

# The Law Enforcement against Criminal Acts Using Water Gun Types of Fire

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## Abstract.

*The purpose of this study is to find out and analyze law enforcement against criminal acts using Air Gun types of firearms. To find out and analyze the obstacles faced in tackling criminal acts using Air Gun types of firearms and their solutions. This research uses empirical legal research. The research studied in this case is a descriptive research. The data used in this study is secondary data obtained through literature study. The data analysis used in this research is qualitative analysis. The results of this study are Law Enforcement Against Criminal Acts Using Air Gun Type Firearms is to handle in accordance with the procedure recurrent law in Indonesia by implementing the Emergency Act No. 12 of 1951 in accordance with article 1 paragraph (1) and has been given a verdict to the perpetrator to give deterrent effect for gun owners Air Gun Type. The process is investigation, investigation, arrest. The obstacles are lack of information, Human Resources, lack of community roles, geographical factors. The solution is first to the constraints of the information factor, namely, increasing cooperation with the Directorate of Intelligence to prevent the illegal circulation of firearms, increasing coordination with all Head of Regional Police in Indonesia Second by increasing the enthusiasm and motivation of members as well as training in knowledge of firearms skills, thirdly providing information and Knowledge to the public of the dangers of the misuse of firearms, and fourthly increasing supervision in each area.*

*Keywords: Air Gun; Crime; Enforcement; Firearms.*

## 1. Introduction

In accordance with the explanation of Article 1 paragraph (3) of the 1945 Constitution of the Republic of Indonesia (UUD 1945), it is clearly stated "Indonesia is a State of Law". If the provisions are interpreted grammatically, then there will be consequences of a rule of law, namely that all forms of decisions, actions of state equipment, all attitudes, behavior and actions including those carried out by citizens, must have a legal basis or in other words all must have a legal legitimacy.<sup>1</sup> Basically the law is a product of passive legal politics. Without the activity of implementing the law by the state apparatus, the law is a product of legal politics that has no usefulness until the authorized state apparatus makes use of the law.

The purpose of law is to regulate people's lives and create security, prosperity and social justice. While the purpose of criminal law is to retaliate (revenge) or for the purpose of satisfying the vengeful party, both the community itself and the party who is harmed or becomes a victim of crime. This is the oldest goal of punishment.<sup>2</sup> The current criminal objectives are deterrence, both for perpetrators and those who have the potential to commit crimes, protection for

<sup>1</sup>Muhammad Adiel Aristo, Umar Ma'ruf, 2020, *Criminal Law Policy against Actor of Criminal Performance Persecution*. dalam Jurnal Daulat Hukum Volume 3 (1), Published Master Of Law, Faculty of Law Unissula, p. 139  
<http://jurnal.unissula.ac.id/index.php/RH/article/download/8412/4062>

<sup>2</sup>Andi Hamzah, (1993), *Sistem Pidana dan Pemidanaan Indonesia*, Pradnya Paramita, Jakarta, p. 24

the community due to crimes, guidance for perpetrators of crimes, with the aim of getting out of prison or completing the sentence that can be accepted by the community again.

The development of law in Indonesia itself is very dynamic and always changes following the development of society, legal developments, especially in the development of criminal (material) and criminal procedural law (formal) outside the territory of the Indonesian Criminal Code (Criminal Law Book) and the Criminal Procedure Code (Criminal Law Book). Indonesian Criminal Procedure Code) which is currently in force. This is because the basic rules of the Criminal Procedure Code (material) of the Criminal Code and the Criminal Procedure Code (formal) from the Criminal Procedure Code which are old legal products that have not been updated or revised, only the revision / review of the articles in the two laws and regulations does not replace / revise the entire Criminal Code or KUHP.<sup>3</sup>

