

Juridical Review on Police Repressive Action in Wadas Village National Strategic Project

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ABSTRACT

Non-violence right has been guaranteed by some regulation. However, in fact, many acts of violence are conducted by law enforcers, in this case the police, such as the cases of Wadas Village. This inspires authors to conduct research on repressive law enforcement that has violated procedures. The research method used is empirical juridical with an statue approach and a case approach. This study indicate that many arbitrary arrests were accompanied by violence during the PSN implementation in Wadas Village. Executions conducted at Wadas must refer from procedural aspects so that they are in line with the protection of human rights. therefore, it need a strict sanction from the Police to members who violate human rights. Meanwhile, the victim can apply to LPSK for compensation.

ABSTRAK

Hak atas non-kekerasan telah dijamin oleh negara melalui beberapa peraturan. Namun, faktanya banyak aksi kekerasan yang terjadi dilakukan oleh aparat kepolisian seperti dalam kasus Desa Wadas. Hal ini menggerakkan penulis untuk melakukan penelitian tentang penegakan hukum represif yang telah melanggar prosedur. Metode penelitian yang digunakan adalah yuridis empiris dengan pendekatan hukum dan pendekatan kasus. Hasil penelitian ini menunjukkan bahwa banyak penangkapan sewenang-wenang disertai dengan kekerasan selama pelaksanaan PSN di Desa Wadas. Eksekusi yang dilakukan di Wadas harus mengacu pada aspek prosedur sehingga sejalan dengan perlindungan hak asasi manusia. Dengan demikian, diperlukan sanksi tegas dari Kepolisian kepada anggotanya yang melanggar hak asasi manusia. Sedangkan korban bisa mengajukan permohonan ke LPSK untuk mendapatkan santunan.

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I. INTRODUCTION

The right to be free from torture or violence as well as the right to freedom and personal security are rights guaranteed in the Universal Declaration of Human Rights (UDHR) and the International Covenant on Civil and Political Rights, such as the Convention on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment which in Article 2 mandates that orders from superiors or public authorities should not be used as justification for torture.

In addition to being universally protected, Indonesia is also one of the countries that guarantee the right to be free from violence as well as the right to freedom and personal security. Protection of citizens from violence is contained in a number of regulations such as Undang-Undang Nomor 39 of 1999 concerning Human Rights (Human Rights Law) and Undang-Undang Nomor 5 of 1998 concerning Ratification Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. Meanwhile, the protection of the right to freedom and personal security is contained in the Kitab Undang-Uu Hukum Acara Pidana (KUHAP) and as stipulated by the Chief of the National Police of the Republic of Indonesia (KAPOLRI).

The existence of protection in terms of regulation of *quo* rights, in practice, does not destroy acts of violence in Indonesia. Ingrained violence in Indonesia is not only perpetrated by civilians but also carried out by police officers. Komisi Nasional Hak Asasi Manusia explained that the data on cases that were successfully handled by Komnas HAM from 2020 to 2021 amounted to 1,162 cases of violence committed by state officials. In 2019, LBH-YLBHI in 16 provinces recorded 88 cases of violations of Hak Asasi Manusia (HAM) related to fair trial issues, one of which was the right not to be arbitrarily arrested in 88 cases.¹ One example of a case of arbitrary arrest and violent acts that occurred was the repressive attitude of the police officers when escorting the National Land Agency (BPN) which was measuring land for land acquisition for the National Strategic Project (PSN) in Wadas Village. Purworejo Central Java.

The incident of arbitrary arrest and violence committed by police officers in Wadas Village began on Tuesday, February 8, 2022, when thousands of police officers entered Wadas Village, Bener District, Purworejo Regency without notice. These police officers came with full equipment such as shields, guns, and police dogs. The existence of proses land measurements carried out by BPN is a reason for the police to escort these activities to avoid chaos. However, the police action at the site was accompanied by intimidation and siege at the location of residents' homes and mosques that were being used for mujahadah.² Therefore, the author sees that the rights of the residents of Wadas Village are lost as a result of police actions in Wadas Village. The implementation of the PSN, which is based on the Decree of the Governor of Central Java concerning the Approval of the Determination of Land Acquisition Locations for the Construction of the Bener Dam in Purworejo Regency, Central Java³, which has a defect in procedure, is the reason why the residents of Wadas Village reject the implementation of the PSN.

