publishing altogether. [Emil Nolde](#) was expelled from the Reich Chamber of Culture in 1941. He was prohibited from [selling or publicly exhibiting his works](#). Furthermore, Emil Nolde was even forbidden from [painting in private](#).

Yet state control extended far beyond institutional conformity. Art censorship reached unprecedented levels during the Nazi era. At the opening of the “House of German Art” (“Haus der Deutschen Kunst”) in Munich in 1937, [Hitler himself delivered a definitive rejection of all forms of modern art](#). He declared that works requiring “[instructions for use](#)” to be understood had no place in the cultural life of the German people. This ideological dichotomy between “desirable” and “undesirable” art was evident in the [“Great German](#)

Art Exhibition” (“Große Deutsche Kunstausstellung”) and the “Degenerate Art Exhibition” (die Ausstellung „Entartete Kunst“). The “Great German Art Exhibition” presented works corresponding to National Socialist nationalist ideas, while the “[Degenerate Art Exhibition](#)” defamed modern and avant-garde works. The works on display in the “[Degenerate Art Exhibition](#)” were deliberately presented in a derogatory manner, obviously intended to leave the most negative impression possible. [Otto Dix](#), who had already been prosecuted during the Weimar Republic, was one of the artists featured in the “[Degenerate Art Exhibition](#)”. He was famous for his unsparing and often shocking depictions of the atrocities of World War I and the social upheavals of the interwar period. His painting “[Der Schützengraben](#)” (The Trenches), which documents the destructive power of war with brutal directness, was among the works shown in the “[Degenerate Art Exhibition](#)”. The Russian painter [Wassily Kandinsky](#), a pioneer of abstract art, was also defamed in the exhibition. His colorful expressionist works contrasted sharply with the [Nazi ideal of naturalistic “folk” art](#). His paintings were branded as [incomprehensible, “chaotic”, and “subversive”](#) in the exhibition. His departure from representational art served as an example of the “[culture-destroying” modernism](#) that those in power opposed.

However, the Nazis' ideological campaign against art was not merely about defamation. Artworks labeled as “degenerate” were [systematically seized and destroyed](#). Through the “[Law for the Confiscation of Degenerate Art](#)” on 31 May 1938 (“*Gesetz über die Einziehung von Erzeugnissen entarteter Kunst*”, RGBl. I 1938, p. 612), the National Socialists established [legal grounds to confiscate such works without compensation for the benefit of the Reich](#). Artists affected by these measures faced various forms of repression. Some were [banned from practicing their profession](#), while others suffered [persecution, exile, or imprisonment](#).

Overall, the National Socialists used their power to [systematically suppress art they disliked](#). They pressured artists and cultural institutions, denied them state funding, removed unpopular works from public spaces, forced museums to close, banned publications, and confiscated unwanted writings.

The Nazi era represented a period of complete state control and ideological conformity in art. The Nazis destroyed artistic freedom by establishing criteria for what could be considered art and by creating a system that rigorously persecuted any deviation from these guidelines. In this repressive system, which did not allow for artistic independence, German art regressed to a state of insignificance, characterized by ideological narrow-mindedness. As *Adorno* aptly summarizes in “Minima Moralia”, “[...] the combatively renewed culture, on its first day, looked like the cities on their last: a pile of wreckage” (“[...] *die kämpferisch erneuerte Kultur [sah] schon am ersten Tag [...] wie die Städte an ihrem letzten [aus], ein Schutthaufen*,” *Adorno, Minima Moralia*, p. 120).

IV. Conclusion

The *Kunstfreiheit* is a precious commodity that must be protected by law. However, German history shows that it was fiercely opposed politically and criminally during the Weimar Republic and Nazi eras. Although the Weimar Constitution provided minimal protection,

it was weak and largely undermined by restrictive criminal laws and the judiciary's conservative interpretation of art. Thus, the guarantee of the Weimar Constitution proved to be empty rhetoric.

Under the National Socialists, the *Kunstfreiheit* was completely eliminated. The regime transformed art into a propaganda tool and persecuted dissident artists using repressive measures ranging from censorship to physical extermination. The enforced standardization of cultural life silenced all forms of independent artistic expression.

The German Constitution has learned clear lessons from German history. Its Art. 5 para. 3 [unconditionally](#) (“*vorbehaltlos*”) protects the *Kunstfreiheit*, which can be restricted only by conflicting constitutional values. This protection is a direct response to the Third Reich's state dictatorship of art, whose goal was to suppress any artistic expression that deviated from the regime. By unconditionally guaranteeing artistic freedom, the framers of the constitution sought to prevent the state from becoming an “[art judge](#)” (“*Kunstrichter*”) that decides which forms of expression are permitted or prohibited.

This understanding aligns with the overall structure of the German Constitution, which was designed to [explicitly oppose the ideological and repressive structures of the Nazi](#) era in many areas. Today, Art in Germany is therefore not merely considered to be a cultural issue, but rather a core component of a free constitutional state. However, Germany's bitter experiences in the 20th century show that this protection must always be defended and can never be taken for granted.

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In a War-Torn Sudan, One Man Fights to Preserve the Nation's Cultural Heritage



Image Provided By: Ali Nour

Pictured: NCAM's Emergency Response Committee, now the permanent French Archaeological Unit.

**Paris Sistilli*

Sudan's ongoing civil war between the Sudanese Armed Forces and the Rapid Support Forces has produced one of the world's worst humanitarian crises, displacing more than twelve million people. Less examined in international heritage discourse, yet equally urgent, is the systematic destruction of Sudan's cultural heritage. Since the outbreak of violence in April 2023, museums, archives, universities, religious sites, and community heritage institutions across the country have been damaged, looted, or entirely destroyed. This article traces the scope of this cultural erasure and examines the emergency safeguarding efforts led by displaced Sudanese heritage professionals, centering the work of Ali Nour, a heritage worker operating from Cairo. Ultimately, the article calls for a coordinated global campaign grounded in Sudanese expertise, to restore damaged sites, strengthen institutional capacity, and embed proactive risk-management mechanisms capable of safeguarding Sudan's cultural heritage against future conflict.

Introduction

The current [civil war](#) in Sudan, erupting on April 15, 2023, is rooted in a power struggle between the Sudanese Armed Forces (SAF) and the Rapid Support Forces (RSF). Their history is intertwined: during the Darfur conflict in the early 2000s, the Sudanese government under Omar al-Bashir utilized the Janjaweed militia, later rebranded as the RSF, against rebel groups, leading to accusations of ethnic cleansing. Ironically, the Sudanese Armed Forces and Rapid Support Forces worked together to jointly oust al-Bashir in 2019 before their rivalry ignited the present war. This devastating conflict has displaced over [12 million people](#).

Beyond the staggering human impact, Sudan's civil war has also unleashed an assault on the nation's cultural heritage. Reports confirm damage to sites like the Mohamed Omer Bashir Center for Sudanese [studies](#), the Omdurman Ahlia University library, and significant looting at the National Museum in Khartoum, among others.

The deliberate targeting of cultural sites, primarily by the RSF, spurred Sudanese heritage officials, many of whom were displaced to Cairo, Egypt, to formulate a safeguarding strategy. Central to these efforts is Ali Nour, a Sudanese cultural heritage expert and longtime member of the National Corporation for Antiquities and Museums (NCAM). Ali began his work in 2020 with the British Council's Western Sudan Community Museums project. Since 2023, he has volunteered full-time, working closely with leading Sudanese heritage scholars and museum directors.

For Ali, who has spent over two decades working in Sudan's cultural heritage sector, the war has not only been a national tragedy but a personal reckoning with the fragility of the heritage he's dedicated his career to preserving.

Motivations for Erasure as a Weapon of War

At its core, [cultural heritage](#) shapes the human condition and embodies the multifaceted aspects of our past experiences. As a tangible expression of identity, it often becomes a deliberate target for those seeking to erode the collective memory that binds communities together. Witnessing the destruction of an artefact or monument that has endured for centuries underscores the inherent fragility and ephemerality of cultural heritage and inflicts profound psychological trauma on the communities to whom it belongs.

Ali and his colleagues emphasized this argument to stress the urgency of international intervention and the magnitude of potential loss. The weaponization of cultural heritage during periods of conflict and instability has, regrettably, been a recurring feature of war throughout history. From the demolition of the Bamiyan Buddhas in Afghanistan to the burning of the

National Library in Sarajevo, such acts of erasure are tragically familiar. Now, Sudan is no exception.

“With the destruction of culture and heritage, you take their identities, their civil identities... You scatter their culture,” Ali stated, denouncing heritage site targeting as “deliberate cultural erosion.” This cultural destruction is coupled with economic warfare, targeting banks and factories to “strip the people of their economic means.” The violence, once perceived by Khartoum residents as distant issues in Darfur, is now occurring in the capital itself.

The Breadth of Destruction

Beyond the high-profile sites in Khartoum, the destruction is widespread. Museums, in particular, have been entirely looted. Six regional museums, built to foster social cohesion and house artefacts from ancient to prehistoric times, were entirely [looted](#), and the historic buildings themselves were damaged. In Darfur, the [Geneina Museum](#) was completely destroyed, and its curator, Bakri Hassan Ali, and his family were tragically killed.

