

The Implementation Of Regulation Of The Minister Of Trade Number 51/M-Dag/Per/7/2015 Concerning The Prohibition Of Importing Second-Hand Clothes In Surakarta City

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Abstract.

The sale and purchase of second-hand imported clothes (thrifting) that were now commonly found in Surakarta city make authors interested in examining how the implementation of Minister of Trade Regulation No. 51 of 2015, what factors and reasons as the causes of the rampant sales of second-hand imported clothes in Surakarta City, how were the efforts of the Surakarta City government itself in overcoming the rampant sales of second-hand imported clothes. The study objectives consisted of determining the factors causing the rampant sales of second-hand imported clothes in Surakarta City, finding out the factors and reasons for the practice of buying and selling second-hand imported clothes, and finding out the role of the Surakarta City government in dealing with the problem of buying and selling second-hand imported clothes. The research method was qualitative, and the author used a normative sociological approach. In contrast, the sociological/empirical legal study examined primary data obtained directly in the field. There were some problems between sellers of second-hand imported clothes and the Indonesian government. It was because sellers entered the second-hand imported clothes illegally, which was tantamount to not complying with the rules made by the government.

Keywords: Implementation, imported clothes, illegal and Surakarta.

I. INTRODUCTION

The Indonesian government must fulfill the basic needs of every citizen to develop themselves as mandated in Article 28C Paragraph 1 of the 1945 Constitution concerning Human Rights, which states: "Every person shall have the right to develop him/herself through the fulfillment of his/ her basic needs, the right to get an education and to benefit from science and technology, arts and culture, aim to improve the quality of his/her life and for the welfare of human race". One of the meanings contained in Article 28C Paragraph (1) of the 1945 Constitution explains the importance of meeting the citizens' basic needs, which are constitutionally mandated by the law to be implemented and managed as part of the government's duties in the context of the humankind's welfare. Various kinds of basic human needs in the study of economics are arranged systematically based on the level of intensity in their fulfillment. These needs are classified into primary, secondary, and tertiary needs. The primary needs (principal) consist of food, clothes, and shelter. Food needs include human needs for healthy food and drink. Furthermore, the clothes needs include human needs for clean and decent clothes, while housing needs are human needs for housing or shelter to ensure and protect themselves. The government must meet and appropriately manage these needs to ensure citizens' survival. The government's ability to meet the needs of citizens' fundamental needs experiences various obstacles due to several factors, namely: the inability to process raw goods into finished goods or goods that are ready to be consumed or used, increasing population, limited resources, market monopoly, and income differences. Indonesia has a relatively large population, so it tends to face obstacles in meeting the needs of the people. Focusing on the government's ability to meet the needs of clothes is highly dependent on the tastes and lifestyles of each individual.

Appropriate clothes are considered not enough because the quality of clothes is part of the taste and lifestyle of modern humans. Quality clothes with well-known brands or brands are certainly priced at a reasonably high price. Meanwhile, clothes at affordable prices certainly have quality below that of well-known brands. This situation has led to the circulation of used clothes import activities. In this case, the issue of the used clothes trade has spread in various countries in the world, both in developed and developing countries. This issue negatively impacted developing countries as if they were reservoirs for second-hand

clothes that were no longer used by developed countries. A study by Sally Baden and Catherine Barber reported that the condition of the second-hand clothes trade was very small or less than 0.5%. Nevertheless, for some African countries, the second-hand clothes trade contributed more than 30% of the apparel trade. It was also mentioned that second-hand imported clothes could disrupt the textile industry's performance in West Africa, reducing sales significantly from 1980-1990. The decline was due to the lower price of imported used clothes, while domestic products became less competitive. Focusing on the phenomenon of the government's inability to procure quality clothes at affordable prices, importers used it to market used clothes from abroad to Indonesian territory. Due to the trade process for second-hand imported clothes continued to develop, the Ministry of Trade issued a Decree of the Minister of Trade No. 290 of 1997 concerning goods for which the Import Trading System was regulated. This ministerial decree was issued to regulate the import trade system consisting of various commodities such as oil, rice, cloves, clothes, etc. Second-hand clothes were especially declared as waste and import trading activities, which were still allowed in limited quantities and with the applied terms and conditions. In its development after the Decree of the Minister of Trade No. 290 of 1997, the efforts of importers to meet domestic clothes needs by supplying second-hand imported clothes from other countries without realizing it left a variety of new problems.