Police officers as law enforcement should be as article 2 of Law Number 2 of 2002 concerning the National Police of the Republic of Indonesia, having a police function is one of the functions of the government state in the field of maintaining public security and order, law enforcement, protection, protection, and service to the community.⁴ However, in reality, repressive actions during land measurements in Wadas Village actually made the residents of Wadas Village intimidated. The consequences of this action certainly took the psychological challenges of the villagers, because they could not refuse mining activities. In addition, some residents noticed swelling in their legs, body aches, and some injuries on the body.⁵ The arbitrary actions of the police, of course, do not show

¹ YLBHI, "Luncurkan Laporan Penelitian Praktik Penahanan Di Indonesia," YLBHI, February 2021, <https://ylbhi.or.id/informasi/kegiatan/peluncuran-laporan-penelitian-tentang-praktik-penahanan-di-indonesia/>. (Accessed at 18 February 2022)

² WALHI, "WALHI Mengutuk Tindakan Keras Polisi Sewenang-Wenang Di Desa Wadas," WALHI, <https://www.walhi.or.id/walhi-mengutuk-keras-tindakan-sewenang-wenang-kepolisian-di-desa-wadas>, February 2022. (Accessed on 19 February 2022)

³ See "Decree of the Governor of Central Java No. 590/42 of 2018 Jo Decree of the Governor of Central Java No. 539/29 of 2020 Jo Decree of the Governor of Central Java No. 590/20 of 2021 concerning the Determination of Land Acquisition Locations for The Construction of Bener Dams in Purworejo Regency and Wonosobo Regency, Central Java Province."

⁴ See Article 2 "Undang-Undang Nomor 2 Tahun 2002 Tentang Negara Kepolisian Republik Indonesia Lembar Negara. 2002/ No. 2, TLN No. 4168, LL SETNEG"

⁵ Report from Komnas HAM, "Komnas HAM Information Press No: 006/HM.00/II/2022 about Ringkasan Pemantauan Eksekutif Dan Kekuatan Penggunaan Investigasi Dalam Tanah Pengukuran Proses Yang Berlebihan (Penggunaan Kekuatan Berlebihan) Di Desa Wadas 8 Februari 2022" (Jakarta, February 2022)., Pp 2

any commitment to law enforcement efforts to guarantee and protect human rights. As Drs.C. S. T. said. Kansil, SH that human rights are an inherent right (inherent) in individuals that are absolute which can be maintained by anyone. ⁶ Instead everyone should respect that right.

Based on the description that has been described above, violations of a number of human rights by the Indonesian Police officers. According to Penulis, this is very urgent to be studied in order to understand the problem of human rights violations arising from repressive actions by police officers in the implementation of the National Strategic Project in Wadas Village and to provide solutions more appropriate law enforcement is based on loss recovery in Wadas Village in accordance with human rights protection. Therefore, the author reviews it with two formulations of the problem, namely How is the problem of human rights violations caused by oppressive actions by kepolisian officials in the implementation of the National Strategic Project in Wadas Village? How is the law enforcement based on loss recovery in Wadas Village?

Human rights are rights inherent in the essence and existence of man as a creature of God Almighty, and are His grace that must be respected, upheld and protected by the state, law, government, and everyone for the sake of honor and protection of human dignity and dignity⁷. This human right must be upheld by anyone, even officials and even law enforcement officials. The law gives everyone the constitutional right to be free from degrading treatment of honor and dignity, which no one should arbitrarily take over.⁸ The reality of law enforcement is that there is a lot of neglect of legal protection and even criminal offenses, all of which boil down to violations of everyone's rights, and this has an impact on the disruption of social circumstances and the neglect of the law.⁹

II. RESEARCH METHOD

The type of research used in this journal is empirical juridical research with a statutory approach (statue approach) and a case approach (case approach). This research uses primary data, namely related to chronological repressive actions in the implementation of PSN and secondary data consisting of primary materials, namely laws and regulations, and secondary materials, namely literature materials such as other scientific writings related to writing as material for research. The data collection method that will be used in this study is by means of library research while the data analysis method used is a descriptive-analytical method.

