

## China's Role in Myanmar's Bloody Jade Industry: Poison or Panacea

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**Abstract:** Corruption, cronyism, and jade smuggling in Myanmar's jade industry have fueled racial and regional conflicts in northern Myanmar for decades. Myanmar's military plays an integral role in this process. They act above the law and commit genocidal atrocities to maintain control over the jade industry through financial resources such as jade smuggling, crony companies' jade revenue, and bribes paid by miners, jade merchants and mining companies. Ninety percent of Myanmar's jade travels to China. Chinese culture, corruption, and capital outflows in renminbi drive demand for Myanmar's jade. Such demand sustains the vicious cycle between jade and armed conflict in Myanmar's jade business, aggravating human rights violations and environmental destruction in the Kachin State and Mandalay Region, jade-rich areas in Myanmar. However, current international sanctions and recommendations that aim to curtail the illicit financial flows in Myanmar's jade business overlook the significant role the government of China can play to fundamentally remove cyclical violence from Myanmar's jade industries. China's demand for Myanmar's jade undermined Chinese President Xi Jinping's 2012 "Anti-Corruption Campaign" and the policy of capital control. These political goals have caused the demand for Myanmar's jade to plummet since 2014 and can continue suppressing demand in the future. In conclusion, to cut off the jade funds flowing to the Myanmar military, the international community needs to boycott all jade from Myanmar and jade products that are made in China but originate from Myanmar. The central government of China must continue its Anti-Corruption Campaign and capital control policy.

### Keywords:

1. Myanmar
2. China
3. Jade
4. Illicit Financial Flows
5. Armed Conflict

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### 1. Introduction

The revenue derived from natural resources provides financial support for the Myanmar military (called the Tatmadaw in Burmese; I use this term in the following) to operate without civilian

oversight and to function as a totalitarian regime. The Tatmadaw has led a kleptocratic and murderous reign in Myanmar for decades. One of the most lucrative resources that has been stolen from the people and the democratic government of Myanmar is jade.

Statistics of Myanmar's extractive sector show that the jade trade comprises 6% of Myanmar's GDP, 24% of government revenue and 38% of exports,<sup>1</sup> and among the extractive industries jade is the main revenue-generating commodity (Shortell, 2019, p. 11). Unfortunately, every year, tens of billions in jade revenue is being used as a slush fund by the Tatmadaw, with less than 2% of the jade revenue being taxed to fill the coffers of this poorest country in Asia (Global Witness, 2015, p. 27).

The Tatmadaw has made Myanmar's jade economy a mutually reinforcing vicious cycle of jade trade and armed conflict. On the one hand, to monopolize jade, the Tatmadaw has committed genocide against the Rohingya.<sup>2</sup> In jade-rich regions of Myanmar, such as Kachin State and the Mandalay Region, the Tatmadaw has also committed, against Christian Kachin and other ethnic minorities, crimes against humanity and war crimes that challenge the limits of the human conscience (IIFMM, 2019a, p. 3). The scale of torture, rape, sexual slavery, enslavement, persecution and massacre is such that the UN Human Rights Chief regarded the Tatmadaw's clearance operation to displace ethnic minorities as a "textbook example of ethnic cleansing".<sup>3</sup> On the other hand, the Tatmadaw's revenues from the jade business will refinance more clearance operations against ethnic minorities, incentivize its atrocities, and buttress its financial independence (UNHRC, 2021, p. 12).

Illicit financial flows from bribery, corruption, and smuggling have defined the Tatmadaw's control over jade mining regions in Myanmar for more than two decades. Since the Tatmadaw's 1994 ceasefire agreement with the non-state armed force, the Kachin Independence Army (hereinafter KIA),<sup>4</sup> the Tatmadaw has made billions of dollars annually through bribes paid for jade concessions, extortions at checkpoints on the jade-smuggling routes, and, most significantly, money generated by jade smuggling to China.<sup>5</sup>

China's culture, corruption, and capital flight sustain Chinese demand for Myanmar's jade. The Chinese involvement in Myanmar's jade business enriches the Tatmadaw with additional illicit financial flows.<sup>6</sup> Chinese jade merchants pay bribes to the Tatmadaw in exchange for tons of smuggled jade stones. Allying with the Tatmadaw-held companies or cronies, Chinese mining companies swarm the town of Hpakant to slice up the largest jade pie in Myanmar. The heavy machinery introduced by Chinese mining companies takes away jobs from traditional jade hand pickers (Global Witness, 2021, p. 56), and the churning of drill machines make jade mountains more susceptible to erosion and landslides (Global Witness, 2015, p. 38). While Tatmadaw's elites

<sup>1</sup> World Bank (2016, 28 April). "Myanmar Launches First Report on Extractive Industries Revenue." <https://www.worldbank.org/en/news/feature/2016/04/28/myanmar-launches-first-report-on-extractive-industries-revenue>.

<sup>2</sup> U.S. Department of State (2022, 21 March). "Secretary Antony J. Blinken on the Genocide and Crimes Against Humanity in Burma" <https://www.state.gov/secretary-antony-j-blinken-at-the-united-states-holocaust-memorial-museum/>.

<sup>3</sup> United Nations News (2017, 11 September). "UN Human Rights Chief Points to 'textbook example of ethnic cleansing' in Myanmar". <https://news.un.org/en/story/2017/09/564622-un-human-rights-chief-points-textbook-example-ethnic-cleansing-myanmar>.

<sup>4</sup> Tom O'Connell (2018, 29 June). "Kachin Conflict: Myanmar's 'Forgotten War'." <https://southeastasiaglobe.com/myanmars-forgotten-war-kachin-state-forces-battle-over-resources/>.

<sup>5</sup> Daniel Combs (2018, 1 June). "Myanmar Jade-Fueled War." *The Diplomat*. <https://thediplomat.com/2018/06/myanmars-jade-fueled-war/>.

<sup>6</sup> Hannah Beech (last accessed: 2022, 21 May). "Battling for Blood Jade." *Time Magazine*. <https://time.com/battling-for-blood-jade/>.

pile up dirty jade money with Chinese jade business persons, locals and miners suffer from armed conflict and environmental destruction.

To sum up, the vicious cycle between armed conflict and jade stems from the illicit financial flows from bribery, crony capitalism, and jade smuggling that empower the Tatmadaw to transcend the rule of law as well as any system of accountability. The illicit financial flows in Myanmar jade business not only impoverish locals and devastate the environment but also undermine the interests of the people of Myanmar and hinder Myanmar's transition to a consolidated democracy. Therefore, it is crucial to understand the mechanisms in Myanmar's jade industry which sustain the Tatmadaw's kleptocratic and murderous dictatorship.

In addition, it is also critical to understand why the current efforts to curtail illicit financial flows are likely to be futile. U.S. president Joe Biden has announced that the U.S. will block properties of and forbid transactions with two of Myanmar's state-owned and Tatmadaw-controlled companies in an attempt to deprive the Tatmadaw of a considerable part of the jade funds.<sup>7</sup> Since the demand for Myanmar's jade supply mainly comes from China, lack of support for the sanctions by the government of China means that their impact will be limited.

This paper contributes to elucidating the illicit money flows from bribery, corruption, and smuggling that are persistent in the Tatmadaw's control over Myanmar's jade industry (Part 2). It also sheds light on the little-noticed enabling factor in the vicious cycle of Myanmar's jade industry—Chinese demand for Myanmar's jade (Part 3). Part 4 contains an evaluation of the adverse effects of armed conflict and environmental destruction caused by the Tatmadaw's bribery, crony capitalism, and jade smuggling. Part 5 discusses the failure of current efforts to curtail the illicit financial flows in Myanmar's jade industry. Part 6 proposes recommendations for the international community and the government of China. The paper concludes that the international community should ban the importation of all jade products from Myanmar as well as China and should cooperate with the government of China to break the vicious cycle between armed conflict and Myanmar's jade industry.

## 2. Illicit Financial Flows in Myanmar's Jade Industries

The Tatmadaw has driven the mutually reinforcing vicious cycles of jade and armed conflict for decades in the jade-rich and war-torn areas of Myanmar. In Kachin State, the Tatmadaw's military strategy aims to monopolize the economic exploitation of jade and other natural resources. Countless armed conflicts and grave human rights violations are committed to shore up the Tatmadaw's sole control over jade (IIFMM, 2019a, p. 29).

