

## Import Ban Efficacy on Second-Hand Clothing in the Perspective of Regulatory and Sustainable Development Goals

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### ABSTRACT

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The study aims to analyze ban import effectiveness on second hand clothing in Kuningan Regency. The study utilized research specifications, an empirical legal approach. The findings revealed that Article 47 paragraph (1) of the Trade Law and Regulation of the Minister of Trade Number 40 of 2022; Amendments to Regulation of the Minister of Trade Number 18 of 2021 ban the importing of used apparel. In addition, the regulation is outlined in Article 69 of law number 32 of 2009; environmental protection and waste management, in fact, are not implemented effectively in Kuningan Regency and Second-hand clothing is related to sustainable development goals number 12, namely ensuring sustainable consumption and production patterns. There are seven thrift shops in the vicinity, but they are disregarded by law enforcement, with no supervision at all. To summarize, Kuningan Regency's local administration lacks a stronger legislative framework for law enforcement. As a result, it is critical to create a Regional Regulation governing imported used garments, as well as to socialize with business actors and the community.

### Introduction

Indonesia's economic development is accelerating, with the production of a diverse commodities and services. Supported by technology and information, the space for movement and flow of transactions of goods and/or services has expanded to domestic and international production. Accordingly, to fulfill the community's demand, trade is carried out in two ways: export and import. Export is the action of withdrawing commodities from customs regions, whereas import is the activity of bringing things into customs areas once they have crossed national borders<sup>1</sup>. Trade is the process of buying and selling goods or services between sellers and buyers, utilizing specified payment methods or using items as payment. Trade is an economic activity that occurs between individuals and nations. Thus, it becomes vital to sustain economic growth and improve the execution of national development, achieving equitable development<sup>2</sup>.

Clothing protects and covers the human body against inclement weather. Clothing also helps people carry out their regular duties. People cannot live without it because their body need protection from the sun's heat and cold air. Indonesian clothing evolution is inextricably linked to the country's colonial history. a long time ago, the indigenous people imitated European fashions that had colonized Indonesia, making them receptive to fashion advances. The globalization era, for instance, is marked by increasing ease of clothing distribution to all

<sup>1</sup> Fauzin Fauzin, "Pengaturan Impor Pangan Negara Indonesia Yang Berbasis Pada Kedaulatan Pangan," *Pamator Journal* 14, no. 1 (2021): 1-9.

<sup>2</sup> A. Hadian Pratama Hamzah, "Environment Law and Natural Sustainability Resources : Case of Pawon Cave Area Conservation Gunung Masigit Village , Cipatat District , West Bandung," *Pena Justisia : Media Komunikasi dan Kajian Hukum* 21, no. 2 (2022): 223-242.

corners of the world <sup>3</sup>. As people's lifestyle increase, they are more inclined to buy a distinctive brand or style of apparel. Some believe that attire might represent a person's socioeconomic status, so they are seeking for affordable clothing with international labels. Thus, traders offer secondhand clothing at low costs while also importing goods from other countries into Indonesia <sup>4</sup>.

Secondhand clothes are increasingly being imported into Indonesia from Japan, Malaysia, China, Hong Kong, and Singapore. Meanwhile, its supplies come from several European countries, including France, England, and Germany <sup>5</sup>. Some people have turned the issue into a business opportunity, starting stores selling a variety of imported secondhand clothing. The business is growing in Indonesia; the outfit are downscaled and vary in quality and brand, making them relatively inexpensive compared to the cost of new clothing <sup>6</sup>. The trade in imported used clothing is expanding in Indonesia due to market demand and consumer needs. People are interested in acquiring second-hand clothes because it is still useable and sells at a lesser cost. However, following the implementation of Article 47 paragraph (1) of Law No. 7 of 2014 on Trade, all importers are required to import products in new condition. In other words, if the things are second-hand and do not meet the conditions outlined in laws and regulations, they cannot be imported <sup>7</sup>.

Based on data from the Ministry of Trade, the results of sample testing conducted by the Directorate General of Standardization and Consumer Protection, revealed that 25 samples of used clothing circulating in the market such as children's clothing (jackets), women's clothing (vests, sweaters, dresses, skirts, tops, hot pants), men's clothing (jackets, trousers, shorts, shirts, t-shirts, sweaters, shirts, boxers, underwear) contain bacteria that cause typhoid, poisoning, flu, and pneumonia. The dissemination of illegally imported apparel encourages the spread of these bacteria, as does haphazard packaging and buildup in containers during long trips, allowing bacteria to flourish in the clothing. Bacteria and fungi spread by direct touch with the skin or by human hands, which then transmit diseases through the mouth, nose, and eyes. Bacterial and mold exposure can raise a variety of health concerns <sup>8</sup>. Furthermore, the Ministry of Trade has regulated the prohibition on the import of used clothing in the regulation of the Minister of Trade Number 40 of 2022; Amendments to the Regulation of the Minister of Trade Number 18 of 2021; Goods Prohibited from Export and Import, highlighting that imported second-hand clothing is categorized as prohibited goods to import <sup>9</sup>.