III. RESULT AND DISCUSSION

1. Human Rights Violations in the Implementation of PSN in Wadas Village

The Indonesian nation as a country that recognizes the existence of human rights has an obligation to protect the rights of its citizens. In Indonesian positive law, the guarantee of the right to be free from torture is contained in Article 28 G paragraphs (1) and (2) of the 1945 Constitution and Article 33 paragraph (1) of Law Number 39 of the Year 1999.

Police as per Article 2 of Law Number 2 of 2022 concerning the National Police of the Republic of Indonesia and Article 1 Number 1 of the Regulation of the Chief of Police of the Republic of Indonesia (Perkapolri) Number 23 of the Year 2010, has a role and function in the field of maintaining public

⁶ CST Kansil deep Bambang Heri Supriyatno, "Penegakan Hukum Tentang Hak Asasi Manusia (HAM) Menurut Hukum Positif Di Indonesia," *Jurnal AL-AZHAR INDONESIA SOCIAL INSTITUTION SERIES 2*, no. 3 (2014): Pp. 155.

⁷ Eko Hidayat, "Perlindungan Hak Asasi Manusia dalam Negara Hukum Indonesia," *Jurnal Hukum Ekonomi Syariah* 8, no. 2 (2016) : Pp 81.

⁸ Dedi Sumanto, et al, "Perspektif Konstitusi Tentang Pemberdayaan dan Penjaminan Atas Hak-hak Perempuan," *Jurnal Al – Ulum* 13, no. 2 (2013) : Pp 400.

⁹ Elisabeth Bethesda, "Tinjauan Yuridis Terhadap Putusan Praperadilan atas Penetapan Tersangka Budi Gunawan dalam Perkara Tindak Pidana Korupsi," *Jurnal Universitas Diponegoro* 5, no. 2 (2016) : Pp 2.

security and order, law enforcement, protection, protection, and service to the community in the context of maintaining homeland security.¹⁰ Namun, police officers who have such a function for security in practice often ignore the human rights values of others and make people feel insecure with his arbitrary actions that are characterized by violence in the name of office.

The above is evidenced by data reported by the Commission for Missing Persons and Victims of Violence (KontraS) that there are 651 acts of violence committed by the Indonesian Police (Polri) from June 2020 to May 2021. Among them were 75 cases of arbitrary arrests and 66 cases of mistreatment by the authorities. Then, 58 cases of violence by the National Police in the form of forced dissolution. Furthermore, there have been 36 cases of torture, 24 cases of intimidation, and 12 cases of wrongful arrest in the past year.¹¹ The data implies that police officers who can be said to be law enforcement officers are actually violators of the law with their repressive actions. Repressive actions according to the Great Dictionary of Indonesian are actions that are repressive (suppressing, curbing, restraining, or oppressive) of a healing nature. Repressive attitudes often lead to negative things such as arbitrary arrests. This attitude is still carried out by police officers as in the implementation of PSN in Wadas Village which recently occurred.

One of the PSNs stipulated through the Presidential Regulation of the Republic of Indonesia Number 56 of 2018 is the Bener Dam Construction project. Where Wadas Village is one of the locations for the IMPLEMENTATION OF PSN.¹² As a follow-up to the Presidential Decree *a quo*, the Governor of Central Java issued the Decree of the Governor of Central Java DECREE of governor Jawa Tengah No. 590/ 42 of 2018 jo SK No. 539/29 of 2020 jo DECREE of the Governor Central Java No. 590/20 of 2021 concerning Approval for The Determination of Land Acquisition Locations for the Construction of the Bener Dam in Purworejo Regency, Central Java as the basis for the implementation of development Bener Dam.¹³ These activities are made in order to meet the needs of raw water, irrigation, and renewable energy and to realize sustainable water benefits for the greatest extent possible for the prosperity of the people in which the project rests on the concept of land acquisition for the general n importance.¹⁴

As one of the locations for the implementation of the Bener Dam PSN, in fact the land of Wadas Village is used to take andesite rocks as material for dam construction. Adanya perbedaan kegiatan sudah seharusnya perizinan yang dilakukan berbeda. Yang mana kegiatan penambangan batu andesit dilakukan melalui perizina merujuk pada Undang-undang Nomor 2 Tahun 2009 tentang Pertambangan dan Batu Bara.¹⁵

The land used for the collection of andesite stones in Wadas Village, which is a source of livelihood for residents, is one of the reasons for the rejection of mining activities.¹⁶ Various efforts were made by residents to show that residents consistently resisted mining activities. Starting from conducting a dialogue with the government to filing a lawsuit with the State Administrative Court which has

¹⁰ See at Article 2 Undang-Undang Nomor 2 Tahun 2022 tentang Negara Kepolisian Republik Indonesia Lembar Negara. 2002/ No. 2, TLN No. 4168, LL SETNEG.