The problem of crime is a complex problem, where the problem is not only a problem for one or a few countries, but is a problem for all countries in the world by not seeing and paying attention to the political system they adhere to. The crime rate that has occurred in Indonesia has recently increased significantly. This increase occurred both in terms of the number and types of crimes that occurred. This crime is very detrimental to the community in the form of economic losses and or psychological losses. And humans are always faced with problems or conflicts and conflicts of interest between each other, in such circumstances the law is needed to maintain balance and order in society.<sup>4</sup>The rule of law is primarily aimed at concrete perpetrators, namely for the actual perpetrators of violations, it is also aimed at public order so as not to become victims of crime, and so that crimes do not occur.<sup>5</sup>

Crime in human life is a social phenomenon that will always be faced by every human being, society and even the state. The fact proves that crime or violations can only be prevented and reduced, but difficult to eradicate completely. Anticipation of these crimes and violations includes the effective and proper functioning of criminal law instruments through law enforcement. In modern times like this, the motives of crime are increasingly diverse, with various purposes and one of them is the use of an Air Gun.<sup>6</sup>

There are various types of criminal use of Air Gun / Replica of Firearms that cause discomfort to the community so that each individual tries to create a sense of security and protection for himself. Currently, the circulation of Air Gun Weapons in the country is increasingly widespread, as evidenced by the proliferation of Air Gun game clubs in Indonesia in general and the East Java region in particular.

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<sup>3</sup>Moch. Isa Nazarudin, Umar Ma'ruf, 2020, *Comparison Of The Implementation Of Pre-Court Process Before And After The Constitutional Court Decision Number: 21 / PUU-XII / 2014 In The Batang*, dalam Jurnal Daulat Hukum Volume 3 (1), Published Master Of Law, Faculty of Law Unissula, p. 191 <http://jurnal.unissula.ac.id/index.php/RH/article/view/8684/4070>

<sup>4</sup>H. Hari Saherodji, (2008), *Pokok-Pokok Kriminologi*, Aksara Baru, Jakarta, p. 11.

<sup>5</sup>Sumaryono and Sri Kusriyah, 2020, *The Criminal Enforcement of the Fraud Mode of Multiple Money (Case study Decision No.61 / Pid.B / 2019 / PN.Blora)*, dalam Jurnal Daulat Hukum Volume 3 (1), Published Master Of Law, Faculty of Law Unissula, p. 237 <http://jurnal.unissula.ac.id/index.php/RH/article/view/8811/4075>

<sup>6</sup>Muhammad Arif Meilana, 2015, *Penafsiran Hakim dalam Putusan Nomor: 25/PID.SUS/2014/PN.TSM Terhadap Kepemilikan Airsoftgun Tanpa Ijin*, Jurnal Recidive, Volume 4, No. 2, p. 201-202.

Technological developments have also triggered the circulation of the Air Gun to circulate rapidly, namely by using internet media in buying and selling transactions without knowing who the seller is and who the buyer is. By using the internet by anyone resulting in freedom in the circulation of Air Guns in the country and even in the Jepara area, this activity is not blocked by law enforcement officials, even as if they are not moving to take Preemptive, Preventive and repressive actions against the circulation of Air Guns.<sup>7</sup>

The purpose of this study is as follows to determine and analyze law enforcement against criminal acts using Air Gun types of firearms. To find out and analyze the obstacles faced in tackling criminal acts using Air Gun types of firearms and their solutions.

## 2. Research methods

This type of research uses empirical legal research. The research studied in this case is a descriptive research. The data used in this study is secondary data obtained through literature study. The data analysis used in this research is qualitative analysis

## 3. Results and Discussion

### 3.1. Law Enforcement against Crimes Using Air Guns

In Indonesia itself there is a positive law that regulates the use of firearms or related to it. There are rules that were regulated before Indonesia's independence and there were also rules when Indonesia was independent. The development of criminal acts in the current era of globalization is directly proportional to the development of increasingly sophisticated technology. The higher the development of science and technology, the higher the intensity of crime in society.<sup>8</sup>

