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Article 49 of the Constitution

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Article 49 of the Constitution

The Taj Mahal, the Sanchi Stupa and the Qutub Minar cannot be rebuilt if they fall. Who is bound to protect them? The Constitution answers in one sentence, in Article 49. But that sentence is a goal, not a right you can take to court. So how does heritage get real legal protection?

Article 49 Protect monuments of national importance
Part IV A Directive Principle
1958 AMASR Act
100 m + 200 m Zones set in 2010

1 What Does Article 49 Say?

- It says it is the obligation of the State to protect every monument, place or object of artistic or historic interest.
- It must be declared of national importance by or under a law made by Parliament.
- The protection is from spoliation, disfigurement, destruction, removal, disposal or export.
- So it covers monuments, places and objects. A monument is only one of the three.
- Age alone is not enough. An old well is not covered just because it is old. A legal declaration is needed.
- Union List Entry 67 covers monuments, records and archaeological sites of national importance. State List Entry 12 covers monuments and records not so declared. Concurrent List Entry 40 covers archaeological sites and remains not so declared.

Remember: Article 49 = protect declared monuments, places and objects of national importance. It sits in Part IV.

> **Quick check 1.** Article 49 is a Fundamental Right that a citizen can enforce in court. *(True or False?)* See answer ↓

> **Quick check 2.** The Archaeological Survey of India was set up after Article 49 came into force. *(True or False?)* See answer ↓

2 Why Is It a Duty and Not a Court Claim?

- Article 49 is in Part IV, home of the Directive Principles of State Policy.
- A Directive Principle guides the State when it makes laws and policies.
- **Article 37** says courts cannot enforce these principles directly.
- A Fundamental Right is different. If it is broken, you can go to court.
- Article 49 alone gives no such claim. Separate heritage laws create the duties that can be enforced.
- Citizens have a duty too. **Article 51A(f)** asks them to value and preserve the rich heritage of the country's composite culture.

3 How Did India Come to Protect Its Monuments?

- The story starts long before the Constitution. In **1861**, the Archaeological Survey of India (ASI) was founded.
- Alexander Cunningham was its first Archaeological Surveyor.
- In **1904**, under Viceroy Curzon, the Ancient Monuments Preservation Act gave the government power to protect monuments.
- In 1950, the Constitution came into force. Article 49 turned heritage protection into a stated duty of the State.
- In 1958, Parliament passed the Ancient Monuments and Archaeological Sites and Remains (AMASR) Act. It replaced the 1904 law.
- Article 49 is the goal. The AMASR Act is how the Centre acts on it.
- Under it, the Centre can declare a site nationally important, protect it, and control building or digging near it.
- The ASI now looks after about 3,686 centrally protected monuments and sites (as of February 2026).

Remember: 1861 ASI. 1904 first monuments Act. 1950 Article 49. 1958 AMASR Act.

4 How Does the Law Stop Builders Near Monuments?

- Builders were putting up new structures right beside protected monuments. So Parliament changed the law in **2010**.
- The 2010 amendment set distance rules, measured outward from the monument's boundary.
- The **first 100 metres** is a prohibited area. New construction is generally barred.
- The next 200 metres is a regulated area. Construction needs permission.
- The 2010 change also created the National Monuments Authority (NMA). It advises on applications.
- A Competent Authority takes the final decision on permission.
- In 2017, a Bill proposed to allow limited public works in the prohibited area, if there is no reasonable alternative. It passed the Lok Sabha in January 2018 but lapsed when the 16th Lok Sabha was dissolved in 2019.
- Note the trap. The ban is not 300 metres of total prohibition. Only the first 100 metres is prohibited.

5 What About Objects, Not Just Buildings?

- Article 49 also guards against removal and export. That covers movable objects such as statues, coins and manuscripts.
- The **Antiquities and Art Treasures Act, 1972** handles this side.
- It treats an object at least **100 years old** as an antiquity.
- Under it, antiquities cannot be exported except by the Central Government.

- The AMASR Act uses the same age idea. An ancient monument is one that has stood for at least 100 years.
- So the buildings come under the 1958 Act. The movable treasures come under the 1972 Act.

Remember: Buildings and sites: AMASR Act 1958. Movable antiquities and export: Antiquities and Art Treasures Act 1972.

6 Why Does Article 49 Still Matter Today?

- The ASI still manages India's centrally protected monuments under the AMASR Act.
- Any building plan near such a monument must follow the zone and permission rules.
- Article 49 states the duty. The Act supplies the detailed rules that can be enforced.
- This shows how a Directive Principle can have a strict law behind it, while the Article itself stays a goal.

7 What Should You Remember for Exams?

Must Know

- Article 49 is a Directive Principle in Part IV.
- It protects monuments, places and objects declared of national importance.

Good to Know

- The AMASR Act of 1958 is the main law.
- The 2010 amendment set the 100 m prohibited and 200 m regulated zones.

- ASI began in 1861.
- The 1972 Act covers antiquities and their export.

Great to Know

- It is not a Fundamental Right **(Trap)**.
- There is no 300 m total ban **(Trap)**.
- Scientific temper is a Fundamental Duty, not a Directive Principle **(Trap)**.

8 How Has This Been Asked in Exams?

Practice MCQs

1. Article 49 belongs to which part of the Constitution?

A. Fundamental Rights

B. Fundamental Duties

C. Directive Principles of State Policy

D. The Ninth Schedule

See answer ↓

2. Which Act is the main legal framework implementing Article 49's spirit today?

A. The Forest (Conservation) Act

B. The Ancient Monuments and Archaeological Sites and Remains (AMASR) Act, 1958

C. The Ancient Monuments Preservation Act, 1904

D. The Antiquities and Art Treasures Act

See answer ↓

3. The 2010 AMASR amendment created which two zones around a protected monument?

A. A 100-metre prohibited zone and a 200-metre regulated zone

B. A single 300-metre prohibited zone only

C. A 50-metre prohibited zone and a 100-metre regulated zone

D. A 500-metre prohibited zone with no regulated zone

See answer ↓

4. What did the proposed AMASR (Amendment) Bill, 2017 seek to change?

A. It transferred ASI's powers to the States entirely

B. It banned all construction near monuments permanently

C. It abolished the National Monuments Authority

D. It proposed to allow certain public works in the prohibited area, but lapsed in 2019 and was never enacted

See answer ↓

Answer Key

1. **C.** Article 49 is a Directive Principle of State Policy, directing the State to protect monuments of national importance. ↑ Q1
2. **B.** The AMASR Act, 1958, replaced the 1904 law and is the main statute implementing Article 49's protection duty today. ↑ Q2
3. **A.** The 2010 amendment created a 100-metre prohibited area and a further 200-metre regulated area, overseen by the new National Monuments Authority. ↑ Q3
4. **D.** The AMASR (Amendment) Bill, 2017 proposed to allow certain public works within the prohibited area around protected monuments. It passed the Lok Sabha in January 2018 and went to a select committee. It lapsed with the 16th Lok Sabha in 2019 and was never enacted. ↑ Q4

Quick-check answers

1. **False.** ↑ 1
2. **False.** ↑ 2

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