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## “A CRITICAL ANALYSIS OF THE ANTIQUITIES AND ART TREASURES ACT, 1972 IN PREVENTING IDOL TRAFFICKING IN INDIA”

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### ABSTRACT

The **Antiquities and Art Treasures Act (AATA) of 1972** serves as India's primary legal shield against the illicit trafficking of its civilizational legacy, yet it remains a subject of intense critical scrutiny due to persistent systemic vulnerabilities.

This research provides an exhaustive analysis of the Act's effectiveness in preventing **idol trafficking**, particularly in regions like Tamil Nadu where sacred temple bronzes have become high-value commodities in a multi-billion dollar global black market. Using a doctrinal **and analytical research methodology**, the study evaluates the legal architecture of the AATA 1972, identifying critical lacunae such as **weak deterrent penalties**, an ambiguous definition of "antiquities" that often excludes sacred idols, and the absence of a comprehensive national digital database. Further, the study explores the institutional challenges faced by enforcement agencies such as the Archaeological Survey of India, police departments, and customs authorities.

### INTRODUCTION

The cultural heritage of India is not merely a collection of historical artifacts but represents the "soul of the nation" and is a testament to thousands of years of diverse traditions, philosophies, and artistic achievements<sup>191</sup>. Within this vast heritage, temple idols hold a unique position, serving as both artistic masterpieces and consecrated objects of worship. However, this civilizational legacy is increasingly under threat from a sophisticated and globalized network of illicit trafficking.

From Chola bronzes in Tamil Nadu temples to medieval stone idols across the south, these irreplaceable treasures are systematically stolen, smuggled abroad, and auctioned in international markets, often fetching millions while eroding India's shared identity, multi-billion dollar industry, often cited as the third-largest illicit trade globally, trailing only drugs and arms in terms of volume.

<sup>191</sup> Neeladri Bhattacharya, *The Great Indian History Debate* OUP, 2010

## 1.1 ENFORCEMENT AUTHORITIES

1. The Central Government :The Central Government holds the primary power of oversight and policy formulation. Its most significant role is the power to declare specific items as "art treasures" based on their artistic or aesthetic value, provided they have been in existence for at least one hundred years. Additionally, the Central Government has the exclusive authority to regulate or prohibit the export of any antiquity or art treasure, ensuring that such items do not leave the country except through government-sanctioned channels.

2. The Archaeological Survey of India (ASI): which is located under the Ministry of Culture, is in charge of conducting archaeological research and overseeing the restoration and preservation of about 3,650 monuments classified as "national heritage" at the national level. The Director-General (DG) of the ASI acts as the technical head and chief enforcement officer under the Act. The DG's office is responsible for issuing export permits and certifying whether an object constitutes an antiquity or not. If a dispute arises regarding the nature of an object, the DG's decision is final. They also oversee the national inventory of registered antiquities and coordinate with international bodies like INTERPOL to recover trafficked idols.

3. Police Departments: While the ASI identifies the art, the Police Departments handle the criminal investigation and enforcement. Their role is governed by both the AATA and the Bharatiya Nyaya Sanhita (BNS). Police officers (usually of the rank of Sub-Inspector and above) have the power to raid premises, seize undocumented antiquities, and arrest individuals suspected of illegal possession or trade. The police act as the link between the ASI and other enforcement bodies like the Directorate of Revenue Intelligence (DRI) and INTERPOL. They issue Look-Out Circulars (LOCs) for known traffickers and

handle the filing of First Information Reports (FIRs) and charge sheet<sup>192</sup>s in court.

4. Custom Officers and Appraisers :While not exclusive to this Act, Customs Officers serve as the frontline defence at ports and airports. Under Section 18 of the Act, they are empowered to search and seize any package suspected of containing antiquities being exported illegally. They work closely with ASI experts at major exit points to verify the "Non-Antiquity" certificates often used by smugglers to disguise genuine artifacts as modern handicrafts.

5. The Ancient Monuments and Archaeological Sites and Remains Act 1958 (AMASR Act) is the legislation that governs these.

6. State-protected monuments are managed by the Directorate of State Archaeology and Museums.

7. A lot of cities also make an attempt to preserve their own urban heritage by designating a City List of historically significant local objects that are under local government administration.

