

# The Current State of Counternarcotics Policy and Drug Reform Debates in Myanmar

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Improving Global Drug Policy: Comparative Perspectives and UNGASS 2016

## EXECUTIVE SUMMARY

### *Key Findings*

- Myanmar is the world's second largest producer of opium after Afghanistan. Following a decade of decline, cultivation has more than doubled since 2006. The production and use of amphetamine-type stimulants (ATS) is also rising.
- Most of the opium is turned into heroin and exported via neighboring countries, especially to China.
- Decades of civil war and military rule have stimulated drug production and consumption, and marginalized ethnic communities.
- Myanmar has high levels of injecting drug users infected with HIV/AIDS and hepatitis C.
- Drug policies in Myanmar are repressive and outdated, with an ineffective focus on arresting drug users and eradicating poppy fields.
- The central government is unable to provide quality treatment for drug users. Past political repression and human rights violations by the military government caused an international boycott which prevented international donors from providing assistance.
- The reform process by the new quasi-civilian government includes both a peace process to end the civil war and a review of the country's drug laws, raising hope for more effective and humane drug policies.

### *Policy Recommendations*

- Myanmar's drug policies should shift focus and prioritize the provision of services for drug users and promote alternative livelihoods for opium growing communities.
- Drug-related legislation should decriminalize drug use, reduce sentences for other drug-related offenses, and allow space for needle exchange programs.
- The government should expand harm reduction projects and provide voluntary treatment programs for drug users.
- The government should formulate a strategic plan to prioritize alternative development programs. Eradication of poppy farms should not take place unless people have sufficient access to alternative livelihoods. As such, China's opium substitution policy should not continue in its present form.
- Affected communities, especially drug users and opium farmers, need to be involved in drug policy making.
- More attention should be paid to ATS-related problems, which are largely overlooked by current policies.

## Introduction

This paper explores the current state of counternarcotics policy and policy reform debates in Myanmar.<sup>1</sup> It analyzes the main trends in drug production, trafficking, and consumption, and assesses the key harms and threats these pose to the country. The paper will provide an overview of Myanmar's current drug policies and related legislative framework, and assess whether these are effective in addressing the drug-related problems in the country. It will also consider what other impact these policies and laws may have on important issues such as human rights, sustainable development, ethnic conflict, and the peace process. Finally, the paper will make some recommendations for change and provide suggestions on how Myanmar could benefit from the 2016 Special Session of the United Nations General Assembly on the World Drug Problem (UNGASS 2016).

## Background

Myanmar is the largest country in mainland Southeast Asia. It has been plagued by civil war virtually since independence in 1948, when several ethnic groups took up arms to press for more autonomy and ethnic rights. In 1962, the national army, known as the Tatmadaw, took power in a coup and instituted military rule. After the bloody crackdown on the pro-democracy movement in 1988 and continued repression of the democratic opposition led by Nobel Peace laureate Aung San Suu Kyi, the West imposed political and economic sanctions on the country. Nevertheless, the Tatmadaw junta continued to rule for the next two decades, pursuing policies that contributed to Myanmar's troubles with drugs, crime, corruption, and conflict.

As part of its internal security strategy, the Tatmadaw stimulated and supported the creation of a large

number of pro-government militias. First launched in the 1960s under the name Ka Kwe Ye, the militias were created to counter the threat posed by ethnic armed opposition groups and, since the end of the 1960s, the China-backed Communist Party of Burma (CPB) as well. However, instead of fighting ethnic armed groups or the CPB, these militias became heavily involved in the drug trade. The militia program has gone through several phases and different titles, but still exists. The Ka Kwe Ye program was abandoned in 1975, as most groups were preoccupied with the opium trade; however, the Kokang Ka Kwe Ye led by Lo Hsing-han and the Loi Maw Ka Kwe Ye led by Khun Sa refused to give up arms and went underground. They later both surfaced at the Thai border and became known as the "Kings of Opium."<sup>2</sup>

Moreover, the Tatmadaw's policy of "managing" conflict rather than "solving" it has resulted in the proliferation of armed groups. Rather than seeking a political solution through dialogue and peaceful means, the Tatmadaw's strategy has been to take on groups individually and weaken them through military, political, and economic means. The Tatmadaw has sought to contain and divide armed groups both internally, by creating and/or stimulating internal splits and breakaway groups, and externally, by pursuing different policies toward different groups to weaken unity and alliance building. Breakaway groups have been subsequently pushed to accept militia status. In concluding ceasefires with some ethnic opposition groups while continuing to fight others, the Tatmadaw has further contributed to a high level of militarization in the country.

Beginning in 1989, most of the ethnic armed opposition groups signed ceasefire agreements with the military junta. In many border areas, the ceasefires subsequently brought an end to the fighting, curtailed the most serious human rights violations, and

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<sup>1</sup> In 1989, the then military government changed the official name from Burma to Myanmar. The two are alternative forms in the Burmese language, but their use has become a politicized issue. Myanmar is mostly used within the country and in international diplomacy, and is now also becoming more commonly used in the English language abroad. For consistency, Myanmar will be used in this paper.

