



## Legal Aspects of the Marketing of Imported Used Clothes (Thrifting) in the Community Environment According to Business Law

Article	Abstract
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### INTRODUCTION

Currently, the activity of buying and selling trade is closely related to social life. Trade is the activity of buying and selling goods or services between people using certain means of payment (buying and selling) or by using goods as a means of payment (counter trade).<sup>1</sup> As time goes by and fashion trends and lifestyles increase, people have to choose a variety of trendy clothes that have popular brands with unique and personalized styles. Some argue that the clothes worn or the choice of clothes can reflect the social status of the wearer. People with low income prefer cheap clothes, but

<sup>1</sup> Ida Bagus Wyasa Putra & NK Supasti Dharmawan, *Hukum Perdagangan Internasional* (Bandung: Refika Aditama, 2017).

still choose domestic and foreign famous brands to express the wearer's identity. Faced with this situation, entrepreneurs have the opportunity to enter the business world by selling imported second-hand clothing at low and reasonable prices through second-hand clothing suppliers. The strategic role of the industrial sector in the national economy can be seen from three indicators: employment, community welfare, and national income.<sup>2</sup>

The business of trading imported second-hand clothing is now known as thrift. The term thrift is similar to second-hand or old goods imported from abroad.<sup>3</sup> Second-hand clothes are sold at very affordable prices. Influenced by fashionistas with different tastes, trying different styles and mixing different types of clothes, the second-hand clothing business has become very popular among entrepreneurs and generates huge profits. The presence of these young fashionistas allows experienced entrepreneurs to introduce different types of clothing as per the market needs. Many second-hand dealers use second-hand clothes imported into India from abroad to meet the market demand.

There is the largest shopping center for imported clothing and apparel in Mataram and a popular destination among shopping lovers. the Karang Sukun market in Mataram, Lombok, West Nusa Tenggara.<sup>4</sup> The import of used clothing is strictly prohibited by the government based on the Minister of Trade Regulation Number 18 of 2021 concerning the Export and Import of Prohibited Goods as amended by the Minister of Trade Regulation Number 40 of 2022, but this does not dampen the interest of the public, fashion lovers and business people to continue using and buying used clothes. In August 2022, the Ministry of Trade canceled 750 bales of illegally imported used clothing together with the customs, which is estimated to cost the state nearly IDR 8,000,000,000 to IDR 9,000,000,000. Samples of used clothing were found to be moldy which can cause adverse health effects such as skin irritation, allergies, poisoning, irritation and death due to clothing sticking to the body's skin.<sup>5</sup> These things can be very detrimental to society.

In the regulation prohibiting the import of used clothing, the Minister of Trade stated in Article 2 paragraph (3) of the Regulation of the Minister of Trade of the Republic of Indonesia No. 18 of 2021 concerning Goods Prohibited from Export and Goods Prohibited from Import as amended by Regulation of the Minister of Trade of Indonesia No. 40 of 2022, goods prohibited from being imported into Indonesia include used bags, used sacks, and used clothing. The emergence of regulations on goods prohibited from being exported or imported considers health issues that affect the smooth running of social and economic activities in the country. Article 50 paragraph (2) of Law No. 7/2014 on Trade states that the government may prohibit the entry and exit of goods into the country for the following reasons:

1. Protecting public interests such as national security, society, culture and public order;
2. Protection of intellectual property rights;
3. Protecting the health and safety of humans, animals, fish, plants and the environment.

The prohibition of the sale of used clothing is contained in Article 8 paragraph (2) of Law Number 8 Year 1999 concerning Consumer Protection which reads: *"Pelaku Usaha dilarang*

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<sup>2</sup> Sentot Sudarwanto, Dona Budi Kharisma & Ambar Budhi Sulistyawati, *Hukum Perindustrian Indonesia* (Yogyakarta: Thafa Media, 2019).

<sup>3</sup> Tim CNN Indonesia, 'Tips Beli Baju Bekas Koleksi "Preloved" dan "Thrift shop"', (2020), online: <<https://www.cnnindonesia.com/gaya-hidup/20201120150333-277-572423/tips-beli-baju-bekaskoleksi-preloved-dan-thrift-shop>>.

