

Juridical Review of the Trade in Imported Used Clothing and Its Relationship to Consumer Protection Law (Case Study at Mangga Dua Shopping Center)

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Abstrak

Trade in used clothing imports (thrifting) uses a collection of goods that are no longer used, which are then traded and can be reused by other people. Apparently, this activity has a strong appeal for ordinary people who want to open a business. But in fact the sale of imported used clothing is contrary to Law Number 7 of 2014 concerning Trade, Minister of Trade Regulation (Permendag) Number 40 of 2022 concerning Amendments to Minister of Trade Regulation Number 18 of 2021 concerning Export Prohibited Goods and Import Prohibited Goods, and the Law Invite No. 8 of 1999 concerning Consumer Protection. However, in its existence, the public still views the activity of buying and selling imported used clothing products as quite promising, especially in terms of its economic nature and ignoring the legal consequences that may occur. Until finally, this phenomenon made the researchers want to study the trade practices of imported used clothing at the Mangga Dua Shopping Center. This study uses a research method that is used in the form of a juridical-empirical research method with the approach used is a statutory approach (Statute Approach) and a concept approach (Conceptual Approach) and the data source used is primary data by means of field research (Field Research).

Keywords: Imported Used Clothing, Consumer Protection Law, Trade Act.



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INTRODUCTION

In fact, humans have the instinct to meet their basic needs, even though not all human needs can be met due to several factors, one of which is the economic factor. Human needs themselves are divided into primary, secondary and tertiary. Basically, primary needs are the most important and important needs for humans to live their lives. The primary needs themselves are divided into 3 (three), namely clothing (clothing), food (food) and boards (place to live). In every human activity, clothing is needed to cover and protect himself. The development of an increasingly modern era causes clothing models to continue to experience development both in terms of materials, shapes and uniqueness. At this time, people are more tempted by foreign brands, especially among the middle class. Apart from being a necessity, people consider wearing foreign brand clothing to increase social status.

Because of this phenomenon, business actors see opportunities to sell foreign brand used clothing (thrifting) at relatively low prices. On the other hand, the amount of clothing (clothing) is related to the population, the more the population increases, the greater the need for clothing. The surge in demand has caused foreign imported used clothes to flood the domestic clothing industry, for example, such as the Mangga Dua Shopping Center in North Jakarta. Based on data obtained from the Central Bureau of Statistics (BPS) import statistics report from 2013 to 2022, Indonesia has imported 870.4 tons of used clothing—HS code 63090000—from abroad, with a value of US\$ 11.09 million, imported used clothing Entering Indonesia during this period came from 92 countries. This is proof that many people choose to open an imported used clothing business because it looks promising in terms of profits and sales of imported used clothing are

growing from year to year. The rise of sales of imported used clothing in the midst of people's lives has triggered a situation that is not isolated because many clothes are in bad condition. The existence of consumer buying interest in the sale of imported used clothes, it is necessary to have provisions to protect the community itself as consumers. In Indonesia, laws regarding consumer protection have been regulated in Law no. 8 of 1999 concerning Consumer Protection. Consumer protection is an effort to improve the welfare of society in relation to an increasingly developing era in the field of trade, including the trade of used clothes, consumers still have their rights such as the right to comfort, safety and security in consuming goods or services.

The public views that the sale and purchase of imported used clothing products is quite promising, especially in terms of its economic nature. In fact, the activity of selling and buying imported used clothing is against Indonesian government regulations. This is supported by the statement of Law no. 8 of 1999 concerning Consumer Protection which reads, "Business actors are prohibited from trading damaged, defective, used and tainted goods without providing complete and correct information on the goods in question". In addition, there are regulations regarding the prohibition of importing used goods, especially used clothing, which have been regulated in Law Number 7 of 2014 concerning Trade and Regulation of the Minister of Trade (Permendag) Number 40 of 2022 concerning Amendments to Minister of Trade Regulation Number 18 of 2021 concerning Export Prohibited Goods and Import Prohibited Goods. The main problem of this research is that the activity of buying and selling imported used clothes is prohibited by law, but in reality, researchers still find this activity at the Mangga Dua Shopping Center. Many sellers are aware that there has been a regulation stating that the trade of imported used clothing is prohibited, but sellers still sell them. This has resulted in people as consumers continuing to buy them regardless of the quality of the goods they will buy because of their economic situation and level of knowledge which can be said to be still low.

