



JLPH: Journal of Law, Politic and Humanities

E-ISSN: 2962-2816
P-ISSN: 2747-1985<https://dinastires.org/JLPH> ✉ dinasti.info@gmail.com ☎ +62 811 7404 455DOI: <https://doi.org/10.38035/jlph>
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Legal Protection of Thrift Trade in Indonesia

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Abstract: The circulation of Thrift goods in Indonesia is one of the triggers for negative impacts entering Indonesia, so there is a need for regulation of the trade in Thrift goods and the need for protection for Thrift goods in Indonesia. The main problem in this writing is what the government's solution is in overcoming the problem of Thrift goods entering Indonesia. Because if left unchecked it will have a bad impact on the country. The research method used is normative research carried out with secondary data as legal material in the form of primary legal material. The results of this research show that Thrift goods are illegal goods, so the government prohibits the practice of buying and selling Thrifts as regulated in Law Number 7 of 2014 concerning trade and regulated in the Minister of Trade regulations. Apart from that, the form of protection for consumers in Thrift goods transactions is also regulated in Law number 8 of 1999 concerning consumer protection, namely that the government guarantees the health and safety of consumers, upholds justice for consumer rights, and provides legal certainty to consumers so that consumers in carrying out transactions can walk safely and comfortably.

Keyword: Regulation, Trade, Thrift Goods.

INTRODUCTION

Trade is an activity in the transaction of goods or services carried out both domestically and abroad which has the aim of transferring rights to goods or services to obtain rewards or profits (Yudhoyono, 2014). The development of trade in the modern era is a new term called globalization, the distribution of goods and or services has been far not limited by distance and time across countries and even across continents (Wijaya, 2017). In trade commodities, we often hear the word import, which means the activity of buying goods or services from other countries. In general, the purchase of goods from other countries is goods that cannot be produced by themselves or the goods are cheaper than the domestic market (Astuti, 2020). All goods from abroad can be imported, except those that are prohibited, restricted, or otherwise specified by law. The government imposes restrictions on the import and export of goods in the national interest in order to protect the public interest, national security, intellectual property rights, as well as health such as the safety of humans, animals, plants, and the environment (Suparji, 2014). In this modern era, one of the imported products that is much

avored among Indonesians is Thrift goods, because the model is attractive and the price is affordable cheap so many people are interested in buying these goods, especially teenagers who are interested in the world of fashion.

The term Thrift itself is trading activity or buying and selling used goods such as clothes, shoes, and other fashion products that can be used daily from abroad. One of the purposes of buying Thrift goods is to save the budget because Thrift goods themselves have a lower price than the normal price of goods such as branded goods from abroad that are no longer produced by the company. Although classified as used goods the quality of goods sold is still in good condition and still very feasible to use.

In its trade, Thrift goods themselves are goods from abroad that are considered illegal. The government through the minister of trade has established a ban on the import of used goods into the territory of the unitary state of the Republic of Indonesia which is contained in the Regulation of the Minister of Trade Number: 51 / M-DAG / PER / 7/2015 concerning the prohibition of imports of used clothing which is explained in article 2, namely "Used clothing is prohibited from being imported into the territory of the Unitary State of the Republic of Indonesia". Even though there are already rules prohibiting the sale and purchase of Thrift in Indonesia, many traders are desperate to continue trading Thrift goods, not only that consumers also continue to buy Thrift goods for the reasons they make. The lack of public knowledge of the consequences arising from the circulation of used goods can have a negative impact on the Indonesian economy, besides that Thrift goods can trigger health problems for consumers who buy and wear them because there are bacteria, viruses, and fungi found in imported used clothing.

Based on the description above, many negative impacts arose from the trade in Thrift goods in Indonesia. So it is necessary to understand the existence of legal protection arrangements for the trade in Thrift goods and understand the importance of protecting Thrift goods, so as not to endanger the community and its surroundings.

METHOD

In writing this scientific journal, the research method used is a normative method that uses various secondary data by reviewing laws, books, and also previous journals. So that it can be used as a reference for life in society (Abdulkadir, 2004). Because the definition of legal research is a scientific activity, which is based on certain methods, systematics, and thoughts, which aims to study one or several certain legal symptoms by analyzing them (Sigit et al., 2020).

RESULTS AND DISCUSSION

Regulation of the Trade in Thrift Goods in Indonesia

Regulation is an order or prohibition that regulates the order in a society that should be obeyed by members of the society concerned (Utrecht, 1966). So if there are rules governing it, all people must obey these rules if they are not obeyed, sanctions will be imposed.

