



# PENA JUSTISIA

## MEDIA KOMUNIKASI DAN KAJIAN HUKUM

[HOME](#) [ABOUT](#) [LOGIN](#) [REGISTER](#) [SEARCH](#) [CURRENT](#) [ARCHIVES](#) [ANNOUNCEMENTS](#)

[Home](#) > [Archives](#) > [Vol 21, No 2 \(2022\)](#)

## VOL 21, NO 2 (2022)

PENA JUSTISIA

DOI: <http://dx.doi.org/10.31941/pj.v21i2>

### TABLE OF CONTENTS

**Attitude of The Notary Public Towards The Request for The Cancelation of The Prenuptial Agreement Deed as A Result of The Marriage Annulment and The Consequences for Third Parties**

 Putri Ridzka Maheswari Djasmine, Fully Handayani Ridwan



**Implementation of Criminal Law in Handling Narcotics Cases in Indonesia**

 Bahtiyar Efendi, Widhi Handoko




**Social - Welfarestate in Perspective of Labour Law: Review of Asean Constitution**

 Ickuk Rangga Bawono, **Kuat** Puji Prayitno




**Consumer Protection Against Standard Clauses in Business Transactions Through E-Commerce**

 Aditya Migi Prematura, Suryani Suryani, Agung Aditya



 **Reconstruction of Law and Policy : Rights and Environment Problem in Northern East Java - Pekalongan**

 **Kuat** Puji Prayitno, Ickuk Rangga Bawono



# EDITORIAL TEAM

## EDITOR IN CHIEF

1. [Dwi Edi Wibowo](#), Scopus ID: 57215569171, Faculty of Law, Universitas Pekalongan, Indonesia

## EDITORIAL BOARD

1. [Agus Raharjo](#), Scopus ID: 57163696000, Faculty of Law, Universitas Jenderal Soedirman, Purwokerto, Indonesia
2. [Waluyo Waluyo](#), Scopus ID: 57215212315, Faculty of Law, Universitas Sebelas Maret, Surakarta, Indonesia
3. [Hardianto Djanggih](#), Scopus ID: 57200983875, Faculty of Law, Universitas Tompotika Luwuk, Indonesia
4. [Albertus Sentot Sudarwanto](#), Scopus ID: 57215215359, Faculty of Law, Universitas Sebelas Maret, Surakarta, Indonesia
5. [Siti Fatimah](#), Scopus ID: 6507984573, Faculty of Sharia and Law, Universitas Islam Negeri Sunan Kalijaga Yogyakarta, Indonesia
6. [Lego Karjoko](#), Scopus ID: 57211444511, Faculty of Law, Universitas Sebelas Maret, Surakarta, Indonesia
7. [I Gusti Ayu Ketut Rachmi Handayani](#), Scopus ID: 56460408200, Faculty of Law, Universitas Sebelas Maret, Surakarta, Indonesia
8. [Mufti Khakim](#), Scopus ID: 57215208960, Faculty of Law, Universitas Ahmad Dahlan, Yogyakarta, Indonesia
9. [Satria Unggul Wicaksana Prakasa](#), Scopus ID: 57208568578, Faculty of Law, Universitas Muhammadiyah Surabaya, Indonesia
10. [Ach Tahir](#), Scopus ID: 57216299703, Faculty of Sharia and Law, Universitas Islam Negeri Sunan Kalijaga, Yogyakarta, Indonesia
11. [Rian Saputra](#), Scopus ID: 57216300437, Faculty of Law Universitas Sebelas Maret, Surakarta, Indonesia
12. [Siti As'adah Hijriwati](#), SINTA ID: 6012467, Faculty of Law Universitas Pekalongan, Indonesia

## REVIEWERS

1. [Sholahuddin Al-Fatih](#), Scopus ID: 57216500585, Faculty of Law, Universitas Muhammadiyah Malang, Indonesia
2. [Ong Argo V](#), Scopus ID: 8739201, Atlantis ID: 1597484, Sinta ID: 6709656, International Islamic University Malaysia, National Normal Taiwan University, Chicago USA, Taiwan, Province of China
3. [Ridwan Arifin](#), Faculty of Law, Universitas Negeri Semarang, Indonesia
4. [Husna Hashihin](#), Institut Islam Nahdlatul Ulama Temanggung, Indonesia
5. [Yati Nurhayati](#), UNISKA Banjarmasin, Indonesia
6. [emmy latifah](#), sebelas maret university
7. [Ahmad Siboy](#), Faculty of Law, Universitas Islam Malang, Malang, Indonesia, Indonesia

