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Between Treaty Obligation and Developmental Governance: India's Implementation of The UNESCO World Heritage Convention

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What constrains the sovereign state in its implementation of treaties? This paper examines India's uneasy custodianship of its UNESCO World Heritage sites, demonstrating how an international obligation entered back in 1977 has evolved due to pressure from the requirements of domestic law, federal politics and economic aspirations. Focusing on the principles of dualism and illustrated with reference to the case of the Taj Corridor, whereby a state's decision to commercialise land near the Taj Mahal was impeded by a legal challenge, the paper shows how treaty obligations are implemented in India through creative institutional practices rather than formal ratification. However, behind such a process of transplanting international law into a domestic context hides a more complex struggle: while UNESCO's measure of greatness, 'Outstanding Universal Value,' is based on Western values, this paper demonstrates how it implicitly excludes some of India's spiritual or historical sites from being recognised by the rest of the world.

Keywords: *world heritage sites, treaties, outstanding universal value.*

INTRODUCTION

Joanna Macy¹ said that 'All the world's systems are interconnected; nothing exists in isolation.' This applies even to the legal systems across the world. Public International law gives us the perspective of understanding how domestic and international law and relations interact with each other, creating a realm of universal principles and objectives. However, the implementation of international law into domestic policy presents one of the most compelling challenges in the modern world. This paper specifically deals with domestic and international heritage law and how India has worked with and in collaboration with, shaping and been shaped by the UNESCO, the governing body of international heritage law.

Reports and documents suggest that Indian civilisation has been driven towards preservation and conservation of monuments and heritage sites for quite a long time. The old texts of ancient Hindu and Buddhist temples prescribed elaborate rules for maintenance and considered preservation as a part of sacred duty.² However, the current scenario may appear slightly different.

The country signed and ratified the UNESCO³ Convention Concerning the Protection of World Cultural and Natural Heritage⁴ in 1977 (also known as the World Heritage Convention). The convention provides significant international obligations to identify, protect, and preserve, as well as conserve, the cultural and natural heritage architecture within the country. It was established as a new provision for the collective protection of heritage with Outstanding Universal Value (OUV).⁵ Heritage with OUV is heritage and natural sites of a significance that is so exceptional as to transcend national boundaries and to be of common importance for present and future generations of all humanity.⁶ As a matter

¹ American Environmental Activist (1929-2025)

² V S Mani, 'An Indian Perspective on the Evolution of International Law on the Threshold of the Third Millennium', in B. S. Chimni (ed), *Asian Yearbook of International Law* 2000 (9) (Martinus Nijhoff 2004)

³ United Nations Educational, Scientific and Cultural Organization 1946

⁴ Convention for the Protection of the World Cultural and Natural Heritage 1972

⁵ Lynn Meskell, 'UNESCO's World Heritage Convention at 40: Challenging the Economic and Political Order of International Heritage Conservation' (2013) 54(4) *Current Anthropology*
<<https://www.jstor.org/stable/10.1086/671136>> accessed 15 June 2026

⁶ *Operational Guideline for the Implementation of World Heritage Convention* 2005 (UNESCO World Heritage Convention, 2005)

of fact, all of the 44 UNESCO World Heritage Sites⁷ in India fall under the above-mentioned category.

While this ratification and implementation may seem straightforward, there is a different domestic challenge altogether. On one hand, these world heritage sites contribute about 6.8% to India's GDP⁸ by generating revenue and driving tourism, but on the other, unchecked tourism development threatens the very integrity and authenticity that justifies their inscription. Unchecked domestic regulations and policies that may not have approval from the UNESCO Committee present grave danger to the sites.

From a public international law perspective, this paper contends that the involvement of India with the World Heritage Convention represents an elaborate but differential modulation of legal integration. International obligations may have been internalised through executive measures; however, they are simultaneously situated within the limitations of development politics and epistemic privileges embedded within the universalistic framework of UNESCO.

This paper therefore examines a very fundamental question: How do international treaty obligations reshape domestic legal architecture and administrative practice? The paper tries to showcase that acceptance and incorporation of the UNESCO Convention in the Indian legal system represents a sophisticated form of absorption. In other words, the Indian government does not incorporate the convention in a mere symbolic or ceremonial form; it tries to interpret the terms within its legal framework. At the same time, this refined domestication points towards the lack of uniformity through resource constraints, federalisation, and the politics of development. Overall, the paper presents an insight into this process and provides a critical analysis of India and its existing legal framework about obligations owed to UNESCO.

