CHAPTER 10
Cyclone Nargis – From natural disaster to human catastrophe
10.1 Introduction

On 2 May 2008 the lower western regions of Burma were hit by Tropical Cyclone Nargis. The scale of the cyclone and the devastation it left in its wake made the task of identifying victims and those affected very difficult to accurately gauge. Estimates vary in range, however, most sources agree that around 140,000 people may have lost their lives, and around 2.4 million people were directly affected by the event. The actual story of the cyclone and its effects have been covered extensively by the international and exile media as well as those groups operating on relief and reconstruction efforts in the Irrawaddy and Rangoon Divisions, which bore the brunt of the cyclone’s impact. Therefore, it shall not be necessary to herein repeat the details of the event. This chapter will look at how the disaster may have served to facilitate human rights violations in the early phases of the relief effort, including those abuses that were directly related to the cyclone, but not necessarily perpetrated in the delta regions, where most examinations of the human rights element to the relief operations have been focused.

It should be established at the outset that the areas worst affected by the cyclone; the Rangoon and Irrawaddy Divisions, were not typically those where egregious rights violations associated with armed conflict have been carried out previously in Burma. Both of these divisions are, and have been for some time, firmly under the control of the State Peace and Development Council (SPDC). This is in contrast to the areas in the east of Burma, such as Karen State, that remain divided into areas controlled by the SPDC, the Democratic Karen Buddhist Army (DKBA) and the Karen National Liberation Army (KNLA). These areas are characterised, in human rights terms, by abuses associated with armed conflict and militarization; including the targeting of civilians, forced portering and sexual abuse at the hands of soldiers, to name a few of the more common abuses.

By contrast, two different sets of rights abuses are examined in this chapter. The first is the denial of aid and lack of response in the initial period after the cyclone, constituting a breach of the state’s responsibility to protect its citizenry. The second set of abuses relate more closely to those that have arisen due to poverty as well as those restrictions that are more familiarly linked to repressive police states; restrictions of movement, control of the media, political repression, corruption etc.

This photograph depicts the incredible devastation done to Haing Gyi Island off the coast of Irrawaddy Division. The island was the first place in Burma to be hit by the cyclone, although very little information was made available as to the scale of the destruction that it endured. [Photo: © Mizzima News]
There have been competing reports from international groups which provide very different accounts about human rights abuses in the immediate aftermath of the cyclone. Without any one group of international or local actors, be they international non-governmental organisations (INGOs) or media having access to the overall picture, it remains a difficult process to accurately assess the levels of abuse that occurred in the delta and other areas. What is clear, and can be stated with confidence, is that the junta’s initial response to the crisis was slow and unacceptable, ran contrary to international law and deserves condemnation. Secondly, even though much of the evidence of rights abuse in the later periods of the relief operation was somewhat circumstantial, the frequency of media reports in which people claimed corruption on behalf of the SPDC in various levels of the relief and reconstruction phase were too numerous to be ignored or discounted out of hand. These reports, mostly from the media, combined with the strength of the military’s atrocious track record, do nothing to dispel the image of pervasive and corrupt practices on behalf of SPDC personnel. Furthermore the reports surrounding the holding of the referendum suggested the ongoing repression of political activists and their allies in the civil society sector.

Before and after satellite images of the Irrawaddy Delta showing the enormity of the damage done by the cyclone. The top photograph, dated 15 April 2008 shows the typical coastline of Irrawaddy and Rangoon Divisions, while the second photograph, dated 5 May 2008, three days after the cyclone, shows the extent of inundation and the immense amount of damage done to Burma’s coastline. [Photos: © NASA/MODIS Rapid Response Team]
A final important point to note is that the area that was struck by the cyclone was already greatly impoverished in much the same way as other areas of the country before the cyclone. The general poverty of Burma, when combined with a severe disaster created ripe conditions for abuses to take place. For example, the general confusion in the immediate aftermath allowed confused individuals into being tricked by traffickers into thinking that they were aid workers who would take them safety. There were already abuses such as illegal taxation and political repression, to use just two examples, taking place in the areas in question, however, the cyclone and the ensuing relief and reconstruction efforts allowed greater opportunity for those abuses to flourish in some instances.

An aerial view of Irrawaddy Division in the wake of Tropical Cyclone Nargis showing the extent of inundation. Most of the land shown in this photograph was being utilized as irrigated rice fields prior to the cyclone; although the deluge of salt water which flooded the region has since rendered much of this land not viable for cultivation. [Photo: © Reuters/UN]
10.2 Nargis and the Failure to Respond

The International Law Perspective

In the weeks that followed the cyclone, even hardened Burma watchers were surprised to witness the negligent manner in which the regime handled the relief efforts. The large amounts of foreign aid and disaster experts that were prepared to enter the country at a moments notice were largely rejected in the initial phase, as the military sought to shore up its image of self-sufficiency, at the cost of those un-reached survivors in the remote delta regions. It is impossible to quantify the cost of this inaction; however, it seems likely that many would have lost their lives due to the slow recovery efforts in the areas that were entirely devastated and were left exposed to the elements. As those communities were left stranded without aid, the SPDC simultaneously snubbed foreign aid, aid workers and international agencies while proceeding to steer essential resources away from the relief effort and toward going ahead with the constitutional referendum. The junta’s refusal to grant visas for humanitarian staff of INGOs and UN agencies, as well as the subsequent blocking of aid and workers going into the delta, while shocking, did not last very long. Within several weeks, groups were granted visas, and access to a large percentage of the survivors in the delta region. Despite that short time frame of recalcitrance on the SPDC’s behalf, it was more than long enough to put at risk the lives of survivors who were in immediate need of food, medicine and shelter. The SPDC’s abrogation of its clear responsibilities was in contravention of customary international law. Quite apart from breaches of international law regarding the regime response to the crisis, there were also those abuses purportedly committed in connection with the relief efforts.

Both the impediments to the relief efforts and the eventual implementation of the relief and reconstruction activities should be at least looked at through the rubric of international law, in order to judge whether or not human rights abuses occurred in this context.

As a background to briefly looking at the relevant bodies of international law that might apply in the post-Nargis environment, it should be said that Burma’s track record over the preceding decades under military rule in regards to international law has been abysmal. The SPDC have regularly flouted most customary international laws including the Geneva Conventions, the Universal Declaration of Human Rights (UDHR), as well as the more specific international conventions that it has actually acceded to, such as the Convention on the Rights of the Child (CRC), the Convention on Elimination of all forms of Discrimination Against Women (CEDAW) and the ILO Forced Labour Convention of 1930.

Over the course of 2008, to highlight just one area in which the SPDC have failed to live up to convention obligations, international human rights activists released four separate reports deriding Burma’s efforts to protect the rights of children in line with its obligations under international treaties. The reports detailed instances of forced labour, sexual violence against children, use of children as child soldiers, lack of health care and poor access to education, to name just a few of the more common abuses. Even though all of these abuses are illegal under Burmese domestic law (mostly under the Child Law) as well as under the CRC, the abuses continue.

These breaches of the CRC, coupled with the range of human rights abuses in Burma and the persistent lack of action taken against perpetrators of rights abuses, serve as an example of several aspects of the current Burmese situation. Firstly, it illustrates how little regard there is for the rule of law in Burma, let alone international law. Secondly, it shows that there is very little political will on the part of the junta to uphold even domestic law and this assertion is supported by the fact that hardly, if ever, do reports emerge from Burma where perpetrators of rights abuse are punished through the judicial system. The lack of political will has been noted by many working in human rights in Burma, notably the ILO who have criticised the junta’s lack of will in addressing concerns around the issue of forced labour, regardless of its accession to the ILO Forced Labour Convention of 1930, which it ratified in 1955.1
Lack of Humanitarian Access

One of the most troubling aspects of the SPDC’s handling of the relief effort following Nargis was the restriction of humanitarian access to those survivors of the Irrawaddy delta region. The blocking of international aid and aid workers, both foreign and domestic, drew much debate from the international community regarding whether or not these actions constituted violations of international law. From some quarters came the argument that denial of aid constituted a crime against humanity, whilst others took the view that the regime’s dilatory response was enough to invoke the Responsibility to Protect (R2P) doctrine. Crimes against humanity are defined by the Rome Statute of the International Criminal Court as:

“any of the following acts when committed as part of a widespread or systematic attack directed against any civilian population, with knowledge of the attack:
(a) Murder;
(b) Extermination;
(c) Enslavement;
(d) Deportation or forcible transfer of population;
(e) Imprisonment or other severe deprivation of physical liberty in violation of fundamental rules of international law;
(f) Torture;
(g) Rape, sexual slavery, enforced prostitution, forced pregnancy, enforced sterilization, or any other form of sexual violence of comparable gravity;
(h) Persecution against any identifiable group or collectivity on political, racial, national, ethnic, cultural, religious, gender as defined in paragraph 3, or other grounds that are universally recognized as impermissible under international law, in connection with any act referred to in this paragraph or any crime within the jurisdiction of the Court;
(i) Enforced disappearance of persons;
(j) The crime of apartheid;
(k) Other inhumane acts of a similar character intentionally causing great suffering, or serious injury to body or to mental or physical health.”

