



# Law as a Tool of Social Engineering in Indonesia: Revisiting Roscoe Pound Theory and Its Application to Legal Reform

**Rasji**

Universitas Tarumanagara, Jakarta, Indonesia

**William Chandra**

Universitas Tarumanagara, Jakarta, Indonesia

**Marcellius Kirana Hamonangan**

Universitas Tarumanagara, Jakarta, Indonesia

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## ABSTRACT

**Objective** – This article examines the role of law as an instrument of social engineering within the framework of sociological jurisprudence, focusing on its application in the Indonesian legal system.

**Methodology** – The study employs a normative juridical approach with conceptual, historical, and comparative methods to analyze how legal structures can influence social transformation.

**Findings** – Findings indicate that while the theoretical foundation aligns with Indonesia's aspiration for justice and reform, practical implementation often lacks systemic integration and responsiveness to societal needs.

**Novelty** – By mapping these gaps, the research proposes a conceptual framework for enhancing the law's role in achieving equitable and adaptive legal reform. This contribution bridges classical legal theory with the realities of Indonesia's legal development, highlighting the importance of aligning philosophical ideals with practical governance.

**Keywords:** *law, social engineering, legal reform, Indonesian legal system, legal philosophy*

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**Article Correspondence:** [william.207242010@stu.untar.ac.id](mailto:william.207242010@stu.untar.ac.id); [wchacademics@gmail.com](mailto:wchacademics@gmail.com)

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## I. INTRODUCTION

Law has always been intrinsically linked to society, as reflected in the Latin adage “*Ubi societas, ibi ius*,” meaning “Where there is society, there is law” (Rahardjo, 2010). Law plays a vital role in maintaining order, justice, and security, and it influences various aspects of human life, such as morality, marriage, the environment, and public health. However, the development of law often lags behind the dynamic evolution of society. The formal and complex nature of legal formation processes makes law relatively slow in responding to rapid social changes (Shidarta, 2006).



In this context, law is not merely a regulatory mechanism but also functions as an instrument of social engineering. Roscoe Pound, a leading figure in the sociological jurisprudence school of thought, argued that law should serve as a tool to create societal harmony by adapting to ever-changing societal needs (Pound, 1910). The concept of law as a means of social engineering aims to guide and transform social behavior in line with broader public interests. Through legal instruments, outdated customs can be eliminated while introducing new norms that better align with societal development (Diab, 2014).

Roscoe Pound emphasized that law functions to control antisocial behavior and maintain social order through the systematic application of rules by state institutions. However, he also stressed that the effectiveness of law cannot stand alone; it must be supported by other institutions such as family, education, morality, and religion (Alfarabi & Romainur, 2023). This view highlights that the success of law in engineering society depends not only on written norms but also on how law is internalized and practiced in daily life.

Pound's ideas on law as an instrument of social engineering were later introduced to Indonesia by Prof. Mochtar Kusumaatmadja. According to Kusumaatmadja, law must be adaptive to social change in order to function optimally as a means of societal renewal (Kusumawati, 2017). However, applying this theory in Indonesia's civil law system presents a distinct challenge, as it differs from Pound's original concept, which was developed within the common law tradition. In the common law system, legal development primarily occurs through judicial decisions, whereas in civil law systems, law is predominantly legislated by the government (Sundari et al., 2023). This difference adds complexity to the implementation of the theory of law as a tool of social engineering within the Indonesian legal context.

This study aims to explore the role of law as an instrument of social engineering from the perspective of Roscoe Pound and examine its relevance in the Indonesian legal system through the lens of Prof. Mochtar Kusumaatmadja. The research seeks to analyze how law can function as a mechanism of social transformation and how this concept can be applied to realize justice and harmony within society. This study will also discuss the challenges faced by Indonesian law in applying the theory of social engineering in the modern context, particularly in dealing with rapidly evolving social dynamics.

