

Impact of the Rohingya Refugee Crisis on the Association of Southeast Asian Nations (ASEAN)

A short paper on the region's response to the recent refugee crisis.

Patrick Agonias, 28 November 2015

ABSTRACT

This report is to be submitted to Amb. Marilyn Alarilla in partial fulfillment of the subject: Migration and Public Policy for the course MA-Foreign Service, SY 2015-2016.

Table of Contents

Introduction	3
The Rohingya Refugee Crisis	4
<i>History of the Rohingya and Rakhine State.....</i>	<i>4</i>
<i>Current Situation of the Rohingya as of 2014.....</i>	<i>6</i>
<i>Crisis at Sea</i>	<i>7</i>
<i>Impact, ASEAN's Response and Resolution to the Crisis</i>	<i>8</i>
Conclusion	9
References	11

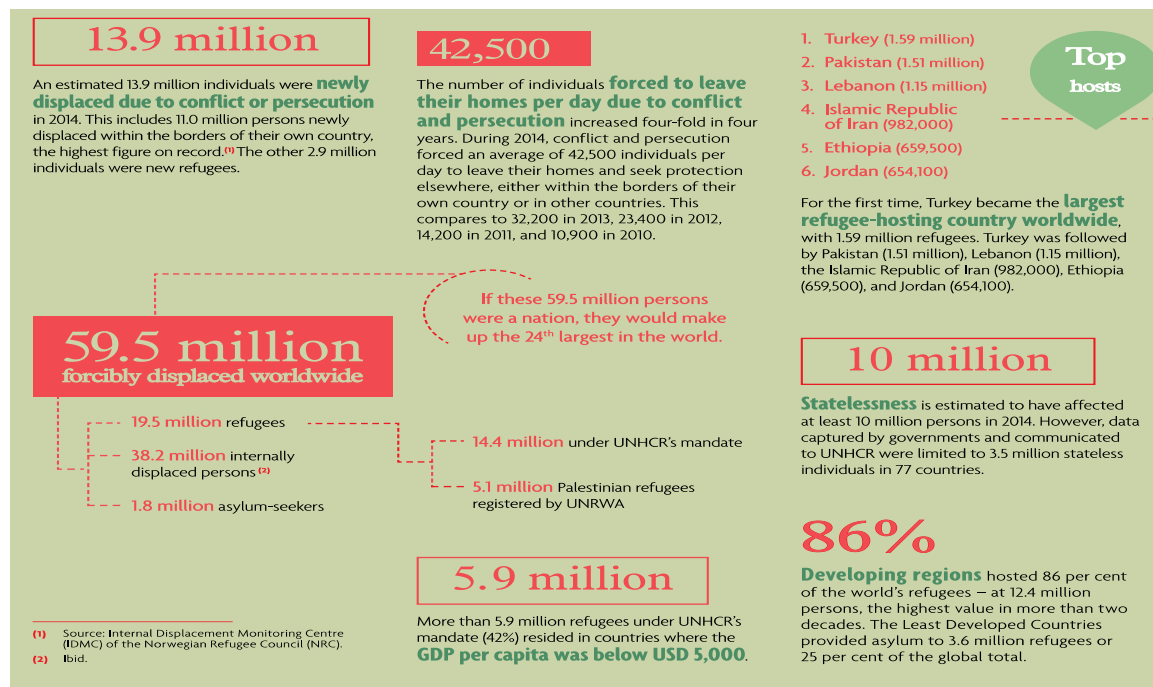
List of Figures

Figure 1: UNHCR's Summary of Key Figures	3
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Introduction

The objectives of this short report are to: (a) give a comprehensive historical background on the plight of the Rohingya and the events of the migrant crisis; (b) identify, explain the role and response of entities such as the governments of ASEAN and other organizations such as the United Nations (UN) and relevant non-governmental organizations (NGOs); (c) explain the political, economic and social aspects, factors and developments on the issue; (d) give a conclusion and recommendations based on the author's research. Studying refugees and forced displacement flows is essential in understanding emerging trends in migration, as well as an indicator of consequences of conflict, economic stagnation, and environmental degradation. As of 2014, the United Nations High Commissioner on Refugees (UNHCR) reported an accelerated growth in global forced displacement whilst reaching unprecedented levels. There are 59.5 million individuals globally that were forcibly displaced because of persecution, armed conflict, generalized violence, or human rights violation¹. Crises in the Middle East, Africa, Eastern Europe and Southeast Asia have severely stretched the global humanitarian system. In addition, the gaps can be observed on the current global legal framework in protecting, asylum seekers, refugees and internally displaced persons (IDPs). Out of the 59.5 million displaced, 19.5 million are refugees, 28.2 million are IDPs, and 1.8 million are asylum-seekers. 42,500 individuals are forcibly displaced daily due to conflict and persecution.

