

AMNESTY INTERNATIONAL

Myanmar Briefing Human rights concerns a month after Cyclone Nargis

Introduction

On 2 and 3 May 2008, Cyclone Nargis devastated much of southern Myanmar, especially the densely populated Ayeyarwady (Irrawaddy) delta and areas close to the country's most populous city, Yangon (formerly Rangoon). Tens of thousands of people were killed and hundreds of thousands lost their homes and livelihoods. Yet Myanmar's government, the State Peace and Development Council (SPDC), refused to acknowledge the scope of the disaster and provided little assistance to the estimated 2.4 million survivors of the cyclone. Furthermore, for three weeks, the SPDC rejected international assistance and blocked access to the Ayeyarwady delta at the time when survivors most needed food, shelter, and access to medicine. Instead, a week after the cyclone, as victims were still struggling to survive, the SPDC diverted crucial resources away from disaster relief toward holding a rubber stamp referendum to approve a new and deeply flawed constitution.¹ By deliberately blocking life-sustaining aid, the SPDC violated the right of hundreds of thousands of people to life, food, and health, and created a massive human rights disaster on top of the humanitarian crisis.

On 23 May, the SPDC finally agreed to allow international assistance in response to tremendous international pressure. Since then, the SPDC has granted at least 45 international UN staff visas, and allowed a small number of additional international nongovernmental aid workers to visit the worst-affected areas of the Ayeyarwady delta. These steps are welcome but do not provide sufficient assistance to the huge population of displaced and homeless survivors. Tens of thousands of people continue to face the risk of death, disease, and malnutrition. On 4 June, the World Food Program (WFP) described access to the delta as "an ongoing challenge" at a UN press conference in Bangkok. Moreover, the onset of the rainy season in the delta brings increased flooding, making access to the region and the distribution of assistance even more difficult.

Since declaring the end of the rescue and relief phase of the cyclone Nargis response on 20 May 2008 the SPDC has ordered increasing numbers of victims to return to

¹ The 10 May referendum was postponed to 24 May in the 47 worst-hit townships. For more information on Myanmar's flawed new constitution, see *Myanmar: Constitutional referendum flouts human rights*, 9 May 2008.

their villages while still traumatised and with no food, shelter or other aid to help them once they return. Amnesty International's ongoing research suggests that since that time, the SPDC has stepped up its campaign to force homeless cyclone survivors out of government and unofficial resettlement sites and back to their original villages, even though many villages remain uninhabitable. Government officials also have continued to block or divert aid meant for the worst-hit areas, notwithstanding pledges by the SPDC's senior leadership to the contrary.

The SPDC's disregard for its own population is not new. The humanitarian crisis in the aftermath of Cyclone Nargis, exacerbated by the SPDC's initial intransigence, is occurring in the context of ongoing, grave and longstanding human rights violations. On 2 June Louise Arbour, the UN High Commissioner for Human Rights, said in her final address to the Human Rights Council: *"In the case of Myanmar, the obstruction to the deployment of such assistance illustrates the invidious effects of long-standing international tolerance for human rights violations that made such obstruction possible."* The SPDC currently holds at least 1,850 political prisoners in poor conditions, while nearly all key political activists remain behind bars or in hiding. The government systematically and routinely harasses and detains its critics. On 27 May, the detention order of Daw Aung San Suu Kyi, the SPDC's most prominent critic, was renewed. She enters the sixth consecutive year of her current house arrest. For over two years in eastern Myanmar, the army has waged a continuous offensive in which ethnic Karen civilians are targeted for killings, torture, forced labour and forcible displacement.

Myanmar's appalling human rights record is not the backdrop to the cyclone aftermath, but is squarely at the centre of it. Therefore, respect for human rights must be at the centre of the relief effort. International human rights norms and principles provide safeguards to ensure the security and dignity of survivors, as well as the protection, assistance, and reintegration of displaced people and other vulnerable groups such as women, children, and ethnic minorities. Human rights principles should also guide the reconstruction, rehabilitation, and resettlement efforts.