The word Thrift itself has the meaning of savings, in addition to the words Thrift that we often hear Thrift goods, Thrift Shop, and Thrifting, from these three words there are differences in meaning, namely Thrift goods means used goods from abroad that are considered illegal while Thrifting means an activity of buying used goods at low prices in addition to low prices of goods sold usually in a new state of origin from abroad, while the word Thrift Shop is a term for flea markets (Fadila et al., 2023).

The Thrift phenomenon in Indonesia is currently a ubiquitous explosion. The Thrift phenomenon in Indonesia is different from other countries which are usually caused by environmental factors, but the Thrift phenomenon in Indonesia occurs because of the lifestyle of people who want to increase their prestige (Fadila et al., 2023). So that it triggers many

negative impacts such as losses faced by the government and society in Indonesia, therefore the government makes arrangements related to foreign imported used goods. The regulation that becomes the basic reference for the prohibition of Thrift goods is explained in Law Number 7 of 2014 concerning trade and regulations of the minister of trade.

Law No. 7 of 2014 provides basic and general provisions in domestic and international trade, standardization of goods and services, trade through electronic systems, and development of cooperative, small, micro, and medium-scale businesses. Based on Article 1 paragraph (1) of Law No. 7 of 2014, it is explained that “Trade is an order of activities related to transactions of goods and/or services domestically and abroad with the aim of transferring rights to goods and services in order to obtain rewards or compensation (Pusat, 2014).”

All merchandise is allowed to be imported as long as the goods are not prohibited by laws and regulations. This has been explained in Article 50 paragraph (1) of the Trade Law “All goods may be exported or imported, except goods that are prohibited, restricted, or otherwise determined by law” (Pusat, 2014). The prohibited goods are goods in a non-new state or what is referred to as used goods, in accordance with the explanation of Article 47 paragraph (1) of the trade law. In this case, an importer can only be allowed to import goods in a new state and is prohibited from importing goods in a used or not new state (Pusat, 2014). The prohibition of importing used goods is also explained in Article 51 paragraph (2) of the trade law “Importers are prohibited from importing goods that are designated as goods that are prohibited from being imported” (Pusat, 2014).

However, Article 7 paragraph (2) of the Trade Law states that “In certain circumstances, the Minister of Trade may determine that goods are imported in a non-new condition” (Pusat, 2014). This means that a business actor can import goods in a non-new condition but with the provision of capital goods that cannot be fulfilled domestically and must import them for the industrial production process to develop exports, develop infrastructure, improve business efficiency, increase competitiveness, make investments, and industrial relocation. In addition, non-new goods can be imported if the need for non-new goods or equipment is needed in the event of a natural disaster. As a result, the government only allows the import of old and non-new goods based on certain guidelines (Naldi et al., 2023).

Regulation of the Minister of Trade No.54/MDAG/PER/10/2009 concerning General Provisions in the Field of Imports of the Ministry of Trade stipulates that imported goods must be in a new condition, which is explained in Article 6 paragraph (1) “Goods imported in a new condition” (Online, 2009). Article 6 paragraph (2) also explains that in certain circumstances, the Minister may determine that imported goods are not new based on; (a) laws and regulations, (b) the Minister's authority (c) proposals or technical considerations from other government agencies (Online, 2009). Based on these provisions, it can be said that used clothing is prohibited for import because there are no provisions governing it.

Regulation of the Minister of Trade No. 51/M/DAG/Per/7/2015 on the Prohibition of Imports of Used Clothing Articles 2 and 3 explain that used clothing is prohibited from being imported into the territory of the unitary state of the Republic of Indonesia, and if used clothing arrives in the territory of the unitary state of the Republic of Indonesia after the date the ministerial regulation takes effect, it must be destroyed in accordance with statutory regulations (Hukum Online, 2015). The Minister of Trade Regulation No. 51/M/DAG/Per/7/2015 on the Prohibition of Imports of Used Clothes was made with the aim of protecting consumers from diseases due to bacteria carried in these used clothes.

In the regulation of the Minister of Trade of the Republic of Indonesia number 18 of 2021 concerning goods prohibited from export and goods prohibited from import, article 2 point (3) letter d explains that “goods prohibited from import are rice bags, rice sacks, and used clothing” (Kemendag, 2021). Then the regulation of the Minister of trade of the Republic of Indonesia number 18 of 2021 was amended to the regulation of the Minister of trade of the Republic of

Indonesia Number 40 of 2022 concerning goods prohibited from export and goods prohibited from import, which is regulated in appendix II right in chapter IV related to “goods prohibited from importing in the form of rice bags, rice sacks, and used clothing” (Perdagangan, n.d.). Basically, the government prohibits the import of used clothing or what is called Thrift goods. Because basically used clothing or Thrift goods themselves are categorized as waste. Which will have a negative impact on consumers who wear it.

