

Working Paper:
**The Politics of Disaster Response: Disaster Diplomacy and the Responsibility to
Protect after Cyclone Nargis**

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[The water began to rise] “at around 2:30 pm. A few moments later, it rose up to chest height. At that time the whole village could not move. When the water reached up to 12 feet, everyone disappeared. Most people lost their lives because they tried to save others. At 7 in the morning, the water went down but the water level was not the same in all villages. Most people from D- village were floating here [dead].”²

I. Introduction

Cyclone Nargis was the most destructive storm to strike Burma in memory; it carried ten times the energy capacity as the atomic bomb that fell on Hiroshima (Jenkins & Franklin, 2008). Yet, despite the severe damage Nargis wrought, the ruling military junta in Burma initially prevented, and later interfered with the international humanitarian response effort. Given the mounting number of disasters in recent decades worldwide, it has become increasingly important to analyze their social, economic, and political consequences. The actions, motives, and consequences of the responses of the ruling junta, as well as of the international community, can provide important insights into options when future disasters occur in authoritarian and/or pariah states.

Two of the major issues surrounding the aftermath of Cyclone Nargis stem from the response effort. Accordingly, this paper will first consider the complex issues surrounding the

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² South, A., Kempel, S., Perhult, M., & Carstense, N. (2011). Myanmar - Surviving the Storm: Self-protection and survival in the Delta. Copenhagen: Local to Global Protection, pg. 39.

legality of the junta's actions after Nargis. Did the regime's attempts to disrupt the international community's relief efforts constitute a crime against humanity? If so, should the international community have invoked the Responsibility to Protect (R2P) doctrine, which calls for international interventions to address crimes against humanity, in order to circumvent the regime and directly assist survivors? Secondly, it will consider the potential political consequences of the storm and the challenging response effort. Did the junta's efforts to prevent an international humanitarian effort – and its subsequent reversal – contribute in any way to the major political transition currently occurring within the country?

This paper is structured as follows. First, I provide an overview of Cyclone Nargis and its numerous impacts upon the Irrawaddy Delta in southern Burma. This section also explores Burma's recent political history in order to place the disaster and the regime's response within the proper context. Secondly, I review the literature regarding this paper's two major thematic areas – the Responsibility to Protect and disaster diplomacy. Next, I apply these theoretical lenses to Cyclone Nargis. I analyze whether the international community should have initiated a humanitarian intervention into the Delta under the banner of R2P, as well as explore if the connections between the response and the recent political changes that have unfolded in Burma. Lastly, I summarize my findings and provide a conclusion. Ultimately, this paper shows that, while the regime's negligence after the storm may have constituted crimes against humanity, the inability of the international community to plan, approve, and implement an effective humanitarian intervention undermined the argument for utilizing the R2P doctrine. Additionally, it demonstrates that the current political context in Burma can find its roots, at least partly, in the difficult aftermath of the country's most destructive "natural" disaster.

2. Background of Case Study

Cyclone Nargis, a category three tropical cyclone that formed in the Bay of Bengal at the end of April 2008, made landfall across the Irrawaddy Delta in southwest Myanmar/Burma from Friday, May 2 – Saturday, May 3. The storm, which struck 155 miles southwest of the country's former capital, Rangoon, hammered the Delta with 125 mile-per-hour winds and carried twelve foot-high storm surges several miles inland (Associated Press, 2008; United Nations Environment Programme, 2009). By the time the storm headed out to sea late on May 3, Nargis had left destruction throughout the agricultural and commercial centers of this fragile, impoverished state. Nargis was the most severe disaster to strike Myanmar/Burma in memory, and it was the third most destructive storm in modern history, globally, after the 1971 Bhola cyclone and Cyclone Gorky in 1991, both of which hit Bangladesh. Officially, the storm left 138,373 people dead or missing, injured an additional 19,359, and severely affected 2.4 million people living in the Delta (Tripartite Core Group, 2008). The official death toll almost certainly understates the true number. At least 50,000 undocumented migrant workers were in the Delta at the time of the storm; additionally, the regime kept extremely poor records, and there was a limited international presence. Accordingly, the true death toll may have been somewhere above 200,000 Burmese (South, Kempel, Perhult, & Carstense, 2011).

Nargis severely damaged an area roughly half the size of Switzerland. The storm wreaked its worst damage in the country agricultural center (the Delta), as well as its commercial and industrial capital (Rangoon). Prior to the storm, the Delta accounted for 65% of rice, 80% of aquaculture, 50% of poultry, and 40% of pig production in the country (Selth, 2008). The storm surge inundated 738,000 hectares (ha) of rice paddies with salt water (South, et al., 2011). As a

result, Nargis caused an estimated \$4 billion in total damages – equivalent to 21% of the country's GDP in 2007 (International Crisis Group, 2008).

Recent Political History of Burma

While Nargis would likely have caused f devastation regardless of its timing, the storm made landfall at a complex political moment just one week prior to a critical constitutional referendum, for which the ruling military junta, the State Peace and Development Council (SPDC), had spent fifteen years preparing. The regime had settled on a draft text for the proposed constitution in August 2007; however, it did not circulate this text to the public until March 2008, just two months before Nargis (Human Rights Watch, 2010). The SPDC tightly regulated the distribution of information on the constitution to the public, and it utilized state-controlled media to implore Burmese to vote yes in the weeks leading up to the referendum. Despite these efforts, a poll conducted by Burma News International, a consortium of exiled media organizations, in April 2008 found that 64% of those who planned to vote would vote no; 69% of likely voters did not know what was in the draft (HRW, 2010).

