

# JADE AND CONFLICT

Myanmar's Vicious Circle

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June 2021





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## ABBREVIATIONS

<b>AA</b>	Arakan Army
<b>BGF</b>	Border Guard Force
<b>CRPH</b>	Committee Representing the Pyidaungsu Hluttaw
<b>DICA</b>	Directorate of Investment and Company Administration
<b>EITI</b>	Extractive Industries Transparency Initiative
<b>KIO/A</b>	Kachin Independence Organisation / Army
<b>MEC</b>	Myanmar Economic Corporation
<b>MEHL</b>	Myanma Economic Holdings Limited
<b>MEITI</b>	Myanmar Extractive Industries Transparency Initiative
<b>MONREC</b>	Ministry of Natural Resources and Environmental Conservation
<b>MGE</b>	Myanmar Gems Enterprise
<b>MGJEA</b>	Myanmar Gems & Jewellery Entrepreneurs Association
<b>MNDAA</b>	Myanmar National Democratic Alliance Army
<b>KNDP</b>	Kachin Nationals Development and Progress (Gems) Company
<b>NCA</b>	Nationwide Ceasefire Agreement
<b>NLD</b>	National League for Democracy
<b>NUG</b>	National Unity Government
<b>UWSP/A</b>	United Wa State Party / Army

## MAIN ARMED ORGANISATIONS ACTIVE IN THE JADE SECTOR

<b>Organisation Name</b>	<b>Area(s) of Operations</b>	<b>Status</b>
<b>The Tatmadaw</b>	Nationwide	Official armed forces of Myanmar, including the Army, Navy, and Air Force. Also includes auxiliary services such as the Myanmar Police Force and the People's Militia.
<b>Kachin Independence Army</b>	Kachin State, Northern Shan State, Eastern Sagaing	Armed wing of the Kachin Independence Organisation; headquartered in Laiza, Kachin State.
<b>United Wa State Army</b>	Wa Self-Administered Division, Shan State	Armed wing of the United Wa State Party; headquartered in Pangkham, Shan State.
<b>Arakan Army</b>	Northern Shan State, Southern Chin State and Western Rakhine State	Armed wing of the United League of Arakan; headquartered in Laiza, Kachin State, although focus of operations is in Rakhine State.
<b>Myanmar National Democratic Alliance Army</b>	Northern Shan State	Based in Kokang Self-Administered Zone.



BANGLADESH

INDIA

CHINA

Sagaing

Kachin

Tanai

Hkamti

Hpakant

Myitkyina

Laiza

Muse Laukki

Kutkai

Lashio

Pangkham

Shan

Hakha

Chin

Paletwa

Kyauktaw

Sittwe

Rakhine

Magway

Sagaing

Mandalay

Mandalay

Taunggyi

LAOS

Nay Pyi Taw

Kayah

THAILAND

Bago

Mon

Kayin

Ayeyarwady

Yangon

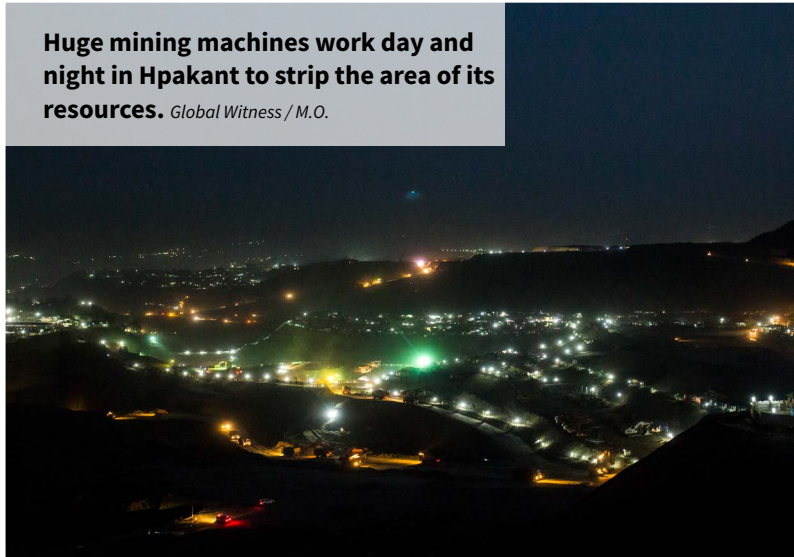
Tanintharyi

**Hpakant, in Myanmar's northern Kachin State, is the heart of the global jade industry. Its landscape has been permanently scarred by years of large-scale mining that has destroyed the surrounding environment.**

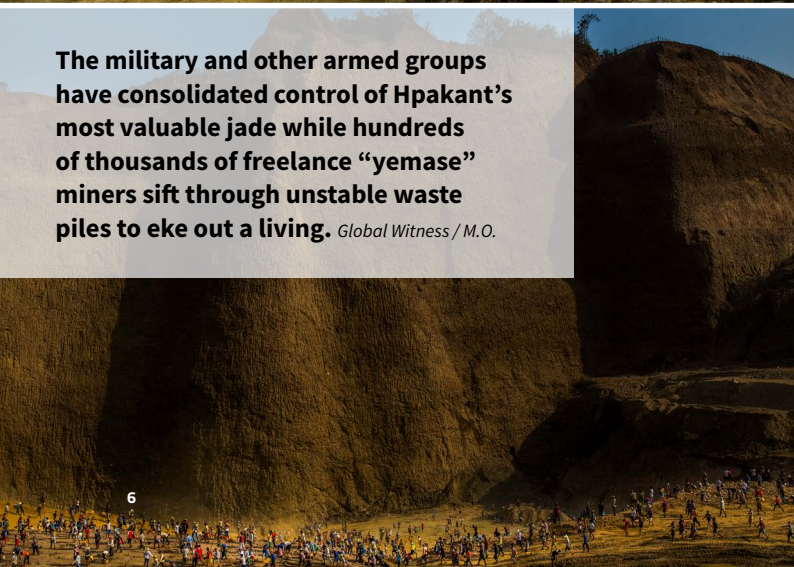
*Global Witness / M.O.*



**Huge mining machines work day and night in Hpakant to strip the area of its resources.** *Global Witness / M.O.*



**The military and other armed groups have consolidated control of Hpakant's most valuable jade while hundreds of thousands of freelance "yemase" miners sift through unstable waste piles to eke out a living.** *Global Witness / M.O.*





And all of this to ensure that the jade-treasure of Kachin State, like that being inspected by a jade trader to the left, ends up in a Chinese market like the Jiagao jade jewellery market in Ruili.

Global Witness / M.O.

## INTRODUCTION

For more than two decades, jade and conflict in Myanmar have been locked in a vicious and mutually reinforcing circle of violence and exploitation. Kachin State's jade mines, the most valuable in the world and the source of billions of dollars' worth of mined wealth every year, have long funded both state and non-state armed groups. This jade wealth has fuelled conflict and undermined efforts to achieve peace in Myanmar by incentivising armed groups to fight for control over mining areas and the riches there. In turn, conflict around jade-mining areas has fostered a lawless climate that has enabled dangerous mining practices, corruption, smuggling, tax evasion, narcotics trafficking and environmental destruction to flourish.

The 2015 election that ushered the National League for Democracy (NLD) into power brought with it an opportunity to curtail the military's corrupt and destructive legacy both in the jade mines and in the country more broadly. Even though the Tatmadaw – as Myanmar's military is known – retained significant powers that shielded it from the civilian administration, there remained hopes for a brighter future in the wake of this tectonic shift in Myanmar's political landscape.

Any such hopes are now being violently extinguished in the aftermath of the *coup d'état* carried out by the Tatmadaw against Myanmar's elected government on 1 February 2021. The coup threatens to put the country back under the military's yoke and is throwing into reverse the progress made in Myanmar over the past ten years.

Although the military has been long used to operating with total impunity in Myanmar's ethnic minority dominated periphery, the coup has now also brought the Tatmadaw's cruelty into the country's Burman heartland. The military has responded with extreme brutality as

the nation has risen in opposition to its power grab, murdering over 800 civilians and detaining thousands as millions of people have taken to the streets protesting, striking and otherwise participating in the nationwide Civil Disobedience Movement (CDM).<sup>1</sup>

The coup has been a reminder of just how fraught and fragile Myanmar's political transformation was, and how incomplete and inadequate its democratisation remained. After the NLD's ascent to leadership in 2016, the Tatmadaw never truly gave up control.<sup>2</sup> It retained significant powers through a constitution it had drafted that shielded it from civilian oversight, guaranteed it enough seats in the national parliament to ensure it had a veto over constitutional reform, and gave it control over the key ministries overseeing national defence and security.<sup>3</sup> Crucially, it also maintained access to a vast network of economic interests that both supported the military institutionally and provided personal wealth and patronage opportunities to individual officers – including the coup-leader, Senior General Min Aung Hlaing.

A detailed assessment of the political machinations that culminated in the coup is outside the scope of this report. However, it is clear that the threat to the military's protected role in Myanmar's politics represented by the NLD's landslide re-election in 2020, as well as Min Aung Hlaing's personal ambition in the face of an approaching mandatory retirement age, played a part in the Tatmadaw's decision to reverse Myanmar's democratic transition, arrest the NLD's entire leadership and plunge the country into crisis.<sup>4</sup>

The story of partial reform, resisted by the Tatmadaw and its allies, played out not only at the national political level, but also across state and regional governments, as well as among local administrative units at the district, township, and village tract levels. It also occurred throughout the economy, where the Tatmadaw, its senior officers and their allies maintained various businesses

across multiple sectors of the economy. Myanmar's multi-billion-dollar jade industry is a paradigmatic example of this process.

In Global Witness' 2015 report "Jade: Myanmar's 'Big State Secret'", Global Witness revealed how the jade industry was secretly controlled by networks of military elites, drug lords and crony companies with their roots in the darkest days of military junta rule. This report continues that story. It explains how the entrenched ties between the Tatmadaw and the jade industry that have helped scar the nation so tragically, continue today.

Upon its ascent to power in 2016, the NLD set in motion a reform programme for the troubled jade industry. As this report shows, however, that reform programme remained far from complete at the end of the NLD's first five years in power. Reforms were held back by a variety of factors, including a lack of focus and prioritisation on the part of the NLD, opposition from well-connected jade businessmen, resistance to reform from within the institutions responsible for gemstone governance and the geolocation of Myanmar's jade mines in an ethnic minority-dominated area at the centre of a longstanding conflict. However, one reason stands out above all others: the industry was, and remains, largely controlled by armed groups – the Tatmadaw most prominently among them.

The February coup has the potential to exasperate all of these issues, bringing the jade industry back to the brutal days of junta rule. The NLD reform programme, stalled as it was, is now most certainly dead. With the Tatmadaw in power, senior members of the military junta and their business allies will continue to get access to the richest jade plots. Meanwhile, the military will likely continue ignoring the social and environmental harms that are by-

products of the unregulated, heavily mechanised, large-scale jade mining that existed under previous military rule.

Armed conflict in jade-mining areas has already worsened, with the coup triggering renewed fighting between the Tatmadaw and the Kachin Independence Organisation (KIO) and its armed wing, the Kachin Independence Army (KIA), in Hpakant itself.<sup>5</sup> The KIO/A has stated that this outbreak in fighting is in response to the coup and part of its effort to protect local civilians from the Tatmadaw.<sup>6</sup> Regardless of the reason, the fighting has, at least temporarily, disrupted mining in Hpakant.

The remainder of this report, which is informed by a wealth of testimony from industry insiders and an extensive analysis of jade licensing and production information, will examine these dynamics in detail. It will delve into the current landscape of Myanmar's jade-mining industry and reveal how it has changed in the past five years. It will show how, in spite of NLD efforts to reform the industry, armed groups were able to maintain their dominance over the jade mines and continue to funnel Kachin State's natural resource wealth into their own coffers and the pockets of their allies. It will also discuss the potential implications of the February coup on Myanmar's jade industry, including that jade will continue fuelling conflict, corruption, and environmental and social devastation as men with guns entrench their control and profit from Myanmar's most precious non-renewable natural resource.

## Report research and outline

When Global Witness began research for this report, the context in Myanmar was very different from today. Global Witness viewed this report, and the investigation upon which it was based, as an opportunity to examine



Residents of Hpakant march in opposition to the coup while flying flags in support of the KIO/A and the NUG on 30 April, 2021. *Myanmar Now*



the successes and failures of the NLD's jade-industry reforms, and to reveal the ways in which the Tatmadaw and other armed groups were cooperating to maintain control of the industry even as it was being reformed. Ultimately, the goal of this report was to investigate the extent to which the jade industry has continued to fuel conflict across northern Myanmar, and to provide recommendations to the NLD government on how best to break this jade-conflict nexus.

The political situation, both in Myanmar's jade-mining areas and the country as a whole, has changed dramatically since then, with the military coup of 1 February functionally putting a halt to hopes for further clean-up of the industry in the near term. The multiple shocks of COVID-19, the communications blackout and the heightened security risks following the coup, have made it challenging to verify the extent to which this reports' findings may have changed since February 2021. We have sought to make clear how the coup may have impacted our findings throughout this report, as well as where the situation is too uncertain to assess fully.

Despite such uncertainties, our findings remain relevant. This report tells the story of industry insiders resisting reforms at every turn, of bitter foes cooperating to make money, of that money being used to directly fund conflict elsewhere in the country; it tells a story of government unable to enforce the law in mining areas, allowing criminality to flourish, and of the plight of the yemase – hundreds of thousands of informal, mostly impoverished, miners from across the country, driven to Hpakant by hopes of uncovering a fortune, but who too often are only able to eke out a living while working in appalling conditions to satisfy the greed of others. All of this remains relevant today. Indeed, if history is any indication, these conditions are likely to remain part of Hpakant's future in the absence of a concerted effort to set a new course – something unlikely under a coup-regime, given the extent to which the Tatmadaw profited from the pre-coup status quo.

With that in mind, this report is organised into four chapters:

**Chapter one** will review the NLD's jade-industry reform efforts over the past five years and explain why these reforms failed. This includes revealing how military companies and powerful, retired Tatmadaw officers opposed reform and worked to actively undermine it in mining regions. It will then look at prospects for the jade industry in the wake of the coup and show how jade is, once again, at the centre of conflict in Kachin State.

**Chapter two** then exposes, one by one, the main armed groups driving the jade-conflict circle: the Tatmadaw,

the Kachin Independence Organisation/Army (KIO/A), the Arakan Army (AA), the United Wa State Party/Army (UWSP/A), the Myanmar National Democratic Alliance Army (MNDAA), and some of the numerous militias and Border Guard Forces (BGFs) allied to the Tatmadaw. This section will reveal how Tatmadaw-linked companies continued to dominate the jade industry even after the NLD took power, as well as how some of these companies simply ignored mining restrictions with impunity.

**Chapter three** will then look at how the jade mining industry itself had changed over the past five years. It will reveal how the NLD's reform programme changed jade mining practices as companies adopted sometimes illegal practices in response. It will also show how increasingly reckless mining behaviours adopted by jade companies, some of them linked to the military and other ethnic armed groups, led to an increasingly dangerous mining environment with deadly consequences for miners.

**Chapter four** concludes with a set of recommendations both on how the international community should treat Myanmar's jade industry in light of the military coup, as well as recommendations for reform should the Tatmadaw be forced to relinquish power. In doing so, it outlines how the National Unity Government (NUG), civil society, ethnic political parties and armed groups, and other legitimate stakeholders in Myanmar's future, can lay the foundations for a future fair and inclusive peace deal on natural resource governance that benefits all of Myanmar's people.



Protesters hold signs and Myanmar ethnic flags as they march along a street in Yangon on 18 February during a demonstration against the military coup. *Sai Aung Main / AFP via Getty Images*

# 1. JADE AND CONFLICT: MYANMAR'S VICIOUS CIRCLE

## 1.1 The NLD attempts to break the jade-conflict nexus

Myanmar's military took control of Hpakant, the largest jade mining region in Myanmar, from the KIO/A in the 1990s, leading to a 1994 ceasefire between the government and the KIO/A. This triggered two decades of corrupt and destructive resource management by the military junta, which proceeded to dole out licences to allies, cronies and its own companies with little regard for the local population or environment (see case study, "Jaded: Kachin's Bitter Ceasefire Experience" on p.XX). By 2015, a spate of deadly landslides, increased attention on the massive financial scale of the industry, and exposés on the jade-conflict nexus, had combined with newfound political space to discuss military wrongdoing, placing the military's poisoned legacy in the jade mines firmly into the national consciousness.

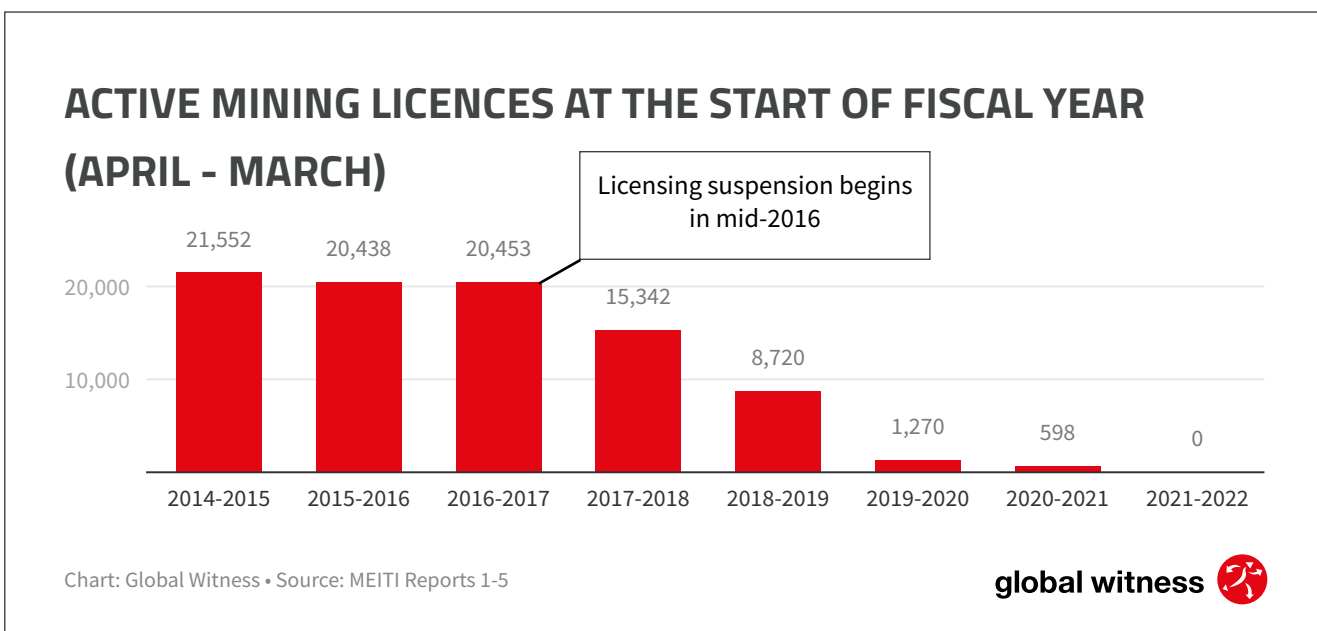
Recognising the toxic links between the gemstone industry, corruption and ethnic conflict, the NLD took action after officially taking office in 2016. It began a multi-pronged reform programme intended to address issues of corruption, environmental and social harms, and illicit activities endemic to the jade trade by updating the outdated legal framework regulating gemstones, decentralising some mining authority to state and

regional governments, improving environmental governance, and promoting corporate transparency within the jade and gemstone sectors.

### Licensing suspension

The government's first move was to suspend the issuance of new jade and gemstone mining licences and halt the renewal of existing ones shortly after taking power in 2016.<sup>7</sup> The decision to suspend licensing was motivated by multiple factors: addressing environmental degradation and poor safety practices, tackling elite capture and conflict dynamics, and curtailing the smuggling of jade to China, which was costing the government hundreds of millions of dollars, if not more, every year in lost tax revenues.<sup>8</sup> However, the main reason was to provide space for the government to engage in reforms that would allow future licensing to occur under a new, less corrupt framework. When it was announced, then-Deputy Director of the Licensing and Registry Department at the state-owned Myanmar Gems Enterprise (MGE), U Thet Khaing said, "[t]here are a lot of reasons why we are suspending licence extensions, but the main one is to change rules and regulations."<sup>9</sup>

At the time of the licensing suspension there were over 20,000 active licences covering over 19,000 mining blocks



The number of active mining licences has declined rapidly since the mid-2016 suspension. Myanmar's fiscal year was changed starting in 2019 to begin on 1 October. This report refers to the April-March fiscal year throughout for consistency of data comparison<sup>13</sup>

according to government and company data released in Myanmar's fourth report for the Extractive Industries Transparency Initiative (EITI).<sup>10</sup> EITI is a global standard that Myanmar joined in 2012, and from which it was suspended in February following the coup.<sup>11</sup> Companies would be allowed to mine under existing licences, with the last of these expiring in 2021.<sup>12</sup>

The licensing suspension, still officially ongoing at time of writing, has had a number of unintended consequences that ended up complicating the NLDs reform efforts, and making life more dangerous for those living and mining in Hpakant (discussed further in Chapter 3). While the long-term impacts of the licensing suspension have been mixed, the suspension was crucial in kickstarting gemstone governance reform activities by the NLD.

### ***NLD begins developing new regulations for the jade industry***

Following the licensing suspension, the government took meaningful initial steps to overhaul the governance of the gemstone sector. In November 2017, the Ministry of Natural Resources and Environmental Conservation (MONREC) formed a multi-stakeholder committee that included government, industry and civil society representatives, and held consultations to develop the new policy.<sup>14</sup> The government promised to reform the minerals sector in its 2018 Myanmar Sustainable Development Plan. This committed to “reform[ing] the nature of the minerals sector such that it becomes both sustainable and profitable, while making both a contribution to government revenues and to the lives of [Myanmar’s] people.”<sup>15</sup>

The NLD government also commissioned technical experts to develop an environmental management plan for jade-mining areas (published in 2018), and the Union Parliament passed a new gemstone law in 2019 designed to set the stage for a re-start of licensing.<sup>16</sup> In addition, and to meet EITI requirements, the government began calling upon some gemstone companies, as well as a limited number of other extractive companies that disclosed payment information under the Myanmar EITI (MEITI) reporting framework, to disclose their beneficial ownership and whether those owners were “politically exposed persons”. This information was available through a public database managed by the Directorate of Investment and Company Administration (DICA), although much of it has been taken down in the aftermath of the 1 February coup – a clear example of how the military regime plans to treat corporate transparency.

Finally, the government also began limited decentralisation of governance in certain parts of the

mining sector, notably artisanal and small-scale mining. This included allowing some subnational governments to begin developing local mining governance frameworks and even issuing licences.<sup>17</sup> At the time, this generated civil society concerns that, if rushed, this policy would lead to the ‘decentralisation of corruption’ to state and regional institutions that were too under-resourced to handle the regulation of such a complex industry. Rather than reducing corruption, this risked replicating the existing captured model at lower levels of administration.

This concern was not merely theoretical. Although local groups with international support were able to engage subnational institutions to assist in developing mining policies and improving oversight capacity, those best positioned to take advantage of new subnational rules are in fact the same well-connected cronies and conflict actors that already dominate the sector.<sup>18</sup> This report shows that one of the impacts of the 2016 licensing suspension has been the decentralisation of corruption away from Nay Pyi Taw to local officials, locally-based military leaders and armed groups in Kachin State.

Decentralisation can be especially harmful if done partially or without consideration of local ethnic groups like the KIO/A, who are frequently viewed by locals as the more legitimate governing authority.<sup>19</sup> Even such limited decentralisation, however, was not enough to keep mining reform on track throughout the NLD’s first term in power.

## **1.2 Mining reform derailed**

Promising at first, the NLD’s efforts to reform the jade industry did not live up to their billing. Understanding why these efforts failed sheds light on the ways in which entrenched stakeholders, like the Tatmadaw, have maintained their grip on the industry, and how they will maintain control of the sector in light of the coup. It is also critical to any hopes for future reform should the military regime be removed from power and replaced with a legitimate civilian government.

Following the licensing suspension there was little serious effort by the government to hold bad actors, some of whom simply ignored government policies, to account. There was also little effort to unwind the conflicts of interest embedded within the regulatory framework and industry oversight bodies. Nor was there much follow-through in adopting a legal regime that substantially addresses these weaknesses, or in enforcing the few regulations that do exist against active mining operations that break the rules. Finally, the reforms failed to actually address the fundamental issue of ownership of, and the right to profit from, natural resources, which underlies the jade-conflict nexus.

# THE 2019 GEMSTONE LAW

The problem with Myanmar's 2019 Gemstone Law is not that the law introduces bad new provisions *per se*. The problem with the law is that it simply fails to adequately address the most pressing governance issues facing the sector. These include the need to:

- **Regulate illicit *de facto* large-scale mining that occurs when companies acquire adjacent plots.** The law allows only for medium, small and artisanal scale mining licences, meaning that large-scale mining will, at least in theory, remain restricted. However, the law does nothing to address companies that bypass plot-size restrictions by applying for and agglomerating multiple plots next to each other.<sup>24</sup>
- **Clarify the role of the Myanma Gems Enterprise (MGE) in the sector.** MGE, whose senior officials are almost all former Tatmadaw officers, is responsible for overseeing and enforcing jade regulations. However, it simultaneously acts as a commercial partner in large projects – an inherent conflict of interest.<sup>25</sup> MGE is only mentioned a handful of times in the new law, with the only substantive mention allowing MONREC to “delegate its powers conferred under this Law” to MGE. This does little to clarify how MGE's role has changed as a result of the new law, and leaves the door open for MGE to continue acting as a commercial partner in jade mining in the future.<sup>26</sup>
- **Detail licensing criteria.** The new law does not lay out any criteria for receiving a gemstone licence, instead stating that MONREC or the relevant regional or state government, “may issue a licence or refuse to issue a

licence after scrutinising the application.”<sup>27</sup> Again, this leaves the door open for licensing to continue much as it did prior to the suspension – through a closed book process that favours political connections over sustainability.

- **Improve environmental protections.** The new law does not provide for the implementation of Environmental Management Plans, nor does it say what should happen to companies that fail to uphold environmental requirements.
- **Introduce accountability into the sector.** The new law provides for punishments for people or companies caught exporting gems illegally, mining outside established blocks or without a licence, or failing to pay taxes. However, it does not prevent companies with histories of illegal activity from obtaining new licences in the future.<sup>28</sup>
- **Address ethnic grievances or tackle questions of land rights.** The new law does not at all address the fiercely contested questions of resource-ownership and management that lie at the heart of the dysfunction in the gemstone sector. Instead of allowing for more local control, most decision-making authority is left with the national-level government in the form of MONREC, the Department of Mines and MGE. Whilst the government has preached decentralisation, this law in fact further consolidated central control over mining decisions.

With the Tatmadaw once again in control of all of Myanmar's government apparatus, these problems are unlikely to be resolved. This is especially true with regards to MGE, whose management of the industry has previously been marked by extensive bribery and conflicts of interest.<sup>29</sup>

What follows will canvass the flawed approach taken by the NLD to jade sector reform. It will cover the corruption that flourished as reform languished, the counter efforts of some affected stakeholders to undermine reform efforts and, crucially, the central issues of the jade-conflict nexus that the reforms failed to address.

