

JADE AND CONFLICT: MYANMAR'S VICIOUS CIRCLE

Executive Summary, Key Findings
and Recommendations

June 2021



EXECUTIVE SUMMARY

Hpakant, in northern Myanmar's Kachin State, is home to the richest jade mines in the world. These mines, and the billions of dollars of jade that they produce annually, lie at the heart of a vicious circle of exploitation and conflict that has wracked northern Myanmar for decades and that permeates the political economy of the country. Jade money provides vast wealth to armed groups and their powerful allies, who stand on all sides of Myanmar's various conflicts. This vicious circle revolves around the Tatmadaw, as Myanmar's military is known, and the extensive interests in the jade industry that it established after taking control of Myanmar's jade mining regions in the 1990s, following decades of intense fighting with the Kachin Independence Organisation/Army (KIO/A).

These conflicts, and the lawlessness that they have engendered, have long allowed corruption to flourish, and led to destructive mining practices as armed groups and their allies have sought to fund their ongoing conflicts and enrich themselves. Few of the financial benefits of this industry have stayed with local populations in Kachin State. Instead, the Tatmadaw had assumed a place at the top of a pyramid of corruption and illicit activity that has reached the highest ranks of military command. This corruption likewise encompasses the family of Senior General Min Aung Hlaing, with new information in this report implicating his son in jade-related profiteering following his father's rise to become leader of Myanmar's armed forces.

The 1 February *coup d'état*, which has seen the Tatmadaw attempt to take back control of the country after five years of a National League for Democracy (NLD) government, threatens to further open the floodgates of military corruption in the jade industry, once again underlining the enduring nature of the nexus between jade and conflict.

Global Witness first reported on the deep links between the Tatmadaw and the jade industry in two 2015 reports, *Jade: Myanmar's 'Big State Secret'* and *Lords of Jade*. These reports revealed how military elites, U.S.-sanctioned drug lords, armed groups and crony companies that benefited from decades of military rule, secretly controlled Myanmar's jade industry on the eve of the transition to an NLD-led government. The reports argued that the industry was in serious need of reform to tackle rampant corruption and armed-group control that had the potential to undermine the nation's progress.

The NLD made a similar assessment. When it assumed power in 2016 it kicked off a wide-ranging jade reform programme intended to clean up the industry. This report, *Jade and Conflict: Myanmar's Vicious Circle*, analyses the NLD's reform efforts and their impacts, beginning with the NLD's decision to suspend all new jade and gemstone licensing shortly after taking power. This report then reveals how the Tatmadaw maintained its leading role in the industry, assesses the impacts of the February coup on Myanmar's jade trade, and exposes, one by one, the main armed groups that remain active in the sector.

Following the suspension, the NLD started a thorough review of Myanmar's regulatory regime for jade and gemstones and convened an inclusive multi-stakeholder group to develop a National Gemstone Policy. The NLD also ordered the development of environmental management plans for the main jade and gemstone mining tracts, drafted a new Gemstone Law (passed in 2019), and initiated important corporate governance reforms for the entire extractive sector – including creating a public registry of beneficial ownership to improve transparency.

Despite the NLD's efforts, this report reveals how armed groups, and in particular the Tatmadaw, were able to further entrench their control of the jade industry as the NLD's reform programme stalled and conditions in Hpakant deteriorated

for the hundreds of thousands of ordinary people working in and living around the mines. This report reveals that mining companies and armed groups, led by the Tatmadaw, undermined reform on the ground while key industry stakeholders resisted policy changes in Nay Pyi Taw, leaving reform efforts unfinished and ineffective amid a lack of prioritisation by the NLD. This entrenched armed group control was made possible by direct cooperation between the Tatmadaw, the KIO/A, and the UWSA/P to facilitate illegal mining, bribery and smuggling that would ensure all three groups, and their allies, would continue to receive their slice of Kachin's jade wealth.

While the NLD's reforms fell short of expectations during its first term in office, the NLD's landslide victory in Myanmar's 2020 elections provided an opportunity for renewed focus on natural resource governance and the jade sector. Instead, the Tatmadaw's coup has set the country back decades with a brutal crack down on protestors and civil society in a return to the darkest days of junta rule. This includes effectively extinguishing any chance of further jade-industry reform in the immediate future; one of the main beneficiaries of the current corrupt and opaque jade sector is the Tatmadaw, who now has little incentive to carry on with reforms that have the potential to reduce its own power and influence in the industry.

The coup has re-focused attention on the role that the Tatmadaw's economic interests have played in bolstering its power and enabling the worst of its abuses. That includes the jade industry, and this report reveals how the coup has re-ignited conflict in and around the jade mines as the KIO/A and the Tatmadaw fight for control in Hpakant and around Kachin State. Renewed armed conflict in Northern Shan State has also disrupted the main trade and smuggling route into China, leaving the jade industry in a state of uncertainty as conflict upsets the delicate balance that had been achieved in Hpakant.

