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Research Article

Homemade Gun Control And Management: Source Of Problem And Solution

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Abstract

This research aimed to study legal problems of gun control according to the Firearms, Ammunition, Explosives, Fireworks and Imitation of Firearms Act, B.E. 2490, and to study problems of control of possession, use, and sale of homemade gun in order to suggest guidelines to effectively control possession, use and sale. This qualitative research used semi-structured interviews with 31 key informants including police officers, government officers under the Ministry of Interior, and people who possess guns. The research revealed that homemade gun is unable to apply for registration due to legal issues of gun control. Furthermore, the Firearms, Ammunition, Explosives, Fireworks and Imitation of Firearms Act, B.E. 2490 (1947) was vague and its penalties were inappropriate and inconsistent with the current situation. In addition, globalization also contributed to the proliferation of homemade gun. The effective solution for gun control was to bring unregistered guns such as homemade gun into the legal system and to improve provisions and penalties under the Firearms, Ammunition, Explosives, Fireworks and Imitation of Firearms Act, B.E. 2490 (1947) to be appropriate.

Keywords: Homemade Gun, Gun Control, Law, Crime Prevention, Qualitative Study

1. Introduction

Crime is a problem occurring in every human society and also develops its form to be more complicated based on factors supporting a crime. Criminologists classify crimes into various types. Nevertheless, if any crimes are committed by using guns, it will become a violent crime and will be more frightened than other types. It violently affects people and society such as offenses related to life, body, gender, drugs, human trafficking, or transnational crime. Since a "gun" is considered a weapon by its usage and it can cause harm to a victim's life, body, and mind to death or disability, the general public is frightened by firearms. The problems of crimes using firearms constantly occur all the time, also its statistic of occurrence is at a high level.

According to the statistics of the highest possession of guns, Thailand ranks 13th in the world and 1st in Asia. It is also estimated that there are 10.3 million guns in Thailand, including 6 million registered guns and 4 million unregistered or illegal guns. There will be 15 people who possess guns out of 100 people (Thai PBS NEWS, 2020). Furthermore, according to the statistics collected by the Royal Thai Police regarding criminal

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cases of using guns to commit crimes from 2012 to 2016 for a total of 5 years, there are 137,924 cases. 48,454 guns were seized, including 14,759 registered guns and 33,698 unregistered guns (The Royal Thai Police, 2017). According to the aforementioned statistics, it shows that there are a great number of guns in criminal cases that police officers cannot seize as evidence. When considering criminal case statistics, there are criminal cases using guns about 75 cases per day, and guns used in offenses between illegal guns and legal guns have ratios of 3 to 1 case in comparison.

Table 1
Statistics of crimes using guns from 2012 to 2016

Year	Result of gun and explosive cases arrest (case)					Total
(1 Jan -31 Dec)	War guns	Unregistere d guns	Registere d guns	Explosiv es	Others (ammunition or gun parts)	(Case)
2555	339	6,033	24,688	571	919	32,550
2556	218	7,007	29,754	621	767	38,367
2557	374	7,387	29,662	657	1.083	39,163
2558	222	15,978	16,570	582	1,590	34,942
2559	242	6,390	2,016	65	968	9,711
รวม	1,395	42,795	102,690	2,496	5,327	154,703

Note. Royal Thai Police 2017

Even though there are laws or government measures as well as government agencies that are responsible for gun control with stringent law enforcement, violent crimes using guns constantly occur and tend to constantly increase. Therefore, the researcher is interested in studying legal problems in gun control according to the Firearms, Ammunition, Explosives, Fireworks and Imitation of Firearms Act, B.E. 2490. Furthermore, the researcher also studies the control of homemade gun possession, use, and sale in order to suggest guidelines to effectively control possession, use, and sale of homemade gun.

2. Literature review

Why do people need to own gun?

One's behaviors are caused by various factors but the importance is the motivation that causes humans to exhibit such behaviors. Maslow (1980), a psychologist and anthropologist described Maslow's Need Hierarchy with 5 levels of needs. One human need is safety needs or security needs that are a basic need of humans related to needs of safety or protection toward body or property such as accidences, crimes, and so on. Consequently, for the safety of humans who have to live in society and protect themselves from criminals, possessing and using guns are another basic need of safety for their body and property.