¹¹ Yosepha Pusparisa, "Penembakan Dominasi Aksi Kekerasan Polisi Dalam Setahun Terakhir," Databoks, July 2021, <https://databoks.katadata.co.id/datapublish/2021/07/01/kontras-penembakan-dominasi-aksi-kekerasan-polisi-dalam-setahun-terakhir>. (Accessed at 17 February 2022)

¹² LBH Yogyakarta, "Bendungan Gedung Paradoks Purworejo LBH Yogyakarta", <https://lbhyogyakarta.org/2019/02/25/paradoks-pembangunan-bendungan-purworejo/>, February 2019. (Accessed at 27 February 2022)

¹³ See at Surat Keputusan Gubernur Jawa Tengah No 590/42 Tahun 2018 Jo Keputusan Gubernur Jawa Tengah No. 539/29 Tahun 2020 Jo Keputusan Gubernur Jawa Tengah No 590/20 Tahun 2021 tentang Penetapan Aja Lokasi Pengadaan Tanah Untuk Bangunan Bendungan Bener di Kabupaten Purworejo dan Kabupaten Wonosobo Provinsi Jawa Tengah.

¹⁴ Mulyana W. Kusumah and Paul S.Baut, *Hukum, Politik Dan Perubahan Sosial* (Jakarta: Yayasan Lembaga Bantuan Hukum Indonesia, 1998). Pp. 298-305, <https://ejournal3.undip.ac.id/index.php/jkts/article/view/4085>

¹⁵ JSLG Official, "ALASAN HUKUM: BENARKAH DESA WADAS MASUK DALAM KAWASAN BENDUNGAN BENER? WALHI MENJAWAB FAKTA BAGIAN 1" (Indonesia: YouTube, 2022), https://www.youtube.com/watch?v=ZrZ_6kg-v9Y, (Accessed on 22 March 2022)

¹⁶ LBH Yogyakarta, "Menolak Segala Bentuk Kerusakan Alam Yang Mengancam Desa Wadas, Purworejo," <https://lbhyogyakarta.org/2020/11/23/menolak-segala-bentuk-damage-nature-that-threatens-village-wadas-purworejo/>, November 2020. (Accessed on 1 March, 2022)

not received a good response from the government. On the same day thousands of police officers escorted BPN using full weapons (shields, guns, police dogs) into Wadas Village without notice. measuring land and dissolving acts of denial. The surveillance was carried out by intimidation and siege at several points where residents' homes and mosques were being used for mujahadah. ¹⁷ Then 66 people were arbitrarily arrested by being surrounded, beaten, kicked, snapped, and minors were secured.¹⁸

One of them is Mas Arif as a villager who shared his experiences at the Latest Discussion and Constitutional Research Webinar (DISTRİK) entitled "Contemplation of Wadas Village". His house was raided by 4 people who started pacing in front of his house wearing free clothes. Then Mas Arif was arrested and taken to the Police to the Police Station for the making of the Minutes of Examination (BAP) without knowing the alleged article. Not only that, but Mas Arif's mobile phone was also confiscated by the police. The incident clearly reflects the existence of arbitrary arrests that are contrary to the Criminal Procedure Code. The impact of this arrest in addition to the right to free speech being lost also resulted in injuries, psychic disorders, trauma in children to adults even to the point of being who fainted. ¹⁹

The repressive actions of the police officers in the implementation of the PSN in Wadas Village can be categorized as unfounded arrests. According to the criminal aspect, arrests should be made for the purposes of investigation and investigation based on sufficient preliminary evidence with due regard to the duty papers. ²⁰ Meanwhile, if in terms of ordering and ensuring security in the community, the police can only come down if it is indeed a riot between groups (in this case between residents) has happened and things are no longer conducive or chaotic to put things in order. But unfortunately, the police who acted to measure land in Wadas Village did not meet any of the conditions for arrest, either for criminal purposes or arrests for the sake of security in society.

