



Original Article

Dispute Resolution Model in Sewangi Island Village Communities Based on Wetlands

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Abstract:

Based on Law Number 3 of 2024, an amendment to Law Number 6 of 2014 concerning Villages, it regulates the concept of a village as a legal community unit with certain territorial boundaries with the authority to regulate and manage its own government affairs. In carrying out village government led by the village head, one of the village head's obligations according to the law is to resolve disputes in the village community, this is stated in the provisions of article 26 of the law. This is interesting to research in socio-legal legal studies, especially in studies regarding dispute resolution models or village community disputes. These legal problems were analyzed based on empirical legal research methods by exploring field data based on interview techniques at the research location in Sewangi Island Village, Batola Regency, South Kalimantan Province. The research results show that the existence of a village head is very important in resolving disputes or disputes in village communities whose cultural characteristics are generally wetland-based, namely as communities on the banks of the Barito river, with a communal and traditional community culture. According to legal studies, the dominant form of dispute resolution is the non-litigation form of resolution. The dispute resolution model applied is a deliberative dispute resolution model which leads to a dispute resolution model towards Mediation and Conciliation, as well as directed coordination with law enforcement if it is resolved towards a Litigation process.

Keywords: Model, Dispute Resolution, village community



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Introduction

Conflict is also interpreted as a dispute or also called a dispute. The definition of dispute or conflict is a problem that occurs as a result of a lack of agreement of will or as a result of a dispute of interests or a dispute over certain rights in human life.

There are some experts who equate the meaning of dispute with conflict and there are also those who differentiate them. For those who equate it, dispute or conflict is defined as: "An interaction that is antagonistic (opposite, opposite, conflicting) or a relationship between two or more parties who have/feel they have incompatible goals. If we look at the definition of conflict in the General Indonesian Dictionary, the meaning of dispute is a conflict or conflict between several parties regarding a problem object that involves certain interests between the parties involved¹. Dispute is part of another meaning of the definition of conflict. The use of the word "dispute" indeed refers to the field of legal studies, while conflict can include legal studies in the sense of dispute or also be included in general social understanding which is a problem not in the legal field. The concept of dispute according to M. Yahya Harahap, the definition of a dispute is a dispute that occurs between competing parties regarding a matter that is the object of an agreement between the parties². In civil procedural law, there are alternative dispute resolution routes, you can choose to resolve through litigation or also through non-litigation. Settlement via litigation means formally resolving the problem through court, whereas if you want to resolve it informally, that is through non-litigation or dispute resolution outside of court. Out-of-court dispute resolution is regulated in Law no. 30 of 1999 concerning Alternative Dispute Resolution or ADR. The law regulates various models of non-litigation dispute resolution, namely, Negotiation, Mediation, Conciliation and Arbitration models.

However, in the development of dispute resolution through litigation, it seems that it is less popular considering the issue of time and results of the settlement process, Yahya Harahap has concluded: "However, the bitter experience that befell the community, shows that the justice system is ineffective and inefficient.). Settlement of cases takes decades. A long-winded process, wrapped in an endless loop of legal action. Starting from appeal, cassation and judicial review." ³ In community life there can be various conflicts or disputes, which can become disputes, disputes can occur within the family, in the general community, such as disputes in family law, business law, public law, even in the management of natural resources, for example village boundary disputes. Sometimes it is also affiliated with the development of privatized businesses, for example plantations, mining and so on. Conflict can occur in people's lives both in urban and rural areas. However, what is quite interesting in this case is that conflict in rural areas is related to the role of village leaders. One of the research on village boundary dispute resolution models found a resolution model using a persuasive approach and the use of social relationships by the village leader, where the sub-district head is the superior of the village government. administratively which has an important role in resolving the dispute.⁴ However, research studies on villages and various other studies that examine dispute resolution refer to results that show the existence of the village head is very important in resolving disputes in the community. From an anthropological perspective, disputes are a social phenomenon that cannot be separated from human life. Theoretically, disputes or disputes in procedural law in Indonesia can be resolved through litigation and non-litigation procedures.⁵ In its development, disputes often occur in the lives of village communities with various characteristics. Several research results also show that in village community life, various disputes or disputes often occur, both in the realm of

