

PARTICIPATION NON-GOVERNMENTAL ORGANIZATION IN PROTECTING CHILD RIGHTS IN THE AREA OF SOCIAL CONFLICT

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Children are the next generation, this cannot be denied. Rights of the child in any State, always protected and always maintained. Indonesia as a State law also recognizes the protection and guarantee of children's rights. On this day the child's protection seems to be ignored or even forgotten. In the case of social conflicts in conflict-prone areas, the rights of children are ignored (education rights, health rights, welfare rights and other rights). Above this article tries to discuss: 1) what is the condition of the child in case of social conflict in Indonesia? 2) how does the state ensure sustainable child protection, in case of social conflict in Indonesia? 3) and initiate sustainable child protection. This research uses normative juridical research. The current condition of children in Indonesia is categorized as protection extraordinary, especially if there is social conflict in Indonesia. States should ensure continuous protection of children in the event of social conflict in Indonesia, in order to provide legal certainty to the protection of children's rights, so that children will be protected by their rights. We must not turn a blind eye to the enforcement of child protection laws. The idea of sustainable child protection is our common goal, but it must be remembered that all parties must be active to realize child protection, it is very important to build the next generation of good nation.

Keywords: Participation; Non-governmental organization; Child; Social conflict

Preliminary

Child is the trust and grace of God Almighty, which in itself embodies the dignity and dignity as a whole person. That the child is the bud, the potential and the younger generation successor ideals of the nation's struggle. In order for the child to be able to assume the responsibility, then he needs to get the widest opportunity to grow and develop optimally, both physical, social, and noble character. Children as creatures of God almighty and social beings, from the womb until the birth has the right to life and freedom and have good protection from parents, family, society, nation and state. Children are human resources that have potential and strategic role in the nation's survival.

Therefore, no human being or any other party may deprive the right to life and freedom. Because the child's human rights are a part of human rights that are guaranteed and protected by law both international law and national law. United Nations in the worldwide declaration of human rights, it is stated that everyone is entitled to all rights of freedom expressed therein, without distinction of any kind as race, color, sex, nation, religion, political or other views, nationality or social origin, property, birth or other status, as contained in the Preamble of the Constitution of the Republic of 1945 paragraph 1 and Article 28 A up to Article 28 J of the 1945 Constitution of the Republic of Indonesia, Article 65 of Law No. 39 1999 on Human Rights, and Law No. 17 of 2016 on the Second Amendment of Law Number 23 Year 2002 on Child Protection. Social child protection is not only an institution of the family's rights, but also a mandatory condition of social economy. For sure, the legal approach for the social protection of the children in difficult situations would be much too technical, but the picture of the way in which it is actually applied and of the effects that the current norms are generating, represent an useful analytical

undertaking for the improvement and for the progress of the institutions and of the mechanisms that support the coherent functioning of social economy.³³ Children must benefit from the general rights of the individual that we are all entitled to since the moment we are born. Respecting the human rights means that each of us must treat others the way he would like to be treated: with dignity, respect, equality, justice. The human rights must be respected without any difference of citizenship, nationality, race, ethnicity, language, gender, sexual orientation, abilities or any other status.

Dignity, and the right of the child to be upheld and protected is what makes the government should be able to guarantee and provide the widest opportunity for Indonesian children to grow optimally, physically, mentally and socially without discrimination. As a young generation who will receive the national and international development relay, both on regional and international scale, the development and fulfillment of children's rights in Indonesia need to be guaranteed by all parties, starting from the family as the first person responsible for the children, the community, and the government. Because in a child attach the dignity and dignity as a whole person.

One form of child protection is the establishment of the District or City of Children Eligible is a Regency or City that has a child-based development system through the integration of commitments and resources of government, community and business, planned thoroughly and sustainably in policies, programs and activities to ensure fulfillment of child rights and protection. Coinciding with the National Children's Day 2017, the Minister for Women's Empowerment and Child Protection rewarded 136 regional heads with high concern for child protection. They consist of 10 governors and 126 regents and mayors in 23 provinces and 126 regencies or municipalities to become eligible for children. Until this year there have been 126 districts or municipalities who are strongly committed to realize their territory towards decent children, among them even done independently or on their own awareness of the District or City to improve the fulfillment of rights and protection of children in their respective territories. One of the children's rights that must be met from a regency or municipality that earns the Children's Worthy Town is the right of identity in the form of birth certificate, prevention of child marriage, and mobilizing the role of the business world, the media and the community in child protection.