These problems could extinguish the domestic textile and garment industry because they damaged market prices and were not good in terms of health. They were feared to be an entry point for the spread of disease from other countries to the territory of Indonesia. They were considered degrading to the Indonesian people's dignity due to importing second-hand clothes from other nations. Based on data released by the Indonesian Textile Association, the circulation of textile products in 2014 for the domestic market touched 62 percent of the supply of local producers, 31 percent of official imports, and 7 percent suspected to come from illegal imports. If it was calculated, the value of illegally second-hand imported clothes reached US\$ 5.62 billion or around IDR 71.6 trillion. It indicated the disruption of the domestic textile and garment industry due to the import of second-hand clothes. The development of the second-hand clothes trade is visible at this time, but there is another side that business actors ignore. Business actors are only oriented to profit from trading results and ignore regulations regarding prohibited actions to business actors. The turmoil amid the research community found that there were still business actors selling second-hand imported clothes, especially in Surakarta City, without paying attention to the Regulation of the Minister of Trade No. 18 of 2021 concerning the Prohibition of Importing Used Clothes. This provision has also been written in Law No. 7 of 2014 concerning Trade Article 47 paragraph 1: Every importer is obliged to import goods in new condition. However, nowadays, there are still many sellers of second-hand imported clothes. Even though the sanctions have existed in the same law, every seller of second-hand imported goods will be sentenced to five years or an administrative fine of 5,000,000,000. Surakarta city can easily find second-hand imported clothes business actors at various events which are held almost every two weeks, and can also be found at the Notoharjo market.

The clothes that are sold are also quite varied, from home clothes to formal event clothes for both women and men. It makes the Surakarta people interested in buying these second-hand imported clothes. Most of the second-hand clothes traded are with foreign brands but at low prices without considering the quality of the clothes and the bacterial contamination contained in the second-hand imported clothes. In addition, according to a confession, one of the traders who did not want to be named said that not all second-hand imported clothes were second-hand. Some were clothes from retail outlets that were out of fashion after not being sold even at a significant discount. Furthermore, sometimes these second-hand imported clothes were left over from sales from garment factories and department stores that have been stockpiled for years in warehouses. Certain parties then resold these stockpiled clothes. Based on the background above, the author was interested in conducting a study and writing a journal entitled "*The Implementation Of Regulation Of The Minister Of Trade Of The Republic Of Indonesia Number 18 Of 2021 Concerning Export And Import Prohibited Goods On Thrift Shop Business (A Case Study In Surakarta City)*".

II. RESULTS AND DISCUSSION

The current second-hand clothes trading activity in Surakarta city was vivacious. It was evidenced by the many business actors in various corners of Surakarta. One of them is at the Notoharjo market or various events held in various locations every week. Thus, it can be said that the implementation of the regulation of the Minister of Trade No. 51 of 2015 has not been going well in Surakarta city. The public's interest and dependence on second-hand imported clothes did not make thrift shop traders decrease. It increased as evidenced by the emergence of thrift shop sellers in market stalls but have even opened their own shop houses. Heretofore, the Department of Industry and Trade in responding to thriftshop cases is limited to providing guidance and supervision and does not make recommendations to stop the thriftshop business activities to law enforcers. The guidance and supervision activities carried out by the Department of Industry and Trade are also in the form of an appeal to thriftshop traders to bring the goods being traded are illegal goods and violate the provisions of the law.

The inconsistency of the regulation of the Minister of Trade distances the implementation of the policy from its primary goal, i.e., the policy of prohibiting the entry of imported used clothes into Indonesian territory. The facts in the field showed that developments and competition in the business world were getting more challenging and unhealthy so that not a few business actors only pursued and reaped the maximum profit without paying attention to the code of business ethics that paid attention to the quality and services they provided. The second-hand clothes business had many enthusiasts, and high profits with small capital made people, especially immigrants, depend on imported thriftshop commodities in Surakarta. Based on this phenomenon, second-hand clothes arriving on the mainland should be destroyed, not facilitated by stalls or special events. Moreover, the absence of raids showed green light for circulating second-hand clothes in Surakarta City. Some people from various regions made these second-hand clothes as alternatives. With limited domestic products sold at high prices, second-hand imported clothes have become the prima donna of the community. Thus, it is unsurprising that the circulation is still mushrooming freely and openly. Based on confessions from several sellers, second-hand imported clothes were sent from various cities with ports. The Regulation of the Minister of Trade concerning the prohibition on the import of second-hand clothes made the policy of prohibiting the import of second-hand clothes in Surakarta City affecting the social, economic, and political conditions of the region with the implementation of policies that were not optimal on the mainland. They were not supported by the regional political, social, and economic environment. The local government should know and focus more on managing the economy for the community so that there are no more opportunities for irresponsible people to violate regulations. According to Faried Ali, reciprocal interaction is the system of the policy environment itself. The interaction will take place in the form of environmental influences on the commitment of the policy itself. (Faried ali:2012)

