



सत्यमेव जयते

**PARLIAMENT OF INDIA
RAJYA SABHA**

**REPORT OF THE SELECT COMMITTEE ON
THE ANCIENT MONUMENTS AND ARCHAEOLOGICAL SITES
AND REMAINS (AMENDMENT) BILL, 2018**

(Presented to the Rajya Sabha on 7th February, 2019)



**Rajya Sabha Secretariat, New Delhi
February, 2019/ Magha, 1940 (Saka)**

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COMPOSITION OF THE COMMITTEE

1. Dr. Vinay P. Sahasrabuddhe - Chairman

MEMBERS

2. Shrimati Ambika Soni
3. Dr. Banda Prakash
4. Shri Binoy Viswam
5. Shri Biswajit Daimary
6. Shri Hishey Lachungpa
7. Shri Jairam Ramesh
8. Shrimati Jaya Bachchan
9. Shrimati Kahkashan Perween
10. Shri Kanakamedala Ravindra Kumar
11. Shri K. K. Ragesh
12. Shri Madhusudan Mistry
13. Shri Manish Gupta
14. Shri Narain Dass Gupta
15. Dr. Narendra Jadhav
16. Shri Naresh Gujral
17. Shri N. Gokulakrishnan
18. Shri Parimal Nathwani
19. Shri Prasanna Acharya
20. Shri Prem Chand Gupta
21. Shri Ram Kumar Kashyap
22. Shri Sambhaji Chhatrapati
23. Shri Sanjay Raut
24. Ms. Saroj Pandey
25. Shri Satish Chandra Misra
26. Dr. Subramanian Swamy
27. Shri Swapan Dasgupta
28. Shri Tiruchi Siva

SECRETARIAT

Smt. Sunita Sekaran, Joint Secretary
Shri Swarabji B., Director
Shri P. Naryanan, Director
Shri Dinesh Singh, Additional Director
Ms. Catherine John L., Under Secretary
Shri K.V. Ramana Rao, Committee Officer
Shri Gaurav Singh Gahlain, Assistant Committee Officer
Ms. Vunglunmoi Hangzo, Assistant Research Officer

Representatives of the Ministry of Culture

1. Shri Raghvendra Singh, Secretary
2. Shri Pranav Khullar, Joint Secretary
3. Shri Harish Kumar, Director

Representatives of the Archaeological Survey of India

1. Smt. Usha Sharma, Director General
2. Shri Rakesh Singh Lal, Additional Director General
3. Smt. Urmila Sant, Additional Director General
4. Shri Janhwij Sharma, Joint Director General
5. Shri T.J. Alone, Director (Monuments)
6. Shri V.N. Prabhakar, Superintending Archaeologist

Representatives of the National Monuments Authority

1. Dr. Susmita Pande, Chairperson
2. Shri Navneet Soni, Member Secretary

Representatives of the Ministry of Law and Justice (Department of Legal Affairs)

1. Shri Suresh Chandra, Secretary
2. Dr. Alok Srivastava, Secretary
3. Shri S.R. Mishra, Additional Secretary
4. Dr. Anju Rathi Rana, Joint Secretary and Legal Advisor

Representatives of the Ministry of Law and Justice (Legislative Department)

1. Dr. N.R. Battu, Joint Secretary and Legislative Counsel
2. Shri Diwakar Singh, Additional Legislative Counsel
3. Shri Ramesh Chander Kathia, Director

INTRODUCTION

I, the Chairman of the Select Committee on the Ancient Monuments and Archaeological Sites and Remains (Amendment) Bill, 2018 having been authorized by the Committee to present the Report on its behalf, do hereby present this Report of the Select Committee on the Ancient Monuments and Archaeological Sites and Remains (Amendment) Bill, 2018.

2. The Ancient Monuments and Archaeological Sites and Remains (Amendment) Bill, 2018 was introduced in the Lok Sabha on the 18th July, 2017 to amend the Ancient Monuments and Archaeological Sites and Remains Act, 1958. It was passed in the Lok Sabha on the 2nd January, 2018. The Bill, as passed by the Lok Sabha, was referred* to the Select Committee comprising 28 Members of the Rajya Sabha on a motion adopted by the House on the 26th July, 2018 for examination of the Bill and report thereon to the Rajya Sabha before the 8th of August, 2018. Later on, on a motion adopted by the House on 7th August, 2018 the time for presentation of Report was extended upto the last day of the second week of the Winter Session, 2018. On a motion adopted by the House on 19th December, 2018 the time for presentation of Report was further extended upto the last day of the first week of the Next Session (248), 2019. On a motion adopted by the House on 1st February, 2019 the time for presentation of Report was further extended till the 8th February, 2019.

3. For considering the Bill, the Committee examined and took note of the following documents/papers placed before it:-

(a) The Ancient Monuments and Archaeological Sites and Remains (Amendment) Bill, 2018 as passed by Lok Sabha on the 2nd of January, 2018;

(b) Background note on the Bill furnished by the Ministry of Culture;

(c) Information/papers on the Bill furnished by the Ministry of Culture; Ministry of Road Transport and Highways; Ministry of Housing and Urban Affairs; Ministry of Water Resources, River Development and Ganga Rejuvenation; Delhi Metro Rail Corporation; Maharashtra Metro Rail Corporation Limited; and Ministry of Law and Justice (Department of Legal Affairs and Legislative Department); and

(d) Memoranda submitted by the experts and other witnesses.

*Rajya Sabha Parliamentary Bulletin Part-II No. 57989, dated 27th July, 2018.

4. The Committee held 9 sittings in all.

5. The Committee in its first sitting held on the 1st August, 2018 deliberated upon the course of action and procedure for examination of the Bill. The Members raised various points and concerns on the provisions of the Bill and the Committee decided to discuss the issues with the concerned Ministries. The Secretary, Ministry of Culture made a presentation on the provisions of the Bill and its implications. The Committee decided that apart from seeking opinion of the concerned Ministries, the views of eminent experts and organizations on the Bill should be taken for the consideration of the Committee.

6. In its sitting held on the 6th August, 2018, the Committee discussed the Note/answers to the points raised by the Members in the previous meeting. Thereafter, the Committee heard the views of National Monuments Authority (NMA) and Archaeological Survey of India on the various provisions of the Bill. NMA informed the Committee that the Bill is being introduced for implementation of infrastructure projects of Central Government within the 100 metre limit. It was also informed that no private project has been allowed within the prohibited limit since the Ancient Monuments and Archaeological Sites and Remains Act was amended in 2010.

7. The Committee decided that the Amendment Bill needed wider consultation before coming to any decision and accordingly, decided to hear experts and stakeholders too. Since the time given to the Committee for presentation of report was expiring on 8th August, 2018, it was decided to seek extension of time upto the last day of the second week of the Winter Session, 2018. Accordingly, a Motion was introduced in the House on 7th August, 2018 to seek extension of time of the Committee. The Motion was adopted and the Committee was granted extension of time upto the last day of the second week of the Winter Session, 2018 for presenting the Report to the House.

8. In its sitting held on the 10th September, 2018 the Committee heard the views of experts and Delhi Metro Rail Corporation (DMRC) on the Bill. Dr. Mangu Singh, Managing Director, DMRC made a powerpoint presentation indicating views of DMRC on the various provisions of the Bill. The Committee, thereafter, decided to undertake a one-day study visit to Pune for on-the-spot visit to the infrastructure projects held up due to the provisions of the Ancient Monuments and Archaeological Sites and

Remains Act, 1958 and hold discussion with various authorities including the officials of the State Government of Maharashtra.

9. The Committee, in its sitting held on the 18th September, 2018 heard the views of Ministry of Road Transport and Highways and Ministry of Housing and Urban Affairs on the Bill. Secretary, Ministry of Road Transport and Highways and Secretary, Ministry of Housing and Urban Affairs made a powerpoint presentation on the views of their respective Ministries on the various provisions of the Bill. The Committee, thereafter, decided to undertake a local study visit to Tughlaqabad Fort, New Delhi for assessing the impact of construction near the monument.

10. The Committee undertook a study visit to Pune on 27th September, 2018 for on-the-spot visit to the infrastructure projects held up due to the provisions of the Ancient Monuments and Archaeological Sites and Remains Act, 1958. The Committee visited Aga Khan Palace and Pataleshwar Caves to see the impact of the proposed metro projects. The Committee heard the views of ASI, NMA, Maharashtra Metro Rail Corporation Limited and State Government of Maharashtra on the various provisions of the Bill.

11. The Committee, in its sitting held on the 16th October, 2018 heard the views of Delhi Metro Rail Corporation on the impact of the various provisions of the Bill on its proposed Tughlaqabad-Aerocity metro corridor. Dr. Mangu Singh, Managing Director, DMRC made a powerpoint presentation on the issues being faced by DMRC in implementation of its project because of the provisions of the Ancient Monuments and Archaeological Sites and Remains (Amendment) Bill, 1958 and informed the Committee of the lack of feasible alternatives for carrying out this project.

12. The Committee undertook a study visit to Tughlaqabad Fort, New Delhi on 16th October, 2018 for assessing the impact of construction of the proposed Tughlaqabad-Aerocity metro corridor in the vicinity of the monument.

13. In its sitting held on the 5th December, 2018, the Committee held an internal discussion on the Ancient Monuments and Archaeological Sites and Remains (Bill), 2018 and decided to examine any document available in the custody of Ministry of Culture which brings out the scientific basis for deciding the 100 metres and 200 metres area limit as

prohibited and regulated area respectively in the ASI notification dated 16th June, 1992, which was relied on by the Ministry of Culture for deciding the criteria.

14. The Committee noticed that there is no consensus among various Ministries of the Government of India on various provisions of the Bill and that the Committee needs to collect more information to arrive at specific conclusions on the provisions of the Bill. The Committee, accordingly, decided to seek extension of time upto the last day of the first week of the Next Session (248), 2019. Accordingly, a Motion was introduced in the House on 19th December, 2018 to seek extension of time of the Committee. The Motion was adopted and the Committee was granted extension of time upto the last day of the first week of the Next Session, 2019 for presenting the Report to the House.

15. In its sitting held on the 22nd January, 2019, the Committee held an in-house discussion on the file notings received from the Archaeological Survey of India related to the declaration of 100 metres and 200 metres area adjoining protected monuments as prohibited area and regulated area respectively. The Committee briefly discussed the file notings and reached the conclusion that no explanation for specifying the prohibited and regulated area limits as 100 metres and 200 metres respectively, could be located in the ASI files.

16. The Committee undertook clause-by-clause consideration of the Bill in its sitting on the 30th January, 2019.

17. The Committee, in its meeting held on 4th February, 2019 considered the draft Report on the Ancient Monuments and Archaeological Sites and Remains (Amendment) Bill, 2018. After detailed discussion, the Committee adopted the Report without any changes.

18. Shri Jairam Ramesh, Shrimati Ambika Soni, Shri Madhusudan Mistry, Shri Binoy Viswam and Shri K.K. Ragesh, Members of the Committee, submitted a Note of Dissent, which is appended to the Report as Appendix - I. Shri Tiruchi Siva, Member of the Committee, submitted a Note of Dissent, which is appended to the Report as Appendix - II. Shri Manish Gupta, Member of the Committee, submitted a Note of Dissent, which is appended to the Report as Appendix - III. Shri Binoy Viswam, Member of the Committee, submitted a Note of Dissent, which is appended to the Report as Appendix - IV. Shri K.K. Ragesh, Member of

the Committee, submitted a Note of Dissent, which is appended to the Report as Appendix - V.

19. The Note submitted by Shri K.K. Ragesh, Member of the Committee is appended to the Report as Appendix – VI. The Note submitted by Dr. Subramanian Swamy, Member of the Committee, is appended to the Report as Appendix – VII. The Note submitted by Shri Tiruchi Siva, Shri K.K. Ragesh, Shri Binoy Viswam, Shri N. Gokulakrishnan, Shri Jairam Ramesh, Shrimati Jaya Bachchan, Shri Madhusudan Mistry and Shri Manish Gupta, Members of the Committee, is appended to the Report as Appendix – VIII.

20. The Committee wishes to place on record its gratitude to the representatives of Ministry of Culture; Ministry of Road Transport & Highways; Ministry of Housing & Urban Affairs; Delhi Metro Rail Corporation; Maharashtra Metro Rail Corporation Limited; Ministry of Water Resources, River Development and Ganga Rejuvenation and State Government of Maharashtra for appearing before the Committee and submitting their views on the various provisions of the Bill and their valuable guidance to the Committee. The Committee is also thankful to the representatives of Ministry of Law and Justice (Legislative Department and Legal Affairs) for rendering valuable assistance to the Committee in its deliberations. The Committee also wishes to express its gratitude to all the distinguished persons who appeared before the Committee and gave their valuable views on the Bill and furnished written notes and information in connection with the examination of the Bill.

NEW DELHI;

4th February, 2019
Magha 15, 1940 (Saka)

DR. VINAY P. SAHASRABUDDHE

Chairman,
Select Committee on the Ancient Monuments
and Archaeological Sites and Remains
(Amendment) Bill, 2018
Rajya Sabha

Acronyms

AMASR	-	Ancient Monuments and Archaeological Sites and Remains
ASI	-	Archaeological Survey of India
CA	-	Competent Authority
CAG	-	Comptroller and Auditor General of India
CEPT	-	Centre for Environmental Planning and Technology
CSR	-	Corporate Social Responsibility
DG	-	Director General
DMRC	-	Delhi Metro Rail Corporation
DPR	-	Detailed Project Report
EIA	-	Environmental Impact Assessment
FM	-	Flood Management
GFR	-	General Financial Rules
GoM	-	Government of Maharashtra
HIA	-	Heritage Impact Assessment
IIT	-	Indian Institute of Technology
INTACH	-	Indian National Trust for Art and Cultural Heritage
ISRO	-	Indian Space Research Organization
MMRCL	-	Maharashtra Metro Rail Corporation Limited
MoHUA	-	Ministry of Housing and Urban Affairs
MoU	-	Memorandum of Understanding

MPLADS	-	Members of Parliament Local Area Development Scheme
NCT	-	National Capital Territory
NH	-	National Highways
NHAI	-	National Highways Authority of India
NMA	-	National Monuments Authority
NOC	-	No Objection Certificate
NRSC	-	National Remote Sensing Centre
OA	-	Original Application
PCMC	-	Pimpri Chinchwad Municipal Corporation
PPP	-	Public Private Partnership
RD	-	Regional Director
RFD	-	River Front Development
RoW	-	Right-of-Way
SPA	-	School of Planning and Architecture
Sqm.	-	Square Meter
STP	-	Sewage Treatment Plant
UNESCO	-	United Nations Educational, Scientific and Cultural Organization
WP	-	Writ Petition

REPORT

I. Background

1. The Ancient Monuments and Archaeological Sites and Remains Act, 1958 provides for the preservation of ancient monuments and archaeological sites and remains of national importance and matters related thereto. It has been amended in the year 2010 which, *inter alia*, set up a National Monuments Authority for protection and preservation of monuments and sites through management of prohibited and regulated area around the Centrally protected monuments.

2. Construction activities, public and private, are being carried out in India with an increasing pace. Public infrastructure projects are carried out all over the country and in many cases, the location in which they are carried out is in the vicinity of the 3,691 ancient monuments which are protected by Archaeological Survey of India. The Ancient Monuments and Archaeological Sites and Remains Act was amended in 2010 to provide for regulation of construction activities near Centrally protected monuments by defining every area, beginning at the limit of the protected area or the protected monument and extending to a distance of one hundred metres in all directions as prohibited area and a further area of 200 metre from the prohibited area as regulated area. This amendment provided statutory status to the notification issued by the Archaeological Survey of India (ASI) on 16th June, 1992 wherein an area upto 100 metres from the protected limits, and further beyond it up to 200 metres near or adjoining protected monuments was declared to be prohibited and regulated areas respectively for purposes of both mining and constructions. New constructions were not allowed in prohibited area. However, constructions and mining were allowed in regulated area with the permission from the Director General, ASI.

3. Between the period 2000 to 2010, permissions were granted by the Central Government or the Director General, ASI for construction, re-construction, repairs and renovations within the prohibited area and regulated area on the basis of the recommendation of the Expert Advisory Committee. The permission for construction granted by the Central Government or the Director General, ASI within the prohibited area prior to 2010 have been validated by the Ancient Monuments and Archaeological Sites and Remains (Amendment and Validation) Act, 2010 in terms of sub-section (3) of Section 20A. However, sub-section (4) of Section 20A was inserted in the principal Act by AMASR

(Amendment and Validation) Act, 2010 prohibiting grant of any such permission within prohibited area whether it is for public work or project essential to the public or other constructions by Central Government or Director General.

4. The provisions of sub-Section (4) of Section 20A of the Act prohibits grant of any permission for new construction within the prohibited area with an overriding effect upon the provisions of sub-Section (3) of Section 20A after coming in to force of the Ancient Monuments and Archaeological Sites and Remains (Amendment & Validation) Act, 2010. Thus, as per the Act, no new construction is permitted in the prohibited area of a protected monument / site. The blanket ban on all new constructions within prohibited limit is adversely impacting various public works and developmental projects of the Central Government. Keeping in view this roadblock being caused by the Act, Ministry of Culture introduced the Ancient Monuments and Archaeological Sites and Remains (Amendment) Bill, 2017 in the Parliament (Lok Sabha) on 18th July, 2017.

II. The Ancient Monuments and Archaeological Sites and Remains (Amendment) Bill, 2018 - An Introduction

5. The Ancient Monuments and Archaeological Sites and Remains (Amendment) Bill, 2017 (hereinafter referred to as the Bill) was introduced in the Lok Sabha on the 18th July, 2017 further to amend the Ancient Monuments and Archaeological Sites and Remains Act, 1958. It was passed in the Lok Sabha on the 2nd of January, 2018. The Bill, as passed by the Lok Sabha and renamed as Ancient Monuments and Archaeological Sites and Remains (Amendment) Bill, 2018 was referred to the Select Committee comprising 28 Members of the Rajya Sabha on a motion adopted by the House on the 26th July, 2018 for examination of the Bill and report thereon to the Rajya Sabha (Annexure I).

6. The Statement of Objects and Reasons to the Bill reads as follows:-

- (i) “The Ancient Monuments and Archaeological Sites and Remains Act, 1958 was enacted to provide for the preservation of ancient and historical monuments and archaeological sites and remains of national

importance, for the regulation of archaeological excavations and for the protection of sculptures, carvings and other like objects.

- (ii) The said Act was amended in 2010, which, *inter alia*, under Section 20A allows the Central Government or the Director General to grant permission for such public works or projects essential to the public or other constructions which in its opinion, shall not have any substantial adverse impact on the preservation, safety, security of, or access to, the monument or its immediate surroundings, to be carried out in a prohibited area in respect of a protected area or protected monument. However, it prohibits carrying out any public work or project essential to the public or other constructions in any prohibited area.
- (iii) The prohibition of new construction within prohibited area of a protected area or protected monument, is adversely affecting the various public works and developmental projects of the Central Government. In order to resolve the situation arising out of the prohibition on any construction under Section 20A of the Act, a need has been felt to amend the Act to allow for construction works related to infrastructure financed and carried out by any Department or office of the Central Government for public purposes which is necessary for the safety or security of the public at large.
- (iv) In view of the above, it is proposed to introduce a Bill, namely, the Ancient Monuments and Archaeological Sites and Remains (Amendment) Bill, 2017, *inter alia*, to — (a) provide for a new definition of "public works" in Section 2 of the Act; and (b) amend Section 20A of the Act so as to allow for construction of public works related to infrastructure financed and carried out by any Department or office of the Central Government for public purposes which is necessary for the safety or security of the public at large and there is no reasonable possibility of any other viable alternative to such construction beyond the limits of the prohibited area.
- (v) The Bill seeks to achieve the aforesaid objectives.”

III. Deliberations of the Select Committee

7. During the deliberation of the Committee, it was briefed at length on the background in which the Bill under consideration was drafted and explained the various provisions of the Bill in detail. The Committee was informed by the Ministry of Culture that the Bill will allow construction in the prohibited areas for public infrastructure projects by Central Government in the rarest of rare cases and when there is no other viable alternative available.

8. The Committee thereafter sought to know the reason for not including the word “rarest of rare cases” in the amendment itself and requested the Ministry to furnish a list of the rarest of rare cases which led to the introduction of the Bill. In response to that, the Ministry of Culture informed that the rarest of rare case will include cases where no viable alternative is available and there is danger to safety and security of people at large and that the cases received by NMA which fall under the category of rarest of the rare cases are (i) Elevated road near Akbar’s Tomb, Sikandra, Agra; (ii) Delhi Metro extension near Tughlakabad fort; and (iii) Proposal of Metro at Pune. The Committee enquired the reason due to which National Monuments Authority has not placed even a single heritage bye-law before the Parliament in over 6 years. It was informed by NMA that 24 bye-laws were ready which cover about 59 monuments of the country. The Committee also sought to know the reasons for the Bill not allowing the State Government projects whereas it allows construction in prohibited area for Central Government public infrastructure projects for public safety and security of the public at large. The Committee was informed by the Ministry of Culture through a written reply that there are instances of violation of AMASR Act by State Governments in the past, like (i) Demolition of compound wall of ASI protected area and encroaching thereupon by Andhra Pradesh Government; (ii) Denotifying Centrally protected site of Sirsa by Haryana Government; and (iii) Construction within protected area of Sarnath by Uttar Pradesh Government, etc. The Committee enquired whether a distinction will be made in the approach towards the monuments which have been recognized by UNESCO as World Heritage Sites and those which are not. In response thereto, the Committee was informed by the Ministry of Culture that there is no distinction in procedure.

9. The Committee raised the issue of heritage bye-laws not being framed by the NMA even till now as mandated by the Ancient Monuments and Archaeological Sites and Remains (Amendment and Validation) Act, 2010.

Some Members opined that the metro projects in Tughlaqabad and Pune cannot be classified as rarest of rare cases since there is a precedent of realigning metro routes to prevent construction in the prohibited area of a Centrally protected monument. Some Members voiced their apprehension over the dilution of powers of the National Monuments Authority since the Bill empowers the Central Government to take a final decision on the matter of construction in the prohibited limit of a monument.

10. One of the Members, in his written statement (Appendix VI), has stated that the AMASR (Amendment) Bill, 2018 stipulates the sole right to provide permission for construction within the prohibited and regulated area to Central Government and extends the mere right to submit report whether any proposed construction is for public purpose or not, to the NMA and that in effect, the Bill makes NMA a mere toothless tiger. In response to that, the Ministry of Culture has submitted that this is not correct as the NMA is empowered by the proposed Section 20-I (ea) to consider the impact, including archaeological impact, visual impact and heritage impact assessment of “Public Works”, which may be proposed in the prohibited area and that these impact assessments will be carried out by specialized Agencies like INTACH, SPA, IITs, REACH Foundation, CEPT University etc. The Ministry of Culture further informed that in case of likely adverse impact on the monument, the NMA may not recommend the case to the Government.

11. The Member also raised the point that the pressure for such an amendment in AMASR Act came up when the ASI declined permission for a six lane highway (in the Delhi-Kanpur Highway) near Akbar’s Tomb at Sikandra. To this, the Ministry of Culture informed that permission to construct elevated road near Akbar Tomb at Sikandra was sought by the NHAI and that after consideration, this case was rejected by the NMA since the elevated portion of the road was proposed to be constructed within the prohibited area of the Centrally protected monument at Sikandra. The Ministry informed that this was one such case and that there were other cases also which prompted the Government to bring in the proposed amendment, like the railway line near Rani-Ki-Vav, Kolkata Metro, Ahmedabad Metro, the bridge over Panch Ganga river at Kolhapur etc. On the point raised by the Member that the Ancient Monuments and Archaeological Sites and Remains (Amendment) Bill is an attempt to place blind and unrestricted urbanization over history and cultural heritage of India, the Ministry of Culture informed that this is not correct since

the proposed amendment will only allow extremely rare Central Government Infrastructure projects within the Prohibited Area and that too, only where there are no other viable alternatives and where public life is endangered. The Ministry stated that the Government is committed to the protection of monuments and cultural heritage of India in accordance with Article 49 of the Constitution of India. Again on the statement that the Act if passed and implemented can be easily misused by builders under the definition of 'public works', the Ministry of Culture replied that this is not correct since the proposed amendment only allows Central Government infrastructure projects.

