

## Issues on Implementation of the Laws Relating to Conservation of Ancient Monuments in Mandalay City

Thandar Myint\* , Wit Yee Win\*\*

### Abstract

Ancient Monument means every structure, monument, every cave, religious buildings and ancient city, bridge which is of historical, archaeological or artistic interest which has been in existence for not less than 100 years. Mandalay City is rich in historical cultural heritage and many ancient monuments that are beneficial to tourist industry. Ancient Monuments have faced many threats to its security, those which are environmental, like pollution and climate change, natural disasters as well as human-driven threats. The purposes of this research are to examine the implementation of the law and policy on protection and preservation of ancient monuments so as not to deteriorate due to natural disaster or man-made destructions and to have public awareness of the high value of ancient monuments. This research examines the legal protections related to the issues of ancient monument conservation in conformity with the existing laws by the relevant Department of Archaeology and National Museum. Methodologically, this research is conducted by the qualitative research approaches which focus on analysis of the existing laws and data collection through in-depth interviews. This study concludes that in order to effectively protect and preserve of ancient monument, the existing laws need to be implemented effectively. Moreover, the necessary technology and human resources should be fulfilled to implement the law effectively. Government should undertake to promote the public awareness regarding the values of cultural heritage on different media such as social media, broadcast media and printed media.

**Keywords:** Ancient monument, conservation, enforcement, pollution, Mandalay.

### Introduction

Cultural heritage is an ancient place or an ancient monument that needs protection and preservation because of its historical, cultural, archaeological, artistic, anthropological, geological or biological value. Mandalay is the capital of Upper Myanmar and the center of Myanmar's traditional culture. There are many different kinds of historic buildings and places with a relation to cultural heritage in the Mandalay zone including cultural heritage protection areas. Mandalay has the Ancient Monuments Wooden Monasteries of the Konbaung Period: Shwe-Kyaung, Mya-Nan-San-Kyaw, Shwei-in-bin Monastery, Thaka-wun Monastery, Thudhamma Zayat. Myanmar is a

---

\* Professor, Dr, Department of Law, Yadanabon University.

\*\*Lecturer, Dr, Department of Law, Yadanabon University.

member of the Protection of the World Cultural and Natural Heritages Convention in 1994 and also a party of the United Nations Educational, Scientific and Cultural Organization. Myanmar enacted Laws in line with International Conventions. Myanmar provided Protection and Preservation of Cultural Heritage Regions Law 2019, Ancient Monuments Law 2015 and Ancient Antique Objects Law 2015 for the protection of the antique objects, ancient monuments and culture heritage. However, the sustainability of ancient monuments in Mandalay has faced various natural and manmade problems. Cultural heritage conservation is the process of preserving cultural assets to both current and future generations.

### **Aims and Objectives**

The purpose of this study is to examine the implementation of the Protection and Conservation of Ancient Monuments Law and policy, to protect the ancient monuments of Mandalay city from deterioration caused by human activity or natural disasters or pests, and to raise public awareness of the value of cultural heritage.

### **Methodology**

The research is conducted by the qualitative research approaches which focus on analysis of the existing laws, the matters relating to the protection of cultural heritages and ancient monuments and provisions of Protection and Preservation of Cultural Heritage Regions Law 2019, the Ancient Monuments Law 2015. In order to understand the impacts of deteriorating, data such as reports are also analyzed and reliable data are collected through in-depth interview.

### **I. Definitions of Ancient Monuments**

The terms relating to the cultural heritage is defined in the Protection and Preservation of Antique Objects Law 2015, the Protection and Preservation of Ancient Monument Law 2015 and the Protection and Preservation of Cultural Heritage Law 2019.

Cultural heritage is an ancient place or an ancient monument that needs protection and preservation because of its historical, cultural, archaeological, artistic, anthropological, geological or biological value.<sup>1</sup> According to Section 2(a) of the Protection and Preservation of Ancient Monument Law 2015, Ancient Monument means places inhabited, produced, used and built by humans, including geological environments that contain fossils older than a hundred years. Found above or below water. And then, Section 2(h) (vi) of the Protection and Preservation of Cultural Heritage Regions Law 2019 provided that even though buildings may not have been within for 100 years, buildings should be added to the list of ancient monuments and those that the State should

---

<sup>1</sup> Section 2(a), the Protection and Preservation of Cultural Heritage Regions Law, 2019

conserve because of their cultural, historical, architectural, and artistic values should be elected as such by a notification issued by the Ministry.