¹ Kamus Besar Bahasa Indonesia, Depdikbud, Jkarta : Balai Pustaka, 1990 Hal. 816

² M.Yahya Harahap , Hukum Acara Perdata : Tentang Gugatan,Persidangan, Penyitaan,Pembuktian dan Putusan Pengadilan, Jakarta : Sinar Grafika, 2007 hal. 46

³ ibid

⁴ Rahmida Erliyani, Achmad Ratomi," Relevansi Of Village Border Disputes With The Authority Of The Government Of Pakan Dalam Village and Paramaian Village, Daha Utara Subdistricct Hulu Sungai Selatan." *Journal Of Public Administration, Finance and Law* (JOPAFL) volume issue 18, issue year 2020, **Page Range:** 236-249

⁵ ibid

social life in general and also related to legal aspects. Dispute resolution is also the responsibility of the village head as mediator. This is stated in Law No. 6 of 2014 concerning Villages which contains the obligation of the village head to resolve disputes that occur in the community, and Article 26 Paragraph (4) Letter K of the Village Law in suppressing the function of the village head as a dispute resolver. In connection with the existence of the above law, the Head of South Molingkapoto Village has the authority to carry out dispute resolution in the Village, such as the land dispute that occurred in Central Hamlet in 2022, which to date has not resulted in any results from the problem.⁶ Problems such as disputes in a village in Barito Kuala Regency, specifically Pulau Sewangi village, Alalak subdistrict, Barito Kuala Regency, Kalimantan Province. Choosing this village as a research location in an effort to conduct an in-depth study of the implementation of the Village Government Law regarding the role of the village head in the obligation to resolve village community disputes, taking into account that Sewangi Island Village is a village whose geographical area is based on wetlands. Due to its condition along the banks of the Barito River, this village was also crowned as a drug-free village, even though previously this village was a village that was very vulnerable to drug trafficking, then the village of Sewangi Island was also the chosen village by the Batola Regency Government which was declared a village. Tourism with the icon of a thousand jukung villages. This village was designated as a fostered village by Batola Regency and has been a national champion as a Women and Children Aware Village. This village is being developed again to become a tourist village, by prioritizing the icon of a thousand jukung village, because in Sewangi village community activities in making (production) jukung have been developing for a long time. So this continues to be developed and encouraged to become one of the tourist village icons of Batola Regency. This village has developed with excellent food security, good social security, and a good level of legal awareness. In the history of the development of this village, it was originally a village with quite high levels of crime and drug crimes. However, since 2022 it has been developed and has become a village that is now drug-free, a village that is quite good in terms of legal awareness for the protection of women and children. This village is now led by a very strong female village head, namely Mrs. Syarifah Saufiah. This village has increasingly increased its potential to become a tourist village and a village aware of the law, namely aware of women and children.⁷ Sewangi Island Village is one of the villages in Alalak District, Batola Regency, South Kalimantan Province, which has an area of 55 Ha. Geographically, this village also borders the Alalak River to the east and the Barito River to the west. The village of Sewangi Island is one of the geographically wetland-based villages. It would be very interesting to continue conducting research on this village considering that the existence of the village head plays a very active role in carrying out village government duties, and has even received an award as the best village head nationally.⁸ This increasingly makes us want to know how the role of the village head has been in carrying out his duties, which according to Law No. 3 of 2024 amending Law No. 6 of 2014 concerning Villages, states that the village head is also tasked and obliged to resolve disputes in his village community, the model of dispute resolution that what is implemented by the village head in the process of resolving disputes or disputes in the village community? And what are the dispute resolution channels used by the village head in resolving village community disputes? If we examine it in empirical legal studies, it is legal research that refers to the empirical side, namely the

⁶ Wawancara dengan Kepala Desa Pulau Sewangi, Kecamatan Alalak, Kabupaten Batola, Provinsi Kalimantan Selatan.

⁷ Ahmad Fikri Hadin dkk, Pendampingan Pencanangan Desa Wisata Berbasis Lahan Basah di Desa Pulau Sewangi Kabupaten Batola, ***Jurnal Pengabdian Masyarakat Al-Ikhlas Volume 8 Nomor 1 Agustus 2022***.

