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Abstract	<p>Myanmar is abundant in diverse natural habitats with numerous forms of wildlife, plants and trees in large forests. Although Myanmar has plentiful natural resources, its environment is seriously threatened by the unsustainable extraction activities of illegal logging, large scale mining, land degradation and rising populations in urban area. Myanmar's biodiversity is also decreasing, especially in the Indo-Myanmar biodiversity "hot spot" where economic development and human population growth is placing pressure on natural habitats and species populations. The major contributors to environmental degradation are (i) the conversion of closed forests for other land uses, (ii) shifting cultivation, (iii) weak regulation and control of commercial exploitation and trade in endangered flora and fauna, and (iv) insufficient environmental impact assessment and integration of biodiversity concerns into development activities affecting land use change. Recognizing the environmental degradation, Myanmar's government enacted the Environmental Conservation Law in 2012 and its rules in 2014. Currently, the existing Myanmar National Laws are well developed to promote investment and to protect the country's natural environment and ecosystems.</p>
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Introduction

Myanmar is abundant in diverse natural habitats with numerous forms of wildlife, plants and trees in large forests. Although Myanmar has plentiful natural resources, its environment is seriously threatened by the unsustainable extraction activities of illegal logging, large scale mining, land degradation and rising populations in urban area. Myanmar's biodiversity is also decreasing, especially in the Indo-Myanmar biodiversity "hot spot" where economic development and human population growth is placing pressure on natural habitats and species populations. The major contributors to environmental degradation are (i) the conversion of closed forests for other land uses, (ii) shifting cultivation, (iii) weak regulation and control of commercial exploitation and trade in endangered flora and fauna, and (iv) insufficient environmental impact assessment and integration of biodiversity concerns into development activities affecting land use change.

Recognizing the environmental degradation, Myanmar's government enacted the Environmental Conservation Law in 2012 and its rules in 2014. Currently, the existing Myanmar National Laws are well developed to promote investment and to protect the country's natural environment and ecosystems.

Environmental Profile of Myanmar

The Republic of the Union of Myanmar is the second largest country in Southeast Asia (smaller only than Indonesia). Myanmar covers an area of approximately 677,000 square kilometres ranging roughly 936 kilometres from east to west and 2051 kilometres from north to south. To the north and east of Myanmar lies the People's Republic of China and to the east and southeast, Laos and Thailand . To the south lies the Andaman Sea and Bay of Bengal, and to the west Bangladesh and India .Myanmar has an estimated coastline of 1930 kilometres and a total water area of 23,070 square kilometres. Myanmar is a land of hills and valleys bordered in the northeast and west by mountain ranges. Enclosed within the mountains are the flat and fertile lands of the Ayeyarwaddy, Chindwin and Sittaung River valleys. Myanmar has rainy, hot, humid summers (with a southwest monsoon, June to September) and scant rainfall, mild temperatures and lower humidity during winter (December to April)⁴³.

Impacts on the Environment in Myanmar

Myanmar is one of the most forested countries in South-east Asia. The forests are home to many endangered and endemic species and are globally attractive for biodiversity and conservation. However, Myanmar faces a serious deforestation problem year by year. In the early 1990s, Myanmar had a total forest cover of about 442 000 square kilometres, over 67% of the nation's land area. By the early 2000s, the forest area had declined to 430 000 square kilometres (65% of the land area)⁴⁴. In 2015, the forest area had declined to 290,410 square kilometres (44% of the land area)⁴⁵. Because of the deforestation, major environmental

⁴³ https://en.m.wikipedia.org/wiki/Geography_of_Myanmar

⁴⁴ Peter Leimgruber, forest Cover Change Patterns in Myanmar 1990-2000, P-1.

⁴⁵ <https://tradingeconomics.com/myanmar/forest-area-sq-km-wb-data.html>

problems arise such as loss of water quality in the delta region, flooding, damage to fisheries and aquatic habitats, and climate changes such as shorter monsoon duration and loss of biodiversity. Illegal logging is a challenging issue in Myanmar.

