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ILLICIT TRAFFICKING AND REPATRIATION OF STOLEN INDIAN TEMPLE IDOLS: INTERNATIONAL LEGAL OBLIGATIONS OF SOURCE AND MARKET STATES

Abstract

This paper examines the illicit trafficking and repatriation of stolen Indian temple idols through the lens of international cultural property law, focusing on the differentiated but complementary obligations of source and market States. It situates India's experience as a major source country within the framework of the 1970 UNESCO Convention and related soft-law instruments, alongside the Antiquities and Art Treasures Act, 1972 and recent bilateral arrangements such as the India-US Cultural Property Agreement. Using a doctrinal and case-study approach, the paper analyses how India's duties to protect, document and control the export of antiquities intersect with market-State obligations to prevent illicit import, enforce due diligence in the art market, and cooperate in seizure and restitution. It draws on recent practice, including the recovery of more than six hundred antiquities since 2014 and high-profile returns of Chola-period bronzes and other idols from the United States and other jurisdictions, to assess whether an emerging expectation or customary trend in favour of restitution can be identified. The analysis highlights enduring challenges weak documentation, uneven

treaty implementation, and new risks created by online platforms and argues for targeted reforms such as stronger inventory systems, tighter import and provenance rules, burden-shifting in high-risk transactions, and community-centred restitution practices. In doing so, the paper contends that effective repatriation of Indian temple idols requires treating cultural property trafficking not only as a heritage problem but also as a rule-of-law, human-rights, and security issue.

Keywords

Illicit trafficking; cultural property; Indian temple idols; restitution; repatriation; source and market States; UNESCO 1970 Convention; Antiquities and Art Treasures Act, 1972; India–US Cultural Property Agreement; provenance; customary international law.

Introduction

Theft and illicit export of temple idols have become one of the most visible manifestations of the global trade in cultural property, with India emerging both as a major source country and as a prominent voice demanding restitution. For decades, icons and sculptures have been removed from village shrines and historic temples, moved through clandestine networks, and eventually re-appeared in the inventories of international galleries, auction houses, and museums. These objects are not merely antiquities with monetary value; for many local communities they are “living deities”, so their disappearance is experienced as a spiritual loss and an assault on collective identity, rather than only a property crime.

International concern over such practices led UNESCO to adopt the 1970 Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property, which remains the primary global treaty framework on the issue. The Convention requires States Parties to develop inventories, regulate exports, criminalize illicit trafficking, and cooperate in the

seizure and return of stolen cultural objects, alongside broader initiatives by UNESCO to frame trafficking as a crime that undermines culture, social cohesion, and even contributes to organized crime. India is a party to this regime and has supplemented it with domestic legislation such as the Antiquities and Art Treasures Act, but the persistence of idol thefts and the discovery of large smuggling operations show that legal rules on paper have not fully translated into effective protection on the ground.

In recent years, however, there has been a marked shift in the visibility and scale of repatriations. Official data indicate that more than 250 antiquities of Indian origin have been retrieved from foreign jurisdictions, of which around 238 have been brought back since 2014, with additional artefacts currently in the process of repatriation. These include prominent examples such as Chola-period bronzes and other temple idols returned from countries like the United States, Australia, Canada, the United Kingdom, and Germany following criminal investigations, civil forfeiture actions, and diplomatic negotiations. This pattern suggests not only an assertive recovery strategy by India, but also a growing willingness among market States to recognize stronger claims of source countries to their displaced heritage.

At the same time, significant doctrinal and practical questions remain unresolved. The division of obligations between source and market States is still contested, particularly in relation to due diligence standards for buyers, the status of good-faith purchasers, the retrospective reach of treaty obligations, and evidentiary burdens in proving theft or unlawful export after long periods of time. Moreover, while there is emerging State practice on restitution of cultural property, it is unclear whether this has crystallised into a general customary rule that clearly favours the return of items like Indian temple idols to their communities of origin.

Legal Framework

The regulation of illicit trafficking and repatriation of Indian temple idols is anchored in a combination of international treaty law, soft-law instruments, and India's domestic legislation on antiquities and cultural heritage. At the international level, the core instrument is the 1970 UNESCO Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property, which India ratified in 1977 and which frames illicit trade as a threat to the cultural heritage of States of origin. The Convention requires States Parties to establish competent national services, maintain inventories, regulate export through certification, prohibit illicit import, and cooperate in the recovery and return of stolen or unlawfully exported cultural property.