On the other hand, the content of the policy of the Regulation of the Minister of Trade No. 51 of 2015 concerning the ban on the import of second-hand clothes will determine what reactions and actions occurred by the environment and whether the reactions caused to show the color of the environment. The environment will move passively, and nothing will happen when the policy commitment requires it. In the Surakarta City environment, it can be said to be passive because it does not affect the policy prohibiting second-hand imported clothes. It is due to the existence of a market that sells second-hand imported clothes. In this case, the policy decision is the regulation of the Minister of Trade concerning the prohibition on the import of used clothes. To find out how the regulation of the Minister of Trade regarding the prohibition on the import of used clothes is carried out through actions taken by government officials or agencies directed at achieving the policy goal of freeing Indonesia from second-hand imported clothes. Furthermore, Articles (2) and Article (3) state that "Second-hand clothes that arrive are prohibited from being imported into the territory of the Unitary State of the Republic of Indonesia" (2), "Second-hand clothes that arrive in the territory of the Unitary State of the Republic of Indonesia on/ after the date of this ministerial regulation is in force and must be destroyed under the provisions of the legislation" (3) can be analyzed. The government is aware of the rules regarding the import ban and understands that, as stated in Article 3 of the Minister of Trade No. 51 of 2015 concerning the destruction of second-hand imported clothes, the government has so far not carried out the destruction. The city government is like a double-edged sword, fulfilling the community's needs.

However, on the other hand, they must follow the rules handed down by the center. The government is aware of what it is doing and is still looking for a solution to overcome the used clothes business.

The destruction of second-hand imported clothes is the implementation of the Minister of Trade No. 51 of 2015 concerning the prohibition of second-hand imported clothes in which second-hand imported clothes must be destroyed according to the policy. The implementation of policies, especially the regulation of the Minister of Trade No. 51 of 2015 is an effort to achieve the legislation's objective so that second-hand imported clothes are no longer circulating in the territory of the Unitary State of the Republic of Indonesia despite various obstacles in carrying out the destruction. Regulation of the Minister of Trade Number 51/M-DAG/PER/7/2015 concerning the Prohibition of the Import of Second-hand Clothes Article 1 paragraph (2) defines second-hand imported clothes as textile products used as coverings for the human body, which are included in Tariff Post/HS 6309.00.00.00 in the Indonesian Import Duty Tariff Book (BTMI). Furthermore, what is meant by the Harmonized System (HS) is a list of classifications of goods made systematically intending to facilitate tariffs, trade transactions, transportation, and statistics that have been improved from the previous classification system. Article 3 also states that second-hand imported clothes entering Indonesia must be destroyed under the provisions of the applicable law (Minister of Trade Regulation No. 51 of 2015 Article 1 Paragraph (2) and Article 3). Indeed, it is clear in the regulation of the prohibition of importing second-hand clothes. Nevertheless, in reality, there are still those who sell second-hand imported clothes in Surakarta City. How ironic to see this phenomenon. Second-hand clothes are useless items from their origin but are traded in Indonesia.

The Department of Industry and Trade (DISPERINDAG) of Surakarta City is a government agency with full authority in handling the problem of purchasing and selling second-hand imported clothes in Surakarta City. Heretofore, the government's efforts in dealing with this problem have only been limited to counseling and appealing to several stalls selling used imported clothes to stop their business because many negative impacts will be caused in the future if the community still sells and buys these imported used clothes. In the counseling held at the Department of Industry and Trade Hall in Surakarta City, the Department invited several used clothes traders and the Health Department to provide material on the impacts of using these used clothes, as well as the economic impact if traders still sold second-hand clothes which the Government prohibited. Head of Market Management, Mr. Joko Siswanto, said: "Surakarta City of Industry and Trade has also attended several provincial-level seminars discussing domestic exports and imports, which surely discussed importing second-hand clothes into Indonesia illegally. In this case, the police are also authorized to raid second-hand clothes traders. However, for now, the police cannot carry out raids because the Surakarta City government still provides a grace period for sellers to clean up their merchandise." However, the reasons why they are still free to sell their wares, and the government seems to be silent after their obligation to provide counseling is carried out. It was emphasized by the Head of the Market Management Division that: "the government does not have the authority to raid sellers of second-hand imported clothes. It is the authority of the Police. If some are stubborn and continue to sell, let it be their business with the Police. The most important thing is that our task from the Department of Industry and Trade to provide counseling and warnings to second-hand clothes sellers in Surakarta City has been carried out well". Then, added again by Mr. Joko Siswanto: "In the future, the Department of Industry and Trade in Surakarta City will act more firmly if the second-hand clothes traders do not heed the previous efforts. They will cooperate with the Police to not hesitate to seal the stalls selling used clothes.

