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Natural Disaster and Humanitarian Assistance in Asia: The Case of Myanmar

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1 Introduction

In May 2008, the international community was frustrated with Myanmar's¹ resistance to humanitarian access after the country was hit by the large-scale cyclone named 'Nargis.' Western nations as well as neighboring countries tried to persuade the military government to open up the country and to let in aid supplies and rescue personnel, however, the junta refused to accept them. Myanmar criticized the humanitarian access, calling it 'humanitarian intervention.'

This paper looks further into the Myanmar case, focusing on political negotiations among the international community, regional community and Myanmar. The Myanmar case is the first in which controversy over humanitarian access after a natural disaster occurred, and it involves the principle of the 'Responsibility to Protect' (generally called the 'R2P')² vulnerable people from crimes against humanity. In this case, a number of Western nations asked for the invocation of the R2P principle proposing that the UN Security Council should pass a resolution to authorize emergency relief delivery and impose this on Myanmar if the junta was either unwilling or unable to cope, and where significant loss of life had occurred. If a state fails to protect its people does it then become the responsibility of the international community to protect that state's population? This paper makes a modest attempt to answer that question.

2 The Case of Myanmar: Cyclone Nargis

During May 2 and 3, 2008, the strong tropical cyclone Nargis directly hit Myanmar, making landfall in the Ayeyarwady Division and affecting more than 50 townships. Damage was most severe in the delta region, where the effects of extreme winds were compounded by a 3.6 meter storm surge.

As of 24 June 2008, the official death toll stood at 84,537, with 53,836 still missing and 19,359 injured. Some 2.4 million people were severely affected by the cyclone, out of an estimated 7.35 million in the affected townships, according to the United Nations Office for the Coordination of Humanitarian Affairs (OCHA).³ It was the worst natural

¹ Various entities use or reject the name 'Myanmar' and some refer to 'Burma.' In this paper, the author uses 'Myanmar' according to the United Nations usage. However, it does not mean that the author supports the military junta in the country.

² Responsibility to Protect, generally called 'R2P,' was initiated by the Canadian government and several other actors in 2000. It is concerned with protecting vulnerable populations from four specific crimes: genocide, war crimes, ethnic cleansing and crimes against humanity. The principle was included in the 2005 General Assembly resolution, and a year later it was unanimously reaffirmed by the Security Council Resolution 1674. The details of the principle are mentioned later in this paper.
³ 'Myanmar Cyclone Nargis OCHA Situation Report No. 51,' by the Office for the

disaster in the recorded history of Myanmar. Nargis moved across southern Myanmar on the evening of May 2, leaving a trail of death and destruction before petering out the next day. It devastated much of the fertile Irrawaddy Delta and Yangon, the nation's main city.

According to two disaster research institutions⁴, there are five main causes for why this was Myanmar's worst disaster.⁵ Firstly, the pathway of Nargis was unusual in the following two points; its movement and power. Most cyclones which spawn in the Bay of Bengal move to the north, however, Nargis went to the east, according to the Center for Southeast Asian Studies Kyoto University (CSEAS).⁶ There have been only six similar cases in the last 58 years, the center says. A further point is that Nargis gained power 24 hours before it landed in Myanmar. At one point, Nargis was a Category 4 cyclone, with sustained winds of 210 kilometers per hour (130 miles per hour).⁷ The typhoon lost strength before coming ashore on May 2 as a Category 3/4 storm, but it still carried very powerful winds and heavy rain when it struck the low-lying coastal plains, causing severe damage.

Secondly, mangrove forests which usually protect residential areas in the delta area from the high waves of the Indian Ocean were devastated by the cyclone and themselves caused damage in the area. Thirdly, the country is far behind in disaster prevention infrastructure and shelters, banks and alert systems are underdeveloped. Fourthly, simple frame houses were easily destroyed by the three-meter high or more tidal waves. Fifthly, rescue activities were delayed due to political reasons as the junta in Myanmar refused humanitarian access to Western nations.

