

# THE GOVERNMENT SOCIAL SERVICES POLICY ON CENTRAL EUROPE-INDONESIA FOR REFUGEE PROTECTION: ARE THE LAWS SUFFICIENT FOR REFUGEE PROTECTION IN BOTH COUNTRIES?

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*What is the refugee? A refugee is a person, or a group of people who have been forced to leave his or her country because of the problem, such as like persecution, war or maybe violence that's happen in his/her country. A refugee has a well-founded fear of persecution that is happen in that country and some of the reasons are race or ethnic, religion, nationality, political opinion or maybe membership in a particular social group. And most of them can not return to they homeland and home because they are afraid to do so. War and ethnic, tribal and religious violence are leading causes of refugees fleeing their countries. Because of this case we should help them, and protect them. And In this paper we will talk about how does some country manage and treat the refugees in their country through the social services policy and law, and in this paper we will see from these two perspectives of countries, one from the Germany and Indonesia, we will find out, do the law and the policy in both of this country (Germany and Indonesia) are protect the refugee and how does the law and the policy that is rule the refugee well enough of its implementation in society.*

**Keywords:** *Refugee; Social Service Policy; Central European and Indonesia*

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## I. INTRODUCTION

Refugees are often destitute; they live in difficult material and psychological conditions; they are open to that suspicion which is often the fate of the poor, the un protected, the homeless, the "man without papers." Intentional discrimination against refugees is not infrequent.<sup>1</sup> The practice of individual states has done much to mitigate the disabilities of refugees. In the "common law" countries, for example, there is little distinction between nationals and aliens in questions of civil rights; refugees therefore enjoy on the whole the same civil rights as nationals, in common with other aliens. This is not the case in countries whose civil law is based on the Napoleonic Code, where the concept of reciprocal treatment governs the position of aliens. In some of these countries, of which France is an example, however, much has been done, largely by administrative arrangements, in order to assimilate the treatment of refugees in certain matters to that of nationals, in others to that of fully protected aliens. International politics now has the potential of extinguishing most of all the human race.<sup>2</sup> But many of these practices, general and humane as they may be, are diverse to a degree that prevents them from being considered as a reflection of the common consent of states, as international law even in gestation. Since 1921, and also throughout hisotry there have been struggles always, like how, and when the government should involved (Jannah Mather t.thn.) the need for international action for refugees has been recognized. Apart from relief measures, it has found expression in the establishment of international instruments for the definition of the legal position of refugees, and in the creation of international agencies for the protection of refugees. Prior to the second World War intergovernmental efforts for the improvement of the legal status of refugees were directed to the conclusion of multilateral treaties relating to specific groups rightly been called "rudimentary".<sup>3</sup> The international agencies set up at that time were likewise charged with the protection of these groups only. The Convention Relating to the Status of Refugees,<sup>4</sup> adopted in Geneva on July 28, 1951, by the United Nations Conference of Plenipotentiaries, is designed to consolidate existing international instruments relating to refugees and to extend their scope to further groups of refugees. It aims at regulating their legal status in far greater detail than previous instruments, and thus should establish within

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<sup>1</sup> The 1951 Convention Relating to the Status of Refugees (art. 6),(art 7)

<sup>2</sup> Rourke, J. T. (2012). *International Politics on the World Stage*. USA: Library of Congress Catalog .

<sup>3</sup> Jennings, R. Y. (1939). Some international law aspects of the refugee question. *Brit. YB Int'l L.*, 20, 98.

<sup>4</sup> Weis, P. (1954). The international protection of refugees. *American Journal of International Law*, 48(2), 193-221.

the contracting states a uniform legal status for the existing groups of United Nations protected persons.

