
EXECUTIVE SUMMARY AND RECOMMENDATIONS

This briefing paper explores the relationship between biodiversity, human rights, society and business in Myanmar, with particular reference to the oil and gas, mining and tourism industries using the protect-respect-remedy framework of the UN Guiding Principles on Business and Human Rights.

It aims to assist businesses who want to understand how their activities may adversely impact on biodiversity, and how this may in turn undermine their responsibility to respect human rights. It also aims to build awareness of how the loss of biodiversity has significant implications for the duty of the Government of the Republic of the Union of Myanmar to protect human rights and its parallel obligations under international biodiversity conventions.

The Briefing Paper is structured as follows:

- **Section 1** explains the **'nexus' between business, biodiversity and human rights**, and the **business case** for addressing biodiversity and ecosystem services
- **Section 2** provides an **overview of biodiversity in Myanmar**, with emphasis on the biodiversity resources that are likely to be affected by private sector activities and the major threats to them
- **Section 3** provides an **overview of the policy and legal framework and institutional arrangements related to biodiversity** and addresses compliance with biodiversity aspects of Myanmar's environmental laws and regulations, including Environmental Impact Assessment (EIA)
- **Section 4** looks at how **Myanmar's EIA process** can be used by companies to improve outcomes for biodiversity and related human rights
- **Section 5** provides an **overview of international standards, practice and tools** and application of international good practice on biodiversity protection by business, including in EIAs

The Briefing Paper is supplemented by additional material on:

- The Nexus between Biodiversity, Ecosystem Services and Human Rights: Further Reading
- Biodiversity in Myanmar: including Protected Areas and Key Biodiversity Areas
- Local and international environmental organisations working on biodiversity conservation and ecosystems services in Myanmar
- Sectoral Briefing Notes on Biodiversity, Human Rights and Business in Myanmar
 - » Oil and Gas
 - » Mining
 - » Tourism
 - » Agribusiness

These supplements cover potential biodiversity/human rights impacts, and links to sources of more detailed guidance.

The nexus between Biodiversity and Human Rights

In early 2017, in a report to the UN Human Rights Council the UN Special Rapporteur on Human Rights and the Environment (John Knox) described the importance of biodiversity and related ecosystem services for human rights. Knox asserted that the full enjoyment of human rights depends on ecosystem services (i.e. the benefits provided by ecosystems that contribute to making human life both possible and worth living). These ecosystem services in turn, depend on biodiversity. Therefore, the loss of biodiversity and ecosystem services threatens a broad spectrum of rights, including the rights to life, health, food, water, culture and non-discrimination. Consistent with the UN Guiding Principles on Business and Human Rights, states have an obligation to safeguard biodiversity to protect those rights from infringement. This includes a duty to protect against environmental harm caused by private enterprise. In addition, businesses have a responsibility to respect the rights relating to biodiversity. In practice, this means that businesses have a responsibility to understand and mitigate the potential impacts of their activities on biodiversity, ecosystem services and related human rights. Knox elaborated further on his thinking in his final report to the Human Rights Council in March 2018, where he outlined Framework Principles on Human Rights and the Environment, as a basis for states and companies to understand and implement human rights obligations relating to the environment.

Since 2011, when the Government of Myanmar initiated a progressive political and economic reform agenda, the conditions for investment have improved and investment has increased. Increased investment in sectors such as agribusiness, tourism, mining and oil and gas will inevitably lead to significant additional pressures on biodiversity and risk a further deterioration in biodiversity-related human rights. It is therefore timely and urgent to explore the relationship between biodiversity, human rights, society and business in Myanmar in anticipation of accelerated economic activity.

Overview of biodiversity in Myanmar

Myanmar is rich in biodiversity. Almost all the country lies within the Indo-Burma Biodiversity Hotspot. This supports an extraordinary array of ecosystems, with mountains, permanent snow and glaciers, extensive forests, major rivers, a large river delta, a dry plateau, a long coastline with offshore islands, and valuable coastal and marine habitats. It occupies the transition zone between three biogeographic regions, which produces unique and diverse assemblages of flora and fauna, including species that are not found outside of Myanmar. Forest is the dominant vegetation type in Myanmar, covering 43% of the land area, although half of this is degraded, and the rate of loss is one of the highest globally. Limestone karst formations are also important for biodiversity as they support restricted range species. Freshwater ecosystems and wetlands include major river systems notably the Ayeyarwady River Corridor and Inle and Indawgyi Lakes. Coastal ecosystems are also very important for biodiversity including wet evergreen forest, intertidal mud and sand flats, coral reef, mangrove and seagrass.

As of 2018, Myanmar has 42 Protected Areas, but the area currently under protection is less than 6% of the total land area. This compares with a global average of almost 15% and a global target under the Convention on Biological Diversity - which Myanmar is a signatory to - of 17%. Marine areas are especially vulnerable, with just one marine area under protection (the Lampi Marine National Park). Funding for Protected Areas is also inadequate, with many Protected Areas lacking management plans, adequate numbers of staff and basic infrastructure.

The biodiversity of Myanmar is however increasingly at risk due to factors such as unsustainable land use practices, unplanned and uncoordinated development, illegal wildlife trade and overfishing. While the loss of this biodiversity is problematic in terms of the intrinsic value of the species at risk, it is also of concern to the people who are dependent on the ecosystem services that biodiversity supports. These benefits contribute to making human life both possible and worth living. The subtitle of this Briefing Paper (“Often a branch is broken off the tree by the one who has rested in its shadow”) is derived from a Myanmar proverb, which speaks to the ability of humankind to degrade the environmental features we are most dependent on. The degradation and deterioration of these services is a significant factor influencing several challenges now facing Myanmar, such as climate variability, water scarcity, the decline of agricultural productivity and energy insecurity.

Policy and legal framework

Myanmar has a set of policies and laws relating to environmental protection in general, and biodiversity conservation specifically. The country has also signed and ratified several regional and international instruments that relate to biodiversity protection. These disparate commitments mostly come together through the process to develop National Biodiversity Strategies and Action Plans for biodiversity, which is a requirement for signatories to the Convention on Biological Diversity. A detailed overview of the policies, laws and strategies linked to environmental or biodiversity protection, as well as some of their limitations is provided in Section 3. This includes a lack of provision for community participation in co-management of forests, as well as shortcomings with the EIA Procedure. Advice on how companies can use this more effectively is in Section 4.

Overview of international standards, practice and tools

To assist with these challenges however, there is a wealth of international standards, good practice guides, and tools for the management of biodiversity and ecosystem services for Government and companies. These offer guidance on how to prevent, minimise, manage and offset residual impacts on biodiversity. The reasons for companies to mitigate the impacts of their operations on biodiversity, which are also briefly discussed in Section 5 and form the basis for the following recommendations.

