

The Legal Implications of Selling Imported Thrift Clothing: Environmental Impact

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Abstract

This research analyzes the legal implications of the sale of imported thrift clothing in Indonesia in relation to its environmental impact. The study employs a normative method with a statute approach. The research findings indicate that the sale of imported thrift clothing has negative effects on the environment and human health, including air pollution, greenhouse gas emissions, difficulties in recycling, the use of hazardous toxins, and increased waste production. Imported second-hand clothing can also cause bacterial and fungal infections and contain harmful chemicals. For micro, small, and medium enterprises (MSMEs) that still engage in the sale of used goods, legal violations can result in administrative sanctions, operational disruptions, and criminal penalties for importers. MSMEs can transition to local products to support the domestic industry and reduce waste. It is crucial for MSMEs to comply with legal provisions and seek legal business opportunities in Indonesia.

Keywords: Legal Implications, Imported Thrift Clothing

I. Introduction

The world of fashion has evolved very quickly. One option for fashion enthusiasts is thrifting. "Thrift" means savings, but it is more commonly known as imported second-hand goods. The items sold are second-hand and the condition is not like new, there are still defects at some point or not perfect and the selling and buying prices are much lower than new clothes (Diana, 2019). These clothes are usually imported in large quantities from other countries, namely the United States, Japan, China and Korea. Thrift clothing usually contains well-known brands (Putri & Patria, 2022), and imported second-hand clothing is currently increasingly being hunted by the public. However, President Joko Widodo (Jokowi) recently reaffirmed the ban on the import and sale of used clothing in Indonesia, arguing that it harms the domestic textile industry (Diana Wijaya, 2023).

The increasing volume of used clothing imports in Indonesia recorded by the Central Statistics Agency (BPS) from 2011 to 2018, reflects an interesting trend in the country's clothing industry. The data released by BPS shows a significant increase from year to year, with the highest peak occurring in 2019 with 392 tons of imports. This phenomenon illustrates the growing demand from Indonesians for second-hand clothing. There are several factors that may explain the reason behind this growth. First, second-hand clothing is often perceived as a more affordable alternative to new clothing. In tough economic conditions, many consumers are looking for ways to save

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money, and buying second-hand clothing can be a more economical option.

Used imported clothes sold at relatively cheap prices make the younger generation more often thrifting so that people unwittingly become consumptive. In addition, imported used clothing is considered unhygienic, of course it has been used by other people and comes from abroad, therefore thrifting clothes are not guaranteed to be clean (Ristiani et al., n.d.). The policy is also carried out as a step to reduce the negative impact on the environment generated by waste from imported used clothing. Piles of thrifted clothing waste can pollute soil and water with materials that are difficult to decompose. Meanwhile, burning clothing waste that is not in the right place can cause air pollution because it contains chemicals, which in turn can cause global warming effects (Kurniawan et al., 2022). Every individual in principle needs a healthy and safe environment for their survival. According to the Law on Environmental Protection and Management Number 32 of 2009 issued by the government, it is crucial to pay attention to efforts to maintain, protect and manage the environment. Therefore, actions aimed at caring for and maintaining the environment must be carried out appropriately.

Based on Article 69 paragraph (1) Letter c of Law Number 32 of 2009 concerning Environmental Management and Protection is a provision that attracts attention regarding the entry of waste from outside the territory of the Unitary State of the Republic of Indonesia into the domestic environmental media. This article provides a legal basis to regulate the management of waste originating from abroad that enters the territory of Indonesia. This provision is important to preserve the environment in Indonesia, avoid negative impacts on public health, and ensure that waste from abroad entering the country is treated and managed in a responsible manner in accordance with applicable environmental standards.

There are many factors that hinder the effectiveness of environmental law enforcement, so that regulations issued by the government cannot be implemented properly in the field (Alhakim & Lim, 2021). As stipulated in the Minister of Trade Regulation on Export Prohibited Goods and Import Prohibited Goods confirms that in the appendix of the regulation, used clothing is one of the goods that may not be imported. If there are imported used clothes that are not suitable for sale or have changed their function, then this can be categorized as a form of waste import. Research related to imported thrift clothing has been conducted by previous researchers, Muhammad Wahyu Abdi Wijaya and Dian Andriasari entitled “The Business of Used Imported Clothing (Thrifting) as a Criminal Offense in Review of Law Number 7 of 2014 concerning Trade”. The results of the study explain that importing and buying and selling used clothing in Indonesia is an unlawful activity. However, law enforcement and criminal sanctions against business actors have not been optimal (Wijaya & Dian Andriasari, 2022). Gusti Ayu Yogiana Prabaswari, Nengah Punia, I.G.N Agung Krisna Aditya entitled “Risk Production of the Fast Fashion Industry in the Thrifting Phenomenon in Denpasar City”. The results of the study examine the phenomenon of thrifting in relation to the environmental risks produced by the fast fashion industry (Prabaswari & Punia, 2020). Muhammad Herman Effendi, Djumadi, and Lena Hanifah with the title “Consumer Protection in the Sale and Purchase of Imported Used Clothing through the Instagram Social Media