Moreover, religious buildings including zedi, stupa, temple, monastery, rest house, Buddhist ordination hall, worship monument, brick mounds and collapsed damage; ancient city, ancient monument, bridge; buildings that the state should conserve due to their high cultural, historical, architectural and artistic value; consistent with section 2(a) of those Acts and section 2(h) of the Protection and Preservation of Cultural Heritage Regions Law 2019, are defined as ancient monuments.

Therefore, the definitions of cultural heritage in national laws provide what it protects in some detail. Most define heritage as monument, antiques, site and cultural property. Most laws give some indication of values, for example archaeological, historical, architectural, scientific, aesthetic or artistic. Cultural heritage is very valuable from the point of view of culture, history, science or technology and thus becomes national property.

## II. Ancient Monuments in Mandalay City

In Mandalay City, there are various kinds of ancient monuments and sites related to cultural heritage. Many ancient monuments including pagodas, monastery, rest house, palace, city wall, moat, epigraphy, archive, burial site, burial building and cave and pavilion in the Mandalay area are protected and preserved by the Department of Archaeology and National Museum. The following are some ancient monuments in Mandalay City.

**Mya-Nan-San-Kyaw Golden Palace:** The Cultural Museum of (Mandalay Royal Palace) King Mindon, the tenth ruler of the Konbaung Dynasty, constructed the Mya-Nan-San-Kyaw Golden Palace after he transferred the capital from Amarapura to Mandalay. The Shwei-nan-daw Monastery, the only remaining structure from the Mya-Nan-San-Kyaw Golden Palace, is regarded as one of Myanmar's finest examples of wooden monastery architecture.

**Thudhamma Zayat:** “Zayat” refers to facilities that are built in villages and used as a meeting hall or napping place for worshippers. The group of zayat that stand at the southern foot of Mandalay Hill facing the east end of the northern side of the moat around the Mya-Nan-San-Kyaw Golden Palace is used as a resting place for monks.

**Thaka-wun Monastery:** Thaka-wun Monastery was built around 1879 under the sponsorship of Prime Minister U Kaung, and is located in an area southwest of the center of Mandalay, in a verdant temple district among 14 other temples. It was designed by an Italian architect and a French architect who worked for King Mindon, based on the Prime Minister’s observations when he visited Europe, and displays a unique and eclectic appearance that combines Western and Burmese architectural styles.

**Shwei-in-bin Monastery:** Shwei-in-bin Monastery is located in the same region as Thaka-wun Monastery, and was built in 1895 with funds donated by a wealthy Chinese. A temple with a cruciform ground plan and a seven-tiered roof stands at the east end of the site, and a main temple stands on the west side of that temple, connected by a narrow room.

**Amarapura:** An earlier capital of the Konbaung kingdom was Amarapura, which is located south of Mandalay. The former Royal Palace was destroyed, transferred to Mandalay, and rebuilt there when King Mindon transferred the capital from Amarapura to Mandalay. **U Bein Bridge** is a wooden bridge that spans Taungthaman Lake in eastern Amarapura, and measures 3 meters in width and 1.2 kilometers in total length. Construction of the bridge began in 1849 using more than 1,000 teak columns salvaged from the former Royal Palace in Innwa and transported to Amarapura. Myanmar engineers used traditional scaling and measuring methods to build the bridge.

### III Causes of Damage to Ancient Monument

One of the issues related to the harmonization and consolidation of national legislation on the protection and use of ancient monuments is particularly acute. Threats to ancient monuments are simultaneously seen as a physical threat to the heritage protection area itself and a threat to the country that support the tradition, the object itself, the place or the cultural practice that is part of the object.

In modern times, Cultural heritage consisting of historical and cultural monuments, ensembles and places of interest acquire more and more political power and importance as a reliable guarantor of the preservation of national identity and originality, a valuable competitive advantage in the context of globalization.

#### A. Damage Caused by Natural and Man-made Disasters

Earthquakes, landslides, floods, heat waves, fires and other natural and man-made disasters directly affect ancient monuments. They can seriously damage or even completely destroy monuments, historical and archaeological sites or cultural landscapes. In addition to endangering people who visit these places, heritage degradation has a negative socio-economic impact on local communities and involves the loss of identity-building values and cultural diversity. Nowadays, Ancient Monument and Heritage sites are being severely damaged by encroaching human activities.



