
Illicit Trade and Cultural Heritage in
South Africa: Investigating the Policy
Environment and Opportunities for
Digitisation

by

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Submitted to the University of Cape Town in partial fulfilment of the
requirements for the degree

MPhil in Digital Curation

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February 2024

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Dedication & Acknowledgements

I want to thank my first supervisor, Emeritus Professor Peter Underwood, for helping me lay the groundwork for this study. With deep gratitude, I thank my current supervisor, Michelle Kahn, for her unwavering patience, persistent guidance, and impeccable support throughout this journey. Without their guidance and support, this study would not have been possible. Special appreciation goes to my mother, grandmother, and niece for their boundless love and tireless care for the little ones, enabling me to concentrate on completing this research. My heartfelt thanks to my husband for his unwavering encouragement, steadfast support, and showers of love. To my precious babies, your constant cheer and motivation have been a source of strength and inspiration.

Abstract

This dissertation addresses research questions aimed at understanding and addressing the issue of illicit trafficking in cultural heritage assets in South Africa. The specific research questions guiding this study are as follows:

- What is the state of illicit trafficking in cultural heritage assets in South Africa?
- To what extent does the South African policy environment respond to the illicit trade of cultural heritage assets?
- To what extent can digital curation serve as a solution to the illicit trade of cultural heritage assets in South Africa?

A qualitative methodology was employed to answer these questions using semi-structured interviews. The study explored cultural heritage management in South Africa and the effectiveness of cultural heritage policy in addressing the illicit trade in cultural heritage. It investigated the challenges and opportunities associated with digitising cultural heritage in South Africa. A sample of six people from the population of specialists in the cultural heritage sector participated in the study.

The findings of this study shed light on the complex nature of illicit trafficking in cultural heritage within South Africa and the challenges in implementing effective policies for preserving and managing cultural heritage. Also, it highlights the role of digital curation as a potential solution in the fight against the illicit trade of cultural heritage. As a result of these findings, several recommendations are proposed to address the identified issues. These include increased funding for projects within the cultural heritage field with a specific focus on devising effective strategies against the illicit trafficking of cultural heritage; establishing mechanisms for the ongoing review and evaluation of policies related to cultural heritage and technology by governments and cultural heritage organisations; giving attention to cultural policy to establish effective guidelines and principles for the return of cultural heritage assets; and integrating museum collection records management systems with investigative agencies' databases for cross-referencing analysis to comprehensively combat the illegal movement of cultural heritage items.

LIST OF ACRONYMS AND ABBREVIATIONS

CAS	Crime Administrative System
DCAS	Department of Cultural Affairs & Sport
DoJ	Department of Justice
HAWKS	Directorate for Priority Crime Investigation
ICOM	International Council of Museums
INTERPOL	International Criminal Police Organisation
NALEH	National Forum for the Law Enforcement of Heritage
NHC	National Heritage Council
NHRA	National Heritage Resources Act
SACO	South African Cultural Observatory
SAHRA	South African Heritage Resources Agency
SAHRIS	South African Heritage Resource Information System
SAMA	South African Museums Association
SANParks	South African National Parks
SAPS	South African Police Service
TRACIT	Transnational Alliance to Combat Illicit Trade

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CHAPTER 1

INTRODUCTION AND BACKGROUND TO THE STUDY

“If peace depends on an inter-cultural dialogue that acknowledges and respects ‘being in the world’, it is in the interest of future generations to defend artistic and cultural objects against pillage, theft, and destruction.”

- Christa Roodt

1.1 Introduction

The global capitalist system has profoundly influenced the commodification of heritage. The market demand for cultural artefacts, such as antiquities, art and heritage objects, continues to fuel the illicit trafficking of cultural heritage assets (Mackenzie, Hübschle and Yates, 2020:421). Criminal networks exploit the economic value of objects, leading to illegal excavation and smuggling (Mackenzie, Hübschle and Yates, 2020:428).

Illicit trafficking in cultural objects is loosely defined as thefts, illegal excavation, or smuggled heritage items from cultural institutions, public collections and heritage sites in contravention of existing local law (Blake, 2015). Brodie et al. (2022) note that individuals often disregard ethical considerations while pursuing profit in the global art market, noting that

Developed nations benefit from these trades while developing nations suffer, and governance regimes attempting to control these global criminal trades prioritise the rational interests and cultural norms of the more powerful market nations over the local interests and cultural histories of communities at the source of the chain of supply (Mackenzie, Hübschle and Yates, 2020:419).

Despite existing legal and regulatory frameworks aimed at preventing illegal exports, criminals have found a way to navigate the law through “the jurisdictional discontinuities that have developed between determinations of property ownership, statutes of limitation, concepts of good faith purchase, due diligence, and monetary thresholds” (Brodie et al., 2022:122). These discontinuities create legal ambiguities and loopholes that allow criminals to exploit gaps in the system.

Moreover, news articles often focus on the illicit trade of more expensive objects, such as “ancient treasures or masterpieces” sold at prestigious galleries and auction houses for wealthy collectors (Brodie et al., 2022:121). By focusing on high-value items, news articles overlook the broader and often more pervasive aspects of the illicit trade, shrouding the true extent of illicitly trafficked objects. This focus perpetuates a narrow narrative, overshadowing the vast array of cultural heritage items vulnerable to trafficking, ranging from everyday artefacts to lesser-known assets, equally essential to preserving a nation’s cultural identity (Brodie et al., 2022:121).

The digital revolution and international trading have generated a consistently increasing need for art objects and cultural artefacts (Povroznik, 2018:1). Brodie et al., (2022:121) argue that “the internet has created a nearly infinite number of storefronts for cultural objects across all imaginable jurisdictions”. As a result, the internet has transformed the marketing of cultural heritage assets, promoting replicas and forgeries alongside historical, artistic, and cultural objects to cater to a broader base of collectors and groups (Brodie et al., 2022:121). This makes the tightening down on the dynamics of the illicit trade even more difficult, especially when there is little systematic knowledge of the dynamics of the illicit trade of cultural heritage assets, as data on illegal activities is difficult to obtain (Benson, 2011:93). Manžuch (2017:2) notes that digitisation has also facilitated the conversion of analogue artefacts into digital objects. This process has opened up new possibilities for preservation, dissemination, and access to cultural heritage materials.

The study explored the complexities of cultural heritage trafficking, considered potential technological solutions, and examined the broader socio-political context in which illicit trafficking occurs.

1.2 Background to the study

Abungu (2016:243), a Cambridge-trained archaeologist and Emeritus Director-General of the National Museums of Kenya, has posed the following questions:

- Is it possible to eliminate trafficking?
- Is there a political will at a national, regional, continental, or global level to deal with this?
- Is the trafficking of heritage purely an ethical and economic phenomenon, or is it political?

Understanding Abungu’s (2016) questions is essential for a holistic understanding of the complexities surrounding the trafficking of cultural heritage assets, the potential for its reduction or elimination, and the broader socio-political context in which it operates (Abungu, 2016:242). Addressing these questions is fundamental to developing effective policies, strategies, and interventions to combat cultural heritage trafficking comprehensively. The illegal trafficking of cultural heritage assets poses a severe threat to the integrity of South Africa’s cultural heritage. Investigating and understanding the state of its existence and the law around the trade in cultural heritage assets within South Africa’s borders is critical for safeguarding the nation’s cultural heritage.

1.2.1 The significance of cultural heritage

According to the United Nations Educational, Scientific and Cultural Organisation

(UNESCO), cultural heritage includes sites, objects, and intangible things that hold cultural, historical, aesthetic, archaeological, scientific, ethnological, or anthropological significance for communities and individuals (UNESCO, 2003). This definition resonates with the observations made by Pandey and Kumar (2020:26), who emphasise the pivotal role played by resources such as manuscripts, artefacts, rare books, and photographs in preserving a country's culture and heritage.

However, the conceptualisation of heritage is not merely a static categorisation of objects; rather, it is deeply intertwined with power dynamics and socio-political contexts. McDowell (2008) asserts that power relations, influenced by colonial legacies, capitalism, and globalisation, shape how heritage is valued, protected, commodified, and accessed. She argues that heritage is a subjective representation of valued objects, historical figures, places, and symbolic events of the past, intricately linked with issues of identity and power.

McDowell (2008) emphasises that heritage is not static but is actively shaped by present actions, values, myths, and societal elements. Building upon McDowell's (2008) insights, it becomes evident that heritage is not a universal concept that holds the same meaning for everyone. Instead, it is a dynamic process influenced by historical narratives and power dynamics. Durney and Proulx (2011) reinforce this view by stating that

Cultural and historical heritage play a vital role in the conception of self-image and national identity, where the destruction, or dilution, of such resources, has adverse repercussions on a people's identity and future (Durney and Proulx, 2011:122).

The preservation and protection of cultural landmarks, monuments, traditions, and other cultural heritage assets are crucial for maintaining a strong sense of identity and pride in the collective history and traditions of a country like South Africa. By intertwining the conceptual understanding of heritage with the significance of cultural heritage, we can appreciate how heritage reflects the past and shapes the present and future identities of individuals and communities.

1.2.2 Colonialism and its impact on cultural heritage

Colonialism played a significant role in shaping the global heritage landscape (Abungu and Ndoro, 2022:276). During the colonial era, cultural objects and artefacts were often looted, confiscated, or forcibly acquired from colonised regions and taken abroad (Abungu and Ndoro, 2022:276). Today, former colonies continue to feel the impact of colonial legacies, as many cultural heritage objects remain housed in museums and institutions in former colonising nations (Sarr and Savoy, 2018:2).

Abungu (2016) goes into great detail about the effects of colonial greed, claiming that colonialism paved the way for much of what we see today in Africa in terms of cultural heritage looting. Abungu (2016) argue, for example, that

The British attack on Nigeria and Ghana in the 19th century and the looting and destruction of heritage at the time set precedence in terms of a lack of respect for African peoples' heritage, greed for the 'exotic other', impunity by European military officers' in dealing with African leaders and peoples, and opening up African heritage treasures, including sacred objects, to world markets, which consequently led to the incorporation of Western museums and other research institutions into the global and competitive game of the acquisition of African heritage, with or without provenance (Abungu, 2016:244).

Abungu (2016:244) has reported several incidents of destruction and the loss of cultural heritage across the African continent. These incidents include vanished Moroccan rock art and ritual items in the Congo and missing museum pieces across Western, Southern, and Eastern Africa. Historical actions undertaken during the colonial era have significantly shaped the current challenges associated with preserving cultural heritage within post-colonial societies.

1.2.3 Heritage landscape in South Africa

South Africa has a rich and diverse cultural heritage, including ancient artefacts, traditional art, and sacred objects. Unfortunately, many of these items have been stolen and sold on the black market (Oosterman, Mackenzie and Yates, 2022:8). However, many countries worldwide, including South Africa, have legislation in place to safeguard cultural heritage.

The South African government passed the first cultural heritage legislation in 1911, the Bushmans Relic Act, No. 22 of 1911 (Bushmans Relic Act, No. 22 of 1911, 1911:chap1). The purpose of the Act was to regulate the export of original rock paintings and engravings, as their theft was posing a significant danger to the preservation of South African rock art (Ndlovu, 2011:34). According to Henry (2007:46), the practice of collecting archaeological objects dates back to the fifteenth century in Europe among intellectuals and royalty. As a result, several rock art panels from South Africa are still to be found in foreign museums (Henry, 2007:46).

To control the conservation and use of cultural heritage assets, South Africa has enacted several protective cultural heritage laws, namely; the Natural and Historical Monuments, Relics and Antiques Act, No. 5 of 1923; the Amendment to the Natural and Historical Monuments, Relics, and Antiques Act, No. 9 of 1934; the National Archives and Records Service of South Africa Act, No. 43 of 1996; and the National Heritage Resources Act, No. 25 of 1999, amongst others (Ndlovu, 2011:34). These laws provide a legal framework for

protecting and preserving cultural heritage resources, and also recognise the importance of living heritage and the need for a more comprehensive representation of cultural resources (Ndlovu, 2011:34).

The National Heritage Resources Act (NHRA), enacted in 1999, identifies, protects, and manages the country's heritage resources. In South Africa, the NHRA has been instrumental in protecting heritage sites and resources, including archaeological sites, historic buildings, and cultural landscapes. The Act also recognises the importance of intangible heritage, including oral traditions, languages, and cultural practices, and provides for their protection and promotion.

1.2.4 Trafficking South Africa's cultural heritage

The South African Heritage Resources Agency (SAHRA) and the National Heritage Council (NHC) are the principal legislative authorities responsible for protecting, managing, and preserving South Africa's cultural property (Benson, 2013:246). The South African chapters of the International Council of Museums (ICOM), the South African Museums Association (SAMA), and the National Forum for the Law Enforcement of Heritage (NALEH) have been cited as having been involved in fighting crimes relating to heritage objects (heritage crime) and aiding SAHRA in achieving its goals of protecting the country's cultural heritage assets (The South African Heritage Resources Agency [SAHRA], 2018:48).