### ***A flawed process for reform***

A fundamental flaw in how the NLD approached gemstone mining reform was the haphazard and uncoordinated nature of its efforts. In 2017, the Natural Resource Governance Institute wrote a briefing laying out how best to reform the sector.<sup>20</sup> The first recommendation was to “sequence reforms appropriately” by developing an updated National Gemstone Policy before updating Myanmar's Gemstone Law.<sup>21</sup>

The intention was that a new National Gemstone Policy, developed by MONREC in consultation with stakeholders in business and civil society, would be used to inform gemstone sector legislation. This would ensure the new legal framework would actually address the immense issues, identified by the National Gemstone Policy, facing the sector. Only then would regulations and procedures be finalised based on the legislation, allowing licensing to resume. Even this, though, would leave the problem of implementation. As MGE itself admitted to Global Witness in 2019, this would remain a challenge due to a lack of technical capacity and insufficient resources to monitor and enforce the law in mining areas that remained outside of full government control.<sup>22</sup>

However, there was a failure to coordinate between MONREC and others supporting the National Gemstone Policy's development, and the national parliament, which moved

forward with a new law that was not aligned on substance or sequenced correctly. Myanmar's legislature passed the 2019 Gemstone Law (Pyidaungsu Hluttaw Law No. 4/2019) in December 2018 – before MONREC's gemstone policy was fully developed, and separately from the MGE-commissioned Environmental Management Plans that were released in 2018.<sup>23</sup> Unsurprisingly, the Gemstone Law, which was developed through a closed-door process with little civil society input, proved to have numerous flaws.

### ***Gemstone regulation in limbo***

The 2019 Gemstone Law's ambiguity on key issues and its overall weaknesses would have been mitigated had it been built upon a nationally agreed policy framework. Unfortunately, the National Gemstone Policy has remained stuck in development limbo for years.

MONREC did form a Gemstone Supporting Committee with representatives from government, industry and civil society in November of 2017 to develop this policy.<sup>30</sup> The U.S. government, through the United States Agency for International Development also supported the process through the Burma Private Sector Development Activity programme.<sup>31</sup> The Committee held consultations in Yangon, Nay Pyi Taw and the main jade and ruby mining areas in 2017 and 2018 to collect inputs on the new policy. However, the policy still has not been finalised, nor its

contents publicly released. This has led to concerns that its provisions may have been watered down to be more friendly to industry. Further, with the Gemstone Law already released, it is unclear how any National Gemstone Policy would interact with this law. The Gemstone Law would likely have to be amended in order to align with the more comprehensive policy.

Global Witness also reviewed drafts of the gemstone rules meant to implement the 2019 Gemstone Law from mid-2019, and interviewed experts on the drafting process. It identified that serious issues remained. Troublingly, the draft rules did not appear to have changed the role of MGE, leaving it in charge of defining gemstone blocks, collecting taxes and regulating mining projects. It remained possible for companies to upsize their mines by bidding for multiple adjacent plots, and there are no clear sanctions for companies that violate environmental or worker safety regulations. In short, the gemstone rules also need to be strengthened if they are to reform the industry effectively.

The military coup on 1 February has likewise crushed any hopes that these policies and regulations will be finalised, let alone improved. Shortly prior to the coup, Global Witness sources had indicated that the National Gemstone Policy was nearly ready for release and awaiting final approval. It is now unclear if the military

**The failure of the government to push meaningful reform has left villages like this one in Hpakant in a precarious position, vulnerable to further virtually unregulated mining. *Global Witness / M.O.***



regime will even release the policy, or if it will remain in a MONREC desk drawer. Regardless, with the military now back in power there is little reason to believe that further positive reform will be undertaken.

### ***Corruption, cooperation and collusion***

These half-finished, patchwork reform efforts left Myanmar's jade mining industry in somewhat of an unregulated free-for-all. As jade mining licences began expiring after the licensing suspension, jade mining nevertheless continued (see Chapter 3 for a discussion on the impact of the suspension on mining volumes). These circumstances gave rise to a period of increased cooperation, corruption and collusion to facilitate continued mining as armed groups, and in particular the Tatmadaw and its affiliated companies, tightened their grip on the jade-mining regions.

### **Making money, not war**

Post-suspension cooperation brought together strange bedfellows; in Hpakant our investigation revealed that warring parties were collaborating to profit even as conflict between them escalated elsewhere in northern Myanmar.<sup>32</sup>

**“Both sides go out together in Hpakant for karaoke but then pretend to fight.” – a local journalist<sup>33</sup>**

While this dynamic is not entirely new, the 2016 licensing suspension accelerated the trend. This was facilitated by the military situation on the ground. As the Tatmadaw finished consolidating effective military control over jade-mining areas in Hpakant from the KIA in 2015, ethnic armed groups were left with the difficult choice of either cooperating or continuing to fight. The February coup appears to have temporarily upended this dynamic, as outlined in the next section of this report.<sup>34</sup>

Prior to the February coup, however, the imperative to avoid fighting and just make money led the KIO/A, the Tatmadaw, UWSA-linked groups and other armed militias to literally find common ground to excavate as much jade as possible before mining licences expired. “Now both sides are making money and working together,” one civil society representative told Global Witness before the coup.<sup>35</sup>

Global Witness has discovered evidence that the KIA, Tatmadaw and UWSA-linked companies collaborated to illegally extract, extort payments for, and facilitate smuggling of, jade out of mining areas and into China.

And in an industry worth billions of dollars, why not collaborate rather than fight?

**“Even though the Tatmadaw are fighting the KIA, they are very peaceful in Hpakant. If one side gets too powerful it leads to fighting. That’s why they are collaborating – to make profit for both sides.”**

– a local politician<sup>36</sup>

According to one industry source, the Tatmadaw's Division 101 commander in Hpakant had a direct phone line to the KIA Battalion 6 Commander stationed in Hpakant, and also maintained this relationship through jade brokers to negotiate taxes on jade and related activities.<sup>37</sup>

Cooperation in mining has not been limited to the KIA and the Tatmadaw, however. KIA Battalion 6 also maintains good relations with UWSA-linked companies, which can sometimes lead to dissent among the local Kachin population, many of whom view UWSA-linked companies as rapacious and exploitative.<sup>38</sup> One community leader recounted how this had led local people to ask the KIO/A, “Why are you protecting the Wa more than local people?”<sup>39</sup>

In short, there is so much money to be made through jade mining that even groups engaged in active armed conflict, such as the Tatmadaw and the KIO/A, find ways to cooperate to extract revenue from the middle of conflict areas. This cooperation on mining contributes to the broader conflict by providing the critical resources needed to sustain the conflict and the financial incentives to maintain a status quo that allows armed groups to continue to profit from the industry and the corruption in the jade trade.

The extent to which the coup has upended this cooperative dynamic remains unclear at this time. Still, even if the coup and subsequent conflict between the KIO/A and the Tatmadaw has dampened direct cooperation, there is little doubt that such cooperation could re-emerge in the future in a similar form. Kachin State has seen decades of war, and with such a valuable resource and vital source of funding at stake, it seems likely that such armed groups will find a way to align their interests once again.

When reached for comment, a KIO/A representative denied that the group cooperates with either the UWSA or Tatmadaw in jade mining, or that there is a direct

connection between KIA Battalion 6 and the Tatmadaw's Division 101. The KIO/A representative also denied extorting payments from jade companies, saying that the group only collects regular taxes on production and sales from companies and individuals, as it has since it was founded. A representative for the UWSA also denied commercial cooperation between the KIO/A and UWSP/A in jade mining. Representatives of the Tatmadaw did not respond to the allegations.

### **Corruption facilitates illegal mining**

The aforementioned cooperation between armed groups active in the sector has been bolstered by omnipresent corruption in Hpakant. Here, multiple industry figures have stated that illegal mining and corruption have continued to thrive since the licensing suspension. The primary beneficiaries have been local Tatmadaw commanders, especially officers in the positions of Northern Commander and Commander of Division 101 in Hpakant, as well as government officials, police, armed groups and local bosses.<sup>40</sup>

Global Witness has gathered evidence of illicit mining practices facilitated by bribes to government officials, army officers and the police, as well as informal payments to the KIO/A. Large well-connected companies, including companies linked to the UWSA and others backed by Chinese business interests, have been mining illegally without a government licence or through informal profit-sharing arrangements of questionable legality; all of this within the context of an uneasy cooperation between parties that remain at war.<sup>41</sup>

It is clear that an expired licence proved to be no real impediment to continued mining operations for many companies. Companies with expired official Myanmar government licences also turned to the KIO/A, whose primary revenue stream comes from the jade sector, for permission to continue mining.<sup>42</sup>

Military-owned companies also help facilitate illegal mining, with multiple sources describing the unwillingness of military companies to abide by the licensing suspension.<sup>43</sup>

**“Only those connected with the military can mine.”**

– an industry-connected politician<sup>44</sup>

One businessperson told Global Witness that two representatives from MEHL, which manages jade plots through its subsidiaries (including Myanmar Imperial Jade) asked them in 2018 whether one of their jade

plots was still active: “They said [MEHL] still has the right to mine despite the licensing suspension. So, if [my business] still has jade in the mine with an expired licence, they are willing to partner and mine there.”<sup>45</sup> This individual's mine was already empty. However, the incident suggests that military companies have continued to operate above the law – a further demonstration of the impunity with which the military and its affiliated companies have conducted themselves even while the government was under NLD control.

It is not just military companies that benefit from illegal mining, though – individual Tatmadaw officers still get their cut. Multiple local sources have told Global Witness that in addition to carrying out its own unlicensed mining, the KIO/A also collaborates with the military and the police to facilitate mining in Hpakant. The KIO/A collects taxes and permission fees while local Tatmadaw commanders take bribes on the value of production, forging a mutually beneficial arrangement.<sup>46</sup>

**“The NLD government stopped licence extensions. Therefore, the businessmen are negotiating with the KIA, army and police and other authorities.” – a jade regulator<sup>47</sup>**

The licensing suspension also appears to have opened up new opportunities for corruption and illegality by the military, decentralising corruption away from Nay Pyi Taw and into jade-mining areas. Before 2015, jade businesspeople would directly target senior military officers and decision makers in the capital, Nay Pyi Taw, offering bribes and profit-sharing agreements to secure valuable plots.<sup>48</sup> Since the licensing suspension there have been no licences to acquire from the central government, so the locus of corruption has become more local. This has allowed local Tatmadaw commanders, police, government officials and armed groups to cash in through their control of physical access to mining sites.<sup>49</sup> Whether Nay Pyi Taw-based corruption picks up again when licensing restarts will be a critical issue to watch.

### **Undermining reform**

Flourishing corruption and cooperation were already rendering implementation of the NLD's lacklustre reforms difficult. But the reform process was also hampered by business strategies adopted by companies to help evade mining regulations, as well as resistance from key stakeholders within the jade industry.

## Informal mining consortia

One of the most immediate and visible results of the licensing moratorium was a rise in informal mining consortia. As alluded to above, an informal consortium involves jade companies whose licences have expired forming partnerships with companies whose licences have not yet expired to boost production in still-active mining plots, allocating machines, equipment and workers in exchange for a share of the profits. Driven by a desire to mine as quickly as possible before licences expire, such consortia frequently ignore environmental and safety standards.<sup>50</sup>

**“The same actors are involved as before but now they all work together using big machines.”**

– a jade businessperson<sup>51</sup>

UWSA-linked companies act as key brokers for these types of arrangements, according to sources in the sector. Between 2016 and 2020, and escalating in 2018, these companies began offering informal payments – typically as 60:40 joint-ventures – to companies whose licences were expiring, allowing those companies to mine increasingly rapidly before their time ran out.<sup>52</sup> These informal alliances involve joint mining operations, including the pooling of machines, and result in illicit and destructive mining.<sup>53</sup>

For example, according to a former senior KIA official and jade miner, a prominent UWSA-linked company, named Myanmar Takaung, had been mining in the Wai Khar (also known as Whay Khar or Gwikha) area of Hpakant since August 2018 together with consortium partners.<sup>54</sup> Wai Khar was the location of a deadly landslide that killed nearly 200 people in July of 2020, as discussed in depth in chapter 3.<sup>55</sup> Media reports suggested that the accident took place in an old mining plot belonging to the company, and other UWSA-affiliated companies were identified as mining in the area as well, as discussed in section 3.5 below.<sup>56</sup>

It can be beneficial for a smaller company to partner with UWSA-linked companies as they have a lot of capital, a good relationship with both the KIA and the Tatmadaw, and can provide security. In these cases, the smaller company may only get 25% or 40% of the profits. Larger companies have been known to take advantage of such arrangements as well.<sup>57</sup>

One jade miner explained to Global Witness that consortia mining was common even before the licensing suspension, motivated by the short duration of licences handed out

Dumptrucks at dusk outside of a mining site in Lone Khin, Hpakant in 2019. According to local miners, this site was being shared by nine companies in one such informal consortium. *Global Witness / M.O.*



by the government. The arrangement can include several companies, he said, with the licence holder collecting around 20% of the profits while the other firms provide the machinery and manage logistics: “You might bring in other companies and mine day and night to extract as much as possible [before your licence expires].”<sup>58</sup>

In a meeting with Global Witness in 2019, MGE denied that such informal mining consortia were illegal under Myanmar’s gemstone laws.<sup>59</sup> Speaking to the media in 2019, U Thet Khine, deputy manager at MGE, suggested that companies simply “hiring” machines and workers from other entities were not necessarily breaching the law.<sup>60</sup> However, the law clearly stipulates that companies may “not sub-lease or in any way transfer the licence obtained”,<sup>61</sup> which, along with reports of profit sharing arrangements, makes it difficult to accept this argument.

With the new gemstone law restricting licences to a maximum of three years, incentives to mine quickly, cut corners and ignore licence expiration are likely to persist. The prevalence of business practices that, at best, skirt the edge of legality on such issues shows how easy it was for companies to undermine reform efforts in Hpakant by simply ignoring them.<sup>62</sup> Moreover, vigorous prosecution of violations was never likely to happen – why would Tatmadaw commanders, who control Myanmar’s police, allow them to investigate crimes being committed by companies under their control?

## Hiding companies in plain sight

The existence of informal mining consortia and prevalence of dangerous mining practices shows that companies have been willing to push the boundaries of legality and safety in order to maximise profits. This investigation also uncovered evidence that companies



and stakeholders within the industry have actively resisted the reform process.

Corporate behaviour was already evolving in response to changing legal requirements. According to well-placed sources, large companies planned to sidestep mining plot restrictions by setting up multiple smaller companies and amalgamating their licences into larger mine sites.<sup>63</sup> In August 2020, Global Witness heard from an industry insider that corporate entities had taken advantage of the electronic registration required by DICA in 2019 to restructure their corporate structures and make their companies harder to connect to one another. The strategy was to increase the number of associated companies while decreasing the number of directors at each company. This meant that a corporate network would have fewer overlapping company officers, and would therefore be more difficult to tie together.<sup>64</sup> It underscores the importance of expansive and robust beneficial ownership disclosures, with severe penalties and other incentives to ensure quality, accuracy and compliance.

Several old and notorious jade entities – including some previously exposed by Global Witness investigations – have still not re-registered on Myanmar’s company registry as required by law. Myanmar Takaung Gems, an alleged front company for the drug trafficker, Wei Hsueh Kang, is one of them. Its affiliated company Myanmar Takaung Trading announced plans to enter into liquidation shortly after re-registering with DICA.<sup>65</sup> Former Senior General Than Shwe’s company, Myanmar Naing Group,<sup>66</sup> has been suspended for failing to file its annual return, according to DICA’s website.<sup>67</sup> It’s an open question whether these companies, or those who control them, will re-emerge in new guises, with new directors or with some other attempt to evade or exploit governance weaknesses.

The challenge in developing effective transparency regimes – regimes to not only expose but also unwind the unsavoury business networks present throughout Myanmar’s gemstone sector – became apparent in early 2020. At this time, new rules on beneficial ownership disclosures for the extractive sectors came into force, requiring 162 companies to disclose their ultimate or real owners. Global Witness conducted an analysis of these disclosures, revealing significant gaps in the push for transparency.<sup>68</sup> Over 25% of the companies covered (41 of 162) either made their disclosure late or failed entirely to make any disclosure, undermining the credibility of the data and reporting requirements. A further 21 companies made filings that were potentially incomplete or inaccurate, including 10 that failed to disclose their beneficial owners as “politically exposed persons.” Even when companies disclosed their beneficial

owners, understanding who these people were and their links to conflict actors and senior government officials remained a major challenge due to enforcement and implementation constraints.

Even more troubling for jade industry transparency is that only 84 of Myanmar’s jade and gem companies – albeit the industry’s 84 largest tax payers – fell within the scope of these disclosures; that is, 84 out of as many as 2,600 registered jade and gems companies in Myanmar in total. The fact that only the largest taxpayer companies were included also means that companies who smuggle vast amounts, and therefore pay less in taxes, may not be covered, giving companies a further incentive to under-report revenues and evade taxes.<sup>69</sup>

Once again, military and military-allied companies were among the worst performers. Military conglomerate MEC simply never disclosed any information, without ever publicly disclosing why.<sup>70</sup> MEHL, too, filed only a partial disclosure, neglecting to include required information about its shareholding and leadership structure.<sup>71</sup> Max (Myanmar) Manufacturing Company, owned by the tycoon Zaw Zaw, a former ally of the military with close ties to Than Shwe’s grandson, similarly failed to make a disclosure, while Kyaing International Gems Company Limited, owned in part by Than Shwe’s son, failed to note that close connection, as would be required.<sup>72</sup> To the best of Global Witness’ knowledge, none of these companies were sanctioned in any way for ignoring government transparency directives.

### **Resisting Reform**

Powerful jade figures have openly pushed back against beneficial ownership disclosures and the vast majority of jade companies still do not publish their tax and revenue data.

Efforts by powerful actors to weaken gemstone and natural resource governance rules have spilled into the open within the industry’s formal governance bodies. Both industry and government insiders told Global Witness about efforts by powerful industry figures to frustrate or weaken the EITI’s implementation in Myanmar, in particular the development of a robust beneficial ownership disclosure regime, as well as efforts to weaken or prevent the adoption of a new gemstone policy.

Jade and gemstone sector reform was always going to be difficult. However, the resistance to reform by powerful actors within the industry, along with changing dynamics on the ground in Hpakant empowering local actors to ignore restrictions and engage in corruption for personal benefit, made it even less likely that reforms would be effectively implemented.

## STATE WATCHDOG MGE KEEPS COSY INDUSTRY TIES RIFE WITH CONFLICTS OF INTEREST

MGE, whose senior leadership is dominated by former military officers, is responsible for overseeing and enforcing Myanmar’s jade regulations. It is implicated in conflicts of interest linked to licensing and illegal mining.<sup>79</sup> Companies make sure to maintain close relationships with senior officials at MGE, including former MGE Managing Director Aung Nyunt Thein, who according to multiple sources, retired in late 2019.<sup>80</sup>

Aung Nyunt Thein was reportedly friendly with several powerful jade businessmen, including the aforementioned Zaw Bo Khant. Wa-linked entities have been accused of mining without a licence and as part of informal consortia in Hpakant since 2016. Aung Nyunt Thein and Zaw Bo Khant are frequently seen on the public-facing Facebook page of the latter, for example travelling business class to an international jade and gemstone event shortly after the retirement of the former head of the regulatory agency, enjoying a holiday, playing golf and renovating a pagoda together.<sup>81</sup> That the former head of an important regulatory body would not hide his cosy relationship with a key industry figure demonstrates the brazen level of impunity that powerful industry figures possess. It also highlights the conflicts of interest afflicting MGE.

A government official told Global Witness of concerns about the conflicts of interest at MGE and its parent ministry MONREC, saying “they don’t want to take action against the companies because they benefit from the mining themselves.”<sup>82</sup> Another industry-connected figure accused MGE of “lying” about the level of illegal mining going on in Hpakant.<sup>83</sup>

Observers of Myanmar’s EITI process privately expressed concerns about MGE pushing back against gemstone governance reforms being proposed, especially any changes that would erode its control over jade regulation. For example, MGE has been accused by EITI insiders of resisting the creation of a mining cadastre, a separate administrative entity with oversight of all mining licences in Myanmar.<sup>84</sup> One knowledgeable source said Zaw Bo Khant acted as an intermediary for MGE as part of these negotiations, including arguing against efforts to include gemstones in the mining cadastre and pushing back against foreign ownership on behalf of his allies at MGE.<sup>85</sup> Another observer described MGE as “controlled” by powerful figures in MGJEA due to Myanmar’s crony economic system.<sup>86</sup>

MGE also has close ties to Myanmar’s military. One source described how, during previous junta rule, MGE officials were “like clerks to process requests from military companies.” The source went on to say that “licensing decisions were made by the military council, so it was actually the military who made the decisions, and then MGE facilitated the administrative process.”<sup>87</sup>

When contacted for comment, both MGE and Zaw Bo Khant did not respond.



Zaw Bo Khant's public Facebook page

## Zaw Bo Khant

Zaw Bo Khant, the suspected frontman for Wa narcotics trafficker, Wei Hsueh Kang, whose role in the jade industry was revealed by Global Witness in 2015, remains a key player.<sup>73</sup> Zaw Bo Khant served on the MEITI multi-stakeholder group as vice-chair of the Myanmar Gems and Jewellery Entrepreneurs Association (MGJEA), has close ties to bosses at the jade mining regulator MGE and is well-known for leading opposition to implementing beneficial ownership reforms in Myanmar.<sup>74</sup> Multiple sources told Global Witness that he lobbied to remove any reference to the EITI – a global transparency standard that requires beneficial ownership disclosures by extractive companies – from Myanmar’s draft gemstone policy.<sup>75</sup> One observer suggested that he likely took on his current role as a member of Myanmar’s EITI process merely in order to frustrate it.<sup>76</sup>

“He and other private sector representatives were very threatened by the beneficial ownership process and the information that could come out,” said the source.<sup>77</sup> Another observer noted that Zaw Bo Khant became very adept at disrupting the meetings of the multi-stakeholder group in charge of implementing EITI in Myanmar.<sup>78</sup>

This resistance underscores the significant conflicts of interest that exist even within the institutions and processes driving reform within Myanmar’s jade mining sector.

### ***Ignoring root causes of conflict***

The above dynamics, haphazard reform, growing cooperation between adversaries, flourishing corruption and bureaucratic resistance, were all important factors that hindered the NLD’s reform programme. Yet even had none of those dynamics been present, the NLD’s jade-sector reforms would still likely have fallen short. This is because none of the reforms targeted the true foundation of the jade-conflict nexus itself, namely: the enduring role of the military and armed groups in the jade sector, the ongoing failure to translate the resource wealth of Kachin State into benefits for its residents, and the massive financial stakes for all those involved. The result has been the continuation of conflict – something the coup is certain to exacerbate in the near future.

A concerted effort to tackle the roots of the jade-conflict nexus would have required real progress in advancing efforts to achieve a genuine, lasting and inclusive peace. Myanmar’s Nationwide Ceasefire Agreement (NCA), an agreement signed between the central government and a number of ethnic armed organisations in 2015, formed the negotiating framework for the country’s peace process. Despite the NCA’s many flaws, Aung San Suu Kyi and the NLD continued using it as the vehicle to end the country’s decades-long civil conflicts. Again, however, the Tatmadaw’s actions made this extremely difficult.

### **Conflict continues in Northern Myanmar**

In December 2018, a new conflict emerged in Rakhine and Chin States, which subsequently experienced some of the most intense fighting that Myanmar has seen in decades.<sup>91</sup> The Tatmadaw was locked in conflict with the Arakan Army (AA), which the government had designated as a terrorist organisation.<sup>92</sup> The Tatmadaw periodically announced unilateral ceasefires over the three years prior to the coup that specifically excluded Rakhine State, and thus the AA. While the Tatmadaw rarely honoured these ceasefires for long in any case, the AA’s usual explicit exclusion from them reflected the intensity of ongoing conflict between the two entities.<sup>93</sup> By the end of 2020 conflict in Rakhine had reportedly left between 130,000 and 230,000 civilians displaced and nearly 1,000 dead or seriously injured.<sup>94</sup> Meanwhile, the NLD government maintained a year-long internet shutdown in these conflict areas throughout 2020 as part of efforts against the AA.

The coup has turned this dynamic on its head. Just over one month after the coup, the military-run State Administration Council (SAC) removed the ‘terrorist’ designation from the AA and has since continued to honour a ceasefire proposed by the AA shortly after the November elections.<sup>95</sup> The AA has also been relatively silent about the military’s actions in the wake of the coup, declining to protest the coup itself and condemning only the killing of innocent people around the country.<sup>96</sup> The result has been that Rakhine State, unlike the rest of the country, has remained relatively peaceful since the coup. This peace remains uneasy, however. The AA reportedly joined allies in attacks on the Tatmadaw that killed at least eleven soldiers in Kutkai township, northern Shan State, in late May.<sup>97</sup>

Meanwhile, in Kachin and northern Shan State, ongoing conflict entered its tenth year even before the coup. In Northern Shan, the military continued to commit atrocities against the civilian population that a 2019 report by *Amnesty International* described as “relentless

## Crimes against the Rohingya

Aung San Suu Kyi's commitment to peace was tested just months after her government took office when the Tatmadaw launched a brutal counterinsurgency campaign against the Rohingya Muslim minority in Myanmar's western Rakhine State. A subsequent military campaign in 2017 saw thousands of Rohingya raped and killed and over 700,000 people driven from their homes into Bangladesh.<sup>88</sup> This assault sparked international condemnation and attempts to hold those responsible to account.

An international criminal investigation into allegations of genocide was brought by the Gambia before the International Court of Justice. The International Criminal Court has also approved an investigation into some of

Myanmar's alleged crimes against the Rohingya and a universal jurisdiction legal case is ongoing in Argentina's Federal Court. Meanwhile the United States, European Union and other countries have adopted sanctions against high-ranking military officials. The UN Human Rights Council-established Independent Investigative Mechanism for Myanmar is also presently collecting evidence of the most serious international crimes and violations of international law, and is preparing files for criminal prosecution.<sup>89</sup>

Not only did the civilian government fail to protect the Rohingya, but Aung San Suu Kyi even travelled to The Hague in late 2019 to defend the Tatmadaw against accusations of genocide at the International Court of Justice.<sup>90</sup> The government also seemed powerless to stop fighting elsewhere in the country.

**A Rohingya refugee boy (front) carries a chicken as he walks back to his makeshift house in Jamtoli refugee camp in Ukha in 2019. Hundreds of thousands of Rohingya have been living in refugee camps in Bangladesh following a brutal military campaign by the Tatmadaw in 2017.**

*Munir Uz Zaman / AFP via Getty Images*



This camp on the KIA-controlled road between Laiza and Mai Ja Yang was originally meant to be a temporary refuge for Kachin people displaced when fighting between the KIA and Tatmadaw resumed in 2011. Nearly ten years later, it still houses around 5,000 people – one of many camps in KIO territory that have become semi-permanent as fighting has dragged on. *Keel Dietz / Global Witness*



and ruthless.”<sup>98</sup> Tatmadaw units frequently detained civilians, subjecting them to arbitrary arrest, extortion, forced labour and torture.<sup>99</sup> Ethnic armed groups fought back. Intense fighting broke out in Shan State in August 2019 when members of the Northern Alliance, a coalition of ethnic armed groups, attacked a military training academy in Pyin Oo Lwin and a bridge on an important trade and jade smuggling route into China, among other targets, leading to major transport disruptions.<sup>100</sup>

Natural resource-driven conflict in Kachin State also continued, leading to distress and displacement for people living there. In 2018, the Tatmadaw launched fresh offensives into amber and gold mining areas in Tanai Township, north of Hpakant, intended to cut off a lucrative source of KIA funding, but also trapping thousands of civilians in an active conflict area.<sup>101</sup> Fighting likewise continued in other parts of Kachin and Shan States as the Tatmadaw and its allied groups pushed to expand their control to secure development projects and cut off access to resources that provide income to ethnic armed groups. Post-coup conflict dynamics are discussed in detail in the next section.