Task of civil society organizations whether working on children's issues or not is always to make sure that every job done takes into account the best interests of the child. It is also a good practice to encourage local governments to always consider the best interests of children, where programs and activities undertaken guarantee the rights and protection of children. In the realm of Indonesian Non-Governmental Organizations, the Best Interests for Children is one of the ethical codes that must be met in realizing a healthy and strong NGO. Where the best interests for children is the responsibility of the organization to protect the rights and interests of children in everyday life. In accordance with the law

³³ Mihaela Tofan & Gabriela Batculescu, "Regulatory And Pratical Matters Regarding Child Protection In Romania", *Journal Of Social Economy*, Volume 3, Issue 4, 2013, P. 98.

of this country which mandates the child as the responsibility of society.³⁴It is therefore essential for NGOs to take on the role and develop child protection policies in their organizations. In addition, child protection policies within organizations are the best way for NGOs to partner with governments to always take into account the best interests of the child. Especially integrated in development policies, including budget allocations that support child growth. Ultimately this is also the best stage in the realization of a child-friendly Regency or City.

Ethnic, religious, racial, and cultural diversity of Indonesia is a nation's wealth. This condition, on the one hand can make a positive contribution to the effort to create community welfare. On the other hand can bring adverse effects to the national life if there is inequality of development, injustice and social and economic inequalities, and the dynamics of uncontrolled political life. In addition, the transition of democracy in an increasingly open world order leads to the rapidly growing social dynamics. This condition places Indonesia as one of the most conflict-prone countries, especially horizontal conflicts. Such conflicts, proven to have resulted in a loss of security, public fear, environmental damage, loss of property, loss of life and psychological trauma such as resentment, hate, and antipathy, hinder the realization of the common good. Various Conflict Management efforts continue to be done based on existing legislation.³⁵

At this time Indonesia is very vulnerable to divisions, there are various conflicts in various regions, one of which is conflict in Indonesia. The Ministry of Social Affairs of the Republic of Indonesia records at least 143 conflict-prone areas, so that every region in Indonesia can make early detection of potential social conflicts, which can happen in the community.³⁶ Increasing potential for social conflict lately, as one of the impacts of the welfare gap of Indonesian society. Social conflicts in Indonesia in addition to the result of different opinions, also due to different income. Family resilience is key in the prevention of horizontal social conflict. The family must instill the values of tolerance, unity and national unity, and social solidarity to children from an early age. Given Indonesia has diverse ethnicity, nation, culture, and religion. Above this article tries to discuss: 1) what is the condition of the child in case of social conflict in Indonesia? 2) What is the role of NGOs in areas of social conflict? 3) and initiate sustainable child protection. This research uses normative juridical research. The purpose of this paper is to see: 1) the condition of the child in case of social conflict in Indonesia; 2) the role of Non-Governmental Organizations in areas of social conflict; 3) initiate sustainable child protection.

The research of this scientific paper, a type of normative legal research, which aims to examine the principles of law, legal system, legal synchronization, legal history and comparative law, this study

³⁴ Laurensius Arliman S, "Protection of Girls from the Dangers of Sexual Violence in Indonesia To Design Sustainable Child Protection, in: 1 st Biennial Conference on Sharia and Social Studies, UIN Imam Bonjol, Padang, 2017, P. 46.

³⁵ Ajrotni Nasution, *Penanganan Konflik Sosial*, Balitbang HAM, Kemenkumham Republik Indonesia, Jakarta, 2013, hlm. 2.

³⁶ <http://www.kbknews.id/2017/01/27/catatan-kemensos-ada-143-daerah-rawan-konflik-indonesia/>, accessed September 1, 2017.

focused on reviewing and examining the role of non-governmental organizations in the protection of sustainable children. Johnny Ibrahim states that the scientific value of a discussion and problem solving on the legal issue under study depends on how the approach is used.³⁷In accordance with the type of research used is the normative juridical approach of the problem is: a) Legislation Approach; b) Historical Approach; and c) Case Approach.