<sup>2</sup> Adrian Cowell, "Anarchy in the Shan State of Burma," in *Trouble in the Triangle: Opium and Conflict in Burma*, eds. Martin Jelsma, Tom Kramer, and Pietje Vervest (Chiang Mai, Myanmar: Silkworm Books, 2005).

created a more favorable environment for community development. The main shortcoming of this first wave of ceasefires was the lack of an inclusive peace process and subsequent political dialogue to build national peace and reconciliation. The agreements were limited to military matters and did not address political issues. Groups were allowed to retain their arms and control their territory, and were encouraged to engage in business. Since the government restricted access to legal trade and business, ceasefire groups came to rely in part on illegal economic activities to finance their organizations and armies; this gave rise to illegal logging, mining, gambling, drug and human trafficking, and other black-market activities.<sup>3</sup>

The Tatmadaw's policy of prioritizing security over drug-related concerns has allowed criminal groups and drug syndicates to operate relatively freely in a situation rife with ethnic tensions and conflict, weak governance, and conflicting international geo-political interests.<sup>4</sup> The existence of a profitable illicit drug market has exacerbated conflict and further stimulated corruption, crime, violence, and human rights violations. The multitude of armies with different statuses has caused great suffering for the local populations, especially in regions where most of the opium is grown and where heroin and ATS are produced. After decades of civil war, few of the conflict actors, including the Myanmar army, can claim to have clean hands when it comes to the drug trade. TNI research in Shan State, for instance, found that all parties in the conflicts—including Tatmadaw units—taxed opium farmers.<sup>5</sup> Involvement further varies from taxing opium convoys, to organizing opium convoys, allowing and taxing heroin and ATS production, or

initiating and managing heroin and ATS production themselves.<sup>6</sup>

### ***Impact of the Political Transition to Elected Governments***

Myanmar has now entered a pivotal stage in its political and economic development. Following the adoption of a new constitution in 2008 that provided for national and regional parliaments, a general election was held in 2010 under the previous military government, the State Peace and Development Council (SPDC). The election was the first in 20 years, however it was not free and fair; its result was the installation of a quasi-civilian military-backed government in March 2011, headed by President Thein Sein, an ex-general and former SPDC Prime Minister.

The new Thein Sein government in Myanmar initiated a reform process to end the civil war, introduce a democratic political system, and try to eradicate poverty in what was once the rice bowl of Asia. After decades of international isolation, the government's reforms have been endorsed by the international community, which has resumed relations with Myanmar, and produced high-level visits, foreign investment, and new inflows of foreign aid. While the outcome remains uncertain,<sup>7</sup> the new openness has created space for revising the country's 1993 drug law. Additionally, the reform process and the peace negotiations are likely to impact the country's drug consumption and production patterns.

Nevertheless, the military still holds considerable power. Twenty-five percent of the seats of national and regional parliaments are held by military members; the key security ministries—Defense, Home Affairs and

<sup>3</sup> Tom Kramer, *Neither War Nor Peace: The Future of the Ceasefire Agreements in Burma* (Amsterdam: Transnational Institute [TNI], 2009), <http://www.tni.org/files/download/ceasefire.pdf>.

<sup>4</sup> Tom Kramer, *The United Wa State Party: Narco-Army or Ethnic Wa Nationalist Party?* Policy Studies 38 (Southeast Asia) (Washington, DC: East West Center, 2007), 55-6.

<sup>5</sup> Tom Kramer et al., *Withdrawal Symptoms in the Golden Triangle: A Drugs Market in Disarray* (Amsterdam: TNI, 2009), <http://www.tni.org/sites/www.tni.org/files/download/withdrawal.pdf>.

<sup>6</sup> Shan Herald Agency for News (SHAN), *Hand in Glove: The Burma Army and the Drug Trade in Shan State* (Chiang Mai, Myanmar: SHAN, 2005), <http://www.burmalibrary.org/docs07/HandinGlove.pdf>; and Palaung Women's Organization (PWO), *Still Poisoned: Opium Cultivation Soars in Palaung Areas Under Burma's New Regime* (Mae Sot, Myanmar: PWO, 2011), [http://www.burmalibrary.org/docs12/Still\\_Poisoned%28en%29-red.pdf](http://www.burmalibrary.org/docs12/Still_Poisoned%28en%29-red.pdf).

<sup>7</sup> TNI, *Political Reform and Ethnic Peace in Burma/Myanmar: The Need for Clarity and Achievement*, Myanmar Policy Briefing no. 14 (Amsterdam: TNI, 2015), <http://www.tni.org/sites/www.tni.org/files/download/bpb14-web-042015.pdf>.

Border Affairs—are reserved for military personnel appointed by the commander-in-chief; and many senior government officials are former generals. In addition, the military has helped turn certain parts of the country into virtual militia fiefdoms, which has aided some of their leaders in winning seats in the 2010 election on a ticket of the military-backed Union Solidarity and Development Party. While the Thein Sein government has signed new truces with most ethnic armed opposition groups, fighting resumed in the north of the country in June 2011 after the army broke a 17-year ceasefire with the Kachin Independence Organization. This resulted in over 100,000 internally displaced persons and raised concerns about the real intentions of the government. Such developments threaten the prospects for democracy and sustainable development in Myanmar.