8. Exports of antiques are governed by the Antiquities Export Control Act of 1947 and its regulations.

9. A revision to the AMASR Act established the National Monument Authority, whose role it is to grade and categorise designated monuments and sites<sup>193</sup>.

10. In order to gain effective control over the moveable cultural property made up of antiquities and art treasures, the Antiquities and Art Treasures Act of 1972 was passed.

11. Several state legislations pertaining to heritage have also been passed.

12. India's ratification of the World Heritage Convention for the preservation of both national and global heritage by UNESCO further

<sup>192</sup> Directorate of Revenue Intelligence, Functions and Powers (Government of India).

<sup>193</sup> Ancient Monuments and Archaeological Sites and Remains Act 1958 (as amended); National Monuments Authority Rules.

demonstrated the country's commitment to heritage.

## 1.2 INSTITUTIONAL CHALLENGES

### 1. Archaeological Survey of India (ASI)

The ASI is the scientific backbone of protection but suffers from severe resource constraints.

- **Manpower Crisis:** As of 2026, the ASI operates with nearly **45% of its sanctioned posts vacant**. With only about 4,800 staff members responsible for over 3,600 nationally protected monuments, there is a physical impossibility of guarding every site 24/7.
- **Documentation Gap:** Thousands of antiquities remain unrecorded. Without a high-resolution photographic database and a centralized digital register, it is nearly impossible to prove an item was stolen if it appears in an international gallery years later.
- **Missing Monuments:** Bureaucratic lapses have occasionally led to monuments being declared "missing" due to rapid urbanization or encroachment, making the artifacts within them easy targets for local thieves.
- **Technical Burden:** ASI experts are often overburdened with "non-antiquity" certification requests from exporters, which diverts their focus from deep research and proactive site protection.

### 2. Police Departments (and Specialized Idol Wings)

The police provide the enforcement "muscle," but they face legal and logistical friction.

- **Lack of Specialized Training:** Most police officers are trained in general crime and lack the "art history" background needed to distinguish a 10th-century Chola bronze from a 20th-century replica during a raid.

- **Deputation Issues:** Specialized units like the **Tamil Nadu Idol Wing** often rely on officers on deputation from other departments. Frequent transfers disrupt long-term investigations into complex international smuggling rings.
- **Jurisdictional Hurdles:** Trafficking is often inter-state and international. Coordinating between state police, the CBI, and international agencies like INTERPOL involves massive "red tape," giving traffickers time to move or hide the assets.
- **Legal Delays:** Cases involving antiquities are notoriously slow in court. Proving "provenance" (the origin and ownership history) beyond a reasonable doubt is difficult when temple records from a century ago are missing or destroyed.

### 3. Customs and Enforcement Agencies (DRI)

Customs act as the final filter at exit points, but they are fighting a "needle in a haystack" battle.

- **Misdeclaration Tactics:** Smugglers rarely declare items as "antiquities." They are typically misdeclared as "handicrafts," "modern garden furniture," or "reprographic art." Customs officers cannot open every single shipping container.
- **Lack of On-Site Experts:** Most major ports and airports do not have a 24/7 ASI expert stationed on-site. If a suspicious item is found, it must be detained and sent for an ASI report, which can take days or weeks, causing logistical friction.
- **Porous Borders:** While major ports are monitored, India's vast land borders (especially with Nepal and Bangladesh) are frequently used by traffickers to move idols out of the country before they are shipped globally from third-party nations.

#### 4. Systemic Legal Challenges (The 1972 Act)

The law itself presents challenges for all institutions:

- **Minimal Penalties:** The fines and prison terms (often 6 months to 3 years) under the 1972 Act are considered very low compared to the multi-million dollar profits of the trade. This fails to act as a significant deterrent.
- **Registration Hesitancy:** Private collectors are often afraid to register their antiquities with the government for fear of "compulsory acquisition" or excessive scrutiny. This keeps a large portion of India's heritage in the "shadow economy," where it is

#### 1.3 STATISCAL ANALYSIS OF IDOL TRAFFICKING :

The statistical landscape of idol theft and recovery in India has shifted significantly leading into 2026. While domestic "reported" thefts appear low due to poor documentation, international repatriation has hit an all-time high.

