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## PROTECTION OF ARCHAEOLOGICAL SITES IN INDIA: LAWS AND ITS APPLICATIONS

*Dr. Ashish Verma<sup>1</sup>, Dr. Vinita Singh<sup>2</sup>, Dr. Shikha Dimri<sup>3</sup>*

**Dr. Ashish Verma<sup>4</sup>, Dr. Vinita Singh<sup>5</sup>, Dr. Shikha Dimri<sup>6</sup>, protection of archaeological sites in india: laws and its applications-- Palarch's Journal Of Archaeology Of Egypt/Egyptology 17(9). ISSN 1567-214x**

Archeological sites carry the information and evidence of a country's rise and fall. By the very nature of it relates to the culture of the local community and connects with the identity of the community. It covers a range of information which not only informs of the know what and know how of the contemporary times; but also at times, helps in determining legal issues. Archeology is the scientific study of historical remains of any kind. It includes scientific tools and historical facts. In legal sense, the facts, whenever in issue, need trustworthy evidence and archeological evidence may provide solution. The Supreme Court of India upheld the authority of central government agencies in regulating and prohibiting public works and construction in the vicinity of archeological sites and monuments of cultural heritage. <sup>7</sup> "The purpose of archaeology is to extract history from the monuments and artifacts of the past, to write history from the often inadequate relics that time has spared."<sup>8</sup>

India has an extraordinarily rich, vast and diverse cultural heritage that has left a huge corpus of built heritage across the

<sup>1</sup> Associate Professor, University of Petroleum & Energy Studies (UPES) Dept. of Law and Social Sciences, School of Law. Knowledge Acres, Kandoli Dehradun, Uttarakhand, India

<sup>2</sup> Associate Professor, University of Petroleum & Energy Studies (UPES) Dept. of Law and Social Sciences, School of Law. Knowledge Acres, Kandoli Dehradun, Uttarakhand, India

<sup>3</sup> Associate Professor, University of Petroleum & Energy Studies (UPES) Dept. of Law, Science and Technology, School of Law. Knowledge Acres, Kandoli Dehradun, Uttarakhand, India

<sup>4</sup> Associate Professor, University of Petroleum & Energy Studies (UPES) Dept. of Law and Social Sciences, School of Law. Knowledge Acres, Kandoli Dehradun, Uttarakhand, India

<sup>5</sup> Associate Professor, University of Petroleum & Energy Studies (UPES) Dept. of Law and Social Sciences, School of Law. Knowledge Acres, Kandoli Dehradun, Uttarakhand, India

<sup>6</sup> Associate Professor, University of Petroleum & Energy Studies (UPES) Dept. of Law, Science and Technology, School of Law. Knowledge Acres, Kandoli Dehradun, Uttarakhand, India

<sup>7</sup> Archeological Survey of India Vs. Narendra Anand (2012) 2 SCC 562

<sup>8</sup> Glyn Daniel, *The Origin and Growth of Archaeology* (1967), quoted in LEGISLATION ON CONSERVATION OF ANCIENT MONUMENTS AND ARCHAEOLOGICAL SITES AND RUINS : A CRITICAL APPRAISAL

country. A glimpse of this richness and variety can be seen in the form of monuments and archaeological sites, 3,678 monuments and sites including 20 world heritage properties, that are protected by the Archaeological Survey of India. Their sheer magnitude in number alone is overwhelming besides the fact that these are iconic symbols of India's diverse cultural expressions and historic continuity.<sup>9</sup> Archaeology is an interdisciplinary subject that does not limit itself to the rigid definitions of science, or the vast purview of humanities. In order to successfully interpret archaeological information or document an existing site, technical expertise in photography, illustrations, geophysical survey and GIS techniques and assistance from the local populace, regarding myths, traditional techniques and vernacular architecture, are needed at all times. While some of it can be readily available locally, technical skill can be employed internationally also, provided the site is properly advertised and highlighted both locally and globally.<sup>10</sup>

According to The Ancient Monuments and Archaeological Sites and Remains Act, 1958:

