

Research Article

Law Enforcement Against Perpetrators of Illegal Firearms Possession According to Emergency Law Number 12 of 1951; A Study in Banko District Court, Indonesia

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Abstract

Indonesia is one of the countries that is very strict in regulating firearms, namely in Emergency Law Number 12 of 1951, where one of the provisions is that firearms are prohibited from being possessed without rights with a serious criminal threat. However, in reality, there are still cases of illegal firearm ownership by civilians that can threaten the safety of the wider community. This study aims to find out how law enforcement is carried out against people who own firearms without official permits, and to find out the obstacles in law enforcement against perpetrators of illegal firearms ownership. This research method is normative juridical, with a legislative approach and a case approach. The results of the research show that the provisions in Emergency Law Number 12 of 1951 state that every person who violates the provisions of the law is punished with a severe penalty, namely the death penalty, life imprisonment or twenty years, but in its implementation, the punishment imposed by the judge on the perpetrator is still very light. Second, related to legal obstacles in law enforcement, namely the lack of firmness of law enforcement, especially judges in imposing criminal penalties on perpetrators of the crime of possession of firearms, and the lack of public awareness of the law.

Keywords

Law Enforcement, Perpetrator, Criminal Act, Firearms, Illegal

1. Introduction

Owning firearms for civil society involves a number of complex and controversial factors. Views on the relationship between firearm ownership and crime rates can vary, depending on a country's viewpoint, culture, and legal context. Normatively, Indonesia is one of the countries that is very strict in implementing the legal rules regarding the ownership of firearms.

Indonesia is a country that uses law as the basis for regulating the life of the nation and state, this is in line with what is

stated in Article 1 Paragraph (3) of the Constitution of the Republic of Indonesia of 1945, which states that the State of Indonesia means the rule of law. In this sense, the legal basis of the State of Indonesia is a guideline for the administration of government and a guideline for regulating the life of society, nation, and state.

Therefore, Indonesia is a country of law, not a country based on power. The state of law, according to F. R. Bothlingk, is a state whose power is limited by law. Furthermore, this

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limitation of power is carried out by two mechanisms, namely each institution supervises each other (Check and Balance) and the holder of power is subject to laws and regulations. [1]

In this sense, these Principles underlie a legal system that involves the separation of powers and controls to prevent the abuse of power. In a country that adheres to the principle of the rule of law, no individual or institution is exempt from the obligation to submit to applicable laws. This forms the basis for a society governed by law, where the rule of law guides the actions and decisions of all parties, including lawmakers and power holders. Of course, law enforcement in the rule of Law is a priority.

In this regard, law enforcement is the process of making efforts to uphold or function legal norms in real terms as a guideline for behavior in traffic or legal relationships in the life of society and the state. Law enforcement is aimed at improving order and legal certainty in society. The implementation of law enforcement in the rule of law, in addition to depending on the legal awareness of the community, is also very much determined by law enforcement officials. Therefore, there are three elements that must be considered in law enforcement, namely: legal certainty (*rechtssicherheit*), usefulness (*zweckmassigkeit*), and justice (*gerechtigkeit*). [2]

In the context of the legal rule of gun ownership, the ownership of firearms in Indonesia has been regulated for a long time by the government in Emergency Law Number 12 of 1951 concerning firearms. It is stated in article 1 paragraph 1 of the Law, namely; Whoever, without the right to enter into Indonesia, makes, receives, attempts to obtain, surrender or attempt to deliver, possesses, carries, has supplies therein or possesses in his possession, stores, transports, conceals, uses, or removes from Indonesia a firearm, ammunition or an explosive, shall be punished with the death penalty or life imprisonment or provisional imprisonment for a maximum of twenty years.

In this article, there is a very broad understanding of firearm ownership. This article includes the circulation, possession, storage, surrender, and use of firearms, ammunition, or other explosives without rights that are classified as criminal acts. Meanwhile, Article 1 paragraph 1 Regulation of the Minister of Defense of the Republic of Indonesia Number 12 of 2020 defines a firearm as a tool generally made of metal or fiber that is used to throw bullets/projectiles through the barrel towards the desired target, as a result of the explosion of ammunition.