Three days after Nargis passed, on May 6, the Myanmar representation in New York formally asked the United Nations for help. As of May 7, the government of Myanmar had not officially endorsed international assistance, but stated that they were, 'willing to accept international assistance, preferably bilateral, government to government.³

NASA Earth Observations at

Coordination of Humanitarian Affairs (OCHA), United Nations, 24 October 2008.

⁴ InterRisk Research Institute & Consulting, Inc. (IRRIC); Center for Southeast Asian Studies Kyoto University (CSEAS)

⁵ InterRisk Research Institute & Consulting, Inc. (IRRIC) at http://www.irric.co.jp/opinion/more/048/index.html (accessed June 4, 2009)

http://www.cseas.kyoto-u.ac.jp/cyclone/1-Meteo Geomor Map JP.htm (accessed on Aug. 15, 2009)

http://earthobservatory.nasa.gov/NaturalHazards/view.php?id=19863 (accessed on Aug. 15, 2009)

⁸ CNN.com/asia at

http://edition.cnn.com/2008/WORLD/asiapcf/05/06/myanmar.relief/index.html

Myanmar's neighbor, Thailand, was the first country to send medical and food supplies (worth US \$100,000) via the Thai Red Cross.⁹ Additionally, Chaiya Sasomsap, the Minister of Public Health of Thailand, stated that the Government had already sent medical supplies valued at more than one billion <u>baht</u> (US \$31.3 million) to Myanmar. Furthermore, the Government of Thailand dispatched, upon the permission of the junta, 20 medical teams and communicable disease suppression units. Samak Sundaravej said that if Myanmar allowed Thailand to help, the Thai Air Force would provide C-130 aircraft to carry the rescue teams there, stating that, 'This should not be precipitately carried out; it has to have the permission of their government.'¹⁰ The rescue teams were permitted to land in Yangon on May 7, carrying drinking water and construction materials.

The junta also permitted Italian flights containing relief supplies from the United Nations, and 25 tons of emergency equipment such as stretchers, generators, water purifiers, and consumable goods.¹¹ The flight arrived in Yangon and was the first aid flight from a Western nation, preceded only by the aid from Thailand.

Many other nations, international institutions, NGOs and private companies from around the world immediately offered assistance to Myanmar. Many proposed to send money and donations of food and medical and emergency supplies to Myanmar without delay, however, most of their officials, supplies and stores were kept waiting in Thailand or at Yangon airport. Political tensions raised the concern that some food and medical supplies might become unusable, even before the junta officially accepted international relief efforts.

The biggest challenge for those wishing to provide humanitarian assistance was to obtain a visa for entry into the country. The junta declined to issue visas for all emergency personnel and instead only issued visas to a limited number of people. Some 130 UNICEF staff, who were all working in the country before the cyclone, were redeployed with government permission to help out in the recovery effort. But another 100 UN staff could not gain visa clearance to enter the country.¹² According to White House spokesman Dana Perino, the United States Agency for International Development (USAID) was ready to send a Disaster Aid Response Team into Myanmar, and two US Navy ships -- already nearby for a disaster relief exercise and loaded with water and other key aid staples -- headed towards Myanmar, but a request for visas met

⁽accessed Aug. 3, 2009)

⁹ Thai Rath Newspaper, 7 May 2008.

¹⁰ Thai Rath Newspaper, 7 May 2008.

¹¹ Thai Rath Newspaper, 8 May 2008.

¹² AFP, 6 May 2008.

with no response.¹³ With the death toll reaching 22,000 dead and 41,000 missing, many aid agencies were still awaiting travel visas to enter the reclusive nation.¹⁴

The foreign media was also shut out from the country restricting the flow of information about the disaster to the outside world. Journalists from Reporters Without Borders and asylum journalists of the Burma Media Association were refused entry. Some of them were even arrested and received unjustifiable sentences for giving emergency supplies to the disaster victims.

