Overview of Myanmar’s Environmental and Climate Change Issues and Legal Framework for Protection and Enforcement

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INTRODUCTION

– Biodiversity in Myanmar
– National Commitments for Environmental Protection and Climate Change
Asia Pacific Region - world’s the richest biodiversity and unique ecological diversity

Myanmar - the largest country in mainland Southeast Asia, bordered by Bangladesh and India to the northwest, China, Laos and Thailand to the southeast, the Bay of Bengal and Andaman Sea lies to the south and west.
Biodiversity in Myanmar

• Transition zone between 3 biogeographic regions: in the north, Indochina, the Indian sub-continent; and Eurasia; in the south, the northern section of the transition between Indochina and Sundaland

• Unique and diverse species assemblages
• A mix of wildlife species from north, south and southeast Asia
Coastal waters abound with coral reefs amidst more than 800 islands of the Myeik archipelago.
National Commitments for Environmental Protection and Climate Change

Environmental Protection in Constitutional Law
- The Union shall protect and conserve natural environment (Sec. 45)
- Every citizen has the duty to assist the Union in carrying out the environmental conservation (Sec. 390 (b))

National Environment Policy to integrate environmental considerations into the development process to enhance the quality of life of the citizens and states that environmental protection should always be primary objective of development

Myanmar Climate Change Policy to promote climate change action on adaptation and mitigation in Myanmar

National Biodiversity Strategy and Action Plan 2015-2020

Myanmar National Strategy in Climate Change 2018-2030
MYANMAR

ENVIRONMENTAL AND CLIMATE CHANGE ISSUES

– Natural disasters
– Water resources
– Agriculture
– Forest and biodiversity
– Human health
• Impact of rapid economic development and significant climate challenges
• Extreme threats from climate change
• Environmental problems and climate change since 2015

Natural disasters: cyclones, floods, heavy rains, droughts, extreme temperatures
Water resources: flooding, contamination of water resources, erosion
• Agriculture: damages crops

• Forest and biodiversity: dry zone, changes in the flowering and fruiting seasons/times of plant species

• Human health: spread of infectious diseases, heat stress, heat exhaustion, and dehydration
MYANMAR LEGISLATIVE FRAMEWORK FOR ENVIRONMENTAL PROTECTION

– Development of Union Legislations
– Development of Regional and State Legislations
Development of Union Legislations

Colonial Period

- Penal Code (1861)
- Rangoon Water Work Act (1885)
- Burma Municipal Act (1898)
- Burma Canal Act (1905) amended in 1998
- Burma Embankment Act (1909)

After 1990

- Forest Law (1992)
- Protection of Wildlife and Conservation of Natural Areas Law (1994)
- Environmental Conservation Law (2012)

Recent

- Conservation of Biodiversity and Natural Areas Law (2018)
- Forest Law (2018)

64 Sectoral Laws related to environmental matters up to 2018
Environmental Conservation Law (2012) aims:
- to implement the Myanmar National Environmental Policy,
- to protect and conserve the natural environment,
- to create a healthy and clean environment,
- to enhance public awareness, and
- to promote international, regional, and bilateral cooperation

Environmental Conservation Committee was formed in order to adopt and carry out the Myanmar national policies and other environmental policies.


The Forest Law (2018) has also notably revised and increased on penalties of fine and imprisonment for illegal logging.
Development of Regional and State Legislations

1. Cutting and Polishing of Gemstones Law
2. Fire Wood Plantation Law
3. Fresh Water Fisheries Law
4. Livestock Breeding and Systematic Herding Law
5. Municipal Law
6. Protection against and Control of Plants and Crop Pests and Disease Law
7. Protection of Fire and Natural Disaster Law
8. Recreation Centers, Zoological Garden and Botanical Garden Law
9. Salt and Salt Products Law
10. Systematic Use and Production of Natural Fertilizer Law
11. Systematic Running of Private Vehicles Law
12. Systematic Running of Private Ferries Law
13. Village Fire Wood Plantation Law
Aims of Regional and State Laws relating to environmental issues

• To develop the economy of the region
• To support the basic needs of local people
• To prevent the loss of resources in the region
• To prevent illegal activities
• To promote education awareness and involvement of local communities
• To manage the local business in accordance with laws
• To make procedures for administrative actions by local authorities and to penalize violation
MYANMAR JUDICIAL SYSTEM
AND
ENFORCEMENT OF ENVIRONMENTAL CASES

– Formation of Courts and Jurisdiction

– Enforcement of environmental laws and administrative regulations
  • Offences violating environmental laws
  • Filing environmental cases by Regions and States in 2017
Formation of Courts

Supreme Court of the Union

High Courts of the Region/ State (14)