Amnesty International is aware of the enormous challenges facing any government after a disaster on this scale, but the organization believes that it is imperative to ensure that security, order, and restoration of public services are not achieved at the expense of human rights. Delivery of aid has now started on a massive scale, but there are insufficient mechanisms to ensure effective distribution. It is imperative that the SPDC immediately ensures that its officials, including at the local level, do not obstruct aid, and urgently addresses shortcomings in accountability. The donor community should address the broader human rights and governance issues in the efforts to save lives in the Ayeyarwady delta.

Amnesty International raises these issues now because unless human rights safeguards are observed, tens of thousands of people remain at risk. The SPDC's senior leadership has made a public commitment to improve access and monitor aid; Amnesty International calls on the SPDC to honour this promise and ensure its implementation at the local level. But in light of the government's poor record of accountability, international donors should be alert to possible misuse of aid.

This briefing paper reflects material gathered by an Amnesty International delegate in the region during May and early June 2008, the first month after Cyclone Nargis. During that time the organization consulted a wide variety of sources, including Myanmar nationals, journalists, UN bodies, international aid agencies, non-governmental organizations (NGOs), government representatives, and religious bodies. Many of these individuals personally witnessed the events they described in Yangon and Ayeyarwady Divisions, which bore the brunt of the cyclone damage. Although Amnesty International was not able to visit Myanmar, it interviewed people with first-hand knowledge of the disaster areas and reviewed audio and video footage of some of the events described in this report. The names of individuals and the organizations they are affiliated with have been withheld for security reasons.

Forcible displacement and restrictions on movement

Of the 2.4 million people seriously affected by Cyclone Nargis, as of early June the UN estimated that some 550,000 people resided in temporary settlements. Just days after the cyclone, the SPDC began to forcibly displace cyclone survivors from both government and unofficial resettlement sites where they had fled after their homes were destroyed and their villages flooded. On 20 May the government announced that the rescue phase of the cyclone response had ended and the reconstruction phase had begun. Since then, the government has stepped up its efforts to remove cyclone survivors from their temporary shelters and return them forcibly to their homes, in many cases in areas that are uninhabitable. The authorities have targeted emergency shelters in schools and monasteries, as both were used as polling stations for the delayed May constitutional referendum, and because the school term began on 2 June.

Amnesty International has been able to confirm over 30 instances and accounts of forcible displacement by the SPDC in the aftermath of the cyclone, but anecdotal evidence from numerous sources strongly suggests a much higher number. Amnesty International is concerned that the SPDC is prematurely clearing both official and unofficial settlements of internally displaced people, leaving them with no alternative shelter. Some of these cases are set out below:

On 23 May, authorities in Yangon forcibly removed more than 3,000 cyclone survivors from an official camp in Shwebaukan township in Yangon Division and from an unofficial camp in State High School No. 2 in Dala, Yangon Division. They gave these

survivors 7,000 Kyat (US\$7) and a small portion of rice, and told those staying in the high school that they were expelled because the school term would resume on 2 June.

In Bogale and Labutta in Ayeyarwady Division on 19 May, local authorities forced large numbers of people aboard boats in an effort to return them to their villages in Myaungmya and Maubin townships and elsewhere. By 25 May, only an estimated 10% of the people originally displaced to Bogale remained, as the SPDC had moved them on to yet another location. In some cases, the authorities simply stated that the displaced could go anywhere, but could not stay where they were. Also on 19 May, a boat in Bogale destined for Kyane Chaung village sank, resulting in at least 30 deaths. The authorities then warned people not to tell any foreigners or journalists about what had happened, as the UN Secretary-General was due to arrive in Myanmar four days later.

Beginning on or just after 19 May, authorities forcibly relocated people out of Myaungmya, Maubin, Pyapon, and Labutta, where they had been originally relocated, further south back to their original villages. The southern delta area has been the most damaged by the cyclone and so is even less prepared to receive returning survivors. The authorities forcibly relocated around 600 people in the unofficial site at State High School No. 16 in Myaungmya to Labutta on or just before 25 May. Of the 45 resettlement sites that existed in Pyapon, by 28 May only three remained.