12. The Member also pointed out that it is worthwhile to remember here that a report by the Comptroller and Auditor General of India, in 2013, has stated that 92 historical monuments have gone missing as a result of developmental activities and another 321 historical monuments have already been encroached upon. In reply to this, the Ministry of Culture informed the Committee that the CAG has reported 92 Centrally protected monuments gone missing. However, on inspection by field offices, it was found that only 24 monuments are missing. The Member apprehended that the amendment sounds skeptical at the backdrop of Centre's decision to allow Public Private Partnership (PPP) projects in various archaeological sites and that the private entities or CSR partners which are in such PPP projects should not misuse the AMASR (Amendment) Bill, 2018. In response to that, the Ministry of Culture has clarified that the project being taken up as PPP model shall cover only visitor facility like parking, drinking water, booking counter, cloak room, toilet, etc. The Member also pointed out that the AMASR (Amendment) Bill, 2018 extends permission to undertake construction activities in various prohibited areas around protected monuments if the construction is a part of 'Central Govt. project' which has a public purpose but does not mention whether any such project by a 'State Government' can avail such permission for construction. In reply to that, the Ministry of Culture has clarified that no State Govt. project qualifies since the proposed amendment clearly defines "Public Works" as Central Govt. Infrastructure Projects.

13. One of the Members, in his written submission (Annexure III/(C)), stated that the local public are unlikely to be satisfied with the procedure followed for interference in the name of safety and security and that they need to be involved in the decision-making process. In reply to that, the Ministry of Culture

informed that the archaeological, visual and heritage impact of proposed work shall further support the decision taking process of NMA. The Ministry further stated that the definition of “public works” has addressed the issue of public safety and security and thus the work would be in benefit of public at large. The Member pointed out that visual interference and adverse visual impact is also likely to be within their primary focus along with the fear of invisible structural impact. In response, the Ministry of Culture informed that proposed new clause (ea) shall act as checks and balances while considering any work within the limit of prohibited area and that any work should be in benefit of the public residing in close vicinity of monument and NMA to consider the proposal accordingly. The Member submitted to the Committee that the concerned State Governments should be involved for which appropriate provisions should be included in the Act. The Ministry of Culture, in their reply, informed the Committee that in the statute, Competent Authority and NMA have been given mandate to receive and process applications for grant of NOC to construction related activities in prohibited / regulated area of Centrally Protected Monument. The Ministry of Culture further informed that the NMA also requires Heritage Impact Assessment (HIA) Report on Projects having built up area of 5000 Sqm. and above and that the HIA Report includes Environmental Impact Assessment also. The Ministry of Culture stated that there is no scope in the statute to involve State Government in the process.

14. The Member pointed out it is a well established practice that Environmental Clearance is preceded by Environmental Impact Assessment (EIA), both Rapid and Final and that Public Hearing is an essential part of the process. He further suggested that the same procedure should be introduced in the amendments and the Rules to meet the concerns of the public and that Public Hearing should be made mandatory. He suggested that Comprehensive Impact Assessment should be made mandatory (EIA). In response to that, the Ministry of Culture informed that in the case of public work, the EIA is not prominently required and that new clause (ea) is being inserted essentially to consider archaeological, visual and heritage impact of proposed work. The Ministry of Culture further stated that in any case wherever Public Hearing is essential, the applicant Department shall have to go for it while obtaining Environmental Clearance under applicable statute. The Member further submitted that several Ministries of the Central Government could be involved depending on the project proposal. He added that this is a complication and the NMA can probably not by itself be competent to appraise projects as they may

not have expertise. The Ministry of Culture informed that the NMA has been constituted under Section 20F of the AMASR Act, 1958 and that it consists of a Chairperson, five full-time Members, five part-time Members, a Member Secretary and DG, ASI as ex-officio Member. The Ministry further stated that the NMA has been mandated by the Act to process applications for grant of NOC and that under Section 20F of AMASR Act, the Authority consists of person having experience in the field of Archaeology, Country and Town Planning, Architecture, Heritage, Conservation Architecture, Law, etc. and therefore Authority is capable to appraise large projects. The Member further pointed out that any move to bring in Amendment without giving due importance to the role of the State Government which represents the local public, is fraught with serious consequences. In response to that, the Ministry of Culture reiterated that in the statute, Competent Authority and NMA have been mandated to receive and process applications for grant of NOC for undertaking construction related activities in prohibited / regulated areas and as such, there is no scope in the statute to involve State Government in the process.

15. In its sitting held on the 10th September, 2018, the Committee heard the views of experts and Delhi Metro Rail Corporation (DMRC) on various provisions of the Bill. One of the witnesses who appeared before the Committee opined that alternate solutions should be found for projects falling in the prohibited area of a monument and that passing the Bill would encourage State Governments to pass similar legislations for monuments under their jurisdiction. Another witness stated that the people living near the monuments fear the officials of ASI due to the discretionary powers given to them, causing the community to be distanced from the monument. Yet another witness opined that the Act has been amended to keep pace with changing requirements of the people. He gave the example of Rakhigarhi, where 8,000 people are living and are not allowed to build or repair their homes. One of the witnesses who appeared before the Committee submitted that the monuments and their preservation are meant for the people and therefore, before making any amendment, it is necessary to consider their needs and difficulties. He was of the strong opinion that as and when required there should be amendments to the original Act enacted in 1958. The Government of India has every right to make amendments from time to time and that the present Bill is therefore welcomed. He suggested that the Bill may be applicable to Centrally and State protected monuments and that as far as possible, the 100 metre restriction around the

protected monuments be followed but in case of monuments where people are facing lot of difficulties in renovation and construction of structures and in the absence of any alternative, this rule be relaxed. He gave the examples of the site of Rakhigarhi, Junnar and Shaniwarwada where many people are living within the 100 metre of the monuments and some of the people are living from the time of existence of the monument. He suggested that in such cases, their inconvenience and difficulties should be taken into consideration and the rules of 100 metre restriction be relaxed. It was also suggested that there should be an Expert Committee to form separate heritage bye-laws for such monuments. The Heritage Bye-laws Committee should consist of experts such as an archaeologist, architect, civil engineer, environmental expert, geologist, etc. He requested the Select Committee to relax the 100 metre restriction rule to those protected monuments around which people are living for ages and there is no other viable alternative and that this should happen only in the rarest of the rare cases and would be recommended by Expert Committee. A separate Competent Authority and Committee of Experts are required to formulate separate heritage bye-laws for each and every protected monument in the country.

16. The Managing Director, DMRC informed the Committee, during his deposition, of the various projects of DMRC that have been affected by the present Ancient Monuments and Archaeological Sites and Remains Act. International examples of metro projects executed successfully in close vicinity of important monuments in London, Barcelona, Rome etc. were cited before the Committee.

17. During the study visit of the Committee to Pune, the Committee visited the Aga Khan Palace and Pataleshwar Caves to assess the alignment of the proposed metro projects in the vicinity of these monuments. The Committee was informed of the various alternative routes that were being considered away from the monuments and the extra costs and delays associated with that. In the meeting held on 27th September, 2018 during the study visit of the Committee to Pune, the Committee heard the views of Maharashtra Metro Rail Corporation Limited (MMRCL), State Government of Maharashtra, Archaeological Survey of India and National Monuments Authority on various provisions of the Bill *vis-à-vis* proposed metro projects of the MMRCL in the vicinity of Centrally protected monuments such as Aga Khan Palace and Pataleshwar Caves.

18. The Managing Director, MMRCL informed the Committee about the salient features of the Pune Metro Rail Project, technicalities involved, its position with respect to monuments, technology being adopted, depth of tunnel, benefits out of the project etc. It was informed that the proposed alignment passes through the regulated area of Pataleshwar Caves and Shaniwar Wada, whereas it falls within the prohibited area of Aga Khan Palace. It was stated that No Objection Certificate for construction of Metro corridor near Pataleshwar Caves and Shaniwar Wada was being awaited. He informed the Committee that the present proposal provides facility to ridership and accessibility to Aga Khan Palace. The Committee was informed that the latest technology is being adopted which will ensure that the monuments are not affected and that proximity to the airport and other multi-modal transportation hubs necessitated this alignment.

19. NMA informed the Committee that they recommend impact assessment, on case-by-case basis, through agencies other than INTACH also *viz.*, School of Planning and Architecture, CEPT, University of Ahmedabad, Reach Foundation, etc. The DG, ASI informed the Committee that a MoU has been executed between Indian Space Research Organisation (ISRO) and ASI for preparing maps indicating protected, prohibited and regulated areas of all Centrally protected monuments. Such maps have already been made available with respect to more than 2500 monuments on National Remote Sensing Centre's (NRSC) Bhuvan portal of ISRO for public viewing. She also informed that encroachment has been reported at 321 Centrally protected monuments/sites. The Committee was further informed about the status of facilities and conservation methodology adopted at different monuments across the world *viz.*, Turkey, Angkor Vat, Ta Prohm, etc. The DG, ASI highlighted that a uniform protocol cannot be maintained for all the monuments. The examples of Taj Mahal, Charminar, etc. were quoted.

20. In its subsequent sitting held on the 18th September, 2018, the Committee heard the views of Ministry of Road Transport and Highways and Ministry of Housing and Urban Affairs on the Bill. Ministry of Road Transport and Highways informed the Committee about the various projects of the Ministry which are facing problems on account of the provisions of the principal Act (AMASR Act, 1958), including the proposed Delhi-Agra road passing within 30 metres of the boundary wall of Akbar's Tomb at Sikandra, construction of a bridge on Chenab river at village Ambaran at NH-144A in the vicinity of a

Buddhist ancient monument and on Buckingham Canal in Andhra Pradesh. In case of the Delhi-Agra road, the Ministry opined that the carbon dioxide emissions would be higher in the alternative solution and would harm the monument more in the long run than if the project had been approved with its original alignment by the use of raised structures, noise barriers and curtain walls.

21. The Committee was subsequently informed by the Ministry of Road Transport and Highways that the time overrun and cost overrun incurred / to be incurred by the Ministry due to absence of permission from ASI and NMA are as follows:

Sr. No.	Name of the Highway Project affected due to non-permission from ASI	Time-overrun / delay (in years)	Cost overrun / cost escalation
1.	Construction of major bridge across Panchganga river near Kolhapur City on Ratnagiri-Kolhapur Highway at km. 137/250 of NH-166 in the State of Maharashtra	Apprx. 4.5 years delay happened due to delay in the permission	Rs. 1.17 Crore extra cost due to the delay in permission
2.	Elevated Highway in a length of 1.440 km at Sikandara (Dist. Agra) on NH-2 in the State of Uttar Pradesh	NHAI had to drop the proposal of elevated structure after delay of about 2 years in project completion time.	Approximate additional financial impact is about Rs. 23 crores
3.	Bridge approaches at km. 217.931 on NH-216 of Kathipudi-Ongole Section of National Highway (old NH-214A) in the State of Andhra Pradesh	Any change in alignment at this stage would delay the project by 1 year.	Likely additional financial burden of Rs. 36.5 crores
4.	Chenab Bridge at km. 27.100 on NH-144A (Jammu-Akhnoor road) in the State of Jammu & Kashmir	The Bid process has been dropped for the time-being due to uncertainty of availability of RoW for	RoW for the alternate alignment and the additional cost of the

	<p><i>The existing two-lane Bridge, which is at a distance of 22 mtrs from the protected site, was constructed in April, 2008 after obtaining the permission of the competent authority.</i></p>	<p>alternate alignment as it involves passing through the constructed area of Army establishment on both sides of the river. It is difficult to give any estimate of the delays in completion of the project. This existing 2-lane Bridge will continue to remain a major traffic bottleneck.</p>	<p>Bridge is likely to entail an additional financial implication of more than Rs. 100.00 crore.</p>
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22. The Ministry of Road Transport and Highways have informed the Committee that while the definition of “public works” proposed in the Bill is in order in so far as the Ministry of Road Transport and Highways is concerned, it may be noted that the term “public works” has also been defined in GFR, 2017, which is applicable across the Government. In GFR, 2017, “public works” is defined as under:

“public works” means civil/ electrical works including public buildings, public services, transport, infrastructure etc. both original and repair works and any other project including infrastructure which is for the use of general public;

Ministry of Road Transport and Highways stated that it may be advisable to adopt the definition of “public works” as defined in the GFR-2017.

23. Ministry of Road Transport and Highways further informed the Committee that the distance norms provided in the Act do not have any scientific basis and prima facie appear to be arbitrary. It suggested that it may not be advisable to prescribe any distance norms in the Act as any such precaution regarding the safety of the site or protection of the monument may vary in each case (from site to site and monument to monument) especially in terms of any adverse impact thereto from the nature of project proposed to be taken up in close proximity to such area and that such an assessment should be left to the Authority and the subject experts.

24. Ministry of Housing and Urban Affairs gave an example of Qutub Minar, Saket and Tughlakabad metro stations while informing the Committee of the various projects of the Ministry that were hampered by the provisions of the principal Act. It was informed that realignment or relocation of the projects led to the metro rail facility being constructed away from major footfalls. The Committee was informed of international metro projects and high speed rail lines in close proximity of ancient monuments citing examples of Eiffel Tower in Paris, National Mall in Washington DC, Westminster Building in London, Colosseum in Rome etc. The Ministry suggested that the definition of “public works” proposed in the Bill should be replaced by the definition of “public works” given in the General Financial Rules (GFR). The Ministry of Housing and Urban Affairs informed the Committee that the definition of “public works” proposed in the Bill is rather restrictive as it covers construction works necessary only for safety or security of public at large. In GFR, 2017, “public works” is defined as under:

“Public Works” means civil/ electrical works including public buildings, public services, transport, infrastructure etc. both original and repair works and any other project including infrastructure which is for the use of general public;

Ministry of Housing and Urban Affairs stated that the definition of “public works” may therefore be amended to include “public works” as already defined in GFR, 2017.

25. It was suggested that the monuments should be classified into different categories on the basis of footfall and that prohibited area and regulated area limits with regard to the monuments may be prescribed on the basis of these categories. The Ministry of Housing and Urban Affairs has further suggested that Sections 3 and 4 of the existing Ancient Monuments and Archaeological Sites and Remains Act, 1958 may be appropriately amended for categorizing monuments based on the number of footfalls per day for the purpose of defining the prohibited area as under:

Category A: 10,000 and above footfalls per day

Category B: 2,000 and above footfalls per day

Category C: below 2,000 footfalls per day

The Ministry of Housing and Urban Affairs suggested the following modifications in Sections 20A and 20B of the Amendment Bill regarding declaration of prohibited area and regulated area respectively:

20A. Declaration of prohibited area and carrying out public work or other works in prohibited area:- Every area, beginning at the limit of the protected area or the protected monument, as the case may be, and extending to a distance of 100 meter for category A monuments, 50 meter for category B monuments and 25 meter for category C monuments and two meters underground in all cases.

20B. Declaration of regulated area in respect of every protected monument:- Every area, beginning at the limit of prohibited area in respect of every ancient monument and archaeological site and remains, declared as of national importance under Section 3 and 4 and extending to a distance 200 meter for category A monuments, 100 meter for category B monuments and 50 meter for category C monuments and two meters underground in all cases.

26. The Committee sought to know about the practices and rules that are followed in other countries with regard to protection of their ancient monuments and heritage sites. The Committee enquired about the basis on which the limit of prohibited area and regulated area was defined to be 100 metres and 200 metres in the notification that was issued by the ASI on 16th June, 1992.

27. In its meeting held on the 16th October, 2018, the Committee heard the views of DMRC, Ministry of Culture, ASI and NMA on various provisions of the Bill. NMA informed the Committee about the proposed Tughlakabad-Aerocity metro corridor and stated that DMRC had submitted a No Objection Certificate (NOC) application for the Tughlakabad-Aerocity stretch of the proposed metro project and that since the proposed metro line was passing through the protected and prohibited areas of 4 monuments, NMA rejected the NOC application and DMRC later filed the review application.

28. The Managing Director, DMRC informed the Committee that the proposed definition of public works does not include projects like DMRC. It was stated that metro projects in the vicinity of ancient monuments like Kashmere Gate, Delhi Gate, Jantar Mantar etc. where the distance from the

monuments was less than 100 metres, have not done any damage in any of these monuments. The Committee was informed of a study done by National Physical Laboratory in 1998 which had concluded that the metro projects would not have any impact on the monuments and that a Heritage Impact Assessment Study conducted by the School of Planning and Architecture also reached the same conclusion.

29. Further, DMRC informed the Committee about the Tughlaqabad-Aerocity metro line and stated that the majority of the alignment is underground and that a Greek consultant was engaged during the Detailed Project Report (DPR) stage of the project, for assessment of impact of construction near monuments. The Report has concluded that the monuments will not be harmed because of the projects. It was further stated that because of the presence of monuments on both sides of the alignment, it was not possible to shift the alignment unless it was shifted by a long distance, which would change the catchment area and also the project cost. DMRC informed the Committee that they are using state-of-the-art technology for all the underground constructions and that no study has been conducted to assess the impact on monuments in the long term. Further, NMA stated that the definition of “construction” in the principal Act talks about vertical or horizontal building and that underground construction is a grey area in the Act.

30. The Committee again enquired about the reasoning behind setting the prohibited and regulated area limits as 100 metre and 200 metre respectively. DG, ASI informed the Committee that no information regarding the same could be located in the records. Ministry of Culture informed the Committee that the matter will be looked into again and that any findings would be reported to the Committee.

31. The Committee visited the Tughlaqabad Fort to assess the alignment of the proposed Tughlaqabad-Aerocity metro corridor in the vicinity of the monument. The DMRC officials briefed the Committee with the help of detailed map of the project. The officials stressed that there is no alternative to the project alignment as the Tughlaqabad Fort covers a large area and the road in between the monuments is narrow and could not be widened due to the existence of boundary walls of the protected monuments.

32. The Committee was informed by the Managing Director, DMRC that the proposed metro project would pass underground and that it would not impact the visual beauty of the monument. The Committee was also assured that DMRC is having state-of-the-art technology for underground construction of metro and that the construction activities will not impact the monuments. The Committee was further informed of the lack of a feasible alternative route away from the monument since the Tomb of Ghiyasuddin Tughlak, another monument protected by Archaeological Survey of India (ASI), falls in the vicinity of the project too and taking the alignment away from both these monuments would make the metro project unviable.

33. The Committee, in its meeting held on 5th December, 2018, discussed in detail, Sections 20A and 20B of the principal Act, wherein the concepts of prohibited area and regulated area are prescribed. The Committee also took into account the conditions laid down in the Notification dated 16th June, 1992 regarding the protected area and regulated area of protected monuments and sites. The Committee decided to inspect the entire file notings and the related documents pertaining to the 16th June, 1992 Notification which prescribed the area limits.

34. Some Members pointed out that a few decades ago, large scale construction activities were permitted near the Jantar Mantar in New Delhi which resulted in the disuse of astronomical instruments of Jantar Mantar. It was opined by some Members that prescribing the 100 metres and 200 metres area as protected and regulated area, is arbitrary and unnecessary and that a relook is needed on this criteria. It was noted that modern construction activities have been undertaken in Britain, Italy, France etc. for development of infrastructural activities very close to the historical structures in those countries without having any impact on structures. A Member pointed out that he visited 3 sites of the Delhi Metro where the 100 metres and 200 metres criteria had been relaxed by the Government for construction of underground Delhi Metro and that he was satisfied that no harm has been done to the nearby monuments. One Member stated that the proposed underground Aerocity Metro line passing through the Tughlaqabad area of Delhi needs to be given permission as he realizes that there is no feasible alternative route available away from the Tughlaqabad Fort area, due to the existence of many other important monuments in and around the area. Another Member opined that even the

underground construction is not advisable for monuments such as Qutab Minar and Taj Mahal and that experts should be consulted before taking any decision.

35. In its sitting held on the 22nd January, 2019, the Committee held an in-house discussion on the file notings received from the Archaeological Survey of India related to the declaration of 100 metres and 200 metres area adjoining protected monuments as prohibited area and regulated area respectively. The Committee briefly discussed the file notings and reached the conclusion that no explanation for specifying the prohibited and regulated area limits as 100 metres and 200 metres respectively, could be located in the ASI files. It was neither a legislation nor a Cabinet decision. It was simply a bureaucratic decision without any logic or reasoning. No experts were consulted by ASI while taking decision about the 100 metres and 200 metres limit.

36. Some Members of the Committee were of the view that the decision to permit construction works in the vicinity of Centrally protected monuments should be done on a case-by-case basis by a body of experts which includes historians, people involved with culture, engineers, urban architects etc. since there is no logic or scientific basis behind the limits imposed by the present blanket ban. It was suggested that the appointment of the Committee should be left at the Ministry level each time a decision is to be taken on a big project and that such a Committee of experts should hold public hearings with the affected local population to bring in transparency to the decision making process.

37. One of the Members stated that the 100 meters limit is violated in several cases and suggested that there should be data on, which monuments need protection and what the importance of a particular monument is. Another Member pointed out that no experts were called by ASI while taking decision about the 100 and 200 metres limit. One Member suggested that the Committee should recommend that the 100 metres limit should go away, but that it should be ensured that doing so does not leave too much scope for discretion of ASI with regard to the limit and that blanket provision should not be there for the bureaucracy to take decisions in these matters. It was further suggested that people residing near the monuments should be given the responsibility to form a Committee which ensures the maintenance and upkeep of the monuments and ensure that no further structures are constructed near the monument.

38. Another Member of the Committee opined that some restrictions are a must; otherwise all the monuments will perish.

39. The Committee noted that the Bill does not give blanket permission for construction near a monument and that it takes a cautious approach by having a provision for analyzing visual impact, heritage impact and archaeological impact of a proposed construction work.

40. The Ministry of Water Resources, River Development and Ganga Rejuvenation informed the Committee that the National Mission for Clean Ganga, while pursuing/financing certain projects related to construction and development of ghats on the bank of River Ganga has faced difficulties in pursuing these projects. Such works of the construction and development work related to ghats / infrastructure projects related to STPs / Laying pipelines etc. are being hampered due to the provisions of the existing provisions in the Ancient Monuments and Archaeological Sites and Remains Act, 1958 as amended by the Ancient Monuments and Archaeological Sites and Remains (Amendment and Validation) Act, 2010. They have also stated that recently in a matter (OA No. 594/2016 – Akash Vashistha Vs State of UP & Others) before National Green Tribunal, a work related to construction work being carried on by State Government of UP (Irrigation Department) involving expansion/renovation and beautification of the existing Ghats located along the bank of river Yamuna at Vrindavan and laying of interceptor drain/pipeline to intercept about six drains for carrying sewage, presently flowing directly into the river Yamuna, for the proposed STP has been held up because the project work falls in the prohibited area as there is an ancient monument close by. Similarly, some construction works related to ghats are subject matter of restriction/stoppage of work (in WP No. 4003/2006 – Harchetan Brahamchhari Vs State of UP & others before the Allahabad High Court) as these ghats are falling within the 500 metres restriction imposed by the High Court of Allahabad.

41. The Ministry of Water Resources, River Development and Ganga Rejuvenation suggested that the definition of the “public works” may suitably cover the constructions of ghats and other developmental infrastructure projects (RFDs / ghats / STPs / Pumping Stations / Sewerage Pipelines, etc., related to STP / laying of pipelines, etc., for sewerage related works so as to protect the

river Ganga and other rivers and water bodies in general and taking up developmental infrastructure construction works. The Ministry of Water Resources, River Development and Ganga Rejuvenation also submitted that Flood Management (FM) works are for the overall safety and security of public at large, hence this amendment may facilitate execution of FM works required to be carried out for Flood Management. It was further submitted that Flood Management works, though financed by Central Government, are executed by concerned State Governments and therefore, State Governments may also be considered for inclusion in the above clause. It suggested that the proposed amendment should cover the Multipurpose Projects of the Ministry.

42. In its meeting held on 30th January, 2019 the Committee took up clause-by-clause consideration of the Bill. The Ministry of Culture and Ministry of Law and Justice (Department of Legal Affairs and Legislative Department) also furnished their comments / clarifications wherever needed on the issues raised by the Members of the Committee. The Committee, after detailed discussion, adopted all the clauses of the Bill without any amendments.

43. The Committee, in its last meeting held on 4th February, 2019 took up the draft Report for consideration and adoption. After a detailed discussion, the Committee adopted the Report without any amendments.

IV. Views of State Governments

44. The Committee considered in detail the suggestions and observations submitted by the State Governments of Arunachal Pradesh, Bihar, Chhattisgarh, Haryana, Jammu and Kashmir, Karnataka, Kerala, Maharashtra, Manipur, Mizoram, Odisha, Punjab, Sikkim, Tamil Nadu, Telangana and Union Territories of NCT of Delhi and Puducherry on various provisions of the Bill.

