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EAI Commentary

Myanmar Special Series ⑦

# The Situation in Myanmar and International Human Rights

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## 1. Myanmar: At the Intersections of the Two Trends for Human Rights

The coup d'état perpetrated by Myanmar's military on February 1, 2021 sent shockwaves throughout the world. COVID-19 had spread throughout the world, and Biden, who was considered important for future changes in international politics, had just taken office as president in the US. Those who anticipated a new post-Trump international order found the military coup in Myanmar, which was still in the process of establishing its democracy, and subsequent indiscriminate massacre of citizens, a major challenge to the liberal international order. But viewed from a human rights perspective, the situation in Myanmar was nothing new. International politics in 2021 offers both a friendly and an unfriendly environment for human rights.

The unfriendly side of the environment can be seen from the retreat of liberal values such as democracy, rule of law, and human rights in many areas internationally, while populism centered on strongmen with an authoritarian flavor emerged in the Philippines, Poland, Hungary, the Syrian civil war produced a refugee crisis in Europe, and Brexit occurred. Trump exacerbated the human rights situation in the United States with strict immigration control policies, intimate exchanges with dictators like Putin and Kim Jong Un, and withdrawal from the United Nations Human Rights Council. He also used human rights as a tool to go after China in the US-China conflict, and China retaliated by attacking the universality and emphasizing the relativity and particularities of human rights. Both before and after COVID, countries returned to national interest-oriented and self-centered politics, while mercantilism reappeared in commerce and trade.

However, international politics were not entirely unfriendly to human rights. Since taking office, Biden has made the restoration of democracy a top priority and eliminated

inhumane immigration policies. Internationally, he has established a values-oriented diplomacy that focuses on human rights including a return to the UN Human Rights Council, the lifting of personal sanctions against the International Criminal Court prosecutor who launched the investigation into Afghan war crimes, and the disclosure of information relating to the killing of Saudi dissident journalist Khashoggi. In addition, regardless of the US and China, the international community has developed international criminal laws, humanitarian laws and norms, and international human rights laws including those related to transitional justice and the responsibility to protect. This clearly means that unlike the past, there are a variety of measures in place that can be used to improve the situation in Myanmar if the international community has the will to create a friendly environment for human rights. Myanmar's situation lies at the intersection of these two trends.

## **2. Prolonged Resistance and the Five ASEAN Agreements**

As of January 2022, there have been 1,398 deaths in Myanmar since the coup. On March 27, 2021, 102 people were killed (Assistance Association for Political Prisoners [AAPP] 2022). The military fired indiscriminately on unarmed protesters, including women and children, resisting the coup and then performed mass arrests, detentions, and torture. To date, 8,376 people have been arrested and 507 of those convicted (AAPP 2022). Supreme Commander Min Aung Hlaing defined the unarmed protests as "terrorism that harms the stability and security" of the country, and the military threatened on state television that "protesters should learn that they risk being shot in the head or the back" (MRTV, 2021.3.26).

One year after the coup, the situation in Myanmar shows no signs of a resolution. The most important agreement thus far was reached in April of 2021 in Jakarta between five members of ASEAN. The agreement included an immediate cessation of violence, the initiation of a constructive dialogue for a peaceful resolution to the situation, mediation through a special envoy from Brunei, humanitarian assistance, visits to Myanmar from special envoys and delegations, and other such measures. This agreement has great

significance in that Myanmar is a member of ASEAN, and ASEAN is very important to the politics of the region. In accordance with the agreement, Myanmar pardoned 1,316 political prisoners in October and released 4,320 detainees (Human Rights Watch 2021). However, this amnesty was insufficient and as of now there has not been any meaningful further progress. During this process, ASEAN appeared divided and some skepticism was raised regarding its role.