Cyclone Nargis on 2nd May 2008 was the worst natural disaster in Myanmar's history. It affected the Ayarwaddy delta region especially Bogale, Labutta and some towns. The government did not issue an exact number of deaths resulting from the catastrophic destruction but the United Nations estimated that 1.5 million people were affected by this cyclone.⁴⁶

Numerous adverse environmental impacts and human rights concerns are caused by mining projects. In 1996 at the Letpadaung copper mine around 26 villages and up to 2,500 people⁴⁷ were displaced when land, including forests, was apparently cleared for hydraulic and pit mining operations. Waste from the mining process, including mercury contaminated rocks and soil, is disposed in ponds within the project area.

In Tenasserim Region's Dawei District in 2012, residents of Myaung Byo village faced severe environmental damage to their farmlands caused by Heinda mine's wastewater. There was more flooding causing further destruction of houses, plantations and water sources along Myaung Byo creek, which is now filled with waste and sediment from the mining project.⁴⁸

Tigyit coal mine, begun in 2002 by China National Heavy Machinery Corporation and Burmese companies Eden Group and Shan Yoma Naga in south eastern Shan state, lies 13 kilometres from Inle Lake and is Myanmar's biggest open pit coal mine, producing 2,000 tons of coal daily. Polluted water from the mine and waste from the power plant flow via Balu creek into Inle Lake. As yet there has been no study on the impact of the project on the lake. Two villages were forced to relocate, and over 500 acres of farmland was confiscated.

⁴⁶ *Joint Typhoon Warning Center (2008)*. "Cyclone Nargis Warning NR 023". Retrieved 2 May 2008.

⁴⁷ Myanmar Ahlin Newspaper, Volume 52, Number 163, 12th March, 2013.

⁴⁸ www.earthrightsinternational.com

Land degradation, particularly soil erosion in upland agricultural areas and dry zones, contributes to environmental degradation in Myanmar. In 2008, of the country's total cultivated area, 33% was estimated as vulnerable. Natural processes in vulnerable farming areas are aggravated by human interventions such as extensive forest harvesting, mono-cropping practices, and shifting cultivation. Population growth is a key issue for land degradation and land productivity changes. From 1980 to 2008, the population in the uplands unexpectedly increased by 7 million to 17.5 million people, or about 30% of the national population.⁴⁹

Environmental impacts of climate change have occurred in Myanmar in recent decades. Many areas have experienced heat waves, droughts, floods, cyclones, and wildfires, especially in large scale project areas, economic zones and industrial zones. As Myanmar has recognized environmental issues, the government has provided policy, laws and regulations, from time to time.

Environmental Regulation in Myanmar

The Constitution of the Republic of the Union of Myanmar lays down the state's responsibility to protect and conserve the natural environment.⁵⁰ The national legislature enacts laws to protect the environment and help restore areas degraded or damaged by mining and forestry activities or those that have experienced destruction of plants, wildlife, and habitat.⁵¹ In addition, every citizen has a duty to "assist" the government in carrying out environmental conservation.⁵² The 2008 Constitution permits economic activities such as cooperatives, joint-ventures, and private enterprises⁵³ for the development of the national economy.

⁴⁹ Interim Country Partnership Strategy: Myanmar, 2012-2014, Asia Development Bank, 2014.

⁵⁰ Chapter 1, Section 45 of the Constitution of the Republic of the Union of Myanmar, 2008.

⁵¹ Chapter 4, Section 96, of the Constitution of the Republic of the Union of Myanmar, 2008.

⁵² Chapter 8, Section 390, Ibid.

⁵³ S.36 of the Constitution of the Republic of the Union of Myanmar, 2008

Policies and legal regulations that have been promulgated over the past two decades to address forest management, environmental conservation practices and wildlife protection in Myanmar are as follows: Myanmar Forest Policy (1995), Myanmar Agenda 21 (1998), Public Health Law (1972), Territorial Sea and Maritime Zone Law (1977), Fishing Rights of Foreign Vessels Law (1989), Marine Fisheries Law 1990, Pesticide Law (1990), Plant Pest Quarantine Law (1993), Fertilizer Law (2002), Conservation of Water Resources and River Law (2006), National Code of Forest Harvesting Practices in Myanmar (2000), Investment Law (2016), Conservation of Biodiversity and Protected Area Law (2018) and Myanmar Forest Law (2018).

