

Bill No. 258 of 2019

**THE ANTIQUITIES AND ART TREASURES
(AMENDMENT) BILL, 2019**

By

SHRI LAVU SRI KRISHNA DEVARAYALU, M.P.

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BILL

further to amend the Antiquities and Art Treasures Act, 1972.

BE it enacted by Parliament in the Seventieth Year of the Republic of India as follows:—

1. (1) This Act may be called the Antiquities and Art Treasures (Amendment) Act, 2019.

Short title
and
commencement.

5 (2) It shall come into force on such date as the Central Government may, notification in the Official Gazette, appoint.

52 of 1972. **2.** In section 2 of the Antiquities and Art Treasures Act, 1972 (hereinafter referred to as the principal Act), in sub-section (1),-

Amendment
of section 2.

10 (a) in clause (a), in sub-clause (I), for entry (iv), the following entry shall be substituted, namely:—

"(iv) any article, object or thing of historical interest including—

(a) rare collections and specimens of fauna, flora, minerals and anatomy, and objects of paleontological interest;

(b) property relating to history including the history of science and technology and military and social history, to the life of national leaders, thinkers, scientists and artists and to events of national importance;

(c) products of archaeological excavations or of archaeological discoveries;

(d) elements of artistic or historical monuments or archaeological sites which have been dismembered; 5

(e) archives, including sound, photographic and cinematographic archives;

(f) any manuscripts, publications, artistic or literary work that has historical or archaeological value singly or collectively;

(g) any work of art or sculpture in any material; 10

(h) any movable object or aggregate of things of artistic, historical or archaeological value or from other areas of cultural heritage, in particular of paleontological, ethnographic, numismatic or scientific value; and

(i) any such object or objects of any nature which, on religious or secular grounds, is specifically designated by the competent authority as being of importance for archaeology, prehistory, history, literature, art or science; 15

Explanation.—For the the purposes of sub-entry (h), "aggregate of things" shall mean several related cultural objects, in particular archival holdings, library holdings, estates, collections or parts thereof;";

(b) after clause (d), the following clauses shall be inserted, namely:— 20

"(da) "National Authority" means the National Authority for the Protection of Cultural Heritage constituted under section 3A;

(db) "national cultural object" mean any cultural object,—

(i) Created by the individual or collective genius of nationals of India or persons of Indian origin and is an object of importance or has been created within the territory of India by foreign nationals or stateless persons resident within such territory; 25

(ii) found within the national territory;

(iii) acquired by archaeological, ethnological or natural science missions, with the consent of the competent authorities of the country of origin of such object; 30

(iv) received as a gift or purchased legally with the consent of the competent authorities of the country of origin of such property;

(v) publicly owned and part of the collection of a public-law institution preserving such object; and 35

(vi) where the competent authority is granted permission by the lender or depositor to preserve a cultural object, such object shall also temporarily be considered national cultural object for the duration of the loan or deposit contract, as the case may be;"; and

(dc) "Register" shall mean the Register of Antiquity and National Cultural Objects as maintained under section 3C;". 40

Amendment
of section 3.

3. In section 3 of the principal Act, after sub-section (2), the following sub-section shall be inserted, namely:—

"(2A) Every person shall, notwithstanding ownership of a antiquity or national cultural object, surrender such antiquity or national cultural object, which as not been entered 45

into the register and for which a license has not been issued, to the National Authority or any other institution as designated by the National Authority in such manner as may be prescribed.

5 (2B) An antiquity or national cultural object which has been unlawfully excavated or lawfully excavated but unlawfully retained shall be considered stolen and be surrendered to the National Authority or any other institution as designated by the National Authority.

10 (2C) No antiquity or cultural property documented as appertaining to the inventory of a museum or religious or secular public monument or similar institution in any country which is stolen from such institution may be imported into the territory of India:

15 Provided that where the antiquity may be reasonably subjected to destruction or degradation or where the antiquity is reasonably suspected to be a national cultural object then such an antiquity or national cultural property may be imported into the territory of India."

4. After section 3, the following section shall be inserted, namely:—

Insertion of new sections 3A, 3B and 3C.

"3A. (1) The Central Government shall constitute an Authority, to be known as the National Authority for the protection of Cultural Heritage, to exercise the powers conferred upon, and to perform the functions assigned to it, under this Act.