While art and artefacts are certainly being heavily targeted, Sudan’s written history and records are also at risk. Universities and libraries have suffered extensive damage, as have National records departments containing archives dating back to the 17th century.

Churches, mosques, and synagogues have also fallen victim, drawing attention to the indiscriminate nature of the looting, cultural heritage destruction, and violence against civilians and civilian spaces. Such was the chaos that internally displaced Sudanese civilians fleeing their villages have even sought refuge within World Heritage sites in relatively safer northern areas, including inside the ancient Sudanese [pyramids](#). Amidst this uncertainty, protecting the remaining cultural sites has been no easy task. The Emergency Response Committee (ERC) has had to anticipate attacks without satellite imagery, instead relying solely on the judgment of professionals on the ground. Fortunately, this foresight has enabled the successful evacuation of several museum collections just before insurgent forces arrived.

Natural disasters also pose threats; objects moved north for safety from the RSF later faced risks from heavy rains and flooding, necessitating further emergency evacuations on short notice. Without technology like satellite imagery or weather tracking, predicting natural disasters and anticipating changes in the landscape, such as erosion, is nearly impossible.

During one such emergency, the Meroe Museum faced severe flooding. The team had to move the entire collection overnight to the Jebel Barkal World Heritage Site for temporary safety. “They didn’t even ask about pay,” Ali said. “Their only thought was for materials and transportation.” Many of these workers went unpaid for nearly two years, surviving on minimal resources while continuing to protect Sudan’s heritage under extraordinary risk.

From Exile: The First Safeguarding Efforts

Recalling the initial outbreak of fighting in April 2023, Ali describes the chaos as government officials and cultural professionals fled Sudan: “There was no communication. Nothing. Essentially, it was difficult to know who had survived and who had not.” In these early stages, with much of the government displaced, official support was nonexistent. “Preventing institutions from collapsing is the hardest part,” Ali noted, reflecting on the suddenness of the war. “No one anticipated the war - it all happened in one second, where everything changed.”

Amidst Crisis: Coordination

By June 2023, Ali managed to gather a team of senior NCAM staff in Cairo, including Director General Professor Ibrahim Musa and former Minister of Higher Education Professor Intisar Soghayroun.



Image Provided By: Ali Nour

Pictured: Professor Ibrahim, NCAM’s Former Director General who played a pivotal role in developing the Emergency Response Committee (ERC).

As the team devised a plan to manage current risks to vulnerable sites, they shaped their initial approach based on existing models of protection. “We looked at how others have

protected heritage in times of conflict," noted Ali. Drawing lessons from responses in Ukraine, Syria, Iraq, and Yemen, they assessed vulnerabilities ranging from sites' proximity to active frontlines and the heightened risk of looting to the absence of trained security personnel and safe storage for artifacts. They also identified logistical and institutional weaknesses such as disrupted communication networks, limited transport routes, and fragmented authority between cultural bodies, all of which hindered rapid response.

These vulnerabilities highlighted the need for a long-term heritage plan and a dedicated entity tasked with its creation and implementation. Out of this need, the ERC took shape, led by Sudanese professionals in Cairo. Recognizing that the committee's leadership, while academically accomplished, had limited experience in crisis management, Ali Nour volunteered his expertise in governance and administration.

Ali initially thought his volunteer role would be part-time, but the escalating crisis demanded a full-time commitment. This required him to leave his position at the British Council to avoid conflicts of interest. Renouncing his own source of income to continue his work with the ERC, Ali relies solely on his brother, Ammar, for financial support.

Scattered Solutions from Abroad

The ERC developed a new governance structure, dividing Sudan into five heritage sectors. Each sector has an appointed head based inside Sudan, responsible for coordinating local safeguarding efforts, from documentation to emergency evacuations. Ali emphasized that strengthening local capacity depended on close collaboration with communities, ensuring that preservation efforts remained rooted in personal and cultural connection.

Still, he acknowledged the challenges of managing teams inside Sudan while based in Cairo - challenges emphasized by the near-total collapse of Sudan's national infrastructure. "After the war, there was a national collapse; no coordination, no institutional protection, no funding," Ali said. Internet coverage was down, phone lines were cut, and even voice calls became impossible. "Before we found a solution, we were blind and deaf," he recalled.

Operating from Cairo, the ERC sought ways to provide internet connection to their Sudanese colleagues. Eventually, they procured essential Starlink devices, satellite internet terminals, which they passed to their colleagues at Egypt's southern border. Three units were distributed across northern, central, and eastern Sudan, finally restoring live communication. "From that moment," Ali said, "we had eyes and ears again." The volatility of the civil war forced reliance on trusted individuals on the ground to handle sensitive information about the transport and protection of heritage sites and objects. Yet these same heritage workers operate under constant threat amidst an active war, with civilian attacks intensifying, even in the capital, [Khartoum](#).

Despite the dangers, heritage workers in Sudan have continued their missions under gunfire. In one instance, a team entered the National Museum in Khartoum while fighting still raged across the capital. “They knew it was risky,” Ali said, “but if they didn’t go, everything inside could be lost forever.”

That sense of urgency has defined their work. As RSF forces advanced toward the city of Sennar, the ERC warned local museum staff of imminent attacks. Five heritage workers raced against time to evacuate the city’s collection, completing the operation under military escort just hours before the RSF arrived. “They finished and moved to the next city,” Ali recalled. “The next day, Sennar fell.”

Under these circumstances, maintaining trust between members of the ERC and those who remained in Sudan remains a challenge. "It's hard to convince the people on the ground that those in Cairo have not forgotten them, and that they are working in their best interests." reflects Ali. Sustaining this trust, he adds, is essential to preserving morale, unity, and the motivation to continue this dangerous work despite the distance. Yet the emotional toll has been immense. “It’s been a hell of a ride,” Ali admitted. “I don’t know if I can contribute anything more. Either I need to go back to Sudan or find someone to replace the emergency response committee members. They’re burnt out to the core.” The prolonged crisis has stretched the ERC’s small team beyond its limits, forcing them to choose between personal safety and their commitment to heritage preservation.

Ali further explains that without adequate support for the teams on the ground, progress remains slow even as operational demands escalate. Staff need salaries, specialized equipment to document museum inventories, personnel to secure heritage sites, and training in preservation. Amidst the chaos, the team looked to international organizations to fill these gaps in support left by the scattered government. Among them was the UNESCO office in Cairo, and the ALIPH Foundation (International Alliance for the Protection of Heritage in Conflict Areas). According to Ali, appeals to UNICEF were unsuccessful, and no funding, personnel, or guidance were offered. ALIPH was more responsive, and Ali was able to acquire enough funding to secure 310 guards posted at threatened World Heritage sites and museums across Sudan for three months. However, this funding was short-lived, and ultimately provided temporary protection, emphasizing the urgent need for a sustainable approach.

The Potential of Technology in the Sudanese Case

In April 2025, just days after this interview, the National Museum of Sudan was [looted](#) once again. Without clear records or inventories, the full extent of the loss is unknowable, though the destruction of priceless objects is indisputable evidence from the images of shattered glass and rubble that have emerged after the attack.

This underscores the urgent need for digital tools as both critical preventative and restorative measures. Digitally archiving records and ancient texts would safeguard them from physical theft and destruction, while digitizing inventories and collections would enable staff to identify missing property, track stolen art on the market, and support prosecutions.

As Ali notes, countries with heritage protection systems in place before conflict erupts, such as Egypt during the Arab Spring, emerged from civil unrest relatively unscathed. “What we need to learn from Egypt is how crucial it is to have the full backing of the government, working top-down to prioritize heritage,” he explained. “After the 2011 revolution, some museums were looted, but because of government support and proactivity, much of the stolen work was brought back to Cairo.”

Similarly, in Ukraine, the development of a strong heritage protection and [digital archiving](#) systems have been crucial tools in protecting their cultural heritage during the ongoing war with Russia. The Ukrainian NGO [Hemo](#), for instance, has led efforts to digitize museum collections and document forensic evidence of deliberate Russian attacks on heritage. Though costly, and dependent on international support, the initiative has been overwhelmingly successful in proactively digitizing heritage with high-quality images and detailed [records](#) of museum inventories. This has practically enabled museums to reference online inventories in the aftermath of an attack to keep track of damaged and destroyed work.

This model would be indispensable in Sudan where museum inventories are lacking, or incomplete. Digital records would serve as ways to increase public access to inaccessible heritage and act as indisputable evidence of the cultural value of Sudanese collections; thus, strengthening advocacy efforts and pressuring international organizations to act swiftly with funding and support. Moreover, technologies such as [AI-powered mapping](#), offer further opportunities for tracking the movement of objects in response to shifting front lines, or using aerial surveys to monitor environmental changes and predict risks to natural heritage sites. Yet all of this requires infrastructure and sustained financial investment. International aid that embeds these tools within Sudanese institutions and communities will be essential to ensuring their long-term protection.