The following data is synthesized from recent Press Information Bureau (PIB) 2026 releases, Archaeological Survey of India (ASI) annual reports, and National Mission on Monuments and Antiquities (NMMA) documentation updates.

#### Antiquities Recovery & Theft Trends (as of 2026):

- A total of 655 antiquities has been retrieved from abroad since 1976.
- Around 75% of these recoveries occurred after 2014, showing a sharp recent improvement.
- The domestic theft recovery rate is about 67% (based on reported cases).
- In 2026, out of 6 major thefts from national monuments, 4 were recovered.
- The National Mission on Monuments and Antiquities (NMMA) has documented 17.20 lakh antiquities, up from 12.4 lakh in

early 2025, improving identification and recovery through digital records.

- The JATAN digital database holds 3.2 lakh+ high-resolution records, aiding alerts to INTERPOL and customs authorities<sup>194</sup>.
- Theft reporting bias remains high, especially in rural temples where many cases go unreported due to lack of formal registration<sup>195</sup>.
- In 2025–26, 0% of reported stolen items from national monuments were successfully moved abroad, indicating stronger export controls.

#### Institutional efficiency and challenges:

From an institutional perspective, the Archaeological Survey of India (ASI) is currently focused on digitization and repatriation but faces operational challenges in safeguarding over 4,000 monuments amid a staff vacancy rate of approximately 45%. Police Idol Wings are concentrating on specialized raids but struggle with cases of internal theft where original artifacts are replaced with replicas, a problem commonly observed in regions like Tamil Nadu. Meanwhile, the NMMA is working on building a comprehensive national register, estimating around 58 lakh total antiquities, of which only about 30% have been documented so far. Customs authorities, particularly the Directorate of Revenue Intelligence (DRI), are focused on export vigilance but face difficulties due to the high volume of handicraft exports, which are often exploited as a cover for smuggling antiquities.

#### CRITICAL OBSERVATION:

The critical final observation from this data is the existence of a profound "Documentation-Theft Paradox": while India is experiencing an unprecedented era of high-profile international repatriations, the domestic defence mechanism remains reactive rather than proactive.

<sup>194</sup> Centre for Development of Advanced Computing (C-DAC), *JATAN Digital Museum System Overview* (2024).

<sup>195</sup> UNESCO, *Illicit Trafficking of Cultural Property in South Asia* (2023).

Statistically, the high recovery rates (over 60%) are misleading because they only represent "National Monuments," which account for a minuscule fraction of India's total heritage. The true vulnerability lies in the estimated 41 lakh antiquities that remain undocumented; without a "digital fingerprint" or entry in the National Register, these items are effectively invisible to the law. Consequently, when undocumented idols are trafficked, they cannot be flagged by Customs or claimed in international courts, creating a "dark figure" of crime that likely dwarfs the official statistics. The data suggests that the battle against idol trafficking will not be won through policing alone, but through the exhaustive, accelerated documentation of every village temple artifact before it can be replaced by a modern replica and lost to the shadow economy.

#### 1.4 CASE BASED ANALYSIS

1. Subhash Chandra Kapoor Vs The Inspector of Police:

The accused in Subhash Chandra Kapoor v. the Inspector of Police is an American citizen who was detained in Germany with the intention of being charged in the Special Court of Idol Theft Cases, Kumbakonam<sup>196</sup>. Eighteen panchaloha idols were taken in 2008 from the Tamil Nadu temples of Vardharaja Perumal Thirukovil and Arulmigu Sundereswarar in the Udayarapalayam Taluk. A Udayarapalayam police inspector filed a case over the same. Seven people were implicated in the aforementioned incident, it was discovered during the investigation. The idols haven't been found despite an investigation and recording of the confessions made by the arrested accused. The petitioner contended in September 2022 that the idols were acquired legally and in accordance with documentation from the Institutions/Governments/Persons as stated in law. The plea for the prosecution witnesses to be cross-examined was denied by the Additional Chief Judicial Magistrate. Most recently, in October 2022, the Central Bureau of

Investigation filed a complaint to look into the idol theft case after the Madras High Court ordered the Kumbakonam Court to finish the trial in a month. The aforementioned instance highlights the necessity of including "idols" in the Act's definition of antiquities. The case highlighted the difficulty of proving a "theft" when the temple lacks documentation. The prosecution had to rely on amateur photographs taken by researchers years prior to prove the idols in Manhattan were the same as those stolen from Tamil Nadu.