“archaeological site and remains means any area which contains or is reasonably believed to contain ruins or relics of historical or archaeological importance which have been in existence for not less than one hundred years,<sup>11</sup> and includes—

(i) such portion of land adjoining the area as may be required for fencing or covering in or otherwise preserving it, and

(ii) the means of access to, and convenient inspection of the area.<sup>12</sup>

Archaeology has long been accepted as a scientific discipline providing tangible evidence for building up the superstructure of history. In fact, its claim is accepted as supreme especially in such periods where written records are absent or have remain undeciphered.<sup>13</sup> Where, however, written records exist, the material

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<sup>9</sup> <https://asi.nic.in/wp-content/uploads/2018/11/national-conservation-policy-final-April-2014.pdf> (last visited Nov 13, 2020).

<sup>10</sup> <https://www.livescience.com/44448-what-is-archaeology.html> (last visited Sep 13, 2020).

<sup>11</sup> The Ancient Monuments and Archaeological Sites and Remains Act, 1958 Section 2 (d)

<sup>12</sup> <https://indiankanon.org/doc/1811261/>(last visited Sep 13, 2020).

<sup>13</sup> [https://insa.nic.in/writereaddata/UpLoadedFiles/IJHS/Vol06\\_1\\_1\\_MNDeshpande.pdf](https://insa.nic.in/writereaddata/UpLoadedFiles/IJHS/Vol06_1_1_MNDeshpande.pdf)(last visited Nov 1, 2020).

remains turned up by the spade convey in a telling manner the import of the written word. Archaeological material, however, has to be interpreted with a view to determining its real character and significance.<sup>14</sup> Such an interpretation often tends to be subjective vitiating the very purpose of the scientific enquiry. The precondition, therefore, is of complete objectivity aided only by such reasoned and controlled speculation as is warranted by facts. To the extent objectivity is sacrificed the results are bound to be erroneous. This will also largely depend on the field of experience or versatility of the interpreter, for a person with limited knowledge and experience is likely to overlook or misinterpret the facts.”<sup>15</sup>

Among the varied range of archaeological material that will be useful for the reconstruction of the History of India, the following may be mentioned:

- i) Excavated material and other antiquities;
- ii) Standing monuments;
- iii) Sculptures, reliefs and paintings on monuments and other objects; and
- iv) Inscribed records.<sup>16</sup>

Of these, the last mentioned item, viz. inscribed records, is in fact, a sort of a literary record and could, therefore, be classified as archaeo- literary source material. Perhaps this source has one specialty in as much as it reveals its date or probable period and generally belongs to the region where it is found unlike a manuscript that is copied from time to time, liable to be transferred from one place to another and is susceptible to interpolation, diminution or alteration.<sup>17</sup> Hence, inscribed records, especially those found on stone rock or copperplates, are more reliable though in the last named variety spurious records are also sometimes met with.

Archaeological source material for building up the history of India is proposed to be dealt with in a chronological order, highlighting the archaeological evidence that is available during

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<sup>14</sup> Deshpande, M. N., *insa.nic.in › IJHS › Vol06\_1\_1\_MN* Deshpande: Archaeological Sources for the reconstruction of the History of Sciences pp. 1-2

<sup>15</sup> *ibid*

<sup>16</sup> *ibid*

<sup>17</sup> *ibid*

prehistoric, protohistoric and early historical periods.<sup>18</sup> The consideration of the historical period is generally left out, for, it is during this period that written records are available and archaeological sources assume supplementary and secondary character.<sup>19</sup> It is quite evident that, during the prehistoric period, Man was rather a helpless creature struggling to adapt himself to the natural environment, his technological skill being limited to fashioning of stone tools.<sup>20</sup>

In common with most European countries, India takes a broad view of the domain of historical archaeology. As practiced, it is best defined as the study of that part of the archaeological record for which there exists contemporary documentary evidence. Such evidence spans most of the last 3,000 years<sup>21</sup>, but the boundary between Indian history and prehistory is a fuzzy one.