45. The State Governments of Arunachal Pradesh, Chhattisgarh, Haryana, Mizoram, Punjab and Sikkim and Union Territory of Puducherry have expressed their concurrence with the Bill.

46. The State Government of Karnataka has stated that wherever the words “Central Government” is mentioned in the Bill, the words “or any State Government” should be added while the Government of NCT of Delhi has

stated that wherever the words “Central Government” is mentioned in the Bill, the words “/ State Government / Civic Bodies” may be added.

47. The State Government of Kerala has differed with the provisions of the Bill. It has stated that monuments across the country should be reasonably and scientifically categorized based on value points such as historical importance, national importance, architectural importance, archaeological value, density of human settlements around the monumental structure etc. and that the amount of restriction and regulation that can be imposed around a monument should be a natural balanced outcome of this value points based categorization. It further stated that the proposed amendment is irrational since the kind of impact a public construction is going to have on a monument is not in any manner different from that by a private or individual construction. It opined that if restrictions can be compromised for Government works, it may also be possible for domestic purposes like residential purpose of individuals.

48. The State Government of Manipur has stated that any construction works related to development of infrastructure which is to be carried out by any department or office of the Central Government within the prohibited area of any monument should be carried out in consultation with ASI.

49. The State Government of Telangana has stated that it differs with the proposed amendment of sub-Section 8 of Section 20D (which states that for the words “Director General”, the words “competent authority” shall be substituted.)

V. Clause by Clause Examination of the Bill

50. The Committee held clause-by-clause consideration of the Bill, the details of which are given below:-

Clause 2

Clause 2: Provides for amendment of section 2.

51. In the Ancient Monuments and Archaeological Sites and Remains Act, 1958 (hereinafter referred to as the principal Act), in section 2, after clause (j) the following clause shall be inserted, namely: —

“(ja) “public works” means construction works related to infrastructure financed and carried out by any department or office of the Central Government for public purposes which is necessary for the safety or security of the public at large and emergent necessity is based on specific instance of danger to the safety or security of the public at large and there is no reasonable possibility of any other viable alternative to such construction beyond the limits of the prohibited area;”;

52. *Clause 2 seeks to insert a new clause in section 2 of the principal Act relating to definition of the expression “public works” used in the Act.*

Views of State Governments

53. The State Government of Bihar has suggested that since “public works” encompasses engineering, construction, and related activities carried out by Government for the benefit of citizens, it is a concurrent function and is a shared responsibility of national, provincial and local Government. The definition should be changed to the following:

*‘(ja) “public works” means construction works related to infrastructure financed and carried out by any department or offices of the Central, **State or Local** Government for public purposes which is necessary for the safety or security **or benefit** of the public at large and emergent necessity is based on specific instance of danger to the safety or security of the public at large and there is no reasonable possibility of any other viable alternative to such construction beyond the limits of the prohibited area;’.*

54. The State Government of Karnataka has stated that the words “or any State Government” should be added after the words “Central Government” in the definition of public works.

55. The State Governments of Maharashtra and Tamil Nadu have stated that the words “or State Government” should be added after the words “Central Government” in this clause. The State Government of Maharashtra has further suggested that the words “or corporation / company” should be added after the

words “any department of office” and before “of the Central Government” in the above clause.

56. The State Government of Odisha has stated that the definition should incorporate the words “State funded projects / Centrally funded projects undertaken by State Government”.

57. The Government of the National Capital Territory (NCT) of Delhi has stated that the words “State Government / Civic Bodies” should be added after the words “Central Government” in the clause.

Views of other Ministries/Departments

58. Citing international examples of metro stations in the vicinity of ancient monuments, the Delhi Metro Rail Corporation (DMRC) has stated that the definition of “public works” should consider projects like metro, railways etc. as public utility projects which facilitate the movement of commuters. DMRC stated the example of Qutub Minar metro station which had to be shifted 1.8 km away from the monument as that was the closest alignment possible outside the prohibited zone of the monument. This causes discomfort to the tourists and leads to lower footfall at the monument. DMRC further stated that road traffic near a monument harms it due to pollution whereas rail based transportation projects can help reduce the emission and thus help protect the monument in the long run.

59. Ministry of Housing and Urban Affairs suggested that the definition of “public works” should include civil/electrical works including public buildings, public services, transport, infrastructure etc. both original and repair works, and any other project, including infrastructure which is for the use of the general public. The definition of “Public Works” may therefore be amended to include “Public Works” as already defined in GFR, 2017.

60. Ministry of Road Transport and Highways suggested that the definition of “public works” proposed in the Bill should be replaced with the definition of “public works” as defined in the GFR, 2017. The GFR defines “public works” as “civil/ electrical works including public buildings, public services, transport

infrastructure etc., both original and repair works and any other project, including infrastructure which is for the use of general public”.

61. The Ministry of Water Resources, River Development and Ganga Rejuvenation suggested that the scope of the definition of “public works” may be extended to include works of public importance such as ghats / temples / structures/ STPs / Pumping Stations / River Front Developments of public importance near the river or water bodies in the public interest. It suggested that the definition of the “public works” may suitably cover the constructions of ghats and other developmental infrastructure projects (RFDs / ghats / STPs / Pumping Stations / Sewerage Pipelines, etc., related to STP / laying of pipelines, etc., for sewerage related works so as to protect the river Ganga and other rivers and water bodies in general and taking up developmental infrastructure construction works.

62. Maharashtra Metro Rail Corporation Limited has also stated that the definition of public works should allow projects like metros, railways etc. since these projects intend to bring the commuters close to the monuments and densely populated area of city and directly reduces the deaths taking place on roads on account of accidents and also reducing pollution.

Views of Witnesses

63. Some witnesses were of the view that the provision of public works may also be defined to include the projects being done jointly by the Central and State Governments.

64. Some witnesses opined that the definition of “public works” is very vaguely worded and can lead to misuse and misinterpretation.

Views of the Ministry of Culture

65. The Ministry of Culture has stated that the proposed amendment is aimed at resolving conflict between sub-Section (3) and (4) by creating an exception under Section 20A so that constructions related to public works are allowed in prohibited area. For clarity, the term “Public work” is being defined and

therefore proposed to be added under Section 2, definition clause, at relevant position.

66. In response to the opinion stating that the definition of “public works” is vague and open to misinterpretation, the Ministry of Culture informed the Committee that the proposed definition has been carefully drafted and that it has been vetted by the Ministry of Law. The definition is very specific and only Central Government projects fulfilling the criteria laid down under the definition shall be considered.

67. The Committee notes that though there are varying opinions suggested by witnesses and definitions suggested by different Ministries, the definition of “public works” as given in the Bill is correct to the limited specific purpose mentioned in the Statement of Objects and Reasons of the Ancient Monuments and Archaeological Sites and Remains (Amendment) Bill, 2017.

68. Accordingly, the Committee adopted Clause 2 without any amendment.

Clause 3

Clause 3: Provides for amendment of section 20A.

69. In section 20A of the principal Act, after sub-section (4), the following sub-sections shall be inserted, namely:—

“(5) Nothing contained in sub-section (4) shall apply to the public works:

Provided that any question as to whether or not a construction works is public works, shall be referred to the Authority which shall on being satisfied make its recommendation, for the reasons to be recorded in writing, to the Central Government whose decision thereon shall be final:

Provided further that if the decision of the Central Government differs from the recommendation of the Authority, the Central

Government shall record its reasons thereof.

(6) Any Department or office of the Central Government proposing to carry out any construction works, including reconstruction or repair or renovation, of any public works in the prohibited area, shall make an application to the competent authority for carrying out such construction works.

(7) Upon decision of the Central Government determining a construction works as public works in accordance with the provisions of sub-section (5), the competent authority shall convey the decision of the Central Government to the applicant within ten days of the receipt of such decision.

(8) The provisions of section 20C shall apply *mutatis mutandis* to the public works in a prohibited area.”.

70. *Clause 3 seeks to amend section 20A of the Act to allow public works to be executed within the prohibited limit of a protected monument or area by granting exemption from sub-section (4) of section 20A of the Ancient Monuments and Archaeological Sites and Remains Act, 1958 which prohibits grant of permission to any construction works within prohibited area, whether it is for public work or a project essential to the public. The clause gives power to the Authority to make its recommendations, for the reasons to be recorded in writing, to Central Government, whose decision shall be final, on the question of whether a construction works is public works and where the Central Government’s decision differ from the recommendations of the Authority, the Central Government shall record its reasons. The clause allows all departments or offices of the Central Government to make an application to the competent authority for carrying out construction works of any public works in the prohibited area. Upon decision of the Central Government, the competent authority shall convey the same to the applicant within 10 days from the date of the receipt of such decision.*

71. Some Members of the Committee were of the view that giving Central Government the right to provide such permission for construction within the prohibited area of a monument regardless of the recommendation made by

NMA, is a dilution of the powers of NMA. The local public at ancient monuments should be involved in the decision-making process. A public hearing should be made mandatory like it is done during the process of Environment Impact Assessment for Environment Clearance.

Views of State Governments

72. The State Government of Karnataka has stated that the words “or any State Government” should be added wherever the words “Central Government” appear in the Bill.

73. The State Governments of Maharashtra and Tamil Nadu have stated that the words “or State Government” should be added after the words “Central Government” in sub-clause (6) of this clause. The State Government of Maharashtra has further suggested that the words “or corporation / company” should be added after the words “any department or office” and before “of the Central Government” in the above clause.

74. The Government of the National Capital Territory (NCT) of Delhi has stated that the words “State Government / Civic Bodies” should be added wherever the words “Central Government” appear in the clause.

75. The State Government of Manipur has stated that any construction works related to development of infrastructure which is to be carried out by any department or office of the Central Government within the prohibited area of any monument should be carried out in consultation with ASI.

Views of other Ministries/Departments

76. The Ministry of Road Transport and Highways expressed its support for exclusion of “public works” from the ambit of sub-Section 4 of Section 20A of the principal Act.

Views of Witnesses

77. Some witnesses were of the view that the exemption granted by sub-section (5) of Section 20A of the Bill should be applicable to Centrally as well

as State protected monuments. As far as possible, the 100 metre restriction around the protected monuments should be followed but in case of monuments where people are facing lot of difficulties in renovation and construction of structures and in the absence of any alternative, this rule should be relaxed. The exemption should permit applications for private works as well.

78. Some witnesses opined that this will make Central Government the authority to arbitrate between NMA and construction companies with regard to granting permission for construction works within the prohibited area of a Centrally protected monument. Instead, decisions should be reached by discussion in a group which includes public-minded citizens, artists, geographers and historians. Sub-Section (5) reduces the autonomy of NMA by giving Central Government the power to override its decisions. The Central Government should not be allowed to overturn the decision of NMA. The NMA should be prescribed a process for deciding this matter. The NMA should have someone from the Central Public Works Department as an additional member. There should be guidelines about the authority within the Central Government who decides whether a construction works qualifies as “public works” or not and the criteria to take decision on that.

79. An expert, in his written submission, stated that Section 20A(4) of the principal Act prohibited any permissions for construction within the prohibited area. Now, in order to allow public works within the prohibited area, Section 20A(5) of the Bill proposes that nothing contained in sub-Section 20A(4) shall apply to the public works. This means that Section 20A(3) allows the Central Government or the Director General, ASI to permit public works within the prohibited area. However, as per Section 20D of the principal Act, the permission is granted by the competent authority on the recommendation of the NMA. Thus, this legislation is confusing and open to misinterpretation and legal loopholes.

80. Some witnesses stated that most public works run into the issue of stoppage because the presence of the monuments is ignored by the consultants during the planning stage of the infrastructure project. By taking cognizance of existing nationally protected monuments at the planning stage, the conflict between monuments and infrastructure can be avoided. Archaeological Clearance should be engrained in all public projects planning, like

Environmental Clearance. Alternatives have always been found when NMA has mandated it, for instance in the case of Rani ki Vav, Gandhinagar-Ahemadabad Metro etc.

81. Some witnesses were of the view that the suggested amendment will cause a domino effect with the State Governments and Union Territories introducing similar legislations for the State protected monuments.

Views of the Ministry of Culture

82. The Ministry of Culture has stated that proposed exception by the way of new sub-section (5) is being added to resolve conflict between Sub-section (3) and (4) and to relax embargo imposed against all new constructions in prohibited area in favour of new constructions with regard to public works and public project within prohibited and regulated area. The proviso is being added as a safeguard provision on taking decision about whether or not a construction work is public work by the Central Government. The Ministry stated that sub-section (6) is being added to specify provision for making application to the competent authority for carrying out construction works of public nature in prohibited area. The sub-section (7) provides provision for communicating permission with respect to construction works of public nature in prohibited area while the sub-section (8) is proposed to be added to save the applicability of Section 20C of the Act and to maintain the harmony amongst related sections.

83. On the suggestion of involving the public at large in the assessment impact, the Ministry informed that impact assessments are carried out by specialized institutions like INTACH, SPAs, IITs etc., involving archaeologists and conservation architects. On the Central Government having overriding power over NMA, the Ministry stated that as per the Act, Ministry of Culture is the final Authority to exercise powers vested thereunder on behalf of the Central Government in respect of Centrally protected monuments. On Section 20A(5) of the Bill making Section 20A(3) of the principal Act operational again, the Ministry stated that sub-Section 20A(3) of the principal Act validates the permissions granted in prohibited area before 2010 with the recommendation of Expert Advisory Committee and it has been overruled by the sub-Section 20A(4) of the principal Act.

84. In view of the clarification / explanation submitted by the Ministry of Culture that various kinds of safeguards are provided in the clause, the Committee adopted the clause without any amendment.

Clause 4

Clause 4: Provides for amendment of section 20D.

85. In section 20D of the principal Act, in sub-section (8), for the words “Director General”, the words “competent authority” shall be substituted.

86. *Clause 4 seeks to amend section 20D of the Act to replace “Director General” with “competent authority” to exhibit all the permissions granted or refused under the Act on their website.*

Views of State Governments

87. The State Government of Telangana stated that they differed with the proposed amendment.

88. The State Government of Jammu and Kashmir stated that the competent authority should include the authority of the State too.

Views of Witnesses

89. Some witnesses were of the view that the word “Director General” should not be replaced by “competent authority” because any government functionary should not be considered to be equivalent to a competent authority on the subject, merely by virtue of being designated as a “competent authority”.

Views of the Ministry of Culture

90. The Ministry of Culture has stated that as per sub-section (8) of Section 20D, the Central Government or the Director General, shall have to exhibit all permissions granted by National Monuments Authority (NMA) or Competent Authority (CA) on their website. Since the permissions are granted by NMA

and Competent Authority, the information is not in possession of the Central Government/ASI. Under the situation, it will be appropriate, if the agency holding the information shall host such information on its website. Therefore, the amendment is proposed.

91. In response to the concerns raised regarding this legislation encouraging State Governments to bring out similar amendments for State protected monuments, the Ministry stated that the State Governments have their own legislative framework and that they may amend their Acts even without this amendment.

92. In view of the clarification given by the Ministry of Culture, the Committee adopted the clause without any amendment.

Clause 5

Clause 5: Provides for amendment of section 20-I.

93. In section 20-I of the principal Act, after clause (e), the following clause shall be inserted, namely:—

“(ea) to consider the impact, including archaeological impact, visual impact and heritage impact assessment, of public works which may be proposed in the prohibited area and make recommendations to the Central Government in respect thereof:

Provided that no recommendation for any construction works shall be made unless the Authority is satisfied that there is no reasonable possibility of any other viable alternative for shifting such construction works beyond the limits of the prohibited area.”.

94. *Clause 5 seeks to amend section 20-I of the Act. Clause (ea) is proposed to be inserted in section 20-I mandating the Authority to consider the impact, including archaeological impact, visual impact and heritage impact assessment, of public works which may be proposed in the prohibited area and make recommendations to the Central Government. The proviso mandates that the*

Authority can recommend a construction work only if no other viable alternative is available.

Views of Witnesses

95. Some witnesses were of the view that the viable alternative beyond the limit of prohibited area should be examined as part of the heritage impact assessment process. The heritage impact assessment should also assess the damages, if any, to the ancient landscape, increase in pollution as well as social economic benefits to the local communities.

96. Some witnesses suggested that this Clause does not include “environmental impact assessment”, which is a serious omission.

Views of the Ministry of Culture

97. The Ministry of Culture has stated that clause (e) of sub-section (1) of Section 20-I deals with considering applications by NMA and making recommendations with respect to projects and public works essential to public in regulated areas. Since, under the proposed amendment, projects essential to public and public works are being allowed within prohibited area, a clause is being added to consider the impact of large scale developmental projects, including public projects and projects essential to public so that interest of heritage is protected in larger sense.

98. The Committee notes that the clause prescribes adequate procedure and safeguards to ensure that public works are permitted only after various kinds of impact assessment studies and that too, if no other viable alternative is available.

99. The Committee, therefore, adopted the clause without any amendment.

Clause 1

Clause 1: Short title and commencement

100. (1) This Act may be called the Ancient Monuments and Archaeological Sites and Remains (Amendment) Act, 2018.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

101. *Clause 1 provides for the short title of the Bill as the “Ancient Monuments and Archaeological Sites and Remains (Amendment) Act, 2018”, and seeks to provide for the commencement of the provisions of the Bill from such date as may be notified by the Central Government.*

102. The Clause 1, the Enacting Formula and the Title of the Bill were adopted with some changes which are consequential in nature namely, ‘2018’ and ‘Sixty-eighth’ to be substituted by ‘2019’ and ‘Seventieth’ respectively.

General suggestions/views of Witnesses / Ministries / Members

103. The nationally protected monuments should be marked out in zonal / masterplans along with the prohibited area around them, so that these can be noticed at the planning stage of a public project, thus allowing development agencies to work with the rules in most cases. In the interest of preservation of heritage, a decision on the Bill should be kept in abeyance until complete data on categorization of monuments and heritage bye-laws is finalized and made available to public by the relevant authority.

104. Some Members were of the view that State Governments will follow the cue of the Central Government and alter their own Acts to allow construction within the prohibited zone for State protected monuments. This legislation would thus have a cascading effect on several other State Monuments as well.

105. Ministry of Housing and Urban Affairs suggested that Sections 3 & 4 of the principal Act may be appropriately amended for categorizing monuments based on the number of footfalls per day. The prohibited and regulated areas for the monuments may then be defined in Sections 20A and 20B according to the category in which they belong.

106. Ministry of Road Transport and Highways cited several of its projects *viz.*, construction of major bridge across Panchganga river near Kolhapur city, elevated highway in a length of 1.440 km at Sikandra on NH-2, bridge approaches at km. 217.931 on NH-216 of Kathipudi-Ongole section of National Highway and Chenab Bridge at km. 27.100 on NH-1444A (Jammu-Akhnoor road), which were delayed due to the provisions of the Ancient Monuments and Archaeological Sites and Remains Act, 1958 and will cause estimated cost overrun of Rs. 1.17 crores, Rs. 23 crores, Rs. 36.5 crores and Rs. 100.00 crores respectively. On the hundred metres and two hundred metres limits prescribed as prohibited and regulated areas respectively in Section 20A of the principal Act, the Ministry of Road Transport and Highways suggested that the distance norms provided in the Act do not have any scientific basis and appear to be arbitrary and that it was not advisable to prescribe any distance norms in the Act as any such precaution regarding the safety of the site or protection of the monument may vary in each case.

General Recommendations

107. The Committee understands the importance of preserving our valuable ancient monuments and notes that all the involved Ministries and Organizations agree with the same. However, the formulation of certain rules and regulations in order to ensure the same is indeed necessary. The law framed in pursuance of the preservation of monuments need to maintain a delicate balance between the preservation of our ancient monuments and archaeological sites, and development of infrastructure that is in harmony with the needs of the people living nearby these monuments as well as tourists.

108. Site plans/maps for all monuments should be documented, regardless of the amendments being proposed by the present Bill and easy availability of the location of all nationally protected monuments along with markings of their prohibited and regulated area will go a long way in avoiding conflicts and delays in project execution. This detailed map should be available and prominently visible on the websites of ASI and NMA and available in their local offices.

109. The Committee notes that the Ministry of Culture has found no specific reasoning or scientific basis behind the 100 metre and 200 metre limit of the prohibited and regulated area of a monument, respectively, that was initially prescribed in the ASI notification dated 16th June, 1992 which was later validated and given legal basis by the 2010 Amendment of the principal Act. This is a serious cause of concern. The Ministry of Culture should have looked into the scientific reasoning behind the area limits before passing the legislation. The Committee noted that in some of the monuments, the 100 metres prohibition may not be required and in some other case, even the 100 metres prohibition may not be sufficient to protect the monument. The Committee, therefore, recommends that systematic study should be conducted by a body of experts including archaeologists, historians, geologists and other experts in the subject to figure out a rational area limit that should be prescribed for prohibition of construction for preservation and protection of a monument. There should not be any blanket limit prescribed for construction; rather it should be decided on case-by-case basis.

110. The Committee notes that most countries around the world do not impose a blanket ban on all construction activities in the vicinity of a monument. A general trend that is observed in the comparable legislations of several countries is to decide the limit of area to be prohibited depending on the nature of monuments. This could be enabled in the context of our ancient monuments once NMA has developed the Heritage Bye-Laws for all the monuments. The Committee took serious note of the fact that NMA could not frame the Bye-laws even after passage of 8 years. The Committee recommends that NMA should formulate Bye-laws for all the protected monuments without any delay and place those before Parliament so as to fulfill its responsibility.

111. The Committee notes that the AMASR Act empowers the NMA to make recommendation to the Central Government whether or not a construction work is public work. The Committee observes that NMA has been given blanket powers to make such recommendations without consulting the affected people or experts. The Committee, therefore,

recommends that NMA shall decide whether or not a construction work is public work only after requisite consultation with experts.

112. The Committee notes that Section 20F of the principal Act provides for the National Monuments Authority consisting of a Chairperson, five whole time Members, five part time Members and DG, ASI as ex-Officio Member. The Committee further notes that the existing provisions do not allow NMA for co-option of subject experts or other domain experts who are having definite knowledge on a particular monument. The Committee, therefore, recommends that the Ancient Monuments and Archaeological Sites and Remains Act, 1958 may suitably be amended to allow co-option of subject experts and domain experts in NMA.

113. The Committee takes serious note of the fact that NMA is nowhere on track of completing its mandate of creating heritage bye-laws for all the nationally protected monuments, even after 8 years since the body was constituted under the provisions of the AMASR (Amendment and Validation) Act, 2010. The failure of NMA in completing its duties is a matter of grave concern. The Committee would, therefore, recommend that NMA should expedite framing of the requisite bye-laws and lay the same in the next Session of the Parliament.

114. The Committee notes the absence of feasible alternatives in case of the DMRC's proposed Tughlaqabad-Aerocity metro project which passes through the prohibited area of the Tughlaqabad Fort, a protected monument. DMRC informed the Committee of the impact assessment study conducted by international consultants on the impact of construction near the monuments. The report they submitted was proof checked by IIT, Delhi and it has been concluded that all monuments shall remain safe during/after construction of metro tunnels and stations. In light of this, the Committee observes that the definition of public works in the present AMASR Bill does not cover public utility projects that are not specifically critical for public safety and security at large. Given the plethora of projects that are carried out in the proximity of monuments all around the

world, the Committee fails to understand as to why the definition of public works does not include such public works that are essential for providing convenience to the public as long as it can be ensured that such projects would not impact the monument under question. The Committee recommends that the Government should find out a *via media* to operationalise the Tughlaqabad-Aerocity metro project which is an underground project.

115. The Committee feels that there are several different types of structures among our ancient monuments and that applying a one-fits-all strategy for their preservation is not the best strategy. The Committee notes that the present Act bars all sorts of constructions in the vicinity of all the Centrally protected monuments and that this acts as an impediment to infrastructural work even where studies prove that carrying out such work would not impact the monuments.

116. The Committee notes various suggestions to form a local level body to give permission for construction. The Committee recommends that a body consisting of local people, architects, engineers, experts, local level officers and the District Collector etc. should be constituted to study the proposals of construction and repair and submit suggestion to the Competent Authority and Government on any kind of construction and repair activities required to be carried out in the prohibited and regulated areas.

117. The Committee feels that as is the case with environment clearances, there should be a public hearing when a project is considered for grant of permission for construction in the prohibited and regulated area of a Centrally protected monument since the public needs to be involved in the decision making process. This would bring transparency to the system while instilling a sense of ownership and responsibility among the public. The Committee further recommends that Environmental Impact Assessment may also be factored in while considering an application for construction work near a protected monument.