District Courts/ Courts of Self-Administered Division /Zone (73)

Township Courts (330)
Other Courts constituted by law (22)
<table>
<thead>
<tr>
<th>Court</th>
<th>Jurisdiction</th>
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</thead>
</table>
| Supreme Court of the Union | **Criminal**  
Original jurisdiction, Appellate and revisional jurisdiction, Confirming death sentence |
|                       | **Civil**  
Original jurisdiction, Appellate and revisional jurisdiction |
|                       | **Special**  
Power to issue Writs, Matters defined by the Constitution |
| High Court            | **Criminal**  
Original jurisdiction on criminal cases by the special law  
Appellate and revisional jurisdiction upon the decisions of  
District Courts within its local limit |
|                       | **Civil**  
Original jurisdiction on the suits valued of >1000 million Kyats  
Appellate and revisional jurisdiction upon the decisions of  
District Courts within its local limit |
## Jurisdiction

<table>
<thead>
<tr>
<th>Court</th>
<th>Jurisdiction</th>
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</thead>
<tbody>
<tr>
<td>District Court / Self-administered Zone or Division Court</td>
<td><strong>Criminal</strong>&lt;br&gt;Original jurisdiction which can pass any sentence by law&lt;br&gt;Appellate and revisional jurisdiction upon the decisions of Township Courts within its local limits</td>
</tr>
<tr>
<td></td>
<td><strong>Civil</strong>&lt;br&gt;Original jurisdiction on the suits valued of $&lt;1000-10$ million Kyats&lt;br&gt;Appellate and revisional jurisdiction upon the decisions of Township Courts within its local limits</td>
</tr>
<tr>
<td>Township Court</td>
<td><strong>Criminal</strong>&lt;br&gt;Township / Additional Township Judge - 7 Years imprisonment and fine&lt;br&gt;$1^{st}$ Class Magistrate- 3 Years imprisonment and 100,000 Kyats&lt;br&gt;$2^{nd}$ Class Magistrate- 1 Year imprisonment and 50,000 Kyats&lt;br&gt;$3^{rd}$ Class Magistrate- 3 Months imprisonment and 30,000 Kyats</td>
</tr>
<tr>
<td></td>
<td><strong>Civil</strong>&lt;br&gt;Original jurisdiction on the suits valued of $&lt;10$ million Kyats</td>
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Enforcement of environmental laws and administrative regulations

• Actions brought by government departments normally involve criminal enforcement of environmental laws.

• In addition, Myanmar court provides civil enforcement and appropriate civil remedies for environmental disputes.

• Private actions are generally brought for property damage, economic loss, and personal injury arising from environmentally harmful activity. The main remedy sought is usually monetary damages.
Most commonly violated environmental laws

- Forest Law
- Protection of Wildlife & Conservation of Natural Areas Law
- Gems Law
- Mines Law
- Protection of Water Resources, Rivers and Streams Law
- Fresh Water Fisheries Law
- Marine Fisheries Law
- Foreign Fishing Vessels and Fisheries Law
- Explosives Law
- Municipal Law
- Penal Code
- Law of Protection of Property relating to the Public
Filing criminal cases violating the environmental laws in 2017

- Forest
- Wildlife
- Gems
- Mines
- Water Resources
- Fresh Water Fisheries
- Marine Water Fisheries
- Explosives
- Municipal
- Foreign Fishing Vessel
- Public Property
- Penal Code
Filing environmental cases by Regions and States in 2017

The chart above shows the number of environmental cases filed by different regions and states in Myanmar for the year 2017. The highest number of cases was filed in Sagaing, followed by Mandalay, Mon, Bago, Magway, and others. The regions with the least number of cases were Kayah, Kayin, Chin, Saguang, and others.
KEY CHALLENGES AND OPPORTUNITIES

– Key Challenges
– Key Opportunities
Key challenges

• To enforce transnational/ national organized crimes of illegal logging and timber trade in border areas and conflict areas
• To strengthen laws enforcement, environmental legislations and rules and procedures for environmental cases
• To raise public awareness on environmental issues and justice
• To make capacity building for environmental enforcement agencies, lawyers and judges
Key opportunities

• To support the environmental rule of law and to strengthen environmental justice in ASEAN
• To attend ASEAN regional trainings for judges on environmental issues
• To participate Regional Symposiums, Roundtables on Environment
• To organize Asia Pacific Judicial Conference on Environmental and Climate Change Adjudication
• To make judicial cooperation in effective environmental enforcement
CONCLUSION

The more rich areas of biodiversity, the less negative impacts of climate change.

To tackle the challenges of climate change by making our planet more secure, our economy more sustainable and our future more promising.
THANK YOU