The urge for archaeological investigations took a very long time to germinate on Indian soil. There are hardly any traces of archaeology in the country's history. Ancient India never seems to have experienced the urge for archaeological investigation and medieval India too remained practically unaffected by it till the end.<sup>22</sup> The earliest work on the related subject was done in the eleventh century by a historian, Kalhana, who seems to have understood, however imperfectly, the value of historical reconstruction of the material remains of bygone ages. He not only attempted a thorough study of coins and inscriptions, but also made it a point to personally inspect ancient monuments and relics, and acquired in addition a thorough mastery of the topography of his land. All these means enabled him to marshal a vast assemblage of factual data, which endowed his masterpiece, the Rajatarangini, with a degree of objectivity never met with before in India.<sup>23</sup> Abu Raihan-al-Biruni (in the eleventh century) was another historian who showed a scientific understanding and an objective approach

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<sup>18</sup> <https://www.historydiscussion.net/articles/sources-of-ancient-indian-history-archaeological-and-literary-sources/2336> (last visited Nov 13, 2020).

<sup>19</sup> insa.nic.in › IJHS › Vol06\_1\_1\_MNDeshpande: Archaeological Sources for the reconstruction of the History of Sciences pp. 1-2

<sup>20</sup> *ibid*

<sup>21</sup> CHAKRABARTI, D.K. - 2006. The Oxford companion to Indian archaeology: the archaeological foundations of ancient India, Stone Age to AD 13th century. New Delhi: Oxford University Press.

<sup>22</sup> Khanna, A.N., Archaeology of India, New Delhi, 1981, p.12.

<sup>23</sup> Roy, S., The Story of Indian Archaeology, New Delhi, 1961, p.4.

through his writing entitled Alberuni's India. Later Abul Fazl (in the sixteenth century) displayed a more scholarly approach to the national relics of the past and his Ain-i-Akbari embodies fairly accurate notices of a large number of historical monuments and sites.<sup>24</sup> A true antiquarian spirit in India ultimately came from the West only towards the end of the eighteenth century. It was Dr. Samuel Johnson, an English litterateur and his friend Sir William Jones, who were the first to perceive the supreme need for systematic investigations into the remains of India's past.<sup>25</sup>

Interest in archaeology in India began earlier than the establishment of the Asiatic Society by William Jones in Calcutta in 1784.<sup>26</sup> From the sixteenth century onwards, there are copious references to Indian monuments in the writings of European travellers in the country. Travelogues thus constitute the first source material of archaeological writings on India. The tradition continued well into the eighteenth century, but from about the middle of that century there is clear evidence of the beginnings of systematic scholarly attention to archaeology.<sup>27</sup>

The archaeological studies in India had a modest beginning in the efforts of an enthusiastic band of antiquarians, who, under the guidance of William Jones, formed the Asiatic Society in 1784 for enquiring into the history, antiquities, arts, science and literatures of Asia. Cunningham, often referred to as the father of the archaeological department of the Government of India, was a pioneer in the field surveys of archaeological sites.<sup>28</sup>

The man, whose genius and labours helped archaeology to free itself from antiquarian and literary affiliations, was James Prinsep, who assumed the direction of virtually the entire field of archaeological work in India. Prinsep was essentially a man of science and he brought precision to his task and the scientist's mastery of factual details, which enabled him to march from discovery to discovery. It was under Prinsep that the task of translating original material from the authentic records of ancient Hindu dynasties of the Southern Peninsula was completed and they

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<sup>24</sup> Khanna, A.N., *Archaeology of India*, op. cit; p.12.

<sup>25</sup> Roy, S., *The Story of Indian Archaeology*, op. cit; p.10.

<sup>26</sup> Markham, C.R., *A Memoir on the Indian Surveys*, London, 1878, p.1.

<sup>27</sup> Chakrabarti, D.K., *A History of Indian Archaeology*, New Delhi, 1988, p.1.