## LANGUAGE EDITOR

1. [sarlita D matra](#), pekalongan university, Indonesia

## MANAGING EDITOR

1. [Ahmad Hasyim Asari Taufiqurrahman](#), Thomson-Web of Science ID: ACW-0117-2022, SINTA ID : 6012477, Faculty of Law, Universitas Pekalongan, Indonesia, Indonesia

Journal Pena Justisia Indexed by:



**Pena Justisia: Media Komunikasi dan Kajian Hukum**  
**Faculty of Law, Universitas Pekalongan**  
Sriwijaya Street Number 3, Bendan, Kec. Pekalongan Bar., Kota Pekalongan, Jawa  
Tengah 51119



## **Reconstruction of Law and Policy : Rights and Environment Problem in Northern East Java -Pekalongan**

Kuat Puji Prayitno<sup>1</sup>, Ickuk Ranga Bawono<sup>2</sup>,  
[Kuat.prayitno@unsoed.ac.id](mailto:Kuat.prayitno@unsoed.ac.id) , [cukycutes@yahoo.com](mailto:cukycutes@yahoo.com)

<sup>1</sup>Faculty of Law, UNSOED, <sup>2</sup>Faculty of Economics and Business, UNSOED,

### **Article Info**

*Received: 15 -12 - 2022*

*Revised: 31 - 12- 2022*

*Accepted: final ready to  
publish*

### **Keywords:**

*Rights, law, Environment,  
Pekalongan*

### **Abstract**

*Many populations of society in Pekalongan live in this kind of areas and are vulnerable to the risks of coastal flooding, wetland loss, shoreline retreat and loss of infrastructure. Land subsidence is defined as the gradual vertical movement of the earth surface due to the subsurface movement of the earth materials.*

*This research is prior to explain about the rights, environment law, law and reconstruction using juridical normative methodology. In the end, this research describe how important to promote fundamental rights for coastal society in pekalongan. The approach method used the doctrinal legal research.*

## **I. Introduction**

Disruption of the environment in the north coast of Java, especially the coast of Pekalongan, was caused by tidal floods, which seemed to be a regular occurrence for some of the coastal areas of Pekalongan. In some places, tidal floods have occurred permanently and have resulted in significant material losses. Currently around 7,771 houses are affected by the tidal floods, and it is estimated that 29,808 houses will be affected in the next decade. Currently the length of the road affected by the rob for the primary local category is 23,912 km, while for secondary locale it is 37,327 km with potential economic losses currently estimated at IDR 3.7 trillion and is expected to reach IDR 8.5 trillion in the next decade (Andreas, 2021). Tidal floods have been built gradually in the Pekalongan area. The construction of the embankment was carried out, but new problems emerged in the form of damage to the embankment, leakage and ingress of sea water<sup>1</sup>

<sup>1</sup>Heri Andreas, research, Land subsidence on northern east java, national conference Semarang: 17-18 June 2021