Possession of a firearm without a permit is categorized as a criminal offense, not only after committing the act of using the firearm against another person or used to commit a crime, but carrying a firearm or concealing it is already a criminal offense. This is because the possession of firearms without a permit can be a means of dangerous crimes by the perpetrators of criminal acts, such as murder, robbery, kidnapping, and theft with aggravation. [3]

Therefore, illegal possession of firearms by civilians can endanger public safety. The crime of threatening public secu-

rity is regulated in Article 187 bis of the Criminal Code which states that "Whoever makes, receives, attempts to obtain, possesses, conceals, transports or inserts into Indonesia materials, objects or utensils which are known or should be suspected to be intended for, or if there is an opportunity to be allocated, to cause an explosion that endangers the life of persons or causes general danger to goods, threatened with imprisonment for a maximum of eight years or imprisonment for a maximum of one year.

Thus, illegal possession of firearms is a violation of the law that threatens public safety can be punished. For this reason, the author feels it is important to study how law enforcement against civil society who own firearms without an official license and to find out what are the legal obstacles in law enforcement against perpetrators of illegal firearms possession.

2. Research Method

The research method used in this study is the normative juridical method. In the study, there are several approaches used, namely the statute approach, this approach is carried out by examining all laws and regulations related to the legal issues that are being studied. Another approach, namely the case approach, is carried out by conducting an analysis of cases related to the issues at hand. The existence of an approach aims to make it easier for writers to obtain information about the topic to be researched.

The material collection technique carried out in this study is using the data collection method through library research. And also the analysis techniques used in this study use qualitative analysis, namely by constructing legal principles, based on social data and written positive legal data, the formation of legal concepts, the formation of legal norms and the development of legal norms. [4]

3. Result and Discussion

3.1. Theoretical Review of Law Enforcement, Crime, and Firearms

According to Jimly Asshiddiqie, law enforcement is the process of trying to follow or act in accordance with legal norms to direct traffic behavior or legal relations in the life of society and the state. According to Soerjono Soekanto, law enforcement is an activity that harmonizes the relationship of values outlined in the rules/views of values that are firm and real, as well as the attitude of action as the last level of the series of values that seek to create, maintain, and maintain peace. [5]

Law enforcement applies positive law in practice, especially how the law must be obeyed. Therefore, doing justice in court cases means deciding on the right to protect and guarantee compliance with substantive law in a formal legal

manner. Law Enforcement is divided into two, namely [5]:

1. Viewed from the point of view of the subject, in a broad sense, the law enforcement process involves all legal subjects in every legal relationship. Anyone who implements normative rules or does something or does not do something based on the norms of the applicable legal rules, means that he implements or enforces the rule of law. In a narrow sense, law enforcement is only interpreted as the efforts of certain law enforcement officials to guarantee and ensure that a legal rule runs as it should.
2. Viewed from the point of view of the object, namely in terms of the law: In a broad sense, the enforcement of the law includes the values of justice which contain the sound of formal rules and the values of justice that exist in society. In a narrow sense, law enforcement only concerns the enforcement of formal and written regulations.

Law enforcement as a process in which legal norms function as a guide to behavior or legal relations in the life of society, nation and state. The scope of the concept of law enforcement is very broad. Because it includes people directly and indirectly related to law enforcement. [2]

Law enforcers are one of the components of the legal system proposed by Friedmann, namely the legal structure. Regarding the legal structure according to Friedmann quoted by Abdurrahman, namely: The so-called moving parts of machine courts are simple and clearly translated loosely: the driving elements so that the judicial institution can run easily and clearly, Friedmann elaborated on the legal structure as a driving force that allows the legal system to function in society. There are several institutions that enforce the law in Indonesia, including [2]:

1. Investigators, Investigators are police officials and public prosecutors or officials regulated in the Criminal Code who have the authority to carry out their duties. The police as a criminal justice subsystem is regulated in the National Police Law of the Republic of Indonesia Number 2 of 2002. According to Article 13 of Law Number 2 of 2002, the main task of the police is to ensure the safety and security of the community. As well as providing services to the community.
2. Prosecutors, According to Law Number 16 of 2004 concerning the Prosecutor's Office, in the development of Indonesia's constitutional system, the Prosecutor's Office is part of the executive institution under the President. However, in terms of its duties, the prosecutor's office is part of the judicial system.
3. Judges, the existence of judges in court as a subsystem of criminal law is regulated in Judicial Law Number 48 of 2009. Article 1 paragraph (1) of the Law provides the definition of the judiciary as follows: The judiciary is an independent state power to issue laws to uphold law and justice based on Pancasila and the 1945 Constitution of the Republic of Indonesia. Republic of Indonesia. In accordance with Law Number 48 of 2009 and the

Criminal Procedure Code mentioned above, the court is tasked with receiving, investigating, and resolving cases submitted to it.

4. Advocates, Advocate Law Number 18 of 2003 is an important legal foundation for the legal profession as one of the pillars of legal pressure. This is affirmed in Article 5 paragraph (1) of Law Number 18 of 2003 which states that lawyers have the status of independent and independent law enforcement agencies, guaranteed by laws and regulations. In the specification paragraph 5 paragraph 1 of Law Number 18 of 2003, it is further emphasized that what is meant by the status of a lawyer as a law enforcement institution is a lawyer as a tool of legal process that has an equal position with other people. Law Enforcement to Uphold Law and Justice.
5. Correctional Institutions, Correctional Institutions (LAPAS) are regulated by Law Number 12 of 1995 concerning Correctional Services which changes the prison system to a prison system. Correctional institutions are an entire series of police units, therefore their implementation cannot be separated from the development of the general concept of criminality. According to article 1 paragraph (3) of the Correctional Law Number 12 of 1995, the Correctional Institution (LAPAS) is a place of supervision of inmates.

Obstacles that may arise in carrying out the role of law enforcement in enforcing the law can come from within oneself or from the environment. The obstacles that need to be overcome according to Soerjono Soekanto, are [6]:

1. Limited ability to put oneself in the role of the other party with whom he interacts;
2. The level of aspiration is relatively not high;
3. The enthusiasm for thinking about the future is very limited, so it is very difficult to make a projection;
4. There is no ability to postpone gratification and certain needs, especially material needs;
5. The lack of innovative power that is actually the partner of conservatism.

The three main topics/foundations of criminal law focus on so-called crimes, criminal liability, and criminal punishment. The concept of crime is a problem that is closely related to the problem of criminalization (crime politics), which is interpreted as a stage where the actions of people who are not originally a crime are determined as crimes, the process of defining it is a problem of crime. Framing. impersonal actions. [7]

Regarding the elements of criminal acts, namely: Objective Elements, that exist outside the perpetrator. The elements that are related to the situation, namely in the situation where the actions of the perpetrator are only carried out consist of, unlawful nature, quality of the perpetrator, causality, meet the legal formulation. Then the subjective element, which is the element that exists or is attached to the perpetrator, or that is connected to the perpetrator and includes everything contained in his heart. [8] According to Pompe, for the occurrence

of a criminal act, the following elements must be met: The existence of human deeds, meet the formulation in formal requirements, and unlawful. [9]

A criminal offender is a group or individual who commits a criminal act in the sense that it is intentionally or unintentionally committed according to the law or has consequences that are not determined by law. These elements are objective or subjective, whether the action is carried out by one's own decision or at the urging of a third party. Barda Nawawi Arief noted that crime in general can be interpreted as an act that violates the law both formally and substantively. [10]

Indonesia has long regulated the ownership of firearms with Emergency Law number 12 of 1951 concerning firearms. In the law, article 1 paragraph 1 says that: Every person who enters Indonesia without the right, makes, receives, attempts, obtains, delivers, controls, carries, has supplies in his or her possession, stores, transports, conceals, uses, or removes any firearm from Indonesia, ammunition, or explosives is threatened with the death penalty or life imprisonment, with a maximum prison sentence of twenty years. The government considers the ownership of firearms by the public to be dangerous to the security and stability of the country.