## II. LITERATURE REVIEW

### The Concept of Law as Social Engineering

The idea of law as an instrument of social engineering is a central tenet in Roscoe Pound's sociological jurisprudence. Pound (1910) posited that law must not only serve as a tool for social control but also play an active role in shaping and directing societal development. According to Pound, the law should be flexible and adaptive, capable of evolving alongside societal changes, in order to maintain social order and foster justice. He argued that legal systems should not only reflect societal values but also influence and guide social behaviors to achieve societal welfare (Pound, 1910).

Pound's theory of social engineering emphasizes the dynamic role of law in balancing competing societal interests and promoting public good. He contended that law functions as a mechanism to address social problems and conflict by reshaping societal norms, creating new laws, and reforming outdated customs (Diab, 2014). For Pound, the law must serve the public interest by ensuring that societal norms are aligned with contemporary needs.

### The Role of Law in Indonesia's Legal System

In Indonesia, the concept of law as an instrument of social engineering was popularized by Professor Mochtar Kusumaatmadja, one of the most prominent Indonesian legal scholars. Kusumaatmadja (2006) emphasized that law should be responsive to the evolving needs of society and act as a catalyst for societal



renewal. He argued that law is not a static entity but should serve as a dynamic force that drives change in accordance with social developments.

Kusumaatmadja's perspective on law aligns with the concept of progressive law, where legal systems are continuously reformed to meet the challenges of modern society. This view also integrates with the Indonesian legal context, where law serves as both a regulatory and transformative instrument. However, the application of social engineering theory within the Indonesian legal framework presents challenges due to its civil law tradition, which differs from the common law system that Pound's theory was originally developed within. In civil law systems, such as Indonesia, laws are predominantly legislated by the government, whereas in common law systems, legal development occurs through judicial decisions and precedents (Sundari et al., 2023).

### **Legal Engineering in Indonesian Context**

In Indonesia, legal engineering has become an essential tool for addressing various social issues, including economic inequality, environmental protection, and social justice. The implementation of progressive legal concepts such as restorative justice, progressive taxation, and data protection laws reflects the adaptation of social engineering in Indonesia's legal system. These legal reforms aim to transform society by creating a legal framework that supports societal welfare and addresses the pressing challenges of contemporary Indonesian society.

The notion of social engineering is also evident in Indonesia's agrarian reform and labor policies. The government's efforts to redistribute land and regulate labor practices are examples of legal engineering aimed at improving social justice and economic equality. These policies reflect the dynamic nature of Indonesian law and its capacity to evolve in response to societal needs, although challenges persist in ensuring effective implementation and achieving the desired outcomes.

### **The Intersection of Civil Law and Social Engineering**

The application of Pound's social engineering theory within Indonesia's civil law system requires careful consideration of the differences between civil and common law traditions. While common law systems allow for more flexible and gradual legal development through judicial decisions, civil law systems rely heavily on codified laws and regulations. This structural difference presents challenges in applying social engineering principles, which often require a more fluid and adaptive approach (Kamil & Fauzan, 2008).

The comparative approach to social engineering highlights the importance of cross-jurisdictional learning. By analyzing the practices of other countries that have successfully applied legal reforms to achieve social change, Indonesia can better understand the opportunities and challenges involved in integrating social engineering into its legal system (Sundari et al., 2024). This comparative analysis can also inform the development of legal mechanisms that foster societal welfare and justice.

## **III. METHODOLOGY**

This study employs a normative juridical method, which focuses on the analysis of written legal sources and literature studies. The aim of this research is to understand the concept of law as an instrument of social engineering, as proposed by Roscoe Pound, and to examine its implementation within the Indonesian legal system, particularly in light of the insights provided by Indonesian scholars, such as Mochtar Kusumaatmadja and Satjipto Rahardjo.