Researchers from the John Hopkins Bloomberg School of Public Health in the United States and the Emergency Assistance Team (Burma) jointly released a report titled 'After the Storm; Voices from the Delta,' in which they claimed that the junta obstructed relief to the victims of the cyclone.¹⁵ The junta arrested aid workers and journalists, and severely restrained the release of accurate information even in the wake of the worst natural disaster to befall modern Myanmar. The report charges that these abuses may constitute crimes against humanity through the creation of conditions whereby the basic survival needs of victims could not be adequately met, intentionally causing great suffering, serious injury and damage to citizens' mental and physical health.

Subsequent to the disaster there has been an international campaign to seek justice and criminal accountability on behalf of the victims in Myanmar. The Swedish government and the European Union called for the attention of the international community to be focused on the crimes being committed by the junta against its own people. In particular, since the emergence of the International Criminal Court, focusing on those offenses which constitute international crimes such as crimes against humanity, genocide and war crimes.

Four major factors can be considered as reasons why Myanmar refused international aid. Firstly, the military government is deeply suspicious of the outside world, especially as the international community has frequently strongly criticized Myanmar for human rights abuses. The junta nullified the results of the 1990 election that the National League for Democracy won decisively and refused to hand power over to the NLD leader, Aung San Suu Kyi. Since then, Suu Kyi has been under house arrest for 14 of the past 20 years -- allegedly for presenting a threat to national security. Many other human rights violations including state-sanctioned torture, rape and children's and

¹³ AFP, 6 May 2008.

¹⁴ AFP, 6 May 2008

¹⁵ *After the Storm; Voices from the Delta*, by the Johns Hopkins Bloomberg School of Public Health, 27 February 2009.

minorities' rights abuses have been reported to the UN.¹⁶ On the occasion of Cyclone Nargis, many nations required the junta to deliver the aid via UN- or charity-affiliated agencies. The junta is dissatisfied with such a 'Western' way.

Secondly, it seems that for the junta, humanitarian access from the West is seen as a threat to its sovereignty. The junta always asked Western nations to bring emergency aid by aircraft and not directly across the land border about which it is very sensitive even during an emergency.

Thirdly, the Myanmar military pretended to its people that it was in control of the disaster. Using the state-run media, the junta appealed to the international community that it was doing well.¹⁷ The Myanmar government-run newspaper, *New Light of Myanmar*, reported that emergency aid had been brought into the country by air and that rescue teams delivered it to the 2.4 million disaster victims without delay.¹⁸

Fourthly, and this might be the most important reason, in the midst of the cyclone's devastation, the junta went ahead and held a referendum on a new constitution on May 24. Myanmar TV broadcast messages urging people to vote 'yes' in a referendum that critics said would strengthen military rule.¹⁹ A marketing campaign showed pictures of people voting as a song played with the lyrics, 'Let's go to cast a vote with sincere thoughts for happy days.' Similar notes were posted on ballot boxes. *The New York Times* said it appeared that some resources for cyclone victims were diverted to the vote campaign. In some cases, according to the Associated Press, generals' names were scribbled onto boxes of foreign aid before being distributed.

On May 24, Myanmar's ruling generals announced that a new constitution, viewed by critics as a pro-junta sham, had been overwhelmingly approved by voters. The referendum was approved by more than 92% of voters, the state-run media reported.²⁰

3 Political Negotiations on Humanitarian Access

The refusal of humanitarian access by the junta greatly irritated world leaders. The United States and Australia led international calls for the junta to ease entry restrictions and to allow disaster relief to reach the cyclone-hit areas. New Zealand Prime Minister Helen Clarke said her country's help would not be distributed through the military

¹⁶ Human Rights Watch, Freedom, and other international NGOs have addressed the human rights situation in Myanmar. The UN has sent a human rights envoy several times to the country to investigate alleged abuses.