The fighting in Kachin and Shan States also led to further displacement of local villagers who fled fighting between the two groups. As of 31 March 2021, there were over 104,000 internally displaced persons at 169 sites across Kachin and northern Shan States.<sup>102</sup> In KIO/A controlled areas, the government had blocked all humanitarian aid for internally displaced people after conflict reignited in 2011, before allowing some material and equipment to enter only in response to the threat of COVID-19 in 2020.<sup>103</sup>

## Resigned to an elusive peace

Rather than taking a fresh approach to resolving these conflicts, the NLD continued to push ahead with the NCA despite the fact that the peace process had largely ground to a halt even before the February 1 coup.<sup>104</sup> One expert close to the process said that Aung San Suu Kyi had privately abandoned hopes of a more ambitious ceasefire agreement, edging her party line closer to the Tatmadaw’s. Meanwhile, ethnic armed groups and civil society had become increasingly frustrated by the lack of progress on structural reforms.<sup>105</sup>

In fact, while the NLD appointed Aung San Suu Kyi’s personal physician Tin Myo Win to lead the peace process, he was reportedly rarely involved in actual negotiations, which were being led instead by former military officers, primarily retired Lieutenant-General Khin Zaw Oo and U Zaw Htay, a former Tatmadaw major who became director general of the State Counsellor’s Office.<sup>106</sup>

In November of 2020, shortly after the election, the Tatmadaw announced the formation of a new “Peace Talks Committee” meant to lead further ceasefire negotiations. Notably all five members of the committee were active-duty Lieutenant Generals.<sup>107</sup> Myanmar’s peace process will never truly be credible as long as the Tatmadaw continues to lead negotiations – a fact borne out by the February coup.

## Jade, conflict and peace

With violence spiralling, it was more important than ever to disentangle the links between jade revenues and conflict that are helping to fuel the fighting. Instead of pushing a limited NCA through negotiations led by the same Tatmadaw responsible for murdering civilians around the country, the government should have committed to pursuing a more comprehensive peace deal that prioritised a political solution and considered the role of natural resources in Myanmar’s conflicts. This includes jade, which, as this report shows, can be tied directly to armed groups, including the Tatmadaw, that commit human rights abuses and exploit vulnerable populations around the country.

The jade business still denies significant benefits to the population of Kachin State. Instead, it enriches powerful opponents of political reform who stand to lose a great deal of money and power in the event of a peace agreement that establishes genuine natural resource federalism and leads to the more equitable management and distribution of Kachin’s jade riches. These groups and individuals include politically influential retired generals whose families own jade mining companies, retired officers with stakes in army

Only a fraction of the profits from Hpakant's jade mines make it into the surrounding villages. Instead, local residents are left with permanently altered landscapes, as with this abandoned mining pit that has turned into a lake. *Global Witness / M.O.*



companies, serving Tatmadaw officers skimming off substantial sums via extortion and bribery, and a myriad of ethnic armed groups and militias who also benefit from the jade trade. As this report reveals, they are also likely to include the family of the commander-in-chief of Myanmar's armed forces, Senior General Min Aung Hlaing, who is now effectively the most powerful person in Myanmar. These powerful figures have the financial incentive, and in some cases the political reach, to refuse the economic and political concessions that would be required to build a durable peace, further demonstrating the tension between profit and peace.

Mismanagement of the jade business also fuels the mistrust that many in Kachin State, who see state institutions as drivers of conflict and takers of resources, feel towards the national government – whether civilian or military. Local people know that their homeland holds one of the greatest natural treasure chests within the boundaries of Myanmar. They are equally aware that their share is, at best, mere crumbs from the table, and that the spoils are being devoured by others who are actively engaged in armed conflict with their ethnic brethren. This is not the main reason people take up arms and fight the government, but it is a significant part of the overall Kachin nationalist narrative of why centralised government control must be resisted.

None of this is to suggest that Myanmar's half-century-long conflict is only about jade. It is driven by a range

of causes – old and new – many of them connected with the aggressive centralisation policies of successive governments in Myanmar, and the growth of Kachin nationalism in response. But jade is important, and natural resources are deeply enmeshed in Myanmar's complex illicit and conflict economies. Much of the country's remaining natural resource wealth – minerals, gas, forests and rivers with hydropower potential – is in ethnic minority territories and areas populated by indigenous peoples on the country's periphery where the Myanmar government has historically had little or no administrative function or control.<sup>108</sup> It is unlikely that a peace agreement that does not adequately address the question of who controls and benefits from it will be a lasting one.

### 1.3 Jade after the coup

As outlined above, early 2021 found the NLD looking to begin a second term in office having initiated half-implemented jade sector reform efforts characterised by a lack of coordination, resistance from stakeholders within the industry and a failure to grapple with some of the core issues driving the jade-conflict nexus. Reforms were further hampered by individual and collaborative efforts to undermine them that had ushered in a period of even deeper corruption and opacity in the sector.

Instead of allowing it an opportunity to pursue further reforms, on 1 February 2021, the Tatmadaw took control of the Myanmar government's functions, arresting NLD leaders and activists, and diverting the country down a path that *International Crisis Group* has warned puts Myanmar on the brink of "state collapse."<sup>109</sup> This outcome remains a real possibility at time of writing.

The events of February 2021 have now effectively thwarted previous hopes of reform and opened the door to jade-sector predation reminiscent of the pre-reform era and past military rule. What follows will outline the emergent risks to the jade sector in light of the coup, how efforts to contain the military interact with the jade sector, and the implications of renewed military rule for conflict in the jade sector as a whole.

A full account of the causes and impacts of this political crisis lies beyond the scope of this report, but it is clear that the coup will have significant implications for the future of the jade industry. Already dominated by the military and armed groups, there is a real risk that the military will now look to further exploit the resource for its own ends. It is particularly well-positioned to monetise jade for some much needed liquidity, as well as to influence armed groups. The Tatmadaw is now in total control of awarding licences and other key decisions through

Myanma Gems Enterprise (MGE), which is responsible for revenue collection, is the main entity in charge of industry oversight, and acts as a commercial actor in joint ventures on larger mining concessions. If the military is able to consolidate its governing authorities and assert effective administrative and military control, there is a high risk that jade will simply provide it with further financing.

### ***Control over licensing risks renewed corruption***

MGE control of the licensing process is especially important. As the *Natural Resources Governance Institute* has pointed out, the bidding process for acquiring mining licences is alleged to be rife with bribery due to the fact that bids for licences are confidential.<sup>110</sup> In the past, this has opened up opportunities for well-connected individuals and entities, especially those connected to the military, to secure preferential access to the best mining plots, and for bribes to ensure that they can receive those licences without worrying about open competition in the bidding process.<sup>111</sup>

The government had not restarted licensing as of May 2021. However, sources told Global Witness that there was considerable pressure from industry groups for the NLD government to finalise the gemstone regulations and re-start licensing even prior to the coup.<sup>112</sup> Now there are serious concerns that the military will simply re-open the licensing process, reaping a windfall in bribes and doling out access

to the best jade mining plots to allies in exchange for loyalty and political support, while denying licences to enemies and those who show insufficient loyalty to the military regime. This is exactly what the military junta did between 1994 and 2016; it stands to reason that this trend will continue now that it once again controls this key bureaucratic function and is in desperate need of revenues to maintain support and fund its activities.

If the military regime does restart licensing, it is unlikely to meet with much resistance from within MGE. Long considered a bastion of military support within the government bureaucracy, MGE's leadership is almost entirely composed of former military officers.<sup>113</sup>

### ***Jade will be an important source of revenue for the military***

Licensing is not the only place where the military and its affiliated companies can make money in the jade industry. In April 2021 the military held a ten day Pearl and Gems Emporium to allow companies to sell their pearl, gemstones and jade in lot auctions in Nay Pyi Taw. The annual emporium, normally a significant source of revenue for Myanmar's government, was cancelled in 2020 due to the COVID-19 pandemic. Under the old military junta, emporiums were tightly controlled as a crucial source of foreign currency, and according to Myanmar's EITI

## **Government after the coup**

Numerous organisations and entities seem to have popped up following the coup, both to consolidate the military's power and to oppose it. In order to – as the U.S. Treasury put it – “support its unlawful overthrow of the democratically elected civilian government,” the Tatmadaw created the State Administration Council to oversee governance of the country.<sup>114</sup> Tatmadaw leader Min Aung Hlaing chairs the SAC, which has given itself the authority to appoint members of the post-coup military government.

A number of entities have risen up in opposition to the SAC and the coup. Individuals and entities opposed to the coup are now collectively referred to as the Civil Disobedience Movement, or CDM for short. The CDM was started by government workers refusing to work for a military-led government and going on strike in an attempt to undermine military administration.<sup>115</sup> It has since grown to include both direct and indirect protests,

from street actions and an ongoing general strike to boycotts of military products and services.

After the coup, a group of NLD lawmakers formed the Committee Representing the Pyidaungsu Hluttaw (CRPH) to push back against the military's claims of legitimacy, and issue announcements and statements on behalf of Myanmar's deposed lawmakers.<sup>116</sup> On 16 April, the CRPH announced the formation of the National Unity Government (NUG), a shadow government opposed to the military's SAC that includes representatives from some ethnic minority groups and other activists, in addition to NLD members.<sup>117</sup>

Although it claims to be the legitimate government of Myanmar, the NUG has yet to gain official recognition from members of the international community. The SAC, too, had been denied widespread international recognition as at time writing, though the United States has placed sanctions on the SAC's entire membership.<sup>118</sup>

reports they earned the government hundreds of millions of dollars in (mainly euro denominated) sales annually. This most recent emporium, which took place in kyat, Myanmar's national currency, was not quite so successful. State media reported the 10-day event to have raised only around MMK 31.6 billion, or approximately US\$22 million, in total sales.<sup>119</sup>

Shortly before the start of the emporium Tin Tun Naing, the NUG's Acting Union Minister for Planning, Finance and Industry, announced that the emporium was illegal. In doing so, he declared that any Myanmar company found participating in it would be blacklisted and banned from doing business in the future.<sup>120</sup> This pronouncement, and general uncertainty in the country, appear to have had an effect on attendees. Sources with direct knowledge of the emporium informed Global Witness that only companies affiliated with the military attended. While this may have limited earnings for the regime to far below their normal amount this year, there is no guarantee that companies will stay away in the future. Additionally, while US\$22 million in sales may not be a large sum for the military as an institution, portions of that revenue undoubtedly went to companies owned by individual officers, for whom the emporium may have proved extremely lucrative.

### Stemming the flows

While the jade industry represents an important potential ongoing source of funding for the military, and personal wealth for officers and military allies, the coup has the potential to change the international viability of Myanmar's jade and gemstones. Prior to Myanmar's partial democratisation, the US banned all imports of jade and coloured gemstones from Myanmar through the Tom Lantos Block Burmese JADE (Junta's Anti-Democratic Efforts) Act of 2008.<sup>121</sup> These restrictions were waived by US President Obama in 2016 as part of the removal of most remaining economic sanctions on Myanmar. Although the industry remained under military control, there were efforts to rehabilitate the reputation of Myanmar jade and gemstones on international markets.<sup>122</sup> The 2017 atrocities committed by the Tatmadaw against the Rohingya, and Aung San Suu Kyi's defence of the military at the Hague, derailed these rehabilitation efforts, though the gemstone trade and import bans from earlier years were not reimposed.

Now, the coup has sent the international community scrambling to reimpose old sanctions and find ways to prevent the military regime from funding itself. The United States, United Kingdom and European Union have all placed sanctions on the two military conglomerates, MEC and MEHL, and their subsidiaries, making it illegal

for individuals and entities from those places to do business with those companies.<sup>123</sup> The U.S. and UK have additionally placed sanctions on MGE itself, further limiting the potential for jade and gemstones to make it directly onto U.S. markets.<sup>124</sup>

The recent emporium is a good example of the potential impact of sanctions on the military. Normally, emporiums are conducted in both kyat and euros, with the vast majority of sales made and settled in euros – an important source of foreign currency for the government. However, despite the fact that the military's foreign currency reserves have run low, this emporium was conducted exclusively in kyat without allowing additional sales in euros. The military did not say so directly, but it is likely that this decision was made at least in part due to fears of the impact of sanctions on the government's ability to collect earnings from the emporium. Countries around the world should follow suit in banning Myanmar jade and gems at this time, given the Tatmadaw's firm grip on the formal gemstone sector.

## Other natural resources at risk of exploitation

The risk that the military will help fund its oppression of the people of Myanmar by exploiting natural resources is not limited to jade. Myanmar's gas industry represents the largest single source of foreign currency for Myanmar's government – money that is also now at risk of being looted by the military and the SAC.<sup>125</sup> The international community should target all of these resources with sanctions, in particular the Myanma Oil & Gas Enterprise, Myanmar Timber Enterprise, Myanmar Pearl Enterprise, Mining Enterprise No. 1 (lead, zinc, silver, copper, iron, nickel, chromite and antimony) and Mining Enterprise No. 2 (gold, tin, tungsten, rare earth, titanium and platinum) – the state-owned entities that play a similar role to MGE in their respective industries. It is up to the international community to limit the amount of funding the military can receive from selling Myanmar's natural resources by preventing the import of those resources and blocking financial transactions that pay for them.

As important as the above sanctions have been, section 3.2 of this report will show that the overwhelming majority of jade is in fact smuggled out of Myanmar directly into China without ever entering the formal



system, including Myanmar's jade and gemstone emporiums. This means that the US\$20 million of revenue generated by the recent emporium is undoubtedly a dramatic underestimate of the sums that the military could potentially earn from jade post-coup. Underscoring the importance of cooperation in making sanctions effective, is the reality that Western countries targeting gemstone revenues are likely to have less impact on the Tatmadaw's overall finances than action by China, where up to 90 percent of jade is exported illegally.

### ***Jade conflict escalated***

The greatest impact of the coup on the jade industry, however, may come from the potential for escalated fighting in Kachin State to completely reshape the political geography of Northern Myanmar. As outlined in section 1.3, while fighting between the Tatmadaw and the KIA throughout parts of Kachin State during the NLD's reign continued, Hpakant itself remained relatively free of large-scale conflict. As one industry figure put it to Global Witness:

**“Hpakant is a no-fighting area – it's a making money area”.**<sup>126</sup>

This has changed since the coup. Fighting has taken off across Kachin State, with significant clashes taking place in and around Hpakant itself. After the coup, the KIO/A warned the Tatmadaw to halt attacks on civilian protestors or face retaliation. The attacks did not cease: by May 2021, over 800 protestors had been murdered by the military since the start of the coup, including at least 16 in Kachin State alone.<sup>127</sup> According to one conflict analyst, this has led the KIO/A to step up the intensity of its operations against the Tatmadaw to levels not seen since 2013.<sup>128</sup> The KIO/A has retaken outposts along the Chinese border and instigated multiple attacks against police stations and military units in and around Hpakant itself.<sup>129</sup>

There have also been multiple reports of the KIO/A specifically targeting military-linked companies in Hpakant, including setting fire to a factory owned by the Yuzana Company, a military-linked entity embroiled in controversy after reportedly confiscating over 300,000 acres of land in Hpakant and Tanai townships since 2006.<sup>130</sup>

Fighting has spread to jade-mining areas outside Hpakant as well. On 22 May the KIO/A reportedly attacked police outposts in Hkamti, a township in Sagaing Region near the border with India that also has jade mines, though the extent of the fighting remains unclear.<sup>131</sup>

The explosion of fighting around Hpakant and other jade areas shows just how important the wealth contained in the

Protestors holding the flags of Shan, Ta'ang and Kachin ethnic groups protest in Lashio, Shan State on 24 February, 2021. Lashio lies along a key trade and jade-smuggling route between Mandalay and Muse, an area that has seen significant fighting since the coup. *Mine Smine / SOPA Images / LightRocket via Getty.*



mines in Hpakant is to both the Tatmadaw and the KIO/A. It is a sign of what the future could look like if the military does not return power to a civilian government motivated to find a solution to Myanmar's civil wars. It is possible that the KIO/A could retake control of Hpakant, particularly if Tatmadaw soldiers continue to be deployed at scale to put down protests in urban centres. However, even if it does, this is unlikely to lead to long-lasting peace. Indeed, the Tatmadaw fought to take control of Hpakant in the 1990s, and if it is able to retain power in Myanmar there is no reason to believe that it would not prioritise taking back the mines in a desire to cut off critical resources to the KIO/A, reward itself, and use jade riches to divide opposition and buy loyalty. Additionally, a takeover by the KIO/A would bring its own set of problems. While the KIO/A likely has more local legitimacy than the Tatmadaw, as the next chapter will show, the KIO/A has also played a role in the deterioration of conditions in Hpakant over the past five years.

Another possibility is that the Tatmadaw maintains power and is able to fight off the KIO/A's attempts to retake Hpakant. This could lead to a re-emergence of pre-coup dynamics whereby the Tatmadaw and the KIO/A maintain an uneasy truce in Hpakant to allow both to continue profiting from jade. It could also lead to further fighting if the Tatmadaw decided that it was no longer willing to cooperate with the KIO/A in Hpakant.

Global Witness has been unable to confirm the extent to which this fighting has disrupted jade mining operations in Hpakant, though sources suggest that mining has slowed somewhat since the coup. More clear is the impact of fighting on the movement of jade into China. One source informed Global Witness that the Chinese border crossing from Muse to Ruili was periodically closed in late May and early June due to fighting along the road from Mandalay, halting the jade trade entirely.<sup>132</sup> Continued fighting along the border could make border shutdowns a regular occurrence, which could be just as disruptive to the jade trade as fighting in mining areas.

## 2. ARMED GROUPS HOOKED ON JADE REVENUES

**“If there is peace, they can’t make money out of it.” – a jade trader<sup>133</sup>**

As outlined in Chapter 1, Myanmar’s jade-conflict nexus continues unabated despite attempts at governance reform. Myanmar’s gemstone sector remained, and continues to be, firmly under the control of men with guns – key among them, senior officers and officials enriched by profits from the jade trade. Meanwhile, mining areas remain lawless moonscapes of desperation, drugs and danger. The February coup will only serve to reinforce these dynamics.

Section 1.2 highlighted that one of the fundamental obstacles to unwinding the jade-conflict nexus is the threat posed by an equitable peace deal to the substantial financial interests of powerful forces in the jade sector. This applies particularly to the Tatmadaw, which still earns significant revenues through its economic empire and whose dominance of the jade sector and privileged access to a plethora of related revenue streams, discussed in the next section, are key drivers of conflict.

While it is the most prominent, the Tatmadaw is not the only armed group engaged in exploitation of the jade sector. New evidence gathered by Global Witness shows how jade revenues are also linked to three of the most powerful ethnic armed groups in Myanmar: the KIO/A, the AA and the UWSP/A.

For at least two of these groups, the KIA and the AA, jade revenues are clearly used to finance their ongoing conflicts with the Tatmadaw. There are also legitimate questions to be raised regarding the role of jade revenues in financing UWSP/A operations, given the involvement of its senior leadership – including Wei Hsueh Kang – in mining activities.<sup>134</sup> Certainly, Wa companies have in the past used the group’s name to strong-arm other firms into partnerships or revenue sharing deals, suggesting a more formal relationship between the UWSP/A and jade mining.<sup>135</sup>

Regardless, all three armed groups’ mining interests are important factors in Myanmar’s ethnic conflicts. The remainder of this chapter will outline the extent and significance of these links for each actor, illustrating the complexity and deeply entrenched nature of such exploitation.

### 2.1 The Tatmadaw profits from control over mining

**“The rationale of the military is that war is huge business. That’s why military officers including colonels and officers are very rich. Soldiers are paying with their lives in the war.” – a jade businessperson<sup>136</sup>**

The Tatmadaw’s involvement in the jade industry includes its ownership of companies linked to powerful retired military officers, including Myanmar’s former dictator, Than Shwe, and his family; the former minister and Northern Commander, Ohn Myint; and former minister, Maung Maung Thein.<sup>137</sup> Other companies operating in Hpakant are owned by or tied to senior government officials, military officers or their family members. Large crony conglomerates with military links and chequered pasts, who built their empires by exploiting these close connections, such as Kanbawza Group, Ruby Dragon and Asia World, have all had profitable stakes in jade mining.<sup>138</sup>

Tatmadaw officers stationed in Kachin State are also reported to have made fortunes by extorting jade businesses, highlighted by reports of huge payments to secure such postings and the opportunities for profit that holding them entails.<sup>139</sup> This has occasionally led to shake ups in regional commanders, though seemingly only when commanders fail to pay bribe money up the hierarchy.<sup>140</sup>

#### ***MEC and MEHL in the jade industry***

For decades, the Tatmadaw has had extensive formal business interests across the economy, primarily through its control of two military companies: MEC and MEHL.<sup>141</sup> These two companies, and especially MEHL, run jade and ruby mining subsidiaries that collectively control more mining licences than any other entity in Myanmar. They have also enjoyed special privileges, with preferential access to mining licences covering the best quality jade in the best plots.<sup>142</sup> Global Witness’ previous investigations have shown that *de facto* joint ventures with military

conglomerates effectively operate as a parallel licensing system to the official one.<sup>143</sup>

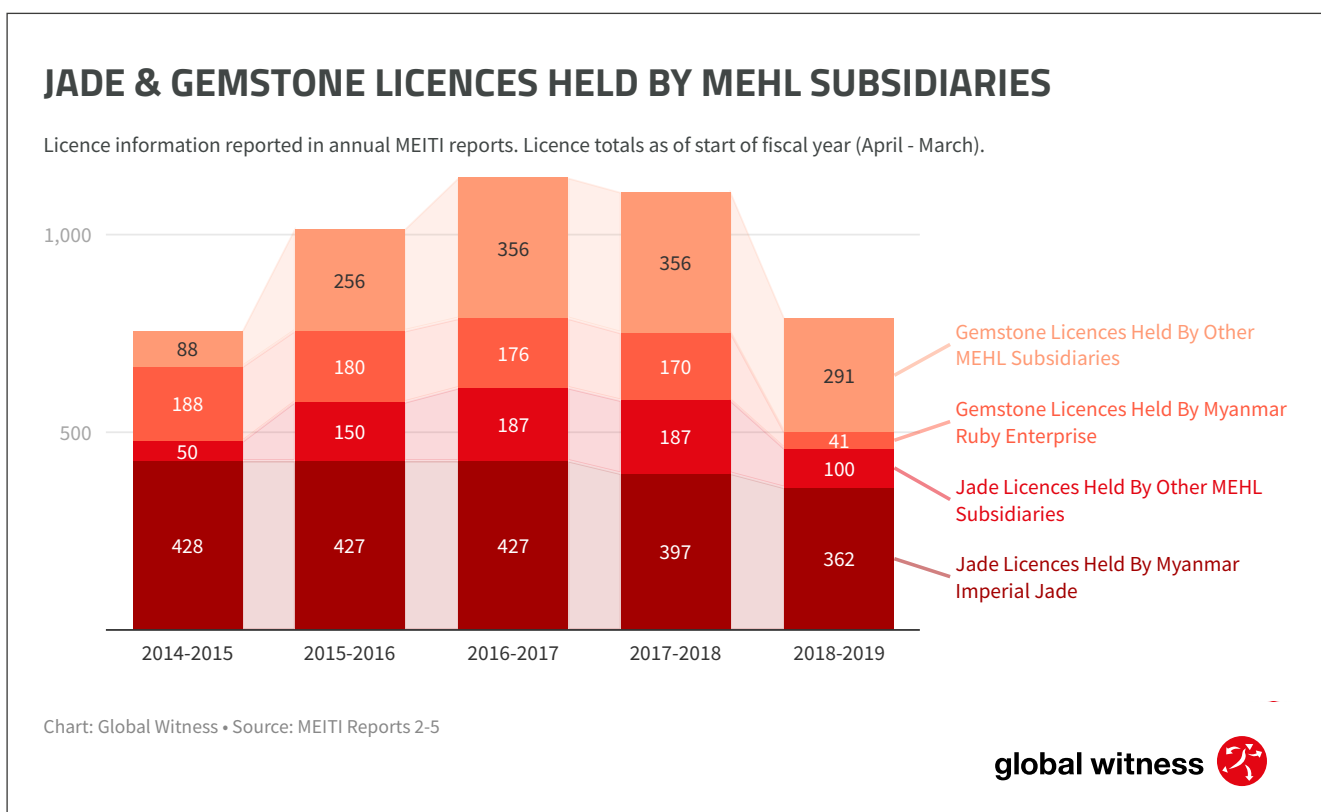
At the time of the 2016 licensing suspension, MEHL held over 600 jade and over 500 ruby mining licences – most through subsidiaries, Myanmar Imperial Jade and Myanmar Ruby Enterprise. This number represented a 13% increase in titles from the year before, and its 1,146 licences that year were over 50% more than the 754 it held in the financial year 2014-2015.<sup>144</sup>

Of the 1,110 active licences that MEHL subsidiaries possessed at the start of the financial year 2017-2018 (all included in the fifth MEITI report), 639 (58%) were granted in the first two months of 2016. This means that over half of MEHL’s licences were renewed in the months following the NLD’s victory in the November 2015 election but before the NLD took power in March 2016. This would represent a massive windfall for the military companies, as such a large number of jade plots would have been extremely valuable. Global Witness has previously reported accusations that MEHL does not actually operate mines but instead enters into profit sharing arrangements or joint ventures with other companies. This means that after acquiring a licence, MEHL incurs little further cost while reaping the benefits for years.<sup>146</sup>

This timing also raises serious questions about possible corruption and whether the military-linked conglomerates received preferential treatment by the outgoing military-dominated government and the licensing bodies it controlled. These curious licensing awards reaffirm the importance of transparency in the allocation of valuable mining licences and is another reminder of the need to address the conflicts of interest in gemstone governance as central to meaningful reform of the industry.

MEHL’s domination of the jade industry is even clearer when comparing it to other companies’ holdings. As of 2018, MEHL, through its subsidiaries, controlled six times more licences than the next largest licence-holder, a pattern that grew more pronounced after the NLD took power. As a proportion of total licences, MEHL controlled 3.5% of all active licences in the financial year 2014-2015. This rose to 5.6% by the time of the licensing suspension and further increased to 9.1% of total jade and gem licences by 2018-2019.<sup>147</sup>

It is highly damaging to prospects for peace for the military to have such extensive economic interests in an area in which it is also actively engaged in a decades-long conflict.



MEHL holds roughly an equal number of jade and gemstone (mostly ruby) mining licences, though Myanmar Imperial Jade is by far its single largest licence-holding subsidiary.<sup>145</sup>



Military conglomerate MEHL is the single largest holder of jade mining permits in Myanmar. *MEHL website*

### Bankrolling senior military officials

MEC and MEHL involvement in jade mining traces its origins to the Tatmadaw’s 1994 ceasefire with the KIO/A, which ushered in military control and influence over key mining areas. Military control over licensing, access and security led to a business bonanza for military-linked companies.<sup>148</sup> It has also directly benefited senior members of the military. A 2020 *Amnesty International*

report analysing leaked historic MEHL financial statements showed that Senior General Min Aung Hlaing, then Joint Chief of Staff for Myanmar’s armed forces, received dividend payments of 1.5 million kyat in the fiscal year 2010-2011. This was worth US\$250,000 at the official exchange rate at the time of the payment, though would have been worth closer to US\$2,000 at the exchange rate when the kyat was floated two years later.<sup>149</sup>

Other high-ranking officials, military organisations, Tatmadaw units and Border Guard Forces also placed among annual dividend recipients, further enmeshing all parts of the military in the jade business. The *Amnesty International* report showed that money earned from jade is directly used to subsidise battalions linked to human rights abuses.<sup>150</sup> While these payments may be relatively small on a personal level, when combined, they represent a sizable annual pay-out for the military, its senior officers and their allies – pay-outs that disproportionately benefit senior officers and military units over individual enlisted soldiers and retirees. MEC and MEHL’s role in this regard underlines the significance of their failure to engage effectively, or even at all, with the NLD’s attempt to bring greater transparency and accountability to the sector, as outlined in section 1.2 above.

## LICENCES HELD BY MEHL AND LARGEST NON-MEHL LICENCEE

Licence information reported in annual MEITI reports. Licence totals as of start of fiscal year (April-March).