The ERC’s identified priorities are modest but urgent: laptops, data servers, professional cameras, secure cloud storage, and 3D scanners. These basic tools would allow Sudanese teams to record, archive, and monitor their heritage in real time. “Technology is a great defense now,” Ali said, “but it’s meaningless without the means to use it.”

A Call for Global Security

Addressing policymakers, governments, NGOs, and the private sector, Ali Nour emphasizes moving forward: “What is done is done. What has happened has

happened.” He calls for a new global campaign, reminiscent of the UNESCO-led "Save Nubia" campaign of the 1960s, to rescue and restore Sudan's heritage. "The best organization here to lead and provide funding is UNESCO, through their Heritage Emergency Fund, supported by all of their member states,” he notes.

With the SAF regaining territory, including the symbolic Presidential Palace in Khartoum, the focus shifts to recovery.

Key needs include:

1. **Coordinated Restoration and Education Campaign:** A global effort to fund and coordinate the restoration and rehabilitation of damaged sites. This would begin with a substantial focus on advocacy, awareness and education - both internationally and domestically. Fostering global awareness is vital to mobilize financial support from entities such as UNESCO, but ensuring long-term preservation requires local engagement. Younger generations of Sudanese citizens must come to understand not only the importance of their heritage, but also its fragility.
2. **Sudanese-Led Funding Mechanism:** Establishment of a fund, potentially managed internationally under UNESCO supervision for example, but guided by the vision and expertise of Sudanese professionals. This fund would enable Sudanese heritage officials to conduct on-the-ground assessments of the destruction. Immediate financial assistance would be essential to cover salaries for heritage workers, employ guards to protect monuments, and purchase equipment for documenting sites through photography and 3D scanning.
3. **Strengthening Institutional Capacity:** Bolstering Sudanese cultural heritage institutions is crucial. For example, the newly formed Sudan National Committee of the Blue Shield has recently received accreditation, yet it requires significant financial and technical assistance to become fully operational and overcome internal hurdles to implementation.
4. **Proactive Risk Management:** Anticipatory action is essential to ensure that, when political violence, war, or instability occurs, a clear roadmap for cultural heritage protection is already in place. Moving forward, the Sudanese government might more clearly enshrine heritage protection within national law and outline a risk management plan prepared in the case of an emergency. Museums, academic institutions, and archives might also be required to submit their digital records and inventories to a centralized cultural authority, as well as to international bodies such as UNESCO, to ensure secure backups of cultural data. By institutionalizing preparedness, Sudan can ensure that cultural heritage protection becomes a systematic, rather than reactive, component of national governance.

The core message is clear: Sudanese experts have the knowledge and strategy. Now, they urgently need global solidarity and the resources to act.

This piece would not have been possible without the many conversations I had with Ali Nour about his experiences, and the Antiquities Coalition's dedication to this work and for bringing us together.

In memory of Professor Ibrahim Musa, Mutwakil Adam Adar, and Bakri Hassan Ali.

***Paris Quetzal Sistilli** is a multilingual graduate of the Dual BA Program between Columbia University and Sciences Po Paris, where she studied Political Science and Political Humanities with a focus on the Mediterranean, Middle East and North Africa. Her professional experience spans institutions such as the Center for Art Law, the Whitney Museum of American Art, and the Penn Cultural Heritage Center, where her work has centered on heritage protection in conflict zones, cultural policy, and memory. Her current interests include the intersection of emerging technologies and cultural heritage protection.

A Constitution You Can See:
Visual Jurisprudence in India, a Linguistically Fractured Democracy

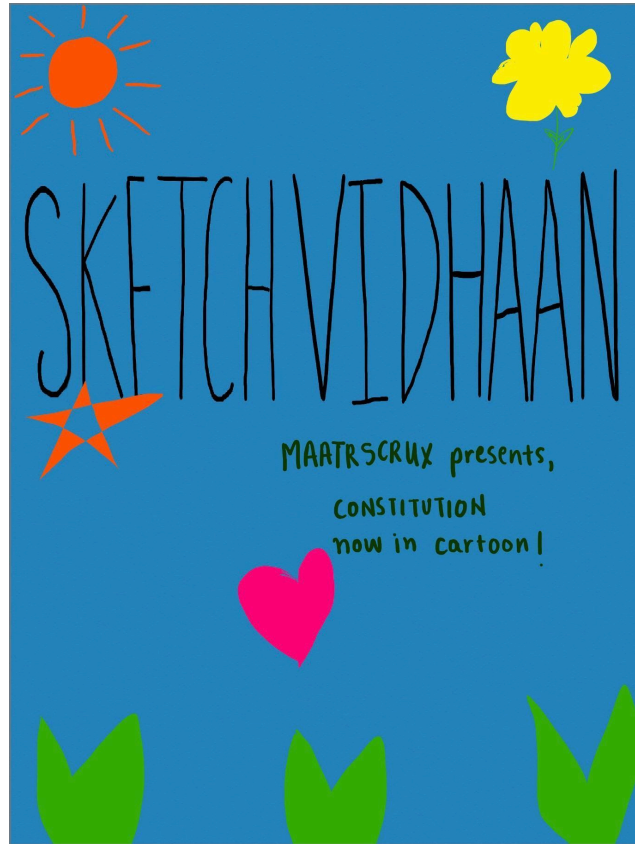


Figure 1. “*Constitution now in cartoon!*”

Pictured: SketchVidhaan cover illustration by Suhani Baheti (2025)

***Suhani Baheti**

I. Introduction: The Constitution as a Document Few Can Enter

[The Constitution of India](#) is often celebrated as a democratic masterpiece: expansive, aspirational, and unprecedented in scope. Yet in practice, it remains inaccessible to many citizens in their own language, idiom, and cognitive perspective. This gap cannot be explained by literacy alone; it is produced by linguistic centralization and legal formalism. Constitutional discourse in India continues to be carried predominantly through English and Court Hindi languages that remain structurally distant from those spoken by the majority of the public.

This linguistic barrier raises a fundamental question: what becomes of constitutional rights when the public cannot meaningfully participate in their interpretation? In a country with twenty-two scheduled languages (Constitution of India, 1950, Eighth Schedule) and 19,569 mother tongues (Census of India, 2011), the Constitution’s life force depends not only on what it guarantees, but also on what citizens are able to understand, internalize, and claim. This essay argues that visual constitutionalism can bridge this access gap by translating constitutional values into public, interpretable imagery for the public.

SketchVidhaan is a visual jurisprudence project that approaches the Constitution not merely as a text preserved in law books, but as an object of public experience — something that must be seen, remembered, and felt in order to be democratically meaningful. It emerges at the intersection of language, access, and constitutional meaning. Through metaphors, illustrations, and cultural imagery, SketchVidhaan reimagines constitutional literacy as a participatory practice rather than an elite discourse. *See Figure 1.*

II. The Crisis of Constitutional Language

The written form of the Indian Constitution exists in both English and Hindi, yet it functions almost entirely in English. Judges reason in English and legally significant judgments are delivered, annotated, and debated in English. Even Parliamentary deliberations, though nominally multilingual, frequently revert to English for precision.

Hindi, though symbolically invoked as the “national” language of India, rarely shapes constitutional interpretation. Most mother-tongue citizens encounter the Constitution indirectly through school civics summaries, media fragments, or bureaucratic interactions rather than through direct engagement with the text itself. This creates three structural consequences: (1) linguistic gatekeeping, (2) constitutional alienation, and (3) interpretive centralization.

1. Linguistic Gatekeeping

The Constitution is theoretically public, but practically gated. English, its primary language of interpretation, remains accessible only to those who inherit its social capital or can afford it through schooling. In India, access to English is a socio-economic passport. It defines who gets to read case law, understand rights, or engage in political debates. As a result, the Constitution functions as a public document held within a private linguistic domain. This produces a hierarchy of civic access: those who read English encounter rights as tools; those who do not encounter them as abstractions mediated by others (Bourdieu, 1991).

2. Constitutional Alienation

A right that cannot be understood cannot be claimed. A guarantee that cannot be articulated cannot be defended. When constitutional vocabulary itself is inaccessible, the experience of citizenship is alienated from its legal foundation. Citizens experience injustice, discrimination, or exclusion yet lack the constitutional vocabulary to place their experience within the framework of rights. This gap between lived injustice and legal articulation widens, producing a democratic order wherein constitutional knowledge circulates vertically — through courts, think tanks, and universities — rather than horizontally among the public that it is meant to empower (Ewick and Silbey, 1998).

3. Interpretive Centralization

Because the Constitution is linguistically inaccessible for most citizens, its interpretation becomes monopolized by a narrow class of actors: judges, lawyers, bureaucrats, and academically trained commentators. Ordinary citizens are compelled to rely on these “authorized interpreters” to explain what rights mean, how they operate, and when they can be invoked. This centralization is not merely institutional; it is linguistic. It defines the community protected by the Constitution as those fluent in its official languages. As a result, constitutional meaning travels downward rather than outward, eroding the participatory dimension essential to democratic constitutionalism (Ewick and Silbey, 1998; Bourdieu, 1991).