Then, to prevent unemployment after the sealing, the Department of Industry and Trade will provide training for the perpetrators of selling second-hand clothes so that they do not re-open the business of buying and selling second-hand imported clothes." Based on the interview results above, it can be understood that the Department of Industry and Trade in Surakarta city fully surrendered to the Police in terms of executing second-hand clothes traders if they were still stubborn with warnings and appeals that had been sent before. On the occasion of the last interview conducted in his room, Mr. Joko Siswanto also delivered a message by saying: "On this occasion, I would also suggest that public awareness is the spearhead of the implementation of this Regulation of the Minister of Trade because logically when consumers are aware of used clothes, no more people who are hooked on second-hand clothes. Then, it will certainly impact quiet sales, and over

time it frustrates the merchants. Eventually, they might end the business or maybe leave Surakarta city to look for other areas. I represent that the Ministry of Trade and Industry emphasizes coordination with all agencies involved to work hand in hand in carrying out the Minister of Trade Regulation regarding the prohibition of second-hand clothes so that illegal goods will no longer be mushrooming in the markets". By paying attention to this, implementing the Regulation of Ministry of Trade and Industry No. 51 of 2015 can be carried out well, and all relevant agencies fully support the increase in domestic garment and textile production and health problems for consumers anticipated as well. Therefore, there is no such thing as second-hand clothes found in the markets in Surakarta city.

III. CONCLUSION

Regarding the implementation of Minister of Trade Regulation No. 51 of 2015 concerning the import of used clothes in Surakarta City, the Department of Industry and Trade itself is limited to providing guidance and supervision and has not taken actions such as destruction following the Minister of Trade Regulation. Facts in the field presented that there were still many second-hand clothes sellers who were mushrooming shophouses in Surakarta City, meaning that the relevant agencies have not maximally implemented these regulations. The local government has not exercised optimal supervision and seems to "turn a blind eye". The local government's reason was the unstable availability of new domestic products at high prices so that the lower class reached the existence of second-hand imported clothes to meet their clothing needs.

REFERENCES

- [1] Khusnul Khatimah Haruna Intang. (2017) Penegakan Hukum Terhadap Impor Pakaian Bekas. Universitas Hasanuddin Makassar: Skripsi.
- [2] Dheny Putra Adhitya. (2015) Kebijakan Pemerintah Indonesia Melarang Impor Pakaian Bekas. Universitas Jember: Skripsi .
- [3] Soerjono Soekanto. (2007) Faktor-Faktor yang Mempengaruhi Penegakan Hukum. Jakarta, Penerbit PT. Raja Grafindi Persada.
- [4] Fajar, M & Achmad, Y. (2013). Dualisme Penelitian Hukum Normatif & Empiris. Yogyakarta: Pustaka Pelajar.
- [5] Saddewa, I. Made Aryawan, and Ni Nengah Adiyaryani. (2016) Akibat Hukum Dari Cacat Tersembunyi Pada Barang Dalam Kegiatan Transaksi Barang Bekas." *Kertha Semaya: Journal Ilmu Hukum*.
- [6] Sari, Ayu Lidia. (2018) Legalitas Penjualan Pakaian Bekas Berdasarkan Peraturan Menteri Perdagangan Nomor 51/Mdag/Per/7/2015 Di Pangkalan Bun. *JURISTEK* 5, no.
- [7] NGGAI, MARIANA VERIDIANA, and SH NPM. (2017) Kajian terhadap Upaya Merumuskan Ius Constituendum dalam Pengaturan Perdagangan Pakaian Bekas Impor (Studi Kasus di Kota Pontianak). *Jurnal Nestor Magister Hukum* 1, no. 1
- [8] Dyah, I. Gusti Ayu Indra Dewi, Pradnya Para, and Desak Putu Dewi Kasih. (2017) Perlindungan Hukum Terhadap Konsumen Terkait Iklan Yang Menyesatkan Ditinjau Berdasarkan Undang-Undang Perlindungan Konsumen Dan Kode Etik Periklanan Indonesia. Kertha Semaya: *Journal Ilmu Hukum* 5, no. 2
- [9] Hardika, Rifan Adi Nugraha Jamaluddin Mukhtar, and Fajar Ardianto. (2015) "Perlindungan Hukum Terhadap Konsumen Dalam Transaksi Online." *Serambi Hukum* 8, no. 02
- [10] Buyamin, Buyamin. (2020). Perlindungan Hukum Bagi Konsumen Terhadap Tindakan Pelaku Usaha Yang Memperdagangkan Pakaian Bekas Impor. *Al-Ilmu* 5, no. 1.