
A STUDY ON THE JUDICIARY APPROACH IN CURBING ILLICIT TRAFFICKING OF CULTURAL PROPERTY IN TAMIL NADU TEMPLES

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ABSTRACT

This article explores the contribution done by the judiciary in securing the trafficked idols and its repatriation back to India. It also brings into limelight the contributions done by the enforcement agencies for bring the culprits before the justice. The effectiveness of domestic laws and International Treaties were also analyzed for curtailing illicit trafficking of artifacts, inorder to preserve the cultural treasures of the temples as its specks about the culture of the society. The supply chain of illicit antiquities relies heavily on weak domestic monitoring at heritage sites, corrupt transit pipelines, and lack of attentiveness at international art forum. Looters exploit undocumented rural shrines and temples that lack basic security or digital inventories. Once stolen, idols are fitted with fraudulent provenance papers and fake export certificates to pass through customs check-points undetected. They ultimately enter prestigious galleries, private collections, and online auction platforms under the guise of legal acquisitions. This article also evaluates the lapses in legislative provision at domestic law which creates a gap for exploitation of cultural artifacts into the transnational countries museum, gallery and auction centre.

Keywords: Tamil Nadu; transnational organised crime; idol; artefacts; temple; trafficking.

1. Introduction:

The illicit traffic of cultural property spreads its tentacles into transnational operation. Organized criminal groups operate like enterprises across the borders. The crime and money laundering plays a vital part in fueling their operation at domestic, across neighboring countries and continents. Thus opening avenues for market places across the globe, for their illicit trade and services. Never the less individuals also try the fortune in trafficking illicit product, but could not yield revenue due to lack of network and credibility.¹ Cultural property plays a vital part in reflecting the heritage of a particular community and serves a testimony with distinctiveness. Organized and transnational groups are involved in this lucrative business of illicit trafficking of archaeological artifact leading to precious loss in heritage and cultural information to the subsequent generations. The illicit trade on cultural property has set a wide security implication on national and worldwide, due to the massive revenue generated in fueling the organized terror group. The looted cultural property serves as a market driven profit generating source, which act as breeding ground for illegal activities such as excavation, money laundering, corruption, theft and robberies. Hence eradication of criminal group involved in trafficking of cultural heritage, paves the way for preservation of national legacy. The existence of online trade further complicates identification of groups behind the illicit trade. The criminal groups spread the tentacles to traffic the cultural property either through legitimate or illicit market. In spite of stringent enforcement a significant share of looting happens around the world. The contribution of enforcement and judiciary in recovering the lost property is commendable due to the alignment of domestic laws inline with International Treaties. During the pre-independence period India suffered major loss in cultural heritage property, the notable among them are Koh-I-Noor diamond and Amaravati sculptures. Such scenario existed even during the post-independence era, due to lack of protection at heritage sites. Temples were more prone to attack for being an easy hotspot for illicit trafficking activities and the monetary returns were uphill.^{2,3}

¹ Interpol Assessing crimes against cultural property 2021 – Survey of Interpol member countries, October 2022.

² Priyanka D. (2025) Protecting India's antiquities evaluating legal frame works and combating illegal trade. Indian Journal of Integrated Research in Law 5(5) 67-79

³ Tanisha R and Rahul K (2025) Illicit Trafficking of Cultural Goods: An Indian Perspective on the Loss of a Heritage, Harvard International Law Journal. <https://journals.law.harvard.edu/ilj/2025/04/illicit-trafficking-of-cultural-goods-an-indian-perspective-on-the-loss-of-a-heritage/> (accessed on May 1st, 2025)

To disrupt this illicit trade, this study suggests a three-tiered prevention model for curtailing illicit trafficking of artifacts, viz:

- **Community-Led Stewardship:** Empowering local communities living near heritage sites through awareness programs and community-led watch groups. Since locals hold a spiritual connection to these idols, giving them the agency and resources to protect local shrines acts as a vital first line of defense.
- **Advanced Technological Interventions:** Implementing comprehensive digital registering. Every sacred artifact must be cataloged using high-resolution 3D scanning, blockchain-secured provenance tracking, and artificial intelligence. AI-driven image recognition tools can scan online auction houses and the dark web to flag stolen pieces matching the digital registry.
- **Global Inter-Agency Cooperation:** Strengthening collaboration between local police, international agencies like INTERPOL, customs departments, and art market regulators.