Alongside the UNESCO regime, the 1995 UNIDROIT Convention on Stolen or Illegally Exported Cultural Objects provides a complementary private-law framework that focuses on restitution claims before national courts, particularly by tightening due-diligence obligations on purchasers and limiting the protection available to good-faith buyers. Although India is not currently a contracting State to the UNIDROIT Convention, its provisions are influential in shaping global standards on return and can inform arguments about what constitutes reasonable due diligence in transactions involving Indian idols in foreign markets. In addition, UNESCO and UNIDROIT have issued a range of declarations, guidelines, and model provisions on combating illicit trafficking, which, while not binding, help interpret treaty obligations and support the development of a more restitution-friendly practice.

India's domestic regime is centred on the Antiquities and Art Treasures Act, 1972, enacted to regulate the internal and external trade in antiquities and to prevent smuggling and fraudulent dealings in cultural objects. The Act defines "antiquities" broadly to include coins, sculptures, paintings, epigraphs, objects detached from monuments, and other items of historical, religious, or artistic significance above a certain age threshold, and subjects their export to strict control by the central government and its authorized agencies. It also introduces a licensing and registration system for

dealers and owners, backed by the Antiquities and Art Treasures Rules, 1973, and operates within a wider constitutional framework in which Article 49 obliges the State to protect monuments and objects of artistic or historic interest.

This domestic legislation is now complemented by bilateral and cooperative instruments that operationalise international norms in specific relationships. A prominent recent example is the 2024 India–United States Cultural Property Agreement, concluded under the umbrella of the 1970 UNESCO Convention to curb illicit trafficking of Indian antiquities into the US and facilitate the seizure and return of designated categories of archaeological and ethnological material. The agreement restricts the import of a wide range of Indian cultural objects into the US and commits US authorities to forfeit and offer to return any listed items that are seized, thereby creating a tailored enforcement mechanism that goes beyond general treaty obligations. Similar cooperative arrangements, together with India’s active reliance on the UNESCO framework in its diplomatic practice, form an important part of the contemporary legal architecture through which India seeks the repatriation of stolen temple idols from market States.

Sources and Market Obligation in Practise

I. India’s practice as a source State

In practice, India’s obligations as a source State under instruments such as the 1970 UNESCO Convention translate into a combination of protection, investigation, documentation, and diplomatic engagement. On the protective side, India has created specialized agencies such as the Idol Wing of the Tamil Nadu police, which has recovered thousands of idols and antiquities stolen from temples and heritage sites since the 1980s, often by tracing items that were buried, fenced or stored for years before being smuggled abroad. The Archaeological Survey of India and the Ministry of Culture also maintain inventories and oversee registration and export control of antiquities under the Antiquities

and Art Treasures Act, even though official audits have repeatedly highlighted serious gaps in documentation and monitoring.

On the investigative and diplomatic plane, India has increasingly treated repatriation as a foreign-policy priority. Official data indicate that since 2014 India has managed to retrieve roughly 640–650 antiquities from abroad, a dramatic increase compared to the very small number of objects recovered in previous decades. Government and media reports note that the majority of these returns well over 500 have come from the United States, with additional artefacts recovered from the United Kingdom, Australia, Canada and several European countries. High-level visits and public ceremonies, including occasions where Indian prime ministers have thanked foreign leaders for returning idols and antiquities, demonstrate that India actively uses diplomatic channels to give effect to its rights as a source State and to frame repatriation as a matter of cultural identity and civilisational justice rather than a purely private dispute over ownership.

II. Market State obligations in practice

For market States, the obligations envisaged by the 1970 UNESCO Convention such as preventing illicit import, seizing stolen objects, and cooperating in their return have increasingly been implemented through criminal investigations, forfeiture actions, and import-control measures. The United States provides a prominent example: specialized units such as the Manhattan District Attorney's Antiquities Trafficking Unit and Homeland Security Investigations have conducted long-running probes into trafficking networks linked to dealers like Subhash Kapoor and Nancy Wiener, leading to large-scale seizures of Indian artefacts from museums, galleries and private collections. In one recent set of actions, US authorities returned around 1,440 smuggled antiquities valued at about 10 million dollars to India, as well as separate consignments of 307 and 657 artefacts

in earlier ceremonies, explicitly presenting these returns as part of a broader effort to dismantle criminal networks and fulfil international obligations to source countries.