Application in Indonesia". The findings of the study explain that trading used clothing using social media platforms does not violate existing legal regulations in Indonesia, but it is said to be illegal if it comes from outside the country of Indonesia and examines related legal protection for consumers (Effendi & Hanifah, 2022).

The difference between previous research and current research is that previous research focused on discussing the regulation of imported used clothing, the impact on the environment and consumer protection on the sale and purchase of used clothing. So that the current research discusses the legal implications of selling imported thrift clothing related to the impact on the environment. This research is important to discuss because imported used clothing in Indonesia is still widely circulated (legal) and can cause environmental pollution due to piles of waste from used clothing whose function has changed.

This research aims to analyze the legal implications of selling imported thrift clothing related to the impact on the environment. Through this research, it is expected to provide a deeper understanding of the legal regulations governing the sale of thrift clothing and the impact on the environment. In addition, this research is also expected to provide practical benefits for law enforcement officials and MSMEs by providing guidance and useful information in complying with applicable legal regulations, so as to create legal certainty for the community. Based on the problems described above, this research will analyze the impact of imported thrift clothing on the environment and how the legal implications for MSME players who sell thrift clothing after the enactment of Minister of Trade Regulation Number 40 of 2022 concerning goods prohibited from export and goods prohibited from import.

II. Method

This research uses a normative juridical method with a statute approach. Primary legal materials used in this research are Law Number 32 of 2009 concerning Environmental Protection and Management, Law No.7 of 2014 concerning Trade, Regulation of the Minister of Trade Number: 51/M-DAG/PER/7/2015 concerning the Prohibition of Imports of Used Clothing, and Regulation of the Minister of Trade Number 40 of 2022 concerning amendments to Number 18 of 2021 Goods prohibited from Export and Goods prohibited from Import. Secondary data in the form of books and journals sourced from the internet. Legal sources obtained using deductive analysis.

III. Results and Discussion

A. *Analysis of the Environmental Impact of Imported Thrift Clothing*

Waste is waste generated from an industrial or domestic production process. Fabric waste consists of scraps of fabric, fibers, used clothing, or unused textile items. The fashion industry is currently facing major problems related to fabric waste, especially those related to the use of synthetic fabric materials such as polyester and other synthetic fabrics, which take tens or even hundreds of years to decompose, while

organic fabric waste is easier to decompose naturally so it does not take decades to decompose. The 1898 Basel Convention classifies waste into two categories, namely hazardous waste and non-hazardous waste. Fabric waste is classified as non-hazardous waste. Although fabric waste is not categorized as hazardous waste, it still has the potential to pollute the environment. Even so, it is still necessary to pay attention to the disposal, processing, and recycling of fabric waste (Krulinasari & Yusnandi, 2022). The classification of used clothing as waste or non-waste may vary depending on the conditions and regulations in each country. Used clothing that is still in good condition and can be used by others is not considered as waste fabric. However, if the used clothing is damaged, torn, or no longer fit for use, it can be considered as fabric waste that must be managed properly (Ratna Anjarsari & Rochmani, 2020). This means that imported used clothing can be considered as waste. Professor Rhenald argues that various used goods in their home countries are exported to other countries as waste and eventually become garbage.

In terms of environmental law, Law No. 32/2009 on Environmental Management and Protection does not specifically prohibit the import of used clothing, but there is a provision in Article 69 paragraph (1) letter c that prohibits any person from introducing waste into the environment. Therefore, the import of used clothing is considered as waste by the Indonesian government, this aims to preserve the environment and prevent potential pollution that can be caused by the fabric waste.

The waste generated by fast fashion is often overlooked, and it is still common to find fast fashion products that are discarded and become garbage. The impact of fashion waste on the environment is quite significant (Sallsabillah, 2021). Some of these impacts include.

