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THE PROTECTION OF SOCIAL WORKERS IN THE PERSPECTIVE OF THE HUMANITY AND JUSTICE PRINCIPLES

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Abstract

The social problems can cause the emergence of social dysfunction and vice versa, the state of social dysfunction affects the emergence of social problems. As a result, the social workers experience an overload work. Their jobs are also prone to stress because they have to deal with problems every day. The purpose of this study is to analyze the role of social workers and the tendency of threats to social workers and the protection of social workers' rights. This research methods was a normative juridical research to analyze the synchronization of the principles of humanity and justice in providing protection to social workers. Social workers are jobs that require expertise and skills to solve problems in relation to legal processes, medical services, spiritual services and so on. In carrying out these jobs, they also tend to experience threats and violences in carrying out their duties. In the concept of the welfare state, the state exists to protect social workers as legitimized in the Act No. 14 of 2019 concerning Social Workers. As the conclusion of this research states that the social workers have the right to legal and labor protection. Protection for social workers can be in the form of self-development, career opportunities and remuneration.

Keyword: *Humanity; Justice; Protection; Social; Workers.*

A. INTRODUCTION

Humans are social creatures who interact with other humans. In carrying out social interactions to meet human interests and needs, humans can come into conflict with other humans, causing social problems. Gillin and Gillin said that a social problem is a mismatch between elements of culture or society, which endangers the lives of social groups. Social problems hamper the fulfilment of the basic desires of the members of this social group, causing social ties to be limp.¹ One of the triggers for social problems is social change. Social change is a symptom inherent in every society. Changes that occur in society can cause a mismatch between social elements that exist in society resulting in a pattern of life that is not suitable for its function for the community concerned. One of the main causes of social problems is the fulfilment of the necessities of life, which means that

1 Ayu Widowati Johannes., Penanganan Masalah-Masalah Sosial di Kecamatan Kawasan Perbatasan Kabupaten Sanggau, Jurnal Ilmu Pemerintahan Suara Khatulistiwa, Vol. 4, No. 2, 2019, page. 53

if a person cannot fulfil his life's needs, he will tend to commit crimes and violence such as stealing, gambling and so on.²

Social problems can cause the emergence of social dysfunction and vice versa, the state of social dysfunction affects the emergence of social problems. For example, a child who is neglected and wasted because the social functions in the family do not work, then the child will experience difficulties in carrying out life's tasks independently. Emotional and personal needs are not met, they tend to have a bad self-concept (the same thing can happen to children who are treated with violence in the family). If there is no immediate treatment, the child has the potential to act deviant (deviant behavior).³ Other social problems faced by the community include poverty, violence against women, mental disorders and so on. In solving social problems, the government synergizes with social workers.

In the Welfare State concept, the state is required to expand its responsibility to the socio-economic problems faced by the people. The function of the state also includes activities that were previously outside the scope of the state's function, such as extending the provision of social services to individuals and families in special matters, such as social security, health.⁴ The state is responsible for protecting the entire nation, advancing public welfare, and realizing social justice for all Indonesian people through the implementation of social welfare. The implementation of social welfare is currently not optimal and there are social changes in society which have an impact on the increasing number and complexity of social welfare problems. Social welfare issues need to be addressed through professional, planned, integrated, quality and sustainable social work practices to improve and enhance social functioning. Social worker arrangements are still partial in nature and have not been fully regulated in a statutory provision. In connection with the concept of the welfare state, the state regulates and protects social workers.

The government's policy to protect social workers is stipulated in Act No. 14 of 2010 concerning Social Workers. According to Article 1 number 1 of Act No. 14 of 2019 concerning Social Workers, a Social Worker is someone who has the knowledge, skills and value of social work practice and has obtained a certificate of competence. Zastrow in "Introduction to Social Work and Social Welfare" describes social work as a profession that has the main function and task of providing services in order to achieve social functioning of people through a process of social interaction. The tasks carried out by social workers are carried out with the responsibility to

2 Mardian Kumala, Intan Rizki Nurlaili, and Noviyanti Kartika Dewi, Urgensi Peran Konselor Dalam Mengatasi Masalah-Masalah Sosial Anak, Prosiding Seminar Nasional Bimbingan dan Konseling, Vol. 1, No. 1, 2017, page. 161.

