

PENAL AND NON-PENAL EFFORTS OF THE BADUNG RESORT POLICE IN COMBATING FIREARM MISUSE BY FOREIGN CITIZENS

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Abstract

The misuse of firearms among civilians is a critical issue in both national and international discourse, including in Indonesia. To date, efforts to curb firearm misuse among civilians—specifically those prone to criminal activity—have yet to yield significant results. Since 2023, there has been a rise in firearm misuse by foreign nationals within the jurisdiction of the Badung Resort Police. In accordance with prevailing laws and regulations, the penal and non-penal measures employed by the Badung Resort Police to address this issue primarily consist of repressive actions taken after the crimes of illegal firearm possession and use have already occurred. Challenges faced by the Badung Resort Police in implementing these measures include the complexity of investigating motives, the difficulty of tracing the origins of illicit weapons, and obstacles related to language and jurisdiction during witness examinations, alongside various internal and external constraints.

Keywords: Penal and Non-Penal Measures, Firearms, and Foreign Citizens.

INTRODUCTION

Background

Gun misuse among civilians is a crucial issue under study at both the national and international levels, including in Indonesia. To date, efforts to reduce gun misuse among civilians who have the potential to commit crimes have not yielded significant results. Crimes involving firearms continue to occur in various regions in Indonesia, having a frightening impact on other civilians. Further developments since 2023 have seen gun misuse by foreign nationals within the jurisdiction of the Badung Police Resort. Given that the Badung Police Resort jurisdiction is a tourist area, many crimes involving foreigners occur, including gun misuse by foreigners. Then in 2025, there was another incident of gun misuse by foreign nationals within the jurisdiction of the Badung Police Resort. According to Police Report Number: LP/B/109/VI/2025/SPKT/RES BADUNG/POLDA BALI, dated June 14, 2025, a shooting incident occurred on Saturday, June 14, 2025 at approximately 00.15 WITA at Villa Casa Santisya 1, located on Jalan Pantai Munggu Seseh, Gang Maja, Br. Sedahan, Munggu

Village, Mengwi District, Badung Regency. Alleged criminal acts of premeditated murder and/or murder and/or assault resulting in death as referred to in Article 340 of the Criminal Code and/or Article 338 of the Criminal Code and/or Article 351 Paragraph (3) of the Criminal Code, carried out by a foreigner by shooting so that the victim suffered eight gunshot wounds/bullets. It is feared that incidents like this will continue to develop if there are no police efforts to overcome the use of firearms by foreign nationals.

Problem Formulation

By looking at the background above, the following problem formulation can be drawn: first, the penal and non-penal efforts carried out by the Badung Police in overcoming the misuse of firearms by foreign citizens in accordance with statutory regulations, second, the obstacles faced by the Badung Police in implementing penal and non-penal efforts against the misuse of firearms by foreign citizens.

Purpose of Writing

This study aims to determine the penal and non-penal efforts of the Badung Resort Police in overcoming the misuse of firearms by foreign nationals, and the obstacles faced by the Badung Police in implementing penal and non-penal efforts against the misuse of firearms by foreign nationals.

Research Methods

The research method used in this research is a normative research method supported by empirical research that uses various types of primary legal materials in the form of laws and regulations and secondary legal materials in the form of library materials related to penal and non-penal efforts in overcoming the misuse of firearms by foreign citizens as sources of research material. Johnny Ibrahim is of the opinion that normative legal research is a form of scientific research aimed at finding the truth based on the logic of legal science reviewed from the normative part, or which is in the form of an effort to discover law that is adapted to a particular case.

RESULTS AND DISCUSSION

Penal and Non-Penal Efforts Undertaken by the Badung Police Resort in Addressing the Misuse of Firearms by Foreign Nationals in Accordance with Statutory Regulations

Firearms, in the general sense as defined by the General Dictionary of the Indonesian Language, are, "all weapons that use gunpowder such as rifles, pistols and so on. The law also provides an understanding of what is meant by firearms.

Article 1 paragraph (2) of Law No. 12/Drt/1951 concerning Firearms and Explosives states that, what is meant by the definition of firearms and ammunition also includes all items

as explained in Article 1 paragraph (1) of the Firearms Regulations (*vuurwapenregeling*: in, - uit, doorvoer en los -sing) 1936 (Stbl.1937 No. 170), which was amended by the *Ordonnantie* dated May 30, 1939 (Stbl.No. 278), but does not include in that definition weapons that clearly have the purpose as antiques or magical items (*merk - waardigheid*) and are not weapons that remain unusable or are made in such a way that they cannot be used. Firearms can also be defined as Any device, whether installed or not, operable or incomplete, designed or modified, or readily modified to eject a projectile due to the expansion of gases resulting from the ignition of flammable materials within the device, and includes any additional equipment designed or intended to be installed on such a device.