The appearance of South African heritage objects in the United Kingdom, United States, and Europe have been attributed to colonial looting (South African Cultural Observatory [SACO], 2018:26) and the recent increase in the demand for South African art and cultural heritage objects in the global art market. Various reports, academic studies, and media coverage (e.g., SACO, 2018; SAHRA, 2018) have documented instances of South African artefacts appearing in these regions. These objects have been found in auction houses, antique dealerships, and private collections. Notably, the proceedings of major auction houses like Sotheby's and Christie's often include South African artefacts, indicating their presence in these markets (SACO, 2018:5).

Owing to differences in legislation between African, American, and European countries, the repatriation of South African cultural heritage assets found abroad encounters difficulties. As indicated by the SACO (2018) report on the value of the repatriation of South African museum artefacts, differences in legal frameworks between host and source countries pose challenges to repatriation efforts, with certain artefacts failing to meet return criteria due to these disparities (SACO, 2018). These factors contribute to the ongoing challenge of

countering the illicit trade in South Africa.

1.2.5 SAHRA and the fight against the illicit trafficking of cultural property

The 1970 Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property (UNESCO, 1970) encourages State Parties to compile inventories of cultural property within their territories to facilitate the identification and recovery of stolen or illegally exported items. Fortunately, the NHRA legally mandates a heritage resource inventory, and SAHRA is a key organisation involved in heritage management in South Africa (Jackson, Mofutsanyana and Mlungwana, 2019). Additionally, the NHRA mandates that

SAHRA is responsible for the identification and management of the national estate of the country, as well as the coordination of the management of heritage resources at the provincial and local level (Jackson, Mofutsanyana and Mlungwana, 2019).

Furthermore, SAHRA is responsible for evaluating requests to transport cultural artefacts (SAHRA, 2020). This evaluation process considers the criteria specified in the NHRA for artefacts recognised as nationally significant; the updated List of Types of Heritage Objects regulates which objects are considered of heritage significance and require an export permit before leaving the country.

1.2.6 Digital curation of cultural heritage assets

The digital curation of cultural heritage has the potential to serve as a strategy to combat illicit trafficking by, for example, converting various forms of cultural heritage assets into digital formats through digitisation. As UNESCO's Charter for the Preservation of Digital Heritage (2003) outlines, digitisation involves converting cultural, educational, scientific, administrative, and technical resources into digital formats. These digital records, including texts, images, audio, and graphics, are often ephemeral and necessitate intentional creation, maintenance, and management efforts to ensure long-term retention (UNESCO, 2003). Digital curation, with its potential to mitigate risks such as theft, loss, and damage to cultural heritage, as emphasised by Koiki-Owoyele, Alibi and Egbunu (2020), prompts the need for further research and development efforts in South Africa.

The South African Heritage Resource Information System (SAHRIS) serves as the main digital repository for the management and protection of the country's cultural heritage assets. Overseen by the SAHRA, this integrated web-based system compiles comprehensive records of a wide array of protected cultural resources (Snowball, Collins and Bickerton, 2023). The database not only features detailed metadata and digitised images but also

includes descriptions and provenance information, facilitating access for researchers and the public (Smuts, 2015: 398).

1.3 Problem statement

The illicit trafficking of cultural heritage assets in South Africa presents a complex issue with implications for both economic stability and cultural integrity. The scale of illicit trafficking in South Africa is poorly documented, making it difficult to assess the full extent of the problem (Benson and Fouché, 2014). According to Cultural Heritage: Illicit Excavation, Theft, and Trafficking (Blake, 2015), the lack of comprehensive data on cultural theft and trafficking complicates efforts to combat these crimes effectively. The article highlights that the illicit trade is often underreported, leading to an incomplete understanding of its impact and hindering effective policy responses (Blake, 2015:42).

The economic impact of the illicit trade has the potential to deprive South Africa of revenue that could be generated through legitimate means. Panzera (2022) emphasises that cultural heritage contributes significantly to local economies through tourism, education, and cultural industries. The loss of these assets not only results in financial losses but also impedes potential economic growth and development.

Moreover, the destruction and theft of cultural heritage assets have cultural and social repercussions. Blake (2015) discusses how the illicit trade erodes cultural identity and community cohesion. The plundering of archaeological sites and museums not only disrupts the physical preservation of cultural artefacts but also affects local communities' sense of identity and belonging. The loss of cultural heritage damages the social fabric and historical continuity of affected communities, contributing to a loss of cultural memory and historical narrative (Blake, 2015:55).

Panzera (2022) highlights that many developing countries face significant challenges in creating and implementing effective policies to combat cultural heritage crime. In addition, Panzera (2022) points out that existing policies often lack the robustness needed to deter traffickers and protect cultural assets, resulting in ongoing vulnerabilities (Panzera, 2022:78).

While digital curation, including digitisation, is seen as a promising solution to mitigate illicit trafficking, its effectiveness requires further investigation. Besides the creation of digital surrogates through digitisation, digital curation has the potential to help combat the illicit trade through preserving digital records of cultural assets, which can aid in their recovery and protection (Pandey and Kumar, 2020). However, the full potential of digital curation as a tool against illicit trafficking remains to be fully realised and warrants a thorough evaluation

to understand its practical applications and limitations (Pandey and Kumar, 2020).

1.4 Research objectives

In response to the research problem, the study aims to investigate the state of illicit trafficking in South Africa and the related policy environment as well as investigate how digital curation can improve efforts to curb the illicit trafficking of cultural heritage assets.

1.5 Research questions

The following research questions have been drafted to address the study objective:

- I. What is the state of illicit trafficking in cultural heritage assets in South Africa?
- II. To what extent does the South African policy environment respond to the illicit trade of cultural heritage assets?
- III. To what extent can digital curation serve as a solution to the illicit trade of cultural heritage assets in South Africa?

1.6 Significance of the study

Illicit trafficking in cultural heritage assets is a concern in South Africa, and it has implications for the economy, local communities, policy-making, and foreign cooperation. It is a complex issue that requires a comprehensive approach to mitigate its impact on the country's rich cultural heritage.

The findings from this research project have the potential to provide researchers, heritage specialists, and policymakers with new insights and guide them in formulating strategies that can effectively protect and preserve South Africa's rich cultural heritage.

1.7 Overview of the methodology

This qualitative study used semi-structured interviews. The primary purpose of the semi-structured interview was to corroborate or contradict the study's literature review findings. The researcher chose to focus on the perceptions of key individuals regarding the illicit trafficking of cultural heritage, South Africa's heritage legal framework and digital curation efforts as they would be able to provide this study with a contextual and exploratory overview of the nature of illicit trafficking in cultural heritage assets.

1.8 Study delimitations

This study focused on a specific group of researchers, heritage specialists, and government officials primarily based in Cape Town. By targeting a select network of professionals, the

research is constrained by its regional scope and may not capture a comprehensive national perspective on the state of illicit trafficking in cultural heritage. This limitation should be considered when interpreting the findings, as they may not fully reflect the broader experiences and views across South Africa.

1.9 Structure of the dissertation

Chapter 1 introduced the study and established its context by offering an overview of the problem area and the researcher's intentions for investigating it. This chapter offers sufficient detail to enable readers to comprehend the study's objectives, rationale and methodology.

Chapter 2 of this research reviews the literature on illicit trafficking, heritage management and digital curation. This chapter lays the foundation for the data analysis.

Chapter 3 delves into the research methods that have been selected to tackle the issues that were identified in Chapter 1. This chapter covers the research paradigm that has been adopted, the research approach and design, and the ethical considerations that were taken into account.

Chapter 4 details the implementation of the selected methods and presents the data collected during the investigation.

Chapter 5 presents the analysis and interpretation of the collected data. Moreover, this chapter includes corresponding conclusions and recommendations based on the findings. This section provides insights for future studies.

1.10 Chapter summary

Overall, this chapter laid the groundwork for the dissertation, introducing the study and giving an overview of its issues. Subsequent chapters will present the literature review, the methodology and the data, and build upon the foundation of the literature review to interpret the findings, draw conclusions, and provide recommendations.

CHAPTER 2 LITERATURE REVIEW

2.1 Introduction

This chapter will provide a brief overview of the existing body of knowledge on illicit trafficking in cultural heritage, the legal aspects related to illicit trafficking and the potential role of digital curation in solving this issue in South Africa. The sources used for this literature review include academic monographs, peer-reviewed journal articles, government websites, and policy documents. The literature review has been organised to cover the main themes of the study as evident in the research questions.

2.2 Understanding the illicit trafficking in cultural heritage assets

Heritage crime globally involves a range of illicit activities that target cultural artefacts and sites, leading to significant losses in cultural, historical, and financial terms (Hardy, 2019). These crimes include looting, illegal excavations, theft, and the destruction of archaeological sites and historical monuments, often exacerbated by political unrest and insufficient legal enforcement (Gruber, 2013). The trafficking of cultural objects is a complex issue that affects many regions (Oosterman and Yates, 2021).

Interestingly, while heritage crime is often seen as less risky than other criminal activities, it can serve as a financial enabler for organised crime networks and international conflicts, including terrorism (Grove, Thomas and Daubney, 2018). The antiquities market's impact on cultural heritage is a burgeoning global crisis, with the monetary value of artefacts contributing to the pillage of archaeological sites worldwide (Brodie, Doole and Watson, 2000). Despite the existence of international conventions and national legislation, the implementation of effective strategies to combat these crimes is hindered by a lack of resources and specialists within policing and government agencies (Oosterman and Yates, 2021).

Heritage crime is a multifaceted issue that requires international cooperation, targeted prevention strategies, and adequate resources to effectively combat the illicit trafficking of cultural property and safeguard cultural heritage (Oosterman and Yates, 2021). There is a need for a more concerted global effort to address the underlying factors that contribute to the persistence of heritage crime (Brodie, Doole and Watson, 2000).

In South Africa, Vollgraaff (2014) examined the presence of illicit trafficking in cultural heritage assets and defined heritage crime as

Theft within the context that all archaeological, palaeontological, and meteorite material belongs to the state; illegal excavation of or removal of heritage objects from their original sites without a permit; vandalism, destruction, or alteration of heritage objects and sites without a permit, including protected buildings and rock art (Vollgraaff, 2014:169).

Expanding upon this definition, Korsell et al. (2006) argue that heritage crime involves the theft of cultural artefacts from preservers such as museums and churches. Furthermore, it includes the export of protected cultural heritage assets without a permit, even if the artifact is lawfully acquired (Korsell et al., 2006). Importing artefacts illegally from other nations is equally a cultural heritage offence (Benson and Fouché, 2014:3). The inclusion of these additional categories highlights the diverse range of actors and contexts that may be involved in the perpetration of heritage crimes.

According to Vollgraaff (2014:170), the following items are prone to being stolen and targeted in southern Africa: metal artefacts like spears, knives, and gold artefacts, as well as beadwork from the Ndebele, Tsonga, Swazi, and peoples; headrests and carved doors from Africa's east coast; ceremonial artefacts; shipwreck material; archaeological material including lower grindstones; stone tools; smaller rocks with engravings; paleontological materials; and meteorites.

2.2.1 Incidences of heritage crime in South Africa

Historically, colonialism and apartheid policies have had a profound impact on the exploitation and removal of cultural artefacts from South Africa. During colonial rule, European powers systematically removed significant cultural objects and artworks from Africa, often relegating them to museums abroad or private collections (Brodie, Doole and Watson, 2000). Economically, South Africa's rich archaeological and cultural heritage has made it a target for looters and traffickers seeking to profit from the sale of antiquities and artworks on the international market (Brodie, Doole and Watson, 2000). The illegal excavation and smuggling of artefacts from archaeological sites in Africa are rampant, driven by the lucrative demand from international collectors and dealers (UNESCO, 2023). Additionally, economic disparities and unemployment contribute to the involvement of local communities in heritage crime, as individuals may turn to looting as a means of survival or financial gain (Benson, 2011).

In 2017, a significant theft highlighted the profound loss of cultural identity due to heritage crime. South African National Parks (SANParks) came under scrutiny after centuries-old gold artefacts were stolen from one of its museums (Wild, 2017). These artefacts—a necklace, bracelets, and beads—had been unearthed from graves at the Thulamela

archaeological site within Kruger National Park, which was occupied between the 13th and 17th centuries, and were on loan to the SANParks museum (Wild, 2017). The Thulamela site is important for understanding the pre-colonial gold trade.

Other notable thefts illustrate similar cultural loss. As reported by Hollands (2014), in the Eastern Cape, museums have been robbed of irreplaceable items such as military insignia, meteorites, and gold jewellery from the Anglo-Boer War. Stolen items also include antique silver cutlery, historical pistols, Xhosa artefacts, seven meteorites from East London museums, war memorabilia like medals and gold coins, shipwreck artefacts and the invaluable Maqoma Seal given to a Xhosa chief by the British (Hollands, 2014:1).

2.2.2 Policing heritage crime in South Africa

Vollgraaff (2014:175) highlights a crucial issue faced by the cultural heritage sector in South Africa: the lack of experience and knowledge in investigating methods used in cultural heritage crimes. This inadequacy is attributed to the limited availability of resources provided by the government to protect cultural heritage (Benson, 2010:147). The scarcity of re/sources further exacerbates this challenge since it restricts the ability of the sector to develop effective strategies to prevent and address cultural heritage crimes (Vollgraaff, 2014). Consequently, the cultural heritage sector is grappling with the need to improve its capacity to investigate cultural heritage crimes while simultaneously contending with the reality of scarce government resources.