## Drug Production Trends

Myanmar is the world's second largest producer of opium after Afghanistan. Opium cultivation has more than doubled since 2006, following a decade of decline. According to the United Nations Office on Drugs and Crime (UNODC), opium cultivation in Myanmar increased from an estimated 21,000 hectares (ha) in 2006 to over 57,000 ha in 2014, signifying an increase in opium production from 340 to 670 tons over the same time period.<sup>8</sup> Opium cultivation in Myanmar is mostly carried out in the hills and mountains of Shan State and Kachin State, where it is grown by a wide range of ethnic minorities. They cultivate opium as a cash crop to alleviate food shortages and to buy essential household items. Opium is also used as a medicine and pain killer; there is traditional use—often non-problematic—and it is offered to guests at weddings, funerals, and

other ceremonies, including on religious occasions. In these isolated and war-affected areas, poppy is the ideal crop as the weight-value ratio for opium compares very favorably to crops like rice, which is much more difficult to transport to the market. Moreover, in the case of opium, traders come to the villages to buy the crop in advance, thereby also offering credit to impoverished communities. The continuing conflict in the country, and the policy of the Tatmadaw to prioritize security over drugs—causing it to support and create militias that are heavily involved in the drug trade—also contributed to the new increase.<sup>9</sup>

Some efforts to ban poppy cultivation produced limited results. Myanmar's main poppy cultivation areas used to be in the Wa, Kokang, and Mongla regions in Shan State. In response to pressure from neighboring China, the local ethnic armed groups that control these areas banned opium cultivation in the Mongla region in 1997 (controlled by the National Democratic Alliance Army), the Kokang region in 2002 (controlled by the Myanmar National Democratic Alliance Army), and the Wa region in 2005 (controlled by the United Wa State Army). These bans have been strictly implemented and greatly contributed to the initial decline in poppy cultivation in Myanmar from the end of the 1990s until 2006. Demand for opiates, however, has remained stable or increased in Myanmar and the region. As a result, prices for opium and heroin have risen, which in turn has created incentives for farmers to grow poppy in places with less stringent control, as well as for traders to provide advance credit to opium farmers for their crop. The lack of alternative livelihood options, decrease in the farm gate value of other cash crops, and increase in prices of household goods have all further contributed to farmers' return to poppy cultivation.

<sup>8</sup> United Nations Office on Drugs and Crime (UNODC), *Southeast Asia Opium Survey 2014: Lao PDR, Myanmar* (Bangkok, Thailand: Regional Office for Southeast Asia and the Pacific, UNODC, 2014), <http://www.unodc.org/documents/crop-monitoring/sea/SE-ASIA-opium-poppy-2014-web.pdf>. Although all figures should be treated with great caution, Afghanistan remains by far the largest producer of opium. According to the UNODC's 2014 *World Drug Report*, opium cultivation in Afghanistan in 2013 amounted to 209,000 hectares, and opium production to some 5,500 tons, representing an estimated 80 percent of global production. These figures do not include opium cultivation in India, which is significant. See Tom Kramer et al., *Bouncing Back: Relapse in the Golden Triangle* (Amsterdam: TNI, 2014), <http://www.tni.org/files/download/tni-2014-bouncingback-web-klein.pdf>; and UNODC, *World Drug Report 2014* (Vienna: United Nations, 2014), [http://www.unodc.org/documents/wdr2014/World\\_Drug\\_Report\\_2014\\_web.pdf](http://www.unodc.org/documents/wdr2014/World_Drug_Report_2014_web.pdf).

<sup>9</sup> Kramer et al., *Bouncing Back: Relapse in the Golden Triangle*.

Land grabbing—the product of agricultural investment, unsustainable natural resource extraction, and a lack of official recognition of land rights in ethnic communities—has also been a key factor in opium cultivation. After losing their ancestral land to debt failure and land grabbing, some communities in ethnic regions are forced to either become landless wage laborers or seek remote fields to cultivate opium. Land confiscation for agribusiness has been on the rise in Myanmar, and the new land laws promulgated in 2012 do not recognize customary land tenure rights of ethnic communities. However, the government has initiated a process to develop a new land use policy, which will hopefully better address these important issues.<sup>10</sup>

Heroin production mainly takes place in Shan State. Chemical precursors are imported from China and India, both of which have significant pharmaceutical industries. Heroin that originates in Myanmar mainly serves opiate users in the region, including in Myanmar itself as well as in other parts of Southeast Asia, China, Thailand, India, Australia, and Japan. According to UNODC, 25 percent of the world's demand for opiates is from East Asia and the Pacific—mostly from China—and demand for opiates in this part of the world has been growing. In the past, heroin from the Golden Triangle also supplied the European and American markets, but since the 1990s it has been displaced by heroin originating from Afghanistan as well as from Latin America (mainly Colombia and Mexico). In 2013, heroin exports from the Golden Triangle to China were estimated between 70 percent (UNODC) to 90 percent (Thai Police).<sup>11</sup>

