ACTS AND REGULATIONS GOVERNING PRESERVATION OF MONUMENTS & SITES

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3650+ Monuments & Planned Development


- Legislation: Continuation of monument-centric colonial legacy, rather than sustainable urban development.

- AMASRA 2010: shift from focus on monument to built surroundings.

- Spatial Development Planning laws must recognize conservation as a key component of development.
Participatory Spatial Planning

• “Immovable heritage (natural and manmade) is in continuous danger of being dented and even being obliterated. It therefore needs to be incorporated for conservation through **legalized mapping** that is transparent so that planned programmed development through conservation strategies, techniques and tools can take place within and around the legally identified heritage structure, plot, precinct or site. **Transparency** typically helps in garnering people’s participatory support”.

Sanchi at the time of discovery

19th century ‘discovery’ of ‘monuments’ and beginnings of legislation

Sanchi after conservation
Sarnath after excavation and conservation
Sarnath and the Archaeology of Buddhism in India

• 1835-6: Alexander Cunningham identified Sarnath 13 kilometres north-east of Varanasi based on accounts of Chinese pilgrim Xuanzang who visited India in 7th century AD.

• In 1856, the Government acquired the site at Sarnath from an indigo planter by the name of Fergusson.

• 1900 that a guard was appointed to take charge of the museum and the monastic complex.

• 1905: Ashokan Pillar and lion capital unearthed during excavations.
Ancient Monuments Preservation Act 1904

(1) “ancient monument” means any structure, erection or monument, which is of historical, archaeological or artistic interest, or any remains thereof, and includes—

(a) the site of an ancient monument;
(b) such portion of land adjoining the site of an ancient monument as may be required for fencing or covering in or otherwise preserving such monument; and
(c) the means of access to and convenient inspection of an ancient site.
Provisions of the Act

- Land may be acquired for protection of monuments under Land Acquisition Act 1894.
- Declaration of protected status of monuments through notification.
- Fixing of boundaries of the area.
- Restriction of mining, quarrying, blasting etc.
- Restriction on movement of antiquities.
Nationally Protected Monuments

• 1947: 2826 protected monuments.

• Protection of Sculptures, Carvings, Images, Bas-reliefs, Inscriptions or like objects, which are not to be moved from their present location.

• Declare areas with archaeological remains as protected areas.

• 2014: more than 3650 ancient monuments and archaeological sites and remains of national importance (http://asi.nic.in/asi_monuments.asp).
Jain Tirthankara image in the fields at Veerakudi, district Pudukkottai, Tamilnadu – notified in 1937
Declared as the Nationally Protected Monument by Archaeological Survey of India vide Notification no. 2 / 3 / 75 - M, dated 28.03.1985 under the name “Monolithic Bas Relief Image Depicting Shiv at Parel”.

1931: Sculpture (3.48 meter in height, 1.95 in width) found in road construction.
Sanghol – 40 kms from Chandigarh. Partially protected archaeological site.
The mound at Sonkh near Mathura – excavations unearthed a fortified settlement dated from 800 BC onwards.
The Constitution of India

1. Entry 67 of the Union List - monuments declared by or under law made by Parliament to be of national importance.

2. Entry 12 of the State List - monuments other than those declared to be of national importance.

3. Entry 40 of the Concurrent List - monuments other than those declared by or under law made by Parliament to be of national importance.

4. By incorporating Article 49 in the Directive Principles of State Policy, the framers of the Constitution made it obligatory for the State to protect every monument of national importance.
49: It shall be the obligation of the State to protect every monument or place or object of artistic or historical interest, declared by or under law made by Parliament to be of national importance, from spoliation, disfigurement, destruction, removal, disposal or export, as the case may be.
• **1951:** The Ancient and Historical Monuments and Archaeological Sites and Remains (Declaration of National Importance) Act, 1951 (No LXXI of 1951) was enacted.

• All the ancient and historical monuments and archaeological sites and remains protected earlier under ‘The Ancient Monuments Preservation Act, 1904’ (Act No. VII of 1904) were re-declared as monuments and archaeological sites of national importance under this Act.

• Four hundred and fifty monuments and sites of Part ‘B' States were also added. Some more monuments and archaeological sites were also declared as of national importance under Section 126 of the States Reorganization Act, 1956.
ASI Notification 1992

• Notification prohibited new constructions within a 100m radius of any ASI monument in the country.

• Controlled development within the regulated area of the monument, which was fixed at 200m.

• Reconstruction allowed in prohibited area.
AMASR Act 2010

• November 2011: Establishment of National Monuments Authority.

• Redefinition of 100 metres as prohibited and 100 to 300 metres as regulated area around the monument.

• Categorization of monuments into 8 categories.

• Framing of heritage bye laws for each of the centrally protected monuments.
- Categorization of monuments.
- **Mapping** & detailed site plans.

