

## LAW AS A TOOL OF SOCIAL CONTROL IN THE CASE OF THUG RATION

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Received : 5 Mei 2025

Published : 13 July 2025

Revised : 11 Juni 2025

DOI : <https://doi.org/10.54443/ijerlas.v5i4.3475>

Accepted : 30 Juni 2025

Link Publish : <https://radjapublika.com/index.php/IJERLAS>

### Abstract

Discussion of law as a means of social control is related to methods and disciplines in sociology. The use of various disciplines against law is very important when we discuss it as a tool of social control. One of the crucial points in this topic is the need for law to meet the real needs of society, so that the law can function properly. Another important aspect is the supremacy of the application of the law or the rule of law itself. The rule of law is needed to realize the function of law as a tool of social control by fully considering the sociological aspects of law enforcement. In this case, the author wants to try to study the sociology of law as a social control over the political phenomenon of crime. It is undeniable that it often happens in Indonesia as CSOs have penetrated the business world and of course with the franchise system, with deals that have been agreed in such a way, CSOs have evolved into fields.

Keywords: *Sociology of Law, Politics of law.*

### INTRODUCTION

Society or social life is actually a collection of various relationships between its members. These relationships ultimately form social life. So, it can be concluded that social life is a web of various interactions carried out between members of society with each other. Community life can take place in an orderly and regular manner thanks to the existence of order in society, namely creating consistent and orderly relationships between members. The sub-order consists of customs which are customary norms that are carried out by society every day and are considered as legal actions that must be obeyed; if there is a violation, then customary norms will be used. Pure law is that which is made intentionally by certain institutions in society that are specifically tasked with implementing, creating, and establishing laws, in order to maintain order in society. Morality is a system of values of community behavior related to actions that are considered not to be in conflict with the norms or rules that apply in society. Law is basically a type of command; however, because it is called a command, every law comes from one clear source. When an order is stated or announced, one party shows the will for the other party to carry out or allow the order to be carried out. Based on the close relationship between law and society as a social reality, this article wants to discuss how a multidisciplinary approach, namely law and sociological perspectives, within the legal framework as a tool of social control and the supremacy of law enforcement.

What about the use of thugs in politics and society? The state in this context has become commonplace when using repressive measures as a way to stabilize the situation in a country when chaos occurs. Not only are emotions triggered in each individual, but more so the meaning of the word 'security' itself, so that anyone can apply force to protect other people's property. In this case, many community organizations take advantage of this situation, namely by becoming organizations that seek profit, in this case thug services. Ideally, when seeing community organizations with their various slogans, what comes to mind is a polite social attitude, upholding human values. However, the contrast with the reality on the ground is that mass organizations have transformed into 'markets', functioning as a means of protection for anyone who needs it. On the other hand, thugs here show a repressive attitude. Violent services in an urban context are very tempting, given the high crime rate, especially if they are used as a benefit for protection, both for assets and market areas, for example. For example, FBR has also used ethnicity as a unifying tool in competition with other mass organizations to seize territory and get 'jobs' from politicians who want to use its services. Violence in Indonesia continues to occur not because the state

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deliberately allows it, but because of the fact that political and economic elites rely on violence to consolidate their own power and interests. As a result, thugs and mafia are always used as tools by the political elite themselves, either through party wings or movements supported by the party itself. Then the owners of violent services in reality have also embraced the police, corporations and even government agencies. In this case, the author uses legal sociology to observe and analyze whether the law as social control can solve the problem of thug quotas, or whether the law should be carried out as social engineering which must be aligned with existing conditions so that it is possible to take steps to eradicate these thug services.

### RESEARCH METHOD

In this study, the author will use a multidisciplinary research method, namely an approach that involves the integration of perspectives, methods, and insights from various disciplines to study an object or phenomenon comprehensively by combining diverse viewpoints, a multidisciplinary approach allows for a more holistic and nuanced understanding of the complexity of the problems faced in various fields of study. A multidisciplinary approach recognizes that reality is often too complex to be understood through a single lens from one discipline alone. Instead, it encourages researchers to go beyond traditional boundaries between disciplines and adopt a broader and more integrative perspective. A multidisciplinary approach is not just a simple aggregation of various methods or perspectives, but rather involves a critical synthesis and deep integration aimed at creating new understandings that transcend individual disciplinary boundaries. In this case, the author uses the legal discipline in this case related to Employment Law, then the author uses the Criminal Law and Sociology of Law disciplines. The multidisciplinary approach seeks to bridge the gap between theory and practice, producing more relevant solutions.

