

IN-DEPTH

# Art Law

ISRAEL

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# Art Law

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*In-Depth: Art Law* (formerly The Art Law Review) is a unique global overview of this dynamic and growing area of legal expertise. With a focus on recent trends and developments in key jurisdictions worldwide, it examines a wide range of topics including art disputes; fakes, forgeries and authentication; art transactions; artist rights; trusts and foundations; and much more.

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# Israel

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## Introduction

Israel's art market occupies a distinctive position in global cultural life, marked by a vibrant contemporary scene, strong institutional presence and a unique legal environment. Although relatively modest in size compared with major centres such as New York, London or Paris, Israel has one of the highest concentrations of museums per capita worldwide. Its leading institutions, foremost among them the Israel Museum in Jerusalem, hold collections of international stature and serve as key participants in global cultural exchange. Alongside these institutions, the country supports a dense network of galleries, artist collectives and auction houses, with a focus on contemporary Israeli art, Judaica and the estates of major Israeli figures.

The framework of Israeli law relevant to art and cultural property reflects both general private law principles and specific statutory regimes. As in many jurisdictions, title to movable property such as artworks is governed primarily by contract and sale law, with voluntary registration of transactions possible but rarely used in practice. Cultural property, however, has increasingly been treated as a category distinct from ordinary chattels, subject to state claims of overriding public interest, as illustrated by recent litigation and statutory developments. At the same time, Israel's regulatory environment for art transactions has been shaped by consumer protection rules, archives legislation, anti-money laundering obligations and the growing expectation of provenance research for museums and auction houses.

The years since October 2023 have been defined by extraordinary political, social and military upheaval. The Hamas attacks of 7 October 2023 and the subsequent wars in Gaza, the north and beyond, together with Iran's direct ballistic missile assault in October 2024, have fundamentally reshaped the cultural landscape. Cultural property has been directly damaged by hostilities, from kibbutz galleries and heritage sites in Israel to museums and monuments in Gaza. Israeli artists have suffered displacement, loss of studios and, in some cases, direct harm from attacks, while cultural institutions have been forced to activate wartime protocols to protect collections, including the removal of the Dead Sea Scrolls to secure storage. These events have coincided with unprecedented levels of international isolation, cultural boycotts and censorship, producing a rupture between Israeli cultural life and the global art world. While a comprehensive evaluation of the impact of the Israel–Gaza (and Israel–Hizbollah, Israel–Iran and Israel–Yemen) war on the considerations of art and cultural property law is called for, the scope of this chapter is by necessity much narrower and focuses primarily – although not exclusively – on those relating to the Israeli side of the conflict, and even then by no means exhaustively.

Domestically, tensions between government and cultural institutions have deepened. Funding priorities have shifted markedly, with cuts to mainstream cultural programming and proposals to condition state support on political or ideological alignment. Efforts at censorship, from attempts to control film awards to interventions in exhibitions and performances, have become a central feature of the cultural policy debate. Legal disputes in this period have underscored the enduring tension between private ownership and public claims to cultural property, raising important questions about the reach of the Archives Law, the operation of the market over rule and the limits of state intervention in auction sales. These developments demonstrate that art and cultural property law in Israel cannot

be separated from the broader context of national security, political polarisation and international controversy.

The economic climate of the Israeli art market has deteriorated sharply. International auction sales of Israeli artists have contracted significantly, reflecting both the global downturn in art sales and the specific impact of war and boycott on Israeli art. In 2023, three Israeli artists were among the top 500 best-selling artists at international auction;<sup>[1]</sup> in 2024, only one Israeli artist appeared in the list;<sup>[2]</sup> and in the most recent year, 2025, no Israeli artist was listed at all.<sup>[3]</sup> This trajectory highlights a precipitous decline in international demand, with total auction revenues for Israeli artists falling from millions of dollars in 2020 to negligible figures in 2025. While some artists participated in NFT sales during the earlier boom in digital art, that trend has since cooled and the market contraction has left many artists with diminished avenues for both domestic and international exposure.

## Year in review

The past year in Israel's cultural sphere has been defined by war, boycott, political confrontation and economic collapse. The Hamas attacks of October 2023 and the ensuing war marked a profound rupture, and though much of the immediate cultural damage occurred in that period, its legacy has shaped all subsequent developments. In brief, scores of artists were among the murdered, kidnapped or displaced, kibbutz galleries and archives were destroyed, and major museums were forced to activate emergency protocols to safeguard their collections. These events form the backdrop to the period under review, which has been dominated by the escalation of regional war through 2024 and 2025.