On 20 May, authorities prevented cyclone survivors in Kawhmu township, Yangon Division from coming out to the street to beg—effectively cutting off the survivors from access to necessary informal assistance. Similarly, an eye-witness told Amnesty International that past Twaytay bridge en route to Kongyangon in the Ayeyarwady Delta on 24 May, she saw gun-wielding police preventing survivors from begging along the road. Eye-witnesses also told the organization that en route from Dedaye to Yangon, a police officer brutally beat a man for begging; and that on 7 May, a member of the socio-political organization of the government, the Union Solidarity Development Association (USDA) ordered up to 500 people taking shelter in a school in Shwebaukan township to leave within days.

Violations in the context of the constitutional referendum

In some cases, the authorities forcibly displaced survivors from shelters so that they could hold the delayed constitutional referendum on 24 May in those locations. On 20 May, more than 50 cyclone survivors staying in the Dama Joun (Dhama Rone) community hall in the San-Yeik-Nyein Quarter of South Dagon Township, Yangon Division, were ordered to vacate the building so that it could be used for the constitutional referendum. On the same day, authorities told approximately 90 persons taking shelter in a hall in Ward 26 of Yangon's South Dagon township that they had to vacate the hall so it could be used as a polling station. On 23 May, the authorities likewise forced cyclone survivors to abandon the

school in a camp in Yangon's Hlaing Tharyar township for the referendum. A relief official whose teams worked in Myaungmya, Pyapon, and Bogale in the delta told Amnesty International that on 24 May, the authorities removed all displaced persons from the schools for the referendum.

On 10 May in Yangon, the authorities forced displaced persons staying in schools to leave so that the schools could be used as polling stations. Also, an eye-witness told Amnesty International that the authorities warned cyclone survivors that if they did not vote, they would not be permitted to return to their homes. A journalist who spent two weeks in the delta told Amnesty International that outside of Yangon in both Patheingyi and Maubin, on 10 May the authorities physically forced people, including those sick and injured, to vote.

Forcible displacement from monasteries

Several sources told Amnesty International that the authorities did not want displaced persons to seek shelter in monasteries and associate with monks. This was especially true in Yangon, where many monks had led the mass protest demonstrations against the SPDC in September 2007. On or just prior to 13 May, people were removed from monasteries in Yangon's Hlaing Tharyar township, and from the city's Kyi Bui Kha monastery, despite a senior monk's pleas to the soldiers in charge. On 11 May, cyclone survivors staying in four monasteries in Bogale, Ayeyarwady Division, were made to leave by the authorities and the USDA. Many of them were forced into military trucks to Maubin, while others were simply told to go back to their villages on their own.

The findings of this briefing paper along with the SPDC's poor record in dealing with displaced persons in the context of armed conflict in eastern Myanmar, make the treatment of the huge population displaced by the cyclone a central issue. In the last decade Amnesty International has reported on widespread and systematic forcible displacement by the Myanmar army in the context of counter-insurgency operations and campaigns targeting civilians in Kayah (Karen), Kayah (Karenni), and Shan States in the east of the country.

The UN Guiding Principles on Internal Displacement (hereafter the Guiding Principles) must govern how the SPDC, as well as international donors, treat the hundreds of thousands of people displaced by Nargis. The Guiding Principles are a set of widely-endorsed and authoritative, but non-binding, standards which apply to the protection of displaced persons. They reflect and are consistent with international human rights law and standards. Amnesty International believes that the SPDC has failed to respect and protect the human rights of those displaced by the cyclone, including the right to protection from arbitrary displacement, freedom of movement, freedom from forced resettlement, and the right to an adequate standard of living. The authorities have also failed to establish

conditions, as well as provide the means, which would allow the displaced to return voluntarily, in safety and with dignity, to their homes or voluntarily resettle elsewhere.