2. Ram Lal Narang Etc. VS State of Delhi (Admn.):

A criminal case that resulted from F.I.R. 72 of 1967 against one Sri Bali Ram Sharma and two other people for the theft of two extremely valuable, beautiful, and old sandstone pillars from the Suraj Kund Temple in the village of Amin, District of Karnal, was settled with the accused being found not guilty. These two sandstone pillars that had been taken from the accused were given to the then-Chief Judicial Magistrate, Narinder Nath Malik (N. N. Malik), an alleged research scholar and friend of H. L. Mehta, upon his application during the case's pendency. The pillars were under the care of N. N. Malik from 1-3-1968 to 27-5-1968. Following the accused's acquittal on 16-7-1968, the pillars were given to the village amender of Amin. It was then discovered that the pillars that Malik had brought back were fakes rather than the originals. We are confident that the investigative agency acted without malice, even though it would have been preferable if it had notified the Ambala Magistrate and requested his official authorization for the second investigation. The fact that nothing criminal has happened also satisfies us. Consequently, both appeals are denied.

3. CBI VS Pritam Chand Kaushal:

The case's facts, as supported by the record, state that the CBI filed case RC 5(E)/98/SIU-IX/New Delhi regarding the theft of antiquities from its Malkhana. In the course of the investigation into the aforementioned case, on August 4, 1999, Inspector U.K. Goswami carried

<sup>196</sup> S Vijayan, The Idol Thief (Westland 2021) 45.

out raids at the accused's residence, which is located on the front first floor of C72, Niti Bagh. Shri S.C. Sharan and Shri Ram Niwas, who work for the Archaeological Survey of India (henceforth referred to as "ASI"), were present. Seven items that the police believed to be antiques were removed from the accused person's home. After that, on August 9, 1999, the CBI used CFSL to take pictures of the aforementioned publications. Inspector U.K. Goswami filed a formal complaint, and the situation was investigated. A standing figure of Lord Vishnu with attendants on both sides (23.8 x 12.7 cms) was declared to be "antiquity" on September 6, 1999, after an investigation by ASI Director of Antiquity Shri Hari Manjhi examined all seven objects recovered from the accused's possession. Subsequently, by letter dated September 16, 1999, Shri Hari Manjhi further verified to the IO that the antique in question had to be legally registered by the accused and that, according to the ASI's records, it was not registered in the accused's name. The accused was found to have broken the Antiquities and Art Treasures Act, 1972 DOD: 18.08.2011 Treasures Act, 1972 (hereinafter referred to as the "Act"), which is punishable under Section 25(2) of the Act. This was determined by the court in the case of Pritam Chand Kaushal ("Acquitted") Page 2 of 14 RC SID 1999 E 0002. Following that, Look Out Notices were sent to police authorities in several States to inquire as to whether the aforementioned antique had been stolen from anywhere in India. However, nothing conclusive could be found, hence the FIR under Sections 120 B/380/411 IPC in this particular case was abandoned.

Since the accused's defence in this case has been that the item in question was not found at his home, it will be seized by the state. File to be assigned to Record Room upon fulfilment of all required criteria

#### 4.The Sripuranthan Natarajan Case (The "Dancing Shiva" Case)

In a landmark judgement British High Court in 1982 ordered the return of a Nataraja statue of

Lord Shiva to India. The case started when the British Museum alerted Scotland Yard to the statue's presence and the statue was seized after it was sent to the museum for restoration by the Canadian company BUMPER Development Corporation (BDC). The chairman who was renowned art collector Robert Borden had purchased it from London antique dealer Julian Sherrier who claimed it had been in his family's possession for many years. BDC, the Metropolitan Police, and other parties were named as co-defendants in the case that the Indian Government started. The use of Hindu personal law which views temple idols as living beings with separate legal identities was the core area of Indian argument. Indian jurisprudence accepted this perspective and granted the idols legal personhood. It enables idols to possess properties and to participate in legal proceedings. Expert opinion of archaeologist Ramachandran Nagaswami who showed convincing evidence of the idol's provenance and significance had an impact on the court's decision to return the Nataraja statue to India. The successful restoration of the Nataraja statue the need of precise definitions and strong legal frameworks to safeguard cultural heritage and resolve future disputes of this nature.