Myanmar has also seen a rapid increase in the production of amphetamine type stimulants (ATS), mainly

methamphetamines. ATS production in the region started in Thailand in the 1990s, and since then, production and consumption has boomed in Myanmar and neighboring countries. The main chemical precursors for methamphetamine production—ephedrine and pseudoephedrine—are now mostly imported from China and India, as with heroin precursors. Following the surrender of Khun Sa's Mong Tai Army (MTA) in 1995, producers moved to the Kokang and Wa regions controlled by ethnic ceasefire groups. In the past two decades, ATS production has increased dramatically in conflict-affected areas in Myanmar and spread to other areas as well. According to UNODC, production of methamphetamine is still growing in Asia, which is the world's largest ATS market. Methamphetamine seizures have increased three-fold in the past five years to 36 metric tons.<sup>12</sup> However, data on ATS production have to be treated with caution, as these estimates are based on seizures of precursors and pills. Unlike opium, the production of ATS starts with readily available chemicals often in small laboratories, and is produced by chemists without the involvement of farmers. This makes an assessment of volume, location, extent, and evolution of production a great challenge.

The rapid increase in ATS production in Myanmar took place when opium and heroin production was decreasing. Therefore, groups like the UWSA have been accused of simply shifting from the opium and heroin business to ATS manufacturing. While there is some overlap and interaction in opium and methamphetamine use, the methamphetamine market has its own dynamics. The increase in production and use of ATS has been driven both by demand and supply, as well as by profound socio-economic changes in the affected countries, which have moved from rural

<sup>10</sup> Jennifer Franco et al., *The Challenge of Democratic and Inclusive Land Policymaking in Myanmar: A Response to the Draft National Land Use Policy* (Amsterdam: TNI, 2015), [http://www.tni.org/sites/www.tni.org/files/download/the\\_challenge\\_of\\_democratic\\_and\\_inclusive\\_land\\_policymaking\\_in\\_myanmar.pdf](http://www.tni.org/sites/www.tni.org/files/download/the_challenge_of_democratic_and_inclusive_land_policymaking_in_myanmar.pdf).

<sup>11</sup> Scott Green, "'Happy Hour' for Heroin in China," *China Digital Times*, September 26, 2013, <http://chinadigitaltimes.net/2013/09/china-demand-heroin-outpacing-golden-triangle-supply/>.

<sup>12</sup> UNODC, "Asia and North America Drive Global Methamphetamine Seizures to Record Levels, UNODC Reports," press release, May 20, 2014, <http://www.unodc.org/southeastasiapacific/en/myanmar/2014/05/global-synthetic-drugs-report/story.html>; and UNODC, *2014 Global Synthetic Drugs Assessment: Amphetamine-type Stimulants and New Psychoactive Substances* (Vienna: United Nations, 2014), 19, [http://www.unodc.org/documents/southeastasiapacific/2014/05/gsda/2014\\_Global\\_Synthetic\\_Drugs\\_Assessment\\_web.pdf](http://www.unodc.org/documents/southeastasiapacific/2014/05/gsda/2014_Global_Synthetic_Drugs_Assessment_web.pdf).



agricultural-based economies to urban, industrial, and market-based societies. ATS provided the marginalized urban and rural work force the necessary stimulant to work the longer hours required in a highly competitive economy with poor labor conditions.<sup>13</sup>

## Drug Trafficking Trends

Most of the heroin and ATS produced in Myanmar is exported to the international market via neighboring countries. Since the 1970s, drug trafficking from Myanmar has been financed and controlled by ethnic Chinese syndicates based abroad. In the past, drug trafficking from Myanmar to China was carried out via large shipments by a few people; however, nowadays the trend is toward many small-scale traffickers smuggling small amounts of drugs across the border.

There are strong connections between foreign businessmen and those associated with armed groups and the drug trade in Myanmar. After the “surrender” ceasefire of Khun Sa’s Mong Tai Army in 1995, which had controlled the heroin trade along the Thai border, trade networks adapted to the new situation. According to one study, there is a new generation of Chinese businessmen who are now involved in the drug trade, and who also engage in money laundering and human trafficking. These are not professional criminals, but “otherwise legitimate businesspeople who are also opportunists and risk takers.”<sup>14</sup> Chinese businessmen play a role in various armed groups, including the now defunct MTA, the United Wa State Army (UWSA), and Tatmadaw-backed militias. On the whole, Chinese and Thai syndicates involved in trafficking drugs to the international market benefit from the lawlessness, instability, and uncertainty of the situation, as well as the Tatmadaw’s strategy to

put security first and allow various militias to engage in the drug trade. As these syndicates benefit from the status quo, they have no interest in solving the ethnic and political conflict to bring about peace and reconciliation.

The drug trade is a highly profitable business and corruption and involvement by high-level officials from the region is common; governments in the region have failed to arrest large-scale drug traffickers and have preferred instead to target small dealers and drug users. In Myanmar, a number of key traffickers have even been accepted by national elites. The now deceased Lo Hsing-han and Khun Sa, once branded as the “Kings of Opium” and who dominated the drug trade in Myanmar from the 1970s to the 1990s, made deals with the government that enabled them to set up legal business ventures and live in large houses in the former capital, Yangon.<sup>15</sup>

In Myanmar, successive military governments have blamed the drug trade on political adversaries or former supporters who had outlived their usefulness, while allowing political and military allies to conduct their business undisturbed. When it was convenient to do so, the previous military government presented the Kokang and Wa regions to showcase drug control efforts in the country. Several diplomatic missions were flown to the Kokang region, for instance, to meet Kokang leader Pheung Kya-shin and observe drug eradication activities, cultivation of opium substitution crops, and regional development projects.<sup>16</sup> When conflict erupted in the Kokang region in 2009 and the military government broke the 20-year ceasefire with Pheung Kya-shin’s MNDAA and occupied the area, Pheung Kya-shin was accused of “illegal production of narcotics drugs and smuggling, and also the manufacturing of arms and smuggling of

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<sup>13</sup> Kramer et al., *Withdrawal Symptoms in the Golden Triangle*.