Furthermore, this paper advocates for stricter legal reforms within destination countries. Art galleries, museums, and auction platforms must face stringent legal penalties if they fail to exercise strict due diligence regarding provenance. International return policies must also be streamlined to make the return of verified stolen cultural property back to their source of origin at faster rate without bureaucratic hurdles. The temples in Tamil Nadu, India are in the verge of losing its cultural heritage due to the proliferation of trafficking in artifacts, that threaten the very existence of cultural identity for future generation. The need has aroused to use technological leverage to tag the artifacts and strengthen international collaboration and honor the international treaties for the eradication of illicit trafficking on cultural property.

2. Judicial role in recovery of cultural asserts

Elephant G.Rajendran case⁴ related to idol wing investigation on ancient temples antique idols theft. The wide spread theft of idols across the Tamil Nadu, created a mistrust on functioning of police and Hindu Religious & Charitable Endowments (HR&CE) official. Such illicit act of smuggling idols across border fetched huge financial gains for the traffickers. The Madras High Court appointed specialized team led by A.G. Pnn Manickavel to investigate case pertaining to idol theft. The cautious act of Supreme Court of India made the State to keep away from stalling

⁴ State of Tamil Nadu vs. Elephant G. Rajendran (2019) 14 SCC 163

the investigation, and also directed the Kumbakkonam centralized court to carryout speedy trial. This case resulted in the preservation cultural heritage integrity and investigation into theft of idols.

The Madras HC Suo Motu⁵ proceeding commenced by then CJ Sanjay Kishan Kaul following news published by “The Hindu Newspaper” which titled “Silent Burial” The clip of the new item criticised the attitude of the state government towards cold feet in establishing a Statutory Heritage Commisison and related authorities for the protection of archaeological monuments and temple heritage despite establishing relevant laws in 2012. With the result of inaction from government part many temple lands, idols, and murals were subjected to exploitation. The court retaliated that the temple reflected the ancient religious customs, thus it’s an cultural and historical assets of the society and has to be preserved. In June 7,20021the court issued 75 directions for compliance by the State and Department of HR&CE in appropriate circumstances. The crux of the direction related to viz: (a) Statutory Compliance – establishment of Heritage Commission and Mamallapuram Management Authority; (b) State Expert Committee – scientific conservation and renovation of heritage temples; (c) Land and Asset Protection – audit of temple land and prohibit alienation; and (d) Trustee Appointment – without political affiliation background.

In the Manoharan vs The Joint Commissioner HR&CE⁶ the petitioner seeks for a expeditious disposal of the prayer related to hereditary trusteeship and management of Arulmigu Manjamalai Ayyanar Temple in Madurai. The Justice K.Ravichandrababu directed the Joint Commissioner for fair hearing of all the parties and dispose on merit within 6 months on the receipt of court order.

Subhash Kapoor Idol Theft Case⁷ deals with the prosecution of US based art dealer and his associates for the theft, illegal export and sale of antique Chola era idols in international arena through fraudulent provenance. The crime took place in 2018, by stealing 19 idols valued 98 crore of Indian Rupee from Sr Varadaraja Perumal Temple in Ariyalur. Based on the request to Interpol the accused was arrested and extradited to India in 2012. The trial convicted Kapoor to 10 years RI on 2022. Due to extradition request from United States of America he was

⁵ Madras HC Suo Motu v The State of Tamil Nadu WP No. 574 of 2015 and WP(MD) No. 24178 (2021); (2021) 5 MLJ 413

⁶ Manoharan vs The Joint Commissioner HR&CE WP (MD) No. 3283 (2017); (2017) 6 MLJ 37

⁷ Subhash Kapoor Idol Theft Case CC No. 1(2022) (Udayarpalayam Police Station Crime No. 115/2022);

deported were he faces charges of larceny and fraud.