As Myanmar's situation dragged on, so did the Civil Disobedience Movement (CDM) against the military, and in April, the National Unity Government (NUG) and People's Defense Force (PDF) were formed. The international community has also pressured the military during multilateral meetings, including the United Nations, calling for a resolution to the crisis. Although it was difficult to draw up a resolution due to opposition from China, Russia, India, and Vietnam, the UN Security Council held four statements of the chairman, two informal (Arria-formula) meetings, and several advisory meetings. The UN General Assembly and Human Rights Council also pressured the Security Council to adopt a resolution. The United States led a joint statement by the Joint Chiefs of Staff Chairmen from 12 countries as well as the G7 condemning the coup. Last October, East Timor, Australia, Canada, New Zealand, Norway, the United Kingdom, the United States, the European Union, and South Korea urged Myanmar to immediately implement the five ASEAN agreements.

### **3. From Criticism, Solidarity, Non-Intervention, to Strategic Thinking**

Countries had a variety of reactions to the situation in Myanmar. The United States quickly condemned the military immediately following the coup, and called on them to stop the indiscriminate assaults and murders of protesters. The US, which previously had sanctions in place against the country for a long period of time, used the coup as an opportunity to reinstate them. US policy on the matter can broadly be divided into four parts. First, a statement condemning the military for undermining democracy and violating human rights was issued in the name of the President, Secretary of State, and Chairman of the Joint Chiefs of Staff. Second, financial sanctions and restrictions on the individual military

personnel who led the coup, as well as a ban on the withdrawal of US bank assets and on entry into the US, were also implemented. This was an extension of the personal sanctions that were levied following the Rohingya genocide in 2017. Third, as a relatively effective measure, a large chunk of Official Development Assistance (ODA) was directed towards support for civil society in Myanmar. Fourth, the US sought to issue joint statements and create meaningful resolutions in multilateral forums such as the United Nations. However, the value of these American diplomatic efforts remains uncertain as they have not been particularly effective.

Myanmar is geopolitically and economically important to China, and Xi Jinping made a state visit in January 2020, just before COVID hit. Xi Jinping met with the military's top commander, Min Aung Hlaing, and the then-State Counsellor, Aung San Suu Kyi, in an effort to strike a diplomatic balance. In a further reflection of this, after the country fell into civil war, China insisted it would not intervene in internal affairs and ordered the two sides to "resolve their differences." With the same logic, China blocked the drawing of a resolution by the UN Security Council, and other documents, such as the Chairmen's statement and press releases muddied the waters of the responsibility of the military and violence of the coup. Last April, Chinese Foreign Minister Wang unveiled the "Three Supports and Three Avoids" policy regarding the Myanmar situation and opposed the UN Security Council's "improper intervention" or "fomenting chaos by external forces" (Chinese Ministry of Foreign Affairs 2021). Following the creation of the five ASEAN agreements, China has supported the "gradual implementation" of the points agreed to and is working to maintain the status quo. However, there is also friction between China and Myanmar's military over the ethnic minority issue as well as ideological conflict.

South Korea was rather quick to voice strong criticism of the situation in Myanmar. Immediately after the coup, the President, Prime Minister, and Ministry of Foreign Affairs issued several statements criticizing the military, while the Minister of Foreign Affairs, Minister of Justice, and other high-ranking officials such as ministers and vice ministers held several meetings with the Myanmar ambassador and residents in Korea. Shortly after the indiscriminate killings against women and children on March 28, the government strongly condemned the "continued barbaric violence despite the repeated demands of the international community" and urged "the immediate cessation of unacceptable acts of

violence against its own people." At the same time, the relevant ministries jointly levied forceful sanctions. This includes the suspension of new exchanges and cooperation in defense and policing, prohibition on the export of military goods and strict examination of the export of industrial strategic materials, reconsideration of development cooperation projects other than business or humanitarian projects directly related to civilian life, and special humanitarian measures to extend the visas of Myanmar residents of Korea.