<sup>14</sup> Ko-lin Chin, *The Golden Triangle: Inside Southeast Asia’s Drug Trade* (Ithaca, NY: Cornell University Press, 2009).

<sup>15</sup> Martin Jelsma, Tom Kramer, and Pietje Vervest, *Drugs and Conflict in Burma (Myanmar): Dilemmas for Policy Responses*. Drugs and Conflict Debate Papers no. 9 (Amsterdam: Transnational Institute, 2003), <http://www.tni.org/sites/www.tni.org/files/download/debate9.pdf>.

<sup>16</sup> The participants of the Fourth International Heroin Conference, for instance, were flown to the Kokang capital Laukai for a one-day field trip. International Heroin Conference, *The Fourth International Heroin Conference Record Book: 1999 Yangon, Myanmar* (Yangon, Myanmar: Government of Myanmar, 1999), 60–1.

weapons.”<sup>17</sup> Pheung Kya-shin defended himself by arguing that, while ceasefire groups in Kokang and Wa regions had imposed opium bans, poppy continues to be cultivated in SPDC-controlled areas.<sup>18</sup> In February 2015, fighting resumed in the Kokang region when MNDAA returned to the area and attacked Tatmadaw units.

Similarly, tensions rose when the UWSA and other ceasefire groups refused to accept the military government’s demand that they transform into Border Guard Forces. This controversial scheme would divide groups into smaller separate units under Tatmadaw control, without addressing any political issues. Subsequently, there was a sudden and unusual increase in seizures of drug shipments in Myanmar and Thailand. Many pointed to the UWSA and other ceasefire groups, arguing that they were selling the drugs stock to buy weapons and ammunition to resist the Tatmadaw. However, a more plausible explanation is that in order to increase the pressure on groups such as the UWSA, the authorities in Myanmar started to block all such shipments—which the government had previously allowed to pass through—as part of an effort to squeeze the UWSA’s sources of income.<sup>19</sup>

In addition, the Tatmadaw policy of allowing pro-government militias to expand their involvement in opium cultivation and heroin production produced a profound shift in the drug trade. These groups used the opportunity to establish heroin production factories and became the country’s main

producers. According to a Shan newsgroup, the militias established “their own drug production plants and trafficking networks” and could “thereby wrest the market away from the ceasefire groups.”<sup>20</sup> The result was a “shift by investors, both domestic and foreign, away from the Wa and their allies to areas under the control of the Myanmar Army and the People’s Militia Forces where their drug activities are more secure and their profits more assured.” It also led to a “massive increase in poppy cultivation, and heroin and methamphetamine production, in the Myanmar Army-People’s Militia controlled areas, far more than in areas under rebel-ceasefire control.”<sup>21</sup>

The explicit involvement of Tatmadaw units and commanders in the drug trade has also been documented.<sup>22</sup> The fact that local Tatmadaw units have to be largely self-reliant (i.e., find their own food and other supplies and enjoy less logistical support from the army headquarters) fuels corruption and their participation in the drug trade. Exile media groups have also reported the involvement of Tatmadaw units in the drug trade.<sup>23</sup> The U.S. Department of State has argued for several years that Myanmar has “failed demonstrably” to meet international anti-drug obligations. Among other things, the U.S. stressed the failure to “investigate and prosecute senior military officials for drug-related corruption.”<sup>24</sup> According to a 2013 U.S. Department of State report:

Many inside Burma assume some senior government officials benefit financially from narcotics trafficking, but these assumptions

<sup>17</sup> “Clarification of Brigadier-General Phone Swe, Deputy Minister for Home Affairs, Concerning with Kokang Incident” (document circulated to diplomats visiting Kokang region, September 7, 2009).

<sup>18</sup> “Chinese Blood on Burmese Soil,” *Irrawaddy*, September 14, 2009, [http://www2.irrawaddy.org/article.php?art\\_id=16784](http://www2.irrawaddy.org/article.php?art_id=16784); and Tom Kramer, *Burma’s Ceasefires at Risk: Consequences of the Kokang Crisis for Peace and Democracy*, Peace and Security Briefing no. 1 (Amsterdam: TNI, 2009), <http://www.tni.org/sites/www.tni.org/files/download/psb1.pdf>.

<sup>19</sup> SHAN, *Shan Drug Watch Newsletter* 4 (October 2011): 19–24, [http://english.panglong.org/wp-content/uploads/2011/11/independence\\_shan-drug-watch-2011.pdf](http://english.panglong.org/wp-content/uploads/2011/11/independence_shan-drug-watch-2011.pdf).

