



Permendag Analysis Number 18 year 2021 Related to the Sale and Purchase of Imported Used Clothing Trade

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ABSTRACT

The import trade itself has also been regulated in "Article 2 paragraph (3) *PERMENDAG* Number 18 of 2021 concerning Exported and Imported Goods." This imported used clothing is included in the category of dangerous goods because it has been bought and sold freely and there is no strict screening beforehand. Based on the description above, the purpose of this research is to discuss the implementation of the Indonesian Minister of Trade Regulation on the trade of imported used clothes. Referring to the subject matter, How does "*PERMENDAG* No. 18 of 2021 concerning Exported and Imported Goods" can overcome the ban on trade in imported used clothes? and whether *PERMENDAG* No. 18 of 2021 concerning Exported and Imported Goods is sufficient to be the basis for banning the trade of imported used clothes? The method used in this study was normative law, using a collection technique of a literature review of primary legal materials, secondary legal materials, and tertiary legal materials. This study was carried out through systematic preparation and also analysis with theories obtained previously in a prescriptive manner. The results of this study indicate that regulations regarding the activities of buying and selling imported used clothing have been made and regulated in "*PERMENDAG* No. 18 of 2021 concerning Exported and Imported Goods" clearly stipulates that using imported clothes are prohibited into the territory of the Republic of Indonesia because they have an adverse effect on people's health and economy. The direct impact of selling imported used clothes is very detrimental to the community itself, particularly to the health and economy of the community.

ABSTRAK

Perdagangan impor sendiri pun sudah diatur pada "Pasal 2 ayat (3) *PERMENDAG* Nomor 18 Tahun 2021 Tentang Barang di Ekspor dan Barang di Import." Pakaian bekas impor ini masuk dalam kategori barang berbahaya dikarenakan sudah dijual belikan dengan bebas dan tidak ada screening yang ketat terlebih dahulu. Berdasarkan uraian diatas, maka tujuan penelitian ini adalah membahas mengenai implementasi dari Peraturan Kementerian Perdagangan Indonesia terhadap perdagangan baju bekas import. Mengacu pada pokok permasalahan, Bagaimana "*PERMENDAG* No. 18 Tahun 2021 tentang Barang di Ekspor dan Barang di Import" dapat mengatasi larangan perdagangan baju bekas import? dan apakah *PERMENDAG* No. 18 Tahun 2021 tentang Barang di Ekspor dan Barang di Import cukup menjadi dasar pelarangan perdangan baju bekas import? Dalam penelitian ini metode penelitian yang digunakan adalah hukum normatif, memakai teknik pengumpulan dengan menggunakan studi kepustakaan bahan hukum primer, bahan hukum sekunder, dan bahan hukum tersier. Melakukan penyusunan secara sistematis dan juga melakukan analisa dengan teori-teori yang didapatkan sebelumnya secara preskriptif. Hasil dari penelitian ini menunjukkan bahwa regulasi mengenai kegiatan jual beli pakaian bekas impor telah dibuat dan diatur pada "*PERMENDAG* No. 18 Tahun 2001 tentang Barang di Ekspor dan Barang di Import", secara jelas diatur untuk pakaian bekas dilarang untuk di impor masuk ke wilayah Negara Kesatuan Republik Indonesia dikarenakan memiliki suatu efek buruk untuk kesehatan dan perekonomian masyarakat. Dampak secara langsung dari menjual pakaian bekas impor ini sangatlah merugikan masyarakat itu sendiri terutama pada kesehatan dan perekonomian masyarakat itu sendiri.

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I. INTRODUCTION

Clothing has become a very important need for the community, in every activity. They definitely need clothes so that they can cover and provide protection for their body (Dewi et al., 2020). Clothing can protect people against hot or cold conditions and enhance beauty and appearance looks that give a good impression of their personality. As attitudes and behaviour of people in the current era of globalization, people prefer to buy imported used clothes due to interest in brands that are very popular abroad. This is what gives this used clothing seller a loophole to sell used clothing with brands from abroad and set prices that are far from the market prices (Basarang et al., 2016).