118. The observations / recommendations of the Committee may be taken into consideration while framing the subsequent Notification / Rules related to the Bill.

119. The Committee notes that there is a need to revamp the AMASR Act, 1958 according to the needs and circumstances of the present-day India. The definition of public works needs a thorough revision taking into account the claims and demands made by various Ministries and stakeholders. Likewise, the 100 metres and 200 metres area restriction should be looked into afresh based on scientific facts. There is a need to classify the monuments taking into account various parameters such as historical value, footfall of visitors, etc. The Committee recommends that the Ministry may look into all these facts based on the observations of the Committee and then come out with a comprehensive legislation.

120. Be that it may, the Committee recommends the passage of the Ancient Monuments and Archaeological Sites and Remains (Amendment) Bill, 2018.

**BILL AS REPORTED BY THE
SELECT COMMITTEE**

THE ANCIENT MONUMENTS AND ARCHAEOLOGICAL SITES
AND REMAINS (AMENDMENT) BILL, 2018

(AS REPORTED BY THE SELECT COMMITTEE)

THE ANCIENT MONUMENTS AND ARCHAEOLOGICAL SITES
AND REMAINS (AMENDMENT) BILL, 2019

A

BILL

*further to amend the Ancient Monuments and Archaeological Sites
and Remains Act, 1958.*

BE it enacted by Parliament in the Seventieth Year of the Republic of India as follows:—

Short title and
commencement.

1. (1) This Act may be called the Ancient Monuments and Archaeological Sites and Remains (Amendment) Act, 2019.

(2) It shall come into force on such date as the Central Government may, by notification

Amendment
of section 2.

5 in the Official Gazette, appoint.

24 of 1958. **2.** In the Ancient Monuments and Archaeological Sites and Remains Act, 1958 (hereinafter referred to as the principal Act), in section 2, after clause (j), the following clause shall be inserted, namely:—

‘(ja) “public works” means construction works related to infrastructure financed

10 and carried out by any department or office of the Central Government for public purposes which is necessary for the safety or security of the public at large and emergent necessity is based on specific instance of danger to the safety or security of the public at large and there is no reasonable possibility of any other viable alternative to such construction beyond the limits of the prohibited area;’.

Amendment of section 20A.

3. In section 20A of the principal Act, after sub-section (4), the following sub-sections shall be inserted, namely:—

“(5) Nothing contained in sub-section (4) shall apply to the public works:

Provided that any question as to whether or not a construction works is public works, shall be referred to the Authority which shall on being satisfied make its recommendation, for the reasons to be recorded in writing, to the Central Government whose decision thereon shall be final: 5

Provided further that if the decision of the Central Government differs from the recommendation of the Authority, the Central Government shall record its reasons thereof. 10

(6) Any Department or office of the Central Government proposing to carry out any construction works, including reconstruction or repair or renovation, of any public works in the prohibited area, shall make an application to the competent authority for carrying out such construction works.

(7) Upon decision of the Central Government determining a construction works as public works in accordance with the provisions of sub-section (5), the competent authority shall convey the decision of the Central Government to the applicant within ten days of the receipt of such decision. 15

(8) The provisions of section 20C shall apply *mutatis mutandis* to the public works in a prohibited area.”. 20

Amendment of section 20D.

4. In section 20D of the principal Act, in sub-section (8), for the words “Director General”, the words “competent authority” shall be substituted.

Amendment of section 20-I.

5. In section 20-I of the principal Act, after clause (e), the following clause shall be inserted, namely:—

“(ea) to consider the impact, including archaeological impact, visual impact and heritage impact assessment, of public works which may be proposed in the prohibited area and make recommendations to the Central Government in respect thereof: 25

Provided that no recommendation for any construction works shall be made unless the Authority is satisfied that there is no reasonable possibility of any other viable alternative for shifting such construction works beyond the limits of the prohibited area.”. 30

NOTE OF DISSENT – APPENDIX I, II, III, IV & V

**NOTE OF DISSENT ON THE ANCIENT MONUMENTS
AND ARCHAEOLOGICAL SITES AND REMAINS
(AMENDMENT) BILL 2018**

The Ancient Monuments and Archaeological Sites and Remains (Amendment Bill), 2018 (hereafter 'the Bill') and passed by the Lok Sabha on 2nd January, 2018 was referred to the Select Committee (hereafter 'the Committee') of the Rajya Sabha through a motion adopted by the House on 26th July 2018. This bill was deliberated upon by the Committee. After detailed discussions and amendments, the bill has been adopted by the Committee without any amendments.

This is an amendment that we oppose and this dissent note outlines the reasons for it.

(I) An Amendment against protection of monuments and archaeological sites

The Bill for amending the existing act has not been framed for the purpose of protecting and conserving ancient monuments and archaeological sites and remains. Nor has it been moved for tackling the enormous threats that these monuments and sites continue to face. Instead, the reasons why sections of the existing Act have been sought to be amended is for the express purpose of allowing the construction by the Central Government of public works in their immediate vicinity - within the 100 meters prohibited zone that surrounds protected national monuments. It's crucial aforesaid objective (6, iii) states this in so many words: 'The prohibition of new construction within prohibited area of a protected area or protected monument, is adversely affecting the various public works and developmental projects of the Central Government. In order to resolve the situation arising out of the prohibition on any construction under Section 20A of the Act, a need has been felt to amend the Act to allow for construction works related to infrastructure financed and carried out by any Department or office of the Central

Government for public purposes which is necessary for the safety or security of the public at large.'

The bill, in other words, is driven by development at the cost of maintaining the integrity of the existing security zone around protected monuments. This is against the letter and spirit of the existing act which has, for decades, been seen and used as a vanguard legislation for protecting monuments and archaeological sites.

(II) An Amendment aimed at reversing the role of Parliament

In attempting to amend the existing act, the bill overturns the role which India's Parliament has played in defending the archaeological and monumental heritage of the nation. In the past, it has done so through Committees and through legislation.

The role of Parliamentary Committees, as a couple of examples described below would reveal, has uniformly been aimed at protecting sites and monuments in keeping with India's constitutional provisions.

In 1973-74, a comprehensive assessment of the Archaeological Survey of India was done by the Estimates Committee of the Lok Sabha under the chairmanship of R.K. Sinha.¹ The excellent report of this committee presented an honest and wide-ranging assessment of the state of Indian archaeology and of Indian monuments. The measures it suggested were for a better preservation of national monuments. It urged, for instance, effective steps to be taken to demarcate the limits of protected areas at monuments and sites to prevent encroachment through the preparation of survey plans. It also pointed to the theft and smuggling of sculptures and art objects out of India and the tardy way in which the Archaeological Survey of India (hereafter 'ASI') had handled the construction of sculpture sheds to protect loose sculptures and antiquities.

¹ Report of the Estimates Committee (1973-74), Fifth Lok Sabha, Fifty Second Report, Ministry of Education and Social Welfare, Archaeological Survey of India, April 1974, New Delhi: Lok Sabha Secretariat.

In November 2005, the Parliamentary Standing Committee on Transport, Tourism and Culture, submitted a report under the chairmanship of Nilotpal Basu. This report looked at the state of the ASI in great detail, from the delay in the publication of its excavation reports to the outsourcing of its work. It also revealed that the ASI had considered handing over the National Mission of Antiquities to the American Institute of Indian Studies, abdicating its own responsibilities. It stated in its report that 'adequate care should be taken when finalizing such kind of a deal so that the expenditure to be incurred on the National Mission of Antiquities is spent in the best interests of the nation and valuable information...[is] not handed over to foreign hands.'²

Through legislation, it is India's Parliament that has intervened when the ASI has failed in its duty to adequately protect monuments. The background to the 2010 amendment to the Ancient Monuments and Archaeological Sites and Remains Act makes this evident.

The ASI and the Ministry of Culture were reminded of their dereliction of responsibilities by Courts of law. A Delhi High Court judgment of 2009 had pointed out that through an entirely illegal committee, the ASI was guilty of proactively breaking the law that mandated it to safeguard monuments and was granting permissions within the prohibited area of 100 m radius around the monuments.³ It was as a consequence of this judgment that in 2010, the Government of India set up a Committee which recommended a new Bill to parliament. It is now known as the Ancient Monuments and Archaeological Sites and Remains (Amendment and Validation Bill), having been unanimously passed by Parliament in March 2010. It is this legislation which brought the prohibited and regulated zones around monuments within the ambit of the Act itself, a provision which already existed because of a 1992 notification. It was however, a provision which was given legislative

² Department-Related Parliamentary Standing Committee Report on Transport, Tourism and Culture, Ninety-First Report on Functioning of the ASI, Presented to the Rajya Sabha on November 25, 2005.

³ LPA 417/2009, Emca Construction Co. versus Archaeological Survey of India & others. October 30, 2009 judgment of Chief Justice A.P. Shah and Justice S. Murlidhar.

sanctity because of the 2010 amendment. This provision has been confirmed in a Supreme Court judgment in 2012.⁴

It does not behove Parliament that its role as an oversight body as also as one that has strengthened existing laws for protecting monuments, for the first time in the history of independent India, being overturned.

(III) Why should the 100 m prohibited zone remain as the 'red' line?

Protected monuments have three demarcated segments, stipulated by the Act in and around them: a protected area, a prohibited zone and a regulated zone. The protected area is that of the monument, the prohibited zone is where no new construction is allowed and the regulated zone of some 200 m beyond the prohibited zone requires clearance from the relevant authority before any change takes place within it. The purpose of this zoning is to protect sites that are vulnerable to intrusive human activity in their vicinity.

Of these, it is the prohibited zone which is sought to be compromised by the provisions of the Bill.

Members of the Committee have argued that no rationale was given in the ASI file notings for creating a prohibited zone of 100 m limit from the protected area/monument. The fact that reasons were not mentioned on file does not mean that this was not a thought through decision. In my opinion, there are at least four reasons for the prohibited zone being placed at 100 m.

(a) There is an aesthetic consideration which requires that the integrity of a reasonable line of vision is maintained. This can only be done if monuments are not 'welled in' by adjoining structures and keeping such structures at a distance of 100 m from the boundary of the protected monument. This is also what Bhaskar Ghose, the then Secretary, Culture, highlighted in an email to me on 20th October 2018 (which was

⁴ SCC Civil Appeal Nos. of 2430 and 24311/ 2006, Archaeological Survey of India versus Narender Anand and others. January 16, 2012 judgment of Justice G.S. Singhvi and Justice A.K. Ganguly.

forwarded to the Committee) as he recalled the background to the framing of rules relating to the 100 m prohibited zone and a 200 m regulated zone:

'I do remember... visiting the madrasa built by Ferozshah Tughlak in what is now Hauz Khas village and being horrified to see that the wall of a large building housing a multi-storeyed restaurant had been built literally on the outer wall of the madrasa compound. Not close to, but ON the wall. There was, in fact, some restriction on building close to protected monuments in the existing rules but these were easy to circumvent and provided for little or no punishment for violation. I went back to my office and we got the 100 and 200 metre rules framed and notified. It was possible because of the then minister for HRD, under whom the Deptt. Of Culture came, the late Arjun Singh, who.... was....genuinely concerned about matters relation to heritage and culture.'

Additionally, there are monuments, we may point out, where the prohibited zone is many times more than this as in the case of Agra's Taj Mahal. Therefore, keeping a security blanket of 100 m around a monument is the very minimum that needs to be done.

(b) There is a protective purpose that is served in keeping a minimum demarcation line of 100 m. Frequently, archaeological evidence exists beyond the protected site and even below the ground. This, if construction and development work is allowed to proceed in its immediate vicinity, would certainly be destroyed. In fact, in many instances, the security blanket of 100 m has proved to be inadequate. The case of Chandraketugarh in West Bengal is an example of this. The spread of the archaeological site is massive while the protected areas highly inadequate. Consequently, thousands of precious terracottas have been dug out and sent out of the country through the illegal antiquities trade. Like the Taj Mahal, if the prohibited zone around Chandraketugarh had been much more considerable, large areas from where antiquities have been dug up would not have been accessible. Therefore, there are good archaeological reasons for ensuring that the 100 m provision is not tinkered with and instead, on a case to case basis, is extended beyond the stipulated provision.

(c) The standards that India has set for VIP zones across the country should, at the very minimum, be the standard adopted for national protected monuments. The Central Government and the State Governments have protected the aesthetic norms and planning that are an integral part of public and private VIP zones. The Lutyens Bungalow zone and the Civil Lines area in New Delhi are examples of this. These are zones which in many cases are relatively recent (less than one hundred years old). Yet, no buildings will be allowed to come up in the immediate vicinity of, for instance, Parliament House or the Old Secretariat. On the other hand, those are norms that are sought to be compromised in the Bill for monuments that have histories that go back centuries and millennia and which have been recognized as national monuments.

(d) Contrary to what is stated in the suggested amendment, there will be a dangerous domino effect. It is no exaggeration to categorically state that it will open a Pandora's box because it will lead to similar amendments in the state legislations. Consequently, the bill which concerns 3650 + monuments will actually impact 10,000 + monuments.

The compromised heritage of India, thus, will not only be compromised further by Central Government projects but it will be extended by every State Government and the governments of Union Territories to construct within the prohibited zone in their own lists. This will be the ripple effect of the Centre allowing a relaxation in the 100 m zone. In fact, today it is 'public works' that are mentioned, tomorrow it will be PPP that this will be extended to other kinds of projects.

(IV) The State of Monuments and Sites - Comptroller and Auditor General's Report

A formidable CAG report was tabled in Parliament in 2013.⁵ This report highlighted the state of India's monuments and the encroachments in their vicinity. Of the 1655 monuments where records were scrutinized and a joint physical inspection conducted, 545 monuments were found to be encroached. This, incidentally, was more than double the figure given by the ASI to the CAG team. This included iconic sites like Dholavira and Rangpur in Gujarat. At Rangpur, houses had been constructed on the site and local people were using a portion of the site for taking out soil. The bulk of the protected monuments, the report noted, had been neglected for years. In fact, as it pointed out, unauthorized constructions and encroachments are legion even at World Heritage Sites: 628 at Khajuraho, 194 at Fatehpur Sikri and 107 at Champaner.

Observation: It is the duty of Parliamentary and parliamentary legislation to tackle the monumental scale of encroachments into the 100 m prohibited zone. Instead, the present government has brought in a bill that seeks to compromise the prohibited zone.

(V) Views of Experts sought by the Select Committee

Overwhelmingly, the experts called by the Committee expressed deep reservations about the amendments.⁶

Shri Divay Gupta, Principal Director of INTACH, was of the view that 'the viable alternative beyond the limit of prohibited areas should be examined' as part of the Heritage Impact Assessment. The Ministry of Culture, in fact, thought this to be a reasonable suggestion.

⁵ Report of the Comptroller and Auditor General of India, Report No. 18 of 2013, Performance Audit of Preservation and Conservation of Monuments and Antiquities, Union Government (Civil): Ministry of Culture.

⁶ For the opinions of experts invited by the Select Committee, 'Comments furnished by the Ministry of Culture on the points raised in the memoranda received on the AMASR (Amendment) Bill, 2018.

Professor Narayani Gupta, former member of the Delhi Urban Art Commission, did not think that 'any public works should be permitted in prohibited area'. As she pointed out, the prohibited area is no longer prohibited 'if construction is proposed by any department or office of Central Government'.

Dr. Rima Hooja, former member of the National Monuments Authority (NMA hereafter), urged the select committee to 'disallow amendments and alterations to the AMASR Act that can undermine the spirit and commitment expressed in the Constitution of India towards protecting our nation's monuments, places and objects of artistic or historic interest'. She also pointed out to the fact, based on her experience at the NMA, that viable alternatives are found when there is a prohibited zone which makes no exceptions for any government or body. Specifically, she pointed to railway projects: 'NMA discussions with the concerned railway authorities, and open-mindedness on all sides, led to a less drastic, less intrusive to the monument, and less expensive alternative, of marginal realignment of some sections of tracks, and partial addition of new tracks'. The assumption by the Central Government of final authority was also flagged by her since the Bill gave it the power to overrule the 'collective wisdom of the Government of India's own duly constituted ASI and NMA.

Mr. Ranjit Gadgil, activist and program director of Parisar, argued that with proper planning, any construction works can be undertaken to avoid passing through the prohibited area of a protected monument.

~~Professor~~

Professor Himanshu Prabha Ray, former Chairperson of the NMA, 'earnestly requested that in the interest of preservation of heritage, a decision on AMASR amendment 2018 should be kept in abeyance until complete data on categorization and Heritage bye-laws is finalized and made available to the public by the relevant authority'.

Professor Nayanjot Lahiri, former member of the Delhi Urban Art Commission, stated that 'the aim of the Central and State Governments should be to bring more monuments within the ambit of protection. It should not be to endanger India's defenceless architectural and

archaeological heritage by changing the law in order to promote development at all costs’.

Observation: The Committee sought the views of experts who have been part of national bodies dealing with monuments and with development projects in their vicinity. However, the detailed observations given by them have not been incorporated. Instead, the bill in its original form has been accepted without any amendments.

It is our view , as suggested by the former chairperson of the NMA, that the Bill be kept in abeyance until the Heritage bye-laws are finalized and tabled in Parliament. **Considering that the Committee has recommended that the National Monuments Authority should lay the requisite bye-laws in the Next Session of Parliament, this bill should not be passed in the present session. Once the heritage bye-laws are tabled, as was mandated by the 2010 amendment, the bill can be taken up with requisite changes that would be required in the light of these bye-laws. On the other hand, if heritage impact and visual impact are assessed – as the bill stipulates – when a public work funded and executed by the Central government within the prohibited zone comes up for consideration, it is likely that the assessments will be tweaked in order to facilitate the proposal/s. The formal procedure of drafting and tabling the heritage bye-laws is absolutely necessary before the bill is passed.**

*Ambika Soni,
Madhusudan Mistry
Jairam Ramesh
Binoy Viswan.
February 4, 2019*

K. K. RAMESH

Jairam Ramesh
Ambika Soni
Binoy Viswan
M. D. Viswan
M. D. Viswan
Binoy Viswan



04.02.2019



NOTE OF DISSENT

**On The Ancient Monuments and Archaeological Sites and
Remains (Amendment) Bill 2018**

To
Shri Vinay Sahasrabuddhe
The Chairman
Select Committee on The Ancient Monuments and Archaeological Sites
and Remains (Amendment) Bill 2018

Dear Vinay Sahasrabuddhe ji,

My **note of dissent** on The Ancient Monuments and Archaeological Sites and Remains (Amendment) Bill, 2018 is as follows:

(I) **Proposed Amendment is against protection of
monuments and archaeological sites**

The Bill for amending the existing act has not been framed for the purpose of protecting and conserving ancient monuments and archaeological sites and remains. Nor has it been moved for tackling the enormous threats that these monuments and sites continue to face. Instead, the reasons why sections of the existing Act have been sought to be amended is for the express purpose of allowing the construction by the Central Government of public works in their immediate vicinity – within the 100 metres prohibited zone that surrounds protected national monuments. Its crucial aforesaid objective (6, iii) states this in so many words: ‘The prohibition of new construction within prohibited area of a protected area or protected monument, is adversely affecting the various



public works and developmental projects of the Central Government. In order to resolve the situation arising out of the prohibition on any construction under Section 20A of the Act, a need has been felt to amend the Act to allow for construction works related to infrastructure financed and carried out by any Department or office of the Central Government for public purposes which is necessary for the safety or security of the public at large.'

The bill, in other words, is driven by development at the cost of maintaining the integrity of the existing security zone around protected monuments. This is against the letter and spirit of the existing act which has, for decades, been seen and used as a vanguard legislation for protecting monuments and archaeological sites.

(II) An Amendment aimed at reversing the role of Parliament

In attempting to amend the existing act, the bill overturns the role which India's Parliament has played in defending the archaeological and monumental heritage of the nation. In the past, it has done so through Committees and through legislation.

Through legislation, it is India's Parliament that has intervened when the ASI has failed in its duty to adequately protect monuments. The background to the 2010 amendment to the Ancient Monuments and Archaeological Sites and Remains Act makes this evident.

The ASI and the Ministry of Culture were reminded of their dereliction of responsibilities by Courts of law. A Delhi High Court judgment of 2009 had pointed out that through an entirely illegal committee, the ASI was guilty of proactively breaking the law that mandated it to safeguard monuments and was granting permissions within the prohibited area of



100 m radius around the monuments.¹ It was as a consequence of this judgment that in 2010, the Government of India set up a Committee which recommended a new Bill to parliament. It is now known as the Ancient Monuments and Archaeological Sites and Remains (Amendment and Validation Bill), having been unanimously passed by Parliament in March 2010. It is this legislation which brought the prohibited and regulated zones around monuments within the ambit of the Act itself, a provision which already existed because of a 1992 notification. It was however, a provision which was given legislative sanctity because of the 2010 amendment. This provision has been confirmed in a Supreme Court judgment in 2012.²

(III) Why should the 100 m prohibited zone remain as the 'red' line?

- (a) Protected monuments have three demarcated segments, stipulated by the Act in and around them: a protected area, a prohibited zone and a regulated zone. The protected area is that of the monument, the prohibited zone is where no new construction is allowed and the regulated zone of some 200 m beyond the prohibited zone requires clearance from the relevant authority before any change takes place within it. The purpose of this zoning is to protect sites that are vulnerable to intrusive human activity in their vicinity.

Of these, it is the prohibited zone which is sought to be compromised by the provisions of the Bill. Additionally, there are monuments, we may point out, where the prohibited zone is many times more than this as in the case of Agra's Taj Mahal.

¹ LPA 417/2009, Emca Construction Co. versus Archaeological Survey of India & others. October 30, 2009 judgment of Chief Justice A.P. Shah and Justice S. Murlidhar.

² SCC Civil Appeal Nos. of 2430 and 24311/ 2006, Archaeological Survey of India versus Narender Anand and others. January 16, 2012 judgment of Justice G.S. Singhvi and Justice A.K. Ganguly.



Therefore, keeping a security blanket of 100 m around a monument is the very minimum that needs to be done.

- (b) There is a protective purpose that is served in keeping a minimum demarcation line of 100 m. Frequently, archaeological evidence exists beyond the protected site and even below the ground. This, if construction and development work is allowed to proceed in its immediate vicinity, would certainly be destroyed. In fact, in many instances, the security blanket of 100 m has proved to be inadequate. The case of Chandraketugarh in West Bengal is an example of this. The spread of the archaeological site is massive while the protected areas highly inadequate. Consequently, thousands of precious terracottas have been dug out and sent out of the country through the illegal antiquities trade. Like the Taj Mahal, if the prohibited zone around Chandraketugarh had been much more considerable, large areas from where antiquities have been dug up would not have been accessible. Therefore, there are good archaeological reasons for ensuring that the 100 m provision is not tinkered with and instead, on a case to case basis, is extended beyond the stipulated provision.
- (c) Contrary to what is stated in the suggested amendment, there will be a dangerous domino effect. It is no exaggeration to categorically state that it will open a Pandora's box because it will lead to similar amendments in the state legislations. Consequently, the bill which concerns 3650 + monuments will actually impact 10,000 + monuments.

The compromised heritage of India, thus, will not only be compromised further by Central Government projects but it will be extended by every State Government and the governments of Union Territories to construct within the prohibited zone in their own lists. This will be the ripple



effect of the Centre allowing a relaxation in the 100 m zone. In fact, today it is 'public works' that are mentioned, tomorrow it will be PPP that this will be extended to other kinds of projects.

(IV) The State of Monuments and Sites - Comptroller and Auditor General's Report

Observation: It is the duty of Parliamentary and parliamentary legislation to tackle the monumental scale of encroachments into the 100 m prohibited zone. Instead, the present government has brought in a bill that seeks to compromise the prohibited zone.

