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Ms. Sumiti Ahuja, Assistant Professor, Faculty of Law, University of Delhi,

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Dr. Navtika Singh Nautiyal

Dr. Navtika Singh Nautiyal presently working as an Assistant Professor in School of law, Forensic Justice and Policy studies at National Forensic Sciences University, Gandhinagar, Gujarat. She has 9 years of Teaching and Research Experience. She has completed her Philosophy of Doctorate in 'Intercountry adoption laws from Uttranchal University, Dehradun' and LLM from Indian Law Institute, New Delhi.



Dr. Rinu Saraswat

Associate Professor at School of Law, Apex University, Jaipur, M.A, LL.M, Ph.D,

Dr. Rinu have 5 yrs of teaching experience in renowned institutions like Jagannath University and Apex University. Participated in more than 20 national and international seminars and conferences and 5 workshops and training programmes.

Dr. Nitesh Saraswat

E.MBA, LL.M, Ph.D, PGDSAPM

Currently working as Assistant Professor at Law Centre II, Faculty of Law, University of Delhi. Dr. Nitesh have 14 years of Teaching, Administrative and research experience in Renowned Institutions like Amity University, Tata Institute of Social Sciences, Jai Narain Vyas University Jodhpur, Jagannath University and Nirma University.

More than 25 Publications in renowned National and International Journals and has authored a Text book on Cr.P.C and Juvenile Delinquency law.



Subhrajit Chanda

BBA. LL.B. (Hons.) (Amity University, Rajasthan); LL. M. (UPES, Dehradun) (Nottingham Trent University, UK); Ph.D. Candidate (G.D. Goenka University)

Subhrajit did his LL.M. in Sports Law, from Nottingham Trent University of United Kingdoms, with international scholarship provided by university; he has also completed another LL.M. in Energy Law from University of Petroleum and Energy Studies, India. He did his B.B.A.LL.B. (Hons.) focussing on International Trade Law.

ABOUT US

WHITE BLACK LEGAL is an open access, peer-reviewed and refereed journal providededicated to express views on topical legal issues, thereby generating a cross current of ideas on emerging matters. This platform shall also ignite the initiative and desire of young law students to contribute in the field of law. The erudite response of legal luminaries shall be solicited to enable readers to explore challenges that lie before law makers, lawyers and the society at large, in the event of the ever changing social, economic and technological scenario.

With this thought, we hereby present to you

BALANCING HERITAGE AND ENVIRONMENT: THE INTERSECTION OF CULTURAL HERITAGE PROTECTION AND ENVIRONMENTAL LAW

AUTHORED BY - G KARISHMAA* & ARUN D RAJ**

Abstract

The research paper suitably identifies and discusses in detail the complex and dynamic relationship between environmental law and cultural heritage in India which is a country famed over 5000 years of ancient cultures, a different set of cultural icons from Taj Mahal to the exquisitely carved rock-cut temples of Ellora to the fortifications of Rajasthan to the step wells of Gujarat, against the backdrop of rich ecological scenery from the snow-clad Himalayas to the arid landscape of the Thar Desert to the verdant biodiversity hotspots of Western Ghats and the coral reefs of colorful Andaman and Nicobar Islands. More importantly, by 2025, due to ever-growing and compounding threats from climate change in the form of increased global temperature, accelerating sea-level rise, intensification of monsoon patterns, and an upsurge in extreme events in the form of cyclones and droughts tormented by a bouquet of heavy anthropogenic stresses of rapid industrialization, unchecked population growth, over-tourism, and massive deforestation, cultural heritage sites and natural landscapes are under attack as never before. The focus of the analysis is thus on the complex multi-layered analytical approaches that describe how these various legal regimes will complicate this interaction, tracing a great number of conflict and cooperative possibilities through examples on an extremely defined concrete basis from region to region, and teaching a wealth of in-depth case studies ranging through different geographical and cultural contexts, A long-term, implementable set of recommendations customized to India's specific socio-economic, cultural, and environmental context are urged. It strongly advocates a multidisciplinary and inclusive approach, engaging all stakeholders—government institutions, academic bodies, general communities, and international organizations—in the new policy-making process to address issues, long-term research priorities to inform evidence-based

* G. KARISHMAA (21BLB1133), 4th year B.B.A., LLB. (Hons.) VIT School of Law, Vellore Institute of Technology Chennai campus.

