

# Rule of Law and Conservation: Findings from Myanmar



## *Abstract:*

Conservation, for both cultural and environmental heritage, calls upon laws to be implemented effectively to fulfil the objectives of their language. This directs attention to the question of challenges confronting implementation. For developing countries, these challenges are influenced by contexts of underdevelopment and transition that frustrate the implementation of laws. In essence, conservation is tied to rule of law problems. This seminar presents findings from field research in Myanmar regarding the nature of the relationship between conservation and rule of law, and argues that the ultimate achievement of conservation aspirations requires greater coordination with concurrent rule of law aid efforts.



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# Remembrance



U Ko Ni (1953 – 2017)

One of Aung San Suu Kyi's legal advisors. Lawyer for the NLD. Co-founder of ILAM. Architect of the strategy to create the State Counsellor's Office and curb military intentions underlying the 2008 Constitution. Advocate for human rights and the rule of law. One of Myanmar's greatest lawyers. A huge loss for the country and its people.

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# Myanmar: General Observations – Antecedent Conditions



## Antecedent conditions of underdevelopment

- Poverty
  - ❖ HDI rank 150<sup>th</sup> out of 187 countries (UN Data 2015)
  - ❖ Poverty rate: 26% (Human Development Report 2014)
  - ❖ Average annual income/capita: US\$702 (Human Development Report 2014)
- Corruption
  - ❖ Corruption Perceptions Index rank 156<sup>th</sup> out of 175 countries (Transparency International 2015)
  - ❖ Open Government Index 100<sup>th</sup> out of 102 countries (World Justice Project 2015)
- Transition
  - ❖ Spectrum of factions with competing interests on path “from authoritarianism to democracy, from military to civilian rule, from a closed and monopolistic to an open and competitive economy, and from an ethnically fractured and fissiparous state to a more viable and coherent union” (Larry Diamond 2012)
  - ❖ Ongoing conflicts/tensions (ethnic, religious, etc.) and incomplete peace process
  - ❖ Nascent political institutions & shifting political culture
  - ❖ “Negotiated transition” between military elites/cronies and reform elements (Diamond 2012; Fukuyama 2014)

# Myanmar: General Observations – Consequent Factors



Consequent factors in implementation for conservation law/policy

- Capacity
  - ❖ Lack of knowledge/skills (UNDP?)
  - ❖ Lack of resources
- Culture
  - ❖ Lack of values (UNDP?)
  - ❖ Lack of awareness

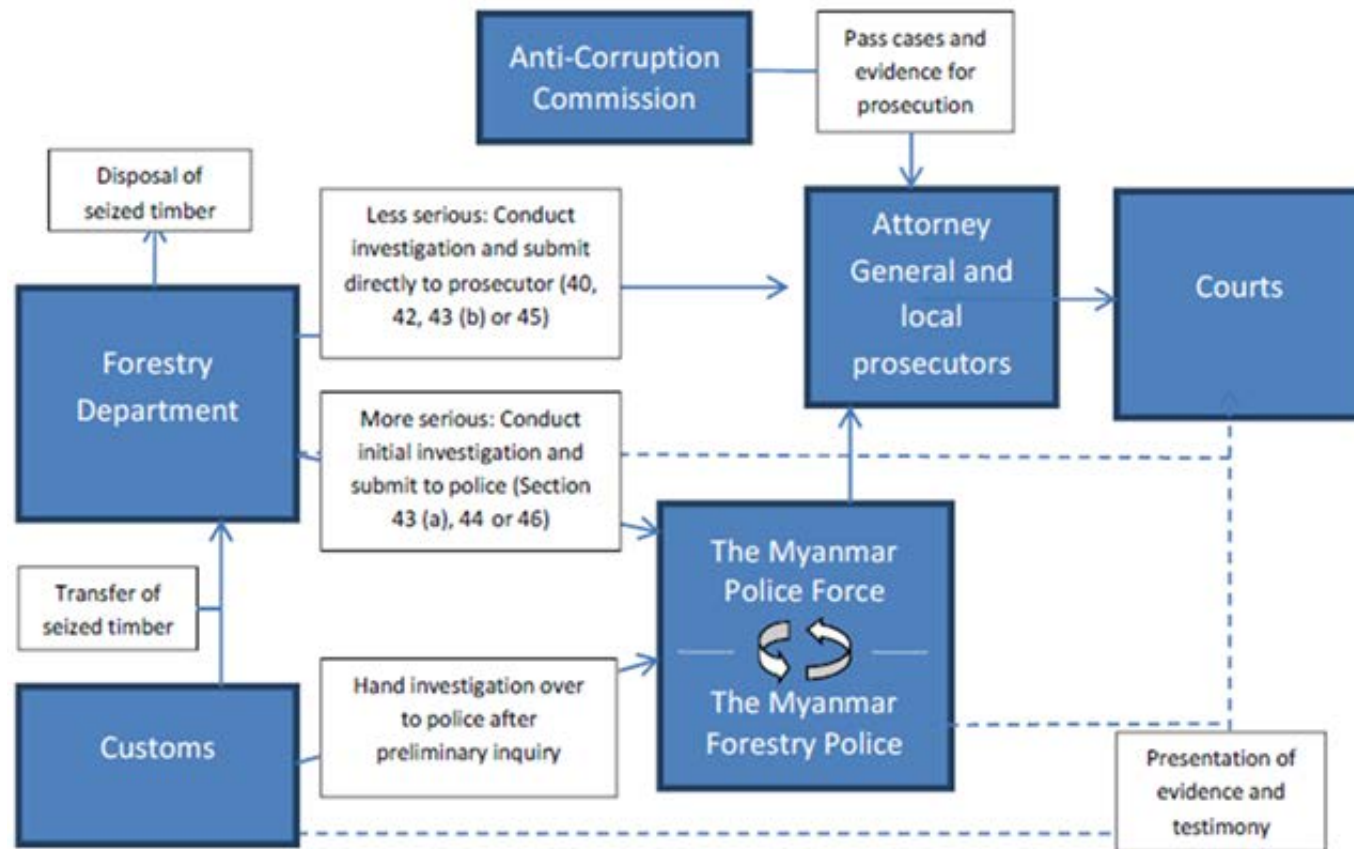


# Myanmar: Conservation Issues at Pyay & Pyu Ancient Cities

## Issues of cultural heritage conservation

- Capacity
  - ❖ Local courts, prosecutors, & police unfamiliar with national & international law on world heritage, import/export of cultural heritage, archaeology
  - ❖ Local courts, prosecutors, & police lack expertise to identify illegal/harmful trafficking of heritage items
  - ❖ Local courts, prosecutors, & police lack technology to access information re heritage trafficking/conservation
  - ❖ Local courts, prosecutors, & police have ongoing pressures of land conflict, criminal cases, civil litigation
- Culture
  - ❖ Lack of community awareness regarding condition of heritage site
  - ❖ Lack of community awareness national & international conservation standards
  - ❖ Community stressed by need for infrastructure development (e.g., electricity, plumbing, roads, schools, etc.)
  - ❖ Value of heritage on gray/black market

# Myanmar: Extension to Natural Heritage Conservation?



Source: UNODC

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