(V) It is in my view, as suggested by the former chairperson of the NMA, that the Bill be kept in abeyance until the Heritage bye-laws are finalized and tabled in Parliament. Considering that the Committee has recommended that the National Monuments Authority should lay the requisite bye-laws in the Next Session of Parliament, this bill should not be passed in the present session. Once the heritage bye-laws are tabled, as was mandated by the 2010 amendment, the bill can be taken up with requisite changes that would be required in the light of these bye-laws. On the other hand, if heritage impact and visual impact are assessed – as the bill stipulates – when a public work funded and executed by the Central government within the prohibited zone comes up for consideration, it is likely that the assessments will be tweaked in order to facilitate the proposal/s. **The formal procedure of drafting and tabling the heritage bye-laws is absolutely necessary before the bill is passed.**

Your sincerely
Tiruchi Siva

Manish Gupta
MEMBER OF PARLIAMENT
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(Rajya Sabha)



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Note of Dissent

To,
Dr. Vinay P. Sahasrabudhe,
Hon'ble Member of Parliament,
Chairman,
Select Committee on the Ancient Monuments and Archaeological Sites
and Remains (Amendment) Bill, 2018
Room No. 403, 4th Floor,
Parliament House Annexe Extension Building,
New Delhi – 110001

5th February, 2019

Sub: NOTE OF DISSENT

Re : Draft Report of the Select Committee on the Ancient Monuments and Archaeological Sites and Remains (Amendment) Bill, 2018

Sir,

As per the RULES OF PROCEDURE AND CONDUCT OF BUSINESS IN THE COUNCIL OF STATES and as a Member of this SELECT COMMITTEE, I am forwarding herewith a NOTE OF DISSENT. This also refers to the deliberations and the several issues raised by me verbally and in writing in the Select Committee on the Ancient Monuments and Archaeological Sites and Remains (Amendment) Bill, 2018. (Letter dated 2nd February, 2019 enclosed). None of these have been incorporated especially or attributed to West Bengal State in the Draft Report. (letter No.RS.2/2/2018-T&T dated 23rd January, 2019 received from Under Secretary, Rajya Sabha Secretariat reflects the opinion as referred to – attached as Encl. at serial No.).

The Ancient Monuments and Archaeological Sites and Remains (Amendment) Bill, 2018 relates mainly to relaxation of norms and procedures for enabling “public works” in the ancient heritage areas in the country.

Contd. Page...2

Member:

Parliamentary Standing Committee on Energy (Lok Sabha)
Consultative Committee, Ministry of External Affairs

St. Gnanan
111
5/2/19

The new definition of “public works” sought to be brought in, states in the new sub-section “ja” that “where there is no reasonable possibility of any other viable alternative.....” This in itself nullifies the very concept of “Environment Impact Assessment”, “Public Hearing” and consultation with the States. Safety and security of the public is of paramount importance but should not be used to justify “Public Works” as newly described, thereby endangering the very heritage we seek to protect. Heritage belongs to all of us. The Central Government should not want the final say above local public opinion (Public hearing) which is in the domain of the States and the opinions of subject matter Experts. We have suggested a Group of Experts and Public Hearing as part of a “Transparent” process to satisfy our concerns provided the State Government is involved as required on a “case by case” basis. The tenets of cooperative federalism should not be given short shrift. Members of the Select committee albeit in consensus have put forward several suggestions and sought changes / additions but these have been cast aside and no amendments have been incorporated in any Clause. In typical style all the proposed Clauses have been adopted without any change or amendment. The entire matter is also being unnecessarily rushed through for whose benefit, it is not clear. In my opinion as also in the opinion of several Members this treatment of a legislative responsibility entrusted by Parliament should not be disposed of hurriedly in this fashion. Further deliberations are essential in the public interest. More time should be sought for by the Select Committee before submission of the Final Report.

Several Members had suggested that the role of the State Governments should be given due respect and accordingly had sought changes in the proposed Clauses. These suggestions have also been rejected. The views of the Ministry of Culture which has at times has been without substance has been given precedence. Our cultural heritage and identity is moving towards a new description without any objectivity which will willy nilly obliterate our history and the march of our civilization.

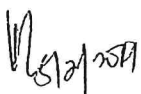
Mg 2/2019

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The Draft Report makes references to the consensus on some desirable actions that were suggested by the Members but stops short of incorporating any changes in the proposed Clauses in the Bill. Rather the Select Committee in the Draft Report advises that these be only incorporated in subsequent Notifications and Rules ! That on the face of it doesn't make sense. If the primary Amendment Bill, 2018 does not undergo any changes after so many months of deliberations and voicing of legitimate concerns, no real purpose seems to have been served.

The Select Committee is being used as a rubber stamp so to speak. The recommendations in the Draft Report basically seeks to give legislative legitimacy to a blanket and open definition of "Public Works" to enable the Central Government and its department / agencies to carry out or authorize construction work in the prohibited areas in the name of public security and safety sans the NMA who would only have a performa role. This is most unfortunate. The State of West Bengal has constantly urged that all these issues should be highlighted in the text of the Final Report and action be initiated to change the proposed Clauses to reflect suggestions and consensus by the Members of the Select Committee in the public interest. (Verbatim reports of all the proceedings of the Select Committee meetings may kindly be included in the FINAL REPORT)

In our developing nation we need to be circumspect about proposed legislation that seeks to cover operations in an area which is dear to our hearts. Depending too much on Rules and Notifications to be formulated at a 'later date' is fraught with risks. This leaves scope for misinterpretation and misrepresentation. The main body of the Bill should clearly include those basic changes on which there is a consensus in the Select Committee. Merely admitting but only relaying the concerns raised by Members in the text of the Draft Report is not adequate. Modern law must be clear and meaningful in its basic postulates. It should not be left to the Executive to formulate controls at their discretion or fix limits at their convenience. Dependence on Rules and Notifications allow for this kind of activity.



Contd. Page...4

Without prejudice to my rights and contentions my Clause by Clause comments is as under; -

Clause – 2

- a) In section 2, after clause (j) a new clause (ja) is sought to be inserted.
In this proposed new clause in the definition “Public Works” after the words “Central Government” the words “or State Government” should be added.
- b) **Section 2** In the proposed new Clause “ja” in line 5 after “.....safety or security of the public at large”, rest of the proposed Clause “ja” should be **deleted** namely form “and there is no reasonable possibility.....limits of the prohibited area”

Clause – 3

Seeks to amend sec 20A of the act.
This proposed Clause 3 should be deleted in its entirety.

Clause - 5

- a) Seeks to amend sect 20-I.
Proposed subclause “(ea)” after the words “Impact Assessment” the words “Environmental Impact Assessment and Public Hearing” should be inserted.
- b) In this proposed amendment “(ea)’ after the words “Central Government”, the words “the State Government as the case may be”, be inserted.

The protection and management of ancient monuments or archaeological sites and remains should ensure that their importance from the national point of view, integrity and authenticity at the time of protection are atleast maintained, if not enhanced in future. There is a significant role of culture heritage in defining our national identity.

Ms. J. J. J.

Contd. Page...5

The proposed amendment in the Ancient Monuments and Archaeological Sites and Remains (Amendment) Bill, 2018 indicates a probable resolve of the Government to push “development” at any cost - social, environmental or cultural by what appears to be a dilution of the AMASR Act. Public works are more often than not very large infrastructure projects. Allowing these in the immediate vicinity of protected monuments will defeat the very purpose of the AMASR Act and will be in violation of Article 49 of the Constitution.

I would humbly urge that this NOTE OF DISSENT in its present form which attaches my letters dated 3rd August, 2018 and 31st January, 2019 and all enclosures may kindly be included in the text of the FINAL REPORT of this Select Committee on the Ancient Monuments and Archaeological Sites and Remains (Amendment) Bill, 2018

Thanking you,

Yours sincerely,



(Manish Gupta)

Member, Select Committee

5/02/2019

Encl:

1. Copy of my letter dated 2nd February, 2019
2. Copy of my letter dated ~~31st January, 2019~~
3. Copy of my letter dated 3rd August, 2018

4th February, 2019

Manish Gupta
MEMBER OF PARLIAMENT
(RAJYA SABHA)
Dy. Leader of A.I.T.C
(Rajya Sabha)



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To,
Dr. Vinay P. Sahasrabuddhe,
Hon'ble Member of Parliament,
Chairman,
Select Committee on the Ancient Monuments and Archaeological Sites
and Remains (Amendment) Bill, 2018
Room No. 403, 4th Floor,
Parliament House Annexe Extension Building,
New Delhi – 110001

2nd February, 2019

**Re : Initial Comments on the Draft Report of the Select Committee on
the Ancient Monuments and Archaeological Sites and Remains
(Amendment) Bill, 2018**

Sir,

This refers to the deliberations and the several issues raised by me verbally and in writing in the Select Committee on the Ancient Monuments and Archaeological Sites and Remains (Amendment) Bill, 2018. (Letter dated 2nd February, 2019 enclosed). None of these have been incorporated in respect of West Bengal State in the Draft Report.

The Ancient Monuments and Archaeological Sites and Remains (Amendment) Bill, 2018 relates mainly to relaxation of norms and procedures for enabling “public works” in the ancient heritage areas in the country.

Contd. Page...2

The new definition of “public works” sought to be brought in states” where there is no reasonable possibility of any other viable alternative”. This in itself nullifies the very concept of “Environment Impact Assessment”, Public Hearing and non-consultation with the States. Safety and security of the public is of paramount importance but should not be used to justify “Public Works” thereby endangering the very heritage we seek to protect. Heritage belongs to all of us. The Central Government should not want the final say above local public opinion (Public hearing) and opinions of subject matter experts. We have suggested a Group of Experts and Public Hearing as part of a “Transparent” process to satisfy our concerns provided the State Government is involved as required on a “case by case” basis. Members of the Select committee have given several suggestions and advice but these have been cast aside and no changes have been incorporated. In typical style all the Clauses have been adopted without any change or amendment. The entire matter is being unnecessarily rushed through for whose benefit, it is not clear.

Several Members had suggested that the role of the State Governments should be given due respect and accordingly had sought changes in the proposed clauses. These suggestions have been ignored. The view of the Ministry of Culture which was at times without substance has been given precedence. Our cultural heritage and identity is moving towards renewal without any objectivity thereby obliterating our history and the march of our civilization.

The Draft Report makes references to some desirable actions that were suggested by the Members but stops short of incorporating any changes in the proposed Clauses in the Act. Rather the Select Committee in the Draft Report advises that these be incorporated in subsequent Notifications and Rules ! That on the face of it doesn't make sense.

Contd. Page...3

In our developing nation we need to be circumspect about proposed legislation that seeks to cover operations in an area which is dear to our hearts. Depending too much on Rules to be formulated at a later date is fraught with risks. Rules leave scope for misinterpretation and misrepresentation. The main body of the Act should clearly include those basic changes on which there is a consensus. Merely mentioning this in the text of the Draft Report is not adequate. Modern law must be clear and meaningful in the basic postulates. It should not be left to the Executive to formulate controls at their discretion or fix limits at their convenience. Dependence on Rules and Notifications allow for this kind of activity.

My comments Clause by Clause is as under; -

Clause – 2

a) In section 2, after clause (j) a new clause (ja) is sought to be inserted.

In this proposed new clause in the definition “Public Works” after the words “Central Government” the words “or State Government” should be added.

b) In the proposed new Clause “ja” in line five after “.....safety or security of the public at large”, rest of the proposed Clause should be **deleted** namely from “and there is no reasonable possibility.....limits of the prohibited area”

Clause – 3

Seeks to amend sec 20A of the act.

This proposed Clause 3 should be deleted in its entirety.

Clause - 5

Seeks to amend sect 20-I.

Proposed subclause “(ea)” after the words “Impact Assessment” the words “Environmental Impact Assessment and Public Hearing” should be inserted.

Contd. Page...4

In this proposed amendment “(ea)’ after the words “Central Government”, the words “the State Government as the case may be”, be inserted.

I would humbly urge that this letter and my letter dated 31st January, 2019 and its enclosures may kindly be included in the Final Report of the Select Committee

Thanking you

Yours sincerely,



(Manish Gupta) 2/2/2019
Member of Select Committee

Encl:

4th February, 2019

1. Copy of my letter dated ~~31st January, 2019~~
2. Copy of my letter dated 3rd August, 2018

Manish Gupta
MEMBER OF PARLIAMENT
(RAJYA SABHA)
Dy. Leader of A.I.T.C
(Rajya Sabha)



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To,
Dr. Vinay P. Sahasrabudhe,
Hon'ble Member of Parliament,
Chairman,
Select Committee on the Ancient Monuments and Archaeological Sites
and Remains (Amendment) Bill, 2018
Room No. 403, 4th Floor,
Parliament House Annexe Extension Building,
New Delhi – 110001

4th February, 2019
~~31st January, 2019~~

Sub: Gist of Comments received from State Governments/ UTs on the
Ancient Monuments and Archaeological Sites and Remains
(Amendment) Bill, 2018

Ref: Office of the Select Committee Letter No. RS.2/2/2018-T&T dated
23rd January, 2019 signed Under Secretary, Rajya Sabha Secretariat.

Dear Sir,

Please refer to above letter No.RS.2/2/2018-T&T dated 23rd January, 2019.
A Gist of Comments of the State Governments/ UTs has been enclosed with respect
to deliberations of the Select Committee on the Ancient Monuments and
Archaeological Sites and Remains (Amendment) Bill, 2018

It is observed from the enclosure to the letter under reference that the
comments from the Government of West Bengal have not been included. Apart from
what has stated by the undersigned in the meetings of the Select Committee held on
1st August, 2018 (ref. page 21 and 22 – Verbatim proceedings) and on 6th August,
2018 (ref. page 24 and 25 - Verbatim proceedings).

Cont'd . page..2

Member:
Parliamentary Standing Committee on Energy (Lok Sabha)
Consultative Committee, Ministry of External Affairs

Sh. Gaurav
11/19

The undersigned has also sent the detailed views of the State Government of West Bengal in a letter dated 3rd August, 2018 (copy enclosed). I would request you to kindly incorporate the same in your Records and to kindly ensure that these are adequately reflected in the Draft and Final Report of the Select Committee in so far as it pertains to the views of the State of West Bengal.

The Draft Report of the Select Committee does not reflect the views of the Government of West Bengal submitted through the undersigned. This looks like an unfortunate departure.

Para IV- "Views of the State Governments at page 18 of the Draft Report also does not reflect the views of the Government of West Bengal.

Thanking you,

Yours sincerely,


(Manish Gupta)

Member of Select Committee

Encl:

1. Copy of my letter dated 3rd August, 2018
2. Extract of the Verbatim proceedings dated 1st August, 2018
3. Extract of the Verbatim proceedings dated 6th August, 2018

Manish Gupta
MEMBER OF PARLIAMENT
(RAJYA SABHA)
Dy. Leader of A.I.T.C
(Rajya Sabha)



Appendix III / (C)
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To,
Dr. Vinay P. Sahasrabudhe,
Hon'ble Member of Parliament,
Chairman,
Select Committee on the Ancient Monuments and Archaeological Sites and Remains
(Amendment) Bill, 2018
Room No. 403, 4th Floor,
Parliament House Annexe Extension Building,
New Delhi - 110001

3rd. August, 2018

Ref: Meeting of the Select Committee held on 01.08.2018

Sir,

The Ancient Monuments and Archaeological Sites and Remains (Amendment) Bill, 2018, relates mainly to relaxation of norms and procedures for enabling construction, reconstruction and renovation of Ancient Monuments and Archaeological Sites as also for ensuring mainly Public Safety and Security in the prohibited and regulated areas, as described.

In Section 2, a new definition of "Public Works" is sought to be brought in within the qualification "Will be as it is for the safety and security of the public at large and emergent necessity is based on specific instance of danger in the safety or security of the public at large where there is no reasonable possibility of any other viable alternative"

In Section 20, Clause (ea) is proposed to be inserted where the National Monuments Authority (NMA) will consider archaeological impact, visual impact and heritage impact for proposed work in the prohibited area and regulated areas. All the above considerations through power concentrated in the Government of India or its subsidiaries are likely to become contentious in the long run.

The local public at several Ancient Monument sites are unlikely to be satisfied with the procedure followed for interference in the name of safety and security. They need to be involved in the decision-making process. Visual interference and adverse visual impact is also likely to be within their primary focus alongwith the fear of invisible structural impact.

cont'd page..2

Member:
Parliamentary Standing Committee on Energy (Lok Sabha)
Consultative Committee, Ministry of External Affairs

Therefore, the concerned State Governments should be involved and provisions included accordingly in the Act.

In the case of Environment Clearance preceded by Environment Impact Assessment both Rapid and Final is a well-established practice. Public Hearing is decreed and is an essential part of this process. The same procedure should be introduced in the amendments and the Rules to meet the concerns of the public. Public Hearing should be made mandatory. Comprehensive Impact Assessment should be made statutory. EIA can look into various problems, conflicts and harm to monuments which can also predict if a project might cause harm to the public/ people, their land and livelihoods. It can also maximise the beneficial effects. Their findings can be discovered through a two - way process between all stakeholders' developers, investors, regulators, planners, politicians and affected communities.

A short-term or rapid EIA for preliminary screening may be desirable. It seems that several Ministries of the Central Government could be involved depending on the projects proposed to be undertaken in the Prohibited or Regulated Area. This is a complication and the NMA can probably not by itself be competent to apprise projects as they may not have the expertise. The type of assessments prescribed under the Environment Protection Act, 1986 appear to be a good option. Summary disposal by the NMA is not desirable.

"Public Hearing" in the EIA process in involving the public is one of the basic principles and provides an opportunity to the people to highlight any safety or security issues. It also allows any directly affected people to express their concerns and brings transparency into the system of project clearance. There are several Hon'ble Supreme Court Rulings on the importance of "Public Hearing".

Emergent public safety and security is the responsibility of the State Government and this should be kept in mind and suitable provisions incorporated in the Act., while seeking to design projects to address public security and safety.

Chairman may also kindly consider incorporating the views expressed by the Members in the several meetings of the Committee held from time to time in the Final Report of this Select Committee including all written communications from Members.

cont'd page..3

Any move to bring in Amendments without about giving due importance to the role of the State Government who represent the local public is fraught with serious consequences. Project appraisal to obviate any advance impact on structural stability, visual impact, heritage impact and fool-proof safety and security for public at large should be done through well-trodden paths. I would urge that this aspect should be given due importance and suitable changes in the Amendments may be brought in, accordingly.

Our heritage and the symbols of our heritage are the quintessences of our culture. Concerns for protecting our environment is also of great importance and equally important to a great extent are our ancient structures, monuments and edifices which give us a glimpse of our history and the journey of our civilisation.

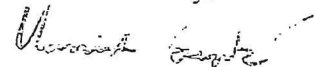
In the Environment Protection Act, 1986 under Section 5, the Central Government has delegated powers to the State Governments. This Act was enacted by Parliament in the wake of the Bhopal Tragedy where thousands lost their lives. Subsequently more Protection Acts for eg. Wildlife, Forests, Water etc. were enacted. All these also talk about preservation of hazards to human beings and other living creations, plants and property.

Later the Environment Impact Assessment/ Regulations came into being in 1994. It has been made mandatory for specified projects to conduct an Environment Impact Assessment (EIA) provided for under the Environment Protection Act, (EPA) 1986. The primary aim is to assess the potential impact of a project on the environment and consequently on the public. The EIA identifies key impacts/ issues.

This procedure can be followed mutatis mutandis for all work in the Prohibited Areas and the Regulated Areas of Ancient Monuments and Archaeological Sites after a through examination and realignment to fit in with the Amendment Bill, 2018 which is under consideration.

With best regards,

Yours faithfully,



(Manish Gupta)

Member of Select Committee.

3/11/2018

Copy of the Verbatim record of the proceedings dated 1st August, 2018

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SHRI MANISH GUPTA: Sir, the entire amendments that are being proposed, the power to decide one way or the other depends on the Central Government or the National Monuments Authority. There are two issues here.

That fact is that this entire amendment is sought to be brought on the matter of public safety and security . Now , public safety and security is necessarily a local issue . That is one part. So, the State Government needs to be involved because, after all, laws are made for the people of India. So, we have to look, be careful, and be circumspect when we bring new amendments .

The other issue is the visual and archaeological impact. This is again a matter which will impact the public. As you know, for environment clearances, there is a well-established system in which you have a public hearing . The Environment Authority, whoever it is designated, have to have a public hearing before they undertake any project. Now, with the evolution of our society, I think, we need to involve the public more and more in what we do, and what we legislate. So, I think, that aspect has to be considered so that there is no misgiving in the minds of public as to why a particular project is being undertaken . And also, you have mentioned here that you looked into this fact of visual impact . This is very important . In most monuments , I have seen where work is done, there is

some visual change. This is undesirable . So, that is why, these aspects need to be looked into, and public needs to be involved, and the best way to involve them is through public hearing, as we have in the case of environment clearance. Thank you.

(Ends)

(followed by

IJ/KGG)

KGG-DS/IJ/IO.IO

SHRI KANAKAIVEDALA RAVINDRA KUMAR: The ancient monuments and archaeological sites are already in existence. Can you identify them State-wise? Does it require an absolute power rested with the Government by making an Amendment? Unless proper monuments are identified, to have such a requirement is really not necessary. It must be considered . Giving absolute power to the Government is immaterial . I can understand if it is a future unforeseen event that is kept in mind. It is better to identify wherever such things are for public safety .

DR. SUBRAMANIAN SWAMY: Section 2, which you sought to amend or expand, defines also the national monuments . Many clauses that you introduced are essentially discretionary in the sense that it will be decided by the National Monuments Authority . It means, it is subject to challenge in the court of law. To minimise

sure whether in any of the State Governments, the concept of prohibited and regulated area exists.

CHAIRMAN: Really?

SHRI NAVNEET SONI: I am not very sure, Sir.

SHRI SAMBHAJI CHHATRAPATI: It is very important.

अध्यक्ष : थोड़ा सा examine कीजिए, यह बहुत महत्वपूर्ण है।

SHRI SAMBHAJI CHHATRAPATI: Sir, we are talking only about Central ASI, but almost 40 per cent of this kind of monuments fall under the State ASI.

अध्यक्ष : इसी संदर्भ में वे बोल रहे हैं कि वहां तो और भी आनन्द की स्थिति है।

SHRI MANISH GUPTA: Sir, I have given a letter regarding this entire affair. We are talking in this amendment basically about safety and security of public; we are talking about visual impact impairment, structural damage. In this, I fully agree with the other Members.

(Contd. by YSR/1J)

YSR-PRB/10.40/1J

SHRI MANISH GUPTA (CONTD.): We must have a separate Expert Committee or a body which will be able to judge as to whether the public works which are proposed to be undertaken can be undertaken. And the well-tested method is to have public hearings. All the stakeholders should be involved. When we talk about

public interest, we must really involve the public. When the Environment Protection Act, 1986 was enacted, they did not have public hearing initially. It was later on instituted by certain judgments given by the Supreme Court saying that the public should be involved. When the public is involved, the State Government has to be involved. I have given the details in my letter. We know that the NMA basically plays a pivotal role in this. But this amendment actually seeks to enable more public works in a controlled manner in the prohibited and regulates areas. This is very important that there should be an Expert Body which should be able to decide on it and all the stakeholders should be able to voice their opinions, their apprehensions and their concerns.

अध्यक्ष : ठीक है। It is well taken. क्या आपको कुछ कहना है?

श्री नवनीत सोनी : सर, मैडम ने एक issue raise किया था, मैं उस पर कुछ कहना चाहता हूँ। I would just like to read one portion from the law. The hon. Member spoke about different classes of monuments. Some cannot be violated at all and there are some where a view can be taken.

SHRIMATI AMBIKA SONI: Experts should take a view on that.

SHRI NAVNEET SONI: Madam, Section 20A says that every area beginning at the limit of the protected area or

Binoy Viswam
Member of Parliament
(Rajya Sabha)



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Dr. Vinay Sahasrabudde,
Chairman, Select Committee
Ancient Monuments and Archaeological Sites.

5th February, 2019

Note of Dissent

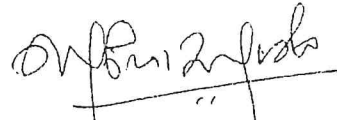
I write these lines after watching the video clippings of vandalism in Hampi, the prestigious heritage site, approved by UNESCO.

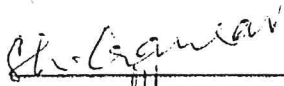
The Authorities, including ASI failed to protect the monument from the criminal vandalism.

I am of the opinion that if the present amendments are carried through, ancient monuments all over the country would be thrown opened before such kind of criminals and miscreants.

Many encroachments may take place in the name of development also.

Hence, I reiterate the view that the bill be differed till the by-laws are approved for the protection of monuments. There is a growing tendency in the country in approaching the monuments with a communally surcharged perspective, which of course is a dangerous trend. In its haste for 'ease of doing business,' the Govt. ignores such facts. Hence this dissent.