III. SketchVidhaan as a Third Space

SketchVidhaan intervenes by creating a third interpretive space—neither elite legal commentary nor state-sanctioned civic messaging. Instead, it deploys visual metaphors that bypass entrenched linguistic hierarchies. Through images, constitutional ideas can be grasped without needing English or doctrinal fluency. A vocabulary of metaphor, satire, and visual storytelling becomes an intuitive, accessible, and emotionally resonant entry point to constitutional meaning. In doing so, SketchVidhaan is able to redistribute constitutional interpretation outward toward the ordinary citizen, restoring a degree of ownership over rights that text-based pedagogy alone cannot achieve. It reframes constitutional literacy as a public cultural practice, not a specialist academic exercise.

A. SketchVidhaan’s Method: Metaphor as Jurisprudence

The core method of SketchVidhaan is simple and profound: it translates constitutional concepts into everyday imagery, grounded in India’s cultural vocabulary. Each sketch is anchored in rigorous legal research into judicial interpretation, Constituent Assembly debates, and doctrinal development. Yet, this research is visually presented in a manner that invites intuitive understanding rather than technical mastery.

Three sketch examples illustrate the approach:

1. The Preamble as Monsoon

A rain cloud labeled “Justice, Liberty, Equality, Fraternity” hovers above a city, releasing rain unevenly across its landscape. Some rooftops absorb the rainfall completely, others leak, and many remain untouched. The image reframes the [Preamble](#) not as a ceremonial inscription, but as a climatic system—dynamic, distributive, and shaped by underlying structural conditions. Justice, in this rendering, is not a static promise but a force whose limited reach exposes material and institutional inequality. See Figure 2.

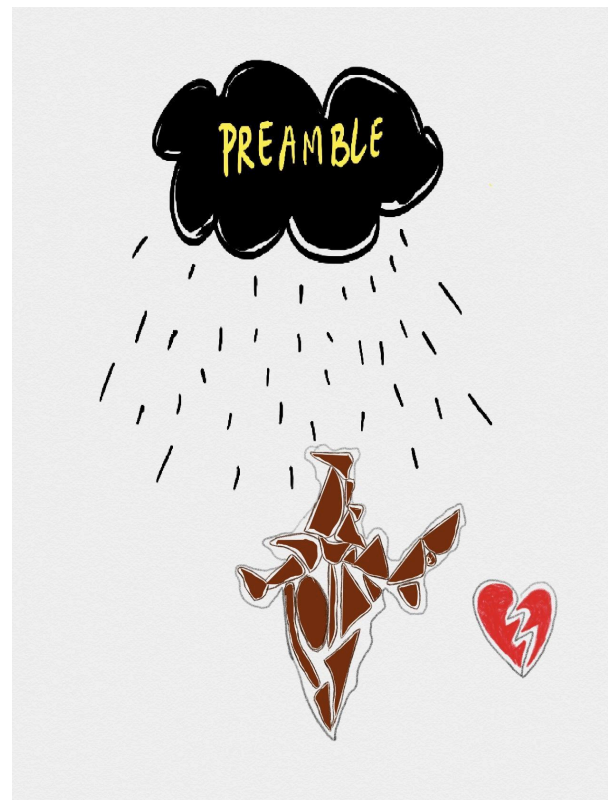


Figure 2. "Preamble as Monsoon"
SketchVidhaan illustration by Suhani Baheti, 2025.

2. Equality as Uneven Rehabilitation

In the four-panel sketch produced below, three individuals receive “help” differently: one is rescued instantly, another receives inadequate support, and a third is reprimanded despite their suffering. At the bottom of the image, the sun finally rises, illustrating that constitutional equality requires more than equal treatment — it requires the recognition of differential need.

For those without linguistic access, this imagery communicates substantive equality more effectively than a doctrinal explanation of Articles 14–15. The sketch visualizes substantive equality by showing that identical treatment can reproduce inequality, while differential support can move outcomes closer to fairness. See Figure 3.

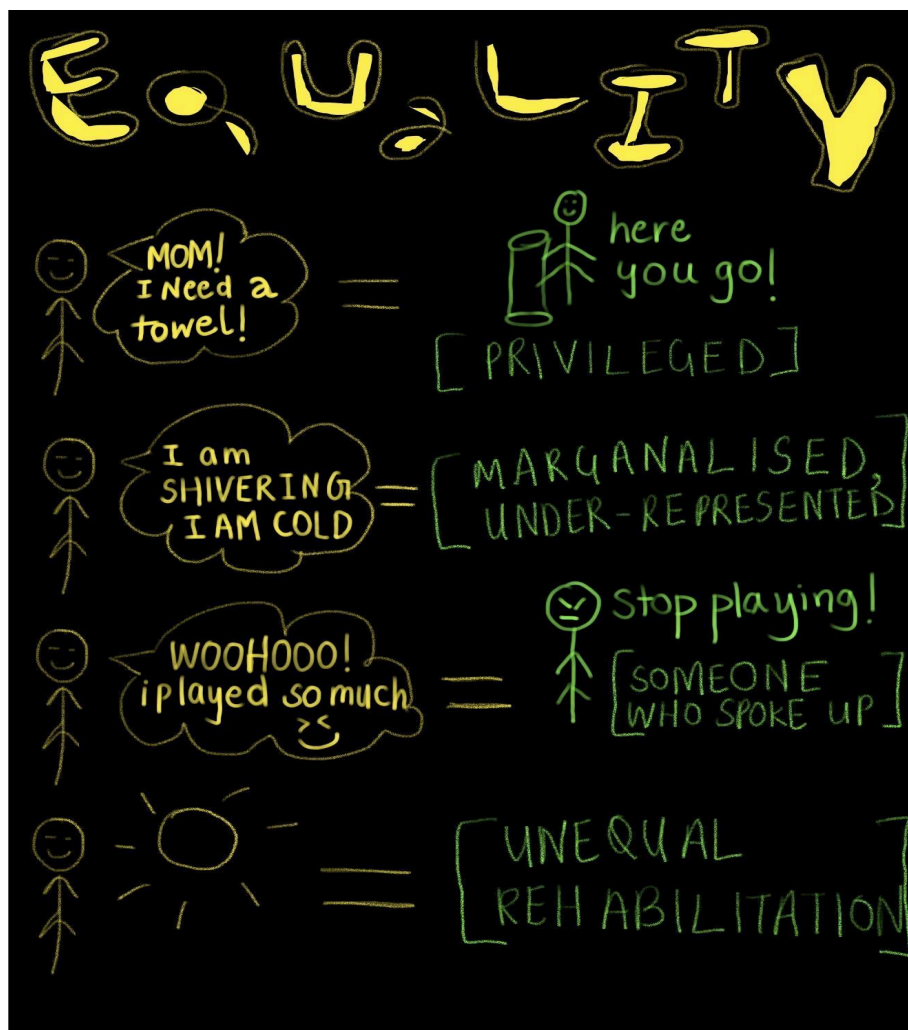


Figure 3. “Equality as Uneven Rehabilitation”
SketchVidhaan illustration by Suhani Baheti (2025).

3. Liberty as Uneven Soil

In the following sketch, seedlings representing “VOICE” grow at different rates across differing soil conditions, reflecting how social structures—class, gender, caste, and political climate — shape the flourishing of liberties. A figure steps out of a cave proclaiming freedom, yet the soil beneath them remains uneven. This metaphor captures the partial and contingent nature of liberty, challenging the assumption that constitutional freedoms are equally accessible once formally declared.



Figure 4. “Liberty as Uneven Soil,”
SketchVidhaan illustration by Suhani Baheti (2025).

Across these examples, SketchVidhaan’s metaphors do not dilute constitutional law; they translate its structural complexity into visual cognition.

B. Citizenship as a Tailoring Shop: A Case Study in Visual Satire

One of SketchVidhaan’s most incisive series depicts citizenship through the setting of a tailoring shop titled “*Bharat Vastr Bhandar (Indian Clothing Shop)*”. Inside, citizenship is represented as a sari: stitched, measured, and priced according to rules that appear arbitrary. A sewing machine labeled “majority opinion” powers the stitching, while a prominently displayed disclaimer reading “No refunds” gestures to the irreversible consequences of exclusionary legal and administrative practices. The visual satire of the tailoring shop scene is reproduced on the following page (see Figure 5).

This metaphor exposes the material consequences of citizenship laws, identity documentation, and bureaucratic discretion. It critiques the fragility of rights in the context of shifting legislative landscapes, while grounding its critique in familiar visual culture.

The tailoring shop becomes a site where constitutional belonging is not abstract, but tangible and precarious.