<sup>20</sup> *Ibid.*, 3–4.

<sup>21</sup> *Ibid.*, 3.

<sup>22</sup> Kramer et al., *Withdrawal Symptoms in the Golden Triangle*.

<sup>23</sup> SHAN, *Hand in Glove: The Burma Army and the Drug Trade in Shan State*; and PWO, *Still Poisoned: Opium Cultivation Soars in Palaung Areas Under Burma’s New Regime*.

<sup>24</sup> U.S. Department of State, *2007 International Narcotics Control Strategy Report* (Washington, DC: U.S. Department of State, 2007), 267–8, <http://www.state.gov/j/inl/rls/nrcrpt/2007/index.htm>. Other reasons included: Myanmar’s unsatisfactory efforts to deal with the burgeoning amphetamine-type stimulants (ATS) production and trafficking problem; failure to bring members of the UWSP to justice following a U.S. indictment against them in January 2005; and failure to expand demand reduction, prevention and drug-treatment programs to reduce drug use and control the spread of HIV/AIDS.

have never been confirmed through arrests, convictions, or other public revelations. Credible reports by NGOs and media claims that mid-level military officers and government officials were engaged in drug-related corruption; however, no military officer above the rank of colonel has ever been charged with drug-related corruption.<sup>25</sup>

## Drug Use in Myanmar

There are no reliable data on drug use patterns and trends in Myanmar, as the country has never carried out a national drug use survey. Until recently, research on drug use-related issues was deemed too sensitive; however, under the new government there is more space to do so. It is clear that drug consumption patterns differ from region to region. Traditional and medicinal opium use is prevalent in the country's main opium growing regions. However over the last decades, the country has seen a shift from smoking opium to smoking and injecting heroin, and more recently also to snorting and swallowing ATS. These trends are partly caused by the increase in heroin prices following the opium decline in the early 2000s, as injecting heroin is more cost-effective than smoking.

Although there is a long history of relatively unproblematic traditional and medicinal opium use in Myanmar, particularly in poppy growing regions, in recent years more serious drug use-related problems have appeared. In the northern part of the country, certain areas—such as northern Shan State and Kachin State—face a heroin epidemic, with many young injecting drug users contracting HIV/AIDS and hepatitis C through high-risk behavior and

needle sharing. Overdoses from heroin use are also a serious problem.

These drug use-related problems have caused great concern among local communities, who blame the government for deliberately ignoring or even stimulating the problem as a “weapon of war” against the ethnic population.<sup>26</sup> Community leaders have therefore taken drug control efforts into their own hands, arresting drug users and putting them into forced treatment settings often run by faith-based groups. There are also reports of beatings and other mistreatment of drug users.<sup>27</sup> This has driven drug users underground and prevented them from accessing life-saving harm reduction services.

The collapse of the national health system during military rule paired with Myanmar's isolation from the international community, which limited aid money, has had severe negative consequences. Although exact figures remain uncertain, by the 2000s it had become clear that Myanmar was facing a major HIV/AIDS epidemic. Following political pressure (mainly from the U.S.), in 2005 the Global Fund to Fight AIDS, Tuberculosis and Malaria was forced to make an unprecedented withdrawal from Myanmar, which negatively impacted access to antiretroviral therapy (ART) for people living with AIDS.<sup>28</sup> In response, a number of other Western donors created the Three Diseases Fund in an effort to fill the gap, but the fund was unable to support life-saving ART for everyone who needed it. In very distressing and heartbreaking situations, family members sometimes had to make a decision as to which person would receive treatment. A 2012 report by Médecins Sans Frontières suggests that some 85,000 people are still in urgent need of

<sup>25</sup> U.S. Department of State, *2013 International Narcotics Control Strategy Report* (Washington, DC: U.S. Department of State, 2013), 114, <http://www.state.gov/j/inl/rls/nrcrpt/2013/index.htm>.

<sup>26</sup> Kachin Women's Association Thailand (KWAT), *Silent Offensive: How Burma Army Strategies are Fuelling the Kachin Drug Crisis* (Thailand: KWAT, 2014), [http://womenofburma.org/wp-content/uploads/2014/10/Silent-Offensive-Drug-Report\\_English.pdf](http://womenofburma.org/wp-content/uploads/2014/10/Silent-Offensive-Drug-Report_English.pdf).

<sup>27</sup> “Drug Control Efforts Go Local in Myanmar's Kachin State: Eradication and Crop Substitution Have Been Ineffective,” *IRIN*, August 14, 2014, <http://www.irinnews.org/report/100483/drug-control-efforts-go-local-in-myanmar-s-kachin-state>; and Ivan Watson and Tim Schwarz, “Beyond the Sectarian Fighting Lies Myanmar's Dark Drugs Problem,” *CNN*, January 3, 2015, <http://www.cnn.com/2014/12/02/world/asia/myanmar-kachin-heroin-problem/>.

<sup>28</sup> World Health Organization, “Global Fund Withdraws Grants to Myanmar,” *Bulletin of the World Health Organization* 83, no.10 (2005): 721–800, <http://www.who.int/bulletin/volumes/83/10/news11005/en/>.