These used clothes are clothes that have been used before. At this time, we also find a lot of goods, especially imported used clothing which are being traded both in traditional and modern markets. We can see that buying and selling used clothes has developed very rapidly. In the beginning, the existence of this trade only existed in traditional markets and now traders have started to explore their places of sale into modern markets (Arifah, 2015). Therefore, we can see that the sale of used clothes in the modern market is still lacking compared to traditional markets, but in the modern market, we can see several sellers of used clothes. Some of these used clothing sellers also have a variety of ways to get them, one of which is by importing them from several other countries (Maulida & Aini, 2019).

This import activity already has the rules in various regulations in Indonesia, one of these regulations is set by the Rules of Trades Ministry, "PERMENDAG No. 18 of 2021 concerning Exported and Imported Goods." In "Article 2 paragraph (3), it has regulated the prohibition of goods that may be imported, one of which is the ban on the import of used clothing." "The prohibition on "products" as referred above aims to provide protection for the health/property of consumers from the use of goods with substandard quality or lower quality than the value of the price paid (ADHITYA, 2018).

Law enforcers in this case play an important role to implicate the law itself. If the regulations are good but in terms of integrity the law enforcers are very minimal then it will have a bad impact. Otherwise, if existing regulations have a bad nature but the integrity of the law enforcers themselves has good results, it is also possible that various kinds of problems will arise later. Therefore, law enforcers have a very large role in enforcing the rule of law itself, the more law enforcers themselves uphold the nature of professionalism towards the tasks they carry out, the easier it will be for these rules to be upheld (Wati, 2016).

II. RESEARCH METHOD

The type of research used in this study is a type of normative law, namely writing. It was carried out by researching secondary data or library materials, which includes positive legal principles in this research which described various provisions in the PERMENDAG instrument No. 18 of 2021 concerning Exported and Imported Goods" relating to the activity of buying and selling used clothes. The data used secondary data through library research, which was conducted in several places or accessing data using the internet. Data analysis techniques with qualitative methods through analysis of library data were analyzed in depth, holistically, and comprehensively.

III. RESULTS AND DISCUSSIONS

Regulation of PERMENDAG No. 18 of 2021 concerning Exported and Imported Goods which can overcome the ban on trade in imported used clothes

Indonesia is currently dealing with a very open trade progress. Therefore, we must also have very good competitive strength (Fajar & Mulyanti, 2019; Ing et al., 2021). One aspect is that there will be increasing problems regarding consumer protection. This is due to the dynamic developments that will continue to occur in the economic sector. Policies are needed to provide protection for consumers, especially overcoming the prohibition on the trade of imported used clothes (Dewi et al., 2020).

Policies are principles or ways of acting that are chosen to guide decision makers. Then, the policy will become a guideline for taking action regarding the implementation of an activity, various types of certain activities or a plan for the future, especially trading activities, and also the sale and purchase of imported used clothes (Gustafsson & Anderberg, 2021). Policies must concern with what is actually done rather than what is proposed. Based on the definition of policy that has been mentioned, policy can be concluded as the number of efforts made by the authorities for various kinds of problems that occur in society, with the other intention that public policy has various kinds of decisions of the authorities used to solve various kinds of public problems (Gustafsson & Anderberg, 2021; Primc & Slabe-Erker, 2020).

Public policy is analyzed with the intention of obtaining broad and in-depth knowledge about the origin or causes, the development process, and the consequences of public policy for society (Nash et al., 2017; Rahmanto et al., 2021). In the context, we can know from the influence of power or various pressure groups on public policies issued by those in power and the impact they have on society. It was the policy referred above that eventually some public policy owners created more specific arrangements regarding the ban on the trade of imported used clothes. In this case, the owner of public policy or commonly called the Government continues to develop existing regulations, one of which is PERMENDAG No. 18 of 2021 concerning Exported and Imported Goods. In this regulation, there are also matters that regulate export and import activities, one of which regulating the import of used clothing items (Chandradewi et al., 2018; Gusti et al., 2021).