This referendum constituted the first component of the SPDC's seven-part, decade-long political transition to a semi-democratic system, which it had outlined in 2003. The proposed constitution established a bicameral parliamentary system, restoring some semblance of democratic governance to the country. However, the document also set aside 25% of seats in the legislature to the military and established a Commander-in-Chief position, staffed by an active senior general, who would retain absolute authority over the military and exert significant influence over the civilian president (Myoe, 2007). This political transition was the SPDC's central focus in May 2008, and it remained determined to implement the referendum despite the storm (Martin & Margesson, 2008; Selth, 2008). Despite the severe damage wreaked by Cyclone

Nargis, the SPDC held the referendum throughout most of the country, on May 10; it did agree, however, to postpone the poll for two weeks in the 47 most heavily-affected districts. Ultimately, the regime claimed that 98% of eligible Burmese had voted, with 92.4% voting for the proposed constitution (HRW, 2010; Suwanvanichkij et al., 2009).

As a further political complication, the storm occurred just eight months after the Saffron Revolution of August-September 2007. This period of political unrest, sparked by a series of demonstrations led by Buddhist monks, had elicited a brutal response by the SPDC and its militant civilian wing, the Union Solidarity and Development Association (USDA) (Clapp, 2007). With this experience fresh in its mind, the junta feared that Nargis could provoke a similar uprising. When local government and military institutions throughout the Delta collapsed in the wake of the storm, leaving a potential vacuum the SPDC sought to balance the political transition with the need to control the political situation (ICG, 2008; Selth, 2008).

Burmese Government's Response to Nargis

Despite the scope of Nargis's devastation, however, the SPDC initially worked to prevent an international response. Immediately after the storm, the SPDC issued emergency declarations for the five most heavily-affected districts in the Delta, and it activated its National Disaster Preparedness Central Committee, chaired by then-Prime Minister (and current President) Thein Sein (ICG, 2008). However, the SPDC sought to downplay the impact of storm in its immediate aftermath. As other countries such as neighboring Thailand reeled from the impact of the storm, the state-controlled media claimed the Burmese people were "happily marching towards a bright future under the new constitution"(ICG, 2008, p. 4). Astonishingly, Burma continued to export rice after the storm, despite the fact that the storm severely constrained supplies and more than doubled food prices (Martin & Margesson, 2008; Suwanvanichkij, et al., 2009). Nargis

hammered Myanmar/Burma immediately before the May rice planting season. Accordingly, the November rice harvest in the affected areas fell by 70%, relative to 2007 levels, lowering annual food production by at least 5% (TCG, 2008).

Within a week of the storm, 24 countries from around the world had pledged to provide \$30 million in assistance to Burma. Yet, the SPDC did not accept international assistance until May 6; even then, it only did on the condition that it could control all aspects of distribution. The government also claimed that the situation had begun returning to “normal” on May 8, despite the fact that the overwhelming majority of survivors had not received any formal assistance (Selth, 2008). Eventually the junta dispatched the Tatmadaw (military) to monitor and manage the response effort. Yet, the government continued to place restrictions on travel visas to international nongovernmental organizations (INGOs) and United Nations agencies. A large number of humanitarians gathered at the Burmese embassy in Bangkok during the first week, in an effort to secure visas. Inexplicably, the embassy closed to commemorate national holidays on May 5, 9, and 10; this decision ensured that no visas were issued during the critical first week after the storm (Suwanvanichkij, et al., 2009).

While the SPDC demonstrated its reluctance to work with Western governments and INGOs, it was willing to work with its fellow member states in the Association of Southeast Asian Nations (ASEAN). Accordingly, ASEAN took a leading role in this effort, dispatching an Emergency Rapid Assessment Team to Burma on May 8 (Creach & Fan, 2008). The regional organization also played a central role in getting the SPDC to allow the UN to play a role in the response effort, following protests by Secretary-General Ban Ki-moon. Its behind-the-scenes diplomacy helped to thaw relations on both sides. Following ASEAN’s efforts, Ban became the

first UN Secretary-General to visit Burma since the junta violently suppressed the student demonstrations in 1988 (Suwanvanichkij, et al., 2009).

After meeting with Ban, Senior General Than Shwe agreed on May 23 to establish the Tripartite Core Group (TCG), a joint effort led by the SPDC, ASEAN, and the UN Country Team, to oversee and coordination the international response (Belanger & Horsey, 2008; Turner, Baker, Oo, & Aye, 2008). The establishment of the TCG represented a crucial turning point in the response effort; restrictions on the international humanitarian response eased, and the regime began to work more cooperatively with the UN, INGOs, and international donors. According to the Inter-Agency Standing Committee (2008, p. 22), the TCG earned “unanimous praise” from various international organizations for opening humanitarian space in post-cyclone Burma. On June 10, the TCG released its preliminary Post-Nargis Joint Assessment (PONJA) report. Shortly thereafter, the UN launched a Flash Appeal, which garnered \$303.6 million in international commitments for the response effort (HRW, 2010). The TCG released its final PONJA report on July 21, setting the course for the relief, recovery, and reconstruction process from that point on. The process of conducting this joint assessment helped to improve diplomatic relations between the SPDC and its new international partners (Turner, et al., 2008). After issuing the Post-Nargis Recovery and Preparedness Plan in December 2008, the TCG began, largely, to wrap up its work in early 2009 (South, et al., 2011).