Figure 1: UNHCR's Summary of Key Figures



(United Nations High Commissioner for Refugees, 2015)

¹ United Nations High Commissioner for Refugees. (2015). *World at War: UNHCR Global Trends Forced Displacement in 2014*. Geneva: United Nations High Commissioner for Refugees.

The issue of refugees and forced displacement is not new in Southeast Asia. Several conflicts have taken place in the region². The most massive refugee crisis in the contemporary period, in terms of scale and complexity was the Indochina refugee crisis brought by armed conflict from 1975 to 1980³. Despite advancements in international law, the humanitarian architecture and refugee protection regime, challenges continue to persist. Policies of governments are finding it difficult to keep up with the pace with the evolving situation of refugees and asylum seekers. Phenomena such as globalization, climate change, as well as the evolution of warfare have dramatically changed the global humanitarian landscape. Emergencies are becoming increasingly complex and most are a combination of political, economic and socio-cultural factors.

The Rohingya Refugee Crisis

History of the Rohingya and Rakhine State⁴

The Rohingya are an ethnic minority group in Northern Rakhine State, Myanmar formerly known as Burma that borders Bangladesh. They are predominantly Muslims, and most are located in three townships, namely: Maungdaw, Buthidaung and Rathedaung. The geographic location of Rakhine State has isolated it from the political and economic centers of Burma. During the pre-colonial period, in 1430 the Kingdom Rakhine was established. Its power was consolidated with the assistance from the Sultan of Bengal⁵—becoming a client state of the Sultanate. Rakhine became independent in 1531 during the Mughal invasion of Bengal. In 1660, the Mughal Prince Shah Shuja fled to Rakhine and was given sanctuary by the King along with his Muslim followers. Relations were strained when the King killed the Mughal Prince; thereafter the Prince's remaining soldiers were incorporated into the King's palace guards, which was reinforced overtime by Afghan mercenaries. Internal power struggles amongst the nobility led to the downfall and annexation of the Kingdom when the Burmese King Bodawpaya invaded from 1784-1785⁶. During the conflict the Burmese King captured and used Muslim soldiers.

In 1825, British forces defeated the Burmese army during the Anglo-Burmese war, which after two more wars (1852 and 1885)—Burma was annexed as a province of British India. The annexation led to significant flow migration of Bengali into Burma. This was compounded when the new colonial policies sought to expand the rice cultivation in Rakhine. This led to a significant need of laborers, which was filled by workers from India, many whom are Muslim. The migration had profound social impact on the predominantly Buddhist population.

² These conflicts include: Viet Nam War (1955-1975) and Cambodian Civil War (1967-1975). Ethnic minorities such as the Montagnard, Hmong and Hoa were also displaced due to the conflicts.

³ United Nations High Commissioner for Refugees. (2015). *2015 UNHCR subregional operations profile - East Asia and the Pacific*. Retrieved November 9, 2015, from United Nations High Commissioner for Refugees: <http://www.unhcr.org/pages/49e45b276.html>

⁴ International Crisis Group. (2014). *Myanmar: The Politics of Rakhine State*. Brussels: International Crisis Group.

⁵ Ibid

⁶ Ibid

This led to various socio-economic problems, which fueled religious tensions between the two communities⁷. Tensions broke out during the Second World War with the Muslims supporting the British whilst the Buddhist supported the Japanese. Both sides attacked each other and accounts reported massacres were carried out by both sides. Muslims fled to the North of the state while the Rakhine population moved South, thereby segregating Rakhine State along religious lines. When the British gave independence to Burma in 1948, a Rakhine Muslim mujahedeen insurgency and followed by with other armed rebel groups⁸. That same year, the Union Citizenship Act of 1948⁹ was passed which contained a “list of indigenous races of Burma”—that were eligible for citizenship—which the Rohingya are not included. Still, the government provided them with Identification Cards to families that lived in Myanmar for two generations. The insurgency further strained relations between Muslims and Buddhists. The mujahedeen rebels were defeated in 1961, with the national government establishing the Mayu Frontier Administration. Population in the Frontier were “increasingly describing themselves as Rohingya” (International Crisis Group, 2014).

