

# Select Committee Report Summary

## The Ancient Monuments and Archaeological Sites and Remains (Amendment) Bill, 2018

- The Select Committee to examine the Ancient Monuments and Archaeological Sites and Remains (Amendment) Bill, 2018 (Chairperson: Dr. Vinay P. Sahasrabudhe) submitted its report on February 7, 2019. The Bill amends the Ancient Monuments and Archaeological Sites and Remains Act, 1958. The Bill was introduced in Lok Sabha on July 18, 2017 and was passed by the House on January 2, 2018. The Bill was referred to the Rajya Sabha Select Committee on July 26, 2018. The Committee recommended that the Bill be passed by Parliament. Key observations and recommendations of the Committee include:
  - **Prohibited area:** A protected monument is defined as an ancient monument which is declared to be of national importance under the Act. Construction is not permitted in the prohibited area (area of 100 metre) around a protected monument, except under certain conditions. The Bill seeks to permit construction of public works in prohibited areas for public purposes. The Ministry of Culture stated to the Committee that it has found no specific reasoning behind the 100 metre limit for prohibited areas. The Committee noted that in case of certain monuments, the 100 metre prohibition may not be required, and in certain other cases, it may not be sufficient to protect the monument. It recommended that a systematic study should be conducted by experts to determine a rational area limit for prohibiting construction around a monument to ensure its preservation. The experts will include archaeologists, historians, geologists, and other experts in the subject. Further, instead of prescribing a blanket limit, construction around a protected monument should be allowed on a case-by-case basis.
  - **Heritage bye-laws:** The Committee observed that other countries do not impose such blanket bans on all construction activity around a protected monument. Typically, the limit of area to be prohibited is decided as per the nature of the monument. Such a process could be enabled in India once the National Monuments Authority (NMA) has developed the heritage bye-laws for all the monuments. However, the NMA hasn't framed these bye-laws since its constitution in 2010. The Committee recommended that the NMA should frame the heritage bye-laws at the earliest.
  - **Public works:** The Bill defines 'public works' as construction of any infrastructure that is financed and carried out by the central government for public purposes. Further, such infrastructure must be necessary for public safety and security, and must be based on a specific instance of danger to public safety. The Committee noted that this definition does not cover public utility projects that are not critical for public safety and security at large. It also questioned why the definition of public works does not include public works that are essential for providing convenience to the public, as long as they do not affect the monument.
  - **Public consultation:** Under the Bill, if there is any question related to whether a construction project qualifies as public work, it will be referred to the NMA. The Committee noted that the NMA is not required to consult affected persons or experts when recommending a project as public work. It suggested that the NMA should decide if a project qualifies as public work only after consulting experts. Further, public hearings should be held when a project is being considered for construction in the prohibited area.
  - **Monument preservation:** The Committee noted that the law to preserve monuments must maintain a balance between the preservation of ancient monuments and archaeological sites, and development of infrastructure that is in harmony with the needs of the people living near these monuments as well as tourists. There are different types of structures among ancient monuments, and applying the same strategy for their preservation is not the best strategy.
  - The Committee also noted that the Act bars all construction in the vicinity of protected monuments. This acts as an impediment to infrastructure projects where studies have proven that construction of the project will not impact the monument. It also suggested that monuments should be classified based on various parameters such as historical value, and visitor footfall. The Ministry of Culture may look into these facts based on the observations of the Committee and then come out with a comprehensive legislation.

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