Additionally, Benson and Fouché (2014:4) and Vollgraaff (2014) argue that the responsibility for recognising and designating heritage rests on national legislation acknowledging heritage within its jurisdiction. National laws and regulations impact what constitutes criminality (Benson and Fouché, 2014:4). Difficulty in enforcement arises when countries of origin lack effective cultural heritage laws, complicating the implementation of legislation in destination countries and compliance with export and import regulations (Benson and Fouché, 2014:4).

Vollgraaff's (2014:173) observation about the lack of knowledge and experience in investigating cultural heritage crimes is closely tied to the issue of countries of origin lacking effective cultural heritage laws. When there are no effective laws in place to protect cultural artefacts and heritage sites in the countries of origin, it becomes difficult to regulate the export and import of cultural heritage assets (Vollgraaff, 2014: 173). Ultimately, it is essential for all countries to have strong cultural heritage laws in place to protect their cultural heritage and to ensure that cultural heritage assets are not lost or stolen.

2.3 The South African cultural heritage policy environment

This section explores the multifaceted landscape of South Africa's cultural heritage policy environment, examining both international and national legal frameworks that safeguard cultural assets. It delves into the intricacies of customs regulations, the permit system, and mechanisms for resolving cultural heritage disputes. The discussion extends to the role of cultural diplomacy in preserving heritage, as well as the growing significance of digital solutions in the protection and curation of cultural heritage.

2.3.1 International and national legal frameworks for protecting cultural heritage

Adopted by UNESCO on November 14, 1970, the 1970 UNESCO Convention on the Means of Prohibiting and Preventing the Illicit Import, Export, and Transfer of Ownership of Cultural Property serves as a vital international legal instrument aimed at combating the illicit trade of cultural property, whether occurring during armed conflict or peace time (Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property., 2023). Its broader focus is particularly beneficial for African countries, where instances of illicit trafficking are often rooted in colonial-era plundering rather than contemporary conflicts (Shyllon, 2014:18). By expanding the definition of cultural property to encompass a wide array of movable cultural objects—including art, artefacts, and archaeological, ethnological, and historical assets—the Convention acknowledges the rich and diverse cultural heritage of African nations (UNESCO, 2023).

Furthermore, the Convention mandates that State parties implement protective measures to regulate the international movement of cultural property through mechanisms such as export certificates and obligations to return stolen assets upon request (UNESCO, 2023). This framework empowers African nations, providing a platform to assert their rights and contribute to global efforts to preserve their cultural legacies (UNESCO, 2023).

In the context of South Africa, the alignment of national legislation with the objectives of the Convention is evident in the NHRA, which regulates the export of cultural property and necessitates permits for certain categories of heritage items. The constitutional recognition of cultural heritage protection further bolsters these efforts by ensuring a legal foundation for safeguarding heritage resources.

Although South Africa has not ratified the 1970 UNESCO Convention, it has developed a comprehensive legislative framework to protect its cultural heritage. The NHRA serves as the cornerstone of this framework, governing the identification, conservation, and management of the national estate, which includes archaeological and paleontological sites

as well as cultural landscapes (Vollgraaff, 2014). The act also establishes the SAHRA as the national authority responsible for overseeing cultural heritage management.

Complementing the NHRA, South Africa's Cultural Institutions Act of 1998 focuses on the governance of cultural institutions such as museums and galleries, while the Promotion of Access to Information Act of 2000 enhances transparency and accountability related to heritage resources. Additionally, the proposed Protection, Promotion, Development and Management of Indigenous Knowledge Act 6 of 2019 seeks to safeguard indigenous knowledge systems, recognising the importance of cultural heritage in marginalised communities. Other protective laws, including the Natural and Historical Monuments, Relics and Antiques Act and the National Archives and Records Service of South Africa Act, further support this legislative framework.

Regarding acquisitions and the combatting of heritage crime, South Africa adheres to a narrative shaped by various legal instruments, including the ICOM Code of Ethics (ICOM, 2017) and the International Institute for the Unification of Private Law (UNIDROIT) 1995 Convention (UNIDROIT, 1995). Museums and public collections are thus required to demonstrate due diligence in acquiring heritage objects, guided by established ethical standards.

The ICOM Code of Ethics (ICOM, 2017) emphasises that museums must establish a written collections policy detailing the acquisition, care, and use of their collections. This policy should ensure that no object is acquired—through purchase, gift, loan, bequest, or exchange—unless the museum is confident that a valid title is held (ICOM, 2017:9). According to the aforementioned, it is important to note that evidence of lawful ownership does not automatically equate to valid title. Moreover, museums are required to conduct thorough due diligence to ascertain that any object has not been illegally obtained or exported from its country of origin or any interim ownership locations (ICOM, 2017:9). According to ICOM Ethics, this process involves tracing the complete provenance of the item since its discovery or production. Furthermore, museums should refrain from acquiring objects that may have been obtained through unauthorised or unscientific means, or where there is evidence of damage to archaeological or geological sites (ICOM, 2017:9). Culturally sensitive materials, such as human remains and sacred artefacts, should only be acquired if they can be secured and cared for respectfully, in accordance with the beliefs of relevant communities. Lastly, museums must avoid acquiring biological or geological specimens that violate laws related to wildlife protection or natural history conservation (ICOM, 2017:10).

Despite the robust legal framework, challenges remain, such as resource constraints and a

lack of public awareness, which hinder the enforcement of heritage laws. Roodt (2013) points out that ambiguities surrounding an asset's legal status in its country of origin can complicate international efforts to return stolen cultural property, and organised criminals exploit these discrepancies across various legal systems. Furthermore, Roodt and Benson (2015) note that South African case law has yet to impose stringent requirements for due diligence in acquiring cultural heritage assets.

When examining the repatriation of human remains versus cultural heritage objects, it is crucial to acknowledge the differing legal and ethical frameworks governing each. South Africa has established stronger policies for the repatriation of human remains, with legislation such as the Human Tissue Act and the NHRA facilitating organised processes for returning ancestral remains to indigenous communities. This reflects a growing recognition of the need to respect the dignity of individuals and their cultures.

Conversely, the repatriation of cultural heritage objects lacks comparable policy support and clarity. Although international frameworks exist, they often fail to specifically address the complexities surrounding the return of illicitly trafficked items. SACO (2018) highlights significant gaps in the legal framework, indicating that cultural heritage objects do not receive the same protective measures as human remains. This discrepancy arises from various factors, including societal perceptions that view human remains as sacred, while cultural objects may be regarded merely as historical artifacts. The absence of specific guidelines for the repatriation of cultural heritage objects found outside South Africa exacerbates the challenge of addressing claims for their return.

2.3.2 Customs

Safeguarding South Africa's cultural heritage faces other significant challenges, primarily due to the lack of coordination between customs authorities and the nation's heritage legislative framework. Roodt and Benson (2015:7) identify this disconnect as a formidable obstacle to effective preservation efforts, highlighting the necessity for a comprehensive strategy to address the illicit trafficking of cultural assets.

The 2019 report by the Transnational Alliance to Combat Illicit Trade (TRACIT) emphasises the pivotal role of the customs environment as a frontline defence against such trafficking (TRACIT, 2019). Therefore, addressing customs procedures is crucial for the successful implementation of heritage protection measures.

To combat illicit trade effectively, a concerted effort involving all relevant government bodies is imperative. The TRACIT report advocates for raising awareness about illicit trade by

allocating the necessary financial and human resources, particularly to ensure that the South African Revenue Service is adequately equipped to enforce regulations (TRACIT, 2019:5). Moreover, it calls for more vigorous enforcement of anti-illicit trade regulations, particularly concerning violations of Intellectual Property Rights and the regulation of untaxed or unregulated parallel market imports (TRACIT, 2019:7). Enhanced regulatory structures, the introduction of deterrent penalties, and improved tax policies are also crucial components of a more effective legal framework (TRACIT, 2019:5).

The judiciary plays a significant role in this landscape; its interpretation and application of laws can create an environment that discourages illicit trade through the imposition of strict penalties and expedited legal processes (TRACIT, 2019:6). However, pervasive corrupt practices within customs, law enforcement, and judicial sectors must also be addressed. As TRACIT (2019: 7) states, as South Africa engages in its ongoing "war on corruption", it is vital to implement measures that effectively reduce illicit trade. Corruption within government agencies severely undermines efforts to strengthen border policing and control. Increasing automation in customs procedures can help reduce opportunities for corruption, but a comprehensive strategy to combat corruption at all levels is essential for the success of broader illicit trade initiatives (TRACIT, 2019:7).

Benson (2010) argues that addressing smuggling necessitates a cohesive legislative strategy that bridges the gaps between customs regulations and heritage protection. By fostering synergy between these two domains, South Africa can enhance its ability to combat illicit trafficking effectively. Heightened collaboration, increased resource allocation, and specialised training for customs officials are crucial for tackling the illicit trafficking of cultural heritage in the country (Benson, 2010:152).

In conclusion, improving the interplay between customs practices and heritage protection laws is essential for preserving South Africa's rich cultural heritage. By prioritising the integration of these efforts, the nation can better defend against the threats posed by illicit trade, ensuring the safeguarding of its invaluable cultural assets.

2.3.3 Permit system

The permit system established by SAHRA has the potential to reduce the illicit trafficking of cultural heritage within South Africa (Snowball, Collins and Bickerton, 2023:7). Section 35(4) of the NHRA mandates that only a person may excavate, trade, or export archaeological or palaeontological heritage objects with a permit issued by the responsible heritage resources authority (Smuts, Mlungwana and Wiltshire, 2016:143)

Accordingly, SAHRA's permitting system requires individuals and organisations to obtain permits for various heritage resource-related activities as per Section 35(4) of the NHRA (1999). Permits issued by SAHRA cover activities such as material export, research excavation, mitigation excavation related to development applications, and filming at archaeological and palaeontological sites (Mlungwana, 2015:338).

According to Mlungwana (2015), by regulating the excavation, exportation, and sale of heritage resources, SAHRA's permitting system reinforces SAHRA's role in enforcing NHRA regulations, and this highlights their commitment to combating cultural heritage crimes in South Africa.

2.3.4 Cultural heritage disputes

The issue of repatriation and restitution is quite complex. Shehade and Fouseki (2016) explain that cultural property disputes typically involve several stakeholders or parties and several different concerns, making a comprehensive analysis of restitution claims difficult, if not impossible.

According to Shehade and Fouseki (2016:358), conflicts over ownership of cultural property can encompass a broad range of situations, including theft, unlawful excavation or exportation, plundering during times of war or colonial rule, and acquisition before the establishment of existing laws. In disputes related to cultural heritage property, there can be various opposing parties, including state versus state, person versus state or museum (and vice versa), state versus museum (and vice versa), and indigenous community versus museum or state (Shehade and Fouseki, 2016:358). Moreover, how a case progresses, its handling, and the resolutions considered can be impacted by the types of people involved (Shehade and Fouseki, 2016:358). Cases of state-to-state cultural property conflicts are frequently influenced by the international political environment in a variety of ways (Shehade and Fouseki, 2016:358). As illustrated by Shehade and Fouseki (2016):

Cases of cultural property disputes involving states are often affected by the international political scene in several ways. First, the relation between two countries can either facilitate the resolution of such disputes (in the case of good relations and collaboration at a governmental level or through established agreements) or create obstacles for settlement (if such relations are not in place). Second, cultural property disputes may be affected by current political agendas, either in the wider context of international relations or in internal political scenes.

According to Shehade and Fouseki (2016:364), differences in legal jurisdictions complicate the protection and restitution of cultural heritage assets, exacerbating the issues evident in cultural heritage disputes. Roodt (2013) confirms this and states that the lack of uniformity in

standards across domestic laws leads to ambiguity, unpredictability, and legal gaps. She says these elements significantly contribute to the legal uncertainty surrounding the importance of cultural and artistic objects (Roodt, 2013). These variations, she argues, may impact the acknowledgement and implementation of foreign judgments and arbitration awards (Roodt, 2013:289).

Shehade and Fouseki (2016) propose that a collaborative, interdisciplinary approach involving academia, museum management, diplomacy, and law professionals is necessary to address cultural property disputes and achieve successful resolution (Shehade and Fouseki, 2016:344). Roodt (2013:306) advises that one should exercise utmost caution when choosing between different mechanisms for dispute resolution.

In conclusion, as Roodt (2013:307) emphasises, the co-existence of incompatible legal systems must reconcile radically opposing interests among the world's cultures to contribute towards constructing a path to peace. This approach not only seeks to protect cultural heritage but also fosters dialogue and understanding, addressing the multifaceted challenges inherent in cultural property disputes.

2.3.5 Cultural diplomacy and cultural heritage

The value of cultural diplomacy in cultural heritage disputes is too often overlooked (Todorović, 2022:849). Shehade and Fouseki (2016) demonstrated that cultural diplomacy can improve interstate relations. They showed that diplomacy can be a powerful tool to deepen ties between states and prevent or resolve international conflicts of cultural heritage.

