

## Protection of Cultural Heritage in Myanmar

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### **Abstract**

“Cultural heritage” means ancient monument or ancient site which is required to be protected and preserved by reason of its historical, cultural artistic or anthropological value. Cultural heritages are the properties which are tangible and intangible property. The preservation of the cultural heritage plays the importance role of the society. In Myanmar, laws have been enacted for the preservation of cultural heritage. They are the Antiquities Act, 1957, the Law Amending Antiquities Act, 1962, the Protection and Preservation of Cultural Heritage Regions Law, 1998, the Law Amending the Protection and Preservation of Cultural Heritage Regions Law, 2009 and the Penal Code, 1860. Everybody needs to protect and safeguard the cultural heritage because it is inherited from past generation. Nowadays, it should be maintained in the present and bestowed for the benefit of future generation.

**Keywords:** cultural heritage, protection

### **Introduction**

Cultural heritages are increasingly threatened with destruction not only by the traditional causes of decay, but also by changing social and economic conditions. The cultural heritage of each nation confines the real value of cultural formation process, the positive expression of the historical, tradition and national characteristics. Therefore, cultural heritage is not only the invaluable property of each national but also the mankind heritage. The preservation of cultural heritage is one of activities adhered to the protection and enhancement of national characteristics creating the future development of each nation from the particular relation between the past and present.

### **Definition of the Cultural Heritage**

Culture means the way of life, especially the general customs and beliefs of a particular group of people at a particular time. The heritage means the features belonging to the culture of a particular society, such as traditions, languages or buildings which still exist from the past and which have a historical important. If culture is inherited, it becomes cultural heritage.

The meaning of the Cultural Heritage is defined in Section 2 of the Protection and Preservation of Cultural Heritage Regions Law, 1998. It means ancient monument or ancient site which is required to be protected and preserved by reason of its historical, cultural artistic or anthropological value.

Cultural Heritage can be found into two forms, tangible and intangible culture. “Tangible culture” means the culture that can be seen, shown, or touched such as buildings and historic places, monuments, books and so on. “Intangible culture” means the culture that is a feeling or quality existed but it cannot be described or proved exactly such as traditions, customs, and practice and other aspects of human activity etc.

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Kuthodaw Pagoda, Halin, Sri Kestra and Beikthano (Pyu Ancient Cities) have been recognized as World Heritage by the UNESCO.

Therefore, Cultural Heritage shall refer to the totality of cultural property preserved and developed through time and passed on to posterity. They are things that are regarded as important to preserve for future generations. Today, cultural heritage should be protected and preserved effectively by all human being.

### **Protection and Preservation of Cultural and Natural Heritage**

In Myanmar, the ancient cultural heritage has been undertaken for the preservation by the government as a national task. This task includes in the Four Social Objectives. This objective is “to upgrade national identity and preservation of cultural heritage and national characteristics”. Many laws have been enacted for the benefit of Myanmar cultural heritage preservation. They are the Antiquities Act, 1957, the Law Amending Antiquities Act, 1962, the Protection and Preservation of Cultural Heritage Regions Law, 1998, the Law Amending the Protection and Preservation of Cultural Heritage Regions Law, 2009, the Penal Code, 1860.

In 1957, the Antiquities Act was enacted. The aims of this Act are to control movement of antiquity, prevent illicit traffic of antiquity, prohibit the export of antiquity, protect and preserve antiquity. According to this Act, the government also controls the excavation and searching antiquity by excavation. In 1962, the Government of Myanmar promulgated the Law Amending the Antiquities Act.

In 1998, the Protection and Preservation of Cultural Heritage Regions Law was enacted. The aim of this Law is to implement the protection and preservation policy with respect to perpetuation of cultural heritage. In 2009, the Law Amending the Protection and Preservation of Cultural Heritage Regions Law was promulgated.