¹⁷ AFP, 3 June 2008

¹⁸ Myanmar.com at <u>http://www.myanmar.com</u> (accessed Aug. 3, 2009)

¹⁹ CNN, 10 May 2008

²⁰ AFP, 2 June 2008.

regime in Myanmar but via the UN.²¹ Japan, UK, and UN-affiliated organizations also asked for the junta to send the aid via the UN or charity organizations. However, the junta did not change its attitude and a natural disaster was turning itself into a 'man-made calamity.'

Various international leaders expressed outrage at the delays in allowing aid into Myanmar. UN Secretary-General Ban Ki-moon commented, 'I want to register my deep concern and immense frustration at the unacceptably slow response to this grave humanitarian crisis.' Ban also warned of the threat of infectious disease taking hold.²² US Defense Secretary Robert Gates commented that Myanmar was guilty of 'criminal neglect' for blocking large-scale aid to victims, and that more Myanmar people would perish unless the military regime reversed its policy.²³

French Foreign Minister Bernard Kouchner said that this was a proper case for coercive intervention under the 'Responsibility to Protect' (R2P) principle which had been unanimously endorsed by 150 heads of state and government at the 2005 UN World Summit.²⁴ The French minister was angered by the response of the junta to an offer of French aid. One French naval ship loaded with 1,500 tons of medical equipment, food and water was waiting off the coast of India for Myanmar government authorization to enter territorial waters. But the junta leaders accused France of sending 'a warship.²⁵ Kouchner said, 'We won't give aid to the junta, even if they would accept it. We will use our own channels in the country.'

Kouchner called Myanmar's refusal of foreign aid 'a crime against humanity.' He wanted to invoke the R2P saying that the world had to fulfill its responsibility to protect the victims with or without the regime's permission. The United States and Australia also argued that the international community should live up to its responsibility to protect and deliver aid without the regime's consent.²⁶ These kinds of statements by Western leaders both hardened Myanmar's attitude and aroused the antipathy of China and Russia -- both Security Council members -- as well as Indonesia, Vietnam and South Africa.

China's UN ambassador, Liu Zhenmin, argued that it was not an issue for the Security Council. 'The current issue of Myanmar was a natural disaster and the situation

²¹ AFP, 6 May 2008

²² UN News Centre, 12 May 2008, at <u>http://www.un.org</u>

²³ The New York Times, 2 June 2008

²⁴ *The Guardian*, 2 May 2008.

²⁵ Los Angeles Times, 7 May 2008.

²⁶ Cyclone Nargis and the Responsibility to Protect, Myanmar/Burma Briefing No. 2, 16 May 2008, by the Agia Pagific Centre for the Responsibility to Protect

¹⁶ May 2008, by the Asia-Pacific Centre for the Responsibility to Protect.

should not be politicized,' Liu said.²⁷ Experts warned that Southeast Asia nations and India, one of the few countries which maintained close relations with Myanmar, might also take exception to any intervention in Myanmar.

The stalemate was finally broken by ASEAN countries, mainly Thailand and Singapore. ASEAN and neighboring countries played an active role in changing the mind of the junta to allow international aid after the initial refusal. ASEAN appealed to the international community to send relief supplies through Thailand, and decided to develop rescue activities and send medical personnel in cooperation with the UN. It set up a task force for redistributing foreign aid via Thailand.

After encouragement from British and American envoys, Thai Prime Minister Samak Sundaravej persuaded Myanmar's government to accept Western aid. In this way, thanks to the efforts of ASEAN and neighboring countries, Myanmar allowed aid supplies from the west but foreign humanitarian relief personnel and journalists were still not allowed visas.

4 R2P Discussions Emerged

The French Minister Kouchner's invocation of the R2P generated concern from Britain and some UN officials. They said that such an inflammatory approach to Myanmar would be counterproductive in winning any still-possible cooperation from the junta. And it also provoked arguments from some humanitarian relief groups that any rescue efforts, such as dropping supplies from the air, without an effective support relief on the ground would be hopelessly inefficient, and even dangerous with the prospect of the misuse of medical supplies. Besides, Kouchner's proposal that the Security Council pass a resolution to authorize aid delivery and impose this on Myanmar met with an immediate rejection from China and Russia, two countries that are always sensitive about external intervention into internal affairs.