UNESCO has discovered that the return of cultural heritage assets can support and enhance interstate relations. For instance, bilateral agreements between states and between states and museums provide evidence of this (Shyllon, 2014:14). One notable example of the impact of returning cultural heritage assets on interstate relations is the agreement between Nigeria and the British Museum in 2022, where the museum agreed to return the Benin Bronzes, a collection of artefacts looted during the British invasion of Benin in 1897 (“Joint Declaration ...”, 2022). Studies show that these agreements between states are reciprocal and promote the return of cultural heritage assets and a wide-ranging exchange of cultural ideas, such as in scholarly research, conservation, history and archaeological study (Shehade and Fouseki, 2016:360). Though the issue is complex, diplomacy can play a vital role in transitional justice and in redressing past wrongs (Shehade and Fouseki, 2016:373).

Cultural policy expert Dr Lebogang Nawa (2014) explains that, in South Africa, there are no legislative or policy rules as institutional provisions for cultural diplomacy. In his presentation

titled, 'Cultural Diplomacy and Policy in South Africa', he reveals that the concept of 'cultural diplomacy' is not applicable in the vocabulary of legislation guiding South Africa's government. He adds that the phrase is found mainly in strategic documents and speeches by government officials (Nawa, 2014). SACO maintains that there is currently only one draft bill dealing with cultural diplomacy, the Department of Arts and Culture's Revised White Paper (SACO, 2018).

There is a gap in the country's ability to use cultural policy as a diplomatic tool, which may have implications for safeguarding cultural heritage from trafficking through strategic channels (SACO, 2018). Sarr and Savoy (2018) suggest that cultural diplomacy can help resolve disputes related to restitution. They remind us that restitution through diplomatic channels signifies a new worldview and a recognition of our mutual dependence and the relational character of our identities (Sarr and Savoy, 2018:88). They state that the care we take in preserving these identities could pave the way towards a more habitable world, a world where every culture is celebrated, cherished and valued (Sarr and Savoy, 2018:88).

2.4 Digital solutions for cultural heritage preservation

The rapid advancement of digital technologies has revolutionised the field of cultural heritage preservation, offering innovative solutions to the challenges of safeguarding, managing, and disseminating cultural assets. In South Africa, the SAHRIS plays a pivotal role in this digital transformation. By providing a comprehensive digital platform for the management and preservation of the country's rich heritage, SAHRIS not only facilitates the digitisation of cultural heritage assets but also improves the due diligence processes involved in their curation. Additionally, it enables the creation of digital databases that serve as crucial tools in resolving cross-border disputes over heritage ownership and provenance. This system exemplifies the growing importance of digital solutions in the preservation of cultural identity and the ethical management of heritage resources.

2.4.1 Digital curation and due diligence

In the realm of protecting digitally curating assets, custodians of cultural artefacts must demonstrate due diligence in their engagement with cultural property. This entails fulfilling the burden of proof which is the responsibility of custodians to provide credible evidence of the artefacts' provenance, ownership, and authenticity. This is crucial for ensuring transparency, accountability, and ethical stewardship in the management and preservation of cultural heritage (Lehavi, 2023:408). Many countries have developed databases to combat illegal activities related to cultural property, thereby protecting national heritage (Lehavi, 2023:386).

The first broad category of digital databases aims to prevent or detect “theft, looting, or the illicit transfer of cultural property across borders”, particularly when a valid export license is required by the laws of the state of origin (Lehavi, 2023:395). Examples cited by Lehavi (2023) include the Italy Carabinieri Headquarters for the Protection of Cultural Heritage's Stolen Works of Art Database (Banca Dati dei Beni Culturali Rapinati) and INTERPOL's (International Criminal Police Organisation) Works of Art Database, both of which play vital roles in deterring theft and facilitating the identification and recovery of stolen items.

The Italy Carabinieri Headquarters for the Protection of Cultural Heritage serves as a specialised law enforcement unit dedicated to safeguarding Italy's cultural assets, investigating crimes related to theft, smuggling, and illegal trade (Lehavi, 2023:396). Their database contains detailed information about stolen artefacts and archaeological finds, aiding law enforcement in tracking and recovering these items while identifying illicit trafficking networks.

The INTERPOL Works of Art Database serves as a global repository for stolen cultural artefacts and artworks. Utilising the Object ID standard, this database facilitates international cooperation among law enforcement agencies, providing a centralised platform for sharing information and coordinating investigations (INTERPOL, n.d). The Object ID form, developed in collaboration with various stakeholders, standardises the recording of cultural objects, making it essential for tracking and managing assets across different jurisdictions (D'Ippolito, 2012:243).

Constantopoulos and Dallas (2008) highlight how embracing digital curation standards, like the INTERPOL Object ID form, can enhance the efficiency of cultural heritage crime databases. Digital curation techniques have the ability to improve the accuracy and completeness of crime databases while increasing their accessibility to law enforcement and other stakeholders. Moreover, Lehavi (2023) emphasises that practices such as provenance research and digital curation ensure the integrity and accessibility of cultural heritage assets, providing solutions to conflicts arising from past actions and addressing long-standing cross-border disparities. Publicly accessible, digitally curated cultural heritage crime databases empower individuals across jurisdictions to track, register, and retrieve crucial data (Lehavi, 2023:415).

2.4.2 The role of the South African Heritage Resource Information System (SAHRIS)

The SAHRIS plays a pivotal role in the management and preservation of South Africa's cultural heritage. Developed on the Drupal Content Management System and Geoserver,

SAHRIS operates as an integrated online platform that facilitates various heritage-related activities in compliance with the NHRA (Smuts, 2015:398). It supports online processing of permits, impact assessments, surveys, gradings, and declarations, serving as a tool for stakeholders involved in heritage management.

As the national authority for heritage management, the SAHRA is responsible for compiling a record of protected cultural heritage assets within the country (Mlungwana and Jackson, 2017:521). The SAHRIS database encompasses a wide array of cultural assets, including built structures, archaeological sites, maritime heritage, gravesites, cultural artefacts, and intangible heritage. It contains detailed records featuring metadata, digitised images, descriptions, and provenance information (Smuts, 2015:398).

SAHRIS serves a dual purpose: it facilitates communication among stakeholders reporting heritage-related crimes and aids in the identification and recovery of stolen artefacts. By managing cultural heritage protection and functioning as a heritage crime database, SAHRIS tracks stolen items and manages export applications, thus contributing to the preservation of South Africa's cultural heritage (Snowball, Collins, and Bickerton, 2023). Despite challenges posed by illicit smuggling, SAHRIS actively monitors and documents such activities (Snowball, Collins and Bickerton, 2023).

SAHRIS adheres to policies governing the illegal sale of stolen artefacts and the legal export of cultural items, guiding decisions on export applications and tracking stolen assets within the national heritage inventory (Snowball, Collins, and Bickerton, 2023:11). This aligns with SAHRA's mandate to identify, protect, and promote heritage resources under the National Resources Act (No. 25 of 1999). Overall, SAHRIS is crucial for heritage management, documentation, and protection, providing accessible information for researchers, heritage practitioners, and the public (Smuts, 2015:399).

Furthermore, SAHRIS offers a comprehensive collections management suite that captures heritage object descriptions, histories, and photographs. Collaborating with the National Audit Project, SAHRIS assists institutions in digitising records and uploading inventories (Smuts, 2015:398). By employing the GRAP103 accounting standard, it helps determine the value of heritage assets (Smuts, 2015:398).

In conclusion, as highlighted by Myers, Dalgity and Avramides (2016), the use of digital databases has become essential in safeguarding cultural heritage assets. This is particularly relevant for organisations like SAHRA and its SAHRIS database, which play a critical role in protecting heritage objects at risk of illicit trafficking. By leveraging digital tools, SAHRA and

SAHRIS can efficiently monitor, manage, and safeguard these valuable assets, ensuring they remain documented, secure, and less vulnerable to theft or illegal export.

2.4.3 An integrated heritage crime database

Foley (2014:14) discusses the existence of different heritage crime databases and suggests the need for countries to create a centralised system for reporting stolen and missing cultural heritage assets. Foley (2014:15) argues that a fragmented system creates confusion for law enforcement officials and all relevant parties and stakeholders in the fight against illicit trafficking and other issues.

Pickover (2008), Roodt (2013), Benson (2010), and de la Porte and Higgs (2019) highlight that a lack of coordination and collaboration among institutions can lead to fragmented efforts in the digital curation of databases. This fragmentation often results in inconsistencies in standards, policies, and guidelines. In South Africa, such siloed approaches have frequently caused inefficiencies and less-than-optimal outcomes.

To address this issue, Chirikure, Ndoro and Deacon (2017:391) advocate for the development of interconnected inventories as a strategic measure against the trafficking of culture. They suggest integrating public and private inventories into a multilingual online portal (Chirikure, Ndoro and Deacon, 2017:391). They state that, through coordinated efforts, collaboration has the potential to facilitate seamless access and verification for national and foreign public authorities (Chirikure, Ndoro and Deacon, 2017:391).

With this integration, institutions, organisations, private collectors, and government departments can seamlessly submit their digital records to the central repository and access them from the same platform (Chirikure, Ndoro and Deacon, 2017). They argue that this will streamline the information management process and ensure easy access to important data whenever required (Chirikure, Ndoro and Deacon, 2017). Additionally, Chirikure, Ndoro and Deacon (2017) explain that the originator of the data will hold on to the ownership and copyright of the data. The repository will also verify and authenticate the information before including it, which will help avoid any concerns related to external exploitation and manipulation (Chirikure, Ndoro and Deacon, 2017:391).

Additionally, Chirikure, Ndoro and Deacon (2017) emphasise the importance of adhering to international standards, such as the INTERPOL Object ID, to ensure a standardised description of cultural heritage assets across the board. Moreover, they emphasise that the interconnected network of national databases has the potential to significantly contribute to legal proceedings, providing clarity on ownership and serving as evidence of theft (Chirikure,

Ndoro and Deacon, 2017:391). Chirikure, Ndoro and Deacon (2017:397) insist that this collaborative effort has the potential to improve the efficiency of prosecutions related to trafficked, illicitly exported or imported, stolen, looted, or illicitly excavated cultural heritage assets (Chirikure, Ndoro and Deacon, 2017).

Furthermore, Lehavi highlights the accessibility of these databases as empowering art and antiquities dealers, museums, and other professionals to exercise due diligence before engaging in transactions involving cultural property (Lehavi, 2023:384). He suggests that adopting this proactive stance mitigates the risk of inadvertently engaging with stolen assets, fostering a more ethical and transparent cross-border trade in artefacts (Lehavi, 2023:384).

In conclusion, Chirikure, Ndoro and Deacon (2017) envision a unified approach involving all stakeholders, including those engaged in reporting, investigating, and prosecuting cultural heritage crime cases and the general public. This collaboration, they suggest, has the potential to encourage effective communication among the various groups, leading to more positive outcomes for heritage crime cases (Chirikure, Ndoro and Deacon, 2017).

2.4.4 Digitisation of cultural heritage assets

Digitising cultural heritage assets is a multifaceted and complex task that extends beyond merely converting physical items into digital formats. It requires careful consideration of the politics of memory and the implications of selecting specific materials for digitisation, which can shape political and ideological narratives (Pickover, 2008:7). In South Africa, this digitisation effort is deeply intertwined with issues of memory, development, and the politics of information (Pickover, 2008:7).

As Pickover (2008) points out, the digitisation of cultural heritage in South Africa involves not only the preservation and management of digital collections but also the protection of these assets from theft and illicit trafficking. This initiative raises critical questions about access and interpretation: who will use the digitised information, and whose interests will it serve (Pickover, 2008:11) To navigate these challenges, policymakers must address broader political, technical, and legal issues, particularly concerning intellectual property rights (Pickover, 2008).

To move forward effectively, Pickover advocates for the creation of flexible strategies that build local capacity, establish relationships beyond regional boundaries, and foster strategic alliances (Pickover, 2008:12). Such steps can lead to an efficient system that benefits all stakeholders involved, particularly those engaged in combating the illicit trafficking of cultural heritage assets (Pickover, 2008:13).

2.5 Chapter summary

This chapter discussed the various factors involved in the trafficking of cultural heritage, the legal frameworks surrounding the trafficking of culture in South Africa and the potential for digital curation to address the challenges associated with the theft of cultural heritage assets in South Africa. The chapter that follows discusses the research design and methods that were used to conduct the study.

CHAPTER 3

RESEARCH METHODOLOGY

3.1 Introduction

This chapter describes how the study employed a qualitative approach and an exploratory research design to investigate the research questions posed in this study. The chapter presents the researcher's chosen research methods and discusses the study population and the sampling method employed. The techniques used for data collection and analysis are also discussed, emphasising the importance of ensuring the reliability and validity of the study. Finally, the chapter provides an explanation of how the researcher handled ethical issues in the study to maintain the integrity of the research. Overall, this chapter provides a clear and comprehensive overview of the research methodology employed in the study, which will serve as a valuable resource for future researchers in this field.

