



STATEMENT ON THE DESTRUCTION OF ARAKAN CULTURAL HERITAGE BY SPDC CONSTRUCTION PROJECTS

Case Summary:

Construction of the Sittwe-Amm-Minbu railroad began on 7 November and has already resulted in damage to ancient temples and pagodas in Myauk-U, a historic town in Arakan State that was built by the Arakan King Min Saw Mon in 1404 A.D. Reports by local archaeologists indicate that there has been damage to the ancient city walls of Thabin Thae, Mingla Manaung, and Kyauk, pagodas on Thazintin Mountain and the Pysioegyi Pagoda, moats at Nga Kyay AI and Yeh Hla, the Prince Dam-Gate, and the Yeh Hla and A-myint Taung fortresses. Reports also indicate that local residents were forced by the State Peace and Development Council (SPDC) to destroy the palace of Arakan King Min Saw Mon in order to construct a jatropha plantation.

Residents have protested the railroad project and appealed to local authorities to stop construction. However, the project has continued without a response from the government.

(Khin Oo Thar. "Myauk U Pagodas Damaged by Railroad Construction." *Irrawaddy News*. 24 November 2010.)

Legal Analysis:

1. On 10 September 1998, the SPDC enacted The Protection and Preservation of Cultural Heritage Regions Law (SPDC Law No. 9/98). Section 2 of this Law defines the following expressions:
 - a. *Cultural heritage* means ancient monument or ancient site which is required to be protected and preserved by reason of its historical, cultural, artistic or anthropological value;
 - b. *Ancient Monument* includes the following that have existed before 1886 or that have been determined as cultural heritage:
 - i. Architectural structure, shrine, stupa, temple, monastery, palace, residential building and carving, image and painting thereon.
2. Section 3 defines the objectives of this Law which include the following:
 - e. to protect the cultural heritage regions from destruction;
 - f. to carry out protection and preservation of the cultural heritage regions in conformity with the International Convention approved by the State.
3. Under Section 21, no person shall, without prior permission granted under this Law, carry out any of the following in the cultural heritage region:
 - a. Carrying out renovation and maintenance work on an ancient monument;

- b. Carrying out archaeological excavation;
 - c. Building roads, constructing bridges, irrigation canals, embankments or extending the same;
 - d. Digging wells, ponds, fish-breeding ponds or extending the same.
4. Under Section 24 of this Law, whoever violates any provision of Section 21 shall, on conviction, be punished with a fine which may extend to kyats 50,000 or with imprisonment for a term which may extend to five years or a punishment of both a fine and imprisonment.
5. In destroying cultural heritage sites in Myauk-U in order to construct railroads, SPDC is violating Section 21 of the Cultural Heritage Regions Law. Thus, SPDC members responsible for the destruction of these sites must be held accountable under Section 24 of this Law. The Ministry of Culture and the Department of Archaeology have the duty to protect and prevent damage to regions of high cultural value under this Law and yet construction continues in the Myauk-U region.
- The sites in Myauk-U that have been destroyed or are currently at threat of destruction by the project are ancient cultural heritage sites that embody a shared Buddhist history passed down from generation to generation.
6. The SPDC government is a party to the World Heritage Convention and is, therefore, obliged to protect and conserve cultural heritage sites situated on its territory.¹ SPDC submitted the Myauk-U region for consideration by the United Nations Educational, Scientific, and Cultural Organization (UNESCO) as a World Heritage Site and, thus, considers the Myauk-U region to be a cultural heritage site. In destroying sites throughout this region, SPDC has violated both its international legal obligations under the World Heritage Convention and its domestic legal obligations under Section 3(f) of the Cultural Heritage Regions Law.
7. The international community and all ethnic groups inside Burma demand to promptly hold the SPDC government accountable for the destruction of cultural heritage sites in the Myauk-U region.

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¹ Myanmar became a State Party to the World Heritage Convention on 29 April 1994. Under article 5 of this Convention, Myanmar is required to take “effective and active measures” to ensure that the cultural and natural heritage situated on its territory is protected and conserved. The government submitted the Myauk-U Archaeological Area and Monuments for consideration as a World Heritage Site on 4 October 1996 and remains on the tentative list of World Heritage Sites to this day. UN Educational, Scientific and Cultural Organisation, *Convention Concerning the Protection of the World Cultural and Natural Heritage*, 16 November 1972.