Therefore, based on the background presented, the researchers were interested in carrying out a study entitled "Juridical Review of the Imported Used Clothing Trade and Its Relationship with Consumer Protection Law (Case Study at the Mangga Dua Shopping Center)". Problem Formulation: Given the background that has been stated previously, a search appears that the researchers want to know more about "Juridical Review of the Imported Used Clothing Trade and Its Relationship with Consumer Protection Law (Case Study at the Mangga Dua Shopping Center)". The problem formulation itself is a reference in journal research so that the results are in line with expectations, namely the subject matter being discussed. Therefore, the following is a formulation of the problem to be discussed: How is the prohibition on the trade of imported used clothes related to the facts on the ground that happened at the Mangga Dua Shopping Center? How is the application of consumer protection to trading activities of imported used clothing at the Mangga Dua Shopping Center, seen from Law no. 8 of 1999 concerning Consumer Protection?

RESEARCH METHODS

In conducting a study the researchers refer to the research method. It aims to make research more focused and planned. The research method used is a juridical-empirical research method. This research uses a statutory approach to the problem (Statute Approach) and a conceptual approach (Conceptual Approach). The data source that the researchers used was primary data by way of field research (Field Research) located at the Mangga Dua Shopping Center by carrying out data collection techniques in the form of observations and interviews with secondary data to assist this research. The analytical technique used in this study is descriptive analytical by explaining legal provisions related to consumer protection, and then legal analysis of the results of the data obtained.

RESEARCH RESULTS AND DISCUSSION

Arrangements Regarding the Prohibition of Imported Used Clothing Trade Related to Field Facts at the Mangga Dua Shopping Center

As stated in Article 47 paragraph (1) of Law no. 7 of 2014 concerning Trade states that every trader/importer is required to import goods in a new condition, only the Minister of Trade has the power to import goods in conditions that are not new in certain situations. The issuance of Regulation of the Minister of Trade (Permendag) Number 40 of 2022 concerning Amendments to Regulation of the Minister of Trade Number 18 of 2021 concerning Export Prohibited Goods and Import Prohibited Goods is a sign that all people are prohibited from importing and trading goods that are not new. However, the reality on the ground is different, there are still many traders who openly sell imported used clothes in well-known shopping centers, such as the Mangga Dua Shopping Center, Senen Jaya Market, Blok M Shopping Center, and so on. The rapid growth of consumer interest in imported used clothing has also skyrocketed due to the cheap prices and the buying and selling activities which are considered promising, thus encouraging the interest of ordinary consumers to open the same type of business.

The rise of imported used clothes is thought to be influenced by factors namely the vast territory of Indonesia which triggers the many entry and exit points whose security needs to be tightened, local clothing products that are less competitive and the low participation of the public in working with law enforcement officials to make arrangements for bans on trade/buying and selling activities of clothes ex-import increasingly unstoppable. Below is attached a bar chart showing public interest in imported used clothing in Indonesia from 2012-2022.

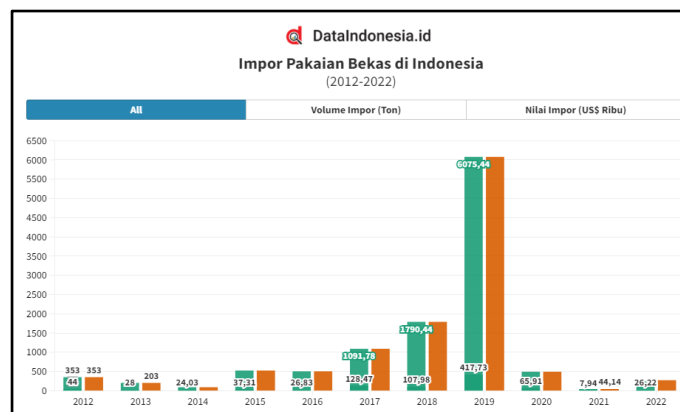


Figure 1.

Source: Central Bureau of Statistics

The Central Statistics Agency (BPS) noted that the growth rate of imported used clothing in Indonesia reached 26.22 tons with a value of US\$272,146 in 2022. This amount increased by 230.40% compared to the previous year which was 7.94 tons with a value of US\$44,136. If you look at the trend, imports of used clothing in Indonesia have fluctuated in the last decade. Based on the bar chart presented above, the most imports occurred in 2019 with a volume of 417.73 tons and a value of US\$6.08, even though in 2020 and 2021 experienced a significant decline, it should be remembered that in those years a global obstacle occurred, namely the COVID-19 pandemic. 19, so that growth in 2022, which will start to increase, is what we must pay close attention to due to global conditions that continue to improve.