The aftermath of Tropical Cyclone Nargis in Bogale Township, Irrawaddy Division. Cyclone Nargis, which hit Burma on 2 May 2008, affected an estimated 2.4 million people in what has become the worst natural disaster in Burma’s history. [Photo: © Delta Tears]
The main problem inherent in labelling the acts of the regime as crimes against humanity is the wording of the initial sentence quoted above which states that attacks must be ‘widespread and systematic’. M. Cherif Bassiouni, a United Nations international legal expert, explains that despite eleven separate international legal definitions of crimes against humanity, a common element to all definitions is that crimes against humanity,

“must be the product of persecution against an identifiable group of persons irrespective of the make-up of that group or the purpose of the persecution. Such a policy can also be manifested by the “widespread or systematic” conduct of the perpetrators.”

Even though the junta’s behaviour in denying immediate access to the delta and the prompt provision of aid to survivors was abhorrent to both the international community and the domestic community alike, it would be difficult to classify their actions as being part of a widespread and ongoing attack on a specific group of people in the subsequent fortnight following the cyclone when aid was impeded. Given the timeframe involved and Burma’s strained relations with the international community (which provided a pretext to stall aid inflows that may have been construed by the regime as foreign interference in internal affairs), it would be difficult to argue that the regime went out of its way to conduct crimes against humanity in this instance.

Having made this point however, there were more than enough incidents taking place in the delta and elsewhere in Burma to suggest that grave violations of human rights, though not at the level of crimes against humanity, were indeed taking place, and some of those shall be documented hereafter.

In the second instance where R2P is concerned, there were many disquieting factors in recommending the invocation of the R2P doctrine. The biggest constraint on the idea was that the doctrine is in no way an international legal norm and is still being debated in the international community. The central tenet of the R2P being that, “each individual state has the primary responsibility to protect its populations from genocide, war crimes, crimes against humanity and ethnic cleansing.”

![Tropical Cyclone Nargis as seen from the International Space Station (ISS) on 29 April 2008, three days before making landfall along the Burmese coast. (Photo: © NASA)](image-url)
Quite apart from the limitations on the use of R2P arising from its unclear international legal status, the wording of the doctrine explicitly suggests that the doctrine was not intended to be applied in cases of state neglect in times of catastrophe, despite the unsavoury nature of the regime’s response. Despite these clear objections, wild arguments suggesting humanitarian intervention were bandied about after the impact of Nargis that were neither realistic nor helpful. Furthermore, the inference that foreign forces would consider aid drops, which would have violated Burmese sovereignty, could have had no other realistic effect beyond frightening the generals into making their stance against foreign aid offers even more rigid.

**SPDC’s Failure to Act on Warnings**

The regime’s irresponsible reaction to the impact of Nargis was, in point of fact, its second act of negligence regarding the disaster. Eventually reports emerged that the Indian Meteorological Department (IMD) had warned the SPDC about the impending formation of a low-pressure system in the Bay of Bengal as far as 48 hours ahead of the eventual cyclone making landfall on 2 May 2008. The IMD claimed that they received no reply from the Burmese authorities. According to Mr M Mahapatra, the cyclone director of the IMD, warnings to Burma began from 26 May 2008, when the IMD first noticed the tropical depression forming in the bay. According to Voice of America the director said, "We issued the lengthy warning for Myanmar, that is, a cyclone is likely to cross [the] Myanmar coast - that bulletin was issued 36 hours in advance. We sent an e-mail actually, we could not get any reply. So there was no direct contact, but we had sent the bulletins as for the practice."  

The Executive Director of the IMD, Mr B P Yadav was also quoted as saying, "We updated the Myanmar [Burmese] authorities every three hours and on April 30 we provided the detail route, speed and locations of where the cyclone will hit."  

Such an amount of notice provided ample time for the authorities to take harm reduction measures and evacuate people from the Irrawaddy Delta; however, in the end there was little warning from the authorities for the people living in the region who found themselves being struck by what, in the end, proved to be a category 4 level cyclone (a ‘very severe tropical cyclone’). According to the Irrawaddy, "Burma’s Department of Meteorology and Hydrology (DMH) issued inaccurate and inadequate information, failing to inform residents in the storm’s path." Other sources reported that the DMH merely posted a warning on its website on 27 April 2008 indicating that a cyclone was forming in the Bay of Bengal and was heading in the direction of Burma, but nothing further. This information was not widely disseminated however, and was of little use to the rural poor in the remote parts of the delta, some of whom were living without electricity, let alone internet access. Eventually, state media got around to announcing the imminent danger of the cyclone, but this warning only came on 2 May 2008, the day the cyclone struck; far too late to be of any consequential benefit. According to Dr Smith Dharmasaroja, chairman of Thailand’s National Disaster Warning Centre, the junta should have issued a cyclone warning long in advance of the cyclone making landfall in order to facilitate evacuation of the delta, and that the failure to do so may have cost "thousands of innocent lives." It should have been possible to do this as warnings came not just from IMD, but also from the Asian Disaster Preparedness Centre in Bangkok; despite these warnings, the authorities took no steps to disseminate the information to the wider public, effectively endangering the lives of the inhabitants of the Irrawaddy and Rangoon Divisions.
Blocking of International Aid

Immediate Aftermath

It quickly became apparent that the scale of devastation resulting from Nargis was enormous. The first few days of reports saw death tolls rise from several hundred to a few thousand and rapidly up into the tens of thousands. It became clear also, that the areas destroyed were vast and in some places, villages had been completely obliterated, wiping out entire populations. After the scale of the damage became apparent and was broadcast to the international community, the response from Burmese authorities was expected to be something akin to what had taken place 4 years earlier following the Asian tsunami, where the size of the relief response required was well beyond the capacity of the individual states involved. In that instance, a vast international relief effort was put into motion with almost immediate effect. Many imagined that despite the regime's chequered past with the international community, the size of the tragedy and the scope of the relief efforts needed would be so overwhelming as to facilitate a more open approach to help cope with the problem. This proved not to be the case, as the SPDC proceeded to put its image, pride and the referendum before the welfare of its desperate citizens.

Soon after the impact of Nargis, on 9 May 2008, the regime was beginning to elucidate its stance toward foreign aid and aid workers more clearly; it was happy to receive the material, but the workers would have to stay out of the country. A statement from the foreign ministry was released indicating that a relief flight was repulsed after landing in Rangoon because it contained a search and rescue team as well as foreign media that had not received prior permission to enter the country.12

![Photo: © Delta Tears](image)

These two young girls from Bogale Township, Irrawaddy Division were among the estimated 140,000 who had died in the cyclone. Thousands of bodies were pulled from the water and debris in this area alone. [Photo: © Delta Tears]

By mid-May, two naval vessels from the United States and French navy were anchored just outside Burmese territorial waters in the Bay of Bengal and were ready to assist in reaching the most remote areas of the delta. Due to the limited capacity of the Burmese armed forces in this regard (Burma has access to only half a dozen or so functioning helicopters) the SPDC was in no position to deliver urgent aid to villagers in remote areas of the delta.13 In addition to the Burmese military’s limited airlift capacity, Nargis also destroyed a significant portion of the Burmese navy’s vessels, when as many as 25 vessels were sunk in the
storm. The USS Essex and Le Mistral of the US and French navies respectively were willing and able to deliver food aid as well as temporary shelters. The USS Essex was anchored about 80 kilometres off the coast of the delta and was equipped with amphibious craft as well as personnel trained in relief work. Despite promises by Rear Admiral Timothy Keating of the US Navy that the relief operations would be entirely self-sufficient and would able to deliver more than 110,000 kilograms of food and relief supplies per day courtesy of 24 medium-lift helicopters, the offer was rejected. Admiral Keating was quoted at the time as saying,

“I assured our Burmese colleagues that we would do this without fingerprint. … We would come in, be entirely self-sufficient. … We offered them the opportunity to put their own military members or civilians, their choice, on our airplanes, on our helicopters. And I delivered a written letter of invitation to have a Burmese delegation visit the USS Essex off the coast, should they so choose, so as to observe our operations.”

US naval assurances however were not enough to allay the suspicions of the generals in Naypyidaw and the US vessel continued to languish off the coast, unable to deliver essential aid.