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<sup>3</sup> Ledy Diana, "Perdagangan Pakaian Bekas Impor Di Pekanbaru, Mengapa Masih Marak Terjadi?," *Riau Law Journal* 3, no. 2 (2019): 285.

<sup>4</sup> Kadek Dwi Ayu Lestari Ningsih, Si Ngurah Ardhyia, and Muhamad Jodi Setianto, "Implementasi Peraturan Menteri Perdagangan Republik Indonesia Nomor 12 Tahun 2020 Tentang Barang Dilarang Impor (Studi Kasus Peredaran Pakaian Impor Bekas Di Kota Singaraja)," *Komunitas Yustisia Universitas Pendidikan Ganesha* 4, no. 3 (2021): 827-838.

<sup>5</sup> Aris Nurul Muiz, Widi Lailatul Fajar, and Rima Rahayu, "Dampak Impor Pakaian Bekas Terhadap Kestabilan Industri Tekstil Dan Produk Tekstil Di Indonesia," *BUSINESS: Scientific Journal of Business and Entrepreneurship* 1, no. 2 (2023): 109-117, <https://journal.csspublishing/index.php/business>.

<sup>6</sup> Ichsan Syuhudi, "Implementasi Asas-Asas Umum Pemerintahan Yang Baik Di Lingkungan Peradilan Administrasi Negara," *Pena Justisia : Media Komunikasi dan Kajian Hukum* 17, no. 1 (2017): 10-19.

<sup>7</sup> Ni Made Indah Krisna Dewi, Ida Ayu Putu Widiati, and I Nyoman Utama, "Implikasi Penjualan Pakaian Bekas Impor Bagi Konsumen Di Kota Denpasar," *Jurnal Interpretasi Hukum* 1, no. 1 (2020): 216-221.

<sup>8</sup> Anugrah Kurnia Wulandari, Harun Harun, and Jaka Susila, "Pelaksanaan Pengawasan Oleh Direktorat Jendral Bea Cukai Terhadap Larangan Thrifting Pakaian Bekas Impor," *Wajah Hukum* 8, no. 1 (2024): 312.

<sup>9</sup> Azizan Fatah et al., "Pengaruh Larangan Impor Pakaian Bekas Terhadap Pengusaha Thrift," *Jurnal Economina* 2, no. 1 (2023): 285-292.

Imported Used Clothing also has an environmental impact; not all imported used clothing products are of high quality, therefore unsold items contribute to the accumulation of fabric waste. Fabric or textile waste is classified as inorganic waste, which is difficult to disintegrate. Thus, the vast majority of this garbage will be discarded or burned. The disposal of waste fabric can increase the amount of solid waste, whilst burning waste fabric can generate air pollution, lowering air quality and making it unhealthy<sup>10</sup>. There are five major environmental issues identified, including land damage from deforestation, illegal logging, land conversion, decreased water quality due to industrial liquid waste and domestic solid waste<sup>11</sup>.

Environmental laws govern waste regulations on Law No. 32 of 2009; Environmental Protection and Management<sup>12</sup>. The issue of eradicating used clothes smuggling has long piqued the interest of law enforcement officials, as it is linked to different groups with authority and oversight over import and export activity. The issue should be remedied as soon as possible because it is one of the key targets in carrying out the tasks of law enforcement and countless other agencies with authority and oversight over commodity import and export operations<sup>13</sup>. Despite being prohibited by laws and regulations, the circulation and trade of imported second-hand clothing remains common in traditional markets, and its sale is now widely traded via social media and marketplaces, raising concerns about the effectiveness of its legislation. The study intends to examine the effectiveness of banned import regulation on second-hand clothing based on the trade and the environmental management protection law in Kuningan Regency.

## Research Methods

The study utilized an empirical legal approach. The intended legal approach is to view law as a norm or *das sollen*, as evidenced by the used of legal materials in the discussion section—written and unwritten laws or primary legal materials, the 1945 Constitution of the Republic of Indonesia, Law Number 32 of 2009; Environmental Protection and Management, Law Number 7 of 2014; Law of Sustainable Development Goals, Trade, secondary and tertiary. Meanwhile, the empirical approach views law as a social, cultural, or *das sein* reality, as the data used was primary data collected directly from the research area.

## Results and Discussion

### 1. *The Restriction Import Regulation on Second-hand Clothing: The laws on Trade and the Environmental Protection and Management*

The Preamble to the Republic of Indonesia's 1945 Constitution declares that one of the state's goals, and hence of Indonesian national development, is to enhance public welfare. As stated in the fourth paragraph of the Preamble of the Republic of Indonesia's 1945 Constitution. To achieve the goal, progress in all fields is made in conformity with the

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<sup>10</sup> Widya Krulinasari and Yudi Yusnandi, "Tinjauan Limbah Kain Sisa Produksi Menurut Hukum Internasional Dan Hukum Nasional," *Prosiding Seminar Nasional Penelitian dan Pengabdian kepada Masyarakat* 2, no. 1 (2022): 57–64.

