

## BETWEEN HOBBY AND CRIME: CRIMINAL LIABILITY FOR AIR GUN POSSESSION

Yuli Dian Fatmawati<sup>1\*</sup>, Sunardi<sup>2</sup>, Ahmad Syaifudin<sup>3</sup>

<sup>1,2,3</sup> Universitas Islam Malang, Malang, Indonesia

E-mail: [dian.alfarizee@gmail.com](mailto:dian.alfarizee@gmail.com)\*, [dr.sunardis@yahoo.com](mailto:dr.sunardis@yahoo.com)\*, [ahmad\\_syaifudin@unisma.ac.id](mailto:ahmad_syaifudin@unisma.ac.id)\*

Received : 20 November 2025

Revised : 01 December 2025

Accepted : 25 December 2025

Published : 08 January 2026

DOI : <https://doi.org/10.54443/morfai.v6i2.4937>

Publish Link : <https://radjapublika.com/index.php/MORFAI/article/view/4937>

### Abstract

Air gun ownership in Indonesia is often seen as part of a shooting hobby or recreational sport. However, in practice, air guns also have the potential to be misused, posing a threat to public order and public safety. The main issues in this study are the boundaries between air gun ownership as a legitimate activity and acts that can be qualified as criminal offenses, as well as the forms of criminal liability that can be imposed on the owner. This study aims to analyze the legal regulation of air guns in Indonesian legislation and examine the application of criminal liability for their ownership and misuse. The research method used is normative juridical with a statutory and conceptual approach, through a review of police regulations, the Criminal Code, and relevant court decisions. The results showed that the ownership of an air gun is not automatically a criminal offense, as long as it meets the licensing requirements and is used according to its designation. However, unlicensed possession or use that causes threat, injury, or public unrest can lead to criminal liability. This study emphasizes the importance of legal certainty and supervision to keep air guns within the realm of safe and responsible hobby.

*Keywords: air gun, weapon ownership, criminal liability.*

### INTRODUCTION

Indonesia is a developing country with a relatively high crime rate compared to other developing countries. Although Indonesia is a country governed by law, this does not automatically mean that Indonesia is free from crime. This can be seen from the increasing capacity of correctional institutions in Indonesia, with some even experiencing overcapacity. (Pravita, n.d.) Crimes that often occur in Indonesia include theft, robbery, mugging, etc. These crimes are usually committed by individuals using certain weapons, such as sharp weapons including machetes, knives, cleavers, and other sharp weapons, blunt objects such as wood, sticks, and iron that can be used to threaten people into handing over what the perpetrator wants. Not only sharp and blunt weapons, but firearms are also very popularly used by individuals to carry out their crimes. Types of firearms include pistols, revolvers, rifles, and other firearms. Not only sharp and blunt weapons, but firearms are also very popularly used by individuals in carrying out their actions. The types of firearms include pistols, revolvers, rifles, and long-barreled firearms, which can cause severe injuries if misused. Recently, there have been replica weapons that closely resemble firearms circulating in society, commonly referred to as Air Guns. Air Guns are a type of air-powered weapon that uses compressed gas (usually CO<sub>2</sub>) to propel small metal projectiles (pellets) with greater force than airsoft guns.

Crime in human life is a social phenomenon that every human being, community, and even country will always face. Reality proves that crime can only be prevented and reduced, but it is difficult to eradicate completely. Anticipate crime by effectively and appropriately utilizing criminal law instruments through law enforcement. In today's modern era, the motives for crime are increasingly diverse, with varied objectives, one of which is crime involving air guns. (Meilana, 2015) The ease of obtaining air guns is one of the factors contributing to their misuse in society. This misuse causes unrest among citizens, which in turn disrupts public comfort and order, especially when air guns are owned by teenagers, whose psychological mindset is still immature. However, in terms of law enforcement, there is no legal framework for crimes caused by the misuse of air guns. In addition, the ease of obtaining a license to own an air gun and the lack of supervision by the authorities have led to the increasing misuse of air guns. In addition to air guns, there are other replica firearms, namely airsoft guns, which are regulated in National Police Chief Regulation No. 8 of 2012 concerning the Supervision and Control of Firearms for Sporting Purposes. However, this regulation does not address violations or criminal acts involving the use of airsoft guns and

the associated criminal penalties. The regulation only governs the ownership of airsoft guns, not air guns. Therefore, to date, there are no specific regulations governing air guns.