Children's Condition If Social Conflict Occurs In Indonesia

As reported by the CNN website some time ago, UNESCO United Nations Educational Institution released data that is very worrying about the condition of children in different areas of conflict. UNESCO says there are 34 million children who must accept the reality of dropouts in conflicting countries. To handle 34 million children dropping out of school it costs enormous, up to US \$ 2.3 trillion in order to get back to school. The amount is enormous, 10 times higher than the amount of aid now flowing to the children.³⁸

On this day in Indonesia it happens as well. This is marked by the issuance of Presidential Regulation No. 18 of 2014 on the Protection and Empowerment of Women and Children in Social Conflict, and Government Regulation No. 2 of 2015 on the Implementation of Law Number 7 Year 2012 on Handling Social Conflict. It aims to provide protection and empowerment of women and children in conflict aimed at protecting, respecting and ensuring the rights of women and children in conflict management. Organizing the protection and empowerment of women and children in social conflict is the responsibility of the central government, relevant ministries and agencies, and local governments.

Data on *Komnas Anak*, the number of cases of violence against children is still high in the last 4 years. In 2011, the number of cases of violence against children was 2,436, Year 2012 was 2,637 cases, 3,339 cases in 2013 and 2,750 in 2014. From this data, it is very apprehensive and make all of us have pairs of eyes and ears to protect children. It is undeniable that violence against children will increase this year, if there is no systematic effort by adults to deal with increasingly complex childhood issues.

Child victims of conflict need protection and assistance to recover from trauma. As expressed by *Maidin Gultom*, that child protection is the effort and activity of all layers of society in various positions and roles, who realize the importance of children for the nation and the nation in the future. Children who are traumatized by the conflict if not handled immediately are feared will have an impact on future growth in the future. Handling of short term conflict victims can be done with humanitarian assistance in the form of health services to rehabilitate physical injuries and logistical support is

⁷ Johnny Ibrahim, *Teori dan Metodologi Penelitian Hukum Normatif*, Bayumedia Publishing, Malang, 2006, P. 299.

³⁸ <http://blog.act.id/ada-34-juta-anak-anak-di-daerah-konflik-yang-sangat-butuh-bantuan-pendidikan>, accessed September 1, 2017.

necessary.³⁹ Long-term relief is how governments and communities can bring children out of the history of conflict, and make children learn that violence is something to avoid. So that there will be no seeds of war and violence in the future that threaten the integrity of Indonesia.

Children need immediate treatment in the form of recovery to normal life, and need to be done to prevent the occurrence of psychological barriers. If not immediately resolved, conflict-affected children tend to have justification for taking retaliation for what happens to themselves and their families, thereby creating the potential for continuous conflict.⁴⁰

Role of Non-Governmental Organizations in Areas of Social Conflict

Ministry of social affairs initiated social harmony program through the establishment of social harmony forum at village level in almost all provinces in Indonesia as one of prevention effort of social conflict based on society by giving stimulant aid to community through forum of social harmony in effort of problem solving or prevention of social conflict, according to root problems of vulnerability and vulnerability of social conflicts in the community. The social harmony program begins with the awareness of some community leaders about the potential for conflict in their region by looking at the history of the conflict. Cultural diversity, perspective, importance, and social changes that occur in the community proved to be one of the causes or lighters of friction and even social conflict.⁴¹

Along with the growing and complexity of social conflicts in society, the movement of society and other interest groups treat the organization as one means of struggle to achieve the goals or objectives agreed. Organized community movements are known as civic organizations with the characteristics of organizations outside government organizations, not having profit motive in their activities, involving more members in their activities, mass membership, political activities in addition to organizational technical struggle, and quite an interest in ideology. Non-governmental organization is one form of social organization to anticipate social conflict.⁴²

Existence of government policy with Presidential Decree no. 44 of 1984 on National Children's Day set forth on July 23, is actually a momentum. However, in the end, this activity only transformed into a ceremonial, because of the unpreparedness of the government and its officials in addressing the problem of children in Indonesia. The existence of a Child Development Program initiated by the Office of the Minister of Public Welfare Economy since 1986 is actually quite a relief, as almost all relevant departments and non-governmental organizations are involved. But hope does not come true. The

³⁹ Maidin Gultom, *Perlindungan Hukum Terhadap Anak Dalam Sistem Peradilan Pidana Anak di Indonesia*, Refika Aditama, Bandung, 2008, P. 33.