<sup>11</sup> Suwari Akhmaddhian, "Penegakan Hukum Lingkungan Dan Pengaruhnya Terhadap Pertumbuhan Ekonomi Di Indonesia (Studi Kebakaran Hutan Tahun 2015)," *Unifikasi: Jurnal Ilmu Hukum* 3, no. 1 (February 2, 2016): 1–30.

<sup>12</sup> Nia Ramadhanty Purwanto et al., "Pengaturan Pengelolaan Limbah Medis Covid-19," *Jurna Yustika* 23, no. 02 (2020): 67–76.

<sup>13</sup> Aisyah Aisyah, Alpi Sahari, and T Erwinsyahbana, "Destruction Confiscated Goods Narcotics Context Preventing Deviations in the Circulation of Confiscated Goods in the Community (Study the Belawan District Prosecutor's Office)," *Doktrina: Journal of Law* 6, no. 1 (2023): 36–64.

constitution and state philosophy, particularly Pancasila<sup>14</sup>. One of the definitions contained in Article 28 C Paragraph (1) of the 1945 Constitution underscores the importance of fulfilling society's fundamental needs, which is constitutionally mandated by law and must be executed and managed as part of the government's responsibilities to improve people's welfare.

Environmental law governs national waste rules. Indonesia has passed three modifications to the Environmental Law, specifically Law No. 32 of 2009 on Environmental Protection and Management<sup>15</sup>. According to Article 2 Paragraph (3) of Law Number 32 of 2009 concerning Environmental Protection and Management, anyone may dispose waste into the environment as long as they meet environmental quality standards and obtain permission from the Minister, Governor, or Regent/Mayor. Article 20 of Law Number 32 of 2009 addresses environmental quality standards, which are used to identify environmental pollution. These standards include water, waste, sea water, ambient air, emission, disturbance, and other quality standards that are in line with scientific and technological advancements<sup>16</sup>.

Article 69 of Law No. 32 of 2009 on Environmental Protection and Management bans any individual from:

- a) Performing acts that cause environmental degradation and/or damage;
- b) Importing B3, which is illegal under statutory requirements, into the territory of the Unitary State of the Republic of Indonesia;
- c) Importing waste from outside Republic of Indonesia's territory;
- d) Disposing waste into the environment;
- e) Disposing B3 and its waste into the environment;
- f) Releasing genetically engineered products into the environment which is violating environmental laws and regulations or permits;
- g) Clearing land by burning;
- h) Creating an AMDAL without the competency certificate, and/or;
- i) Providing false, misleading information, omitting information, damaging information or providing incorrect information.

Affirming that the textile industry's waste processing must be environmentally responsible. Careless waste management will reduce environmental quality and have a detrimental influence on human life. Furthermore, Law Number 32 of 2009; Environmental Protection and Management stipulates criminal sanctions for every violator<sup>17</sup>. Article 98 of Law Number 32 of 2009; Environmental Protection and Management states that every person who intentionally commits an act that results in exceeding ambient air quality standards, water quality standards, seawater quality standards, or environmental damage criteria, shall

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<sup>14</sup> Suharta Suharta, "Syariat Islam Dalam Konteks Negara Modern Indonesia," *Jurnal Tana Mana* 4, no. 1 (2023): 190-205.

<sup>15</sup> Kukuh Subyakto, "Azas Ultimum Remedium Ataupun Azas Primum Remedium Yang Dianut Dalam Penegakan Hukum Pidana Pada Tindak Pidana Lingkungan Hidup Pada Uu Nomor 32 Tahun 2009 Tentang Perlindungan Dan Pengelolaan Lingkungan Hidup," *Jurnal Pembaharuan Hukum* 2, no. 2 (2015): 4-6, <http://jurnal.unissula.ac.id/index.php/PH/article/view/1431>.

<sup>16</sup> Stefani Margareta and Widyawati Boediningsih, "Tanggung Gugat Korporasi Akibat Pencemaran Lingkungan Ditinjau Berdasarkan Undang-Undang Perlindungan Dan Pengelolaan Lingkungan Hidup," *Jurnal Hukum Indonesia* 2, no. 1 (2023): 1-13.

