

# Policy gaps for environmental protection in the Sagaing Region of Myanmar

## INTRODUCTION

The Sagaing Region of Myanmar is rich in biodiversity and its ecosystems provide important services to sustain the basic food, fuel and fibre needs for local communities.

Laws and policies within the Republic of the Union of Myanmar recognize the importance of biodiversity and conservation of natural resources. The 2008 Constitution, for instance, compels the government and citizens to conserve the natural environment. This resulted in the main environmental legislation: the Environmental Conservation Law (2012) that establishes the system of Environmental Impact Assessments (EIAs). Subsequent environmental conservation plans like the Myanmar National Biodiversity Strategy and Action Plan (2015-2020) and Myanmar Sustainable Development Plan (2018-2020) have reiterated the importance of environmental conservation.

## DECENTRALIZATION AND ENVIRONMENTAL MANAGEMENT

The challenge remaining for effective environmental protection is the implementation of existing laws and policies, by sub-national governments which are charged with carrying out environmental policy actions.

Yet, to date, sub-national governments, such as the regional government of Sagaing are hindered by an inability to participate in the rigid, top-down structure of environmental policymaking. As such, regional line agencies lack influence on issues of environmental protection that are covered by their agency mandate.

The consequence of poor participation in environmental policy processes means national policies are not translated into the priorities, budgets and actions of sub-national government line agencies, which results in poor environmental protection.

## Key findings

- The 2008 Constitution of Myanmar mandates state and regional governments to protect and conserve the environment and assigns responsibility to every citizen to support the government in doing so.
- Conservation laws and mandates around biodiversity and environment are not implemented in the local areas as central policies are often not transmitted into actions of local-level line agencies.
- Natural resources management agencies in Sagaing emphasize production over the conservation of natural resources.
- The newly established Chindwin River Basin Committee can help to engage in participatory dialogue on biodiversity and ecosystem services and thereby assist the regional Government to fulfil their conservation mandate.

## PRODUCE OR CONSERVE: AN AGENCY DILEMMA

Sub-national natural resource management agencies are tasked with a conservation mandate to prevent over-extraction of resources, as well as with production mandates to extract them. Agencies face the burden of balancing the two conflicting interests and often favour production over conservation.

For example, the Forest Department is divided into two divisions: a production and a conservation division. The production division, named the Myanmar Timber Enterprise, is responsible for timber production while the conservation division identifies commercially viable timber resources, plants trees for commercial production and prosecutes illegal timber extraction. Actual conservation activities are not carried out by the Forest Department, though it is mandated to.

A similar case of prioritization over the production mandate is demonstrated by the Department of Fisheries in Sagaing. This agency has responsibility over the protection of fisheries in the Chindwin-Ayeyarwady system, one of the largest freshwater fisheries in Southeast Asia. However, the total number of fish, or even of species, is unknown. The agency prioritizes fish production and licensing over conservation. Instead, actual conservation efforts rely on international conservation organizations that focus primarily on iconic species, such as the Irrawaddy dolphin.

## GOVERNANCE CHALLENGES

Three major issues underlie poor environmental conservation: limited knowledge on the benefits of biodiversity and ecosystem services, conflicting and unclear agency mandates and poor coordination, and institutional weaknesses, such as lack of funding and of human capacity.

### Limited agency knowledge of biodiversity and ecosystem services

The benefits of biodiversity and of ecosystem services are unfamiliar concepts among Myanmar's regional natural resource management agencies. Commercial extraction is prioritized over traditional livelihood activities, such as the farming and non-timber resource extraction that are critical to livelihoods in rural and remote areas of Sagaing.

### Conflicting agency mandates and poor coordination

Through the Environmental Conservation Law, the Environmental Conservation Department (ECD) has overarching authority to enforce environmental conservation measures through other natural resource management agencies. Yet, ECD's authority is not acknowledged by other natural resource governing line agencies. The Environmental Conservation Law is considered by agencies as legislation applying only to ECD and they continue to rely on their own agencies' protocols and regulations to make decisions about their operations. Without their participation, the ECD struggles to install environmental safeguards and enforce compliance throughout all sectors.

One source of this problem is that regulations under the Environmental Conservation Law overlap with existing environmental legislation and ultimate regulatory author-

ity remains unclear. For instance, the draft EIA guidelines released in May 2018 for the mining sector, formulated by the ECD, cover requirements for rehabilitation and mine closure that overlap with the Mining Law, under the authority of the Department of Mines, finalized earlier in 2018, making it unclear who has the authority to enforce the law.

### Institutional weaknesses

Though the EIA guidelines were created to minimize environmental and social impact, the details of the Environmental Conservation Law itself are unclear to many government officers in natural resource management agencies. Thus, the ECD, with limited staff capacity and financing, is overwhelmed with juggling multiple tasks of hiring and training staff and raising awareness of the Environmental Conservation Law among other agencies, in addition to carrying out conservation activities.

Further, these agencies have no finance or human resource capacity for enforcement. Since the agencies have no capacity to monitor, prosecute or penalize operators, the operators are functionally unregulated once they have obtained licences.

## RECOMMENDATIONS

- The national government needs to involve regional governments and line agencies in environmental policy development to improve coordination among different levels of government.
- Regional line agencies can make use of existing platforms for participatory governance, interdepartmental coordination, monitoring and enforcement such as the Chindwin River Basin Committee.
- Natural resource departments need to recognize the importance of conservation and to integrate conservation activities into their day-to-day operations and their long-term planning.

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