#### 5.Chandraketugarh case:

The illegal antiquities trade has historically centred on Chandraketugarh which is an old West Bengali archaeological site<sup>197</sup>. Despite its great historical importance, the site has been neglected and has not received enough scholarly attention. This resulted in extensive looting. Chandraketugarh artifacts have been trafficked all over the world, frequently with the help of locals, middlemen, and antiquities traders. Because auction houses, museums, and individual collectors are so interested in these relics, both authentic and fake artifacts can be found in collections all over the world. The Ashmolean Museum in the United Kingdom,

<sup>197</sup> Neil Brodie and Kathryn Walker Tubb, *Illicit Antiquities* (Routledge 2002) 89.

the Linden Museum and the Museum of Indian Art in Germany, and the Musée Guimet in Paris are notable museums that include artifacts from Chandraketugarh. The National Museum in Delhi and the State Archaeological Museum in West Bengal in India both have collections. Significant objects from the site are now in the possession of individual collectors like Dilip Maite.

In addition to being plagued with controversy, the site itself suffers from institutional incompetence and insufficient conservation measures. Chandraketugarh's unique cultural legacy is in danger because to persistent thievery and deterioration brought on by improper preservation. The creation of regional museums, like the Chandraketugarh College Museum, which displays ceramics, coins, terracotta figurines, and other archaeological artifacts, is one attempt to address these issues. These organizations seek to raise awareness and encourage preservation while preserving and showcasing the site's antiques.

#### 6.Vaman Ghiya Case

The Vaman Ghiya case remains one of India's most significant legal battles against the illicit trade of cultural heritage, exposing a massive smuggling pipeline from Jaipur to London. In 2003, Rajasthan Police's "Operation Blackhole"<sup>198</sup> unmasked Ghiya, a local handicraft dealer, as the mastermind behind the theft of thousands of ancient temple idols and artifacts. His sophisticated network utilized Swiss front companies to "launder" the provenance of stolen goods, eventually funneling them into prestigious auction houses like Sotheby's and Christie's. During the raids, police seized over 900 antiquities and numerous auction catalogues that documented his global reach. Despite a 2008 conviction and life sentence, the Rajasthan High Court acquitted Ghiya in 2014, citing major procedural lapses and the prosecution's failure to link him directly to

specific thefts. This outcome highlights the critical weaknesses in the Antiquities and Art Treasures Act 1972, particularly the difficulty of proving the chain of custody and the lack of a national inventory for temple idols. Although Ghiya walked free, the court ruled the seized items were national property, eventually transferring them to the Archaeological Survey of India. The case serves as a stark reminder of the "payment anesthesia" in the black market of art, where heritage is reduced to mere commodity.

7.Arun Kumar S R v. The State Of Karnataka (Karnataka High Court, 2013)  
The court quashed an FIR under Section 25 of the Act, ruling that police conducted an unauthorized search and seizure without prior case registration, violating Section 23 procedures. This exposed improper implementation by officers lacking jurisdiction under the Act.

8.Union of India v. Kavaljit Singh (Delhi High Court)

The court invalidated a registration denial under Section 16(4) for a Shiv Ling, as the registering authority failed to provide a reasonable hearing opportunity. It emphasized adherence to natural justice in implementation.

#### CONCLUSION

An important piece of law in India, the Antiquities and Art Treasures Act, of 1972, aims to safeguard the nation's rich cultural legacy, which includes antiquities, artefacts, and art treasures of historical, archaeological, and artistic significance. The Act, which was passed on December 9, 1972, aims to protect these priceless cultural artefacts from unlawful export, sale, and trafficking while also ensuring their continued existence for future generations. The Act divides antiquities into two categories: "art treasures" and "antiquities." Objects over a century old with historical or archaeological significance are considered antiquities. On the other hand, items of artistic significance, regardless of age, are referred to as art treasures. The Act of 1972, while foundational,

<sup>198</sup> Peter Watson, *Sotheby's: The Inside Story* (Random House 1997).

now stands at a historical crossroads. In an era where a 10th-century Chola bronze can be stolen from a village temple and appear on a digital auction block in Manhattan within 48 hours, our laws can no longer afford to be "analogue" in a "digital" crime landscape.