The research methodology involves the application of several legal approaches to explore the role of law in social engineering:



1. **Conceptual Approach.** This approach is used to analyze the theory of social engineering in law, particularly focusing on the thoughts of Roscoe Pound, Satjipto Rahardjo, and Mochtar Kusumaatmadja. It aims to examine how the theory has been adapted and applied in the Indonesian legal context (Sundari et al., 2024; Rahardjo, 2009, 2012). Furthermore, the relevance of this theory in progressive legal practices is explored, particularly in the context of social regulation and its application in Indonesia (Triana et al., 2024).
2. **Statute Approach.** The statute approach involves reviewing Indonesian laws and regulations that relate to the role of law as a tool of social engineering. This includes examining specific legal instruments such as restorative justice laws, progressive taxation laws, and digital rights protection regulations (Kusumawati, 2017; Christian, 2022). This approach also includes identifying legal norms that reflect the role of law as a mechanism for societal transformation, focusing on contemporary policies aimed at achieving social justice and harmony.
3. **Historical Approach.** The historical approach is used to trace the development of the theory of social engineering in law, starting from Roscoe Pound's early contributions in the early 20th century to its evolution across various legal systems (Diab, 2014). It also examines the historical trajectory of Indonesian law as a tool of social engineering, particularly in relation to significant legal reforms such as agrarian reform and labor policy, which reflect the state's efforts to engineer social change.
4. **Comparative Approach.** This approach involves comparing the application of the theory of social engineering in common law and civil law systems. The comparative analysis aims to identify the similarities and differences in how these legal traditions approach legal reforms aimed at social engineering (Kamil, & Fauzan, 2008). Additionally, this comparative approach helps identify the challenges and opportunities of applying the social engineering theory within the Indonesian legal context by learning from the experiences of other countries that have successfully implemented legal reforms to achieve social justice (Sundari et al., 2024).

#### Data Sources

This research utilizes three types of data sources:

1. **Primary Legal Materials.** These include laws, regulations, and legal instruments relevant to the study of social engineering, such as laws on restorative justice, progressive taxation, and digital rights protection.
2. **Secondary Legal Materials.** This category includes books, academic journal articles, and prior research on the theory of social engineering in law, such as the works of Roscoe Pound, Satjipto Rahardjo, and Mochtar Kusumaatmadja, as well as contemporary research on legal reforms in Indonesia (Triana et al., 2024; Rahardjo, 2012; Kusumawati, 2017).
3. **Tertiary Legal Materials.** Tertiary sources such as legal dictionaries, encyclopedias, and other reference materials are used to clarify key legal concepts and terminology relevant to the study.

Through these methods, this study seeks to provide a comprehensive analysis of how law can function as an instrument of social engineering in Indonesia, examining both theoretical foundations and practical applications within the framework of the Indonesian legal system.

## IV. DISCUSSION

### Law as an Instrument of Social Engineering in the Perspective of Roscoe Pound

Roscoe Pound's theory of law as a tool of social engineering asserts that law should not only regulate conduct but also shape society in pursuit of justice and welfare (Triana et al., 2024). For Pound, the law



must adapt to societal changes to stay relevant and effective, balancing diverse interests within society (Sundari et al., 2024). This dynamic view of law aligns with the concept of law as a means of fostering societal harmony by creating norms that reflect contemporary social values.

The theory is also supported by Satjipto Rahardjo's Progressive Law, which advocates for law as an active instrument of change (Muntaqo, 2011). Law should not be viewed as a rigid set of norms but as a tool for ongoing social transformation. For example, law can guide the introduction of new environmental regulations in response to the climate crisis. Table 1 compares the role of law as social engineering across Indonesia, common law, and other legal systems.