3 Budi Muhammad Taftazani, Masalah Sosial dan Wirausaha Sosial, Share: Social Work Journal, Vol. 7, No. 1, 2017, page. 93

4 Winda Roselina Effendi, Konsep Welfare State di Indonesia, Jurnal Trias Politika, Vol. 1, No. 1, 2017, page. 172

provide social services that help people individually, in groups, families, and communities in solving the social problems they face.⁵

Social problems in Indonesia are of course very complex considering the diversity of society and the number of inhabitants. This condition is not proportional to the number of social workers in Indonesia. Data in 2019, the number of social workers in Indonesia were only around 15,552 people, while people with social welfare problems in 2012 were around 15.5 million households. In a comparative ratio, 1 social worker serves 1000 people with social welfare problems, whereas ideally 1 social worker serves 100 people with social welfare problems.⁶ This condition certainly causes an excessive workload for social workers which implies that social problems cannot be overcome optimally.

The implementation of social worker duties is certainly not easy. Social workers are faced with social problems which of course can drain their energy. They even face various threats and violence from parties who feel disturbed by their presence. The wage protection for them has received less attention because of the growing paradigm that social workers do their work out of sincerity; therefore, they do not need a salary. Ravalier states "Social workers play a vital role in maintaining and improving the lives of the service users that they work with. Despite this, the role is replete with high levels of stress-related sickness absence, turnover intentions and low levels of jobs satisfaction in addition to poor working conditions."⁷

Indonesia is a Pancasila country that prioritizes human values and justice. The ideology of Pancasila is based on the nature of human nature as an individual and social being. Therefore, in the ideology of Pancasila it recognizes individual freedom and independence, however in living together one must also recognize the rights and freedoms of other people collectively so that they must recognize the rights of the community. Besides, according to Pancasila, humans have a natural position as a personal being and creature of God Almighty. Divine values always animate human life in the life of the state and society. Human freedom in the framework of democracy does not go beyond the essence of divine values, even divine values are manifested in a moral form in the expression of human freedom.⁸ The lack of protection for social workers is not in accordance with the principles of humanity and justice.

This study discusses the protection for social workers philosophically. Research on social workers, has been written by several researchers. Hari Harjanto Setiawan researched "The Role Of Social Workers At Schools In

5 D. Anisa Sunija, Septia Febriani, Santoso Tri Raharjo, and Sahadi Humaedi, "Pekerja Sosial Industri Dalam Menangani Permasalahan Phk Di Dunia Industri Indonesia," Prosiding Penelitian Dan Pengabdian Kepada Masyarakat, Vol. 6, No. 3, 2020, page. 182

6 Indozone, Pekerja Sosial Kini Dilindungi Undang Undang, accessed on 9 August 2022, <https://www.indozone.id/news/5jsjWa/pekerja-sosial-kini-dilindungi-undang-undang/read-all>

7 J. M., Ravalier, P. McFadden, C. Boichat, O. Clabburn, and J. Moriarty., Social Worker Well-Being: A Large Mixed-Methods Study, The British Journal of Social Work, Vol. 51, No. 1, 2021, page. 297

8 Budiyo, Memperkokoh Idiologi Negara Pancasila Melalui Bela Negara, Citizenship Jurnal Pancasila dan Kewarganegaraan, Vol. 5, No. 1, 2017, page. 55

Handling Bullying". The findings of this study indicate that bullying problems require special competencies and a clear role for social workers in dealing with children who are bullied, so that the services provided can be right on target.⁹ The next research was written by Jorawati Simarmata who examined "The Urgency of Legal Aid for Companion Volunteers, Social Workers and Labor Unions After Supreme Court Decision No. 22 P/Hum/2018." The findings of this study are that the function of social workers under the auspices of child protection institutions in the regions is effective in dealing with violence against children and the mandate of the Convention on the Rights of the Child and Act No. 35 of 2004 to protect children in conflict with the law by providing social workers. Then there is a mandate from Article 28 of the 1945 Constitution, ILO Convention Number 87, and ILO Convention Number 98 which provide guarantees for workers to form labor unions in handling industrial relations disputes.¹⁰ Further research was written by Hetty Krisnani, Gisela Kessik on "Analysis of Sexual Violence in Children and Its Intervention by Social Work (Case Study of Sexual Violence by Families in Lampung)." The findings in this study are that violence against children is still rampant and must be given serious attention immediately. Collaboration of various parties including social work, especially in Indonesia, can be further enhanced because social workers can be in direct contact with this scope. The collaborative process of various multidisciplinary sciences will provide the best results in providing welfare for children and providing good results in the rehabilitation process for perpetrators.¹¹