The declining image of the National Police in the eyes of the public is an important issue which until now continues to imprison the Police in carrying out their duties and authorities as guards of security and public order, carrying out law enforcement, and providing guidance, protection and creating security, order and smooth traffic in serving the community.<sup>9</sup>

Seeing the many cases of misuse of Air Guns, the ease of obtaining Air Guns is one of the factors for the rapid circulation and misuse of Air Guns in the community. This misuse is clearly very disturbing to the community and disrupts public security and order, especially if the weapon is owned by a teenager, whose psychological mindset is still immature. Law enforcement is very necessary to overcome crimes that have occurred and for those that have not occurred, it is

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<sup>7</sup>Diantopo Masngoedi, (2015), *Pelaksanaan Peraturan Kapolri Nomor 8 Tahun 2012 tentang Senjata Api untuk Kepentingan Olahraga dikaitkan dengan Pengawasan dan kepemilikan Senjata Airsoft Gun tanpa ijin di Wilayah Kota Pontianak*, Fakultas Hukum Universitas Tanjungpura, p. 11.

<sup>8</sup>Bachrie, S. 2009. "Merekonstruksi Paradigma Membangun Supremasi Hukum yang Berkeadilan". *Jurnal Ilmu Hukum Amanna Gappa*, 17(4).

<sup>9</sup>Riyanto, Umar Ma'ruf and Sri Kusriyah, 2020, *Implementation Of Police Role In Countermeasures Of Traffic Criminal Acts Of Traffic Violations In Efforts To Establish Police Images As Community Guidelines*, dalam *Jurnal Daulat Hukum* Volume 3 (2), Published Master Of Law, Faculty of Law Unissula, p. 267 <http://jurnal.unissula.ac.id/index.php/RH/article/view/9385/4154>

necessary to make efforts to overcome so that acts of misuse of Air Guns to commit crimes do not occur more and more, and can restore the predicate of safety to the community.

So basically there are no special regulations regarding what weapons can be used to protect themselves, there are regulations regarding firearms for sports purposes. As for Airsoft Gun Replicas, it is regulated in Perkapolri Number 8 of 2012 concerning Supervision and Control of Firearms. The application of Emergency Act No. 12 of 1951 to users of Replica Weapons of the Airsoft gun type does not meet the qualifications, because firearms are regulated in Emergency Act No. 12 of 1951 concerning firearms regulating weapons and explosives,

Airsoft guns use plastic bullets, while Air Guns use iron or metal, besides that, the use of gas in airsoft guns is to use green gas, which has a smaller pressure than the Air Gun, while the Air Gun uses CO<sub>2</sub> gas which has gas pressure which is bigger than an airsoft gun.

While Air Gun also has no clear rules governing it, regulations governing Air Guns should be made immediately, this is by revising the clauses contained in the Emergency Law by including clauses governing Air Guns, both ownership and misuse, so don't let everyone be able to interpret whether it's the police, prosecutors, judges and lawyers, this will lead to the absence of legal certainty, this fact has occurred in how many court decisions are used as material in this writing by the author.

Realizing law enforcement that can be well integrated and can be felt by the role of the community, system or work mechanism in dealing with crimes or violations is necessary. The working mechanism for handling crimes or violations is called the criminal justice system or the criminal justice system.<sup>10</sup>

Law Enforcement Against Criminal Acts Using Air Gun Type Firearms is to handle in accordance with procedures current law in Indonesia by implementing the Emergency Act No. 12 of 1951 in accordance with article 1 paragraph (1) and has been given a verdict to the perpetrator to give deterrent effect for gun owners Air Gun Type. The process is investigation, investigation, arrest.

### **3.2. Constraints Faced in Overcoming Crime by Using Air Guns and Their Solutions**

The further development of criminal law is not only humans who are considered as subjects. The determination or expansion of legal entities as the subject of criminal acts is due to necessity, especially in matters of taxation, economy and state security, which are adapted to the development of human civilization and science, but in essence, it is humans who feel the punishment.