Similarly, Le Mistral remained anchored and ineffectual, just 22 kilometres off the Burmese coastline. Le Mistral was carrying around 1,000 tonnes of food and shelters; enough supplies to feed 100,000 people for 15 days and enough shelters for 15,000 people. Negotiations failed to assuage the suspicions of the SPDC leadership and unfortunately this aid was also not delivered. A full month after the cyclone struck reports were still emerging from the most remote areas of the delta, indicating that some survivors had still not been reached; it would have been for the people in these areas that Le Mistral and USS Essex could have been the most valuable. In a stunning show of either cynicism or naiveté, the New Light of Myanmar, the junta’s mouthpiece publication, claimed that the,

“‘Myanmar people are capable enough of rising from such natural disasters even if they are not provided with international assistance. … Myanmar people can easily get fish for dishes by just fishing in the fields and ditches. … In the early monsoon, large edible frogs are abundant.’”

The regime’s reaction to the offers of help by the navies of foreign powers may have been to some degree predictable given the junta’s abiding fear of invasion and/or interference in its domestic affairs; however, their negligent refusal to allow foreign aid workers into the country is much harder to understand. Given the regime’s glaring lack of resources in terms of disaster preparation and response, the refusal to allow aid workers, aid and logistical support into Rangoon and the delta bordered on the criminally negligent. The generals held firm on the line of refusing foreign aid workers for at least a fortnight before slowly beginning to grant aid workers visas. In that time the SPDC was resolutely committed to taking foreign aid, but insisting that it be delivered by the SPDC itself. As of 10 May 2008, visas were still being denied to foreign aid workers and although much aid had arrived, most of it had been impounded at Rangoon airport, awaiting distribution by the SPDC. By 15 May 2008, the gap in the aid effort left by the SPDC was being filled by international organisations following the easing of restrictions on at least the larger of the UN agencies and INGOs. According the United Nations World Food Program, it had delivered 700 tonnes of rice, high-energy biscuits and beans to around 100,000 people, across all accessible cyclone affected areas as of 15 May 2008.
Although the regime had refused help from the USS Essex earlier, US military continued to supply aid, sending four more flights of emergency supplies into Rangoon on 16 May 2008, comprising a total of 17 flights for that week. Two of the flights were carrying aid provided by the Thai government.\(^\text{19}\)

The International Committee of the Red Cross (ICRC) and United Nations Children’s Fund (UNICEF) had also begun operations in the delta near Labutta Township, where they had set up temporary shelters, mobile clinics and sanitation facilities.\(^\text{20}\) Although the areas of Bogale and Labutta were the focus of the international operations, the outlying areas were still largely neglected at this time, a full two weeks after the initial impact of Nargis.

Although the international teams were now operating, albeit under the conditions set by the SPDC, and despite the fact that the SPDC claimed it would be able to handle the logistics of the relief operation, disturbing claims were still surfacing that people in far flung areas were still waiting after three long weeks for some aid to arrive. According to the abbot of Maha Gandaryon, who was part a relief team that went into the delta to distribute aid, there were still significant numbers of survivors who were faring on their own, with no state assistance. The abbot recounted to DVB on 21 May 2008 that he had received a letter from a village deep in the delta claiming that there were 5,000 people there who had not received a single scrap of aid from the SPDC or anyone else for that matter. The abbot was quoted as saying,

“\textit{We received a letter from a village located far away from the places we reached. I don’t remember the name of the village. It says there are over 5,000 survivors there but they haven’t received any relief supplies to date. No one has heard of those people getting any assistance}”\(^\text{21}\)

Despite the urgency of the situation, the junta continued to drag its feet on aid delivery well into July. On 10 July 2008 Douglas Alexander of the United Kingdom’s foreign aid branch said, “\textit{While access has improved and the rate of delivery of relief goods continues to increase, we believe that around 300,000 people are at quite serious risk if they do not get more help soon}”\(^\text{22}\)
The Longer Term

Three months after the cyclone, the situation in the Irrawaddy delta was still a source of consternation to international aid agencies. According Daniel Baker, the UN Humanitarian Coordinator in Burma,

“What we have seen significant progress being made in the affected areas as a result of the coordinated efforts of local and international humanitarian actors. However, much more urgently needs to be done in remote areas where affected communities are still living in dire conditions.”

The agricultural sector remained severely afflicted with 85 percent of seed stocks lost and 50 percent of buffaloes gone. The rice planting season was also threatened, thereby impacting on food security and livelihoods. Despite its importance to these areas, the agricultural sector was still not adequately funded three months after the cyclone with UN citing unmet requirements of US$51 million. This estimate came at a time when the UN Office for the Coordination of Humanitarian Affairs was claiming an urgent need to supply food to just over 900,000 people over the nine months that was to follow.

The SPDC’s token efforts to address problems were typified by the manner in which the regime resolve the problem of rice seedlings in Bogole, one of the hardest hit areas of the delta. With the delta being described as the rice bowl of Burma and providing large amounts of the rice harvest for the rest of the country every year, it is clearly crucial for the entire country that the rice crops be successful. Instead of taking steps to ensure this outcome, the SPDC treated the fallout of Nargis as a money making venture. Local authorities handed out seeds to farmers in Aye Chan Thar village in Bogale Township, Irrawaddy Division, but then made them pay for it. A farmer who was involved told exile media that farmers had been forced to pay for seedlings and described the process as follows,

“A farmer is given one basket [equivalent to 16 bushels] of seeds. And we have to pay 1000 Kyat for it. But we found out that most of the seeds do not yield and we cannot use them for planting”

Cyclone survivors from Dedaye Township in Irrawaddy Division wait in line to receive much needed food relief in the wake of the cyclone. [Photo: © AFP]
This behaviour was, and remains, characteristic of the short term thinking of the regime. Such actions threatened the rice harvest and food security throughout the country and violated the farmers’ rights to livelihoods at a time when experts from the Food and Agriculture Organisation were predicting that the rice harvest in Burma would be reduced to a third of annual output due to the effects of Nargis.26

Denial of Access to Shelter

As a result of the cyclone, many thousands of civilians from the delta region were left homeless and found themselves forced to move toward larger population centres in order to find adequate shelter. To give an idea of the scale of the destruction, SPDC statistics from July 2008 suggested that at least 150,000 houses would have to be rebuilt in the areas of Bogole, Labutta and Hainggyi Island Townships in the Irrawaddy Division alone.27 The World Food Program (WFP) estimated in July that as many as 724,000 people in the delta region would require food aid for at least six months.28 In addition, the UN Emergency Shelter Cluster gave very rough figures as of July 2008, which indicated that as many as 480,000 people had lost their access to shelter.29 Many residents from these areas would surely have been hoping that their accommodation requirements would be met by the state, at least for the foreseeable future. Food insecurity also placed an added pressure on Internally Displaced Peoples (IDPs) to find and remain in shelters for extended periods. Prior to the cyclone many IDPs had maintained their livelihoods through agricultural pursuits, activities which now proved impossible to pursue.

It was estimated that 550,000 of the 2.4 million people who were affected by the cyclone were residing in temporary settlements, mostly schools and monasteries as of the beginning of June.30 Amnesty International (AI) was able to record 30 instances of people being removed from unofficial and temporary shelters in the aftermath of the cyclone. AI concluded, as did many other groups, that the forced eviction of storm survivors was timed to coincide with several junta objectives.

The first of these objectives was the referendum on the sham constitution. By evicting storm survivors, the SPDC were able to use schools and monasteries as polling booths (two of the more popular shelters for IDPs) during the referendum on the delayed date of 24 May 2008, in the cyclone affected areas. The second benefit for the junta in evicting numerous groups of survivors was to be able to declare the relief section of the operations over and to signal the beginning of the reconstruction phase, facilitating even greater use of forced labour and giving a pretext for gaining greater control over international aid agencies.

The junta was prompt in issuing orders for IDPs to vacate schools and monasteries. A mere two weeks after the cyclone, people sheltering in schools and monasteries in the 26th, 55th and 70th blocks of South Dagon Township, Rangoon Division, were being informed by authorities that they were to be expelled after 14 May 2008. According to one resident of the camp,

“They told us (local authorities) we must be driven away anyway. If we don’t follow the order, the Minister of Home Affairs will take an action against us……The local authorities announced all the victims can stay until 14 May in camp and later they’ll drive out us.” 31

Other cyclone survivors who were sheltering in a warehouse in Bo Htun Zan Block evacuated of their own accord following threats that they would be forcibly expelled by military forces. According to one IDP who was expelled, “Even though we don’t have a place to live and they (authorities) told us they if we don’t move, we’ll be forced out by the military force, according to the VPDC chair, Nay Lin Aung.” 32
Others noted that evicting the survivors and sending them back to their agricultural lands would ensure that farmers got back to work in time for the beginning of the rice planting season in particular. For all intents and purposes however, this was a ridiculously flawed plan, as most agricultural land had been inundated with salt water and was at that stage unusable. An AI report detailed cases of evictions in Bogale, Myaungmya, Maubin, Pyapon, and Labutta in Irrawaddy Division, and Shwebaukan Township and State High School No 2 in Dala, Rangoon Division. After one such eviction, a boat transporting survivors from Bogale to Kyane Chaung village sank, resulting in 30 deaths. According to AI, “Of the 45 resettlement sites that existed in Pyapon, by 28 May only three remained.”