National Authority for the protection of Cultural Heritage.

20 (2) The National Authority shall consist of:—

(a) the Director General of the Archaeological Survey of India, Chairperson, *ex-officio*;

(b) the Director General of the Department of Revenue Intelligence, member *ex-officio*;

25 (c) an official from the Union Ministry of External Affairs not below the rank of Joint Secretary, member *ex-officio*;

(d) a reputed archaeologist with considerable experience in identifying stolen artifacts and treasures, part-time member;

(e) a reputed conservationist with more than ten years of experience;

30 **(f) an officer of a Union law enforcement agency, to be appointed by the Central Government in such manner as may be prescribed.**

3B. (1) The National Authority shall,—

Functions of National Authority.

(a) take steps to ensure the repatriation of all stolen and illegally exported national cultural objects;

35 (b) prevent the export of antiquity and national cultural objects that have not been listed on the Register;

(c) prevent the export of antiquity and national cultural objects that may reasonably be damaged or destroyed in the territory to which it is being exported;

(d) maintain the register as provided in section 3C;

40 (e) carry out a review of the status of national cultural objects that have been leased or exported to another country;

(f) ensure the compliance of the provisions of the Act; and

(g) carry out such other function as notified by the Central Government.

(2) The National Authority may, in consultation with the Central Government, make regulations, consistent with the provisions of this Act and the rules made thereunder, for the discharge of its functions and perform its duties under this Act.

3C. (1) The National Authority shall maintain and update the Register of Antiquity and National Cultural Objects in such manner as may be prescribed. 5

(2) The Register maintained under sub-section (1) shall contain details of,-

(a) every antiquity within the territory of India which license has been issued; and

(b) every National Cultural object within or outside the territory of India or owned by a religious community or by legal or real persons." 10

Register of Antiquity and National Cultural Objects.

Amendment of section 4.

5. In section 4 of the principal Act after the words " unless the Central Government on an application made to it in this behalf, otherwise directs." the words "or unless the National Authority on an application made to it in this behalf, otherwise directs." shall be inserted.

Insertion of new section 26A.

6. After section 26 of the principal Act, the following sections shall be inserted, namely:— 15

Traders shall not be deemed to guarantee title of stolen and illegal antiquity.

26A. (1) Any person who trades in antiquity shall not import, export or transfer the ownership of such antiquity when they have reasonable cause to believe that it has been stolen, illegally alienated, clandestinely excavated or illegally exported.

(2) Any person who is acting as an agent for the seller of antiquity shall not be deemed to guarantee title to the property, unless he makes known to the buyer the full name and address of the seller. 20

(3) Any person who trades in import, export or transfer of antiquity has reasonable cause to believe that an item of cultural property has been illegally exported shall not assist in any further transaction with that item, except with the agreement of the country of export. 25

Return of illegally excavated object.

26B. (1) Any person who trades in export or transfer of antiquity product of a clandestine excavation or has been acquired illegally or dishonestly from an official excavation site or monument shall not assist in any further transaction with that object, except with the agreement of the country where the site or monument exists.

(2) Any person who trades in import, export or transfer of antiquity is in possession of the illegal antiquity as mentioned under sub-section (1), and the country where the site or monument exists seeks its return within a reasonable period of time, such person shall take all legally permissible steps to co-operate in the return of that object to the country of origin. 30

Prevention of illicit transfer and export.

26C. (1) Any person who trades in import, export, transfer or ownership in cultural property shall not exhibit, describe, attribute, appraise or retain any item of cultural property with the intention of promoting or failing to prevent its illicit transfer or export. 35

(2) Any person who trades in import, export, transfer ownership shall not refer the seller or other person offering the item to those who may perform such service.

Prevention of dismemberment of cultural property.

26D. (1) Any person who trades in import, export, transfer ownership in antiquity shall not dismember or sell separately parts of one complete item of cultural property. 40

(2) Any person who trades in import, export, transfer ownership in antiquity shall ensure to the best of their ability to keep together items of antiquity that were originally meant to be kept together.

Penalty.