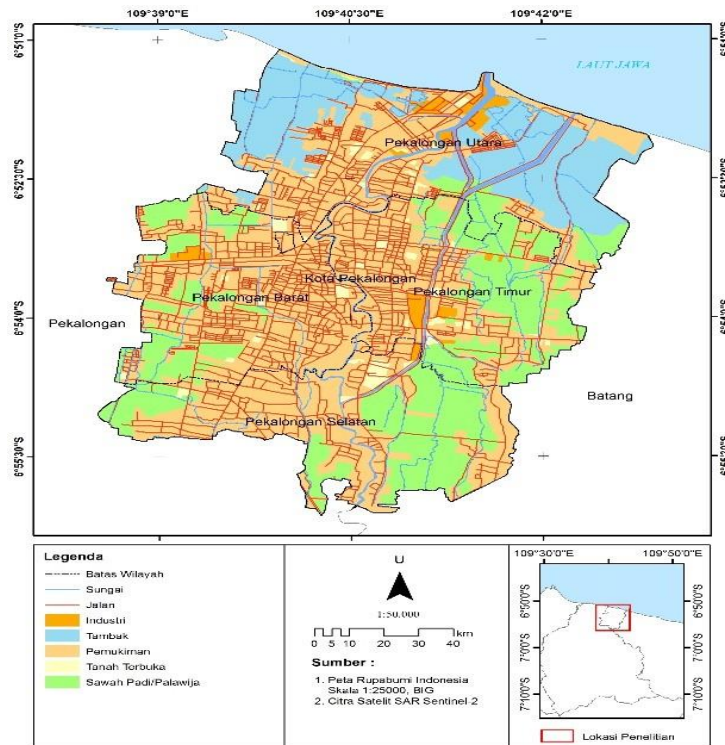


Figure 1. City Map

More than half a billion people live in this kind of areas and are vulnerable to the risks of coastal flooding, wetland loss, shoreline retreat and loss of infrastructure. Land subsidence is defined as the gradual vertical movement of the earth surface due to the subsurface movement of the earth materials. Land subsidence problem can arise from natural and anthropogenic problems or combination of both. Natural subsidence can result from processes such as tectonics, sediment compaction, peat oxidation and isostatic adjustment<sup>2</sup>

<sup>2</sup> D. Sarah and Soebowo "Land subsidence threats and its management in the North Coast of Java", Global Colloquium on GeoSciences and Engineering 2017 IOP Publishing IOP Conf. Series: Earth and Environmental Science 118 (2018) 012042 doi:10.1088/1755-1315/118/1/012042

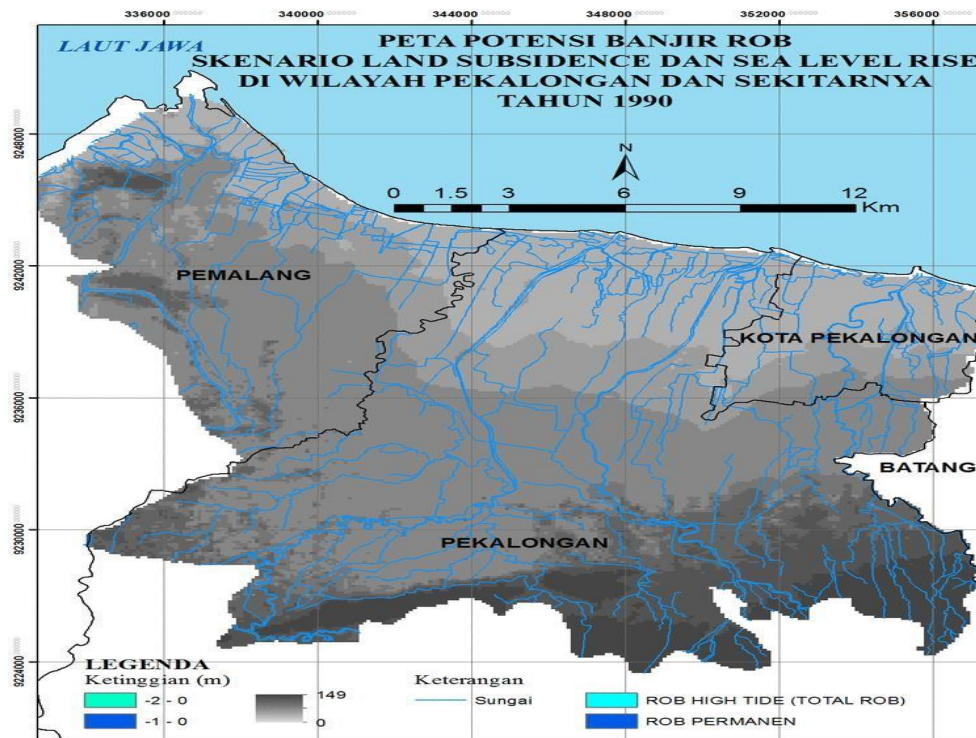


Table 2, flood area

The decrease in soil structure which then causes flooding and has the effect of disturbing the environment is due to reduced water in the underground layer which is getting thinner and thinner. Data from the Bappeda of Pekalongan City explains that the condition of the soil layer on the coast of Pekalongan has reached minus 30-50 cm below sea level. The causes are uncontrolled land conversion, river shallowness, community/cultural behavior. Law and Policy formulation and enforcement

According tho, there are problems of fulfilling the human rights of the surrounding community related to the environment, also the implementation of governance at the regional level is reformed, so that regional governments are given the widest possible authority in managing regional government which is autonomous and currently known as regional autonomy. According to Ryaas Rasyid, that: "the implementation of regional autonomy is expected to provide great benefits in the life of society, nation and state, especially developing democratic life, encouraging efforts to empower communities in development, strengthening the capabilities and position of local government, improving public services and community welfare through

regional development.<sup>3</sup>This problem then becomes the main discussion regarding efforts to fulfill the environment, handling tidal floods as well as efforts to restore the coastal environment of Pekalongan City from the perspective of community rights, citizens, and law-policy reconstruction.

