

End of Mission Statement

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Seoul, Republic of Korea

21 November 2022

Introduction and Summary

It has been an honor to visit the Republic of Korea (ROK) as the United Nations Special Rapporteur on the situation of human rights in Myanmar and I am honored to be here.

I am here because the world needs to re-think and recalibrate its response to what is a deepening crisis in Myanmar, a crisis that has hit a dangerous inflection point. As the Secretary General of the United Nations said just last week regarding Myanmar: “The international community as a whole has failed.” It is critical that the world address this failure, and the ROK can play a vitally important role in doing so. Not only is the ROK a strong regional power with a vibrant economy and a member of ASEAN+3, but as I learned in my travels here, the people of ROK can identify deeply with a people who are under siege and yet are also defiant and committed to undoing the shackles of a military dictatorship.

During my trip I prioritized consulting with the ROK government on steps that could be taken against the Myanmar junta and in support of the people of Myanmar, engaging with Korean businesses operating in Myanmar to impress upon them the importance of ensuring their operations do not benefit the junta, and spending time with Myanmar nationals living in the ROK to understand their challenges and needs.

Throughout the six days I have spent on mission here, I have met with Korean officials from the Ministry of Foreign Affairs, Ministry of Justice, Ministry of Trade Industry and Energy, a Member of the National Assembly, local government officials, CEOs of major Korean businesses, Korean NGOs doing incredible advocacy on human rights in Myanmar, and members of the Bamar, Karen, Chin, Kachin, Mon and Rakhine ethnic groups. I also travelled to the city of Gwangju, where I met with the Deputy Mayor and other city officials, the May 18 Memorial Foundation, the Gwangju International Organization, representatives of a NGO network alliance in solidarity with Myanmar, among many others.

I want to express my sincere appreciation to the Ministry of Foreign Affairs for inviting me to the ROK and to all those who have contributed to making my visit both highly informative and meaningful.

The Situation in Myanmar

I was reminded by one person I met with that people in the ROK may not appreciate that the Myanmar military continues to systematically perpetrate human rights violations and atrocities in Myanmar. He told me that Myanmar made the news here in February and March of last year with the attempted coup and immediate attacks on protesters, but the focus has shifted elsewhere, and because of that Koreans may have the perception that the military coup was successful and things in Myanmar have gone back to normal. So some of my time here was spent dispelling that notion.

I explained that the people of Myanmar have refused to be put back under military rule. After the military killed hundreds of protesters in those first very visible weeks, many in the opposition have

taken up arms against the military, and the atrocities have moved from city streets to towns and villages throughout the country. The military's attack on the people of Myanmar has been devastating:

- The military has displaced more than 1.1 million since the coup;
- Burned more than 28,000 civilian homes, including entire villages;
- Killed unknown thousands, with confirmations of at least 2,400;
- Detained nearly 13,000 political prisoners;
- In July, the junta executed four political prisoners, including a former parliamentarian and a prominent pro-democracy activist; 86 political prisoners remain on death row and are likewise at risk of imminent execution;
- 150,000 Rohingya remain confined in de facto internment camps, with one million forcibly deported across the border to Bangladesh following the genocidal violence of 2017.

Unsurprisingly, this uptick in the conflict has led to a humanitarian disaster. Households have reportedly lost half their income since the coup and the junta is using humanitarian aid as a weapon, severely limiting access to many parts of the country and blocking aid shipments. Experts warn of a looming food crisis and a possible spike in child malnutrition, especially as Myanmar enters its dry season.

So the situation in Myanmar is dire. The illegal junta, however, has sought to seize the advantage of the diverted attention of the world, by working to create the false impression that things are actually improving.

Last week, for example, there was the well-publicized release of thousands of prisoners, including some high-profile arbitrarily detained foreigners. I of course welcome this release, but I caution that this is part of the junta's efforts to create a veneer of progress in Myanmar, to sway international opinion. The international community must not applaud the junta for this release or take it as evidence that the junta is softening—these individuals should never have been detained and just like last year's prison release, I have received reports that some were immediately re-arrested. Meanwhile, within 24 hours of this release the military rained down heavy artillery onto a village in Myanmar's Rakhine State, killing at least 10, including two children, who were attending a child's naming ceremony.

The junta is also trying to convince the world that it is planning to have free and fair elections next year. This is as outrageous as it is absurd. You cannot have a free and fair election when opposition leaders have been arrested, imprisoned, tortured and executed. You cannot have a free and fair election when it is a crime for the media to report the truth or for anyone to criticize the junta.