Worldwide there are over 15 million refugees, most of whom were displaced because of war and other organised violence.<sup>5</sup> Large numbers of these refugees remain in recipient countries for many years or even decades, and addressing their health needs can pose a challenge to services. Community studies on long-settled war refugees are rare and have reported raised prevalence rates of mental disorders.<sup>6</sup> Some evidence suggests that a higher level of exposure to both war-related traumatic events and postmigration stressors in the recipient country may be associated with raised rates of mental disorders over many years. Prevalence rates of mental disorders among refugees vary markedly across studies, for example for depression from 2.36 to 80% and for post-traumatic stress disorder (PTSD) from 4.45 to 86%. Such variation may partially be explained by methodological differences. It may also reflect substantial differences in sample characteristics and the context of the resettlement, which might interact so that the same sample characteristics are differentially linked to mental disorder rates in different host countries. To test whether the association of refugee characteristics with mental disorders varies across countries, similar groups, preferably from the same background, should be studied in different countries using the same assessment instruments. In the current study we aimed to:

- a. determine which sociodemographic characteristics, war experiences and postmigration factors are associated with mental disorders in war refugees from the same region who have resettled in different countries;
- b. determine whether the associations varied across countries; and
- c. assess the relative impact of each group of factors on mental disorders and examine the confounding effect of post-migration factors in explaining the relationship between war exposure and mental disorder.

On this research, author assess the similarities and differences between the policy or regulations about the refugees Germany versus Indonesia using a few dimensions or fields of comparison created on the basis of the available evaluative literature These dimensions or fields are the policy they use, and governance of policy, and hoe does the implementation of those policy. They take their basis from a logical model that leads to a practical solution that parallels the policy cycle model,

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<sup>5</sup> United Nations High Commissioner for Refugees. 2009 Global Trends: Refugees, Asylum-seekers, Returnees, Internally Displaced and Stateless Persons. UNHCR, 2010 (<http://www.unhcr.hk/files/unhcr/news/2009%20Global%20Trends.pdf>).

<sup>6</sup> Mollica RF, McInnes K, Poole C, Tor S. Dose-effect relationships of trauma to symptoms of depression and post-traumatic stress disorder among Cambodian survivors of mass violence. *Br J Psychiatry*; 173: 482-8.

examining public policy as a process that consists in a series of particular stages, and substages comprising the initial identification of the public problem about refugees and its subsequent policy solution.

## II. GERMAN ON REFUGEES: POLICY AND REGULATION ON REFUGEES

Nearly 1 million Refugees came flooding a few number of countries in the European Union since 2014. Most immigrants are refugees who come from countries that are the majority is in the midst of civil war such as Syria, Afghanistan and Iraq. This refugee crisis is the worst refugee crisis in post-war Europe World II. The crisis worsened due to hundreds of thousands of people fled war in Middle Eastern countries like Syria, Iraq, and Afghanistan. These refugees arrived in the European Union region starting from the Greek region and the Balkans. According to data released by Eurostat, the European statistics office, the amount asylum requests to EU countries jumped as much as 44% at the beginning of the year 2015, which was around 662.165 people and 1,014,375 people at the end of 2016.<sup>7</sup> Eurostat also showed that the most demand for asylum came from Syrian population. Eurostat showed an increase of 1.5 times the amount asylum seekers in 2013. A total of 23,295 asylum applications were accepted by various European Union member countries. Four European Union member countries namely Germany, Italy, Hungary, and Sweden accept 2/3 asylum applications submitted by the parties refugees. However, outside of this amount, other asylum applications are rejected. Thing this caused many refugees to try to enter the European Union illegally.

At the time when several EU member states, expressed their disapproval the presence of refugees in Europe, Germany has become the largest recipient country wave of refugees in Europe. In the period 2012-2014, Germany accepted around 61,885 asylum requests. When the refugee crisis hit Europe in 2014, Germany receives around 202,645 asylum requests.<sup>8</sup> Germany becomes most European countries grant asylum requests from immigrants, that is equal to 39,965 requests for asylum in 2012 to 2014. In the year 2015 itself, Germany has granted as many as 140,910 asylum applications. While according to the latest data, Germany received asylum requests totaling 476,510 two times more than the request for asylum in 2014.<sup>9</sup> Germany shows a pro attitude towards refugees, which is Germany have legal rules that provide life insurance for refugees who seek refuge in his country. German positive response to

<sup>7</sup> Eurostat. (2017, February 10). Asylum and First Time Asylum Applicants by Citizenship, Age and Sex Annual Aggregated Data (Rounded).

<sup>8</sup> *Ibid.*

<sup>9</sup> *Ibid.*

refugees can be seen when Germany formed a policy called "*Open Door Policy*" launched by Angela Merkel in 2015. This policy is policies that offer mass protection to refugees, in particular Syrian refugees. The German government declares that Syrian refugees will accepted in Germany and welcome to stay, no matter which EU country the first time they entered.