Myanmar is globally famous for its valuable jade deposits. Billions of dollars worth of jade is mined from its mountainous northern mining regions in Kachin State every year. However, as some Kachin locals put it: "[the] tree is in our garden, but we are not allowed to eat the fruit" (Global Witness, 2015, p. 14). Locals in Kachin neither share revenue from mined jade nor does the civilian government tax it. Revenues from jade mines in Myanmar finance the Tatmadaw's slush funds.

The Tatmadaw's omnipresent control over Myanmar's jade industry has turned the revenues from jade into a source of illicit financial flows. More than two-thirds of all the country's jade production circumvents civilian government taxation and enriches the Tatmadaw (Shortell, 2019, p. 1). Myanmar's jade revenue provides the Tatmadaw with off-budget finance and supports their atrocities against civilians and ethnic minorities without political constraint. Following the coup in

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<sup>7</sup> Presidential Documents Executive Order (E.O.) 14014 (2021, February 12). "Blocking Property With Respect to The Situation in Burma." *Federal Register* Vol. 86, No. 28. <https://home.treasury.gov/system/files/126/14014.pdf>.

2021, it has become harder to reverse the vicious cycle between armed conflict and Myanmar's jade trade. The Tatmadaw's control of the jade industry is detrimental not only to fiscal soundness but also to the consolidation of democracy in Myanmar for it strengthens the Tatmadaw's financial independence from the civilian government.

This part will present three key factors that enable the Tatmadaw to profit on an enormous scale from Myanmar's jade: the bribery for jade concessions, crony capitalism in Myanmar's jade business, and jade smuggling to China.

### **2.1 Bribery for Jade Concessions**

While there is no transparent standard to determine who should win the bid for a jade concession (MEITI, 2019, p. 44), nepotism and bribery can predict how jade concessions are awarded. A jade merchant has revealed a typical scenario on how a company wins a jade concession: the company must approach the Tatmadaw Northern Commander, the Kachin State Chief Minister, or the officials in Nay Pyi Taw, and say: "I really want this area in Hpakant to mine jade." If the company pays a handsome bribe or promises to share a satisfying amount of jade profits in the future, "the military will ensure that the company gets a concession in return". One jade businessman concluded: "When you go to see high-ranking officials, you don't go empty handed" (Global Witness, 2015, p. 34).

However, bribery and nepotism are not on an equal footing. The more valuable a jade mine is, the closer the connections with the Tatmadaw needs to be for a concession to be awarded. The value of jade deposits varies greatly among the 35,000 acres (now reduced to 29,000 acres) of the jade mining area in Hpakant (Global Witness, 2015, p. 30). Less than 1% of jade outputs are imperial or commercial grade jadeite, but these outputs account for over 70% of the value of Myanmar's jade business (Dapice and Nguyen, 2013, p. 28). Today, most concessions of the high-quality jade deposits, such as Maw Sizar, Kwang San, Kayin Chaung, Nam Maw, belong to companies or cronies closely tied to high-ranking figures in the Tatmadaw, while concessions of lower quality jade deposits go to less-connected companies. The significance of nepotism in the jade concession is backed up by a jade businessman, who pointed out: "Even if you have the money you cannot get into Hpakant without connection" (Global Witness, 2015, p. 33).

To strengthen the nepotism with the Tatmadaw, a joint venture with a military-held company, such as Myanmar Economic Holding Limited, is considered the only effective business strategy to win a precious jade concession in Myanmar. The law provides three forms to legitimately hold a jade concession. A joint venture with a military company is one option. The second option is a solely privately-owned concession, for which close connections with or handsome bribes to the Tatmadaw are required, and the last one is Kyo Thu, whereby private companies have a profit-sharing arrangement with Myanmar Gemstone Enterprise (hereinafter MGE) owned by the Ministry of Mines (Global Witness, 2015, pp. 28-30).

However, the Tatmadaw has its share in all of these practices. If mining companies obtain a jade concession through a joint venture with Tatmadaw-controlled companies or crony companies, the Tatmadaw will share the jade profits as a partner. If companies obtain jade concessions in the form of Kyo Thu, MGE will share the post-taxed proceeds of jade. The major shareholders and managers of MGE are all serving or retired military officers, who authorize MGE to operate with autonomy without the supervision of the Ministry of Mines (Bauer et al., 2018, p. 76). Bribery and nepotism are preconditions for starting a jade business in Myanmar.

### **2.2 Crony Capitalism in Myanmar's Jade Industries**

Crony capitalism has defined Myanmar's jade business for decades in two ways, one by the Tatmadaw's crony companies, and the other through the direct control of a jade business by top

military leaders in the Tatmadaw. Among the Tatmadaw-controlled companies that are critical figures in Myanmar's jade business, Myanmar Economic Holdings Limited (hereinafter MEHL) has been the most notorious crony company that connects jade with armed conflict (IIFMM, 2019a, p. 18).<sup>8</sup> The U.S. and the U.K. have sanctioned MEHL since the coup in 2021 due to the Tatmadaw's management role, its dominant shareholding, and the jade revenue allocation of MEHL, which can directly enrich officials of the Tatmadaw (IIFMM, 2019a, Annex II).

According to Amnesty International, MEHL has a total of 381,638 individual shareholders, who are all serving or retired military personnel, and 1,801 "institutional" shareholders, including the regional command and its subordinate battalions, divisions, platoons, squadrons, and border troops. MEHL shareholders received more than 107 billion kyats in dividends between 1990 and 2011, close to 18 billion U.S. dollars at international exchange rates. MEHL transferred 95 billion kyats – nearly 16 billion U.S. dollars – to units and regiments of the military (Amnesty International, 2020, p. 5).

MEHL's shareholders include military units and senior military officers directly involved in genocidal atrocities against Rohingya Muslims in Rakhine State. For example, Min Aung Hlaing, the commander-in-chief of Myanmar, who ordered the clearance operation against Rohingya Muslims and was singled out by the U.N. for investigation for genocide, crimes against humanity, and war crimes, owned 5000 shares of MEHL and received approximately 1.5 million kyats (USD250,000) in dividends between 2010 and 2011 (Amnesty International, 2020, p. 7). The Western Command, whose units and regiments were responsible for the clearance operation in Rakhine State in 2017, held more than 4.3 million MEHL shares and received more than 1.25 billion kyats (208 million U.S. dollars) between 2010 and 2011. The Tatmadaw and other military personnel hold all of MEHL's shares.

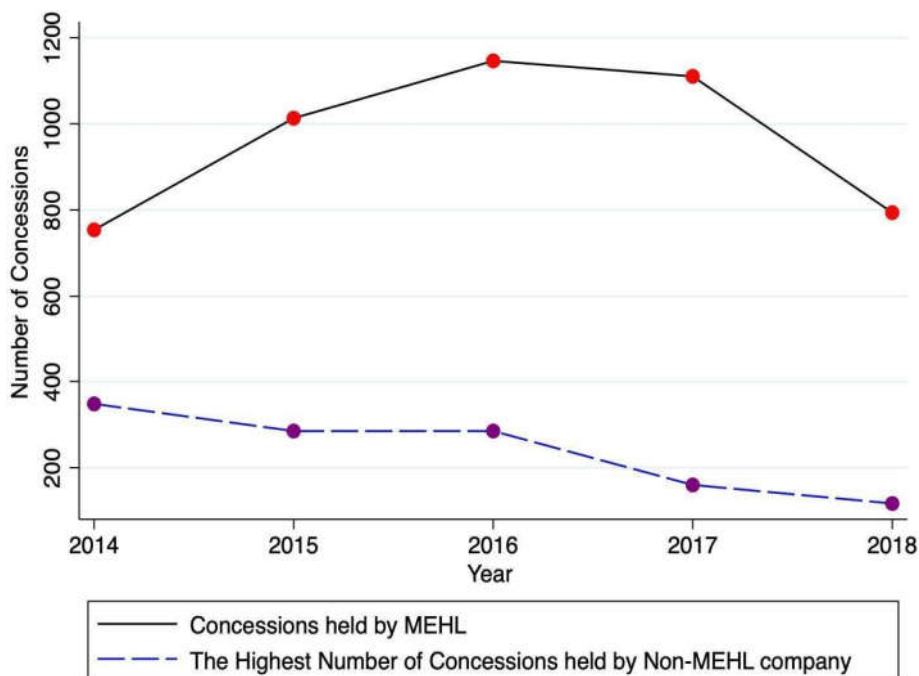
MEHL has a versatile business portfolio, spanning the fields of mining, telecommunications, textiles, tourism, finance, and construction. Jade mining is one of its most profitable businesses (IIFMM, 2019a, p. 21). MEHL took over mining sites in Hpakant, the largest mining region in Kachin, and started its jade business in 1995 when the Tatmadaw signed a ceasefire agreement with the KIA to temporarily end the racial and regional conflicts between the Myanmar and Kachin people (Global Witness, 2015, p. 50).