The coup has also thrown wide open the door for predation in the jade sector like that of past military rule. With the Tatmadaw back in full control of the licensing and regulatory bureaucracy, the jade industry risks functionally becoming a slush fund and source of patronage for Myanmar's new military regime. The Tatmadaw can return to its past-practice of handing out licences to its own companies and political allies in exchange for political support while revenues from jade sales and taxes go to help fund the Tatmadaw's brutal repression of the people of Myanmar.

This report shows that there are no easy answers to the jade-conflict nexus, especially with the coup quashing the possibility of any meaningful reform at this time. The focus of both the domestic and international community must be on returning a legitimate government to power and supporting the people of Myanmar as they struggle for their future. In the jade industry, this means working to prevent jade money from going to the military through sanctions and import bans, where possible.

Some progress does remain possible at the domestic level, however. The anti-coup National Unity Government (NUG) has an opportunity to finally place natural resource governance front and centre as it outlines its vision for the future of the country as a federal union. Jade may seem like an unimportant issue best saved for the future, given everything happening in Myanmar today. However, this would be a mistake. If the NUG wants to receive real buy-in and support from long-exploited ethnic minorities, especially in Kachin and Shan States, it should focus on developing a more fair, inclusive and responsible system for managing Myanmar's natural resources – one that places the rights of local and indigenous communities front and centre within a genuine federal system. It is true that, ultimately, there will be no peace as long as those with guns control the vast wealth generated by one of Myanmar's greatest natural treasures. Now is the time to plan for a better future.

KEY FINDINGS

Jade and the NLD

The jade mining industry in Myanmar is deeply intertwined with the armed hostilities wracking the country, part of a long history of illicit economies financing conflict in

Myanmar. As this report shows, money from the jade industry helps finance armed conflict in northern Myanmar. And not just on one side – jade money makes its way into the coffers of almost every armed actor in Myanmar’s north, including the Tatmadaw, Kachin Independence Army, the United Wa State Army, the Myanmar National Democratic Alliance Army, and the Arakan Army, as well as numerous smaller militias and border guard forces. The reliance of all of these groups on money from the jade industry demonstrates the importance of natural resource governance while also increasing the complexity of reforming the sector.

Although the National League for Democracy took power promising to clean up the jade industry, armed groups, and in particular the Tatmadaw, were instead able to further entrench their control over Myanmar’s jade mines.

After taking power in 2016, the NLD suspended all jade mining licensing and began a reform process intended to regulate the industry and address the environmental, social and economic harms it was creating. However, the planned reform process stalled because vested interests within the jade industry opposed reforms, while a lack of government focus left a national gemstone policy stuck in bureaucratic review. The result was an industry operating within an ill-defined and under-enforced legal regime and plagued by misconduct and law-breaking. Armed groups were able to exploit this ongoing power vacuum to increase their control of Hpakant and the jade industry. This is especially true of Myanmar’s military, which tightened its grip over Myanmar’s jade mines during five years of NLD control.

The 1 February coup has quashed any possibility for real reform in the near-term at the same time as setting the industry back a decade to the dark days of junta rule. The NLD was unable to fulfil its promises of reform during its first term in power from 2016-2021. However, following its landslide victory in the 2020 elections there was hope the NLD would refocus on natural resource governance reform and consolidate the gains that had been made. With the Tatmadaw attempting to violently re-take control of the country, the NLD’s reform programme is now dead. Moreover, the coup has triggered an explosion of violence in Myanmar’s jade mining regions as the Tatmadaw and the KIO/A engage in heavy fighting around Hpakant and Hkamti. Severe fighting in Northern Shan State has also disrupted the primary jade trade and smuggling route into China at the Muse Ruili border crossing. The coup has re-affirmed the deeply entrenched nature of the jade-conflict nexus.

The Tatmadaw tightens its grip

Military-owned conglomerates continued to dominate the jade industry under the NLD, receiving hundreds of licences from the outgoing military-linked government in early 2016. At the time of the licensing suspension, Myanma Economic Holdings Limited, the military-owned conglomerate, and its subsidiaries held more jade licences than any other entity in the country. The majority of those licences were granted to MEHL subsidiaries by the outgoing Thein Sein government in the first three months of 2016 – following the 2015 election, but prior to the NLD taking official power – a massive financial windfall for the Tatmadaw.

Corruption in the jade industry extended to the top of the Tatmadaw chain of command, including the family of Senior General Min Aung Hlaing, at the time of the coup.

Corruption was rampant within the Tatmadaw even under the NLD. Senior officers paid large sums of money to secure posts as Head of the Northern Command and Division 101 Commander, in Hpakant – positions from which they could collect massive bribes and dole out mining authorisations to companies owned by their allies. This corruption reached the very top, with this report presenting credible allegations that bribes paid to the Northern Commander to allow the import of dynamite, were paid up the chain to Senior General Min Aung Hlaing's son, Aung Pyae Sone.