Based on "Article 2 paragraph (3) letter d in PERMENDAG No. 18 of 2021 concerning Exported and Imported Goods" which reads "Prohibited Import Goods as referred to in paragraph (1) include": Goods Prohibited to Import in the form of used bags, used sacks, and used clothes." Based on this study, it has been explained that Indonesia already has a ban on the activities of selling and buying imported used clothing. Sales and purchases of imported used clothing must also be monitored and checked intensively by related parties so that the implementation of "Article 2 paragraph (3) letter d in PERMENDAG No. 18 of 2021 concerning Exported and Imported Goods" can run and function as it should in order to create the power of prohibition of trading activities of buying and selling imported used clothes (Dewi et al., 2020; Maclin-Akinyemi et al., 2017).

PERMENDAG No. 18 of 2021 concerning Exported and Imported Goods is the basis for the prohibition of trade in imported used clothes and other regulations.

In PERMENDAG No. 18 of 2021 concerning Exported and Imported Goods, there are still various kinds of things that have not been regulated tightly related to the import activities, especially the import of used clothes. It is just that it regulates special categories that may not be imported into Indonesia. We also need to have policies in PERMENDAG so that they can be realized later and strong enough to make a legal basis for the ban on the prohibition of selling and buying imported used clothes (Sutedi, 2015).

In addition to the PERMENDAG, we can refer to "Article 47 paragraph (1) of Law Number 7 of 2014 concerning Trade" which mentioned "Every Importer is obliged to import Goods in a new condition". Apart from that, we can also look at the "Letter of the Directorate General of Standardization and

Consumer Protection Number 48 SPK/SD/2/2015" dated February 11, 2015 regarding Handling of Imported Used Clothing. The Director General's letter stated the presence of pathogenic bacterial and fungal contamination after testing 25 samples of imported used clothing on the market with microbial content in all examples of used clothing with a total microbial value of 216,000 colonies/gram and mold of 36,000 colonies/gram (Sari, 2020).

By looking at these microbial numbers, it is not surprising that Indonesia has strictly prohibited the sale and purchase of imported used clothing, which has become a strong basis for these microbes to have a negative health impact on the Indonesian people. These health effects include boils, itching, pimples, wound infections on the skin, digestive disorders to infection of the genital tract. Apart from that, by arising from diseases that originate on imported used clothing, it can also start from direct contact with the skin or integrated from human hands which can then carry infections that can come directly through the eyes, mouth, and nose of humans (Rori, 2020).

Based on the impact caused, consumers also have the right to receive protection. Consumer protection itself means various kinds of efforts to guarantee legal certainty to provide consumer protection. This is written in "Article 1 point 1 of Law Number 8 of 1999 concerning Consumer Protection". In carrying out a legal relationship between the seller and the buyer, it is only carried out verbally regarding the price of the goods and the type of goods being traded, there is no written agreement signed between the parties so that here the rights of the consumer may be infringed upon by the seller (Arifah, 2015).

In relation to this UUPK, the regulation regarding the sale and purchase of imported used clothing is included in "Article 8 paragraph (2) of the UUPK" which stated that, "business actors are prohibited from trading damaged, defective or used, and tainted goods without providing complete and correct information. of the goods in question". According to Ahmadi Miru and Sutarman Yodo, "to elevate the dignity of consumers' lives, various things that have negative consequences from the use of goods and services must be avoided from the trading activities of business actors". Related to this explanation, it is clear that trade in business actors buying and selling imported used clothes has a negative impact on consumers related to health which will arise for consumers if the imported used clothes are still consumed by the Indonesian people (Sulaiman, 2018).