1. Water pollution: The fashion industry uses toxic chemicals in the production of clothing, such as dyes, patterns, and bright textures. The use of these chemicals can contaminate water and potentially harm human health and the environment.
2. Greenhouse gas emissions: The apparel industry is one of the largest contributors to greenhouse gas emissions in the world. This is due to mass production, transportation, and energy use in the manufacturing process.
3. Difficult to recycle: Fashion waste is difficult to recycle as it consists of different types of materials that are difficult to separate and recycle into new materials. This results in an accumulation of waste that is difficult to process.
4. Use of hazardous pesticides: The production of raw materials for clothing often involves the use of hazardous pesticides. The use of these pesticides can pollute the environment, threaten biodiversity, and negatively impact human health.
5. Contribution to waste production: The fashion industry and consumptive behavior contribute to the increasing production of waste clothing that is difficult to recycle. Excessive purchases and rapid changes in fashion trends lead to significant waste accumulation.

In that context, there are several consumer risks associated with purchasing thrift clothing products that consumers can assess, including functional, aesthetic, hygiene and social risks. Functional risk relates to concerns that second-hand clothing may have poor durability or sub-optimal performance, and therefore not function properly. Hygiene risk relates to concerns about the level of cleanliness of second-hand clothing that may affect the health conditions of the wearer. As clothing is in direct contact with the body, hygiene risk is a major concern. Social risk is the negative evaluation and judgment of the social environment towards individuals who use second-hand clothing. The hygiene aspect is the main risk factor that concerns second-hand clothing consumers the most. Wearing dirty and unhygienic clothes can increase the risk of exposure to diseases or viruses, which can certainly harm them. While buying second-hand clothes is an alternative to fulfill fashion needs, there are potential health risks involved if the clothes used are not clean. However, social aspects, aesthetics, and product functionality are less of a major concern for consumers (Fadli et al., 2021).

Waste clothing can affect human health in several ways, such as reducing the quality of health and can contaminate human habitation and cause disease (Balqies & Jupriani, 2022). Some imported used clothing may also contain harmful chemicals. Some countries have lax regulations regarding the use of chemicals in textile production, and imported second-hand clothing often does not go through a strict inspection process before being resold. This may result in exposure to harmful substances such as azo dyes, formaldehyde, or pesticides used in the production of the clothing. In addition, consumers can also consider the environmental and health impacts before buying clothes.

B. Legal Implications for MSMEs that still Sell Imported Thrift Clothing in Indonesia

Second-hand clothing imports have seen a significant increase in the Indonesian market, causing concern for industry players in the sector as their products lose out to illegal imports. On one hand, second-hand clothing is targeted by consumers looking for affordable products, but on the other hand, there is a view that second-hand clothing is actually garbage or waste that is not fit for use. In fact, only a small percentage of second-hand clothing can be reused, making the waste problem even more complex in import destination countries. This is because traders often buy imported used clothing in ball sacks without knowing exactly what is inside. More than half of the sacks they buy are not eligible for sale, so it is not uncommon for traders to throw them away (Priyanto & Tanaya, 2019).

Importers are individuals or institutions or business entities that import, both in the form of legal entities and not legal entities. In the case of selling used goods, importers will import used goods from other countries for sale in the country. This used goods import activity includes the process of shipping and managing documents as well as paying taxes and customs duties in accordance with applicable regulations. Regulation of the Minister of Trade Number 51/M-DAG/PER/7/2015 strictly prohibits the import of used clothing. Based on Article 51 Paragraph 2 of Law Number 7 Year

2014 on Trade, importers are prohibited from importing goods that have been designated as goods that are prohibited from being imported. This aims to safeguard the interests and security of the state and protect the public from goods that are dangerous, unlawful, or violate applicable norms. Importers who violate the provisions of this prohibition, as described in Article 2, will be subject to administrative sanctions and other sanctions in accordance with the provisions of applicable laws and regulations. Administrative sanctions may take the form of fines or actions to stop import activities, while other sanctions may take the form of legal action in accordance with applicable provisions. This aims to protect the domestic textile industry and encourage the consumption of new textile products. The ban on imports of used clothing can also reduce negative impacts on the environment and public health, and offer sustainability in the fashion industry. On the other hand, the Ministry of Trade has been aggressively seizing imported used clothing worth billions of rupiah. However, these efforts have fallen short in the face of illegal product circulation in the second-hand clothing buying and selling market. The problem of illegal imports is still rampant and difficult to eradicate in several regions in Indonesia, especially in 2022.