3. Literature Review – Crimes against Humanity and the Responsibility to Protect (R2P)

At the United Nations World Summit in 2005, member states unanimously voted to endorse the principle of the Responsibility to Protect (R2P). This agreement included four pledges from states. First, all states recognized they shared a sovereign responsibility to protect their citizens from genocide, ethnic cleansing war crimes, and crimes against humanity.

Secondly, states affirmed that, should a government lack the desire or capacity to carry out this pledge, the international community should assist that state in fulfilling its obligations. Thirdly, when these instances occur, the international community is obligated to use peaceful means to protect citizens as its primary option. Finally, if such peaceful efforts do not address the issue, the UN Security Council has the ability to use its powers under Chapter VII of the UN Charter to intervene (Asia-Pacific Centre for the Responsibility to Protect, 2008).

Though it became codified in 2005, R2P was initially developed by the International Commission on Intervention and State Sovereignty (ICISS) in a 2001 report. ICISS sought to develop a framework that could justify external humanitarian interventions when populations suffered serious harm and the national government was unwilling or unable to prevent this harm (Ford, 2009). Memories of the genocides in Rwanda and Srebrenica, along with additional ethnic cleansing incidents in Bosnia and Kosovo, were fresh in the memories of the ICISS board members. In response, they developed a framework to guide future humanitarian interventions. First, they argued that all interventions should be done as a last resort; additionally, the Security Council should authorize such interventions (International Commission on Intervention and State Sovereignty, 2001). ICISS provided room for states to undertake interventions without the authorization of the Security Council, suggesting that they should occur, when necessary, to meet the “gravity and urgency” of the situation. In such instances, however, the report urges states to secure a resolution from an overwhelming majority of states in the UN General Assembly (2001, p. 13). Additionally, the report’s authors recognized the increased importance of regional organizations; they argued that these organizations should be take the lead in interventions, and that they could act first and pursue the Security Council’s authorization after the fact (International Commission on Intervention and State Sovereignty, 2001).

Ultimately, the R2P definition which states endorsed in 2005 was narrower than the one crafted by ICISS. While ICISS endorsed action in instances of widespread human suffering, the R2P agreement only endorsed interventions when specific crimes occurred. It stated:

[The] responsibility to use appropriate diplomatic, humanitarian and other peaceful means, in accordance with Chapters VI and VIII of the Charter, to help to protect populations from genocide, war crimes, ethnic cleansing and crimes against humanity. In this context, we are prepared to take collective action, in a timely and decisive manner, through the Security Council, in accordance with the Charter, including Chapter VII, on a case-by-case basis and in cooperation with relevant regional organizations as appropriate, should peaceful means be inadequate and national authorities are manifestly failing to protect their populations from genocide, war crimes, ethnic cleansing and crimes against humanity (United Nations General Assembly, 2005, para 139).

Central to the R2P issue for any situation is whether or not a state has committed one or more of the crimes enumerated above. For disasters, the most relevant offense is crimes against humanity. The Rome Statute, which established the International Criminal Court (ICC) defined a crime against humanity 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” (Article 7, para 1). Acts which constitute crimes against humanity include murder, extermination, enslavement, deportation or forced population transfers, imprisonment, torture, rape/sexual violence, persecution, forced disappearance, apartheid, and other inhumane acts that cause considerable suffering. This definition does not specifically address the inability or refusal to respond adequately to a humanitarian emergency, such as a disaster. However, it does appear to leave the door open to violations that may occur in the process of a disaster response, or lack thereof.

Though some may consider R2P as a synonym for military intervention, the ICISS made it clear that this was not the case. Rather, R2P should only include military action under

“exceptional and extraordinary” measures (International Commission on Intervention and State Sovereignty, 2001, p. 12). In order to justify a military intervention, states must clear a number of precautionary hurdles. These include the principle of last resort, the principle of proportionality in actions, and the principle of reasonable chance of success (McLachlan-Bent & Langmore, 2011). This last principle – reasonable chance of success – becomes particularly crucial in sensitive humanitarian situations. Actors need to evaluate their realistic prospects for success before initiating any military actions. If they conclude that their intervention would be unlikely to stop or prevent further harm from befalling citizens, they should not intervene.

To date, scholars and researchers have not reached consensus on whether the SPDC’s failure to respond adequately to its peoples’ needs before and after Nargis crossed the threshold to justify invoking R2P. The Asia-Pacific Centre for the Responsibility to Protect (2008, p. 8) has argued adamantly that there existed “no *prima facie* evidence” to suggest this was the case. Rather, they note that while the government did not respond in a manner that comported with international humanitarian norms, the act of denying aid does not constitute a systemic crime against civilians. They note that, while the SPDC prevented Western humanitarians from acting in the initial weeks, it did not deny all agencies or aid sources from entering the Delta. Given these facts, they found grounds to conclude that applying R2P to Nargis would have caused substantial damage to the principle in the long run (APC for R2P, 2008).

McLachlan-Bent and Langmore (2011), in contrast, concluded that the junta’s actions did, in fact, meet the legal criteria for crimes against humanity and attacks against a civil population. However, based on ICISS’s principles, they also note that the post-disaster situation did not meet threshold to justify a military intervention. Instead, the authors suggest that the international community could have utilized R2P to promote an earlier, more intensive non-

military intervention by ASEAN. Ford (2009) explored the legal and practical implications of the setting in great detail. Like McLachlan-Bent and Langmore, he demonstrated that the junta's actions met the legal definition of crimes against humanity. However, there is clear evidence that an R2P resolution could not have secured Security Council authorization. As a result, it would not have been possible to apply this principle to the Nargis response, according to the 2005 World Summit's definition of R2P.