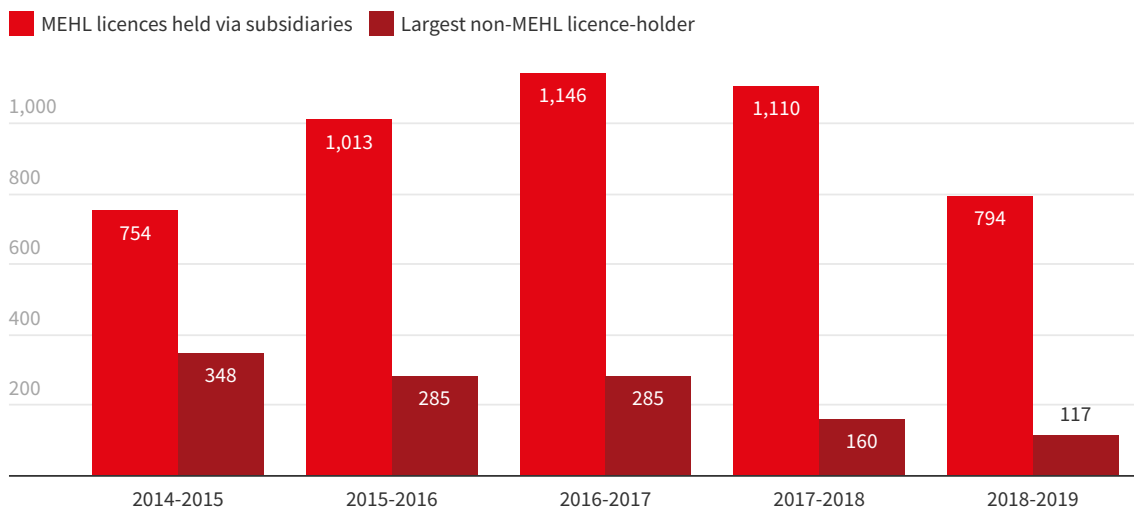


Chart: Global Witness • Source: MEITI Reports 2-5



MEHL is by far the largest holder of jade and gemstone mining licences in the country, and it consolidated its position in the year leading up to the handover of power to the NLD.<sup>151</sup>

Contacted for comment, representatives of MEHL declined to provide a response on these points. As noted in Section 1.3, both MEC and MEHL, along with their subsidiaries, have been sanctioned by multiple countries, both in response to the coup and for their role in funding the Tatmadaw and its abuses against the Rohingya.

### ***Companies owned by military officers and their families***

Some sources suggest that military-owned conglomerates and private companies linked to current and retired military officers have played a less visible role in Hpakant, opting for silent proxy partnerships and profit-sharing agreements, if they have not left the sector entirely.<sup>152</sup>

Than Shwe's company, Myanmar Naing Group Gems, has failed to re-register on DICA, while its affiliated company, Myanmar Naing Group Company, was suspended by DICA for failing to submit its annual financial report, according to its filing on Myanmar's corporate registry.

However, the former junta leader's other company, Kyaing International Gems, has re-registered, suggesting that his family remains involved. Other companies with active registrations in Myanmar's company registry at the time of publishing include Myanmar Wingate Gems, owned by Ohn Myint, former Minister for Livestock, Fisheries and Rural Development; Two Horse Gems, owned by Pyi Aung, the son of former military heavyweight Aung Thaung; and Silver Elephant Gems, which is registered at the same address and shares two directors with Two Horse Gems. One source named Maung Maung Thein's son's company, Myat Yamon, as one of the largest companies still active, although his son, Nay Aung, is no longer listed as a director.<sup>153</sup>

### ***Corrupt commanders***

Regional military leaders have long been a source of jade-related corruption, including those occupying the positions of Northern Commander and Division 101 Commander – former Northern Commander, Ohn Myint, who controlled his own jade companies, is one notorious example.<sup>154</sup> One Kachin politician said it is easy to tell which commanders collect bribes by the clothes they wear, the cars they drive, the grandeur of their homes and whether their children are studying abroad, as most commanders' salaries are less than the already low salaries of MPs.<sup>155</sup>

New corruption dynamics among Tatmadaw commanders were laid bare in 2018 when two senior military officers, then Northern Commander Major-General Nyi Nyi Swe and then Hpakant Division 101

Commander Maung Maung Zan, were implicated in a massive graft scandal. Here, they allegedly collected a 25% levy on the jade production of companies they allowed to mine on expired plots.<sup>156</sup> Commander Maung Maung Zan is reputed to have demanded up to US\$20 million from a mine boss whose workers found a high-value jade boulder estimated to be worth around US\$60 million, while other companies would pay him around 100-200 lakh (\$7,500-15,000) per month as a "gift." The two officers were demoted to the Tatmadaw's auxiliary forces in response to the scandal and interviews with insiders suggest they were sentenced to five years in prison, although other sources claim the two were merely investigated.<sup>157</sup> Global Witness has been unable to verify definitively what their punishment was, underlining the importance of transparency in anti-corruption investigations in order to ensure accountability.

According to well-connected sources in the area the subsequent Division 101 Commander in Hpakant, Naing Win Aung, still accepted bribes to facilitate unlicensed mining in coordination with the KIA prior to the coup, though it happens more discreetly than before.<sup>158</sup>

The subsequent Northern Commander, Tayza Kyaw, who was promoted after the coup to be Commander of Bureau of Special Operations-1,<sup>159</sup> has also been accused of collecting bribe money to secure safe passage for necessary material used in mining operations. A source with inside knowledge told Global Witness that without a licence from him no one could carry fuel to Tanai, a resource-rich amber and gold mining area that the Tatmadaw seized from the KIA in 2018.<sup>160</sup> Similarly, no one could bring dynamite into Hpakant without his permission.<sup>161</sup> That the immediate successors to Maung Maung Zan and Nyi Nyi Swe allegedly continued to accept bribes shows how entrenched the culture of corruption is within the Tatmadaw.

Other military commanders in the area have been accused of taking bribes to allow unlicensed mining. A civil society representative described a case in Kingsi Seng Raw, a former KIO/A territory in Kachin State now controlled by the Tatmadaw, where a battalion commander was allowing such activities. "All around the commander's camp there are jade-mining areas," he said. He had just recently met a Kachin businessman who had paid the commander to mine in the area, although the KIA still got its cut. "They have not received permission from the KIA, but of course they [the KIA] get tax," he said.<sup>162</sup>

**"In jade, most of the licences have now expired so only MEC and MEHL dare to continue to mine."**

—a retired colonel<sup>163</sup>



Tatmadaw Commander Naing Win Aung inspects the aftermath of a landslide in 2019. *Global Witness / M.O.*

Tatmadaw commanders have been linked to other corrupt practices in northern Myanmar as well, including the provision of private security and smuggling.<sup>164</sup> The Tatmadaw runs most of the checkpoints near mining areas, giving them control over the flow of illegally mined jade from Hpakant.<sup>165</sup> As one industry figure put it, “[l]ocal commanders take as much as possible and leave.”<sup>166</sup>

These cases demonstrate a widespread fact of daily life in Hpakant and other conflict resource areas: Tatmadaw commanders exercise largely unchecked power in the areas they control – power to allow illegal mining, power to arrange partnerships and power to control the movement of supplies and mined products in and out of conflict areas. That this power also makes military commanders fabulously wealthy is the crux of the problem. One former Northern Commander was an army negotiator in Myanmar’s peace process under the NLD, starkly underlining the conflicts of interest created by the army’s self-interested impunity.<sup>167</sup>

In short, irrespective of the government, the Tatmadaw has consistently been at the centre of a vicious cycle whereby conflict enables illicit resource extraction and opportunities for corruption and abuse of power, which in turn fuel further conflict. The conflict environment prevents effective state administration, and allows the military and armed groups free rein. Unscrupulous

military commanders and police, in addition to ethnic militias, ethnic armed groups and local bosses all take their share with little oversight from the civilian government in Nay Pyi Taw. The increase in fighting after the coup will only amplify these dynamics further.

### ***Army-backed militias thrive on illicit activity***

In addition to the Tatmadaw itself, a number of government-aligned militias are deeply enmeshed in the jade-conflict nexus. Militia groups are active in most conflict-affected parts of Myanmar, and while some are aligned with ethnic armed groups or have other allegiances, many are aligned with or integrated within the Tatmadaw.<sup>178</sup> These groups have been used to advance the interests of the military for decades, including through armed conflicts with ethnic armed groups and assisting Tatmadaw military operations.<sup>179</sup>

The Tatmadaw has allowed these militias to engage in economic activity to sustain themselves in exchange for acting as counter-insurgency forces against the Tatmadaw’s adversaries in areas often outside its reach. This has allowed the militias to expand their economic interests across licit and illicit industries, growing increasingly prevalent in narcotics production and trafficking, and across the jade-mining areas of Hpakant, since the 1990s.<sup>180</sup>

### **Militias, jade and the Tatmadaw’s strategy against the KIA**

Government-aligned militias have a significant presence in the jade trade through rent-seeking activities like extortion and control of smuggling routes, as well as acting as counter-insurgency forces against the KIA.<sup>181</sup> While Global Witness did not investigate whether militias use the jade trade as a cover for their involvement in narcotics, one prominent group, the Pansay militia, claims to make its money from jade mines though is strongly suspected of involvement in the drugs trade.<sup>182</sup>

In Kachin State, the Border Guard Force (BGF) units formerly of the New Democratic Army-Kachin (NDA-K) have also fought the KIA. The former NDA-K, a militia notorious for its role in the Myanmar opium trade, appears to have been granted permission from the Tatmadaw to pursue illicit activities in exchange for support fighting the KIA.<sup>183</sup> Its leader, a former Member of Parliament, has links to smaller gems and jewellery companies, according to company records.<sup>184</sup> According to a politician who visited the area in 2012/13, the group’s territory plays a key role in smuggling. “The NDA-K just move jade across the border,” said the source, who personally witnessed it: “[c]ars full of jade

## HOW DOES THE COMMANDER-IN-CHIEF'S FAMILY PROFIT FROM JADE BRIBES?

Global Witness has gathered evidence that corruption linked to the import of explosives into Hpakant and illegal mining not only makes its way up to the highest levels of the Tatmadaw command but may benefit the family of Min Aung Hlaing, the Commander-in-Chief of Myanmar's armed forces.<sup>168</sup>

Several sources have confirmed that bribes paid to the Hpakant Division 101 Commander and Northern Commander make their way to the highest levels of the command chain.<sup>169</sup> For example, one senior army source that Global Witness spoke with claims that revenues for dynamite imports are shared with Min Aung Hlaing's son, Aung Pyae Sone, who has emerged as an increasingly rich and powerful figure in Myanmar since his father's ascent to the highest military office.<sup>170</sup> Another source with close knowledge of the military suggested that Aung Pyae Sone has also profited from arrangements to mine illegally in Hpakant since the licensing suspension.<sup>171</sup>

A senior army source explained that all traders must obtain permission to import dynamite from the Tatmadaw Northern Commander, who collects a payment that is shared with Aung Pyae Sone. Traders then buy the product upfront with their own money and transport it from Myitkyina, the capital of Kachin State, to Hpakant to sell to miners, before returning to Myitkyina to give a cut of their profits to the army.<sup>172</sup>

The source described learning about the corruption payments to the Commander-in-Chief's son in 2018 from Nyi Nyi Swe, the Northern Commander demoted (and possibly arrested) that year for taking bribes.<sup>173</sup> Dynamite traders separately confirmed to him that they paid bribes to the same individual.<sup>174</sup>

Observers of the case suspect that Nyi Nyi Swe collected additional bribes for his own benefit, becoming so brazen that it was difficult for even the Tatmadaw to ignore. Finally, a complaint was submitted to the Commander-in-Chief via the parliament, which prompted action.<sup>175</sup>

According to a former colonel, this arrangement persisted even after Nyi Nyi Swe's demotion, with bribes now collected through the new Northern Commander, Tayza Kyaw, who continues to pay them forward.<sup>176</sup>

These allegations again raise critical questions about conflicts of interest within Myanmar's senior military leadership. The family of the head of Myanmar's armed forces is accused of personally profiting from Hpakant's conflict and illicit economy. If true, this is a brazen display of corruption that rings alarm bells about the sector's future in the hands of Min Aung Hlaing. The February coup has provided the Commander in Chief and his family with a blank cheque to turn the sector into a treasure trove for themselves, and handed them an important source of patronage to maintain loyalty among their allies.

Min Aung Hlaing and the Ministry of Defence did not respond when contacted for comment. Following the coup, Min Aung Hlaing's children were both added to sanctions lists by the United States.<sup>177</sup>

**Main image: Senior General Min Aung Hlaing, commander in chief of the Myanmar armed forces, inspects troops during a ceremony to mark the 71st Armed Forces Day in Myanmar's capital Nay Pyi Taw in 2016. His family is accused of profiting from the jade industry.**  
*Ye Aung Thu / AFP via Getty Images*



**Min Aung Hlaing's son Aung Pyae Sone, seen here at his US-sanctioned Yangon Restaurant, is a beneficiary of the jade trade.** *Yangon Restaurant Facebook page via JFM*

can move freely.<sup>185</sup> This militia has even more extensive links to agribusiness and the illicit timber trade.<sup>186</sup>

Members of the ethnic Shanni Tarlawgyi militia, which provides security on behalf of the Tatmadaw in Hpakant, are understood to act as brokers and drug dealers in Hpakant's blossoming drug trade.<sup>187</sup> A local anti-drug advocate told Global Witness that the army sometimes gives the militia drugs that it has confiscated, allowing the militia to sell the drugs in order to finance their units.<sup>188</sup> The Tarlawgyi militia also collects checkpoint fees along the road to Hpakant along with the police and Tatmadaw forces, according to a local source.<sup>189</sup> The Shanni and Kachin communities in Hpakant have a history of tensions, and the militia's role in Hpakant is a good example of how the Tatmadaw has sought to exploit ethnic friction in conflict-affected areas for strategic gain.<sup>190</sup>

At least one gem company, Malikha Gemstone, linked to the Tatmadaw-aligned ethnic Rawang militia was involved in the devastating 2019 landslide in Hpakant that killed 54 people.<sup>191</sup> The ethnic Rawang militia, Rebellion Resistance Force, led by Rayang Dam, was reportedly established by former Northern Commander Ohn Myint, and has additional links to government crony Tay Za – both previously named by Global Witness as leading profiteers in Hpakant's conflict resource economy.<sup>192</sup>

It will be difficult to advance peace negotiations in Myanmar without bringing militias to the table and addressing their roles in the illicit and conflict economies – something no negotiation has done to date. Much discussion on Myanmar's armed conflicts overlooks the problematic role of militias, which operate largely in obscurity and often outside of direct government control despite the fact that integrated BGFs are part of the Tatmadaw command structure and answer to the Ministry of Defence.<sup>193</sup>

The role of these militias in illicit activities is not new. Global Witness has over many years also exposed the role of these groups in the illicit timber trade in northern Kachin – another major financial artery for those engaged in conflict in Myanmar.<sup>194</sup> The uncertain political landscape that the coup has created could force the Tatmadaw to rely even more heavily on BGFs in ethnic minority dominated areas, potentially increasing the scope for them to engage in illicit activities.<sup>195</sup>

### **Kachin Defence Army or Khaung Kha Militia**

The BGF formerly known as the Kachin Defence Army (KDA), run by Ma Htu Naw, has a well-established

reputation for narcotics trafficking in northern Shan State.<sup>196</sup> This Tatmadaw-aligned ethnic Kachin militia, which split from the KIA in the early 1990s, is located in Khaung Kha near Kutkai and is sometimes referred to as the Khaung Kha Militia.<sup>197</sup> The group is understood to have received gem mining concessions from the government in exchange for laying down its arms in the early 1990s.<sup>198</sup> It subsequently integrated into the Tatmadaw as a BGF in 2010.<sup>199</sup>

The militia is suspected of being heavily involved in narcotics production as well as smuggling. In March 2020, the Tatmadaw raided the group's headquarters, arrested eight of the militia's leaders and confiscated illegal drugs and equipment valued at nearly US\$200 million.<sup>200</sup> As a BGF, the militia was literally within the Tatmadaw command structure, showing just how much impunity militia groups can operate with. The decision by the Tatmadaw to functionally dismantle the group's leadership suggests either that its involvement in the narcotics trade was either considered especially egregious or the group had worn out its usefulness to the military.

A jade company linked to the group, the Kachin Nationals Development and Progress (Gems) Company (KNDPC), was implicated in the 2019 landslide in Hpakant.<sup>201</sup> At the time, a representative from MGE confirmed that the company did not have an active licence to mine in the affected area.<sup>202</sup> DICA records show that Ma Htu Naw, the KDA's head, is a director of the company, although several industry sources say he is not personally involved in mining operations.<sup>203</sup> Three sources told Global Witness that most of the company's mining operations are actually run by an increasingly powerful ethnic Chinese businessman named Kwe Pinn.<sup>204</sup> Kwe Pinn is the manager of KNDPC's most lucrative jade plots in Maw Mau Layang, where the company has been mining aggressively in what has been described to Global Witness as a 24 hour operation.<sup>205</sup> A politician with jade industry links explained that Ma Htu Naw merely helped to get the licence and is likely to collect a cut of the profits, but the primary investor is Kwe Pinn.<sup>206</sup> According to DICA records, a director and shareholder called Kaung Kwe Pinn owns 18% of the company.<sup>207</sup>

Representatives of KNDPC did not respond to a request for comment.



## 2.2 The Kachin Independence Organisation's central role

According to multiple sources, jade continues to be the single largest revenue source for the KIO/A, followed by amber mining and timber, though the group's finances remain shrouded in mystery.<sup>208</sup> Despite having no state-sanctioned, official role in jade governance and few remaining significant licensed operations, the KIO/A still plays a central role in the jade trade through taxation, smuggling and transportation, as well as some production.

The KIO/A is one of the largest and oldest ethnic organisations in Myanmar. Its armed wing has been at war with the Tatmadaw since its founding in 1961, with the exception of a ceasefire from 1994-2011.<sup>209</sup> Today, the conflict between the Tatmadaw and the KIO/A remains one of the most entrenched and complex in Myanmar. This ongoing conflict and preceding ceasefire set the stage for many aspects of the illicit and politico-economic dynamics that affect northern Myanmar. This conflict resource economy is central to understanding ongoing hostilities.<sup>210</sup>

Before 1994, the KIO/A controlled almost all jade mining in Kachin State, forming jade mine management committees comprised of local people to monitor the industry. Jade mines tended to be small, and the KIO/A funded itself through a 10% tax on jade activity.<sup>211</sup> After 1994, official licensing power transferred to the ruling junta, which oversaw an explosion of large-scale mining activity that did significant damage to local communities and the environment. Asked about this change, a representative of the KIO/A explained to Global Witness in a written communication that,

*"After the KIO and junta, the State Law and Order Restoration Council, made [a] ceasefire agreement in 1994, [the] KIO lost control of Hpakant Jade Mine area [sic]. Since then, the junta issued jade mining concession[s] to many mining companies and the old school jade business [sic] totally vanished. Local people could no longer access the jade mining business. Residence area[s] and farmlands were turned into jade mines. The environment was severed, streams and water courses were ruined, and there were floods in every rainy season. Many stone pickers [yemase] came into the region and [the] population multiplied and created many social problems."*<sup>212</sup>

When conflict broke out again in 2011, the KIO/A attempted to regain influence in and control of the jade-mining areas. While they did not re-take military control of Hpakant, they were successfully able to resume the

taxation of mining companies – a system that largely continues today.<sup>213</sup>

### *KIO/A jade revenues*

The KIO operates a taxation regime in parallel to the Myanmar government system. It views this as entirely legitimate.<sup>214</sup> The KIO has taxed all companies involved in jade extraction for years, largely to finance the escalating civil conflict in northern Myanmar, as well as to defray the cost of caring for tens of thousands of internally displaced persons and to support the administration of KIO areas. The KIO declined to disclose the amount of funding it receives from taxing jade production, and was unwilling to disclose its taxpayer list. However, it did acknowledge that the Jade Business Branch under the KIO Economic Department is responsible for collecting taxes and revenues from jade mining.<sup>215</sup> On the ground in Hpakant, however, it is the KIA's Battalion 6 that takes practical charge of the revenue collection process.<sup>216</sup>

The KIO/A's revenues from jade come from several different taxes and fees that are levied at different stages of production, extraction and transport, though the exact price can be negotiated. All companies, including military-owned companies, must pay these taxes and fees under threat of having their jade confiscated.<sup>217</sup>

- Companies have to pay an annual "permission" or "company" fee of MMK 300 to 10,000 lakh (US\$22,000 to US\$750,000) to the KIO/A for the right to mine in Hpakant.<sup>218</sup> The KIO/A told Global Witness that the group taxes jade mining companies based on their acreage.<sup>219</sup>
- Companies and *yemase* miners are additionally required to pay a value tax, set by the KIO/A's valuation committee and often negotiated through a network of brokers. This is usually around 10% for commercial jade, rising to 25% for high-value jade. Miners receive an official tax receipt upon payment. Valuation of a raw jade stone is highly subjective and easily subject to manipulation. In determining an agreed value upon which to base taxation amounts, the KIO/A and the government communicate via brokers to agree on a price based on determinations made by their respective valuation committees. The Tatmadaw collects another quarter as a bribe or facilitation fee.<sup>220</sup> One source said *yemase* pay these fees and taxes to both sides, which serves to prevent the KIA and the Tatmadaw from fighting for control of lucrative mining areas.<sup>221</sup>
- The KIO/A also imposes a sales tax on the value of jade sold by jade traders, ranging from around 10 to 33%.<sup>222</sup>
- The KIO/A charges an annual "security fee."<sup>223</sup>
- The KIO/A imposes customs duties on heavy machinery and vehicles coming from China to Hpakant through the

# JADED – KACHIN’S BITTER CEASEFIRE EXPERIENCE

In Kachin State, the jade trade has a long association with armed conflict.<sup>224</sup> After war began between the government and the KIO/A in 1961, jade assumed a far more direct role in financing the KIO/A’s operations. Jade revenues from Hpakant provided the main source of income for the group until the late 1980s and the KIA also bartered jade for weapons at the Thai border.<sup>225</sup>

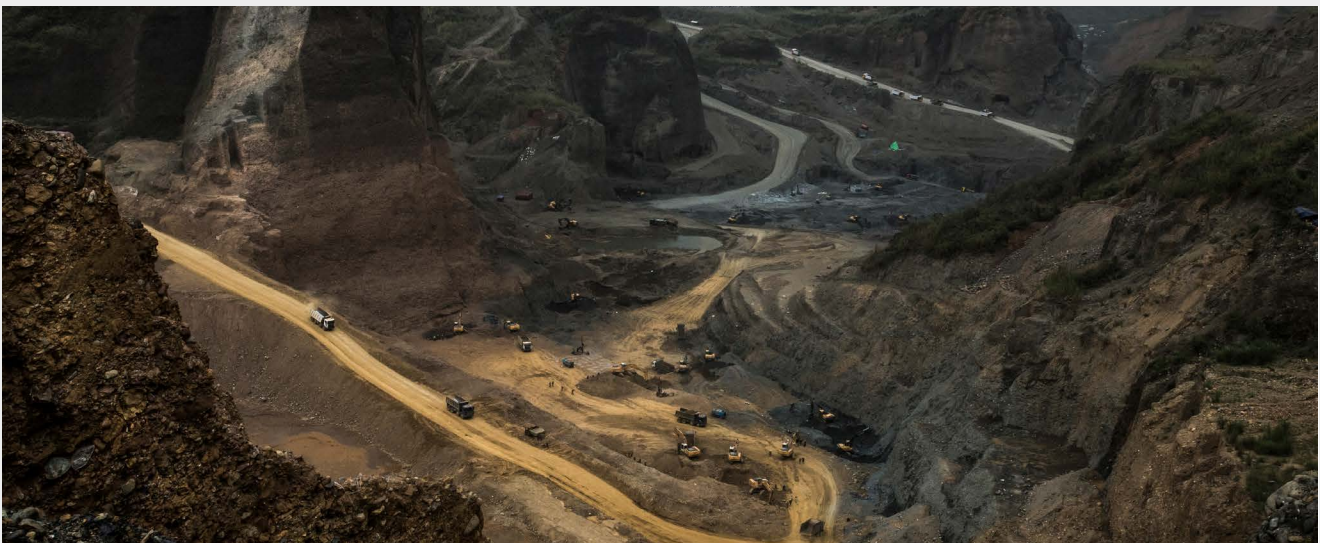
In the early 1990s, after making ceasefire deals with other armed groups in Myanmar’s northeast, the Tatmadaw was able to concentrate its operations on the KIO/A, targeting jade mines and trade routes. By 1994 it had wrested control of most of the main mines around Hpakant away from the KIO/A, leaving the armed group in direct control of small pockets of territory along the Chinese border and to the north of Myitkyina.<sup>226</sup> Under military and economic pressure as the Tatmadaw took over Hpakant, the KIO/A signed a ceasefire agreement with the government in February 1994. Along with peace, the ceasefire gave the KIO/A the right to profit from the natural resource wealth within its territory – primarily timber and some jade.<sup>227</sup> Kachin-owned companies would also be able to, in theory, receive licences to mine in Hpakant.

Since the ceasefire, however, jade wealth has largely flowed away from the Kachin people. Myanmar’s government, now firmly in control of licensing, proceeded to allocate jade mining concessions to Tatmadaw families, friends of the military, crony conglomerates and ceasefire groups like the Pa-O and the UWSP/A, who the Tatmadaw wanted to placate or bring closer.<sup>228</sup> Some of

the first resource concessions in Kachin State granted after the 1994 ceasefire went to the UWSP/A leadership, rather than the KIO/A. This put the Wa in an excellent position to capitalise on the jade boom as former rebel groups and Chinese businessmen began to align themselves with it to gain access to the jade business.<sup>229</sup>

Myanmar’s “crony” conglomerates, many of whose shareholders and owners had strong familial and social ties to the military junta, played a key role in propping up the military and in advancing militarisation in ethnic areas following ceasefires.<sup>230</sup> Military-allied companies were rewarded with lucrative resource concessions in exchange for building large-scale infrastructure projects in conflict-affected territories. These patterns played out across the country in the 1990s and 2000s, including in Kachin State. Roads built this way facilitated military access to formerly remote areas while large agricultural or mining projects gave the government an excuse to send soldiers to ‘protect’ new infrastructure in ethnic minority areas. This strategy of granting concessions to allies had the dual benefit of generating revenue for the government and its business allies while also consolidating its territorial control over Hpakant.<sup>231</sup>

Meanwhile, the government tightened restrictions on jade, including by criminalising possession of high-grade stones in Kachin State.<sup>232</sup> Jade that wasn’t smuggled out of the country was channelled through government-controlled emporiums in Yangon and then Nay Pyi Taw, which became the country’s capital in 2006. Emporiums now exist in Yangon, Nay Pyi Taw, Mandalay and Myitkyina, although the highest quality “imperial” (grade A) jade must still be sold in Nay Pyi Taw.<sup>233</sup> These restrictions strengthened the government’s control over



Trucks work on the mining site for Ever Winner, a large mining company. The Kachin ceasefire allowed military-allied businessmen to begin stripping Hpakant of its wealth while leaving behind a destroyed environment. *Global Witness / M.O.*

not only jade itself but also the foreign currency used by overseas buyers to make their purchases.