### RESEARCH RESULTS AND DISCUSSION

#### A. Understanding the Basic Law and Social Reality

The characteristics and meaning of law have their own uniqueness, law in general can be divided into: *Normscience*, namely the science of legal rules. Its object highlights "das sollen", what should be done and what should not be done. Better known as civil law and criminal law *Community Relations*, the science of legal reality, in Indonesia we know it as Legal Sociology or Law and Society *Knowledge of the world*, is about the basic understanding of law, in Indonesia we know it as Introduction to Legal Science. The earliest basic understanding in law regarding legal subjects is everything that supports rights and obligations, the recognition of humans as legal subjects can be seen implicitly in Article 6 of the Universal Declaration of Human Rights "Equality before the law and man is a person before the law".<sup>1</sup>

The sources of law consist of formal legal sources and material legal sources. Formal legal sources are legal sources that can directly form legal rules that will bind society, which include the first formal legal source is the Law. Laws in the form of written law (*ius scripta*) as opposed to unwritten law (*ius nonscripta*), consist of formal laws, namely the decision of the ruler seen from the form and method of the law and material laws, namely the decisions of the ruler seen from their contents. The second formal legal source is custom which can be interpreted as an act that is carried out repeatedly which is considered appropriate to do has normative power "*die normative kraft des faktischen*". The third formal legal source is an international agreement or treaty. International agreements or treaties are one of the formal legal sources, consisting of Treaties (agreements before being ratified by the President) and Agreements (agreements known after being ratified by the President). Then the fourth formal legal source is Jurisprudence, which is in the form of a binding judge's decision. The last formal legal source is doctrine. Doctrine is the opinion of legal experts which is often used as a source of law. In addition, there is also religious law as a source of formal law.<sup>2</sup> As explained above, the basic understanding of law is always related to what is called reality, which is called real meaning something that can be captured by the senses (sense) is physical or objective. According to Steven Law

*"At first, when most people ask about reality, their answers refer to what they experience and feel about everything around them at that moment."*

Philosophically, the meaning of reality is quite broad, the views of philosophers about reality are as follows:

1. Campanella, states that reality is equal and has perfection in various levels of knowledge.
2. Kant, identified the real as something that corresponds to the material conditions of experience.
3. Price, recognizing reality as what is believed by the research community at the end of an ideal series of research.
4. Freund, used the term "reality principle" as a basis for moving towards the goal of therapy. Where the mature individual can overcome illusions to hold on to reality.

When examined historically, reality can be seen from several perspectives. First, reality is something that

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can only be understood through thought (ideas, concepts, essence). Second, reality is related to things that are actual, real, existent, and objective, which can only be understood through intuition and the senses. Law and social reality in a society show changes in law, namely how law is viewed and interpreted and how law is applied in society. In this case, understanding the sociological analysis of law is not only rational and abstract, but law also has broad dimensions in terms of humanity and social.

### B. Law as Social Control and as Social Engineering

In the context of a modern constitutional state, law not only functions as a tool to control society (law as social control), but also as a means to direct society towards desired changes (law as social engineering).<sup>3</sup> In other words, law functions as a tool to achieve progress, civilization, and state welfare. In the judicial process called a "case", law is not only seen from the legal aspect. However, there is also a sociological dimension; Black suggests that the case be viewed as something that has a social structure, so that a study of "the sociology of case" can be carried out. The daily reality that occurs in society shows that law has an important role as social control. Because without regulations, both written and unwritten in customary law, community life will not run harmoniously. How in this case the function of law as social control can work to eliminate cases of thug quotas that are felt to be able to manipulate the law itself, where those who have the money to pay for the thug quota can arbitrarily manipulate the law.