The Nataraja idol theft from Akilaandeshwari Sametha Kothandarameshwar Temple⁸. The bronze idol belonged to Vijayanagara period was stolen 50 years back from Kovilpatti, which was listed for auction at Christie's Auction House in France. In order to initiate repatriation under UNESCO 1970 international treaties, the Tamil Nadu Idol Wing confirmed its source through cross reference from archival records of French Institute of Pondicherry. The auction was halted in December 2022 and the subsequent process of repatriation was underway through diplomatic channels and Mutual Legal Assistance Treaty.

The Ananthamangalam Rama Group Case⁹ applauds the recovery of bronze idols viz: Rama, Sita, Lakshmana and Hanuman belongs to 15th Century. The idols were stolen in 1978 from Ananthamangalam Temple, Nagapattinam. The un-renting effort of Idol Wing CID of Tamil Nadu resulted in returning of Rama, Sita and Laskshmana from UK antique collector. While the Hanuman idol was retrieved by US authorities to India.

The present case related to the theft and replacement of peacock idol from Kapaleeswarar Temple¹⁰, Mylapore, Chennai. The complaint was filed in 2018 stated that during consecration festival in 2004 the idol was place with new one. The Madras High Court quashed the criminal proceedings against the industrialist who is the petitioner, ruling that lower court taking cognizance based on protest petition was abuse of the process of law.

The petitioner alleged that ancient idols from Sri Pasupatheeswarar Temple¹¹, Pandanallur been stolen and replaced with fakes by colluding with temple trustees and HR&CE Department. The court held that under the Article 49 there exists an constitutional obligation on the state to protect cultural heritage. The court directed stern action against the delinquent official following departmental enquiry.

The case related to the special leave petition (SPL) arising from 2022 Madras High Court orders, were the petitioner alleged conspiracy amounting to disappearance of 41 case diaries connected with theft of temple idols¹². Early as 1985, nearly 376 idols were stolen from Tamil

⁸ Akilaandeshwari Sametha Kothandarameshwar Temple Idol Theft (2022) Idol Wing CID (IWCID) Tamil Nadu.

⁹ Ananthamangalam Temple, Nagapattinam Idol Wing CID Tamil Nadu 2020-2021

¹⁰ Venu Srinivasan v. State of Tamil Nadu CrI. OP (MD) No. 2906/2023

¹¹ R. Venkataraman v. Director General of Police 2017 SCC Online Mad 37586

¹² Elephant G. Rajendran v. State of Tamil Nadu SLP CrI. No. 1774/2023

Nadu and stationed at foreign museums. The connected case diary files were found to be untraceable from police custody from different police stations. The court questioned the State and also issued notice to Ministry of External Affairs and Ministry of Culture to take appropriate measures to recover the idols, and the case is in progress.

3. Legislative enactments:

3.1 *Antiquities and Art Treasures Act (AATA), 1972:*

This statute lays the foundation for restricting transfer of movable cultural heritage property. It normalize the trade related to export of antiquities and art treasures, with the sole intention to avert smuggling and any fraudulent transactions and other matters incidental thereto.

Banned Export: It strictly mandates government-issued license for export related to antiquity or art treasure.

Registration: Owners of antiquities (items over 100 years old, or manuscripts over 75 years old) are required to register them with the Archaeological Survey of India (ASI).¹³

Penalties: Violations, including illegal trade or smuggling, can lead to imprisonment and heavy fines.