(Fig.1, damaged by man-made activities)

Some ancient monuments in Mandalay City are facing physical damage to the natural and manmade disasters. National and Local authorities should implement conservation and maintenance practices to reduce disaster by man-made in cultural heritages. Therefore, the issues of conservation of ancient monument by various manmade disasters should be undertaken to promote public awareness and perception that proactive experts to design ways to discuss cultural heritage values in different media such as social media, broadcast and print media.

### **B. Damage Caused by Climate Change**

Climate change refers to long-term shifts in temperature and weather patterns, and these swings may be natural. These climate changes have led to the increase and occurrence of climate-induced natural disasters.<sup>1</sup>

These heritage assets have always been and will continue to be subjected to interactions with their environment, often referred to as weathering processes, and thus to change. Climate change is an additional potential threat as it exacerbates the expected rates of decay and/or contributes to the appearance of new decay phenomena.<sup>2</sup>

This is because climatic changes may aggravate the physical, chemical, and biological mechanisms causing degradation by affecting the structure and/or composition of the affected materials. Climate change can also affect the frequency and intensity of the physical, chemical and biological mechanisms that cause degradation affecting a structure.<sup>3</sup>

---

<sup>1</sup> <https://journalofethnicfoods.biomedcentral.com/articles/10.1186/s42779-022-00147-2>

<sup>2</sup> <https://wires.onlinelibrary.wiley.com/doi/10.1002/wcc.710>

<sup>3</sup> <https://wires.onlinelibrary.wiley.com/doi/10.1002/wcc.710>



(Fig.2, damaged by weather)

Changes in temperature, precipitation, and atmospheric moisture, and wind intensity, desertification, and the interaction between climatic changes and air pollution have been identified by the United Nations Educational, Scientific and Cultural Organization (UNESCO) as threats to cultural heritage.<sup>1</sup> And then, the growing of shrubbery over the heritages is the challenges of heritages.

To strengthen conservation efforts, the most important constraints in conservation projects are technical aspects such as limited availability of experts (lack of qualified professionals, training of new skills and lack of technical staff in the antiquities maintenance team).<sup>2</sup>

### **C. Damage Caused by Insect Pests**

Insects are known to be important pests that are harmful to artefacts, museums, monuments, paintings and cultural heritage in general. Insects cause loss and damage to cultural heritage, and insects are used to inspire art and other aspects of contemporary culture.<sup>3</sup>

Pests can cause damage to organic artefacts such as textiles, paper and wood as they eat away the materials from which artefacts are made. They can also cause staining and leave harmful residues and debris behind. Pests can leave unsightly holes on artefacts as they eat through them.

---

<sup>1</sup> <https://wires.onlinelibrary.wiley.com/doi/10.1002/wcc.710>

<sup>2</sup> Data from interview (22-1-2024)

<sup>3</sup> [https://www.mdpi.com/journal/insects/special\\_issues/Insect\\_Art](https://www.mdpi.com/journal/insects/special_issues/Insect_Art)

Insect pests are most active and therefore damaging during their larval stage as larva exist as eating machines and can be extremely difficult to detect.<sup>1</sup>



(Fig.3, damaged by Insect pests)

The ancient monuments in Mandalay city are facing deterioration caused by insects pests, climate change and natural disaster. And then, people lack full knowledge of the general impact of aggressive kinds on natural and cultural heritage. A critical heritage issues is that of the destruction and damage of monuments and other sites despite the existence of international conventions or national and local laws.

Therefore, it is necessary to develop integrated planning with emphasis on preparedness and prevention in disaster mitigation. It involves human resources and training, community awareness and active measures for the protection of cultural heritages.

#### **IV. Legal Protection on Ancient Monuments**

Legal Protection is fundamental for the preservation of cultural heritage. Cultural heritage such as ancient monuments and ancient sites etc. is protected by nation laws. Myanmar ratified the Convention for the Protection of Cultural Property in the Event of Armed Conflict (The Hague Convention) in 1956, and the World Heritage Convention in 1994.