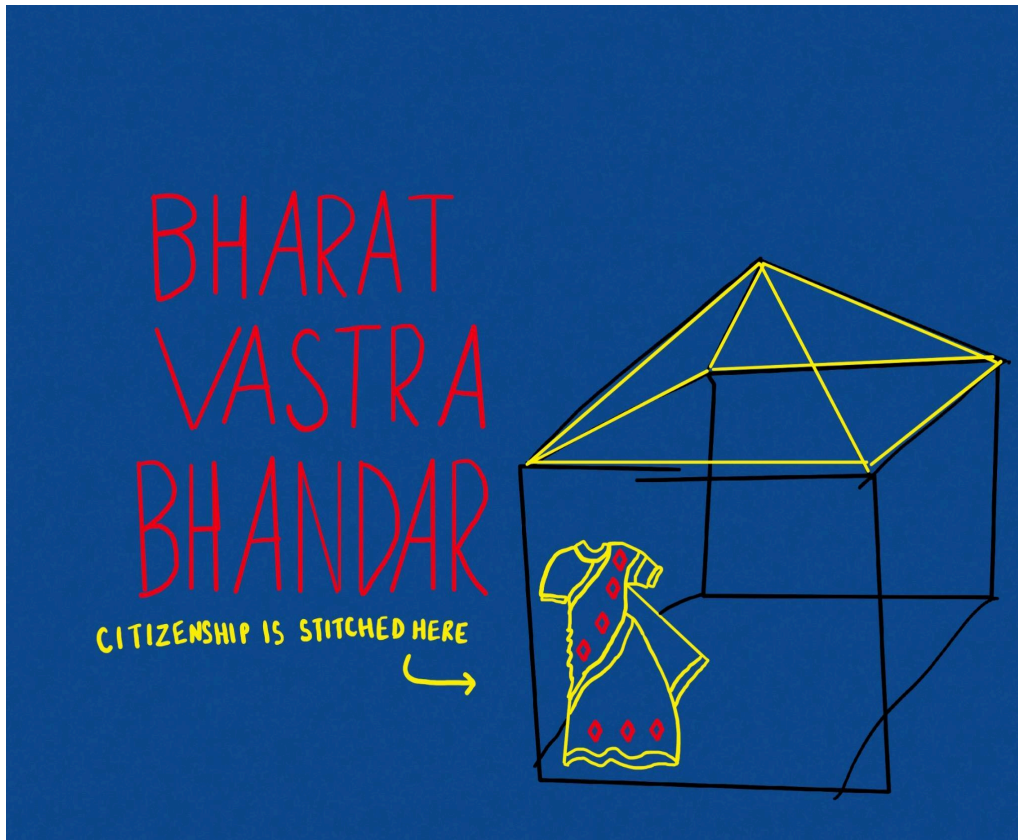


Figure 5. “Citizenship as a Tailoring Shop (*Bharat Vastr Bhandar*)”
SketchVidhaan illustration by Suhani Baheti (2025).

C. The *Constitution Quilt* and Narratives of Repair

The *Constitution Quilt* is a signature SketchVidhaan illustration that represents the Constitution as a quilt-fabric of principles stitched together over time. Some patches appear bright and intact, others frayed or loosely attached, while still others bear visible marks of repair. See Figure 6.

The quilt metaphor emphasizes that constitutional meaning is not frozen at the moment of enactment. Rather, it is repaired through amendments, reinterpreted by judicial decisions, and re-stitched by social movements. The frayed patches represent historical failures; the repaired ones represent constitutional resilience.

The sketch invites the viewer into a Constitution conceived of as a living fabric, one maintained together, rather than an untouchable artifact preserved behind linguistic and bureaucratic walls.



Figure 6. “*Constitution Quilt*”
 SketchVidhaan illustration by Suhani Baheti (2025).

D. Wasseypur Billionaires and the Politics of Constitutional Power

SketchVidhaan does not limit itself to formal constitutional provisions; it also interrogates the power structures that influence how constitutional values operate in society. The “Wasseypur Billionaires” series is a satirical analogy that maps economically elite families onto rival gangs and interrogates how private power shapes democracy.

The metaphor critiques oligarchic influence through a cultural reference deeply familiar in India. It suggests that constitutional values of equality and opportunity can be undermined not only by state action, but also by the accumulation of concentrated private power.

By situating constitutional critique within cinematic memory, SketchVidhaan opens constitutional conversation to audiences beyond academic or legal circles. See Figure 7.

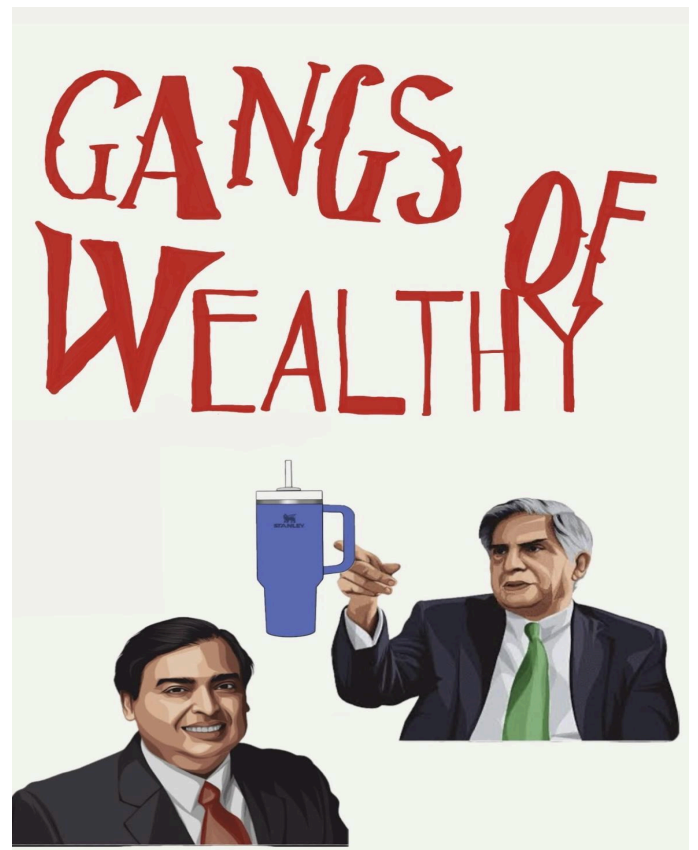


Figure 7. “*Wasseypur Billionaires/Gang of Wealthy*”
 SketchVidhaan illustration by Suhani Baheti, 2025.

IV. Why Visual Constitutionalism Matters

The understanding that visual culture is not merely an accessory to legal culture, but one of its oldest and most enduring forms, is the premise from which SketchVidhaan draws its inspiration. Be it courtroom sketches, newspaper caricatures, or political posters, iconography has long shaped public memory, legitimacy, and power. Visual constitutionalism, therefore, does not introduce something new; rather, it recovers a dimension of constitutional practice that has always existed but has rarely been recognized as jurisprudentially significant.

Three reasons make visual constitutionalism particularly urgent in India today:

1. Visuals Bypass Linguistic Exclusion

In a multilingual democracy, the distance between a citizen's lived language and the Constitution's formal language is not merely linguistic; it is constitutional. When constitutional meaning remains tethered to English or to highly bureaucratized Hindi, understanding becomes a privilege rather than a civic right.

Visuals disrupt this monopoly.

Images operate beyond linguistic hierarchy. A metaphor — be it a leaking justice cloud, a stitched sari, or a fractured umbrella — can communicate meaning across age, class, region, and literacy levels. Visuals create an interpretive commons: a space where citizens who differ in linguistic ability or educational background can still participate in constitutional discourse.

Through bypassing impenetrable language, visuals also circumvent gatekeeping. They allow constitutional engagement to occur without requiring translation by legal elites, thereby returning interpretive power to the citizen. In this sense, visuals do not dilute constitutional complexity; they democratize access to it.

2. Images Produce Emotional and Cognitive Retention

Constitutional education often fails not because the material is difficult, but because it is emotionally distant. Articles, clauses, and doctrinal tests rarely lodge themselves into our memory on their own. Retention requires resonance.

Visual metaphors create that resonance.

When justice is depicted as a monsoon cloud that rains selectively, unequal justice becomes visceral. When the quilt of constitutional protection frays, the viewer internalizes the fragility of rights. When citizenship is stitched like a sari, the precariousness of belonging becomes intuitively clear.

[Research in cognitive psychology](#) supports this: people retain visual and narrative information more effectively than text alone, particularly when words and images work together to reinforce meaning. [Visual memory often anchors itself in form, contrast, and emotional salience](#) — qualities that purely doctrinal language tends to suppress.

This makes visual constitutionalism not just accessible but pedagogically effective in many contexts. It builds a form of literacy that stays with the viewer long after they scroll past, embedding constitutional values in public memory rather than limiting them to academic syllabi.

3. Visuals Invite Public Participation

Legal language intimidates even the most literate among us. Its formality signals authority, distance, and expertise. As a result, many citizens recognize that the Constitution exists but do not feel entitled to interpret it, question it, or contest the meanings imposed upon it.

Visuals invert this relationship. The sketches do not talk down to the viewer; they speak with them. They invite interpretation, encourage critique, and create an entry point where no prior legal training is required.