3.2 *Ancient Monuments and Archaeological Sites and Remains Act (AMASR), 1958:*

This Act focuses immovable heritage like historical structures and archaeological sites. It also lays emphasis in protecting such national important remains and monument. The regulation restricts within 100 meters of protected sites and regulates excavation to prevent site looting.¹⁴

3.3 *Indian Treasure Trove Act, 1878:*

Mandates person who finds "treasure" worth more than 10 rupees veiled or attach to the soil shall report the district collector of the same in writting. The state can acquire these findings to

¹³AATA (1972) https://www.indiacode.nic.in/handle/123456789/1693?view_type=browse (accessed on Jan 21st 2026)

¹⁴ AMASR (1958) (https://www.indiacode.nic.in/bitstream/123456789/15477/1/the_ancient_monuments_and_archaeological_sites.pdf (accessed on Jan 20th 2026)

ensure their preservation.¹⁵

3.4 Public Records Act, 1993:

It serves as foundation law for ensuring state accountability, historical preservation and smooth public access to government proceedings. The act aims to manage, preserve and dispose public records of the government and its undertaking. It explicitly prohibits taking public records out of India without prior government approval and mandates the preservation of documents older than 1892.¹⁶

3.5 Wildlife (Protection) Act, 1972:

Apart from preserving the flora and fauna from extinction, it also includes provisions for protecting **prehistoric rock art, cave paintings, and engravings** found within protected forest areas like wildlife sanctuaries. It imposes strict penalties for removing or damaging these artifacts.¹⁷

3.6 Customs Act, 1962:

This is a vital tool for enforcement at the borders. Customs officials use it to **seize antiquities** being smuggled under the guise of handicrafts or modern art. It provides the legal authority to check and verify the "non-antiquity" certificates required for any exported art.¹⁸

3.7 Ancient Monuments Preservation Act, 1904:

This British-era act is still relevant for certain monuments not covered by the 1958 Act. It allowed the government to acquire objects which subsisted for at least 100 years, and it was one of the first laws to define "treasure" broadly.¹⁹

¹⁵ ITT Act (1878) <https://www.indiacode.nic.in/bitstream/123456789/2286/1/A1878-06.pdf> (accessed on Jan 20th 2026)

¹⁶ PR Act (1993) https://www.indiacode.nic.in/bitstream/123456789/1921/1/a1993___69.pdf (accessed on Feb 12th 2026)

¹⁷ Wild Life Protection Act (1972)

[https://www.indiacode.nic.in/bitstream/123456789/6198/1/the_wild_life_\(protection\)_act,_1972.pdf](https://www.indiacode.nic.in/bitstream/123456789/6198/1/the_wild_life_(protection)_act,_1972.pdf) (accessed on Feb 10th 2026)

¹⁸ Customs Act (1962)

https://www.indiacode.nic.in/bitstream/123456789/15359/1/the_customs_act%2C_1962.pdf (accessed on Mar 2nd 2026)

¹⁹ Ancient Monument Preservation Act (1904)

<https://www.indiacode.nic.in/bitstream/123456789/2339/1/A1904-7.pdf> (accessed on Mar 2nd 2026)

4. Institutional & Regional Frameworks

4.1 Tamil Nadu Ancient and Historical Monuments and Archaeological Sites and Remains Act, 1966.

The Act provides for the State a legal framework to preserve, protect and prevent destruction of monuments and archeological sites, including curtailing illicit trade of antiquities.²⁰

4.2 Idol Wing-CID:

A specialized police unit dedicated specifically to recovering stolen temple idols. Established in 1983 (G.O. Ms. No. 2098) had the capability to tackle theft on cultural artifacts.²¹

4.3 Additional Chief Judicial Magistrate (ACJM), Kumbakonam:

Designated by the High Court as the exclusive court to handle all idol theft cases for speedy disposal.²²

4.4 Criminal Legal Provisions:

The criminal legal provisions are as stated in Table 1 for curtailing the illicit trafficking of cultural property.²³

Table 1: Criminal Legal Provisions

<i>Indian Penal Code (1860)</i> <i>Section</i>	<i>Bharatiya Nyaya Sanhita (2023)</i> <i>Section</i>	<i>Heading</i>
380	305	Theft at dwelling house / transportation / worship place
409	316(5)	Criminal breach of public trust
410 to 414	317(1) to 317(5)	Stolen property
120A	61(1)	Criminal conspiracy