Beyond individual cases, market States are increasingly relying on cooperative instruments to operationalise their duties. The 2024 India–US Cultural Property Agreement, for example, restricts the import of a broad range of Indian archaeological and ethnological material into the United States and commits US authorities to seize and offer to return covered objects that have been illicitly exported, thereby directly implementing the import-control and cooperation obligations of the 1970 UNESCO Convention in a bilateral framework. Public statements by prosecutors and government officials in the US and Europe, which emphasize that these artefacts are part of India’s heritage and that returning them is a matter of righting historical wrongs, also suggest an evolving practice and *opinio juris* in favour of recognizing stronger claims of source States to their cultural property. At the same time, investigative reports about the continuing presence of dozens of allegedly smuggled Indian antiquities in major museums, and the scale of the illicit market estimated by UNESCO, indicate that market States still face significant challenges in fully aligning museum acquisition practices and private collecting with their international obligations.

Research Questions

1. What are the principal international and domestic legal instruments governing the illicit trafficking and repatriation of Indian temple idols, and how do they interact in practice ?
2. What specific obligations do India, as the source State, and key market States (such as the United States, United Kingdom, and Australia) owe under these frameworks with respect to prevention, seizure, and restitution of stolen idols?

3. How do recent repatriation episodes such as large-scale returns of Indian antiquities since 2014 and prosecutions of trafficking networks illustrate the way these obligations are being implemented by source and market States?
4. Does the emerging State practice on the return of Indian cultural property support the development of a customary international norm favoring restitution of cultural objects to States of origin, especially in cases involving religious idols?
5. What legal and practical challenges continue to hinder effective repatriation of Indian temple idols ?
6. What targeted legal and policy reforms within India and in major market States are necessary to strengthen prevention of illicit trafficking and to make restitution processes more timely, cooperative, and community centred?

Case Based analysis of Repatriation of Indian Idols

One of the clearest illustrations of how international obligations operate in practice is the series of investigations centred on art dealer Subhash Kapoor, often referred to as “Operation Hidden Idol”. Beginning in the early 2010s, US and Indian authorities uncovered a network through which idols and sculptures stolen from temples in Tamil Nadu and other parts of India were laundered through New York galleries and then sold to major museums and private collectors worldwide. Raids on storage facilities in the United States revealed hundreds of artifacts linked to Indian thefts, leading to criminal proceedings against Kapoor and the seizure of numerous high value bronzes and stone idols, many of which were subsequently identified by villagers and archaeologists as having been removed from specific shrines. These cases show how cooperation between source and market State authorities, together with provenance research and community identification, can concretely trigger the seizure and repatriation of stolen idols.

In parallel with such individual prosecutions, India has witnessed a dramatic rise in bulk repatriation of antiquities from foreign jurisdictions. Government figures indicate that since 2014, India has retrieved around 640 or more antiquities from abroad, a sharp contrast to the relatively small number of objects returned in the decades following independence. Many of these returns have come from the United States: in one recent tranche, US authorities handed over about 1,440 smuggled antiquities to India following forfeiture actions and criminal investigations, emphasizing that these objects had been removed in violation of Indian law and international norms. Separate ceremonies have also been held for consignments of 307 and 657 antiquities, collectively valued at millions of dollars, symbolizing a pattern of repeated, large-scale restitution rather than isolated goodwill gestures.

Individual high profile idol returns have further shaped public and legal discourse. Media and official reports describe the repatriation of Chola period bronze deities and stone idols from museums and collections in countries such as the United States, Australia, Canada, the United Kingdom, and Germany, often after provenance investigations revealed forged export documents or clear links to temple thefts. In many cases, foreign institutions have chosen to cooperate voluntarily once the suspect history of an artifact became apparent, acknowledging that legal title was tainted and that retention would be inconsistent with contemporary ethical norms. For communities in India, the ceremonial return of these images sometimes re-installing them in the original temples has been framed not only as the recovery of property but as the restoration of a broken religious and cultural relationship.

Taken together, these case clusters demonstrate that the obligations of source and market States under cultural property and criminal-law instruments are no longer purely theoretical. India's proactive investigations, documentation efforts, and diplomatic engagement, combined with market States'

willingness to prosecute traffickers, seize suspect objects, and conclude targeted cultural property agreements, have led to a steady stream of idol repatriations that give concrete content to otherwise general treaty provisions. At the same time, the discovery of large caches of smuggled antiquities and ongoing revelations about questionable pieces still held in foreign museums underscore that the success stories to date represent only a partial response to a much larger and more deeply entrenched illicit trade.