26E. Any person who contravenes any of the provisions of sections 26A, 26B, 26C or 26D shall be punishable with imprisonment for a term which shall not be less than one year but which may extend upto three years and with fine amounting to five times the value of the antiquity or ten times the value of the national cultural object, whichever is higher." 45

STATEMENT OF OBJECTS AND REASONS

The Antiques and Art Treasures Act, 1972 was enacted to regulate the export trade in antiquities and art treasures, to provide for the prevention of smuggling of, and fraudulent dealings in, antiquities, to provide for the compulsory acquisition of antiquities and art treasures for preservation in public places and to provide for certain other matters connected therewith or incidental or ancillary thereto.

In order to facilitate the legal trade of antiquity and concomitantly ensure the preservation of national cultural heritage the Antiques and Art Treasures (Amendment) Bill, 2019, *Inter alia* seeks to:—

- (a) establish the National Authority for the protection of cultural heritage;
- (b) preserve the tangible cultural heritage objects both within and outside the territory of India;
- (c) establish the Register of Antiquity and National Cultural Objects;
- (d) enumerate the duties and conduct of traders of antiquity and cultural heritage;
- (e) ensure compliance of International conventions ratified by the country; and
- (f) prevent the fragmentation of antiquity and National Cultural Object.

Hence this Bill.

NEW DELHI;
October, 29, 2019.

LAVUSRIKRISHNADEVARAYALU

FINANCIAL MEMORANDUM

Clause 4 of the Bill *Vide* proposed section 3A provides for the constitution of the National Authority for the Protection of Cultural Heritage. It also provides for the appointment of part-time members to the Authority. It further provides for maintenance and updation of the Register of Antiquity and National Cultural Objects by the Authority. The Bill, therefore, if enacted, would involve expenditure from the Consolidated Fund of India. It is estimated that a sum of rupees twenty crore will be involved as recurring expenditure per annum from the Consolidated Fund of India.

A non-recurring expenditure of about rupees four crore is also likely to be involved.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 4 of the Bill *vide* proposed sub-section (2) of section 3B provides that the National Authority may, in consultation with the Central Government, make regulations, consistent with the provisions of this Act and the rules made thereunder, for the discharge of its functions and perform its duties under the Act. It also *vide* proposed sub-section (1) of section 3C provides that the National Authority shall maintain and update Register of Antiquity and National Cultural Objects in such manner as may be prescribed. As the matters in respect of which rules and regulations may be made under the aforesaid provisions are matters of procedure and administrative details, the delegation of legislative power is, therefore, of a normal character.

ANNEXURE

EXTRACT FROM ANTIQUITIES AND ART TREASURES ACT, 1972

[No. 52 OF 1972]

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Definitions.	2. (1) In this Act, unless the context otherwise requires,— (a) "antiquity" includes— (i) * * * (ii) * * * (iii) * * * (iv) any article, object or thing of historical interest; * * * (d) "licensing officer" means an officer appointed as such under section 6; (e) "Registering officer" means an officer appointed as such under section 15; * * *		
Regulation of export trade in antiquities and art treasures.	3. (1) On and from the commencement of this Act, it shall not be lawful for any person, other than the Central Government or any authority or agency authorised by the Central Government in this behalf, to export any antiquity or art treasure. (2) Whenever the Central Government or any authority or agency referred to in sub-section (1) intends to export any antiquity or art treasure such export shall be made only under and in accordance with the terms and conditions of a permit issued for the purpose by such authority as may be prescribed.		
Application Act 52 of 1962.	4. The Customs Act, 1962, shall have effect in relation to all antiquities and art treasures, the export of which by any person (other than the Central Government or any authority or agency authorised by the Central Government) is prohibited under section 3 save in so far as that Act is inconsistent with the provisions of this Act and except that (notwithstanding anything contained in section 125 of that Act) any confiscation authorised under that Act shall be made unless the Central Government on an application made to it in this behalf, otherwise directs. * * *		
Cognizance of offences.	26. (1) No prosecution for an offence under sub-section (1) of section 25 shall be instituted except by or with the sanction of such officer of Government as may be prescribed in this behalf. (2) No court shall take cognizance of an offence punishable under sub-section (2) or sub-section (3) of section 25 except upon complaint in writing made by an officer generally or specially authorised in this behalf by the Central Government. (3) No court inferior to that of a Presidency Magistrate or a Magistrate of the First Class shall try any offence punishable under this Act. * * *		

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further to amend the Antiquities and Art Treasures Act, 1972.

(Shri Lavu Sri Krishna Devarayalu, M.P.)