²⁰ THE FORT ST. GERORGE GAZETTE EXTRA – ORDINARY PUBLISHED BY AUTHORITY No.32, Feb 11, 1967 https://www.indiacode.nic.in/bitstream/123456789/13254/1/tnsda_act_25-1966.pdf (accessed on May 15th 2026)

²¹ <https://www.tnpoliceidolwing.com/> (accessed on May 1st 2026)

²² The Indian Express 22nd July 2017 <https://www.newindianexpress.com/states/tamil-nadu/2017/Jul/22/set-up-camp-for-idol-theft-cases-in-a-week-madras-high-court-1631928.html> (accessed on May 10th 2026)

²³ Gaur K D, Criminal Manual, Whitesmann Publishing 3rd Edition 2024,

4.5 HR&CE Act, 1959:

The Act aims towards consolidating law for good governance and transparency in the temple administration throughout the State of Tamil Nadu. It also lays emphasis the duty of temple trustees to act as a guardian of temple property.²⁴

5. Regulatory Bodies

5.1 Archaeological Survey of India (ASI):

The Archaeological Survey regulates all archaeological and construction activities around heritage zones of nationally important monuments and sites. Being a nodal agency it uses legislation such as AMASR Act 1958 and AAT Act 1972 in order to preserve, protection, excavation, and registration of archaeological treasures.²⁵

5.2 National Monuments Authority (NMA):

Recommends areas of national importance and regulates construction around them.²⁶

5.3 National Archives of India:

Responsible for implementing the Public Records Act and preserving historical documents.²⁷

6. Constitutional Provisions²⁸

6.1 Article 49 (DPSP):

The State is held responsible for the protection of monuments and objects of national importance from destruction, removal, or export. It also mandates the State to formulate strict border controls to eradicate illicit trade on artifacts.

6.2 Article 51A(f):

The fundamental duty of the constitution aims in promoting local public awareness and

²⁴HR&CE Act (1959) Published by Fort St. George Gazette on the 2nd December, 1959 (Agrahayana) 11, 1881

²⁵ ASI (1861) <https://culture.gov.in/> (accessed on Jan 25th 2026)

²⁶ <https://www.nma.gov.in/> (accessed on May 1st 2026)

²⁷ <http://nationalarchives.gov.in> (accessed on Dec 2025)

²⁸ Constitution of India (1950)

obligation to preserve country heritage and also to prevent community level looting of archaeological sites.

6.3 Seventh Schedule of the Constitution

Union List Entry 67: Grants Central government control over national important monuments, and to sign International Treaties .

State List Entry 12: Authorizes State to protect historical records and sites.

Concurrent List Entry 40: Empowers both the Centre and State to protect cultural sites, excluding sites of national importance.²⁹

7. International Cooperation

7.1 UNESCO Convention

The 1970 Convention aims at abolishing financial and logistical incentives for looting cultural properties. It relies on preventive measures such as inventories, export certificates, and enforcement and judiciary to destabilize trafficking. While 1972 Convention makes the signatory nations to pledge for integrating heritage preservation into regional planning, conservation and report on site conditions at regular intervals. The modern initiative of UNESCO at 2021 incorporates ethical aspect of artificial intelligence, aiming at equity, inclusivity and public good rather than threatening the above said.^{30,31}

7.2 Interpol & CBI:

India has gained access to the Interpol database related stolen property through the specialized CBI wing, which paves the way to track and recover stolen artifacts internationally.

7.3 UNODC mandates on trafficking in cultural property:

UNODC provides states with concrete legislative and operational toolkits to dismantle

²⁹ Debarati P (2024) Legal framework on heritage protection in India, Cultural Heritage Law in Asia, 157-166 DOI:10.4467/23538724GS.24.012.19871

³⁰ <https://www.unesco.org/en> (accessed on May 16th 2026)