#### **4. Dilemmas of the International Human Rights Cooperation: Myanmar Military's Rules of Sovereignty**

The situation in Myanmar, which remains unresolved even one year after the coup, has important implications for international human rights cooperation. Significant factors that influence whether human rights violators accept external pressure regarding their human rights violations include the need for legitimacy both domestically and internationally, acceptance of developed country norms, and the clarity and universality of such norms (Finnemore and Sikkink 1998). Following the coup, Myanmar's military has needed to secure their weak legitimacy at home and abroad more than any other previous government. In addition, the human rights violations that the international community has condemned of indiscriminate slaughter, detentions, assault, and torture of citizens are clear, universal norms in developed countries. However, despite these conditions, Myanmar's military has endured this external human rights pressure for nearly a year.

This illustrates the difference in the orientation of the military. The military in Myanmar prefers to focus on federal integration and social stability rather than human rights preservation, citing such concerns as justification to the international community and domestically for the coup and its human rights violations. ASEAN countries including Thailand, Vietnam, and Cambodia have also attempted this, and ASEAN accepted it in Thailand's case, setting a precedent for the current situation. The model that Myanmar's military is pursuing is not that of Western Europe, which respects democratic institutions and procedures and protects the rights of citizens, but rather that of China, which focuses on development and the prevention of social chaos, even when it ignores and suppresses

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human rights and democracy. From this perspective, a clearer and more universal norm adhered to by the military in Myanmar is not the principle of human rights, but rather the principle of sovereignty and non-interference. This principle is generally used within ASEAN countries and is actively supported by China, and thus it is strongly felt throughout the region.

In addition, the military in Myanmar is surprisingly not vulnerable due to two factors. First, the material and social foundation that should be vulnerable due to Myanmar's limited national capacity can be held up thanks to the presence of ASEAN and China. Singapore and China, the two largest trading countries in the region, continue to do business with Myanmar, while ASEAN members Cambodia, Vietnam, Laos, and Thailand provide justification to Myanmar's military by maintaining their own authoritarian governments. The attendance of Russia, China, India, Pakistan, Bangladesh, Vietnam, Laos, and Thailand at the Myanmar Armed Forces Day celebration last March while civilians were being massacred also illustrates this fact. Second, full-scale sanctions against military-owned companies (Myanmar Economic Holdings Limited, Myanmar Economic Cooperation), which would be fatal to the military, have not yet been imposed. Specifically, Myanmar Oil and Gas Enterprise, which is a key financial resource for the military, has avoided sanctions thanks to lobbying and pressure from multinational companies based in the United States, Europe, India and South Korea such as Chevron, Shell, Total, and POSCO.

However, the policy of Western countries towards Myanmar has not simply stalled because of corporate lobbying. The domestic political elements that influence foreign policy are a strong reason as well. In the US, Biden beat Trump by a narrow margin, and the election results led to protests claiming the election had been illegal culminating in the riot at the Capitol building. In the US, there is a significant level of support for Trumpism, or so-called America First policy, which is influencing Biden's foreign policy. Biden's "foreign policy for the American middle class" has also made it difficult to focus on Myanmar, as the country is not associated with America's national interests. The rough withdrawal from Afghanistan in August further exposed the problems with democracy promotion, a vulnerability in US foreign policy. Iraq, Afghanistan, the Arab Spring, and more recently Hong Kong show the difficulty of success in democracy promotion, and the

double-edged sword of having to take responsibility for political turmoil and instability that can occur.

## 5. Rooms for Cooperation: Starting from an Unexpected Shock

As evidenced by the sudden drop in news coverage on the situation in Myanmar, international interest is dwindling. The situation is likely to worsen in the future for two reasons. First, the situation has become protracted and is becoming fixed as the status quo. Myanmar's military has become accustomed to prolonged sanctions, and continues to maintain relations with major trading partners including China, Thailand, India, and Singapore. In addition to oil and gas, the cash income earned through the sale of abundant wood, precious gems, and drugs cannot be ignored. The military's self-reliance is increasing and its ability to resist international sanctions is growing stronger, which can prolong and entrench the status quo. Already, the military has postponed the election, which it promised to hold a year after the coup, for at least another year and a half.