International isolation of Israeli art has continued to grow. The most visible flashpoint was the closure of the Israeli Pavilion at the 2024 Venice Biennale, when artist Ruth Patir and her curators locked the exhibition space in protest against the ongoing war, vowing not to open it until a ceasefire and hostage release were secured. Her installation, *Motherland*, later found a home at the Jewish Museum in New York before being shown in Tel Aviv in 2025.<sup>[4]</sup> The pavilion's dilapidated state, and perhaps also the controversy surrounding its participation, prompted Israeli authorities to secure a replacement venue in the Arsenale for 2026.<sup>[5]</sup> Additionally, stricter contractual oversight of future exhibitions at the national pavilion was initiated.<sup>[6]</sup> More broadly, Israeli donors and institutions became targets of international campaigns accusing them of 'artwashing', leading to resignations and divestments, including the departure of Outset Contemporary Art Fund co-founder Candida Gertler.<sup>[7]</sup> In response, museums adopted discreet defensive measures, with the Israel Museum requesting anonymity for its loans abroad to shield against boycotts.<sup>[8]</sup>

The Israel Museum itself has faced an extraordinary period of instability. In February 2025, General Manager Eva Madjiboj-Levy resigned after only 16 months in the post, becoming the fourth general manager to depart in less than a decade. Her resignation followed the short tenures of Ido Bruno, Denis Weil, and her immediate predecessor, underlining a persistent governance crisis at the country's premier cultural institution.<sup>[9]</sup> This pattern of turnover, combined with financial pressures and reputational challenges abroad, has

raised concerns about the museum's ability to provide stable leadership at a time of acute national and international stress.

Censorship and political intervention have become defining features of the domestic cultural climate. The following is a representative but by no means exhaustive list of such activity. In July 2024, a Jerusalem outdoor exhibition on the impact of war on children was targeted by right-wing activists, after which police demanded the removal of works deemed disturbing. One of the activists, who kicked and damaged artworks on display, was later ordered to pay compensation for trying to violently prevent the protest-exhibition. In December 2024, Gordon College in Haifa cancelled an exhibition by artist Rachel Nemesh because it included depictions of same-sex couples and nudity, prompting the artist to withdraw the entire show.<sup>[10]</sup> <sup>[11]</sup> Following the Oscar for best documentary to the joint Israeli-Palestinian film *No Other Land*, the Minister of Culture, Miki Zohar, sought to cancel state support for certain performers.<sup>[12]</sup> Although the legal counsel of the Ministry of Culture clarified in March 2025 that ministers lack legal authority to condition funding on content, the climate of intimidation has continued to shape artistic expression.<sup>[13]</sup>

<sup>[1]</sup> The Minister of Heritage intervened to exclude critical academics from archaeological conferences.<sup>[14]</sup> In September, the Minister of Culture threatened to withdraw funding after the Ophir Award for best film was granted to *The Sea*, announcing instead the creation of a rival 'State Oscars'.<sup>[15]</sup> Also in September, actor Ariel Bronz was detained and interrogated by police over a provocative poem alleged to incite terrorism.<sup>[16]</sup>

Regulatory and legislative developments have similarly reflected both economic and ideological divides. Here too, space allows only a representative, not comprehensive, enumeration. Draft funding regulations published in September 2024 introduced a legal definition of a 'professional artist' and required state-supported galleries to pay artists at least 20 per cent of exhibition budgets.<sup>[17]</sup> While intended as a reform to improve artist livelihoods, curators and gallery directors warned that the costs would drive closures, particularly in peripheral regions.<sup>[18]</sup> In February 2025, a bill was proposed to transfer oversight of West Bank antiquities from the military Civil Administration to the civilian Ministry of Heritage, a move opposed by the Israel Antiquities Authority on grounds that it would damage Israel's international standing and professional integrity.<sup>[19]</sup> These measures illustrate how cultural regulation has become an extension of broader political contests.

Amid the turmoil, civil society has stepped into the breach. The Jerusalem-based non-profit 'New Spirit' facilitated the creation of 'Israel's Art at Dawn', which raised approximately two million shekels through auction sales to support refugee artists and damaged cultural institutions and continued funding art projects in war-distressed areas through 2025.<sup>[20]</sup> In June 2025, the #MiklatArt initiative was launched to provide safe working spaces for artists displaced by rocket fire.<sup>[21]</sup> Earlier, in December 2024, the sale exhibition *Great Light* raised funds for the rehabilitation of the Negev.<sup>[22]</sup> These efforts underscore the resilience of Israel's artistic community and the continuing role of philanthropy in sustaining cultural life when state funding is uncertain or politicised.

The economic crisis in the art market is starker in the collapse of auction revenues for Israeli artists. In 2023, three Israeli artists appeared among the top 500 contemporary best-selling artists at auction worldwide; in 2024, only one; and in 2025, none at all.<sup>[23]</sup>

<sup>[1]</sup> Total auction sales for Israeli artists have dropped from over US\$14 million in 2020 to negligible levels in 2025.<sup>[24]</sup> The NFT market, briefly a source of excitement, has largely

dissipated,<sup>[25]</sup> while tourism – historically a major driver of Judaica and contemporary art sales – has withered under the strain of war and international boycotts.<sup>[26]</sup> Galleries have closed or reduced operations, exhibitions have been cancelled and artists face not only the loss of markets abroad but also dwindling opportunities at home.<sup>[27]</sup> The contraction in auction revenues has thus become emblematic of the broader collapse of Israel's cultural economy.