GAPS AND REFORMS PROPOSAL

Despite an increasingly dense legal framework, significant gaps remain in the way India and market States address illicit trafficking and repatriation of temple idols. First, there are persistent documentation and evidentiary deficits: many temples and local shrines still lack proper inventories, photographs, or dating of idols, which makes it difficult to prove theft, unlawful export, or original ownership when an object surfaces abroad decades later. Studies from an Indian perspective note that these weaknesses, coupled with limited coordination between police, customs, archaeological authorities and diplomatic missions, often slow down mutual legal assistance and weaken India's bargaining position in restitution negotiations. At the global level, UNODC and UNESCO have also highlighted that enforcement efforts are still not proportionate to the scale of trafficking, which continues to involve organised crime, money-laundering and, in some contexts, terrorist financing.

Second, existing legal regimes have structural limitations. The 1970 UNESCO Convention operates largely prospectively, leaving many colonial-era and early post-independence removals outside its strict temporal scope, and not all major market States have ratified or fully implemented instruments

such as the 1995 UNIDROIT Convention. Scholars and policy analyses point out that the burden of proof remains heavily on the source State, which must demonstrate that objects were stolen or illegally exported, even when those States are already overstretched dealing with broader governance and security challenges. Parallel work on European and Italian reforms shows that criminal provisions on cultural property are often fragmented, under-used, or insufficiently visible within penal codes, which undermines deterrence and public awareness a critique that can be extended to many jurisdictions interacting with Indian antiquities.papers.

Third, new technologies have created fresh vulnerabilities. UNESCO and UNODC report that online platforms, social media and encrypted communications are now major channels for advertising and moving cultural property, allowing traffickers to reach global buyers while masking provenance and ownership. Regulatory frameworks and enforcement capacities have only partially caught up with this digital dimension, and many States, including those in the Global South, lack access to advanced monitoring tools and specialised training for heritage and cyber-crime units.

Against this backdrop, several reform directions emerge. For India, commentators and advisory bodies have called for systematic inventorying and digitisation of temple and museum collections, backed by secure photographic records and community-based monitoring of local shrines to create evidentiary trails before theft occurs. Strengthening specialised investigation units, ensuring better data-sharing between the police, ASI, customs, and foreign missions, and developing standard operating procedures for pursuing foreign legal remedies would further enhance India's capacity as a source State. At the international level, UNESCO's model provisions and toolkits recommend that States adopt clear criminal offences, robust import controls, and due-diligence obligations for dealers, auction houses, and museums, including obligations to verify provenance, retain transaction records, and cooperate promptly with source-State requests. Some authors propose burden-shifting

mechanisms in domestic trade laws so that, once an object is shown to originate from a high-risk context, the purchaser must prove lawful acquisition thereby easing the evidentiary load on source countries.

Finally, reforms should explicitly address the digital and community dimensions of trafficking. UNESCO now calls for closer cooperation with major online platforms, the use of AI-assisted image recognition and open databases of stolen artefacts, and global training programmes for judges, prosecutors and heritage professionals on cyber-facilitated trafficking. At the same time, emerging practice from countries like Nepal shows the value of legal rules that ensure repatriated idols are not simply transferred from one museum to another, but can be returned to communities of origin under conditions that balance worship, security, and conservation. Incorporating similar community-centred provisions into Indian heritage law and bilateral agreements would help ensure that the recovery of stolen idols does not end with their physical return, but also restores the cultural and spiritual relationships that these objects embody.

Challenges and Reform Proposals

I. Challenges

A first structural challenge is weak documentation and proof of origin for many Indian temple idols. Numerous village shrines and smaller temples do not maintain systematic inventories, photographs, or condition reports, which makes it difficult to demonstrate theft, trace chains of export, or establish a clear link between objects in foreign collections and specific sites in India. When claims reach courts or negotiation tables in market States, this evidentiary deficit often places India at a disadvantage, especially where limitation periods, good-faith purchaser rules, or strict standards of proof apply.

A second challenge lies in the design and reach of existing legal regimes. The 1970 UNESCO Convention operates primarily prospectively and leaves many earlier removals outside its temporal scope, while not all market States have ratified or fully internalised complementary instruments such as the 1995 UNIDROIT Convention. This fragmented landscape means that obligations to seize and return objects, regulate art-market actors, or recognise source-State ownership are uneven across jurisdictions, and restitution still depends heavily on political will and ad hoc negotiations rather than on clear, enforceable standards.

Third, the digital turn in the art market has created new vulnerabilities. UNESCO and UNODC note that online platforms, social media, and encrypted communications now provide traffickers with global reach, speed and anonymity, enabling the rapid advertising and movement of cultural objects with minimal oversight. Law-enforcement and heritage agencies, particularly in Global South source countries, often lack the specialised tools, expertise, and access to platform data needed to monitor and respond effectively to this online trade.