³¹ UNESCO (1970) Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property. <https://www.unesco.org/en/legal-affairs/convention-means-prohibiting-and-preventing-illicit-import-export-and-transfer-ownership-cultural> (accessed on April 7th 2026)

trafficking networks. It adopts model based on three phase protection mechanism consisting of origin, transit and destination along global open access directory (SHERLOC Database).³² UNODC associates with Interpol and UNESCO termed as CATCH initiative,^{33,34} this joint initiative empowers custom, police and prosecutors to disrupt illicit heritage trade market. The other associated organizations of UNODC are UNIDROIT; WCO; OSCE and ICOM, which are aimed in tying up with synergizing criminal and private law; weaponize custom border enforcement; fortify vulnerable transit corridors; and integration of domain specific tool and cultural expertise respectively. The aim of UNODC is to build unyielding defense against illicit trafficking of cultural property, were UNODC act as a central operational nexus with its partners.³⁵

8. Comparison of Domestic Legislation with International Treaty

The Table 2 gives a comprehensive picture of lacuna existing in domestic legislation³⁶ in curtailing illicit trafficking of cultural property when compared with UN treaties³⁷.

Table 2: Comparison of Indian and UN Treaties to curb illicit trafficking on cultural Property

Area of Analysis	India (AATA, 1972)	UN International Treaties	Operational Impact of the Gap
Scope of Protection	Temporal Limit: Only covers items older than 100 years.	Qualitative Value: Covers any item of historical, scientific, or artistic importance.	Smugglers easily export unique 20 th - century cultural items and industrial heritage without breaking the AATA.

³² UNESCO (2026) Safeguarding heritage through law enforcement: good practices in combating illicit trafficking of cultural property, UNESCO Office in Beijing [166]. <https://unesdoc.unesco.org/ark:/48223/pf0000397616> (accessed on April 1st 2026)

³³ UNODC: Trafficking in cultural property <http://www.unodc.org/en/gpcd/emerging-crime/trafficking-in-cultural-property.html> (accessed on April 1st 2026)

³⁴ UNODC: http://www.unodc.org/documents/gpcd/cultural_property/catch_factsheet.pdf

³⁵ UNESCO (2019) An insight into illicit trafficking of cultural property in India: In conversation with Amareswar Galla. <https://www.unesco.org/en/articles/insight-illicit-trafficking-cultural-property-india-conversation-amareswar-galla> (accessed on April 15th 2026)

³⁶ *Supra* 13

³⁷ UNIDROIT – Principles of International Commercial Contracts , Published by the International Institute for the Unification of Private Law, Rome 2016

Protection of Private Buyers	Silent: Does not address foreign buyers who purchase stolen heritage in good faith.	Conditional (UNIDROIT Art. 4): Forces return of stolen goods but compensates buyers who exercised strict due diligence.	Foreign collectors exploit the "good faith purchase" defense in their home courts to keep stolen Indian artifacts.
Database Architecture	Fragmented: Relies on paper registration with limited verification tools.	Systemic (UNESCO Art. 5): Requires a national inventory to quickly track and identify stolen items.	Without a digital database, India struggles to provide immediate proof of ownership to stop foreign auctions.
Customs Protocol	Reactive: Relies heavily on the exit-channel detection and post-theft FIR reports.	Proactive (UNESCO Art. 6): Mandates the standardized export certificates for legal transfers.	The lack of standard, and genuine digital export certificates makes it easier to pass genuine items off as replicas.

9. Conclusion

The organized crime syndicate has a major stake in the illicit traffic of cultural heritage property at regional and transnational level. In few instances individual made the way in trying there fortune by larceny to satisfy for less reward, due to being a local player. Establishing the kingpin liability in organized criminal enterprises is uphill task due to absence of chain of custody and moreover they are beyond detection limit of enforcement agency radar. The ideal way of tackling this menace of trafficking could be achieved by identifying and dismantling intermediaries at regional and cross border level. Hence, in order to prevent the trafficking of sacred idols it requires a shift from passive recovery efforts to proactive, technology-driven prevention. Thus by combining advanced digital tracking with community stewardship and aggressive international policing, the global community can safeguard its shared cultural property. This unified framework protects religious freedom, preserves historical legacy, and dismantles the financial structures of transnational organized crime.

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