ART in Myanmar. The same report also states that some “15,000-20,000 people living with HIV die annually in Myanmar, because of lack of access to urgent lifesaving anti-retroviral therapy (ART).”<sup>29</sup> Although the situation has improved since the reform process, given renewed inflows of aid money, there are still many people who lack access to ART.

The rapid rise in ATS use has also caused great concern, and problematic ATS use has become a serious health and social problem. ATS is largely used among young people enjoying urban nightlife, as well as by people in professions that require long working hours, alertness, or hard physical labor, such as truck drivers, farmers, and sex workers. Although ATS is now a prominent drug in Myanmar, very few services for problematic ATS use are currently available. Most funding focuses on injecting opiate users and related health problems, such as HIV.

## Myanmar's Current Drug Policies

### ***Criminalization Policies and Insufficient Treatment Efforts***

Drug policies in Myanmar are repressive, outdated, and ineffective, and they focus largely on arresting drug users and eradicating opium poppy. The current laws, particularly the 1993 Narcotics Drugs and Psychotropic Substance Law, not only criminalize use, possession, cultivation, production, and trafficking of relatively small amounts of drugs with long sentences, but also penalize drug users if they fail to register for medical treatment. Many drug users have been jointly prosecuted under Section 15 for failing to register as a drug user (punishable with three to five years in prison)—actual possession is not necessary for prosecution, which relies instead on urine tests—as well as under Section 16 for drug possession (punishable with five to ten years). Needle possession by non-medical personnel is also criminalized under the 1917 Burma Excise Act. As a result, Myanmar's

jails are full of people serving long sentences convicted on relatively small drug-related offenses.

Following the recent reform process and national elections, the government has begun a process to review many of its laws and enact new legislation. The government has initiated a consultative process with relevant government ministries, United Nations (UN) agencies, and local and international non-governmental organizations to discuss a draft proposal that would revise the 1993 Narcotics Drugs and Psychotropic Substance Law. The focus of the discussions has been on providing adequate and relevant treatment for drug users rather than imprisonment, reducing sentences to make them more proportional to the crime, and creating a legal framework to support harm reduction. The outcome of this process is still unclear, but it provides an important opportunity to make the law more humane and effective.

The government runs various drug treatment centers, but these are not popular among drug users. As drug users are required by law to register, many fear this will lead to stigmatization and discrimination in their communities. Moreover, the quality of treatment is insufficient, is not targeted toward individual needs, and ignores that many drug users do not require medical treatment at all. Examples from other parts of the world have shown that compulsory treatment is ineffective and relapse rates are high.

The government officially acknowledged harm reduction in its 1996 National Strategic Plan on HIV and AIDS, in large part because injecting drug use has been a key driver of the country's HIV/AIDS epidemic. The government provides methadone maintenance therapy in some key areas, but only to drug users who have registered. Needle exchange programs are officially prohibited, though they are provided on a limited scale by some international organizations. On the whole, the quality and quantity of services need to be urgently scaled-up to effectively respond to the problem.

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<sup>29</sup> Médecins Sans Frontières, *Lives in the Balance: The Urgent Need for HIV and TB Treatment in Myanmar* (February 2010), [http://www.msf.org/sites/msf.org/files/old-cms/fms/article-documents/LiveInTheBalance\\_Myanmar.pdf](http://www.msf.org/sites/msf.org/files/old-cms/fms/article-documents/LiveInTheBalance_Myanmar.pdf).

### ***Eradication and Alternative Development Approaches***

Myanmar is a member of the Association of South-east Asian Nations (ASEAN), which has set 2015 as the deadline by which to make the region drug free. This objective is obviously unattainable, and member states have therefore redefined “drug free” to refer to “a significant reduction in drug consumption, production, and trafficking.” Still, this deadline-oriented thinking is not only unrealistic but has also put increased pressure on member states to be seen as doing *something*. This result has been an increase in repressive and ineffective policies in the region. Myanmar has postponed its drug free deadline until 2019, citing increased opium cultivation and large-scale ATS production as huge obstacles preventing it from meeting the initial target. While this might give the government some breathing room, it fails to address the fundamental problem that such international deadlines for a drug free world do not work but rather continue to feed repressive activities including arrests of drug users and eradication of opium fields. The government of Myanmar reported that it had eradicated almost 15,000 ha during the 2013–2014 opium growing season, most of it in southern Shan State. This is 3,000 ha more than was eradicated the previous season.<sup>30</sup> However, there is no empirical evidence showing that such policies will actually lead to a sustainable reduction in opium cultivation levels, even if carried out in tandem with “alternative development” (AD) projects. In some cases, eradication can lead to an increase in cultivation levels or to the displacement of crops to other areas.

Opium cultivation often takes place in conflict-affected areas in weak states that are characterized by high levels of corruption. Farmers in Myanmar complain that representatives of various local authorities

and government departments use the threat of eradication as a means to extort bribes.<sup>31</sup> Consequently, eradication is aimed mostly at the poorest of the poor, as they have no power to resist and no financial resources to pay officials to turn a blind eye. The eradication of opium cultivation by government authorities also often targets political adversaries and areas under their control. In unstable environments such as Myanmar, these policies cause a further breakdown of relations between society and the state while also increasing violence and conflict. Several ethnic armed groups have also carried out their own poppy eradication programs. Lacking resources to provide alternative livelihoods to farmers in their area, they have sometimes allowed farmers to cultivate opium again to alleviate immediate food security problems.