<sup>17</sup> Nurul Listiyani and M. Yasir Said, "Political Law on the Environment: The Authority of the Government and Local Government to File Litigation in Law Number 32 Year 2009 on Environmental Protection and Management," *Resources* 7, no. 4 (2018): 1-13.

be punished with imprisonment for a minimum of three years and a maximum of 10 (ten) years and a fine of at least IDR 3,000,000,000 and a maximum of IDR 10,000,000,000. Article (2) states that if the act referred to in Article (1) results in injury to a person and/or harm to human health, the perpetrator shall be punished with imprisonment for a minimum of 4 (four) years and a maximum of 12 (twelve) years and a fine of at least IDR 4,000,000,000 and a maximum of IDR 12,000,000,000, and if the act results in serious injury or death, the threat is imprisonment for a minimum of 5 (five) years and a maximum of 15 (fifteen) years with a fine of at least IDR 5,000,000,000 and a maximum of IDR 15,000,000,000.

The regulation on the ban imports of second-hand clothing refers to Article 47 paragraph (1) of Law Number 7 of 2014; Trade, and Regulation of the Minister of Trade Number 18 of 2021; Prohibited export and import Goods, such as the import of used clothing is regulated by the Indonesian government legally in several laws and regulations. The highest legal umbrella is controlled by Law Number 7 of 2014; the import restriction on used apparel, which is stated in Article 47 paragraph (1), which specifies "that every importer must import goods in new condition". In other words, if the items are used, defective, or do not meet the requirement criteria outlined in the laws and regulations, import becomes restricted. However, under some cases, the Minister of Trade may rule that the imported items are not new<sup>8</sup>.

'In certain cases' refers to non-new goods required by Business Actors, the capital goods that cannot be fulfilled domestically. In this circumstance, imports are required to sustain domestic industrial production. Thus, export growth, increased competitiveness, corporate efficiency, investment and industrial relocation, infrastructure development, and so on could be realized. Furthermore, in the event of a natural disaster, non-new products or equipment are necessary for recovery and reconstruction, as well as for other purposes in accordance with current rules and regulations. In addition to Article 47 paragraph (1), it is governed by Article 98 paragraph (1) of Law Number 7 of 2014 on Trade, which states that the Regional Government has 19 authorities to supervise Trade activities. The Minister is thereafter in charge of government supervision, as indicated in Article 99 paragraph (1). Then, in Article 100, paragraphs (1), (2), and (3) state that:

- a) To out supervision, the Minister appoints supervisory officers in Trade.
- b) Supervisory personnel in the trade sector shall carry a valid and official letter when conducting supervision.
- c) Supervisory Officers, as defined in paragraph (2) to carry out their authority, they must supervise:
  - a) Trade licensing;
  - b) Trade controlled, prohibited and/or regulated goods;
  - c) Goods and/or services distribution;
  - d) Domestic and imported products registration for security, safety, health, and the environment;
  - e) Mandatory compliance with SNI, technical standards, or qualifications;
  - f) Warehouse registration; and
  - g) Basic necessities and/or important goods storage.

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<sup>8</sup> Muhammad Arif Maulana, Ardiansyah. Ardiansyah, and Sudi Fahmi, "Penerapan Sanksi Terhadap Importir Barang Yang Tidak Baru Di Kabupaten Indragiri Hilir Berdasarkan Undang-Undang Nomor 07 Tahun 2014 Tentang Perdagangan," *UIR Law Review* 6, no. 2 (2023): 72-82.

If a supervisory officer discovers any alleged infractions in the trade sector, he has the authority to:

- a) Recommend the withdrawal of goods and/or destruction of goods;
- b) Recommend the discontinuation of trading business activity;
- c) Recommend the withdrawal of trading permits.

If the supervisory officer discovers evidence of a suspected criminal while supervising, he or she may notify the investigator to take appropriate action. The investigator is a Republic of Indonesia national police investigator or a civil servant officer in the government and regional government agencies who is responsible for trade-related activities. Civil service investigators possess the authority Interview Results with Mr. Asep Tomi Novian as Head of Trade at the Kuningan Regency Cooperatives, Small and Medium Enterprises Trade and Industry Service:

- a) Receiving reports or complaints from the public about the occurrence of a suspected criminal act in the trade sector;
- b) Verifying the accuracy of reports or information regarding suspected criminal acts in the commerce sector;
- c) Summoning persons, corporate, or legal entities to request information and proof regarding suspected criminal in the trade sector;
- d) Calling persons, businesses, or legal entities to testify as witnesses or suspects in alleged criminal conduct in the trade sector;
- e) Examine bookkeeping, records, or other documents relating to suspected criminal activities in the commerce sector;
- f) Research, search for, and collect information on possible criminal conduct in the commerce sector;
- g) Conducting inspections and searches of crime scenes and specific locations where evidence is suspected to be found, as well as confiscating and/or sealing evidence and goods resulting from violations that can be used as evidence in cases of alleged criminal acts in the trade sector;
- h) Providing security marks and securing evidence in connection with suspected illegal activities in the commerce sector;
- i) Photographing and/or recording through audiovisual media people, goods, means of transport or other objects that can be used as evidence of suspected criminal acts in the trade sector;
- j) Request assistance or expert information to investigate alleged illegal conduct in the commerce sector; and
- k) Stop the investigation in accordance with applicable rules and regulations.