## **2. Research Method**

The research approach that will be used is the doctrinal legal research. The authors use this approach to look at the concept of environment Law, Human Rights, and whether it has been in conformity with the context of handling primary problem in pekalongan coastal- environment. This research is based on a normative science of law at the time of the study also includes reviewing the legal concept for people, government. This research are technical prescriptive, with this deepening of research results can provide a comprehensive descriptions.

## **3. Results and Discussion**

With environmental problems, the right to live is disrupted due to severe environmental damage which also results in disruption to human health. This is actually also regulated in the International Covenant on Civil and Practical Rights (ICCPR), especially Article 6 paragraph (1) states that, every human being has the inherent right to life, ...no one shall be arbitrarily deprived of his life. The article stipulates that everyone has the right to live and no one, not even the state, can stop someone's life arbitrarily. This means that the state must take various actions to protect human life, so that environmental damage does not result in the expulsion of people from their places of life. In addition, also the International Covenant on Economics, Social and Cultural Rights, hereinafter referred to as ICESCR through UN General Assembly Resolution No. 2000 A (XXI) on December 16, 1966. In essence, the Covenant states that every nation has the right of self-determination which is the basis for every individual to obtain his socio-economic status in his place of residence. In relation to the protection of individual rights to socio-economic and cultural life, the government is obliged to provide a decent life for everyone by providing employment (to carry out the right to work) or also providing education as an implementation of protection of the right to education at their place of residence. In essence, the Covenant stated that every nation has the right of self-determination which is the basis for every

---

<sup>3</sup>Ryaas Rashid, "Strategy for Economic Development, Social Politics in the Perspective of Regional Autonomy", National Seminar Paper held by the Faculty of Law Untirta, Banten, June, 2000.

individual to obtain his socio-economic status in his place of residence. In relation to the protection of individual rights to socio-economic and cultural life, the government is obliged to provide a decent life for everyone by providing employment (to carry out the right to work) or also providing education as an implementation of protection of the right to education at their place of residence. In essence, the Covenant stated that every nation has the right of self-determination which is the basis for every individual to obtain his socio-economic status in his place of residence. In relation to the protection of individual rights to socio-economic and cultural life, the government is obliged to provide a decent life for everyone by providing employment (to carry out the right to work) or also providing education as an implementation of protection of the right to education at their place of residence.

With environmental problems, the right to live is disrupted due to severe environmental damage which also results in disruption to human health. This is actually also regulated in the International Covenant on Civil and Practical Rights (ICCPR), especially Article 6 paragraph (1) states that, every human being has the inherent right to life, ...no one shall be arbitrarily deprived of his life. The article stipulates that everyone has the right to live and no one, not even the state, can stop someone's life arbitrarily. This means that the state must take various actions to protect human life, so that environmental damage does not result in the expulsion of people from their places of life. In addition, also the International Covenant on Economics, Social and Cultural Rights, hereinafter referred to as ICESCR through UN General Assembly Resolution No. 2000 A (XXI) on December 16, 1966.

In essence, the Covenant states that every nation has the right of self-determination which is the basis for every individual to obtain his socio-economic status in his place of residence. In relation to the protection of individual rights to socio-economic and cultural life, the government is obliged to provide a decent life for everyone by providing employment (to carry out the right to work) or also providing education as an implementation of protection of the right to education at their place of residence. In essence, the Covenant stated that every nation has the right of self-determination which is the basis for every individual to obtain his socio-economic status in his place of residence. In relation to the protection of individual rights to socio-economic and cultural life, the government is obliged to provide a decent life for everyone by providing employment (to carry out the right to work) or also providing education as an implementation of protection of the right to education at their place of residence. In essence, the Covenant stated that every nation has the right of self-



determination which is the basis for every individual to obtain his socio-economic status in his place of residence. In relation to the protection of individual rights to socio-economic and cultural life, the government is obliged to provide a decent life for everyone by providing employment (to carry out the right to work) or also providing education as an implementation of protection of the right to education at their place of residence.