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B. RESEARCH METHODS

This research was a normative juridical research that examines the synchronization of legal principles, namely the principles of justice and humanity in the protection of social workers. The primary legal materials in this study are the 1945 Constitution of the Republic of Indonesia and the Republic of Indonesia Act No. 14 of 2019 concerning Social Workers. Secondary legal materials are sourced from literature on social workers in terms of legal aspects. Legal materials were analyzed qualitatively and presented in an analytical descriptive manner.

The research method used in this research is descriptive research with qualitative analysis. Descriptive research is not intended to test certain hypotheses, but describes "what is" about a symptom or condition variable. This research strategy also places more emphasis on words than

- 9 tiawan, Hari Harjanto, Peran Pekerja Sosial di Sekolah dalam Menangani Perundungan, *Sosio Informa: Kajian Permasalahan Sosial dan Usaha Kesejahteraan Sosial*, Vol. 4, No. 1, 8, page. 328-347.
- 10 Simarmata, Jorawati, Urgensi Bantuan Hukum Relawan Pendamping, Pekerja Sosial Dan Serikat Buruh Setelah Putusan MA No. 22 P/HUM/2018, *Jurnal Hukum & Pembangunan*, Vol. 48, No. 4, 2018, page. 670-698.
- 11 Krisnani, Hetty, and Gisela Kessik, Analisis Kekerasan Seksual Pada Anak dan Intervensinya oleh Pekerjaan Sosial (Studi Kasus Kekerasan Seksual oleh Keluarga di Lampung), *Focus: Jurnal Pekerjaan Sosial*, Vol. 2, No. 2, 2019, page. 198-207.

qualifications in data collection and analysis with a view to presenting a detailed picture of all situations and symptoms that occur in the workforce. According to Moleong, a qualitative descriptive approach is a research approach with data collected in the form of words, pictures and not numbers. These data can be obtained from the results of interviews, field notes, and photos when carrying out research in the field to find out the existing problems.

C. RESULT AND DISCUSSION

1. The Role of Social Workers and Tendencies of Threats to Them

A social worker is someone who is an expert in their field who has the responsibility to improve and develop interactions between clients and the social environment so that the clients have the ability to complete their life tasks, overcome difficulties, and realize their aspirations and values. Social workers have a set of knowledge (body knowledge), skills (body of skills), and values (body of values) acquired through formal education and professional experience. In order to appreciate and carry out their role properly, social workers must be present in their clients. Live with them and dive into their lives. The presence of social workers on a regular basis can help solve their problems, for the development of an increasingly stable group towards self-confidence and independence.¹² Social work can be defined as a "field of expertise that has the authority to carry out various efforts in order to increase people's ability to carry out their social functions through a process of interaction; so that people can satisfactorily adapt to their life situations."¹³

Social work is tasked with promoting sustainable social welfare development. To make it happen, social work strives for several things, namely: (1) Increasing the ability to solve problems; (2) Helping to obtain resources, (3) Creating responsive organizations in providing social services; (4) Providing facilities for interaction between individuals and individuals in their environment; (5) Influencing the interaction between organizations and institutions; and (6) Influencing social policies.¹⁴ Social work also has a duty and responsibility to create social situations that are conducive to their lives, for example the creation of business opportunities and opportunities, opening access and business / work networks, business security and market information. The social work approach in dealing with poverty problems is not only directed at the poor, but also at social situations that affect their lives. Likewise, social work interventions always see the targets of change (the poor) as

¹² Moh Abdul Purnomo, Peran Pekerja Sosial dalam Meningkatkan Kemandirian Anak Jalanan Melalui Pelatihan Melukis di UPTD Kampung Anak Negeri Wonorejo Surabaya, J+ PLUS UNESA, Vol. 6, No. 2, 2017, page.1

¹³ Binahayati Rusyidi and Santoso Tri Raharjo, Peran Pekerja Sosial Dalam Penanganan Kekerasan Terhadap Perempuan dan Anak, Sosio Informa, Vol. 4, No. 1, 2018, page. 379.

