



## Conservation of heritage in Indian sub-continent: A socio-legal study

Paras Mal

Research Scholar, Faculty of Law, Jai Narain Vyas University Jodhpur, Rajasthan, India

### Abstract

An introductory way to deal with heritage conservation has been given. In such manner, we need to comprehend what is implied by the expression "heritage" and the different sorts of heritage.

Different types of laws are available with the end goal of heritage management like the Air (Prevention and Control of Pollution) Act, 1981, the Water (Prevention and Control of Pollution) Act, 1974, the Wildlife (Protection) Act, 1972, the Indian Forest Act, 1927, the Biological Diversity Act, 2002, the Environment (Protection) Act, 1986, the Antiquities and Art Treasures Act, 1972 (AATA), the Ancient Monuments and Archeological Sites and Remains Act, 1958 (AMASRA), etc.

Almost certainly, India is a nation having most extreme laws; however the issue appears of helpless enforcement. The heritage legislation is another region which is a fundamental coordinated part for the conservation. What's more, different legislations at the central and state level are there, yet they do not have the enforcement soul in the greater part of the cases. The paper will attempt to recognize the current legislation in India identified with architectural heritage conservation from one perspective.

**Keywords:** heritage, natural heritage, cultural heritage, constitution of India, conservation of heritage

### 1. Introduction

The Indian sub-continent is invested with, maybe, the most extravagant and the most various load of social and architectural heritage, with a huge extent of them comprising living monuments. India has a staggering number of heritage structures, of which the secured ones incorporate scarcely 25 buildings announced as World Heritage Monuments by UNESCO, approximately 3,650 monuments in the care of Archeological Survey of India (ASI) proclaimed as monuments of national significance. A few thousand are in the care of strict endowments and Archeology Departments under state governments, and several thousands more heritage structures don't go under any proper framework because of absence of foundation and assets. These unprotected monuments and heritage structures are brought to open notification and ensured fundamentally because of the mediation of Non-Governmental Organizations (NGOs, for example, the Indian National Trust for Art and Cultural Heritage (INTACH). Customary construction materials and practices are as yet utilized in the redesign of heritage structures with the association of conventional craftsmen and artisans, notwithstanding, not all that broadly in the construction of new buildings.

Heritage is the personality of each separate state, and they are investing extensive amounts of energy to safeguard and ensure their centuries old rich heritage. India is one of the nations having a rich social and characteristic heritage. In such manner, the conservation of historical structures must have a target of shielding national social character different strategies and laws are confined for safeguarding, security and legitimate management of the social heritage at the state and central level in India. It is relevant to take note of that a large number of us don't know about the legislation and legitimate system States are obliged under Article 49 of the Indian Constitution to secure monuments and places and objects of national significance. It will be the commitment

of the State to ensure each monument or spot or object of creative or noteworthy interests, proclaimed by or under law made by Parliament to be of national significance, from spoliation, distortion, decimation, expulsion, removal or fare, by and large. Be that as it may, the state is neglecting to submit to the arrangement. On the other, we are as the capable resident of the country unfit to connect any feeling of belongingness toward our social heritage. It is the obligation of each resident of India under Article 51A (f) of the Indian Constitution to esteem and protect the rich heritage of our composite culture. It is fundamental to know about the worldwide shows and the national and with the individual state laws noteworthy to the security and assurance and conservation of the craftsmanship and the social heritage of a country.

### Insecurity of Heritage Structures in India

Heritage structures frequently require medicinal mediations because of material decay and structural misery brought about by normal marvels, for example, maturing or enduring of materials, and common and man-made disasters. They were worked in a time when building codes, as we probably am aware them today, were not formalized, and with construction materials and methods that present-day designers and modelers are neither familiar with nor officially instructed. The strength of these structures may offer a deception of time everlasting. On the other hand, time is neutralizing the soundness of such structures with a system of constant quality decrease. They show expanded weakness to catastrophic events, for example, seismic tremors, floods and tornadoes. Henceforth, there is a persevering peril of losing a huge load of heritage structures to regular cataclysm. This weakness holds considerably under man-made disasters, including vandalism and contamination.

The exhibition of heritage structures during the 2001 Bhuj earthquake can be viewed as a case in point. The Kutch

district, ceaselessly occupied since the Indus Valley human advancement, is home to 250 heritage towns and villages with in excess of 15,000 heritage properties. It was evaluated that during this earthquake, around 10,000 heritage structures were either demolished or broadly harmed. Despite the fact that earthquakes have over and over again happened in the territory, e.g., 1819 Allah Bund Earthquake and 1956 Anjaar Earthquake, seismic wellbeing of historical construction has not been tended to. Some architectural frameworks (e.g., curves and vaults) are utilized broadly in earthquake-inclined territories, which are known to be defenseless. Intercessions are required for the conservation and preceded with utilization of these heritage structures. The ongoing moderate Sikkim earthquake in 2011 showed the requirement for dire mediations to ensure the delicate load of Buddhist monasteries, the majority of which are worked with irregular rubble workmanship, famous for their seismic weakness, in spite of being a high seismic zone. Guidelines are required for reclamation and seismic reinforcing of heritage structures to guarantee their assurance over the long haul are earnestly required. In a milestone move, the ongoing report on the National Conservation Policy (ASI, 2014) has unequivocally incorporated a prerequisite that all conservation endeavors at any monument ought to be joined by a fiasco management plan. Vital advances are required to be started (a) to guarantee viable post-debacle management, (b) to guarantee sufficient readiness, and (c) to do fitting logical evaluation of existing dangers and to attempt moderation measures by retrofit, where justified.