⁸ Wawancara dengan dr Lisa Herawati, kabid pemberdayaan perempuan Dinas PPPA&KB Kabupaten Batola

application of law.⁹

Methods

The nature of this research is analytical prescriptive, namely the nature of research that tries to solve the problems in this research by providing strong thinking direction on future goals, so that it is directed at the urgency of formulating policies related to efforts to implement the role of the village head in carrying out authority as leader of the village government. In resolving wetland-based village community disputes or disputes, progressive thinking is sought in line with the development of village community life patterns and culture, for village progress towards a better future, by implementing a dispute resolution model that is appropriate for the culture and characteristics of village communities. Primary legal materials are legal materials that are authoritative, meaning they have authority. This primary legal material consists of statutory regulations, official records or minutes in the making of legislation and judges' decisions.¹⁰ These primary legal materials include, among others: the 1945 Constitution; Law No. 23 of 2014 concerning Regional Government; Law No. 3 of 2024 is an amendment to Law No. 6 of 2014 concerning Villages. The primary data collection technique is by conducting observations and interviews with village heads, community leaders, the Batola Regency Government, namely the Legal Department, Community and Village Empowerment Service, and the Tourism Office.

According to the General Indonesian Dictionary, the meaning of dispute is a disagreement or conflict between several parties regarding a problem object that involves certain interests between the parties involved. Dispute is part of another meaning of the definition of conflict, sometimes conflict is defined as a situation where the parties are aware/know that there is a feeling of dissatisfaction with something. Sometimes conflict and dispute are also equated in meaning. For those who equate it with dispute or conflict, it is defined as: "An interaction that is antagonistic (opposite, opposing, conflicting) or a relationship between two or more parties who have/feel they have incompatible goals." M. Yahya Harahap, stated that the definition of dispute is a dispute that occurs between parties (between contending parties) regarding a matter that is the object of an agreement between those parties.¹¹

Legally, dispute resolution recognizes two dispute resolution channels, namely the formal juridical route which is often referred to as the litigation route, and the non-formal juridical route which is known as the concept of non-litigation resolution, under the normative Law on ADR (alternative dispute resolutions) Law No. 30 of the Year. 1999. Non-litigation dispute resolution is a resolution effort that is taken through out-of-court settlement by asking for help from other parties to help resolve the problem, for example using a mediator and/or arbitrator.¹²

Results

According to Law No. 3 of 2024, an amendment to Law No. 6 of 2014 concerning Villages, the village head in his position as Head of Village Government has the authority to lead the administration of village government. Apart from his duties, the village head also has various obligations, including the obligation to resolve community disputes. The village head is tasked with administering government in the village, carrying out village development, community

⁹ Rahmida Erliyani, 2024, **Metode Penelitian dan Penulisan Hukum**, Jogjakarta: Magnum Pustaka Utama, Cet V, hlm.16

¹⁰ Ibid. hlm. 141

¹¹ M.Yahya Harahap, *Hukum Acara Perdata : Tentang Gugatan, Persidangan, Penyitaan, Pembuktian dan Putusan Pengadilan*, Jakarta : Sinar Grafika, 2007 hal. 46

¹² Rahmida Erliyani, 2022, *Penegakan Hukum Lingkungan Kepidanaan*, Jogjakarta : Istana Agency, hlm.12

development and empowering village communities. The law also regulates the obligations of the village head in resolving village community disputes. As regulated in the provisions of article 26 paragraph (4) letter k, the village head is obliged to resolve community disputes in the village. This normative provision provides legal direction, that the village head is obliged to resolve disputes in his village community. Based on the legal aspect, community disputes can be categorized as conflicts or disputes. How does the Village Head resolve community disputes which can occur in various fields, for example land disputes or disputes, family law disputes such as inheritance, domestic violence problems, household problems, and so on.

