

## **CULTURAL HERITAGE PROTECTION IN MYANMAR**

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### **Abstract**

Myanmar as a rich land of cultural heritage needs to be protected the loss and damage of artifacts which are the evidence of Myanmar cultural history. Some of cultural heritage and monuments are repaired and thus not in line with international standard. Ministry of Culture is taking the responsibility to implement in accordance with cultural heritage instruments. The main purpose of this paper is not only to take appropriate legal protection in accordance with Article 5 (d) and (e) of 1972 Convention Concerning the Protection of World Cultural and Natural Heritage but also to disseminate awareness about conservation standards, especially in Pyu Ancient Cities and Bagan. In Myanmar, preservation of national cultural heritage is one of top priorities in the programme for nation-building. Myanmar is participating in the regional cooperation in various fields including cultural heritage and have ratified the World Heritage Convention in April, 1994. Thus, the government has been enacted the Law Amending the Protection and Preservation of Cultural Heritage Regions Law in 2009. In early 2013, a National Cultural Central Committee was appointed in Myanmar under the auspices of the UNESCO. Pyu Ancient Cities (Sri Ksetra, Halin and Beikthano) could be categorized as criteria ii, iii and iv, (2),(3) and (4) global standard values, they were inscribed on the World Heritage List, in the 38<sup>th</sup> session of World Heritage Committee held on 22 June 2014. Nearly one thousand ancient monuments of Bagan archaeological area have repaired by the donation of public, institution, individual and Buddhists of foreign countries. Myanmar citizen should be participated in public awareness campaign and education for preservation of culture and natural heritage. This paper hopes to take some preventive measures to protect Myanmar cultural heritage, especially in Pyay and Bagan.

**Keywords:** Preservation of national Cultural Heritage, Pyu Ancient Cities, World Heritage List, UNESCO, NCCC.

### **Introduction**

Cultural heritage is an increasingly critical element in the economy and society of developing countries because of its main role encompassing all levels and aspects of social life. The concept of cultural heritage has indeed

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largely broadened science the adoption of the 1964 Venice Charter for the Conservation and Restoration of Monuments and Sites, where it was first described as “the set of historical monuments, group of buildings, sites and town around the world” that are found evidence of a particular civilization, development or historic event, relevant for the unity of human value, and therefore worthy to be preserved for future generations.<sup>1</sup> Since the Second World War, UNESCO has supported a series of world heritage initiatives, starting with tangible, both immovable and movable, and expanding to natural heritage and most recently to intangible heritage. Today, cultural heritage is more commonly defined as the set of “cultural assets inherited from the past in all forms and aspects, being them tangible and intangible”. Myanmar people have their own culture, cultural properties, language, and literature since thousands of year ago.

### **Objectives of the Study**

- To give knowledge cultural heritage in Myanmar in line with international conservation standards.
- To examine as a special reference to the protecting of cultural heritage especially in Pyu and Bagan Ancient Cities.
- To be aware of the improvement of Myanmar’s cultural heritage sites in line with “World Heritage Sites”.

### **International Instruments Relating to Tangible Cultural Heritage Protection**

The Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict was enacted in 1954 which sought to strengthen protection for cultural property. Myanmar has ratified this convention on 10<sup>th</sup> Feb, 1956. A state party must either prosecute or extradite any person found in its territory who is deemed to have committed serious violations of the Hague rules<sup>2</sup>.

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<sup>1</sup> Stefano Facchinetti, “Cultural Heritage Management in Myanmar: A Gateway to Sustainable Development,” EIAS.

<sup>2</sup> Stefano Facchinetti, “Cultural Heritage Management in Myanmar: A Gateway to Sustainable Development,” EIAS.