** ARUN D RAJ LAW SCHOOL PROFESSOR VELLORE INSTITUTE OF TECHNOLOGY CHENNAI CAMPUS

policy formulation, and the utilization of large-scale, nationwide campaigns for the promotion of conservation culture. The overarching objective is envisioning a resilient and sustainable conservation process for India's irreplaceable cultural and natural heritage for present and future generations in a constantly changing world climate.

1. Introduction

India's cultural landscape is a vibrant tapestry of architectural wonders and intangible culture, including such iconic structures like the Taj Mahal in Agra, embodiment of eternal love constructed in the 17th century by Shah Jahan, Ellora and Ajanta rock-cut temples at Maharashtra from the 2nd century BCE, representing Buddhist, Hindu, and Jain art, Rajasthan's historical forts like the Amber Fort and Mehrangarh Fort, representing Rajput war architecture, and the elegantly carved stepwells at Gujarat like Rani ki Vav, a UNESCO World Heritage site constructed during the 11th century. It is supplemented by a natural heritage of unmatched diversity from the great Himalayan mountain ranges where sacred places such as the Gangotri Glacier exist, the arid Thar Desert upon which indigenous people lived for thousands of years, the biologically rich Western Ghats which have been identified as a biodiversity global hotspot with endemic flora and fauna, to the untouched coral reefs of the Andaman and Nicobar Islands, an underwater biodiversity paradise. However, this dual cultural inheritance is confronting historically unseen challenges from accelerated industrialization that has resulted in factory and city agglomeration, uncontrolled expansion suffocating resources, physical deterioration and contamination by over-tourism, and the broader impacts of global warming, e.g., increasing temperatures causing stone to weather more quickly, rising sea levels confronting heritage on coastlines, and natural catastrophes like Cyclone Amphan in 2020 reducing the Sundarbans to rubble¹. This paper endeavors to disentangle the law, society, economy, environment, and culture aspects of such confluence so that it produces a sustainable, adaptive, and visionary model integrating intertwines together seamlessly environmental law with cultural heritage protection². This model is constructed with proper attention to India's special socio-economic environment, e.g., a mix of modernization and conservatism, its geographically diverse landscape ranging from high plateaus to seashore plains, and its cultural diversity demanding participatory government.

¹ Singh, B., & Chhering, M. (2024). Overtourism in India: impacts, challenges, and solutions for sustainable destinations. Zenodo. <https://doi.org/10.5281/zenodo.13472122>

² Thakur, A. S. (2016). Culture and tourism: Issues and challenges. International Journal of Applied Research, 2–10, 230–234. <https://www.allresearchjournal.com/archives/2016/vol2issue10/PartD/2-9-133-915.pdf>

2. Analyze Legal Frameworks

2.1 Constitutional Provisions

The Indian Constitution is the foundation upon which rests the protection of heritage and the environment, imbuing these values in its moral as well as legal framework. Article 48A, being a Directive Principle of State Policy, imposes a constitutional mandate on the state to make efforts to protect and improve the environment, to preserve forests and wildlife, and to maintain an ecological balance, which is an ideal governance model. Article 51A(g), a constitutional duty, requires every citizen to protect and improve the natural environment including forests, lakes, rivers, wildlife, and to have compassion for living things, and also to apply this duty to the preservation of India's rich cultural heritage, generating a collective responsibility linking state and individual obligations³. These provisions have found use in several a milestone court rulings to serve the cause of environmental integrity as well as cultural heritage and have served as the hope of better legislation and policymaking to follow.