Based on literature searches and scientific work resulting from previous research regarding the existence of village heads in reconciling disputes, for example in Wanasaba village, Lombok Regency, village heads in the village community in this case must be guided by deliberation to reach consensus, including in resolving inheritance disputes. The village head, in his efforts to provide services to the community in general, must have obstacles which often make it take a long time for the dispute to be resolved. In other words, in the process of resolving inheritance disputes in Wanasaba village, Wanasaba sub-district, East Lombok district, the village head as the village justice of the peace must have obstacles and conveniences in the existing dispute resolution process.¹³ Head of South Molingkapoto village, Kwangdang District, Gorontalo Regency, Gorontalo Province. This research discusses the role of the South Molingkapoto Village Head who acts as a mediator in resolving land disputes in South Molingkapoto Village. This research was carried out with reference to Law No. 6 of 2014 concerning Villages which contains the obligation of the village head to resolve disputes that occur in the community.¹⁴ The role of the village head in each village will be very much needed by residents if disputes occur, for example inheritance cases, land cases and so on. As a leader in the village community, the village head is a figure who is asked to resolve various problems faced by his residents. In certain cases each Disputes that arise involving village residents should ideally be resolved as soon as possible at the village level. Moreover, if the dispute is still a family dispute, it should be resolved by community leaders or village heads. The resolution should also be amicable through a village head as an intermediary. This shows that the existence of the village head in resolving disputes or disputes in village communities is very urgent, and it can be said that his role is very important as a peacemaker or one who plays a reconciling role, of course with various patterns and mechanisms that are adapted to the characteristics of the case and the cultural characteristics of the village community. Regionally, Sewangi Island is part of Alalak Island village, but as the population increases and development in this area, in 1975 Alalak Island village was divided into three villages, one of which is Sewangi Island village which is a village in Alalak District, Barito Kuala Regency. , South Kalimantan Province, Indonesia. Geographically, this island is at an altitude of between 0-0.20 meters above sea level and the land slope is 0.00%. The condition of this village area tends to be swampy and is strongly influenced by the tides of the sea and the Barito river, where along the river flow or the banks of the Barito river are settlements. Sewangi Island village community.¹⁵ Socio-culturally, this society is a society that has a friendly and family culture, is open to guests or people from outside the village, and religiously tends to have a very strong influence of Islamic law in the

¹³ Hentika Ruhmana dan AD Basniawati, Penyelesaian Sengketa Pembagian Warisan oleh Kepala Desa Sebagai Hakim Perdamaian Desa. *Jurnal Natoonally Journal*. Jurnal Private Law Fakultas Hukum Universitas Mataram. Volume 3, Issue 3, Oktober 2023

¹⁴ Arianto Van Gobel, Muh. Amin Dali, 2023 "Peran Kepala Desa Dalam Penyelesaian Sengketa Tanah Desa Molingkapoto Selatan, *Jurnal Hukum Elegataire*, E-ISSN 3024-3713, Vol 1 No 1 : Program Studi Ilmu Hukum Universitas Muhammadiyah Gorontalo

¹⁵ https://id.wikipedia.org/wiki/Pulau_Sewangi,_Alalak,_Barito_Kuala

lives of its people.¹⁶ This village has developed with excellent food security, good social security, and a good level of legal awareness. In the history of the development of this village, it was originally a village with quite high levels of crime and drug crimes. However, since 2022 it has been developed and has become a village that is now drug-free, a village that is quite good in terms of legal awareness for the protection of women and children. This village is now led by a very strong female village head, namely Mrs. Syarifah Saufiah. This village has increasingly increased its potential to become a tourist village and a village aware of the law, namely aware of women and children.¹⁷ Batola Regency is one of the regencies in South Kalimantan Province. This regency has 17 sub-districts, 6 sub-districts and 195 villages.¹⁸ Sewangi Island Village is one of the villages in Alalak District, Batola Regency, South Kalimantan Province, which has an area of 55 Ha. Geographically, this village also borders the Alalak River to the east and the Barito River to the west.¹⁹

Of the 195 villages in Batola Regency, Sewangi Island Village is one of the geographically wetland-based villages. It would be very interesting to continue conducting research on this village considering that the existence of the village head plays a very active role in carrying out village government duties, and has even received an award as the best village head nationally.²⁰ This increasingly makes us want to know how the role of the village head has been in carrying out his duties, which according to Law No. 3 of 2024 concerning Villages, changes from Law No. 6 of the Year that the village head is also tasked with and is obliged to resolve disputes in his village community, we will carry out a detailed review. Empirical. To carry out the authority granted by this law, the village head plays a very strategic role. He is the main actor in realizing the village ideals mandated in the Law, namely creating independent and dignified villages, as regulated normatively in the Law on Villages.²¹ Local wisdom is also important to pay attention to in order to harmonize the resolution of disputes in the lives of village communities, which tend to strongly adhere to customs and customary law, and have a communal life, sometimes also a very strong religiosity. So this harmonization is to achieve harmonization of the culture of community life with the social rules that exist in village community life. The village head of Sewangi Island has implemented a comprehensive approach using local wisdom based on the cultural and cultural characteristics of the Banjar tribe community in every dispute resolution of the community.²² Based on empirical legal studies, it shows that the number of disputes in Sewangi Island village during the period of leadership of Village Head Mrs. Syarifah Saufiah, there were more than 50 disputes which she had resolved during the last 3 years, namely 2020 to 2023.²³