In the Regulation of the National Police of the Republic of Indonesia Number 1 of 2022 concerning Licensing, Inspection and Control of Regular Firearms of the National Police of the Republic of Indonesia, Inorganic Firearms of the National Police of the Republic of Indonesia/National Army of Indonesia as well as Safety Equipment Classified as Firearms in countries that can have firearms, some of the following things must be met if you want to have firearms; applicants must be medically qualified, the applicant must take and pass the psychological test, never been involved in a criminal act, sufficient age, meets administrative requirements.

Then regarding the definition of firearms according to Ministerial Regulation Number 12 of 2020 concerning amendments to the Regulation of the Minister of Defense Number 7 of 2010 Firearms are a tool that is generally made of metal or fiber used to throw bullets/projectiles through the barrel towards the desired target, as a result of the explosion of ammunition.

Definition of Firearms in National Police Regulation of the Republic of Indonesia Number 1 of 2022 A firearm is a tool that is partially or entirely made of metal with mechanical parts or tools such as barrels, hammers or triggers, triggers, springs, and bullets. a chamber in which bullets or gases with explosives can be discharged through the barrel.

Certain civic associations may possess firearms for self-defense purposes, and professional, commercial, and professional workers may keep firearms. Some individuals, such as government officials, employees, legislators, and medical professionals, are allowed to possess firearms in self-defense. Regulations for individuals, persons or officers who may be authorized to possess and use firearms for self-defense include the following [11]:

1. Government officials: Minister/ DPR/ MPR Secretary General/ Inspector General/ Director General/ Cabinet Secretary Governor/ Deputy Governor/ Secretary of State/Provincial area inspector/Provincial DPRD Mayor/ Regent Government Agencies Group IV-B;
2. Private Offices; Commissioner President Commissioner President Director Director/ President Director Finance director;
3. Officials/TNI/POLRI; High Officer Middle officers/uncles at least the rank of major/commodore;
4. Profession; Senior lawyer with the decree of Minister of justice/judiciary Doctors practice with the Ministry of Health/Ministry of Health.

The types of firearms that are allowed to be owned by people who meet the requirements are given the following types of weapons: 25 mm caliber Revolver type handheld firearms, 32 mm Shotgun type shoulder gun 12 mm caliber Shoulder-type firearms of caliber 12 and caliber 22.

3.2. Law Enforcement Against Perpetrators of Illegal Firearms Possession

The existence of law in community life has an important role, where the function of law in principle is so that people's lives can run in an orderly manner, each individual respects and respects the rights of others in community life, and there is no deprivation of rights that can cause disputes or disputes between individuals in society. [12]

Wirjono Prodjodikoro argues that criminal law is a legal act related to a crime. Crime refers to things that are punished, namely. that are imposed on a person by the ruler as something unpleasant to him, as well as things that are not believed every day for reasons related to the person's behavior. so that the person must receive sanctions or criminal punishment for his actions. [13]

The purpose of law is essentially to achieve justice, certainty and utility. Justice is the main goal of law, but justice between one person and another is different, so it can happen that a judge's decision in court has given a sense of justice to one party, but the other party still does not feel fair. Legal certainty is another purpose of law, where the existence of law can provide a guarantee or clear thing to a problem which of course there is a solution or end of a problem so that the law can end the occurrence of conflicts between individuals in community life. Usefulness is the purpose of law that provides usefulness, positive results and brings goodness to society, meaning that law can provide benefits for human life. [12]

In this regard, the ownership of firearms is broadly defined, in the form of illegal distribution, possession, storage, delivery, and use of weapons, ammunition, or other explosives. Ownership of firearms by the community is not just anyone, because to own a firearm there are several procedures or conditions that must be met by prospective firearm owners. Profession is also something that should be considered by the public to own firearms. [14] Before being able to use firearms,

prospective owners must have a permit to own firearms. According to the rules, the granting of permits to gun owners must be done selectively, at least in the work of gun owners there is a strong enough reason that gun owners must arm themselves to defend themselves.