Foreign nationals (WNA) are legally prohibited from possessing firearms for personal or self-defense purposes in Indonesia. Regulations for civilian firearm ownership in Indonesia are very limited and exclusively apply to Indonesian citizens (WNI) who meet certain professional criteria and strict requirements. However, foreign nationals may possess or use firearms in Indonesia, but only under the following conditions and limitations: a. Diplomats, i.e., officials of foreign diplomatic missions, may carry firearms specifically regulated through permits issued by the Ministry of Foreign Affairs of the Republic of Indonesia and the Indonesian National Police (Polri). b. Shooting Sports (Athletes). Foreign nationals who are shooting athletes may use firearms only for official competitions or training, which are strictly supervised and affiliated with the Indonesian Shooting and Hunting Association (PB Perbakin) or relevant authorities.

The emergence of news regarding Indonesian citizens Foreigners (WNA) who disrupt public order or even commit crimes inevitably cause unrest in the community, especially residents living in popular tourist destinations like Bali. These include tourists working illegally in Indonesia, tourists overstaying their stay permits, drug trafficking, murder, theft, traffic accidents caused by drunkenness that result in the loss of life, and so on. Questions about sanctions or punishments for WNA who commit numerous violations or even crimes are now emerging from various segments of society. In the context of immigration, sanctions imposed on foreigners refer to Article 75 of Law No. 6 of 2011, as amended by Law No. 63 of 2024 concerning Immigration. Immigration officers are authorized to take Immigration Administrative Actions (TAK) against foreigners in Indonesia who engage in dangerous activities and are reasonably suspected of endangering public security and order, or who disrespect or disobey laws and regulations.

Deportation is the final administrative sanction, following a series of investigations. According to Article 106, point 1, of Government Regulation in Lieu of Law No. 2 The 2022

Job Creation Law, which amends Article 1, point 36 of the Immigration Law, defines deportation as the forced removal of a foreigner from Indonesian territory. The Immigration Law authorizes immigration officers to carry out administrative immigration actions in the form of deportation against foreigners within Indonesian territory who engage in dangerous activities and are reasonably suspected of endangering public security and order, or who disrespect or disobey laws and regulations.

In addition to administrative sanctions, the Immigration Law also regulates criminal sanctions. Article 104 of the Immigration Law states that investigations into immigration crimes are conducted based on Indonesian criminal procedure law. Likewise, the Criminal Code (KUHP) expressly states that anyone who violates the law in Indonesia will be prosecuted in accordance with applicable Indonesian laws, including foreign nationals. R Soesilo stated that the phrase "every person" in Article 2 of the Criminal Code means anyone, whether an Indonesian citizen (WNI), or a foreign national (WNA), regardless of gender, religion, status, or rank, who commits a crime within the territory of the Republic of Indonesia. This means that Indonesian criminal law applies to anyone who commits a crime within the jurisdiction of the Republic of Indonesia, and such acts will be subject to legal proceedings according to applicable provisions. This regulation authorizes law enforcement officials to process and prosecute foreign nationals involved in criminal cases in accordance with Indonesian law, including arrest and detention. Law enforcement is a function of the operation of these influences. We cannot ignore the fact that law enforcers, as individuals, not as positions, tend to interpret their duties based on their level and type of education, personality, and numerous other influencing factors.

The possession or misuse of illegal firearms in Indonesia by anyone (including foreign nationals) is a serious offense punishable by criminal penalties under Emergency Law No. 12 of 1951, with penalties of up to 20 years' imprisonment or even the death penalty. Regarding law enforcement regarding firearm crimes within the jurisdiction of the Badung Police, the author presents the following cases that occurred between 2023 and 2025 :

No	Citizenship	2023	2024	2025
1.	Indonesian Citizens	0	0	0
2.	Foreign Citizens	0	1	1
	Number	0	1	1

Source: Badung Police

Based on the data above, it appears that not only Indonesian citizens misuse firearms within the jurisdiction of the Badung Police Resort, but also foreign nationals in the number of

cases. This indicates that the presence of foreign nationals possessing firearms within the jurisdiction of the Badung Police Resort requires more serious handling.