Table 1. The percentage of types of disputes in the last 3 years from 2021 to 2023 that were resolved by the village head of Sewangi Island, Batola Regency

Number	type of dispute	Persentase (%)
1	Land Disputes	50

¹⁶ Hasil Survey & observasi peneliti Lapangan

¹⁷ Rahmida Erliyani dkk “ Peningkatan Peran Perempuan pada Masyarakat Petani Lahan Basah di Kabupaten Batola dan HSU dalam Upaya Realisasi Kebijakan Ketahanan Pangan dan Kemandirian Ekonomi Keluarga Laporan Penelitian Dosen PDWM tahun 2023

¹⁸ PMDN No 137 Tahun 2017 Tentang Kode dan Data Wilayah Administrasi Pemerintahan

¹⁹ Ahmad Fikri Hadin dkk, Pendampingan Pencanangan Desa Wisata Berbasis Lahan Basah di Desa Pulau Sewangi Kabupaten Batola, ***Jurnal Pengabdian Masyarakat Al-Ikhlas Volume 8 Nomor 1 Agustus 2022.***

²⁰ Wawancara dengan dr Lisa Herawati, kbid pemberdayaan perempuan Dinas PPPA&KB Kabupaten Batola

²¹ Sabri Guntur, Problematika Hukum Penyelesaian Sengketa Pemilihan Kepala Desa di Desa Kasumewuho Kecamatan Wawotobi, Jurnal Hukum

²² Wawancara dengan Kepala Desa Pulau Sewangi, tanggal 5 September 2024

²³ Wawancara dengan Ibu Syarifah Saufiah Kepala Desa Pulau Sewangi, tanggal 12 Juni 2024

2	Inheritance Disputes	30
3	Marital Disputes	15
4	And Others	5

We can see the types of disputes that have been resolved by the village head of Sewangi Island during the period 2021, 2022 and 2023 as depicted in this graph, showing that land disputes account for around 50 (fifty) percent of the average types of disputes that occur in Sewangi Island village community, this is based on the results of interviews and calculations by the Sewangi²⁴ Island village government as seen in figure 1, types of disputes and figure 2, sources of causes of disputes.

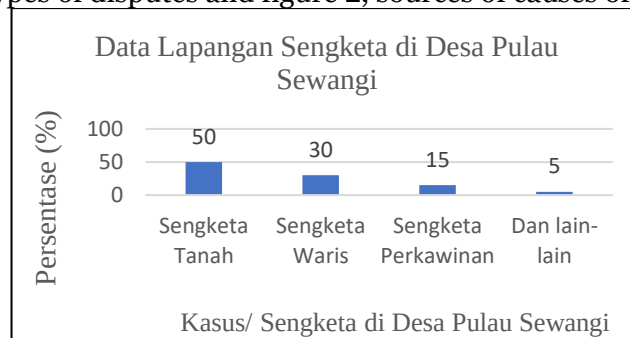


Figure 1. The percentage of types of disputes in the Sewangi Island village community

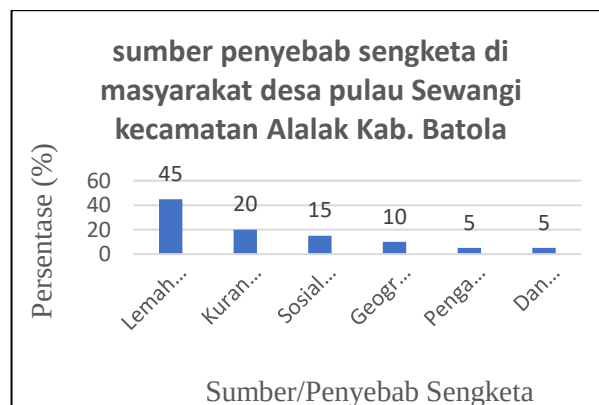


Figure 2. Source The cause of the dispute in the Sewangi Island village community.