The Department of Archaeology may prohibit any person from ploughing and cultivating within the boundary of the ancient monument or ancient site or from carrying out any activity that may cause damage to the cultural heritage in the cultural heritage region.<sup>4</sup>

The Director of the Archaeology Survey Department may, if the Director considers that any antiquity is in need of protection or preservation and ought in the public interest to be protected or preserved;

(a) carry out measures, with the approval of the President, for the inspection and preservation of any antiquity including the removal, with the consent of the owner, of any antiquity for the purpose of repair and safe custody;

(b) assume guardianship of and maintain any antiquity, where such antiquity is without an owner.<sup>5</sup>

Moreover, the ancient sites are protected. No person shall, without prior permission granted under this Law, construct, extend, renovate a building or extend the boundary of its enclosure in the ancient monumental zone or ancient site zone.<sup>6</sup>

No person shall carry out any of (a) the destroying an ancient monument; (b) willfully altering the original ancient form and structure; (c) excavating to search for antiquities; (d) exploring for petroleum, natural gas, precious stones or minerals in the cultural heritage region.<sup>7</sup>

And then, no person shall, without prior permission granted under this Law, carry out any of the archaeological excavation; building road, constructing bridge, irrigation

<sup>4</sup>Section 10 of the Protection and Preservation of Cultural Heritage Regions Law 1998, Myanmar.

<sup>5</sup>Section 4 of the Antiquities Act 1957, Myanmar.

<sup>6</sup>Section 18 of the Protection and Preservation of Cultural Heritage Regions Law 1998, Myanmar.

<sup>7</sup>Section 20, Ibid.

canal; digging well, pond, fish-breeding pond or extending the same in the cultural heritage region.<sup>8</sup>

The Ministry of Culture may carry out for the acquisition of any land within the cultural heritage region if necessary under the Protection and Preservation of Cultural Heritage Regions Law 1998.<sup>9</sup>

Myanmar ratified the Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict, 1954 on 10<sup>th</sup> February, 1956. And then, Myanmar ratified the Convention concerning the Protection of World Cultural and Natural Heritage, 1972 on 29<sup>th</sup> April 1994.

Cultural properties are also facing with the danger of illicit trafficking by treasure hunters and antique dealers. Myanmar cultural antiques which are usually stolen out of the country are Buddha images, Brahmin effigy and figure, earthen pots, pans and ornamental pieces made by gold, silver and gems. The dissolute people used to steal the antique items from the old pagodas and monasteries or buy the unearthed articles from the ignorant person who lived in the old cities of culture and smuggle them out of the country.

At present, cultural properties are needed to protect. So, the Ministry of Culture is carrying out protection and preservation of cultural heritage as its main function.

### **Functions of the Ministry of Culture**

The Ministry of Culture is carrying out the tasks related to the preservation, conservation, excavation and dissemination of cultural heritage by expending large state budget annually. Moreover, cultural heritage protection and preservation works are given high prior and attention by the state in various ways.

Previously, Burma (now-Myanmar) Epigraphy Office was founded in 1902 under the British rule. Its main function was to collect, preserve and record all the stone inscriptions, preserve the ancient monuments and also collected antiquities throughout the country. Burma Epigraphy Office was reorganized as Department of Archaeology in 1957. In August 1954, the Department of Cultural Institute was established. Department of Archaeology and Department of Cultural Institute were merged on 9 February 2007 as Department of Archaeology, National Museum and Library.

At present, the Department is taking charge of preservation, restoration and presentation of Myanmar cultural heritage including tangible and intangible cultural heritage and studying the culture and customs of the nationalities. The functions and duties of the Ministry of Culture are to carry out works of protection, preservation, revelation of and research on cultural heritage regions.<sup>10</sup>

Some of the eminent results of the Ministry of Culture are the return of silver coins from Pyu period from one of the monasteries in Thaton Township in 1972; the return of a stone weapon with handle while digging for a road from Tititu mound in Magway Division; the return of Bronze Age iron weapon and others like smoking pipe, grinding stone, and small timing bells from Konbaung Period from Pha-an of Kayin state in 2006, etc.

Under the guidance of Ministry of Culture, Department of Archaeology has preserved and restored Myanmar cultural heritage sites, regions and movable cultural properties. Ancient monuments at historical sites are repaired and renovated. Ancient cities are excavated. Moreover, this department is carrying out the reconstruction of old palaces like Mya-Nan-San-Kyaw Palace at Mandalay. The projects on preservation and

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<sup>8</sup> Section 21 of the Protection and Preservation of Cultural Heritage Regions Law 1998, Myanmar.