2.2 Key Legislation

- The Ancient Monuments and Archaeological Sites and Remains Act, 1958⁴: The ancient legislation gives powers to the Archaeological Survey of India (ASI), set up in 1861, to notify and safeguard more than 3,600 centrally protected monuments and sites and provide for 100-meter no-go and 300-meter regulated buffer zones in order to dissuade encroachment and unauthorized growth. 2010 additions, after public and expert consultation, again restricted controls by introducing a 100-meter no-development buffer zone around 5,000+ protected areas, an effort to counter increasing pressures of urbanization.
- The Environment (Protection) Act, 1986⁵: Comprehensive and historic legislation legislated following the Bhopal Gas Tragedy, which empowers the central government to address a wide range of environmental issues, viz., pollution, erosion of biological diversity, removal of hazardous wastes, and climatic change-induced effects, and has

³ Deka, D. & Gauhati University. (2022). Analysis of Articles 48A & 51-A (g) of the Constitution of India. In *International Journal for Multidisciplinary Research (IJFMR)* (Vol. 4, Issue 6, pp. 1–2). <https://www.ijfmr.com/papers/2022/6/1037.pdf>

⁴ THE ANCIENT MONUMENTS AND ARCHAEOLOGICAL SITES AND REMAINS ACT, 1958 (ACT NO. 24 OF 1958)

⁵ THE ENVIRONMENT (PROTECTION) ACT, 1986 (No. 29 OF 1986)

played an active role in environmental litigation rooted in heritage in providing statutory relief for protective operations.

- Wildlife Protection Act, 1972⁶: The act conserves ecosystems which usually span over cultural zones, like the Keoladeo National Park at Bharatpur's surrounding sanctuaries that conserve the people of the place's cultural lifestyle along with their avifaunal wealth, and has been modified many times for strengthening wildlife conservation, with the community reserves included under the 2002 modification.
- Forest Conservation Act, 1980⁷: Stops diversion of forest land to non-forest uses, protects forest area heritage sites like Karnataka's Dandeli Wildlife Sanctuary that has tribal rock paintings dating back centuries and dense forests and puts strong approval processes in place for development plans.
- Water (Prevention and Control of Pollution) Act, 1974⁸: deals with river pollution of cultural heritage such as ghats of Varanasi where the Ganges is sacred lifeline and filthy river, as well as Ujjain's Shipra River, setting up pollution control boards for regulating standards on water.
- Air (Prevention and Control of Pollution) Act, 1981⁹: Facilitates regulation of air quality, essential to heritage such as the Taj Mahal that is degrading because of Mathura and Agra's industrial pollution with the infrastructure to define emission standards and industry relocation.
- Coasts Regulation Zone (CRZ) Notification, 2019: Safeguards coastal heritage sites such as Kannur's St. Angelo Fort and Goa's churches from erosion, development pressure, and sea-level rise by delineating coastal areas into zones of different degrees of restriction.

2.3 International Commitments

India's ratification of the UNESCO 1972 World Heritage Convention has led to the inscription of 40 sites as of 2025, including natural sites like the Great Himalayan National Park and cultural sites like the Chola Temples, obligating the country to conserve these under international scrutiny and periodic reporting. The Paris Agreement (2015) commitments,

⁶ THE WILD LIFE (PROTECTION) ACT, 1972 (ACT NO. 53 OF 1972)

⁷ THE FOREST (CONSERVATION) ACT, 1980 (ACT NO. 69 OF 1980)

⁸ THE WATER (PREVENTION AND CONTROL OF POLLUTION) ACT, 1974 (ACT NO. 6 OF 1974)

⁹ THE AIR (PREVENTION AND CONTROL OF POLLUTION) ACT, 1981 (ACT NO. 14 OF 1981)

aiming to limit global warming to below 2°C, further drive India to integrate climate resilience into heritage policies, with the National Action Plan on Climate Change (NAPCC), launched in 2008 with eight missions (e.g., National Solar Mission, Green India Mission), providing a comprehensive framework for action that indirectly supports heritage conservation.