The forced evictions were undertaken with very little restitution for the survivors who were sometimes given a small amount of cash, food and very little warning. At times survivors were told that they must leave and to go anywhere but where they were, leaving large amounts of people with few options, as it proved impossible to return to villages that were completely destroyed by the cyclone. An aid worker from Bogale supported the claims of AI saying that in Bogale he had seen 3,000 IDPs distributed between 4 monasteries who were forcibly relocated to various areas, including Maubin in the Irrawaddy Division, resulting in the forced separation of some families. According to the witness, many were in poor physical condition and did not have sufficient food to eat. Despite aid donations from private donors, many were struggling to survive, especially due to the SPDC policy of selling aid to the survivors for 80 kyat per Pyi (about 2.08 Kg). The source also said that some survivors were showing symptoms of cholera, diarrhoea and boils.

Of course, forcing villagers back to areas that were completely or partially destroyed, and in many cases still under water, was never going to prove sustainable. Some had little choice but to return to the camps from which they had been evicted earlier, having no other available means to survive. On 3 June 2008 it was reported that several thousand IDPs who had been forcibly sent back to their villages from IDP camps in Labutta had returned. Locals and aid workers told exile media group Irrawaddy that these IDPs had been ejected from the camps and sent to rural areas without any aid or assistance from authorities. It was in no way surprising that the villagers had returned, given the accounts of aid workers who had visited the villages that they were supposed to go back to. One NGO worker from Rangoon who had managed to visit the remote villages of Kyane Chaung, Ale Yekyaw, Maung Nge, Hlaing Pone and Thit Chaung, described how survivors were barely subsisting with little to no help in the form of relief supplies from the regime authorities. These villages were without shelter, food or clean water and bodies of storm victims were contaminating the water supply such that the residents were unable to wash in the rivers.
For some cyclone survivors the best hope of staying alive following the cyclone was to camp along roads that led from the larger towns into the delta. In this way they were able to get around the lack of SPDC assistance by relying on handouts from private donors passing by. This practice was extremely displeasing to the authorities who sought to crack down on it and disperse those begging on road sides. On 29 May 2008 it was reported that families living along roadsides were being forced to leave the area and return to their villages, despite these areas being completely under water and their dwellings having been demolished. One internally displaced person (IDP) from the town of Pyapon, Irrawaddy Division, said of the forced relocation, “Where my house used to be is still filled with water up to my waist, ... How can I build a new house there?” The man was one of hundreds of IDPs who were told by the military to leave their roadside camps.

On 2 July 2008, roughly a month after the cyclone, the *Irrawaddy* reported that around 7,000 people out of a total of 10,000 IDPs were being forced to leave three temporary shelters in Labutta Township in the Irrawaddy delta. According to local source Aye Kyu, authorities were warning IDPs that there would be no aid in the month to come if they were to stay in the camps. IDPs were being offered enough rations to last approximately ten days, including rice, cooking oil and beans. Those who agreed to take the rations and return to their villages would also go into a ‘draw’ for new houses that were being built by authorities in the devastated areas. Despite the numbers of homeless, regime officials at the time of the report had plans to build a mere 4,000 houses in the Irrawaddy delta and the Rangoon Division. IDPs were also under pressure from authorities in other areas with reports suggesting that thousands of residents from around 30 villages in Bogale Township were forced to relocate because they were camping on National Park grounds.

By mid to late July authorities in Labutta Township were busy attempting to expel the last of the cyclone victims from makeshift camps in the township. Over the course of several months, the 3 camps in Labutta Township had housed close to 50,000 people escaping from the destruction in the delta region. Authorities reportedly began applying pressure on the remaining 6,000 residents of the camps to return to their villages using the usual mixture of promises threats and coercion that characterises the junta’s approach to dealing with the public. Residents were promised that they would be looked after if they went back to their villages; a female resident of one of the camps described the junta’s bargaining chip as follows,

“If we return to our village, we are provided about 3 pyi of rice (pyi is a Burmese measurement close to 0.25 Liters), chili, onion, a sheet of tarpaulin, six packs of instant noodles and a zinc pot. Then the authorities send us to our villages by boat.”

If this offer failed to persuade recalcitrant IDPs, the authorities sought a new approach through the threat of cutting of aid supplies altogether and warned those remaining that aid would cease as of 5 August 2008. One 40 year old man from Sa-Lu Seik village of Labutta Township who was living at Five-Mile camp related what authorities had told those in the camp, “After August 5, we will not receive our ration rice and the refugees may not receive other food items.”

Other questionable tactics were employed by the authorities running the camps. One such tactic was to secure signatures from those leaving stating that they had left the camps voluntarily, thereby ensuring that there were no repercussions from the forced evictions at a later stage. A more invidious practice however, was the use of camp residents as forced labour. Storm survivors related how some people who had refused to leave had been beaten and used as forced labour on reconstruction projects, or simply expelled from the camps. A resident of Yatanar Dipa camp from Mi-Kyaung Ai said of the situation,
For those who were forced to return to their villages, the conditions remained extremely dire. By 9 June 2008 United Nations Children’s Fund (UNICEF) reported terrible conditions in the villages which IDPs had returned to, especially in Labutta Township. UNICEF also claimed that many more tarps were needed to address the problems of inadequate shelter in this area. It was also at this time that UN Office for the Coordination of Humanitarian Affairs (OCHA) was calling for a further 500,000 tarps to address shelter requirements, as only around 22 percent of survivors had received any shelter assistance from international agencies according to the International Federation of the Red Cross (IFRC).

A full three months after Nargis, some areas were still not getting assistance from the SPDC that would help rebuild lives, livelihoods and accommodation. On 28 July 2008 a report described the plight of one family in the Irrawaddy delta which was demonstrative of the SPDC’s priorities in dealing with cyclone survivors. Thein Hlaing (name changed for security) and his family had barely survived the cyclone, but had lost their dwelling which was blown away. By salvaging tin and driftwood from a nearby swamp, Thein Hlaing rebuilt the family’s hut on the only piece of dry ground in the area. After not seeing any authorities for three months, the family was visited finally by local officials and police. They were not there to deliver any assistance however, and told Thein Hlaing and his family that they must dismantle the hut and move off the ground which had already been allocated for a building development. If they refused to go they would face jail instead.

The SPDC’s inept handling of the crisis stemmed from a distinct lack of experience in dealing with a situation of this magnitude, as well as a profound lack of state resources. These problems were reflected in the short-term solutions and ad-hoc methods by which the SPDC sought to handle the influx of cyclone survivors into the urban centres. The effects of the regime approach were such that those not directly affected by the cyclone were forced to pay a price as well. In Rangoon’s Twante Township for example, residents were forced out of approximately 600 houses so the SPDC could demolish their dwellings and replace them with new accommodations for cyclone survivors. As of July 2008 a 75 square acre block that had been home to mostly day labourers near the Nyaung Wine monastery was set to be cleared to make way for around 500 new homes.

This family, lucky to still be alive, took refuge in a State High School in Labutta Township, Irrawaddy Division. However, only weeks after the tragedy, tens of thousands were evicted from emergency relief centres such as this to make way for the planned constitutional referendum. [Photo © Moe Aung Tin]
10.3 Misappropriation of Foreign Aid

Following the first difficult month after the impact of Nargis, which had been marked by regime recalcitrance and international frustration regarding the lack of humanitarian access and blocking of foreign aid, junta restrictions seemed to be easing somewhat and more aid was getting into the delta, though some agencies claimed that reaching the remotest locations was still difficult, if not impossible. There were still debilitating political and physical roadblocks to international aid and questionable handling of the aid that did reach the country. Supplies were being warehoused and hoarded by the regime in Rangoon, for example, such that it could be delivered by the military instead of international actors. Nevertheless, things were looking decidedly better on the aid front than it had in the initial fortnight. Unfortunately, a measured optimism on behalf of the international community was dampened by reports that emerged from witnesses inside Burma who claimed that foreign aid was being appropriated, sold on the black market for profit and that aid was being kept for the military while inferior goods were being handed out to survivors. Although SPDC spokespersons released statements condemning the practice and promising requisite punishments, the regime seemed to be doing little in the way of tackling the problem, as was evidenced by ongoing reports over the course of the next six months.

In addition to misappropriation of aid supplies, the United Nations estimated that by September, the SPDC imposed currency exchange regulations resulted in the UN losing around US $1.56 million dollars of relief funds. The amount, enormous though it was, was a vast reduction from the figures delivered earlier by John Holmes, the UN under-secretary-general for Humanitarian Affairs, who had given a figure of US $10 million in lost relief funds based on preliminary estimates from late July. Even though the revised figure looked much smaller, it still represented a vast amount of relief supplies that were lost to regime meddling.