Literature Review – Disaster Diplomacy

Prominent in recent literature, disaster diplomacy is the concept that “disaster management can prompt long-term change in international relations” (Kelman & Koukis, 2000, p. 214). The theory was first proposed by Kelman, Koukis, and Ker-Lindsay in 2000. Disaster diplomacy was born from the recognition that, while disasters can reinforce inequalities and trigger conflicts, they may also help foster humanitarian peacemaking in conflict-affected settings (Renner & Chafe, 2007). Much of this literature is based in earlier sociological research that suggested disasters could create a common identity among survivors as a “community of sufferers;” this process tends to foster good among the affected and reduces social cleavages in the post-disaster period (Fritz, 1961). Hirshliefer (1963) argued that altruistic behavior was a normal, historically engrained response in the immediate aftermath of disasters; when resources are scarce, it is in everyone's best interest to cooperate and share them equitably. Some researchers have suggested that disasters may actually promote conflict by exacerbating resource scarcity; these authors draw upon the Neo-Malthusian environmental security literature for their arguments (Brancati, 2007; Drury & Olson, 1998; Nel & Righarts, 2008). However, considerable quantitative research supports the notion that serious disasters may have an ameliorative effect on social relations. Ahlerup (2009) found that strong earthquakes increase the likelihood that

ongoing conflicts will terminate, while Slettebak (2012; 2010) found that droughts reduce the risk that civil conflict will begin.

Ultimately, however, disaster diplomacy remains a highly contextual concept. Seemingly positive episodes have failed in the past. Talks between India and Pakistan over the Kashmir conflict failed after a cyclone in Pakistan in 1965 and the 2001 Gujarat Earthquake (Kelman, 2006; Nelson, 2010). Additionally, the existing ceasefire between the Government of Sri Lanka and the Liberation Tigers of Tamil Eelam (LTTE) failed a year after the 2004 Indian Ocean Tsunami hammered the country's coasts (Renner & Chafe, 2007). According to Kelman (2006), successful disaster diplomacy includes four essential characteristics – it is disaster-related, new, legitimate, and lasting. As he notes, disasters may provide an opportunity for diplomacy to take place, but non-disaster issues dominate the discussion and can crowd out potential benefits presented by the disaster. Effective disaster diplomacy requires the involvement of a combination of actors across levels and scales, each working towards the same end. If these elements are not present, diplomacy may fail, leaving disaster diplomacy “an encouraging concept in theory...that appears to be unrealistic in many situations” (Kelman, 2006, p. 228).

4. Analysis – The Responsibility to Protect after Cyclone Nargis

During an emergency session of the UN Security Council on May 7, 2008, French Minister of Foreign Affairs Bernard Kouchner implored the international community to invoke the Responsibility to Protect in order to justify a humanitarian intervention into Burma (Borger & MacKinnan, 2008; Mydans, 2008a). Several actors pushed back against this proposal. UN Under-Secretary General for Humanitarian Affairs, John Holmes, argued that the denial of humanitarian assistance did not meet the threshold for R2P; he claimed that Kouchner's suggestion was needlessly confrontational in a time of crisis (Mydans, 2008a). This section will

explore whether it would have been appropriate to initiate a humanitarian intervention under the banner of R2P in May 2008. It will focus on the key components required for invoking R2P, including whether the denial of aid constituted a crime against humanity, whether a military intervention would have been justified, and whether the Security Council would have authorized such an intervention.

Section 2 laid out the criteria for an act to constitute a crime against humanity. First, the international community needed to demonstrate that the junta showed the intent and motive to commit such a crime. According to international jurisprudence, killing civilians by an act of omission represents murder if it carries the requisite criminal intent. This intent can be direct or indirect. Indirect intent involves three components – the actor(s) must be aware that his/her acts of omission are likely to cause death; s/he must do nothing to prevent this death; and this death must actually occur (Ford, 2009). All of these characteristics were present after Cyclone Nargis. The SPDC may not have intended to let civilians die after the storm, but it is clear that it intended to deny access to humanitarian relief, which likely would have saved lives (McLachlan-Bent & Langmore, 2011). On May 9, the Burmese military seized a shipment of food aid that the World Food Programme (WFP) had brought into the country. According to the WFP, the high-energy biscuits that the regime seized would have fed at least 95,000 survivors (Mydans, 2008b; Suwanvanichkij, et al., 2009).

Although a massive second wave of death did not occur in the Delta, as many had feared, this direct denial of relief almost certainly represented a death sentence for many Burmese. Nargis destroyed three-quarters of health facilities in the Delta, and it left survivors without access to food, water, or shelter for weeks at a time (HRW, 2010). The SPDC's motive for denying humanitarian access is also irrelevant; its intentional acts of omission certainly led to the

deaths of thousands of innocent civilians. A group of women who survived the storm recounted how “in the days after Nargis there were so many bodies stuck here so we could not live here – so we went to Bogale and stayed with our friends and relatives for a few days. Only after 1 month did we arrive back here. The dead bodies were everywhere, on the land, in the sea, in the river” (South, et al., 2011, p. 47).