UNESCO initiated with the help of the International Council on Monuments and Sites, the preparation of a draft convention on the protection of cultural heritage. The Convention Concerning the Protection of World Cultural and Natural Heritage is a successful global instrument for the protection of cultural and natural heritage. The World Heritage Convention was adopted by the United Nations Educational, Scientific and Cultural Organization (UNESCO) on 16 November, 1972. The Convention aims to protect the most outstanding cultural and natural heritage places on Earth and came into force in 1975. Myanmar has also ratified UNESCO convention on 29 April, 1994. This Convention sets out the duties of States Parties in identifying potential sites and their role in protecting and preserving the cultural and natural heritage. Under Article 2 of the Convention, “natural heritage” includes three categories of natural features; geological and physiographical formations and natural site<sup>1</sup>.

According to Article 5(d) and (e) of this Convention, the effective and active measures are taken for the protection, conservation and preservation of the cultural and natural heritage situated on its territory, each State party to this Convention shall take the appropriate legal, scientific, technical, administrative and financial measures necessary for the conservation of this heritage.

In Article 7, “International Cooperation” which provides that for international protection of the world cultural and natural heritage shall be understood to mean the establishment of a system of international cooperation and assistance designed to support States Parties to the convention in their efforts to conserve and identify that heritage.

The General Convention defined the kind of natural or cultural heritage sites which can be considered for inscription on the World Heritage List and established the World Heritage Fund and the World Heritage Committee. The Convention sets out the obligation of States Parties to report regularly to the World Heritage Committee on the state of conservation of their properties included in the World Heritage List. This Convention

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<sup>1</sup> Convention for the Protection of the World Cultural and Natural Heritage, 1972.

concerns tangible cultural heritage. This is the innovative measure of great originality of the UNESCO Convention 1972.

### **International Instruments Relating to Intangible Cultural Heritage Protection**

The main Convention relating to intangible cultural heritage is Convention for the Safeguarding of the Intangible Cultural Heritage, 2003. Related international instruments relating to intangible cultural heritage are convention on the Protection and Promotion of the Diversity of Cultural Expressions 2005, UNESCO Universal Declaration on Cultural Diversity, 2001, the Universal Declaration on Human Rights of 1966 and the International Covenant on Economic, Social and Cultural Rights of 1966.

In 1997, UNESCO launched the program of Proclamation of the Masterpieces of the Oral and Intangible Heritage of Humanity, intending to raise awareness of the importance of intangible cultural heritage. The General Conference adopted another instrument, Universal Declaration on Cultural Diversity, which also includes articles dealing with the preservation of “heritage in all forms”. This declaration and its Action Plan presented the basic idea of the coming convention and helped to develop it in 2001.

According to Article 2(1) of the Convention for the Safeguarding of the Intangible Cultural Heritage 2003, the “intangible cultural heritage” means the practices, representations, expressions, knowledge, skills –as well as the instruments, objects, artifacts and cultural spaces associated therewith –the communities, groups and, in some cases, individuals recognize as part of their cultural heritage<sup>1</sup>. This intangible cultural heritage, transmitted from generation to generation, is constantly recreated by communities and groups in response to their environment, their interaction with nature and their history, and provides them with a sense of identity and continuity, thus promoting respect for cultural diversity and human creativity. For the purposes of this Convention, consideration will be given solely to such intangible cultural heritage as is compatible with existing international human rights instruments, as well as with the requirements of mutual respect among communities, groups and individuals, and of sustainable development.

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<sup>1</sup> The Convention for the Safeguarding of the Intangible Cultural Heritage 2003.

UNESCO's 2003 Convention for the Safeguarding of the Intangible Cultural Heritage proposes five broad domains' in which intangible cultural heritage is manifested.

- (1) Oral traditions and expressions, including language as a vehicle of the intangible cultural heritage;
- (2) Performing arts;
- (3) Social practices, rituals and festive events;
- (4) Knowledge and practices concerning nature and the universe;
- (5) Traditional craftsmanship. To sum up, according to the UNESCO Convention, intangible cultural heritage is divided into five domains. However, intangible cultural heritages are divided into seven domains including traditional sports and traditional cuisine e.g. traditional sports in Thailand and traditional cuisine in the Republic of Korea.