⁷ 'State Parties- India' (*UNESCO World Heritage Convention*) <<https://whc.unesco.org/en/statesparties/in>> accessed 15 June 2026

⁸ Dr A Rajshekar and Mrs L Jyoti Reddy, 'India's Tourism Sector on the Rise: Growth, Innovation and Future Prospects' (2025) 7(2) IJFMR <<https://www.ijfmr.com/papers/2025/2/40125.pdf>> accessed 15 June 2026

THE LEGAL ARCHITECTURE: INCORPORATING INTERNATIONAL OBLIGATION INTO DOMESTIC LAW AND PRACTICE

India is a dualist state. The Standing Committee on External Affairs has stated that India follows the principle of dualism, in which international law is not directly applicable domestically and must be implemented through a law by Parliament.⁹ In the case of *Jolly George Varghese v Bank of Cochin*,¹⁰ the court held that the law must go through a process of transformation into municipal law before it can become internal law. The positive commitment of the state parties ignites legislative action at home but does not automatically make the Covenant an enforceable part of the corpus juris of India. Hence, international law per se or *proh vigore* does not have the force of authority of civil law, unless an inspirational impact on actual legislation is visible. At the moment, the UNESCO committee has considerable power to push through the inscription of sites, though it is ostensibly powerless to protect those already on the List.¹¹ The actual protection depends on state law, the executive, and the actions of national institutions. In conclusion, even though the state commits internationally, the real legal force emerges only when domestic legislation takes effect.

The legislation in India that adopted the UNESCO World Heritage Convention and its obligations is the Ancient Monuments and Archaeological Sites and Remains Act of 1958 (AMASAR). The Act, by way of an amendment in 2010, has established a comprehensive legal framework for heritage protection that mirrors several key provisions of the Convention.

Section 20A of the AMASAR Act states that every area, beginning at the limit of the protected area or the protected monument and extending to a distance of one hundred meters in all directions, shall be the prohibited area in respect of such protected area or protected monument.¹² Section 20B also mandates that every area, beginning at the limit of the prohibited area in respect of every ancient monument and archaeological site and remains

⁹ Shashank Srivastava, 'Standing Committee Report Summary India and International Law' (*PRS India*, 27 October 2021) <https://prsindia.org/files/policy/policy_committee_reports/SCR_Summary_MEA.pdf> accessed 15 June 2026

¹⁰ *Jolly George Varghese & Anr v Bank of Cochin* (1980) 2 SCC 360

¹¹ Convention for the Protection of the World Cultural and Natural Heritage 1972

¹² Ancient Monuments and Archeological Sites and Remains Act 1958, art 20A

declared as of national importance under sections 3 and 4 and extending to a distance of two hundred meters in all directions, shall be the regulated area in respect of every ancient monument and archaeological site and remains.¹³ Both these sections, inserted post-amendment, clearly and directly respond to Article 5(a) of the Convention, which directs State Parties to adopt a general policy that gives the cultural and natural heritage a function in the life of the community. This also helps in integrating the protection of that heritage into comprehensive planning policies and programmes,¹⁴ done through spatial planning and land use regulation. The Archaeological Survey of India (ASI), founded under Section 3 of the Act,¹⁵ is the main institutional machinery for implementation of these measures, acting as the technical advisory body as well as the enforcement authority.

Even though protection of monuments and heritage sites under the Act is provided, even after amendment, the Act is still unable to grasp within itself the broader UNESCO ‘heritage’ meaning that includes OUV buildings. This definitional and implementational gap showcases that asymmetry exists. Only centrally protected monuments receive stringent safeguards, and other buildings and architecture may face inadequate protection.

Another critical dimension appears from within the tourism sector. The tourism policy is called the Draft National Tourism Policy 2022, drafted by the Ministry of Tourism, Government of India. This policy states that tourism can generate resources for conservation of cultural and natural heritage and has huge potential to make positive contributions to sustainable development goals. In order to develop and promote tourist destinations in a planned manner, the Ministry will classify tourist destinations into various categories, keeping in view their importance in terms of world heritage sites, protected monuments, footfall, and such other relevant factors as may be notified from time to time. This clearly falls under the guidelines of the convention. However, it should also be acknowledged that although the framework of implementation by UNESCO recognises the value of promotion and sustainable use, more emphasis is put on procedural aspects, which are not directly embedded in the policy framework of tourism.

¹³ Ancient Monuments and Archeological Sites and Remains Act 1958, art 20B

¹⁴ Convention Concerning the Protection of the World Cultural and Natural Heritage 1972

¹⁵ Ancient Monuments and Archeological Sites and Remains Act 1958, s 3

The Operational Guidelines for the Implementation of the World Heritage Convention have explicitly stated that 'impact assessments for proposed interventions are essential for all World Heritage properties.'¹⁶ It also identifies that States Parties must inform the World Heritage Centre in advance of any proposed intervention that might have an impact on the property's Outstanding Universal Value. In contrast, the Draft National Tourism Policy for the year 2022 may embrace these tenets at the level of norms but does not incorporate such provisions within the framework of tourism planning.