The international community must not fall in the trap of legitimizing or in any way supporting or encouraging these elections. To its credit, the ROK has done nothing to indicate it would lend credence to these elections. I encourage the government to take a lead to ensure that the world, and ASEAN particularly, recognize this so-called "election" for what it is: a fraud.

As reprehensible as these attempts to manipulate the international community with falsehoods and the veneer of progress are, they also demonstrate that the junta knows that it cannot sustain itself alone. Indeed, there are at least three things that the junta requires for its survival and that it needs the international community to secure: money, weapons and legitimacy.

From my many conversations with people throughout Myanmar, I can assure you that the people of Myanmar have no intention of giving in or giving up their fight for true inclusive democracy that respects and prioritizes human rights.

I learned on my mission here that the ROK has a very recent and very proud history of a people doing exactly the same.

The Republic of Korea's Unique Position

Two days ago I had the privilege of visiting the city of Gwangju. I learned the history of the ROK's May 18 uprising against its own military dictatorship and how Gwangju was the spark that led to the ROK realizing its full democratic aspirations. I visited the cemetery where the heroes of the uprising were laid to rest, seeing the faces on the gravestones of the young people whose last act was standing up for democracy. Important memorials abound in Gwangju reminding us that democracy is often won, not given. I visited the May 18 archives and museum where I saw images of ROK soldiers beating pro-democracy activists. I was struck by the similarity of these images to the pictures that circulated around the world last year of junta forces brutally beating protesters in the streets of Yangon.

Repeatedly throughout my mission, ROK government officials, parliamentarians, businesspersons, and NGO leaders told me that the ROK is in solidarity with the people of Myanmar and supports their cause of democracy precisely because of Korea's own history of repression by a military dictatorship.

Actively supporting the people of Myanmar and providing leadership so that the nations of the world also stand with and for Myanmar, could become a living memorial to those who sacrificed their lives for freedom here and as an affirmation of the aspirations that they lived and died for.

Not only does the ROK have this painful connection to Myanmar from its own history, but it has a powerful economy and influence in Myanmar and throughout Southeast Asia through business and years of development support. In my conversations here, I urged the ROK government to build on the good work it has done regarding Myanmar to date.

The Republic of Korea's Positive Steps to Date on Myanmar

Shortly after the coup last year, the ROK adopted a series of measures including enacting an arms embargo, strict controls on dual-use exports, and, according to officials I spoke with reduced its overseas development assistance with Myanmar by 85%, continuing only those projects that are directly linked to the livelihood of Myanmar citizens and humanitarian aid. Just weeks after the coup, the ROK also announced special humanitarian measures for Myanmar nationals in the ROK, including a moratorium on sending anyone back to Myanmar, due to the real risk of persecution. Indeed, when I asked a Myanmar asylum seeker here what would happen if she and her friends were sent back, she couldn't help but laugh a bit at the obviousness of what would befall them and said: "We would be killed if we were sent back."

There is no doubt that the steps the ROK took in the first couple months following the coup were important. And I thank the ROK. But there is much more to be done. The time is now for the ROK to manifest their values and empathy for Myanmar into even stronger action.

I was very encouraged to be told by ROK government officials that they are actively considering additional options to take regarding Myanmar. I was honored to be asked for information, advice and support as they engage in this process. Here are some of the recommendations that I provided.

Recommendations Moving Forward

Sanctions

The ROK should impose targeted economic sanctions on the Myanmar military and its key financial sources, while ensuring that respect for human rights and due diligence is a central component to those ROK businesses that continue to operate in Myanmar.

I had the opportunity to meet with a number of Korean firms operating in Myanmar, from oil and gas operators, to steel producers, to those in the garment sector. And I would like to express my gratitude to these companies for meeting with me—all but one Korean company that I contacted took time to meet and discuss their operations with me during this mission.

I spoke with multiple Korean companies that have past and present business relationships with a Myanmar military economic conglomerate, called Myanmar Economic Holdings Limited, or MEHL. Two corporations described to me that they have sought to end those business relationships because of the human rights concerns of continuing to do business with Myanmar military companies and also because of not wanting to run afoul of international sanctions. They explained that they have worked to stop revenue from flowing to the junta while not hurting the livelihoods of their Myanmar staff. This is commendable and the ROK government can take a significant step to supporting them by imposing targeted economic sanctions on MEHL and the other military conglomerate, Myanmar Economic Corporation. Any concerns about legal liability or exposure can be limited by government sanctions that are legally binding on Korean companies.