Beyond murder, it appears likely that the junta committed additional crimes against humanity. Ford (2009), a legal scholar, found sufficient evidence from reports to charge regime leaders with extermination (murder on a large scale), the forcible transfer of populations, and other inhumane acts. The junta’s actions likely contributed to the deaths of more than 2,000 civilians, which previous jurisprudence has defined as a number that satisfies an act of extermination (Ford, 2009). Furthermore, the SPDC caused survivors to suffer considerably without allowing them to access aid that could have ameliorated their pain. This denial of service created additional mental and physical anguish. It also occurred in conjunction with forced labor on reconstruction projects, arbitrary imprisonment of journalists and activists, and mandatory relocation of survivors from camps (Ford, 2009; HRW, 2010; ICG, 2008; Suwanvanichkij, et al., 2009). Thus, the regime’s actions in the wake of Cyclone Nargis meet the legal definition of crimes against humanity.

But it is not enough for an actor to commit an act which international law has defined as a crime against humanity. Rather, the Rome Statute requires that these acts occur in the “course of conduct involving multiple commissions of acts referred to in paragraph 1 against any civilian population” (Article 7, para 2a). The perpetrator of this act must be aware that it is occurring; however, s/he does not need to commit the act actively. Instead, the potential perpetrator may have another actor carry out the attack on his/her behalf (Ford, 2009). Given the scope of

destruction from Cyclone Nargis, the SPDC was almost certainly aware that their decision to prevent the delivery of aid would generate grave consequences for survivors. Yet, the evidence suggests that the denial of humanitarian aid was an official policy orchestrated, on a wide scale, from the military leaders in Naypyidaw down to enlisted soldiers at the local level. Therefore, the junta's actions met both criteria for crimes against humanity.

As noted earlier, ICISS established four precautionary principles needed to justify an R2P-related military intervention. The first principle – right intention – requires that the “primary purpose of the intervention...must be to halt or avert human suffering” (International Commission on Intervention and State Sovereignty, 2001, p. 12). R2P proponents, including the French and US governments, certainly had the right intentions for their actions. While ulterior motives may have been present, their actions suggested their primary concern was humanitarian in nature; as such, they fulfilled this principle. The second ICISS principle – last resort – tasks R2P proponents to first explore “every non-military option for the prevention or peaceful resolution of the crisis” and demonstrate, on reasonable grounds, that these options would not succeed (2001, p. 12). The international community did utilize alternative mechanisms, including placing diplomatic pressure on the junta through multiple channels. On the other hand, French Foreign Minister Bernard Kouchner initially proposed using R2P on May 7; this proposal took place before other alternatives – chiefly ASEAN's leadership on the issue – were adequately explored. As a result, it does not appear that proponents would have met this principle.

The third ICISS principle – proportional means – states the “scale, duration and intensity of the planned military intervention should be the minimum necessary to secure the defined human protection objective” (2001, p. 12). Again, it seems unlikely that any proposed intervention into Burma would have met this principle. Different R2P advocates proposed

significantly different interventions, ranging from direct military action to air dropping humanitarian aid. A direct military intervention would have been highly counterproductive, as it would have interfered with the ongoing relief effort on the ground. Likewise, dropping aid from the air was unlikely to have succeeded. Actors could not have accurately targeted this aid to beneficiaries, and it may have actually ended up in the hands of the Burmese military (APC for R2P, 2008). Furthermore, Selth (2008) has argued that flying sorties into Burmese air space without regime approval may have provoked a military response from the junta.

Finally, ICISS suggested that any military intervention should meet the principle of reasonable prospects [of success], which it defined as “a reasonable chance of success in halting or averting the suffering...with the consequences of action not likely to be worse than the consequences of inaction” (2001, p. 12). Any proposed intervention would likely have failed to satisfy this principle. Shortly after the storm, the Tatmadaw had stationed soldiers in sensitive regions and along the coast of the Delta to thwart any potential invasion by Western governments (South, et al., 2011). Should a state have opted to invade under the R2P banner, this action would have taken weeks to coordinate and execute; this delay would have undermined its key purpose – to provide immediate humanitarian assistance to survivors. Furthermore, an incursion would almost certainly have generated a violent backlash from the SPDC, creating additional civilian casualties and interrupting existing humanitarian efforts (APC for R2P, 2008; Selth, 2008).

As noted, the version of R2P that emerged from the 2005 World Summit required that the UN Security Council must authorize any R2P intervention under its Chapter VII powers. China and Russia adamantly opposed any intervention into post-Nargis Burma; if a proposal had come to a vote, both governments would have vetoed it (Ford, 2009; Selth, 2008; Suwanvanichkij, et al., 2009). Interestingly, the British government also opposed the idea initially. Douglas

Alexander, the Minister of the Department for International Development (DfID), called Kouchner's proposal "incendiary" (APC for R2P, 2008). Given these facts, any potential intervention would have needed to circumvent the Security Council. One option would have been to work through a regional organization first, then seek Security Council authorization after the fact (Ford, 2009). ASEAN would have never agreed to this idea, however, as it would have violated its principle of non-intervention. Thus, any attempt to invoke R2P after Nargis stood no realistic chance of succeeding.

Some observers have argued that this R2P debate may have actually caused more harm than good. It appears likely that these prolonged discussions created additional suffering for survivors. During the process, the US, UK, and France stationed naval vessels off the southern shore of Burma and flew cargo planes into the country without official permission (Belanger & Horsey, 2008). These provocative acts raised the fear of a potential invasion among SPDC leaders, and their paranoia led them to position troops along the coast, as noted above. The SPDC's decision to place troops on alert diverted them from relief and rescue operations, which further limited the state's capacity to respond. Moreover, R2P talks may have reinforced the regime's hard-line stance, making them less likely to cooperate with the UN and INGOs on relief efforts. Evidence suggests that the SPDC was only willing to begin a dialogue about humanitarian access once this outside pressure began to fade (Humphris, 2008). Lastly, Ford (2009) has suggested that the junta may have purposefully manipulated international aid flows in order to prevent an intervention from occurring. Though he found no evidence that the regime "deliberately calibrated the amount of aid it was willing to accept in order to make sure that the benefits of intervention were outweighed by the risk that Myanmar would terminate the UN-led aid effort," Ford has claimed it remains a distinct possibility (2007, p. 268).