⁴⁰ Sukendar, "Pendidikan Damai (peace education) Bagi Anak-Anak Korban Konflik" Flinder university of south Australia", *Walisono*, Volume 19, Issue 2, 2011.

⁴¹ Benny Setia Nugraha, *Keserasian Sosial (Penguatan Sosial Di Daerah Rawan Konflik: Implementasi Program Keserasian Sosial)*, Kementerian Sosial Republik Indonesia, Jakarta.

⁴² Arbi Sanit, *Swadaya Politik Masyarakat*, CV. Rajawali, Jakarta, 1985, P. 43.

existence of Presidential Instruction No. 3 of 1997 on the development of children's quality, especially in conflict areas is also a good effort, although less run properly.⁴³

According to the Instruction of the Minister of Home Affairs No. 8 of 1990 on the Development of Non-Governmental Organizations, Non-Governmental Organizations are organizations or institutions formed by members of the community of citizens of the Republic of Indonesia voluntarily on their own and interested in and engaged in certain activities established by the organization or institution as a form of community participation in efforts to improve the standard of living and welfare of the community, which focuses on devotion self-help. Non-Governmental Organizations have legal instruments including Law Number 8 of 1986 on the Implementation of Law Number 8 of 1985 on Social Organizations. Another legal instrument is the Instruction of the Minister of Home Affairs No. 8 of 1990 on the Development of Non-Governmental Organizations.

Today, according to data from the Ministry of Social Affairs of the Republic of Indonesia, there are 17 non-governmental organizations registered in the field of child protection.⁴⁴ Non-Governmental Organizations are required to oversee the role of the Government and Local Governments in implementing rehabilitation in post-conflict and conflict-affected areas in accordance with their duties, responsibilities and authorities. The implementation of such rehabilitation includes: (a) psychological recovery of victims Conflict and protection of vulnerable groups; (b) the restoration of social, economic, cultural, security and order conditions; (c) the improvement and development of the environment and / or the area of peace; (d) the strengthening of just social relations for the welfare of the people; (e) strengthening public policies that promote the development of a community-based environmental and / or peace-based area of peace; (f) economic recovery and civil rights, and improvement of government services; (g) the fulfillment of the specific basic needs of women, children, elders and groups of persons with disabilities; (h) the fulfillment of reproductive health needs and services for women's groups; (i) improvement of children's health services; and (j) facilitating and mediating the return and recovery of assets of victims of the Conflict. The Government and Local Government carry out reconstruction, in accordance with its duties, responsibilities, and authorities. The implementation of the reconstruction includes: (a) recovery and improvement of public service function in post-conflict environment and / or area; (b) the restoration and provision of access to education, health and livelihoods; (c) improvement of public facilities and public infrastructure of Conflict; (d) the improvement of structures and frameworks that cause inequality and injustice, including economic disparities; (e) improvement and provision of basic basic needs fulfillment facilities for women, children, elders and groups of persons with disabilities; (f) repair and restoration of places of worship.⁴⁵

⁴³ Teguh Kurniawan, "The Role Parliament in Child Protection", *Aspirasi*, Volume 6, Issue 1, 2015, P. 40-41.

⁴⁴ <http://www.republika.co.id/berita/koran/wawasan/15/04/28/nnibk929-ahmad-sofian-koordinator-nasional-ecpat-indonesia-eksploitasi-seksual-anak-di-indonesia-meningkat>, accessed September 1, 2017.

⁴⁵ Ajrotni Nasution, *Op.cit.*

Role of NGOs in protecting children's rights in conflict areas is: 1) Psychological Services. Psychological services provided in the handling of cases against children in areas of social conflict is to do Indept Interview. Indept Interview conducted to determine the psychological pressure of the Child who experienced in areas of social conflict; 2) Advocacy Services. The advocacy unit is a legal aid service provided by non-governmental organizations in the resolution of cases of violence against children in areas of social conflict, which have been reported to NGOs; and 3) Child Service Services, in charge of carrying out evaluation, monitoring of child services.⁴⁶

Combined The role of government and non-governmental organizations to facilitate community meetings and assistance needs to be continued to ensure that the harmonization process of citizens continues and can immediately mitigate potential conflicts that may occur. The dominance of one of the conflicting groups will complicate the reconciliation effort, for it requires intensive and polite communication efforts in a forum to dilute the atmosphere. Field findings show that social harmony programs in conflict-prone areas can create mutual trust between citizens; polite communication; and social cohesiveness or in other words builds intimacy among citizens.