(Binoy Viswam)
Div. No. 174

91
5/2/19

Member, Standing Committee on Information and technology
5/2/19

Member, Standing Committee on Information and technology

K.K. RAGESHMEMBER OF PARLIAMENT
(RAJYA SABHA)Member : Standing Committee on Industry
Member : Consultative Committee,
Ministry of Labour and Employment
Chairman of the State Consultative Committee
of Food Corporation of India for the State of Kerala

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To

**The Chairman
Select committee on AMASR (Amendment) Bill, 2018**

Sub: The Ancient Monuments and Archeological Sites and Remains (Amendment) Bill 2018 - apprehensions opined by the members of the Select committee, submission towards inclusion in the final report, regarding.

Hon'ble Chairman,

The Ancient Monuments and Archaeological Sites and Remains (Amendment Bill), 2017 (hereafter 'the Bill') and passed by the Lok Sabha on 18th July 2017 was referred to the Select Committee (hereafter 'the Committee') of the Rajya Sabha through a motion adopted by the House on 26th July 2018. This bill was deliberated upon by the Committee. After detailed discussions and amendments, the bill has been adopted by the Committee without any amendments. Hence the following well-thought out apprehensions opined by the members of the Select committee is submitted for inclusion in the final report:-

- 1) The section 20(A) of AMSAR Act 1958 states that 100 meters around a protected monument will be a prohibited area. Construction is not permitted in such protected areas. But the AMASR (Amendment) Bill 2018 permits construction in such protected areas if it is for public purposes. The bill, in other words, is driven by development at the cost of maintaining the integrity of the existing security zone around protected monuments. This is against the letter and spirit of the existing act which has, for decades, been seen and used as vanguard legislation for protecting monuments and archaeological sites.
- 2) But the AMASR (Amendment) Bill 2018 stipulates the sole right to provide such permission to Central government and extends the mere right to submit report whether any proposed construction is for public purpose or not, to the National Monument Authority (NMA). In effect the Bill makes NMA a mere toothless tiger. The Section 20A(3) in the Amendment allows the Central Government or the Director General, ASI to permit public works within the prohibited area. It eventually makes the Central Governments to take a final call on permitting "public works" irrespective of the recommendations by the ASI, which is substantiated by the report of the experts.
- 3) Protected monuments are not just aging civil structures. Every protected monument has a lot of sensitivity, significance, and history attached to it. We cannot rebuild such monuments today, if it is damaged. The materials used, the shape, the ambiance and the surroundings - everything make the monument speak of history. Altering the above may amount to altering or re-writing of history. So anything which have chances to affect monuments should be do away with, and the amendment weakens the scope of addressing the above considerations.
- 4) Anything - say it, permissions for maintenance, or development of facilities are if at all needed, should be done with the experts from the fields of history, architecture, archaeology, structural engineering etc on board. Just a legal mechanism brought by this AMASR amendment won't serve the purpose. We cannot just re-write history or we should not re-write history nor can we allow it, by using such legislative amendment. The scope of alteration of history with the help of AMASR (Amendment) Bill 2018 cannot be ruled out.

(contd...)

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 E-mail: kk.ragesh@sansad.nic.in, kkragesh@yahoo.co.in, kkragesh1@gmail.com

K.K. RAGESH

MEMBER OF PARLIAMENT
(RAJYA SABHA)

Member : Standing Committee on Industry
Member : Consultative Committee,
Ministry of Labour and Employment
Chairman of the State Consultative Committee
of Food Corporation of India for the State of Kerala



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5) There shall be provision in the Act itself to ensure "case to case" assessment of each monument. Likewise, it may not be advisable to prescribe any distance norms in the Act as any such precaution regarding the safety of the site or protection of the monument may vary in each case (from site to site and monument to monument) especially in terms of any adverse impact thereto from the nature of project proposed to be taken up in close proximity to such area and that such an assessment should be left to the Authority and the subject experts. The stipulation of the 100 metres and 200 metres area as protected and regulated area, is arbitrary and unnecessary and that a relook is needed on this criteria. It was neither legislation nor a Cabinet decision and hence sufficient provisions in the Act shall be included to set aside and prohibit such bureaucratic decisions, which would harm the protection of monuments.

6) The submission of NMA and the Ministry of Culture that 59 monuments under the category of "rarest of rare cases" are awaiting permission for "public works" pin points to the scope of harm that the amendment might cause to the archeological monuments, which is van-guarded under the existing Act.

7) The amendment would encourage State Governments to pass similar legislations for monuments under their jurisdiction and shall endanger the protection of the archeological monuments in general, in future and hence adequate provision to address this shall be included in the amendment.

8) The Amendment sounds skeptical at the backdrop of Centre's decision to allow Public Private Partnership (PPP) projects in various archeological sites. The private entities or CSR partners which are in such PPP project should not misuse the AMASR (Amendment) Bill 2018. Hence the definition of "public works" should be further stipulated in the in case of AMASR (Amendment) Bill 2018, as it is now evident that in the case Public Private Partnerships in building public infrastructure, commercial viability is getting precedence over other considerations, which may undermine the interest of protecting archeological and historic monuments.

Therefore, it is further urged that AMASR (Amendment) Bill 2018 shall be buffered till the aforesaid apprehensions are adequately addressed.

Thanking you very much.

Regards,

KK Ragesh
Div. No: 165

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NOTES RECEIVED FROM MEMBERS – APPENDIX VI, VII & VIII

K.K. RAGESHMEMBER OF PARLIAMENT
(RAJYA SABHA)Member : Standing Committee on Industry
Member : Consultative Committee
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Chairman of the State Consultative Committee
of Food Corporation of India for the State of Kerala25/1/2018
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1/08/2018

Sub: The Ancient Monuments and Archeological Sites and Remains (Amendment Act) 2017

Hon'ble Chairman,

The Ancient Monuments and Archeological Sites and Remains (Amendment) Bill 2018 stands as passed by Lok Sabha in January 2018 (The Bill proposes to amend AMASR Act 1958). Regarding this, the following concerns are submitted for your consideration and perusal:-

1. The section 20(A) of AMASR Act 1958 states that 100 meters around a protected monument will be a prohibited area. Construction is not permitted in such protected areas.
2. But the AMASR (Amendment) Bill 2018 permits construction in such protected areas if it is for public purposes.
3. But the AMASR (Amendment) Bill 2018 stipulates the sole right to provide such permission to Central government and extends the mere right to submit report whether any proposed construction is for public purpose or not, to the National Monument Authority (NMA). In effect the Bill makes NMA a mere toothless tiger.
4. It is widely known that the pressure for such an amendment in AMASR Act came up when the Archeological Survey of India (ASI) declined permission for a six lane highway (in the Delhi-Kanpur Highway) near Akbar's Tomb at Sikandra.
5. Hence the AMASR (Amendment) Bill 2018 is an attempt to place blind and unrestricted urbanization over history and cultural heritage of India.
6. The Act if passed and implemented can be easily misused by builders under the definition of 'public works'.
7. It is worthwhile to remember here that a report by the Comptroller and Auditor General of India, in 2013, has stated that 92 historical monuments have gone missing as result of developmental activities and another 321 historical monuments has already been encroached upon.
8. The Amendment sounds skeptical at the backdrop of Centre's decision to allow Public Private Partnership (PPP) projects in various archeological sites. The private entities or CSR partners which are in such PPP project should not misuse the AMASR (Amendment) Bill 2018.
9. More over the AMASR (Amendment) Bill 2018 extends permission to undertake construction activities in various prohibited areas around protected monuments if the construction is a part of 'Central government project' which has a public purpose. H
10. However does not mention whether any such project by a 'state government' can avail such permission for construction.

Hence, more clarity is needed in this AMASR (Amendment) Bill 2018, regarding the above concerns.

Thanking you very much.

Regards,

KK Ragesh

Pl. seek comments
from 4/10 culture
1/1/2018

Dir (T&F) 1/1/2018

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DR. SUBRAMANIAN SWAMY Ph.D. (Harvard)
 Cabinet Minister for Commerce, Law & Justice (1990-91)
 Chairn (with Cabinet rank), Commission on Labour
 Standards and International Trade (1994-96)
 Former Professor of Economics, Indian Institute of
 Technology, Delhi & Faculty, Harvard University
 President, Virat Hindustan Sangam



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MEMBER OF PARLIAMENT (Rajya Sabha)
 Res.: AB-14, Pandara Road, New Delhi - 110 003
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 E-mail: swamy39@gmail.com
 swamy@post.harvard.edu

February 5, 2019.

The Chairman,
 Select Committee on the
 Ancient Monuments and Archaeological
 Sites and Remains (Amendment) Bill, 2018
 Room No. 403, 4th Floor,
 Parliament House Extension Building,
 New Delhi.



Dear Mr. Chairman,

I write this letter as per your suggestion at the last meeting of the Committee on February 4, 2019 to send additional suggestions regarding further amendment to the Ancient Monuments and Archaeological Sites and Remains (Amendment) Bill for the future. My suggestion is the following: Of the 3000 ancient monuments recognized by the ASI and the National Monument Committee, there are several monuments which were built by violence carried out by the foreign invaders in the past. As a result of which these designated national heritage monuments were built by demolishing earlier monuments. Hence I suggest that this Committee or the successive Committee should review the list of monuments and weed out those monuments which were carried out by violence by the foreign invaders.

With Regards

Yours sincerely,

[Signature]

(SUBRAMANIAN SWAMY)

Dr. Swamy
[Signature]
 5/2/19

TIRUCHI SIVA M.A., B.L.
MEMBER OF PARLIAMENT
RAJYA SABHA



32, Canning Lane,
New Delhi - 110 001

33, S.B.O. Colony, Cantonment,
Tiruchirapalli-620 001 (Tamil Nadu)

5/2/2019

To

Shri Vinay Sahasrabuddhe,
The Chairman
Select Committee on the Ancient Monuments and Archaeological Sites
and Remains (Amendment) Bill 2018.

Dear Shri Vinay Sahasrabuddhe Ji,

We, the undersigned are of the view that The Ancient Monuments and Archeological Sites and Remains (Amendment) Bill 2018 if passed will open the flood gates across the country enabling any Government of the day, to construct structures in the name of the public security thereby damaging ancient monuments and heritage sites which are prestigious and unique symbols of our ancient varied cultures.

As per the conventions of the Parliamentary Committee System, though we have given dissent notes separately, we urge hereby to defer considering and passing of this Bill in the Upper House till the necessary bylaws are framed and the apprehensions expressed by the Select Committee are adequately addressed.

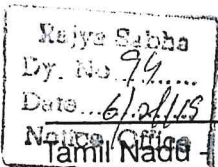
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K.K. Ramesh - 165
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Binoyswam (174)

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D.W. 146
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D.W. - 147
[Signature]
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Member
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Sh. Ganesh All
1.119

ANNEXURES

Parliamentary Bulletin Part-II

No. 57989 Friday, July 27, 2018 Committee Co-ordination Section
The Ancient Monuments and Archaeological Sites and Remains (Amendment)
Bill, 2018

As members are aware that the Rajya Sabha, at its sitting held on the 26th July, 2018, adopted the following motion referring the Ancient Monuments and Archaeological Sites and Remains (Amendment) Bill, 2018 to a Select Committee of the Rajya Sabha:-

“That the Bill further to amend the Ancient Monuments and Archaeological Sites and Remains Act, 1958, as passed by Lok Sabha, be referred to a Select Committee of the Rajya Sabha consisting of the following Members:-

1. Dr. Vinay P. Sahasrabuddhe
2. Shrimati Ambika Soni
3. Dr. Banda Prakash
4. Shri Binoy Viswam
5. Shri Biswajit Daimary
6. Shri Hishey Lachungpa
7. Shri Jairam Ramesh
8. Shrimati Jaya Bachchan
9. Shrimati Kahkashan Perween
10. Shri Kanakamedala Ravindra Kumar
11. Shri K. K. Ragesh
12. Shri Madhusudan Mistry
13. Shri Manish Gupta

14. Shri Narain Dass Gupta
15. Dr. Narendra Jadhav
16. Shri Naresh Gujral
17. Shri N. Gokulakrishnan
18. Shri Parimal Nathwani
19. Shri Prasanna Acharya
20. Shri Prem Chand Gupta
21. Shri Ram Kumar Kashyap
22. Shri Sambhaji Chhatrapati
23. Shri Sanjay Raut
24. Ms. Saroj Pandey
25. Shri Satish Chandra Misra
26. Dr. Subramanian Swamy
27. Shri Swapan Dasgupta
28. Shri Tiruchi Siva

The Committee shall fulfill its task and report to the Rajya Sabha before the 8th of August, 2018 and if needed, extension of time be granted”.

2. The Chairman, Rajya Sabha has appointed Dr. Vinay P. Sahasrabuddhe, Member, Rajya Sabha, to be the Chairman of the Committee.

Desh Deepak Verma
Secretary-General

List of Witnesses who appeared before the Select Committee on the Ancient Monuments and Archaeological Sites and Remains (Amendment) Bill, 2018

1st August, 2018

Ministry of Culture

1. Sh. Raghvendra Singh Secretary
2. Sh. Pranav Khullar Joint Secretary
3. Sh. Harish Kumar Director

Archaeological Survey of India

4. Smt. Usha Sharma Director General
5. Sh. Rakesh Singh Lal Additional Director General
6. Smt. Urmila Sant Additional Director General
7. Sh. Janhwij Sharma Joint Director General
8. Sh. T.J. Alone Director (Monuments)
9. Sh. V.N. Prabhakar Suptd. Archaeologist

National Monuments Authority

10. Dr. Susmita Pande Chairperson
11. Sh. Navneet Soni Member Secretary

Legislative Department

12. Sh. N.R. Battu Joint Secretary and Legislative Counsel
13. Sh. Diwakar Singh Additional Legislative Counsel

14. Sh. Ramesh Chander Kathia Director

Department of Legal Affairs

15. Sh. Suresh Chandra Secretary

16. Dr. Anju Rathi Rana Joint Secretary and Legal Advisor

6th August, 2018

National Monuments Authority

1. Sh. Navneet Soni Member Secretary

Archaeological Survey of India

2. Sh. T.J. Alone Director (Monuments)

10th September, 2018

1. Prof. Nayanjot Lahiri Professor, Ashoka University, Sonapat

2. Ms. Narayani Gupta Historian and retired Professor, Delhi University

3. Sh. Vasant Shinde Director

Ministry of Culture

4. Sh. Pranav Khullar Joint Secretary

5. Sh. Harish Kumar Director

Archaeological Survey of India

6. Smt. Usha Sharma Director General

7. Sh. Rakesh Singh Lal Additional Director General

8. Smt. Urmila Sant Additional Director General
9. Sh. Janhwij Sharma Joint Director General
10. Sh. T.J. Alone Director (Monuments)

National Monuments Authority

11. Sh. Navneet Soni Member Secretary

Delhi Metro Rail Corporation Ltd.

12. Dr. Mangu Singh Managing Director
13. Sh. D.K. Saini Director (Projects)

18th September, 2018

Ministry of Culture

1. Shri Pranav Khullar Joint Secretary
2. Shri Harish Kumar Director

Archaeological Survey of India

3. Smt. Usha Sharma Director General
4. Shri Rakesh Singh Lal ADG (Admn.)
5. Smt. Urmila Sant ADG
6. Smt. Janhwij Sharma Joint D.G.
7. Shri T.J. Alone Director

National Monuments Authority

8. Dr. Susmita Pande Chairperson

9. Shri Navneet Soni Member Secretary

Ministry of Road Transport And Highways

10. Shri Yudhvir Singh Secretary

11. Shri A.P. Pathak Chief Engineer

National Highways Authority Of India

12. Shri R.K. Pandey Member

Ministry of Housing And Urban Affairs

13. Shri Durga Shanker Mishra Secretary

14. Ms. Usha Batra ADG, CPWD

15. Shri K. Sanjay Murthy Joint Secretary

16. Shri M.K. Sinha OSD & Joint Secretary (UT)

16th October, 2018

Ministry of Culture

1. Shri Arun Goel Secretary

2. Shri Pranav Khullar Joint Secretary

3. Shri Harish Kumar Director

Archaeological Survey of India

4. Smt. Usha Sharma Director General

5. Shri Rakesh Singh Lal ADG (Admn.)

6. Shri T.J. Alone Director

7. Shri D.N. Dimri Director

National Monuments Authority

8. Dr. Susmita Pande Chairperson

9. Shri Navneet Soni Member Secretary

Delhi Metro Rail Corporation Ltd.

10. Shri Mangu Singh Managing Director

11. Shri D.K. Saini Director (Projects)

12. Shri Ravi Kapoor Executive Director

30th January, 2019

Ministry of Culture

1. Shri Harish Kumar Director

Archaeological Survey of India

2. Smt. Usha Sharma Director General

3. Shri Rakesh Singh Lal ADG (Admn)

4. Smt. Urmila Sant ADG

5. Janhwij Sharma Joint D.G.

6. Shri T.J. Alone Director

7. Shri D.N. Dimri Director

8. Shri P.G. Kaladharan Director

National Monuments Authority

9. Shri Navneet Soni Member Secretary
10. Dr. Susmita Pande Chairperson

Department of Legal Affairs

11. Dr. Alok Srivastava Secretary (LA)
12. Shri S.R. Mishra Additional Secretary (LA)
13. Dr. Anju Rathi Rana JS & LA

Legislative Department

14. Dr. N.R. Battu Joint Secretary & Legislative Counsel
15. Shri Diwakar Singh Joint Secretary & Legislative Counsel

4th February, 2019

Department of Legal Affairs

1. Dr. Alok Srivastava Secretary
2. Dr. Anju Rathi Rana JS & LA

Legislative Department

3. Dr. N.R. Battu Joint Secretary & Legislative Counsel
4. Shri Diwakar Singh Joint Secretary & Legislative Counsel

MINUTES

**MINUTES OF THE MEETING OF THE SELECT COMMITTEE ON THE ANCIENT
MONUMENTS AND ARCHAEOLOGICAL SITES AND REMAINS (AMENDMENT)
BILL, 2018**

I

FIRST MEETING

The Committee met at 9:30 A.M. on Wednesday, the 1st August, 2018 in Room No. 63, First Floor, Parliament House, New Delhi.

Members present

1. **Shri Vinay P. Sahasrabuddhe - Chairman**
2. Shrimati Ambika Soni
3. Dr. Banda Prakash
4. Shri Binoy Viswam
5. Shri Jairam Ramesh
6. Shrimati Kahkashan Perween
7. Shri Kanakamedala Ravindra Kumar
8. Shri K.K. Ragesh
9. Shri Madhusudan Mistry
10. Shri Manish Gupta
11. Shri Narain Dass Gupta
12. Dr. Narendra Jadhav
13. Shri Naresh Gujral
14. Shri N. Gokulakrishnan
15. Shri Prasanna Acharya
16. Shri Ram Kumar Kashyap
17. Shri Sambhaji Chhatrapati
18. Shri Sanjay Raut
19. Ms. Saroj Pandey
20. Dr. Subramanian Swamy

Secretariat

Smt. Sunita Sekaran, Joint Secretary
Shri Swarabji B., Director
Smt. Monica Baa, Additional Director
Shri Pushpender Verma, Deputy Secretary
Smt. Catherine John L., Under Secretary
Shri K.V. Ramana Rao, Committee Officer

Witnesses

Ministry of Culture

Shri Raghvendra Singh, Secretary
Shri Pranav Khullar, Joint Secretary
Shri Harish Kumar, Director

Archaeological Survey of India

Smt. Usha Sharma, Director General
Shri Rakesh Singh Lal, Additional Director General
Smt. Urmila Sant, Additional Director General
Shri Janhwij Sharma, Joint Director General
Shri T.J. Alone, Director (Monuments)
Shri V.N. Prabhakar, Suptd. Archaeologist

National Monuments Authority

Dr. Susmita Pande, Chairperson
Shri Navneet Soni, Member Secretary

Ministry of Law and Justice (Legislative Department)

Shri N.R. Battu, Joint Secretary and Legislative Counsel
Shri Diwakar Singh, Additional Legislative Counsel
Shri Ramesh Chander Kathia, Director

Ministry of Law and Justice (Department of Legal Affairs)

Shri Suresh Chandra, Secretary
Dr. Anju Rathi Rana, Joint Secretary and Legal Advisor

2. The Chairman welcomed the Members of the Committee to the meeting and informed them about the reference of the Ancient Monuments and Archaeological Sites and Remains Bill, 2018 for examination and Report by 8th August, 2018. The Chairman briefly explained the contents of the Bill. The Chairman also informed that the agenda of the meeting was to hear the Secretary, Ministry of Culture on the Ancient Monuments and Archaeological Sites and Remains (Amendment) Bill, 2018.

3. Thereafter, the Chairman welcomed the Secretary, Ministry of Culture and requested him to inform the Committee about the circumstances which necessitated the amendment and the pros and cons of the Bill. He further requested the Secretary to inform how the Ministry would ensure that the term “public works” is not misused to allow any and all sorts of constructions within the prohibited area of 100 meters.

4. The Secretary, Ministry of Culture made a powerpoint presentation on the various clauses of the Bill. He informed the Committee that the Ancient Monuments and Archaeological Sites and Remains Act came into being in 1958 and a notification was issued on 16th June, 1992 which stated that an area of 100 meters from the protected limit and beyond it, up to 200 meters near or adjoining protected monuments was declared to be prohibited and regulated areas, respectively, for purposes of both mining and construction. He further informed that an amendment was brought out in 2010 whereby a sub-Section 4 was added in Section 20 of the Act which prohibited all kinds of construction within the protected area of the 100 meters boundary. The Secretary informed the Committee that between the years 2000 and 2010, the Director General, Archaeological Survey of India was empowered to allow construction within the prohibited area, but that was stopped by the Amendment brought in 2010.

5. The Secretary stated that the present Bill is being brought in to allow construction in the prohibited areas for Central Government public infrastructure projects in the rarest of rare cases and when there is no other viable alternative available. He further informed that the term “public works” means construction works related to infrastructure financed and carried out by any department or offices of the Central Government for public purposes which is necessary for the safety or security of the public at large. He informed the Committee that insertion of sub-Section (5) in Section 20A of the Act states that nothing contained in sub-Section (4) of the Act which prohibits any kind of construction within the prohibited area shall apply to public works, and that

this sub-Section is added to enable applications for public infrastructure projects within 100 meters.

6. The Secretary then apprised the Committee that insertion of sub-Section (6) in Section 20A of the principal Act which says that the Central Government Departments will be allowed to move the competent authority for construction work in prohibited areas, is an enabling provision to make an application to the competent authority. Thereafter, the Secretary elucidated upon the proposed insertion of sub-Section (7) in Section 20A of the Act where the National Monuments Authority is to decide about the nature of the public work and competent authority is to convey the decision of NMA to the applicant within 10 days of receipt of such decision. The Secretary also informed that new sub-Section (8) under Section 20A will enable the repair and renovation at any construction in prohibited area existing before June 1992 or constructed with due approval of Director General, Archaeological Survey of India before 2010. He also informed that the amendment Bill will replace the word ‘Director General’ with the word ‘competent authority’ in sub-Section (8) of Section 20D. The Secretary further informed the Committee that insertion of Clause (ea) in sub-Section (I) of Section 20 of the Act which states that National Monuments Authority is to consider the impact, including archaeological impact, visual impact and heritage impact assessment, of public works proposed in prohibited, is being envisaged to prevent any public project being undertaken which will adversely impact the monument.

7. The Committee sought to know the reason for not including the word “rarest of rare cases” in the amendment itself. The Committee requested the Ministry to furnish a list of the rarest of rare cases which have led to the introduction of this Bill. The Committee then enquired the reason due to which National Monuments Authority has not placed even a single heritage bye-law before the Parliament in over 6 years, in reply to which the Secretary informed the Committee that a bye-law has been sent for legal vetting to the Ministry of Law and 24 draft bye-laws are ready which cover about 59 monuments of our country. The Committee desired to know the reasons for the Bill not allowing the State Government projects whereas it allows construction in prohibited area for Central Government public infrastructure projects for public safety and security of the public at large.

8. The Chairman enquired about the reason for which the Notification prohibiting construction in the vicinity of the monuments and sites was brought out in 1992, when the

original Act had been introduced long time back in 1958. In reply to a question whether modern technology could be employed to provide public security and safety, while carrying out construction at ancient monuments and sites, the Secretary informed the Committee that they have been taking recourse to modern technology and recently, they have used such technology while constructing Metro Railway in Ahmedabad. The Committee desired to know as to how many projects have been pending presently and since how long, which necessitated the present Ancient Monuments and Archaeological Sites and Remains Bill (Amendment) Bill, 2018. The Committee enquired whether this Bill is snatching the powers of National Monuments Authority, by the Central Government.