The trade legislation is divided into three categories: domestic commerce, foreign trade, and border trade. Article 1 of Law No. 7 of 2014 regulating Trade states that:

- a) Domestic Trade, defined as trade in goods and/or services within the territory of the Unitary State of the Republic of Indonesia that is not included in foreign trade.
- b) Foreign trade involves the export and/or import of goods and/or the exchange of services beyond national borders.
- c) Border trade is the exchange of goods between Indonesian people living near Indonesian borders and residents of neighboring countries to meet their daily needs.

According to Article 113 of Law Number 7 of 2014 on Trade, business actors who trade goods domestically that do not meet the SNI that has been enforced as mandatory or the technical requirements that have been enforced as mandatory as referred to in Article 57 paragraph 2 shall face a maximum prison sentence of 5 (five) years and a maximum fine of IDR 5,000,000,000.00 (five billion rupiah). Article 57 paragraph (1), items traded domestically must comply with the SNI and technical criteria that have been enforced as mandatory requirements. Article 57 paragraph (2) states that business actors are forbidden from dealing items domestically that do not meet the SNI or technical criteria that have been implemented as required requirements<sup>19</sup>.

The Minister determines SNI implementation or technical requirements as referred to in paragraph (1) in accordance with the government affairs that fall under his duties and responsibilities. According to Article 57 paragraph (4), the execution of SNI or technical requirements referred to in paragraph (3) takes into account the following elements:

- a) Security, safety, health and the environment;
- b) Competitiveness among national producers and healthy business competition
- c) The capability and readiness of the national business world; and/or
- d) Readiness of the conformity assessment agency infrastructure.

Further provisions of Law Number 7 of 2014 regulating trade, Article 47 paragraph (4), are contained in the Minister of Trade's Regulation No 51 of 2015. However, several changes have occurred during its development, including Regulation of the Minister of Trade Number 12 of 2020 concerning Goods Prohibited from Import and, most recently, Regulation of the Minister of Trade Number 40 of 2022 concerning Amendments to Regulation of the Minister of Trade Number 18 of 2021 concerning Goods Prohibited from Export and Goods Prohibited from Import. An imported second-hand clothing is not permitted in Indonesia; this is governed by Law Number 7 of 2014; Trade, as well as additional regulations contained in the Minister of Trade's Regulation 40 of 2022; Amendments to the Minister of Trade's Regulation 18 of 2021; Goods Prohibited from Export and Import. It does not imply that second-hand garment imports have never occurred. It still happens. It is evident from the growing number of vendors of imported second-hand clothing in Indonesia. The provisions indicate that the action is categorized as illegal activities. Illegal is something that is not legal under the law, such as breaching the law, possessing illicit products, being wild, or acting without authorization from the relevant party. Accordingly, the activity of purchasing and selling second-hand clothing breaches the restrictions outlined in Article 47 paragraph (1) of Law Number 7 of 2014 governing trade, which says that all importers must import items in new condition.

Imported forbidden products are governed by the Minister of Trade's Regulation 40 of 2022, which amends the Minister of Trade's Regulation 18 of 2021, addressing products forbidden from Export and Import. To prohibit these commodities, Indonesian government has reasons for national interests, such as<sup>20</sup>:

- a. Protect national security and public interests, especially the social, cultural, and moral interests of the community.
- b. Protect intellectual property rights; and/or

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<sup>19</sup> Cristian Imanuel Rivaldo Rengkung, "Bentuk-Bentuk Tindak Pidana Berdasarkan Undang-Undang Nomor 7 Tahun 2014 Tentang Perdagangan," *Lex Crimen* 10, no. 11 (2021): 209–216.

<sup>20</sup> Hanina Husin Hadad, Helitha Novianty, and Huala Adolf, "Larangan Ekspor Biji Nikel Indonesia Diantara Stabilitas Perdagangan Internasional," *Mimbar Hukum* 6, no. 1 (2017): 51–66.

c. Ensure the health and safety of people, animals, fish, plants, and the environment.