Based on Article 55 Paragraph (1), Paragraph (2) of the Criminal Code, it is explained that being convicted of a crime:

- Those who do, who order to do, and participate in doing the deed. Those who by giving or promising something by abusing their power or dignity, by force,

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<sup>10</sup>Aris Sophian , Umar Ma'ruf and Aryani Witasari, 2020, *Fulfillment Of Restitution Rights In The Level Of Investigation In The Semarang Big City Resort Police In Beating Criminal Case*, dalam Jurnal Daulat Hukum Volume 3 (2), Published Master Of Law, Faculty of Law Unissula, p. 299 <http://jurnal.unissula.ac.id/index.php/RH/article/view/10095/4158>

threats or manipulation or by providing opportunities, means or information intentionally encourage others to do something.

- Against the proponent, only actions that are intentionally recommended are taken into account, along with their consequences.

The provisions of the article above categorize the perpetrator of a crime as a person who commits a criminal act himself and a person who participates or jointly commits a criminal act. Based on the above, if you want to link the perpetrator with his actions in the context of criminal responsibility for the perpetrators of criminal acts for their actions, in order to determine the punishment for the perpetrators, it must be investigated and proven that:

- The subject must be in accordance with the formulation of the law.
- There is an error on the part of the perpetrator.
- This action is against the law.
- The act is prohibited and is punishable by a criminal by law (in a broad sense).
- The action is carried out in accordance with the place, time and other conditions specified in the law

Getting your own Air Gun at this time is not difficult, in some shops selling Air Guns, you can find it in big cities or what is currently trending is buying and selling transactions in the market place. The sellers sell various types and shapes of Air Guns ranging from replicas of handguns, revolvers, shotguns and assault rifles with various specifications at varied prices whose prices per unit are quite affordable when compared to the price of Firearms. Many found that Air Gun sales were made online due to the unavailability of Air Gun sellers in several areas, by using online sales services, buyers can also have Air Guns with delivery services, where sales are also made by owners who want to sell their Air Guns to other people or to other members of the Air Gun community.

Many processes of buying and selling Air Guns are carried out from individual to individual and do not use the Olshop stalls in private, because currently the legal umbrella for the ownership and sale of Air Guns is unclear. The legal regulation of the use of Air Guns in the positive legal system in Indonesia until now there is no definite regulation so that court decisions in deciding criminal cases of Air Gun misuse that cause injury to the death of people use the basis for criminal acts, namely the article on persecution or the article on murder.

The absence of regulation of criminal acts of Air Gun abuse, which is increasingly widespread in Indonesia, is very disturbing to the public. Because people can easily get these goods. This has an impact on legal objectives as according to Gustav Radbruch, including justice, certainty and expediency. Justice must be felt by all parties, both perpetrators, victims and the community. But when looking at the judge's decision above, the sentence imposed on the defendant is very light, so it is unfair to the victim and the public is made restless by the misuse of the Air Gun. Likewise, certainty, where the crime of misuse of Air Gun does not stand alone but participates in the main crime, such as persecution. Air Gun so far in the case that happened only as evidence.

Talking about justice, which is one of the most talked about goals of law. The law must accommodate the three legal objectives, namely justice, certainty and expediency. For example, the judge's decision as far as possible is the result of the three. Even though there are those who argue, among the three goals, justice is the



most important, some even argue that justice is the only goal of law. For example, as stated by a judge, Bisma Siregar, "if to uphold justice I sacrifice legal certainty, I will sacrifice the law. Law is only a means, while the goal is justice."<sup>11</sup>

Crime has different forms, even the same criminal behavior can be based on different reasons. A norm may lose its effectiveness and thus also its validity by habit if it is continuously not obeyed and enforced (enforced), by which no norms commanding certain behavior are created.<sup>12</sup>The factor of lack of public awareness to hand over illegal firearms to law enforcement officers is often an obstacle in tackling the circulation of illegal firearms in the community. People often find their homes and places of residence storing illegal firearms.