For example, the case of illegal firearm possession is in the Banko District Court Decision Number 112/PID.SUS/2023/PN. BKO is a case of illegal firearm possession committed by Bagus Indriyani Suryadi alias Bagus bin Suyamadi who was dated and born in Meranti on June 9, 1996, who is 27 years old, male, Indonesian nationality, who resides in Meranti Village RT 006 RW 003 Meranti Village, Renah Pamenang District, Merangin Regency or other address SP9 Block E, Karya Makmur Village, Nibung District, Musi Rawas Regency; Jobs as a farmer.

The beginning of the incident began when the defendant met Wito at the house of the defendant's mother-in-law which is located at SP.9 Block E, Karya Makmur Village, Nibung District, Musi Rawas Regency. The defendant asked Mr. Wito to find an assembled firearm and Mr. Wito was willing to help the defendant to find an assembled firearm. On June 20, 2023, Wito's brother contacted the defendant to offer a Revolver-type assembled firearm at a price of Rp. 2,500,000,- (two million five hundred thousand rupiah) along with 2 (two) rounds of 6 mm caliber ammunition with a yellow PIN. After getting the news that Wito's brother had obtained the firearm wanted by the defendant, the defendant immediately rushed to meet Wito's brother and said goodbye to the defendant's wife. At the time the defendant had arrived at the residence of Wito's brother whose address was in Kijang River Village, Nibung District, Musi Rawas Regency. Mr. Wito immediately handed over 1 (one) silver four-cylinder revolver type assembled firearm, the defendant immediately checked the condition of the assembled firearm which contained 4 (four) cylinders and contained 2 (two) rounds of 6 mm caliber ammunition.

The defendant cleaned 2 (two) firearms that had been purchased from Wito's brother, of which 1 (one) black four-cylinder Revolver type assembled firearm was soaked using kerosene which was put into 1 (one) orange bowl to clean the rust residue attached to the firearm, so that the defendant could take 1 (one) 6 mm caliber ammunition in the firearm. Then the defendant put in 2 (two) pieces of 6 mm caliber ammunition and 1 (one) silver four-cylinder revolver type assembled firearm and the defendant kept it in a black sling bag belonging to the defendant. Meanwhile, the firearm soaked using kerosene was stored in the kitchen of the defendant's parents' house.

On Thursday, June 29, 2023 at 02.00 WIB, the criminal investigation unit of Merangin Resort Police was patrolling, then members of the the criminal investigation unit of Merangin Resort Police received information that there were people in Meranti Village who had assembled firearms, when receiving this information, members of the the criminal investigation unit of Merangin Resort Police went directly to the

defendant's house which was located in Meranti Village, Pamenang District, Merangin Regency, when arriving at the defendant's house members of the criminal investigation unit of Merangin Resort Police asked The defendant regarding the truth about the information about the possession of firearms without a permit carried out by the defendant, and the defendant admitted that he had 1 (one) silver four-cylinder revolver-shaped assembled firearm containing 2 (two) rounds of 6 mm caliber ammunition stored in the closet of the defendant's house and 1 (one) black four-cylinder revolver-shaped assembled firearm containing 1 (one) 6 mm caliber ammunition. The defendant's ministry and evidence were secured by the Merangin Police for further examination.

Based on the above chronology in the district court decision number 112/PID.SUS/2023/PN.BKO, the defendant was charged with a single charge for being guilty of committing the crime of illegal possession of firearms as stipulated in Article 1 paragraph (1) of Emergency Law Number 12 of 1951. The public prosecutor in the decision demanded that the defendant be found guilty of committing the crime of possession of firearms as stipulated in Emergency Law Number 12 of 1951 and impose a prison sentence on the defendant for 8 (eight) months and state several pieces of evidence revealed at the trial.