3.2 Interpretive paradigm

The interpretive paradigm serves as the philosophical foundation for this research. The interpretive paradigm is rooted in the belief that reality is socially constructed and understood through the subjective meanings and interpretations attributed to it by individuals and communities (Chowdury, 2014:433). It emphasises how context, multiple perspectives, and the social and cultural dynamics shaping human actions and behaviours can influence research (Chowdury, 2014:433). The interpretive paradigm is the theoretical underpinning for most qualitative research (Denzin and Lincoln, 2005:7) as it considers how people construct, interpret, and experience the world with one another and larger social systems (Denzin and Lincoln, 2005:7).

Moreover, the interpretive paradigm is well-suited for this study, as it takes into account a variety of subjective experiences, motivations, and social interactions that cannot be quantified or measured solely through objective means. As Chowdury (2014) observes, this paradigm recognises the complexity and richness of the human experience, which is crucial for understanding the context and nuances of this research topic.

In summary, this research delves into the interpretive research paradigm to explore the subjective meanings, social interactions, and contextual factors integral to achieving the study's research objectives.

3.3 Qualitative approach

Qualitative research is a vast field of study that spans across various disciplines and subject matters. Denzin and Lincoln (2005:6) describe qualitative research as “many things at the same time”, and state that it can be used in different disciplines.

Denzin and Lincoln (2005) state that a qualitative researcher's primary goal is to obtain an insider's perspective of the phenomena under investigation. Moreover, Denzin and Lincoln (2005) argue that researchers sometimes need to rely on personal interactions with potential participants over a period of time to carry out their investigations.

The aim of this study was to investigate the state of the illicit trafficking in cultural heritage assets in South Africa, the policy framework regarding the preservation and protection of cultural heritage assets, and digital curation as a possible solution to the protection of cultural heritage assets. The ultimate goal was to generate insights and recommendations to combat cultural property trafficking and preserve South Africa's cultural heritage for future generations.

To achieve this, the researcher decided to use a qualitative approach to data collection. This involved gathering opinions, views, and personal experiences to comprehensively understand the issue. The research prioritised perspectives and firsthand experiences to explore the social, cultural, legal and historical dimensions of illicit trafficking to gain insider perspectives on the matter.

3.4 Research design

This study followed an exploratory research design. This approach is well-suited for qualitative research as it allows for flexibility and adaptability in the data collection and analysis.

Exploratory research design is a qualitative methodology used to investigate a relatively unfamiliar or unexplored topic or research question. This approach involves gathering qualitative data to gain a deeper understanding of the phenomenon in its natural context. The primary objective of this type of research is to generate insights and a preliminary understanding that can serve as a foundation for further research (Stebbins, 2001:2).

Exploratory research is a type of study that does not rely on rigid hypotheses or preconceived notions. According to Stebbins (2001:3), this approach is open-ended in nature, allowing the researcher to explore the research question with an open mind and

letting the data guide the investigation (Stebbins, 2001:4). This approach is particularly useful when a topic has not been extensively studied before or when the researcher is trying to gain a better understanding of a complex phenomenon.

3.5 Research methods

The researcher employed interviews as a data collection method that aligned with the chosen research paradigm, approach, and design. The researcher conducted a series of semi-structured interviews with individuals with expertise in cultural heritage management, digital curation, and law. The interviews served as the only method for data collection. According to Rubin and Rubin (2011:3), semi-structured interviews resemble guided conversations where the stream of questions is fluid rather than rigid. This method allows for flexibility, ensuring that the participants' perspectives can be explored in detail while maintaining consistency across the interviews (Rubin and Rubin, 2011:4).

Research indicates that researchers aim to gather precise and dependable information during interviews, which they can share with other scholars. Rubin and Rubin (2011) believe conducting interviews is more like building and constructing data than gathering it. Furthermore, they are of the opinion that the interviewer should always be engaged rather than "objective" or "distant" during the interview. They motivate this further by arguing that being engaged during the interview suggests an openness on the interviewer's part to comprehend the participant's response to a question or prompt within the larger interview context (Rubin and Rubin, 2011:3).

In a guided conversation, Kvale (1996) suggests that the researcher's task is to actively listen and understand the meaning behind what is being said. According to Holstein and Gubrium (1995), interview participants should be seen as meaning-makers rather than passive channels for obtaining information. This perspective is advantageous to this research as it speaks to the philosophical underlying principles of the interpretive paradigm. Additionally, Warren's (2001) assertion that interviewing proposes a strategy for deciphering or attempting to make sense of information that may be unclear or ambiguous in some way speaks to the nature of this research project and its ontological framework.

For this study, the interview questions were developed based on the review of existing literature to ensure that pertinent themes and areas of inquiry were covered. The researcher formulated open-ended questions to encourage participants to share their thoughts, experiences, and opinions to facilitate a comprehensive exploration of their perspectives. In summary, using the qualitative interview strategy allowed for exploring participants'

perspectives, providing valuable insights into the research topic.

3.6 Population

A population in a study is the entire group of individuals that the research aims to investigate (Emmel, 2013:6). In this study, the population comprised heritage specialists based in Cape Town who have expertise in preserving cultural heritage, regulatory frameworks, and digital technologies. The geographic concentration, chosen because of the location of the researcher, means the findings may be influenced by the specific practices and perspectives prevalent in this region.

3.7 Sampling

For this study, the researcher used purposive sampling to select a sample of six individuals, all of whom were selected for their professional knowledge and experience in relevant areas related to the study. This sampling method falls under the category of non-probability sampling. It is appropriate for qualitative research, and selects participants based on their knowledge, relationships, and expertise on the research topic (Emmel, 2013:9). Emmel (2013) states that most of the time, the exact number of participants in qualitative research can only be determined after the study begins. For this study, the researcher selected heritage specialists with in-depth knowledge and expertise in illicit trafficking, cultural heritage management, and digital curation.

The recruitment process was initiated by the researcher through the use of pre-existing professional relationships in the fine arts industry in Cape Town. The researcher reached out to individuals who she believed possessed valuable insights and could contribute to the study.

To ensure that all potential participants were approached respectfully and non-intrusively, the researcher used a combination of academic research and referrals. This approach helped maintain professional boundaries and ensured no one was approached unsolicited. In instances where the researcher came across individuals through academic research, the researcher sought out referrals from trusted colleagues or contacts within the field. These referrals proved to be invaluable in connecting with experts and professionals who had specialised knowledge and experience related to the research topic and helped establish initial contact and facilitate engagement with potential participants.

By following this approach, the researcher ensured that the recruitment process was respectful, ethical, and considerate of the participants' expertise and contributions. This

methodology allowed the researcher to engage with individuals known and unknown to the researcher, ensuring a diverse and well-informed sample for the study.

The eventual sample included a founder of Open Restitution Africa, a group acknowledged for their research in digital heritage and the restitution process across the African continent. Their understanding of the practical guidelines for digital curation and the restitution of cultural property made them an appropriate study participant. The sample also included an archaeologist from SANParks with extensive experience in heritage management. This individual's involvement in managerial positions in national and provincial heritage departments added depth to the sample. A former SAHRA staff member's involvement provided valuable insights into the regulatory aspects of cultural heritage management. This allowed for a better understanding of the practical application of policies and regulations. The participation of a past President of SAMA provided a perspective informed by institutional involvement and leadership in the heritage sector. This individual brought insights from a broader organisational standpoint. The final two individuals in the sample include a member of the Collections and Digitisation Department at the Iziko Museums of South Africa and an official from the South African Police Services' (SAPS) Directorate for Priority Crime Investigation (HAWKS). The former offered expertise in the practical aspects of museum management, digitisation, and preservation, while the latter provided insights into the law enforcement angle of protecting cultural heritage from illicit trafficking.

The sample was inclusive of diverse backgrounds, including race, and it included a cross-section of expertise within the intersection of cultural heritage, governance, and digital curation. It allowed the study's findings to be rooted in the insights and experiences of diverse individuals who occupy critical roles in shaping the discourse and practices surrounding the protection, regulation, and digital curation of cultural heritage within South Africa.

3.8 Ethical considerations

Creswell (2012) emphasises that researchers must consider ethical issues throughout the study. Creswell (2012) asserts that obtaining consent establishes trust between the researcher and the participants, assuring them that their well-being will be respected. Several ethical considerations were considered to ensure this study was carried out correctly.

The researcher submitted an Ethics application to the Department of Knowledge and

Information Stewardship (DKIS) Ethics Committee at the University of Cape Town. This application included details about the research design, methodology, participants, data collection methods, potential risks to participants, and strategies for ensuring ethical conduct.

Once the Ethics Committee was satisfied with the study's application, they granted ethical clearance (Appendix A) for the research to proceed. This approval signifies that the research has been deemed ethically sound and compliant with established ethical standards. The researcher approached the prospective participants purposely and offered no compensation. This meant that, after being approached by the researcher, the participants volunteered to participate in the study. In order to comply with ethical prerequisites within research data collection, the researcher asked all participants to consent to being interviewed. Numerous qualitative research authors frequently stress the significance of the moral duty to treat participants with respect. They implore interviewers to confirm that participants have voluntarily consented to the study and are aware of its objectives (Kvale, 1996).

Participants were informed of their fundamental rights, such as the freedom to decline any questions or revoke their consent at any time before the interview. The researcher ensured confidentiality to all study participants, protecting their privacy and anonymity by omitting their names from the data presentation and analysis.

Before the interviews, the researcher sent participant information and a consent sheet (Appendix B) on the nature of the study via email. Prospective participants were free to decline the invitation. Additionally, before the interview began, consent was obtained to record the conversations, and permission and verbal guarantees of confidentiality were provided. This means that, during the data analysis phase, the researcher assured the participants that their identities would be protected and that the data would also be presented in a way that protected their confidentiality.

3.9 Data collection

Between 8 October 2022 and 4 April 2023, the researcher conducted data collection. The researcher opted to hold online interviews instead of conducting them in person.

The interviewer asked the participants to choose a virtual platform (MS Teams, Google Meet, or Zoom) for the interview. They also selected a time that was convenient for them. The researcher used an interview schedule (Appendix C) but tailored the interviews around the participants' specialisation. As a result, not all questions were asked to all participants. The

interviews were recorded with permission from the participants and all the interviews were approximately 30 minutes long.

Various qualitative tactics were employed during the interviews. Probing techniques, such as follow-up questions and requests for clarification, were employed to encourage participants to elaborate on their responses and provide more depth to their narratives (Fontana and Frey, 2005).

Additionally, active listening was crucial throughout the interviews to ensure that participants felt heard and valued, fostering an environment of trust and openness (Fontana and Frey, 2005). The researcher's role as an active participant in the interview process was acknowledged, as reflexivity shaped the dialogues and interpretations (Fontana and Grey, 2005).

3.10 Data analysis

Interviews were transcribed verbatim, and the data was subsequently subjected to thematic analysis to identify recurring patterns, emerging themes, and underlying concepts. The thematic analysis involves a recursive process of thoroughly reviewing and re-reviewing the data to identify recurring concepts, themes, and patterns (Belgrave and Seide, 2019:61), and so the researcher re-read the interview transcripts to familiarise herself with the content, context, and nuances of the data. As concepts emerged, they were organised into themes, which underwent continuous refinement and revision throughout the analysis process (Belgrave and Seide, 2019:61). Using the data to inform the investigation while maintaining an open-minded approach to exploring the research question.

Stebbins (2001) argues that this allows researchers to gather detailed information about the topic, even if it involves a relatively small sample size, allowing for a relatively in-depth analysis of individual cases or participants (Stebbins, 2001:2). The analysis process is primarily inductive, meaning themes, patterns, and concepts emerge from the data (Stebbins, 2001:2). As the researcher progressed, the researcher reached a point where she stopped finding new insights and themes.

Finally, the researcher synthesised the data that addressed each component of the research questions: the state of trafficking, the legislative framework, and digital curation as a solution. By systematically following these steps and applying the interpretive paradigm, the researcher could explore the research problem.

3.11 Validity and reliability

Reliability pertains to the consistency and stability of research findings over time and across different settings (Guba and Lincoln, 1985). Conversely, validity relates to the findings' accuracy, truthfulness, and authenticity, ensuring that the study genuinely captures the phenomenon under investigation (Maxwell, 2017). Both reliability and validity are integral elements in establishing the rigour and credibility of research, reinforcing the trustworthiness of the study's outcomes (Creswell and Poth, 2018).

The researcher developed a clear and detailed interview protocol that outlined prompts that needed to be used consistently across the differently tailored interviews. This helped ensure that relevant areas of inquiry were covered with each participant, promoting thematic consistency in data collection. The researcher tried to retain a reflexive position throughout the research process by documenting her biases and assumptions and keeping a detailed audit trail documenting reflections to enhance transparency and facilitate reliability and validity.

The researcher strived to maintain reflexivity by acknowledging and critically reflecting on her role as a researcher and potential biases and how they might influence the data collection and interpretation process to ensure that these factors were considered in analysis and reporting. Finally, she sought to report on the data honestly and accurately and draw conclusions based on what was evident in the data.