Therefore, based on the 4 regulations mentioned above, they have strong reason as a basis for prohibiting the sale and purchase of imported used clothing in the territory of the Republic of Indonesia. For its own enforcement, law enforcers must look for importers who carry out sales and purchases of these imported used clothes and continue to provide supervision by working with relevant agencies.

IV. CONCLUSION

In order to get a ban related to the trade in buying and selling used clothes in Indonesia, it requires strong public policies, one of which is the issuance of the regulation by "PERMENDAG No. 18 of 2021 concerning Exported and Imported Goods, there are clear prohibitions regarding the activities of selling and buying imported used clothing. In addition, for regulations that can be used as a basis for prohibiting the sale and purchase of imported used clothes, not only use the regulation by PERMENDAG No. 18 of 2021 but also Law Number 7 of 2014 concerning Trade, Law Number 8 of 1999 concerning Consumer Protection, and Letter of the Directorate General of Standardization and Consumer Protection Number 48 SPK/SD/2/2015 dated February 11, 2015. In the "Trade Law", this imported used clothing is one of the illegal products because it has unclear status about the guarantee itself in terms of quality, cleanliness, and content of the clothes themselves. Therefore, with the expectation to create protection for consumers in the importer sector, especially in order to provide protection for the rights that should be obtained by consumers, what is used and applies is

the "Trade Law". In the Consumer Protection Law (*UUPK*), business actors are also not allowed to sell anything that has a negative impact on consumers. For the buying and selling trade of imported used clothing itself, it also has a negative impact that is so bad for consumers by looking at the microbial levels found in imported used clothes which can have an impact on consumer health. To recognize the microbial levels, we can look at the "Letter of the Directorate General of Standardization and Consumer Protection Number 48 SPK/SD/2/2015" dated February 11, 2015. The Indonesian government and legislators neutralize the "catch-all" nature of Article 27 paragraph (3) regarding defamation and other regulations containing elements of defamation. Second, it is recommended for the government to monitor court proceedings in the future so that the use of "catch-all" articles will no longer occur. It is also recommended for the government to be transparent if such incidents of persecution are under "catch-all". Third, for legislators, the authors recommend that legislators, together with researchers and the government, look at existing cases and regulations, then revise the ITE law so that the nature of the "catch-all" element of Article 27 paragraph (3) regarding defamation could be abolished along with other similar "catch-all" articles. The last four, but no less important, for Indonesian citizens who are advised to share, report, write any stories or collect information/data as they please. However, please keep in mind that citizens may still have to take certain precautions or extra steps while waiting for changes to the rules so that there is no sensitive material/content is posted on electronic media.