The military junta’s rise to power in 1962 led to further marginalization of the Rohingya¹⁰. The junta also began giving documentation to “fewer and fewer Rohingya children, refusing to recognize new generations of the Rohingya population” (Lowenstein, 2015). A new law in 1974 further limited the rights of the Rohingya, particularly in education and employment wherein citizens need to obtain a National Registration Card—since they are not citizens; they are only issued with Foreign Registration Cards¹¹. Schools and employers, however, do not recognize these cards. In 1982, the government effectively rendered the Rohingya population stateless after it passed a new citizenship law that prohibited them from equal access to full citizenship¹². The law continues to affect the Rohingya to this day; in addition Myanmar officials according to Human Rights Watch (2015) “routinely deny the existence of the Rohingya ethnicity.” The national government apart from its oppressive citizenship laws has also imposed laws in the 1990s to the Rohingya marriage restrictions and population control measures in 1993 and 2005¹³.

The Rohingya were forcibly displaced from their homes in 1978 after the Armed Forces began to take action against persons they deemed to be illegal immigrants. The Rohingyas were specifically targeted and as a result up to 200,000 were displaced and fled to neighboring Bangladesh (Human Rights

⁷ United States Holocaust Memorial Museum. (2015). *They Want Us All to Go Away: Early Warning Signs of Genocide in Burma*. Simon-Skjoldt Center for the Prevention of Genocide. Washington D.C.: Simon-Skjoldt Center for the Prevention of Genocide.

⁸ Other insurgencies include: communists (white and red flag), Karen, Shan, Chin and Kachin rebel groups.

⁹ ASEAN Parliamentarians for Human Rights. (2015). *The Rohingya Crisis and the Risk of Atrocities in Myanmar: An ASEAN Challenge and Call to Action*. Jakarta: ASEAN Parliamentarians for Human Rights.

¹⁰ ASEAN Parliamentarians for Human Rights. (2015). *Disenfranchisement and Desperation in Myanmar's Rakhine State: Drivers of a Regional Crisis*. Jakarta: ASEAN Parliamentarians for Human Rights.

¹¹ International Crisis Group. (2014). *Myanmar: The Politics of Rakhine State*. Brussels: International Crisis Group.

¹² Ibid

¹³ Ibid

Watch, 2013). The Bangladeshi Government likewise dislikes the sudden influx of refugees in their borders. In order to deter refugees, the government withheld humanitarian aid to camps—resulting in the deaths of 12,000 Rohingya due to starvation¹⁴. Several Rohingya were repatriated after condemnation by the international community to the Myanmar government, although refugees continue to cross to Bangladesh whilst the Bangladesh government forcibly expelled them. The Rohingya have also fled Myanmar to neighboring countries, such as Thailand and Malaysia by boat, most of which are organized by human traffickers¹⁵. The Rohingya continue to be exploited by the national government and by human traffickers as well constantly persecuted because of their religion by the dominantly Buddhist population¹⁶. Incidents of intercommunal violence between Rohingya and Buddhist were reported in 2001, 2010 and 2012¹⁷.

Current Situation of the Rohingya as of 2014

The continued poverty and exclusion of the Rohingya can be seen as an evidence of failure by Myanmar in nation building (International Crisis Group, 2014). The Burmese-dominated authoritarian government in essence, saw diversity as a threat and has actively sought to disenfranchise certain ethnic minorities and gave little priority in developing ‘ethnic borderlands’. Even after the state underwent a political reconfiguration the Rohingya continue to be excluded from participating in national and local politics. The transition of the past political structure of authoritarian rule into a semi-civilian one created a new competition for political power. The Burmese elite courted the Rakhine as allies—who also saw the Muslim communities as an electoral threat for control on the state’s affairs (International Crisis Group, 2014).