So in this case, it is necessary to analyze the sociology of law on the law itself whether the function of law as social control has run properly and has been successfully carried out. Sociology of Law here will analyze and assess whether the existing law has been running well as a social control in order to eliminate the practices of thuggery or thuggery services that are considered to be able to manipulate the law in its enforcement. Every act of thuggery that manipulates the law must be prosecuted in accordance with the law. If this is successful in its enforcement, then the law itself has succeeded in carrying out its function as a tool of social control in society so that cases of thuggery services will increasingly disappear and the law can be enforced as fairly as possible. Or in this case, the law should be treated as social engineering where legal engineering is used with a legal sociology approach to eradicate acts of thuggery in terms of thuggery services.

### C. Law as Social Control Against Cases of Gangsterism Fees

The term social has a different meaning from the term socialism. The term social refers to its object, namely society, while socialism is an ideology based on the principle of general thought. Sociology is clearly a social science that studies society, and is an autonomous field of knowledge because it has met the criteria of science. Pitirim Sorokin states that sociology is a science that studies:

- a. The interaction and mutual influence between various social phenomena, such as economics and religion, family and morals, and politics and society.
- b. The interaction and mutual influence between social phenomena and non-social phenomena, for example; geography and biology.<sup>4</sup>

DHM Meuwissen argues that the sociology of law is currently experiencing rapid development and this discipline is focused on explaining the applicable positive law. This means that its content and form change over time and location with societal factors. The object of legal sociology at the first level is social reality, while at the second level are legal norms that have a role in society.

<sup>1</sup> Universal Declaration of Human Rights, Art.6.

<sup>2</sup> Rusli Efendy, et. al. Legal Theory (Ujung Padang: Hasanuddin University Press, 1991), 15-41

<sup>3</sup> Rizal Irwan Amin, Unraveling the Problems of Legislation in Indonesia", Jurnal Res Publica, Volume 4 Number 2, 2020. Page 20.

According to JJH Bruggink, the sociology of law can be divided into two schools.

### 1. Empirical Sociology of Law

This stream is oriented towards collecting data from an external perspective. This means, an observational perspective that makes observations. By organizing materials and drawing conclusions between legal norms and social reality.

### 2. Contemplative Sociology of Law

Contemplative legal sociology looks from a different perspective, namely an unacceptable external perspective related to the object being studied. Research in contemplative legal sociology through analysis of jurisdication shows that law can have the opposite impact than expected, instead of regulating people's lives better.<sup>5</sup> To meet the needs of society, it is necessary to form a law as a social control of society, interpreted as a supervisor by society on the running of government. Thus, social control aims to achieve harmony between stability and change in society. From the perspective of its nature, social control is preventive or repressive, preventive is an effort to prevent disturbances to certainty and justice. While repressive efforts aim to restore harmony between law and society, the process of social control can be carried out without violence or coercion (coercive). *social control* functions to form new rules that replace old rules, in compulsion a situation is created where someone is forced to obey or change their attitude resulting in indirect propriety. In pervasion, norms or values enter the subconscious. Social control tools become part of society and the implementation of social control itself.

is:

1. Punishment in the form of a prohibition, which if violated will cause misery for the violator.
2. Standard compensation, which is an obligation where the injured party has the initiative to process. The injured party asks for compensation from the opposing party, is an accusatory.
3. Therapy or conciliation, which is remedial in nature, meaning it aims to return the situation to its original condition. Through the method of each disputing party trying to resolve it through compromise or involving a third party.

With these norms, there will be social control or social regulation in every society. If human behavior is regulated by written laws and statutes, namely the decisions of the authorities that are official and generally binding. The implementation of formal social control means that the written norms come from parties who have formal power and authority. Informal social control through education, religion, seminars, and the dissemination of legal understanding. Usually, what is placed first is the social control that is considered the softest in the form of binding advice, then implementing stricter social control. In the process In this case, if other means do not produce the desired goal, legal norms are applied at the final stage. Law as Social Control in Law Enforcement Against Thug Services From the research conducted by the author, it can be concluded that in terms of the function of law as social control, it can work to eliminate cases of thug quotas which are felt to be able to manipulate the law itself, where those who have the money to pay for the thug quota can arbitrarily manipulate the law.