No construction in prohibited area.

- Construction in regulated area in accordance with heritage bye laws/ Development Control Regulations.

- Archaeological assessment for large projects essential.
• To measure the prohibited (100m) and regulated area (200m) for a centrally protected monument from the base of its boundary wall and not the monument structure.

• Renovation of any building existing in the prohibited area before June 16, 1992 near monuments only meant repair and not razing them and putting up new ones.

• Permission in exceptional cases for undertaking construction in public interest in the vicinity of protected monuments.

AMASRA 2010 & Categorization

• 4A (1) - The Central Government shall prescribe categories in respect of ancient monuments and archaeological sites and remains declared as of national importance…. Notified by MoC on 23rd August 2011.

• 4A (2) - The Central Government shall, on the recommendation of the Authority classify all the ancient monuments or archaeological sites and remains declared as of national importance…. Functions & Powers of the Authority:

• 20-I (d) – to suggest measures for implementation of the provisions of this Act.
Categories notified by MoC

- **Category I**: World Heritage Cultural sites
- **Category II**: Tentative List of World Heritage Committee
- **Category III**: Sites identified for inclusion in Tentative List
- **Category IV**: Ticketed Monuments
- **Category V**: Sites with adequate flow of visitors identified for levying tickets
- **Category VI**: Living Monuments
- **Category VII**: Other Monuments in Urban/Semi Urban limits.
- **Category VIII**: Others - Heritage Zones; Archaeological Parks.
<table>
<thead>
<tr>
<th>Centrally Protected Monuments in Delhi</th>
<th>Numbers</th>
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<tbody>
<tr>
<td><strong>NMA Category I &amp; II - World Heritage Sites and those on Tentative List</strong></td>
<td>37</td>
</tr>
<tr>
<td><strong>NMA Category III – Monuments and Sites identified for inclusion in Tentative List</strong></td>
<td>18</td>
</tr>
<tr>
<td><strong>NMA Category IV - Ticketed Monuments</strong></td>
<td>10</td>
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<tr>
<td><strong>NMA Category V – Monuments and Sites with adequate flow of visitors – could be made ticketed</strong></td>
<td>1</td>
</tr>
<tr>
<td><strong>NMA Category VI – living monuments</strong></td>
<td>8</td>
</tr>
<tr>
<td><strong>NMA Category VII - In densely populated urban area</strong></td>
<td>41</td>
</tr>
<tr>
<td><strong>NMA Category VIII – Others</strong></td>
<td>48 (Heritage Zone) 7 (Arch Park)</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td>160 + 14 (missing/de-notified)</td>
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World Heritage/ Tentative WH Sites in Delhi

- **World Heritage Sites:**

- **Tentative WH Sites:**
  - Shahjahanabad & Lutyen’s Delhi: 20 monuments.
  - Badshahi Marg: 4 monuments
Challenges

- Monuments have lost their context both with other structures and the landscape.
- Artificial definitions of space
- Vehicular traffic and pollution and encroachments
Sher Shah’s gate and Khairul Manazil mosque
Site plan of Purna Qila and its Precincts
Living Monuments

Mosque at Sarkhej

Meghesvar temple, Bhubaneshwar
Heritage Zones identified by DDA

- Walled City of Delhi, Shahjahanabad
- Nizamuddin and Humayun’s Tomb Complex
- Mehrauli area & Qutub Complex
- Lutyen’s Delhi
- Vijay Mandal – Begumpur – Lal Gumbad
- Chirag Delhi

**Additions in NMA List:**
- Lodi Gardens – Safdarjung Tomb
- Deer Park – Green Park
Archaeological Parks identified by DDA

- Mehrauli Archaeological Park
- Tughlaqabad Archaeological Park
- Sultan Garhi Archaeological Park

**Additions in NMA List:**
- Purana Qila Archaeological Park
- Northern Ridge Archaeological Park
Unresolved Issues

• Heritage Zones identified by DDA: boundaries yet to be demarcated.

• Archaeological Parks: defined as excavated archaeological sites that have been preserved in a park setting and open to the public.

• CAG Report on WH sites: 3.2 - ASI did not distinguish and categorize any monument as prospective WH site;

• Chapter 3, p. 39 of the CAG Report (18 of 2013): 'The Ministry stated (May 2013) that ACWHM was in the process of updating the tentative list and was also ensuring that management systems were in place before the dossiers were sent to WHC'.
Issues for discussion

• **Categories I to III**: rules applicable to World Heritage sites.

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• **Categories IV to VII**: As prescribed in Master Plans and local building bye laws.

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• **Category VIII**: Heritage Zones and Archaeological Parks as per Development Control Regulations.

• **Single Window Clearance**: Real Estate (Regulation and Development) Bill, 2013