## A. German Legal Basis in Preparing Refugee Policies

Germany has several legal bases that are used as guidelines in arrange policies regarding refugees. Here are the legal bases used by Germany:

a. The 1951 Convention Relating to the Status of Refugee and 1967 Protocol

The 1951 Convention Relating to the Status of Refugee is agreements governing refugee status and related matters. Agreement this was set at the Diplomatic Conference held by the United Nations at Geneva in July 1951 and later developed in the 1967 Protocol. This 1951 Convention on refugee status was ratified by 145 countries. Germany is one of the countries that ratified the agreement, even acting as a signatory. This agreement outlines the definition of refugees and types of legal protection for refugees, other types of assistance and rights social status accepted by people with refugee status. The 1951 Convention and the 1967 Protocol also described its obligations must be carried out by refugees against the host country refugees.<sup>10</sup> The 1951 Convention and the 1967 Protocol were the only ones Legitimate legal instruments that regulate all important aspects relating with refugees.

b. Common European Asylum System

The Common European Asylum System (CEAS) is a system presents joint minimum standards regarding treatment of seekers asylum. CEAS contains a legal framework that covers all related aspects the asylum process and its supporting agents. The process of granting asylum applications consists of several stages. First, an asylum seeker makes a letter asylum application in a designated office. Asylum applicants will given shelter and food until his asylum request gets 8 decision. Then asylum seekers will be asked for fingerprints. This information submitted to the EURODAC database which is used to identify which country is responsible for the asylum seeker. Furthermore, the asylum applicant will be interviewed about his motivation for submitting asylum application. From here it will be determined whether the asylum applicant classified as refugee status or subsidiary protection (protection)

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<sup>10</sup> UNHCR. (2011). The 1951 Convention Relating to the Status of Refugee. Jenewa: UN High Commissioner for Refugees.

given to people who are threatened if they return to their home country, but does not fulfill refugee qualifications as stated in the definition refugee). If an asylum application is accepted, the person will get it full rights to asylum. If the application is rejected, then the person can appealed in court. If the appeal is won by asylum applicant, the country concerned must grant the request asylum. However, if the asylum applicant loses an appeal, he will returned to their home country or transit country.<sup>11</sup>

c. Dublin Regulation

Dublin Regulation is an agreement that is handled on the 15th June 1990 in Dublin, Ireland. The Dublin Regulations govern the criteria and mechanism for determining which EU member countries are responsible responsible for examining an asylum request from a hird country refugee which accumulates in one member country. Usually, the state is responsible the answer to following up on refugees is an EU member state the refugee first entered. This regulation applies to September 1, 1997 in 12 signatory countries namely Belgium, Denmark, France, Germany, Greece, Ireland, Italy, Luxembourg, Netherlands, Portugal, Spain, and England and applied in Finland starting January 1, 1998.<sup>12</sup> This rule was formed with the aim of ensuring access to faster asylum process and clarity of examination of asylum applications by a country. However, Dublin regulations have not included a system burden sharing or sharing of responsibilities towards asylum applicants in the Union region Europe.<sup>13</sup> Through the Dublin regulation, the European Union ensures that each asylum claim will get a fair examination at one member country.

## B. German Policy for Refugees

a. The Basic Law for the Federal Republic of Germany

The Basic Law for the Federal Republic of Germany (*Grundgesetz für die Bundesrepublik Deutschland*) is the basic rule used by The Federal Republic of Germany in carrying out its public life. Law the basis for the Federal Republic of Germany was recognized on May 8, 1949 in Bonn, and signed with the Allied Bloc of World War II (countries that were fight the Axis Block; Germany, Italy and Japan;

<sup>11</sup> Commision, E. (2016, July 13). The Common European Asylum System (CEAS)

<sup>12</sup> Council, E. (1990, June 15). Convention determining the State responsible for examining applications for asylum lodged in one of the Member States of the European Communities (Deposited with the Government of Ireland).