Effective Crime Control

According to Zimring& Hawkins (1973), the cause of crime is explained that is caused by the way humans are born with free will. Humans often do what is beneficial rather than what is harmful to them. Thus, crime is caused by the way humans have considered that committing a crime is more beneficial than harmful. Consequently, they are not afraid of laws or penalties. Also, because penalties that they will receive are not severe, they have no fear. Therefore, this approach to prevent crime focuses on the maximum efficiency of law enforcement in order to be crime prevention which mainly causes people in society to be afraid of laws and penalties and to eliminate the motive of committing a crime. When the law has been enacted, the criminal justice system must be effective with 3 essential aspects: severity, promptness, and certainty.

Pursley (1991) suggested principles of this sort of theory with the objective to make offenders be afraid of committing illegal acts. This theory is divided into 2 aspects: 1) general deterrence is to deter with a certain penalty. Such a penalty is to threaten people to be afraid of committing an offense. Moreover, this penalty will be effective when it is severe, certain, and prompt; 2) specific deterrence is to directly punish offenders. Such punishment must be able to make them be chastened and not repeat an offense.

Relate research

The Firearms, Ammunition, Explosives, Fireworks and Imitation of Firearms Act, B.E. 2490 (1947) is the only gun control law that is currently applied. Therefore, there is a gap in law enforcement of gun control, including ambiguity, outdatedness, and penalties which are inappropriate to current social conditions of Thailand (Wiriyajaroenkit & Saensuk, 2019; Homjan, 2019; Chuanchom, 2015; Aekkanthamakorn, 2014; Noito, 2014; Kongsombat, n.d.).

Mass shootings in the United States prompted the debate on the amendment of gun control laws causing comparison of U.S. gun policies and policies of other rich democratic systems (VOA News, 2018). This issue was debated that gun control laws were ineffective because they help people to easily access and possess guns (Neilson, 2020; Masters, 2019). Therefore, gun control laws should be amended to be more stringent to prevent violent crimes and reduce excessive gun possession (Neilson, 2020; Masters, 2019; Woodward, 2019).

In Australia, after the 1996 mass shooting in Tasmania with 35 dead, the central government amended the gun control law that all automatic and semi-automatic guns were prohibited, also restrictions of licensing and owning guns were stringent. The law also required that those who have a license to use guns demonstrate a "genuine need" for a certain type of gun. Besides, self-defense is not included in a license to possess guns, and applicants for a license to carry guns must take a firearm safety course (VOA News, 2018; Alpers & Rossetti, 2017; Chapman, Alpers & Jones, 2016). Due to the amendment of gun laws to be more specific and stringent, gun-related crimes continued to decline steadily (Lewis, 2018; Alpers & Rossetti, 2017). It can be said that Australia is a country with effective gun control laws (Bartos et al., 2019; Chapman, Alpers & Jones, 2016; Peter & Browne, 2000).

Like Japan and South Korea, under the firearm and sword laws of Japan, the only type of gun which is licensed is a shotgun. For air guns, guns used for research or industrial purposes, or guns used for competition, before being granted a license, an applicant for a license must receive official order and pass a written test, psychological test, and substance test as well as a background check. Gun owners are required to inform the officer on how to store firearms and ammunition and also prepare firearms for an annual test (Neilson, 2020; Thongkul, n.d.).

3. Research Methodology

This was qualitative research that the researcher gathered important information, including academic documents, research regarding guidelines to control possession and use and sale of homemade gun, laws and law enforcement measures of the government sector, and interesting incidents related to the situation of possessing, using and selling homemade gun acquired from documents, social network, and digital media.

The researcher conducted interviews with key informants by using a semi-structured interview. Key informants include those who are competent and have experiences of laws and law enforcement for controlling homemade gun, and those who have experiences of offenses related to possession, use, and sale of homemade gun, and are willing to provide information. The researcher, therefore, was required to apply criteria to purposive sampling in order to acquire appropriate samples. There are a total of 31 key informants from 3 groups. All 3 groups of key informants were willing to provide information for academic benefits without being rewarded. The interview might be repeated to add or expand issues required by the researcher for completed information. If key informants gave consent to be recorded audio before the interview, the researcher would record the audio every time and transcribe it later. Each interview took approximately 30-45 minutes.