Analysis – Disaster Diplomacy after Cyclone Nargis

Prior to the onset of Cyclone Nargis, the SPDC was engaged in multiple hot and cold conflicts with different ethnic separatist groups, including the Shan State Army, the Kachin Independence Army, the United Wa State Army, and the Karen National Union. In addition, the junta had developed highly contentious relations with Western governments and much of the broader international community, particularly after the violent crackdown on the student demonstrations in 1988. As Clapp (2007) noted, even China – the junta’s only real ally – had begun to push back against the SPDC’s actions in the years leading up to 2008. Predictably, the junta’s initial response to the storm was met with severe condemnation by these actors. Robert Gates, the US Secretary of Defense, accused the junta of “criminal neglect,” while Australian Prime Minister Kevin Rudd called on the international community to “bash the doors down” to get aid into the Delta (McLachlan-Bent & Langmore, 2011, p. 44; Schmitt, 2008).

Given the contentious relations that existed before and immediately after Nargis, along with the limited political and humanitarian space available for Western actors, ASEAN stepped up to lead the effort. In order to consider the potential political impacts of these actions, I will consider the role of ASEAN (and the UN) through a disaster diplomacy lens, using Kelman’s four key criteria for real disaster diplomacy (2006). As noted in section three, Kelman’s first characteristic of successful disaster diplomacy is that it is directly related to the disaster event. While disasters may create space for diplomacy to occur, non-disaster issues frequently dominate the discourse and can often crowd out any potential relief benefits. It appears that the actions by ASEAN and the UN met this requirement; ASEAN’s motive for engaging in Burma after Nargis stemmed from a desire to provide support to and create humanitarian space for survivors of the

storm. The organization's mission remained rooted in its three core principles – quiet diplomacy, confidence-building, and non-interference (Creach & Fan, 2008).

On May 8, ASEAN dispatched an Emergency Rapid Assessment team to conduct the first formal post-disaster assessment in the Delta; it followed this action by creating a Humanitarian Task Force (HTF) ten days later. Critically, these actions gave an “Asian face” to the subsequent relief effort, which was essential for both the SPDC and the international community (HRW, 2010). On the one hand, it provided cover to the junta to allow international humanitarians into Burma without losing face to domestic and international audiences (ICG, 2008). On the other hand, ASEAN's primary role also created a “cushion” between the military regime and the international community; this buffer provided effective political cover for Western governments and international organizations to engage in Burma without working directly through a regime they had isolated for 20 years (South, et al., 2011). This “cushion” also provided the UN and its partners with political cover from the criticism of Western governments, particularly the US. Just three years before the storm, partisan pressure from the Bush administration and the Republican-controlled US Congress had effectively forced the Global Fund to Fight AIDS, Tuberculosis, and Malaria out of Burma, despite a demonstrated need for assistance (ICG, 2006).

Kelman's second requirement for successful disaster diplomacy states that these overtures should be new. It is, however, also important to note that, while wholly new negotiations in the wake of a disaster may be constructive, in Kelman's view disasters can only catalyze cooperation that had already begun; they cannot create new cooperation (Kelman, 2006). The ASEAN HTF was, in effect, the organization's first real effort to take a proactive leadership role in Burma. Prior to Nargis, ASEAN had been hesitant to work with the repressive SPDC regime; it was also bound by its non-interference principle to avoid meddling in domestic

Burmese politics (Creac'h & Fan, 2008). Yet, it is worth noting that ASEAN's willingness to admit Burma to the organization in 1997 represented an important first step in this process. While it appears that this step was motivated, in part, to counter the influence of the Chinese government in the region, it also opened backdoor channels for "quiet diplomacy" between the parties (Creac'h & Fan, 2008; Independent Task Force on Burma, 2003).

Similarly, the UN had begun to engage in Burma before the storm, but the TGC represented its first concerted foray into the country since 1988. When, following the regime's violent crackdown on the student protests, the West had largely disengaged from the country. The US government imposed severe economic and political sanctions on the regime; these sanctions and restrictions on its funding barred the UN from any actions or programs that the US could construe as "supporting" the SPDC (Turner, et al., 2008). These harsh sanctions ensured that international aid, per capita, to Burma was twenty times below the average for least developed countries. Indeed, Burmese citizens received the lowest amount of aid, per capita, in Asia – just \$3 per person. In comparison, international aid, per capita, in 2005 stood at \$50 for Laos, \$35 for Cambodia, and \$15 for Nepal, respectively (ICG, 2008). Aid programs had expanded from 2000-2008, however. The total level of foreign aid to Burma doubled from \$75 million to \$150 million during this period (Humphris, 2008). Furthermore, the number of INGOs operating in the country increased from 30 to 41 (ICG, 2006). This expansion of the international presence in Burma provided IGOs and INGOs a foundation upon which they could build in the storm's aftermath.