In June 2025, a two-week war with Iran brought the entire country, including its cultural institutions, to a near standstill. Cultural life was effectively suspended, with museums shuttered, exhibitions cancelled and artists displaced.<sup>[28]</sup> Some 40,000 apartments in 17 municipalities were destroyed or damaged by direct hits from Iranian ballistic missiles, and up to 19,000 civilians were left homeless.<sup>[29]</sup> Among these were several prominent figures in the Israeli art world: the Haifa home and studio of Belu-Semion Fainaru, recipient of the 2025 Israel Prize for Art and Design, was severely damaged, while the Tel-Aviv home of internationally recognised artist Tsibi Geva was destroyed.<sup>[30]</sup> The sense of fragility in the cultural sphere deepened as artists themselves became both victims and chroniclers of war.

## Art disputes

### Title in art

Disputes over cultural property in Israel continue to illustrate the difficult balance between private ownership rights and the state's claim to an overriding public interest in works of historical or cultural significance. Several recent judgements underscore the centrality of this tension.

The most closely watched case remains the litigation over a letter authored by Joseph Trumpeldor, offered for sale by King David Auctions. The Jabotinsky Institute argued that the letter had been unlawfully removed from its archive and was therefore subject to the Archives Law 5715-1955, which prohibits alienation of state or public archival documents. The District Court rejected the Institute's claim, holding that the Institute failed to prove theft or unlawful removal. Absent proof, the Archives Law could not by itself invalidate title. The court instead applied the market overt rule from the Sale Law 5728-1968, confirming that a bona fide purchaser at auction acquires good title even if the object had been stolen, provided the purchase was made in good faith. The Institute appealed, and in early 2023 the Supreme Court issued an interim injunction barring disposition of the letter pending final ruling. Hearings were repeatedly postponed due to wartime reserve service by counsel. In a May 2025 hearing, the Court suggested that the sides try to reach an agreement, and gave the sides 30 days to report back. As at the time of writing, the case remains open. If the sides cannot reach an agreement, the eventual decision will likely clarify the relationship between archival protection and the market overt rule, setting a precedent on whether cultural property marked as archival can be alienated in the market.<sup>[31]</sup>

In June 2025, the Jerusalem Magistrates' Court issued a judgement ordering the return of 966 confiscated religious books from the National Library to claimant Shaul Sadaka. The books had been imported from London in 2017, mistakenly shipped under the name of

another immigrant. Customs seized them and they were transferred to the National Library. Sadaka, grandson of a rabbinic collector who had amassed the works, sued for their return after protracted efforts to locate them. The State initially defended the seizure, arguing that the books had been legally forfeited under the Customs Ordinance and had become the property of the Library under the National Library Law 5767-2007. The Library claimed the books constituted cultural property, not subject to private restitution, and further alleged that Sadaka had been complicit in attempted smuggling. After a long and complex process, including an interim settlement with the state, the court concluded that Sadaka had proved ownership through family documentation, photographs and cataloguing evidence. It held that the forfeiture had been unlawful and that the Library's possession was without legal basis. The Library was ordered to return the 966 books; however, Sadaka's claim for compensation for 164 additional books – said to have been dispersed, destroyed, or ritually buried – was denied. The court found insufficient proof of their condition or value and accepted testimony that some had been unsuitable for preservation. While the Library avoided liability for damages, it was strongly criticised for inadequate record-keeping and for raising new arguments late in proceedings.<sup>[32]</sup>

The ruling is significant, demonstrating judicial willingness to scrutinise cultural institutions, reject broad claims of 'cultural property' immunity and uphold individual ownership rights where state action was procedurally flawed.

### Nazi-looted art and cultural property

Israel continues to lack a dedicated legislative framework for the restitution of Nazi-looted art. Unlike Austria, Germany and the Netherlands, no statutory scheme or specialised commission has been enacted. Claims are therefore adjudicated under general principles of property law, unjust enrichment and contract law, often leaving claimants at a disadvantage.

The draft restitution bill, announced with some fanfare in May 2023, remains stalled. Despite clear recommendations from a 2023 inter-ministerial report urging the creation of a statutory framework and uniform provenance research standards, the proposal has languished without legislative progress. The government's attention has been largely consumed by the ongoing war and its attempts at judicial reform (or revolution), leaving little room for initiatives in the cultural sector. At the same time, institutional pressures – particularly from museums and their boards, many of which have close ties to senior political figures – may also have contributed to the effective burial of the bill.