MEHL and its 23 subsidiaries have received many more jade concessions than companies without military connections, as shown in Figure 1 below. In 2018, MEHL held at least 794 jade concessions (IIFMM, 2019a, Annex III), and some subsidiaries of MEHL control the most valuable jade mines that contain jadeite, the most precious grade of jade, in Hpakant (MEITI, 2019, p. 73). The available mining areas in Myanmar have been shrinking due to the government's policy of gradually suspending jade concessions. In 2018, there were around 29,000 acres of jade mining land in Myanmar, and MEHL and its joint venture companies still legitimately control 6,624 acres of the mining area (Lin et al., 2019, p. 17).

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<sup>8</sup> The UN Independent International Fact-Finding Mission on Myanmar (IIFMM) has identified several Tatmadaw controlled companies that are significant figures in Myanmar's jade industries, including Myanmar Economic Holding Limited (MEHL), Myanmar Economic Corporation (MEC), Shwe Innwa Gems, and Polaris Gems (or Northern Star Gems).

Fig. 1. MEHL and its 23 subsidiaries



Data Source: 2<sup>nd</sup>-5<sup>th</sup> Myanmar Extractive Industries Transparency Initiative Report

To the local and small mining companies, the MEHL is a greedy scoundrel that loots lands and displaces locals by wielding emergency powers which, according to Section 144 of Criminal Procedure of Myanmar, can only be issued by a District Magistrate, a Sub-divisional Magistrate, or any other Magistrate.<sup>9</sup>

With Tatmadaw's endorsement, MEHL has been above the law of Myanmar since before the coup. MEHL seizes precious jade mines by invoking Section 144. In doing so, MEHL declares the targeted mine area an area under emergency power by which it prohibits anyone from entering

<sup>9</sup> Section 144 of the Criminal Procedure of Myanmar: "(1) In cases where, in the opinion of a District Magistrate, a Sub-divisional Magistrate, or of any other Magistrate (not being a Magistrate of the third class) specially empowered by the President of the Union or the District Magistrate to act under this section, there is sufficient ground for proceeding under this section and immediate prevention or speedy remedy is desirable, such Magistrate may, by a written order stating the material facts of the case and served in manner provided by section 124, direct any person to abstain from a certain act or to take certain order with certain property in his possession or under his management, if such Magistrate considers that such direction is likely to prevent, or tends to prevent, obstruction, annoyance or injury, or risk of obstruction, annoyance or injury, to any person lawfully employed, or danger to human life, health or safety, or a disturbance of the public tranquility, or a riot, or an affray.

(2) An order under this section may, in cases of emergency or in cases where the circumstances do not admit of the serving in due time of a notice upon the person against whom the order is directed, be passed *ex-parte*.

(3) An order under this section may be directed to a particular individual, or to the public generally...

(4) Any Magistrate may, either on his own motion or on the application of any person aggrieved, rescind or alter any order made under this section by himself or any Magistrate subordinate to him, or by his predecessor in office.

(5) Where such an application is received, the Magistrate shall afford to the applicant an early opportunity of appearing before him either in person or by pleader and showing cause against the order: and, if the Magistrate rejects the application wholly or in part, he shall record in writing his reasons for so doing.

(6) No order under this section shall remain in force for more than two months from the making thereof, unless, in cases of danger to human life, health or safety, or a likelihood of a riot or an affray, the President of the Union, by notification in the Gazette, otherwise directs."

without permission. MEHL's patrolling soldiers will directly shoot and kill anyone entering without permission. Residents said: "Everyone is afraid of Section 144, even children. If we go there, they will shoot us. As long as MEHL can invoke Section 144, they can do whatever they want" (Global Witness, 2015, p. 27).

As the Tatmadaw's intimate crony, looting and occupying jade mining lands are the MEHL's main tasks, while excavation and mining of jade are not. MEHL either subcontracts the mining work to other mining companies or authorizes companies to have a joint venture with it or its subsidiaries to mine jade and enjoy a share in the jade output.<sup>10</sup>

MEHL is the best example of crony capitalism in Myanmar's jade industry because it is the Tatmadaw's de-facto agent in the industry. While the Tatmadaw uses violence to strengthen MEHL's control over jade mines, and MEHL rewarded the Tatmadaw with handsome shareholders' dividends from the jade industry, residents were displaced and impoverished. The mining wealth of the region did not fund better development but left most of the local population living in displacement and fear (Global Witness, 2015, p. 41).

The other essential figures that forge the crony capitalism of Myanmar's jade industry are the godfather-like top military leaders, such as the current dictator Senior General Min Aung Hlaing and retired Senior General Than Shwe, both of whom control key jade mining companies through their family members and loyalists. The personal wealth extracted from the jade industry could be greater than the jade revenue that goes to MEHL, and more detrimental to Myanmar's meaningful political transformation than institutional crony capitalism. The money that flows into the military units could be less than the wealth siphoned off into the personal coffers of a handful of top generals.

From 1992 to 2011, now-retired General Than Shwe led Myanmar as a dictator during the darkest period of the nation. His family members own four key jade companies, whose pre-tax jade sales in total exceeded USD220 million in 2014 – the National Jade Emporium; Myanmar Naing Group Gems; Kywe Wa Sone Gems (Richest Gem); and Kyaing International Gems, which is named after Than Shwe's wife, Daw Kyaing Kyaing (Global Witness, 2015, p. 42). Than Shwe's three sons are directors of Myanmar Naing Group Gems and Kyaing International Gems respectively, and the director in chief of Kywe Wa Sone Gems is also a director of both former companies. None of the companies secure jade mine concessions by undergoing required bidding procedure, and all of their mines are heavily mechanized and could easily trigger landslides. These companies pay little regard to the rule of law and the well-being of local people. Than Shwe's family's control over jade demonstrates the military leaders' ability to abuse their military and political power to accumulate personal wealth in a mutually reinforcing and violent cycle (Global Witness, 2015, p. 41).

Than Shwe's family also controls a wide range of industries in Myanmar in various sectors from natural gas to textiles and even including bakeries. If someone wants to do business, they must negotiate with a member of Than Shwe's family first.