2. Law Enforcement Based on Loss Recovery in Wadas Village

In a criminal act, the victim is the party who gets the most losses from the consequences of criminal acts whose losses are in the form of physical or mental injury, emotional suffering, economic losses or the substantial loss of their basic rights. ²¹ The United Nations (UN) produced the Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power. The declaration mandates that victims have the right to access justice and to be compensated as stipulated by national law for the losses they have suffered.²²

Seeing the residents of Wadas Village who were physically and psychologically injured due to the repressive actions of police officers who could be categorized as victims of torture crimes, according to National provisions, victims can apply for protection or assistance to the Witness and Victim Protection Agency (LPSK). The requested assistance can be in the form of medical assistance as well as psychological and psychosocial rehabilitation assistance if needed / found excessive trauma and fear. In line with that, when referring to Porigin 5 and Article 8 of Law Number 31 of 2014 concerning Amendments to Law Number 13 of 2006 concerning Institutions Witness and Victim

¹⁷ WALHI, "WALHI Mengutuk Tindakan Keras Polisi Sewenang-Wenang Di Desa Wadas." WALHI, <https://www.walhi.or.id/walhi-mengutuk-keras-tindakan-sewenang-wenang-kepolisian-di-desa-wadas>, (Accessed at 26 February 2022)

¹⁸ JPNN.com, "66 Warga Desa Wadas Ditangkap, IPW: Polisi Citra," <https://www.jpnn.com/news/66-warga-desa-wadas-ditangkap-ipw-citra-polri-merosot>, February 2022. (Accessed on 19 February 2022)

¹⁹ LBH Yogyakarta, "Advokat LBH Yogyakarta (Kuasa Law Citizen Wadas) Bersama Tim PEKA Kritik Kapolri Purworejo Dan Anggota Polisi Polisi Jawa Tengah," <https://lbhyogyakarta.org/2021/05/04/advokat-lbh-yogyakarta-kuasa-hukum-warga-wadas-bersama-tim-peka-laporkan-kapolres-purworejo-dan-anggotanya-ke-polda-jawa-tengah/>, May 2021. (Accessed on 22 March 2022)

²⁰ See at Article 16, 17, and Article 18 "Undang-Undang Nomor 8 Tahun 1981 Tentang Hukuman Hukum Acara, Negara Lembar. 1981/Nomor. 76, TLN. Nomor 3209, LL SETNEG".

²¹ See Points 1 "Chapter A UN General Assembly Resolution 40/34 : Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power (1985)," <https://www.ohchr.org/en/professionalinterest/pages/victimsofcrimeandabuseofpower.aspx>.

²² See Points 4 Chapter A UN General Assembly Resolution 40/34 : Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power (1985). <https://www.ohchr.org/en/professionalinterest/pages/victimsofcrimeandabuseofpower.aspx>.

Protection²³, the residents of Wadas Village as victims also have the right to participate in the process of choosing and determining the benefits of protection and security support and provide information without pressure since the start of the investigation stage of alleged criminal acts committed by police officers.

The actions taken by the police in Wadas Village during the implementation of the PSN also include violence (torture) which is classified as a criminal act, so according to Article 2 of Government Regulation No. 3 of 2003 concerning the Technical Implementation of The General Judicial Institution for Members of the Indonesian Police, these police officers must be held accountable in the criminal realm in accordance with the procedural law process applicable in the general court. Then, the arbitrary arrests made by police officers in Wadas Village have violated Article 21 of the Indonesian National Police Regulation Number 14 of 2011 concerning the Code of Professional Ethics of the National Police of the Republic of Indonesia. Based on this normative explanation,²⁴ officials who are arbitrary in carrying out their duties must be given light sanctions to dismiss with disrespect (PDTH) as members of the Indonesian National Police.²⁵