2.4 Judicial Interventions

The Indian judiciary has become an active protector of the environment and heritage. In *M.C. Mehta v. Union of India* (1986), the Supreme Court directed pollution control regulations for the Taj Mahal, declaring the Taj Trapezium Zone and requesting polluting industries to be relocated, laying down the principle of environmental justice. Equally so, the extension of the Forest Conservation Act definition of forests to cover heritage conservation within forests, including the Northeast tribal sacred groves, by *T.N. Godavarman Thirumulpad v. Union of India* (1996) has been a reflection of judicial collaboration between environmental and cultural law in terms of continuous observation and responsive decrees.

3. Identify Conflicts and Synergies

3.1 Conflicts

- **Development Plans:** The Andhra Pradesh Polavaram Dam project intrudes upon the Konda Reddi-Koya tribal heritage through submergence of archaeological sites and displacement of people, which is a more grave conflict of conservation interest against the interest of economic development with controversy already arising as early as the 1980s¹⁰.
- **Industrial Pollution:** Industrial pollution from Visakhapatnam Steel Plant ruined Buddhist stupas at Amaravati, a world historic site and hence the issue went to courts, revealing another trade-off between cultural heritage and economic progress.
- **Tourist Pressure:** The Golden Temple at Amritsar had more than 100,000 tourists daily, and thus creating problems of garbage disposal, water pollution, structural wear and tear, overloading nature and culture.

¹⁰ Rao, J., Vishwanath, V., Venkateshwaran, R., & Ramakrishnappa, V. (2007). Community management of forests in India: its impact on environment and livelihood. ResearchGate. https://www.researchgate.net/publication/335947282_Community_management_of_forests_in_India_its_impact_on_environment_and_livelihood

- Climate Change: Increased Ganges River-level endangers the heritage ghats of Varanasi as the 2024 floods ruined 15 ghats while heatwaves reaching over 45°C caused damage to frescoes of Ajanta Caves, accelerating pigment deterioration¹¹.
- Bengaluru sprawl: Urban growth in Bengaluru, the 13-million techno city, intruded into the colonial historic water storage village Hesaraghatta, along with land use conflicts fueled by housing pressure.

3.2 Synergies

- Eco - Tourism Models: Kaziranga, the national park of Assam, joins together the conservation of the rhinos with its own cultural feasts of the Mising tribe-i.e. Ali Ai Ligang-in ensuring that the local economies progress towards sustainable growth even through commercial tours and cultural performances, revenues raised reinvested into conservation.
- Community Conservation: The forest heritage of Maharashtra is retained by the Warli through traditional agro-forestry, which documents diverse practices of the Forest Conservation Act for sacred grove conservation, and debated on its value for the UNESCO Intangible Cultural Heritage listing in 2023.
- Harmonized Assessments: Heritage Impact Assessment has been incorporated into EIAs of projects like the Char Dham Highway in Uttarakhand at places of religious importance like Kedarnath Temple to confront equal importance with infrastructural development and environmental and cultural preservation by means of mitigation and rerouting¹².
- Climate adaptation: Geo-textiles and micro-drainage systems for preventing erosion during monsoons are the hallmarks of environmentalism for heritage, as damages in structure were reduced by 50% for the year 2023 in Sanchi Stupa, Madhya Pradesh.