### Recent restitution: the Adler Collection

A significant development occurred in April 2025, when research into the collection of Emilia and Karl Adler, Jewish collectors in Munich whose holdings were looted by the Nazis, revealed that a painting from their collection had entered the holdings of the Israel Museum. The work, *German Eagle and English Lion* (1900) by Max Slevogt, had been miscatalogued under a different title and transferred to the Bezalel National Museum (later the Israel Museum) via the Jewish Restitution Successor Organization (JRSO) in the early 1950s. The JRSO collection transferred over 400 works of art and over 1,000 pieces of Judaica to Israel. The restitution in this case was the result of independent provenance research initiated by the heirs, rather than by the museum itself. The Adler descendants

conducted a years-long project, funded in part by the German Lost Art Foundation, which ultimately identified the Slevogt in Jerusalem. The Israel Museum subsequently entered into discussions to transfer legal title to the heirs, who in turn signalled their intent to donate the painting back to the museum, thereby linking restitution with ongoing cultural preservation.<sup>[33]</sup> Previously unreported, in 2024, the Israel Museum restituted to the Jewish Cultural Quarter, Amsterdam, 16 items of Judaica it held as part of its JRSO collection, and in 2023 it restituted a painting from the JRSO collection, identified by the German OFP project, to the heirs of Paul Jakob Eisner. Remarkably, neither of these restitutions were reported in the press. In total, since the year 2000, the Israel Museum has restituted 25 artworks and 17 items of Judaica from the JRSO collection, and another four artworks that did not originate in the JRSO collection. Notably, it appears that all of these restitutions arose from external claims rather than the Israel Museum's own independent research.

This episode highlights both the potential for independent research to uncover hidden histories and the continued limitations of institutional initiative in Israel, where museums have rarely engaged in systematic provenance reviews on their own.

#### Museums and provenance research

Israeli museums have faced longstanding criticism for their handling of restitution. While there have been sporadic restitutions in recent years, these have generally occurred only after heirs have approached the institutions with documentation. Museums' own provenance research, though reportedly improved since 2021, remains limited in scope and transparency.

The *Adler* case is emblematic: rather than originating from the museum's own investigations, the claim emerged from family research, later corroborated by independent scholars. This underscores the broader pattern of reactive rather than proactive restitution in Israel.

#### HEART Database

The Holocaust Era Assets Restitution Taskforce (HEART) was launched by the Israeli government and the Jewish Agency in 2011 to catalogue Jewish-owned property confiscated or looted during the Holocaust. By 2012 it contained over two million records, including real estate, movable assets and financial instruments submitted by heirs and survivors worldwide. The project was suspended in 2014 and absorbed into the Ministry for Social Equality, leaving the database largely inaccessible for years. In 2025, following litigation by Shurat HaDin, the government agreed to reopen it to public access.<sup>[34]</sup> The database provides heirs and researchers with a valuable – though incomplete – digital archive of Holocaust-era property, but does not itself adjudicate claims and remains only loosely integrated with museum provenance efforts. The timeline for the database's reopening is unclear.

#### Emerging trends

Restitution in Israel remains overwhelmingly in the province of claimants and heirs, who undertake their own research and press museums to acknowledge misattributed or

looted works. Institutions, by contrast, have yet to produce the fruits of any proactive or systematic provenance research.

This dynamic reflects a broader frustration with the absence of legislative progress: without a dedicated statutory framework, restitution continues to depend on case-by-case negotiations initiated from outside the institutions themselves. Israel therefore remains behind comparable jurisdictions where state-led commissions or mandatory provenance inquiries are the norm.

### Limitation periods

Under the Prescription Law 5718-1958, civil claims normally expire after seven years.<sup>[35]</sup> Yet in *State of Israel v. Beham* (2019), the Supreme Court held that claims predating the statute are not subject to limitation.<sup>[36]</sup> Read alongside the stalled Nazi-looted art bill, this precedent suggests Israeli law may evolve toward allowing heirship claims to survive indefinitely, even decades after the original dispossession.

### Alternative dispute resolution

Israel has no dedicated arbitration forum for art disputes. However, the International Commercial Arbitration Law 5779-2024,<sup>[37]</sup> incorporating the UNCITRAL Model Law, provides modern tools for resolving cross-border cultural property disputes. While practice remains limited, arbitration offers parties a neutral avenue when litigating sensitive claims in Israeli courts may be undesirable. There are a growing number of independent arbitral bodies and associations; however, these are largely focused on real property and large commercial disputes, and none of them deal specifically (or at all) with art and cultural property.

## Fakes, forgeries and authentication

Disputes concerning the authenticity of artworks remain a concern of the Israeli art market. As in other jurisdictions, Israeli law provides no specialised statute governing authentication; rather, issues of forgery, fraud and misrepresentation are dealt with under the general provisions of Contract Law (General Part) 5733-1973,<sup>[38]</sup> the Torts Ordinance (New Version) 1968<sup>[39]</sup> and relevant provisions of the Penal Law 5737-1977.<sup>[40]</sup> For dealers and experts, the threshold of diligence is high: failure to exercise due care in establishing authenticity can result in both civil and criminal liability.

The most prominent authenticity dispute of the last few years was *Nicol Raidman v. Itzhak Zarug*, filed in 2022 in the Herzliya Magistrates' Court. Raidman alleges she was defrauded in a transaction involving a vast collection of artworks represented as worth approximately €2 billion, which experts later deemed inauthentic and unsalable. She sued for rescission and damages for fraudulent misrepresentation, while Zarug denied liability and maintained the works were sold 'as is'. Proceedings were repeatedly delayed, but in April of 2024 Raidman suddenly withdrew her lawsuit.<sup>[41]</sup>

### Archaeological and antiquities forgeries

Forgery disputes in Israel also extend into the archaeological domain. Israel has long been a centre of both legitimate antiquities trade and illicit forgeries, often linked to biblical archaeology. The most famous case, that of the *James Ossuary* and the *Yehoash Inscription*, ended in 2012 with acquittal on forgery charges,<sup>[42]</sup> though controversy remains regarding the items' authenticity.