The main themes of environmental conservation are based on environmental policy formulated in 1994 concerned with: public education and participation; food and nutrition; food production; essential consumption items; production methods; research and studies; and institution building.⁵⁴ To establish sound environment policies in the utilization of water, land, forests, mineral, marine resources and other natural resources in order to conserve the environment and prevent its degradation, the Government of the Union of Myanmar adopts policies for people, cultural heritage, environment and natural resources. The policies aim to achieve harmony and balance between environmental considerations and development processes to enhance the quality of life of all citizens. The development of environmental protection is a primary objective.⁵⁵

On 30th March 2012, the Environmental Conservation Law came into being (Notification No.9/2012). With respect to forestry management, the relevant government departments and government organizations shall, in accordance with the guidance of the Union government and Environmental Conservation Committee, conserve, manage for beneficial and sustainable use and the enhancement of regional cooperation, Myanmar's forest resources.⁵⁶ The management, conservation and enhancement of environments for the protection

⁵⁴ www.un.org/es/agenda/21/natlinfo/countr/myanmar/eco.htm

⁵⁵ Notification No. 26/94 on 5th December 1994, the Government of the Union of Myanmar.

⁵⁶ Section.18 of the Environmental Conservation Law.

of the ozone layer, conservation of biological diversity, conservation of coastal environments, mitigation and adaptation to the effects of global warming and climate change, combating desertification and management of non-depleting substances and of other environmental matters is part of the duties and powers of the Ministry of Natural Resources and Environmental Conservation (MONREC, or the “Ministry”).⁵⁷

The Environmental Conservation Law 2012 vests responsibility with MONREC for stipulating the following environmental quality standards: suitable surface water quality standards re use of rivers, streams, canals, springs, marshes, swamps, lakes, reservoirs and other inland public water sources; water quality standards for coastal and estuarine areas; underground water quality standards; atmospheric quality standards; noise and vibration standards; emissions standards; effluent standards; solid wastes standards; other environmental quality standards stipulated by the Union Government.⁵⁸

In order to implement the environmental law, the Environmental Conservation Rules were enacted on 5th June 2014, according to S.42 of the Environmental Conservation Law.⁵⁹ MONREC can publish these standards (in the government gazette) with the approval of the Union government and the Environmental Conservation Committee. The Ministry will determine categories of hazardous wastes and set requirements for businesses to treat solid and hazardous wastes, including setting up facilities individually or collectively. In respect of mineral resources, the relevant Government departments and Government organizations are responsible for the conservation, management for beneficial and sustainable use and the enhancement of regional cooperation.⁶⁰ The Ministry of Natural Resources and Environmental Conservation shall maintain a comprehensive monitoring system and implement measures by itself or in co-ordination with relevant Government departments and organizations.⁶¹

⁵⁷ Section.7, Ibid.

⁵⁸ S.10 of the Environmental Conservation Law 2012.

⁵⁹ Environmental Conservation Rules, 5th June 2014, Notification No.50/2014, www.burma.library.org

⁶⁰ S.18 of the Environmental Conservation Law 2012.

⁶¹ S.13 (c), Ibid.

The Natural Disaster Management Law was enacted in 2013 after Cyclone Nargis hit Myanmar. A National Natural Disaster Management Committee was formed to assign the functions and duties of relevant Ministries, departments and government organizations, and to guide, supervise and ensure effective and expeditious implementation of disaster risk reduction.⁶² The law also provided for Regional or State Natural Disaster Management Bodies to be created, comprising the Chief Minister of the relevant Region or State as chairperson together with suitable persons to assign duties and power.⁶³ Relevant departments are assigned the duties of preparatory measures, preventive measures, emergency response plans, rehabilitation and reconstruction activities, and establishing funding.⁶⁴ Although there is no human rights provision, procedural rights, such as information systems, rehabilitation and rescue activities, cooperation plans and preventive measures are stipulated.

The Myanmar Forest Law was enacted on 3rd November 1992 by Notification No.8/92. It focuses on state control and policing and does not recognize tribal or communal ownership of forest lands but provides private and communal tenure of various durations.⁶⁵ A Community Forestry Instruction was issued in 1995; since then there has been a gradual trend towards greater participation of local communities in forestry matters. In accordance with the Forest Law, forest crimes can be dealt with via forest administrative means or by prosecution in courts. Through forest administrative means, the local forest officer uses the power of examination and sets penalties for some forest crimes. There is no monitoring mechanism to track successful prosecutions.