Kouchner's invocation of the R2P was understandable as a political rallying cry for the international community,²⁸ however, it had the potential to negate international support for the ending of mass atrocity crimes once and for all. The R2P was originally initiated by the Canadian government and several other actors in 2000. They established the International Commission on Intervention and State Sovereignty (ICISS) to address the challenge of the international community's responsibility to act in the face of the

 ²⁷ China shows little desire to exert pressure on Burma, *Times Online*, 9 May 2008, at http://.timesonline.co.uk/tol/news/world/asia/article3900686.ece.
 ²⁸ Gareth Evans, Myanmar: 'Facing Up to Our Responsibilities', *The Guardian*, 12

²⁸ Gareth Evans, Myanmar: 'Facing Up to Our Responsibilities', *The Guardian*, 12 May 2008.

gravest of human rights violations while respecting the sovereignty of states. It sought to bridge these two concepts with the 2001 R2P report.

In the language of the 2005 UN General Assembly resolution, R2P is concerned with protecting vulnerable populations from the four specific crimes of 'genocide, war crimes, ethnic cleansing and crimes against humanity.' A year later, in 2006, the R2P was unanimously reaffirmed by the Security Council in Resolution 1674, which stated the community's determination to protect civilians. The Resolution states that it is only in that context that the question should even arise of coercively intervening in a country against the express will of its government, and even then the responsibility to protect only allows the use of military force with Security Council endorsement. This is as a last resort after prevention has failed, and when it is clear that no less extreme form of reaction could possibly halt or avert the harm in question. The response should be proportional to any possible harm and on balance more good than damage will be done by the intervention.

The Canadian commission, ICISS, included environmental or natural disasters as possible events after which the international community could intervene if a state failed in its responsibility to protect its population. But in 2005, when the R2P doctrine was incorporated into the 2005 UN General Assembly resolution, environmental disasters were dropped as a reason for intervention. The document just said that it was every state's responsibility to protect its citizens from the previously mentioned four crimes of genocide, war crimes, ethnic cleansing and crimes against humanity. If a state fails to do so, the document says, it then becomes the responsibility of the international community to protect that state's population. The document was unanimously adopted by all member states but is not legally binding.

Although environmental disasters had been dropped as a reason for intervention, if what the Myanmar junta did, in denying relief to hundreds of thousands of people at risk of death, can be characterized as a crime against humanity, then the R2P principle does indeed come into force. The ICISS reports that initiated the R2P concept in fact anticipated this situation, in identifying one possible case for the application of military force as an overwhelming natural or environmental catastrophe, where the state concerned is either unwilling or unable to cope or call for assistance, and significant loss of life is occurring or threatened.

5 Conclusions

In the Myanmar case, the junta refused humanitarian access from the international community, criticizing international aid as humanitarian intervention. When we move to

the issue of whether the international community has a right or a duty to offer humanitarian assistance, the question is always related to the issue of humanitarian access and the highly politicized issue of humanitarian action today.

Some Asian countries are willing to allow access during natural disasters. For example, in 2004 the Indian Ocean tsunami hit Indonesia's Aceh Province, where the government had been fighting a secessionist movement for more than four decades, Indonesia both allowed international aid in and drew up a peace agreement which led to the election of a former secessionist leader as governor of the province. Similarly in 2005, after a powerful earthquake rocked the long-disputed Kashmir region dividing India and Pakistan, the Pakistan government decided to allow access to international relief agencies, and even to India. Most recently, on the occasion of the Sichuan earthquake in May 2008, the Chinese government, which in the past has spurned foreign aid, did accept international relief. China also opened a hotline for the US military to increase communication with its Chinese counterparts, and eased media restrictions. China's 'extraordinary leadership'²⁹ was highly appreciated by international leaders.