The shadow executive behind MEHL is Myanmar's incumbent Senior General and one of the major conspirators behind the 2021 coup, Min Aung Hlaing. According to the 2018 official report of MEHL to the Union Minister Office Ministry of Planning and Finance Nay Pyi Taw, MEHL not only holds the largest number of concessions over the most lucrative mining sites, but they also lease some of the mining sites to the crony group controlled by Min Aung Hlaing's family members, such as the KBZ group. In the 2015-16 fiscal year, MEHL re-leased the mining licenses it had secured from the government to the subsidiaries of KBZ to extract 24,230 kg of jade, with

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<sup>10</sup> Interviews conducted by Global Witness have shown that MEHL enjoys 20%-40% of the split share of jade products (Global Witness, 2015, p. 51).

only the minimum royalties paid to the local government (MEHL, 2018). Min Aung Hlaing's son, Aung Pyae Sone, is also accused of controlling large amounts of dynamite imports, crucial to the current mechanized jade extraction processes, to Hpakant, the center of Myanmar's jade industry. Moreover, he has been indicted for paying bribes for permission to transport these explosive materials. As a result, Aung Pyae Sone and his sister Khin Thiri Thet Mon have both been placed on the U.S. sanctions list.<sup>11</sup>

The tremendous jade revenues that Than Shwe's family and Min Aung Hlaing have received means that these dictators have much to lose from meaningful political reform. So far, Myanmar's undemocratic constitution still guarantees the Tatmadaw 25% of the seats in Parliament (a *de facto* veto power to constitutional reform) and control over the Ministries of Home Affairs, Border Affairs, and Defense. Both Than Shwe and Min Aung Hlaing built up their personal wealth by exploiting their dominant political power, and, because the tremendous wealth of top military leaders' is at stake, every attempt by the National League for Democracy (NLD) to reform the Constitution has failed.<sup>12</sup>

### 2.3 Jade Smuggling to China

The Tatmadaw makes a great fortune from jade smuggling to China, which is the biggest market for Myanmar's jade. While 50%-80% of the outputs of Myanmar's jade industry circumvents the taxation of the governments of Myanmar and China through smuggling (Global Witness, 2015, p. 102), the Tatmadaw maintains its handsome share in the smuggling of jade on the Sino-Myanmar border.

The Myanmar Gemstone Law (1995)<sup>13</sup> requires jade businesses to pay various fees, royalties, and taxes to the government, including permit, license and administrative fees, commercial tax, and a 20% value-based tax imposed on the jade outputs and mine sites.<sup>14</sup> They must then transport mined jade to Nay Pyi Taw to be sold at the government-run Myanmar Gems Emporium with another 10% tax, after which the jade can be transported freely out of Myanmar.<sup>15</sup> In practice, local jade mining companies bribe the mine-site inspectors or buy back the jadestone they just sold at a very low price as a way of avoiding official taxation in the National Emporium.

By contrast, payment of 'taxes' to the Tatmadaw is inevitable. The Tatmadaw deploys heavily armed forces in mine sites to check and evaluate the real value of jade output and controls the jade-carrying routes to China by means of numerous checkpoints. The following paragraphs will

<sup>11</sup> Ted Regencia (2021, June 29). "Myanmar Army 'Tightens Grip' on Multibillion Dollar Jade Trade: Report." Al Jazeera. <https://www.aljazeera.com/news/2021/6/29/global-witness-report-jade-in-myanmar>.

<sup>12</sup> Justice for Myanmar (2021, January 30, updated 2021, March 16). "Who Profits from A Coup? The Power and Greed of Senior General Min Aung Hlaing." <https://www.justiceformyanmar.org/stories/who-profits-from-a-coup-the-power-and-greed-of-senior-general-min-aung-hlaing>.

<sup>13</sup> Replaced by Pyidaungsu Hluttaw Law No. 4/2019 - Myanmar Gemstone Law.

<sup>14</sup> According to the Myanmar Gemstone Law, Chapter 1, Article 2, a royalty is imposed on the sale of jade, an extraction royalty is imposed on the extraction of jade, the Emporium Service Fee is imposed on sales in the national jade emporium, a permit fee is paid to bid for the operation of jade extraction, and a license fee is paid to bid to operate a jade business. [https://www.burmalibrary.org/sites/burmalibrary.org/files/obl/docs21/1995-09-29-Myanmar\\_Gemstone\\_Law.pdf](https://www.burmalibrary.org/sites/burmalibrary.org/files/obl/docs21/1995-09-29-Myanmar_Gemstone_Law.pdf).

<sup>15</sup> Myanmar Gemstone Law 1995 Section 17: "If it has completed registration of the raw gemstone produced and payment of royalty a company or society holding a permit: (a) has the right to cut and polish the said raw gemstone, and make finished gemstone and manufacture jewellery; (b) has, in respect of the said raw gemstone, or cut and polished finished gemstone or jewellery; (1) the right to carry freely the same within the country in accordance with the stipulations; (2) the right to sell freely in Myanmar currency to Myanmar citizens; (3) the right to sell in foreign currency to persons who are entitled to hold foreign currency; (4) the right to export and sell abroad in foreign currency; (5) the right to sell at the Gem Emporium sponsored and conducted by the Government, at the Gem Markets opened by those concerned and at the shops and places permitted under the licence; (6) the right to sell to gem merchants from abroad in accordance with prescribed conditions by inviting them on its own arrangement."



demonstrate how mining companies evade official taxation of jade and elucidate how the Tatmadaw guards its lion's share of jade smuggling to China.

### **2.3.1 Bribing Inspectors**

At the mine sites, the most common way to evade tax is to bribe the government officials who come to inspect the value of crude jade stones and calculate jade tax. Bribed officials might either not record any mined jade, making mined jade invisible and untraceable from the beginning, or underestimate both the quantity and quality of jade. Hence jade tax is completely avoided or considerably reduced.

### **2.3.2 Jade Stones Buybacks**

At the official emporium, the use of jade stone buybacks is a common trick to avoid tax by deflating the sale price. Sellers initially cut windows on the lowest quality side of the jadestone, misleading the officials who come to the emporium to set the jade tax. Based on the misinformation given by sellers, the duped officials designate a jade tax that is much lower than it should be. Once the tax is officially imposed, the sellers ensure their proxies or agents buy back the undervalued jadestone and legally transport it to China, mainly to jade markets in Yunnan Province, where the stones will be cut again, this time with the window open on the side that displays the true value of the jade stones to enhance the price. The price spread of jade between the official emporium in Myanmar and the jade market in China could be hundreds of dollars per kilo, which is so lucrative that it makes the legal jade trade unattractive.

Estimates show that over 80% of big mining companies and 60% of individual jade vendors conduct jadestone buybacks. This implies that the official data of the 2015 National Emporium, which recorded only 2 pieces of imperial jade in 8,000 sale lots, are very likely to understate the real percentage of higher-grade jade (Global Witness, 2015, pp. 35-36).

### **2.3.3 Tatmadaw's Profits in Jade Smuggling**

The Tatmadaw is a mafia in both Myanmar's jade mines and on the jade-smuggling routes to China. The mining regions in Kachin State are heavily militarized and smuggling routes to China are covered with Tatmadaw checkpoints (Global Witness, 2021, p. 30). All jade mining companies are required to pay the Tatmadaw's soldiers in exchange for protection in the mine-sites and to facilitate jade smuggling.

Larger jade mining companies pay a lump sum of USD5,000-10,000 in advance to the Tatmadaw's commander in Hpakant and additional bribes to the Tatmadaw every month in exchange for the protection of their mining sites. Normally, trucks of a larger jade mining company used for smuggling can pass directly through the checkpoint without stopping. Large companies that have better connections with the Tatmadaw even carry soldiers on the smuggling trucks to protect their jade stones.

Medium-sized companies are not as lucky as their larger counterparts. In the mine-sites, everyone from the battalion commander to police wants to benefit from the jade trade.<sup>16</sup> The Tatmadaw's officers and local policemen inspect every one of these companies' jade mines, and they extort at least 20% of the jade value (Global Witness, 2021, pp. 89-91). If good-quality jade is found, companies must pay more. On the smuggling routes to China, medium-sized mining

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<sup>16</sup> Emily Fishbein, Hkun Lat, and Aung Lamung (2020, August 19). "In Myanmar's Largest Jade Mining Town, the Semi-Precious Stone Prized by Chinese Costs More Than Money." Pulitzer Center. <https://pulitzercenter.org/stories/myanmars-largest-jade-mining-town-semi-precious-stone-prized-chinese-costs-more-money>.

companies will pay in advance so that, identified by their license plates, Tatmadaw soldiers will let them pass through the checkpoints.