⁶² S.5 of the Natural Disaster Management Law, 2013.

⁶³ S.7 of the Natural Disaster Management Law, 2013.

⁶⁴ S.13 of the Natural Disaster Management Law, 2013.

⁶⁵ Forest Law 1994.

Myanmar's Parliament enacted a new Forest Law on 20th September 2018 and repealed the Forest Law of 1994. The new law aims to eliminate illegal logging by a variety of punishments, the most severe being 15 years imprisonment,⁶⁶ or fines, confiscation, and removing licenses.⁶⁷ Forestry Department staff can be punished for accepting bribes or for being involved in the extraction, transfer or possession of illegally cut logs and forest products. Forest crime is a cognizable offence⁶⁸ and accused persons' sentences will include damages.⁶⁹ The law stipulates that MONREC recognizes conservation of natural forests and mangrove forests by residents using their own traditional methods. This is approved by the Naypyitaw Council and the region, state or national government.⁷⁰ By this Law, the Government and Director General of the forestry department are responsible for the sustainable development of forestry management, prohibition of deforestation and loss of biodiversity, protection of mangrove forests, the conservation and preservation of dry deciduous forests and limits on trade in forest products.⁷¹

The Investment Law⁷² 2016 restricts foreign and citizens' investment activities which may cause harm to the natural environment and ecosystems.⁷³ Responsibilities of investors are outlined in Chapter 16 of the Investment Law 2016. They must obey the regulations, notifications and procedures of the concerned department, orders and directives;⁷⁴ They shall follow the procedures and standards for the impact on environmental, social and cultural heritages;⁷⁵ They should pay adequate compensation to the victims if suffering or loss is caused by the investment activities.⁷⁶ They are responsible for carrying out

⁶⁶ S.43 of the Forest Law 2018.

⁶⁷ Chapter 12 of the Forest Law 2018.

⁶⁸ S.48 of the Forest Law 2018.

⁶⁹ S.47 (c) of the Forest Law 2018.

⁷⁰ S.7 of the Forest Law 2018.

⁷¹ Chapter 3 of the Forest Law 2018.

⁷² Investment Law, Notification No.40/2016 on 18th October 2016.

⁷³ S.41 (e) of the Investment Law 2016.

⁷⁴ S.65 (c) of the Investment Law 2016.

⁷⁵ S.65 (g) of the Investment Law 2016.

⁷⁶ S.65 (o) of the Investment Law 2016.

environmental conservation and protection during the project in accordance with the existing laws, managing the system to dispose industrial waste from factories, contributing funds for corporate social responsibility (CSR) and submitting reports to the relevant Ministries and the Myanmar Investment Commission.

In May 2018, Myanmar's Parliament passed the "Conservation of Biodiversity and Protected Areas Law"⁷⁷ which replaced the old "Protection of Wildlife and Conservation of Natural Areas Law" of 1994.⁷⁸ This Law categorized protected areas such as national parks, marine parks, wildlife sanctuaries etc.⁷⁹ Section 8 recognizes "Community Protected Areas" as a category of protected area. The Forestry Department is responsible for technical coordination and management support for Community Protected Areas, to maintain the habitats of wild species and to protect wildlife conservation using the traditional customs of indigenous peoples.⁸⁰ The Director General of the Forestry Department has power, with the approval of the Minister, to administer a buffer zone, cooperating with the local community to maintain a balance between sustainable socioeconomic development of local communities and the conservation of biodiversity.⁸¹

Myanmar Laws provide for natural resources to be exploited by business with prior permission for any activities which will cause harm to the natural environment and ecosystems.

⁷⁷ The Conservation of Biodiversity and Protected Areas Law, Notification No.12/2018 on 21st May 2018.

⁷⁸ The Protection of Wildlife and Protected Areas Law, SLORC Law NO.6/94 on 8th June 1994.

⁷⁹ S.7 of the Conservation of Biodiversity and Protected Areas Law 2018.