However, some nations, especially former colonies, have long seen intervention of any kind as a threat to their sovereignty, and humanitarian access is no different to them. Discussions over national sovereignty and international human rights, therefore, always occur whenever a devastating disaster happens and the regime/government is unwilling to accept international aid. The International Law Commission's report also references the debate over R2P, noting the difficulties of applying this concept to disaster response.³⁰

The response of Myanmar to Cyclone Nargis led to passionate discussions about the right or duty of the international community to respond when a national government was unwilling or incapable of providing humanitarian assistance to its people. This is a contentious issue raising the sometimes competing principles of national sovereignty and international human rights. On an operational level, it is also contentious as there is often local resentment when the international community arrives and makes local authorities feel ignored or overwhelmed. Those problems seem quite technical and so it might be useful to bring together a small group of experts from both the legal community and humanitarian policy makers to tease out some areas of possible overlap.

²⁹ Comment by the UN Secretary-General Ban Ki-moon, *The New York Times*, 25 May 2008.

³⁰ International Law Commission, Preliminary Event of Disasters by Eduardo Valencia-Ospina, Special Rapporteur, 5 May 2008, A/CN.4/598.

between the R2P and questions about the right to humanitarian assistance.³¹

In parallel with a theoretical debate on humanitarian access and the R2P, Asia also needs to prepare for future disasters. Asian nations need to share disaster experiences and know-how of disaster activities with their neighbors, and make the best of the international mechanisms of disaster relief. The international community already has disaster aid professionals such as OCHA, and the Inter-Agency Standing Committee (IASC), a unique forum involving the key UN and non-UN humanitarian partners on the strengthening of humanitarian assistance and the primary mechanism for inter-agency coordination of humanitarian assistance.³²

Well-known as 'a treasure of natural disasters,' the Asian region is the most disaster-prone area by far compared to other regions. According to statistics from CERD-EMDAT, in the period between 1975 and 2006, the number of natural disasters in Asia accounted for 37.5% of the world total, with Asia accounting for 44.44% of damage and 88.87% of disaster victims.³³ In addition to geological reasons such as complicated earthquake zones, Asia is vulnerable to natural disasters due to its density of population, poor infrastructure, and the rapid development and destruction of nature. All those factors are considered to amplify the damage caused by natural disasters.

In addition to developing partnerships with international organizations, Asian countries need to strengthen cooperation with regional organizations such as ASEAN, neighboring countries, local authorities, and NGOs such as Medecines sans Frontieres, Save the Children, and World Vision.

As can be seen from the Myanmar case, ASEAN played an active role to persuade the junta to allow relief goods into the country. The role of regional actors and neighbors becomes extremely critical. The cooperation and consent of local authorities are also very important to grant visas for aid personnel, to access remote regions in a country and to provide effective and timely delivery of assistance. In addition, it is indispensable in an emergency situation to allow access to the foreign media as they can play such an important role in reporting a disaster situation to the rest of the world, which in turn will attract more attention and cooperation.

³¹ Elizabeth Ferris, *Humanitarian Perspectives on 'Protection of Persons in the Event of Disasters*, '21 April 2009 at

http://www.brookings.edu/speeches/2009/0421_natural_disasters_ferris.aspx (accessed 21 Aug. 2009)

³² The Inter-Agency Standing Committee (ISAC) was established in 1992 in response to the United Nations General Assembly Resolution 46/182.

³³ InterRisk Research Institute & Consulting, Inc. and CERD-EMDAT Katholieke Universiteit Leuven, Belgium, in 2006.

Asian countries have different political systems, historical backgrounds, and diversified cultures, traditions and religions. As their levels of development also differ it seems hard to find a 'unified view' to a resolution. However, disaster-related activities are one of the fields in which people can cooperate and work together. As in the case of Myanmar, there are some nations who are unwilling or unable to protect their own population. Some are skeptical of the rest of the world because of a lack of mutual trust, which is due to historical experiences or the political beliefs and systems of the nation concerned. Asian countries need to encourage confidence in each other on a routine basis.

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