From the analysis of existing field data, it can be seen that the source of disputes with a fairly large or highest percentage is the weak education of the local community, which is then supported by a lack of scientific insight and the culture of the village community which is more traditional and communal. Thankfully, the influence of the progress of the digital world with the development of communication technology and the wider reach of internet networks and the rise of social media has not had a big influence on the causes of disputes in the Sewangi Island village community, even though developments in Indonesia are so great that Indonesia is the largest internet user in Southeast Asia (ASEAN). , and also in the use of social media. Until January 2020, social media²⁵ users in Indonesia had reached 160 million out of 171 million Indonesian internet users²⁶

²⁴ Wawancara dengan Ibu Syarifah Saufiah Kepala desa Pulau Sewangi tanggal 5 september 2024

²⁵ Wawancara dengan Ibu Syarifah Saufiah, Kepala Desa Pulau Sewangi Kecamatan Alalak, Kabupaten Batola, tanggal 05 September 2024.

²⁶ Rahmida Erliyani, 2021, *Examining Religious and Justice Syastem in Indonesaia to Prevent Cyberbullying*, *Internasional Journal Of Cyber Crimonology*, Vol 155, Tahun 2022, 112-123.(Scopus Q2.)

Types of disputes and their resolution paths and settlement models used by the Sewangi Island village head in the last 3 years (2020 to 2023) in Sewangi Island village, Batola district²⁷

Tabel 2. Types of disputes and resolution models

Nu	Types of Disputes in the Sewangi Island Village Community, Batola Regency	Dispute Resolution Pathways	The model used
1.	Land Dispute	Non Litigation & Litigation	Deliberation with a persuasive approach, using local wisdom & coordination with BPN
2.	Heritage	Non Litigation & Litigation	Deliberation with a persuasive approach, local wisdom & coordination with religious leaders (ustad/teacher)
3.	Family/marital disputes	Non Litigation & Litigation	Deliberation with a persuasive approach, direction & local wisdom. as well as coordinating with religious leaders, KUA and PA
4.	Theft thing	Litigation	Direction, coordination with the Police, Restorative Justice
5.	Drug Cases	Litigation	Direction, coordination with the Police, Restorative Justice.

²⁷ Wawancara dengan Ibu Syarifah Saufiah, Kepala Desa Pulau Sewangi Kecamatan Alalak, Kabupaten Batola, tanggal 12 Juni 2024

Conclusion

In resolving various disputes or disputes in society, the existence of the Sewangi Island village head as a figure or leader is really needed. The flow of dispute resolution taken by the Sewangi Island village head so far is through deliberative settlement stages, (with a persuasive approach based on local wisdom), reviewing the causes of the dispute and its chronology, summoning the disputing parties to hear their problems, offering solution options, directed to make peace, then try to reach an agreement or peace agreement. Coordination with various related parties, such as local RT, Babinkamtibmas, village secretary, National Land Agency (BPN), Religious Figures (Ustad/teacher), Village Government Agency (BPD), local police²⁸

The characteristics of the dispute resolution model in the Sewangi Island village community lead to a settlement model that prioritizes deliberation, meaning that it is in line with the characteristics of the mediation dispute resolution model, because the mediation dispute resolution model is the resolution of disputes by means of negotiation or deliberation to reach consensus between the parties. Then a negotiation process for peace was carried out led by a neutral third party.²⁹ The existence of the village head in resolving disputes is very important, and the resolution path taken by the village head of Sewangi Island in resolving community disputes is predominantly non-litigation, so it is resolved through litigation which leads and coordinates with the local police law enforcement authority specifically for disputes involving fulfill the elements of a criminal act. To improve the approach in the future, coordination and the function of the village head in terms of mediator and conciliator regarding various disputes in the village are needed.

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²⁸ Wawancara dengan Ibu Syarifah Saufiah, Kepala Desa Pulau Sewangi Kac.Alalak, Kab.Batola, tgl 05 September 2024.

²⁹ H.Syahrul Machmud, 2022, *Prosedur Penyelesaian Konflik Lingkungan Hidup Dalam Jalur Perdata (Non Litigasi atau Litigasi)*, Bandung : PT.Refika Aditama, Cet .1 November, hlm.37

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