At present, our cultural heritage is threatened every day; the pillage of archaeological sites and the theft of objects from museums are increasing on an unprecedented scale. Nowadays, no country is free from this danger.

### **Existing Laws Relating to Cultural Heritage Protection in Myanmar**

A country's prestige depends on its culture and cultural heritage. Besides, they resemble the past and the present of a country. The culture of any country can bring about many positive changes in the country. Culture includes a number of things like traditional practices, religious activities, festivals, folk songs, dresses, dances, cultural activities, means of entertainment, etc. Cultural remains have not only physical value but they are determined as the linkage of human civilization that symbolizes nation property<sup>1</sup>. Traditionally cultural heritage in Myanmar has been preserved by the family and the village community. In Myanmar, the legal framework enacted for the safeguarding of heritage has been insufficient. Before the coup and during the regime, only two core laws were established by the government. The first one is the 1957 Antiquities Act that regulated

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<sup>1</sup> Dr. Khin Maung Nyunt, "An Anthology of Conference Papers", 2002.

conditions for excavation claims, land use, as well as for movement inside and outside the country, restoration and management of antiquities, and obligations to report discoveries of archaeological objects. According to Section 11(7) of this Act, ancient monument had existed before 1886. Another one is the 1998 Protection and Preservation of Cultural Heritage Regions Law. This Law mainly relates to protect and preserve cultural heritage, ancient monument and ancient site, precinct of ancient monument, ancient monumental zone, and ancient site zone. It does not contain any provisions relating to intangible cultural heritage. With regard to cultural heritage's protection and preservation elaborate in Sections 6 to 11 of Cultural Heritage Regions Law 1998, Myanmar<sup>1</sup>. Under Section 5, the Ministry of Culture is given the power to the acquisition of any land within the cultural region, if necessary and to carry out in accordance with law. The Department of Archaeology is responsible for the implementation of this law including applying for permission, scrutinizing and issuing.

With regard to the offences and penalties, Sections 2, 24, 25 and 28 of 1998 Cultural Heritage Regions Law are substituted by the Law Amending the Protection and Preservation of Cultural Heritage Regions Law, 2009<sup>2</sup>. With respect to national culture and cultural heritage shall be protected according to Sections 27 and 390 of 2008 Myanmar Constitution<sup>3</sup>.

The followings are the existing laws for protection and prevention of cultural heritage;

1. The Penal Code, 1861.
2. The Treasure Trove Act, 1878.
3. The Antiquities Act, 1957.
4. The Protection and Preservation of Cultural Heritage Regions Law, 1998.
5. The Control of Money Laundering Law, 2002.

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<sup>1</sup> The Protection and Preservation of Cultural Heritage Regions Law, 1998 (The State Peace and Development Council Law No.9/98).

<sup>2</sup> The Law Amending the Protection and Preservation of Cultural Heritage Regions Law, 2009 (The State Peace and Development Council Law No.1/2009)

<sup>3</sup> Constitution of the Republic of the Union of Myanmar, 2008.

6. The Convention for the Safeguarding of Intangible Cultural Heritage, 2003.
7. The Constitution of the Republic of the Union of Myanmar, 2008.
8. The Law Amending the Protection and Preservation of Cultural Heritage Regions Law, 2009.
9. The Protection and Preservation of Antique Objects Law, 2015.
10. The Protection and Preservation of Antique Objects Rule, 2016.
11. The Protection and Preservation of Ancient Monuments Law, 2015.
12. The Protection and Preservation of Ancient Monuments Rule, 2016.
13. Myanmar Tourism Law, 2018

According to Section 14 (b) of Myanmar Tourism Law 2018, Business in the Tourism Sector has the responsibility to safeguard traditions and culture, and conserve the natural environment of Myanmar<sup>1</sup>. Hence, tourism can make an important contribution to economic development. Tourism also generates a variety of other impacts, both positive and negative. For example, it can help keep traditions alive and finance the protection of cultural and natural heritage, as well as increase visitor appreciation of that heritage. Conversely, tourism can damage heritage when not well managed.