This matters for a democratic constitution, which depends not only on judicial interpretation but also on public vigilance. When citizens can identify injustice in their immediate environment — whether through discriminatory practice, service delivery gaps, or arbitrary governance — they participate in constitutional meaning-making beyond formal legal spaces.

By sketching the Vidhaan, SketchVidhaan reminds us that constitutional interpretation is not the exclusive preserve of courts and scholars; it is also a civic practice, rooted in lived experience and cultural imagination. Visuals expand the interpretive community of the Constitution, enabling citizens to reclaim ownership over rights that often feel distant.

In this way, visual constitutionalism converts the citizen from a passive observer into an active agent of the Constitution.

V. Conclusion

SketchVidhaan as a Future-Proof Constitutional Archive

In an era where linguistic hierarchies continue to harden, SketchVidhaan suggests that visual constitutionalism may outlast linguistic regimes. If English diminishes in relevance, constitutional meaning must still survive beyond its medium. If political climates restrict expression, visual work can preserve critique. In this sense, SketchVidhaan functions as an archival form — one that stores constitutional ideas in images rather than institutions. It imagines a constitutional future where interpretation is not monopolized by courts or formal expertise, but sustained as a shared cultural practice.

A Constitution the People Can See

A Constitution cannot protect people who cannot enter its language. SketchVidhaan argues that constitutional literacy must expand beyond text, and that democratic understanding may increasingly rely on tools of visual, metaphorical, and culturally grounded narratives. By translating constitutional values into everyday imagery, SketchVidhaan restores public proximity to a document often experienced as distant and inaccessible. It shows that

constitutional meaning is not merely interpreted — it is lived. And if the Constitution is to belong to the people, the people must be able to see themselves inside it.

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Speaking When Experts Won't: AI Authentication and the Art Market's Authority Crisis

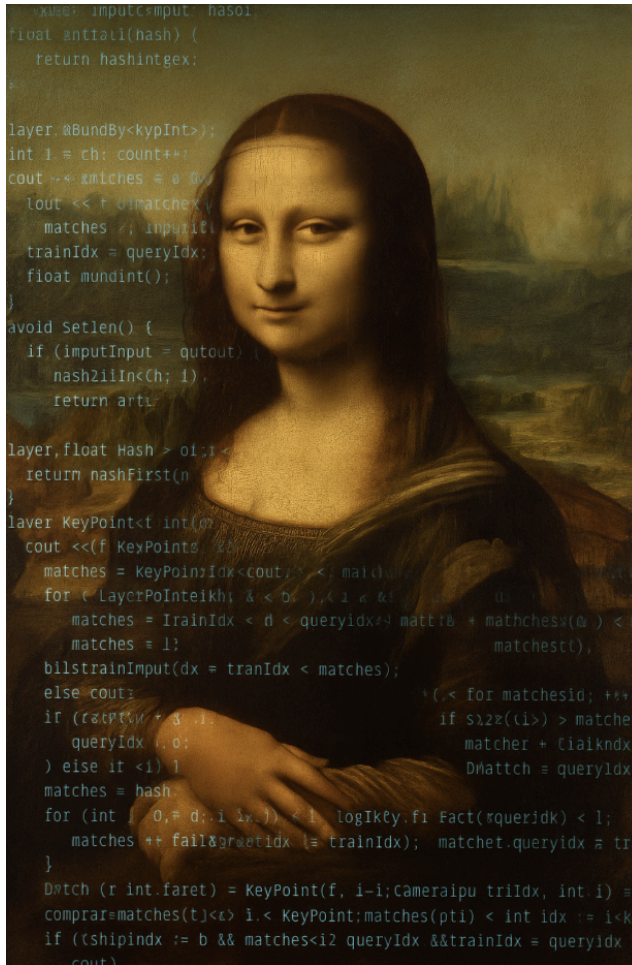


Image Source: Generated by author using Chatgpt

**Hadassa Trau*

I. Introduction

In a dealer's basement sits a Calder mobile that a federal court has affirmed as genuine, yet the work remains unsellable. In [Greenberg Gallery v. Bauman](#), the court did exactly what our legal system trains adjudicators to do in hard factual disputes: it heard from dueling experts, scrutinized provenance, weighed testimony, and concluded, after careful analysis, that the mobile was an original work by Alexander Calder. The judge expressly refused to defer to Klaus Perls—Calder's longtime dealer and self-appointed gatekeeper of the oeuvre—because Perls' inspection had lasted “a maximum of 10 minutes,” too cursory, in the court's view, to overcome the countervailing evidence. In virtually any other domain, a detailed judicial opinion resolving a

technical question would function as the final word. In the art market, it functioned as a formally conclusive but practically inoperative ruling. The once-priceless mobile is now [“totally unsellable.”](#)

What *Greenberg* exposes is a structural disjunction that runs through art authentication: the art world has effectively delegated authority to private experts and foundations, rendering judicial determinations market-irrelevant. Courts can determine title, enforce contracts, and award damages, but a judge finding a work of art *authentic* does not translate into market acceptance as such.

For this dysfunction, AI has a potential solution. AI authentication promises objective assessment unburdened by conflicts of interest or litigation anxiety. But the art world has seen technological solutions before. Forensic science, for example, offered similar promises of objectivity and has been systematically discredited by the art market.

This article asks whether AI authentication can succeed where forensic science has failed—not by increasing accuracy, but by achieving what accuracy alone cannot provide: market coordination. To answer that question requires understanding why the art market ignores evidence it should accept. The market’s indifference to both legal and scientific authority suggests that authentication is not an epistemic problem but a coordination problem. The question is not whether AI can determine authenticity—the question is whether the market can trust AI the way it once trusted foundations.

II. Market Authority versus Legal Authority

A. The Judiciary’s Surrender to the Art World

Courts have been candid in acknowledging their own irrelevance for authentication disputes. In [Thome v. Alexander & Louisa Calder Foundation](#), Thome alleged that he owned stage sets that were designed to Calder’s specifications and constructed with the artist’s explicit approval—that Calder had signed off on the drawings and invited Thome to proceed. After Calder’s death, the Foundation allegedly ignored Thome’s requests for authentication. Thome turned to the courts, seeking a declaration of authenticity and an order that would pry open the doors the Foundation had closed.

The court declined and, in doing so, offered an account of its own limits: “courts are not equipped to deliver a meaningful declaration of authenticity.” The court observed that a declaration in Thome’s favor “would not resolve plaintiff’s situation, because his inability to sell the sets is a function of the marketplace. If buyers will not buy works without the Foundation’s listing them in its catalogue raisonné, then the problem lies in the art world’s voluntary surrender of that ultimate authority to a single entity.”

That “surrender” is the foundation of the current system. For buyers and sellers to transact at all, they must operate inside an ecosystem in which a small number of institutions control canon formation and, with it, market value.

A. The Problem at the Heart of the System

The delegation of authority to experts creates an obvious problem: the experts best positioned to authenticate are often the parties most conflicted.

Consider the structure. Who knows an artist’s work most intimately? Typically, those who have handled the most examples: the foundation that manages the estate, the dealer who represented the artist for decades, the scholar who compiled the catalogue raisonnés. These are the people with the “trained eye,” the comparative knowledge, and the access to archives.

They are also the people with the most at stake. The Calder Foundation owns Calder. The Warhol Foundation held Warhols. Klaus Perls dealt in Calder for decades; his professional reputation and financial legacy were bound up in the integrity of his prior authentications. Those who have handled the most works, studied the artist most deeply, managed the archives most comprehensively—are often the same parties with the greatest financial stake in the outcome. Ultimately, the system concentrates authority in the most impartial parties.

Should the market cry “conflict” every time the Warhol Foundation speaks about Warhols, or the Calder Foundation about Calder? That objection would exclude precisely those individuals and institutions with the greatest capacity to assess authenticity. Expertise in this domain is produced through sustained exposure: repeated handling of works, long-term market participation, and access to archival materials. Those without such exposure may lack financial or reputational stakes, but they also lack the comparative knowledge and trained judgment that authentication requires. A rule that disqualifies all actors with meaningful market exposure would therefore eliminate not only conflicted decisionmakers, but expertise itself. The problem is not that experts *have* conflicts; it is that the market has delegated decisive authority to them without formal mechanisms to regulate that authority.

Even a foundation acting in good faith operates within a system that rewards exclusion. And when foundations *do* exclude, their judgments are effectively unreviewable. The collector’s only recourse is litigation—yet litigation exacts costs on both sides. For foundations, win or lose, the financial and reputational cost of defending authentication decisions has proven unbearable—which is why so many have stopped rendering opinions altogether.

III. Expert Silence

The structural conflicts described above might be tolerable if experts could render opinions without fear of catastrophic personal consequences. In reality, they cannot. Experts face litigation

risk regardless of which direction they err—and increasingly, regardless of whether they err at all.