With the aim to promote international dialogue about the restoration of property that has been unjustly carried from one nation to another, UNESCO established the Intergovernmental Committee for Promoting the Return of Cultural Property (ICPRCP) in 1978. However, a lot of nations (including Britain) have tight regulations that limit the removal of items from public collections because doing so puts their museums at risk of being completely empty. They argue that since India was once a part of the British Empire, their actions were not theft but rather simple relocation, which justifies their noncompliance with the ICPRCP's provisions. This has shown to be a significant obstacle to returning Indian artefacts to their former glory. The Archaeological Survey of India (ASI), which is established under the Act, is essential to the administration and preservation of these art treasures and antiquities. What emerges clearly is that safeguarding antiquities can no longer rely on traditional legal mechanisms alone. It demands a dynamic and integrated approach—one that combines legal reform, technological innovation, international cooperation, and public participation. Strengthening digital documentation, leveraging AI and enhancing inter-agency coordination, are no longer optional but essential.

To safeguard the nation's artistic history and guarantee a broader appreciation of the art world, India's cultural legacy must be conserved. To guarantee more robust legal safeguards for India's antiquities, the law must be changed. Ultimately, an idol is more than an "artifact"; it is a living entity of faith and a testament to human artistic excellence.

#### **SUGGESTIONS :**

The proposed suggestions may include:

#### 1.Database centralization

One of the crucial initiatives to be taken for the protection of the antiquities can be to create a national and user-friendly database. This centralized system will contain detailed information about the registered antiquity. It will include the origin, ownership, description, and present condition of the same. Working along with private organizations such as The Art Loss Register can improve recovery and tracking.

#### 2.Integration of Technology

In this contemporary era technology has opened up greater possibilities for everything. For the Protection and management of the antiquities the technology can work as a pivotal instrument. Easy-to-use tools can be used to create catalogue for thousands of artefacts and that can simplify the process of documentation for the museums, collectors and other heritage organisations. Additionally, inventory procedures can be streamlined and cultural asset monitoring can be enhanced by using internet resources and international databases like Object ID.

#### 3.Strict Penalties

In order to combat the crime of theft and smuggling of antiquities in effective manner it is essential to have adequate penalties. Smugglers and traffickers may be discouraged by amending current laws to enforce harsher punishments for illegal activity. It also emphasize the Government's seriousness about protecting cultural heritage of the country.

#### 4.International Co-operation

Collaboration with International Organizations and law enforcement are essential to address the cross-border trade in antiquities and assist in the return of stolen artifacts. As for example Italy's Carabinieri cultural heritage protection unit has successfully recovered stolen antiques.

#### 5.Public Awareness

Public awareness is very important to combat this particular issue. Community support for maintaining and preserving antiquities can be

increased by advancing education on cultural heritage and public knowledge of the value. This practice can help in combatting the illegal trade in antiquities. Hence, it can be concluded that India's rich culture

6.To continue to prevent the theft of antiques and artefacts, museum security regulations need to be evaluated and reinforced.

7.Only the upkeep and preservation of public antiquities should be under the purview of the Archaeological Society of India (ASI). It is imperative that the ASI be not inundated with duties that transcend its primary purview. Thus, it is imperative to establish agencies with the necessary authority to handle antiquities

8.Better Law Enforcement: To detect and stop the smuggling of antiquities, law enforcement officials should get specialised training.

9.Digital documentation creates comprehensive records of antiquities using contemporary technologies such as 3D scanning and digital documentation. This supports conservation, research, and repatriation initiatives.

10.Better Archaeological Surveys identifying and documenting sites that may be subject to looting or encroachment requires systematic, routine archaeological surveys.

11.Heritage Conservation Zones create designated areas surrounding significant historical sites where building and development are closely controlled to preserve the cultural legacy.

12.It is necessary to establish a comprehensive national system and policy for heritage protection.

13.Even for the export of handcrafted idols, the State Archaeological Department must sign a joint clearance certificate.





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