### **Cultural Properties and Cultural Heritage in Pyay Township**

The ancient city known as Thayay-Khittra (Sriksetra) was the capital city of “Pyu” people. It is an important archeological site located 8 km to the east of presentday Pyay City. The vast ancient city site and the villages within it can still be seen. Yangon- Pyay railroad is crossing the hub of the ancient city and spanning from the south-east to the north-west. The Pyay-Paukkaung motorway has been built along the northern city wall. The circular length of the city wall is 14 kilometres. Other Pyay attractions include Buddha statue with eye-glasses (Shwe Myat Hman), the gigantic sitting Buddha Image, Shwesandaw Pagoda Ahkaukaung, Be Be Lay Pagoda and Payama Pagoda.

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<sup>1</sup> Pyidaungsu Hluttaw Law No.26/2018.

## **Pyu Ancient Cities as Nomination of World Heritage List**

The three old city-states of Halin, Beikthano and Sriksetra, situated in the Dry Zone of the middle Irrawaddy and Chindwin river basins are tangible testimony of the so-called “Pyu Millennium” and of the Tibeto-Burman speaking Pyu minority among the earliest inhabitants of Myanmar<sup>1</sup>. These ancient cities were inscribed on the World Heritage Lists in the 38th session of the World Heritage Committee held on 22 June 2014. The boundaries of the property encompass the entirety of the ancient walled city at each of the three sites, as well as areas outside the ancient city walls which contain significance character defining attributes of the property, including:

- (1) The standing monuments and exposed and consolidated remains of Stupak, monasteries and other architecture, as well as cemeteries and other ritual areas associated with the introduction of Buddhism.(Criterion ii)
- (2) The remaining features of the Pyu era agricultural landscape together with the elements of ancient landscape engineering, storage facilities, area of commodity manufacturing, goods associated with cyclic processes of celebration such as votive tablets, pottery, beads and silver coins as well as exotic trade goods demonstrating the exchange networks of the Pyu Ancient Cities.(Criterion iii)
- (3) The exposed and consolidated features showing the evolving and expanding urban morphology of the Pyu Ancient Cities over the 1000 years which the cities flourished. These include the planned elements of hydrological engineering such as moats, canals and tanks city wall and gates; the central palace-administrative complex at each site; public utilities, facilities and residential precincts. (Criterion iv)
- (4) The boundaries of the property also encompass areas of identified but still-buried archaeological potential protected for future research as well as a number of still-active Buddhist monasteries whose

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<sup>1</sup> [https:// ich.unesco.org](https://ich.unesco.org).

foundations dates back to Pyu times and which continue to function as important centers of pilgrimage.(Criterion iv) <sup>1</sup>

The purpose of the Buffer zones of the respective sites is to effectively protect the property which includes the immediate setting of the property specifically the panoramic agricultural landscape as a support to the property and its protection. The Buffer zones also protect preserved features of the environment and landscape over successive historical periods, ancient water courses and watersheds, agricultural field systems and upland areas where the Pyu sourced the mineral raw materials for their gold, silver, stone and iron industries.

The proposed boundaries of the property and buffer zone of the Sriksetra Ancient City site has been defined to insure integral preservation of the ancient religious monuments and the remains of ancient structures defining the urban morphology at this site. Ancient ritual structures are found within an extended perimeter outside the city wall on all sides of the site and thus are included within the boundaries of the property. The boundaries also encompass an inclusive area from the northwest wall and Hmok-she Gate to Payagi stupa. On the south of the ancient city wall, the property boundaries include a number of signature Pyu community halls which are a significant element of the urban morphology of Pyu Ancient Cities. The irregular zigzag of the buffer zone on south and west along the crest of the Myinbahu Road and then continuing along the south through the low hills, forming a transition zone to the rice field beyond, follows well-established present-day cart tracts establishing a practical and managed boundary which can be explained easily to local population and monitored. On the east, the property zone is bordered by the property's largest water tank, while on the north and northeast the buffer zone border follows the Lawthauk creek which is a manageable natural boundary being of limit extent and clearly defined thus easy to explain to local farmers and to monitor.