3.12 Chapter summary

This chapter explains study procedures, including the selection of participants, the methods of data collection, the ethical prerequisites of data collection and sampling techniques have also been discussed. Chapter 4 will provide a more detailed analysis of the data synthesised from the participants.

CHAPTER 4

DATA ANALYSIS & PRESENTATION OF FINDINGS

4.1 Introduction

This study investigated the perceptions of six participants regarding the state of illicit trafficking in South Africa, the policy framework regarding the preservation and protection of cultural heritage assets and digital curation as a possible solution to the protection of cultural heritage assets. The researcher employed semi-structured interviews to capture diverse responses and delve into the intricacies inherent in the issues under investigation. By adopting a conversational approach, the researcher was able to elicit detailed data from study participants. This methodological choice allowed for a descriptive exploration of the complexities surrounding the topic, providing insights that might have been difficult to glean through other data collection techniques. As explained in Chapter 3, the researcher employed purposive sampling to select the six participants. Their experiences exhibited similarities and variations, as evident in the collected data.

4.2 Study participants

The participants in this research were heritage specialists, law enforcement officials, and government representatives. Each participant brought a unique perspective to the discussion, contributing to the richness of the data collected. Table 1 shows the themes covered in their interviews, according to their areas of expertise, and the sectors to which the participants belong.

Table 1: Table of Participants

Name	Sector	Theme
Participant A	Museums	The state of the illicit trade of cultural heritage assets; the policy environment.
Participant B	NGO	The policy environment, digital curation as a solution

Participant C	Museums	The state of the illicit trade of cultural heritage assets; the policy environment; digital curation as a solution
Participant D	Police Service	The state of the illicit trade of cultural heritage assets; the policy environment, digital curation
Participant E	Heritage Agency	The state of the illicit trade of cultural heritage assets; the policy environment; digital curation as a solution
Participant F	Heritage Agency	The policy environment

The analysis revealed the participants' views on the illicit trade in cultural heritage assets. Listed themes are the state of the illicit trade, the effectiveness of current regulations, and their impact on cultural heritage preservation and digital curation as a possible solution to the illicit trade in cultural heritage assets. Each theme is explored in detail below, with quotes from the participants providing a dynamic illustration of their perspectives and highlighting the diversity of opinions and experiences.

Each participant was intentionally selected based on their expertise in addressing specific themes within the study. Consequently, participants provided insights aligned with the specialised theme assigned to them, resulting in recurring mentions within those dedicated sections. However, due to the interconnected nature of specific themes and the overlapping of associated questions, it is noteworthy that some participants may reappear in multiple sections within the chapter.

It is essential to recognise that participants, while providing comprehensive input within their designated themes, occasionally touched upon aspects that resonated with other interconnected themes. As a result, readers may encounter instances where participants are referenced in additional sections due to the cross-cutting nature of specific questions. There

were also instances where participants did not contribute valuable insights to specific themes. Consequently, these participants were excluded from the corresponding sections, ensuring a focused and relevant presentation of findings aligned with the distinct themes explored in this chapter. The data is presented according to overarching themes.

4.3 The state of illicit trafficking

This section presents the data collected on the current state of illicit trade in cultural heritage assets within South Africa, shedding light on the challenges, contributing factors, and the need for effective countermeasures.

4.3.1 Awareness of theft of objects

When asked, “over the last five years, what types of cultural heritage objects are you aware of as having been stolen?” participants provided several examples of stolen cultural heritage assets. Participant F went back much further than five years when they explained that,

The Songye Power Figure, which had been in the Smithsonian Institution collection since 1970, was identified as having been stolen from a museum in South Africa in the 1970s and returned in 2015. Then, in 2018, the British Museum returned a collection of over 4,000 artefacts, known as the Lwandle Collection.

Participant C spoke about the theft of fossils from the Karoo Basin, but almost all the participants commented on the issues surrounding archaeological sites in South Africa, where ancient rock art paintings and burial sites are often vulnerable to theft due to a lack of resources for protection because of limited public awareness about the importance of heritage sites around South Africa.

Participant E provided an example of an individual who unknowingly sold a rare geological fossil with significant paleontological value on social media. The participant said the fossil, which belonged to unique geo-paleontological samples held by only two universities, was identified and recovered by the police, and the seller attempted to claim ignorance in court regarding the significance of provenance. The participant concluded that this incident highlighted the need for more knowledge in the antique trade, which operates with minimal regulation and awareness of the Heritage Act in South Africa.

The same participant cited another incident involving a museum break-in where valuable items, including a mummy and Chinese armour from the Ming Dynasty, were stolen. The participant says this incident prompted the museum to reevaluate its display policies and security measures. So, the museum responded by incorporating education on illicit trafficking into its displays, using signage to inform visitors about objects not to be sold or

traded.

In a similar light, Participant A emphasised the need for more training for practitioners in identifying illicit objects. The participant argues that while academic training in cultural heritage management focused on broader topics, specialisation in illicit objects typically occurred at the postgraduate level, which means, the participant added, that practitioners often entered the field with a vague awareness of the issue and consequently lacked specific expertise in identifying and addressing illicitly trafficked cultural assets.

4.3.2 National picture of heritage crime

Participant A described the illicit trade of cultural heritage assets in South Africa as “*a vague and ambiguous grey area*”. According to this participant,

There is only third-party knowledge around illicit trafficking, and the illicit trafficking of cultural property is not a separate crime; it is tightly intertwined with the illicit trafficking of people and drugs, but above all, heritage crime is simply just another way to launder money.

Participant D faced challenges related to the sale of unprovenanced archaeological objects within South Africa. This participant encountered cases where such objects were sold through online marketplaces. This participant mentions that one of the difficulties in prosecuting the buyers and sellers of these objects is determining the object’s origin. In all the cases the participant dealt with, the participant mentions that the sellers did not personally collect the archaeological objects and had no information about their origin within or outside the country.

The lengthy response below from Participant D explains and exposes the link between theft, heritage management and law enforcement operations:

From a law enforcement perspective, heritage crime is not considered a problem in South Africa. This is not because of a low level of heritage-related crimes reported but due to an absence of a holistic picture of heritage-related crime statistics in the country. The SAPS Crime Administrative System (CAS) does have specific offences listed in the National Heritage Resources Act, No 25 of 1999. The NHRA provides added protection to declared heritage objects and types of heritage objects regarding exportation.

However, when it comes to offences relating to the theft or damage of heritage objects that are not declared and form part of a museum collection, these crimes are recorded on CAS under the respective generic crime codes of housebreaking and theft, theft, and malicious property damage. For example, if someone broke into a museum and stole an original letter written by the late Nelson Mandela while incarcerated on Robben Island, a case of housebreaking and theft would be registered on the system, and the stolen object would be listed as documentation.

This case would only come up in a search for heritage-related crime if knowledge of this specific incident existed and more specific search criteria were used to locate the record.

Participant E affirms the points mentioned above, emphasising the initiation of workshops by SAHRA. The participant recalled that these workshops were prompted by a widespread lack of awareness, especially at the institutional level, regarding cultural heritage, the various aspects of the NHRA, and the significance of illicit object trade.

This interview data highlights a significant issue in South Africa regarding recognising and tracking heritage-related crimes. It seems law enforcement does not categorise cultural heritage crime as a distinct problem due to the lack of a comprehensive database, potentially hindering efforts to effectively address and combat heritage-related criminal activities. A comprehensive national overview of heritage crime is necessary to understand the scale and patterns of illicit activities—this lack of data hampers effective policy formulation and targeted intervention strategies.

4.3.3 Museum inventory and theft detection

A participant shared some experience with theft inspections and said,

I have conducted inspections of two provincial museums in the Western Cape and found that inventories are not up to date. During these inspections, I discovered that no physical inspections were being conducted of the museum collections. This effectively means that heritage objects within museum collections could be stolen or lost, and this would not be detected by museum staff. In the unlikely event that a theft was detected, the museums are not in a position to prove with any sort of documentation, which would be a requirement of the courts that the stolen object comes from their collection.

Alluding to the same issues, Participant D expressed the following opinion,

Some positive developments in this regard began occurring during the last year or two. Heritage Western Cape employs contract staff for twelve months, in terms of the Expanded Public Works Programme, to assist museum staff in updating their inventories and then digitising them by uploading them to SAHRIS. That being said, I am unaware of this kind of initiative in any of the other provinces. There is no reason to believe that the museums in the other provinces have an updated inventory of their collections.

The participant explained that museums do not adhere to the laws stipulated in the NHRA, making it a lawful requirement for state departments and supported bodies to send a complete inventory of heritage resources to SAHRA.

Additionally, Respondent A highlighted the issue of insufficient training for heritage staff and the need for more personnel in collection management within heritage organisations. She

says that due

to understaffing and limited resources, there is inadequate inventorying, posing a risk of theft or loss of heritage objects without detection by museum staff.

The data shows that museums, as guardians of cultural heritage, face the persistent threat of theft. The pilfering of museum collections erodes their integrity and exacerbates the challenges of provenance tracking due to insufficient recording and documentation of cultural heritage within heritage institutions in South Africa.

4.4 The South African policy environment

In order to explore the illegal trade of cultural heritage assets in South Africa, it was necessary to navigate the complex policy environment that shapes and influences the preservation and protection of these assets.

4.4.1 Heritage management challenges

The participants were asked to comment on the constraints to regulating, strengthening, and protecting South Africa's cultural property and heritage. Regarding the challenges in cultural heritage management, participant C, agreeing with the views presented in the section above expressed by the previous participant, said, "the lack of proper provenance has consistently been a problem."

Participant A complained, "custom officials are also not trained to see the difference between a heritage object and a tourist souvenir." Participant E emphasised the lack of a designated unit for investigating cultural heritage crimes and noted their experience reporting crimes. Despite their efforts, only thirteen reported crimes had been flagged for investigation, revealing a need for a more robust system. Participant E highlighted the limited resources, working with only a small team to monitor illicit object movements. This participant pointed out the necessity of collaboration with different directorates, such as the Department of International Relations and Foreign Affairs, to establish regulations and processes beyond formal permits that allow developments near heritage sites or the transport and export of certain cultural heritage assets. The participant stressed the broader issue of insufficient community knowledge about the illicit trade of objects and its implications.

In line with the aforementioned, participant E says specialised samples from active archaeological excavation sites like Bombe and Sibudu caves are often taken by researchers abroad for analysis. The participant says this happens even though there are policies in place that stipulate limits on material transportation during and after excavation.

The same participant explained that this process requires researchers to apply for permits from SAHRA and added to this by stating that

Despite thousands of applications, only a few, typically from leading institutions, are approved each year. Individuals unaffiliated with institutions may face challenges obtaining authorisation for transporting meteorological, archaeological, and paleontological material internationally

4.4.2 Limitations of existing legislation

Participant D went on to express dissatisfaction with the strategies in place in the fight against illicit trafficking in South Africa and noted that

I am not aware of any formalised strategies in place to combat and reduce the trafficking of cultural property. NHRA legislation merely criminalises the exportation of cultural objects without a permit from SAHRA; it does not reduce the incidents of trafficking. The Repatriation and Restitution office policy deals with cultural objects that have already left the country and, again, does not combat or reduce such incidents.

Participant A mentioned that proving theft in the art market is challenging due to ambiguity, even when documentation exists. The participant says this is because documentation from a cultural heritage institution is sometimes considered inadmissible in court for proving ownership if it lacks specific details.

Participant C stated that effective negotiation for the restitution of cultural heritage property relies on clear, specific, and relevant local policies, procedures, and legislation implemented by well-funded and competent state bodies. However, in South Africa, the absence of such policies and procedures hinders engagement with foreign governments and museums on the return of illegally trafficked heritage objects unrelated to human remains. The participant cited ongoing investigations from 2014 and 2019, where illegally trafficked South African cultural heritage assets are in other countries without any formal processes initiated by state departments for their return to South Africa.

Participant D went on to further state that

Another barrier to the return of illegally trafficked objects is the absence of state structures responsible for coordinating the contact with the foreign government or museum and managing the negotiated return of the cultural heritage object. SAHRA within the Department of Sport, Arts and Culture should play a leading role in this process but does not have the policies or procedures in place to do this for objects not associated with human remains. From a law enforcement perspective, when investigating the illegal exportation of cultural heritage objects, there is no available procedure or government structure to partner with or report to secure the object's return. Simply prosecuting the offender will not protect our cultural heritage if, ultimately, it does not lead to the return of the trafficked object.

Participant E discussed the limitations of GRAP103. The participant explained that the state aimed to assess cultural heritage assets' quantity, location, and storage conditions and determine their value. The participant said many of the materials lacked provenance due to their diverse acquisition histories involving theft, gifting, estate transfers, and illicit donations during apartheid. However, participant E acknowledged the implementation of GRAP103 to address these issues, noting compliance efforts by institutions despite the complexity of the task.

All participants highlighted significant limitations in existing legislation concerning managing cultural heritage objects. All participants emphasised the absence of state structures to coordinate with foreign entities and the lack of policies and procedures within South Africa.

They touched on the points below:

- There is a lack of state structures for coordinating the return of illegally trafficked cultural heritage objects.
- SAHRA lacks policies and procedures for objects not associated with human remains.
- There is no available procedure or government structure for law enforcement to partner with or report to in securing the return of trafficked objects.
- Prosecuting offenders alone may not ensure the return of trafficked objects.