After information was gathered from samples, information received from the interview was transcribed and then published contents and obviously specified footnotes (informants/date-time of interview). Later on, information was classified into main issues that linked to the purposes of this research, and into sub-issues for the depth in systemic information analysis and synthesis. For the interpretation of content analysis, the researcher analyzed its context and content by adjusting to personal characteristics and focusing on holistic understanding in order to be used to interpret information into descriptive research that was apparent and accurate with specified purposes. This would lead to understanding and be able to gather information for the conclusion and discussion of this research.

4. research results

Problems caused by gun control laws

Problems Caused by Application for License for Having, Use and Possession of Homemade Gun

Homemade gun is self-producing in a country with different purposes as general guns such as for defending one's life and property, hunting, collecting, sports, and committing crimes. Even though possessing, having, and using a homemade gun is intended for defending oneself or property, sports, hunting, collecting under Section 9,

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Paragraph one, homemade gun is unable to be registered. This type of gun is also unable to be produced, sold, and traded.

The researcher analyzes legal provisions in order to explain why possessing and using homemade gun is illegal as follows: Section 7 prescribes that no person shall have and use firearms as a general principle unless a license is granted from the local registrar based on restrictions prescribed by law. Application for a license to possess and use firearms must be intended for defending oneself or property or sports, or hunting according to Section 9.

Even though homemade gun is used for defending oneself or property or hunting according to purposes prescribed by law, however Section 55 under the Firearms Act, B.E. 2490 (1947) and amendments prescribes categories, types, and seizes of firearms which a license can be granted from the registrar based on the Ministerial Regulation' restrictions. Later, Ministerial Regulation No.11 (1979) is enacted to prescribe types and sizes of firearms which a license can be granted from the registrar. Because homemade gun is self-producing, its qualities do not comply with the Ministerial Regulation's restrictions. Consequently, homemade gun does not have qualities as prescribed by Section 55, also the registrar is unable to issue a license to have and use a homemade gun and mark its identification according to Section 10. Besides, homemade gun's qualities being inconsistent with Section 55, the local registrar is also unable to issue a license to have firearms for collecting even though such homemade gun is out of order.

"Many types of homemade guns are in ways of villagers' lives. They keep gap guns or coach guns at home for defending themselves and also their properties, especially agricultural tools; such as for taking care of their fields, pumps, cultivators, and animals like cows, buffaloes, and pigs"

Vague Provisions Affecting Official Discretion of Issue Gun License

The problem of issuance of a license to possess and use firearms for defending oneself and property of general people and government officers or peacekeeping officers is that seizes, types, categories, and numbers of firearms are not clearly prescribed in provisions in the Act. There is only Ministerial Regulation No.11 (1979), Article 2 that prescribes which categories of firearms that a license can be granted from the registrar. However, it does not prescribe who can use firearms and which categories, types, sizes, and numbers of firearms. Therefore, the local registrars who are appointed by the Ministry of Interior use their discretion differently. In addition to the aforementioned problem, there is also the problem of the administrative order. The local registrar does not grant a person license to possess and use firearms for having a first or second or third gun, but certain persons have more than 10 to 100 firearms. This problem consequently leads to prosecution to the Administrative Court regarding the use of discretion of local registrars.

"The local registrars of each locality use discretion differently because the Act does not clearly prescribe how to use discretion. The result is as you can see. Some people are licensed but some are not. So, some are licensed to own 10 guns."

Vague Provisions and Inappropriate Penalties

In addition to vague provisions, the results also reveal that provisions and penalties in certain sections in the Act are inappropriate to the current situation as follows:

"The law allowing a lifetime license is the problem. It is inappropriate to the current situation. What if such a person has mental illness after holding a license? It is not examined. In foreign countries, they check applicants' mental status before applying for a license. Before a license renewal, applicants will be checked for their mental status. The officials then renew a license. How long a license will be renewed is based on laws of such countries."