## **METHOD**

The type of research used is normative juridical. The methodology of normative juridical research is legal literature research conducted by examining library materials or secondary data only. (Sunggono, 2003) The type of legal research in normative jurisprudence is conceptualized as what is written in legislation or law conceptualized as rules or norms that are benchmarks for human behavior that is considered appropriate. (Amiruddin & Asikin, 2012) This normative legal research is based on primary and secondary legal materials, namely research that refers to the norms contained in legislation. (Soekanto, 2007) The research approach used by the author in this study is as follows: Conceptual Approach: The conceptual approach departs from the views and doctrines that have developed in legal science. The conceptual approach is used when the research does not depart from existing legal rules. In using the conceptual approach, researchers need to refer to legal principles. These principles can be found in the views of scholars or legal doctrines. Although not explicitly stated, legal concepts can also be found in legislation. However, in identifying these principles, researchers must first understand the concepts through existing views and doctrines. Legislative Approach: The legislative approach is carried out by examining all laws and other legal regulations related to the legal issue being addressed. (Nasution, 2016) This approach will provide researchers with the opportunity to study the consistency and compatibility between one legislative regulation and another, taking into account the hierarchy of legislative regulations. (Marzuki, 2017)

## **RESULTS AND DISCUSSION**

Criminal responsibility in foreign languages is referred to as “toerekenbaarheid”, “criminal responsibility”, “criminal liability”. Criminal responsibility is intended to determine whether a suspect/defendant is responsible for a criminal act that has occurred or not. In this case, whether the defendant will be convicted or acquitted. If he is convicted, it must be proven that the act committed was against the law and that the defendant is capable of being held responsible. This ability demonstrates the fault of the perpetrator in the form of intent or negligence, meaning that the action was reprehensible and the accused was aware of the action being committed. (Saleh, 1982) An act can be said to be unlawful and subject to criminal sanctions if it fulfills two elements, namely the element of a criminal act, known in foreign languages as *actus reus*, and the element of the perpetrator's mental state, known in foreign languages as *mens rea*. Fault or *schuld* is an element of a crime, and therefore includes the element of criminal responsibility, which means that the perpetrator can be blamed for their actions. If fault is not proven, it means that the criminal act itself is not proven, because it is impossible for a judge to prove fault if they already know that the criminal act did not exist or was not proven to have been committed by the defendant. (Farid, 2005)

According to Mulyatno (in Tri Andrisman), the elements of criminal liability are: the ability to be held responsible and the existence of fault. Based on the above explanation, it can be understood that the subject of criminal responsibility who will be held accountable for a criminal act is the perpetrator of the criminal act, in this case a human being or a corporation. Therefore, the subject must be the same between the perpetrator of the criminal act and the one who will be held accountable for the criminal act. (Andrisman, 2009) Modernization, in addition to bringing positive impacts, will certainly bring negative impacts, including the emergence of new crimes. The rapid development of information technology has brought many changes to the way of life of society, especially in big cities where recently there has been an increase in crimes involving teenagers and adults, one of which is the misuse of air guns to commit crimes, where air guns have begun to be misused as a tool to commit crimes.

Criminal acts in the current era of globalization are developing in direct proportion to the development of the times. The more advanced science and technology become, the higher the intensity of criminal acts in society. A current example of this is violent theft using air guns, which closely resemble real firearms, occurring in certain places such as gold shops, mini markets, banks, and so on. The *modus operandi* is to threaten the victim with a toy gun that shoots pellets, now known as an air gun. Air guns are so similar to the real weapons often used by the military or police that they have a 1:1 ratio. The development of communication media has influenced the spread of air guns, making it easy for the public to obtain them. Initially, Air Guns were used only as children's toys and later developed into weapons for sports. However, to date, there is no legal basis for regulating the ownership and supervision of Air Guns. This is basically done by responsible individuals, but if these weapons fall into the hands of irresponsible individuals, they have the potential to cause illegal actions or acts, i.e., criminal acts. Given the large number of cases of air gun abuse, the ease of obtaining air guns is one of the factors contributing to their rapid circulation and abuse in society. This abuse is clearly very disturbing to the community and disrupts public security and order, especially when these weapons are owned by teenagers, whose psychological thinking patterns are still immature. Law enforcement is essential to address crimes that have already occurred, and for those that have not yet occurred, efforts

must be made to prevent the misuse of air guns for criminal acts from increasing, as well as to restore the community's sense of security. Legal regulations on the use of air guns in Indonesia's positive legal system are currently lacking, so court decisions on criminal cases involving the misuse of air guns that cause injury or death are based on criminal acts such as assault or murder. The lack of regulations on the criminal misuse of air guns, which is becoming increasingly prevalent in Indonesia, is causing great concern among the public. This is because it is easy for people to obtain these items. This has an impact on the objectives of law as defined by Gustav Radbruch, which include justice, certainty, and utility. Justice must be felt by all parties, including the perpetrator, the victim, and the community. However, when we look at the verdict of the selected judge above, the sentence imposed on the defendant is very light, so it is not fair to the victims and the public who are disturbed by the misuse of air guns. Likewise, certainty, where the criminal act of air gun misuse does not stand alone but is included in the main criminal act, for example, abuse. So far, in the cases that have occurred, air guns have only been used as evidence.