More recently, scholarly consensus has reaffirmed that the Moses Wilhelm Shapira scrolls – purported biblical manuscripts offered in the 19th century and long the subject of debate – are definitively forgeries. Mineralogical and geochemical analysis by Professor Yuval Goren concluded that the scroll fragments were artificially aged and textually contrived, describing the attempt as 'a bit clumsy'.<sup>[43]</sup> While not a live court case, the episode underscores how scientific techniques continue to expose fraudulent claims in the antiquities market. This latest conclusion has led to speculation by at least one expert that the Mesha Stele might also be a forgery.<sup>[44]</sup>

### Antiquities crimes and enforcement

Alongside questions of authenticity, Israeli courts have continued to prosecute offences relating to illegal excavation and destruction of antiquities. In January 2025, a defendant was convicted on two counts of damaging antiquities and unauthorised excavation.<sup>[45]</sup> He was sentenced to community service and fined. In February 2025, the Military Court of Appeals upheld an 18-month prison sentence against a Palestinian for damaging Byzantine-era structures in a British-Mandate-era declared archaeological site in the West Bank.<sup>[46]</sup> That same month, the Israel Antiquities Authority brought civil charges to enforce an injunction against unauthorised construction in the Silwan neighborhood adjacent to the Old City of Jerusalem that destroyed antiquities, proceedings that remain ongoing.<sup>[47]</sup>

These cases illustrate the range of challenges facing Israeli authorities in protecting cultural heritage: from high-profile fraud involving allegedly multi-billion-euro art collections, to persistent illicit excavation and destruction of antiquities. While the courts have proven willing to impose penalties for physical damage to heritage sites, civil litigation over authenticity remains slow and uncertain, leaving both collectors and the art market in a climate of ambiguity.

## Art transactions

### Private sales and auctions

The Israeli art market, though relatively modest in scale, is regulated by a combination of general private law, consumer protection rules and specific statutes relating to cultural property. As in other areas, tensions arise between the free circulation of movable property and the state's assertion of control over culturally significant objects.

In Israel, the sale of artworks is governed principally by the Sale Law 5728-1968,<sup>[48]</sup> and general contract principles. A central feature is the market overt rule, under which a purchaser who acquires movable property from a recognised dealer or at public auction obtains good title, provided the purchase was made for value and in good faith. This

rule has repeatedly been invoked in disputes over cultural property, most notably in the *Jabotinsky Institute v. King David Auctions* litigation discussed above.

Consumer protection plays a significant role in auction sales. The Consumer Protection Law 5741-1981 requires disclosure of material defects known to the seller that substantially reduce value.<sup>[49]</sup> Auction houses are therefore under a heightened duty to verify provenance and authenticity. The combination of consumer protection standards and the market overt rule places Israeli auctioneers in a complex position: they may pass good title to buyers even of stolen goods, yet remain exposed to liability if they fail to disclose defects or suspicions.

## Art loans

Art loans from abroad are governed by the Loan of Cultural Objects (Restriction of Jurisdiction) Law 5767-2007,<sup>[50]</sup> which grants immunity from seizure to objects loaned for temporary exhibition in Israel. The law was enacted in part to reassure foreign lenders concerned about claims to Nazi-looted property.

Implementation, however, has been uneven. Lists of covered works are often published only online and may suffer from broken links or incomplete data. Moreover, decrees have sometimes extended immunity to works loaned from private foreign collections, raising questions about whether the statute's scope has been applied too broadly. Nevertheless, the law remains a cornerstone of Israel's ability to participate in international exhibition exchange, despite the heightened political risk climate.

Controversy has also arisen from the disappearance or disputed custody of loaned works. A particularly sensitive case in 2025 involved a five-ton Second Temple-era stone block from the Western Wall complex, which had been transferred for display at Ben Gurion Airport. Following public and institutional protests, the Israel Antiquities Authority agreed to return the block to the Western Wall Heritage Foundation.<sup>[51]</sup> The incident underscored the fragility of institutional cooperation and the delicate balance between public display, heritage preservation and custodial rights.

The disappearance of artist Belu-Simion Fainaru's monumental *Bereshit*, on loan to the Hebrew University, initially discovered as the previous edition went to press, remains unresolved. In the interim, several other cases of artworks held by public institutions or authorities that have disappeared or been irretrievably damaged, and that have not been otherwise publicised, have come to the attention of the author.

## Cross-border transactions

Cross-border art transactions in Israel are subject to both international conventions and domestic restrictions. Israel is party to the 1970 UNESCO Convention,<sup>[52]</sup> and has enacted implementing provisions in the Antiquities Law 5738-1978.<sup>[53]</sup> Export of antiquities requires a licence from the Israel Antiquities Authority and export of artworks designated as 'national treasures' may be restricted. While contemporary art is generally free to circulate, controversy occasionally arises when culturally resonant objects are sent abroad without permits.