9. The Committee further sought to know whether this Bill will open the door for similar exceptions to be made for monuments other than the 3686 monuments protected by the ASI. The Committee enquired whether a distinction will be made in the approach towards the monuments which have been recognized by UNESCO as World Heritage Sites and those which are not.

10. Members of the Committee raised various other queries some of which were replied to by the witnesses. The Chairman directed that written replies to the points not answered, may be sent at the earliest.

11. The Committee, thereafter, decided to meet again on 6th August, 2018.

12. A verbatim record of proceedings of the meeting was kept.

13. The meeting was adjourned at 10:39 A.M.

**New Delhi,
1st August, 2018**

**Swarabji B.
Director**

**MINUTES OF THE MEETING OF THE SELECT COMMITTEE ON THE ANCIENT
MONUMENTS AND ARCHAEOLOGICAL SITES AND REMAINS (AMENDMENT)
BILL, 2018**

II

SECOND MEETING

The Committee met at 10:00 A.M. on Monday, the 6th August, 2018 in Committee Room E, Basement, Parliament House Annexe, New Delhi.

Members present

1. **Shri Vinay P. Sahasrabuddhe - Chairman**
2. Shrimati Ambika Soni
3. Dr. Banda Prakash
4. Shri Binoy Viswam
5. Shri Jairam Ramesh
6. Shrimati Kahkashan Perween
7. Shri Kanakamedala Ravindra Kumar
8. Shri Madhusudan Mistry
9. Shri Manish Gupta
10. Shri Narain Dass Gupta
11. Shri N. Gokulakrishnan
12. Shri Prasanna Acharya
13. Shri Sambhaji Chhatrapati
14. Shri Sanjay Raut
15. Dr. Subramanian Swamy
16. Shri Swapan Dasgupta

Secretariat

Smt. Sunita Sekaran, Joint Secretary
Shri Swarabji B., Director
Shri Pushpender Verma, Deputy Secretary
Smt. Catherine John L., Under Secretary
Shri K.V. Ramana Rao, Committee Officer

Witnesses

National Monuments Authority

Shri Navneet Soni, Member Secretary

Archaeological Survey of India

Shri T.J. Alone, Director (Monuments)

2. The Chairman welcomed the Members of the Committee to the meeting and informed them that the agenda of the meeting was to have an in-house discussion on the various aspects of the Ancient Monuments and Archaeological Sites and Remains (Amendment) Bill, 2018 and to hear the views of Archaeological Survey of India (ASI) and National Monuments Authority (NMA) on the Bill.

3. The Committee discussed the replies furnished by the Ministry of Culture on various points raised by the Members during its meeting held on 1st August, 2018. Member Secretary, NMA informed the Committee that the Bill is being introduced for consideration of infrastructure projects within the 100 meter limit and that no private project has been allowed within the prohibited limit since the Ancient Monuments and Archaeological Sites and Remains Act was amended in 2010. He stated that 362 private projects falling within the prohibited area have been rejected so far.

4. The Committee raised the issue of heritage bye-law not being framed by the NMA even till now as mandated by the AMASR Amendment in 2010. The Committee sought to know the examples of “rarest of rare cases”. Some Members opined that the metro projects in Tughlaqabad and Pune cannot be classified as rarest of rare cases since there is a precedent of realigning metro routes to prevent construction in the prohibited area of a Centrally protected monument. Some Members voiced their apprehension over the dilution of powers of the National Monuments Authority since the Bill empowers the Central Government to take a final decision on the matter of construction in the prohibited limit of a monument.

5. The Committee sought to know whether the definition of repair and renovation is included in the Bill and whether it leaves any scope for discretion in classifying some work as renovation. The Member Secretary, NMA informed about the provisions of Section 20(C) regarding repair and renovation work in the prohibited area.

6. The Members of the Committee raised various queries on the provisions of the Bill and its implementation, to which the witnesses replied and in cases of unanswered queries, they assured that written replies may be furnished to the Committee.

7. The Committee decided that it needed wider consultation and accordingly, decided to hear more stakeholders before presenting its Report to the House. Accordingly, it was decided by the Committee to seek extension of time upto the last day of the second week of the Winter Session, 2018 for presenting the Report to the House. The Committee authorized the Chairman to approach the Hon'ble Chairman to seek his permission to move the Motion in the House for extension of time.

8. A verbatim record of proceedings of the meeting was kept.

9. The meeting was adjourned at 10:45 A.M.

**New Delhi,
6th August, 2018**

**Swarabji B.
Director**

**MINUTES OF THE MEETING OF THE SELECT COMMITTEE ON THE ANCIENT
MONUMENTS AND ARCHAEOLOGICAL SITES AND REMAINS (AMENDMENT) BILL,
2018**

III

THIRD MEETING

The Committee met at 11:30 A.M. on Monday, the 10th September, 2018 in Committee Room 2, First Floor, Block-A, Parliament House Annexe Extension, New Delhi.

Members present

- 1. Shri Vinay P. Sahasrabuddhe - Chairman**
2. Shrimati Ambika Soni
3. Shri Binoy Viswam
4. Shri Jairam Ramesh
5. Shri Kanakamedala Ravindra Kumar
6. Shri Madhusudan Mistry
7. Shri Narain Dass Gupta
8. Shri Naresh Gujral
9. Shri Satish Chandra Misra
10. Dr. Subramanian Swamy

Secretariat

Smt. Sunita Sekaran, Joint Secretary
Shri Swarabji B., Director
Shri Pushpender Verma, Deputy Secretary
Smt. Catherine John L., Under Secretary
Shri K.V. Ramana Rao, Committee Officer

Witnesses

Prof. Nayanjot Lahiri, Professor, Ashoka University, Sonapat
Ms. Narayani Gupta, Historian and Retired Professor, Delhi University
Shri Vasant Shinde, Professor, Deccan College, Pune

Delhi Metro Rail Corporation

Dr. Mangu Singh, Managing Director
Shri D.K. Saini, Director (Projects)

Ministry of Culture

Shri Pranav Khullar, Joint Secretary

Shri Harish Kumar, Director

Archaeological Survey of India

Smt. Usha Sharma, Director General

Shri Rakesh Singh Lal, ADG (Admn.)

Smt. Urmila Sant, ADG

Smt. Janhwij Sharma, Joint DG

Shri T.J. Alone, Director (Monuments)

National Monuments Authority

Shri Navneet Soni, Member Secretary

2. The Chairman welcomed the Members of the Committee to the meeting and informed them that the agenda of the meeting was to hear the views of experts and Managing Director, Delhi Metro Rail Corporation (DMRC) on various provisions of the Ancient Monuments and Archaeological Sites and Remains (Amendment) Bill, 2018.
3. Thereafter, the Chairman welcomed Prof. Nayanjot Lahiri, Ms. Narayani Gupta and Shri Vasant Shinde to the meeting and requested them to place their views on the Bill, before the Committee. Prof. Nayanjot Lahiri, while deposing before the Committee, stated that the 100 meter prohibited area restriction is important because it reduces human interference and helps maintain the visual and aesthetic appeal of a monument. She suggested that an underground metro project may be conceived near Tughlaqabad Fort and metro projects in other cities wherever protected monuments are in existence. She stated that no city has more monuments than Delhi and that if DMRC could execute its projects while respecting the prohibited and regulated areas, other organizations could manage it as well. She mentioned that the Government has found an alternative solution for the road project near Sikandra in Agra. Likewise, the Government should find an alternate solution to the bridge construction in Kolhapur also. She further added that Government has found solution for construction in Delhi which is less than a century old. The same enthusiasm may be shown to protect the ancient and centuries old monuments also. She opined that if the Bill is passed, it will be taken up by State Governments

and similar legislations for relaxation of conditions will be framed for monuments protected by State Governments which may vastly damage the cultural heritage of India.

4. Ms. Narayani Gupta opined that ASI and NMA have to be proactive and that they should allow extending and reducing the regulated area on the basis of ground realities of a monument. She informed the Committee that the people living near the monuments fear the officials of ASI due to the discretionary powers given to them and that this causes the community to be distanced from the monument. She stated that the bye-laws should take each site as an individual case and that any issue arising out of construction near a monument should be resolved through discussions.

5. Shri Vasant Shinde opined that the Ancient Monuments and Archaeological Sites and Remains Act has been amended to keep pace with changing requirements of the people, since protection of the monuments is done for the people. He gave the example of Rakhigarhi where 8000 people are living and are not allowed to build or repair their homes. He suggested that better coordination must be present between NMA and ASI, and between Centre and State Departments of Archaeology.

6. Member Secretary, NMA informed the Committee that NMA has received applications for fresh constructions in the regulated zone from about 600 monuments and that these monuments are being prioritized for framing bye-laws. He informed the Committee of an upcoming web portal of NMA which will process applications for construction activities near a monument.

7. Thereafter, Dr. Mangu Singh made a powerpoint presentation on the views of DMRC on the various provisions of the Bill. He informed the Committee of the various projects of DMRC that have been affected by the present AMASR Act. He stated that the Qutub Minar metro station had to be shifted 1.8 km away from the monument, thus causing tourists a lot of problem in reaching there. He suggested that the definition of “public works” in the Bill should be changed to include projects of public interest such as railways, highways, metros, flyovers and other similar utility projects. He opined that the increased road traffic because of metro stations being far away from a monument, would cause a lot of damage to the monument in the long run due to vehicular pollution as compared to rail based transportation projects that are environment friendly and cause less emissions. He gave international examples of metro projects executed

successfully in close vicinity of important monuments in London, Barcelona, Rome etc. The Chairman desired that the Report of National Physical Laboratory on impact of construction near protected monuments may be furnished by DMRC.

8. The Committee, thereafter, decided to undertake a one-day study visit to Pune on 27th September, 2018 for on-the-spot visit to the infrastructure projects held up due to the provisions of the AMASR Act and hold discussion with various authorities including the officials of the State Government. The Committee, accordingly, authorized its Chairman to approach the Hon'ble Chairman for obtaining his permission for the visit and interaction with the representatives of the Government of Maharashtra.

9. A verbatim record of proceedings of the meeting was kept.

10. The meeting was adjourned at 1:16 P.M.

New Delhi
10th September, 2018

Swarabji B.
Director

**MINUTES OF THE MEETING OF THE SELECT COMMITTEE ON THE ANCIENT
MONUMENTS AND ARCHAEOLOGICAL SITES AND REMAINS (AMENDMENT)
BILL, 2018**

IV

FOURTH MEETING

The Committee met at 11:00 A.M. on Tuesday, the 18th September, 2018 in Committee Room 3, First Floor, Block-A, Parliament House Annexe Extension, New Delhi.

Members present

- 1. Shri Vinay P. Sahasrabuddhe - Chairman**
2. Shrimati Ambika Soni
3. Dr. Banda Prakash
4. Shri Binoy Viswam
5. Shri Jairam Ramesh
6. Shri Kanakamedala Ravindra Kumar
7. Shri K.K. Ragesh
8. Shri Madhusudan Mistry
9. Shri Narain Dass Gupta
10. Dr. Narendra Jadhav
11. Shri Naresh Gujral
12. Shri Ram Kumar Kashyap
13. Shri Sambhaji Chhatrapati
14. Shri Sanjay Raut
15. Dr. Subramanian Swamy
16. Shri Swapan Dasgupta

Secretariat

- Smt. Sunita Sekaran, Joint Secretary
Shri Swarabji B., Director
Smt. Monica Baa, Additional Director
Smt. Catherine John L., Under Secretary
Shri K.V. Ramana Rao, Committee Officer

Witnesses

Ministry of Road Transport and Highways

Shri Yudhvir Singh Malik, Secretary

Shri A.P. Pathak, Chief Engineer

National Highways Authority of India

Shri R.K. Pandey, Member

Ministry of Housing and Urban Affairs

Shri Durga Shanker Mishra, Secretary

Ms. Usha Batra, ADG, CPWD

Shri K. Sanjay Murthy, Joint Secretary

Shri M.K. Sinha, OSD & Joint Secretary (UT)

Archaeological Survey of India

Smt. Usha Sharma, Director General

Shri Rakesh Singh Lal, ADG (Admn.)

Smt. Urmila Sant, ADG

Shri Janhwij Sharma, Joint D.G.

Shri T.J. Alone, Director

National Monuments Authority

Dr. Susmita Pande, Chairperson

Shri Navneet Soni, Member Secretary

Ministry of Culture

Shri Pranav Khullar, Joint Secretary

Shri Harish Kumar, Director

2. The Chairman welcomed the Members of the Committee to the meeting and informed them that the agenda of the meeting was to hear the views of Secretary, Ministry of Road Transport and Highways; Director General, Archaeological Survey of India (ASI); Chairperson, National Monuments Authority; Secretary, Ministry of Housing and Urban Affairs; and senior officials of Ministry of Culture on various provisions of the Ancient Monuments and Archaeological Sites and Remains (Amendment) Bill, 2018.

3. Thereafter, the Chairman welcomed the Secretary, Ministry of Road Transport and Highways to the meeting and requested him to place the views of the Ministry on the Bill, before the Committee. The Secretary made a powerpoint presentation before the Committee. He informed the Committee about the various projects of the Ministry which are facing problems on account of the provisions of the Ancient Monuments and Archaeological Sites and Remains Act, 1958, including the proposed Delhi-Agra road passing within 30 meters of the boundary wall of Akbar's Tomb at Sikandra; construction of a bridge on Chenab river at village Ambaran at NH-144A in the vicinity of a Buddhist ancient monument; and on Buckingham Canal in Andhra Pradesh. In case of the Delhi-Agra road, he stated that the carbon dioxide emissions would be higher in the alternative solution and would harm the monument more in the long run than if the project had been approved with its original alignment. He also informed the Committee that in case of raised structures, noise barriers and curtain walls could be used to protect the monuments from vehicular emissions. He informed the Committee that a construction on the Kolhapur Bridge had to be stopped after the distance from the monument was measured at about 95 meters. The construction finally resumed after a joint measurement took place which ascertained the distance to be 107 meters and thus, outside the prohibited zone. The Secretary, Ministry of Road Transport and Highways agreed to provide the chronology of the joint measurement adopted in the case of the Kolhapur Bridge.

4. The Secretary, Ministry of Housing and Urban Affairs made a powerpoint presentation before the Committee. He gave examples of Qutub Minar, Saket and Tughlakabad metro stations while informing the Committee of the various projects of the Ministry that were hampered by the provisions of the 1958 Act. He stated that similar problems are being faced in the metro rail projects of the Ministry in Ahmedabad, Kanpur, Kolkata and Pune. He further stated that realignment or relocation of the projects leads to the metro rail facility being constructed away from major footfalls. He proceeded to inform the Committee of international metro projects and high speed rail lines in close proximity of ancient monuments citing examples of Sagrada Familia in Barcelona, Eiffel Tower in Paris, National Mall in Washington DC, Westminster Building in London, Sagrario Metropolitano in Mexico, Arc De Triomphe in Paris and Milan Cathedral in Milan. He suggested that the definition of "public works" proposed in the Bill should be replaced by the definition of "public works" given in the General Financial Rules (GFR). He further suggested that the monuments should be classified into different categories on

the basis of footfall and that prohibited area and regulated area limits with regard to the monuments may be prescribed based on the footfalls. A Member of the Committee opined that the categorization of monuments cannot be done on the basis of footfall because it is categorized on the basis of architectural, archaeological and historical value of the monuments.

5. Director General, ASI informed the Committee that every UNESCO World Heritage site has a detailed site management plan and that it is expected by UNESCO that the plan is duly followed in terms of implementation. The Committee desired to know if UNESCO issues any rules regarding construction works in the vicinity of World Heritage Sites.

6. The Committee sought to know about the practices and rules that are followed in other countries with regard to protection of their ancient monuments and heritage sites. The Committee enquired about the basis on which the limit of prohibited area and regulated area was defined to be 100 meter and 300 meter in the notification issued by the ASI on 16th June, 1992. A list of all the constructions which were cleared by the ASI in prohibited areas of monuments between 2001 and 2010 was also sought. The Committee wanted to know if the restriction on construction within prohibited area of a monument applies to underground construction activities within the 100 meter limit of the monument.

7. Members of the Committee raised various other queries which were replied to by the witnesses. The Chairman directed that written replies to the points not answered, may be sent within three weeks.

8. The Committee, thereafter, decided to undertake a local study visit to Tughlaqabad Fort, New Delhi on 16th October, 2018 for assessing the impact of construction near the monument. The Committee, accordingly, authorized its Chairman to approach Hon'ble Chairman, Rajya Sabha for obtaining his permission for the visit.

9. A verbatim record of proceedings of the meeting was kept.

10. The meeting was adjourned at 12:32 P.M.

New Delhi
18th September, 2018

Swarabji B.
Director

**MINUTES OF THE MEETING OF THE SELECT COMMITTEE ON THE ANCIENT
MONUMENTS AND ARCHAEOLOGICAL SITES AND REMAINS (AMENDMENT)
BILL, 2018**

V

FIFTH MEETING

The Committee met at 10:00 A.M. on Tuesday, the 16th October, 2018 in Committee Room 4, First Floor, Block-A, Parliament House Annexe Extension Building, New Delhi.

Members present

- 1. Shri Vinay P. Sahasrabuddhe - Chairman**
2. Shrimati Ambika Soni
3. Dr. Banda Prakash
4. Shri Jairam Ramesh
5. Shri Kanakamedala Ravindra Kumar
6. Shri K.K. Ragesh
7. Shri Madhusudan Mistry
8. Shri Narain Dass Gupta
9. Shri N. Gokulakrishnan
10. Shri Prasanna Acharya
11. Shri Ram Kumar Kashyap
12. Shri Sambhaji Chhatrapati
13. Dr. Subramanian Swamy
14. Shri Swapan Dasgupta
15. Shri Tiruchi Siva

Secretariat

Smt. Sunita Sekaran, Joint Secretary
Shri Swarabji B., Director
Smt. Monica Baa, Additional Director
Shri Pushpender Verma, Deputy Secretary
Smt. Catherine John L., Under Secretary
Shri K.V. Ramana Rao, Committee Officer

Witnesses

Ministry of Culture

Shri Arun Goel, Secretary

Shri Pranav Khullar, Joint Secretary

Shri Harish Kumar, Director

Archaeological Survey of India

Smt. Usha Sharma, Director General

Shri Rakesh Singh Lal, ADG (Admn.)

Shri T.J. Alone, Director

Shri D.N. Dimri, Director

National Monuments Authority

Dr. Susmita Pande, Chairperson

Shri Navneet Soni, Member Secretary

Delhi Metro Rail Corporation Ltd.

Shri Mangu Singh, Managing Director

Shri D.K. Saini, Director (Projects)

Shri Ravi Kapoor, Executive Director

2. The Chairman welcomed the Members of the Committee to the meeting and informed them that the agenda of the meeting was to hear the views of Secretary, Ministry of Culture; Director General, Archaeological Survey of India (ASI); Chairperson, National Monuments Authority (NMA); and Managing Director, Delhi Metro Rail Corporation (DMRC) on various provisions of the Ancient Monuments and Archaeological Sites and Remains (Amendment) Bill, 2018.

3. Thereafter, the Chairman welcomed the Secretary, Ministry of Culture to the meeting and requested him to place the views of the Ministry on the Bill, before the Committee. Member Secretary, National Monuments Authority (NMA) informed the Committee about the proposed Tughlakabad-Aerocity metro corridor and stated that Delhi Metro Rail Corporation Ltd. (DMRC) had submitted a No Objection Certificate (NOC) application for the Tughlakabad-Aerocity stretch of the proposed metro project. Since the alignment of the proposed metro line

was passing through the protected and prohibited area of 4 monuments, NMA rejected the NOC application and DMRC later filed the review application.

4. Managing Director, DMRC made a powerpoint presentation before the Committee. He stated that the proposed definition of public works does not include projects like DMRC. He informed the Committee of the various projects carried out by DMRC in the vicinity of protected monuments. He gave examples of metro projects near Kashmere Gate, Delhi Gate, Jantar Mantar and Khooni Darwaza where the distance from the monuments was less than 100 meters. He informed the Committee that no sign of damage has been seen in any of the monuments during or after the construction of these metro projects. He further informed the Committee of a study done by National Physical Laboratory in 1998 which had concluded that the the metro projects would not have any impact on the monuments. A Heritage Impact Assessment Study conducted by the School of Planning and Architecture also concluded that the proposed method of construction of metro projects would not have any adverse impact on the nearby monuments. He informed the Committee that extensive monitoring of the structures along the alignment was done during and after the construction.

5. Managing Director, DMRC informed the Committee about the Tughlaqabad-Aerocity metro line and stated that the majority of the alignment is underground. He informed the Committee that DMRC had engaged a Greek consultant during the Detailed Project Report (DPR) stage of the project, for assessment of impact of construction near monuments and that the report has concluded that the monuments will not be harmed because of the project. He stated that there are monuments on both sides of the alignment and thus it was not possible to shift the alignment, unless the alignment was shifted by a long distance, which would change the catchment.

6. The Committee again sought to know the reasoning behind setting the prohibited and regulated area limits as 100 meter and 200 meter respectively. DG, ASI informed the Committee that no information regarding the same could be located in the records. The Secretary, Ministry of Culture informed the Committee that the matter will be looked into again and any findings would be reported to the Committee. Member Secretary, NMA informed the Committee that the definition of “construction” in the Ancient Monuments and Archaeological Sites and Remains Act, 1958 talks about vertical or horizontal buildings and that underground construction is a grey area in the Act. The Committee wanted to know if India has the technologies that are available

with other countries where construction works have been carried out in the immediate vicinity of their protected monuments. MD, DMRC informed the Committee that DMRC is using state-of-the-art technology for all the underground constructions. The Committee sought a summary of all the impact assessment reports on DMRC projects alongwith comments of ASI and Ministry of Culture on the same. In reply to a question whether any study has been conducted to assess the long term impact of metro projects on the monuments, it was informed by DMRC that no study has been conducted to assess the impact on monuments in the long term.

7. Members of the Committee raised various other queries which were replied to by the witnesses. The Chairman directed that written replies to the points not answered, may be sent at the earliest.

8. A verbatim record of proceedings of the meeting was kept.

9. The meeting was adjourned at 11:07 A.M.

10. The Committee, thereafter, proceeded to a local visit to Tughlaqabad Fort, New Delhi.

New Delhi
16th October, 2018

Swarabji B.
Director

**MINUTES OF THE MEETING OF THE SELECT COMMITTEE ON THE ANCIENT
MONUMENTS AND ARCHAEOLOGICAL SITES AND REMAINS (AMENDMENT)
BILL, 2018**

VI

SIXTH MEETING

The Committee met at 4:00 P.M. on Wednesday, the 5th December, 2018 in Committee Room 2, First Floor, Block-A, Parliament House Annexe Extension, New Delhi.

Members present

- 1. Shri Vinay P. Sahasrabuddhe- Chairman**
2. Shrimati Ambika Soni
3. Shri Jairam Ramesh
4. Shrimati Kahkashan Perween
5. Shri Kanakamedala Ravindra Kumar
6. Shri Narain Dass Gupta
7. Shri Naresh Gujral
8. Shri N. Gokulakrishnan
9. Shri Prem Chand Gupta
10. Shri Ram Kumar Kashyap
11. Shri Sambhaji Chhatrapati
12. Dr. Subramanian Swamy

Secretariat

Shri Swarabji B., Director
Shri Pushpender Verma, Deputy Secretary
Smt. Catherine John L., Under Secretary
Shri K.V. Ramana Rao, Committee Officer

2. The Chairman welcomed the Members of the Committee and informed that the agenda of the meeting is to hold an internal discussion on the Ancient Monuments and Archaeological Sites and Remains (Amendment) Bill, 2018 and to decide the future course of action. The Chairman informed the Committee that the time permitted for the Committee for presentation of the Report on the Bill is upto the second week of the Winter Session (247) of Parliament.

3. The Chairman, while summarizing the work done by the Committee till date, stated that the Committee has so far, heard the views of the Secretary, Ministry of Culture; Director-General, Archaeological Survey of India; and Chairperson, National Monuments Authority on the Bill, in several of its meetings. He further stated that the Committee heard the views of several experts; Managing Director, DMRC; Secretary, Ministry of Housing and Urban Affairs; Secretary, Ministry of Road Transport and Highways; Secretary, Ministry of Water Resources, River Development and Ganga Rejuvenation; Secretary, Department of Legal Affairs; and representative of the Legislative Department on the Bill. The Committee was, *inter alia*, informed during the meetings about how metro projects are allowed in the vicinity of protected monuments in several foreign countries.