Problems Caused by Globalization

According to the trade of homemade, its commercial pattern has been greatly changed from the past. What is interesting is markets or areas where homemade guns are traded. Nowadays, it is not only interpersonal deal but it is upgraded to a computer network which causes rapid information dissemination. This is a result of globalization that brings about technological advancement. Moreover, because of convenient communication, gun assembly, gun advertisement, gun trade is performed through social media such as Facebook, Line, Chat On, or Twitter. There may private groups that only those who are allowed can join in a group and the owner of ID will use fake names and information to hide their identity.

Homemade gun is unable to be legally registered.

The use of discretion of officers or registrar for issuing a license

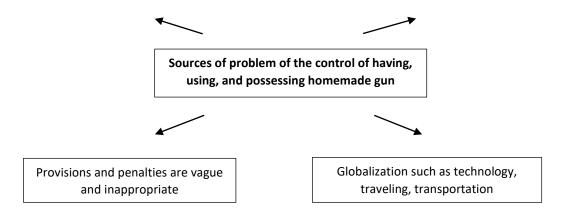


Figure 1 sources of problem of the control of having, using, and possessing homemade gun

The solution, Management and Control of Homemade Gun

Bringing Homemade Gun or Illegal Gus into Verifiable System

Key informants stated that the important measure to solve problems of controlling and managing homemade gun is to bring homemade guns or illegal guns into the verifiable system.

"The control of homemade gun must be under the Firearms Act. First of all, illegal guns should be brought into the system before amending the law or enacting new laws. Also, the government enacted the Amnesty Law that a person who possesses illegal gun shall not be guilty if delivers illegal gun to the administrative sector to check and register or destroy since before 1975."

Amending Provisions and Penalties Being Up-To-Date

Furthermore, amending provisions to be specific and amending penalties to be up-to-date is another measure to solve the problem of controlling and managing homemade gun. Key informants suggested that provisions that should be amended to be specific and up-to-date are as follows:

- 1) Cancellation of a lifetime license and determination of renewal period
- 2) Determination of specific qualifications of applicants and examination of applicants' mental status
- 3) Determination of specific categories and types of guns for applying for a license, and determination of the number of guns that people can apply for a license to have, use and possess
 - 4) Determination of specific guidelines and practices to the registrar in using discretion for issuing a license
 - 5) Determination of appropriate penalties to be consistent with the current situation

Training to provide knowledge of guns and gun control laws to general people

Key informants suggested that knowledge of guns and gun control laws should be provided to general people. Contents of knowledge or training should include general knowledge of guns, safety rules, gun-related laws such as the Firearms, Ammunition, Explosives, Fireworks and Imitation of Firearms Act, B.E. 2490, and other relevant laws. Providing knowledge of guns and gun control laws to general people should be conducted by the public, private, and community sectors.

Bringing homemade gun or illegal gun into the verifiable system

Amending provisions to be specific

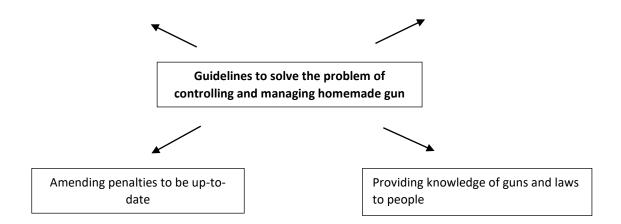


Figure 2 Guidelines to solve the problem of controlling and managing homemade gun

5. Discussion and Conclusion

The research reveals that the homemade gun is self-producing that use with various purposes as general guns such as hunting and defending life and one's own property. The aforementioned needs are consistent with Maslow's Need Hierarchy that describes humans' needs including basic physical needs which are necessary for living and surviving such as food, clothing, housing, medicines, air, water, rest, and so on (Maslow, 1980).

Besides, humans also need security or safety needs that refer to needs for both physical and mental safety such as needs for life and property security for surviving in society. Furthermore, the problem of controlling and managing the homemade gun is caused by vague and outdated gun control laws, also penalties are inappropriate to the current situation. This is consistent with the previous research that the current control of possession and use of guns according to gun laws of Thailand is inappropriate and inconsistent with various ideas, theories, and principles regarding the control and examination of possession and use of a gun (Wiriyajaroenkit & Saensuk, 2019; Homjan, 2019; Chuanchom, 2015; Aekkanthamakorn, 2014; Noito, 2014; Kongsombat, n.d.). When considering legal contexts, there are various legal issues such as the problem of license to possess and use guns for defending life and property, the problem of different use of discretion to license a person to possess and use guns, the problem of license revocation and guns confiscation, the problem of registrar being unable to enforce the law, and the problem of gun control, especially in the issue of examining and punishing a person according to the law (Songsampansakul, 2012).