<sup>13</sup> Council, E. (2013). REGULATION (EU) No 604/2013 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL.

in 1939 - 1945) at dated May 12, 1949.<sup>14</sup> This policy starts entered into force on May 23, 1949. The rules regarding refugees and asylum are listed in section 16a of the section first The Basic Law for the Federal Republic of Germany concerning rights basic. In article 16a Number 01 (Germany t.thn.) regarding asylum rights, it is stated that: (1) People who experience persecution in the political sphere have the right get the right to asylum.

b. Asylum Procedure Act

Rights to asylum for victims of political persecution are basic rights as stated in The Basic Law for the Federal Republic of Germany article 16a paragraphs 1 to 5. To apply the contents of the article, a system was established which regulated asylum procedures in Germany. This system is known as Asylverfahrensgesetz or law on asylum. Rule listed in AsylVfG applies to all foreigners who seeking refuge for political persecution as mentioned in The Basic Law article 16a or foreigners seeking protection international according to Parliamentary Instruction and European Council 2011/95 / EU concerning the standard of qualification for third country citizens or people without citizenship. AsylVfG regulates various matters related to asylum issues at German. The scope of asylum requests, granting protection, forms persecution, asylum procedures in Germany, accommodation and distribution of refugees, rights stay for asylum seekers, and the expiration of a legal status refugees regulated in AsylVfG.<sup>15</sup>

c. Open Door Policy

This open door policy describes the conditions in which Germany continues open its borders for refugees who want to seek asylum in their country when other EU member states try to close its borders.<sup>16</sup> Through this policy, Germany seeks to accommodate as much as possible for refugees, especially those who fled from war in Syria.<sup>17</sup> The open door policy applied by Germany allows refugees to seek asylum in Germany. Thing this violates the contents of the Dublin Rules, which mentions refugees required to seek asylum in a designated country or in a member country, The first European Union they visited. German history is a determining factor in the policy formation process in Germany.<sup>18</sup> German historical values shape Germany's positive attitude towards the crisis current European

<sup>14</sup> Bundestag, G. (2012). *Basic Law for the Federal Republic of Germany*. Berlin, German.

<sup>15</sup> Federal Ministry of Justice and Consumer Protection. Asylum Act. (2015).

<sup>16</sup> Anderson, N. (2007). *The Natural Curse and Policy Recommendation to correct the Curse*. 165.

<sup>17</sup> DW. (Februari 2016). *Merkel unmoved by refugee crisis criticism*.

<sup>18</sup> UNHCR. (2011). *The 1951 Convention Relating to the Status of Refugee*. Jenewa: UN High Commissioner for Refugees.

refugees.<sup>19</sup> Nazi Government and World War II forced people from all over the world to flee and looking for asylum. Germany's past and guilt over Hitler and Nazi atrocities Germany during World War II had a very important role in the formation of Germany's attitude towards refugees at this time. As a result of Germany's role in World War II, Germany had responsibility specifically for refugees and asylum seekers.<sup>20</sup> Post cruelty carried out by the Nazis, Germany strived to make amends for his mistakes Hitler's reign.<sup>21</sup> Germany feels indirectly responsible for the misery of millions of people due to Hitler's leadership. Taste Germany is responsible for its past mistakes in The Basic Law Article 16a states that anyone who escapes from political oppression has the right to asylum in Germany. This became the point stated by Merkel that it was closing the border and refusing to help refugees is the same as changing German constitution.<sup>22</sup> This makes the Germans more sympathy and openness and welcome the arrival of refugees. Consequence postwar experience of refugees and the desire to atone for Nazi crimes in the past, Germany argued that they should have used it approaches and policies that are open to refugees, including through open door policy.<sup>23</sup>

### III. INDONESIA ON REFUGEES POLICY

A country has its right to refuse or accept foreigners into the territory of the country if they do not meet certain conditions. However, in special situations, foreigners can enter a country without documents, namely in the case of refugees. The issue of refugees is an international issue that has been going on for a long time. Evacuation is a form of population movement that has different characteristics than other forms of population displacement. Such characteristics distinguish refugees from other categories of migrants and influence the protection mechanism applied to them.<sup>24</sup> The problem of refugees is due to persecution and violations of one's residence. Armed conflict and other situations of violence have long been the main reason for the cross-border movement. Many of these conflicts are caused by ethnic, political or religious

<sup>19</sup> Grammaticas, D. (2015, September 15). EU migrant crisis: Why Germany still welcomes the migrants.