<sup>4</sup> IDN Times NTB, 'Berburu Barang Bekas di Thrift Shop Legend Karang Sukun Mataram', (2023), online: <<https://ntb.idntimes.com/life/inspiration/eka-fitriani-9/berburu-barang-bekas-di-thrift-shop-legend-karang-sukun-mataram-c1c2>>.

<sup>5</sup> Yunita Amalia, 'Kemendag Musnahkan 3 Kontainer Baju Bekas Impor Ilegal Semilai Rp9 Miliar', (2022), online: <<https://www.merdeka.com/uang/kemendag-musnahkan-3-kontainer-baju-bekas-imporilegal-semilai-rp9-miliar.html>>.

*memperdagangkan barang yang rusak, cacat atau bekas, dan tercemar tanpa memberikan informasi secara lengkap dan benar atas barang yang dimaksud* (Business Actors are prohibited from trading damaged, defective or used, and polluted goods without providing complete and correct information on the goods in question)". Since the law prohibits the sale of second-hand clothing, entrepreneurs find other ways to sell second-hand clothing, such as selling them at clothing markets, malls and department stores. Second-hand clothing is manufactured and of good quality even if it is not new.

Consumers must always be confident in the quality of the goods and services they receive. Consumers are the majority of marketers who seek to maximize profits through promotional or sales methods that harm consumers. Legal protection of consumers is very important to ensure legal security belonging to them.<sup>6</sup> Consumers must be protected from low-quality products, and also from harmful products that may affect their own health.

## RESEARCH METHODS

The type of research used in this research is empirical normative law. Empirical normative research is research that examines the implementation or implementation of positive legal provisions (legislation) and written documents in action (factual) at each specific legal event that occurs in society.<sup>7</sup> This study has the aim of ensuring that the results of the application of law to legal events *in concreto* are in accordance or not in accordance with the provisions of this legislation or legislation whether it has been implemented as it should be so that the interested parties achieve their goals or not.<sup>8</sup>

## ANALYSIS AND DISCUSSION

The presence of fashionistas is a great business opportunity for entrepreneurs. Businesses are competing to offer a variety of clothes to meet the needs of fashion lovers. Thrift stores and preloved online shops offer a variety of clothes based on the needs of the store's customers. Some entrepreneurs choose certain brands to sell in their online stores.<sup>9</sup> Guided by the provisions in Article 1 number 1 of Law Number 7 Year 2014 on Trade (hereinafter Trade Law), it is determined that: "*Perdagangan adalah tatanan kegiatan yang terkait dengan transaksi Barang dan/atau Jasa di dalam negeri dan melampaui batas wilayah negara dengan tujuan pengalihan hak atas Barang dan/atau Jasa untuk memperoleh imbalan atau kompensasi* (Trade is an order of activities related to transactions of Goods and/or Services domestically and beyond national borders with the aim of transferring rights to Goods and/or Services to obtain rewards or compensation)". However, the Trade Act does not specifically regulate the trade in second-hand goods.<sup>10</sup>

According to Law No. 7/2014 on Trade, trade is allowed in three areas, namely domestic trade, export trade, and border trade. Article 1 of Law No. 7/2014 on Trade reads:

1. Domestic Trade is Trade in Goods and/or Services within the Unitary State of the Republic of Indonesia that does not include Foreign Trade.
2. Foreign Trade is Trade that includes Export or Import activities of Goods and/or Trade in Services that transcend national borders.

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<sup>6</sup> Zulham, *Hukum Perlindungan Konsumen* (Jakarta: Kencana Prenada Media Group, 2013).

<sup>7</sup> Muhaemin, *Metode Penelitian Hukum* (Mataram: Mataram University Press, 2020).

<sup>8</sup> Abdulkadir Muhammad, *Hukum dan Penelitian Hukum* (Bandung: Citra Aditya Bakti, 2004).

<sup>9</sup> Mariana Veridiana Nggai, 'Kajian terhadap Upaya Merumuskan Ius Constitutum dalam Pengaturan Perdagangan Pakaian Bekas Impor' (2017) 1:1 J Nestor Magister Huk 1-24.