Socio-cultural problems continue to persist, particularly the intercommunal tension between the Muslim and Buddhist communities. The tension is more pronounced in Rakhine State where there are sporadic incidents of violence. Hostility has been compounded with the resurgence of Buddhist nationalism, extremism, anti-Muslim rhetoric and propaganda. Simmering tensions erupted for months in 2012 beginning with the rape and murder of a Buddhist woman by Muslim men¹⁸. Both communities retaliated against one another leading to the government imposing a state of emergency on 10 June. The government reported that 98 people were killed, 123 injured, from both communities, 5,338 homes were destroyed, and 75,000 Rohingya were displaced¹⁹. A second wave of violence occurred on 21 October, observers pointed out that that the attacks

¹⁴ Human Rights Watch. (2013). *All You Can Do is Pray: Crimes Against Humanity and Ethnic Cleansing of Rohingya Muslims in Burma's Arakan State*. New York: Human Rights Watch.

¹⁵ United States Holocaust Memorial Museum. (2015). *They Want Us All to Go Away: Early Warning Signs of Genocide in Burma*. Simon-Skjoldt Center for the Prevention of Genocide. Washington D.C.: Simon-Skjoldt Center for the Prevention of Genocide.

¹⁶ Ibid

¹⁷ Parnini, S. N., Othman, M. R., & Ghazali, A. S. (2013). The Rohingya Refugee Crisis and Bangladesh-Myanmar Relation. *Asian and Pacific Migration Journal*, 22 (1), 133-146.

¹⁸ European Commission. (2015). *The Rohingya Crisis: ECHO Factsheet*. Humanitarian Aid and Civil Protection. Brussels: European Commission.

¹⁹ International Crisis Group. (2014). *Myanmar: The Politics of Rakhine State*. Brussels: International Crisis Group.

appear to be well coordinated and directed towards to all Muslims, not just the Rohingya. The government reported that 94 people killed, 142 injured, 32,000 and 3,276 homes destroyed²⁰.

Observers, particularly from the NGO community saw the situation of the Rohingya not just a simple humanitarian emergency. Rather according to the International Crisis Group (2014) that it is a protracted crisis affecting all communities in Rakhine State. Though the humanitarian response has been crucial, it is merely one component in addressing the complex situation, which is in dire need of an effective and sustainable solution. Still current interventions are vital in delivering lifesaving services to vulnerable populations. As of 2014, 137,000 people, most are Rohingya, are forced to live in internment camps which was described by a UN official as “appalling”, with inadequate access to basic services. The UN estimates that there are a total of 310,000 people in Rakhine State that is in need of humanitarian assistance²¹. Assistance was brought to a standstill for months starting with the suspension of operation of Médecins Sans Frontiers (MSF)-Holland by the authorities on February. On 26-27 March the situation erupted into a riot in Sittwe when according to reports, an ethnic Rakhine mob attacked the compound housing international NGO agencies. In total, 33 premises such as offices, residence, and warehouses are ransacked resulting in USD 1 million in losses. The interruption on humanitarian services affected and estimated 140,000+ vulnerable people. The work of aid workers became more difficult after authorities imposed a curfew and movement restrictions. In addition, some elements in communities remain distrustful to international aid workers. These obstacles have greatly hampered the delivery of services to those in need. The government filled the health service gap left by the MSF—but their capacity was very limited thus leading to numerous preventable deaths. Later months saw the resumption of humanitarian operations, access to population of concern have improved though it has not yet returned to previous levels as of 2014.

Crisis at Sea

The situation of the Rohingya worsened in February of 2015 when the Myanmar government adopted another law that required Rohingya to surrender their temporary identification card (Broderick, 2015). The loss of further documentation pressured more Rohingya to flee to Myanmar either by land or sea. On the latter method, by spring of 2015, thousands of Rohingya fled Myanmar to neighboring Thailand, Malaysia and Indonesia. Human traffickers, apart from extorting exorbitant fees, crowd several of them in boats without food or water²². The crisis unfolded when the government of Thailand cracked down on human traffickers—which prompted the captains of these boats to abandon ship—stranding an

²⁰ Ibid

²¹ Ibid

²² Lindblom, A., Marsh, E., Motala, T., & Munyan, K. (2015). *Rohingya Muslims: Is Genocide Occurring in Myanmar's Rakhine State? A Legal Analysis*. Yale Law School, Allan K. Lowenstein International Human Rights Clinic. New Haven: Allan K. Lowenstein International Human Rights Clinic.