We can know that all regulations governing imported goods prohibit used goods or so-called Thrift goods from entering the territory of the Republic of Indonesia because they can have an impact on health and the country. It is feared that it will disrupt the domestic market, such as being able to have a very significant impact on the local economy because Thrift goods have cheaper prices with arguably good brands than goods produced by local authorities. Not only that, there are also many problems of Thrifting illegal imported goods that can hinder economic progress in realizing sustainable development in Indonesia. In addition, imported used clothing entering Indonesia also increases the amount of textile waste which has a huge impact on the environment because clothing waste can pollute and damage the environment, imported used clothing can also have implications for the fullness of landfills. So it is necessary to protect the Thrift goods.

Legal Protection of Thrift Goods in Indonesia

In accordance with Article 1 point 3 of law number 20 of 2014 defines international standardization related to goods that can be imported into Indonesia must be in accordance with the consensus of all parties or governments or international decisions and must take into account the requirements of safety, security, health, the environment, the development of science and technology, experience and current and future developments to obtain the maximum benefit (Peraturan, 2014).

Basically, this thrifting culture is a transaction of buying and selling goods where the goods in question focus on used clothing that is imported from abroad, buying used clothing itself in addition to the price which is much cheaper than the original price of course provides its own satisfaction, because the items sold are usually limited edition, so it is much in demand by the community, especially among teenagers or students (Abdullah et al., 2023).

The trade of Thrif goods in Indonesia has a negative impact on health, as many contain bacteria that are difficult to remove even after repeated cleaning. These bacteria can affect public health, such as skin diseases that can cause skin wounds, itching, boils, mold, and others. In terms of industry, the trade in imported used clothing can also damage the domestic industry in the field of convection and garment. Therefore, the Ministry of Trade (Kemendag) issued regulations related to the dangers of imported used clothing. The lack of education to entrepreneurs and also the public regarding the dangers caused by imported second-hand clothing bacteria makes imported second-hand clothing which is usually referred to as Thrift continue to be recognized. The government stipulates Law No. 7 of 2014 concerning trade which states that “Every importer is obliged to import an item must be in a new state” (Fatah et al., 2023).

In reality, the sellers of used clothing re-manage the used clothing so that it looks new and is sold at a low price which is labeled as a discounted price, whereas in the consumer protection law article 8 paragraph (2) it is clearly explained that a business actor is prohibited from selling used goods without providing complete and correct information about the goods he sells (Hutama, 2024). But because the price is cheap, consumers still flock to buy these Thrift goods. Especially among students who want to look stylish but with an affordable budget, making them want to buy branded goods at cheap affordable prices, without thinking about the negative impacts that will arise from the Thrift goods they buy. So that legal protection for consumers is needed so that consumers get legal certainty as their rights.

Consumer protection is defined as all principles and norms that regulate and safeguard the interests related to the supply and use of products between suppliers and consumers in the common life of society (Hutama, 2024). In the Law of the Republic of Indonesia Number 8 of 1999 concerning consumer protection Article 1 point 1 explains “Consumer protection involves all steps that ensure legal certainty in order to provide protection to consumers”. The meaning of the sentence is as a fortress to eliminate arbitrary actions that can harm business actors and consumers. In addition, consumer protection can also be used as an effort to prosper the people, especially in the trade of thrift goods or so-called second-hand goods. Consumers must also have a sense of security and comfort when using goods and services. Therefore, consumer protection is needed so that consumers can be assured of their health and safety.

However many entrepreneurs commit acts that are prohibited, in accordance with Article 8 paragraph (2) of the consumer protection law, namely selling damaged, defective, used, or contaminated goods without complete and accurate information (Hutama, 2024). In addition, the entrepreneur also did not carry out the obligations in accordance with Article 7 letter d of the consumer protection law, namely ensuring the quality of goods traded in line with applicable quality standards (Hutama, 2024). Business actors have ignored consumer rights as in Article 4 letter a, namely obtaining a sense of comfort, security, and safety (Hutama, 2024). Because in this phenomenon, consumers are in a weak position. Consumers are used as objects in buying and selling practices in order to get large profits through promotions and sales methods that can harm consumers.

Consumers who experience losses from used goods (Thrift goods) caused by the fault of business actors, can claim responsibility to business actors in the form of restitution. Article 19 paragraph (1) of the consumer protection law explains that “Business actors are responsible for compensating for damage, pollution, or losses felt by consumers as a result of consuming products or services produced or traded by them.” The remedy is in the form of: a refund, substitution of goods of similar or equal value, and harmonized liability.