Reports of irregularities in the handling of aid began soon after the relief efforts were underway. As early as 12 May 2008, a local resident of Rangoon said that he had observed aid supplies being sold in local markets. The man, who was not identified by name, said, “I saw dry noodle packets, condensed milk tins and mosquito nets from rescue efforts in downtown. They are selling noodle packets at Nyaungpinlay Market for 600 [kyat] a packet, and tins of condensed milk too.”

On 13 May 2008 it was reported that high-energy biscuits sent by the World Food Program (WFP) in one of its first aid shipments had been appropriated by the military and taken to a warehouse where they were swapped for biscuits of an inferior quality, which had been produced locally by the Industry Ministry. These inferior goods were then distributed to cyclone victims. According to the report, the fate of the WFP produce was unclear, but seemed destined either for resale on the black market or for troop mess halls. International non-governmental organisation representatives supported these claims saying that the rice they had witnessed being distributed in the delta was of a highly inferior quality to that being delivered in aid shipments by the WFP, strongly suggesting that a swap had taken place.

Again on 13 May 2008 news emerged from Bogale Township, Irrawaddy Division, that SPDC officials were selling aid to the public instead of delivering it directly to those affected by Nargis for free. Members of the military, Swan Arr Shin (a people’s militia allied to the SPDC) and the Union Solidarity Development Association (a quasi-civil society organisation founded by the SPDC) were selling sheets of roofing tin around Bogale Town. The sheets were left outside roofless houses and money was to be collected later as payment for the sheets.
According to exile media groups, it was common to see foreign aid goods being sold in markets in various towns across Burma just two weeks after Nargis struck. Residents of Rangoon claim to have seen “biscuits of foreign make, dried meat, instant noodles, tarpaulins and plastic sheets on sale in Nyaungpinlay market, Mingalar market, Bogale market, Theingyi market and other markets in Rangoon.”

The misappropriation of aid could not simply be a matter of unscrupulous individuals acting alone if some reports were accurate. Locals in Rangoon described seeing “army trucks from the Navy supplies Depot, in Mingaladon, Syriam and Laputta bringing the relief materials to the markets”, suggesting a greater level of collusion than just a few rogue individuals.

A different report from 14 May 2008 claimed that Generals were giving out aid as an effort to garner publicity and make it appear as though the military was living up to its obligations of providing emergency relief. Members of the military were filmed giving out packages of aid with names of army generals which had clearly been printed over the top of labels stating “Aid from the Kingdom of Thailand.”

On 15 May 2008, local sources were again suggesting that aid had been misappropriated by authorities. According to one source identified as Aye Kyu, rice and diesel fuel donated by international aid groups was being sold by local authorities, “The authorities are demanding between 13,000 and 15,000 kyat (US $11.25 and $12.99) for one bag of rice and 10,000 kyat (US $8.66) for one gallon of diesel fuel.”

Also on 15 May 2008 Nyan Win from the National League for Democracy related to Irrawaddy magazine how the NLD had purchased towels from the Mingalar market, only to discover later that the bag that the towels came in was marked with the WFP’s logo, the Japanese flag and a message written both in Burmese and English that said, “donated by the Japanese people.”

On 16 May 2008 however, a shopkeeper from Rangoon gave a first hand account of corruption involving aid. The shopkeeper related how a soldier had come into his shop with aid supplies, offering to sell them to him and went on to ask him if he were interested in buying some Zinc sheets to resell for roofing. To the businessman’s credit he refused this offer, saying, “I denied him, because I do not want to put up any aid supplies meant for refugees.”
Despite UN monitoring not finding any evidence of misuse of foreign aid, local residents of Rangoon continued to supply details of military involvement in selling of aid goods in markets throughout Rangoon. On 17 May 2008 a resident was quoted as saying that,

“They (the military) are selling bags of rice donated from abroad. The army delivers them during the night in their cars......You can see Two Prawns brand oil donated by Thailand being sold on the streets in various types of bottles and boxes and measures, and you can get as much as you like,......When I asked the sellers about it, they told me that they were sold by people in army trucks at night.”  

The same source also alleged that donated tarpaulins were being sold in Yuzana Plaza, Mingaladon Market, Theingyi Market and Nyaungpinlay Market Plaza at a price of 7,000 kyat.  

On 21 May 2008, residents of Maubin, Irrawaddy Division, claimed that the bags of rice given out to cyclone victims contained only broken rice (a very low quality of rice), which had supposedly been donated by the Swiss government. Locals confronted USDA members about the food provided, however, their complaints were met with denials from officials who claimed that the bags had been distributed just as they had been delivered. These claims were completely refuted by a local Ward Peace and Development Council member identified as Myo Win, who was seen openly selling rice meant for survivors. According to locals, Myo Win claimed that he could make money from the donations which would help the local population buy more aid in future.  

On 3 June 2008, roughly a month after the impact of Nargis, it was reported that dozens of letters of complaint had been filed with authorities accusing officials of stealing, selling or hoarding aid for personal gain. The letters went unanswered despite an announcement from Naypyidaw in May 2008 welcoming information describing misappropriation of aid and promising ramifications for perpetrators. At the time of the report, not one official had faced investigations or consequences due to the allegations. The letters described the selling of donated rice, officials keeping plastic sheeting for themselves, selling food aid, and replacing donated foreign food aid with lower quality locally-produced Burmese food.
On 5 June 2008, residents of Bogale Township in Irrawaddy Division reported that the ward Peace and Development Council chairperson of Hai Shay sub-village tract had sold bags of rice that should have gone to cyclone survivors. The chairperson identified in the report as U Poe Zaw, sold 250 sacks of rice at a price of 10,000 kyat per sack to Maung Kaung, a shop owner in Ward 3 Township of Bogale. Even though the official's conduct was openly known, there had been no retribution despite the promises from the regime to prosecute anyone found to be misappropriating aid.  

On 10 June 2008, in a rare change from the general trend, two officials were arrested for stealing aid supplies. Ward Peace and Development Council members U Yan Naing Htun and U Tin Htun were arrested after aid workers accidentally discovered some aid supplies that the pair had hidden in a lake behind their offices. The lake was drained as it had been contaminated by the flood waters. Aid workers discovered, "over 100 zinc kitchen utensils, 12 packages of canned food, seven buckets of cooking oil and four tarpaulin sheets."  

In September 2008 Irrawaddy reported that there were large amounts of foreign aid still being sold on the black market, though much less than there had been in June and July at the peak of the relief efforts. The report suggested that the practice was being conducted by members of the local authorities, the Village Peace and Development Council, and was undertaken with the full support and backing of the local military units. It was implied that village headmen had intentionally inflated the numbers of people in their villages in order to secure greater amounts of aid from distribution centres in Labutta, Irrawaddy Division, and then had gone on to sell the aid. Items for sale included; rice, salt, cooking oil, mosquito nets, tarpaulins and clothes. The cooperation between village level authorities and local military commanders was all but confirmed by a villager from Ka Nyin Kone who described a meeting called by the village headman who warned of complaining against such practices, saying,

"'On August 7 and 8, U Sein Myint called meetings and said to the villagers that they can go and complain anywhere they like. But he boasted that he would still be village headman in 2010. Then he brought along some soldiers who were stationed nearby to threatened us','"  

On 29 September 2008 it was reported that Chinese donated super-phosphate fertilizer was being sold by regime officials. Sacks of fertilizer weighing 40 kilograms each were donated by Burma's neighbour and were meant to go to cyclone victims. Instead, the sacks were transported into northern Kachin state and were being sold to farmers in Bhamo and the state capital of Myitkyina for around 17,000 kyat (US $14). 

As late as October 2008, individuals were still being arrested for the misappropriation of aid in Burma. Exiled media group Mizzima detailed a case of two men who sold rice donated by Saudi Arabia. The two individuals were identified as Kyaw Soe, a clerk at the Pyapon Township Peace and Development Council (TPDC) and Hla Htay. The pair was arrested in October 2008 by the Bureau of Special Investigations (BSI) for allegedly selling 1,000 bags of rice donated for cyclone victims. Local sources claimed that there were many other instances of aid being sold in markets by officials, however there had been no arrests in these cases as the quantities had been much smaller, making the perpetrators more difficult to catch. In typical fashion, there seems to have been no follow up investigation in the case, regardless of the fact that the details had been sent by the BSI to Naypyidaw. A local source claimed that, “The BSI has sent the investigation results to Naypyitaw, but the case is not progressing,”
On 17 November 2008 two township level officials from Pyapon Township, Irrawaddy Division, were under investigation under allegations of selling cyclone aid. Rice merchant Hla Tun acting under the orders of Pyapon Township authority office secretary Kyaw Soe, was told to sell 900 bags of rice in Rangoon. The pair was arrested and questioned by intelligence officials after buyers of the rice suspected that it was of foreign origin. The rice had indeed donated by Saudi Arabia for storm victims. Pyapon Township was also the location for another dismissal of township level authorities after the chairman had been stood down for selling fertilizers meant for cyclone victims. Myo Myint Zaw, the former chairman had stolen 6,000 bags of fertilizer, claimed they had been destroyed by Nargis and then attempted to sell the goods in Rangoon markets at 30,000 kyat per bag. Despite his dismissal, Myo Myint Zaw was never prosecuted for his crime.67

Many of Burma’s coastal communities were particularly hard hit. This photograph shows a fishing vessel from southern Burma that was not only sunk by the storm, but cleaved in two. 