The jade industry risks becoming a Tatmadaw slush fund and source of political patronage to prop up the military regime following the coup.

The coup has allowed the Tatmadaw to take back direct control of the jade industry's regulatory and licensing bureaucracy, including the Myanmar Gems Enterprise. While licensing had not been restarted at the time of writing this report, there is a serious risk that the Tatmadaw will recommence licensing, selling off permits in a massive fire sale to help it fund its operations. Further, the previous military junta had a long history of exchanging access to natural resources, and licences for their exploitation, for political and military support. As the Tatmadaw attempts to consolidate control of the country, there is a significant risk it will again attempt to buy political support with jade mining licences.

Ethnic armed groups and jade

The lawless environment around Hpakant has facilitated further corruption, allowing old foes to cooperate to mine faster and more dangerously before their licences expire.

Even as they engaged in active fighting elsewhere in Myanmar, armed groups turned Hpakant into a zone of cooperation. This report shows how the Tatmadaw, KIA and UWSA, along with numerous

other armed groups, collaborated to extract and tax jade. This cooperation was fuelled by endemic corruption, especially around mining licences and the collection of both formal and informal taxes. The collaborative rush to extract jade as quickly as possible before licences expired, often through mining arrangements of dubious legality, led companies to engage in unsafe mining practices that have had deadly consequences.

Jade money was directly involved in the trade of weapons fuelling Myanmar's multiple conflicts prior to the coup.

The UWSA frequently fulfilled its jade-related tax obligations to the KIA by providing weapons produced in its own factories. The KIA then sold these weapons, sometimes at a discount, to the Arakan Army. This jade-for-weapons economy has perhaps been the most visible demonstration of the jade-conflict nexus and clearly shows the importance of linking natural resource governance issues into Myanmar's peace process. With weapons even more in demand following the coup, it is likely that jade-for-arms deals will continue.

Corruption and conflict of interest were a problem within the KIO/A.

This report reveals new evidence of corruption by the KIA's jade valuation committee, which stands accused of taking bribes in order to undervalue (and thus under-tax) jade stones, and that the KIO/A gave companies permission to mine in exchange for access fees and 'tax' revenue. KIO/A officers have sometimes controlled their own jade mining interests, usually unlicensed jade plots or companies that individuals could profit from, to supplement their income. This includes KIA Chairman N'Ban La, whose family have owned multiple jade-mining interests.

The jade industry helped support the rise of the Arakan Army.

The Arakan Army has emerged as a significant new player in the jade sector, and this investigation has uncovered how it raised money from the jade industry through multiple revenue streams. This includes running *yemase*

mining operations, collecting informal taxes from Rakhine miners and companies, and through cooperation with the KIA. It used these revenues to support its ambitions against the Tatmadaw in Rakhine and Chin states – conflict that has displaced over 130,000 people since 2018. The group also recruits from among the vulnerable *yemase* miners – people who travel to Hpakant to mine jade, but too often ended up impacted by the horrors of landslides, endemic drug use and conflict, which have become part of daily life in the mines.

The United Wa State Army emerged as a key powerbroker in Hpakant. One of the first groups to receive permission to mine jade from the military government in the 1990s, the UWSA has consolidated its leading role in Hpakant over the past five years. The group operates dozens of companies in Myanmar’s jade-mining regions and acts as a key intermediary for mining and tax arrangements between the KIA and Tatmadaw, a role that has grown in importance as cooperation between the groups has increased in the wake of the licensing suspension.

After the licensing suspension

Smuggling has remained rampant, and the shocks of the COVID-19 crisis and the coup risk making it worse. This report reveals that between 70-90% of all jade mined in Hpakant was smuggled out of the country and into China prior to the coup without ever entering the formal system in Myanmar. This is an increase from the estimated 50-80% of jade that was smuggled prior to the licensing suspension. Kachin State’s resources have thus been plundered, with little of the benefit going to the Kachin people or the state, where jade revenues could be used to support critical needs like health care and education. The closure of official jade emporiums due to the COVID-19 crisis only increased the incentives for smuggling, leaving traders with no way to legally sell high-grade jade.

Dangerous mining practices adopted by companies at an increasing rate following the licensing suspension led to serious accidents and loss of life among artisanal miners working in Hpakant. Prior to COVID-19 and the coup, up to 400,000 independent and artisanal miners, known locally as *yemase*, travelled to Hpakant every year to try to eke out a living. These miners worked in increasingly dangerous conditions as the licensing suspension had the perverse effect of encouraging companies to cut safety corners to extract even more jade before their licences ran out. Such dangerous practices led directly to two landslides in April 2019 and July 2020, together killing over 200 people.

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 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:
 6. Military conglomerates Myanmar Economic Corporation and Myanma Economic Holdings Limited;
 7. 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;
 8. 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
 9. Individual officers and individuals involved in the SAC, as well as their immediate families.
10. 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.
11. 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. The NUG should 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.