In addition to the bar chart argument, the researchers conducted interviews with business actors of imported used clothing at the Mangga Dua Shopping Center, the researchers

themselves obtained outlet information from social media applications that are often popular with today's society. AN, who works as an employee at "The XXX" outlet, stated that the trade of imported used clothing is a promising business. This is evident from the fact that "The XXX" outlets, which were originally engaged in the home industry, now have 2 (two) branches at the Mangga Shopping Center. Dua and Blok M Shopping Center. In its buying and selling activities, AN will inform its consumers that the clothes it sells are used clothes from abroad. So, if in the sale and purchase transaction a consumer is harmed, such as the clothes that have been purchased are found to be defective or damaged, then the business actor is not responsible for the consumer's losses, therefore AN often reminds his consumers to always check the details of the clothes purchased.



Figure 2. "The XXX" outlet is located at the Mangga Dua Shopping Center

The Mangga Dua Shopping Center is one of the people's choices in shopping for their daily needs, so that various buying and selling activities are carried out. "The XXX" outlet itself has only been established for 6 (six) months at the Mangga Dua Shopping Center. It was during this period that the researchers realized that the operational side had not taken any action and had instead granted a trade permit in the shopping center area. "The XXX" outlets only apply management fees such as space rental fees, cleaning fees, electricity costs, and other additional costs to business actors. After being traced, there are no specific regulations that require business actors to act in accordance with existing and applicable regulations to ensure the legality of the existence of these businesses and the rights and obligations of consumers that should be considered by business actors.



Figure 3. Imported Used Clothing Worth Rp. 15,000.00 at "The XXX" Store



Figure 4. Atmosphere of "The XXX" Store on Monday, 15 May 2023

AN himself did not know that there was a regulation regarding the prohibition of trade in imported used clothing in Indonesia. He only found out about the existence of this regulation after the raid on dozens of stalls trading imported used clothing at Pasar Senen in March 2023. This indicates that the dissemination of laws and legal provisions regarding trade is still lacking, even though regulations regarding the prohibition of trade in imported used clothing have existed since 2014 and have been accompanied by many regulations from the ministry of trade. At the end of the interview, AN also stated that sales of these clothes tended to be stable and were in demand by all ages, AN's statement could be proof that public awareness was still lacking. The people themselves do not pay attention to the losses they experience when they buy imported used clothes that are branded illegal in Indonesia and only see the benefits they can get.

In Chapter XVIII of Law no. 7 of 2014 concerning Trade, criminal provisions have been explained for parties who violate it. The existence of Article 111 states that every importer who imports goods in a new condition is subject to imprisonment for a maximum of 5 (five) years and/or a maximum fine of Rp. 5,000,000,000.00 (five billion rupiahs) confirms the persons who continue to carry out activities of importing used clothes and selling them to the public. In addition, the presence of Article 47 paragraph (1) and Article 51 paragraph (2) also weakens the position of imported used clothing in Indonesia, this is because from the essence of the contents of the Article, goods imported from abroad must be new and not prohibited by regulations. Indonesia. Therefore, in the end, this condition only requires affirmation from the government in taking action on similar cases and public awareness of the impacts and problems that arise if the buying and selling of imported used clothes continues.

Application of Consumer Protection for Imported Used Clothing Trading Activities at the Mangga Dua Shopping Center

Economic development in Indonesia is growing rapidly and continuously dynamically, this is accompanied by the increasing demand for imported clothes which causes imported used clothing to continue to flood the domestic market because it is considered to be a business activity that benefits various parties. This has resulted in the sale of imported used clothing which is increasingly not isolated and given less attention, so that there is a lot of used clothing whose quality is unclear. Based on this, the increasing problems regarding consumer protection, in responding to this phenomenon Law no. 8 of 1999 has been present as a legal umbrella which aims to ensure that all people have the right to obtain welfare and justice. In order to achieve this goal, Indonesia is faced with progress in trade economy activities that are increasingly open, therefore it is required to have strong competitiveness.