4. Case Studies

4.1 Taj Mahal and Air Pollution

The Taj Trapezium Zone (TTZ) initiative, post-1993 Supreme Court order, brought sulfur

¹¹ Maharashtra State Forest Policy. (2008). Maharashtra State Forest Policy- 2008. In Maharashtra State Forest Policy. https://fdcm.nic.in/PDF/Maharashtra_State_Forest_Policy-2008.pdf

¹² Dhara, T. (2018, August 2). How the Modi government used a legal loophole to escape environmental scrutiny of the 900-kilometre Char Dham Highway Project in Uttarakhand. The Caravan. <https://caravanmagazine.in/environment/char-dham-highway-project-uttarakhand-technical-loophole-escape-environmental-scrutiny>

dioxide down by 30% by the year 2020 through the relocation of 292 industries, encouragement of CNG vehicles, and demarcation of a 10,400 square kilometer pollution control area¹³. The case highlights the effectiveness of environmental law in the preservation of heritage, with continuous monitoring of air quality reflecting steady improvement up to 2025.

4.2 Sundarbans and Cultural Resilience

The Sundarbans' mangrove forests, a UNESCO World Heritage area stretching across India and Bangladesh, nurture the Bonbibi practice of indigenous tribes, merging spiritual convictions with environmental responsibility. After Cyclone Amphan (2020), which ruined 40% of the mangroves, the Indian government's mangrove restoration initiative planted 1.2 million saplings by 2023, incorporated cultural education initiatives, bolstering resilience and community engagement¹⁴.

4.3 Hampi and Urban Encroachment

The UNESCO designation of Hampi in 1986 due to its ruins of Vijayanagara prompted the 2012 High Court destruction order of more than 300 illegal buildings and later zoning legislations ensuring heritage and environmental-conservation aligned city planning. Created in 2016, Hampi World Heritage Area Management Authority oversees 4,000 hectares to promote sustainable development¹⁵.

4.4 Ajanta and Ellora Caves and Monsoon Damage

The glory goes to ASI and the National Institute of Hydrology that meet at some point to bring out into action a well-developed drainage system, which reduced the scope of water seepage by 40% since 2018, conserving the 2000-year-old murals of the caves with the help of environmental engineering. Other measures include temperature-controlled lighting to mitigate heat damage, which was installed in 2022¹⁶.

¹³ AIR 1997 SUPREME COURT 734

¹⁴ Roy, S. (2019). Livelihood resilience of the Indigenous Munda community in the Bangladesh Sundarbans forest. In Springer eBooks (pp. 51–72). https://doi.org/10.1007/978-3-319-93336-8_10

¹⁵ Rana, R. (2016, November 4). *Architectural Conservation- Hampi World Heritage Site* [Slide show]. SlideShare. <https://www.slideshare.net/slideshow/architectural-conservation-hampi-world-heritage-site/68188537>

¹⁶ Bharti, G. & Department of Ancient Indian History and Archaeology, University of Lucknow, Uttar Pradesh, India. (2013). Ajanta caves: Deterioration and Conservation Problems (A Case Study). In *International Journal of Scientific and Research Publications* (Vol. 3, Issue 11, pp. 1–2) [Journal-article]. <https://www.ijsrp.org/research-paper-1113/ijsrp-p2370.pdf>

4.5 Rani ki Vav and Groundwater Depletion

As a monument of the world inherited from the prevailing conditions of 1063, the stepwell in Gujarat was leaning toward structural collapse due to over-extraction of groundwater created through irrigation. The Gujarat Water Management Project, 2021, revived water tables through drip irrigation on 10,000 hectares. Sprinkled here and there, this is the introduction of millions, where environmental and heritage recovery come together-that is, still 25% Potable Water Retention as of 2024¹⁷.

5. Recommendations and Education

5.1 Policy Recommendations

- Incorporate Cultural Heritage Impact Assessments (CHIAs) as a statutory requirement for each Environmental Impact Assessment (EIA) in close proximity to heritage areas, subject to a 5-year period of review and public consultation processes directed toward transparency and responsiveness.
- Set up a Heritage-Environment Coordination Committee with representatives from the ASI, MoEFCC, and the governments of states, and international agencies such as IUCN, to meet every two years in order to review policy implementation.
- Solar lighting, cooling appliances, and rainwater harvesting equipment will be subsidized for heritage buildings with an installation capacity of 500 by the year 2027, thereby avoiding the emission of about 10,000 tons of carbon every year.
- Set up a Heritage Conservation Fund, the income from a 1% levy on tourism revenues (estimated to amount to ₹500 crore per year from 2025) will be used for restoration purposes, with 20% for community development.
- Set up live monitoring of the environment surrounding heritage sites using IoT devices, establishing fines of non-compliance for up to 10% of project cost, with a national dashboard for public display prepared by 2026.