Reference

- ADHITYA, D. P. (2018). Kebijakan Pemerintah Indonesia Melarang Impor Pakaian Bekas Indonesian Government Policy Prohibits the Importation of Secondhand Clothing. *Monopoli Dan Persainganm Usaha Tidak Sehat Pada Perdagangan Produk Air Minum Dalam Kemasan*, 1(3).
- Arifah, R. N. (2015). Kendala-Kendala Pencegahan Perdagangan Pakaian Bekas Impor di Kota Malang. *De Jure: Jurnal Hukum Dan Syariah*, 7(1). <https://doi.org/10.18860/j-fsh.v7i1.3513>
- Basarang, M., Rahmawati, R., & Wahyono, W. (2016). DERMATOPHYTA PADA PAKAIAN BEKAS IMPOR YANG DIPERJUALBELIKAN DI KOTA MAKASSAR. *Jurnal Medika*, 1(1). <https://doi.org/10.53861/jmed.v1i1.93>
- Chandradewi, R., Rahadjo, M., & ... (2018). Analisa Yuridis Tentang Perdagangan Pakaian Bekas Impor Berdasarkan Undang-Undang Nomor 7 Tahun 2014 Tentang Perdagangan Dan Undang-Undang *Jurnal Yustisia ...*, 4.
- Dewi, N. M. I. K., Widiati, I. A. P., & Utama, I. N. (2020). Implikasi Penjualan Pakaian Bekas Impor bagi Konsumen di Kota Denpasar. *Jurnal Interpretasi Hukum*, 1(1). <https://doi.org/10.22225/juinhum.1.1.2222.216-221>
- Fajar, C. M., & Mulyanti, D. (2019). Meningkatkan Taraf Perekonomian dan Kesejahteraan Melalui Perencanaan Investasi Pendidikan. *Jurnal Abdimas BSI*, 2(1).
- Gustafsson, M., & Anderberg, S. (2021). Dimensions and characteristics of biogas policies – Modelling the European policy landscape. In *Renewable and Sustainable Energy Reviews* (Vol. 135). <https://doi.org/10.1016/j.rser.2020.110200>
- Gusti, D. P., Supriyono, B., Wardhono, H., Rozikin, M., & Riyadi, B. S. (2021). Public policy: Inconsistency of online and conventional land transportation regulations in Indonesia on social conflict implications. *International Journal of Criminology and Sociology*, 10. <https://doi.org/10.6000/1929-4409.2021.10.87>
- Ing, L. Y., Tian, W., & Yu, M. (2021). Trade liberalisation and Chinese firm's exports: Sourcing from Indonesia. *World Economy*, 44(6). <https://doi.org/10.1111/twec.13058>
- Maclin-Akinyemi, C., Krukowski, R. A., Kocak, M., Talcott, G. W., Beauvais, A., & Klesges, R. C. (2017). Motivations for weight loss among active duty military personnel. *Military Medicine*, 182(9). <https://doi.org/10.7205/MILMED-D-16-00380>
- Maulida, N. R., & Aini, R. N. (2019). Jualbeli Pakaian Preloved Di Royal Plaza Surabaya. *El-Qist*, 9(1).
- Nash, V., Bright, J., Margetts, H., & Lehdonvirta, V. (2017). Public Policy in the Platform Society. In *Policy and Internet* (Vol. 9, Issue 4). <https://doi.org/10.1002/poi3.165>
- Primc, K., & Slabe-Erker, R. (2020). Social policy or energy policy? Time to reconsider energy poverty policies. *Energy for Sustainable Development*, 55. <https://doi.org/10.1016/j.esd.2020.01.001>
- Rahmanto, F., Pribadi, U., & Priyanto, A. (2021). Big Data: What are the Implications for Public Sector Policy in Society 5.0

- Era? *IOP Conference Series: Earth and Environmental Science*, 717(1). <https://doi.org/10.1088/1755-1315/717/1/012009>
- Rori, J. C. (2020). ASPEK HUKUM PERJANJIAN INTERNASIONAL DALAM EKSPOR IMPOR BARANG. *LEX ET SOCIETATIS*, 8(4). <https://doi.org/10.35796/les.v8i4.30911>
- Sari, W. J. (2020). KAJIAN ATAS PENEGAKAN HUKUM TERHADAP PENYELUNDUPAN BARANG IMPOR OLEH PENJUAL JASA TITIP BARANG. *Wacana Paramarta: Jurnal Ilmu Hukum*, 19(2). <https://doi.org/10.32816/paramarta.v19i2.90>
- Sulaiman, S. (2018). Paradigma dalam Penelitian Hukum. *Kanun Jurnal Ilmu Hukum*, 20(2). <https://doi.org/10.24815/kanun.v20i2.10076>
- Sutedi, A. (2015). Hukum Ekspor Impor. *Raih Asa Sukses*.
- Wati, D. S. (2016). PRAKTIK JUAL BELI PAKAIAN IMPOR BEKAS (Studi Kasus di Kota Salatiga). In *Institut Agama Islam Negeri (Iain) Salatiga*.