<sup>20</sup> McGuiness, D. (2016, January 8). Mein Kampf hits stores in tense Germany.

<sup>21</sup> Adler, K. (2016, January 22). Germany struggling to cope with migrant influx.

<sup>22</sup> McGuiness, D. (2016, January 8). *Op.Cit*

<sup>23</sup> Barkin, P. C. (2015, September 13). Refugee crisis shows the changing soul of Germany.

<sup>24</sup> Patrogic, J. (1996). *Introduction to International Refugee Law*. San Remo (Italia) : the institute of humanitarian law .



problems. As a result of conflict, causing psychological trauma and economic problems. Not to mention the sexual violence that was deliberately used as a means of war to destroy society. Therefore, each country has the responsibility to protect asylum seekers due to persecution and violation of the person's residence. In Indonesia, the problem of asylum seekers is regulated in the 1945 Constitution, Law (Law) Number 39 of 1999: concerning Human Rights:

- a) whereas human beings, as creations of God Almighty charged with the task of managing and protecting the universe, with total devotion to and responsibility for the welfare of humanity, being His creation are bestowed with basic rights to guarantee their human dignity and worth, and harmony with their environment;
- b) whereas human rights are basic rights bestowed by God on human beings, are universal and eternal in nature, and for this reason must be protected, respected and upheld, and may not be disregarded, diminished, or appropriated by anyone whosoever;
- c) whereas besides basic rights, humans also have basic obligations to one another and to society as a whole, with regard to society, nation and state;
- d) whereas as a member of the United Nations, the nation of Indonesia has a moral and legal responsibility to respect, execute, and uphold the Universal Declaration on Human Rights promulgated by the United Nations, and several other international instruments concerning human rights ratified by the Republic of Indonesia;
- e) now, therefore, upon consideration of paragraphs a, b, and c, and to implement Decree of the People's Legislative Assembly of the Republic of Indonesia Number XVII/MPR/1998 concerning Human Rights, it is considered necessary to enact provisions in an Act concerning Human Rights

Law Number 37 of 1999 concerning Foreign Relations, and TAP MPR, Number: XVII / MPR / 1998 concerning Human Rights (HAM) and also Law Number 1 of 1979 concerning Extradition. However, until now Indonesia has not ratified the refugee law to support the law.

y not being a party to the 1951 Convention and the 1967 Protocol, the Indonesian government did not have the authority to provide refugee status determination (RSD), so that regulations on handling refugees in Indonesia only relied on statutes from the United Nations High Commissioner for Refugees (UNHCR), in accordance with the mandate received by Indonesia in 1951. This lack of legitimacy made Indonesia unable to respond to and overcome refugees. Nevertheless, the absence of these legitimacy is only half of the problems that exist. We argue, if human rights and refugees are an important issue that must be taken seriously, the Indonesian government should have acted more decisively. The absence of RSD authority should encourage the government to make

more efforts to implement it, so that Indonesia gets the authority to better manage refugees.<sup>25</sup>

Human rights are believed to have universal value which means not knowing limit and time. This universal value which is then translated in various national legal products in various countries to be able to protect and enforce values humanity. Even this universal value confirmed in international instruments, among others: International Covenant on Civil and political rights, International Covenant on Economic, Social and Cultural Rights, Convention on the Rights of the Child and others.<sup>26</sup> Human rights protection can be done on time of peace and armed conflict. Effort United Nations to raise special protection issues for women and children during conflict armed with issuing the Declaration concerning the Protection of Women and Children in Emergency and Armed Conflict (Declaration on the Protection of Women and Children in Emergency and Armed Conflict). This declaration refers to armed conflict international and only regulate crime criminal acts against children, but not yet contains the concept of gender based violence.<sup>27</sup> As far as protection is concerned against related refugees with situations of armed conflict, there are several principle as follows:<sup>28</sup> paragraph 1) which is in harmony with Article 14 paragraph 1 Protocol II of 1977

- (b). Exceptions can be made in situations armed conflict that is when it concerns security of civilians or because of imperative military reasons (principle 6 paragraph 2 9b) in harmony with Article 17 paragraph 1 of Protocol II of 1977
- (c). Evacuation must end in timeno longer than expected by circumstances
- (d). Evacuation cannot be done with ways that violate the right to life, respect, freedom and security of people concerned.