Imported Used Clothes recorded by BPS are declared legal in Indonesia. In the data collection process, the Central Bureau of Statistics (BPS) uses the Harmonized System (HS) code 63090000 to record used clothing and other used goods imported into Indonesia. The category of goods covered by this HS code includes personal items such as clothes, shoes, and books owned by individuals, both Indonesian citizens (WNI) who will return home and foreign nationals (WNA) who will stay in Indonesia. This means that imported second-hand goods registered by BPS are goods brought by individuals, not by business entities.

Customs explains that HS code 6309.00.00 refers to the import of used clothing that falls under moving or personal effects and diplomatic cargo. This includes all used goods imported into the territory of Indonesia which are considered illegal because they fall under the restricted prohibition in accordance with applicable regulations. This includes small blankets and quilts for travel, linens for beds, tables, toilets, and kitchens, curtains (including curtains) and blinds; blinds or bed valances, as well as other articles of furniture, except those referred to in heading 94.04. This classification also includes various textile articles such as knitted or crocheted, packing bags and sacks, tarpaulins, awnings and sunshades, and camping goods. In addition, floor cleaning cloths, dish cloths, dusters and cleaning rags are also included in this category. There are also sets consisting of woven fabrics and yarns for various purposes such as *babut*, wall tapestries, embroidered table cloths or napkins, and similar textile items prepared in packages for retail sale. Finally, used or new rags, scrap of spun yarns, ropes, cords, and cables, and obsolete articles of spun yarns, cords, or cables of textile materials are also included in this classification.

Based on data released by BPS, the import volume of used clothing and other used goods throughout 2022 reached 272.14 thousand US dollars with a weight of 26.2 tons. Meanwhile, in the January 2023 period, the import value was recorded at only 1,965 US dollars with 147 kilograms. Meanwhile, a few months ago, the Ministry of Home Affairs (KEMENDAG) had mass destruction of used imported clothes in Sidoarjo and Karawang that were to be traded with a total volume of 1,554 balls with

an estimated total value of 20 billion. It is important to note that used clothing that enters Indonesia and is recorded by BPS is indeed declared legal. This provision applies as long as the import data for these goods is officially recorded by Customs. In this context, imported goods that do not have official records at Customs can be considered illegal (Nasution, 2023).

The government has made great efforts to address the import of second-hand clothing, but there are still loopholes in the trade of imported second-hand clothing in the country. Solving this problem requires cooperation between various related agencies, stricter supervision, and public awareness not to buy illegal products. Thus, it is expected to reduce the circulation of illegally imported second-hand clothing in the domestic market. Despite the government's efforts to address illegal imports of secondhand clothing, the challenge is still not fully resolved (Agianto et al., 2023). The presence of illegally imported goods continues to decorate the secondhand clothing buying and selling market in various regions in Indonesia. The importation of used clothing (thrifting) is included in criminal activities as stipulated in the Minister of Trade Regulation on Export Prohibited Goods and Import Prohibited Goods emphasizes that in the appendix of the regulation it is clear that imported used clothing is prohibited for sale. The Indonesian government has regulated the entry of used clothing through Law No.7 of 2014 concerning trade. In this law, Article 47 paragraph 1 states that "every importer must import goods in a new condition". Although the import of goods in a non-new state is still allowed in certain situations, the term "in certain cases" refers to goods needed by business actors as capital goods that are not available domestically and need to be imported to support the industrial production process with the aim of export development (Naldi, 2023). The government needs to continue to improve supervision and law enforcement against illegal imports, both through increasing compliance with international trade regulations and empowering related institutions. In addition, it is also necessary to socialize and educate the public about the importance of buying legal products that comply with Indonesian national standards (SNI). Thus, it is expected to reduce the circulation of illegally imported used clothing and strengthen the domestic market (Agnesvy, 2022).

The legal implications for MSMEs that still sell thrift clothing in Indonesia are serious considering the Minister of Trade Regulation Number 40 of 2022 which specifically states that used clothing is included in the category of Import Prohibited Goods with HS code 6309.00.00. MSME players themselves are included in the category of importers, because the definition of business actors in the regulation includes individual Indonesian citizens or business entities in the form of legal entities or not legal entities. They must be established and operate in the jurisdiction of the Unitary State of the Republic of Indonesia and engage in trade business activities.

MSMEs are small or medium-sized businesses that have certain criteria, such as the number of employees, turnover, or limited capital. The role of MSMEs is very important in the Indonesian economy, as they contribute significantly to economic growth, job creation, and economic equity. MSMEs have a strategic role in driving the

economy at the local level, encouraging innovation, and improving community welfare. MSMEs are often businesses with potential and competitiveness at the local and regional levels and are involved in various activities such as production, distribution, and sales of products or services. MSMEs can operate in various sectors, including manufacturing, trade, services, agriculture, and other economic sectors. The government pays special attention to the development and empowerment of MSMEs through policies, programs, and support aimed at improving their capabilities and competitiveness. The goal of these efforts is for MSMEs to grow and develop and make a significant contribution to the national economy.