According to Kelman (2006), successful disaster diplomacy must involve legitimate efforts on the part of all key actors. He argues "states or actors involved must be seeking rapprochement rather than using the events as a public relations exercise or awaiting an

opportunity to avoid proceeding further with the diplomacy” (p. 221). Based on the evidence available, ASEAN’s diplomatic efforts following the storm appear clearly legitimate. The organization reacted quickly, sending experts into the country within a week. It also offered official humanitarian assistance just two days after Nargis; it had not made such offers to Burma in the past (Creac'h & Fan, 2008). Moreover, the organization made a concerted effort to bridge the chasm that existed between the Burmese regime and the international community. Surin Pitsuwan, a Thai politician and academic who served as ASEAN’s Secretary General from 2008-2012, stated he was “baptized in Nargis” (Mitton, 2012). As noted, Pitsuwan urged member states to provide urgent relief aid just days after the storm hit. His statements have made it clear that he was committed to having ASEAN act both as a humanitarian and a diplomatic actor in Burma. In an interview with *The Myanmar Times*, Pitsuwan said, “in working with Myanmar’s leaders to deal with the tragedy, we opened up the country and rallied the world to come and help” (Mitton, 2012).

The UN’s diplomatic efforts following Nargis also appeared to have been legitimate. As an organization, the UN and its affiliated agencies expressed concern about the situation in Burma and demonstrated a clear desire to respond immediately. Two days after Nargis, the UN Country Team (UNCT) met with the SPDC to request permission to coordinate an international assistance effort; this offer was rejected (HRW, 2010). Despite being turned away, the UNCT continued to offer its assistance and worked tirelessly to gain access to survivors in the Delta for the next two weeks. Ban Ki-moon made several attempt to contact Senior General Than Shwe, Burma’s military leader. When Shwe refused to take his calls for eleven days, Ban continued to reach out to the general. He eventually arranged to travel to Naypyidaw, becoming the first Secretary General to visit Burma in two decades (Suwanvanichkij, et al., 2009).

It remains unclear, however, whether the SPDC engaged in legitimate disaster diplomacy. In the wake of the storm, the regime's focus centered on completing the upcoming constitutional referendum, in order to provide it with some semblance of legitimacy (Selth, 2008). According to Belanger and Horsey (2008), the SPDC remained reluctant to allow foreigners into the Delta for four main reasons. First, the SPDC emphasized a self-reliance doctrine – in order to demonstrate to domestic and international audiences that it, alone, could provide for Burma's needs, it rejected outside assistance. Secondly, the regime lacked experience interacting with international humanitarian missions; accordingly, the junta remained unfamiliar with how the process would unfold and if it could effectively micromanage foreign actors. Thirdly, with a critical election looming just a week away, the SPDC gave priority to its central political and security concerns. Lastly, decades of mutual suspicion and hostility left the regime's leadership highly suspicious of the international community's motives. Unfortunately, actions by Western officials furthered this level of mistrust. Days after Nargis, President George W. Bush awarded the Congressional Gold Medal to Aung San Suu Kyi, the jailed leader of the Burma's democratic opposition, in a move that some viewed as needlessly provocative (Mydans & Cooper, 2008).

Several actions on the part of the SPDC support the notion that they did not enter discussions with ASEAN and the UN willingly. Even after the regime agreed to establish the TCG on May 23, it continued to place restrictions on travel visas, aid imports, and aid distribution. In early June, the SPDC issued a new set of guidelines for foreign humanitarian workers that restricted their mobility and access to the affected areas; these guidelines limited the ability of humanitarians to assist survivors effectively (HRW, 2010; Selth, 2008). In addition, the regime cracked down on Burmese media and activists who attempted to engage in the response effort. Zargana, a popular Burmese comedian and regime critic, led a group of 420 aid workers

into the Delta to deliver relief supplies. Police arrested him on June 4 in Rangoon and sentenced him to 59 years in prison; he was released, along with other political prisoners, in 2011. Zargana was just one of dozens of activists and journalists taken into custody; from September-October 2009, the regime arrested at least 40 people for their roles in providing private relief to survivors of Cyclone Nargis (HRW, 2010). More critically, the regime harshly treated displaced victims of the storm. Just one week after creating the TCG, the military forcibly evicted thousands of survivors from official camps; soldiers drove these survivors back to their villages, many of which had been washed away by the cyclone (Suwanvanichkij, et al., 2009). Lastly, in a bizarre and perverse story, *The Guardian* reported that, even as he refused to provide support to disaster victims, General Than Shwe seriously considered spending \$1 billion to buy Manchester United (Booth, 2010).

Yet, despite these serious issues, Burma has undergone major political changes since Cyclone Nargis wracked the country. As dictated by the SPDC's political transition plan, Thein Sein was elected president in November 2010; Than Shwe dissolved the military regime and handed over power to his successor in March 2011 (BBC, 2011). Throughout 2011, the new government released hundreds of political prisoners, including Aung San Suu Kyi. In November, Suu Kyi stated that she planned to run for parliament the following spring on the ticket for her party, the National League for Democracy (NLD). From December 2011 through January 2012, the government signed ceasefires and peace agreements with Kachin and Karen rebels, concluding conflicts that had dragged on for decades. During the April parliamentary by-elections, NLD candidates won 43 of the 45 seats that were up for contention; however, the military still retains a majority of seats in the legislature (BBC, 2012). Both President Sein and Suu Kyi visited Washington in September 2012. President Barack Obama reciprocated in

December, becoming the first sitting US President to visit Burma. While in Rangoon, he indicated that the US would formally reinstate diplomatic relations and would restart USAID and Peace Corps operations in the country (Baker, 2012).