Also in 2016 President of Indonesia make the new rule and regulation about the refugees in Indonesia: Regulation of The President of The Republic of Indonesia Number 125 Year 2016 Concerning: The Handling of Foreign Refugees

CHAPTER I: (2016 t.thn.)

GENERAL PROVISIONS

<sup>25</sup> Liliansa, D. A. (2015). Should Indonesia Accede to the 1951 Refugee Convention and its 1967 Protocol. Jakarta: Universitas Indonesia .

<sup>26</sup> Sartori, G. (1997). *The Theory of Democracy Revisited*. New Jersey: Chatham House .

<sup>27</sup> Setyawati, W. (2006). *Pemahaman Bentuk-Bentuk Kekerasan*. Bandung.

<sup>28</sup> Soeprapto, E. (2013). Tinjauan dan Perlindungan Hukum. *Seminar Nasional Keadaan Darurat Militer di Aceh Ditinjau dari Berbagai Aspek Hukum Internasional*. Jakarta.

#### Article 1

For the purpose of this Presidential Regulation:

1. Foreign refugee, hereinafter referred to as refugee, shall mean a foreigner who resides within the territory of the Republic of Indonesia due to a well-founded fear of persecution due to race, ethnicity, religion, nationality, membership of a particular social group, and different political opinions, and does not wish to avail him/herself of protection from their country of origin and/or has been granted the status of asylum-seeker or refugee by the United Nations through the United Nations High Commissioner for Refugees.
2. Voluntary return is an activity to return a refugee to his/her country of origin voluntarily.
3. Consular notification is an official communication conveyed by the minister in charge of foreign relations and politics to the representation of a foreign country or vice versa, containing a notification regarding a foreigner who is in distress or who is deceased.
4. Search and rescue is any undertaking and activity of searching, assisting, rescuing or evacuation of people in emergency situations and/or in danger caused by an accident, disaster, or any condition that endangers human life.
5. Minister refers to the minister coordinating matters on politics, law and security.
6. Immigration Detention Center is a unit operating under the ministry in charge of law and human rights affairs that provides the detention of foreigners.
7. Immigration Office is a unit operating under the ministry in charge of law and human rights affairs that handles immigration related matters.

#### Article 2

- (1) The handling of refugees is carried out pursuant to cooperation between the central government with the United Nations through the United Nations High Commissioner for Refugees in Indonesia and/or international organizations.
- (2) The international organization as referred in paragraph (1) is the international organization engaged in the area of migration or humanitarian affairs operating under an agreement with the central government.

#### Article 3

The handling of refugees must duly observe generally applied international provisions and be in accordance with the provisions of laws and regulations.

Article 4

- (1) The handling of refugees is coordinated by the minister.
- (2) Coordination as referred to in paragraph (1) is carried out for the purpose of formulating policies, to cover:
  - a. Finding;
  - b. Placement;
  - c. Safeguarding; and
  - d. Immigration supervision.
- (3) In the formulation of policies as referred to in paragraph (2), the minister in charge of foreign relations and politics shall submit policy considerations to the minister.

A few moments ago Indonesia issued a statement regarding the Rohingya crisis that occurred in Myanmar. However, many circles insist that Indonesia act more decisively and boldly. For example, withdrawing the Indonesian Ambassador in Myanmar, expelling the Myanmar Ambassador in Indonesia, or dropping the economic embargo.

Countries in ASEAN themselves are not too hard to respond to the violence that befell Rohingya ethnic groups, because they are bound by the ASEAN Charter, one of which is not to interfere in the internal affairs of each member.