[Photo: © Reuters]
10.4 Lack of Protection for Storm Victims

Burma has been a traditional source of trafficked labour for the surrounding countries in the region; providing workers for the agricultural, fishing, manufacturing, sex and domestic services industries. Over the previous 5 years, since the introduction of a new law criminalising the practice, around 480 people have been liberated by Burmese authorities. The amount freed is most likely a tiny fraction of the total number of people smuggled out of Burma each year, bound for sweatshops and brothels in locations ranging from Thailand to China, where the majority of trafficked persons end up. In fact, around 80 percent of people trafficked out of Burma annually finished their journey in China. As stated earlier, the numbers of those trafficked are likely to be vastly under-represented, with a US report from 2007 suggesting that the SPDC authorities were complicit in smuggling people into China, Thailand, Malaysia and Bangladesh.

A natural disaster such as Nargis opens up many opportunities for smugglers to conduct their operations at a time when there is general confusion and a noticeable lack of law enforcement due to the prevailing conditions. The scale of the cyclone meant that many families found themselves separated and many hundreds of children were orphaned in the process, thereby becoming easy prey for traffickers.

On 14 July 2008 reports surfaced that authorities were able to save around 80 women and children from being trafficked into a neighbouring country after the group had been abducted by traffickers posing as aid workers. The traffickers had taken the group from the Irrawaddy delta, where they had been lured by offers of work. This was a ruse no doubt facilitated by the chaos following the cyclone, and made easier by the junta’s inept response to the emergency. By July 2008 international aid agencies were estimating that around half of the 140,000 people killed by the cyclone were children, but there were still no reliable figures about how many orphans were left in the wake of the tragedy as tracing victims was proving difficult. In the report referred to above, UNICEF spokesman Zafrin Chowdhury indicated that 428 separated or unaccompanied children had been identified in just two months.

Cyclone survivors, still awaiting aid, huddle in the mud of a small rudimentary shelter set up beside a road in Bogale Township in Irrawaddy Division. An estimated one million people were displaced as a result of the cyclone. [Photo: © AFP]
10.5 Denial of Access for the Media

One aspect of the junta’s attempt to control the public’s image of what was happening in the delta and Rangoon city at the time of the cyclone was to cut off the flow of information to the general public and the international community. It was not possible to completely control such a large centre as Rangoon; however the junta made a substantial effort to block access to the delta, especially for foreign and local media. A media ban would serve to lessen the impact of the regime’s disastrous handling of the relief effort and would mask the fact that the military was vastly under resourced in terms of its capacity to handle a crisis of such an enormous magnitude, regardless of its constant boasts about Burma’s self sufficiency. Blockades and the arrest of journalists who sought to cover the crisis, as well as those involved in the relief effort, combined to impinge upon individual rights to livelihoods as well as on rights of expression and movement. According to Rangoon based journalists, the press censorship board, which is notoriously strict in the best of circumstances, clamped down firmly on any information critical of the junta’s handling of the crisis. Said one Rangoon based senior editor, “We are forbidden to report anything about the problems of cyclone victims and refugees, … We know that many cyclone survivors still haven’t received any assistance, but we can not say anything on their behalf.”

According to reporters inside Burma who were working at the time, pictorial evidence of the devastation proved unacceptable to the censorship board as well as certain words and phrases such as “refugees” and “people are starving”, which were struck by the board. (For greater explanation of these rights see Chapter 13: Freedom of Movement, Assembly and Association)

On 21 May 2008 a group of 8 journalists were arrested for reporting from the delta without informing regime authorities. The journalists were from a variety of publications including The Voice, 7 Day News and Yangon Times. A colleague of the arrested journalists told the Irrawaddy,

“Soldiers came and arrested them at their hotel about 11 p.m. The soldiers accused the eight reporters of failing to inform the authorities of their presence in Laputta and then arrested them..... The soldiers deleted all the photographs the journalists had taken, ... The soldiers threatened the journalists and swore at them.”

Debris littered the street of Rangoon in the wake of the cyclone. Roofs were ripped from houses, while trees were torn from the ground. Anything less structurally sound was simply destroyed.

[Photo: © Mizzima News]
The reporters were held overnight and were interrogated by soldiers, said to be from Light Infantry Division #66, they were subsequently released at 7 am the following morning after signing commitments not to return to the areas destroyed by the cyclone.

The colleague of the arrested group explained the limitations imposed by the regime that journalists were faced with in terms of the scope of their cyclone reporting, “Only positive stories are allowed. Photos about refugees, victims and children are always rejected,” said the source in Rangoon. “The censorship board will only allow propaganda stories and photos, such as reconstruction projects, to be published.”

The source also pointed out that the censorship board was not allowing reporting on the death toll resulting from the disaster.

On 10 July 2008 reporter Ma Eine Khine Oo of the Ecovision Journal of Rangoon was arrested for filing stories on cyclone survivors who were approaching international NGOs for assistance. The 24 year old female reporter was jailed for five months whilst awaiting sentences on charges of taking photos to sell to foreign journalists. On 14 November 2008, Ma Eine Khine Oo was sentenced by a special court inside Insein prison to two years in prison for her journalistic activities. The trial was held behind closed doors and the accused was refused access to a lawyer during the process.

On 4 June 2008 prominent comedian and blogger Zarganar was arrested at 10.30pm at his home by a combined force made up of members from the military affairs security department, members of the Special Bureau and the chief of the SPDC Sanchaung Township Ward. Officials were said to be primarily concerned with the relief efforts that Zarganar had coordinated on his own behalf, mobilising some 400 individuals to deliver relief supplies and cash to around 40 villages in the storm affected areas. In addition to this relief work, Zaganar had also posted blogs on his website that were critical of the junta’s handing of the relief operations and had also been in contact with foreign and exile media groups, drawing the ire of the regime. According to friends of the comedian, Zarganar was also in danger of prosecution for mocking an article in the state backed ‘The New Light of Myanmar’, which had claimed that cyclone survivors could support themselves and did not need ‘chocolate bars’ from western donors. Security forces confiscated items from the comedian’s home that could be seen as damaging to the regime including: video footage of the devastated delta areas, a DVD of the wedding of Senior General Than Shwe’s daughter and a copy of the banned DVD Rambo 4. On 21 November 2008, Zarganar (real name Maung Thura) was sentenced to 45 years in prison under several criminal acts including infringement of the Electronic Act 505 b.

On 13 June 2008 well known sports journalist Zaw Thet Htwe from the First Eleven periodical was arrested for participating in private efforts to hand out aid to cyclone survivors. After being banned from writing about the tragedy unfolding in the delta, Thet Htwe joined a group to help funnel aid supplies into the delta. He was arrested on 13 June 2008 while visiting his sick mother in Minbu. The security forces confiscated the journalist’s mobile phone, computer and documents. Other journalists operating in the delta at the time reported that the authorities were exercising strict control over photographic equipment at this time in order to prevent photographic evidence of cyclone victims being circulated. Thwe was originally sentenced on 21 November 2008 to a total of fifteen years in prison; however this sentence was increased by an additional 4 years on 27 November 2008, bringing the total sentence to 19 years. The original sentence was brought under charges of violating the Electronics Act.
On 15 June 2008, Aung Kyaw San was arrested by authorities for taking part in relief efforts. The editor-in-chief of the *Myanmar Tribune* and the other sixteen people arrested had been helping to bury the corpses of storm victims in the Bogolay area. Friends claimed that the group had already helped to bury around 400 victims. The group was arrested as it returned to Rangoon to pick up more sacks for the burying the dead. At the time of reporting of this incident, Aung Kyaw San was being held in Insein prison. A friend of the family made the following comments at the time,

"Aung Kyaw San has not yet been released. We heard that he was arrested in Bogale but is now transferred to Rangoon. His wife is worrying about him since she does not know his whereabouts. She is asking many people about her husband unaware where he has been kept, He made frequent visits to Bogale. He made about three trips. He was arrested during his last visit. We heard that his colleagues arrested along with him were released yesterday,"

(For further information regarding arrests of journalists, including foreign nationals, see Chapter 14: Freedom of Movement, Assembly and Association)
10.6 Extortion in States not Affected by the Cyclone

In the aftermath of the cyclone the SPDC made a great deal of noise about being adequately equipped to handle the reconstruction and aid efforts unilaterally. This was no doubt a manoeuvre to save face after years of denouncing the outside world as a destructive influence on Burma and an attempt to maintain the military’s image of omnipotence. The fallacy of self-sufficiency was being laid bare in areas outside of the delta however, as the SPDC began raising revenue for the relief efforts from the population in other states that were unaffected by the troubles in the south of the country. Exile media began to report extortionate activities being undertaken across Burma, with forced donations of currency, livestock and food stores being demanded by local authorities acting under orders from Naypyidaw. The magnitude of the disaster and its impact on the main agricultural production area of the country meant that the regime would need to draw resources from other areas of the country. Estimates at the time by the Food and Agriculture Organisation suggested that more than “120,000 mature draught animals—as well as 66,000 pigs, 498,000 ducks, nearly 7,000 goats and more than a million chickens” perished in the storm.84 It was not the fact that donations were requested for the survivors, for this is a normal practice in times of national emergency. The aberration was that civilians suffered from ‘forced donations’, a practice amounting to little more than theft, and they were at no stage remunerated by the regime authorities for these donations. In many instances the farmers who bore the brunt of these actions by the SPDC were in dire economic situations themselves and could ill afford to lose resources essential to a successful rice planting campaign at the beginning of the rainy season.