### Legal Aspects

UNESCO embraced convention concerning the Protection of the World Cultural and National Heritage on November 16, 1972. It is likewise called the World Heritage Convention. India is additionally gathering to the convention. India had its first law route back two centuries prior as Bengal Regulation XIX of 1810 and this was trailed by legislation Madras Regulation VII of 1817. In any case, both the Acts were quiet on the buildings under private possession. The Act XX of 1863 was in this way sanctioned to enable the Government to forestall injury to and protect buildings surprising for their relic or for their historical or architectural worth. The Indian Treasure Trove Act, 1878 was proclaimed to ensure and safeguard treasure discovered coincidentally yet had the archeological and historical worth. This Act was ordered to ensure and protect such fortunes and lawful removal. The Cultural heritage introduced another time when The Ancient Monuments Preservation Act, 1904 was proclaimed. This Act gave viable safeguarding and authority over the monument especially those, which were under the guardianship of an individual or private proprietorship. As this Act has not been canceled, it is regarded to be in power. Next Act was The Antiquities Export Control Act, 1947 and Rules thereto which gave a guideline over the fare of relics under a permit gave by the Director General and engaging him to choose whether any article, item or thing is or isn't artifact with the end goal of the demonstration and his choice was conclusive.

In 1951, The Ancient and Historical Monuments and Archeological Sites and Remains (Declaration of National Importance) Act, 1951 was enacted. Thus, all the ancient and historical monuments and archeological destinations

and stays ensured before under 'The Ancient Monuments Preservation Act, 1904 were re-announced as monuments and archeological locales of national significance under this Act. Another 400 and fifty monuments and destinations of Part 'B' States were additionally included. Some more monuments and archeological locales were likewise proclaimed as of national significance under Section 126 of the States Reorganization Act, 1956.

So as to bring the Act comparable to constitutional arrangements and giving better and powerful conservation to the archeological abundance of the nation, The Ancient Monuments and Archeological Sites and Remains Act 1958 was enacted on 28th August 1958. This Act accommodates the conservation of ancient and historical monuments and archeological destinations and stays of national significance, for the guideline of archeological unearthing and for the security of sculptures, carvings and other like articles. Subsequently, This Act canceled the 1951 Act. In the year 2010 correction was passed to embed a couple of new arrangements, one of them was the constitution of the National Monument Authority. It will make proposals to the central government for reviewing and characterizing ensured monuments and secured territories, direct the working of the capable specialists, to recommend measures for the execution of the act and so on.

The Antiquities and Art Treasures Act 1972 was enacted for compelling authority over the moveable social property comprising of antiquities and art treasures. This act revoked the 1947 act.

Different states are having and proposed laws for their particular states for example Tamil Nadu Ancient Monuments and Archeological Sites and Remain Act, 1966, The Hampi World Heritage Area Management Authority Act, 2002, Orissa Ancient Monuments and Preservation Act, 1956, Rajasthan Monuments, Archeological Sites and Antiquities Act, 1961, The Madhya Pradesh Ancient Monuments and Archeological Sites and Remains Act, 1964, Victoria Memorial Act, 1903, Salar Jung Museum Act, 1961 and so forth.

Central Government proposed National Commission for Heritage Sites Bill in 2009 to conform to the World Heritage Convention. This commission will suggest present moment, long haul strategies to the state and central government, direct research and studies, distribute periodically heritage maps, make a rundown of heritage sited for selections, make periodical reports and so forth. The current bill was pulled back in 2015 in the wake of having proposals of different committees and stakeholders.

