



Effectiveness of Regulation of The Minister of Trade Number 40 Of 2022 Concerning Goods Prohibited from Export and Goods Prohibited from Import in The Tabanan Frog Market

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Abstract - This research examines the factors contributing to the ongoing trade of imported used clothing at Tabanan Regency's Frog Market and evaluates the enforcement of Minister of Trade Regulation Number 40 of 2022, which prohibits the import and sale of such items. Imported used clothing poses a threat to local MSMEs and is flagged as a potential health risk due to its contact with human skin. However, the Frog Market, established in the early 2000s, remains a bustling hub for secondhand clothing, fueled by consumer demand for affordable, quality apparel. The study employs an empirical legal research method, incorporating socio-legal and legislative approaches through field observations and interviews. Findings reveal that economic necessity, unique fashion appeal, and environmental considerations drive consumers to purchase used clothing. Additionally, sellers leverage flexible, informal sales channels, including online groups, to sustain their businesses. Despite awareness of the legal restrictions, the economic reliance on thrifting poses challenges for regulation enforcement. The study concludes that for regulatory effectiveness, enhanced public awareness, law enforcement engagement, and consideration of local socio-economic realities are essential. These findings provide insights for policymakers aiming to balance legal mandates with the socio-economic impact on communities reliant on this trade.

Keywords: import, export, thrifting

I. INTRODUCTION

Imported used clothing poses a significant threat to the local textile industry and MSMEs in Indonesia, not only due to potential health risks associated with direct contact with human skin but also because it undercuts the market for domestically produced goods. The influx of these low-cost secondhand items reduces demand for locally made products, leading to decreased revenue and potential layoffs within the textile sector. Recent data indicates a downturn in the growth rate of the local textile industry as a result, impacting jobs and overall industry sustainability. Addressing these challenges is crucial to protect the livelihoods of workers and small business owners in Indonesia's textile industry. The President of the Republic of Indonesia, Joko Widodo, instructed to destroy imported used clothes that enter Indonesian territory. The prohibition related to the destruction of imported used clothes is in line with existing laws and regulations in Indonesia that clearly prohibit the import of used clothes, namely, Regulation of the Minister of Trade Number 40 of 2022 Amendments to the Regulation of the Minister of Trade Number 22 of 2018 concerning Goods Prohibited from Export and Goods Prohibited from Import.

One of the locations that is the center for buying and selling used clothes is located in one of the regencies in Bali, namely in Tabanan Regency which is known as the Frog Market. Established in the 2001s, this market specifically sells imported second-hand goods. The high

interest from the public in used clothes has resulted in this thrifting activity being very difficult to stop. In addition, as the main livelihood for sellers, thrifting is difficult to abandon. Used clothes refer to used clothes purchased through thrifting, an activity aimed at reducing environmental pollution caused by fast fashion. The trend of buying second-hand clothes has gained popularity, especially among Indonesian consumers, with a reported 21 percent increase in consumption over the past three years (Widodo & Devica, 2022).

Used clothes refer to used clothing items that are sold at relatively low prices, often through thrift businesses. This business imports and trades used clothes, which is considered a criminal offense under Law Number 7 of 2014 concerning Trade in Indonesia. The import of used clothes is classified as a commissioner's crime, while the trade in these goods is a commissioner's crime, both subject to legal sanctions. Law enforcement in this area has been criticized for its ineffectiveness, (Wijaya & Dian Andriasari, 2022). What are the factors that cause the practice of buying and selling imported used clothes at the Tabanan Regency Frog Market and the effectiveness of the implementation of the Minister of Trade Regulation Number 40 of 2022 related to the practice of buying and selling imported used clothes at the Tabanan Frog Market?

II. METHOD

The research method used is an empirical legal research type with a socio-legal approach and a legislative approach. Empirical legal research is carried out by conducting field research through observation and interviews to obtain research data. According to (Siems, 2024) Empirical legal research refers to the application of quantitative methods to investigate the relationship between law and society, aiming to draw conclusions about the causal relationship between variables. It includes different types of studies, including experiments, cross-sectional studies, panel data analysis, and pseudo-experiments.