MONITORING, COMPLIANCE AND EXECUTIVE PRACTICE

Besides the legal formalities of incorporation, the Convention's monitoring and compliance system at the domestic level exerts constant pressures for accountability that have a material impact on the implementation of the Convention's principles. Article 29 of the Convention mandates that the States Parties to this Convention shall, in the reports that they submit to the General Conference of UNESCO, give information on the legislative and administrative provisions that they have adopted and other actions that they have taken for the application of this Convention.¹⁷ And Article 51(c) of the Indian Constitution says that the state shall endeavour to foster respect for international law and treaty obligations in the dealings of organised peoples with one another. Building on these provisions, the executive and institutional bodies acquire a crucial role in comprehending the goals of the Convention.

In order to further explain how this functions, a case study on the Taj Mahal Corridor is provided. The "Taj Mahal Corridor" project was proposed by the Uttar Pradesh Government in the year 2002. This project intended to divert the Yamuna River and reclaim 75 acres of land between Agra Fort and the Taj Mahal. Further, it stated that the reclaimed land would be used for constructing food plazas, shops and amusement activities in terms of development of a heritage corridor for the Taj Trapezium Zone at Agra.¹⁸ However, in the case of *M.C. Mehta (Taj Corridor scam) v Union of India*, the Supreme Court of India stated that this project granted very broad powers to the state, and the state therefore was trying to damage the property and endanger the World Heritage site by their hasty/irregular/illegal

¹⁶ *Operational Guidelines for the Implementation of the World Heritage Convention* (UNESCO World Heritage Centre, 2019)

¹⁷ Convention for the Protection of the World Cultural and Natural Heritage 1972, art 29

¹⁸ *M C Mehta v Union of India & Ors* (2007) 1 SCC 110

activities. The UNESCO committee also stated in its decision that it regrets not being informed of the intention to undertake a major development activity which negatively affected the World Heritage value of the property. The Committee also recalled its invitation to submit that such proposals, decisions that would be difficult to reverse (as stipulated in paragraph 56 of the Operational Guidelines), should first be reported. However, not much can be said about the project, since the mission members never received any project plans or details. Most of the information was either verbal or from the media. It was obvious that this project, if carried out, would have caused serious damage to the properties of the Taj Mahal and Agra Fort. Later, the committee praised the Indian judiciary for derailing this project and stated that a very courageous decision was taken by the relevant Indian authorities to stop a project on which millions of US\$ have been spent.

Located between the Taj Mahal and Agra Fort, the project would have certainly had a negative visual and cultural impact on the heritage values of these properties, as they were built facing the river, which played a very important role in the design of these sites. This case showcases how norms of public international law are incorporated and transformed into the domestic framework of domestic law. This also strengthens the importance of the judiciary in the interpretation of law and preservation of heritage. Furthermore, the Taj Corridor case, within this process, emphasises the use of legal processes as a mechanism for resolving conflict arising from economic development, as well as the conservation of sites of Outstanding Universal Value.

THE EPISTEMIC CHALLENGE IN DEFINING AND APPLYING UNIVERSAL OUTSTANDING VALUE

Pandit Jawaharlal Nehru said that “It is perhaps imagined by some people that international law took shape under Grotius or some other scholars in the West, and that there was no such thing in the countries of Asia or elsewhere. That, of course, cannot be correct, because if there is any kind of civilised order, there must be some kind of international law and ideas concerning the relationships of States.”

A more fundamental issue arises in the implementation of the UNESCO obligations, which goes beyond the legal and institutional structures. It is the interpretation and epistemological tension of ‘Outstanding Universal Value’. How it must be measured, incorporated, and

understood directs the fate of a heritage site. Article 1 of the convention defines cultural heritage as monuments, buildings, and sites having OUV from the point of view of history, art, science, anthropology, and archaeology.¹⁹ But the convention does not provide concrete resources on the basis of which it can be decided which historical sources, artistic narratives, or scientific standards are to be used. This challenge goes to the core of the convention, questioning the knowledge system and the interpretative frameworks and mechanisms that determine the meaning assigned to OUV heritage.

UNESCO's Operational Guidelines stipulate that nomination dossiers need to establish OUV by comparison, positioning the site in a universal heritage classification system that has been constructed largely along the lines of European and American architectural and archaeological history. This centres the whole interpretative framework around European values and ideas. V.S. Mani, in his paper, describes that 'traditional international law has been a product of Euro-centric international relations since the Middle Ages and much of it has served the interests of Western states.' Not only they, but the non-European state parties also use the same techniques and arguments to describe their religious heritage. This is interesting considering that the World Heritage system has often been criticised for being Eurocentric. Not only that, but it has also been criticised for privileging specific aesthetic and art-historical points of view.²⁰

Indian heritage culture, including sites and monuments, must fit the UNESCO framework to be recognised as 'exceptional' architecture so that it receives protection and conservation. But this process ignores the fact that many other sites, locally understood and without this attribution, also possess aesthetic and scientific quality worthy of preservation. This process marginalises alternate clause frameworks significant to local communities, the fort's role in living religious practices, or maybe their importance to regional identity that is not easily captured in the universal categories.