An Arakanese member of the Human Rights Defenders and Promoters group noted that, “The authorities in Arakan State have collected donations from local Arakanese people on the pretense of supporting Nargis victims from Irrawaddy. However, the authorities collected the donations forcibly from the people against their will.”85

The human rights defender indicated that forced donations had occurred in a number of townships across Arakan State including Pauk Taw, Maungdaw, Rathedaung and Buthidaung Townships, where the authorities had collected “paddy seeds and cow, buffalo, and timber”.86 The source also claimed that,

“In Pauktaw Township, township chairman Kyaw Zaw Hla is collecting 500 kyat per acre from all farmers to buy paddy seeds to send to Irrawaddy division to donate cyclone victims. Every farmer in the township has to give 500 kyat per acre to township authority.”87

In other townships such as Maungdaw, military authorities collected 3.4 million kyat from local businessmen to donate to the storm victims, while in Buthidaung the local business community was forced to donate 2.9 million kyat. Despite the astronomical sums being demanded of these communities, absolutely no feedback was provided regarding how the money was to be spent or allocated in the delta region. The lack of transparency surrounding the entire process gives reason to be concerned that at least a portion of the money went toward lining the pockets of those further up the chain of command.

Roughly one week after the incidents mentioned above, other reports from Arakan State came to light which revealed that the NaSaKa or Burmese border forces were involved in collecting ‘forced donations’ on behalf of Naypyidaw. This report claimed that the NaSaKa, “collected 3 kgs of paddy seeds per acre from the farmers of Maungdaw and Buthidaung Townships, in Arakan State.” 88 It was also claimed that up to 10,000 kyat had been collected per household in the same townships.
Other reports from Western Arakan State indicate that orders to collect ‘forced donations’ were coming from high levels within the regime. On 24 May 2008 it was reported that the Western Command commander had ordered township authorities in Maungdaw Township to collect between 2 and 2.2 million kyat per village, depending on the size of the village and number of inhabitants. A local source said the directive had been delivered by the commander at a meeting at Thri Mingla Hall at 3:00 pm, Wednesday on 21 May 2008. According to the source, “The order was issued by Western Command Commander to the township authorities during a meeting with the local administration in Maungdaw on May 21,”

Townships in Kachin State also suffered from confiscations dressed up as ‘donations’ which went unremunerated by the regime. According to a report on 17 June 2008, Artillery Battalion #372 (AB #372), led by Major-General Ye Yint Twe, seized cattle near the Mogaung River which belonged to three cattle owners from Nimma city on 28 May 2008. In comments made to villagers at the time, Major-General Twe indicated that his actions were supported by the Northern Command’s Commander Major-General Ohn Myint. The troops of the same battalion also seized paddy fields, orchards and slaughtered farmer’s livestock without any compensation.

Several other battalions were involved in livestock confiscations, again offering no payment to poor farmers for their actions. The groups responsible for these acts, operating under the auspices of the #3 Military Operations Command based in Mogaung, included: Infantry Battalion #105 (IB #105) in Sarhmaw (Samaw), Infantry Battalion #15 in Monyein (IB #15) and Light Infantry Battalions #385, #386 (LIB #385/6).

Farmers in Mon State were also targeted for forced donations after state level authorities requested that the Township Peace and Development Council (TPDC) come up with 70 buffaloes to send to the delta. These 70 animals were to comprise part of an effort to provide 6,000 buffaloes to the delta to aid in the beginning of rice planting before the rainy season was due to begin.

Farmers were not the only people targeted in the scramble to raise money for the cyclone victims. A source in Kachin State claimed on 17 June 2008 that authorities were taking money from, “all government workers, Kachin ceasefire groups, businessmen and civilians in Kachin State.” The rationale behind the collections, and the implications for the way in which it would be spent were clearly not lost on some of the civilians who suffered from the forced donations activities; one NGO worker made the following comment on the practice,

“I am sure, the military authorities of Kachin State will send only one third or two thirds of the collected funds to the cyclone-hit areas because the entire governing system of the junta is corrupt and government personnel are equally corrupt.”

The forced donations also adversely affected the agricultural activities of those in the state who felt the financial impact of the forced donations at a time when extra money was needed to start agricultural pursuits coinciding with the beginning of the wet season. Some townships were debilitated by having to donate buffaloes and cows which would normally be used for farming practices. Rathedaung Township, as an example, lost 100 cows which were taken by the authorities under the pretext of them going to cyclone victims. The fact that citizens from other states were forced to pick up the tab for the regime, thereby having their right to livelihoods violated, was indicative of the level of economic mismanagement that has turned Burma from the rice bowl of Asia into the dust bowl of Asia, under the cynical hand of the generals in Naypyidaw.
10.7 Forced Labour

Reports emerged following the cyclone that forced labour had been used in reconstruction efforts. While this is seemingly in contravention of the ILO Forced Labour Convention of 1930, articles in the said convention, namely Article 2, state in relation to the definition of forced labour that,

“2. Nevertheless, for the purposes of this Convention, the term forced or compulsory labour shall not include—

(d) any work or service exacted in cases of emergency, that is to say, in the event of war or of a calamity or threatened calamity, such as fire, flood, famine, earthquake, violent epidemic or epizootic diseases, invasion by animal, insect or vegetable pests, and in general any circumstance that would endanger the existence or the well-being of the whole or part of the population.”

At this point it becomes unclear as to how the convention should be interpreted, as it is drafted in such a manner as to be quite general in its application. Juxtaposed against the generality of the written law, are those cases of forced labour following Nargis, the details of which are quite intricate. Firstly, it appears that in international legal terms the stipulation of 2d) safeguards the extraction of forced labour following the cyclone. However, there are several other stipulations in the Forced Labour Convention that could challenge this interpretation.

Article 3, for example states that, “For the purposes of this Convention the term “competent authority” shall mean either an authority of the metropolitan country or the highest central authority in the territory concerned.”

In terms of arguing for cases of forced labour following cyclone Nargis, it may be possible to assert that the SPDC is not the competent authority within Burma, having failed to recognise the results of the 1990 elections. Some would argue that the legitimate leaders, or ‘highest central authority’ within Burma is actually the National League for Democracy, and that as such, the SPDC has no legal authority with which to extract forced labour from the populace.

Numerous reports emerged in the aftermath of the cyclone of local communities perform forced labour for the SPDC in reconstruction efforts. This photograph shows a number of Rangoon residents, including one young boy (centre-right) who is clearly pre-pubescent, rebuilding a roadway which had been damaged by the cyclone on the outskirts of Rangoon. [Photo: © AP]
A second issue raised by the convention is that mentioned in Article 4, which states that, “The competent authority shall not impose or permit the imposition of forced or compulsory labour for the benefit of private individuals, companies or associations.”

There are several issues in relation to this stipulation. Before discussion of the specifics however, it should be pointed out that in the aftermath of the storm there were several types of reconstruction taking place. Those efforts conducted by the military itself and those where contracts were awarded for reconstruction to the SPDC’s business cronies such as Asia World Company, Htoo Trading, the Eden Group, Max Myanmar and Shwe Thanlwin. Whilst forced labour could have been extracted legally under the forced labour convention in times of emergency (if ordered by the SPDC and deemed to be for the civic good), forced labour extracted from citizens who were operating under the auspices of companies who were awarded business contracts by the SPDC do not seem to fit into this category.