Given the import ban on second-hand clothing and the legal consequences that may apply, MSMEs involved in the sale of thrift clothing will potentially face the following implications (Fatah et al., 2023):

1. **Violation of Law:** MSMEs that continue to sell used clothing illegally violate regulations governing import bans, such as the Republic of Indonesia Law No. 7/2014 on Trade and the Minister of Trade Regulation No. 40 of 2022 in conjunction with No. 18 of 2021 on the Prohibition of Export and Import of Prohibited Goods. This may result in their complicity in lawlessness and make them vulnerable to law enforcement action.
2. **Administrative Sanctions:** In addition to criminal sanctions stipulated by the Trade Law, relevant agencies such as the Ministry of Trade and Customs have the authority to impose administrative sanctions on businesses that violate import regulations. Such sanctions may include suspension of business licenses, revocation of business licenses, or other administrative actions that may harm MSMEs financially and operationally.
3. **Reputational Impact:** Violations of the law can negatively impact the reputation of MSMEs. In an era of information transparency and growing consumer awareness, customers and the wider public may associate MSMEs with illegal or unethical practices if they continue to unlawfully sell imported thrift clothing. This may reduce consumer confidence and impact the growth and sustainability of the MSME business.
4. **Operational Disruption:** The Indonesian government is vigorously monitoring and prosecuting second-hand clothing imports. MSMEs selling thrifted apparel will be at risk of having their goods confiscated, stores closed, or business activities terminated by the authorities. This can disrupt business operations, cause financial losses, and threaten the viability of the MSME.

In the case of violations of thrift clothing imports, Law of the Republic of Indonesia Number 7 of 2014 concerning Trade, Article 112 paragraph (2) provides criminal sanctions for importers who import goods that are designated as goods that are prohibited to be imported. The sanction is in the form of imprisonment for a maximum of 5 years and/or a maximum fine of IDR5,000,000,000.00. The import of thrift clothing in Indonesia is prohibited based on existing regulations, in addition to imprisonment and/or fines, any business actor who does not comply with the Business License may be subject to administrative sanctions in the form of written warnings,

withdrawal of Goods from Distribution, temporary suspension of business activities, warehouse closure, fines, and/or, revocation of Business License. Then, goods that are prohibited from being imported if they have entered the territory of the Unitary State of the Republic of Indonesia are categorized as state property that cannot be used, cannot be utilized, and has no economic value, after which the goods are destroyed.

The Minister of Trade has announced a policy that allows traders who have purchased imported second-hand clothes to continue selling the merchandise. This decision is based on the government's focus on addressing the smuggling problem that is at the root of the circulation of imported secondhand clothing in the domestic market. It also confirms that once the stock of imported used clothes in the hands of traders is depleted, they will no longer be allowed to sell the products. This reflects the government's commitment to stop the circulation of imported secondhand clothing entirely and encourage the development of local industries. As an alternative for traders of imported used clothes who may be affected by this policy, they can be diverted to sell local products (used clothes) (Arifah, 2015). In addition to providing economic benefits to the domestic industry, this measure can also help reduce waste. Thus, the Minister of Trade's policy aims to solve the problem of imported used clothing smuggling and encourage the sustainable growth of the local industrial sector. Therefore, for MSMEs still selling thrift clothing in Indonesia, it is crucial to understand and comply with the applicable legal provisions. It is recommended to change their business model by presenting other products that comply with applicable regulations or look for other business opportunities that are legal and in accordance with applicable regulations in Indonesia.

IV. Conclusion

Imports of used clothing and other second-hand goods for resale are illegal in Indonesia and have a negative impact on domestic industries, the environment and public health. To reduce the impact, it is necessary to increase supervision and law enforcement against illegal imports, as well as socialize and educate the public about the importance of buying legal products that comply with Indonesian national standards. MSMEs need to comply with applicable legal provisions and find business alternatives that comply with applicable regulations in Indonesia. Legal implications for MSMEs that still sell used imported clothing may be subject to administrative sanctions, registration violations, operational disruptions, and criminal sanctions for importers. The government has allowed the sale of used imported clothing that is already in the hands of traders, but once the stock runs out, the sale of used imported clothing is no longer permitted. Alternatively, traders can switch to selling local second-hand products that can support the growth of domestic industries and reduce waste.

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