Although the KIO/A had signed a ceasefire, it still retained the territory that it governed, and, in the absence of a political settlement, an army to maintain. Denied much of its jade revenue as the junta wrested control of mining areas from the group and funnelled mining rights to its allies, the KIO/A turned to its other major sources of resource wealth – chief among them high-value forests.<sup>234</sup> At the same time, China's demand for timber was soaring, setting the stage for a logging frenzy.<sup>235</sup> Global Witness estimated that by the early 2000s up to 1 million cubic metres of logs were trucked across the border every year.<sup>236</sup>

The increased logging brought environmental and social harms, feeding an increasing sense among the Kachin people that something was rotten not only with the ceasefire but also within the upper echelons of the KIO/A. Its leaders were amassing great personal wealth via the timber trade while ordinary Kachin people faced deforestation, land grabs, mass migration from other parts of Myanmar and an increasingly pervasive Tatmadaw. All this contributed to a crisis of legitimacy for the KIO/A in the 2000s.<sup>237</sup> A new generation, who saw themselves and their aspirations reflected in younger KIO/A leaders like Deputy Chief of Staff General Gun Maw,

were more inclined to take a stand for greater autonomy and a fair share of Kachin State's resource wealth.<sup>238</sup>

The advent of the reformist Thein Sein government in 2011 was not enough to defuse increasing tensions. A dispute over natural resources, and a Chinese-backed hydropower project at Dapein in particular, provided the spark for a resumption of full-scale armed conflict when the Tatmadaw attacked the KIA in June 2011.<sup>239</sup> Since the civilian-led government of Aung San Suu Kyi took office in 2016, the Tatmadaw and the KIA have continued to clash violently in resource-rich areas. The Tatmadaw escalated its attacks on the region in 2018, targeting amber and gold mining areas taxed by the KIA, and creating a humanitarian crisis for thousands of civilians trapped in the fighting.<sup>240</sup> KIA leaders have expressed concern that the onslaught was intended to squeeze the group ahead of ceasefire negotiations.<sup>241</sup>

A crucial lesson from the Kachin ceasefire experience is that any peace deal that does not provide a basis for the fair management of Kachin's natural resources will fail. Jade, as the most valuable resource at stake, is particularly important. Indeed, it is the resource with the greatest scope to either drive development or continue the cycle of violence, conflict and corruption. A process of determining the fairest and most effective way of managing its extraordinary potential must be prioritised.

Kanpaiti gate near their military headquarters in Laiza. They also charge for portable drills used by individual miners (K10,000, or US\$7.50, for one year). Heavy backhoes, loaders and bulldozers are charged at around 50-100 lakh (\$3,750-\$7,500) per year. Companies and miners receive receipts for these duties.<sup>242</sup>

Global Witness has requested information from the KIO/A about its jade-related income and expenditures. The KIO/A declined to share this information, describing it as "inconvenient," and did not confirm nor deny the specifics of the above taxes and fees. The KIO/A did, however, deny collecting customs duties at the Kanpaiti gate, which they claim to have stopped operating at in 2011. It noted that expenditures include education, public healthcare and support for services, and are overseen by the organisation's Treasury Department, which is audited.<sup>243</sup> The KIO/A also stated that it spends a significant part of its budget caring for people displaced by the nearly decade old conflict, tens of thousands of whom have gathered around the towns of Laiza and Majjyang.<sup>244</sup>

"No one knows how much the KIA's annual income is from the jade business, because there is no fiscal year [report] or transparency on income and expenses," observed a former KIA officer and jade businessperson.<sup>245</sup>

In addition to taxation and fees, the KIA operates at least one registered company in Hpakant, the Bu Ga Gems company. This company is a sister entity to the Bu Ga Company, which supplies electricity to the cities of Myitkyina and Bhamo, despite them both being under government control.<sup>246</sup> The KIO/A has insisted that the Bu Ga Gems company is no longer operational, though it remains an actively registered company on DICA, and EITI data shows it to have had at least one active licence in Wai Khar that expired in November 2020.<sup>247</sup>

The vast majority of the KIO/A's jade interests, however, are believed to be unlicensed by the central government.<sup>248</sup> A former high-ranking KIA officer and jade businessperson said that the group operates hundreds of jade plots in Hpakant.<sup>249</sup> Some KIO/A officers have reported pressure from above to secure mining areas for their senior officers, even when it goes against the will of communities. One civil society representative told Global Witness that he has a friend who is a battalion commander in the KIA who has frequently complained about constant pressure from communities not to mine. However, his superiors tell him, "I want to do amber and gold mining" and it is impossible for him to refuse. He just has to secure the mining areas for the KIO/A, and

reportedly says that he feels less pressure from higher up to fight than to secure mining sites.<sup>250</sup>

KIO/A leaders also reportedly allow soldiers to operate their own jade plots to subsidise their incomes.<sup>251</sup>

In addition to taxation, the KIO/A has also been accused of forcing smaller jade traders to sell their jade to the KIO/A for below market value, enabling resale at a higher price in China to turn a profit.<sup>252</sup>

Reached for comment, a representative of the KIO/A confirmed that the Bu Ga Company supplies electricity to Myitkyina, though they did not confirm the existence of the Bu Ga Gems Company. The representative also denied that the KIO invests in any jade companies, although they did confirm that soldiers are sometimes given jade plots to subsidise their income. The representative also denied that the KIA forces traders to sell jade against their will or at reduced prices.

### ***Taxation without governance responsibility?***

Receiving payments for permission to mine, charging a fixed percent of the sale value of jade, security fees – all of these activities are the hallmarks of a formal taxation and licensing system operating in parallel to Myanmar’s central government. This makes sense; the KIO directly governs parts of Kachin State around Laiza and Maijyang and is committed to seeking increased autonomy, if not full independence, for the Kachin people.

The KIO/A has denied that it operates a parallel licensing system, however, instead telling Global Witness that it has not issued licences or granted mining licences since it signed its ceasefire agreement with the Tatmadaw in

1994.<sup>253</sup> During Global Witness’ investigation, though, numerous sources disputed this claim. These sources reported that companies had to pay hefty annual taxes to the KIO/A for permission to mine in Hpakant.<sup>254</sup> The KIO/A has similarly been implicated in authorising yemase miners to work in exchange for payments in areas well-known to be dangerous and that had been closed for the rainy season. In one case, in Wai Khar in July 2020, over 200 yemase lost their lives in a deadly landslide – the worst such mining disaster in Myanmar’s history.<sup>255</sup>

**“Everyone now needs permission from the KIA to mine. This is not exactly an official ‘licence’ but an understanding regarding the right to mine. If you refuse to pay the necessary tax, they’ll simply confiscate your jade.”**

– a civil society representative<sup>256</sup>

Why should the KIO/A dispute reports of a parallel system? Given that a company’s ability to operate in Hpakant is contingent upon payment of these taxes and fees to the KIO/A, they undeniably work as a parallel licensing system. However, control over things like taxation and licensing also imply a degree of responsibility for things like worker safety and the environment. This raises important questions around the KIO/A’s accountability for mining practices.

The organisation itself accepts no responsibility for the environmental consequences of reckless mining, however. In a response to Global Witness, it asserted that, “Jade mining licences were granted by the Myanmar Government. Hence the Myanmar Government should take responsibility for the environmental problems resulting from jade mining. But KIO will intervene if the people request to do so.”<sup>257</sup> In a follow up letter in 2020, the KIO/A noted that it did have an environmental protection plan, but could not implement it because much of Hpakant is outside of KIO/A control.

While it was true that much of Hpakant lay outside of KIO/A control, this perspective remains problematic due to the apparent collaboration between the KIO/A and the Tatmadaw to facilitate and profit from unlicensed and irresponsible jade mining since the licensing suspension. It also downplays the KIO/A’s role in the complex power dynamics in Hpakant, which are occasioned by ongoing conflict and pose difficult regulatory obstacles for the central government.



KIA recruits receive training near the organisation’s headquarters in Laiza, Kachin State in 2019. F.M.

Ultimately, the dual systems underscore the need to integrate natural resource governance into the centre of Myanmar's peace process and to ensure that armed actors and military entities exit the industry as part of broader security sector reforms. However, with the military back in control, any prospect of extracting armed groups and the military from the jade sector in this way has effectively been quashed. The coup confirmed that the Tatmadaw's leadership has no intention of giving up its powerful position within the political landscape or the economy.

Moreover, the post-coup escalation in fighting between the KIO/A and the Tatmadaw, especially around Hpakant, shows that the KIO/A may still hope to retake full control of Kachin State's jade mining regions. The KIO/A would then be further responsible for local governance and environmental management, a task for which the organisation must prepare if it hopes to exercise legitimate authority in the area in the future.

### **The KIO's company in China**

The KIO/A manages part of its tax collection and jade business interests through a network of companies based in the neighbouring Chinese province of Yunnan, Global Witness can reveal. One of these companies is based in the jade-trading hotspot Yingjiang.<sup>258</sup> The company is owned by the KIO/A and is responsible for the group's jade revenue collection, accepting payments from the KIO/A's alternative jade licensing mechanism and other taxes from mining companies.<sup>259</sup> Chinese corporate registry data suggests an official ownership connection to the KIO/A.<sup>260</sup>

A representative of the KIO confirmed the existence of the company, but denied that KIO companies in China are responsible for tax collection.

All jade mining entities are expected to pay revenues to the KIO/A, either in cash in yuan in Laiza or through KIA connected companies collecting on behalf of the group.<sup>261</sup> A knowledgeable source confirmed that the UWSA usually pays the KIO/A by bank transfer or directly to one of these companies by hundi transfer.<sup>262</sup> As a company registered in China, the company can easily move money through the Chinese banking system, and according to one source connected to the KIO/A it has an account with the Bank of China.<sup>263</sup>

### ***Dogged by corruption***

Corruption allegations have followed the KIO/A, especially during the ceasefire years, but also since.<sup>264</sup> The KIO/A's jade valuation committee, which assesses the value of production at each jade mine, has routinely been accused of taking bribes to facilitate undervaluation, a practice also allegedly engaged in by MGE's valuation committee.<sup>265</sup>

Committee members have been accused of depositing such bribes in banks in Myanmar and China, under the names of their spouses or children. A former KIA officer described to Global Witness in 2018 how high-ranking officers, who he estimated would siphon off around 20% of the group's jade revenues, would accept personal payments in yuan or gold bars.<sup>266</sup>

"Some are keeping their money in Singapore with their children's names or relatives' names," he explained. "They are buying many houses and agricultural farmland in Kachin. Some are buying estates and houses in China, Thailand, Singapore and America."<sup>267</sup> Another source close to the KIA confirmed that leaders made "substantial personal profits" from the jade mining business, especially those on the valuation committee: "They take big bribes, especially when high-value jade is found," building houses in Myitkyina and Mandalay, and sending their children to be educated abroad.<sup>268</sup>

The KIO/A leadership appears to have tolerated officers making some personal profit from the jade industry in order to supplement incomes and quell possible dissent in the ranks.<sup>269</sup> However, it claims to be taking action on jade-related corruption by introducing an 'asset declaration' form for officers involved in the mining of jade.<sup>270</sup> A KIO/A representative also noted that the KIO/A directly investigates allegations of bribery and corruption in jade-mining areas.<sup>271</sup>

### ***KIO/A cooperation with Tatmadaw and UWSP/A-linked entities***

After the licensing suspension, the KIO/A stepped up its cooperation with military entities, armed group-associated companies and shadowy jade operators to facilitate, if not actively encourage, mining through unscrupulous business arrangements.<sup>278</sup> One well-connected source claimed that the most common partners for the KIO/A were Wa companies, companies owned by the Kokang and Ever Winner – a notorious jade company owned by Aike Htwe that has been previously written about by Global Witness.<sup>279</sup>

## KIO chairman N'Ban La's family involved in mining

The KIO/A and its senior officials are also believed to be running unlicensed mining operations.<sup>272</sup> Several sources have said that KIO chairman, N'Ban La, and his family, are involved in mining operations.<sup>273</sup> One local politician said that, “the KIA knows about it but doesn't do anything.” The politician added that N'Ban La's fourth son allegedly became involved in jade mining in 2018, and that the KIO/A has pressured local leaders to keep quiet about his activities.<sup>274</sup> Another of his sons has also been connected to jade mining activities.<sup>275</sup>

An intelligence source in the KIA alleged that Chairman N'Ban La's fourth son is also a shareholder in KNDPC, which is linked to the Kachin Defence Army or Kaung Kha militia – the pro-army ethnic militia referred to at the end of section 2.1 above.<sup>276</sup> A civil society representative confirmed that N'Ban La and Ma Htu Naw, the leader of the Kaung Kha militia, are old friends.<sup>277</sup> If N'Ban La or his family are beneficial owners of KNDPC, this is another example of profit superseding politics.

Reached for comment, a representative of the KIO/A noted that N'Ban La's son is a civilian who does business to support his family. The representative denied any connection between the Kaung Kha militia and N'Ban La's son.



KIO Chairman N'Ban La pictured at peace talks held in 2016 with government officials and other leaders of ethnic armed organizations. *Ye Aung Thu / AFP via Getty Images*

The KIO/A is believed to have collected profits from the illegal mining authorised by former Northern Commander, Nyi Nyi Swe, and Hpakant Commander, Maung Maung Zan.<sup>280</sup> Sources say that the KIA and the Tatmadaw continued to collaborate, with the help of brokers, in collecting taxes, bribes and sales revenue from jade mining that is not licensed by the government at least until 2019.<sup>281</sup>

“The KIO is now working together with cronies and the Tatmadaw to collect taxes from jade mining,” said one civil society representative in 2019.<sup>282</sup>

One source described how the armed group gave informal permission, together with the Tatmadaw, to allow mining in U Chouk Ye Maw, an area under control of the Northern Command. Mining in this area was reportedly taking place 24 hours a day, seven days a week in 2019. The source noted that a lot of the investment came from China, but a local company name was used as a front.<sup>283</sup> Some sources have suggested that the KIO/A had profit-sharing

**“The KIA is giving one-year mining licence extensions to companies. Therefore, there are many middle-men approaching the Tatmadaw [Division 101] Commander [Naing Win Aung] and getting an understanding to allow them to continue mining. This means that the KIA, Tatmadaw and companies are able to come to a mutual understanding and can mine.”**

– a former KIA officer<sup>284</sup>

arrangements and hidden shares in private companies, which involve paying bribes to the Tatmadaw.<sup>285</sup>

**“The KIA continues to give permission for mining after the licensing suspension. Many companies are doing [joint ventures] with the KIA general’s company. There are many KIA companies like this.”** – a government official<sup>286</sup>

**“If the KIA wants to do mining, they pay the Tatmadaw and the police. They also have illegal shares with companies that still have licences.”**  
– a politician<sup>287</sup>

People who have good relations with both the KIO/A and the Tatmadaw were the most likely to profit from these dynamics.<sup>288</sup> Jade brokers were among such beneficiaries.<sup>289</sup> It was not uncommon for these figures to earn more in commission for their role in negotiating tax/bribe payments to the KIO/A and the Tatmadaw than the miners themselves.<sup>290</sup> Yemase and small-scale miners tended to be particularly disadvantaged.<sup>291</sup>

“One guy who simply negotiated a tax arrangement with the KIA and the Tatmadaw for someone who discovered a valuable stone earned US\$2 million in commission,” said a civil society representative. “The miner got much less.”<sup>292</sup>

The KIA also cooperated with the Tatmadaw to transport jade out of Myanmar and into China. This often involved simply turning a blind eye to the other’s smuggling activities.<sup>293</sup> Much smuggled jade was transported via KIA-controlled territories to China, while military convoys could facilitate transport of KIO/A goods through Tatmadaw checkpoints and sometimes via Mandalay, an increasingly popular jade trading centre and transport route.<sup>294</sup>

For example, Tatmadaw and UWSA-linked entities would transport jade in empty fuel trucks provided by the UWSA and capable of carrying up to 20 tonnes of cargo at a time. The Tatmadaw would then manage passage to Mandalay, assisted by brokers and crony companies, who would also transport jade along this road. Even the KIA would use this route sometimes.<sup>295</sup> A major in the military, who ran jade sales in Mandalay, joked that he did not understand why the two sides were fighting, as the KIA was one of “their customers”.<sup>296</sup>

The coup, and subsequent fighting that has broken out between the KIO/A and the Tatmadaw around Hpakant in particular, may have put a damper on these direct forms of cooperation. However, the two armed groups have fought bitter conflicts for decades whilst still managing to find common ground for jade exploitation in Hpakant. As long as the region remains under the control of armed groups, though, the pre-coup status quo is likely to return as groups return to their focus on money over politics.

Upon enquiry by Global Witness, the KIO/A denied ever collaborating with the Tatmadaw to profit from the jade trade.<sup>297</sup> A KIO/A representative also denied that the KIO/A paid bribe money to the Tatmadaw or helped it smuggle jade into China through KIO/A territory. The representative did, however, say that the KIO/A does collect taxes from military-linked companies, just as it does for all other jade-mining companies in Hpakant.<sup>298</sup>

## 2.4 The Arakan Army

**“They are the new-born child of the KIA.”** – a Kachin journalist<sup>299</sup>

The Arakan Army (AA) is the armed wing of the United League of Arakan. It is one of Myanmar’s fastest growing ethnic armed groups and was engaged in active combat against the Tatmadaw in Rakhine and Chin States up until the coup.<sup>300</sup> The Myanmar government designated the group as a terrorist organisation in March 2020 and refused to include them in the peace process. The AA claims to represent all people from Rakhine (formerly called Arakan),<sup>301</sup> but in practice it is a Rakhine nationalist group that enjoys support from the majority-Buddhist ethnic Rakhine (Arakan) population.<sup>302</sup>

Rakhine State is one of the poorest regions in Myanmar. It is reeling from a campaign of atrocities against its Muslim Rohingya inhabitants, as well as aggressive militarisation by the Tatmadaw – the culmination of decades of repressive policies and abuses at the hands of the military.<sup>303</sup> The AA gained prominence within this context by responding to local frustrations regarding the failure of the political system to meet the needs of the Rakhine people and tapping into Rakhine nationalist sentiment.<sup>304</sup> Despite longstanding tensions between Buddhist-Rakhine and Muslim-Rohingya people, the AA’s leadership has been careful to avoid targeting the Muslim minority, instead consistently framing the Tatmadaw as the primary enemy.<sup>305</sup>

### ***A rapid rise supported by jade money***

While Rakhine grievances are longstanding, the AA was founded relatively recently, in 2009. Though the AA is

a Rakhine nationalist group, it was actually founded in Kachin State with support from the KIO/A, which provided early recruits with weapons, training and a safe base in Laiza, the KIA's headquarters. At this time, the KIO/A viewed the AA as a potential proxy force as their relationship with the Tatmadaw deteriorated under escalating pressure from the military to transition into being a BGF.<sup>306</sup> When the ceasefire between the KIA and Tatmadaw fell apart in 2011, the AA was already established and able to support the KIO/A in combat.

The AA announced its intention to return to Rakhine State in 2014, and since then it has engaged the Tatmadaw and state security forces primarily in areas of Rakhine and Chin State. This has proved to be a boon for the KIO/A, which has benefitted from having an additional conflict partner drawing the Tatmadaw's attention to the country's western border and away from the KIO/A in the North. For example, the Tatmadaw imposed several unilateral ceasefires covering northern and northeastern Myanmar between 2018 and 2020 that specifically excluded the western state of Rakhine.<sup>307</sup>

The AA's rise appears to have been rapid: the group claimed to have recruited 10,000 soldiers as of 2020, though this figure has been disputed.<sup>308</sup> The conflict in Rakhine and Chin State prior to the coup was also extremely violent, reportedly displacing between 130,000 and 230,000 people since 2018, according to UN figures and reporting from the Rakhine Ethnic Congress.<sup>309</sup> The Myanmar government's March 2020 designation of the AA as a terrorist group made it unlawful for anyone,

Female Arakan Army recruits train at the AA base near Laiza, Kachin State in 2019. *F.M.*



including journalists and residents, to communicate with its representatives.<sup>310</sup>

One of the great questions of the AA's rise is how the group has been able to finance its rapid expansion and recruitment. Some, including Myanmar's government, have alleged links to the narcotics trade, and there have been high profile convictions related to such charges.<sup>311</sup> However, a well-placed Rakhine businessperson with links to the group overseeing the AA's jade related revenue collection disputed this, saying the organisation's primary income source is the jade industry.<sup>312</sup> These claims are extremely hard to confirm, but this investigation has found evidence to suggest that a significant portion of the AA's financing comes from the jade trade.

Arakan Army deputy chief Brigadier-General Nyo Tun Aung with his bodyguards at the Arakan Army's base near Laiza, Kachin State in 2019. *F.M.*





One source also alleged that the Tatmadaw are aware of the AA's presence in Hpakant, but choose to turn a blind eye, again raising the prospect of Hpakant's conflict economy superseding political rivalries.<sup>313</sup>

### ***Jade-related income***

The AA is believed to have multiple revenue streams related to jade. It collects revenues by organising groups of ethnic Rakhine yemase miners; by informally taxing Rakhine-owned businesses operating in Hpakant, through at least one commercial jade enterprise; and by acting as a broker for jade traders.

The number of *yemase* in Hpakant has grown dramatically in recent years, due in part to the licensing suspension, as well as economic conditions. *Yemase* miners are increasingly organised under 'bosses' who provide equipment and accommodation in exchange for a percentage of their profits. *Yemase* miners in Hpakant will be discussed in further detail in section 3.4 below.



**Ethnic Rakhine yemase miners with a large high-value jade boulder estimated to be worth 1 billion kyat (over US\$700,000), which was reportedly donated to the AA in June 2018.<sup>314</sup>**

*Global Witness*

Various sources report that the AA is involved in running such groups, and thus playing an increasingly influential role in Hpakant's jade mines.<sup>315</sup> The Tatmadaw has previously accused the AA of collecting extortion money from *yemase* miners, which the group denies.<sup>316</sup> Still, several powerful bosses, whose roles include overseeing *yemase* miners and trading jade for the AA, were identified to Global Witness by knowledgeable sources during the investigation for this report.<sup>317</sup> Some of these businesspeople act as silent "shareholders" in the trading

of jade stones, further supporting indications that the AA is involved in brokering illicit jade sales in Mandalay.<sup>318</sup>

The AA also collects revenues through an informal taxation system imposed on Rakhine companies and businesses operating in Hpakant. This is often described as "voluntary," although Rakhine jade traders are expected to contribute 10% of their profits through this system.<sup>319</sup> Local sources suggest that this is done with approval from the KIO/A, which collects its standard 10-25% production tax from the AA's mining operations.<sup>320</sup>

The AA may also be garnering income from medium-scale jade mining in Hpakant, where at least one jade mining company has been established by the AA, according to a lawyer with links to an affiliated organisation.<sup>321</sup>

Global Witness has also identified a little-known organisation operating in Hpakant that is understood to oversee revenue collection for the AA, including the management of *yemase* operations and the collection of "donations" for the group.<sup>322</sup>

The AA seems to operate independently from Tatmadaw and UWSA-affiliated companies, staying away from joint-venture-type arrangements with other powerful groups in Hpakant and instead preferring to work closely with the KIA. In turn, the KIO/A provides the AA with "favours", allowing it to smuggle jade through KIO/A territory and helping it sell high-value stones. The AA mostly sells its jade informally, with tax payments to the KIO/A made in cash in Myanmar kyat in Hpakant.<sup>323</sup>

The KIO/A denies allowing the AA to collect taxes from jade mining. It stated to Global Witness that, "[a] part from KIO, no other organisation could collect tax from the business inside Kachin State." However, KIO/A representatives did concede that "some Rakhine businesspersons from Hpakant may voluntarily provide some funding for the AA."<sup>324</sup> Representatives of the AA declined to comment for this report.

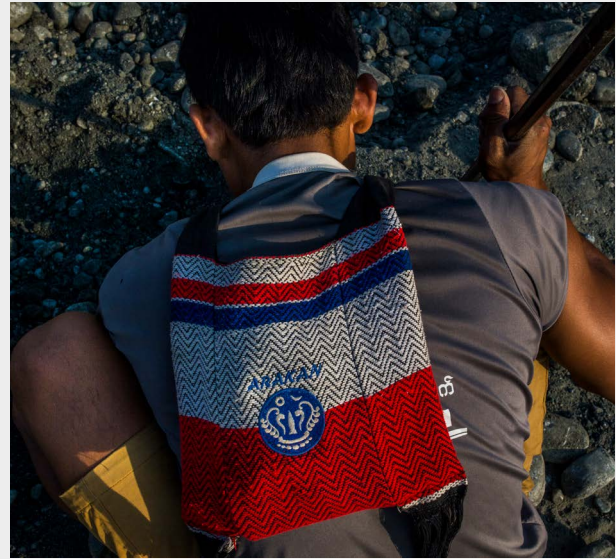
### ***Non-jade income***

According to members of the Rakhine business community, the AA's informal taxation/donation system applies not only to jade businesses, but to all ethnic Rakhine workers both in Myanmar and abroad. Small business owners pay around 10,000 kyat (US\$6.50) a month, while larger business owners pay around 100,000 kyat (US\$65) a month as a contribution to the AA.<sup>325</sup> Recent media reporting on contributions to the AA from Rakhine businesspeople living abroad appears to confirm this source of income.<sup>326</sup>

## Arakan Army recruiting in the jade fields

The boom in yemase miners in Hpakant has provided the AA with fertile ground for recruitment. The AA was founded in Kachin and has enlisted many of its soldiers from the jade mines around Hpakant. Many yemase miners have left for combat training in the KIA stronghold Laiza, travelling via China, sometimes under the guise of being migrant plantation workers, an ideal cover for cross-border movements.<sup>327</sup>

One Rakhine businessman in Hpakant told Global Witness that if you want to join the insurgent group you can ask any Rakhine person in Hpakant for AA batteries. Asking for the item “is a code word to go get training with the AA,” he said.<sup>328</sup>



A yemase miner originally from Rakhine state searches for jade in Hpakant. *Global Witness / M.O.*

The AA has also faced persistent accusations of financing its operations through the narcotics industry, including the methamphetamine trade to Bangladesh.<sup>329</sup> According to a political analyst, this would be the only way for the previously unknown ethnic armed group to bankroll such a rapid and successful rise.<sup>330</sup> The emergence of Bangladesh as a key market for Myanmar-produced yaba tablets has at least presented an opportunity for the AA. The AA controls territory in Rakhine State along the border with Bangladesh and is active in northern Shan State where the majority of Myanmar's methamphetamines are produced. This leaves the group well-situated to control smuggling routes out of the country.<sup>331</sup> The AA has always denied receiving any funding from the narcotics trade.<sup>332</sup>

## 2.5 The United Wa State Army

The UWSA emerged from the remnants of the Communist Party of Burma after its fall in 1989. As a result, it has a historically close relationship with China, as well as with several other ethnic armed groups formerly linked to the Communist Party of Burma, including the MNDAA and the National Democratic Alliance Army, also known as the Mong La Group.<sup>333</sup> The UWSA reached a ceasefire agreement with the military junta in 1989, securing its own self-administered territory and the right to pursue business interests across the country and trade freely across the Chinese border.<sup>334</sup>

Today it is Myanmar's largest ethnic armed group, with upwards of 30,000 troops. It also enjoys a degree of political protection from China, making it one of the

most significant conflict actors in the country.<sup>335</sup> It played a leading role among ethnic armed groups in pre-coup ceasefire negotiations with Myanmar's government and the Tatmadaw, but has resisted signing the NCA on the basis that it has not been in open conflict with the central government since 1989.<sup>336</sup> The UWSA itself is not a monolithic enterprise, and is likely to be driven by both nationalist and business agendas.<sup>337</sup>

### *UWSA's historical ties to the jade industry*

The UWSA was among the first ethnic armed groups to reach a verbal ceasefire agreement with Myanmar's military junta in 1989, brokered by then Chief of Military Intelligence, Khin Nyunt.<sup>338</sup> It was rewarded with jade and ruby mining concessions in Hpakant and Mong Shu (in Shan State), capitalising on the ceasefire dividends handed out by the junta.<sup>339</sup>

There appear to be different factions within the UWSA.<sup>340</sup> Some analysts say the main split is between two UWSA leaders: commander-in-chief, Bao Yu-Xiang, and senior commanding officer, Wei Hsueh Kang. Both are sanctioned by the US Treasury for their links to the narcotics trade.<sup>341</sup> Our previous investigations have tied Wei Hsueh Kang to a network of powerful mining companies in Hpakant, including Myanmar Takaung, Thaw Tar Win Gems and Ayeyar Yadanar Gems.<sup>342</sup> UWSA-affiliated companies have thousands of backhoes and machines worth millions of kyat, and control vast chunks of Hpakant, according to industry figures.<sup>343</sup>

Analysts have argued that the Wei faction takes a greater interest in expanding business interests, while the Bao faction shares broader political and nationalist goals.<sup>344</sup> One analyst suggested that Bao’s son-in-law, Aik Haw (aka Ho Chung Ting), another sanctioned figure, previously served as a bridge between the two groups.<sup>345</sup> Our research suggests that this may no longer be the case, with some also hinting at a rift between Aik Haw and his former business partner Wei Hsueh Kang.<sup>346</sup> One senior jade industry figure said that Aik Haw is no longer active in jade mining, only in jade sales.<sup>347</sup> A senior figure in the KIO/A suggested he plays a new role in brokering sales involving the two armed groups.<sup>348</sup> However, it is clear that at least one company previously linked to him, Triple One (1.1.1. Gems or 111 Company), still had an active licence as recently as June 2020.<sup>349</sup>

Concessions granted to the UWSP/A as a result of the 1989 ceasefire agreement allowed Wei Hsueh Kang’s opaque criminal network to move into Hpakant, where its power has grown exponentially over the last three decades. During this time, UWSP/A-linked companies proliferated across various sectors of the economy, including mining, hotels, travel, casinos, construction and manufacturing. In 1998, Wei Hsueh Kang established the Hong Pang Group – most likely with proceeds from the narcotics industry, which the group had quickly begun to invest in various legal businesses.<sup>350</sup>

The US government has accused the UWSP/A of being one of the “largest and most powerful drug trafficking organisations in Southeast Asia,” and for whom Wei’s business networks operate as front companies.<sup>351</sup> Questions remain about the extent to which revenues from UWSP/A-linked business enterprises finance the armed group’s activities or simply serve to personally enrich its top leaders.<sup>352</sup> However, either scenario provides a powerful disincentive for the group’s leaders to engage in a credible peace process.