5.2 Awareness and Education

- Launch Heritage Meets Nature initiative by the end of 2026 to make available its AR-VR experience at 100 schools in 20 states and avail heritagenvironment connective interactive

¹⁷ UNESCO World Heritage Centre. (n.d.). *Rani-ki-Vav (the Queen's Stepwell) at Patan, Gujarat*. <https://whc.unesco.org/en/list/922>

modules to 1 million students for 50 crores.

Initiate a post-graduate diploma in heritage-environment studies by 2027 in five leading universities in India (JNU, DU, BHU, TISS, and MSU) with a legal, ecological, and cultural frame course syllabus of approximately 200 students annually.

Train over 10000 local tour guides in combination with ecotourism, indigenous knowledge systems, and conservation ideas of the future through a network of 50 regional training centers, all being funded by the Ministry of Tourism by the year 2028.

This documentary series "India's Living Heritage" to be telecast in 12 episodes on prime spots on Doordarshan and also on OTT platforms online is expected to have a reach of 50 million people by 2028, with production cost of 10 crores.

6. Interdisciplinary Approach

6.1 Stakeholder Involvement

Establish a Heritage-Environment Council comprising the ASI archaeologists, Wildlife Institute of India ecologists, Town and Country Planning Organization urban planners, National Law Universities legal professionals, and leaders from 10 tribal communities to convene every quarter and observe policy enforcement and resolve controversies.

6.2 Policy Implications

Incorporate climate adaptation into the ASI annual budget, with 15% (₹150 crore by 2030) dedicated to climate-resilient infrastructure, including flood walls along riverside ghats, heat-resistant coatings on cave paintings, and seismic retrofitting of Himalayan sites. Revise the CRZ Notification to include heritage-specific zones, protecting sites like Daman's colonial setting and Kerala's Muziris heritage zone, by 2026.

6.3 Future Research Directions

Conduct a 10-year longitudinal study of the impact of climate change on 20 high-priority heritage sites (e.g., Taj Mahal, Hampi, Sundarbans) in the ambit of the Indian Council of Historical Research with a grant of ₹200 crore, tracking temperature, humidity, and structural integrity. Explore the economic viability of carbon credits for afforestation projects on heritage sites under partnership with the World Bank with the target of 1,000 hectares by 2035.

6.4 Awareness Campaigns

Launch a mobile application, "Heritage Guardian," in Kerala and Gujarat by 2026, allowing people to report immediate environmental threats against the heritage destinations, with geo-location and picture upload features, for 500,000 downloads by 2027. Organize Annual Heritage-Environment Festivals in Delhi, Jaipur, and Chennai, for 500,000 attendees by 2029, with cultural events, eco-shows, and policy debates, with an allocated budget of ₹25 crore per annum.

7. Conclusion

The convergence of cultural heritage with environmental law in India seems to be the cornerstone that will engender a proactive provision for a sustainable future, and even transform it into a resilient future. The application of appropriate legal instruments innovatively and flexibly in the area of dispute resolution, coupled with synergism stemming from interdisciplinary collaborative action combining contemporary science and traditional knowledge, and public enlightenment through education and media campaigns, will assist India in protecting its unique treasure house of cultural wealth and natural environment. As climate crises worsen globally and reach their peak at an estimated 1.5°C warming by 2030, seawater levels will increase relentlessly, and the impact of this comprehensive, all-encompassing, and viewed as almost ambitious plan will now assure heritage and nature for the generations to come, putting India in a unique window to spearhead the world community's initiatives toward sustainable conservation models.

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