##### **A. Laws Concerning Ancient Monuments**

Protection and Preservation of Cultural Heritage Regions Law 2019, Protection and Preservation of Ancient Monuments Law 2015, and Protection and Preservation of Antique Objects Law 2015 are provided to protect the cultural heritage in Mandalay City. These laws are administered by the Department of Archeology and National Museum (DANM). Effective legal protection depends on the full implementation of the Cultural Heritage Protection and Conservation Law.

---

<sup>1</sup> <https://www.nhb.gov.sg/what-we-do/our-work/preserve-our-stories-treasures-and-places/the-national-collection/heritage-conservation-centre/collections-care/damage-by-pests>

The protection and Preservation of Ancient Monuments Law 2015 is provided implement protection and conservation policies to preserve ancient monuments; to protect and preserve ancient monuments from destruction.

#### **i. Prohibitions to Protect Ancient Monuments**

Section 19 of the Protection and Preservation of Ancient Monuments Law 2015 provided that no person shall, without the written permission of the Department, on the campus designated by the antiquities: (a) destroy or damage any antiquities; b) to change the original manufacturing method of the ancient monument; c) dig in search of antiquity; d) looting of the ancient monument and removal of original elements and objects.

No one may, without prior written permission, perform any of the following activities on an ancient monument or in a designated area of an ancient monument that may damage the ancient monument: (a) photograph, film, film or copy. and modeling an ancient monument for commercial purposes; b) the use of vibrating machines in the specified place of the ancient monument and the use of different types of vehicles; c) cultivate, garden, process, limit, close, close the surroundings of the ancient monument or carry out other activities that may affect the ancient monuments; (d) gas emissions, such as a flight of hot air, which may affect the ancient monument; e) landing and take-off and flying by airplanes and helicopters, which may directly or indirectly affect the ancient monument; f) removal of chemical substances and waste that can affect the ancient monument and the environment.<sup>1</sup>

Under Section 35 of the Protection and Preservation of Cultural Heritage Regions Law 2019, no one shall carry out any of the following undertaking to the area of heritage culture without prior permission from the regional or national protection commission or the regional protection commission; a) destruction of an ancient monument or its part; (b) intentionally alter the original ancient form or ancient method of finishing or the original ancient name of the ancient monument; c) excavation of antiquities; d) mining of oil, natural gas, precious stones or minerals.

No one shall carry out constructing, extending and renovating restaurants, souvenir shops and tour companies industries for the commercial purpose in the cultural heritage region without the prior permission of the Region or State Preservation Committee or Regional Preservation Committee under Section 31(g) of the Protection and Preservation of Cultural Heritage Regions Law 2019.

---

<sup>1</sup> Section 20 of the Protection and Preservation of Ancient Monuments Law 2015

## ii. Penalties for Damaging Ancient Monuments

The national legislations relating to the protection of cultural heritage define punishable offences and lay down the penalties for infringement. The most common stated punishable offences are alteration, destruction, removal and excavations of the cultural heritage without the prior permission of the relevant Committee.

According to Section 21 of the Protection and Preservation of Ancient Monuments Law, 2015, who commits any of the following acts, shall be liable to imprisonment for not more than six months and not more than one year, or to a fine of not less than three hundred thousand kyats and not more than fifteen hundred thousand kyats, or to both: (a) do any act under clause 14 without the prior permission of the department; b) committing an act that may damage the ancient monument specified in section 20. Section 24 of this Act further provides that a person who violates the prohibition set out in Section 19 shall be punished with imprisonment for a term not less than five years and not more than ten years and with a fine.

These offences under this law are recognized as cognizable offences. The Ministry has the right to coordinate with the relevant Ministry to provide aid of the Police Force for the protection and conservation of ancient monuments.

The offences relating to destroying the ancient monument or part of it provides in Section 40 of the Protection and Preservation of Cultural Heritage Regions Law 2019 that whoever violates any prohibition in Section 35 of this Law shall, on conviction, be punished with imprisonment for a term which may extend from a minimum of three years to a maximum of five years, and shall also be liable to a fine from a minimum of one million kyats to a maximum of five million kyats.