In the district court decision number 112/Pid. sus/2023/PN. Bko, the judge ruled that declaring the defendant Bagus Indri Suryadi alias Bagus bin Suyamadi was legally and convincingly proven guilty of committing the crime of "without the right to possess a firearm without a permit" as in the single indictment; Imposing a criminal sentence on the defendant Therefore, with a prison sentence of 6 (six) months, stipulating that the length of the arrest and detention period that the defendant has undergone is completely deducted from the sentence imposed; Ordering the defendant to remain in custody; as well as stipulating several pieces of evidence to be confiscated and destroyed, and Charging the defendant to pay the case fee of Rp.5,000 (five thousand rupiah).

Based on this, the criminal act committed by the defendant Bagus Indri Suryadi alias Bagus bin Suyamadi in decision Number 112/PID.SUS/2023/PN. BKO, is a criminal act that has been legally proven to violate criminal law without the right to own and store firearms as regulated in Emergency Law Number 12 of 1951.

According to the author, the criminal imposition carried out by the judge in the decision is the right thing. Because judging from the condition, the defendant was in good physical health and consciously committed the crime of buying and storing and possessing firearms without the rights and permission of the authorities. According to the author, the indictment charged against the defendant under Article 1 paragraph (1) of Emergency Law Number 12 of 1951 because the defendant has fulfilled the elements contained in the article.

In terms of material, the author analyzes that the criminal act committed by the defendant is a prohibited act and is where the act will be subject to criminal sanctions, where the

criminal sanction for the perpetrator is the maintenance and protection of legal order. public interest. If the act is considered criminal because it meets the characteristics of a crime, namely: The ability of the perpetrator to be responsible, the behavior is done deliberately (*dolus*) or forgetfulness (*culpa*), and there is no excuse for forgiveness.

In the case in this verdict, the author sees that the elements of error that have been mentioned above have all been fulfilled by the defendant. The defendant is a person who is an adult in general and the law and can be held accountable for his actions, and the defendant's act of consciously buying a firearm from Wito's brother is an unlawful act, then from the criminal act the author sees that there is no excuse for the defendant because the defendant has consciously committed the crime without any pressure from other parties.

The Prosecutor who tried in this case charged the defendant with one charge, that the defendant's actions violated the rules of criminal law regulated in Article 1 paragraph (1) of Emergency Law Number 12 of 1951 and were threatened in the criminal process. The prosecutor demanded that the defendant be sentenced to 8 (eight) months in prison.

Based on the facts in the trial, as well as statements from witnesses and statements from the defendant himself as well as several pieces of evidence, to prove the elements of the criminal act as alleged as stipulated in Article 1 paragraph (1) of Emergency Law Number 12 of 1951 whose elements are as follows;

1. Whose goods element; What is meant here is every person or legal entity who commits a criminal act and can be held accountable for his or her actions. Based on the testimony of the witnesses who have been sworn in the trial and the facts obtained from the defendant's testimony that corroborates his identity in the prosecutor's indictment, the defendant in this case is Bagus Indri Suyadi or Bagus bin Suyamadi. It is a legal subject who can legally be held accountable for its actions.
2. Elements without the right to own, carry, store firearms and ammunition. This is based on the facts contained in the trial, obtained by sworn witnesses, and supported by the defendant's own testimony. In the verdict, it was stated that members of the criminal investigation unit of Merangin Resort Police arrested the defendant on Thursday, June 29, 2023 at 02.00 WIB at the defendant's house located in Meranti Village (Pamenang B3), Renah Pamenang District, Merangin Regency. The defendant was arrested based on community reports that the defendant owned and kept firearms at his residence, after which members of the Merangin Police arrived at the defendant's residence and conducted a search. After a search, the criminal investigation unit of Merangin Resort Police found 1 (one) silver four-cylinder Revolver type complete firearm containing 2 (two) 6 mm caliber bullet casings and 1 (one) black four-cylinder Revolver type complete firearm found in the closet of the defendant's house 1 (one) 6 mm caliber weapon was also

secured.

3. Elements of a firearm, ammunition or an explosive That the core part of this offense consists of the act of the subject of the offense, namely entering into Indonesia by creating, receiving, trying, obtaining, surrendering or attempting to deliver, possessing, carrying, having supplies on it or possessing in its possession, storing, transporting, concealing, using or removing from Indonesia the object of the offense in the form of firearms, ammunition or an explosive without rights.