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<sup>1</sup> Pyu Ancient Cities: Halin, Beikthano, Sri Ksetra, Property Management Plan, vol-II” Myanmar.

### **Cases Relating to Cultural Heritage in Pyay Township**

In “*U Soe Min V. Soe Thu Ya*”<sup>1</sup> case, in accused Soe Thu Ya was found guilty under Section 24 of the 2009 Amending the Protection and Preservation of Cultural Heritage Regions Law. The accused Soe Thu Ya was sentenced with kyats 50000 fine or with imprisonment for a term which may extend to six months. According to the investigation of Law Officer U Nyine Chan, Soe Thu Ya constructed two buildings which are regarded as world heritage region in Ancient Site (AZ). In this case, the accused, Soe Thu Ya constructed without prior permission. This matter will not grant according to Section 19 of the above law.

In “*U Soe Min V. Aung Myo Win*”<sup>2</sup> case, in accused Aung Myo Win was found guilty under Section 24 of the 2009 Amending the Protection and Preservation of Cultural Heritage Regions Law. The accused Aung Myo Win was sentenced with Kyats 30000 fine or with imprisonment for a term which may extend to three months. According to the investigation of Law Officer U Nyine Chan, Aung Myo Win constructed one building without prior permission that is regarded as World Heritage Region.

### **Cultural Heritage Conservation in Bagan**

Myanmar ancient cities flourished from 1<sup>st</sup> Century A.D. to 19<sup>th</sup> century A.D. They are located in various parts of the country. Cultural heritage sites such as Beikthano, Hanlin, Thayekhittaya, Bagan, Pinya, Inwa, Nyaungyan, Toung-gu, Hanthawadi, Amarapura, Yatanapon are spread all across the country. Among these, Bagan is the most famous site where there are over 2300 ancient monuments located in an area of about 16 square kilometers. Bagan Archaeological Area and Monuments is included on the country’s Tentative List as the capital city of the first Myanmar Kingdom at 11<sup>th</sup> and 13<sup>th</sup> centuries<sup>3</sup>. Then, it is an important and valuable place for Myanmar people because it is a centre of Myanmar traditional arts, cultures,

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<sup>1</sup> The Criminal Regular Trial No.4556 ,2017 , Pyay Township Court.

<sup>2</sup> The Criminal Regular Trial No.4235 , 2018 , Pyay Township Court.

<sup>3</sup> Project Completion Report, “Capacity Building for Safeguarding Cultural Heritage in Myanmar”, Feb-2013.

architectures, literatures and religious belief. Most of the foundations of temples and pagodas in Bagan are square shape and it cubic is large and its capacity is to prevent the destruction of weather, earthquake, warfare and natural disaster.

The two developing urban areas of Nyaung Oo, Bagan Myothit and 13 villages are also included in this cultural heritage region. The inhabitants and community of urban and village in Bagan have respective temple and stupa in their nearest quarters for worshipping, donation ceremony, festival and ritual gathering. Most of Bagan temples and pagodas are unlike in their past, remaining lack of regular and particular worshipping and stand as just the ancient monuments. Shwezigone Pagoda is one of the oldest and most impressive monuments in Bagan. It is beautifully decorated by works of architecture, sculpture, stucco and several images. It can be seen that Bagan has not only Bagan period monuments but also later periods repaired and newly built constructions.

The almost people of Myanmar are still giving their admiration to Bagan as their golden past and the most important sacred Buddhist site. The role of Bagan Buddhist Heritage is unity of society with the nature of active, intelligent, peaceful and freedom under the patronage of Buddhism. This Buddhist unity stage has being practiced as common platform not in a single site of Bagan, Myanmar, but in all of ancient Buddhist kingdoms and contemporary society of Asia.

