Overview of Domestic and Transboundary Environmental Issues in Myanmar

Presented by

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Justice
The Supreme Court of the Union of Myanmar

Siem Reap, Cambodia
5 December, 2015
Introduction

- possesses the diverse ecosystems of rich wild flora and fauna
- nearly half of country area is covered with the forest
Myanmar’s Participating in International Environmental Conventions

- Plant Protection Agreement for the South-East Asia and the Pacific Region, Rome, 1956
- Treaty Banning Nuclear Weapons Test in the Atmosphere in Outer Space and Under Water, Moscow, 1963
- Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons, and On their Destruction London, Moscow, Washington, 1972
- United Nations Framework Convention On Climate Change, New York, 1992 (UNFCCC)
- Convention on Biological Diversity, Rio de Janeiro, 1992
Myanmar’s Participating in International Environmental Conventions (Cont;)

- International Topical Timber Agreement (ITTA), Geneva, 1994
- Vienna Convention for the Protection of the Ozone Layer, Montreal, 1987
- Montreal Protocol on Substances that Deplete the Ozone Layer, Montreal, 1987
- London Amendment to the Montreal Protocol on Substances that Deplete the Ozone Layer, London, 1990
- The Convention for the Protection of the World Culture and Natural Heritage, Paris, 1972
- ICOA ANNEX 16 Annex to the Convention on International Civil Aviation Environmental Protection Vol. I, Aircraft Noise
- ICAO ANNEX 16 Annex to the Convention on International Civil Aviation Environmental Protection Vol. II, Aircraft Engine Emission
- Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space Including the Moon and Other Celestial Bodies (Outer Space Treaty), London, Moscow, Washington, 1967
Myanmar’s Participating in International Environmental Conventions (Cont;)

- Agreement on the Networks of Aquaculture Centers in Asia and the Pacific, Bangkok, 1995
- South East Asia Nuclear Weapon Free Zone Treaty, Bangkok, 1995
- United Nations Convention to Combat Desertification in those Countries Experiencing Serious Drought and/or Desertification, Particularly in Africa, Paris, 1994 (UNCCD)
- Agreement to Promote Compliance with International Conservation and Management Measures by Fishing Vessels on the High Seas, Rome, 1973
- ASEAN Agreement on the Conservation of Nature and Natural Resources, Kuala Lumpur, 1985
- Cartagena Protocol on Bio-safety, Cartagena, 2000
- ASEAN Agreement on Trans-boundary Haze Pollution International Treaty on Plant Genetic Resources for Food and Agriculture, 2001
- Kyoto Protocol to the Convention on Climate Change, Kyoto, 1997
- Stockholm Convention on Persistent Organic Pollutants (POPs), 2001
Myanmar Legislation
On Environmental Conservation

- The Penal Code (1861)
- The Elephant Preservation Act (1879)
- The Yangon Water Works Act (1885)
- The Myanmar Municipal Act (1898)
- The Myanmar Forest Act (1902)
- The Myanmar Canal Act 1905 (Amendment Canal Act in 1998)
- The Yangon Port Act, 1905
- The Port Act, 1908
- The City of Rangoon Municipal Act (1922)
  (Amended as the City of Yangon Municipal Act, 1991)
- The Underground Water Act (1930)
- The Myanmar Water Power Rules (1932)
- The Protection of Wildlife Act (1936)
- The Yangon Municipal Act (1941)
Myanmar Legislation
On Environmental Conservation (Cont;)

- The Law relating to Aquaculture, 1989
- The Law relating to the Fishing Rights of Foreign Fishing Vessels, 1989 (Amended in 1993)
- The City of Yangon Development Law (Law No 11/90)
- The Pesticide Law (1990)
- The Myanmar Tourism Law (1990)
- The Freshwater Fisheries Law, 1992
- Forest Law (1992)
- Forest Rules (1995)
- The Protection of Wildlife and Protected Area Law (1994)
- Forest Rules Amendments (1998)
- City of Yangon Development Law (Law No. 6/99)
- The Environmental Conservation Law (2012)
- The Environmental Conservation Rules (2014)
Myanmar National Environmental Policy

