

### Update: The Environmental Conservation Law (March 30, 2012)

This update looks at the Environmental Conservation Law that Burma has recently passed. This law is currently under review by the government of Burma, after international NGOs and others criticised the law as too weak. A revised version of the law is expected to be available by the end of 2012.

**What the Law Does:** The law tells the Ministry of Environmental Conservation and Forestry to form an environmental conservation committee.

The committee is in charge of “mobilizing activities for environmental conservation”. This includes:

- advising on how environmental issues should be taught in schools;
- working with other government departments on conservation;
- restricting government departments or organisations that could harm the environment (although the committee will have to ask the national government to do this in some cases); and
- managing international donations of money or materials given to help Burma with environmental conservation.

Under this law, the job of the Ministry of Environmental Conservation and Forestry is to implement the government’s environment policies. The ministry has a broad responsibility “to plan the environmental management both at the national and regional level”; “to plan, implement and monitor environmental conservation and promotion, and to prevent, control and reduce environmental pollution”; and “to pave the way for sustainable development”.

In order to do this, the ministry has the power to create “guidelines for environmental administration, conservation and promotion in different sectors which includes ozone layer protection, the conservation of biodiversity, marine coastal conservation, the effort to reduce and balance global warming and climate change, the fight against the increase of desert and waste management”. In particular, the ministry can:

- set the rules for how much and what type of pollution is allowed, and what businesses and individuals have to do to reduce pollution;
- set up a system to assess the environmental and social impacts of projects (both those carried out by the government and those done by the private sector);
- set up a system to monitor pollution from agriculture, industry, and mining;
- decide which types of projects require permission to operate;
- decide whether to grant that permission to individual projects;
- require companies to pay for environmental conservation projects to make up for the damage the companies cause;
- oversee the system for judging and punishing environmental damage; and
- negotiate regional and international environmental agreements.

The ministry, the committee, and the national government share responsibility for taking action when there is a natural disaster, including warning people about natural disasters.

All government departments are responsible for conserving and managing resources, including forests, land, water, agricultural resources, ecosystems, biodiversity, and cultural resources. The Ministry of Environmental Conservation and Forestry is supposed to provide advice and support on this issue to other departments.

The law says that individuals or companies that break the law can be fined or jailed, but also allows the ministry to reduce or eliminate these punishments “for the sake of state and public interest”.

### **Assessment of the Law:**

- *Process:* The law was drafted and debated over a period of more than a decade. During this time, information about the law and the changes being discussed was difficult to obtain. The public does not seem to have been consulted or surveyed about what the law should be.
- *Content:* The law requires the Ministry of Environmental Conservation and Forestry to form a committee to create and carry out specific policies. The law requires the ministry to do certain things, like to establish a system for monitoring pollution from industry, agriculture, and mining, and to monitor construction projects. However, the law does not have many specific requirements. It mainly gives the ministry the power to make policies. The law is binding on the government and on government projects, but the ministry may be required to get the government’s permission to enforce the law on other ministries.

The law mentions important principles, like conserving natural resources and biodiversity, as well as fighting climate change. However, most of the specific guidelines it mentions have to do with waste and pollution, and do not look at broader problems. The law gives the ministry the power to decide what projects can be carried out and how, but does not require Environmental Impact Assessments. There is no mention of getting the consent of local communities to carry out projects.

- *Enforcement:* The Ministry of Environmental Conservation and Forestry will be mainly in charge of enforcing the law, although it will need permission from the central government to enforce the law on other ministries, and there is mention of the ministry deciding on a budget. The ministry is allowed to decide not to punish a company or a person for breaking the law. If the ministry does punish them, the punishments can include fines and jail time.
- *Monitoring:* The ministry is allowed to set up its own system for monitoring projects. There are no guidelines for how to do so. The ministry is also allowed to oversee the judging of cases. There does not seem to be any system for monitoring how well the ministry is carrying out the law.