The Regulation of the Minister of Trade Number 40 of 2022 concerning Amendments to the Regulation of the Minister of Trade Number 18 of 2021 concerning Goods Prohibited from Import and Export, which includes:

- a. Sugars whose import is prohibited.
- b. Rice whose import is prohibited
- c. Ozone depleting materials
- d. Used bags, sacks, and clothes
- e. Goods made with cooling systems that employ chlorofluorocarbon (CFC) and hydrochlorofluorocarbon 22 (HFC-22), both empty and full.
- f. Certain Types of Drugs and Food Ingredients
- g. Hazardous and Toxic Materials (B<sub>3</sub>)
- h. Hazardous and Toxic Waste (B<sub>3</sub> Waste) and Non-Hazardous and Toxic Waste (Registered Non-B<sub>3</sub> Waste)
- i. Hand Tool (Finished Form)
- j. Medical Devices Containing Mercury

The forbidden commodities are listed in detail in Attachment II of the Regulation of the Minister of Trade of the Republic of Indonesia Number 40 of 2022; Amendments to the Regulation of the Minister of Trade Number 18 of 2021; commodities forbidden from Export and Import. The ministerial decree prohibits the use of bags and sacks to wrap items, as well as worn garments and other used commodities. To determine which goods are prohibited from export, the government regulates them in the Regulation of the Minister of Trade Number 40 of 2022; Amendments to the Regulation of the Minister of Trade Number 18 of 2021; Goods Prohibited from Export and Import. The restricted commodities for export include:

- a. Prohibited export goods in the forestry sector;
- b. Prohibited export goods in the agricultural sector;
- c. Subsidized fertilizers;
- d. Prohibited export goods in the mining sector;
- e. Cultural heritage items; and
- f. Metal waste and scrap.

These goods are mentioned in Attachment I of the Minister of Trade's Regulation No. 40 of 2022 on Amendments to the Minister of Trade's Regulation No. 18 of 2021 on Goods Prohibited from Export and Import. Subsidized fertilizers containing urea in aqueous solution or not, as well as urea fertilizer in tablet form or in packing weighing more than 10 kg, are examples of items that cannot be exported. Exporters are banned from exporting products that are prohibited by statutory restrictions; if they breach these laws, they may face statutory sanctions. The Regulation of the Minister of Trade Number 40 of 2022; Amendments to the Regulation of the Minister of Trade Number 18 of 2021; Goods Prohibited from Export and Import is used to implement the rules contained in Law Number 7 of 2014; Trade Article 47 paragraph (1) concerning the matter.



## 2. *The Effectiveness of Implementing Ban on Used Clothing Import in Kuningan Regency, West Java.*

Second-hand clothes imports are restricted in Kuningan Regency under rules and regulations outlined in Article 47 paragraph (1) of Law Number 7 of 2014 and the Minister of Trade's Regulation Number 18 of 2021; Goods restricted from Export and Import.

According to the author's field research, there are 7 (seven) business actors who run imported used clothing stores throughout Kuningan Regency, as well as business players who sell imported used clothing on social media. These shop owners often purchase items from one of Indonesia's major imported used clothing markets, Gedebage, whose primary market is in Bandung City, West Java. Mostly, they get the goods by sorting them directly at the Gedebage market. The action can significantly reduce the number of clothes that are either inappropriate for sale or defective, lowering the risk of dumping unwanted clothing into the environment.

Table: List of Second Hand Clothing Stores in Kuningan

| No. | Shop name | Items                            | Address              |
|-----|-----------|----------------------------------|----------------------|
| 1.  | DST       | T-shirts and Jackets             | Lebakwangi District  |
| 2.  | DT        | Crewneck, Hoodie, T-shirt, Shirt | Nusaherang District  |
| 3.  | OI        | Shirts, Vests, Jackets, Hoodies  | Kadugede District    |
| 4.  | JST       | Jackets, Hoodies                 | Cilimus District     |
| 5.  | ES        | Jackets                          | Kramatmulya District |
| 6.  | NA        | Jackets, Vests, Shirts           | Kadugede District    |
| 7.  | RV        | Hoodie, Pants, Crewneck, Shirt   | Kuningan District    |

Imported second-hand clothes is an item that is not new and has been worn. As a result, the activity may be suspended or not imported into Indonesia<sup>21</sup>. The following factors can have an impact on the law's effectiveness in society<sup>22</sup>:

### 1. Legal Factors

Article 47 paragraph (1) of Law Number 7 of 2014 concerning Trade explicitly states the following:

- a) Importer must import goods in new condition;
- b) In some situations, the Minister may decide that imported items are not new;
- c) The determination referred to in paragraph (2) is submitted to the minister who oversees government activities in the financial sector;
- d) The determination referred to in paragraph (2) is submitted to the minister responsible for government affairs in the financial sector;
- e) Ministerial Regulation governs additional provisions relating to the determination of imported products in non-new condition, as mentioned in paragraph 2.

In summary, the limitation on importing second-hand items can be canceled/excluded if certain circumstances arise, as specified in the Minister of Trade Regulation, and then submitted to the Minister of Finance for resolution under the Minister of Finance Regulation. As a result, the Minister of Finance's Regulation on the

<sup>21</sup> (State Islamic University) Journal of Sharia and Law 2023, "Studi Komparatif Peredaran Barang Impor Bekas Berdasarkan Peraturan Menteri Perdagangan Nomor: 51/M-DAG/PER/7/2015 Dengan Peraturan Menteri Keuangan Nomor: 6/PMK.010/2022," *Journal of Sharia and Law* 2, no. 2 (2023): 536-555.