An expert who authenticates a work later exposed as forgery faces legal consequences by the legal authority and reputational destruction by the art market authorities. [The collapse of the Knoedler Gallery](#) provides a paradigmatic example. But the risk runs in both directions. An expert who rejects a genuine work can face lawsuits from aggrieved collectors who claim the rejection destroyed the value of their holdings. In *Simon-Whelan v. Andy Warhol Foundation*, the plaintiff accused the Warhol Foundation of intentionally denying the authenticity of works that were, he alleges, genuine Warhols. The litigation consumed approximately \$7 million in legal fees before the Foundation ultimately prevailed—a [pyrrhic victory](#) that contributed to the Authentication Board’s dissolution in 2011. Whether or not Simon-Whelan’s works were authentic, the case demonstrated that rendering a negative opinion exposes foundations to years of expensive litigation.

The pattern repeats itself over and over across the authentication landscape. In *Thome*, the Calder Foundation faced litigation for declining to authenticate. In *Mayor Gallery v. Agnes Martin Catalogue Raisonné*, the authentication committee was sued for rejecting works—and the court ordered the plaintiff to pay the committee’s legal fees, but only after the litigation had run its course. Experts face liability exposure whether they authenticate or reject, whether they are right or wrong.

A. The Legal Landscape Silences Experts

Courts have provided some protection for authentication opinions through three doctrinal pillars. But each protection, on closer examination, offers experts a reason to stay silent rather than speak.

First, authentication opinions are treated as First Amendment protected speech. However, [this protection](#) typically arrives at summary judgment or dismissal, not at the filing stage. An expert must endure months or years of discovery, depositions, and legal fees before the First Amendment rides to the rescue.

Second, courts have refused to recognize any duty owed by authentication bodies. This doctrine protects foundations that render opinions carelessly—but it protects even more foundations that render no opinions at all. The legal architecture meant to protect expert judgment instead enables expert withdrawal.

Third, contractual waivers in submission agreements provide further insulation through broad releases, arbitration clauses, and fee-shifting provisions. The Agnes Martin Catalogue Raisonné, for example, [requires collectors to sign an Examination Agreement before submitting works](#), an agreement that includes a waiver of claims and a fee-shifting provision. These contractual

fortifications protect foundations that continue to authenticate. But their very elaborateness signals how dangerous the enterprise has become—and foundations reading the signal have concluded that the safest fortress is one that never opens its gates.

B. The Consequences of Silence

Between 2006 and 2012, a cascade of authentication board closures transformed the landscape. The [Pollock-Krasner Foundation ceased authentication](#) services in 1995. [The Andy Warhol Foundation Authentication Board disbanded](#) in 2011. [The Basquiat Authentication Committee closed](#) in September 2012 after eighteen years and over 2,000 reviews. [The Keith Haring Foundation Authentication Board disbanded](#) in 2012. [The Roy Lichtenstein Foundation closed its authentication services](#). [The Robert Motherwell Authentication Board ceased operations](#). [The Alexander Calder Foundation adopted a policy of offering only registration and examination](#), establishing files for submitted works without issuing certificates of authenticity or formal authentication opinions.

The common thread is litigation risk. [“\[E\]veryone is concerned about litigation that threatens to stifle scholarly opinion.”](#) Silence is the rational response to a system that punishes experts for speaking, regardless of what they say. But this silence comes at a cost: works that would sell for millions with institutional approval sit unsold in storage.

Silence benefits holders of already-authenticated works at the expense of those seeking entry into the canon. It entrenches existing attributions—right or wrong—and forecloses reconsideration. A collector who acquired a work before the authentication boards closed has market access but a collector who acquired the same work after, faces a closed door. This temporal arbitrariness has no epistemic justification. Forensic science has offered an objective alternative for decades, but the art market has never treated lab results as a substitute for expert blessing.

IV. Why Forensic Science Fails as a Primary Tool for Authentication

Before considering AI as an alternative, it is worth examining why forensic science failed to reshape authentication authority. The [Knoedler Gallery scandal](#) illuminates that failure—and the obstacles any technological solution must overcome.

In *Knoedler*, the forgeries had already been tested during the scheme but the results were dismissed. In 2002, a collector named Jack Levy submitted a Rosales Pollock he had purchased from Knoedler to the International Foundation for Art Research (IFAR). IFAR could not conclusively attribute the work to Pollock. Knoedler’s consultant Stephen Polcari called the report [“amateurish... and irrelevant.”](#) Levy demanded and received his money back, but Freedman simply moved on to the next collector. In 2008, the Dedalus Foundation, which maintains the Motherwell catalogue raisonné, [raised concerns](#) about Motherwells supplied by Rosales. Knoedler hired forensic conservator James Martin to test the works. Martin’s analysis

cast doubt on the paintings' authenticity—he found numerous anomalies, including pigments not available until decades after the supposed dates on the paintings. Carmean, an art historian consulting for the gallery, [dismissed the findings](#). The scheme [continued for years](#), giving Knoedler leeway to sell 60M more worth of artwork.

The market's preference for fabricated provenance stories and connoisseur opinions over laboratory results did not merely allow the fraud to persist, it actively suppressed the scientific evidence that could have ended it. Why?

A. The “Perls Paradox”

The answer is rooted in simple game theory, and it operates through a coordination problem that locks the market into its current equilibrium regardless of whether that equilibrium tracks truth.

Perls authenticated Calder works for decades and the collectors who purchased based on his assessments [have enormous financial stakes in his continued legitimacy](#). If the market were to conclude that Perls was unreliable—that his opinions should carry no more weight than, say, a federal judge's detailed factual findings—every Calder work Perls authenticated would become suspect. Collectors who paid millions for Perls-approved works would face catastrophic losses. Museums that acquired works based on his blessing would confront questions about their collections' integrity and the secondary market for Calder would face systemic uncertainty.

The result is a classic prisoner's dilemma: no individual actor can afford to be the first to abandon Perls. A collector who refuses to defer to his opinions will find her works unmarketable—not because Perls is right, but because everyone else defers to Perls and will continue to do so for the same self-protective reasons. The market equilibrium is stable even if it is wrong. This is what renders alternative authorities—forensic science, judicial determinations—impotent. A court can declare Perls wrong about a particular work, as the *Greenberg* court effectively did. But it cannot transfer the market's collective belief from Perls to itself.

The key insight is that art market legitimacy in authentication is not fundamentally about truth; it is about consensus (the same consensus that once solemnly agreed [a duct-taped banana was worth \\$120,000](#)). When a collector asks “is this a real Calder?”, the question is not just epistemic but predictive. She wants to know whether future buyers will believe the work is authentic, because only their subsequent belief makes the work valuable.

The Knoedler scheme collapsed only when the coordination became impossible to maintain: when too many works had been sold, too many victims had compared notes, and the weight of accumulated evidence overwhelmed the collective incentive to look away. Even then, [the legal resolution](#)—settlements on confidential terms—preserved as much of the old equilibrium as possible. No precedent was established. No new focal point emerged. The market returned to its

default coordination mechanism: trust the experts, defer to provenance, and hope the next scandal happens to someone else.

V. The Lesson for AI

The forensic science experience reveals three obstacles. First, an epistemological limitation: forensic methods can exclude but cannot affirm, and the market demands affirmative attribution. Second, a threat to incumbent authority: legible, accountable methods would expose connoisseurship's fallibility, giving incumbents reason to resist. Third, and most fundamental, a prisoner's dilemma: even actors who recognize the system's flaws cannot defect without bearing costs that exceed any individual benefit.

Forensic science offered objectivity and the market subordinated it. Any technological intervention must reckon with this history. The question for AI is whether something about (a) the technology or (b) the current moment, distinguishes it from this fate.

A. Why AI Is Not Effective As A Forensic Science Tool 2.0

The art world's initial encounter with AI authentication has been shaped by a natural but ultimately misleading analogy: AI as forensic science 2.0, a more sophisticated version of the laboratory techniques that promised objectivity but failed to displace connoisseurship. The framing is understandable; both forensic science and AI authentication claim to detect features invisible to unaided human perception, both produce quantified outputs that carry an aura of scientific authority. But if framed this way, AI is destined to fail for the same reasons forensic methods did. Critics of AI as an authentication (rightfully) raise the following concerns:

First, [AI systems learn from existing attributions](#), which means that if the art-historical corpus contains erroneous judgments, the algorithm will reproduce those errors with mathematical fidelity.

Second, AI systems have reached contradictory conclusions on identical works, raising obvious questions about reliability—though the inconsistency often reflects methodological differences rather than random error. In 2023, the University of Bradford used AI-powered facial recognition technology to analyze a painting known as the *de Brécý Tondo*, comparing the Madonna's face to that in Raphael's *Sistine Madonna*. Finding 97 percent facial similarity, the University announced that the two works were [“undoubtedly by the same artist.”](#)

Months later, Art Recognition, a Swiss company specializing in algorithmic authentication, analyzed the same painting using a different methodology: rather than comparing faces, their model examined brushwork, chromatic patterns, and stylistic characteristics, trained on both authentic Raphaels and known forgeries. [Art Recognition found 85 percent probability that the work was not by Raphael.](#) The discrepancy is instructive. Bradford's facial recognition

confirmed only that the two Madonnas look alike—unsurprising, since Renaissance artists painted idealized faces to a common standard of beauty.