Israel has not joined the 1995 UNIDROIT Convention,<sup>[54]</sup> largely due to concerns over retroactive restitution claims against Israeli museums and collectors. The absence of accession reflects a policy of caution in balancing international cooperation with the protection of local collections.

#### Taxes and tariffs

A new factor of potential significance is the Trump Administration's tariff regime, introduced in April 2025 under emergency powers. The Executive Order imposed a 10 per cent baseline tariff on most imports, with higher rates for certain countries.<sup>[55]</sup> Although the Harmonized Tariff Schedule, Chapter 97 continues to exempt original artworks such as paintings, sculpture, prints and antiques over 100 years old,<sup>[56]</sup> enforcement has been inconsistent. Customs officers have sometimes misclassified shipments, particularly when dealing with mixed-media works, furniture or design objects.<sup>[57]</sup>

This legal uncertainty has caused significant disruption. Galleries report higher shipping costs, delays and nervousness among American buyers, even when artworks remain exempt.<sup>[58]</sup>

For Israeli dealers and artists, the risk is acute: historically, a large proportion of exports have gone to Jewish collectors and institutions in the United States. Even a small shift in costs or confidence could disproportionately affect already-declining revenues from international sales. This is especially true for the Judaica market, large portions of which are unlikely to be recognised as artworks under HTS Chapter 97.

#### Art finance

Art finance in Israel remains embryonic. While works of art are occasionally pledged as collateral for bank loans or private financing, there is no developed secondary market or dedicated art finance industry. The absence of a central registry for art liens complicates enforcement and risk management.

By contrast, transparency obligations have grown significantly. Israel is bound by stringent anti-money laundering (AML) requirements under both domestic law and its commitments to the Financial Action Task Force (FATF).<sup>[59]</sup> While auction houses, galleries and dealers are increasingly expected to conduct customer due diligence, verify beneficial ownership and report suspicious transactions, just as any with any other commercial purveyor in the Israeli market, up to now anti-money-laundering activities have been focused primarily on banks and mafia-type crime syndicates, and no cases involving artworks are known. These obligations have introduced compliance costs to a market already weakened by economic contraction, but they also align Israel with global trends toward transparency in high-value cultural transactions.

## Artist rights

#### Moral rights

Israeli law provides artists with both moral and economic rights, enshrined in the Copyright Law 5768-2007.<sup>[60]</sup> Several recent rulings from late 2024 and 2025 have clarified the scope of these rights and extended protection into new areas of practice.

Moral rights grant artists the right of attribution and the right to integrity, protecting against distortion or presentation of works in a way that harms their reputation. Courts have applied these principles robustly in recent disputes.

In a precedent-setting case, the Tel-Aviv Magistrates Court ruled that street art meets the originality threshold under Israeli law and is fully protected. A photographer, sued for reproducing, cropping, and commercially marketing graffiti works without attribution, had argued that graffiti, being illegally painted on public walls, was not entitled to copyright protection and that her use was fair use. The court rejected these arguments, determining that removing signatures and altering the works infringed the artists' moral rights of attribution and integrity, and ordered to the photographer to pay the street artists Yonatan Kochva and the late Damian Tabak (known as MAS972/Damian Tab) 130,000 shekels in statutory damages.<sup>[61]</sup>

In another case, the Netanya Magistrates Court ruled that aerial photographs are eligible for protection, and that defendant's cropping of the image violated the photographer's moral right of integrity, even though the defendant, a non-profit organisation, gained no commercial profit. The court awarded 35,000 shekels for copyright infringement, 8,000 shekels for the moral rights violation and 10,000 shekels for emotional distress. The judgment makes clear that moral rights are independent of economic considerations and can be infringed even by seemingly minor alterations.<sup>[62]</sup>

## Resale rights

Israel has no legislated artists' resale right (*droit de suite*); however, there is no *prima facie* restriction on the assertion of resale rights as a contractual obligation, although this is largely unknown in the Israeli market.

## Economic rights

Economic rights under the Copyright Law entitle artists to control reproduction, distribution, and commercial exploitation of their works. In a key recent judgement, the boundary between artistic originality and mass-market design was addressed.

A ceramic artist alleged that a supermarket chain had sold mass-produced imitations of her 'balloon vases', which were hand-crafted works exhibited and sold in design collaborations. The court found that the vases bore sufficient originality to qualify as protected artistic works and rejected chain's argument that they were generic decorative items. While remedies were deferred to a later phase, the decision confirmed that functional or decorative objects may enjoy copyright protection if they reflect artistic creativity.<sup>[63]</sup>

## Artificial intelligence

The Copyright Law does not define the term 'creator' at all. Nevertheless, protection depends on a work's originality and fixation.<sup>[64]</sup> Israeli courts interpret originality to require

a human intellectual and creative contribution. Recent decisions reaffirm that an original work must reflect 'at least a minimal degree of human intellectual and creative effort'.<sup>[65]</sup> These rulings articulate the tripartite test of source, investment and creativity, all understood as inherently human.