<sup>22</sup> A Santoso and M A Munib, "Upaya Penegakan Hukum Terhadap Peredaran Minuman Keras Jenis Toak," *Justitiable: Jurnal Hukum* 5, no. 2 (2023): 65-76.

Import of Used Products cannot be implemented without the Minister of Trade's approval. However, they have different legal requirements.

The regulation's inconsistency can be seen in the Regulation of the Minister of Finance of the Republic of Indonesia Number 26/PMK.010/2022; Goods Classification System and Imposition of Import Duty Tariffs on Imported Goods, which still includes Number 5823, Used Clothing and Other Used Goods subject to a 35% import duty rate. As a result, although certain regions continue to allow the importation of old clothing, others prohibit it. The Minister of Trade Number 40 of 2022; Amendments to the Regulation of the Minister of Trade Number 18 of 2021; Goods Prohibited from Export and Import, appears to be in conflict with Law Number 8 of 1999 concerning Consumer Protection, which stipulates in Article 8 paragraph (2) that "Business actors are prohibited from trading damaged, defective or used goods, and contaminated goods without providing complete and correct information about the goods in question."

If we pay attention to the article and analyze it with *argumentum a contrario*, It allows businesses to trade second-hand goods, including imported clothing, as long as they provide consumers with clear and truthful information about their condition and quality. Article 8 paragraph (2) of Law Number 8 of 1999 on Consumer Protection has not been abolished, these rules can serve as a legal foundation for business actors and consumers in the area, notably in Kuningan Regency.

## **2. Law Enforcement Factors**

According to Article 98 paragraph (1) of the Trade Law, the Cooperatives, Small and Medium Enterprises, Trade and Industry Service of Kuningan Regency has the authority to act as a supervisory officer, providing supervision and guidance in the industrial and trade sectors, including the trade of imported used clothing that circulates in Kuningan. According to U Kusmana, Head of the Cooperatives, Small and Medium Enterprises, Trade and Industry Service of Kuningan Regency, the circulation of imported used apparel in Kuningan Regency has little impact because it is not as vibrant as other cities in West Java. In Kuningan Regency, there has never been any supervision of the secondhand clothing trade Interview Results with Mr. Asep Tomi Novian as Head of Trade at the Kuningan Regency Cooperatives, Small and Medium Enterprises Trade and Industry Service. Either by preventing violations from occurring or direct socialization accompanied by sanctions (Repressive).

## **3. Facilities and Amenities Factors**

Kuningan Regency's Cooperatives, Small and Medium Enterprises, Trade and Industry Service has enough facilities and infrastructure; even during inspections, collaboration is maintained with the Civil Service Police Unit, Public Order, and Health Service. Although they have collaborated with a number of connected parties, inspections have only been undertaken on vendors of basic essentials such as rice, eggs, fish, and other items. The government has provided the infrastructure, but they have taken no active role Interview Results with Mr. Asep Tomi Novian as Head of Trade at the Kuningan Regency Cooperatives, Small and Medium Enterprises Trade and Industry Service.

## **4. Community factor**

Testing connected to community variables, according to the business participants, running the imported used clothing industry will boost the economy because it is still popular among clients. However, they were previously ignorant of a law restricting the

importing of used clothing. According to the seller, buyers are interested in imported used clothing because of the low price, good quality, and the fact that it is still very suitable for wearing. According to the findings, the clients are primarily young people, including students, college students, and even married people. In addition to the passion of collecting old objects, buyers seek out clothes with varied models, the most popular of which are ancient models, often known as vintage clothes. Furthermore, foreign-branded goods are appealing to Indonesian customers since they are perceived to be of higher quality than local brands.

Everyone enjoys wearing nice and cool clothes, especially if they are reasonably priced. It's also obvious that everyone wants to appear ideal in public. Humans, as sociable creatures who constantly mingle and communicate, require adequate apparel to meet their wardrobe requirements. However, necessities can no longer be distinguished from desires; people frequently acquire garments or clothing to suit both functional needs and pleasures. Based on the community/consumer factor, consumers continue to sense a strong demand for high-quality apparel at a reasonable cost, despite health and environmental concerns.

People feel that wearing used garments helps to mitigate the environmental damage caused by clothing waste. While it might extend the life of a garment, wearing worn clothing supports Sustainable Fashion when it comes from the domestic market or local producers. In the sense of not buying and reselling used clothing imported from other countries. The sellers buy imported used clothing in bales/sacks; however, not all imported used clothing is of acceptable quality. They filter and pick clothing that is both worth selling and of high quality; clothing that is neither worth selling nor sells is commonly thrown at the Final Disposal Site, increasing the volume of solid trash. On the other hand, market demand provides a chance for business operators to engage in the import used clothing trade because consumers still exist. Furthermore, the benefits they get are promising.