In conversations with POSCO International, I discussed my concerns that between 200-400 million US dollars per year would continue flowing to the now military-controlled state-owned enterprise, Myanmar Oil and Gas Enterprise, or MOGE, from the POSCO operated Shwe Gas Project in Myanmar, of which MOGE is a partner. I highlighted that according to reports, at least for a period of time this year, MOGE was not receiving payments from the Shwe Gas Project due to sanctions compliance concerns of a bank involved in the distribution of proceeds to project partners. I relayed that to the best of my understanding, despite MOGE not receiving its funds, POSCO and its partners received their profits, while gas continued flowing to their customers and to Myanmar. In other words, it has been demonstrated that operations at the Shwe Gas Project can continue while payments that fuel the junta's attacks on the people of Myanmar are held in escrow. I urge the Korean government to impose sanctions on MOGE. Prior to the EU imposing MOGE sanctions, a major European energy company said it would "not only comply with any sanction decision from the European or American authorities but also supports the implementation of such targeted sanctions." It would be helpful if POSCO International adopted this same position.

The ROK should also actively consider targeting the financial channels the Myanmar military uses to bring foreign exchange into Myanmar, chiefly the Myanmar Foreign Exchange Bank. Additionally, the ROK should ensure that Korean companies are not involved in the provision of jet fuel to the Myanmar military by prohibiting the export of jet fuel to Myanmar.

In all my meetings with ROK government ministries and the National Assembly, I stressed that there is now a precedent for the ROK imposing economic sanctions to support a people under siege. Just this year, within a couple of weeks after Russia invaded Ukraine, the ROK joined an international coalition of nations that sanctioned Russian banks, the Central Bank of Russia, and Russian sovereign wealth funds.

The human rights situation in Myanmar is as dire as the one in Ukraine. I strongly urge the ROK to join the European Union, the United States, Canada, and the United Kingdom to impose sanctions on the Myanmar military. ROK sanctions on Myanmar would have a tangible impact and would help save lives.

The Korean businesses I spoke with stressed their increased focus on human rights due diligence. This is important, but it should be systematic and comprehensive. The ROK government should make it a priority to enact laws that mandate comprehensive human rights due diligence for Korean

corporations operating abroad, in line with international legal standards, as the United Nations Working Group on Business and Human Rights has recommended.

I also had important conversations with the Ministry of Justice and POSCO International regarding the sale of a Daesun Shipbuilding built vessel to the Myanmar military in 2019 and possible wrongdoing associated with that transfer. I was assured by the Ministry of Justice that once the case is investigated by the police and transferred, the Prosecutor would thoroughly investigate the matter.

Support for the Myanmar diaspora in ROK

I was grateful to have been able to meet and speak directly with the Myanmar community in the ROK. I spoke with members of Bamar, Karen, Chin, Kachin, Mon and Rakhine ethnic groups, among others. There are reportedly up to 30,000 Myanmar nationals currently in the ROK. They include migrant workers, up to 1000 students, families including children and babies, the elderly, as well as refugees and asylum seekers. The population also includes an estimated 5,000 – 10,000 persons with irregular migration status, although due to a lack of data it is difficult to know precisely how many.

Everyone from Myanmar who I met here in the ROK denounced the coup and expressed their outrage and despair about what is going on in their country. Many try to send money back home to support their families. Some participate in pro-democracy activities in the ROK. A woman who I spoke with was herself charged in Myanmar under Article 505A of the Penal Code for her activities in the ROK. As a result of their activism here, some of their families have been threatened back in Myanmar. All of them agreed that it was impossible for them to return home under these conditions.

I commend the ROK for instituting a procedure to allow all those with regular status in the ROK to apply either to extend their current visa, or apply for a new humanitarian visa (G199) which provides a right to stay and work. I spoke some persons who have accessed this program, including Myanmar parents who were able to enroll their children in Korean schools and adults who were able to access Korean language training.

Many of those I spoke with were grateful to the government for facilitating their stay and keeping them safe.

Under international law, principles of non-refoulement prohibit returning people to a country where they are at risk of serious harm upon return, including persecution, torture, ill treatment or other grave human rights violations. Given the brutal violence being perpetrated by the junta, no country should return any person to Myanmar. The ROK should encourage all those countries where persons from Myanmar have sought shelter, and in particular ASEAN member states, to adopt a similar position

I also met with some from Myanmar who are in the ROK and have irregular status. This includes people who had valid work permits that have expired, many of whom intended to go back to Myanmar but following the coup could no longer safely return.