The socio-legal approach is an interdisciplinary approach that aims to combine all aspects of the disciplinary perspective used to evaluate and examine the influence of law on social behavior, beliefs held by the community related to social development, social conditions, and legal institutions. The socio-legal approach, as discussed in the paper, emphasizes law as a value system shaped by social dynamics and discursive practices. It integrates a dialectical-materialistic understanding of legal values, viewing law as a conventional phenomenon arising from legal discourse, reflecting the class struggle in society, (Klimenko, 2024)

Meanwhile, the legislative approach is to research and review existing laws and regulations with their implementation in the field. Pendekatan legislatif terhadap peraturan asuransi sangat bervariasi antar negara, dengan perbedaan dalam metode formal-hukum dan sistem-fungsional. Analisis komparatif menunjukkan potensi untuk universalisasi aspek-aspek tertentu untuk meningkatkan legislasi nasional, (Popondopulo et al., 2023).

III. RESULT AND DISCUSSION

1. Factors Causing the Practice of Buying and Selling Imported Used Clothes in Tabanan Regency

The legal relationship between product manufacturers and consumers is a permanent legal relationship and will not be broken (Astari et al., 2020). The Frog Market has a very strategic location. The location is easy to reach with various facilities that are quite adequate for sellers and buyers with certain characteristics that make it different from other markets that sell used clothes, namely: Types of clothing that are varied and grouped. Based on the results of interviews with sellers, most of the second-hand goods sold at the Toad Market come from Asian countries such as Mandarin, China, and Korea. The types of clothes sold range from adult clothing, children's clothing, shoes, to hats and bags. Each stall sells clothes of certain types. The sellers in the western part of the market sell more types of women's clothes while the eastern part has more types of clothes for men. So that it makes it easier for buyers to get the goods they want.

Cheap prices with ready-to-wear clothes. Based on the results of interviews with visitors who are also buyers of used clothes at the Tabanan Frog Market, it is stated that, used clothes sold at the Tabanan Frog Market have a cheaper price with very good quality when compared to other places such as Badung Market and Kreneng Market in Denpasar. Most of the clothes sold have been washed and ironed by the seller before being placed on the storefront. This can provide a sense of security for buyers considering imported used clothes whose origin is not clearly known but when resold at the Frog Market in a washed condition. As for the price range of the goods, adult t-shirts range from Rp. 15,000 – Rp. 50,000/pcs, sweatpants range from Rp. 30,000 – Rp. 70,000/pcs, jeans range from Rp. 30,000 – Rp. 200,000/pcs, shirts range from Rp. 45,000 – Rp. 60,000/pcs, dresses range from Rp. 50,000 – Rp. 65,000/pcs, and jackets range from Rp. 60,000 – Rp. 150,000/pcs. The price depends on the brand and type of material of the garment.

Flexible sales system. Based on the results of interviews with sellers, Pasar Kodok not only provides clothes for direct use but also provides business packages that can be bought and resold. Business packages are usually in the form of balls or piles of used clothes wrapped in sacks. The following is a statement from Hardiani, 28 years old, a seller at the Toad Market, Sell the ball through WAG, every Sunday I share it with the group if there is a new dismantling. Later, those who request will take whichever one they want. Usually I look for a branded one. (Interview on October 16, 2023). Informant Hardiani is the owner of a community of online thrifting sellers and communicates through the Whats-App group. Information related to the unloading of new goods will be notified usually once a week. The members of the Whats-App group are given the freedom to order the desired goods, of course, at a price different from the selling price at the Frog Market directly because the goods will be resold.

So it can be interpreted that the characteristics of imported used goods sold at the Toad Market have an easy and flexible sales system, which can be done anywhere and anytime, making it easier for thrifting perpetrators. However, the Government as a regulator as well as the operator of the e-commerce procurement system is obliged to make and socialize binding legal regulations for business actors and consumers to avoid legal uncertainty and at the same time as an anticipation in the event of default (Budiartha, 2019). The factors that encourage people to choose imported used clothes are, the first is the economic factor. Imported second-hand clothes have a low price with the same quality of materials or even better with new clothes. Here is a statement from a 48-year-old housewife Wayan, "with a hundred thousand dollars I can buy 4 clothes with good quality. If you buy a new one, the price is more expensive, at least around fifty thousand for one shirt. Nowadays, the economy is difficult, just the fulfillment of kitchen needs is grateful. If there is a family event and I need new clothes, I always buy them at the Frog Market." (Interview on October 21, 2023)

Wayan's respondents prefer to buy used clothes at the Toad Market because they can get good quality clothes at a much cheaper price. In rational choice theory states that some people can have other concerns that they are trying to optimize for. In this case, Wayan tries to optimize costs so that all aspects can be fulfilled. Second, namely environmental factors. Some people think that by thrifting, it is a pride or pride. Because thrifted clothes usually have models that are not on the market, which causes users to be more confident when wearing them. The environment in which one lives greatly influences a person's thinking and acting. Often someone does thrifting solely because people living in the neighborhood where they live do the same thing.