<sup>28</sup> G.B. Krishna Rao *LEGISLATION ON CONSERVATION OF ANCIENT MONUMENTS AND ARCHAEOLOGICAL SITES AND RUINS : A CRITICAL APPRAISAL* p. 108.

were published.<sup>29</sup> Many others deserve mention: Alexander Burnes, Jean-Baptiste Ventura, Court, and Gerard Lake all collected coins and recorded sites in North-West India and Afghanistan. Captain Cautley discovered the remains of a large settlement of Behat near Saharanpur. His excavations are among the earliest in India to be applied to a non-monumental site.<sup>30</sup> The Archaeological Survey of India was established in 1862 and Cunningham was appointed the first Archaeological Surveyor of India. Cunningham's activities were confined only to the North-Western Provinces and Bihar in the earlier phase of his career (1862-65). Cunningham retired in 1885 and new arrangements were made in the Archaeological Survey Department. The surveys of north and south India were amalgamated and placed under the charge of Dr. James Burgess, who took over as Director General of Archaeology on March 25, 1886.<sup>31</sup>

Questions about India's past attracted little government interest and support, except in such specialized areas as legal systems and land tenures. Antiquarian research was centered in a few scholarly organizations, the most famous of which was the Asiatic Society of Bengal, which formed in early 1784 under the leadership of William Jones. In South India, the less formally organized, but productive research of Indian and European philologists and antiquarians such as Colin Mackenzie and other members of the "Madras School of Orientalism," turned equally fertile ground<sup>32</sup>. Brilliant and committed though the antiquarians were, their work did not directly result in the creation of a distinct scholarly discipline of archaeology. They lacked a clear understanding of how old the "past" may be, practical methods that would enable them to reconstruct the past from archaeological evidence and relate it to the relevant documentary evidence, and

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<sup>29</sup> RAVI PRAKASH , SAJTH, January 2013, Vol. 6, No. 1 South Asian Journal of Tourism and Heritage The Journey of Indian Archaeology: From Antiquarianism to Archaeology under British Rule p.139

<sup>30</sup> RAVI PRAKASH , SAJTH, January 2013, Vol. 6, No. 1 South Asian Journal of Tourism and Heritage The Journey of Indian Archaeology: From Antiquarianism to Archaeology under British Rule p. 140

<sup>31</sup> RAVI PRAKASH , SAJTH, January 2013, Vol. 6, No. 1 South Asian Journal of Tourism and Heritage The Journey of Indian Archaeology: From Antiquarianism to Archaeology under British Rule p. 143

<sup>32</sup> Trautmann, T. R., 2009. The Madras School of Orientalism: producing knowledge in colonial south India. New Delhi: Oxford University Press.

essential concepts of time, space, and culture upon which to build basic interpretive frameworks for this past.<sup>33</sup>

Late eighteenth and early nineteenth century antiquarians in India were committed to the Enlightenment belief in the interpretive value of reason as the primary means to understand the order of a knowable world.<sup>34</sup> And there was plenty to know in India, for ruined cities, ancient monuments, art, undecipherable inscriptions, epic poems, and diverse literary traditions in a host of languages seemed to present themselves at every turn. Challenged by the evidence of India's past, these early scholars sought to construct an understanding of Indian history that mapped ancient texts and other documentary evidence onto the archaeological record<sup>35</sup>. Thus, the roots of Indian historical archaeology rest in antiquarian research, a collaborative enterprise driven mostly by questions of historical interest for which archaeological evidence played an important role. The results of these investigations brought India's rich history, ancient and diverse literary traditions, and spectacular archaeological sites and monuments onto the world stage. They also gave India's colonial government its main rationale for direct involvement in archaeology and the creation of early national policies concerning archaeological sites and monuments.<sup>36</sup>

The creation of the Archaeological Survey of India (ASI) in the early 1860s marked the beginning of direct government involvement in archaeology, the first professional archaeologists, and the first steps toward a national policy concerning historical sites and monuments. The Archaeological Survey of India was first established in 1861. In 1902, it assumed a dynamic role with a clear-cut purpose of survey including exploration and excavation, preservation of monuments, epigraphical research and development of museums.<sup>37</sup> In 1904, the central government enacted, for the first time, the Ancient Monuments Preservation Act, 1904, which was

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<sup>33</sup> India: Historical Archaeology Barry Lewis Department of Anthropology, University of Illinois at Urbana-Champaign, Urbana, IL, USA p 3752

<sup>34</sup> <https://en.unesco.org/courier/2020-4/india-heritage-theft-remains-challenge> (last visited Nov 13, 2020).