Indeed, in these cases it appears that the forced labour was used for the benefit of private individuals or companies. The company Ayer Shwe Wah is an example. The company, one of 43 construction companies awarded reconstruction contracts by the junta, was established by Aung Thet Mann, the son of General Thura Shwe Man. The general has been accused in the past of using his influence in order to secure contracts for the Ayer Shwe Wah company through the War Office for work in Naypyidaw. Following the cyclone, aid workers operating in Labutta Township claimed that Ayer Shwe Wah was utilising forced labourers on its reconstruction projects, paying them a wage of 800 kyat (70 US cents per day). According to Irrawaddy, many other companies with links to the regime were retained to aid in the reconstruction efforts including: Naing Group Construction Company, Phwint Phyo Aung Construction Company, Shine Construction Company, Tet Lann Group, Universal Construction Group, A1 Construction Company, ASPIDIN Construction Company, Chan Tha Construction, Ah Yone Oo Construction Company and Yuzana Construction Group. It is reasonable to speculate that if Ayer Shwe Wah was able to use forced labourers on reconstruction projects, then it is more than likely that the other companies may have used forced labourers also.

Although the case mentioned above appears in this light to be a clear cut case of forced labour, it may be possible for the SPDC to argue that the labour was used for purposes that constitute ‘the civic good’, even though they were taking place under the auspices of private companies. These are matters that would be best left for the International Court of Justice to rule on; however, even a cursory look at the Forced Labour Convention is enough to raise concerns over the behaviour of the SPDC in the cyclone’s aftermath.

There were also reports of dubious cases of forced labour such as those recorded in Ka-Nyin-Kone, in Labutta Township. An unidentified source from a village in the township described the activities of the village headmen in the following terms,

“When the secondary school at Ka-Nyin-Kone was destroyed by the cyclone, the monks from Min Kyaung monastery handed over a donation for its reconstruction, including payment for carpenters, … However, U Sein Myint, the village headman, summoned the villagers and forced them to work on the construction of the school without payment. If they failed to do so, they were beaten.”

Other reports, from as late as the end of October, highlight that the military was still using the cyclone as a pretext for extracting forced labour from civilians in order to work on military projects. Light Infantry Division #66 was still forcing civilians to work on military projects and threatening those who refused to go with fines ranging from 3,000-5,000 kyat. A man identified as a paddy field owner from Bogole Township, Irrawaddy Division, said that residents had been forced by LID #66 to carry materials for the construction of roads in the
villages of: Saa-O Kyaung, Set Su, Yay Kyaw Gyee, Shwe Pyi Aye, Mondaing Lay, Khyoon Thaya, Kyienchaung. He claimed further that,

“’They are forcing almost the whole villages to take part in road building, cleaning their buildings, and loading and unloading timber for the construction companies,........They have to work from 6.30am to 11am. Then they have to take a rest and have lunch at their own home. Then they have to work again from 1pm to 4.30pm, ... They are saying that they are doing local development, but in fact they are just using forced labour.’" 105

The source claimed that these practices had been enforced by the military since July 2008.

Another report from 10 October 2008 provided testimonies from residents in Rangoon who had been put to work by authorities with no compensation. A resident of Shwe Paukkan Township gave the following account of being forced to labour,

“We were given orders by the ward Peace and Development Council that one person per household must help clean up roads and drains – those who refused to work were denied permission for guest registrations, ... They gave us no money for our work, just a pyi of wet rice for each person but the rice was not edible.” 106

Residents of Khayan-Thongwa Township were also forced to perform labouring duties for the local authorities. The time spent doing forced labour for the junta meant that these residents who were doing daily jobs in order to survive no longer had time to undertake these tasks. According to one resident,

“We were forced by local ward authorities to rebuild farms destroyed by the cyclone with no money for the work, ... We earn money with our daily work to feed ourselves but since we have been forced to do work for the authorities, we could not do any work of our own.” 107

Should residents fall ill when performing this labour for the authorities there was no help forthcoming. According to one resident from Thanlyin Township, “We were forced by the ward PDC chairman U Zaw Win to work but he wouldn't give us any medical insurance or assistance when we got sick from doing his work.” 108
10.8 Nargis and the Constitutional Referendum

As the nation and the international community reeled from the impact of Cyclone Nargis, the SPDC calmly moved ahead with its proposed referendum on the draft constitution. The vote was to take place on 10 May 2008 in all areas except for those 47 worst affected towns in the south of the Irrawaddy and Rangoon Divisions. Much work had already gone into the referendum and the regime saw no reason to squander those efforts, even as hundreds of thousands of citizens were left without food, shelter and water in the cyclone affected areas. As part of the preparations on behalf of the authorities, many SPDC officials had toured the nation’s states and divisions in an attempt to shore up support for the draft constitution in the referendum.

On 21 April 2008 Deputy Home Minister, Brigadier General Phone Swe paid a visit to Maungdaw in Arakan State and held meetings with township-level authorities in order to gauge the support among the populace for the draft constitution and ostensibly to make certain that no villages in the area were thinking of voting against the constitution. Swe was told by local leaders that indeed all surrounding areas were in support of the draft and intended to cast yes votes. The visit of the Deputy Minister was said to have taken place after rumours began spreading that people in Arakan State were opposed to the constitution and were considering a boycott on voting day.109

As the scheduled day of the constitutional referendum approached, many survivors from Rangoon Division had sought refuge in the urban areas, with no alternatives but to seek shelter there in the hope that the authorities would come to their assistance. As was widely reported at the time, many families had lost their dwellings and often, their relatives. Despite the clear need for those survivors to find shelter, food and water, authorities instead delivered an ultimatum. Cyclone survivors who had gathered in a community hall in San-Yeik-Nyein Quarter, South Dagon Township, Rangoon Division were told by authorities that they would have to evacuate the premises forthwith because the facilities would be used as a polling station on 24 May 2008, the delayed date of the referendum for the areas hardest hit by the cyclone. A local volunteer who helped to take care of those sheltering in the hall said that the authorities had not provided any alternative solutions or help for those evicted, but had merely said that they needed to be gone by 20 May, four days prior to polling day.110

The subsequent referendum was a deeply floored process, marred by corruption, voting rigging and general fraud. The entire process, since derided by the international community and Burmese opposition groups alike, involved a wide spectrum of rights abuses, the details of which are explored in Chapter 13: Freedom of Opinion, Expression and the Press.
Endnotes

10 Source: Ibid.
11 Source: Ibid.
15 Source: “Junta Still Obstructing Cyclone Relief Effort; Cheron Still Complicit In Abuses,” ERI. Accessed online at http://www.earthrights.org/related/when_will_the_people_of_burma_catch_a_break.html, on 29 June 2008.
17 Source: “Junta Still Obstructing Cyclone Relief Effort; Cheron Still Complicit In Abuses,” ERI. Accessed online at http://www.earthrights.org/related/when_will_the_people_of_burma_catch_a_break.html, on 29 June 2008.
24 Source: Ibid.
26 Source: Ibid.
32 Source: Ibid.
35 Source: Ibid.
41 Source: Ibid.
42 Source: Ibid.
44 Source: “Burma’s Cyclone Survivors Are Left to Struggle with Their Fate,” The Telegraph (UK), 28 July 2008.
47 Source: “UN Says only $1.5 Million Lost in Relief Effort,” Irrawaddy, September 2008.
49 Source: “Most Cyclone Victims Without Relief; Regime Accused of Stealing Aid,” Irrawaddy, 13 May 2008.
52 Source: Ibid.
55 Source: Ibid.
58 Source: Ibid.
64 Source: Ibid.
69 Source: Ibid.
73 Source: Ibid.
75 Source: Ibid.
76 Source: Ibid.
86 Source: Ibid.
87 Source: Ibid.
91 Source: Ibid.
92 Source: “Mon State told to Send 70 Water Buffaloes and 27 Men to Cyclone Victims,” IMNA, 20 June 2008.
94 Source: Ibid.
Chapter 10: Cyclone Nargis – From natural disaster to human catastrophe

98 Source: Ibid.
102 Source: Ibid.
105 Source: Ibid.
107 Source: Ibid.
108 Source: Ibid.
The Human Rights Documentation Unit (HRDU) is the research and documentation division of Burma’s government in exile; the National Coalition Government of the Union of Burma (NCGUB). The HRDU was formed in 1994 to document the human rights crisis confronting the many and varied peoples of Burma, and to defend and promote those internationally recognised human rights that are inherent and inalienable for all persons irrespective of race, colour, creed, ethnicity or religion. To this end, the HRDU published the first *Burma Human Rights Yearbook* in 1995 to comprehensively document the systematic and egregious nature of the human rights abuses being perpetrated in Burma throughout the previous year. This report, the *Burma Human Rights Yearbook 2008*, represents the 15th annual edition of the *Burma Human Rights Yearbook*, which, combined with all previous editions collectively comprise well over 10,000 pages of documentation and provide an unbroken historical record spanning the past one and a half decades.

All editions of the *Burma Human Rights Yearbook* and all other reports published by the HRDU can be viewed online on the NCGUB website at [http://www.ncgub.net](http://www.ncgub.net) as well as on the Online Burma Library at [http://www.burmalibrary.org](http://www.burmalibrary.org). Any questions, comments or requests for further information can be forwarded to the HRDU via email at enquiries.hrdu@gmail.com.

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