**The right to life (Right to Life)** The right to life for the people of Pekalongan has been disrupted due to damage to the surrounding environment which has also disrupted human health. Everyone has the right to live and no one, not even the state, can stop someone's life arbitrarily. This means that the state must take various actions or at least not be negligent to protect people's lives

**The Right to a Healthy Environment** The submerging of people's settlements by floods and rising sea levels has resulted in great environmental damage and the environment in which the people live is no longer possible to live in. People become refugees in their own areas and in the evacuation they do not get a healthy environment. The local community should have the right to get a healthy environment or a healthy life. To get a healthy life, of course, you have to protect the environment from damage.

**The Right to be Free from Interference with One's Home and Property** The meaning of interference is environmental disturbances, such as pollution, due to noise, flooding from a dam, weather changes due to nuclear power center (PLTN) activities, and includes the overflow of water that inundates residential areas, which significantly affects personal life. This kind of disturbance can be regarded as one of the violations of human rights.

Indonesia is a country that recognizes the universal values of human rights, in which the state has the obligation to protect, respect and fulfill the basic rights of its citizens.<sup>4</sup>One of them relates to the right to a good and healthy environment. A healthy living environment is the basic key to respecting human rights. Human rights are rights that are inherent in humans, without which we cannot live as humans. Every human being has the right to enjoy health, happiness and the availability of a safe and healthy environment. A safe, clean, healthy and sustainable environment is an integral part of the full enjoyment of various

<sup>4</sup> "Introduction to HAM(VI): Obligations and Responsibilities of the Government," nd, <https://icel.or.id/isu-prioritas/keadilan-iklim-dan-ham/siaran-pers-pengakuan-hak-atas-environment-good-and-healthy-life-as-universal-ham-Indonesia-needs-strengthen-commitment-to-realization-rights-to-the-environment-in-Indonesia/>.

human rights, including the right to live, the environment and nature are bound in a social entity that cannot be separated from humans. If the ecosystem is damaged, then there are human rights that are taken by force. Thus, the right to the environment also means that it is closely related to the order of justice.

Access to a healthy environment has been declared a human right by the UN Human Rights Council. The UN Human Rights Council has adopted a resolution on the right to a clean, healthy and sustainable environment, as the first formal recognition of this right as a human right at the global level.<sup>5</sup> The United Nations (UN) recognizes the right to a good and healthy environment as a Universal Human Right (HAM) through resolution A/RES/76/300 which was ratified at the 76th United Nations General Assembly (UNGA) annual session on 28 July 2022. The declaration of the UN general assembly has strengthened the recognition of the Human Right to a Good and Healthy Environment. Previously on the moon October 2021, the United Nations Human Rights Council (UNHRC) first recognized, that access to a safe, clean, healthy and sustainable environment is part of human rights (HAM). UNHRC has identified how environmental damage interferes with the full enjoyment of human rights, and they have concluded that states have an obligation under human rights law to protect human rights from environmental damage..<sup>6</sup> This recognition follows the recognition of the right to a good environment as a Universal Human Rights by the UN Human Rights Commission in 2021.<sup>7</sup> In Indonesia, the right to a good and healthy environment has been recognized since 1999 through the ratification of Law no. 39 of 1999 concerning human rights. This recognition was followed by the second amendment to the 1945 Constitution through Article 28H paragraph (1) of the 1945 Constitution which expressly states: "Every person has the right to live in physical and spiritual prosperity, to have a place to live, and to have a good and healthy environment and is entitled to obtain health services".<sup>8</sup> It correlates with this context, that the inclusion of sustainable and environmentally sound principles in Article 33 paragraph (4) of the 1945 Constitution of the

<sup>5</sup> "The right to a clean and healthy environment is a human right - Indonesian Green Site," nd, [https:// Hijauku.com/2022/07/28/hak-atas-environment-yang-clean-dan-sehat-Jadi-ham/](https://Hijauku.com/2022/07/28/hak-atas-environment-yang-clean-dan-sehat-Jadi-ham/).

<sup>6</sup> "Universal Recognition of Human Rights for a Good, Healthy and Sustainable Environment - UGM Center for Environmental Studies," nd, <https://pslh.ugm.ac.id/pengakuan-universal-ham-atas-environmental-living-yang-baik-healthy-and-sustainable/>.

<sup>7</sup> Ibid.