Current support for AD programs is limited and very few rural households receive this type of assistance. However, there is a growing interest among the government to find ways to expand AD programs, and to put more emphasis on a development-led approach to illicit poppy cultivation. In a recent workshop, the government welcomed representatives from opium farmers to participate and share their viewpoints and recommendations.<sup>32</sup> UNODC is implementing AD projects in southern Shan State, the main area of illicit cultivation, and is one of various groups introducing coffee as an alternative crop. The Thai government also supports community development programs across the border in Shan State. China’s opium substitution program in northern Shan State and Kachin State focuses on promoting Chinese companies to invest in large-scale mono plantations—mainly rubber—in return for access to credit, tax exemptions, and import quotas. However, the benefits of the program mainly go to Chinese businessmen and local authorities, rather than to (ex) poppy farmers. As a result, (ex) poppy farmers are largely losing access to land

<sup>30</sup> UNODC, *Southeast Asia Opium Survey 2014: Lao PDR, Myanmar*, 46.

<sup>31</sup> TNI and Paung Ku, *Report from the First Southeast Asia Opium Farmers Forum: Yangon, 2–3 July 2013*, [http://www.tni.org/sites/www.tni.org/files/download/report\\_farmers\\_forum\\_yangon\\_2013.pdf](http://www.tni.org/sites/www.tni.org/files/download/report_farmers_forum_yangon_2013.pdf).

<sup>32</sup> For more information, see “Opportunities for Development-Oriented Drug Control in Myanmar,” TNI, <http://www.tni.org/events/opportunities-development-oriented-drug-control-myanmar?context=70443>. The workshop (January 21–22, 2015 in Nay Pyi Taw, Myanmar) was organized by the Central Committee for Drug Abuse Control (CCDAC) and TNI, and funded through a German International Cooperation Agency (GIZ) grant.

and are left to work as daily wage laborers on agricultural concessions or move further into isolated mountain areas to grow poppy.

## Looking to UNGASS 2016

Myanmar—like many ASEAN member states—is often silent in UN drug policy meetings, though this has begun to change since the reform process that began in 2010. During the years of international isolation, Myanmar mainly tried to defend itself in UN forums against accusations of human rights abuses and lack of democracy. However, the government is now looking to international examples and best practices to reform the country's many outdated laws, including the 1993 Narcotics Law. Myanmar would greatly benefit if internationally respected forums gave a strong and clear message that deadline-oriented thinking and zero-tolerance approaches—such as ASEAN's drug free target—are not only unachievable but also counterproductive, and instead stressed a more positive and realistic process rooted in health and rural development. This would give countries like Myanmar space to formulate and implement a national drug policy that is realistic, respectful of human rights, and much more beneficial to affected communities.

## Recommendations for Change

Myanmar's drug policies should shift focus and prioritize alternative livelihoods in opium growing communities and the provision of services for drug users. Poverty—in its widest definition—is one of the key drivers of opium cultivation, and it is important for AD programs to expand to key opium cultivating areas. The government should formulate a strategic plan for coverage, and sequence and prioritize interventions in close cooperation with local communities, civil society organizations, and other stakeholders. Eradication of poppy farms should not take place unless people have sufficient access to alternative livelihoods. Moreover, the traditional and medicinal use of opium should be assessed. There needs to be a policy debate about opportunities for licit opium

cultivation, perhaps operated jointly by community and government control systems. AD programs will also require international support and coordination with neighbors. In particular, China's opium substitution policy should not continue in its present form.

The drug problem should be high on the peace agenda. Most of the opium cultivation and production takes place in conflict-affected areas, therefore alternative development programs for poppy farming communities could provide an important contribution to the peace process; an eradication-led approach, on the other hand, may contribute to further conflict. To achieve an inclusive and sustainable peace, the government should also end its militia program, as these groups have become heavily involved in drug production and trade with tacit support from the Tatmadaw.

Current counternarcotics policies have resulted in large numbers of people serving lengthy jail sentences for relatively small drug-related offenses. Recent discussions among relevant government departments have favored compulsory treatment centers over criminalization. While this may be an improvement in terms of seeing drug users as patients rather than criminals, it does not solve problems related to the ineffectiveness of non-voluntary treatment and the fact that most users do not need medical treatment. Instead, the government should provide voluntary treatment programs as well as targeted services to address the needs of drug users.

Affected communities, especially drug users and opium farmers, need to be involved in drug policy making. The indicators of a successful drug policy should move away from “negative” achievements such as numbers of arrests made and hectares of poppy eradicated, and toward more “positive” indicators that reflect benefits to local communities, such as number of overdoses prevented, drug users in voluntary treatment, improvement of human development indicators in opium growing communities, and reductions in violence and conflict. Harm reduction projects should be improved and expanded, which will require changes in the laws to decriminalize drug

use, reduce sentences for other drug-related offenses, and open space for needle exchange programs. More attention should also be paid to ATS-related problems which are largely overlooked by current policies. Finally, the government should allow research on drug use trends and patterns and other surveys to better inform policy.

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