Regardless of the police being law enforcement officers, it does not mean that the police become immune to the law when they have committed violations. There are still procedures that they have to go through until they get the *sank si* they deserve.²⁶²⁷ In addition, Lawrence Meir Friedman is of the view that the effectiveness of law enforcement depends on three things, namely the substance of the law which has the meaning of a legal product, the structure of your law / legal institutions, namely law enforcement which includes the Police, Prosecutors, Courts and Criminal Implementing Agencies (Prisons), and legal culture, namely human attitudes to the law and the legal system, its beliefs, values, thoughts and expectations. No matter how good the law is, if it is not supported by capable and trustworthy law enforcement officers, the law cannot run as it should. Therefore, the role of police officers as law enforcement who play an important role in law enforcement must be maintained by consistency in quality because to realize the ideals of the law need law enforcement that is credible, competent, and most importantly nurtures the community as its top priority.²⁸

IV. CONCLUSION

Human Rights Violations in the implementation of the National Strategic Project (PSN) in Wadas Village stemmed from the issuance of a Decree (SK) of the Governor of Central Java, which between the substance and its actual activities was not appropriate. This became a polemic and caused rejection from residents. Police officers as bodyguards of the central Java government responded to the residents' refusal by making arbitrary arrests that were characterized by violence. The actions of the police officers violated a number of human rights that had been contained in the 1945 Constitution and Law Number 39 of 1999 concerning Human Rights. In addition, a number of regulations were violated, which is not in line with the function of the police, namely protecting and protecting the community. This violation not only deprives the Warga of Wadas Village, but also causes physical and psychological injuries to residents so that the actions of police officers can be

²³ See Article 5 and Article 8 “Undang-Undang Nomor 31 Tahun 2014 Tentang Perubahan Di Atas Undang-Undang Nomor 13 Tahun 2006 Tentang Saksi Dan Korban Perlindungan Lembaga, Sheet Country. 2014/ Nomor 293, TLN No. 5602, LL SETNEG”.

²⁴ See Article 2 of Government Regulation No. 3 of 2003 concerning Technical Implementation of General Judicial Institutions for Members of the Indonesian Police, Statute Book. 2003/ Number 3, TLN Number 4257, LL SETNEG

²⁵ See in Article 21 of the Police Regulation of the Republic of Indonesia Number 14 of 2011 concerning the Code of Professional Ethics of the National Police of the Republic of Indonesia, State Gazette of 2011 Number 608

²⁶ Febrina Hertika Rani, “Application Foundation Persamaan Hak Di Depan Hukum Terhadap Anggota Polisi Yang Performan Ikuti Hukuman Pada Tahap Penyidikan Di Yurisdiksi Polisi Sumatera Selatan,” *Jurnal Hukum Doktrinal* 5, no. 1 (2020): Pp. 72.

²⁷ Muhammad Belajar, “Penugasan Dan Fungsi Peran Polisi Yang Mendalam Sebagai Penegakan Hukum Menurut Undang-Undang Nomor 2 Tahun 2002 Tentang Polisi,” *Jurnal Hukum* 13, no. 1 (2021): Pp. 95.

²⁸ Slamet Tri Wahyudi, “Problems Application Punishment Die Deep Context Enforcement Law At Indonesia,” *Journal Law And Judicial* 1, no. 2 (2012): Pp. 218.

categorized as criminal acts that must be followed up according to the applicable criminal procedural law. A set of repressive actions carried out by police officers in Wadas Village can be followed up both administratively and criminally as well as the submission of victim recovery. Looking at the administrative aspect, police officers violate the code of ethics regulated in Article 21 of the Indonesian National Police Regulation Number 14 of 2011 concerning the Code of Professional Ethics of the National Police of the Republic of Indonesia. Meanwhile, from a criminal point of view, it violates Article 170 of the Criminal Code concerning violence and Article 351 of the Criminal Code concerning persecution for which accountability can be carried out through the general judiciary as mandated by Article 2 of Government Regulation No. 3 of 2003 Technical Implementation of The National Judicial Institution for Members of the Indonesian Police. In addition, victims who get losses can apply for permohonan protection and/ or assistance to the LPSK both in the form of medical assistance and psychological and psychosocial rehabilitation assistance if needed / found excessive trauma and fear as referred to in Article 5 and Article 8 of Law Number 31 of 2014 concerning Amendments to Law Number 13 of 2006 concerning Witness and Victim Protection Institutions.

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