Furthermore, according to the vagueness of gun control law, this is also consistent with the Deterrence Theory. This theory assumes that punishment to deter offenders should include 3 essential aspects: promptness, certainty, and severity (Zimring& Hawkins, 1973). When gun control law is vague and lacks the certainty of its penalties, it causes a gap and supports criminals to commit more resinous and violent crimes (Pursley, 1991). Comparing to foreign countries, the improvement and amendment of modern gun control laws in Australia and Japan that are more intensified can simultaneously reduce gun-related crimes and prevent crimes (Neilson,2020; Bartos et al., 2019; VOA News, 2018; Alpers & Rossetti, 2017; Peter & Browne, 2000; Thongkul, n.d.). Therefore, amending vague provisions to be specific and to intensify gun control can cause more effective domestic gun control laws (Neilson,2020; Bartos et al., 2019; Masters, 2019; Woodward, 2019; VOA News, 2018; Alpers & Rossetti, 2017; Chapman, Alpers & Jones, 2016; Peter & Browne, 2000; Thongkul, n.d.).

In addition, Globalization such as the internet, online media, convenient transportation, influences the proliferation of homemade gun. The homemade gun market is not only an interpersonal deal but also upgraded to a computer network. Consequently, trading is convenient whether it be a deal, advertisement, payment, and delivery. The results of convenience and rapidity of the internet and social media cause great dissemination of information regarding the production and sale of homemade guns. As a result, customers and homemade guns then increase that it is difficult to control. It can be said that the internet and social media affect the problem of domestic gun control by emphasizing the problem to be more complicated and serious.

To be conclude, the aim of this research was to study legal problem of gun control regarding the Firearms, Ammunition, Explosives, Fireworks and Imitation Firearms Act, B. E. 2490 (1947). Also, it explored legal problem of controlling, possession, use and sale of homemade gun in order to provide solution for effective control and management. This was qualitative study that carried out by semi structure interview with 31 key

informants. Sample groups were police official from Royal Thai Police, government officials from Ministry of Interior and civilians who have permission for possession of gun. It found that homemade gun could not register into legal system due to legal problem under the Firearms, Ammunition, Explosives, Fireworks and Imitation Firearms Act, B. E. 2490 (1947). The act set that homemade gun is illegal because mechanics of homemade gun did not meet the standard requirement. Also, the Firearms, Ammunition, Explosives, Fireworks and Imitation Firearms Act, B. E. 2490 (1947) was unclear in terms of legal definition, provision, procedure as well as inappropriate penalty. That cause inconsistency with current situation of crime, ineffective control and weak law enforcement. Furthermore, globalization such as advance technology was a factor to trig spreading homemade gun such as sale and use. One effective measure shall be bringing illegal gun like homemade gun into legally registration system. Provisions and penalty under the Firearms, Ammunition, Explosives, Fireworks and Imitation Firearms Act, B. E. 2490 (1947) shall be also amended to accord with current situation of crime and gun control problem.

Due to prevent such committing serious crime by gun, the researcher agrees that Computer-related Crime Act B.E 2550 (2007) shall be taken to apply to block or delete information about homemade gun on internet and social media. Blocking inappropriate content of homemade gun. Moreover, it should be a computer system for collecting the identity of the bullets and casings of homemade gun to be comparative verification of gun. This will be advantage, that it can used as forensic evidence to investigate and injury the offenders as well as such forensic evidence can use in prosecution in the court. In addition, the researcher suggests that police officials shall use tactic such use of force to prevent and suppress crime. For the use of weapons (firearms) that cause death, it must only be reason in accordance with international principles. Therefore, if police officers reduce the use of firearms and law enforcement with principle of non-violent, it will reduce intention of criminals to not use firearms attacking police officials as well.

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