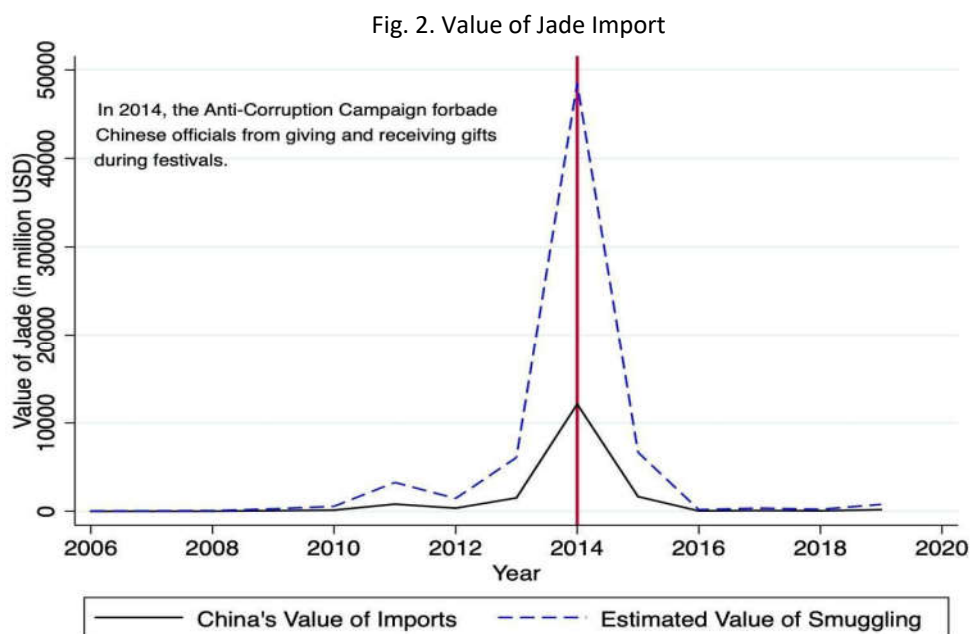
Small mining companies and free-lance miners are the most vulnerable due to their lack of connection with the Tatmadaw. The Tatmadaw's soldiers conduct a body search of workers of these companies or miners at the checkpoints and extort from them an amount of money greater than the value of jade they are trying to smuggle. To avoid such extortion, these companies and miners usually hide their jade from the Tatmadaw's inspection, but in doing so they risk being beaten, locked up for several years or even killed by the soldiers (IIFMM, 2018, p. 58).

## 2.4 The Magnitude of the Illicit Financial Flows

While it is difficult to estimate how many bribes the Tatmadaw receives as a result of its control over Myanmar's jade industry, the value of Myanmar's jade smuggling to China can be estimated based on China's customs statistics.

One estimate has suggested that the value of annual jade production in Myanmar may be close to USD31 billion on average, close to half of Myanmar's annual average GDP (Global Witness, 2015, p. 6). This estimate may substantially understate the real jade production of Myanmar because, as mentioned above, a large amount of jade is never officially recorded after it is mined.

This paper presents another plausible approach to calculating the annual value of smuggled jade from Myanmar, namely to multiply by a number between two to five China's jade import data because the nearly 50%-80% of smuggled jade to China means that China's import data only account for approximately 20%-50% of total jade imports. In Figure 2 below, the solid black line illustrates China's imported value each year. The dotted blue line represents the estimated value of smuggled trade each year – four times larger than China's official value of imports.



Data Source of China's Value of Jade Import: UN Comtrade<sup>17</sup>

Note: According to the UN Comtrade Database, the values of official Chinese imports of jade from Myanmar from 2006 to 2019 are, respectively (in USD): 10.1 million, 12.2 million, 18.9 million, 71.4 million, 142 million, 817.6 million, 364.4 million, 1,522 million, 12.1 million, 1.7 million, 48.5 million, 91.7 million, 57.5 million, and 196.4 million.

<sup>17</sup>UN Comtrade Database: <https://comtrade.un.org/>.

Bribery for jade concessions, crony capitalism in Myanmar's jade business, and jade smuggling to China are three key factors that allow the Tatmadaw to make large profits from Myanmar's jade. However, the world's biggest jade market is China. The Tatmadaw cannot make a great fortune out of Myanmar's jade business without the huge demand from the Chinese market. The following Part of this paper will address this enabling factor that finances the Tatmadaw through jade transactions.

### 3. The Enabling Factor: China's Role in Myanmar's Jade Industry

China's culture and corruption support the country's high demand for Myanmar's jade. Chinese also capitalize on the underground remittance system in Myanmar's jade market to facilitate capital outflows in renminbi (hereinafter RMB) from China. The Chinese have historically coveted jade much more than people of other cultures. In the *Analects*, the canon of Confucianism, Confucius lauded jade for its hardness and transparency, which are the virtues shared with the ancient superior man in Confucianism. Since then, jade has been more precious than gold in China.

Nowadays, jade is more than a symbol of an ancient superior man. Jade is a popular gift among the Chinese, often used to bribe Chinese public officials. China's demand for Myanmar's jade has stimulated the development of the underground remittance system in Myanmar's jade market, which Chinese buyers use to circumvent legitimate banking systems and avoid their financial flows being tracked. Not only are Chinese the major buyers of Myanmar's jade, they are also the hidden operators and beneficiaries of the underground banking system in Myanmar's jade market. China's dominant role influences the demand for Myanmar's jade and the influx of illicit financial flows into Myanmar.

#### 3.1 The Jade-Loving Chinese Culture

The obsession of Chinese culture with jade makes China the largest jade processing and trading market globally. In Confucius's words, jade is precious because "Anciently, superior men found the likeness of all excellent qualities in jade. Soft, smooth, and glossy, it appeared to them like benevolence. Fine, compact, and strong—like intelligence. Angular, but not sharp and cutting—like righteousness..." (*The Analects*, Liji, Pin Yi, at para 12).

The use of Myanmar's jade by the Chinese may have begun during the third to eighth centuries, but the large-scale excavation of Myanmar's jade did not begin until the Second Anglo-Burmese War.<sup>18</sup> As early as the 19th century, a close commercial network developed at the Sino-Myanmar border (Li & Zhang, 2013, p. 2). Since then, the rarity, better translucency, and brighter yet green hue of Myanmar's jade has remained popular in the Chinese jade market, only declining from the Chinese Civil War to the eve of Chinese economic reform and rapidly reviving after China reopened its economy (Zhou Jinglun, 1992). The cross-border production chain of jade starts from shipping Myanmar's jade stones to Yunnan, where they are purchased by merchants from Guangdong and then re-shipped to the coast of China for further processing and sale (Xu Xi, 2021).

In the 1990s, when the jade trade to China substantially increased with the economic development of the country, the fighting between the Tatmadaw and the Kachin rebels intensified (USIP, 2018, pp. 17-25). In 1994, the Tatmadaw repelled the KIA to expand its control over most of the lucrative jade mines in Hpakant and Myitkiyna. These newly controlled jade mines were

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<sup>18</sup> In 1862, when Arthur Purves Phayre, the first British Myanmar commissioner, visited Upper Myanmar, he reached an agreement with King Min Tong. According to the agreement, goods imported from China to British Myanmar would only be subject to a 1% import tax, while goods imported from British Myanmar to China would all be tax-free. Such preferential taxation attracted a large number of merchants to engage in the Myanmar-China trade.

first handed over to the Tatmadaw's generals and then to their relatives and cronies (Global Witness, 2021, p. 11).

Since the 1990s, Chinese mining companies and jade merchants have swarmed the Sino-Myanmar border to ally with the Tatmadaw to share a slice of the lucrative pie of Myanmar's jade boom. They pay the Tatmadaw for protection when they transport jade from disputed territories back to China. Chinese involvement in Myanmar's jade business has buttressed the Tatmadaw's kleptocratic control over Myanmar's jade mining.

Even though Myanmar's Gemstone Law forbids foreign ownership in jade excavation,<sup>19</sup> Chinese jade merchants are critical figures in Myanmar's jade business. On the one hand, the Tatmadaw cannot earn billions of dollars annually from the Chinese jade market in Yunnan and Guangzhou without Chinese jade merchants as couriers and middle persons to sell Myanmar's jade legally or illegally. On the other hand, Chinese jade merchants bribe the Tatmadaw in exchange for permits to conduct their jade business through Myanmar-registered "front companies" or ethnic Chinese who have citizenship in Myanmar (Global Witness, 2021, p. 56).