The feeling of feeling the same thing or trying something new can encourage a person to do it. The environment in question is also not only limited to the residential environment, but can also be from other environments such as friendships, both at school, work, and circles of friends on social media. The third is the lifestyle factor. Some people use thrifting as an alternative to show their social identity. Social identity can be shown through appearance. But unfortunately nowadays most people are more concerned with the appearance than the health and safety of an item. A consumptive lifestyle is one of the causes of high interest in used

clothes. Because by thrifting, you will get clothes according to the latest fashion trends at a relatively cheaper price than buying new clothes (Yulia, 2016)

In addition, some people also choose to do thrifting as a form of appreciation and effort to protect the environment from the adverse impacts of textile waste (Ristiani, 2022) Waste produced from the textile industry takes a long time to decompose, so some people who care about environmental health will choose thrifting as a form of environmental pollution prevention. The above factors are in accordance with the theory of rational choice. Rational choice is a form of human action in analyzing something in order to make the most rational or reasonable decision in order to achieve a certain goal. The main goal of rational choice theory is to explain the behavior of social systems in both small and large environments of individual behavior itself. There are two main elements, namely actors and resources. In this case, humans (sellers and buyers) are as actors or main actors who will choose to do things that are considered profitable in order to achieve their goals. In this case, thrifting is an option, not everyone wants and chooses to do thrifting.

2. The Effectiveness of the Implementation of the Minister of Trade Regulation Number 40 of 2022 Regarding the Practice of Buying and Selling Imported Used Clothes at the Tabanan Toad Market

Tabanan Frog Market is the center of thrifting activities in Bali which has a strategic location and has been known for a long time by the community. Imported used clothes circulating among the public are mostly illegal goods. Even so, importers still do it because of the high demand for imported used clothes from the Indonesian people because they have good quality at low prices. The perpetrators smuggled the goods through a small port with minimal supervision. The relationship between the seller and the consumer is a permanent legal relationship and will not be severed because when an agreement occurs between the two parties, it will cause an engagement (Wahyudi, et.al 2022:91). So that sellers and buyers of imported used clothes at the Frog Market are aware and considered to have known the consequences arising from thrifting activities.

Based on the results of observations and interviews at the Toad Market, business actors or traders have actually known about the regulations that regulate the prohibition of the sale of used imported clothes, and are aware that these used imported clothes are very prone to contain fungi and bacteria that threaten the health of the human body if the used imported clothes are in direct contact with the body. However, for reasons to meet the needs of life in terms of the economy, sellers still choose to sell imported used clothes, especially supported by the high public interest in imported used clothes, causing sellers to be reluctant to stop their actions because the imported used clothing business provides promising profits for sellers.

Regulation of the Minister of Trade Number 40 of 2022 Amendments to Regulation of the Minister of Trade Number 18 of 2021 expressly stipulate that used clothes and other used goods are prohibited from being exported or imported. Article 2 Paragraph (3) letter d of Ministerial Regulation No. 18 of 2021 states, Goods prohibited from import are in the form of used bags, used sacks, and used clothes. Furthermore, the Regulation of the Minister of Trade Number 40 of 2022 regulates it in more detail with a tariff post or HS 6309.00.00 with a description of used clothes and other used goods and listed in part IV Types of used bags, used sacks, and used clothes.

The existing rules have the same goal, namely to order and reduce the adverse impact of the circulation of imported used clothes in Indonesian territory. In fact, imported used clothes are illegal goods of unknown origin, and are entered into Indonesian territory through smuggling so that the condition of the goods is not known for sure. The establishment of these rules is a form of government effort to support local businesses so that they can develop and be better known by the community. However, it is also undeniable that local products do have a fairly high price due to the high cost of production and limited raw materials.

In the Theory of Legal Effectiveness put forward by Soerjono Soekanto, it is stated that the effectiveness or not of a regulation is determined by 5 (five) factors, namely (Soekanto, 2013). Law functions for justice, certainty and utility. Legal regulations must be relatively clear

so that they allow applicable regulations to be complied with (Atmaja, 2018). In practice, there are times when the implementation of law in the field there is a conflict between legal certainty and justice. In this case, if the rules prohibiting the buying and selling of imported used clothes (thrifting) are implemented at the Tabanan Frog Market, it will be detrimental to business actors because most traders make this business their main livelihood.