Accordingly, fully autonomous AI-generated content falls outside current protection, whereas human-assisted uses of AI may qualify if the creator demonstrates personal creative direction or intellectual input, although this has not yet been put directly to judicial test.

## Trusts, foundations and estates

The Israeli legal framework for art-related trusts and estates is relatively underdeveloped, reflecting the absence of a specialised law of cultural property succession. Most questions are resolved under the general provisions of the Trust Law 5739-1979<sup>[66]</sup> and the Succession Law 5725-1965.<sup>[67]</sup> Nevertheless, developments in practice and case law illustrate recurring challenges regarding donor intent, governance and the treatment of cultural assets.

### Donor intent and institutional trusteeship

Israeli courts and commentators have increasingly acknowledged that the acceptance of donations by public institutions creates a quasi-trusteeship, obligating museums and archives to respect donor intent. Where donor conditions are explicit, courts have been willing to enforce them. Even absent express conditions, scholars argue that a fiduciary obligation arises by virtue of the institution's public character.<sup>[68]</sup>

That said, acceptance of an artwork by a public institution does not automatically create a private trust under the Trust Law 5739-1979. The law requires intent, identifiable property and a defined obligation to hold for a particular purpose.<sup>[69]</sup> At the same time, public institutions are 'trustees of the public', bound by administrative duties of fairness and non-discrimination.<sup>[70]</sup> This dual framework – administrative fiduciary duties versus private-law trusts – defines the boundaries of donor-institution relationships.

### Foundations and governance

Cultural foundations are typically established as *amutot* (non-profit associations) under the Amutot Law 5740-1980. They are supervised by the Registrar of Associations, which requires transparency and adherence to stated purposes.

In addition, Israeli law recognises public trusts created for cultural or other public purposes, often established by will. Such trusts bind property to exclusive use for the defined purpose, such as education or the arts.<sup>[71]</sup> Though relatively rare, they represent a potentially significant means of securing artists' legacies.

### Estates and heirship disputes

Limitation issues in trust disputes are particularly important. The Supreme Court has clarified that limitation periods typically begin only once a beneficiary has actual or constructive knowledge of a breach of trust.<sup>[72]</sup> This principle applies across all trust contexts, not only to estates.

### Emerging trends

Courts have recognised that an implied trust may arise where donor intent shows an expectation of preservation or public display, even absent a formal trust deed.<sup>[73]</sup>

As previously noted, the author is aware of multiple emerging disputes – not yet filed in court – where artists donated works to public institutions and the works were subsequently lost or damaged. Should these matters proceed to litigation, they are likely to test the boundary between outright gifts, implied trusts and the scope of public institutions' fiduciary duties.

## Special considerations

### Cultural property and heritage

The legal framework governing cultural property and heritage in Israel is largely shaped by the Antiquities Law 5738-1978, international conventions and the political and historical circumstances of the region. This field is marked by both the (usually) strict enforcement of antiquities laws and intense political debates about heritage governance.

#### Antiquities and the state's ownership

Under the Antiquities Law, all antiquities discovered after 1978 belong to the state.<sup>[74]</sup> Excavation without a licence, damaging antiquities or performing unauthorised works at sites are criminal offences.<sup>[75]</sup>

Recent rulings show a clear trend: courts impose custodial sentences and fines for unlicensed digging or damage, treat such harm as causing irreversible loss and support the Israel Antiquities Authority (IAA) in using both criminal prosecution and civil injunctions to halt violations. In January 2025, a defendant was convicted on two counts of damaging antiquities and unauthorised excavation.<sup>[76]</sup> He was sentenced to community service and fined. In February, the Israel Antiquities Authority brought civil charges against Majd Zaghal to enforce an injunction against unauthorised construction in the Silwan (Siloan) neighborhood adjacent to the Old City of Jerusalem that destroyed antiquities, in proceedings that remain ongoing.<sup>[77]</sup>

Enforcement is carried out both within the Green Line and in the occupied territories, with military courts in the West Bank upholding severe penalties for antiquities destruction. Also, in February 2025, the Military Court of Appeals upheld an 18-month prison sentence against Jafar Muhammad Ali Zaid, a Palestinian, for damaging Byzantine-era structures in the West Bank.<sup>[78]</sup>

In line with international trends toward transparency and accessibility, the IAA launched an online database of its national collection, allowing public and scholarly access to digitised records of antiquities.<sup>[79]</sup> Hopefully, this initiative will improve accountability and reduce reliance on internal, non-public inventories.

#### Cultural heritage in armed conflict

Heritage has been directly affected by armed conflict in recent years. Throughout the war, and most recently during the October 2024 Iranian missile attacks and the June 2025 war with Iran, several museums activated emergency evacuation protocols, including the relocation of the Dead Sea Scrolls to secure storage.<sup>[80]</sup> Israeli museums and galleries were attacked and some destroyed, as were studios and homes of prominent artists, while archaeological and cultural heritage sites in both Israel and Gaza sustained damage during military operations.