4.4.3 Legislative challenges in addressing trafficking

In response to the question of whether it is possible to limit the trafficking of goods out of source countries and white-collar trading networks dealing with cultural heritage goods after they are inserted into international markets, Participant D stated that

Regarding limiting the trafficking of goods after they enter the international market, SAHRA would typically approach the auction house selling the object and request that it not be sold because it was illegally trafficked from South Africa. The more reputable auction houses will usually withdraw the object from the auction but return the object to the consignee. The case of the Mandela objects in New York, USA, is a case in point. However, other auction houses do not listen and proceed with the sale. I am currently dealing with a matter where an auction house went ahead with the sale of an illegally trafficked object after being informed of it.

Similarly, participant A highlighted a recurring issue in art-related crimes in South Africa, emphasising the consistent problem of inadequate provenance. Citing from their experience, sellers often talk about an inheritance from a deceased estate or purchase without supporting documentation regarding previous ownership.

According to this same participant:

The difficulty with these cases is that the seller is usually the lawful owner of the

cultural heritage object. The object is, therefore, not a stolen object. The illegality involves the illegal export of the object. The NHRA does not regulate the ownership of culturally significant heritage objects. It only regulates the exportation of these objects from South Africa. The auctioning of an object is permissible in most cases. However, the object is not permitted to leave the country without being issued a permit from SAHRA.

On the other hand, participant A observed a need for more urgency and government funding to protect cultural heritage assets. This participant emphasised the prevailing view that the theft of an artefact is not considered as critical as other pressing issues in South Africa, given the country's high crime rate. The participant says this is because government funding is constrained, prioritising immediate human needs over cultural heritage preservation and added that there is a withheld belief in South African government structures that the disappearance of assets is not as grave as other societal challenges like crime and murder.

4.4.4 Policy recommendations and future work

This section presents policy recommendations and strategies from the interview data on how the South African policy environment can be improved to combat the illicit trade of cultural heritage items.

Participant D noted that,

It is not enough to have a national database of cultural heritage assets to regulate or curb the theft of cultural property. There must also be a robust system in place for organisations or conservation bodies that have cultural property in their care to regularly conduct physical asset verification inspections in order to be able to detect when a theft has occurred quickly and to report that theft as soon as possible to law enforcement authorities. Early detection of theft contributes significantly to the chances of recovering the stolen object before it is trafficked out of the country.

Secure facilities must store collections appropriately to prevent easy access, visitors, or contracted external service providers from stealing them while on display. The database must record all of the necessary information, photographs and individualised features to circulate the item as stolen to all relevant law enforcement agencies and correctly identify the object once it is recovered. Staff employed in museums with valuable collections should be subjected to an internal vetting process to prevent staff convicted of crimes where dishonesty is an element from being employed.

Participant D suggested a way forward for addressing the problem of the illicit trade of cultural heritage assets in the South African policy environment, which includes the following steps:

For me, the first step in dealing with the lack of policies and information on the illicit trafficking of cultural property within South Africa is to take the time and trouble to

collect comprehensive statistics of heritage-related crime for at least the last ten years, with input from all the heritage stakeholders that have access to this information.

A possible solution to this problem is to establish a national committee with representatives from each relevant state department, including DCAS [Department of Cultural Affairs & Sport], SAPS and DoJ [Department of Justice] and set up a system to collect heritage crime-related statistics from the members and verify and collate the information into a national statistical database. There is no such committee in existence. However, there are attempts to restart a forum that existed a few years ago called the National Forum for the Law Enforcement of Heritage-related Matters, chaired by the Department of Sport, Arts and Culture. Once a national picture exists, SAPS will be better positioned to know if heritage crime is a problem and what strategies to implement to combat and prevent these crimes.

The same participant suggested addressing these issues by establishing a national committee to collect comprehensive cultural heritage crime statistics and formulating strategies for combating and preventing such crimes.

4.4.5 Technology, policy and cultural heritage preservation

Having explored the nuances of policy and cultural heritage management, it is now pertinent to shift the focus to digital-related issues within the policy environment, delving into the intersection of technology and cultural heritage preservation.

Most participants noted the policy's critical role in ensuring the digital preservation of cultural heritage material. Participant E emphasised the usefulness of the SAHRIS in administering the transportation of cultural heritage materials. Participant B provided a nuanced perspective on the role of policy in addressing questions of digital heritage.

According to the participant

There is already a big question of whether policy is the best way to approach questions of the digitalisation and digitisation of heritage. Can policy move fast enough to address the consistent and ever-evolving changes in technology and digital issues?

The participant cited an example of an outdated policy around digital skills in South Africa, highlighting the challenges of keeping up with rapid technological change within a policy framework. Despite these challenges, participant B suggested that there are potential ways to develop policies that can create an enabling environment for the digitisation of heritage.

The participant also proposed policies that are not specific to certain technologies but provide a broad understanding of property ownership and what that means in the digital space.

Additionally, the participant mentioned that the South African policy development space often

aims to support ordinary South Africans and enable access and development instead of focusing on digitisation standardisation. The participant argued further and said, “the narrow structuring of policies about technology does not always make sense” and proposed that instead of the government narrowly focusing on particular technologies, a holistic approach to digital policies would allow for more adaptive and sustainable frameworks for digitising cultural heritage assets.

4.4.6 Restitution and collection management policies

Having discussed the intricacies of digitisation policies, the following participant now turns to restitution and collection management policies.

Participant C emphasised the significance of museum collection policies, particularly in addressing restitutions. The participant stressed the need for collections policies to explicitly consider returning items, especially those acquired unethically during colonial and apartheid periods. Additionally, the participant highlighted the lack of cultural understanding among those possessing collections, leading to the inclusion of sensitive materials. To address this, the participant suggested that curatorial staff should be knowledgeable about the appropriate treatment of ethnographic collections. Looking ahead, the participant advocated for collecting policies that prioritise ethics and morality beyond just legislative compliance to ensure responsible acquisition practices.

Participant E lamented the effectiveness of the cultural heritage policy in addressing the illicit trade. The participant argued that the law is the best way to enforce compliance, drawing on practical experience. They cited instances where initially resistant individuals adhered to the Heritage Act when the legal implications were made clear. The participant emphasised the crucial role cultural heritage policy played in facilitating the repatriation of cultural objects, as exemplified by the case of Sarah Baartman’s human remains. The participant argued that policies and regulations, both at the national and local levels, provide a framework for ensuring the return, restitution, and repatriation of cultural heritage objects, including illicit ones.

4.5 Digital curation as a solution

In response to the solution of the illicit trade of cultural heritage assets, this section will delve into the potential of digital technologies in protecting and aiding the fight against the illicit trafficking of cultural heritage assets in South Africa.

4.5.1 Challenges and opportunities for digitisation

During the interview, the participants were asked about their perspectives regarding the usefulness of digitisation as a solution to curb the illicit trade of cultural heritage. Most participants noted that digitising South African museum archives will be essential in demonstrating the ability to curate valuable collections and ensuring the proper curation of any repatriated and restituted items. Participants stressed the urgent need to prioritise resources to train heritage practitioners in digitisation for such an initiative. Most participants noted to

South Africa is outsourcing the digitisation of cultural heritage materials to international agencies because of a lack of local capacity and expertise in digital preservation.

Participant B shared the perception that

The world is becoming more digital, and we increasingly need multiple skills rather than hyper-specific ones. There will be a need to bring specialised professional people with very specific skills or outsource those capacities.

Participant B elaborated on the issue of rights and ownership regarding international collaborative digitisation efforts and made the following comment

We outsource digitising activities to international agencies because international funders pay for them. For example, the French are running around digitising many stuff for South Africans. This kind of work raises many additional questions of whether we are capacitated enough to understand the impact of ownership and rights when we go into these kinds of partnerships and, increasingly, questions around ethics, data security and data privacy.

Participant C emphasised that digitisation is expensive, saying that progress can be made by being strategic about what to digitise. The participant also highlighted the importance of using consistent standards during digitisation to avoid problems with different formats. The participant later pointed out a need for more understanding regarding standards for digitisation, with many institutions needing to address this issue during projects. This oversight has resulted in using different formats, causing difficulties in coordinating efforts between different institutions and projects. Participant C highlighted the ongoing challenge in establishing digitisation policies for cultural heritage institutions, namely galleries, libraries, archives, and museums, noting that the Department of Arts and Culture has been engaged in consultations and policy development for several years.

The consensus among the participants who discussed the digitisation of cultural heritage assets was that if South Africa is currently struggling to maintain the physical versions of heritage, then digitisation might be a struggle because creating digital surrogates and replicas through digitisation also requires resources, which in South Africa are currently limited. This highlighted the complexities and trade-offs in preserving cultural heritage in the digital age.

All the participants agreed that digitisation poses interesting questions about digital capacities and knowledge, highlighting the need for technically professional people and specialists in the South African cultural heritage sector in the near future.

Overall, what came across from the study is that digitisation is a complex process that

requires specialised skills and expertise, including the knowledge of preservation standards and best practices, experience with specialised equipment, and the knowledge of digital imaging and metadata standards and intellectual property law. If there is a shortage of local experts in these areas, outsourcing the work to international agencies with the necessary expertise may be more cost-effective and efficient.

4.6 Chapter summary

This section examined and presented the findings from the research investigation. Interviews served as the primary method for data collection. The data was then presented within the context of the study's aims and objectives, as well as in alignment with the literature reviewed for the study.

The following section will discuss the implications drawn from these findings, offering potential recommendations for policy, practice, and future research within the context of the illicit trade of cultural heritage assets in South Africa.

CHAPTER 5

DISCUSSION AND CONCLUSION

5.1 Introduction

According to the research questions, this chapter provides a summary and discussion of the primary findings outlined in Chapter 4. Additionally, this chapter will offer recommendations for future research, focusing on potential strategies to improve regulatory measures and implement effective digital curation practices to combat the illicit trade of cultural heritage assets in South Africa.

5.2 Discussion of findings

This section encapsulates a synthesis of the study findings, shedding light on the insights garnered from the research into the illicit trade of cultural heritage assets in South Africa.

5.2.1 State of illicit trafficking in cultural heritage

Based on insights gathered from the interviews regarding the state of illicit trade in cultural heritage assets in South Africa, managing the nation's cultural heritage proves to be a difficult task, requiring a balance between preservation efforts and the country's developmental needs. In examining the data, it becomes evident that addressing the illicit trafficking of cultural heritage property demands multifaceted strategies.

Firstly, what came across strongly from all the participants is the need to develop and implement actionable and updated policies and legislation that specifically address the illicit trafficking of cultural heritage property within South Africa. Moreover, the data highlighted that while there have been efforts to address the looting of cultural heritage, there have also been challenges in implementing the process effectively and comprehensively. As per the insights gathered from the interviews, managing the trade involves various bureaucratic complexities, including administrative failures such as a shortage of skilled staff and expertise and funding limitations. This poses another obstacle as institutions grapple with insufficient government funding to implement effective conservation and protection measures.

According to Ndlovu (2011), violating heritage Acts is a critical issue that poses challenges in identifying individuals and detecting damage to heritage assets. The delay in detection, coupled with a legal sector that may not fully comprehend heritage legislation concerning the illicit trafficking of culture, creates difficulties in enforcing laws, even when violators are

identified with sufficient evidence. The findings from interview data corroborated this; more than one participant highlighted and commented on the issue in South Africa regarding the recognition and tracking of heritage-related crimes.

The absence of a comprehensive heritage crime database within law enforcement agencies means that law enforcement does not categorise heritage crime as a distinct problem. This lack of data contributes to the difficulty in comprehending the scale and patterns of illicit activities. The literature highlighted that the lack of investigative capacity to address heritage crime hampers effective policy formulation and targeted intervention strategies.

5.2.2 South African policy landscape

Based on the information obtained through interviews, the status of the South African policy landscape in addressing the illicit trafficking of cultural heritage revealed the vulnerability of cultural institutions and heritage sites in South Africa. What came across was that this vulnerability stems from non-stringent policies and the outdated nature of the policy environment in South Africa concerning heritage management and protection. Participants noted the need to establish regulations and processes beyond formal permits.

Building on the findings from the interviews, it becomes evident that a crucial strategy to address the illicit trade of cultural heritage assets involves improving regulation at both national and international levels. This may encompass implementing laws and policies to restrict the export and import of cultural heritage goods, along with establishing certification and verification procedures to ensure legal provenance.

Moreover, findings from the interview data highlighted the need for a comprehensive policy framework outlining ethical guidelines for acquiring cultural heritage assets. According to Lehavi (2023), these measures have the potential to contribute to the ethical and responsible management of South Africa's cultural heritage.

5.2.3 Digitisation as a solution

This section explores how digitisation can combat the illicit trade of cultural heritage assets in South Africa. What came across from both the literature and the interview data is that if there is a shortage of local experts in the digitisation of heritage in South Africa it may be more cost-effective and efficient to outsource the work to international agencies with the necessary expertise. Moreover, the data noted that outsourcing could also have drawbacks, such as the potential loss of control over the digitisation process and the potential for cultural heritage materials to be taken out of the country alongside the exorbitant costs associated

with this initiative. Pickover (2008) expressed a similar sentiment in the literature.