<sup>35</sup> Chakrabarti D.K. 2010. India: an archaeological history: Palaeolithic beginnings to early historic foundations (2nd edition). New Delhi: Oxford University Press.p 4-9

<sup>36</sup> India: Historical Archaeology Barry Lewis Department of Anthropology, University of Illinois at Urbana-Champaign, Urbana, IL, USA p 3752

<sup>37</sup> G.B. Krishna Rao LEGISLATION ON CONSERVATION OF ANCIENT MONUMENTS AND ARCHAEOLOGICAL SITES AND RUINS : A CRITICAL APPRAISAL p. 108.

intended "to provide for the preservation of ancient monuments and objects of archaeological, historical or artistic interest" and to prevent the excavation by unauthorised persons of sites of historic interest and value. The Act applied to ancient monuments which had been declared as "protected monuments" and invested the executive with sufficient legal authority in regard to the monuments in private ownership.<sup>38</sup> The concept of a monument of 'national importance' was introduced for the first time into the scene by the Ancient and Historical Monuments and Archaeological Sites and Remains (Declaration of National Importance) Act, 1951, which was enacted by Parliament in fulfilment of the constitutional provisions and by which all monuments protected under the Ancient Monuments Preservation Act, 1904 in part A states were redeclared as of national importance. About 450 monuments and sites in part B states were also included in the national list.<sup>39</sup>

Then came the Ancient Monuments and Archaeological Sites and Remains Act, 1958, which was broadly modelled on the lines of the Act of 1904 and repealed the Acts of 1904 and 1951.<sup>40</sup> This Act, however, contained the following new provisions :

(a) "In the interests of uniformity and integral policy, it was proposed to transfer some of the powers conferred on the district collectors by the Act of 1904 to the Director-General of Archaeology.

(b) The Act conferred powers on the central government to declare, by a notification, the ancient monuments or archaeological sites and remains to be of national importance instead of by a law passed by Parliament as was necessary under the Act of 1951.

(c) The Act provided that where the owner of a protected monument refused to enter into an agreement, the central government may make an order for the maintenance of the monument which shall be binding on the owner.

(d) The Act empowered the central government to regulate excavations in archaeological sites which are not declared to be of national importance.

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<sup>38</sup> *ibid*

<sup>39</sup> *ibid.*

<sup>40</sup>*ibid*

(e) Provision was made for the compulsory acquisition of antiquities and other objects of historical or archaeological importance on payment of compensation.”<sup>41</sup>

It is noteworthy that the preamble and the relevant sections of the Act use the expression "preservation" instead of "conservation" for which the architects and town-planners have a preference. Responding to a suggestion on the floor of the House for replacing the word "preservation" with the word "conservation" in the Bill, the Union Minister of Education and Social Welfare stated in 1958 that the former expression was preferred since it was more comprehensive in meaning than the latter.<sup>42</sup>

The Chambers Twentieth Century Dictionary gives the following meanings: "Conserve: to keep entire; to retain; to preserve; to preserve in sugar etc."

"Conservation: the art of conserving (as old buildings, flora and fauna, environment); to keep entire".

"Preserve: to keep safe from harm or loss; to keep alive; to keep in existence; to retain; to maintain,— to keep from or guard against decay etc".<sup>43</sup>

Thus, though the two expressions are rather synonymous, the word "conservation" appears to be a more appropriate one in the context of structures. However, the archaeologists are, perhaps, too conservative to use the word "conserve" instead of "preserve".<sup>44</sup>

The Act appears to be inadequate for controlling developments in the vicinity of the protected monuments. Our planning Acts also do not contain concepts like conservation areas, listed buildings, buildings preservation orders and tree preservation orders, on the pattern of the British country planning laws. In the ultimate analysis, the success in implementation of the Act depends on the mutual cooperation between the Archaeological Survey of India, state governments, local bodies and the public.

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<sup>41</sup> <https://indiaculture.nic.in/sites/default/files/Legislations/6.pdf> (last visited Nov 7, 2020).