These people recounted their insecurity due to their irregular status, including fear of being charged with migration offences and facing high fines and even jail time. Many also recounted harrowing stories of extreme discrimination and exploitation in workplaces by employers who physically and verbally abuse them on account of their Myanmar nationality, withhold wages or underpay them

and force them to do the most difficult jobs. Some also recounted being told by local immigration officials, who appear not to fully understand the government's moratorium on returning people to Myanmar, that given their visa had expired they should go back to Myanmar. It is thus imperative that all persons from Myanmar be given an opportunity to apply for secure legal status while their country remains in crisis, to avoid such situations of exploitation, abuse and fear.

I therefore would like to make the following recommendations to the ROK government, to make the system equitable, sustainable and viable:

- Ensure that all those from Myanmar, including those without a valid current visa, can regularize their stay by making them eligible for the humanitarian visa program;
- For the approximately 1,000 Myanmar students who are here, ensure that humanitarian visas includes the right to study. As one student related: "I thank the government of Korea for letting me come here. I came before the coup to study. Now I cannot go home, and my student visa is about to expire. But I want to continue studying to keep building my skills so that I can bring these back to my country when we have a democratic Myanmar."
- Help facilitate the safe passage of family members to ROK, in particular those who have been threatened in Myanmar as a result of the activities of family members in the ROK;
- Ensure that persons from Myanmar who are living in the ROK, are able to access paid health insurance regardless of their visa status. I met a pregnant woman who was worried about the out-of-pocket costs of accessing a private hospital without health insurance.

Another major issue facing many Myanmar nationals in the ROK is the expiration of their Burmese passports. It will be essential that a swift solution be found to address this, otherwise there is a risk of many people becoming undocumented. Similarly, babies now born in Korea to Myanmar parents may not have access to a passport or nationality. Extending birth registration processes and identity documents for these children should be prioritized.

In the face of expiring passports, and given the crisis in Myanmar, I also take note that many people from Myanmar currently living in the ROK may begin to apply for asylum. I congratulate the ROK for being signatory to the 1967 Refugee Convention. However I do note that the asylum process in the ROK is very slow, and rates of acceptance of asylum applications are one of the lowest of all Organization of Economic Cooperation and Development (OECD) countries. I would thus urge the ROK make it a priority to build the capacity of its asylum system and ensure that immigration officials, particularly in regions where Myanmar people live, are informed and aware of the right to seek asylum. In this regard, I encourage them to work hand in hand with UNHCR to swiftly process the applications of those seeking asylum in Myanmar.

Humanitarian Aid and Resettlement

Since the coup, the ROK has provided humanitarian aid to those inside Myanmar. But, as one official put it, the ROK's role should be commensurate with its economic standing. With that in mind, the ROK should dramatically increase humanitarian aid to the people of Myanmar. And I commend ROK officials for asking me how they can ensure the aid that it sends will be received by the people that need it the most. I encouraged the government to support cross border aid initiatives that are able to reach communities inside the country who official aid providers often cannot.

I further urge the ROK to ramp up its support for Myanmar communities hosted in third countries. It is doing so now by providing support for the over 1 million Rohingya in Bangladesh through contributions to the Rohingya humanitarian crisis joint response plan. In a similar vein, I would also

encourage it to explore ways to support the large communities in other countries, including the ASEAN nations of Thailand and Malaysia who host large number of persons from Myanmar.

The ROK has also accepted a number of persons from Myanmar for third country resettlement. I congratulate them on this initiative, and encourage them to scale up this program, given the great need for third country resettlement of a large number of human rights defenders who are now outside of Myanmar.

The National Unity Government

Finally, I also had the honor to meet with the National Unity Government's Representative here in the ROK, and I thank him and his team for his warm welcome and time they spent with me. I encourage the ROK government to engage with the National Unity Government as a legitimate representative of the people of Myanmar.

Conclusion

The ROK can play a vital leadership role in denying the Myanmar junta the means to continue to hold 54 million people hostage while becoming a leader in providing humanitarian support to those in desperate need. The ROK should forcefully discredit any claims that the junta's planned elections are legitimate, impose economic sanctions on targets associated with the junta, and expand its humane treatment of those Myanmar nationals residing in the ROK while encouraging Myanmar's neighbors to do the same. Strong, strategic and coordinated action in support of the people of Myanmar, including through cutting off the junta's access to revenue and weapons, can make a critical difference. Finally, the government of Korea should increase humanitarian aid for those in desperate need inside of Myanmar and engage the National Unity Government, tapping its expertise while recognizing its legitimacy.

I would like to once again thank the government of the ROK for their warm welcome and cooperation and to all of those who I met with on my mission here. As I prepare to depart, I am even more convinced that the ROK is well positioned to make a significant difference at a critical moment in the history of Myanmar. I am hopeful and encouraged that they will choose to do so.

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