<sup>8</sup> Government Regulation of the Republic of Indonesia Number 1, "President of the Republic of Indonesia," Government Regulation of the Republic of Indonesia Number 1 Year 2001 2003, no. 1 (2001): 1-5,

Republic of Indonesia helps strengthen the recognition of the importance of efforts to protect and manage the environment in Indonesia.<sup>9</sup>

#### 4. Conclusion

The 1945 Constitution regulates the right to a good and healthy environment, showing that human rights and the environment need each other so that by respecting human rights at the same time protecting the environment. Vice versa, by protecting the environment, human rights are automatically protected. It is necessary to involve all components in law, rights, policy to encourage and realize that these all things must be fought for together, so that the Pekalongan coastal environment is not damaged and human rights are not violated. Fulfillment of the right to a good and healthy environment in Pekalongan coastal communities should fully fulfilled, as can be seen from Law Number 32 of 2009.

#### References

- Bitu Gadsia Spaltani Indah Nur Shanty Saleh, "Reformulation of Legal Protection for Fighters for the Right to a Good and Healthy Environment" 4, no. 1 (2016): 1
- Gianfranco Poggi, 2020 4<sup>th</sup> edition *The Development of the Modern State "Sociological Introduction*, (California: Standford University Press.
- Djauhari, 2008, *Politik Hukum Negara kesejahteraan Indonesia*, Unissula Press, Disertasi, Semarang,
- D. Sarah and Soebowo "Land subsidence threats and its management in the North Coast of Java", Global Colloquium on GeoSciences and Engineering 2017 IOP Publishing IOP Conf. Series: Earth and Environmental Science 118 (2018) 012042 doi :10.1088/1755-1315/118/1/012042
- Heri Andreas, research, Land subsidence on northern east java, national conference Semarang: 17-18 June 2021
- Sentanoe Kertonegoro, 1987, *Jaminan Sosial dan Pelaksanaannya di Indonesia*. revision, II 2017 . Mutiara Sumber Widya, Jakarta,.
- Sri Warjiyati, 2018 "*Legal Instruments for Upholding Human Rights in Indonesia*," Justicia Islamica 15, no. 1
- Jimly Asshiddiqie, 2005, *Constitutional Law and Pillars of Democracy*, Constitution Press, Jakarta 2005
- Juanda, *Regional Government Law*, Alumni, Bandung, 2008

---

<sup>9</sup> Bitu Gadsia Spaltani Indah Nur Shanty Saleh, "Reformulation of Legal Protection for Fighters for the Right to a Good and Healthy Environment" 4, no. 1 (2016): 1-23.

- John Rawls, *A Theory of Justice*, London: Oxford University Press, 1973, which has been translated into Indonesian by Uzair Fauzan and Heru Prasetyo, *Justice Theory*, Yogyakarta: Student Library, 2006,
- Lawrence M. Friedman, *American Law*, WW Norton & Company, New York, 1984
- Mochtar Kusumaatmadja, *Legal Concepts in Development*, Alumni, Bandung, 2002 ,.
- Munir Fuady, *Modern Law State Theory (Rechtstaat)*, Refika Aditama, Bandung, 2009,
- Ryaas Rashid, "Strategy for Economic Development, Social Politics in the Perspective of Regional Autonomy", National Seminar Paper held by the Faculty of Law Untirta, Banten, June, 2000
- Satjipto Rahardjo, *Progressive Law, An Indonesian legal system*, Gentha Publishing Publisher, Yogyakarta, 2009,
- Syaukani HR, 2001, *Looking Forward to the Future of Regional Autonomy*, the Kutai Empowerment Development Movement, Institute of Sciences,
- Sarundajang, 1999, *Central Power Backflow to the Regions*, Pustaka Sinar Harapan, Jakarta, 1999
- Sudikno Mertokusumo, *Knowing An Introduction to Law*, Fourth Printing, Liberty, Yogyakarta, 2008,
- Sentanoe Kertonegoro, *Social Security and Implementation in Indonesia*. 2<sup>nd</sup> Edition, II. Mutiara Sumber Widya, Jakarta, 1987.
- Teguh Prasetyo, *Law and Legal Systems Based on Pancasila*, Mighty Media, Yogyakarta, 2013,

**Reference official website:**

<https://bappeda.pekalongankota.go.id/>  
Land subsidence threats and its management in the North Coast of Java - IOPscience  
"Universal Recognition of Human Rights for a Good, Healthy and Sustainable Environment - UGM Center for Environmental Studies," nd,  
<https://pslh.ugm.ac.id/pengakuan-universal-ham-atas-environmental-living-yang-baik-healthy-and-sustainable/>.