In one well-publicised case, Israeli authorities (through COGAT) coordinated the urgent evacuation of rare archaeological finds from a cultural storage site in Gaza ahead of IDF strikes, allowing certain objects to be safeguarded.<sup>[81]</sup>

The IAA also employed advanced 3D photogrammetry technology to document roughly 500 sites attacked by Hamas, creating high-precision digital models. These archives serve not only for commemoration and education but also as potential legal evidence in proceedings before international tribunals.<sup>[82]</sup>

Although Israel has not ratified the 1954 Hague Convention, its domestic practice reflects many of the Convention's principles, including conservation of records and emergency protection. The lack of formal accession, however, has limited Israel's ability to invoke the Convention's protections or dispute-resolution mechanisms.

#### Heritage and politics

Cultural heritage management has become an arena of political contest. As noted, a proposal advanced in 2024–25 to transfer oversight of West Bank antiquities from the military Civil Administration to the civilian Ministry of Heritage provoked strong opposition from the IAA, which warned it would damage Israel's professional reputation and international ties. Critics argued the bill sought to politicise archaeology, especially in contested areas such as Qumran, by subordinating professional standards to nationalist agendas.<sup>[83]</sup>

Separately, controversies have arisen over the role of the IAA's Director General, who was criticised for participating in a political party meeting and for authorising the temporary loan of the ancient Megiddo mosaic abroad in the midst of war, allegedly for public-relations purposes.<sup>[84]</sup>

Heritage sites have also become symbolic targets. In August 2025, graffiti with the words 'Holocaust in Gaza' was sprayed on the Western Wall, an incident that raised concerns about the vulnerability of holy sites and the adequacy of conservation protocols.<sup>[85]</sup>

#### International scrutiny

International bodies have intensified their focus on the destruction of heritage in Gaza and the West Bank. A June 2025 UN investigative report concluded that Israeli attacks had damaged or destroyed a significant proportion of Gaza's cultural sites under review, raising the possibility that such acts could constitute war crimes.<sup>[86]</sup> This report was strongly attacked as biased, flawed and unreliable by UN Watch.<sup>[87]</sup> Unfortunately, neither report is comprehensive or examines each event thoroughly either factually or legally.

International humanitarian law makes clear that cultural property is presumptively protected, but loses that protection if used for military purposes, or where imperative military necessity exists. This principle is reflected in Article 52(2) of Additional Protocol I (limiting attacks to military objectives),<sup>[88]</sup> Article 53 of Additional Protocol I (prohibiting the use of cultural property in support of the military effort)<sup>[89]</sup> and Article 4(2) of the 1954 Hague Convention (waiver of protection only in cases of imperative military necessity).<sup>[90]</sup> On the other hand, proportionality, which is also a requirement,<sup>[91]</sup> is both subjective and difficult to both quantify and qualify. This is even more the case when the factual record is unclear – and often intentionally so.

Taken together, these developments illustrate the complexity of assessing compliance with international humanitarian law in real time. While some actions point to safeguarding efforts, others raise allegations of unlawful destruction. The absence of transparency and independent, objective real-time reporting makes it difficult to reach definitive conclusions about individual incidents. Since 7 October 2023, Israel's cultural sector has operated against the backdrop of a prolonged and destabilising war. The October 2025 ceasefire marked the end of two years of intermittent hostilities that repeatedly shuttered museums, postponed exhibitions and redirected both public and private resources away from cultural activity. Institutions across the country suspended programming during alerts, adapted storage and staffing to civil-defence protocols, and relied on emergency cultural-support funds where available.

Periods of relative calm allowed partial reopenings, but attendance and foreign loans remained sharply constrained by security considerations and travel-insurance limits. The cumulative effect has been an erosion of revenue, shrinking of educational outreach and a slowdown in cross-institutional collaboration.

At the political level, when not preoccupied with wartime governance, the government has continued to advance elements of its judicial-reform agenda, provoking deep and sustained social polarisation. Demonstrations, counter-demonstrations and public-sector strikes have at times paralysed city centres and strained relationships between state institutions and the artistic community. Cultural leaders, artists and museum boards have found themselves drawn – willingly or not – into debates over artistic freedom, institutional neutrality and the limits of publicly funded expression.

## Outlook and conclusions

As of the October 2025 ceasefire, Israel's art and cultural landscape shows remarkable persistence but structural fragility. The combination of extended conflict, political division and resource reallocation has left institutions operating with reduced capacity and heightened sensitivity to public perception.

The judicial-reform debate continues to reverberate through cultural governance, influencing board composition, donor behaviour and curatorial decision-making. For now, Israel's art-law environment remains characterised by ad-hoc adaptation rather than statutory reform: cultural institutions operate through evolving internal policy rather than under comprehensive legislation.

In sum, the sector endures in a climate defined by political tension, economic pressure and conflict that ranges from intermittent to continuous, sustained by the commitment of its practitioners rather than by systemic support.

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