### Judicial Intervention

As we have seen over that it is the duty of the state to secure the heritage yet when it neglects to play out his duty judicial intervention gets most extreme significant. Open Interest Litigation (PIL) turns into a significant instrument in such manner. One can move toward the Supreme Court of India and High Court by documenting a writ appeal under Article 32 and 226 of Indian Constitution separately. In the Taj Mahal Trapezium Case, M C Mehta recorded PIL in SC to shield Taj Mahal from encompassing ventures in the year 1984 and judgment conveyed in the year 1996. In the year 2007, in another case, M C Mehta recorded PIL against Taj Heritage Corridor Project endorsed by Government of Uttar Pradesh. The undertaking was put on end as a result of this PIL. On account of Subhas Datta v/s. Association of India

and Ors (SC, Writ Petition No 252 of 2004 chose February 3, 2015), applicant documented PIL in SC on the issue of assurance of historical items safeguarded at better places in the nation particularly in different galleries. He argued course from SC for satisfactory security game plans and for appropriate examination concerning the occurrences of robbery and harm to a few historical items and furthermore for making a stock of accessible articles for what's to come. As of late Ajay Jagga, a lawyer practicing in Punjab and Haryana High Court documented PIL in HC for the protection of heritage property of Chandigarh as far as its unique structure and plan material. HC gave notice to Chandigarh Administration. Applicant additionally underscored on the readiness of a stock of antiquities, furniture artifacts and so forth gathered by the Chandigarh Administration. Heritage Bengal recorded PIL looking for an order to the inside to attempt to bring back the Kohinoor precious stone from the UK. SC will hear the issue alongside other pending appeal recorded by the All India Human Rights and Social Justice Front. The front has additionally argued that the government ought to be coordinated to bring back different treasures of Bahadur Shah Zafar, Rani of Jhansi, Nawab Mir Ahmad Ali Banda and different rulers.

By utilizing powers gave in the constitutional arrangements the Government of India and State Governments enacted many Act, Rules and Regulation to secure and rationed archeological Sites, Monuments and a lot more identified with cultural heritage in India, namely:

- The Ancient Monuments Preservation Act, 1904
- The Treasure Trove Act, 1878
- The Ancient Monuments and Archaeological Sites Remains Act, 1958
- The Ancient Monuments and Archaeological Sites Remains Rules, 1959
- The Antiquities and Art Treasures Act, 1972
- The Antiquities and Art Treasures Rules, 1973
- The Delivery of Books' and Newspapers' (Public Libraries) Act, 1954
- The Delivery of Books (Public Libraries) Rules, 1955

Apart from above list numerous other Act were passed after for a particular reason or foundation, which can be named out as:

- Victoria Memorial Act, 1903
- Indian Museum Act, 1910
- The Asiatic Society Act, 1984
- The Jallianwala Bagh National Memorial Act, 1951
- Public Records Act, 1993
- The Delivery of Books (And Newspapers) Public Libraries Act, 1954
- The Khuda Bakhsh Oriental Public Library Act, 1969
- The Salar Jung Museum Act, 1961
- The Kalakshetra Foundation Act, 1993
- The Antiquities & Art Treasures Act, 1972
- The Ancient Monuments and Archaeological Sites and Remains Act, 1958
- The Lalit Kala Akademi (Taking Over of Management) Act, 1997
- The Rampur Raza Library Act, 1975
- The Imperial Library (Change of Name) Act, 1948 (Repealed)
- The National Library of India Act, 1976 (Repealed)

### Act in various states

As it also comes on the state list, many states passed their legislation for the insurance and protection of cultural heritage which is of stage level importance as a national and international level as:

- Andhra Pradesh Ancient & Historical Monuments & Arch Sites & Remains Rules, 1960
- Amendment to Andhra Pradesh Ancient & Historical Monuments & Arch Sites & Remains Act, 1960\_2001
- Assam Ancient Monuments & Records Rules, 1964
- Punjab Ancient & Historical Monuments and Arch Sites & Remains Act, 1964
- The Goa, Daman and Diu Ancient Monuments & Archaeological Sites & Remains Act, 1978
- Arunachal Pradesh Ancient Monuments, Archaeological Sites & Remains Preservation Act, 1990
- Arunachal Pradesh Ancient Monuments, Archaeological Sites & Remains Preservation Rules, 1990
- Assam Ancient Monuments & Archaeological Sites & Remains Act, 1959
- Bihar Ancient Monuments & Archaeological Sites Remains & Art Treasures Act, 1976
- Delhi Ancient & Historical Monuments & Archaeological Sites & Remains Act, 2004
- Karnataka Archaeology Monuments Sites Act, 1961 (2)
- Karnataka Treasure Trove Act, 1963
- Rajasthan Monuments, Archaeological Sites & Antiquities Act, 1961
- Rajasthan Monuments Arch Site & Act Rules, 1968
- The Mysore Ancient & Historical Monuments & Archaeological Sites Rules, 1965

### Conclusion

As a social and cultural change increases, more noteworthy requests are made to conserve heritage as a brake against undesirable change and even as a methods for successful change. There is extraordinary earnestness to protect the Indian cultural heritage before its total annihilation. There is a requirement for a complete law to manage generally speaking parts of the heritage in India. We propose the development of National Heritage Resources Management Authority managing conservation, insurance, security, research, strategy level parts of heritage in India. Also, three is desperate need to make and invigorate mindfulness among people in general for the protection and conservation of cultural heritage except if individuals understand the estimation of the heritage and its advantages, no conservation plan to be fruitful. At last, it is the duty of each resident of India to save and ensure the legacy. Laws, rules guideline won't work except if we participate in this strategic.

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