From the perspective of its nature, social control is preventive or repressive, preventive is an effort to prevent disturbances of certainty and justice. While repressive efforts aim to restore harmony between law and society, the process of social control can be carried out without violence or coercion. Social control functions to form new rules that replace old rules, in compulsion a situation is created where someone is forced to obey or change their attitude resulting in indirect propriety. In pervasion, norms or values that enter the subconscious. In this case, if we relate it to the rampant quota of thugs who seem to be playing with the law, then a sociological analysis of law is needed, both from an empirical legal sociology perspective that relies on data collection from an external perspective that uses an observation perspective that makes observations, or from a contemplative legal sociology perspective which looks from a different perspective, namely an external perspective that cannot be accepted related to the object being studied in this case related to thug service fees. Research in contemplative legal sociology through analysis of jurisdication shows that law can have the opposite impact than expected, instead of regulating people's lives better.

<sup>4</sup> Soerjono Soekanto, Sociology: An Introduction (Jakarta; PT RajaGrafindo Persada, 2002), pp. 14- 19.

<sup>5</sup>Ibid.

This means that if thuggery services still occur in terms of thuggery services that play with the law, then it can be concluded that there is something wrong with the law itself so that it needs to be analyzed and found how to fix it. Every act of thuggery that plays with the law must be prosecuted in accordance with the law. This is in accordance with the function of the law as social control, thus social control aims to achieve harmony between stability and change in society. Social control functions to form new rules that replace old rules, in compulsion a situation is created where someone is forced to obey or change their attitude resulting in propriety indirectly. With these norms, there will be social control or social regulation in every society. If human behavior is regulated by written laws and statutes, namely the decisions of the authorities that are official and generally binding. The implementation of formal social control means that the written norms come from parties who have formal power and authority. Informal social control through education, religion, seminars, and dissemination of legal understanding. So the stages that should be carried out in social control are social control which is considered the softest in the form of binding advice, then implementing stricter social control. In this process, if other means do not produce the desired goal, legal norms are applied at the final stage with repressive prevention of the practice of gangsterism services that manipulate law enforcement.<sup>6</sup>

## CONCLUSION

Legal sociological analysis is needed in order to analyze the law itself, whether the function of law as social control has run properly and successfully. Legal Sociology here will analyze and assess whether the existing law has run well as social control in order to eliminate the practices of thuggery or thug services, which is considered to be able to manipulate the law in its enforcement. Every act of thuggery that manipulates the law must be prosecuted in accordance with the law. If this is successful in its enforcement, then the law itself has succeeded in carrying out its function as a tool of social control in society so that cases of thug services will increasingly disappear and the law can be enforced as fairly as possible. In this case, the analysis that can be done with the study of legal sociology can be divided into two schools, namely the first is with Empirical Legal Sociology where this school is oriented towards collecting data from an external perspective. This means, an observational perspective that makes observations. By organizing materials and drawing conclusions between legal norms and the reality of society. Then the second school is Contemplative Legal Sociology which looks from a different perspective, namely an unacceptable external perspective related to the object being studied. Research in contemplative legal sociology through analysis of jurisdication shows that law can have the opposite impact than expected, instead of regulating people's lives better. Both schools can be used as a perspective on Legal Sociology in terms of analyzing the Jatah Preman case which is rampant in law enforcement in Indonesia.

*social controls*erves to form new rules that replace old rules, in compulsion a situation is created where someone is forced to obey or change their attitude resulting in indirect propriety. In pervasion, norms or values that enter the subconscious. In the case of thug services, the social control tool becomes part of society and the application of social control itself can be in the form of punishment in the form of prohibitions, where if violated will cause misery for the violator. So the stages that should be carried out in social control are social control which is considered the softest in the form of binding advice, then implementing stricter social control. In this process, if other means do not produce the achieved goals, legal norms are applied at the last stage with repressive prevention of the practice of thuggery services that manipulate law enforcement. In the case of thuggery services, punishment in the form of a mandatory prohibition must be enforced in order to eliminate the actions of such thuggery services. In this case, law enforcement must be enforced firmly so that it is hoped that there will be no more thuggery services that play around with law enforcement.

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<sup>6</sup> Soerjono Soekanto, *ibid*, 205-209

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