<sup>42</sup> *ibid*

<sup>43</sup> G.B. Krishna Rao LEGISLATION ON CONSERVATION OF ANCIENT MONUMENTS AND ARCHAEOLOGICAL SITES AND RUINS : A CRITICAL APPRAISAL p. 112.

<sup>44</sup> *ibid*

On the legislative side, the Indian government recently took several measures to support heritage conservation. Several new initiatives encourage active cooperation between the ASI, state archaeology departments, universities, and nongovernmental organizations like the Indian National Trust for Art and Cultural Heritage (INTACH). Government also announced the creation of a National Mission on Monuments and Antiquities in 2007. Its mandate is to construct a cultural heritage database of sites, monuments, antiquities, and art treasures and actively promote a national awareness of India's cultural heritage.<sup>45</sup> In 2010, a major amendment to The Ancient Monuments and Archaeological Sites and Remains (Amendment and Validation) Act of 1958 created the National Monuments Authority, which adds teeth to existing legislation that protects the immediate vicinity of national monuments and sites from unauthorized encroachments.<sup>46</sup>

India's archaeological horizons expanded considerably in the twentieth century as research revealed the temporal depth and richness of its past. By mid-century, the focus turned increasingly to work on questions of prehistory and protohistory, which now consume far greater attention and resources than historical archaeology. The latter subfield, however, will play a larger role in twenty-first century Indian archaeology as the nation addresses such issues as heritage conservation, tourism development, and identity in a rapidly changing and diverse country.<sup>47</sup>

Indian historical archaeology today faces many of the same challenges as other countries. The sites and monuments that are the primary archaeological objects of its research are often either part of crowded urban landscapes; highly visible and, consequently, vulnerable features of the rural countryside; or are still in active daily use.<sup>48</sup> As elsewhere too, these sites are being destroyed at a rapid rate.

### **Constitutional Provisions:**

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<sup>45</sup> India: Historical Archaeology Barry Lewis Department of Anthropology, University of Illinois at Urbana-Champaign, Urbana, IL, USA p 3755

<sup>46</sup> *ibid*

<sup>47</sup> PADDAYYA, K. "THE EXPANDING HORIZONS OF INDIAN ARCHAEOLOGY." *Bulletin of the Deccan College Research Institute*, 62/63, 2002, pp. 291–309. *JSTOR*, [www.jstor.org/stable/42930625](http://www.jstor.org/stable/42930625). (Accessed 24 Sep. 2020.)

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The Constitution of India prescribed under the fundamental duties that the protection of heritage is one of the important duties of each and every Citizen of India.

The concept of national importance was introduced for the first time into the scene by Ancient and historical monument and Archeological Sites and remains (Declaration of National Importance) Act , 1951 which was enacted by parliament in fulfillment of the constitutional provisions <sup>49</sup>

Article 49 of the Constitution– : “It shall be the duty of the State to protect the various monuments, objects, places which are of artistic or historic importance from any spoliation, disfigurement, destruction, removal, disposal or export which are declared by or are declared by Parliament to be of national importance.”

"Any section of the citizens residing in the territory of India or any part thereof having a distinct language, script or culture of its own shall have the right to conserve the same" - Article 29 of the Constitution

"It shall be the duty of every citizen of India to value and preserve the rich heritage of our composite culture" - Article 51 A(F) of the Constitution

The Ancient Monuments and Archaeological Sites and Remains Act of 1958 came into force with effect from 29th August 1958. According to the Act, ancient and historical monuments, sculpture carvings and other like objects, archaeological sites and remains are protected and preserved. Archaeological excavations are regulated and are of National importance.

The Delivery of Books (Public Libraries) Act of 1952 provides for delivery of books to the National library and Public Libraries. This was amended on

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<sup>49</sup> Rao, G. B. Krishna. "LEGISLATION ON CONSERVATION OF ANCIENT MONUMENTS AND ARCHAEOLOGICAL SITES AND RUINS : A CRITICAL APPRAISAL." *Journal of the Indian Law Institute*, vol. 22, no. 1, 1980, pp. 108–133. *JSTOR*, [www.jstor.org/stable/43950673](http://www.jstor.org/stable/43950673). (Accessed 21 Aug. 2020.)