### ***Lucrative relationships***

Wei Hsueh Kang’s ascendancy in the gemstone sector was a direct result of how the former military junta managed conflicts and expanded state control.<sup>353</sup> The UWSP/A and Wei business networks have since developed lucrative relationships with the Tatmadaw through the jade industry. For example, there is evidence of past director links between UWSA-affiliated companies and military-linked entities, including those controlled by the family of former dictator, Than Shwe, operating in Hpakant.<sup>354</sup> Another military-owned company, Northern Star Gems, shared a director with another UWSP/A-linked company, Taw Win San Htar Gems & Jewellery, until at least 2017.<sup>355</sup>



UWSA Leader Bao Youxiang waves to the crowd at a 2019 military parade in Wa State to celebrate 30 years of ceasefire between the Tatmadaw and UWSA. *Ye Aung Thu / AFP via Getty Images.*

Described as a “real friend” by former President Thein Sein during his tenure as a military commander in the Golden Triangle, Wei Hsueh Kang and his Hong Pang company collected lucrative business contracts around the country, including construction and infrastructure projects.<sup>356</sup> The relationship was such that the former military junta protected Wei Hsueh Kang and some of his associates from deportation to the United States on narcotics charges in 2005.<sup>357</sup>

**“It’s the only group that the Tatmadaw won’t touch,”** – a Kachin journalist, referring to the UWSA<sup>358</sup>

While not in open conflict with the Tatmadaw, the UWSP/A never physically signed a formal ceasefire agreement; the 1989 pact was verbal only, and the UWSP/A has also declined to sign the NCA.<sup>359</sup> Given its current economic and political position, as well as China’s support, there was never much incentive for the UWSP/A to sign the NCA. In spite of this refusal, the UWSA has nevertheless emerged as a significant power player in the peace process.<sup>360</sup> It has close ties to the Northern Alliance, a network of ethnic armed groups fighting the Tatmadaw, and provides support, training and weapons for armed groups resisting Tatmadaw forces. This includes Northern Alliance members such as the Ta’ang National Liberation Army, the MNDAA, the AA and the KIA, as well as other armed groups like the Shan State Army-North.<sup>361</sup>



Rescuers recover bodies following a landslide on 2 July 2020 in Hpakant. The landslide, the worst such disaster in Myanmar's history, killed nearly 200 people. *Zaw Moe Htet / AFP via Getty Images*

As a key stakeholder in the conflict economy of northern Myanmar, the UWSP/A would stand to lose in any transition to a more formalised economy.<sup>362</sup> This helps to explain the UWSP/A's response to the coup, on which it has remained largely silent in refusing to publicly support it, but also declining to condemn it.<sup>363</sup>

### ***Post-licensing suspension rise***

Over the last few years, Wei Hsueh Kang and his network of companies have continued to expand their influence across Hpakant's jade mines. Numerous industry and local sources interviewed by Global Witness described how Wa-linked entities, with suspected financial backing from Chinese entities, have come to dominate the mines.<sup>364</sup>

Industry sources claim that between 10 and 50 Wa-linked entities still operate in Hpakant, many linked to Wei Hsueh Kang's criminal network.<sup>365</sup> The Wa influence is so strong in the jade mines that a politician with links to the jade industry claimed Wei Hsueh Kang functionally controls a large area in Hpakant called Whay Khar Maw, where he demands a cut of the profits from any company seeking to operate there.<sup>366</sup>

This area was also the site of one of Myanmar's worst jade mining disasters on record, the aforementioned 2020 landslide that killed nearly 200 *yemase* miners. At least three UWSA-linked companies – Myanmar Takaung, Ayeyar Yadanar and Triple One – have been named in media reports as running the mine site at which the accident took place. Myanmar's Ministry of Information identified the company Kyaukmyet Shwe Pyi as owning the mine site (it also, confusingly, said Kyaukmyet Shwe Pyi was known locally as 111 Company – another name for the Wa-linked Triple One – though the two are listed as different companies on DICA's corporate registry).<sup>367</sup> The mine was

not officially operating at the time, however, as its owners had halted official mining due to the monsoon rains, as required by law. As such, the *yemase* present when the accident took place were technically mining illegally.

When reached for comment, a representative from the UWSA denied any connection to the companies named above. However, they did acknowledge that Wa-owned companies were mining on the site legally before shutting down operations for the season, raising the question of which Wa companies were working there if not the ones named above.

As described above, UWSP/A-linked companies have used the licensing suspension and threat of expiring licences to coerce other jade companies into illegal mining partnerships.<sup>368</sup> There is also some evidence that UWSP/A-linked companies have been cooperating with military-linked companies. In 2015, Myanmar Takaung allegedly assisted MEHL in forcing smaller companies into informal collaborative agreements. A company representative explained how Myanmar Takaung took over one of his mines in the name of MEHL in 2015, demanding a 50:50 profit sharing arrangement. The representative's company was later able to negotiate a 60:40 split in its favour.<sup>369</sup>

Kachin companies in particular have struggled to compete against powerful UWSP/A-affiliated networks. "It's not easy to compete with the big companies backed by the government," a local jade trader told Global Witness.<sup>370</sup> Some firms have been forced into partnerships with larger Tatmadaw-linked Wa companies.<sup>371</sup> The Wa entities offer a powerful security blanket to other companies, which as Global Witness has previously shown, may involve hefty payments being made to the armed group.<sup>372</sup>

### ***The UWSP/A's relationship with the KIO/A***

**"Although neither group acknowledges it publicly, KIA and UWSA view each other both as partners and competitors." – a researcher on China-Myanmar relations<sup>373</sup>**

The KIO/A's relationship with the UWSP/A with regards to jade has continued to evolve since 2015. The Wa group still plays an active role in collecting taxes for the KIO/A from big crony, army and Chinese companies operating in Hpakant. This role, as Global Witness has previously reported, was once held by US-sanctioned drug lord Aik

Haw, the son-in-law of UWSA leader Bao Yu-Xiang and former right-hand man for Wei Hsueh Kang.<sup>374</sup> However, according to several figures close to the KIA, Aik Haw has now left that role, with two people suggesting that this has led to decreased revenue collection from the UWSA.<sup>375</sup> Another senior figure in the group said Aik Haw has simply taken on a new role brokering joint jade sales in China.<sup>376</sup>

The KIO/A and the UWSP/A have recently forged closer business relations in the supply chain, working together to mine, trade and sell jade.<sup>377</sup> A KIO/A intelligence source told Global Witness that most of the investment into Triple One Company, a UWSP/A-connected entity linked to Aik Haw, now comes from the KIA.<sup>378</sup> However, tensions have mounted, partly due to competing business interests, with sources close to the KIO/A accusing the UWSP/A of exploiting it on jade sales.<sup>379</sup>

The KIA 6th Battalion, stationed in Hpakant and tasked with tax collection and liaising with the KIO/A's jade valuation team, also works closely with UWSA companies.<sup>380</sup>

In response to Global Witness enquiries on the nature of their relationship with the UWSP/A, the KIO/A denied having ever collaborated with Aik Haw, appointed him to collect taxes, or having any business relations with the UWSA beyond the standard tax arrangements for jade operators.<sup>381</sup> The Wa State Ministry of Foreign Relations similarly denied any commercial relationship between the Wa State and the KIO/A. It asserted that the only tax payments the UWSP/A make are in accordance with Myanmar law.

## Arms for jade

In addition to jade sales providing key revenues to fuel conflict, Global Witness has uncovered that jade taxes were being paid in-kind with weapons prior to the coup. Numerous sources confirmed to Global Witness that the UWSA partly repaid the KIA for jade taxes in the form of armaments.<sup>382</sup> Two senior members of the KIA said around a third of tax payments were supposed to be made in arms.<sup>383</sup> Global Witness has been unable to confirm if this dynamic is ongoing following the coup. However, there is little reason to believe that armed groups have stopped providing each other with weapons or that the trade of jade for arms will not restart in the future.

“The KIA is supported by the Wa and weapons are flowing from the Wa to the KIA,” explained one MP in 2019: “The government is afraid to touch the Wa.”<sup>384</sup>

Weapons are difficult to transport from Wa-controlled areas to the KIA. They must go through several contested conflict zones in northern Shan state, including Kokang,

sometimes via China or through Muse and Namkham to Nbapa where the KIA's 3rd Brigade is stationed. Thereafter they are moved northwards to Laiza or Laisin.<sup>385</sup> One business source close to the UWSA said that assault rifles, sniper rifles, hand grenades and remote controlled missiles were being transported as tax payments.<sup>386</sup>

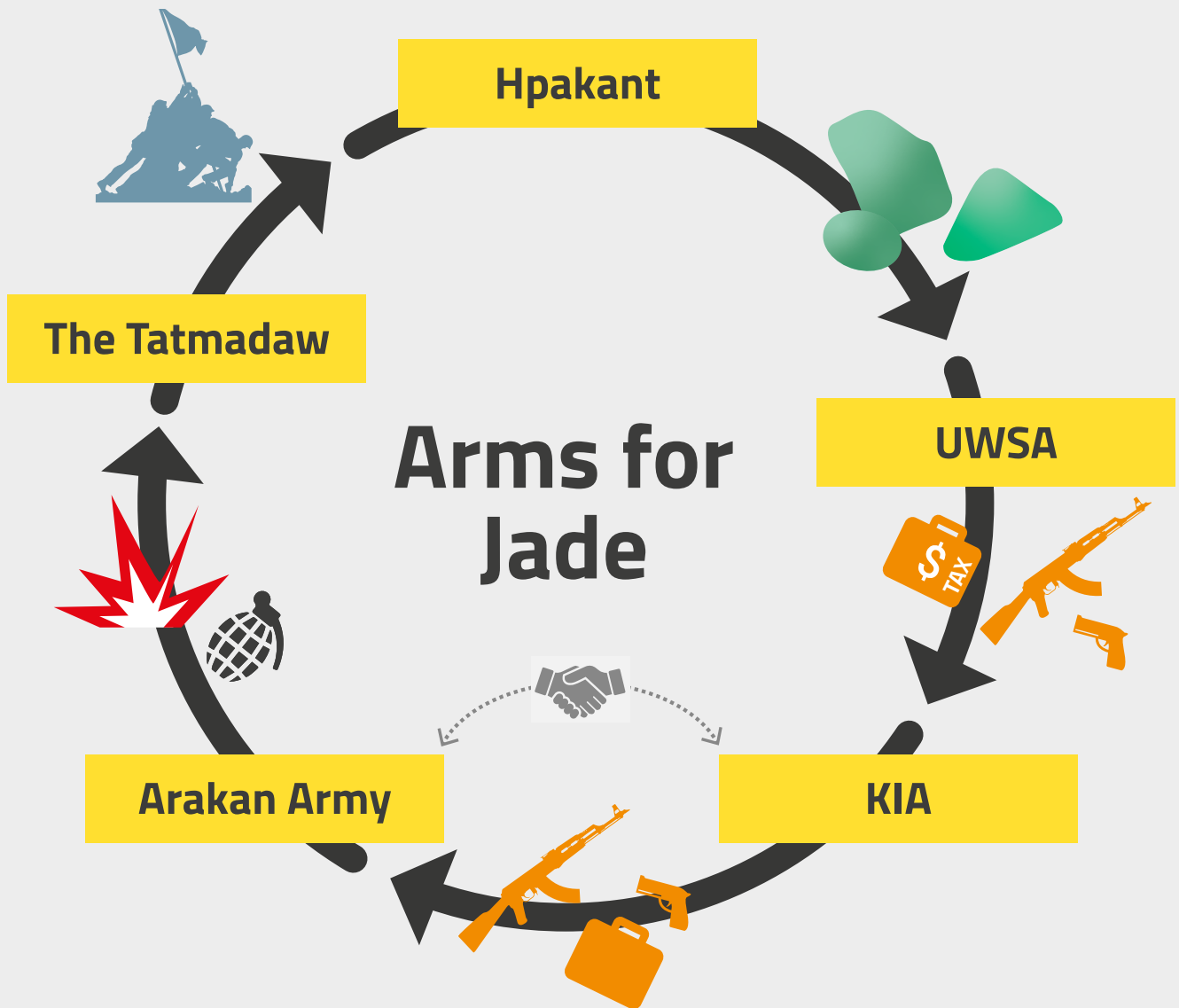
Wa experts say that despite the fact that these weapons are mostly manufactured inside Wa territory, any arms deals would have to be approved by Beijing, which is apprehensive about the Christian-majority KIO/A.<sup>387</sup> One political analyst suggested that any arms sales by the UWSA would need to be signed off by the People's Liberation Army military intelligence or Ministry of State Security, limiting the scope of weapons sales to the KIA.<sup>388</sup>

“The Wa basically control the KIA's finances,” admitted a senior KIO/A leader, adding that they struggle to get the UWSA to pay up for taxes owed, whether due in cash, arms or other in-kind payments, such as vehicles.<sup>389</sup> He still insisted that the relationship between the groups was in good shape and personal friendships strong. “Friendship is friendship and business is business,” he said.<sup>390</sup>

But KIO/A leaders say they are being substantially overcharged for the weapons. One official described UWSA weapons as “very expensive”, claiming that an assault rifle that would cost around RMB 3,000 to produce would cost RMB 20,000 to buy from the UWSA.<sup>391</sup> Another said they are 20 times more expensive than they are worth.<sup>392</sup>

The jade that ends up at markets like this one at De Long International Jewellery City in Ruili, Yunnan Province, directly fuel the ongoing conflicts in northern Myanmar. *Global Witness / M.O.*





## UWSA WEAPONS IN RAKHINE

Media reports suggest that both the KIO/A and the UWSA/P are supplying the AA with arms and munitions.<sup>395</sup> A KIO/KIA intelligence officer confirmed to Global Witness that around 50% of the weapons received from the UWSA as “tax payments” are sold onwards at a discount to the AA.<sup>396</sup> Asked about this in an official capacity, KIO/A representatives denied that any UWSA/P weapons are being sold to the KIO/A or the AA.<sup>397</sup>

The UWSA has reportedly played an increasingly prominent role in supporting the AA and its allies, the Ta’ang National Liberation Army and the MNDAA, militarily since the AA’s formation in 2009.<sup>398</sup> One KIO officer claimed that the UWSA even provided some weapons and arms free of charge to the AA from 2014.<sup>399</sup>

According to a senior KIO/A officer, in addition to importing weapons from China, the UWSA produces weapons in factories within its own territories, both for its own use and for sale to other armed groups. One of these factories is based in Kun Ma, around 125 km from Pangsang. This factory is believed to produce Chinese-designed assault rifles, including M22s, M23s, QBZ-03s and M99 12.7mm sniper rifles. The UWSA leader, Bao Youxiang, is also believed to have sold these weapons to other armed groups in Myanmar.<sup>400</sup>

The KIO has denied that any of its arms make their way to the AA or other ethnic armed organisations in Kachin State.<sup>401</sup>

Armed conflict has even broken out between the KIA and UWSA-linked entities over disputes regarding weapons provided as in-kind tax payments. Two senior KIA sources claimed that the group launched an attack on an UWSA-linked company in 2016 because of a revenue dispute. The UWSA allegedly owed the KIA taxes collected from other companies, but wanted to repay a third of the debt with overpriced arms instead.<sup>393</sup>

The KIO has officially denied that it receives arms as tax payments from the UWSA.<sup>394</sup> When reached for comment, the Wa State Ministry of Foreign Relations denied making any arms sales or using weapons to repay the KIA for taxes owed.

## 2.6 The Myanmar National Democratic Alliance Army

The MNDA is the last of Myanmar's armed groups alleged to be involved in the country's jade sector. The MNDA draws its support from the Kokang people in northeastern Myanmar, and is one of the most active ethnic armed groups in the country. It has become a key player in the country's ethnic conflicts since hostilities broke out again with the Tatmadaw in 2015 and is a member of the Northern Alliance.<sup>402</sup>

A significant number of ethnic Kokang-owned companies with suspected links to the MNDA operate in Hpakant, according to industry sources.<sup>403</sup> A senior jade businessperson told Global Witness that MNDA leader Pheung Kya Shin had permission to operate a major jade company in Hkamti before he was ousted from Myanmar by the Tatmadaw in 2009. His company is still mining and selling jade both in Myanmar and China, according to the source.<sup>404</sup> Company records indicate that at least one large company linked to Pheung Kya Shin is still operational. It is called Pyai Sone Win Aung Company and claims to be a motor vehicle enterprise. A cluster of gem companies linked to the MNDA and sharing an address with the Pyai Sone Win Aung company have not re-registered on DICA.<sup>405</sup>

Recent beneficial ownership disclosures suggest that at least one gem and jade company called Lyan Shan Jewellery (LS Jewellery) is owned by former MNDA chairman, Yang Moe Lyan (or Yang Mao-Liang).<sup>406</sup> Both Pheung and Yang have been implicated in the region's drug trade, with the two clans being embroiled in a bitter

A lone soldier stands guard as his unit commander inspects the aftermath of an April 2019 landslide in Hpakant. Jade from these mines helps fund the arms trade that sustains Myanmar's conflicts. *Global Witness / M.O.*



dispute over control over the region's heroin trade in the early 1990s.<sup>407</sup> Yang established the company Peace Myanmar Group in 1993, an alcoholic beverage company suspected of laundering narcotics proceeds for the armed group.<sup>408</sup> The former warlord was able to exploit his military connections to develop a successful business empire, and the military appears to have turned a blind eye to his involvement in the drugs trade. This was similar to the Tatmadaw's dealings with the Wei brothers and Lo Hsing Han, a notorious ethnic Kokang drug lord who founded Asia World Company, now run by his son Steven Law (Htun Myint Naing).<sup>409</sup>

According to its website, LS Jewellery is one of largest mining companies in Myanmar. Photos on the site show an array of rubies, sapphires and jade. Yang's family members are also listed as beneficial owners of the company.<sup>410</sup> Its affiliated company, LS Technology, has been contracted to install a communications system for the military conglomerate MEC, suggesting an ongoing business alliance with the military.<sup>411</sup> Yang's wife, Daw Lee Kyu Shan, is also a director of Chit Kyi Yae Gems & Jewellery, a small company with close ties to LS Jewellery.<sup>412</sup>

### 3. HPAKANT AFTER THE LICENSING SUSPENSION

As outlined in the previous two chapters, Myanmar's jade sector has become woven into a complex tapestry of economic, political and security interests that drive the continuation of conflict and the rapacious exploitation of resources in Hpakant. The jade industry provides a key source of funding for three of Myanmar's largest non-state armed groups, along with a constellation of smaller BGFs and militias. In spite of the presence of these powerful non-state actors, Myanmar's jade sector remains dominated by the Tatmadaw and its allies, while powerful cronies and hidden interests operate in the shadows. While the NLD sought to break the jade-conflict nexus, entrenched interests, and a lack of government focus and high level attention, combined to stymie reform progress. Now, with the Tatmadaw taking back power, the prospects for further positive change are dim.

The preceding chapters have largely focused on the origins of the jade-conflict nexus and the broader political implications of this nexus. These dynamics are not the only story, however. The control that armed groups exercise in Hpakant and over the jade sector more broadly have contributed to a lawless, high-risk environment for people living and working in and around the mines. It has also resulted in the devastation and permanent scarring of land and waterways in Kachin State.

In spite of, and in some cases because of, the NLD's efforts to reform the industry (as discussed in chapter one), conditions in Hpakant have deteriorated over the past five years. Mining has become more dangerous, corruption and illicit activity – extortion, smuggling and drug trafficking – have flourished, and a climate of fear and violence has enveloped the region, as men with guns have consolidated control. These dynamics did exist prior to the licensing suspension. However, the scramble to mine ever faster and more dangerously, and the subsequent failure of the NLD's reform programme to create meaningful change on the ground, have exasperated the situation.

Equally importantly, the suspension appears to have had little effect on actual mining volumes. The remainder of this chapter provides a deeper analysis of some of these more recent, pre-coup developments in the region.

#### CASE STUDY

### DANGEROUS MINING, DEADLY RESULTS

One of the main unintended consequences of the licensing suspension was a wave of rapacious and legally dubious mining by armed groups and well-connected companies that the civilian government was unwilling or unable to stop. Over 20,000 jade and gemstone licences were active at the start of the licensing suspension in 2016, with the final licences expiring in March 2021 – a situation that led companies to mine as intensely as possible in order to maximise the amount of jade they could extract before their licences expired.<sup>413</sup>

This frenzied mining pace created ever more hazardous conditions. Rather than transporting their mining waste to designated dumping areas, many companies increasingly disposed of it on-site to minimise the time and cost spent on waste-transportation.<sup>414</sup> Dumping waste on company sites causes those plots to become increasingly unstable and susceptible to deadly landslides, especially during the monsoon season. The danger is compounded by the increasing numbers of informal yemase miners, who search through tailings for smaller jade-rocks left behind by mechanised mining, forced to move to these increasingly dangerous company plots instead of operating on better-regulated official tailings dumps.<sup>415</sup> This is not to suggest that mining was safe prior to the suspension, as landslides kill dozens of miners annually, but rather that accidents in the industry have gotten worse over the last five years.

Rapacious mining and dumping practices have also left massive tailings ponds near mine sites, which companies often simply abandon once their licences expire. These tailings ponds are actually huge pits that fill with water and mining waste during the monsoon season, leaving them unstable and leading to sometimes fatal consequences.

Two recent incidents illustrate the dangers posed by current patterns of mining activity in Myanmar: in April 2019, a landslide killed over 50 people, and in July 2020 another killed nearly 200 in the worst such disaster in Myanmar's history.

The April 2019 accident was a direct result of dangerous mining practices by multiple companies, including both illegal waste dumping and illegal mining. The accident happened at a site that had been held by a company called Unity Gems until its licence expired in October 2017, after which it had abandoned the site. An investigation by *Frontier Myanmar* found that over the following 18 months the site had filled with a mix of



rainwater and mining waste illegally dumped by other mining companies operating in the area, who had opted to use this nearby abandoned pit instead of a designated dumping site.<sup>416</sup>

The pit slowly filled with thick slurry until the wall separating it from adjacent mining areas burst, sending tonnes of sludge into an active worksite and burying 54 people alive along with 40 pieces of mining equipment. Myanmar's Ministry of Information announced that 26 of the dead worked for Myanmar Thura Gems Company.<sup>417</sup> Myanmar Thura reportedly did not have a licence to mine in the area, nor did Chaow Brother Enterprise or Kachin Nationals Development Company, two other companies operating there.<sup>418</sup> None of these companies faced consequences for their legally questionable activities.

While the 2019 accident showed the dangers posed to mining company employees, the 2 July 2020 accident highlighted the dangers that informal *yemase* miners face. Over the course of a decade of breakneck mining, including by the United Wa State Army-linked Myanmar Takaung, the site near Wai Khar village in Hpakant township was transformed from a forested mountain into a giant pit with walls prone to frequent landslides.

Nearly 200 informal *yemase* miners (discussed in section 3.4) were killed in one such landslide as they searched for jade scraps too small for mining companies to bother with. Mining in the area was suspended on 20 June with the start of the monsoon season, but according to the then serving member of the national parliament representing Hpakant, U Tin Soe, hundreds of individual miners were allowed to mine in the area after paying an ethnic armed group for permission.<sup>419</sup> The incident

One of the at least 55 people killed in the disaster was this truck driver for Myanmar Thura, a company mining nearby without a licence. *Global Witness / M.O.*



Workers attempt to remove equipment buried in mud by the April 2019 collapse of a huge lake of sludge in Hpakant. *Global Witness / M.O.*

saw Aung San Suu Kyi quickly blame joblessness, while Myanmar's environment minister, Ohn Win, blamed the "greed" of *yemase* miners in not listening to warnings about heavy monsoon rainfall.<sup>420</sup> The government appointed a committee to investigate the incident, but then placed Lieutenant General Soe Htut, one of the largest individual shareholders in MEHL, and thus the jade industry, on the committee, seriously undermining its credibility.<sup>421</sup>

In the end, the Tatmadaw claimed that it had fired two officers over the incident, including Kachin State Minister for Security and Border Affairs, Colonel Nay Lin Tun.<sup>422</sup> The government also reportedly arrested three jade businessmen involved in pressuring miners to continue mining.<sup>423</sup> Still, this amounted to little more than victim-blaming and scapegoating, which merely diverted attention from the government's failure to clean up the sector and keep people safe.

Both of these incidents show the dangerous impacts of lax regulations and reckless mining. In this lawless environment, powerful companies act with little respect for safety or the environment, simply abandoning giant waste pits once their licences expire. Illegal waste-dumping combines with monsoon rain to turn these pits into sludge-filled accidents waiting to happen. And when the walls of these pits inevitably collapse and cause landslides, the ubiquity of informal illegal mining ensures that accidents are deadly.

### 3.1 Jade production after the licensing suspension

One of the most pertinent questions to ask about the licensing suspension is, how did it impact jade and gem production? The short answer is that it is unclear.