II. Reform proposals

In response, a first priority is to strengthen documentation and inter-agency coordination within India. Policy papers and government reports emphasise the need for comprehensive, digitised inventories of temple and museum collections supported by photographic records, geotagging, and secure databases that can be shared with enforcement and diplomatic missions. Regular audits, better integration between the Archaeological Survey of India, state archaeology departments, police, customs, and the Ministry of External Affairs, and clear standard operating procedures for handling suspected thefts and foreign leads would help convert legal claims into evidence-backed restitution requests.

At the international level, States could tighten art-market regulation and due diligence duties by drawing on UNESCO and UNIDROIT tools. UNESCO's ongoing work on Model Provisions and

fact-sheets encourages States to embed in national law robust import controls, mandatory provenance checks, record-keeping obligations, and effective civil, criminal, and administrative sanctions for dealers and intermediaries who fail to exercise due diligence. Some commentators further advocate shifting the burden so that, once an antiquity from a high-risk context is identified, the current possessor must prove lawful acquisition, thereby reducing the evidentiary load on source countries like India.

Reforms also need to confront the online dimension. UNESCO recommends closer cooperation between States, law-enforcement, and major tech platforms, including the use of AI-assisted image recognition, automated content-flagging, and shared databases of stolen objects to identify suspicious listings and accounts. Ensuring equitable access to such tools for countries most affected by trafficking, alongside training programmes for police, prosecutors, judges, and heritage professionals, would help bridge current capacity gaps.

Finally, both domestic law and bilateral arrangements should incorporate community centred restitution principles. Commentators on Indian and comparative practice warn that if repatriated idols simply move from foreign museums to central repositories or long-term loan arrangements, the deeper religious and cultural harm is not fully repaired. Embedding provisions that prioritize the eventual return of consecrated idols to their temples where feasible, or at least involve local communities in decisions about display, worship, and conservation, would align restitution practice more closely with the cultural-rights rationale that underpins contemporary international heritage law.

Conclusion

The illicit trafficking of Indian temple idols exposes how deeply cultural heritage, religious practice, and transnational crime are intertwined. India's experience as a major source country shows that the

loss of consecrated images is not only an economic or property injury but a rupture in community identity, memory, and worship a harm that international instruments increasingly recognise when they describe cultural property as integral to peoples' history and social cohesion. At the same time, the global scale and profitability of the antiquities trade, and its documented links with organised crime and money-laundering, confirm that idol theft can no longer be treated as a marginal heritage issue; it is a matter of rule of law and security that demands sustained international cooperation.

This paper has argued that the applicable legal framework, centred on the 1970 UNESCO Convention, related soft law and India's Antiquities and Art Treasures Act, creates shared but asymmetrical obligations for source and market States. India is required to protect, document and control the export of its antiquities, while market States must prevent illicit import, exercise due diligence in their art markets, and cooperate in the seizure and return of stolen cultural objects. Recent practice ranging from the dismantling of trafficking networks like those exposed in the Subhash Kapoor investigations to the large-scale return of hundreds of idols and other antiquities from the United States and other jurisdictions demonstrates that these obligations are increasingly being taken seriously in both criminal enforcement and diplomatic practice. Although it remains contested whether this pattern is sufficient to establish a fully crystallized customary norm in favour of restitution, it clearly points towards a stronger expectation that cultural objects, especially religious idols, should be returned to their communities of origin whenever unlawful removal is established.

At the same time, the case studies examined in this paper reveal significant gaps that limit the effectiveness and fairness of the current regime. Weak documentation of temple holdings, fragmented inter-agency coordination, uneven implementation of treaties across market States, and new vulnerabilities created by online platforms continue to make prevention and repatriation slow, uncertain, and dependent on political will. These challenges justify targeted reforms: systematic

inventorying and digitisation of heritage collections in India, clearer import and due-diligence obligations for dealers and museums in market States, burden-shifting mechanisms in high-risk transactions, and robust responses to the digital facilitation of trafficking as recommended by UNESCO and UNODC.

Ultimately, the repatriation of stolen Indian temple idols is about more than returning objects to a national territory; it is about restoring relationships between communities, their deities, and their histories. Effective implementation of existing norms, coupled with the reform proposals outlined in this paper, can move international practice closer to that goal by transforming restitution from an exceptional act of goodwill into a predictable legal consequence of illicit trafficking. In doing so, the law can better reflect the underlying premise of the 1970 Convention and related initiatives: that protecting and returning cultural property is a collective responsibility, essential to preserving the dignity, identity, and cultural rights of the peoples to whom these objects belong.

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