Regarding crime, although the concept of crime is certainly not very certain, in the public interest it should be emphasized that this conception cannot be said to have certain characteristics, but there are only certain legal norms or regulations that determine which actions should be punished.<sup>13</sup>

The misuse of firearms can be interpreted as a crime, if the property of the weapon itself is an object that serves to paralyze or even kill. So it is not surprising that firearms are widely used by criminals to immobilize their victims because they are considered more practical, easy to carry and fast in immobilizing their victims compared to using other sharp objects such as knives or machetes the success rate is very low compared to using firearms which are always almost successful in immobilizing the victim. This is what causes criminals to use all means how to get firearms, which of course are illegal firearms. Indeed, recently illegal possession of firearms is strongly associated with cases of robbery using firearms.

*Water Gun* and Airsoft guns are weapons that are made or manufactured to resemble real firearms where Air Guns and Airsoft Guns are marketed as gaming devices intended to simulate actual combat, in other words, Air Guns and Airsoft Guns are replicas of firearms. Regarding gun ownership, it seems difficult to classify the act of carrying or possessing an Air Gun as a criminal act of possession of firearms as referred to in the Emergency Act No. 12 of 1951 concerning Amendment of *Ordonnantietijdelijke Bijzondere Strafbepalingen* (Staatsblad 1948 Number 17) and the Past Act No. 8 of 1948.

Obstacles Faced by the Jepara Police in Combating Crimes Using Air Guns are lack of information, human resources, lack of community roles, geographical factors.

Efforts to overcome Constraints Faced by the Jepara Police in Combating Crimes Using Air Guns are: The first is the obstacle to the information factor, namely, increasing cooperation with the Directorate of Intelligence to prevent the illegal circulation of firearms, improving coordination with all Head of Regional Police in Indonesia. Second, by increasing the enthusiasm and motivation of members as well as training in knowledge of firearms, and third, providing

<sup>11</sup>Abid Zamzami, (2018), *Keadilan di Jalan Raya*, Yurispruden, Volume 1, Nomor 2, p. 22-23.

<sup>12</sup>Soerjono Soekanto, (2018), *faktor-faktor yang mempengaruhi penegakan hukum*. Raja Wali Pers, cetakan 15, Jakarta, p.86

<sup>13</sup>Barda Nawawi Arief, (2014), *masalah penegakan hukum dan kebijakan hukum pidana dalam Penanggulangan kejahatan*, Kencana, Semarang, p. 45.

information and knowledge to the public about the dangers of the misuse of firearms, and fourthly increasing surveillance in each area.

Meanwhile, repressive efforts are carried out by taking firm action through punishment of perpetrators of abuse in accordance with the qualifications of criminal acts committed under the Criminal Code. The police action to confiscate the owner of the Air Gun is actually also not a specific regulation that can be used as an excuse, but the police use discretion, namely wisdom in taking an action based on considerations for the public interest and fears of misuse of Air Gun which are the basis the discretion, where the police officers refer to Article 18 of Act No. 2 of 2002 concerning the Indonesian National Police (Police Law) where officers take action based on their own judgment.

#### 4. Conclusion

Law Enforcement Against Criminal Acts Using Air Gun Type Firearms is to handle in accordance with procedures current law in Indonesia by implementing the Emergency Act No. 12 of 1951 in accordance with article 1 paragraph (1) and has been given a verdict to the perpetrator to give deterrent effect for gun owners Air Gun Type. The process is investigation, investigation, arrest. The obstacles are lack of information, Human Resources, lack of community roles, geographical factors. The solution is first to the constraints of the information factor, namely, increasing cooperation with the Directorate of Intelligence to prevent the illegal circulation of firearms, increasing coordination with all Head of Regional Police in Indonesia Second by increasing the enthusiasm and motivation of members as well as training in knowledge of firearms skills, thirdly providing information and Knowledge to the public of the dangers of the misuse of firearms, and fourthly increasing supervision in each area.

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