<sup>10</sup> Kremon Pardede, Laily Washialiati & Christiani Prasetia Sari, 'Kepabeanaan dan Cukai (Studi Penelitian di Pangkalan Sarana Bea dan Cukai Tanjung Balai Karimun)' (2020) 14:3 Zo Huk J Huk 25-40.

3. Border Trade is Trade conducted by Indonesian citizens residing in Indonesia's border areas with residents of neighboring countries to fulfill their daily needs.

Therefore, consumer protection is indispensable in the imported clothing trade. This trend gave rise to the consumer protection movement in Indonesia.<sup>11</sup> Mochtar Kusumaatmadja said that the definition of consumer protection law is all legal principles and regulations that regulate relationships and problems between various parties and affect consumer goods or services in social life. In addition, another definition of consumer protection law is all principles or legal rules that regulate relationships and affairs between various parties relating to consumer goods and services in social life.<sup>12</sup>

A. Zen Umar Purba formulated a comprehensive framework that covers the main aspects of consumer protection as follows:<sup>13</sup>

1. Consistency between consumers and business managers
2. Consumers are fair
3. Business actors have limitations
4. Consumer protection laws contribute to national development
5. Protecting consumers in good commercial advertising
6. The government must have the ability to be open to the promotion of products and services
7. The community must also be involved
8. Consumer protection should be legal in many areas
9. The concept of customer service should develop an attitude.

In maintaining the continuity of the economy, consumers occupy an important position, but ironically as one of the economic actors, the position of consumers is very weak in terms of legal protection.<sup>14</sup> To clarify the meaning of consumer protection, it is important to understand the main idea of the enactment of Consumer Protection Law Number 8 Year 1999.

According to Munir Fuady, the definition of business law is a set of laws or laws used to enforce administrative procedures for the management of activities related to trade, business, finance, production or exchange of goods or services by lending money to entrepreneurs. This encourages them to take risks and benefit the business.<sup>15</sup> The second-hand clothing trade is quite attractive to buyers, especially in the Mataram area because of the low prices at Karang Sukun market. Consumer here refers to a user who uses goods or services for personal, family or household purposes, and refers to the transfer of ownership or enjoyment of goods, rather than issuing or marketing other goods/services from a service provider or service provider to a customer.<sup>16</sup>

Most of the clothing circulating in the community is illegally imported, hence the second-hand clothing trade or clothing trade is related to the import process. The trend of importing used clothing has spread and become a trend in Indonesian society because of several things:

1. There is a lot of demand from Indonesians who want to buy clothes at low prices;
2. Since Indonesia is a country that is very open to importing goods, many people take advantage of this opportunity to import used clothing from abroad;

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<sup>11</sup> Muhamad Qustulani, *Modul Matakuliah Perlindungan Hukum dan Konsumen* (Tangerang: Nusantara Press, 2018).

<sup>12</sup> Mukti Fajar, Reni Budi Setianingrum & Muhammad Annas, *Hukum Perlindungan Konsumen dan Persaingan Usaha* (Yogyakarta: Pustaka Pelajar, 2019).

<sup>13</sup> Subekti & Suyanto, 'Perlindungan Hukum bagi Konsumen pada Jual Beli Rumah Deret dengan Sistem Pre Project Selling Berdasarkan PPJB' (2020) 4:1 Lex J Kaji Huk dan Keadilan 1-23.

<sup>14</sup> Wiwik Sri Widianty, *Hukum Perlindungan Konsumen terhadap Produk Pangan Kaldaluwarsa* (Depok: Komodo Books, 2016).

<sup>15</sup> Soesi Idayanti, *Hukum Bisnis* (Yogyakarta: Penerbit Tanah Air Beta, 2020).

<sup>16</sup> Az Nasution, *Konsumen dan Hukum* (Jakarta: Pustaka Sinar Harapan, 1995).

3. As the Indonesian market is large and highly dynamic, many importers and trade agents see attractive business opportunities in this sector.

In fact, the trade in used clothing is completely contrary to the provisions of Article 8 paragraph (2) of Law Number 8 of 1999 concerning Consumer Protection which states that all traders are prohibited from selling damaged, worn, used or dirty goods, goods without providing accurate product information.