Regarding the criminal sanctions imposed on the defendant, according to the author, in this case there seems to be a problem, the prosecutor in this decision only charged the defendant with a prison sentence of 8 months while the judge gave the defendant a prison sentence of 6 months. The light punishment given by the judge is not in accordance with the provisions of article 1 paragraph 1 of Emergency Law Number 12 of 1951, where it is stated that the minimum punishment is 20 years of temporary imprisonment and life imprisonment while the maximum punishment is the death penalty.

In this case, the author argues that the sentence imposed on the defendant must be adjusted to the provisions of the applicable laws and regulations, and the prosecutor demands that the sentence for the defendant be too light. The two law enforcement officials are important pillars in law enforcement, if the law enforcement officials are not maximized in imposing criminal penalties, it will not provide a deterrent effect for the perpetrator and will not provide protection for the community.

In this verdict, what incriminates the defendant is that the possession and manufacture of firearms by the defendant without permission poses a danger to others and can harm others. Meanwhile, the mitigating factors for the defendant are that the defendant regrets his actions and promises not to repeat them, the defendant has never been punished, the defendant behaved politely during the trial, the defendant is still young, so it is hoped that the attitude will improve in the future.

According to the author, the criminal sanction given to the defendant is too light, because the defendant buys an assembled firearm purchased from his neighbor will be used for self-defense, while the defendant is not a person who meets the criteria to possess a firearm for the purpose of self-defense. Because the defendant's job is a farmer, the defendant's job is not included in the occupational class that can possess firearms.

With the imprisonment sentence decided by the judge, the author feels that the sentence of imprisonment for 6 months is very light, seeing that the defendant obtained firearms illegally by buying from witnesses, and also the reason for the possession of firearms by the defendant just in case, where the firearms will be used by the defendant if they feel threatened and can also injure others and can even result in the loss of someone's life.

According to the author, a light sentence such as the one

handed down by the judge to the defendant in this verdict will not have a deterrent effect on the perpetrator. As well as creating an unclear legal image in the community, because the perpetrators of criminal acts that can be said to be serious crimes where these actions threaten the safety of the community and can cause casualties are only punished with imprisonment for 6 months. So that the community assumes that the act is only lightly punished, then the community will commit similar crimes.

3.3. Legal Obstacles in Law Enforcement Against Perpetrators of Illegal Firearm Possession

The obstacles that occur in enforcing the law against the perpetrators of the crime of illegal firearm possession are 3 obstacles, namely:

3.3.1. Legal Substance

Regulations on firearms are regulated in Emergency Law Number 12 of 1951, Article 1 paragraph 1 states: that: "Whoever, without the right to enter into Indonesia, hands over or attempts to surrender, possesses, carries, has supplies on it or has in his possession, stores, transports, conceals, uses, or removes from Indonesia a firearm, ammunition or an explosive, shall be punished with the death penalty or life imprisonment or temporary imprisonment for a maximum of twenty years. The law on the ownership of firearms has been too long, because at the time the law was made Indonesia was in a transition period from the government of the Republic of Indonesia to the State of the Republic of Indonesia, therefore it is necessary to update this law. because it is no longer relevant to the current condition or state of society.

3.3.2. Legal Structure

In carrying out law enforcement, there are several institutions that are authorized to enforce the law, in Indonesia there are several institutions that are authorized to enforce the law, namely investigators, prosecutors, courts, advocates and correctional institutions. The institutions above play an important role in law enforcement, each institution has different duties and authorities, but what is still an obstacle to the five institutions above is that there is less decisive decision-making. However, these institutions have made efforts to enforce the law such as:

- a. Pre-emptive efforts; are actions taken before preventive steps are taken or can be called semi-preventive measures. The form of this action is prevention and direction. For example, providing briefings to the public about firearms, about the conditions for ownership, regulations governing firearms, and briefings on the misuse of firearms. These directions can be carried out through the mass media.