Second, civil war has broken out and created an exodus of refugees into neighboring countries. At the same time, the "four cuts" strategy, which traditionally cuts the flow of funding, food, information, and personnel to the rebels, has already resumed. The NUG declared a defensive war against the military last September, in response to which the military targeted the affiliated ethnic minority territories with air raids, bombings, and arson. This created a sharp increase in the number of refugees. If the situation in Myanmar deteriorates like that of Syria, the armed struggle between various political forces and the refugee issue will be brought to the foreground. Instead of the democratization of Myanmar, which is currently in the spotlight, or the legitimate civil disobedience movement, "all parties" involved in the dispute are likely to draw blame, thus eroding the legitimacy of the civic movement.

However, just because the circumstances are difficult does not mean that human rights cooperation is impossible. Change usually occurs due to an unexpected shock. There are two possible points at which such a shock might occur. First, there may be a shock in terms of human rights violations. The international community's involvement in the

Bosnian civil war and the civil war in Kosovo in the 1990s, and the sudden change in European policy towards Syrian refugees in the 2010s were all due to such unexpected shocks. In Bosnia, a concentration camp reminiscent of a Nazi Jewish camp was revealed. There was also the Alan Kurdi Incident, when a Syrian child drowned and died on the beach trying to reach safety. Recently, genocidal killings in Myanmar have grown more frequent and the methods have become more brutal, so there is a sufficient possibility that a shock will occur. Second, the shock may be caused by the military itself. The Myanmar military's policies and remarks could produce a shock similar to the way that Gaddafi's reference to protesters as "cockroaches" in Libya was recognized by the international community as a precursor to genocide and moved the UN Security Council to take action. The recent incident in which a vehicle drove into a protest, resulting in casualties, or the discovery of more than 35 burned corpses, including those of children, are both good examples of the military's brutality.

## **6. In the middle of the shock: Roles of Media, CSO, and Transnational Solidarity**

There are two important factors that play a role when such a shock occurs. The first is the role of public opinion and civil society. Singaporean diplomat, pessimistic about the peaceful resolution of the Myanmar crisis, also viewed the public opinion of the domestic and international community as the turning point in US foreign policy (Kausikan 2021). Shocking events like the Bosnian concentration camp and Kurdi's death move public opinion. Above all, they move politicians, the government, or political parties, who are sensitive to public opinion, to shift the direction of their policy. In addition, they move civil society, like NGOs. NGOs provide information and strategy to domestic civil society, and pressure governments to change policy directions. In addition, they provide information and policy advice to international organizations such as the UN. The response of East Asian countries to the situation in Myanmar thus far has been thanks to the important role of civil society as well as the effort of governments.

The second factor is the active participation of ASEAN countries such as Indonesia and Malaysia who raised their voices against the situation in Myanmar, as well as South

Korea, the US, the EU, Japan, India, Singapore, and Australia. India already plays an important role as it shares a border with Myanmar and is a non-permanent member of the UN Security Council. Japan has also used its close ties with Myanmar's military to exert informal influence, as well as public development aid to apply pressure. The EU and Australia joined the US-led joint statement. In the future, their role will become more important. Because of Trump's legacy, the Biden administration bears the substantial burden of accusations that the US strategically uses human rights. Because of this, the EU and Asian countries can pressure Myanmar and develop policies that support the actions of the US. If the international community moves in this direction, there are many international measures including human rights, transitional justice, and the responsibility to protect that can be taken, which is a positive. ■

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The East Asia Institute takes no institutional position on policy issues and has no affiliation with the Korean government. All statements of fact and expressions of opinion contained in its publications are the sole responsibility of the author or authors.

This program, Strengthening Civil Society Organizations in Myanmar, is funded in part by the National Endowment for Democracy (NED).

“The Situation in Myanmar and International Human Rights”

979-11-6617-369-1 95340 Date of Issue: February 23, 2022

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