Initiating Sustainable Child Protection

Fundamental purpose of child protection is to ensure that all parties with the obligation to guard child protection recognize their duties and to fulfill the task. Because ethically and legally must exist, child protection is everybody's business at every level of society, and every field of duty. Child protection creates obligations or duties for presidents, vice presidents, judges, teachers, doctors, soldiers, police, parents, state institutions, even children themselves. Sustainable is a concept often used in environmental studies and environmental law, which is associated with sustainable development. Establishment of child protection legislation is directed to community life and requires certainty, consistency and trust in child protection.⁴⁷ In harmony with the concept, then setting the pattern of child protection by the government, must have a sustainable concept, because by using this concept, protection in every constituent area will continue continuously, and children's rights can still be enjoyed.

Scale, extent, nature, urgency and complexity of child protection issues are frightening. Nevertheless, there are examples of ways in countries where governments, actors in civil society, communities and children themselves can help and respond to violence, abuse and exploitation. It is clear that the response to child protection in conflict areas must be holistic, known by all parties at all levels to respect the rights of child protection and apply it to all children in all circumstances without discrimination. Achieving a world where the protection of children's rights is routinely respected requires a guarantee that children grow up in a protective environment, where every element of the

⁴⁶C. Elly Kumari Tjahya Putri & Sri Yuni Murtiwiidayanti, "The Implementation On Empowerment Model Of Child Protection Agencies Post-Social Conflict In Ambon City" *Sosio Konsepsia*, Volume 3, Issue 1, 2013, P. 323.

⁴⁷ Yuliandri, "Membentuk Undang-Undang Berkelanjutan", *Jurnal Konstitusi*, Volume II, Issue 2, 2009, P. 12-13.

environment contributes to their protection and where all actors play their respective roles.⁴⁸ There is no legal definition or agreement about what constitutes a protective environment. Nevertheless, continuous child protection must continue. The necessary elements to address sustainable child protection in conflict areas are:⁴⁹

- 1) Government commitment to fulfill the protection rights. The government's interest in acknowledging and committing to child protection is an essential element of the protective environment. This includes ensuring that sufficient resources should be available for child protection;
- 2) Attitudes, traditions, customs, and behavior. In societies where attitudes or traditions facilitate the occurrence of abuse, for example with regard to sexual intercourse with minors, the appropriateness of severe corporal punishment, the application of harmful traditional practices or differences in regard to the status of boys and girls women, the environment will not be protective. In societies where all forms of violence against children are taboo, and where the rights of children are widely upheld by customs and traditions, children are more likely to be avoided;
- 3) Open discussion and engagement with child protection issues. At the most basic level, the child needs to be free to speak out about the protection of the child that affects them or other children. At the national level both media attention and civil society involvement with child protection issues contribute to child protection. Partnerships among actors at all levels are crucial to produce an effectively coordinated response;
- 4) Legislation and law enforcement. Adequate legislative framework, consistent application, accountability and the absence of impunity are important elements of a protective environment;
- 5) Capacity. Parents, health workers, teachers, police, social workers and others from other areas concerned and living, dealing and working with children need to be provided with the skills, authority and motivation to identify and respond to child protection issues;
- 6) Life skills, knowledge, and participation of children. When children are unaware of their rights to be abused, or not informed of harm, such as trafficking, they are vulnerable to abuse. Children need information and knowledge to be provided for them for participation and affection or self-expression. Where children do not have the opportunity to participate, they are more likely to become involved in crime or other harmful and dangerous activities;
- 7) Monitoring and reporting. A protective environment for children requires an effective monitoring system that records the events and nature of child protection and allows for a strategic and informed response. Such a system can be more effective where the system is based on its role and local nature. It is the responsibility of the government to ensure that every country knows the state of the country's children in terms of violence, abuse and exploitation;

⁴⁸ Unicef & Inter-Parliamentary Union, 2004, *Hak Anak Atas Perlindungan*, Unicef, Swiss, P. 12.