In emergency situations in which people need to relocate, governments are permitted—even obligated under certain circumstances—to require and facilitate such movement. This relocation is lawful so long as its intent is to improve their safety, security, and health. Such relocation must occur in a measure proportionate to the level of necessity, in terms of when, how, and to where people are moved. It also must be conducted without discrimination on any basis other than need, taking into account levels of access to people and limitations in capacity. Likewise, governments are permitted to impose restrictions on movement during emergencies for the same purposes, and with the same considerations, as above. Amnesty International's research demonstrates that these conditions do not apply in the present circumstances. Much of the Ayeyarwady delta remains uninhabitable, and with the onset of the rainy season, any returning survivors face serious hardships. Additionally, during the initial phases of disaster relief it is easier to provide assistance to survivors when they reside in more accessible camps. Dispersing survivors to inaccessible villages hinders their access to food and health care.

Obstructing or misusing aid

Until 26 May the SPDC blocked all international assistance to the delta which was administered by international staff of humanitarian organizations. The previous day the SPDC had agreed at an international donor conference in Yangon to allow unfettered access to all international relief agencies. There are some indications that international organizations now have better access to the delta region, but a month after the cyclone, access remains uneven and supplies inadequate. Amnesty International has confirmed over 40 reports or accounts of soldiers or local government officials confiscating, diverting, or otherwise misusing aid intended for cyclone survivors.

A journalist who spent two weeks in the delta told Amnesty International that prior to 7 May, authorities did not permit a monastery in Pyapon, Ayeyarwady Division to receive aid for the hundreds of survivors staying there in the immediate wake of the cyclone. On or just prior to 13 May, authorities did not permit monks of Yangon's Kyi Bui Kha monastery or a nearby Buddhist convent to accept aid that was offered to them by a relief organization. An international organization reported that on 14 May, the fine for foreign nationals being in the delta was potentially 20,000 Kyats (\$3,000) and five years' imprisonment. Authorities were providing incentives to report violators.

Both private donors and non-SPDC-affiliated doctors have been denied access by the authorities in the non-official camps. Authorities blocked even government-affiliated doctors' access outside of Yangon for the first eight days after the cyclone. Authorities also blocked a group of about ten private Burmese doctors from going to Bogale during the

second week. Other eye-witness reports indicate that as late as 18 May, authorities in Yangon halted a number of private relief efforts that had originated in Mandalay.

On 23 May, private donors were shown a pamphlet at a checkpoint indicating that the rescue and relief phase of the cyclone was over, and that all donations of aid should go through local authorities.

Witnesses allege USDA members harassed and threatened Kyaw Thu, a popular actor and vocal supporter of the protest demonstrations against the SPDC in September 2007, with knives and clubs when he tried to distribute rice to people in Yangon's Thanlyin Township on or just prior to 12 May. Authorities arrested his photographer, U Kyaw Swar Aung, on 18 May and police have warned members of his team that they will be punished if they continue their work.

Corruption and diversion of aid

Theft and diversion of aid is not uncommon in the aftermath of massive natural disasters around the world, as seen in situations ranging from the 2004 Indian Ocean tsunami to the 2005 Hurricane Katrina in the United States. To some extent it was to be expected in Myanmar, which suffers from tremendous corruption. The international NGO Transparency International ranked Myanmar as one of the most corrupt of 179 countries surveyed in its 2007 Corruption Perception Index. The conduct of local government officials and soldiers in the aftermath of Cyclone Nargis demonstrated the prevalence of official corruption and impunity in Myanmar.

Amnesty International notes that on 16 May, the *New Light of Myanmar*, the SPDC's primary English-language mouthpiece, stated that the government's National Disaster Preparedness Central Committee had announced that:

"...4. Anyone may inform if he witnesses or knows that the cash assistance and relief supplies donated to the storm victims are kept for self-interest, traded, used for particular persons and organizations, or misappropriated for other purposes. We hereby announce that we have made all necessary arrangements to conduct investigation into the cases to expose the offenders and take punitive action against them in accordance with the law."

Amnesty International welcomes this statement and calls on the SPDC to strictly monitor the distribution of aid by its officials. Private and international aid agencies should be vigilant to ensure assistance reaches those who need it most.