### 3.2 Myanmar's Jade: A Token of Corruption in China

Jade bribery forms part of the "elegant bribery" (*Ya Hui* in Chinese) that is rampant in the bureaucracy of the Chinese government (Chinese Communist Party, 2014, Nov.). Myanmar's jade is a popular source of jade bribery to Chinese public officials due to its value and texture. According to Chinese Communist Party's reports from the Central Commission for Discipline Inspection, Ni Fake, the former deputy governor of Anhui, loves Myanmar's jade to the point of madness. He kept collecting jade bribes from mining bosses, real estate bosses, and others, with a total value of USD1.88 million, accounting for 80% of the total bribes he received. At the end of February 2021, Ni Fake was sentenced to 17 years in prison for his corruption (Chinese Communist Party, 2014).

Another corrupt jade-loving Chinese top official is Xu Caihou, the former vice-chairman of the CCP's military commission who decorated his mansion with massive jade carvings that are made out of the jade he collected in bribes. When a prosecutor ransacked Xu's mansion due to allegations of corruption, the prosecutor found 200 kilograms of jade, antiques, and a jade-made TV wall worth USD3 million.<sup>20</sup>

Partially driven by the need to pay bribes to public officials in China, Myanmar's jade is now a token of corruption among the bureaucracy in China.

### 3.3 Chinese-run Underground Banking System in Myanmar's Jade Market

China's capital flight through the black market and underground banking system (*di tan yin hang* in Chinese) is worth at least USD1.2 billion per year.<sup>21</sup> The jade market in northern Myanmar is not only a jade bazaar but also one of the various destinations for the capital outflows in RMB. While the Chinese are the major buyers of Myanmar's jade, the jade trades that occur in national

<sup>19</sup> The Myanmar Gemstone Law (The State Law and Order Restoration Council Law NO. 8/95), 29 Sept. 1995, Section 2(h): "Company means a company formed as a Myanmar company under the Myanmar Companies Act or a company formed solely with Myanmar citizens under the Special Company Act, 1950".

<sup>20</sup> *Phoenix Weekly* Hong Kong (2015, March 16). "The Seizure of Xu Cai Hou: Over 1 Ton of Cash and Piles of Jade in the Mansion." (xiang gang feng huang zhou kan xu cai hou bei cha chao nei mu : hao zhai zhong cang 1dun duo xian jin cheng dui yu shi).

[https://finance.ifeng.com/a/20150316/13554851\\_0.shtml](https://finance.ifeng.com/a/20150316/13554851_0.shtml).

<sup>21</sup> Issaku Harada & Kazuya Manabe (2019, June 23). "Quiet Capital Flight Dents China's Sway as \$1.2tn 'Disappears'." *Nikkei Asia*. <https://asia.nikkei.com/Spotlight/Datawatch/Quiet-capital-flight-dents-China-s-sway-as-1.2tn-disappears>.

emporiums in Naypyidaw, Myanmar are carried out in euros.<sup>22</sup> The huge demand to exchange RMB for euros and other foreign currencies to purchase jade has spawned the development of an underground banking system in Myanmar's jade market. In the jade market between Yunnan, China and Mandalay, Myanmar, people can exchange millions or even tens of millions of RMB into any currency.

Run mostly by Chinese jade merchants as a vertical integration with jade retail businesses, the underground banks in Myanmar's jade market are the critical factors that drive Chinese demand for Myanmar's jade and facilitate jade payments due to China's stringent policy on capital control. The central government of China has imposed a USD50,000 cap for foreign currency exchange per person per year to stabilize demands for RMB, and thus those Chinese who need more foreign currencies than USD50,000 are required by the People's Bank of China to make special applications, in which the purposes of the transactions must be stated.

However, the USD50,000 cap is a low ceiling for Chinese jade merchants, far less than adequate to purchase the highest quality jade, valued at around USD872,000 per kilogram.<sup>23</sup> In addition, as previously mentioned in this piece, around 50-80% of Myanmar's jade is smuggled to China. Most of the Chinese jade merchants who run their business in secret to avoid tax from the governments of China and Myanmar prefer not to regularly exchange their RMB into foreign currencies, which would risk exposing their commercial activities and entail fines and investigations. Based on the above concerns, most Chinese jade buyers prefer to change their RMB into foreign currencies in the underground banks in Myanmar's jade market.

In addition to jade trades, capital outflows in RMB also contribute to the development of the underground banking system in Myanmar's jade market. The underground banks in Myanmar's jade market help customers by, on the one hand, using the jade trade as camouflage, and on the other hand, connecting to an offshore account to move their assets in RMB out of China. Jade trades are common reasons for the rich to bring multi-million amounts of RMB to the Sino-Myanmar border. When the underground banks in Myanmar have collected RMB from customers, they calculate the exchange rate and commission, add around 1%-5% handling fee, then notify the partners abroad to transfer the corresponding foreign currency to the overseas account designated by the customer.<sup>24</sup>

The mechanism of the underground banking system in Myanmar's jade market not only facilitates illicit financial flows between China and Myanmar but also connects to the traditional British Raj informal financial network, the Hundi system, to transfer money all the way from China to countries that used to be part of British India (Thompson, 2019, pp. 339-349).

#### 4. Adverse Effects

The vast sum of illicit financial flows behind Myanmar's jade business has inflamed continued armed conflict between the Tatmadaw and other non-state armed forces in Kachin State and benefitted the Tatmadaw at the significant human rights cost of armed conflict and environmental destruction.

<sup>22</sup> Mu Xuequan (2019, March 20). "Over 500 mln USD Jade, Gems, Jewelry Lots Sold at Myanmar's Annual Gems Emporium." *Xinhua Asia and Pacific*. [http://www.xinhuanet.com/english/2019-03/20/c\\_137910649.htm](http://www.xinhuanet.com/english/2019-03/20/c_137910649.htm).

<sup>23</sup> Yan Naung Oak (last visited Dec 10, 2021). "Even with New Data, Valuing Myanmar's Jade Industry Remains a Challenge." Natural Resource Governance Institute. [https://openjadedata.org/stories/how\\_much\\_jade\\_worth.html](https://openjadedata.org/stories/how_much_jade_worth.html).

<sup>24</sup> Wu Rui Da (2014, August 16). "China's Black Market for Money Laundering Exceeds RMB 200 Billion a Year." *China Times*. (wu rui da lu hei shi xi qian nian yu 2qian yi ren min bi zhong guo shi bao) <https://www.chinatimes.com/newspapers/20140816000098-260203?chdtv>.

#### **4.1 Armed Conflict**

Since the 1960s the people of Kachin State have suffered from massacres, displacement, sexual violence and environmental destruction due to Kachin's deposit of jade, the richest in the world. The Tatmadaw took on clearance operations in Kachin to "cut off" the KIA's access to the jade. The Tatmadaw's scorched earth campaign set fires to massive areas of land, eradicated entire villages, and caused grave human rights violations in Kachin's mining region to monopolize the jade trade (IIFMM, 2018, p. 27).

##### **4.1.1 Massacre and Displacement**

Hundreds of thousands of Kachin people have been killed and forced to leave Kachin due to the internal conflicts over natural resources between the Tatmadaw and the KIA. The KIA, established in 1961, has since resisted the control of the Tatmadaw and fought for greater autonomy by controlling jade mines in Kachin State and centralizing jade taxes to finance its own independent army (Møller, 2017), with some payments made in the form of armaments.<sup>25</sup> In 1994, with the ceasefire agreement between the Tatmadaw and the KIA, the Tatmadaw ultimately occupied most of the mine sites in Kachin.

However, although the Tatmadaw and the KIA have engaged in intense armed conflict against each other for decades, during the ceasefire period they cooperated to maximize the extraction of jade in Kachin State, which has increased after the civil government announced the suspension of the issuance of new mining licenses in 2016. Both the Tatmadaw and the KIA tried their best to drain jade mines in Hpakant for all their worth and finance their own troops and battalions through the China-Burma jade trade. Even when the conflicts between the two militaries escalated in northern regions of Myanmar, some locals witnessed that both sides' soldiers in Hpakant "go out to karaoke together and then pretend to fight" (Global Witness, 2021, p. 14).