According to Article 1 of Law no. 8 of 1999, consumer protection is all efforts that guarantee legal certainty to provide protection to consumers. Legal certainty to provide protection to consumers includes increasing the dignity of consumers and opening access to information about the goods being sold, and cultivating the attitude of business actors who are honest and responsible. In carrying out a legal relationship between the seller and the buyer it is only carried out verbally regarding the price of the goods and the type of goods being traded, there is no written agreement signed between the parties so that here the rights of the consumer can be injured by the seller. Therefore, the State of Indonesia provides legal protection to ensure legal certainty and protection for consumers. Reviewing the provisions in Article 8 paragraph (2) of Law no. 8 of 1999 concerning Consumer Protection which states that: "Businesses are prohibited from trading goods that are damaged, defective, or used, and tainted without providing complete and correct information on the goods in question". The purpose of this article is that business actors are still allowed to sell damaged, defective or used goods, but must provide complete and correct information on the goods in question. Then, regarding the obligations of Business Actors contained in Article 7 letter d of Law Number 8 of 1999 concerning Consumer Protection which states: "The obligation of Business Actors is to guarantee the quality of goods and/or services produced and/or traded based on the provisions of the quality standard of goods and/or services in force" and Article 7 letter f namely "The obligation of Business Actors is to provide compensation, compensation and/or reimbursement for losses resulting from the use, use and utilization of traded goods and/or services".

There are consumer rights regulated in Article 4 of the Consumer Protection Act, namely:

1. The right to comfort, security and safety in consuming goods and/or services;
2. The right to choose goods and/or services and obtain said goods/or services in accordance with the exchange rate and the conditions and guarantees promised;
3. Right to correct, clear and honest information regarding the conditions and guarantees of goods and/or services;
4. The right to have their opinions and complaints heard about the goods and/or services used;
5. The right to obtain proper advocacy, protection and efforts to resolve consumer protection disputes;
6. The right to obtain consumer guidance and education;
7. The right to be treated or served properly and honestly and not discriminatory."

Based on the results of interviews with researchers, "The XXX" outlet at the Mangga Dua Shopping Center has applied article 8 paragraph (2) in its business activities. Business actors have previously informed consumers that the goods being traded are used imported goods. However, business actors do not apply Article 7 letters d and f regarding their obligations in their business activities, because if in a buying and selling transaction a consumer is harmed, for example, if the goods that have been purchased turn out to be defective or damaged, the business actor will not be responsible for the goods owned by the consumer. the. There is a written regulation posted on the wall of "The XXX" shop which states that "items that have been purchased cannot be exchanged or returned". Therefore, before making a transaction, the seller always reminds the consumer to always check the goods purchased so that the goods do not have defects and if there is damage to the goods purchased it is the consumer's responsibility because there are already written regulations. If these regulations are related to consumer rights that have been regulated in Article 4 paragraph (1) of Law Number 8 of 1999 concerning Consumer Protection, the import of used clothing consumed by consumers is also contrary to consumer rights relating to the right to safety and security in consuming goods.

On the other hand, if you review Article 47 paragraph (1) of Law No. 7 of 2014 concerning Trade which states that every trader or importer is required to import goods in a new condition, only the Minister of Trade has the power to import goods in conditions that are not new in certain situations. The provisions in this article contradict the provisions in Article 8 paragraph (2) Number 8 of 1999 concerning Consumer Protection which states that business actors are still allowed to sell used goods (including clothing) as long as they provide complete and correct information. From these provisions, it can give rise to the principle of *Lex Specialis Derogat Legi Generali*, namely that specific rules override general rules. In this case the Trade Law overrides the Consumer Protection Act in the field of importers.

CONCLUSION

Provisions for the trade of imported used clothes carried out by "The XXX" outlets can be said to be a violation that fulfills the elements in Article 47 paragraph (1) of Law No. 7 of 2014 concerning Trade. This element is that every item imported must be in a new condition, but in certain cases the Minister of Trade can stipulate that goods imported in a non-new condition must have a reconditioning industrial business permit. From the results of the interview at the "Toko XXX" booth with AN, he himself did not know that there was a regulation regarding the prohibition of trade in imported used clothing in Indonesia. Furthermore, regarding consumer protection regulations, "The XXX" outlets also do not apply specifically regarding the obligations of Business Actors contained in Article 7 letter d of the Consumer Protection Act and consumer rights contained in Article 4 of the Consumer Protection Act. It can be concluded that the implementation of state regulations namely Law no. 7 of 2014 concerning Trade and Law no. 8 of 1999 concerning Consumer Protection has not been effectively implemented in society, as evidenced by the fact that until now the used clothing trade is still running and even the sales are getting bigger.

Therefore, the suggestions from the researchers are the need for regular outreach to the public regarding the Trade Law and the Consumer Protection Law so that Indonesian people know and understand more about the applicable regulations. It is hoped that the Indonesian State or the government will be able to compete with the imported used clothing trade by creating clothing products that have good quality materials at affordable prices to attract consumers' interest. In addition, consumers must be smarter and wiser in choosing and buying clothes that are often used. Due to this movement, the problem of imported used clothing trade can increasingly be resolved.

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