Although recent reports suggest that access to the delta has improved, recent incidents of corruption and diversion of aid suggest a potentially serious threat to effective distribution of aid.

Almost as soon as international assistance reached Myanmar, on 9 May, government authorities impounded initial WFP planeloads of high-energy biscuits at Yangon's Mingaladon International Airport, causing the WFP to suspend relief flights to the country for several hours. On two occasions in Labutta, one of the hardest-hit towns in the Ayeyarwady delta, UN staff accompanying SPDC military trucks loaded with UN supplies, caught authorities trying to confiscate or divert a portion of the aid. Also during that period an international NGO noted that the rice the authorities had given it for distribution, supposedly from UN stocks, was old and rotten, and so expressed concern as to where the high quality rice was going. On or about the 12 May, authorities seized medicine and equipment provided by another international NGO from volunteer Burmese medical workers in Labutta.

On 5 May in Thongwa Township in Yangon, a local official gathered 15 survivors to meet Major General Myint Swe, who was inspecting the area. After authorities filmed the Major General giving relief supplies to the 15 people, the local official returned in the evening and took back the supplies. Also during the week following the cyclone, soldiers in Hlaing Tharyar and Shwe Pyi Thar townships in Yangon filmed themselves distributing aid, and then took back the goods when they were finished filming. It is unclear what happened to the goods and equipment in question.

The problem of diverted aid was most acute for the first two weeks after the cyclone, as the SPDC demanded that all aid must go through government channels. During that period, relief supplies from a major UN aid agency went directly to the SPDC, and it could not confirm that all these supplies were moved out at the agreed time or reached the agreed destinations. According to credible sources, authorities have stored most international aid supplies in government warehouses, while the Ministry of Foreign Affairs decided where, when, and to whom it was distributed.

SPDC officials also blocked private domestic donors from distributing aid in the delta. The SPDC erected checkpoints at the entrances and exits of the townships between Yangon and the delta and confiscated aid from private donors, telling many that aid can only be distributed through the authorities, be they soldiers, fire fighters, or USDA members. Other individual donors—as well as actual and intended recipients of relief—have simply had their aid taken by the authorities or USDA without explanation, nor have they been informed whether their supplies were distributed, and if so, to whom. On 27 May the SPDC's National Disaster Preparedness Committee issued new regulations stating that individuals and groups would be permitted to travel and distribute aid directly, as long as they consulted the government.

On or just before 25 May at the Pan Hlaing bridge in Yangon's Hlaing Tharyar township, Police Major U Luu Win stopped 48 trucks returning from several townships, where private donors had taken relief supplies. The police ordered the drivers and trucks to go to the Government Technology Institute. They told the drivers that they needed permission from Dala, Twante, Kun Gyan Kone, Kawhmu, and Dadeye township authorities to deliver relief supplies, charged them with traffic violations, and retained their driving licences. As of 1 June, the police had not released the trucks.

On or just prior to 23 May in Shwe Pyi Thar township in Yangon, police and USDA members arrested a large group of private donors when they refused to hand over their supplies to the authorities as directed. On 16 May, Southwest Regional Commander and Chair of Ayeyarwady Division, Major General Thura Myint Aung, blocked the relief supplies of U Pyannayar Sami and U Kawi, Buddhist abbots from Kayin State, near the town of Pathein. When offered the opportunity to give the aid to the soldiers for distribution, the monks refused and left. On or just before 12 May, a woman on her way to assist survivors outside of Yangon had her car full of rice confiscated by unnamed security forces.

Discrimination and conditionality of aid

Amnesty International has confirmed three accounts of authorities conditioning aid and assistance on survivors' voting "Yes" in the postponed constitutional referendum on 24 May. On 22 May in the Nya (Htan Chauk Pin) Quarter of Yangon's Shwe Pyitha township, local authorities and a military official warned survivors during pre-voting that they would only get aid or money if they voted for the constitution. After a local official, Khin Maung Than, confirmed the affirmative votes, authorities gave voters 500-1,000 Kyat (\$.50-\$1). Similarly, in Bogale township, the authorities told survivors a week before the vote that more aid would be distributed if and when they voted "Yes" in the referendum. On 24 May, authorities withheld aid from two villages in the Pathein area because people there did not vote in large numbers.