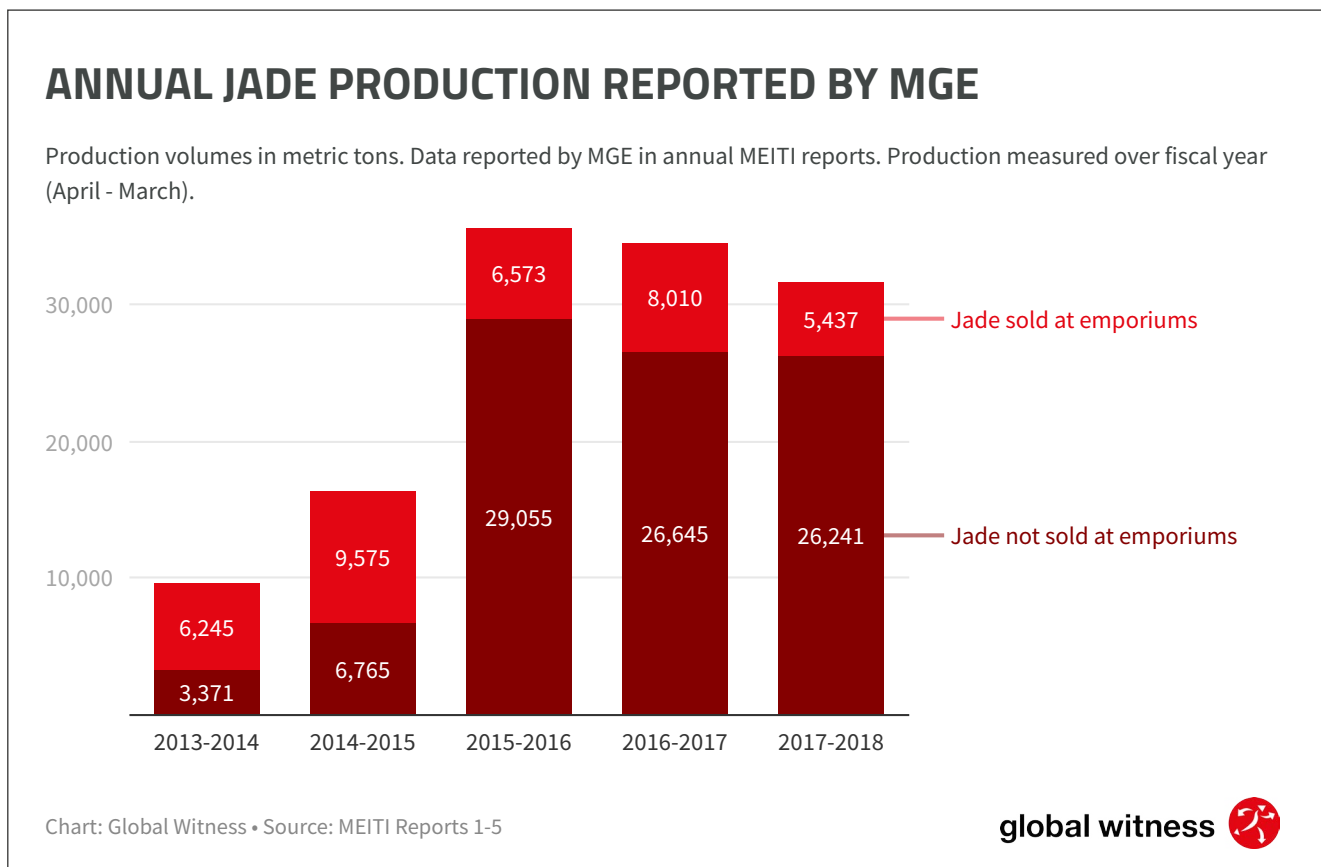
The volume of jade that is extracted illegally or smuggled out of the country, and thus difficult to count in official statistics, renders the quality of information on jade production in Myanmar poor at best. Still, by combining available data with interviews conducted by Global Witness for this report, it appears that the licensing suspension had, at most, a minimal impact on overall production after coming into effect. Official jade production levels remain significantly higher than they were in 2014, having decreased little from 2015 levels, when they skyrocketed prior to the change in government and before the licensing suspension came into effect.

As indicated in the chart below, official jade production increased massively between 2014 and 2015 – from 16,340 metric tons to 35,628 metric tons. From that high level, production decreased slightly, by 11%, over the

subsequent two years to 34,655 metric tons in 2016 (when the suspension started) and 31,678 metric tons in 2017. This data includes official production and emporium sales volumes reported by MGE and published in the five MEITI reports released up to 2020. Production amounts for amber and quartzite production, classified as jade in the first three MEITI reports, have been excluded. Data for more recent years had not been released at time of writing.

It may be that the licensing suspension, which was just starting to lower the number of active licences in the financial year 2017-2018, is the reason that official production seems to have started to slow. This slowdown was minimal, however, and did not kept up with the decline in active licences as licences expired. Continued mining even as licences expired suggests that illegal mining increased following the suspension. Indeed, the impunity with which military-linked jade companies continued to operate even without licences, discussed previously, bears this out.

Sales volumes at emporiums show a slightly different pattern to overall production numbers. Sales volumes peaked in 2014 and decreased in total over the following



Officially reported jade production more than doubled between FY2014-2015 and FY2015-2016, although sales at emporiums did not increase.<sup>424</sup>

three years. By 2017, sales were 43% lower than the 2014 peak. More interestingly, in 2013 and 2014 the majority of jade produced (and recorded) was sold at official emporiums – around 60% each year. However, when official jade production soared in 2015, emporium sales did not grow with it. From 2015-2016, jade sold at emporiums only represented 20% of total jade production.

All of this leads to two questions: why did official jade production increase so dramatically in the 2015-16 financial year, and why did emporium sales not increase as well? There are several potential answers. It is possible that the government did a more effective job at recording jade production, and the increase merely represents the ‘legalisation’ of production that had previously been done off-the-books. This is unlikely, however, to be the full story. More likely is the answer found during this investigation: jade companies, recognising that the political situation was about to shift dramatically due to the approaching election and fearing a potential change in licensing rules, turbocharged production in order to extract as much jade as quickly as possible. They then continued mining at these elevated levels even after the licensing suspension began reducing the number of active licences. If this is true, then the licensing suspension and subsequent reform efforts appear to be even more significant failures, as production continues to remain much higher than 2014 levels.

One final explanation is that jade volumes production really did spike in 2015 as a reaction to the increase in jade prices in 2014. As outlined in the case study on the previous page, prices for jade exported to China averaged US\$5.08 per kilogram in 2011, jumped to US\$127.69 per kilogram in 2014 and then crashed back down to US\$10.52 per kilogram in 2015.<sup>425</sup> It is also plausible that companies, reacting to the massive jump in prices in 2014, increased production in an attempt to take advantage of prices over 20 times higher than they were just three years before. While this provides a different explanation for the increase in official production levels, it still implies that the licensing suspension failed to bring production volumes back down to pre-2014 levels even after prices crashed in 2015.

The declining percentage of jade sold at official emporiums could be a result of companies increasing jade production before expected regulatory changes and then stockpiling the excess jade for future sales. More likely, however, is that an increasing portion of the jade mined in Myanmar is simply smuggled out of country or sold in private jade markets of questionable legality. This possibility will be discussed further in section 3.2 below.

It must be stressed that all of this data represents official production and sales statistics, and does not account for illegal mining or sales. Global Witness evidence suggests that while overall production may have decreased slightly as mining licences expired, powerful companies linked to the military and other conflict actors continued mining with the use of increasingly dangerous and legally questionable practices. These operations only became more dangerous as such actors mined as quickly as possible before licences expired.<sup>426</sup>

Even closely connected officials and businesspeople have differing views on production levels, showing just how opaque production data can be. One senior industry source told Global Witness that production had remained the same at least between 2014 and 2018, even though emporium sales fell during this time, with most jade transported to China.<sup>427</sup> Others suggested that production had decreased overall, though some entities including those involved in conflict have continued mining.<sup>428</sup>

Ultimately, the fact that official jade production has continued at levels much higher than before the 2015 election, albeit at a slightly slower pace as licences have expired, means that companies have had to get creative, or downright illegal, in how they continue to extract jade from Kachin’s hills.

### 3.2 Smuggling on the rise

One of the biggest issues in Myanmar’s jade industry has long been the prevalence of smuggling – as noted above, most of Myanmar’s jade is smuggled out of the country without ever entering the formal system. This makes it almost impossible to get an accurate picture of the size of the jade industry, whilst depriving the people of Myanmar of potentially hundreds of millions of dollars in tax revenue and encouraging groups to engage in other illicit activities alongside such trafficking.

The licensing suspension has contributed to the problem of smuggling – one of its unintended consequences. Companies mining on expired licences have not been able to sell their jade through legal channels even if they wanted to. As such, they have required illicit means to transport their wares to market. The resultant fall-back to smuggling has been made easier by cooperation between the major armed groups active in Hpakant, who were already cooperating on mining. Here, it has made sense for such collaboration to expand to moving stones to market.

Many industry figures told Global Witness that smuggling continued, and even increased, after the suspension. While precise figures remain difficult to obtain, industry

## JUST HOW BIG IS MYANMAR'S JADE INDUSTRY?

In 2015, Global Witness estimated that Myanmar's jade production was worth up to US\$31 billion in 2014, which appears to have been a peak year for jade valuations. This figure generated considerable attention, and several studies have since been conducted that provide other estimates. One such study, conducted by the *Natural Resource Governance Institute*, estimated the industry to be worth US\$2.2 billion to US\$15.9 billion in the fiscal year 2014-2015 and US\$4.1 billion to US\$43.6 billion for fiscal year 2015-2016.<sup>429</sup> In another study, the *Open Data: Myanmar Jade* project estimated the value at between US\$6.3 billion to US\$6.6 billion, while other experts have argued for and against all of these different valuations.<sup>430</sup> In reality, the true value of Myanmar's jade production remains obscured by the highly illicit nature of the trade and the large portion of production that never makes it into official figures. More timely and complete information from the government, either through the MEITI process or other systematic disclosures, would bring more clarity. Ultimately though, when up to 90% of jade is not sold through legal channels, critical uncertainties remain.

### Value versus Production

Rather than updating these financial estimates of worth in detail, this report instead analyses production volumes to understand how formal jade mining in Myanmar changed before and after the suspension.

There are two main reasons for this. First, jade production volume data is more relevant to the question of how the licensing suspension has impacted production than is sizing the industry by dollar value. Production volumes are less susceptible to external market forces like fluctuations in price and exchange rates than the total sectoral value is, and are thus more representative of actual jade mine production than an industry size value. Pricing incorporates changing exchange rates, price fluctuations in the jade market, differences in jade quality and other intermediary variables that all serve to obscure year-over-year changes in production.

We can see this clearly in historical pricing information. The *Open Data: Myanmar Jade* study found that prices for jade exported to China averaged US\$5.08 per kilogram in 2011, skyrocketed to US\$127.69 per kilogram in 2014 and then crashed back down to US\$10.52 per kilogram in 2015.<sup>431</sup> Looking only at total industry value, these price



Most of Myanmar's jade ends up with Chinese consumers, like those buying finished jewellery at one of the many shops at the Jiagao market in Ruili, Yunnan Province, China. *Global Witness / M.O.*

changes would make the industry appear as though it was changing immensely on an annual basis, even if production volumes remained exactly the same.

Second, there is little information to suggest that the other key variable driving jade market sizing estimates – the quality of jade mined and sold – has changed significantly. Aside from pricing, the other variable influencing the 2015 estimate of value was the proportion of extracted jade that fell into each of the three gemstone quality “grades.” Global Witness’ 2015 investigation used a 2013 estimate by Harvard’s Ash Center in partnership with Proximity Designs, which identified 5% of jade as A grade, 35% as B grade, and 60% as C grade.<sup>432</sup>

In 2016, Harvard’s Ash Center adjusted its methodology to recognise two higher-class values of jade, “Imperial” and “Commercial”, which represent an estimated 0.01% and 3.5% of total jade production respectively, but make up the majority of value in the industry.<sup>433</sup> With these updated figures, the Ash Center made an updated conservative estimate of the value of production at US\$15 billion in 2014 – still a massive figure. Such estimates of the size of Myanmar’s jade industry remain immensely valuable for bringing attention to the sheer magnitude of the industry and scale of the problem it presents.

Still, while these estimates are backed by extensive research, they remain estimates based on incomplete data. The fact that, five years on, official data has improved little demonstrates how important it will be for a future Myanmar government to prioritise improving its data collection capabilities surrounding the industry and to commit to releasing more information to the public.

In the absence of such information, this report focuses on slightly more reliable production volume data to examine the impacts of the licensing suspension.

sources estimated that 70% to 90% of jade production is now smuggled to China,<sup>434</sup> with increasing amounts transported via Mandalay.<sup>435</sup> This suggests that there was a relative increase in smuggling following the suspension, at which time industry sources estimated 50-80% of jade production was smuggled.<sup>436</sup> This appears to be backed up by the jade production data reviewed in section 3.1, which showed a large increase in jade production in 2015 without a corresponding increase in emporium sales. This excess production was likely being smuggled out of the country, as companies could not simply stockpile the jade that they mined indefinitely without selling any of it.

### Chinese import data and smuggling

Customs data from the United Nation’s Comtrade database indicates that the value of China’s official jade imports from Myanmar normalised after a peak year in 2014.<sup>437</sup> From 2010, the value of jade exports from Myanmar to China began rising before exploding in 2014, as shown in the table below. They remained relatively high in 2015 before returning closer to historical levels following the licensing suspension. These changes in official Chinese jade imports from Myanmar, with a rapid increase from 2012 to 2014 followed by an equally abrupt drop-off over the next two years, do not match the patterns in official jade production discussed in section 3.1 above.



Traffic waiting to enter China through the Sin Phyu Shin Gate in the border hub of Muse, Shan State. *Global Witness / M.O.*

This data may well be tracking jade price fluctuations. Certainly, prices increased dramatically from US\$5.08 per kilogram in 2011 to US\$127.69 in 2014, before dropping back to US\$10.52 in 2015.<sup>438</sup> This nearly matches the spike in Chinese imports from 2011 to 2014. It also demonstrates again the generally unreliable nature of official jade statistics, highlighting questions about the actual amount of jade leaving Myanmar illegally and entering into China on an annual basis given that Chinese import data clearly do not match Myanmar’s official jade production and sales numbers.

## OFFICIAL CHINESE IMPORTS OF JADE FROM MYANMAR

Year	Value of Imports	Year	Value of Imports
2006	\$10.1m	2013	\$1,522.0m
2007	\$12.2m	2014	\$12,123.1m
2008	\$18.9m	2015	\$1,668.7m
2009	\$71.4m	2016	\$48.5m
2010	\$142.0m	2017	\$91.7m
2011	\$817.6m	2018	\$57.5m
2012	\$364.4m	2019	\$196.4m

Table: Global Witness • Source: UN Comtrade Data



The value of official Chinese jade imports skyrocketed in 2014, corresponding with a spike in the price per kilo of jade in that year.<sup>439</sup>

## Smuggling depletes government revenues

The volume of smuggling, and its apparent increase since the licensing suspension, highlight just how little of Myanmar's jade wealth went to the state for badly needed social investment or to benefit the local people of Kachin State. Although it is difficult to evaluate the exact amount of this loss, a rough estimate is possible.

Myanmar's EITI reports contain the reported value of jade sold at annual emporiums in both euros and kyat. The table below outlines the total value of emporium sales reported in each EITI report and calculates the minimum dollar value of jade smuggled out of Myanmar based on the minimum percentage (70%) of jade reportedly smuggled out of country.

This calculation of the minimum value of smuggled jade is an extremely conservative estimate and likely to be well below the actual sum, as over 70% of Myanmar's jade is likely smuggled out of country. Moreover, the most valuable jade was usually smuggled directly to China with only lesser quality jade being sold through emporiums, further suggesting that the value of smuggled jade was likely higher.<sup>441</sup>

Still, even this conservative estimate underscores just how much of Myanmar's jade wealth leaves the country without benefiting the people of Myanmar. The 2019

Gemstone Law should reduce the overall tax burden for production and sales tax closer to 13% from the current total of over 20% (see case study on the next page). Applying these tax rates to the above estimate of smuggled jade suggests that Myanmar was losing out on hundreds of millions of dollars in tax revenue to smuggling annually.

The COVID-19 pandemic further increased the risks of smuggling. As the pandemic spread globally, Myanmar's government suspended the 57th gemstone emporium – originally scheduled for March 2020 in Nay Pyi Taw. With nowhere to sell their jade legally, jade merchants are likely to have found other ways to get their product to market.<sup>442</sup> The coup has further disrupted smuggling. According to a Global Witness source, the Chinese border crossing between Ruili and Muse was shut down in mid-May due to the political upheaval of the coup. Combined with the fighting that has broken out in northern Shan State, this has reportedly halted smuggling along the Mandalay-Ruili route into China.<sup>443</sup> This is unlikely to last indefinitely, though, and smuggling will likely return at scale as the political situation stabilises.

## WHAT DOES SMUGGLING MEAN FOR MYANMAR?

Combining officially reported emporium sales with the finding that at least 70% of Myanmar's jade is smuggled out of the country shows just how much money, at a minimum, the country loses to smuggling every year.

Fiscal Year (April - March)	Value of Emporium Sales (reported by MGE)	Minimum Value of Smuggled Jade (assume 70% smuggled)
2013-2014	\$1,531.6m	\$3,573.8m
2014-2015	\$1,142.9m	\$2,666.8m
2015-2016	\$668.0m	\$1,558.6m
2016-2017	\$738.8m	\$1,723.8m
2017-2018	\$1,019.7m	\$2,379.3m

Table: Global Witness • Source: MGE Disclosures in MEITI Reports 1-5

global witness 

The actual value of smuggled jade is likely to be much higher, as the highest-value stones are almost always smuggled directly into China.<sup>440</sup>

## SHIFTING JADE TAXES

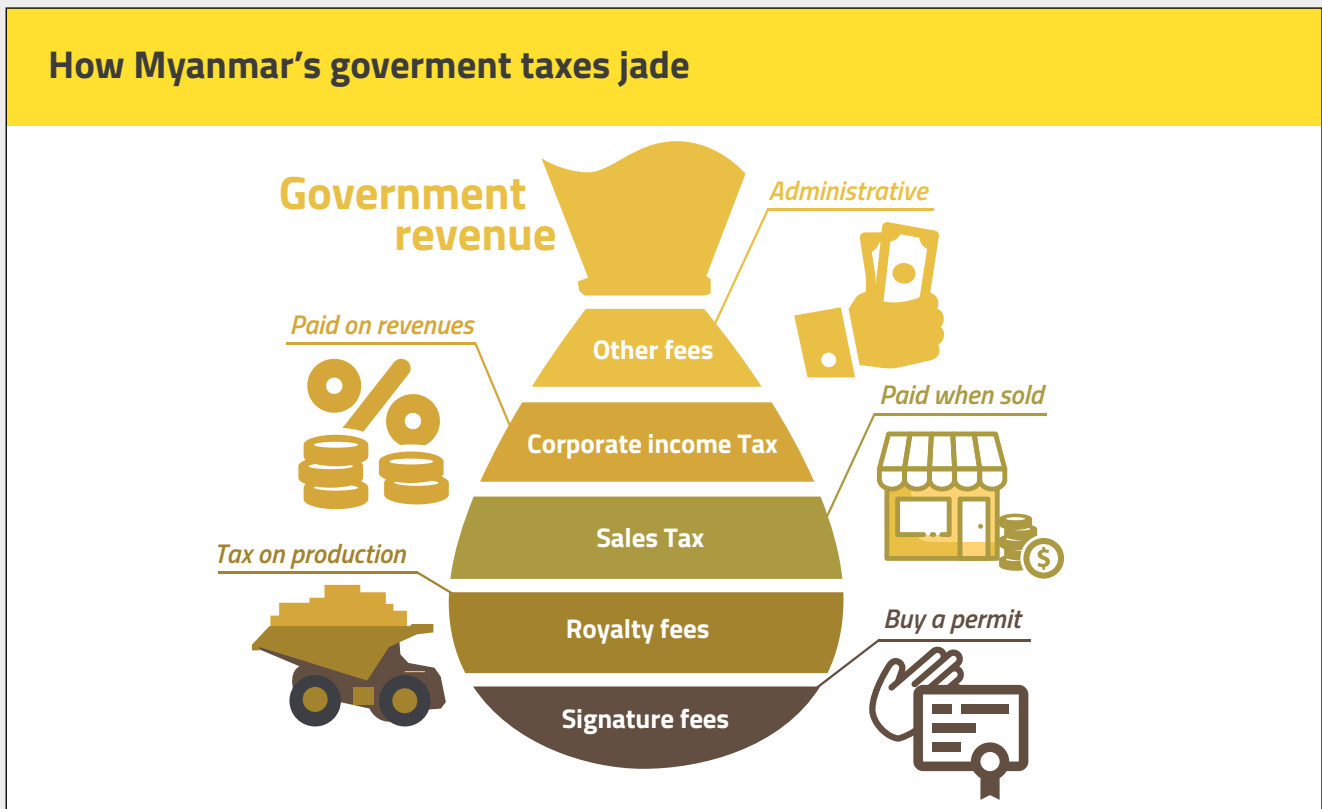
Smuggling has also been driven by Myanmar’s comparatively high tax rates on jade, as well as their relative complexity. Historically, jade has provided revenue to the government through a number of avenues, and it is currently taxed multiple times, including via:<sup>444</sup>

- 1 “Signature fees” – the amount that a company pays to receive a mining licence. Paid to MGE following a sealed envelope bidding process.
- 2 “Production tax” or “royalty rates” – tax assessed at the mine on the expected value of raw jade that is extracted. This assessment is done by valuation committees comprised of MGE officials, state government officials and industry representatives. In practice, valuation is often conducted only by the MGE members, and given the imprecise nature of valuing raw jade stones and lack of oversight over valuation committees, the process has historically been subject to extensive corruption and manipulation.<sup>445</sup>
- 3 “Sales tax” or “special goods tax” – taxes on jade sales at emporiums and fees given to MGE as part of joint ventures.
- 4 “Corporate income tax” – annual taxes on profits by companies.

- 5 Other fees – the government has historically put in place other fees that companies had to pay, such as foreign currency royalties or administrative fees.

Myanmar already had one of the world’s highest royalty rates for gemstone mining:<sup>446</sup> the 1995 Gemstone Law imposed a 20% fee on production, creating a major incentive for bribery and smuggling.<sup>447</sup> Myanmar’s 2014 Union Tax Law required companies to pay an additional ‘special goods tax’ on jade and gemstone sales.<sup>448</sup> In 2016, the special goods tax was increased from 15 to 20%. This was met with dismay by industry,<sup>449</sup> and revised back down to 15% the following year.<sup>450</sup> From 2019 the special goods tax on raw jade was dropped, though it still attracts an 11% jewellery tax.<sup>451</sup>

If the 2019 Gemstone Law comes into effect it should supersede existing tax obligations for jade entities.<sup>452</sup> This means bringing royalty rates down to 10% and charging a 3% sales tax on rough gems and 1% on finished gems.<sup>453</sup> The signature fees for acquiring a licence remain in place. These changes could reduce smuggling and boost state revenues, but only if regulators enforce rules effectively and refrain from re-creating the complex taxation system that previously governed the industry, something that is exceedingly unlikely with an illegitimate military government back in place. As described above, both these factors remain key challenges in the current context.



In addition to official taxes and fees, the jade mining and sales process is suffused throughout with bribes for access and other informal payments.

### 3.3 Chinese business interests in Hpakant

Chinese business interests also continued to flourish after 2016. Despite prohibitions against foreign ownership in gemstone extraction,<sup>454</sup> opaque Chinese interests continued to play a prominent role in financing Myanmar's upstream jade sector, as well as dominating the downstream and value-added markets.<sup>455</sup> One well-placed industry source claimed that almost all companies in Hpakant had some form of financial backing from Chinese interests.<sup>456</sup>

As initially revealed in Global Witness' 2015 report, Chinese nationals continued to secure Myanmar National Registration Cards and operate directly through Myanmar registered companies. Likewise, front companies are used to circumvent restrictions on foreign investment by involving Myanmar citizens acting on behalf of Chinese backers.<sup>457</sup> This often involved informal profit sharing or other financial agreements with the licence-holder in exchange for the right to mine.<sup>458</sup> One prominent jade businessman confirmed that Chinese businessmen often work together with ethnic Chinese Myanmar nationals in these informal joint venture agreements. These usually involve a 50/50 or 70/30 split profit-share in favour of the Chinese investor based on "hand-shake agreements".<sup>459</sup>

Chinese involvement in upstream production also came in the form of investment capital or in-kind resources. This included the provision of expensive mining equipment and machines to local companies in exchange for a share of production or profit.<sup>460</sup> The origins of the financing of these Chinese-backed operations is outside the scope of this investigation, but it is important that the Chinese and legitimate Myanmar governments ensure that laws on foreign ownership and responsible investment are followed.

There is some indication that Chinese interests in the upstream sector were facilitated by senior regional Tatmadaw officers. A staff officer with the Tatmadaw's Mandalay regional command confirmed that companies from China entered into agreements with regional and divisional commanders in Kachin State, who became powerful gatekeepers to Hpakant over the course of the NLD's term in office. These agreements were sometimes brokered by larger crony conglomerates to facilitate Chinese activities.<sup>461</sup>

The result was that Myanmar companies, especially local Kachin companies not affiliated with the KIA, were increasingly side-lined, as smaller local enterprises could not compete with these well-capitalised, heavily mechanised Chinese-funded or operated activities.<sup>462</sup>

Underscoring Chinese involvement in the upstream jade sector, one industry insider noted the prevalence of Chinese-Myanmar dual citizens in the industry, telling Global Witness, "[t]hey don't speak the local language [either Burmese or Kachin], but they have [National Registration Cards] and work at the mines as if they are locals." This insider described how Chinese companies cooperated through joint ventures, with local Myanmar companies taking care of registration and Chinese investors bringing mining equipment and capital. He also said that Chinese companies were able to consolidate and acquire bigger plots because they had more capital and could partner with the families of military generals.<sup>463</sup>

Local sources say Chinese investors also worked with UWSA-linked actors in Hpakant. Investments could come as cash payments across the porous border or in-kind as large-scale machines used for excavation.<sup>464</sup> It is often unclear to locals whether a company or its owners were from Myanmar or China.<sup>465</sup>

China remains a vital market for Myanmar jade in the wake of the coup. However, the coup has also been massively disruptive. Post-coup conflict and the COVID-19 pandemic have already led to multiple closures of the China-Myanmar border crossing at Ruili, through which a large portion of China-bound jade passes. Still, coup-related disruptions are likely to be temporary – more worrying for China is that perceptions of China amongst the citizens of Myanmar have deteriorated significantly due to perceived Chinese support for the coup. This sentiment could lead to a decrease in direct Chinese involvement in the upstream industry if it deteriorates further. On the other hand, China's position as the largest market for jade and the abundance of available Chinese capital means that Chinese interests will likely continue to be heavily involved in Hpakant in the years ahead. The breakdown of rule of law following the coup, already weak in Hpakant, will likely open up more space for shadowy financiers to invest even more heavily in the jade industry.

### 3.4 Rise of the *yemase*

The aftershocks of the licensing suspension and the dangerous mining practices it led to had a particularly pronounced impact on *yemase* miners in Hpakant, whose numbers increased dramatically after 2016. An estimated 300,000 to 400,000 artisanal jade miners came to Hpakant during the high season every year, mostly from Kachin, and Central Myanmar, Shan State, and Rakhine State, although the COVID-19 pandemic and the coup have temporarily slowed the influx of *yemase*.<sup>466</sup> This astounding number represented about 2% of Myanmar's entire workforce, many of whom are attracted by hopes



of finding their fortune and the lure of daily wages nearly double what they earned before.<sup>467</sup>

Prior to 2016, most *yemase* miners searched for jade in officially designated dumping sites where companies were required to leave their tailings. After 2016, hand-picking work increasingly shifted away from these designated tailings dumps and onto the mining plots of individual companies themselves.<sup>468</sup> The reasons for this are not entirely clear, but as the 2016 licensing suspension pushed companies to mine faster and with bigger equipment, the costs in time and money of transporting tailings to communal designated dump-zones seems to have encouraged companies to make savings by disposing of tailings on or near to their own mine sites instead.<sup>469</sup>

It is unclear if this change in waste disposal practices is illegal, but the move is likely to have exacerbated safety risks for *yemase* miners, who are disproportionately likely to be injured or die in mining disasters such as landslides. The massive waste piles and the huge and dangerous

tailings ponds dotting the Hpakant landscape are clear evidence of these mining practices.