Speaking of justice, which is one of the most discussed objectives of law. The law must accommodate the three objectives of law, namely justice, certainty, and benefit. For example, a judge's decision should, as far as possible, be the result of all three. Even though some argue that, among these three objectives, justice is the most important, and some even argue that justice is the sole objective of law. An example of this is expressed by Judge Bisma Siregar: "If, in order to uphold justice, I sacrifice legal certainty, I will sacrifice the law." The law is only a means to an end, whereas the goal is justice. (Zamzami, 2018) Emergency Law No. 12 of 1951 concerning the Amendment of the *Ordonnantietijdelijke Bijzondere Strafbepalingen* (State Gazette 1948 No. 17) and the Former Law No. 8 of 1948. Air guns are not firearms or other weapons used as striking, stabbing, or piercing instruments as defined in Emergency Law No. 12 of 1951 on Amending *Ordonnantietijdelijke Bijzondere Strafbepalingen* (Staatsblad 1948 Number 17) and Former Law Number 8 of 1948, therefore the act of carrying or possessing an Air Gun is not a criminal offense as referred to in this law. In other words, there are no explicit regulations governing the misuse of Air Guns in this law.

Air guns and airsoft guns are weapons that are made or produced 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 weapon ownership, it seems difficult to classify the act of carrying or possessing an Air Gun as a criminal offense of firearm possession as referred to in Emergency Law Number 12 of 1951 concerning the Amendment of the *Ordonnantie tijdelijke Bijzondere Strafbepalingen* (Staatsblad 1948 Number 17) and the Former Law Number 8 of 1948. This is because air guns are not firearms as defined in Article 1 Paragraph (2) and Paragraph (3) of Emergency Law Number 12 of 1951 concerning Amendments to the *Ordonnantietijdelijke Bijzondere Strafbepalingen* (Staatsblad 1948 Number 17) and Former Law Number 8 of 1948, or if we examine other articles in Emergency Law Number 12 of 1951 Concerning the Amendment of *Ordonnantietijdelijke Bijzondere Strafbepalingen* (Staatsblad 1948 Number 17) and Former Law Number 8 of 1948, it is clear that air guns are not striking, stabbing, or piercing instruments. Based on Emergency Law Number 12 of 1951 Concerning the Amendment of *Ordonnantietijdelijke Bijzondere Strafbepalingen* (Staatsblad 1948 Number 17) and the Previous Law Number 8 of 1948, the act of possessing or carrying an air gun is not a criminal offense under this law. In other words, at that time, there were no explicit regulations regarding the misuse of air guns.

## CONCLUSION

Based on the discussion regarding criminal liability and the misuse of air guns, it can be concluded that the possession and use of air guns falls into a gray area between hobby activities and potential criminal acts. Conceptually, criminal liability requires the fulfillment of the elements of *actus reus* and *mens rea*, as well as the perpetrator's ability to be held responsible and their guilt. Therefore, a person can only be punished if they are proven to have committed an unlawful act with intent or negligence. In the context of air guns, possession or carrying of air guns cannot be classified as a criminal offense in itself because there are no explicit provisions in criminal law, particularly Emergency Law No. 12 of 1951, which explicitly includes air guns as firearms or striking, stabbing, or piercing weapons. As a result, air guns are more often positioned as tools or means in other criminal acts, such as assault, robbery with violence, or even murder, so that criminal liability is directed at the main criminal act. The absence of specific regulations on air guns creates obstacles in the application of criminal sanctions and has implications for the objectives of the law, namely justice, legal certainty, and benefit. Therefore, it is necessary to update and harmonize regulations that explicitly regulate the ownership, supervision, and criminal sanctions for the misuse of air guns, in order to provide legal certainty and prevent an increase in criminal acts that disturb the community.

**REFERENCES**

- Amiruddin, & Asikin, Z. (2012). Pengantar Metodologi Penelitian Hukum. Raja Grafindo Persada.
- Andrisman, T. (2009). Hukum Pidana Asas-Asas dan Dasar Aturan Umum Hukum Pidana Indonesia. Universitas Lampung.
- Farid, Z. A. (2005). Hukum Pidana I. Sinar Grafika.
- Marzuki, P. M. (2017). Penelitian Hukum Edisi Revisi. Kencana Prenada Media.
- Meilana, M. A. (2015). Penafsiran Hakim dalam Putusan Nomor: 225/PID.SUS/2014/PN.TSM Terhadap Kepemilikan Airsoftgun Tanpa Ijin. *Recidive*, 4(2), 201–202.
- Nasution, B. J. (2016). Metode Penelitian Ilmu Hukum (Cet. Ke-2). CV. Mandar Maju.
- Pravita, I. G. P. S. S. (n.d.). Pengaturan Kepemilikan dan Penyalahgunaan Replika Senjata Airsoft Gun tanpa Izin Menurut Peraturan Perundang-undangan di Indonesia. *Jurnal Universitas Udayana*, 2.
- Saleh, R. (1982). Pikiran-Pikiran Tentang Pertanggungjawaban Pidana. Ghalia Indonesia.
- Soekanto, S. (2007). Pengantar Penelitian Hukum. UI Press.
- Sunggono, B. (2003). Metodologi Penelitian Hukum. Raja Grafindo Persada.
- Zamzami, A. (2018). Keadilan di Jalan Raya. *Yurispruden*, 1(2), 22.