29th December 1965 and named as the Delivery of Books & Newspaper (Public Libraries) Amendment Act, 1956.

The Antiquities and Art Treasures Act of 1972 came into force with effect from 9th September 1972. According to the Act export trade in antiquities and art treasures is regulated and smuggling and fraudulent dealings in antiquities and ancient monuments is prevented.

Public Records Act of 1993 came into force with effect from 2nd March 1995. According to the Act the Central Government in the Department of Culture has the power to permanently preserve public records which are of enduring value<sup>50</sup>

With regard to the legislative competence to enact law for the protection of monuments and sites, the following are the relevant entries in the three lists contained in the seventh schedule to the Constitution: -

Entry 67 of List I runs : Ancient and historical monuments and records and archaeological sites and remains, declared by or under law made by Parliament to be of national importance.

Entry 12 of List II is as follows : Libraries, museums and other similar institutions controlled or financed by the State, ancient and historical monuments and records other than those declared by or under law made by Parliament to be of national importance.

Entry 40 of List III (concurrent list) is as follows : Archaeological sites and remains other than those declared by or under law made by Parliament to be of national import

In *Joseph Pothen v. The State of Kerala*,<sup>51</sup> Supreme Court differentiated between the meaning of the expressions "ancient monument" and "archaeological site or remains" as : "The

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<sup>50</sup> <https://www.indiaculture.nic.in/legal-mandate> (last visited Nov 10, 2020).

<sup>51</sup> A.I.R. 1965 S.C. 1514

dictionary meaning of the two expressions also brings out the distinction between the two concepts. "Monument" is derived from 'monere' which means to remind, to warn. "Monument" means among others, "a structure surviving from a former period", whereas "archaeology" is the scientific study of the life and culture of ancient peoples. Archaeological site or remains, therefore, is a site or remains which could be explored in order to study the life and culture of the ancient peoples. The two expressions, therefore, have different meanings. Though the demarcating line may be thin in a rare case, the distinction is clear.”

The archaeological researches in India since independence have brought forth a rich data of our cultural heritage. The extensive explorations and assiduous excavations undertaken throughout the country have succeeded in unearthing a plethora of new evidences. In the same way, regional studies in archaeology have also contributed in discovering India's past in no lesser terms. However, the region of the Garhwal-Himalaya has comparatively been less studied. Relatively speaking, not much work of an independent geographical unit has been done on the archaeology of this region. In 1882 E.T. Atkinson had given us a compendium of historical account of this region in his famous Himalayan Gazetteer.<sup>52</sup> His work was followed by Powell Price, Prayag Dayal, Gairola, Goetz, Sircar, Kala and Chhabra, through their valuable articles on history, epigraphy, numismatics etc. Then there were other scholars like Rahul Sankrityayan, H. K. Raturi, S.P. Dabral, Ram Rahul, who also produced valuable historical works of the region.<sup>53</sup> But notable work encompassing almost all aspects was brought out by K.P. Nautiyal in 1969 in an integrated form of the study of Kumaon and Garhwal-Himalaya.<sup>54</sup>

Uttarakhand known as Devbhoomi or 'Abode of Gods' is bestowed with pristine natural scenic landscapes, salubrious climate, magnificently diverse landscapes, high biodiversity Uttarakhand-the-Land of God” or “Dev Bhoomi”, is one of the most beautiful and enchanting states of northern India. Uttarakhand became the 27th

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<sup>52</sup> Project : Environmental Studies for Vishnugad Pipalkoti Hydro-Electric Project Page: 164 Document : 2008026/EC/Final Report Date: Nov 2009 Chapter-3 : Baseline Environment, Impacts & Mitigation Measures  
Revision: R4

<sup>53</sup> ibid

<sup>54</sup> ibid

state of the Republic of India on November 9, 2000, which was carved out of Uttar Pradesh.