¹⁴ Agustus Fajar and Rudi Saprudin Darwis, Tantangan Kiprah Pekerja Sosial Profesional di Indonesia, Prosiding Penelitian dan Pengabdian kepada Masyarakat, Vol. 4, No. 1, 2017, page. 33

inseparable from the environment and the situations they face (person-in-environment and person-in-situation). Social functioning is an important conception for social work because it is the differentiator between social work professions and other professions.¹⁵

In carrying out its duties, social work is a profession that is concerned in helping individuals, families, groups and communities to improve their individual and collective welfare. Its purpose is to help people develop their skills and abilities to solve problems using their own and community resources. Social work is concerned with individual and personal problems, as well as with broader social problems such as poverty, unemployment and domestic violence.¹⁶ Social workers have a role in the criminal justice process. In the implementation of case resolution assistance, several social workers assist children in the process of obtaining visum et repertum services, accompany them during the criminal justice process, facilitate the process of placing them in the Witness and Victim Protection Agency as requested by the Police, Attorney General's Office, or the Court in accordance with the provisions and service standards, as well as assist them in the mediation process. There are several differences in knowledge, values, and skills applied in the implementation of this task, including those related to building networks, coordinating with various parties related to children's cases.¹⁷

In the criminal justice process, social workers have a role as advocates. They help to provide legal protection to the clients. This is done by assisting the victim at the level of investigation, examination and prosecution up to trial in court. As a negotiator, social workers become representatives of clients in voicing their rights and discussing with other parties who can provide assistance. The social worker coordinator becomes the coordinator in the process of providing assistance or services to clients. In this case also, social workers provide directions to various parties to work together in fighting for the interests of the victims. As an intermediary, the social worker connects clients with potential parties to provide assistance or services. Social workers help clients identify the problem clearly, and re-discover their potential after all the problems or traumatic events that have occurred.¹⁸

Medical problems require contributions from social workers. Social workers who can play a role in depression cases are medical social workers, in which medical social workers are social workers who work in the health sector and depression is a mental health disease. In overcoming depressed clients, they become motivators, namely people who listen to clients' complaints about their problems and provide

15 Andi Muhammad Arif Haris, Masalah Kemiskinan Suatu Tantangan Bagi Profesi Pekerja Sosial, Jurnal Mimpi Kesejahteraan Sosial, Vol. 1, No. 1, 2018, page. 7

16 Sakroni Sakroni, Peran Pekerja Sosial Sekolah Dalam Menangani Perundungan di Sekolah-Sekolah di Bandung, Sosio Konsepsia, Vol. 9, No. 1, 2020, page. 74

17 Elysa Susilowati, Kompetensi Pekerja Sosial dalam Pelaksanaan Tugas Respon Kasus Anak-hadapan dengan Hukum di Cianjur, Pekerjaan Sosial, Vol. 16, No. 1, 2017, page. 84.

18 Ade Irma Sakina and Dessy Hasanah Siti A, Menyoroti Budaya Patriarki di Indonesia, Share: Social Work Journal, Vol. 7, No. 1, 2017, page. 77

motivation to clients so that they can continue their life. In addition, social workers can also act as facilitators, namely as parties who stimulate and support community efforts in helping clients solve their problems. In this case, social workers can help their families to understand about depression and how a depressed person should be supported by the people closest to him to get out of his depression. Social workers can educate the client's family and closest friends to support him, help him emotionally, informally, and materially, and stay by the client. Social workers can also act as enablers, namely helping clients use their potential to solve their problems.¹⁹

In carrying out their duties and obligations, social workers face an uncomfortable situation. According to LY from the AH Foundation, he said that during his social mission, LY as the owner of the Foundation had faced slander several times, for example being said to be exploiting children who are being cared for in the foundation he founded. Some of the children's families also asked for social assistance by force, namely threatening that if they were not given social assistance, the family would say that the family that was entrusted to the foundation was not well treated. YL also said that he had been accused of embezzling donations from donors several times because he was deemed unemployed. Even though YL himself is a businessman who also works as a lecturer.²⁰ The same story also experienced by GH, the founder of the PK Foundation whose mission is to protect child victims of paedophilias. GH was once accused of embezzling donated funds from donors, even accused of being the perpetrator of paedophilias.²¹ Other problems faced by social workers are long working hours and wages that still depend on the ability of the foundation. Social problems can occur at any time; therefore, social workers have to work at night or on holidays. These conditions require legal protection for social workers.