The author will describe law enforcement for foreign nationals who misuse firearms. Based on Police Report Model B Number: LP/B/15/I/2024/SPKT/POLRESBADUNG/POLDABALI, dated January 23, 2024, the four perpetrators attacked by shooting the occupants of Villa 1 Palm House, which was occupied by four foreign nationals at the time. To carry out the crime, one of the perpetrators first attacked by taking a hostage and pointing a firearm at one of the villa's security guards, I Made Sutana. The other three perpetrators then broke into the villa and opened fire on the occupants. In this incident, there was 1 victim who was injured by a gunshot, named Turan Mehmet, while the other residents managed to escape. Furthermore, it was discovered that the cash of one of the Villa residents named Turan Muhammad Enes amounting to Rp. 30,000,000 and 4000 USD had been taken/stolen by the perpetrators, including the cellphone belonging to the Security who was taken hostage was also taken/confiscated by the perpetrators.

Another case is a case of alleged criminal acts of premeditated murder and/or murder and/or assault resulting in death as referred to in Article 340 of the Criminal Code and/or Article 338 of the Criminal Code and/or Article 351 Paragraph (3) of the Criminal Code. On Saturday, June 14, 2025, at approximately 00.15 WITA, Villa Casa Santisya 1, Jl. Pantai Munggu-Seseh Gang Maja, Br Sedahan, Kel/Ds. Munggu, Kec. North Kuta, Kab. Badung, carried out by Geelong (State of Victoria Australia).

According to Gede Jayen Kusuma Merta, Head of Unit 1 of the Criminal Investigation Unit of the Badung Police, efforts to prevent the possession and storage of firearms without a permit by foreign nationals are the same as those for other crimes, namely: a. Non-Penal Efforts (Preventive Efforts). Non-Penal Efforts (Preventive Efforts) are efforts made before the crime occurs or all efforts made by law enforcement officers to prevent the occurrence of criminal acts of possession and storage of firearms without a permit by foreign nationals. Many efforts to prevent the crime of possession and storage of firearms without a permit are by conducting legal counseling, either by going directly to the community or through print media such as television, radio and others. b. Penal Efforts (Repressive Efforts). Penal Efforts (Repressive Efforts) are real actions taken by police enforcement officers against acts that have deviated or have violated applicable laws and regulations so that with repressive actions it is hoped that deviations that occur can be stopped and reduce similar acts in the future.

Investigators will conduct investigative actions if they receive reports and complaints regarding the misuse of firearms. They will also conduct investigations at locations indicated

and found to be in possession of firearms. And in the case of being caught red-handed, investigators without waiting for orders will take necessary actions in the context of the investigation such as arrest, examination and confiscation of documents, taking fingerprints and bringing and appearing before investigators. And from the results of the investigation it was revealed that one of the suspects in the case of illegal firearms possession, that there was possession of a homemade firearm belonging to the suspect and with the report the operational team conducted an investigation, and after conducting the investigation it was found that he had a homemade firearm of the type Revolver so the operational team made an arrest.

Obstacles Faced by the Badung Police in Implementing Penal and Non-Penal Measures Against Firearms Misuse by Foreign Nationals

In handling the misuse of firearms by Foreign Nationals (WNA), the Badung Police face various main obstacles that can be categorized into two aspects of law enforcement, namely penal (criminal law/repressive) and non-penal (preventive/preventive/pre-emptive) efforts. including language barriers that complicate investigations, cross-border jurisdictional constraints, hidden modus operandi (such as illegal syndicates), as well as vast geographical locations that make routine supervision difficult throughout the tourist area. Non-penal efforts focus on preemptive and preventive steps before the occurrence of criminal acts of misuse of firearms. In order to carry out these non-penal efforts, according to I Kadek Jayasadhu, Head of Unit 1 of the Badung Police Criminal Investigation Unit, the obstacles faced by the Badung Police are:

a. Lack of Early Detection at Ports of Entry: Foreign nationals bringing firearms into the Badung region often utilize illegal routes or sophisticated smuggling methods to evade immigration inspections. Illegal firearms and prohibited goods smuggling by foreign nationals often exploits security gaps at entry points. Common methods include:

1). Waterways and Unofficial Ports: Bali's long coastline is dotted with numerous unofficial ports and shipping lanes. These are vulnerable to exploitation to bypass customs controls.