<sup>9</sup> Section 5, Ibid

<sup>10</sup> Section 12, Ibid

restoration of ancient wooden monuments and mural paintings in archaeological zones have also been carried out.

Besides, Myanmar has been working for the conservation of natural Inlay Lake in Shan state for its sustainability in the wake of reduction of the lake area due to climate change to ensure socio-economic development of people. The Government of Myanmar is contracting with other State Parties to the World Heritage Convention to establish co-operation.

### **Offences and Penalties relating to Cultural Properties**

Under Section 24 of the Protection and Preservation of Cultural Heritage Regions Law 1998, whoever violates contrast, extend, renovate a building or extend the boundary of its enclosure in the ancient monumental zone or ancient site zone without prior permission granted under this Law, shall be punished with fine which may extend to Kyats 50,000 or with imprisonment for a term which extend to 5 years or with both.

And then, whoever violates, without prior permission, carry out of the constructing a building, cultivating in the cultural heritage regions shall be punished with fine which may extend to kyats 30,000 or with imprisonment for a term which may extend to 3 years or with both.<sup>11</sup>

Besides, under Section 26 of this Law, whoever violates any of the destroying an ancient monument; excavating to search for antiquities; exploring for petroleum, natural gas, precious stones or minerals in the cultural heritage region shall be punished with imprisonment for a term which may extend from a minimum of 1 year to a maximum of 7 years and may also be liable to a fine.

The Court shall also pass any of the following orders on whoever is convicted of any of the offences under this Law; (a) causing the building constructed to be dismantled; (b) causing the restoration of the extended building or boundary of the enclosure to its original position; (c) causing the restoration of the altered and repaired from of the building or land to its original form.<sup>12</sup> According to Section 4 of the Amendment Law for the Protection and Preservation of Cultural Heritage Regions Law 2009, whoever fails to abide by the order passed under Section 27 of the Protection and Preservation of Cultural Heritage Regions Law 1998, shall be liable to a fine which may extend from kyats ten thousands to one hundred thousand for each day of failure to abide by such order.

If any person exports or attempt to export an antiquity without permission issued in that behalf by the President, he shall be punishable with rigorous imprisonment for a term not less than six months to a term not exceeding three years, or with fine which may extend to kyat five thousand.<sup>13</sup>

If any person who willfully destroys, removes, injuries, alters, defaces, imperils or excavates any scheduled monument shall be punishable with imprisonment for a term of minimum six months and with rigorous imprisonment for a term of maximum three years and with fine which may extend to kyat five thousand.<sup>14</sup>

In the case of **police officer Hla Tun Vs. Thein Tun and three others case**,<sup>15</sup> the facts of the case are as follows; U Thein Tun stole the image inside the ancient pagoda in Wundwin Township. The court held that the accused was convicted theft and offence relating to religion. He was punished imprisonment for two years under Section 379 of the Penal Code and imprisonment for one year under Section 295 of the Penal Code. In

<sup>11</sup>Section 25 of the Protection and Preservation of Cultural Heritage Regions Law 1998, Myanmar

<sup>12</sup>Section 27 of the Protection and Preservation of Cultural Heritage Regions Law, 1998.

<sup>13</sup>Section 4 of the Law Amending Antiquities Act, 1962

<sup>14</sup>Section 8, Ibid

<sup>15</sup>No.(651/2012), Wundwin Township Court.

this case, the accused person defiles place of worship and stole the Buddha Image. So, he was sentenced totally imprisonment for three years by the Court.

So, it can be seen that whoever commits offences relating to antiquities or cultural properties shall be punished by the Penal Code.

### **Conclusion**

Cultural Heritage shall refer to the totality of cultural property preserved and developed through time and passed on to posterity. They are things that are regarded as important to preserve for future generations. The actions are being taken with the collaboration of the local administrative bodies in respective townships, NGOs, religious and social organizations, the awareness of handing over of antiquities by the Government of Myanmar. The measures should be taken to educate the public to love and protect cultural properties. That is why more cultural cooperation is needed to prevent illicit transfer of cultural properties and protection of cultural and natural heritage with all countries in the world including ASEAN Countries.

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