If a business actor ignores the demands of the consumer, the consumer can resolve the dispute through two dispute resolution channels, such as litigation through the general court and non-litigation through non-judicial institutions responsible for dispute resolution such as the Consumer Dispute Resolution Agency (BPSK). In accordance with Article 45 paragraph (2) of the Consumer Protection Law, “settlement of consumer disputes may be pursued through the courts or out of court based on the voluntary choice of the parties to the dispute.” (Indonesia, 1999). In addition, Article 49 paragraph (1) of the Consumer Protection Law explains “to settle consumer disputes out of court, the government establishes a consumer dispute settlement body in each region, in this case the city and/or regency” (Indonesia, 1999). In order to avoid losses suffered by consumers.

Consumer Dispute Settlement Body commonly abbreviated (BPSK) is an official body whose presence is determined by the consumer protection law to handle or resolve a conflict between customers or consumers and business actors. In resolving disputes, the consumer dispute resolution body (BPSK) has the authority to issue decisions in the form of rejecting or granting claims and peace. Thus, if the consumer can prove the truth of the loss he/she experienced in using used clothing, BPSK can punish the business actor with restitution obligations in the form of refund and replacement of goods. If the business actor does not fulfill these obligations, BPSK may impose administrative sanctions of up to Rp.200,000,000.00 (two hundred million rupiah).

Consumers who feel aggrieved can also sue the business actors of used clothing (Thrift goods) with a lawsuit against the law (PMH) through the general civil court based on the elements in Article 1365 of the Civil Code “Every act that is unlawful and can harm another person, can demand that the person responsible for his mistake replace the loss” (Iskandar, 2018). From the explanation of this article, the responsibility carried out by business actors, such as Refund

of losses in the form of money, Statement that the actions applied are related to the law, Restitution of returns by restoring the original state, Notification of decisions or improvements that have been made.

So we as consumers must be wise in making a purchase, buy according to need not desire, so that we are not infected with bacteria that trigger the negative impact caused by the Thrift goods. In addition, textile waste in Indonesia does not accumulate because textile waste is a waste material that is difficult to decompose and process. So if it accumulates too much it can pollute the environment.

Because of the many negative impacts arising from the practice of trading Thrift goods, the government prohibits and provides legal protection to actors, such as business actors whose legal protection has been regulated in article 6 of the law of the Republic of Indonesia number 8 of 1999 concerning consumer protection, namely “a) the right to receive payment in accordance with the agreement on the conditions and exchange value of goods and/or services traded; b) the right to receive legal protection from the actions of consumers who have bad intentions; c) the right to conduct appropriate self-defense in the legal settlement of consumer disputes; d) the right to rehabilitation of good name if it is legally proven that consumer losses are not caused by the goods and/or services traded; e) the rights stipulated in the provisions of other legislation. In addition, the protection of business actors is also regulated in Article 1313, Article 1320, Article 1338, and Article 1458 of the Civil Code. In addition, the government also provides legal protection to consumers of Thrift goods in Indonesia by stipulating law number 8 of 1999 concerning consumer protection related to 1) consumer rights, namely a consumer has the right to obtain correct, clear, and honest information when buying an item. So with the existence of consumer protection laws, a consumer feels protected in carrying out a transaction of goods or services, so that consumers can also transact safely and comfortably.

CONCLUSION

Legal protection against the circulation of used clothing or what is referred to as Thrift goods is very important. Judging from the many negative impacts due to the sale and purchase of used goods can have an impact on health, the environment, and the economy. So that the government provides protection and supervision related to businesses that can harm consumers. This supervision is one of the most important elements for the implementation of consumer protection. In addition, the government also prohibits the practice of buying and selling Thrift in Indonesia which is regulated in Law Number 7 of 2014 concerning trade and regulated in the regulations of the minister of trade. The prohibition of thrifting of illegally imported goods in Indonesia is an important step to safeguard the economy, environment, and welfare of the community, so that people can be more aware of the adverse effects of the harmful practice of thrifting. Not only that, Thrift circulation in Indonesia is also illegal because it is free from customs & excise fees which can harm the state, so that the trade in Thrift goods is included in illegal acts (PMH). therefore the government seeks to make provisions for the legal protection of consumers which have been explained in the Law of the Republic of Indonesia number 8 of 1999 concerning consumer protection such as the government guarantees the security of consumer health and safety, upholds justice for consumer rights, and provides legal certainty to consumers so that consumers in making transactions can run safely and comfortably.

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