Traders who violate the provisions of the previous article by intentionally selling damaged, used or contaminated goods, in this case the terms of sale of clothing are important, it is necessary to recall the imported used clothing. Excluded from circulation as referred to in article 8 paragraph 4 of Law Number 8 Year 1999 on Consumer Protection. All types of factors that can lead to negative consequences from the use of goods and services must be avoided in all commercial activities.<sup>17</sup>

At present, the increasing import of used clothing has an impact on the ecosystem of the domestic textile industry from pre-industrial to post-industrial stages. The impact not only disrupts the flow of textile raw materials, but also reduces production demand, the demand for textile products decreases, and production decreases. The low price of imported garments in the market poses a threat to the domestic textile industry.

The high import of second-hand clothing into Indonesia is seen as a threat to the Indonesian textile industry, especially the market of small and medium-sized enterprises (SMEs), such as small businesses and home businesses. The price of locally made clothes is considered affordable by the lower middle class, and second-hand shops are one way they like to keep their style, reducing the need for new clothes. The demand for new clothes will be reduced and mass production will also be reduced, adversely affecting the economy. The impacts of imported second-hand clothing include:<sup>18</sup>

1. The Impact of Imported Used Clothes on the Survival of Domestic Textile Entrepreneurs

Imports of used clothes can threaten the survival of domestic textile entrepreneurs. This happens because the price of used clothes that are cheaper than new clothes can make consumers switch to used clothes. This impact can be felt by domestic textile entrepreneurs who must compete with the low price of used clothes. Domestic textile entrepreneurs can feel a decrease in demand for their products, which can lead to losses or even bankruptcy.

2. The Impact of Imported Used Clothes on the Product Quality of Domestic Textile Entrepreneurs

Imports of used clothes can also affect the quality of products produced by domestic textile entrepreneurs. Domestic textile entrepreneurs will choose cheaper but lower quality materials to reduce production costs. This may affect the quality of products produced by domestic textile entrepreneurs. The quality of products produced by domestic textile entrepreneurs may be lower compared to products produced by textile entrepreneurs from other countries.

3. The Impact of Imported Used Clothes on the Competitiveness of Domestic Textile Products

Increased imports of used clothes can also affect the competitiveness of domestic textile products. This is because domestic textile entrepreneurs will experience a decrease in product demand, so that domestic textile production will decrease. In addition, the import of used clothes that compete with domestic textile products can also affect the competitiveness of domestic textile products. Imports of used clothes can make competition unfair, making it difficult for domestic textile entrepreneurs to compete with the prices offered by these imported products.

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<sup>17</sup> Ahmadi Miru & Sutarman Yodo, *Hukum Perlindungan Konsumen* (Jakarta: Rajawali Press, 2011).

<sup>18</sup> Novita Sari Br Siagian et al, 'Analisis Pengaruh Impor Baju Bekas terhadap Pengusaha Tekstil dalam Negeri di Indonesia' (2023) 1:4 MADANIJ Ilm Multidisiplin 171-179.

#### 4. The Impact of Imported Used Clothes on Employment in the Domestic Textile Industry

Imports of used clothes can reduce employment in the domestic textile industry. This happens because domestic textile entrepreneurs cannot compete with the low price of used clothes. This impact can cause domestic textile entrepreneurs to reduce production or even lay off their employees. This impact can lead to increased unemployment in Indonesia.

### CONCLUSION

Buying and selling used clothing can have many negative impacts both in terms of the economy and consumers, in this case it also has an impact on people who buy imported clothing. So the reason for the economic business to be carried out in the local community is because people want to buy clothes at low prices, but the general public as consumers have not realized the negative impact caused by the use of imported used clothing. Due to the fact that imported clothing sold in Indonesia is very cheap compared to domestically made textile products due to the large demand from well-known clothing brands, used clothing from well-known foreign brands is cheaper than buying domestic products in new condition. The adverse impact of wearing imported second-hand clothing also affects the health of the wearer. Initially, this phenomenon was based on good intentions. Thrifting culture raises the spirit of protecting the environment by reusing existing used clothing, but this is contrary to the prevailing laws and regulations.

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