Both the data and the literature showed that digital collections of cultural heritage are a relatively new area of focus in the cultural heritage sector in South Africa, and there may be a need for ongoing training and professional development to ensure that cultural heritage professionals have the necessary skills and knowledge to manage and preserve digital collections effectively. Both the literature and the data identified gaps in the capacity and expertise needed to understand the impact of ownership of digital collections and the rights and ethical principles associated with digital collections in South Africa.

According to the study participants, it is crucial to involve cultural heritage professionals, policymakers, and other stakeholders in the development of policies. The literature and the study maintain that these policies should be designed to provide long-term protection of cultural heritage and should also be flexible enough to accommodate changes in technology and new developments in digital preservation asset management systems, tools and principles. By having a collaborative and adaptable approach to developing policies, the literature showed that South Africa can ensure that cultural heritage is protected for future generations.

Additionally, both the literature and the data emphasised the importance of implementing consistent digital curation standards and practices within heritage projects to avoid interoperability issues and data loss. One of the participants highlighted that the lack of attention to this aspect has led to the adoption of different formats, creating obstacles in synchronising efforts between various organisations involved in the project. This issue was also echoed in literature by Pickover (2008) and de la Porte and Higgs (2019).

According to the findings of the study and literature, it may not always be feasible for policymaking to keep up with the rapid pace of technological advancements and digital issues. However, it is possible to design adaptable policies that safeguard cultural heritage material in the digital era. This notion was supported by the viewpoints of several participants, as reflected by the data collected.

Many participants shared the view that technical expertise is crucial in cultural heritage spaces, especially as digital technologies become more widespread. The literature supports this view and puts emphasis on the value of having a skilled workforce capable of leveraging the latest technological advancements within the field.

5.3 Study recommendations

Based on the concerns highlighted in the study and the literature, the following study recommendations are presented:

- Government needs to allocate more funds towards projects related to heritage, particularly those aimed at devising efficient measures to counteract the illegal trafficking of cultural heritage assets
- More workshops are necessary to bridge the gap in digitising museum collections. Since this field is relatively new, many museum professionals need more awareness and education about best practices and standards.
- Governments and organisations should establish mechanisms to review and evaluate cultural heritage and technology policies. This would ensure that policies can be updated or revised to address new developments and emerging issues.
- Cultural diplomacy requires attention, as it holds the potential to establish practical guidelines and principles for the return of cultural heritage assets. Cultural diplomacy also has the potential to provide a framework for negotiations between countries and cultural institutions.
- State structures need to establish coordination mechanisms with foreign entities and designate a specialised unit and fully recognised state body for investigating heritage crimes within the country. Such measures would facilitate effective policy formulation and enable the implementation of targeted intervention strategies to safeguard cultural heritage.
- Bilateral agreements should be established between South Africa and other countries to prevent the illicit trafficking of cultural heritage. These agreements can include provisions for the return of stolen objects, the prevention of smuggling and trafficking, and cooperation in the investigation of cultural theft. Such agreements can be effective in preventing the trafficking of cultural heritage.
- To streamline cultural heritage acquisitions, efficient and transparent acquisition processes need to be implemented. This has the potential to reduce the likelihood of thefts of cultural artefacts.
- Implementing due diligence procedures, coupled with heightened scrutiny from law enforcement agencies and regulatory bodies in the global art market, will demonstrate South Africa's commitment to ethical and responsible practices in the trade of cultural assets.
- Stakeholders within the art market should also initiate voluntary programs to promote

transparency and accountability. Collaboration with government agencies and heritage organisations is vital to address the issue of cultural heritage theft effectively.

- South Africa needs a policy framework that specifically addresses the repatriation of heritage objects illegally trafficked out of the country. This framework should provide clear guidelines for the repatriation of such objects and should include provisions for the investigation and prosecution of those involved in the illegal trade.
- South Africa needs to strengthen its legislation to provide better protection for heritage objects. This could include the introduction of harsher penalties for those involved in the illegal trade of heritage objects and the provision of greater resources for law enforcement agencies.
- There is a need to merge museum collections with investigative agencies' databases for cross-referencing to facilitate finding the information needed to streamline investigations.
- Integrating customs operations with crime databases has the potential to enhance their effectiveness in fighting the illicit trade in cultural heritage. Customs authorities can cross-reference items during inspections by accessing databases containing information on stolen cultural objects. This facilitates the identification of trafficked cultural property, leading to more effective interception and prevention of illicit trade. The collaboration between customs and crime databases contributes to a comprehensive and coordinated approach to curbing the illegal movement of cultural heritage items.

5.4 Limitations of the study and future research

This study was an exploratory study of the illicit trade of cultural heritage assets in South Africa. While exploratory in nature, the use of a small, purposive, localised sample posed a primary limitation. Future research could include a larger and more representative sample, enabling a comprehensive understanding of the illicit trade of cultural heritage assets in South Africa across the entire field.

Also due to its exploratory design, the scope of the research may not have captured all nuances of the issue at hand. Future research efforts could build upon this study by delving more deeply into specific dimensions of the illicit trade or digital curation as a solution to the trafficking of cultural heritage assets. By doing so, researchers can uncover more nuanced insights and offer a more comprehensive understanding of the complexities of the trade and the solutions required to combat it. The call for future research is imperative to deepen our understanding, explore alternative perspectives, and provide more comprehensive solutions to the issues identified in this study.

Additionally, a more in-depth exploration of specific cultural heritage categories or regions could enhance future studies, and a longitudinal perspective could provide insights into the evolving nature of illicit trade.

Another limitation of the study was the scarcity of literature on heritage crime in South Africa. The existing body of research has been produced by a small number of authors and has produced a limited number of recent publications. This narrow focus results in a relatively small pool of recent academic work addressing the intricacies of heritage crime specific to South Africa. The limited local research restricts the ability to develop a comprehensive understanding of heritage crime in the South African context and hinders the development of tailored strategies and solutions.

While international literature predominantly addressed issues such as art market theft, Nazi looting, conflict war zone vandalism and while these studies offer valuable insights into global trends and practices, they do not fully align with or address the specific issues faced in South Africa. This discrepancy highlights a gap in the literature where global perspectives may not seamlessly translate to the South African scenario, making it challenging to apply international models directly to local conditions.

Digital curation represents a relatively new area of study in the context of heritage crime. While international projects and models have begun to address the role of digitisation in protecting cultural heritage, these frameworks may not always fit well with the South African landscape. The field of digital curation for heritage protection is underdeveloped in South Africa, and there is limited research on how digitisation can specifically address illicit trafficking of cultural heritage within the country. The application of international digital curation models, which may have been developed for different contexts or with different technological infrastructures, can face challenges when adapted to South Africa's unique needs and conditions. This underdevelopment poses a limitation as it hampers the ability to leverage digitisation effectively for the protection and management of South African cultural heritage.

As heritage crime evolves, new forms of illicit trafficking and emerging threats continually challenge existing research and protection frameworks. The dynamic nature of crime requires ongoing updates to research methodologies and protective measures to stay relevant and effective. Ultimately, addressing heritage crime requires interdisciplinary research that integrates perspectives from law, criminology, archaeology, art, heritage management and technology. Developing cohesive approaches that bridge these disciplines can be challenging but is essential for creating effective solutions.

5.5 Study conclusion

The study set out to address the challenges surrounding regulating, protecting, and digitising South Africa's cultural heritage assets. By exploring the intersection between digital technologies and heritage management, the research aimed to contribute insights into mitigating illicit trafficking.

The study delved into the multifaceted landscape of South Africa's cultural heritage conservation and management, shedding light on constraints in regulation and protection. The study provided a brief overview of the challenges in safeguarding these assets and initiated discussions on the potential of digitisation in addressing these constraints. The findings highlighted the need for adaptive regulatory frameworks and improved protective measures.

Through the investigation of the digital landscape within the heritage field in South Africa, the study discussed the potential role of digital curation in combating the illicit trade of cultural heritage assets. This highlighted the various ways in which databases can facilitate information exchange between stakeholders involved in the fight against heritage trafficking. The study also highlighted that, when strategically implemented, digitisation has the potential to significantly contribute to mitigating the impact of illicit trafficking.

The study also investigated the South African policy environment concerning cultural heritage. The study highlighted existing challenges within South Africa's heritage authority, showcased limitations in current legislation and offered recommendations for future policy development. The research gave an overview of the responsiveness of the policy landscape to the illicit trade of cultural heritage assets.

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APPENDICES

Appendix A: Ethical Clearance

Appendix B: Information and Consent Form

Appendix C: Interview Questions

Appendix A: Ethical Clearance



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University of Cape Town Upper Campus

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18 November 2022

Ref. No. UCTDKIS2022-10-11

Ms Thandiwe Sibulele Mabe
Department of Knowledge and Information Stewardship
Chancellor Oppenheimer Library
University of Cape Town

Ethics approval for Master's research

Dear Ms Mabe

I am pleased to inform you that ethics clearance has been granted by the Ethics Review Committee of the Department of Knowledge and Information Stewardship, Faculty of Humanities, for you to proceed with collecting data for your Master's study on '**Illicit trafficking, digitization and the restitution of cultural property**'.

As a next step, please ensure that you obtain approval from the relevant ethics committees to collect data at your data collection sites, as necessary.

We wish you well with your data collection and the completion of your research.

Yours faithfully,

Signed by candidate

Mr Richard Higgs
Chair: Department (DKIS) Research Ethics Committee

Appendix B: Information & Consent Form

Dear [Name of Participant]

My name is Thandiwe Sibulele Mabe and I am doing research with Emeritus Professor Peter Underwood, in the Department of Knowledge and Information Stewardship towards a Masters Degree at the University of Cape Town.

What is the purpose of this study?

I am conducting this research in order to better understand how international law affects South Africa's current cultural heritage legislative framework. In addition, I'm trying to figure out how South Africa should respond to the smuggling of cultural property within its borders?

Why am I being invited to participate?

As an expert working at the intersection of culture and technology and as the Founder of African Digital Heritage you have done extensive research into the digital heritage field.

What is the nature of my participation in this study?

The interview takes around 30 minutes and is very informal. I am simply trying to capture your thoughts and perspectives on the aforementioned subject matter.

Can I withdraw from this study even after having agreed to participate?

Participating in this study is voluntary and you are under no obligation to consent to participation. If you do decide to take part, you will be given this information sheet to keep and be asked to sign a written consent form. You are free to withdraw at any time and without giving a reason.

Is there any negative consequence for me if I participate in the research project?

Participation in this study presents no potential risks to the participants. Participants and their organisations will not be named in subsequent write-ups and material submitted

How will the researcher protect the security of data?

Hard copies of your answers will be stored by me, the researcher and locked in my home filing cabinet for future research or academic purposes; electronic information will be stored on a password-protected computer. Future use of the stored data will be subject to further Research Ethics Review and approval if applicable.

Has the study received Ethics approval?

Once Ethical Clearance has been approved by the Knowledge and Information Stewardship Research Ethics Committee at the University of Cape Town. A copy of the approval letter can be obtained from me if you so wish.

How will I be informed of the results of the research?

If you would like to be informed of the final research findings, please contact the researcher, Thandiwe Sibulele Mabe on 061 387 9662 or email her at the following email address, sibumabe@gmail.com Should you have concerns about the way in which the research has been conducted, you may contact my supervisor, Emeritus Professor Peter Underwood at +27 84 650 3091 or pgunderwood@wol.co.za.

Thank you for taking the time to read this information sheet and for participating in this study

Name of Participant:

Signature of Participant:

Date:

Appendix C: Interview Questions

The questionnaire will be tailored to each participant's area of expertise. The following are some sample questions that will be included in the semi-structured questionnaire:

1. How effective do you think digitisation policies are within the heritage sector in South Africa? In what ways is cultural policy an effective way to negotiate for the restitution of cultural property?
2. What is your view on the unevenness of global digital infrastructure and negotiations around access, inclusion, and design?
3. Besides creating a national database of national treasures, is there any other way we can regulate the theft of cultural property?
4. Are heritage practitioners looking for paleontological materials and meteorites that have been stolen out of South Africa? Which do you know of?
5. Do we have a problem of an ambiguous circulation of unprovenanced archaeological objects being looted out of South Africa? Or are the crimes more for contemporary art from museums and art galleries?
6. Of what databases for provenance research in Africa are you aware and which have you used?
7. The art market lacks significant regulation in many jurisdictions. Art businesses, and the art world more generally, historically have been shielded from direct regulatory scrutiny. Can you comment on why that is?
8. Do you believe that further research is needed to assess the effectiveness of the current strategies implemented to combat and reduce trafficking in cultural property?
9. Over the course of the last five years, what types of cultural objects are you aware of as having been stolen?
10. Can you briefly comment on the state of heritage management in South Africa?
11. In your view, what would be the effect of South African institutions being compelled to transfer digital collections to a third-party funding partner or commercial vendor in order to ensure the viability and sustainability of digital interventions? What conflicts might this bring up?