In 2011, the contest for the profits of jade and other natural resources shattered the 17-year ceasefire agreement between the KIA and the Tatmadaw and re-ignited intense armed conflict in Hpakant Township, Kachin (Global Witness, 2021, pp. 34-35; Jaquet, 2015, pp. 50-51). As big as a civil war, this ongoing clash has killed thousands of civilians, displaced more than 100,000 people, and forced 106,500 people to live in 169 camps in Kachin and Shan States (IIFMM, 2019b, p. 27).

##### **4.1.2 Sexual Violence against Women and Men**

In various attacks on Tanai Township, Kachin, from June 2017 to November 2018, Tatmadaw soldiers committed rape, gang rape, attempted rape, forced nudity, and sexual humiliation of women. One witness reported seeing 20 soldiers of the Tatmadaw gang-raping two Kachin girls, both between 15 and 16 years old. The witnesses fled the scene out of fear and later learned that the villagers had found the bodies of the two girls (IIFMM, 2019b, p. 29).

Besides rape and gang rape, the Tatmadaw's soldiers committed other forms of sexual violence that sought to sexually humiliate Kachin women. One Kachin survivor recounted that Tatmadaw's soldiers forced her to undress before her family. Other victims reported being called "Kachin bitch", "children of the fuckers", being threatened that "we will fuck you Kachin witches until you die", or being spat on during rapes.

Men were not immune from the Tatmadaw's use of sexual violence to defeat the KIA in the jade battles. In 2012, armed conflict escalated between the KIA and the Tatmadaw in Myitkyina, the capital of Kachin and the home of the most precious jadeites in Myanmar. The Tatmadaw, allying with the police and Myanmar's intelligence service, subjected Kachin's men during

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<sup>25</sup> Sara Kulic (updated 2021, August 11). "How Jade Trade Between Myanmar and China Funds Violence." The Counterterrorism Group. <https://www.counterterrorismgroup.com/post/how-jade-trade-between-myanmar-and-china-funds-violence>.

detention and interrogation to rape and sexual torture that sometimes led to death. Such sexual violence was an attempt to win the control of jade and other natural resources in Myitkyina.

Two Kachin men who survived the sexual violence of Myanmar's intelligence service recounted that they were forced to rape each other during an interrogation. The agent forced them to undress and to penetrate each other with their penis anally. One agent of the intelligence watched the process of sexual torture and teased them, saying "Are you enjoying yourselves?". They begged the agent to stop the rape, but the agent forced them to continue. Another Kachin man reported that one agent forced him during interrogation to rub his penis until the skin was peeled and bleeding.

One Kachin man who was previously forcibly recruited into the Tatmadaw's para-military reported that a Tatmadaw commander coerced him to perform fellatio on two occasions at the military base, and each time the commander threatened the survivor, "if you tell anyone I will kill you" (IIFMM, 2019b, p41-43).

The sexual violence against women and men of Kachin serves Tatmadaw's ambition to control the profits of jade and other natural resources in Kachin.

#### 4.2 Environmental Destruction

The Tatmadaw's corruption in allocating jade concessions has led to a vulnerable environment in Hpakant. Before its control over Hpakant in the 1960s, jade mining by individual hand pickers with simple hoes and pickaxes used to be small-scale. After the Tatmadaw replaced KIA to control these mining sites, it allocated mine zones to its crony companies or awarded jade concessions of only 3-5 year durations to mining companies who paid a substantial bribe (Global Witness, 2015, p. 38).

Due to the short duration of jade concessions and the costly initial outlay to secure jade mines, concession holders brought in heavy mining machinery to accelerate the extraction. Mining companies started mining much faster than before. Noting this difference, a jade businessman reported: "Now jade mountains disappear in just a few days" (Global Witness, 2015, p. 6).

Chinese jade merchants' engagement in Myanmar's jade industries aggravates the deteriorating environmental conditions in jade-rich states of Myanmar. The Chinese companies introduce modern equipment to expand the scale of excavation, including excavators several stories high, bulldozers and mobile cranes, hustling and bustling around jade mines, churning the earth in search of precious greenstones (Global Witness, 2021, p. 56).

As the excavation progressed, the landscape of Hpakant became broken with oozing groundwater and piles of mine waste. Decades of large-scale jade mining have transformed the jade mountain regions in Kachin State into a moonscape, denuded of trees with towers of easily-collapsible mine waste and rubble. Workers extract jade and gems at the cost of lost lives in recurring landslides in these regions.<sup>26</sup>

#### 5. The Failure of Current Efforts

Current efforts to reform Myanmar's jade industries are failing to make significant changes. Before the 2021 coup, some recommendations proposed that the civilian government should sign

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<sup>26</sup> BBC News (2020, July 2). "Myanmar Jade Mine Landslide Kills 160." <https://www.bbc.com/news/world-asia-53260834>; BBC News (2015, November 22). "Myanmar Landslide: 90 Dead at Kachin Jade Mine." <https://www.bbc.com/news/world-asia-34892888> On July 2, 2020, after teeming rainfall, the deadliest mining accident occurred in Hpakant area in which the tsunami-like landslide engulfed 160 workers in one minute while they were picking and sifting through rubble to find jadestones. A similar accident happened in 2015, claiming the lives of 90 itinerant jade miners.



the Extractive Industries Transparency Action Plan (EITI), to bring in transparency in jade mining data and equitable shares of the profits of jade with locals (Global Witness, 2015, pp. 15-21). After the coup, U.S. President Joe Biden issued an Executive Order to sanction Tatmadaw's properties and vowed to cut off its funds.<sup>27</sup> The U.S. Department of the Treasury is freezing all assets of Myanmar Gems Enterprise and prohibiting any transactions with the company.<sup>28</sup> Governments of the U.K. and E.U. subsequently took similar actions.<sup>29,30</sup>

Unfortunately, none of these sanctions have seen any positive response from the Tatmadaw. These efforts cannot cut the Tatmadaw off from the funds generated by Myanmar's jade because they overlook the demand side of the country's jade market.

China is the biggest market for Myanmar's jade and the origin of the Tatmadaw's jade finance (Global Witness, 2015, p. 37). It would be impossible to break up the vicious cycle of jade and armed conflict in the Myanmar jade industry without China's intervention. Before the coup, the Chinese were already the biggest buyers of Myanmar's jade and the crucial business partners with the Tatmadaw in Myanmar's jade industry. After the coup, the current sanctions imposed by the international society on the Tatmadaw mean that Chinese influence in the Tatmadaw's jade business is more crucial than ever.

### 5.1 China's Incentive to Curb the Demand for Myanmar Jade

Contrary to conventional wisdom, China has an incentive to sanction domestic demand for Myanmar's jade because the voracious consumption of jade in China is not consistent with China's President Xi Jinping's recent policies.

Myanmar's jade has become more than a symbol of an ideal Superior Man of Confucianism to Chinese. As mentioned in Part 3, Myanmar's jade is now commonly used for bribes and to camouflage RMB capital flight from China. These practices violate Xi's targeted policies of capital control and his Anti-Corruption Campaign.<sup>31</sup>

First, nothing has ever suppressed Chinese demand for Myanmar's jade more than President Xi's Anti-Corruption Campaign, which began in 2012. The price of Myanmar jade fell by 30% to 35% in 2012 because those targeted top officials in China were indeed the consumers of

<sup>27</sup> Presidential Documents Executive Order (E.O.) 14014 (2021, February 12). "Blocking Property With Respect to The Situation in Burma." *Federal Register* Vol. 86, No. 28. <https://home.treasury.gov/system/files/126/14014.pdf>.

<sup>28</sup> U.S. Department of the Treasury. (2021, April 8). "Treasury Sanctions Key Gems Enterprise in Burma." <https://home.treasury.gov/news/press-releases/jy0115>.

<sup>29</sup> Foreign, Commonwealth & Development Office (2021, May 17). "UK Announces Sanctions on Gemstone Company Linked to the Military Regime in Myanmar." Press release. <https://www.gov.uk/government/news/uk-announces-sanctions-on-gemstone-company-linked-to-the-military-regime-in-myanmar>.

<sup>30</sup> European Council (2021, June 21). "Myanmar/Burma: Third Round of EU Sanctions Over the Military Coup and Subsequent Repression." Press release. <https://www.consilium.europa.eu/en/press/press-releases/2021/06/21/myanmar-burma-third-round-of-eu-sanctions-over-the-military-coup-and-subsequent-repression/>.

