
Myanmar coup d'état and Corporate Responsibility

— What is to be done with Korean
Companies in Myanmar —

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Raising Question

- 2021.2.2 coup d'état. 900+ Killed. 5000+ arrested
- Korean companies suspicious of supporting military group
 - POSCO International: Shwe Gas Project, Steel,
 - Lotte Hotel, Daesun, Ino Group, Pan-Pacific Group
 - KOGAS, 8.5% investing in Shwe Gas Project
 - NPS, shareholding in POSCO
 - Government and KEPCO, shareholding in KOGAS
- What is to be done with the Korean Companies? What should the Korean government do?

Myanmar Military Group, Tatmadaw

- Constitutional organ; appointment of Minister of Defense, Minister of Border Management, 25% of Lawmaker of both House and Senate; Veto to Constitutional Amendment.
- Holding 2 big Companies (MEHL, MEC) with 100+ subsidiaries. numerous private companies owned by their relatives
- Military group with huge political and economic power

Korean Companies in Myanmar

- Income from natural gas account for 10% of total revenue of federal government (2020-2021)
 - MOGE is key money supplier for military group (argument)
 - 99% of Income from Yadana Project went to military group (EarthRights International, 2009)
 - Shwe Gas Project: POSCO (51%), MOGE (15%), KOGAS (8.5%), ONGE Videsh (17%), Gail JJ (8.5%)
 - POSCO pays MOGE KRW 200-400 billion every year (Myanmar Extractive Industries Transparency Initiative, 2020)
 - SEAGP Project: CNPC-SEAP (51%), POSCO (25%), KOGAS (4%), MOGE (7%)
- Shwe Gas Project is benefitting the military group.

Korean Companies after the coup d'état

(1) POSCO

- The Project has no connection with military group, for the money is directly deposited to the Myanmar government.
- cannot stop payment.
- cannot stop the gas project. too much economic loss. Probable lawsuit by investors and partners.
- instead, increase CSR and aid activities.

Korean Companies after the coup d'état

(2) KOGAS

- cannot respond independently.
- keeping an eye on others, including POSCO, American government, Investors

Korean Companies after the coup d'état

(3) 투자자

- NPS holds 11.36% of POSCO (2021.3)

- exercising ESG investing principles, but no response to coup d'état

- KOGAS is shared by the government (26.15%), KEPCO (20.47%), Local government (7.93%), NPS(5%) etc (2021.5), but no response to coup d'état was observed.

Korean Companies after the coup d'état

(4) NCP complaint

- 2020.12.16, Korean NGOs, filed NCP complaint accusing POSCO, INO Group, Pan-Pacific Group etc for complicity in Rohingya massacre
- 2021.7.14. complaint dismissed at the stage of initial assessment.
- no clear evidence of their involvement in the Rohingya policy; governmental activities

Korean Companies after the coup d'état

(5) Request of NGOs

- POSCO and KOGAS should exercise HRDD.
- Stop Paying money.
- Institutional Investors, esp public Fund, should take actions, including divestment.

UNGPs and Policy Recommendations

UNGPs as a universally accepted BHR norm.

Corporate responsibility to respect

- HRDD: access impacts, acting, track, communicate.
- high-risk area
- institutional investors as a business enterprises.
- business relationship whether domestic or abroad, whether non-state and state
- even if no contribution; leverage; stop business relationship.

State duty to protect, encourage or require HRDD by law and policy

UNGPs and Policy Recommendations

- No HRDD found in Korean companies and investors
- ignoring international norm of NGO request
- CSR activities are not the way to address BHR issues

→This is the current status of BHR in Korea.

despite 3-4 years of BHR policy on state enterprises

despite NCP activities

despite NGO efforts

UNGPs and Policy Recommendations

Companies should have exercised, and should exercise HRDD.

- HRs impact assessment, with stakeholders
- establish policy to address HRs issues, with stakeholders
- acting on the policy, with stakeholders
- track the policy, with stakeholders
- communicate process and outcome of HRDD to stakeholders
- provide grievance mechanism, allowing stakeholders to express their concerns on HRs.

State should use law and policies, to enforce corporate responsibility to respect

UNGPs and Policy Recommendations

(1) BHR policy on public enterprises

- 3-4 year experience of of BHR policy

- No disclosure of BHR reports, including KOGAS, NPS

- Guidelines for BHR reporting and evaluation.

- monitoring and sanction

UNGPs and Policy Recommendations

(2) NCP of OECD Multinational Enterprises

- NCP could have use Royangya case to build norm and practice in address BHR issues.
- initiate dialogue and discussion between the parties
- reach a settlement, satisfying both parties
- offer recommendation, showing NCP's expectations

→ NCP lost opportunities to make contribution

It reflects NCP's inability and unwillingness, requiring NCP reform.

UNGPs and Policy Recommendations

(3) National Communication on Human Rights

Could have done more active role, by making recommendations on:

- NCP reform
- enactment of mandatory HRDD
- stricter policy on public enterprises
- individual public enterprises (NPS, KOGAS)

UNGPs and Policy Recommendations

(4) National Assembly

- adopting HRDD law.

 - strict HRDD reporting, with stakeholder's access to information

 - governmental oversight and sanction for inadequate HRDD

 - empowerment and participation of stakeholders in HRDD

- legal accountability for corporate HRs abuses, civil, criminal and administrative, including complicity in them

Conclusion

- UNGPs don't require all the company to stop all the business in Myanmar, only asking companies not to stay linked with military group who is responsible for the coup d'état.
- Korean companies are required, at minimum, to exercise HRDD, in cooperation with stakeholders including NGOs, in transparent way.
- For companies to exercise HRDD, the strong policy commitment of state is indispensable.