- b. Preventive efforts, are actions directed to efforts to prevent crime. The action is directed before a crime occurs. The form of this action is to patrol areas where violence often occurs. By conducting patrols, it can reduce crimes that will occur in the future.
- c. Repressive efforts, are actions that are countermeasures taken after a crime has been committed. The form of this action is to carry out actions in the form of investigation, investigation, and punishment. If someone is arrested for illegal firearm possession, the police can act to investigate where the perpetrator got the firearm from, as well as investigate the origin or background of the suspect. If enough information has been obtained, the police can give punishment to the suspect. The purpose and purpose of this punishment is so that the suspect does not commit a similar crime.

3.3.3. Legal Culture

The third obstacle that makes it difficult to enforce the law against perpetrators of illegal firearms possession is the lack of public awareness of the law. Society considers that law is a product issued by the rulers.

According to Hilman Hadikusuma, legal culture is a general response of the public to legal symbols. The response is a shared vision of values and the rule of law. Therefore, legal culture describes the pattern of behavior of individuals as members of society who show the same response (thought) to the legal life of the community concerned. [15]

The public's thinking about the law is caused by the lack of public trust in law enforcers. Therefore, law enforcers must approach the community in order to regain public trust. So that they can provide guidance to the community about the law, especially in this context the development of the law regarding firearms.

4. Conclusion

Law Enforcement Against Perpetrators of Illegal Firearm Possession in State Decision Number 112/PID.SUS/2023/PN. BKO, the defendant was only sentenced to 6 (six) months in prison. The prison sentence imposed by the judge in the above decision is too light and not in accordance with Emergency Law Number 12 of 1951 in Article 1 Paragraph (1) states that if anyone violates the provisions of the article, he will be punished with the death penalty or life imprisonment or a maximum of twenty years of temporary imprisonment. A light sentence will not have a deterrent effect on the perpetrator and can also have an impact on public perception of the law that is not strict in this decision.

There are 3 legal obstacles experienced in the enforcement of perpetrators of the crime of possession of firearms, namely legal substance; The regulations regulating the ownership of firearms have been too long, it is necessary to update the law and include it in the Criminal Procedure Code. Second, the legal structure, namely the lack of understanding of Emergency Law Number 12 of 1951 by law enforcement and the

lack of supervision over the circulation of firearms. Third, legal culture, namely, lack of public awareness and understanding of the law of gun ownership.

The suggestions that can be given, to the Judge is more firm in imposing severe and commensurate punishment on the perpetrators of the crime of illegal firearm possession in accordance with applicable regulations, in order to provide a deterrent effect to the perpetrators not to repeat the crime. as well as providing legal briefings to civil society who are still unfamiliar with the law, regarding the illegal ownership of firearms owned by civil society. As well as to the community to obey the applicable law.

Abbreviations

LAPAS	Lembaga Pemasyarakatan (Correctional Institutions)
DPR	Dewan Perwakilan Rakyat (House of Representatives)
MPR	Majelis Permusyawaratan Rakyat (People's Consultative Assembly)
DPRD	Dewan Perwakilan Rakyat Daerah (Regional People's Representative Assembly)
TNI	Tentara Nasional Indonesia (Indonesia National Army)
POLRI	Kepolisian Negara Republik Indonesia (Indonesia National Police)
PN	Pengadilan Negeri (District Court)
PID.SUS	Pidana Khusus (Special Crimes)
RT	Rukun Tetangga (Neighborhood Association)
RW	Rukun Warga (Citizens Association)
WIB	Waktu Indonesia Barat (Western Indonesia Time)
BKO	Banko (Name of District Court)

Author Contributions

David Christian: Conceptualization, Formal Analysis, Investigation, Methodology, Project administration, Resources, Writing – original draft

Rahman Amin: Data curation, Formal Analysis, Supervision, Validation, Writing – review & editing

Conflicts of Interest

The authors declare no conflict of interest.

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Research Field

David Christian: Law, Criminal law, Criminal justice, Criminal procedures, Criminal punishment, Criminal policy

Rahman Amin: Law, Criminal law, Criminal justice, Criminal procedures, Criminal punishment, Criminal policy