While the TCG proved to be a success initially, its effectiveness waned after early 2009. Many of its powers were relatively limited, and infighting between ASEAN and the UN over whether to expand the effort to the rest of the country undermined its operations (South, et al., 2011). Overall, despite these challenges, operational space for humanitarians remains improved since the TCG began its work. Additionally, the critical 2010 presidential elections did not have a negative effect upon humanitarian and reconstruction work continuing in the Delta, which represented a crucial threshold for the operation (South, et al., 2011). ASEAN has remained engaged with the Burmese government throughout the reconstruction process and its political transition. Perhaps unsurprisingly, Secretary General Pitsuwan (whose term ended on January 1, 2013) attributed much of the country's shift towards democracy to the effects of Cyclone Nargis. He told *The Myanmar Times* “[T]he country was isolated and uncomfortable with the outside world. But after we came in, Myanmar realised it could deal with us. It could cooperate with us on terms that it was comfortable with – and that the world was not going to come in and impose. So I think it was a turning point. It reinforced the government’s own roadmap for reconciliation and opening up” (Mitton, 2012).

Clearly, it is difficult to prove definitively that the diplomatic process after Cyclone Nargis played a catalyzing role in Burma’s democratic transition. For one thing, it remains nearly impossible to disprove the counterfactual argument that the democratic transition and “opening up” would not have occurred in the absence of the storm. That said, it is important to note that President Thein Sein was in charge of the government’s official response effort in 2008; this role

ensured that he engaged regularly with ASEAN and UN officials. Thus, it appears plausible that this constructive engagement with ASEAN, the UN, other donor governments, and INGOs may have contributed to an easing of previous suspicions and mistrust. These interactions opened up new lines of humanitarian and development aid from the international community, all of which carried the potential for further assistance. Therefore, the disaster diplomacy after Cyclone Nargis may have helped ease tensions, leading to additional improvements as time progressed.

Though disaster diplomacy remains a useful framework for analysis, is not without its shortcomings. While Kelman has noted, “disaster diplomacy at a single level is usually unsuccessful,” necessitating action by a “combination of actors at multiple levels,” his framework largely focuses on actions at the macro-level (2006, p. 231). Though this paper has adopted this approach, one would be remiss to overlook the substantial changes that occurred in Burmese civil society in the wake of Cyclone Nargis. As Cohen and Werker (2008) note, pariah states, like Burma, lack access to “free” disaster relief assistance; this fact forces either the regime or the people of these states to prepare for disaster risks. Given the unwillingness of the SPDC to invest in disaster risk reduction, the Burmese people have developed an impressive resilience to exogenous shocks, out of necessity. The inability of international humanitarian actors to access the Delta placed extensive pressure upon locals to act as their own first responders. It also created an opportunity for international organizations and NGOs to partner, directly, with Burmese civil society groups. As such, approximately \$40-120 million in international relief aid went to local organizations within the Delta during the first four months after Nargis (Hedlund & Myint Su, 2008). This fact demonstrated both the capacity of local organizations to respond and the potential for them to strengthen civil society further. Burmese civil society could not “help but be strengthened through the hands-on experience gained by

literally thousands of national volunteers and staff” (Turner, et al., 2008). Therefore, this civil society component may constitute the omitted variable in the disaster diplomacy equation after Cyclone Nargis. Perhaps the development of a broader, more capable, highly professional civil society facilitated the rapid political transition in Burma since 2010, a transition that no one could have predicted in 2008.

5. Conclusion

This paper has explored the political implications surrounding the response to Cyclone Nargis by Burma’s then-ruling military junta and the international community. It has demonstrated that the SPDC’s response effort to Nargis was wholly inappropriate, violated international standards, and almost certainly constituted a crime against humanity. Despite these facts, major divisions among the international community and the impracticality of launching a humanitarian intervention into the Irrawaddy Delta rendered the Responsibility to Protect moot. Moreover, the consequences of the storm appear to have altered the political dynamics in and around Burma at the time. Using the disaster diplomacy lens, this analysis has demonstrated that the efforts of ASEAN and the UN contributed to creating broader humanitarian and political space for the international community to operate in the formerly rogue state. It remains unclear whether Cyclone Nargis represents a successful disaster diplomacy episode, however, as the SPDC does not appear to have acted in good faith throughout much of the process. Additionally, one cannot state with certainty whether these diplomatic overtures contributed to the rapid democratic transition that has occurred in Burma over the last two to three years. Yet, despite these uncertainties, this paper has shown that the disaster diplomacy which occurred after Cyclone Nargis did shift the political realities both within Burma and in Western capitals; these changes have likely created lingering effects.

While this paper has demonstrated the value of both R2P and disaster diplomacy as analytical frameworks by which to consider complex humanitarian emergencies, like Cyclone Nargis, it has also pointed to a few key weaknesses and limitations of these frameworks. The R2P compromise reached at the 2005 World Summit effectively restricted the utility of the doctrine. While the intervention into Libya in 2011 momentarily resurrected R2P, the international community's inability to address effectively the ongoing conflict in Syria casts doubt on the long-term value of the principle. Furthermore, while Kelman's unassuming disaster diplomacy framework presents an extremely useful technique to explore the mid- to long-term effects of significant shocks to the system, such as disasters, its focus on the (inter)state level may ensure that it misses key drivers of this change below the canopy. Recognizing that political change comes from the bottom-up, not just the top-down, remains vital to understanding this process fully.

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