## 5. Cultural factors

The tendency of looking for old clothes is better known as thrifting. Consumers are more interested in well-known brands (branded); yet, there are individuals that do it as a hobby or passion, so that these items become valuable. Using famous brands will allow consumers to improve their social status<sup>23</sup>. Thrifting as a trend cannot be separated from the impact of social media. The fad has spread rapidly on Instagram and Tiktok, increasing people's consumption culture of worn apparel. Thrifting was formerly supposed to be means to save money, but as the movement has spread, it has evolved into a type of lifestyle followed by people from all backgrounds<sup>24</sup>.

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<sup>23</sup> Nika Nencyana Fadila, Raudhotul Alifah, and Andhita Risko Faristiana, "Fenomena Thrifting Yang Populer Dikalangan Mahasiswa," *Lencana: Jurnal Inovasi Ilmu Pendidikan* 1, no. 3 (2023): 278-291, <https://doi.org/10.55606/lencana.v1i3.1836>.

<sup>24</sup> Pandu Aswadana, Dwi Ayunda Suci Rahayu, and Muhammad Aufayudha Arafat Effendy, "Pandangan Mahasiswa Universitas Negeri Surabaya Terhadap Perubahan Gaya Hidup Akibat Fenomena Thrifting," *Jurnal Ilmu Ilmu Sosial FISH Universitas Negeri Surabaya* 1 (2022): 532-540.

The concept of sustainable development continues to grow from the original 5 (five) main principles than to 17 (seventeen) sustainable development goals (Annex IV, 2016), consisting of <sup>25</sup> ;

1. End poverty in all its forms everywhere;
2. End hunger, achieve food security and improved nutrition and promote sustainable agriculture;
3. Ensure healthy lives and promote well-being for all of all ages;
4. Ensure inclusive and equitable quality education and promote lifelong learning opportunities for all;
5. Achieve gender equality and empower all women and girls;
6. Ensure availability and sustainable management of water and sanitation for all;
7. Ensure access to affordable, reliable, sustainable and modern energy for all;
8. Promote sustained, inclusive and sustainable economic growth, full and productive employment and decent work for all;
9. Build resilient infrastructure, promote inclusive and sustainable industrialization and foster innovation;
10. Reduce inequality within and among countries;
11. Make cities and human settlements inclusive, safe, resilient and sustainable;
12. Ensure sustainable consumption and production patterns;
13. Take urgent action to combat climate change and its impacts;
14. Conserve and sustainably use the oceans, seas and marine resources for sustainable development;
15. Protect, restore and promote sustainable use of terrestrial ecosystems, sustainably manage forests, combat desertification, and halt and reverse land degradation and halt biodiversity loss;
16. Promote peaceful and inclusive societies for sustainable development, provide access to justice for all and build effective, accountable and inclusive institutions at all levels;
17. Strengthen the means of implementation and revitalize the Global Partnership for Sustainable Development.

Thrifting, according to the people, is a way for them to express their creativity and individuality. People can define their own style by selecting and combining used garments. Not only that, but it may show that old garments can still be valued and functional, encouraging people to buy used clothes instead of new ones. Many people enjoy hunting for worn and uncommon apparel, whether in imported used clothing stores or on the market. In addition, of the five previously mentioned factors, the Law Enforcement factor is the most ineffectiveness, despite the fact that Article 98 paragraph (1) of Law Number 7 of 2014; Trade

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<sup>25</sup> Suwari Akhmaddhian, Hartiwiningsih Hartiwiningsih, and I Gusti Ayu Ketut Rachmi Handayani, "The Government Policy of Water Resources Conservation to Embodying Sustainable Development Goals: Study in Kuningan, Indonesia," *International Journal of Civil Engineering and Technology* 8, no. 12 (2017): 419-428.

states that the Regional Government has the authority to supervise Trade activities, but it has never been implemented by the Cooperatives, Small and Medium Enterprises, Trade and Industry Service of Kuningan Regency and Second-hand clothing is related to sustainable development goals number 12, namely ensuring sustainable consumption and production patterns.

### Conclusion

The regulation of second-hand clothing import is governed by Article 47 of Law Number 7 of 2014; Trade and the Minister of Trade Number 40 of 2022; Amendments to Regulation of the Minister of Trade Number 18 of 202; Goods Prohibited from Export and Import. Meanwhile, waste regulations are detailed in Article 69 of Law Number 32 of 2009 on Environmental Management Protection. In conclusion, the prohibition on used clothing imports in Kuningan Regency is inefficient; there are reasons that aren't working properly, and in this case, the law enforcement aspect is the weakest because the Regional Government has never checked the situation.

### Suggestion

Kuningan Regency's local government must pass a Regional Regulation; at the very least, its existence may give a stronger legal foundation if the regulation is ever applied. They should also educate business owners and the community about the dangers of imported outdated clothing on their health and environment.

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