2. Protection of The Rights of Social Workers

Social workers have a role, namely in every relief situation, social work has an interest in providing facilities for planned changes. Social workers provide facilities in the sense of energy, means, networks to support changes from certain situations. If these changes occur, they can have a positive impact on clients or society, or at least reduce the negativity from the previous state. Social work seeks to help people or social institutions (families, groups, organizations and communities) and improve and address social functioning. They help and improve in dealing with social functioning in a group or region. It is the duty of every social worker to see that there is a situation to step in to help together with the community, as well as related parties to solve a problem, to change a

¹⁹ Meilanny Budiarti Santoso, Dessy Hasanah Siti Asiah, and Chenia Ilma Kirana, *Bunuh Diri dan Depresi Dalam Perspektif Pekerjaan Sosial, Prosiding Penelitian Dan Pengabdian Kepada Masyarakat*, Vol. 4, No. 3, 2018, page. 396

²⁰ Interview with LY, the owner of Yayasan AH on 8 March 2021.

²¹ Interview with GH, the owner of Yayasan PK on 8 March 2021.

condition into a social function that can be run again. Social workers use systems theory concepts to help people interact more effectively in their social environment. Systems theory focuses on black box and negative feedback, then explores feedback and impact. This theory seeks to describe, explain, and predict behavior. In helping people to achieve goals and improve their social functions, social workers must be able to provide assistance to obtain the resources they need. At this point, the social worker becomes the agent of change by providing assistance to achieve the desired change. Social workers are required to have extensive knowledge about problem solving, have the ability to find gaps that can be reached, such as identifying problems and problem solving.²²

The tasks and roles of social workers are so complex that they need to be balanced with the rights of social workers. Article 41 Act No. 14 of 2019 concerning Social Workers, social workers in carrying out social work practices services are entitled to: a. obtain legal protection in carrying out tasks in accordance with the standards of Social Work Practices; b. obtain true, clear, and honest information from the client, family and / or other related parties; c. increase competence through education, training and professional development; d. get promotions and / or awards in accordance with work performance; e. have the freedom to associate in the Social Worker Organization; and / or f. receive fees for services that have been performed.¹⁵

Protection of work norms is intended to provide certainty for workers' rights related to work norms which include working and resting time. Protection is as a form of recognition of workers' rights as which should be treated humanely by considering their limited physical abilities, so that they are given sufficient time to rest.²³ In creating harmony and balance in the lives of the workers and as a form of recognition and respect for human dignity without distinguishing social strata, ethnic political status, religion, political beliefs, culture, race, class and the others including sex, worker protection should be based on the principle of just and civilized humanity.²⁴

In the substance of Pancasila, there are positive values that can make a difference for this nation. These positive values are able to provide a foundation for the creation of a justice for the Indonesian nation. Relevant to justice, the value of justice contained in Pancasila can be the basic foundation for the formation of a humane law that is just and civilized as well as socially just for all Indonesian people. Just and civilized humanity is the basis of protecting human rights, namely

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- 22 Gemma Hanggarsih Tiftazani and Asep Saeful Rohman, Pekerja Sosial Sebagai Agen Perubahan: Studi Kasus Peran Pekerja Sosial di Perpustakaan, *Shaut Al-Maktabah: Jurnal Perpustakaan, Arsip dan Dokumentasi*, Vol. 9, No. 1, 2017, page.73-90.
- 23 Najmi Ismail and Moch Zainuddin, Hukum dan Fenomena Ketenagakerjaan, *Focus: Jurnal Ketenagakerjaan Sosial*, Vol. 1, No. 3, 2018, page. 166
- 24 Mustari Mustari and Bakhtiar Bakhtiar, Implementasi Nilai Kemanusiaan Dan Nilai Keadilan Pada Pekerja Perempuan (Analisis Terhadap Undang-Undang Ketenagakerjaan), *SUPREMASI: Jurnal Pemikiran, Penelitian Ilmu-ilmu Sosial, Hukum dan Pengajarannya*, Vol. 15, No. 1, 2020, page. 39

humanizing human beings in a civilized manner without reducing their rights at all. Meanwhile, social justice is justice that is used to distinguish social justice from the concept of justice in law. Social justice is also one of the precepts in Pancasila, namely the fifth principle of Pancasila which is formulated in the fourth paragraph of the Preamble to the 1945 Constitution.²⁵ As a Pancasila state, protection for social workers is an obligation.