4. The Chairman further encapsulated that the Committee undertook a study visit to Pune for an on-the-spot visit to Aga Khan Palace and Pataleshwar Caves and held discussions with the MD, Maharashtra Metro Rail Corporation Limited and representatives of the Government of Maharashtra. The Committee heard the views of the Secretary, Ministry of Culture; MD, DMRC; DG, ASI; and Member Secretary, NMA on the status of the Tughlaqabad-Aerocity Metro corridor *vis-à-vis* the various provisions of the Bill. The Committee then undertook a local visit to the Tughlaqabad Fort, New Delhi to assess the impact of construction of the proposed Tughlaqabad-Aerocity Metro Project on the nearby archaeological sites and monuments. During the local visit, the Committee was informed of the lack of a feasible alternative metro route away from the monument since the Tomb of Ghiyasuddin Tughlaq and many other monuments fall in the vicinity of the project.

5. The Chairman further said that the Committee had sought comments from all the State Governments and Union Territories on the Bill. The comments, thus received, have been circulated to the Members of the Committee. Six States and one Union Territory fully agreed with the Bill. Five States and one Union

Territory demanded that the term ‘State Government’ may also be added in the Bill along with the term ‘Central Government’. State Governments of Manipur and Telangana proposed certain amendments in the Bill.

6. Some of the Members suggested that clause by clause consideration of the Bill may be taken up, whereas, some other Members opined that the Archaeological Survey of India is not cooperating with the Committee as regards furnishing the details on 100 meters and 200 meters as prohibited and regulated areas respectively. While considering various aspects of the Ancient Monuments and Archaeological Sites and Remains (Amendment) Bill, 2018, the Committee discussed in detail, Sections 20A and 20B of the Ancient Monuments and Archaeological Sites and Remains Act, 1958 wherein the concepts of prohibited area and regulated area are prescribed. The Committee also took into account the conditions laid down in the Notification dated 16th June, 1992 regarding the protected area and regulated area of protected monuments and sites.

7. After detailed discussion, the Committee decided to inspect the entire file noting and the related documents pertaining to the 16th June, 1992 Notification which prescribes the 100 meters and 200 meters criteria for prohibited area and regulated area respectively. The Committee also decided to examine any document which is available in the custody of the Ministry of Culture which brings out the scientific basis for deciding the 100 meters and 200 meters criteria and which was relied on by the Ministry of Culture for deciding the criteria. Some of the Members pointed out that a few decades ago, large scale construction activities were permitted near the Jantar Mantar in New Delhi which resulted in the disuse of astronomical instruments of Jantar Mantar.

8. Some Members opined that if the present Amendment Bill is passed by the Parliament, thousands of monuments under the control of the Central Government

and State Governments may be opened up for construction activities in and around those monuments. Each monument has to be studied by experts to assess the feasibility of any construction activity proposed by the Governmental agencies; and if the experts agree that no harm will be done to the monument, then there is no rationale in preventing the construction activities. It was opined by some Members that prescribing the 100 meters and 200 meters distances as protected and regulated areas respectively, are arbitrary and unnecessary; and that modern construction activities have been undertaken in Britain, Italy, France etc. for development of infrastructural facilities very close to the historical structures in those countries. None of those activities have affected the ancient monuments which have been existing for many centuries.

9. Some Members were of the view that a relook is needed on the distance criteria of 100 Meter and 200 Meter. Another Member pointed out that he personally visited 3 sites of the Delhi Metro where the 100 meters and 200 meters criteria have been relaxed by the Government for construction of underground Delhi Metro and that he satisfied himself that no harm has been done to the nearby monuments. He also stated that the proposed underground Aerocity Metro line passing through the Tughlaqabad area of Delhi needs to be given permission as he realizes that there is no feasible alternative route available away from the Tughlaqabad Fort area, due to the existence of many other important monuments in and around the area.

10. Another Member informed the Committee that he had allocated a huge amount from MPLADS fund for the renovation of a Higher Secondary School in Puducherry. However, the project is held up as the school is situated within a distance of 100 meters from an ancient Shiva Temple which is a protected monument under the Ancient Monuments and Archaeological Sites and Remains Act, 1958. Yet another Member opined that even the underground projects are not

advisable for monuments such as Qutab Minar and Taj Mahal and that the experts should be consulted before taking any decision. He also pointed out that other hazards like environment, traffic and trespassing should also be taken into consideration.

11. The Chairman informed the Committee that recently, the High Court of Bombay permitted construction near a Parsi Temple in Mumbai and suggested that the Committee should visit the Parsi temple to have an on-the-spot assessment. Some Members also suggested to visit Puducherry. The Committee noticed that there is no consensus among various Ministries of the Government of India on various provisions of the Bill and that the Committee needs to collect more information to arrive at specific conclusions on the provisions of the Bill. The Committee also decided to seek the relevant file and documents from ASI, prescribing the 100 meters and 200 meters as prohibited and regulated areas, around the archaeological sites and monuments. The Committee, accordingly, decided to seek extension upto the last day of the first week of the 248th Session of the Parliament for submitting its Report to Parliament on the Bill. The Committee authorized its Chairman to move the necessary Motion in the House for the purpose.

12. The meeting was adjourned at 4.40 PM.

New Delhi
5th December, 2018

Swarabji B.
Director

**MINUTES OF THE MEETING OF THE SELECT COMMITTEE ON THE
ANCIENT MONUMENTS AND ARCHAEOLOGICAL SITES AND
REMAINS (AMENDMENT) BILL, 2018**

VII

SEVENTH MEETING

The Committee met at 11:00 A.M. on Tuesday, the 22nd January, 2019 in Committee Room 2, First Floor, Block-A, Parliament House Annexe Extension, New Delhi.

Members present

1. Shri Vinay P. Sahasrabuddhe- Chairman

2. Shrimati Ambika Soni

3. Dr. Banda Prakash

4. Shri Binoy Viswam

5. Shrimati Kahkashan Perween

6. Shri Kanakamedala Ravindra Kumar

7. Shri Madhusudan Mistry

8. Shri Naresh Gujral

9. Shri N. Gokulakrishnan

10. Shri Prasanna Acharya

11. Dr. Subramanian Swamy

12. Shri Swapan Dasgupta

Secretariat

Smt. Sunita Sekaran, Joint Secretary

Shri Swarabji B., Director

Shri P. Narayanan, Director

Smt. Catherine John L., Under Secretary

Shri K.V. Ramana Rao, Committee Officer

2. The Chairman welcomed the Members of the Committee and informed that the agenda of the meeting is to hold an in-house discussion on the file notings

received from the Archaeological Survey of India (ASI) related to the declaration of 100 meters and 200 meters area adjoining protected monuments as prohibited area and regulated area respectively. He informed the Committee that no explanation for specifying the prohibited area and regulated area limits as 100 and 200 meters respectively, could be located in the ASI files. The Chairman further informed the Committee that the time permitted for the Committee for presentation of the Report on the Bill is upto the last day of the first week of the upcoming Session (248th Session) of Parliament.

3. The Chairman informed the Committee that comments had been sought from State Governments / Union Territories on the various provisions of the Ancient Monuments and Archaeological Sites and Remains (Amendment) Bill, 2018. He further stated that only 1 out of 17 State Governments opposed the Bill while other State Governments have accorded their consent to the Bill and that some State Governments have suggested that alongwith Central Government, State Governments may also be brought within the ambit of the Bill. He said that people living near the monuments have to seek permission from ASI even for carrying out repair works at their homes. It was further suggested that people residing near the monuments should be given the responsibility to form a Committee which ensures the maintenance and upkeep of the monuments and ensure that no further structures are constructed near the monument.

4. Some Members of the Committee were of the view that the decision to permit construction works in the vicinity of Centrally protected monuments should be done on a case-by-case basis based on the recommendation by a body of experts which includes historians, people involved with culture, engineers, urban architects, District Collector etc. Since there is no logic or scientific basis behind the limits imposed by the present blanket ban, it was suggested that the appointment of an Expert Committee should be left at the Ministerial level each

time a decision is to be taken on a big project and that such a Committee of experts should hold public hearings to bring in transparency to the decision making process.

5. One of the Members stated that the 100 meters limit is violated in several cases and suggested that there should be data on which monuments need protection and what the importance of a particular monument is. Another Member pointed out that no experts were called by ASI while taking decision about the 100 and 200 meters limit. One Member suggested that the Committee should recommend that the 100 meter limit should go away, but that it should be ensured that doing so does not leave too much scope for discretion of ASI with regard to the limit and that blanket provision should not be there for the bureaucracy to take decisions in these matters.

6. One of the Members was of the view that the current Bill would open a Pandora's box since the decision regarding allowing the construction near monuments cannot be taken by those who do not have any cultural background or passion for preserving our heritage. It was further stated that the National Monuments Authority should create a data bank of the State heritage and national heritage so that one can log in on their website and get to know about a particular monument.

7. One Member of the Committee opined that some restrictions are a must; otherwise all the monuments will perish. Another Member opined that State Governments should be given the power to take decision regarding the area limit on the basis of the project and that doing so would prevent the need for amending the Bill again and again. Some of the Members opined that there should be no limit and that residential areas even within 10 meters of a monument should not be disturbed as it causes hassle to the people residing there.

8. The Chairman noted that the Bill does not give blanket permission for construction near a monument and that it takes a cautious approach by having a provision for analyzing visual impact, heritage impact and archaeological impact of a proposed construction work. He suggested that the Committee may recommend creation of a catalogue of monuments and making people aware as to what kind of monuments are in category A, B or C. He further suggested that the Committee may take up clause-by-clause consideration of the Bill in its next meeting. Some of the Members opined that there should be a comprehensive Act on the subject, taking into consideration all futuristic developments, which does not need to be amended too often.

9. The Committee, thereafter, decided to meet on 30th January, 2019 for clause-by-clause consideration of the Bill and on 31st January, 2019 for consideration and adoption of the Report of the Committee.

10. The meeting was adjourned at 11.57 A.M.

New Delhi
22nd January, 2018

P. Narayanan
Director

**MINUTES OF THE MEETING OF THE SELECT COMMITTEE ON THE
ANCIENT MONUMENTS AND ARCHAEOLOGICAL SITES AND
REMAINS (AMENDMENT) BILL, 2018**

VIII

EIGHTH MEETING

The Committee met at 2:00 P.M. on Wednesday, the 30th January, 2019 in Room No. 62, First Floor, Parliament House, New Delhi.

Members present

- 1. Dr. Vinay P. Sahasrabuddhe- Chairman**
2. Shrimati Ambika Soni
3. Dr. Banda Prakash
4. Shri Jairam Ramesh
5. Shrimati Kahkashan Perween
6. Shri Kanakamedala Ravindra Kumar
7. Shri Narain Dass Gupta
8. Shri Naresh Gujral
9. Dr. Subramanian Swamy
10. Shri Swapan Dasgupta

Secretariat

Smt. Sunita Sekaran, Joint Secretary
Shri Swarabji B., Director
Shri P. Narayanan, Director
Shri Dinesh Singh, Additional Director
Ms. Catherine John L., Under Secretary
Shri K.V. Ramana Rao, Committee Officer

Witnesses

Ministry of Culture

Shri Harish Kumar, Director

Archaeological Survey of India

Smt. Usha Sharma, Director General

Shri Rakesh Singh Lal, Additional Director General (Administration)

Smt. Urmila Sant, Additional Director General

Shri Janhwij Sharma, Joint Director General

Shri T.J. Alone, Director (Monuments)

Shri D.N. Dimri, Director

Shri P.G. Kaladharan, Director

National Monuments Authority

Dr. Susmita Pande, Chairperson

Shri Navneet Soni, Member Secretary

Ministry of Law and Justice (Department of Legal Affairs)

Dr. Alok Srivastava, Secretary

Shri S.R. Mishra, Additional Secretary

Dr. Anju Rathi Rana, Joint Secretary and Legal Advisor

Ministry of Law and Justice (Legislative Department)

Dr. N.R. Battu, Joint Secretary and Legislative Counsel

Shri Diwakar Singh, Joint Secretary and Legislative Counsel

2. The Chairman welcomed the Members of the Committee and informed that the agenda of the meeting is to undertake clause-by-clause consideration of the Ancient Monuments and Archaeological Sites and Remains (Amendment) Bill, 2018. The Chairman then welcomed the officials of the Ministry of Culture; Director General, Archaeological Survey of India; National Monuments Authority and the officials of Department of Legal Affairs and Legislative Department.

3. Thereafter, the Committee took up clause-by-clause consideration of the Bill. The Ministry of Culture and Ministry of Law and Justice (Department of Legal Affairs and Legislative Department) also furnished their comments / clarifications wherever needed on the issues raised by the Members of the Committee. The Committee discussed all the clauses of the Bill in detail and adopted all the clauses without any amendment. The Committee, however, felt that a week's extension of time beyond 1st February, 2019 was required to consider and adopt the Report on the Bill and present the same to the House. The Committee, therefore, decided to seek extension of time till the 8th February, 2019 for the presentation of its Report on the Bill and authorized its Chairman to move the Motion in the House for the purpose on 1st February, 2019.

4. A verbatim record of the proceedings of the meeting was kept.

5. The meeting was adjourned at 3:11 P.M.

New Delhi
30th January, 2019

P. Narayanan
Director

**MINUTES OF THE MEETING OF THE SELECT COMMITTEE ON THE
ANCIENT MONUMENTS AND ARCHAEOLOGICAL SITES AND
REMAINS (AMENDMENT) BILL, 2018**

IX

NINTH MEETING

The Committee met at 5:00 P.M. on Monday, the 4th February, 2019 in Room No. 63, First Floor, Parliament House, New Delhi.

Members present

- 1. Dr. Vinay P. Sahasrabuddhe- Chairman**
2. Shri Binoy Viswam
3. Shri Jairam Ramesh
4. Shrimati Jaya Bachchan
5. Shri K.K. Ragesh
6. Shri Manish Gupta
7. Shri N. Gokulakrishnan
8. Dr. Subramanian Swamy
9. Shri Swapan Dasgupta
10. Shri Tiruchi Siva

Secretariat

Smt. Sunita Sekaran, Joint Secretary
Shri Swarabji B., Director
Shri P. Narayanan, Director
Shri Dinesh Singh, Additional Director
Ms. Catherine John L., Under Secretary
Shri K.V. Ramana Rao, Committee Officer

Witnesses

Ministry of Law and Justice (Department of Legal Affairs)

Dr. Alok Srivastava, Secretary

Dr. Anju Rathi Rana, Joint Secretary and Legal Advisor

Ministry of Law and Justice (Legislative Department)

Dr. N.R. Battu, Joint Secretary and Legislative Counsel

Shri Diwakar Singh, Joint Secretary and Legislative Counsel

2. The Chairman welcomed the Members of the Committee and informed that the agenda of the meeting is to consider and adopt the draft Report of the Select Committee on the Ancient Monuments and Archaeological Sites and Remains (Amendment) Bill, 2018. The Chairman then welcomed the officials of the Department of Legal Affairs and Legislative Department to the meeting.

3. The Committee then took up consideration and adoption of its draft Report on the Bill. Some of the Members were of the opinion that keeping in view the inordinate delay in framing of the bye-laws for protection of our ancient monuments, the proposed amendments may be deferred till the bye-laws are framed. The Chairman observed that deferment is not a part of the terms of reference of the Select Committee. The Chairman, however, requested the Members to furnish their views / suggestions / note of dissent, if they so desired, by 10:00 A.M. on 6th February, 2019 so that the same could be appended to the Report.

4. After detailed discussion, the Committee adopted the draft Report without any changes. The Committee authorized the Chairman of the Select Committee and in his absence, Shri Swapan Dasgupta, to present the Report and lay the Evidence tendered before the Committee in Rajya Sabha on 7th February, 2019.

5. The Chairman placed on record his gratitude to the representatives of the Ministry of Culture and the Ministry of Law and Justice (Legislative Department and Legal Affairs) for furnishing necessary information/documents and rendering valuable assistance to the Committee in its deliberations and also to all the distinguished persons who appeared before the Committee and gave their valuable

views on the Bill and furnished written notes and information in connection with the examination of the Bill.

6. A verbatim record of the proceedings of the meeting was kept.
7. The meeting was adjourned at 6:04 P.M.

New Delhi
4th February, 2019

P. Narayanan
Director

STUDY NOTES

**Select Committee on the Ancient Monuments and Archaeological Sites and
Remains (Amendment) Bill, 2018**

Study Note of the Select Committee's Discussion at Pune on 27.09.2018

The Select Committee on the Ancient Monuments and Archaeological Sites and Remains (Amendment) Bill, 2018 undertook a study visit to Pune for on-the-spot visit to the infrastructure projects held up due to the provisions of the Ancient Monuments and Archaeological Sites and Remains Act, 1958 and held discussion with various stakeholders.

I. 11:00 A.M.

Visit to Aga Khan Palace and Pataleshwar Caves

The Committee visited the Aga Khan Palace and Pataleshwar Caves to assess the alignment of the proposed metro projects in the vicinity of these monuments. The Committee was informed of the various alternative routes that were being considered away from the monuments and the extra costs and delays associated with them.

II. 1:00 P.M.

Discussion with various stakeholders

The Committee met at 1:00 P.M. on the 27th September, 2018 to discuss various provisions of the Ancient Monuments and Archaeological Sites and Remains (Amendment) Bill, 2018.

Members Present

1. Dr. Vinay P. Sahasrabuddhe – *Chairman*
2. Shri Biswajit Daimary
3. Shri Binoy Viswam
4. Shri K.K. Ragesh
5. Shri N. Gokulakrishnan
6. Dr. Subramanian Swamy

Secretariat

Shri Swarabji B., Director

Witnesses

Archaeological Survey of India

Smt. Usha Sharma, Director General

Shri Rakesh Singh Lal, ADG (Admn.)

Shri T.J. Alone, Director (Monuments)

National Monuments Authority

Shri Navneet Soni, Member Secretary

Maharashtra Metro Rail Corporation Limited

Shri Brijesh Dixit, Managing Director

Shri Ramnath Subramanian, ED (SP)

Shri S.D. Limaye, Technical Advisor

Shri Hukam S Chaudhary, Project Director (GC)

Shri Rajendra Prasad, ED (Planning)

Shri Manoj Dandare, JGM (Planning)

State Government of Maharashtra

Shri Vijay Shinde, Assistant Director (Town Planning)

2. The Chairman welcomed the Members of the Committee to the meeting and informed them that the agenda of the meeting was to hear the Chairperson, Archaeological Survey of India (ASI); Member Secretary, National Monuments Authority (NMA); Managing Director, Maharashtra Metro Rail Corporation Limited (MMRCL) and senior representatives of the State Government of Maharashtra on the various provisions of the Ancient Monuments and Archaeological Sites and Remains (Amendment) Bill, 2018 *vis-à-vis* proposed metro projects of the MMRCL in the vicinity of Centrally protected monuments.

3. The Managing Director of the Mumbai Metro Rail Corporation Limited made a powerpoint presentation on the views of MMRCL on the various provisions of the Bill. He informed the Committee about the Pune Metro Rail Project highlighting the salient features of the project, technicalities involved, its position with respect to monuments, technology being adopted, depth of

tunnel, benefits out of the project etc. The proposed alignment passes through the regulated area of Pataleshwar Caves and Shaniwar Wada, whereas it falls within the prohibited area of Aga Khan Palace.

4. The Committee wanted to know the reasons for which MMRCL wanted to adopt the alignment that passes through the prohibited area of Aga Khan Palace despite the ASI notification dated 16th June, 1992 declaring 100 meter zone as prohibited area. In its reply, the Managing Director, MMRCL submitted that the present proposal provides facility to ridership and accessibility to Aga Khan Palace. Further, he highlighted that latest technology is being adopted which will ensure that the monuments are not affected and that proximity to the airport and other multi-modal transportation hubs necessitated this alignment. The case related to Pune metro and order of the Bombay High Court was also referred to which specifies that the respondent should strictly adhere to the statutory mandate and requirements in obtaining the necessary permission before proceeding with the project in question.

5. The Member Secretary, NMA briefed the Committee that the proposed Pune Metro rail line runs at 11 meter from protected area of the Aga Khan Palace and falls within the prohibited area. The proposal was discussed in the meeting of NMA held on 10.09.2018 and it was rejected in the light of Section 20A(4) of the AMASR Act, 1958.

6. Some Members of the Committee opined that the NMA could have withheld their decision considering the study visit of the Select Committee to Pune. Further, the Committee wanted to know whether INTACH is the only agency to provide impact assessment. It was informed that the NMA recommends impact assessment, on case to case basis, through agencies other than INTACH also *viz.*, School of Planning and Architecture, CEPT, University of Ahmedabad, Reach Foundation, etc.

7. The Chairman highlighted different examples across the world such as in England where the subway runs below the English Parliament and in France, it runs close to old monuments. He further stressed that the Committee should take a relook into the 100 meter and 200 meter regulations. He suggested that a call may be taken as to whether any recommendations with regard to public proposals should be based on scientific principles. The Chairman sought the views of DG, ASI on availability of Google maps of ASI monuments showing

the protected area clearly, the agencies available with ASI for conducting impact assessment study and the mechanism adopted by ASI in dealing with such cases.

8. The DG, ASI informed the Committee that a MOU has been executed between Indian Space Research Organisation (ISRO) and ASI for preparing maps indicating protected, prohibited and regulated areas of all Centrally protected monuments. Such maps have already been made available with respect to more than 2500 monuments on National Remote Sensing Centre's (NRSC) Bhuvan portal of ISRO for public viewing. She also informed that encroachment has been reported at 321 Centrally protected monuments/sites and assured the Committee to provide more information on this. The Committee was further informed about the status of facilities and conservation methodology adopted at different monuments across the world *viz.*, Turkey, Angkor Vat, Ta Prohm, etc. The DG, ASI highlighted that a uniform protocol cannot be maintained for all the monuments. The examples of Taj Mahal, Charminar, etc. were quoted.

9. The Chairman emphasized that Heritage Conservation is a science and any implementation should be based on established practices. The people should be sensitized about the need for the conservation of heritage and the protection mechanism requires to be reviewed.

10. During the visit, the Committee received background notes from:

- (i) Ministry of Culture – Annexure-I
- (ii) Maharashtra Metro Rail Corporation Limited (Pune) – Annexure-II

**Select Committee on the Ancient Monuments and Archaeological Sites and
Remains (Amendment) Bill, 2018**

**Study Note of the Select Committee's Local Visit to Tughlaqabad Fort,
New Delhi on 16.10.2018**

The Select Committee on the Ancient Monuments and Archaeological Sites and Remains (Amendment) Bill, 2018 undertook a study visit to Tughlaqabad Fort, New Delhi for assessing the impact of construction of the proposed metro project near the monument.

Members Present

1. Dr. Banda Prakash
2. Shri Jairam Ramesh
3. Shri K.K. Ragesh
4. Shri N. Gokulakrishnan
5. Shri Prasanna Acharya
6. Shri Ram Kumar Kashyap
7. Shri Tiruchi Siva

Secretariat

1. Smt. Sunita Sekaran, Joint Secretary
 2. Shri Swarabji B., Director
2. Besides the above, officials of the Ministry of Culture and Delhi Metro Rail Corporation (DMRC) accompanied the visit.

12:15 P.M.

Visit to Tughlaqabad Fort

3. The Committee visited the Tughlaqabad Fort to assess the alignment of the proposed Tughlakabad-Aerocity metro corridor in the vicinity of the monument. The Committee was briefed by the DMRC officials with the help of detailed map of the project. The officials stressed that there is no alternative as the Tughlakabad Fort covers a large area and the road in between the monuments is narrow and could not be widened due to the existence of boundary walls of the protected monuments. Underground metro rail is the only viable project in the area. The Committee physically inspected the area and realized that the options are very less. The Committee took note of the alignment of the proposed metro project. The Committee

was informed by the Managing Director, DMRC that the proposed metro project would pass underground and would not impact the visual beauty of the monument. The Committee was also assured that DMRC is having state-of-the-art technology for underground construction of metro and that the construction activities will not impact the monuments.

4. The Committee was further informed of the lack of a feasible alternative route away from the monument since the Tomb of Ghiyasuddin Tughlak, another monument protected by Archaeological Survey of India (ASI), falls in the vicinity of the project too and taking the alignment away from both these monuments would make the metro project unviable.

5. The local visit concluded at 2:30 P.M.