Amnesty International has also learned that the Myanmar authorities have conditioned the provision of cyclone-related aid or assistance for people on their willingness to work or join the army. During the week of 11-18 May, authorities sent displaced survivors from Labutta to Myaungmya town and told them that they would not receive food unless they worked. On or just before 16 May, authorities ordered people in Set Su village, Bogale township, to break rocks and level a field for the construction of a helicopter landing pad in exchange for WFP biscuits. During the same period elsewhere in Bogale township, authorities gave people rice soup and shelter on condition that they clear debris and construct an official camp. In Pathein on 22 and 23 May, authorities visited households and shelters and told people that if they joined the army they would be fed and looked after. People were given three days to make up their mind.

Aid is not a privilege for the cyclone survivors but an entitlement. While the SPDC has the right to require able-bodied survivors to work in relief and reconstruction efforts during this time of emergency, such should be in addition to, rather than conditioned upon, the provision of aid. Moreover, Amnesty International is concerned that after the initial emergency, the SPDC may use civilians in the Delta for forced labour. Since 1988 Amnesty International has reported on the widespread use of forced labour of civilians by the Myanmar military in construction projects and as military porters.

Conclusion and recommendations

Amnesty International fears that the humanitarian crisis after Cyclone Nargis may lead to further human rights violations by the SPDC. Transparency and accountability, two qualities that the SPDC has not historically exhibited, are necessary to ensure that survivors are guaranteed the assistance they need and that such assistance is delivered effectively, equitably, and without discrimination. Amnesty International has confirmed reports of forced displacement and problems with aid distribution; it also fears that the SPDC may begin to use civilians for forced labour in the affected areas. The wholesale destruction and population displacement in the wake of Cyclone Nargis could create conditions in which forced labour emerges as part of the SPDC's reconstruction strategy.

Amnesty International urges the SPDC to ensure:

- Survivors of the cyclone immediately receive necessary food, shelter, and health care;
- full, unimpeded access to all affected areas for humanitarian workers, including independent monitors;
- that all displaced people are treated in full compliance with the UN Guiding Principles on Internal Displacement and other international standards;
- that displaced people are able to return voluntarily, in safety and with dignity to their homes, or resettle in another part of the country;
- genuine consultation with displaced persons, including vulnerable groups, such as children and ethnic minorities, in the planning of their return or resettlement and reintegration;
- protection of women and other vulnerable groups.

The international community has expressed desire to assist the cyclone victims. On 25 May 2008 the UN and the Association of Southeast Asian Nations (ASEAN) co-organized an international pledging conference in Yangon, attended by 51 countries and chaired by the UN Secretary-General Ban Ki-moon and ASEAN Secretary-General Surin Pitsuwan. The donors agreed on the *"need to scale up urgently and very significantly the current relief efforts, to ensure that all those in desperate need are reached quickly and with adequate life-saving relief supplies, and that an effective flow of these supplies is maintained for as long as is necessary, through the establishment of the necessary logistical arrangements and an acceleration of the arrival and distribution of vital relief goods."*²

Amnesty International believes that in order to ensure that the people of Myanmar receive the assistance they desperately need, the SPDC and the international community must address the human rights dimensions of this humanitarian emergency. The organization calls on the donor community to work closely with the SPDC to ensure it fully implements the recommendations above. Given the SPDC's poor human rights record, humanitarian aid agencies should be alert to any irregularities in the distribution of aid. The donor community should urge the SPDC to fully abide by the UN Guiding Principles on Internal Displacement.

² At donors' meeting, Ban Ki-moon says Myanmar relief effort to last at least six months, *UN News Centre*, 25 May 2008.

Amnesty International calls on the UN Security Council to press the SPDC to cooperate fully with the UN, including implementation of its own recommendation, the resolutions of the General Assembly and the Human Rights Council, the recommendations of the Secretary-General and his Special Advisor, and those of the Special Rapporteur on the situation of human rights in Myanmar.