estimated 6,000 Rohingya at sea. The first boat arrived in North Aceh, Indonesia with 573 people on board. Four boats containing 2,000 Rohingya migrants arrived and were rescued by both Indonesia and Malaysia. However on 12 May, another boat, carrying 400 migrants was towed out of Indonesian waters by authorities, after providing the migrants with fuel²³. By 14 May, Malaysia and Thailand began pushing back vessels. According to a report, Malay authorities turned away two vessels near the shores of Malaysia's northern islands of Penang and Langkawi. Meanwhile, a boat found drifting in Thai waters is declined permission to land (Albert, 2015). Officials of these governments emphasized that the refugees are not their responsibility and it would only encourage more immigrants to arrive²⁴.

Impact, ASEAN's Response and Resolution to the Crisis

There has been no coordinated response from ASEAN was proposed or developed to address the crisis. Member states themselves lack any established legal frameworks that concerns the protection of refugees²⁵. States such as Indonesia, Malaysia, Thailand and Myanmar have not yet ratified the 1951 UN Refugee Convention and the 1967 Protocol (Broderick, 2015). United Nations Secretary-General Ban Ki-Moon called on countries to *–ensure the obligation of rescue at sea is upheld”* and to *–keep their borders and ports open in order to help the vulnerable people who are in need”* (Australian Broadcasting Corporation, 2015). The Philippines, on 19 May, announced that it is ready to assist the migrants stranded at sea whilst in Thailand; authorities arrested the suspected kingpin of the human trafficking network in the region. The following day, a trilateral meeting was held in Kuala Lumpur, which included leaders from Malaysia, Thailand and Indonesia. The crisis was temporarily resolved when Indonesia and Malaysia agreed to provide temporary refuge for Rohingya at sea amid pressures from the international community²⁶. However, both insisted that the assistance was only temporary and that the international community should *–conduct a resettlement and repatriation process”* within a year. Meanwhile, in 21 May, the Australian Prime Minister Tony Abbot refused requests by governments to assist in the resettlement of migrants²⁷. Governments of the United States and Gambia expressed their willingness to take them. Malaysia and Indonesia undertook search and rescue missions in the Andaman Sea for other stranded migrants. On 24 May, Bangladeshi Prime Minister Sheikh Hasina accused the migrants as *–mentally sick”* and *–tainting Bangladesh's image in the international*

²³ Australian Broadcasting Corporation. (2015). *South-East Asian migrant crisis: Timeline of key events*. Retrieved November 12, 2015, from Australian Broadcasting Corporation: <http://www.abc.net.au/news/2015-05-28/timeline-south-east-asia-migrant-crisis/6498794>

²⁴ ASEAN Parliamentarians for Human Rights. (2015). *Disenfranchisement and Desperation in Myanmar's Rakhine State: Drivers of a Regional Crisis*. Jakarta: ASEAN Parliamentarians for Human Rights.

²⁵ United Nations High Commissioner for Refugees. (2015). *2015 UNHCR subregional operations profile - East Asia and the Pacific*. Retrieved November 9, 2015, from United Nations High Commissioner for Refugees: <http://www.unhcr.org/pages/49e45b276.html>

²⁶ ASEAN Parliamentarians for Human Rights. (2015). *Disenfranchisement and Desperation in Myanmar's Rakhine State: Drivers of a Regional Crisis*. Jakarta: ASEAN Parliamentarians for Human Rights.

²⁷ Australian Broadcasting Corporation. (2015). *South-East Asian migrant crisis: Timeline of key events*. Retrieved November 12, 2015, from Australian Broadcasting Corporation: <http://www.abc.net.au/news/2015-05-28/timeline-south-east-asia-migrant-crisis/6498794>

*arena*²⁸. Thailand convened a regional conference on 29 May to address the crisis and its underlying causes²⁹. However, according to the ASEAN Parliamentarians for Human Rights (APHR), the meeting *failed to craft a regional response to the drivers of the outflow, which are rooted in Rakhine State*³⁰.