Objectives;

- To establish sound environmental policies in the utilization of natural recourses to conserve environment and prevent its degradation.
- To Achieve harmony and balance between socio-economic, natural resources and environment through the integration of environmental considerations into the development process enhancing the quality of life of all citizens.
The Role of Judiciary on Environmental Conservation

- No special courts for environmental issues
- Administrative action and judicial action
- The major laws & Rules
  2. The Protection of Wildlife and Protected Area Law (1994)/
  3. The Environmental Conservation Law (2012)/
     The Environmental Conservation Rules (2014)
- The Law of Protection of the Property Relating to the Public(1963)
The Role of Judiciary on Environmental Conservation (Cont;)

Offences & Penalties

- Offences for extracting, moving or keeping in possession unlawfully the forest products, including fauna and flora, are liable to be punished with fine up to kyats 20,000 or with imprisonment up to 2 years or both. (Sec. 42 of the Forest Law)

- Offences relating to teak trees, the punishments are heavier with up to kyats 50,000 fine or 7 years imprisonment. (Sec. 43 of the Forest Law)

- The courts have power to confiscate all forest produce, vehicles, vessels, animals, machinery, tools and implements used in the commission of the offence in addition to the punishment for related offence. (Sec. 47 of the Forest Law)

- Most of the offences under this law are prosecuted to Township Courts which are first instance courts.
Offences & Penalties

❖ The offence of hunting without a license or farming protected wildlife and seasonally protected wildlife species without permission for commercial purposes is liable to be punished with imprisonment up to 3 years or with fine up to Kyats 10,000 or with both.

   (Sec. 35 of the Protection of Wildlife and Protected Areas Law)

❖ The offence of killing, hunting or wounding a protected wildlife species, removing, collecting or destroying in any manner any protected wild plant within the designated area without permission is liable to be punished with imprisonment up to 5 years or with fine up to Kyats 30,000 or with both.

   (Sec. 36 of the Protection of Wildlife and Protected Areas Law)

❖ The offence of killing, hunting, possessing, selling, transporting, wounding or exporting a completely protected wildlife species without the recommendation of the Director General, is liable to be punished with imprisonment up to 7 years or with fine up to Kyats 50,000 or with both.

   (Sec. 37 of the Protection of Wildlife and Protected Areas Law)
The Role of Judiciary on Environmental Conservation (Cont;)

Offences & Penalties

- The offence relating to operating the business, work-site or factory, workshop without permission which is required to obtain the prior permission under this Law is liable to be punished with imprisonment up to 3 years, or with fine from a minimum of kyats 100,000 to a maximum of kyats 1,000,000, or with both.
  
  (Sec. 31 of the Environmental Conservation Law)

- The offence of violating to the restrictions or instructions with regard to environmental conservation is liable to be punished with imprisonment up to 1 year or fine or both.
  
  (Sec. 32 of the Environmental Conservation Law)

- The offence for importing, exporting, producing, storing, carrying or trading any material prohibited by the Ministry due to its impact on environment is liable to be punished with imprisonment from 3 years to 5 years or with fine from a minimum of kyats 100,000 to a maximum of kyats 2,000,000, or with both.
  
  (Sec. 34 of the Environmental Conservation Law)
### Number of Cases Conducted by the Forest Law, 1992
#### at Different Levels Courts
**(From 1.1.2015 to 31.10.2015)**

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<th>Sr.</th>
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## Number of Cases Conducted by the Protection of Wildlife and Protected Area Law (1994) at Different Levels Courts (From 1.1.2015 to 31.10.2015)

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Domestic and Transboundary Environmental Issues

- The demand of wildlife and their products in border areas
- Limits of finance and man power
- Excess of cutting wood
- The capacity building for the judicial personnel
- Specialized procedures and rules for environmental cases
- International Cooperation
Conclusion

THANK YOU!