2). Smuggling in Logistics/Cargo: Weapons hidden in vehicle compartments, layered luggage, or disguised as expedition shipments.

3). Diplomatic Pouch or Fake Document Mode: Exploiting special document loopholes or falsifying local ownership permits to deceive airport officials.

According to I Gede Sutana Putra Giri, Head of Unit 1 of the Badung Police Criminal Investigation Unit, to address this issue, the police are continuing to evaluate and tighten surveillance at Bali's entry points, along with immigration. You can monitor official

preventative measures and the latest policies on the Bali Police and Directorate General of Immigration websites.

b. Open Tourist Area Locus: The characteristics of the Badung Police area (such as Mengwi, North Kuta, etc.) are dominated by closed villas and expatriate areas, which makes it difficult to monitor and detect illegal weapons possession on a daily basis.

The demographic characteristics of the Badung Police jurisdiction, dominated by closed villas (high privacy) and expatriate areas, significantly limit the scope for officer surveillance. This situation often hinders early detection of the circulation and possession of illegal weapons in areas such as Mengwi and North Kuta. The main challenges to surveillance are (a) Extreme Privacy (Gated & Private Villas), where closed villa complexes are often untouched by neighborhood watch (siskamling) or routine social interactions of local residents. (b) Cultural and Legal Barriers: The legal approach must be cautious to avoid diplomatic friction and requires close coordination with immigration authorities regarding residence permits for foreign nationals.

According to I Gede Sutana Putra Giri, Head of Unit 1 of the Badung Police Criminal Investigation Unit, the police strategy to overcome these obstacles is (a) Increasing Intelligence & Patrols, namely by conducting regular Blue Light Patrol operations and intelligence detection in areas prone to crime between foreigners and local residents. (b) Cross-Sectoral Coordination. In carrying out this coordination, the Badung Police Department collaborates with Immigration, local village officials (Pecalang), and the community to monitor the entry and exit of unknown persons in closed residential areas. (c) Evidence-Based Law Enforcement: Utilizing technology such as CCTV to uncover the possession and use of illegal weapons in the event of a crime. d. Lack of Firearms Law Socialization: The cultural differences regarding gun ownership in the countries of origin of foreign nationals necessitates ongoing education regarding the strictness of firearms regulations in Indonesia and the threat of severe criminal penalties.

Obstacles to Penal (Repressive) Efforts. Penal efforts focus on law enforcement measures for criminal misuse of firearms. In carrying out these penal efforts, the Badung Police Department faces the following obstacles: a. Time and Movement of Perpetrators: Foreign nationals often flee abroad before the investigation or forensic ballistics testing is completed. This forces the police to apply for a Wanted Persons List (DPO) through Interpol to track suspects across borders. The escape of foreign nationals before the completion of the forensic evidence process is a crucial challenge in cross-border justice. The police must immediately coordinate with the National Police's International Relations Division (Divhubinter) and the

Directorate General of Immigration to issue a Red Notice or request tracking through Interpol.

b. Smuggling Routes. Illegal firearms are often smuggled through back channels or unofficial ports, making it difficult to detect their origin before an incident occurs. The use of back channels and unofficial ports is the biggest challenge in disrupting the illegal firearms distribution chain.

c. Language Barriers, Jurisdiction, and Diplomatic Obstacles. The examination of foreign suspects and witnesses sometimes requires special translators, and perpetrators often attempt to flee the country before or after the incident. The investigation process is often hampered by cross-border jurisdictional limitations, differences in legal systems, and the need for intensive coordination with embassies regarding the legal rights of their citizens.

Cross-border investigations are hampered by territorial jurisdictional boundaries and diplomatic immunity, differences in legal systems, and the state's obligation to protect the human rights of its citizens abroad. Law enforcement must go through lengthy bureaucratic processes such as extradition and Mutual Legal Assistance (MLA)

CONCLUSION

The penal and non-penal measures taken by the Badung Police in addressing the misuse of firearms by foreign nationals in accordance with statutory regulations are in the form of repressive measures applied when the crime of possession and use of illegal firearms has occurred, which include: (a) Scientific Crime Investigation. (b) Application of Multiple Articles; (c) Cross-Regional/International Pursuits. Obstacles faced by the Badung Police in implementing penal and non-penal measures against the misuse of firearms by foreign nationals include the complexity of investigating motives, the location of origin of illegal weapons that is difficult to trace, to language and jurisdictional obstacles in examining witnesses. In addition to internal and external obstacles from the Badung Police Resort.

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