## B. Responsible Organizations for Protecting and Preserving of Ancient Monuments

The Mandalay Region Government forms the Regional Preservation Committee for the protection and preservation of the culture heritage regions subject to Section 8(a) of the Protection and Preservation of Culture Heritage Regions law 2019.<sup>1</sup>

According to Section 5 of the Protection and Preservation of Ancient Monuments Law 2015, the Ministry shall be maintained and protected ancient monuments for perpetuation; protected and preserved beforehand so as not to deteriorate because of the climatic condition, natural disaster, man-made destruction; searched ancient monument situated across the State, put them in the list of ancient monuments.

The functions and duties of the Regional Preservation Committee are adhering to the integrated management process which is approved when the cultural heritage regions are listed to the world heritage; implementing development projects for the local people within the cultural

---

<sup>1</sup> Order N0 054/2023 of the Mandalay Region Government (24-3-2023)

heritage region; renovating and demolishing the buildings which are inconsistent with the stipulation.<sup>1</sup>

According to Section 18 of the Protection and Preservation of Cultural Heritage Regions law, the regional preservation committee may, with the approval of the Ministry, carry out, grant permission after scrutiny, or reject the following matters desired to carry out in the cultural heritage region: renovating and extending the ancient monument and estate; constructing road, bridge, ditch, levee, and carrying out the electricity and communication works; constructing the essential buildings and public infrastructures according to management.

### **Discussion and Finding**

There were many different kinds of historic buildings and places with a relation to cultural heritage in the Mandalay City. Section 31 of the Protection and Preservation of Cultural Heritage Regions Law prohibits not carrying out construction, or extension and renovation restaurants, souvenir shops in designated area of ancient monuments or ancient sites without the prior authorization of the Region or State Preservation Committee or Regional Preservation Committee. These offences are recognized as cognizable offences. According to interview data, there are not prosecutions on such offences respectively. It shows that the laws need to implement effectively. On the other hand, In order to make the conservation effort effective, technical aspects such as inadequate of experts are the major constraints in conservation projects. The issues of conservation of ancient monument by various manmade disasters should be addressed by promoting public awareness concerning the values of cultural heritage on different media. Therefore, sustainability of ancient monuments in Mandalay is responsible of not only the relevant Region or State Preservation Committee or Regional Preservation Committee but also the cooperation of the local people.

### **Conclusion**

The cultural heritage is nonrenewable resource. Mandalay City is rich in historical cultural heritage and many ancient monuments that are beneficial to tourist industry. In order to effectively protect and preserve ancient monument, the existing laws need to be implemented effectively. Moreover, the necessary technology and human resources should be fulfilled to implement the law effectively. Government should undertake to educate the public about the values of cultural heritage on different media such as social media, broadcast media and printed media. Finally, in order to protect and preserve valuable ancient monuments, cooperation among responsible organizations, law enforcement organizations and the public is essential.

---

<sup>1</sup> Section 17 of the Protection and Preservation of Cultural Heritage Regions Law 2019

### Acknowledgements

I would like to express my sincere thanks to all persons who helped me and who provided the opportunity to present my research. Particularly, my special thanks go to Dr. Tint Moe Thu Zar (Rector, Yadanabon University) and Pro-rectors of the Yadanabon University. Moreover, my special thanks are due to Dr. Khin Myo Thant (Professor, Head of Department of Law) and Associate Professors, Lecturers, Assistant Lecturers and Tutors of Department of Law, Yadanabon University for supporting all the best to accomplish this paper. Finally, I'm greatly thankful to the Directorate of Department of Archaeology and National Museum (Mandalay Batch) for the data resources of my research work.

### References

#### Laws /Orders/ Data

1. The Protection and Preservation of Cultural Heritage Regions Law, 2019.
2. The Protection and Preservation of Ancient Monuments Law ,2015
3. Order N0 054/2023 of the Mandalay Region Government (24-3-2023)
4. Data from interview (22-1-2024)

#### Websites

1. <https://wires.onlinelibrary.wiley.com/doi/10.1002/wcc.710>
2. <https://journalofethnicfoods.biomedcentral.com/articles/10.1186/s42779-022-00147-2>
3. <https://wires.onlinelibrary.wiley.com/doi/10.1002/wcc.710>
4. <https://www.nhb.gov.sg/what-we-do/our-work/preserve-our-stories-treasures-and-places/the-national-collection/heritage-conservation-centre/collections-care/damage-by-pests>
5. [https://www.mdpi.com/journal/insects/special\\_issues/Insect\\_Art](https://www.mdpi.com/journal/insects/special_issues/Insect_Art)