<sup>31</sup> The Anti-Corruption Campaign was a conclusion of the 18th National Congress of the Communist Party of China. The Campaign vowed to crack down on tigers and flies, i.e. on high to local level public officials. The first session of the Central Committee of the Communist Party of China expressed its determination to punish political corruption. The Central Commission for Discipline Inspection of the Communist Party of China began with a continuous review and investigation of a number of high-level government leaders, generals of the People's Liberation Army, and heads of state-owned enterprises and institutions. Up to now more than four million people have been found guilty and punished due to the Anti-Corruption Campaign.

In 2013, the Central Commission for Discipline Inspection released "The Eight Regulations to Stop Corruption through Festival Gifts Giving", to forbid public officials from receiving and giving gifts as a way to deter bribery. See The Central People's Government of the People's Republic of China (2013, September 3). "The Eight Regulations to Stop Corruption through Festival Gifts Giving" (zhong hua ren min gong he guo zhong yang ren min zheng fu luo shi ba xiang gui ding jian jue cha zhu zhong qiu guo qing gong kuan song li deng bu zheng zhi feng). [http://www.gov.cn/jrzq/2013-09/03/content\\_2480677.htm](http://www.gov.cn/jrzq/2013-09/03/content_2480677.htm).



Myanmar's jade. The Anti-Corruption Campaign that forbade Chinese officials from giving and receiving gifts during festivals in August 2014 caused the consumption of Myanmar's jade (see Figure 2, p. 12 above), and the Chinese jade market witnessed its first negative growth in 2014.<sup>32</sup> A jade merchant in Myanmar revealed during an interview that "the victory of the National League Democracy in the national election in 2006 impacted the jade consumption way less than the Chinese government's Anti-Corruption Campaign."<sup>33</sup>

Secondly, a huge loophole in China's currency control policy lies in the jade transactions at the Sino-Myanmar border. As mentioned in Part 3, the underground banking systems have prospered for decades on the Sino-Myanmar border by satisfying the need for massive foreign currency transactions related to jade trades. This loophole is manipulated to circumvent China's capital control regulations (see Part 3.3.). To shore up China's currency control policy and trade advantage, the central government of China has an incentive to regulate their domestic demand for Myanmar's jade as well.

After the 2021 coup, it is unlikely that the civilian government of Myanmar will start an institutional reform of Myanmar's jade industry. Sanctions from the international community and supervision from the EITI have contributed little so far. The remaining plausible approach to cut off Tatmadaw's financial resources from Myanmar's jade is to suppress the demand in the Chinese and other markets.

## 6. Recommendations

The following recommendations are addressed not only to the international community but also to the government of China to provide a plausible and comprehensive approach to curtail the illicit financial flows of jade that fund the Tatmadaw.

### 6.1 Recommendation for the International Community

As long as the Tatmadaw still controls the government of Myanmar, it is almost impossible for the civilian government to reform Myanmar's jade industry. Therefore, the goal of the international community should be to force the Tatmadaw to step down and curtail global demand for Myanmar's jade. For this purpose, the international community can do the following:

1. All countries, international organizations, multilateral organizations or regional institutions should refuse to recognize the military State Administration Council (SAC) as the legitimate government of Myanmar and should deny their accreditation and representation in all instances.
2. The international society should demand that the Tatmadaw immediately stop suppressing demonstrators and immediately release Aung San Suu Kyi and other pro-democracy activists who were illegally detained.
3. The UN General Assembly and the Security Council should resolve to designate the Tatmadaw as a major threat to peace, security and democracy in Asia. The Security Council and the UN General Assembly should also demand that the Tatmadaw quickly restore the rule of the democratically elected government.
4. Most importantly, according to the analysis of this paper, all countries should recognize that jade mines are the Tatmadaw's economic lifelines, pumping huge illicit financial flows from

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<sup>32</sup> China Times (2014, October 4). "Price of Jadeite Surged as High as Hundred Times, But Anti-Corruption Campaign Suppress the Sales by 80%." ( zhong guo shi bao fei cui zhang bai bei fan fu xiao liang die 8cheng ). <https://www.chinatimes.com/newspapers/20141007000997-260303?chdtv>.

<sup>33</sup> Epoch Times (2015, November 17). "Affected by China's Anti-Corruption Campaign, Myanmar Jade Price Drops by 35%." ( da ji yuan shou da lu fan fu ying xiang mian dian yu shi die jia 35% ) <https://www.epochtimes.com/b5/15/11/17/n4575343.htm>.

China's jade markets, and that the Tatmadaw's control over Myanmar jade industries is omnipresent. Therefore, to cut off the Tatmadaw's jade revenue, the international community should not only ban jade products from the Tatmadaw-controlled Myanmar Gemstone Enterprise and Myanmar Economic Holding Limited, but all jade products originating from Myanmar and China.

## **6.2 Recommendations for the Government of China**

In today's China, Myanmar's jade has become a symbol of corruption, a vehicle for capital flight from China, and ultimately an impediment to President Xi's Anti-Corruption Campaign and capital control policy. Even though the central government of China maintains friendly diplomatic relations with the Tatmadaw, it should not compromise its main policy goals to cater to the junta. To improve its targeted policy of anti-corruption and capital control, the government of China can take up the following measures:

1. The government of China should strengthen its Anti-Corruption Campaign, and continue forbidding public officials from accepting jade as a gift or purchasing jade, especially precious jadeite from Myanmar. The government of China should recognize that jade is no longer just a symbol of an ancient superior man in Chinese culture; on the contrary, jade is now a popular gift used for bribery, as in the cases of Ni Fake and Xu Caihou mentioned in Part 3.

2. China's Central Commission for Discipline Inspection should investigate corruption in the customs service at the Sino-Myanmar Border. The fact that 50%-80% of Myanmar's jade is smuggled to China implies that there could be rampant corruption in the customs administration on the Sino-Myanmar Border which opens the door to such a vast amount of jade being smuggled to China.

3. The government of China should mandate banks to track any transactions of Myanmar's jade that are valued at more than USD50,000, the cap of currency exchange per person per year in China, and require banks to report the transactions to the People's Bank of China – similar to the requirement that banks in Hebei province report cash transactions of more than USD14,000 to the People's Bank of China<sup>34</sup> – to reduce the risk of people using jade transactions to camouflage outflows of RMB.

4. Strengthen the "Know Your Customer" (KYC) process in jewelry stores and emporiums in Yunnan, Guangdong, and Shanghai, where most of Myanmar's jade is sold in China. The government of China should require these stores or relevant institutions to collect information about their customers and verify their identities. The KYC process would help to understand the risks of capital flight associated with every customer.

## **7. Conclusion**

The vicious cycle between armed conflict and Myanmar's jade industry has intensified regional conflicts, jeopardized Myanmar's democracy, violated the fundamental rights of the people of Myanmar, and led to catastrophic environmental destruction for decades.

Bribery for jade concessions, crony capitalism in Myanmar's jade business, and jade smuggling to China are three key factors that enable the Tatmadaw to build up massive jade profits in Myanmar. As the largest jade processing and trading market globally, China's culture, corruption, and capital flight support the high demand for Myanmar's jade. After the 2021 coup, the sanctions imposed by the international society make Chinese influence in the Tatmadaw's jade business

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<sup>34</sup> Issaku Harada (2020, June 27). "China Watches Big Cash Transactions to Stem Capital Flight." *Nikkei Asia*. <https://asia.nikkei.com/Business/Markets/Currencies/China-watches-big-cash-transactions-to-stem-capital-flight>.

even more critical than ever. It is harder to reverse the vicious cycle between armed conflict and Myanmar's jade business without China's intervention.

This paper concludes that the solidarity of the international community and the intervention of the government of China are two essentials to suppress global demand for Myanmar's jade. The international community should strive to remove the Tatmadaw's control of both the government of Myanmar and Myanmar's jade mines. The government of China should continue its targeted Anti-Corruption Campaign and capital control policy, which represent the most effective means of giving the demand side of the armed-conflict tainted Myanmar jade industry a damaging blow.

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