⁴⁹ *Ibid.*

8) Recovery and reintegration services. Child victims of any form of neglect, exploitation or abuse are entitled to non-discriminatory treatment and access to basic social services. These services should be provided in an environment that promotes improved health, dignity and self-esteem, children.⁵⁰

Unicef dan *Inter-Parliamentary Union* also presents a number of ways to build or develop a protective environment for children in conflict areas. This includes⁵¹: 1) Various attempts to answer carefully and erode the effects of economic poverty and social poverty; 2) National advocacy and dialogue initiatives at all levels from the government down to the communities, families and children themselves; 3) International advocacy, including the use of international human rights mechanisms. This could also include efforts to push the agenda on protection at the regional meeting level; 4) Seeking changes in community behavior, opposing attitudes and traditions that can aggravate abuse against child protection, and provide support for those who are protective. This may involve also national campaigns or working closely with the media; 5) Strengthening capacity to measure and analyze protection issues. Without knowing what is happening, the government and others involved will be disadvantaged when responding to protection issues; 6) Implementation of mechanisms and provision of resources so that those who are concerned and living and working with children have the skills and knowledge to do so in ways that ensure their protection through education and training; 7) Recognizing that the legal standards are important especially for child protection and standards, they need to be known, understood, accepted and enforced. This may involve reviewing or reviewing existing legislation, revision of law or even the enactment of new laws. This recognition also involves overseeing the actual practices of matters governed by law to ensure that legal standards are respected; 8) Develop and review the national monitoring system to ensure that the system covers these issues adequately. In particular, this may involve disaggregation of national statistics to ensure that patterns of discrimination become apparent; 9) Ensuring access to services for recovery and reintegration for children who have experienced abuse, and 10) Encouraging participation and strengthening the resilience of children themselves.

Meanwhile, according to Peter Nevel, mentioned several reasons why continuous child protection should be applied in Indonesia, namely:⁵² 1) the cost of recovery due to failure in providing child protection is very high. Much higher than the costs incurred if children get protection; 2) the child is very influential and direct long-term action or lack of action or action (unaction) from government or other groups; 3) the child always experiences a gap in the delivery of public services; 4) the child has no voting rights, and has no lobbying power to influence government policy; 5) children in many situations can not access the protection and fulfillment of children's rights; 6) children are more at risk

⁵⁰*Ibid*, P. 12-13.

⁵¹*Ibid*, P. 13-14.

⁵² Laurensius Arliman S& Parlindungan S, Gokma Toni, *Politik Hukum Perlindungan Anak*, Deepublish, Jakarta, 2017, P. 61.

in exploitation and abuse.⁵³Based on these principles, it is appropriate that sustainable child protection be implemented in Indonesia, so that children can feel comfortable in their daily life. This will be related to creating a nation's successor regeneration that is good for Indonesia's progress.

Conclusion

Once the variety and complexity of issues related to the protection of children, so it becomes our duty both in the family, the environment, the world of education and society and nation and state to ensure growth and fulfillment of children's rights for the future of the nation and state. Data on the number of cases of violence against children is still high in the last 4 years. Child victims of conflict need protection and assistance to recover from trauma. Children need immediate treatment in the form of recovery to normal life, and need to be done to prevent the occurrence of psychological barriers. If not immediately resolved, conflict-affected children tend to have justification for taking retaliation for what happens to themselves and their families, potentially causing sustained conflict. Non-Governmental Organizations are required to oversee the role of the Government and Local Governments in implementing rehabilitation in post-conflict and conflict-affected areas in accordance with their duties, responsibilities and authorities. NGOs play an important role in protecting sustainable child protection in the event of social conflict in Indonesia, this is to provide legal certainty on the protection of children's rights, so that children are protected by their rights. Arranging the pattern of child protection by the government, must have a sustainable concept, because by using this concept, protection in every constituent area will continue continuously, and children's rights can still be enjoyed. Our responsibility as a part of society to take concrete actions in protecting and saving children as the next generation. Keep in mind the failure of protecting children threatens national development and has a negative effect and consequently will carry on until they grow up. Give the best for the child and protect them from all acts of violence, wrong treatment and exploitation.

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⁵³ Alghiffari Aqsa & Muhammad Isnur, 2012, *Mengawal Perlindungan Anak Berhadapan Dengan Hukum*, LBH Jakarta, Jakarta, P. 16.

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