*Yemase* miners are also finding more high-value jade since the suspension, which has driven up demand for control of the sector and may have contributed to the explosion in *yemase* numbers since 2016.<sup>470</sup> This increase may be a result of the rush to mine ever faster, which may be causing companies to overlook some smaller jade-rocks as they search for the biggest and most valuable boulders.

These *yemase* miners are often organised by “bosses”, usually known by the Chinese word *laoban*, who provide food, equipment and housing support in exchange for a cut of the profits on any jade finds. A 2019 report by the *International Growth Centre* on artisanal jade miners found that over 40% of nominally independent miners work for these private bosses. Even miners who do not work directly for a boss often end up interacting with them – over half of miners report sharing their earnings with a local boss.<sup>471</sup>

*Yemase* miners line up to enter a company mining site during a shift change. Independent miners are increasingly forced to enter company sites to hunt for jade. *Global Witness / M.O.*



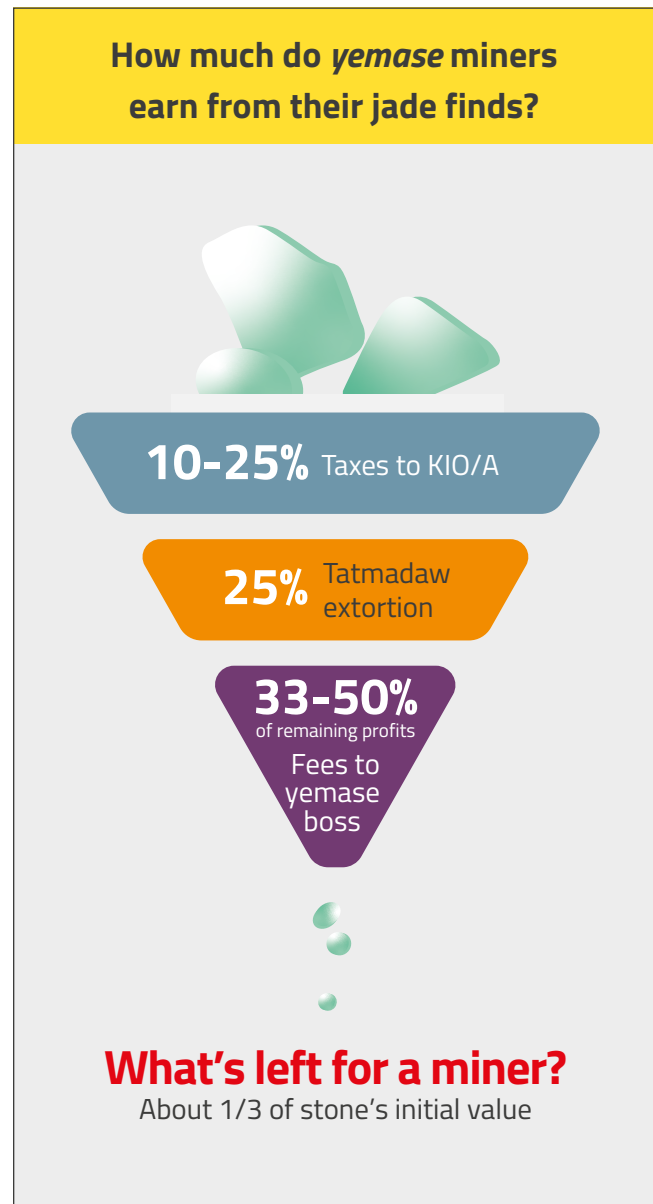
The *International Growth Centre* report found that bosses typically take 50% of a miner's earnings in exchange for food and housing, or just 33% if the miner can provide their own accommodation.<sup>472</sup> These bosses are a mix of local Kachin people, *yemase* miners who have earned enough money to hire their own *yemase* miners, ethnic-Chinese businessmen from the Mandalay Region and, increasingly, Rakhine migrants.<sup>473</sup> Most bosses have fewer than 30 miners working for them at any given time, and may have as little as five. At the top of the food chain are so called "big bosses" who take charge of high-value jade sales to external markets and sometimes run their own mining plots.<sup>474</sup> "Sometimes these bosses are richer than the jade companies," said a journalist.<sup>475</sup>

These bosses can provide a much-needed safety net for artisanal miners, but they can also more readily exploit vulnerable miners. It is common for *yemase* miners to be short-changed on the value of a stone or even coerced



There are many young children among the hundreds of thousands of freelance miners who come to Hpakant every year, as in these two young boys carrying their equipment to join other *yemase* miners at a company site. *Global Witness / M.O.*

## How much do *yemase* miners earn from their jade finds?



into handing over high-quality jade to companies, bosses or brokers. One industry source claimed that they usually receive only around 30% of the true value of a stone.<sup>476</sup>

Various sources said they believe freelance miners have become organised into "cartels" or "rackets" by politically or financially influential businesspeople and armed groups.<sup>477</sup> These groups appear to be working with the consent of the KIA, the military and the police, who are likely collecting bribes or informal taxes in return.<sup>478</sup> "If you deprive ethnic groups of their income [by suspending licences] that's when scavengers come in," one person said, suggesting these groups may even encourage workers to migrate across the country to Hpakant.<sup>479</sup> This investigation has found that bosses can be affiliated with ethnic armed groups, including the AA – a finding above in this report.

### 3.5 Fear and violence keep the silence

As powerful companies, the military, armed groups and criminals expanded their control over jade-mining areas it became increasingly difficult for civil society and the media to scrutinise their activities. It also became increasingly dangerous for those who spoke out against them.

Local journalists told Global Witness that they want to report more on the deteriorating human rights and environmental situation, but face threats from companies, the military and armed groups.<sup>480</sup> One editor described how government officials and private company representatives would charge into their offices to complain about stories they wrote, accusing them of getting facts wrong. By contrast, the editor said, the KIA and militias would usually send messages through friends in their network to let the editor know when they were not happy about a story.<sup>481</sup>

“They’ll usually say something like ‘we’ll let you go this time, but next time...’”, the editor said.<sup>482</sup>

Another journalist said that while attempting to film illegal mining in Hpakant on an expired plot in late 2019, KIO representatives threatened him in order to stop his reporting. He alleges that KIO/A and UWSP/A-linked companies were working together there illegally. “People have been killed by the KIA for speaking out against them,” said the journalist, explaining that he now feared for his safety in Hpakant.<sup>483</sup>

A KIO/A representative denied this, saying that the KIO/A frequently works with journalists in jade-mining areas and that “the journalists who have been killed are not related with the KIO.”<sup>484</sup>

Local journalists told Global Witness that there are frequent unreported shootings.<sup>485</sup> Clashes occur on a regular basis between informal yemase miners and company security as they come into conflict over jade resources.

“People are dying every day,” explained a reporter, adding that they are scared to cover the growing tensions and violence in Hpakant: “People easily disappear in Hpakant.”<sup>486</sup>

Informal *yemase* miners are also in no position to speak out against abuses and exploitation by powerful entities. Unfortunately, poorer migrants, as many *yemase* are, are also frequently the targets of abuse and exploitation by such actors. This situation is exacerbated by the fact that *yemase* activities are also largely unregulated, meaning that most operate in a legal grey zone that leaves them with limited recourse to justice and makes it unlikely that they will break their silence about abuses.<sup>487</sup>

**“You might get shot and your body disappeared. So you don’t create a problem. You just mind your own business.” - a jade trader<sup>488</sup>**

Refusing to pay bribes to the Tatmadaw can also be deadly. If a jade miner finds good quality jade, news will quickly spread and the Tatmadaw will demand its cut. “They will say, if you don’t give it, we will kill you”, said another jade trader. “Many yemase are being killed because they don’t want to pay the jade tax to the army.”<sup>489</sup>

These threats have only been amplified in the wake of the coup, especially those against journalists. On 2 May the military banned the *Myitkyina News Journal*, one of the few independent sources of news in Kachin State, due to the paper’s unrelenting coverage of the anti-military protest movement.<sup>490</sup> This came two weeks after three reporters for the journal were arrested in mid-April.<sup>491</sup> This crackdown on local press freedom can only serve to worsen conditions in Hpakant, where transparency and accountability are already almost impossible. It is also part of a broader crackdown on media freedom by the Tatmadaw which has seen dozens of journalists arrested and imprisoned, and media licences revoked, in an effort intended to silence critics, hide the military’s crimes and prevent information from reaching the people of Myanmar.



Freelance miners work at a company site in Hpakant under the watchful eye of the police. Miners claim that police are hired by companies to provide security on their sites. *Global Witness / M.O.*

## CASE STUDY



A heroin seller prepares a package which he sells at 2,000Ks to jade miners, in Lone Khin town, Hpakant township. *Global Witness / M.O.*

## DRUGS AND JADE – A RECIPE FOR CONFLICT AND HARM

Violence, landslides and theft are not the only dangers facing miners and the local population in Hpakant: a heroin and methamphetamines epidemic has torn through the region as the situation in Hpakant has deteriorated.

Drugs are a cornerstone of Myanmar’s conflict economy, with the longstanding opium trade now complimented by booming methamphetamine production worth billions of dollars annually. According to *International Crisis Group*, “drug production and profits are now so vast that they dwarf the formal sector of Shan State.”<sup>492</sup> The narcotics trade intersects with the jade business in a myriad of ways, providing financing for the industry and some of the armed groups at the heart of northern Myanmar’s conflict economy, as well as fuelling social harm in mining areas.

**“Drugs aren’t ever confiscated in Hpakant because of corruption.”**

– a local Patjasan leader<sup>493</sup>

**“Drugs have killed more people than the battle ground.”**

– a Kachin jade trader<sup>494</sup>

### ***A pandemic of addiction***

Drug addiction is endemic among *yemase* jade miners in Hpakant, with local estimates that 70% to 90% of freelance miners frequently use *yaba* – a mixture of methamphetamine and caffeine – or heroin.<sup>495</sup> Sources say that mining companies sometimes lock workers in mine sites and ply them with *yaba* tablets to encourage them to work round the clock and keep overhead costs down, with some alleging that miners can even be paid in drugs directly.<sup>496</sup> An international narcotics expert described this as a tactic designed to “weaponise” drug use for economic gain.<sup>497</sup>

Jade miners openly consume *yaba* and heroin in open-air drug dens near the jade mines, often guarded by armed men or “gangsters”. Local community leaders say these armed groups operate above the law, paying off police and army officers, and even national anti-narcotics authorities, to circumvent justice.<sup>498</sup>

## Laundering drug revenues

While it was not a focus of this investigation, the links between jade and drugs appear to extend far beyond fuelling addiction in the mines. The prevalence of drugs in jade-mining areas and involvement of some armed groups in both narcotics and jade creates a circular “double-profit” economy in which jade profits are used to buy drugs and transport them to Hpakant where they are sold, with the proceeds of drug sales then used to finance further jade mining.<sup>499</sup>

**“Drugs and jade are intimately linked. One provides the revenue and the other is how it’s laundered.”**

– a civil society representative<sup>500</sup>

Numerous sources interviewed for this investigation described how organisations and individuals involved in the drug trade use the jade industry to launder their drug money. For example, a drug dealer could use narcotics proceeds to purchase mining equipment, turning dirty money into an investment.<sup>501</sup>

A senior industry source said that drug money could easily be moved to Myanmar across the Chinese border then mixed together with jade revenues through mining and related companies.<sup>502</sup> Armed groups face additional accusations of laundering illicit revenues through jade sales, distorting the jade market itself. Such tactics are possible in the absence of incentives to adopt more responsible practices.<sup>503</sup>

A staff member counts cash at the KBZ Bank branch in Hpakant. The heavily cash-based nature of the jade industry makes it a high risk for money laundering. *Global Witness / M.O.*



A freelance jade miner injects heroin at a ‘shooting gallery’ at the jade mining site in Lone Khin town, Hpakant township. Drug use has become endemic in Kachin State’s main jade mining regions. *Global Witness / M.O.*

**“The jade business is the best way to do money laundering. For example, you can buy a bad quality stone, but pay high quality money for it and that means that your money has been laundered.”**

– a jade regulator<sup>504</sup>

All of this was exacerbated by the diminished rule of law in Hpakant, which allowed armed organisations to entrench their control and illicit economies to flourish. As a result, it is necessary to develop integrated policy solutions that counter both of these financial sources of conflict. One clear solution would be to deny jade mining licences to companies with links to groups involved in the narcotics trade. Broader political reforms are also necessary, along with community-level interventions that tackle the multifaceted challenges posed by the jade, drugs and conflict nexus.

### 3.6 The licensing suspension in retrospect

The 2016 licensing suspension was necessary for the government to clear the political space needed to clean up the jade industry. Unfortunately, this opportunity was largely squandered. The governance situation and condition in Myanmar's jade mines on the eve of the coup could hardly be described as an improvement over the situation prior to the suspension. The government failed to seize the day by introducing strong legal and regulatory reforms or targeting the stakeholders most linked to corruption and conflict. Instead the NLD pursued a poorly sequenced and uncoordinated process without the strong backing needed from senior government

At sunrise, convoys of dumptrucks are seen operating at the mining site area of Myanmar Win Gate company in San Khar, Hpakant. Taken in 2019, the licencing suspension has failed to stop the destructive mining practices seen here. *Global Witness / M.O.*



officials that ultimately served to decentralise corruption and lawlessness.

In the absence of strong oversight and enforcement, the suspension itself had the unintended consequence of reinforcing some of the most perverse dynamics of the jade-conflict nexus. The expiry of licences has driven companies to mine faster and more dangerously. It has also led armed groups in conflict outside of Hpakant to set aside their weapons and work together to exploit the country's jade resources. In doing so, it allowed corruption to flourish as decision-making authority was being pushed closer towards those with power in the jade trade and further away from any sort of legitimate oversight.

Despite this, as the NLD looked to start its second term in office, opportunities for improvement remained. The government would have finally had the chance to push through a more coherent set of gemstone policies and regulations. Government departments and regulators could have stopped looking the other way when companies failed to adhere to legal requirements or violated the law. They could also have begun using recently adopted transparency tools, including the extractive industry beneficial ownership registry and a contract transparency directive, to progress natural resource governance reforms. Most importantly, the government would have had an opportunity to begin unwinding military-jade links by denying MEHL, MEC and their subsidiaries access to gemstone licences.

There were opportunities for armed groups and individual companies to take action as well. The Tatmadaw could have cracked down on corruption within its ranks, and the KIO/A could have stopped facilitating illegal mining practices and instead focused on developing responsible mining policies for a region in which it still hopes to play an important governance role in a devolved future. Everyone in Hpakant should have taken the safety of workers and protection of the environment more seriously.

While all of these paths remain technically feasible in the wake of the coup, the international community should hold no illusions about the likelihood of any of them happening. The military is unlikely to follow-through on half-finished reforms that would have reduced its power in the jade sector. Likewise, the KIO/A is too busy retaking lost territory, attacking Tatmadaw supply lines and looking for revenue sources to sustain its war effort and care for the expanding number of Kachin civilians in need, than to focus on reforming its own mining practices. As ever, it is the people of Hpakant and northern Myanmar that remain caught in the middle of the jade-conflict nexus.

## 4. CONCLUSION

### 4.1 Breaking Myanmar's jade-conflict nexus

Myanmar's jade sector exists within, and is an integral part of, the broader conflict economy of northern Myanmar, providing revenues that fuel the conflict and incentivise its continuation. As this report has shown, dynamics in the jade industry impact other parts of Myanmar as well, with mines forming a recruiting ground for the AA and weapons purchased with jade finding their way to active conflicts in Rakhine and Chin State.

Under the NLD, the military, its allies and ethnic armed groups have expanded control over lucrative and lawless mining areas, cooperating at times to divide up the spoils, while destroying the environment, devastating communities and workers' lives, and scuppering government efforts to regulate the sector. Billions of US dollars in revenues creamed off the top by corrupt officials, conflict actors and unscrupulous companies have been lost to Myanmar's government and the people of Kachin. Instead of supporting desperately needed development in Myanmar, including in education and health, these revenues have lubricated an internecine and devastating conflict. At current rates of extraction, Myanmar's jade resources will expire long before its bitter civil conflicts end.

While these conflict economies have continued, Myanmar's peace process has made little substantive progress. Even after the coup the Tatmadaw continues to promote the flawed NCA as a means to bring warring parties to the negotiating table. Yet the NCA defers discussion on crucial political issues, like federal governance structures and resource revenue sharing, focusing primarily on achieving a cessation of hostilities through a ceasefire. This fails to address the underlying sources of conflict, including political grievances and the financial incentives provided by the current resource extraction pattern.

Natural resources have been treated as a bartering tool by the Tatmadaw for decades, worsening conflict dynamics instead of resolving them. To inject life into Myanmar's stalled peace process it will be necessary to both remove the Tatmadaw's destructive influence and tackle the difficult questions of natural resource governance and

land ownership that are nevertheless essential parts of a potential peace deal. Of course, if the Tatmadaw maintains its present control, none of these serious questions are likely to even get asked.

The optimism of 2015 is long gone. The coup has made it clear that the military will not relinquish power without a fight, and as long as it remains in power the jade industry will almost definitely remain a hotbed of illicit mining, corruption and conflict.

Still, reasons for hope remain. The coup has provided a stark reminder of how the military's corruption-fuelled economic interests have bled the country of resources and wealth for generations, propping up an abusive elite intent on enriching their families and friends while turning the country's precious resources into conflict spoils. This reminder has focused policymakers internationally and activists domestically on the importance of targeting the military's economic interests, including the jade industry.

The protest movement has also united the people of Myanmar as never before, creating a shared experience and solidarity between Burman and non-Burman people. The coup has provided a crash-course on military brutality to the Burmese urbanites who were previously too distant from ethnic minority territory to truly understand those peoples' plight, including engendering sympathy for the Rohingya and an acknowledgement that their rights must be addressed. This coming together gives hope that a future political settlement will meaningfully address the longstanding grievances of ethnic minority groups rather than sweeping them under the rug. If and when civilian government returns to Myanmar, that government must work with ethnic groups, civil society and other key stakeholders to develop a roadmap to tackle the financial and political sources of conflict as part of the peace process – not just attempt to mediate between armed groups. This could help deliver a credible agenda for change and promote national reconciliation.

All of this assumes that the military is removed from power – whether voluntarily or otherwise. Without this, the jade industry will remain at the heart of conflict in Myanmar.

## 4.2 Recommendations

### *The big picture:*

The political context in Myanmar has changed immensely from when Global Witness began the research for this report. While the NLD's reform programme left much to be desired, there is no doubt that the industry was taking steps, albeit slow ones, in the right direction. Global Witness thus viewed this report as an opportunity to push the NLD to re-prioritise reform and address the issues that its initial policies had neglected. In addition to specific policy recommendations, Global Witness identified four broad structural issues impeding change. Addressing these issues was, and remains, key to breaking the jade-conflict nexus.

➤ **First, reform needed to be a top priority for Myanmar's policymakers all the way to the top of the government.** Without engagement from Myanmar's elected leaders, the many stakeholders who had so much to lose would undermine meaningful reform at every turn – as indeed they did under the NLD.

➤ **Second, natural resource governance and management needed to be considered as a fundamental part of the peace process.** Natural resources are a key source of grievance for many of Myanmar's ethnic minorities, and while disputes over ownership and rights to benefit are by no means the only cause of Myanmar's half-century of civil conflicts, they are at the very least an important contributing factor. Myanmar's peace process needed to stop relegating natural resources to the secondary status of issues to be discussed following a ceasefire and place them front and centre in peace talks.

➤ **Third, armed actors needed to exit, or be removed from, the jade industry and the broader economy.** First and foremost this included the Tatmadaw, both as an institution and for individual high-ranking officers and their families who own jade companies or plots. The Tatmadaw's pervasive presence throughout key sectors of the economy harmed democratic reform and exacerbated conflict. The coup has only re-affirmed how true this was. A durable peace agreement that successfully integrated natural resource governance considerations could have allowed ethnic organisations to demilitarise or integrate



Without reform, scenes like this aftermath of a 2019 landslide in Hpakant will continue to happen. The time to act is now. *Global Witness / M.O.*



their armed wings and administrative activities into broader security and governance systems, which could have reduced the rent seeking incentives now present.

➔ **Finally, constitutional change was needed** both to reduce the power of the Tatmadaw and to allow for a decentralised, federal governance system within the framework of an inclusive peace agreement. Revisions to the 2008 constitution were necessary to allow the country to move forward.

All four of these structural barriers remain relevant today. Unfortunately, the coup makes it highly unlikely that any of these issues will be addressed, at least as long as the Tatmadaw maintains its control over Myanmar's government. Still, this should not leave those working to break the jade-conflict nexus in despair. The coup has brought fresh focus to the economic interests supporting the Tatmadaw and shown the urgency for reform, should the Tatmadaw lose power. There are numerous actions stakeholders can take to both oppose the Tatmadaw in the immediate term and put in place a new vision for the future of the jade industry.

### ***For the international community:***

As long as the Tatmadaw remains in broad control of Myanmar's government, there is little hope for serious reform in the jade industry, let alone alleviating the massive human suffering certain to be caused as the Tatmadaw attempts to crush anti-coup opposition while protestors and armed groups increase active resistance. Thus, the international community's primary focus should be on ushering the Tatmadaw from power and helping establish a new, legitimate government that is acceptable to the people of Myanmar. A key aspect of this strategy should be adopting policies that limit the Tatmadaw's ability to profit from the jade industry, natural resources more generally, and other sources of licit and illicit resources.

### **The international community should take the following additional specific actions:**

1. Avoid legitimising the military's illegal coup – states, international organizations, multilateral institutions, regional bodies and others should not recognize the military State Administration Council (SAC) as the legal or legitimate government of Myanmar and should deny them accreditation and representation in all instances.
2. Include the National Unity Government (NUG) in regional and international forums – while countries may not be prepared to provide full diplomatic recognition to the NUG as the legitimate government, they should at the very least include representatives from the NUG in any international and regional forums. This is especially true for bodies, such as ASEAN, who have taken a direct role in negotiating the future of Myanmar.
3. Recognise that the potential for a failed state in the heart of Asia would be a disaster for the region and for international peace and security by supporting both a United Nations Security Council arms embargo and a resolution mandating a quick and peaceful transition back to elected civilian government.
4. Increase assistance to address the rising humanitarian emergency that is developing in the wake of the coup and the COVID-19 pandemic, without legitimising the military junta.
5. Countries that have not already done so should prohibit companies from providing material support to or engaging in business with the military and military-owned companies through the use of targeted economic sanctions that focus on the military's economic lifelines while minimising impacts on the people of Myanmar, including:
  - a. Military conglomerates Myanmar Economic Corporation and Myanma Economic Holdings Limited;
  - b. The Myanmar Gems Enterprise and other state-owned enterprises that now provide financial support to the military, such as the Myanma Oil and Gas Enterprise;
  - c. Financial services that provide the SAC with access to the foreign currency that is necessary to sustain its authority and administration, including to purchase the weapons, surveillance technology and other resources it needs to repress the people of Myanmar; and
  - d. Individual officers and individuals involved in the SAC, as well as their immediate families.
6. Recognise the pervasive influence of the military over Myanmar's jade and gemstone industries and place bans on the import of all jade and gemstones from Myanmar.
7. Support the NUG and civil society in developing a vision for the future of the industry that is inclusive of ethnic minorities and ensures local people have a meaningful role in deciding how these resources are managed.

### ***For the National Unity Government:***

1. Develop a vision for inclusive natural resource governance within a federal framework that demonstrates its seriousness in addressing the underlying causes of resource-based conflict and reassures ethnic minorities that their concerns and priorities will be incorporated into NUG policy priorities. The NUG can do this by:
  - a. Establishing a working group within the NUG's Ministry of Natural Resources and Environmental Conservation that can lead the development of NUG policy on jade and gemstones as well as other natural resources;
  - b. Ensuring that natural resource governance is included in NUG planning for meaningful federalism in the future; and
  - c. Including jade and gemstone management in discussions with representatives from Kachin and Shan stakeholders.
2. Respond to SAC actions in the jade and gemstone industry while addressing post-coup risks that jade will be used to enrich the military and help sustain its rule by:
  - a. Announcing that military-linked companies will no longer be eligible for mining licences and that partnerships with military companies in the industry are considered illegal;
  - b. Anticipating the risk that the SAC will restart licensing to earn quick money by declaring that such a re-start would be illegal and that licences given out by the SAC would be invalid;
  - c. Encouraging domestic companies to boycott SAC-organised jade and gemstone emporiums; and
  - d. Clarifying the implications for jade and gemstone companies that do participate in SAC-run licensing and sales, such as blacklisting such companies from receiving licences in the future.
3. Make concrete policy reform proposals to demonstrate how NUG policy would differ from SAC, and past NLD, policy by:
  - a. Revising and finalising the mothballed National Gemstone Policy that was put on hold under the NLD. The NUG should revisit the policy developed through a strong multi-stakeholder process;

- b. Announcing reforms to the licensing process to demonstrate how the NUG intends to inject transparency into the industry and reduce conflicts of interests within MGE;
- c. Pledging to prioritise environmental protection and the rights of impacted and indigenous communities; and
- d. Banning all large-scale, mechanised jade mining.

### ***For the Kachin Independence Organisation/Army***

Should the military coup fail and opportunities for legitimate governance reform arise, or should the KIO/A retake and maintain control of Hpakant, it will have the opportunity to demonstrate a more responsible approach to jade than that of the military.

#### **If these conditions are present, the KIO/A should:**

1. Work with civil society, local communities and political parties to develop a blueprint for natural resource federalism that benefits the people of Kachin State and protects the environment, as well as a mining policy outlining the group's vision for sustainable resource management under civilian control.
2. Engage with the NUG to contribute to its vision for a more inclusive future around natural resource management, especially resources prevalent in Kachin State such as jade and timber.
3. Establish a credible mechanism to investigate allegations of corruption involving KIO/A officials, including senior leaders, and hold perpetrators to account, as well as those with command responsibility.
4. Prepare to publish data on the management of the jade sector in line with the standard established by the EITI, including details of the KIO/A taxation regime, licensing criteria, income, expenditures and oversight mechanisms.
5. Publicly commit to moving out of the natural resource sectors, including jade mining, should the Tatmadaw be removed from power.

### ***For domestic jade mining and trading companies***

1. Immediately review mining activities and halt any operations that violate Myanmar law or international norms and good practice standards on governance, environmental, social, human and labour rights.

2. Immediately review mining practices and halt any that provide financing for the Tatmadaw or other armed groups active in Myanmar's jade mines, in line with OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas.
3. Publish beneficial ownership information, tax, payment and production data in line with EITI requirements, broken down by project, as well as jade contracts and licence terms, irrespective of whether the company meets Myanmar's current threshold for disclosures. These disclosures can be made voluntarily and be published by companies themselves during the current MEITI suspension.
4. Reject any SAC efforts to earn money from the jade industry by refusing to apply for jade and gemstone mining licences should the SAC re-start licencing and refusing to participate in further jade and gemstone emporiums.
5. Follow NUG guidance and policies related to the jade industry.

***For foreign companies, investors and consumers***

1. Review the United Nations Independent International Fact-Finding Mission on Myanmar's 2018 report on the economic interests of the Myanmar military and implement the recommendations contained within.
2. Conduct heightened due diligence on high-risk supply chains involving gemstones sourced or likely to originate from Myanmar to ensure that these resources have not been produced or sold by, or financially benefitted, the Tatmadaw or other armed groups, including subsidiaries or joint ventures, or individual (serving or retired) senior members of the Tatmadaw, including through corruption. Companies should refer to the OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas.
3. Avoid purchasing jade and gemstones that benefit Myanmar's military or other armed groups and help to perpetuate the jade-conflict nexus. As long as the military retains power, companies and consumers should avoid purchasing any jade and gems sourced from Myanmar.

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