### **Bagan Heritage with Modernity**

At present the tourism business speedily increased in the area hence Bagan is a major cultural tourist site in the country. Tourism development is coming to Bagan Heritage area by means of visible and invisible process, it can expose to countless problems and risks may lead to more or less destructions, abandonment or disappearance to cultural properties. On the other hand the modern population in a good percentage of the area is dependent on tourism business and institutional jobs; it should be considered their substantial works with harmony of cultural heritage. As existing as the living cultural heritage region, Bagan-Nyaung Oo Township needs a strict management plan and practices to protect **loosing of original Space**. The

famous temples of tourist visiting has different types of shops and hawkers e.g Shwezigon Pagoda, KyanzitthaUmin, Gubyaukgyi Temple, Alopyi Temple, Htilominlo Temple, Ananda Temple and many others. On the other hand, there has modern development structures issue as the loss of traditional architecture and archaeological landscape. e.g houses of village and urban within the zones, GSM and electrical power line, new roads and heavy vehicles, Bagan Airport and etc.

According to the State Policy , the Ministry of Culture takes the responsibility of Bagan Heritage Region and under the Ministry again, the department of Archaeology has being practically managed it with the legal frameworks of legislation, laws and order of heritage protection. Bagan heritage region is demarcated into three zones of (i) ancient monument zone (ii) archaeological zone and (iii) protection zone to be managed in protection by laws, registration of building, priority for technical conservation, preservation for cultural landscape, education of cultural heritage knowledge and publicity management and etc. Beyond the institutional administration and management by government employees collaborative departments, there are monk body, pagoda and temple trustees, social and environmental organizations are taking care of heritage region, ancient and living monuments<sup>1</sup>.

Now, Bagan has been submitted to nomination of World Heritage List in January, 2018. Moreover, This nomination dossier will be decided at World Heritage Committee Meeting in June, 2019. The sustainability of integrity and authenticity of Bagan Cultural Heritage has being faced many of confrontations and hard works originated by internal institutions of departmental side, weak of obedience on legislations and ignorance on cultural heritage value. Hence, the stakeholders of Bagan Heritage region have to distribute public awareness, rules and regulations of heritage zones, cooperation projects amongst departmental institutions and exercises of laws and orders.

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<sup>1</sup> U Win Kyaing (Principal), " Field School of Archaeology (Pyay), Bagan Cultural Heritage Conservation, 2015

## **Findings**

Cultural heritage conservation would be beneficial for Myanmar's environmental development, to protect and enhance its unique natural diversity and resources. Good maintenance and management plans together with international conservation standards are nonetheless needed to avoid the uncontrolled economic exploitation of the site and prevent it from degradation.

Myanmar citizen should be participated in public awareness campaign and education for preservation of cultural heritage. To provide more effective laws and regulations is the necessary measure with regional and other international partners. In order to be systematic protection for cultural heritage; the rule of law, valuable respect of people, cooperation between the government, inhabitants and social organizations which are very important and essential factors.

## **Conclusion**

Myanmar has full of cultural heritage images and the vast ancient city sites. In Myanmar, cultural heritage preservation and protection that is one of the top priorities in the programme for nation-building. The systematic protection and research on cultural heritage can be made as supported by the international experts.

The legal measures for conservation and restoration of ancient monuments, antiquities and cultural heritage zone should effectively restrict the construction in cultural heritage zone. If new construction such as hotels, motels, guest houses, restaurants that losing of original space because of tourist visiting in famous temples and settling and fencing in the restricted zones, these ancient cities could be taken off the World Heritage List. Similarly, relating to the Instruments of cultural property if strictly implemented in its purport and intent, the world can ensure that the cultural heritage which is a common property of mankind is protected. Member States, (167 Parties) of UNESCO are being conducted in order to be members of Memory of the World (MOW).

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