Humanitarian precepts are as a fundamental basis in the life of the state, nationality and society. These human values are rooted in the anthropological philosophical basis that the essence of man is the natural arrangement of an individual being as an independent and creature of God Almighty. In humanitarian principles, there are values that the state must uphold the dignity of humans as civilized beings. Therefore, in the life of the state, especially in the laws and regulations of the state, it is necessary to realize the achievement of the goal of human dignity, especially natural human rights as basic rights (human rights) guaranteed in the statutory regulations of the state.²⁶ Based on humanitarian principles, the limits on working hours and the calculation of wages for social workers need to be further regulated in government regulations.

The principle that also needs to be considered in ensuring protection for social workers is the principle of justice. The fifth principle contains values which are the goals of the state as the goal of living together. Therefore, the fifth principle contains the value of justice that must be manifested in life together (social justice). Justice is based on and imbued with the essence of human justice, namely justice in human relations with society, nation and state as well as human relations with God.²⁷ The next principle of justice, when everyone has the same rights to the broadest basic freedoms, as wide as the same freedoms for all people. Social inequality must be overcome in order to create justice so that the greatest benefit can be felt by the community by getting the same opportunity. Ultimately the law is to achieve the goals of society.²⁸

According to Ulpian, there are three principles of justice, namely *Honeste vivere, alterum non laedere, sum quique tribuere* (live respectfully, do not disturb others, and give everyone their share). These principles are a measure of what is good and right in life. Therefore, justice binds all people in power and society. The principle proposed by Ulpian is supported by Augustine. Augustine adds two more principles,

²⁵ Ferry Irawan Febriansyah, Keadilan Berdasarkan Pancasila Sebagai Dasar Filosofis Danologis Bangsa, *DiH: Jurnal Ilmu Hukum* Vol. 13, No. 25, 2017, page. 6.

²⁶ Anajeng Esri Edhi Mahanani, Peranan Politik Hukum dalam Upaya Kodifikasi dan Unifikasi Hukum Guna Pembangunan Hukum Nasional yang Sesuai dengan Pancasila serta Prinsip Kebhinekaan di Indonesia, *RES PUBLICA*, Vol. 1, No. 1, 2020, page. 33.

²⁷ *Id.*, p. 35.

²⁸ Lis Setiyowati and Budi Ispriyarso, Asas Keadilan Dalam Peraturan Presiden Nomor 20 Tahun 2018 Tentang Penggunaan Tenaga Kerja Asing, *Refleksi Hukum: Jurnal Ilmu Hukum*, Vol. 3, No. 1, 2018, page. 71

namely, *deligere* (valued and loved) and *delicto proximi* (loving others).²⁹ Even though being a social worker who is motivated by a vocation does not mean that social workers do not have any rights at all. In accordance with the principles of the welfare state, social workers must also receive welfare in wages and in carrying out work. If a social worker gets threats or slander, then he has the right to legal protection.

D. CONCLUSION

The role of social workers is needed both in helping to solve legal problems, medical recovery problems and to overcome other social problems. In carrying out their work, social workers are faced with working hours that exceed working hours, minimal wages and various accusations leveled against social workers. Even though social workers provide protection for clients, social workers actually face life safety threats in assisting clients. This condition requires protection for social workers. This protection includes legal protection, protection for self-development, career opportunities and wages. Protection for social workers is based on the principles of humanity and justice. Legislators should protect not only witnesses and victims, but also social workers. Leaders of government and non-government social institutions that employ social workers should cooperate with the police if social workers receive threats of violence.

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29 Bernard L. Tanya, *Politik Hukum Agenda Kepentingan Bersama*, Genta Publishing, Jakarta 2011, page. 24.

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