The mentality or personality of law enforcement officials plays an important role in the functioning of the law itself. If the regulations are good, but law enforcement officials do not have a good personality, it can cause inequality. The purpose of the formation of the regulation will be stalled and cannot be achieved as planned so that the enforcement of the regulation becomes ineffective. Based on the results of interviews with used clothing sellers at the Frog Market, they admitted that they had never been inspected by law enforcement officials. The direct appeal has never been made, even if the Frog Market is closed only temporarily because of the initiative in anticipation of the sellers. Therefore, one of the keys to success in law enforcement is the mentality or personality of law enforcement officials.

Without the means or facilities, it will not be possible for law enforcement to harmonize its supposed role with the actual role. This is also related to human resources and access to know existing regulations. The appeal from the Tabanan Regency government regarding the ban on buying and selling imported used clothes has been carried out through print and electronic media, but what needs to be underlined is that not all people can access and know this information. If the community does not have an awareness of the law or does not obey the law, then a legal product cannot be applied effectively. Based on the results of the interviews, the traders admitted that they knew the existing prohibitions and rules related to imported used clothes, but with the excuse of survival, it was still done. Meanwhile, from the buyer's point of view, most of them know about this rule but they still choose to do it for various reasons. This shows that the community is still not aware of the law.

Existing cultures can regulate people to understand how to act, act and determine their attitudes when dealing with others. The Frog Market, which has existed since the 2001s, has been known for many generations. So that the activity of buying used clothes at the Frog Market seems to have become a culture in several circles of society and not only the people in Tabanan but from various regions even outside Bali. Based on the results of interviews with buyers, they know the Tabanan Frog Market through their parents and routinely shop ahead of the holiday celebrations. Shoppers admit that shopping at the Frog Market gives an impression that is difficult to forget because of the characteristics of the place that is different from other places. So based on the results of this study, it shows that the implementation and objectives of the Minister of Trade Regulation Number 40 of 2022 are not in accordance with the target. Buying and selling imported used clothes at the Tabanan Frog Market is still going on normally, even though there have been bans or appeals from the government in other regions. The fact found at the Frog Market is that there has never been an inspection from the authorized officers to the location.

Based on the results of the research, the obstacles that occur in law enforcement efforts against the practice of buying and selling used clothes are that law enforcers as implementers of laws and regulations and are tasked with enforcing the law have not been able to fulfill their responsibilities in carrying out their duties. According to the results of interviews with sellers at the Frog Market, in fact, the officers assigned have never even been to the location of the Frog Market to appeal to sellers of imported used clothes. Likewise, the Customary Village admitted that it was not routine to monitor the Frog Market because the market was not under the responsibility of the Customary Village. However, based on the initiative of the sellers, a parking levy fee is collected for visitors on behalf of the Customary Village, which later the proceeds from the collection of the levy fee will be handed over to the Customary Village. This shows a lack of initiative to use the authority they have, even just to give a direct appeal. So, it seems to turn a blind eye to the existence of the Frog Market which has even been operating since the 2001s.

As consumers, the community as a perpetrator admitted that they had considered thrifting as a culture because it had been carried out across generations for a long time. People

tend to be more concerned with the needs and necessities of life than subject to the rule of law. This shows that there is still a lack of public awareness of the applicable law. In addition, the Frog Market is known by the public not only in Tabanan but also from various regions even outside the island of Bali, making it difficult for law enforcement officials to bring this matter into order.

IV. CONCLUSION

Based on the discussion above, it can be concluded that the factors that cause the practice of buying and selling imported used clothes in Tabanan Regency are supported by goods that have certain characteristics that encourage factors that encourage the practice of buying and selling imported used clothes at the Frog Market such as economic factors, environmental factors, and lifestyle factors that make it difficult for people to change their minds and continue to choose to do activities thrifting.

The implementation of legal regulations related to the practice of buying and selling imported used clothes at the Tabanan Frog Market is running ineffectively. This is because the goal of the formation of the regulation has not been achieved. The high demand for imported used clothes provides quite promising business opportunities for business actors because they can get quite large profits. In addition, the lack of participation and initiative of law enforcement officials causes business actors to feel given the opportunity to continue running the business.

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