⁸⁰ S.17, *Ibid.*

⁸¹ S.13, *Ibid.*

International Commitment for Ecosystem Conservation

Myanmar's government fully recognizes that Myanmar's forest areas face a diverse and growing range of environmental challenges which can be addressed through international agreements. Myanmar has signed 82 international environmental agreements of which 72 are ratified but 10 are not.⁸² International Environmental Law reflects the close relationship between environmental protection and sustainable economic development. Myanmar is a founder member of most international environmental conventions such as the Convention on Biological Diversity (Rio Convention, or CBD), the Framework Convention on Climate Change (UNFCCC), and the Convention on the International Trade of Endangered Species (CITES).

International environmental laws and policies have implications for the Environmental Impact Assessment (EIA) systems of countries that sign or endorse them. The relevant instruments in this context fall into two main categories. First, there are non-binding instruments, such as the Rio Declaration on Environment and Development, which establish important principles and aspects that may need to be reflected in EIA arrangements and approaches. Secondly, there are legal conventions and treaties related to environmental protection at the global and regional level. These carry various obligations for Myanmar as a signatory country that shall be implemented, *inter alia*, through EIA arrangements.⁸³

Principle 17 of the Rio Declaration refers to EIA as a national instrument which "shall be undertaken for proposed activities that are likely to have a significant adverse impact on the environment and applies a precautionary approach for threats to environmental damage".⁸⁴ If irreversible damage occurs cost effective

⁸² <https://sedac.ciesin.columbia.edu/entri/countryProfile.jsp?ISO=MMR>

⁸³ Environmental Impact Assessment and Strategic Environmental Assessment: Towards an Integrated Approach, Hussein Abaza, DTIE-ETB, UNEP, 2004, P-47

⁸⁴ Ibid, P-32

measures will be taken to prevent environmental degradation.⁸⁵ Myanmar attended the Rio +20 Conference in Rio De Janeiro on 20th to 22nd June 2012 and participated in molding the common vision.⁸⁶

Myanmar fulfils its international commitments in environmental treaties in the areas of agriculture, forests, wildlife, mineral resources, biodiversity, cultural and natural heritage management, fisheries, hazardous waste management and pollution problems for sustainable development without any harm to the environment. As a result of following international environmental law, universally accepted environmental principles such as good neighbourliness, precaution, polluter paying, prevention, sustainable development, state sovereignty and prior informed consent (PIC) are found in national laws and policies.

Environmental Protection Bodies

Environmental protection in Myanmar generally comes under the authority of the National Commission for Environmental Affairs (NCEA), formed in 1990. The National Sustainable Development Strategy (NSDS) was drawn up in 2009, part of a broader programme of the UN Sustainable Development Commission set up after the World Summit on Sustainable Development in 2002. Myanmar had signed the Global Agenda 21 at the Earth Summit in Rio De Janeiro in 1992 and agreed to develop an NSDS by 2010 in line with the Millennium Development Goals (MDGs).⁸⁶ A working group for environmental protection exists, formed of the Directors of the Forest, Mining, Meteorology, Public Health, Agriculture, Rural Development, Industrial Coordination, Electric Power Planning, Oil and Gas and, Road Transport Administration Departments and the Central Statistical Organization. They have worked on the Green Growth Policy Framework and Action Plan, a National Climate Change Policy Strategy Action Plan (2016-2030), a National Waste Management Strategic Action Plan (2017-2030) and Myanmar's Sustainable Development Plan (2018-2030).

⁸⁵ Principle 15 of Rio Declaration on Environment and Development 1992

⁸⁶ <https://sustainabledevelopment.un.org/rio20/futurewewant>

Conclusion

The Myanmar Government, fulfils its responsibility to the environment under International Law by drafting rules, policies and laws, implementing the rules by sub-committees, identifying environmental risk assessment by relevant ministries, monitoring and verification of progress, providing environmental awareness training, engaging in adequate and timely communication and consultation with the communities directly affected by environmental impacts. National and international legal frameworks have been developed to achieve environmental rights in a sustainable manner by providing substantive rights and procedural rights. In order to minimize the risk of harm to the environment and human rights, Myanmar still needs to support the legal remedy of a human rights development approach. There is also a necessity and imperative to cooperate in environmental incidents and to extend humanitarian assistance to areas where the environment is negatively impacted.

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