The list of historic and protected monuments in Uttarakhand is not small but only local dwellers know about them. These remarkable monuments of Uttarakhand are protected by the Archaeological Survey of India (ASI) because of their historic importance. They not only narrate the historical facts of the medieval era in which they were built but also depict the beauty of the ancient Pahari architecture.<sup>55</sup>

In India, the potential and the scope of channeling Foreign Direct Investment in development and conservation of heritage sites, especially those that are in an advanced state of decay, is higher than in most other countries. In a touristically attractive place, such as Uttarakhand, archaeological field schools, directed at employing both domestic and foreign skill in fields like restoration, conservation, renovating existing sites using experimental archaeology and vernacular methods of architecture as well as conducting scientific site surveys and excavations can be done very easily, provided such initiatives are taken with the joint aid of Ministry of Tourism and the local people. This will not only aid in heritage preservation and management but will also boost the economy of the state by generating more employment in the existing tourism industry of the state and thereby increasing the GDP earned from tourism as well as raising the standard of living of the people in these areas.

An important contribution of the foreign involvement would be the facilitation in proper mapping and documentation of sites, so that, even if rapid urbanisation or natural disasters lead to destruction of the site in subsequent years, a fairly decent archaeological record will still be available for future research and analysis.<sup>56</sup> This will be particularly useful for most of the epigraphical and petroglyphic information that is being rapidly lost in the state due to infrastructural development schemes such as road

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<sup>55</sup> <https://www.euttaranchal.com/uttarakhand/protected-monuments-uttarakhand-asi.php> (last visited Nov 11, 2020).

<sup>56</sup> Gautam, S. and Chandel, V., "Rescue Archaeology with respect to Ancient Buddhist Stupas in India," *Arnava* 6(2)(2017). p. 120-128

building and expressway constructions, which are somewhat necessary in the present times.

### **Importance of Archeological Evidence in Legal Proceedings**

There have been some cases in which the archeological investigations have been of crucial importance. For example, the Ayodhya Ram Janm Bhoomi case was involving so very old details of the site that archeological facts became relevant. This case involved court-ordered excavations at Ayodhya to understand the process by which archaeological evidence as expert opinion was reconfigured into judicial evidence in a civil lawsuit. Being an exceptional site of enquiry where two institutions of the Indian state — the High Court of Allahabad and the Archaeological Survey of India — come together, the Ayodhya case allows us to complicate the uses and abuses of archaeology<sup>57</sup>. Many authors have expressed divergent opinion about the trustworthiness of archeological evidences available in this case; but the matter having been emotional, religious and also political; as visible in the judgment in Mohd. Ismail Faruqui and others Vs. Union of India<sup>58</sup>, it was bound to happen. In the final verdict, the apex court came up with a constructive and unusual solution; but that does not diminish the role of archeological evidences. The archeological evidence may also find relevance as opinion of expert under section 45 of the Indian Evidence Act, 1872. In view this, the value of archeological evidence may vary from case to case. However, reliance of technological findings has increased in the recent years. Nonetheless, archeological evidence is would always be valuable in corroborating or contradicting an otherwise relevant fact or a fact-in-issue. However, interpretations of the archeological findings, by scholars may have evidentiary value similar to that of books and commentaries.

Over and above, the cultural preservation movement around the globe has gained importance. Collective identity and culture would definitely include the cultural reflections, which lie in literature, art, music and architectural creativity. Emergence and

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<sup>57</sup> Rachel A. Varghese (2018) 'Order'-ing Excavations: Constitution of Archaeology as Legal Evidence in the Ayodhya Case, *Public Archaeology*, 17:2-3, 89-109, DOI: [10.1080/14655187.2019.1586059](https://doi.org/10.1080/14655187.2019.1586059)

<sup>58</sup> Mohd. Ismail Faruqui and Others Vs. Union of India AIR 1995 SC 605 A

growth of tourism has also seen traditional pilgrimage as an attractive part of it. This adds further, an economic value to the protection and preservation of archeological sites, making it an important aspect of culture, economic progress and policy-making. This will necessarily demand resources and efforts; but is more likely to pay dividends not only in cultural-economic ways but also connecting our coming generations with the glorious past and instilling the values which make a value oriented, glorious society.