Table 1 Comparative Overview of Law as an Instrument of Social Engineering

Aspect	Indonesia Legal System	Common Law System	Other Legal System
<b>Understanding Law as Social Engineering</b>	Law as a tool to create social balance through progressive regulations, such as progressive taxation and restorative justice.	Law develops through judicial decisions that reflect dynamic social change.	Varies, but often focuses on regulations that adapt to social and economic changes.
<b>Policy Examples</b>	Agrarian reform, restorative justice policies, progressive taxation.	Environmental policies, civil liberties, judicial reforms.	Data protection laws, gender equality policies, human rights protection.
<b>Challenges</b>	Barriers in policy implementation and social resistance to change.	Influence of court decisions that may not always reflect current social needs.	Differences in policy implementation based on specific socio-economic conditions.
<b>Relevance to Pound's Theory</b>	Relatively relevant in adapting law to Indonesia's evolving social needs.	More flexible but sometimes slower in dealing with large-scale changes.	Depends on how fast the legal system can adapt to social changes.
<b>Practical Application Examples</b>	Implementation of laws on digital rights and personal data protection (e.g., Personal Data Protection Act).	Regulatory changes in environmental law, civil rights, judicial reform.	International policies related to climate change or gender equality.

**Source:** Synthesized by the authors from various references, including Pound (1910), Kusumaatmadja (2006), Rahardjo (2009, 2012), Triana et al. (2024), and Kamil and Fauzan (2008).

### Law as a Means of Justice

The application of law as social engineering ultimately aims to ensure substantive justice. Kusumawati (2017) emphasized that the pursuit of justice cannot be separated from the social context in which law is applied. Therefore, it is essential for law to reflect the socio-economic realities of the time. Legal reforms must address the needs of society, rather than applying a one-size-fits-all approach.

The failure of legal systems to adapt to societal needs can result in the law being viewed as a tool of oppression rather than empowerment. Alfarabi and Romainur (2023) argued that legal philosophy plays a vital role in shaping laws that serve the broader public interest. Through restorative justice initiatives and affirmative action policies, law can function not only as a normative instrument but as a tool to ensure fairness for all groups in society.

### Implementation of Social Engineering in Law in Indonesia

In Indonesia, the application of law as a tool for social engineering can be seen in progressive legal policies such as agrarian reforms and efforts to combat corruption (Diab, 2014). Indonesia's legal system has increasingly adopted measures aimed at reducing social inequality and ensuring justice through





frameworks like restorative justice and progressive taxation. These efforts reflect a broader understanding of law not only as a regulatory tool but also as a catalyst for social change.

### Law and Social Change

Law must evolve to remain relevant in an ever-changing society. Jalaluddin (1999) emphasized that law should be an effective catalyst for social transformation. The law cannot be rigid; it must have the flexibility to accommodate emerging social issues, such as data protection and the regulation of digital technologies. As societies become more interconnected, the law must address global challenges like climate change, human rights, and gender equality, further demonstrating its power to influence societal transformation.

## V. CONCLUSION

This study reaffirms the importance of Roscoe Pound's theory of law as an instrument of social engineering. Law is not only a collection of normative rules, but also a dynamic mechanism that must respond to the evolving needs of society. In the Indonesian legal system, this concept is further developed through the contributions of Prof. Mochtar Kusumaatmadja, who emphasized the necessity for law to be adaptive and socially responsive.

The findings of this study highlight that law can serve as a transformative force in achieving justice and societal welfare. It functions not only as a means of regulation but also as a driver of social change. Legal mechanisms such as restorative justice, progressive taxation, and digital regulation are examples of how law can promote inclusivity and reduce social disparities.

In addition, this study emphasizes that successful legal reform requires more than just the formulation of legal norms. It must be grounded in sociological, philosophical, and comparative understandings of society. Law becomes truly effective when it aligns with the cultural values, moral norms, and everyday realities of the people it serves.

By adopting this integrative approach, the concept of law as an instrument of social engineering can be more effectively implemented in Indonesia. It can guide policy-making and judicial decisions to reflect the real needs of the public. Ultimately, this approach enhances the capacity of law to deliver justice and maintain social harmony.

Future research may focus on empirical evaluations of legal policies that embody social engineering principles. Such studies can provide a better understanding of how laws influence behavior and public awareness. They may also offer insights into improving the responsiveness and fairness of the Indonesian legal system.

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