Two AI systems, examining the same image, [asked different questions and produced opposite answers](#). The lesson is not that AI is unreliable but that methodology determines outcome—and there is no consensus yet on which methodology is appropriate.

Third, any detection method, once understood, [can be reverse-engineered](#), and forgers who understand how AI systems identify authentic works can presumably design forgeries to exploit algorithmic blind spots—training adversarial examples that fool the model, as researchers in other machine-learning domains have demonstrated with unsettling ease.

Fourth, AI produces probability assessments derived from pattern recognition across millions of parameters—a process that resists intuitive explanation and cannot be decomposed into the articulable criteria that legal and market institutions typically demand. If no one can explain why the algorithm concluded that a work is 91 percent likely authentic, why should anyone rely on that conclusion? When [ARTnews surveyed the field](#), one AI authentication developer reported “huge... reticence from the art market to adopt these technologies,” pointing to auction houses closing their scientific research departments or placing them “on demand” as evidence that the market views science as a method of “last resort.”

Fifth, AI authentication providers operate as fee-for-service businesses, and a service that consistently rejects submissions will lose clients to competitors more willing to authenticate—creating financial pressure that might bias results toward inclusion regardless of actual merit.

B. AI enters the authentication market under conditions that differ from those forensic science faced.

The symmetry is striking: every objection leveled against AI authentication applies with equal force to the connoisseurship if AI is used to *replace*. This suggests that the conventional framing—AI as a more accurate detector / forensic science tool 2.0—misses something important about both the technology and the market dysfunction it enters.

When forensic science emerged, authentication infrastructure was robust. Foundations were active and authentication boards were rendering opinions and [the market had no shortage of expert voices](#). The question forensic science posed was whether objective analysis could displace functioning connoisseurship; the market’s answer was no. (*See Knoedler*: despite forensic findings by James Martin, market actors continued relying on connoisseurship and ignored scientific evidence.)

AI, on the other hand, emerges into a vacuum. The Warhol Foundation Authentication Board no longer exists. The Basquiat committee has closed. The Haring, Lichtenstein, and Motherwell boards have disbanded. The Calder Foundation will not render opinions. For a substantial category of works—those seeking authentication after the boards closed—there is no expert voice to displace because no expert will speak. For example, Keith Haring’s Subway Drawings, chalk works on black advertising panels that launched his career, constitute what one authenticator calls “a seminal body of work”—yet the Keith Haring Foundation [refused to consider them at all](#). Collectors who acquired Basquiats directly from the artist’s studio, or Warhols that never made it into the catalogue raisonné, now have nowhere to go.

The question is not whether AI can *replace* functioning connoisseurship but whether it can fill a gap created by expert silence. That is a different question, and it will clarify the role AI will play in the greater art market dynamics.

C. AI can “speak up”

What makes AI most suitable for filling the vacuum is its ability to “speak up” when experts are silent. Unlike forensic analysis which provides negative evidence (“this work is not inconsistent with authenticity because its materials are period-appropriate”), AI provides affirmative probability assessments (“this work has a 97 percent likelihood of being by Van Gogh”).

Whether that probability assessment is epistemically superior to a connoisseur’s intuition is [widely contested](#). Either way, AI offers a different kind of output than forensic science—one that maps more directly onto the market’s need for affirmative attribution discussed above. Moreover, an algorithm harbors no reputational anxiety, no fear that a single mistaken attribution will destroy decades of institutional credibility. This is not to say that AI authentication operates in a liability vacuum. Someone must answer for algorithmic error. The AI company that issued the certificate, the auction house that relied upon it, the dealer who marketed the work as “AI-authenticated”—each is a potential defendant. A collector who purchases a forgery on the strength of an AI certificate might sue Art Recognition for negligent misrepresentation, or the auction house for breach of warranty, or both. The legal theories are available; the question is how courts will evaluate them.

Whatever its limitations and despite the watchful eye of the art community, AI indisputably addresses the silence problem head-on, AI will render *an* opinion. A collector holding a work that no foundation will examine, no authentication board will consider, and no catalogue raisonné committee will review derives no benefit from the theoretical superiority of human connoisseurship. All the collector needs is *an* opinion—which AI provides. Thus, the relevant comparison is not AI versus connoisseurs operating at full capacity. It is AI versus nothing—which is increasingly what the traditional system provides.

VI. How could AI be recognized by the art market?

Understanding AI's potential role is one thing; understanding how it might achieve market acceptance is another. The path from technological capability to market adoption runs through four stages, each building on the last: accessibility, network effects, domain-specific adoption, and legal legitimization.

A. Stage One: Accessibility Transforms the Economics of Authentication

AI authentication is accessible in a way that forensic science never was—and this accessibility changes not only who can obtain an opinion but when in the transaction lifecycle authentication can occur.

Consider the practical requirements of forensic analysis. A collector who wishes to subject a painting to scientific testing must first locate a qualified laboratory—no trivial task, as the number of institutions capable of performing rigorous art forensics is small and their waiting lists are long. She must then arrange for the physical transport of the work, a process that requires specialized art handlers, climate-controlled vehicles, and insurance coverage for a journey that may span continents. The analysis itself may take weeks or months, and [the cost](#) can run into tens of thousands of dollars when shipping, insurance, and laboratory fees are combined.

These barriers mean that [forensic science enters the authentication process late](#), if it enters at all. In the typical transaction, forensic testing is a last resort—employed when something has already gone wrong.

AI authentication operates under fundamentally different constraints. Art Recognition requires nothing more than a high-resolution photograph. The collector uploads an image; the algorithm processes it; a probability assessment returns [within days](#). The cost is approximately \$2,200—substantial, but [a fraction of what forensic analysis requires](#).

This democratization of access represents AI's most distinctive contribution. The collector frozen out by foundation silence can obtain an algorithmic assessment without institutional sponsorship, without privileged relationships, without access to the networks of trust that have historically controlled authentication.

B. Stage Two: Network Effects and the Erosion of the Perls Paradox

AI authentication is worthless to a collector if the market will not accept it. The critical question is whether AI can escape the coordination trap that doomed forensic science.

Early evidence suggests it might. In November 2024, Germann Auction House in Zurich became [the first auction house to sell artwork authenticated solely by artificial intelligence](#). The work in question—a watercolor by Marianne von Werefkin—lacked any prior evidence of authenticity. Art Recognition analyzed the work and issued a certificate based solely on its neural network's

assessment. The watercolor sold for approximately \$17,000—nearly double its high estimate of \$9,300.

While this example is just one sale, it demonstrates that the coordination equilibrium can be breached. A buyer was willing to pay a premium for a work authenticated only by AI—and that willingness changes the calculus for every subsequent transaction.

This is where network effects enter. Every transaction that succeeds on the basis of AI authentication strengthens the case for the next transaction. If the von Werefkin watercolor resells successfully, the coordination equilibrium shifts incrementally.

Collectors holding foundation-rejected works have every incentive to promote AI legitimacy. The balance could shift as AI authority accumulates—as the corpus of successful AI-authenticated transactions grows large enough to constitute a viable alternative coordination point.

VII. Conclusion: AI Could Bring Experts Back

This analysis rests on the premise that experts have gone quiet creating colossal economic losses and art stuffed away in basements. The accumulation of AI legitimacy might have a counterintuitive effect: pressuring the silent experts to speak again.

Currently, experts remain silent because the risk structure makes silence rational. This calculus depends on foundations holding monopoly authority.

AI disrupts this calculus. A foundation that refuses to authenticate now faces the possibility that the collector will obtain AI certification and sell through alternative channels. The Germann auction demonstrated precisely this: a work authenticated by AI alone found a buyer at a price exceeding its estimate. If AI-authenticated works begin trading routinely, then foundation silence is no longer costless. It cedes the field to a competitor. Foundations that wish to remain relevant may need to engage rather than withdraw.

The dynamic is competitive, not cooperative, but it could produce cooperative outcomes. A foundation watching AI authenticate works it refused to examine faces reputational pressure: either the AI is wrong and the foundation should say so, or the AI is right and the foundation's prior silence was unjustified. Either way, the foundation has reason to speak.

The Karel Appel Foundation's collaboration with Art Recognition suggests this dynamic may be emerging. The Foundation follows the now-familiar pattern: it [ceased issuing certificates of authenticity in 2017](#), citing the same litigation risks that shuttered the Warhol and Basquiat

boards. Yet rather than remaining permanently silent, the Foundation has partnered with Art Recognition as it compiles its catalogue raisonné. The Foundation is not ceding authority to AI; it is incorporating AI as a check that reduces the risk of catastrophic error. If this model proliferates, the institutional anxiety borne by experts may begin to ease.

It is likely that art authorities will view AI as a threat to be resisted rather than a tool to be incorporated. Art scholars have already expressed resentment for algorithmic intrusion into domains they consider irreducibly humanistic. But the possibility exists that AI's arrival does not replace human expertise but rather creates conditions under which human expertise can safely reemerge.

The collectors holding works in authentication limbo may benefit not only from AI authentication directly but from AI's indirect effect on the experts who abandoned them.

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