Conclusion

Several international and NGOs proposed recommendations to avoid another migrant crisis in the region. Most of the recommendations are aimed at addressing the root causes of the crisis—the marginalization of the Rohingya in Myanmar³⁰. In addition, UNHCR is advocating for ASEAN states to ratify the UN Convention on Refugees and its Protocols³¹. The former recommendation is met with opposition by the Myanmar government's insistence that the Rohingya is an internal affair of the state and that ASEAN should abide by its principle of non-interference. UNHCR emphasized that by ratifying the convention; it will strengthen the legal framework for protecting refugees in the region. Moreover, it will reduce or eliminate instances of *refoulement* of refugees and asylum seekers³². The APHR pointed in its recent report that the crisis exposed the region's lack preparedness in dealing a sudden onset of mass migration. Additionally, ASEAN is still at risk of another full-blown crisis if the Rohingya situation in Myanmar remains unresolved. APHR strongly recommended that governments in the region should act urgently on a unified response, mechanism and plan in order to handle future migrant crises. The report also explained that the real solution to this protracted humanitarian crisis is by negotiating with the Myanmar government to end its policy of discrimination:

"Fundamentally, ASEAN policy must be aimed at ensuring that the factors driving Rohingya to flee Myanmar are properly addressed. In addition to providing humanitarian aid, ASEAN and its individual member states must pressure the Myanmar government to end human rights abuses and systematic discrimination against Rohingya" (ASEAN Parliamentarians for Human Rights, 2015)

The report also emphasized the roles of other states and regional organizations that can either pressure the Myanmar government or other ASEAN member states in addressing the root causes of the crisis³³. Throughout the report the Rohingya migrant crisis is a direct result poverty and exclusion by the Myanmar government towards the Rohingya. The recent influx of migration shows that the

²⁸ Ibid

²⁹ ASEAN Parliamentarians for Human Rights. (2015). *Disenfranchisement and Desperation in Myanmar's Rakhine State: Drivers of a Regional Crisis*. Jakarta: ASEAN Parliamentarians for Human Rights.

³⁰ Ibid

³¹ European Commission. (2015). *The Rohingya Crisis: ECHO Factsheet*. Humanitarian Aid and Civil Protection. Brussels: European Commission.

³² United Nations High Commissioner for Refugees. (2015). *2015 UNHCR subregional operations profile - East Asia and the Pacific*. Retrieved November 9, 2015, from United Nations High Commissioner for Refugees: <http://www.unhcr.org/pages/49e45b276.html>

³³ ASEAN Parliamentarians for Human Rights. (2015). *Disenfranchisement and Desperation in Myanmar's Rakhine State: Drivers of a Regional Crisis*. Jakarta: ASEAN Parliamentarians for Human Rights.

there are no changes on the ground with most, if not all, Rohingya are willing to risk to their lives at sea than to continue living—in deplorable conditions in government camps.

It can be assumed that majority of the population see the situation in their own country as hopeless since the government continues to curtail their rights as well as refusing to acknowledge their own citizenship. Still, the international community and international organizations—especially UNHCR and NGOs—continue to pressure the Myanmar government in establishing a durable solution to the issue. However, ASEAN continues to be resolute in adhering to its principle on non-interference, despite the fact that thousands of have already died and those who continue to suffer under the Myanmar government. This dilemma in policy will continue to plague ASEAN if the root causes are not addressed, with a future migrant crisis likely to occur again. It is also worth noting that member states themselves have still not ratified conventions relating to refugee protection—which is alarming in this era of globalization. The lack of a legal framework amongst member states will only work against in formulating a unified response or mechanism in managing such a crisis in the future. This gap was clearly seen with the fragmented responses of Malaysia, Indonesia and Thailand during the height of the crisis with disastrous consequences. An IOM official heavily criticized these governments for jeopardizing the lives of migrants, some of who are women, children and elders. The official described the situation devolving into a deadly game of *‘Human Ping-Pong’*. This disregard of human life and dignity is in stark contrast on ASEAN’s goal of establishing a people-oriented Socio-Cultural Community wherein it stated:

“It seeks to forge a common identity and build a caring and sharing society which is inclusive and where the well-being, livelihood, and welfare of the peoples are enhanced” (Association of Southeast Asian Nations, 2015)

Although the goal of ASEAN is ideal, individual governments of member states, continue to obstruct or create more barriers to effectively resolve the situation of the Rohingya. The current plight of the Rohingya will remain unchanged unless governments set aside their interests in order to end the protracted humanitarian crisis in Rakhine State.

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