The 'International Charter for the Conservation and Restoration of Monuments and Sites', also known as the Venice Charter, was established in the year 1964. Its main aim is to conserve and restore monuments and safeguard them to be no less than works of art and as

¹⁹ Convention for the Protection of the World Cultural and Natural Heritage 1972, art 1

²⁰ Sophia Labadi, *CULTURAL HERITAGE, AND OUTSTANDING UNIVERSAL VALUE: Value-based Analyses of the World Heritage and Intangible Cultural Heritage Conventions* (1st edn, AltaMira Press 2012)

historical evidence.²¹ The Venice Charter has been criticised due to its emphasis on material authenticity, minimal intervention, and reversibility of conservation treatments. These principles were also adopted by the UNESCO Heritage Convention. But with time, the role of indigenous communities and their regional practices came to the forefront, providing a different perspective on conservation. Director of the World Heritage Convention Francesco Bandarin noted, “It is the work of local communities and indigenous people, the daily work and lives which maintain these sites, often through their own protection measures, not by official legal provision when the adoption of the cultural landscape categories, customary law and management system have been accepted at a global level.”²² Article 5 of the convention states that the state parties should establish or develop national or regional centres for training in the protection, conservation, and presentation of the cultural and natural heritage and to encourage scientific research in this field.²³ However, it must be noted that even today these institutions are developed and structured using Western preservation and conservation techniques, ignoring indigenous methodologies.

The primary goal of Western conservation is to preserve cultural heritage by making sure that certain items and locations are unaffected by the environment, climate, people, or wildlife. In other words, these methods view preservation as a biased epistemic program that aims to ‘preserve the preservable’.²⁴ Conservation, on the one hand, entails keeping items out of the reach of alteration, contact, or potential use outside of museums. However, this software paradoxically requires that structures and items be maintained continuously. While some forms of physical contact with objects, whether for private, ritual, or religious purposes, are forbidden, others are permitted and even recommended as conservation measures. Therefore, conservation alters and creates legacy, even though its activities are frequently imperceptible. The epistemic politics of universality has been hitherto uninterrogated in the Convention itself and the implementing legislation in the Indian context, though this plays a fundamental role in determining the possibilities for the protection of heritage. The future trajectory of India’s engagement with UNESCO might lie in pursuing further articulated

²¹ The Venice Charter 1964

²² Cari Goetcheus and Nora Mitchell, ‘The Venice Charter and Cultural Landscapes: Evolution of Heritage Concepts and Conservation Over Time’ (2014) 4(2) *Change Over Time*
<<https://muse.jhu.edu/pub/56/article/557042/pdf>> accessed 15 June 2026

²³ The Venice Charter 1964, art 5

²⁴ Lotte Arndt and Noémie Étienne, ‘Transforming conservation: challenging hegemonic models, broadening the realm of the concerned, changing practices’ (2023) 17(1-2) *Museums & Social Issues*
<<https://doi.org/10.1080/15596893.2024.2379654>> accessed 15 June 2026

ways and means for the recognition of different frameworks of value, the inclusion of different knowledge systems into the decision-making process for conservation, and the recognition of the meanings of heritage.

CONCLUSION

The Indian experience with the UNESCO World Heritage Convention shows the challenges of finding a balance between international legal commitment and the reality of governance. Even when there is formal compliance with the Convention through ratification in 1977 and subsequent amendments to AMASAR, substantive implementation remains uneven. The country follows a dualist approach where international law is not only incorporated but transformed and then absorbed into the legal system.

Developmental priorities and the federal system of governance pose challenges to the legal incorporation of law. But it is not merely limited to this one aspect. Another challenge to incorporation is the one that involves forms of epistemic politics. The universalistic paradigm developed under UNESCO, based on a Western model of conservation, does not fully accommodate India's various heritage knowledge systems. The Convention's criterion for Outstanding Universal Value is broadly neutral but also reflects certain knowledge systems that can index certain aspects of heritage as secondary.

To conclude, India's engagement with international law is a complex form of domestication of international law, much more than verbatim incorporation and symbolic accession. And IN the future, India must focus not only on ways to enhance the implementation process but also on thinking anew about the very means of interpretation. For our country, it becomes imperative to articulate a need for pluralistic approaches to the conservation of its heritage, taking into account its indigenous systems of knowledge as well as international collaboration.