The following are seven statements of the Indonesian government which were reported on the website of the Indonesian Ministry of Foreign Affairs on Tuesday, August 29, 2017:

1. Indonesia condemned armed group attacks on the police post and refugee shelter facilities in Maungtau Rakhine State on August 25, 2017 which required hundreds of people to flee and cause a new round of violence.
2. Indonesia also regretted the loss of victims, both casualties and injuries.
3. Indonesia hopes the Myanmar Government will immediately take steps to restore security and provide humanitarian protection inclusive.
4. Indonesia also urges all parties to immediately stop the violence, contribute to the restoration of security, and respect the human rights of the people in Rakhine State, including the Muslim community.
5. The situation in Rakhine State is very complex. Collaboration of all stakeholders is needed so that peace, security, stability and inclusive development can be carried out at Rakhine State.
6. A peaceful, safe and stable situation in Myanmar, including at the Rakhine State, is important to support the preservation of stability in ASEAN and sustainable development in the region.
7. Indonesia will continue cooperation with Myanmar in the process of reconciliation, democratization and inclusive development, including efforts to implement recommendations from Kofi Annan's report.

## IV. CONCLUSION

This paper concluded that the phenomenon of migration from other countries to Germany and migration from Germany going to another country is not a new phenomenon. Migration in Germany has long history. Given the history of migration and refugees in the country, Germany has several rules related to migration and refugees including The Basic Law for 17 the Federal Republic of Germany, the Asylum Procedure Act, and the most controversial is the Open Door Policy. In the midst of condemnation by European Union member states on the door policy openly, Germany actually chose to stick to the policy. This is due to the existence of normative aspects in Germany, such as the importance of values history and identity that can influence the actions of the country. German show positive responses and provide assistance to refugees as a form of feeling of solidarity and guilt after World War II. History The Federal Republic of Germany during World War II shows that Germany have special responsibility for refugees. The values of solidarity and taste joint guilt in German society caused Germany to choose implement an open door policy in overcoming the refugee crisis in Europe. In this case we can see that Germany treated the refugees really well, based on their own regulations and policy, germany really realize their policy and regulations to the refugees in their country really well. And also what the law that they have, are protecting the refugees in their country really well. And one of the reasons why Germany doing that because German history is a determining factor in the policy formation processin Germany. German historical values shape Germany's positive attitude towards the crisis current European refugees.<sup>29</sup> Nazi Government and World War to II forced people from all over the world to flee and looking for asylum. Germany's past and guilt over Hitler and Nazi atrocities Germany during World War II had a very important role in the formation of Germany's attitude towards refugees at this time. As a result of Germany's role in World War II, Germany had responsibility specifically for refugees and asylum seekers. Post cruelty carried out by the Nazis, Germany strived to make amends for his mistakes Hitler's reign (Adler, 2016). Germany feels indirectly responsible for the misery of millions of people due to Hitler's leadership. Taste Germany is responsible for its past mistakes in The Basic Law Article 16a states that anyone who escapes from political oppression has the right to asylum in Germany. One other reason why Germany still applies the door policy open in the midst of the European refugee crisis there is cultural value in Germany in the form of a welcoming culture or *willkommenskultur*. Warm and full reaction this support for the arrival of refugees is then called *willkommenskultur*.

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<sup>29</sup> Grammaticas, D. (2015, September 15). EU migrant crisis: Why Germany still welcomes the migrants.

Willkommenskultur is a culture that emerges as a result German past experience. People living in post-World War Germany to II endured joint guilt due to the atrocities of the German Nazi regime. The community realizes that openness and a high sense of solidarity needed so that past events do not happen again. Willkommenskultur is one of the reasons why Germany is still fight for open door policy. Culture that is embedded in the community it gives rise to openness and a deep sense of solidarity German society so that Germany was able to provide support and assistance the number of refugees is not small.

We can tell that indonesia also have already has its own regulations and policy where that all of the policy and the regulations about the refugees protecting enough for the refugees that is stay in indonesia until the problem in their country finish and they feel save enough and comfortable enough to go home, we all know that Indonesia is a part of the united nation but indonesia did not give a ratification over the Refugee Convention 1951 and Protocol 1967 but right now indonesia has its own regulations through the Regulation Of President of Indonesia that concerning on refugees, and that law or regulations is protecting the refugees.

The implementation about that law in indonesia, is already quite good. Indonesian's government take care about the refugees, they even allowed the refugees here in indnesia to work and gain money for themselves, but not all of the refugees in indonesia treated good by the government, it's depends on the people who now has the right in the refugees region. Because indonesia is a still developing country, that is born in 19th century, after the world war II was over in 1945. But Indonesia tried best to treat all of the people equal and get a right rights as a Human Being.

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