

LAW ENFORCEMENT AGAINST PERPETRATORS OF THE CRIME OF SMUGGLING IMPORTED USED CLOTHES ACCORDING TO POSITIVE LAW

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Abstract

The action of a person to possess goods using clandestine methods that are contrary to statutory regulations is called smuggling. In Indonesia, the crime of smuggling imported used clothing often occurs. This incident occurred due to encouragement from the Indonesian people to have a high interest in foreign products at lower prices. From the act of smuggling imported second-hand clothes, they are able to reap greater profits, thus attracting the interest of individuals involved in smuggling activities. On this occasion, the author uses a normative juridical method based on the perspective of Indonesian positive law, also uses a qualitative descriptive type of research with data analysis techniques based on literature studies by reviewing books and linking literature related to the issues raised in this journal. The perpetrators of criminal cases involving smuggling of imported second-hand clothing cannot be taken lightly, the need for law enforcement for these criminal acts. Stricter supervision is carried out in areas where goods enter from abroad by the government, law enforcement officials and customs agencies. The crime of smuggling has an impact on reducing the country's income and growth, so strict law enforcement is needed against the perpetrators. Together with existing laws and regulations to protect against smuggling, we will then be able to implement these regulations optimally together with the government.

Keywords: Used Clothing, Imported, Criminal.

INTRODUCTION

Indonesian culture has been quickly influenced by the influx of technology, values and fashion originating from abroad, making many Indonesians affected by this situation. Progress in the current era means that Indonesian people love to imitate international habits. Currently, clothing style is one of the main things influencing Indonesian society. Dressing is considered a basic thing and has become an attraction in the habits of today's society. Recently, people have become fond of used clothes because they feature well-known brands from abroad and other clothing models from Indonesia. People are concerned about the high prices of original Indonesian products, which makes imported used clothing an alternative choice. They also responded that there was a change in thinking towards looks that were not just cool but branded, even though they occasionally shop for branded clothes to wear every day (Setiadi, Elly M and Ramdani).

Knowing the high level of buyer demand for used clothing triggers sellers to think hard in order to continue to meet market demands. Sellers are starting to take steps to promote products that start with local Indonesian used clothing and penetrate imported used clothing. By importing used clothes from abroad, sellers think they can generate bigger profits, and think that Indonesian people are more attracted to shopping for imported used

clothes rather than local ones. Based on the Central Statistics Agency (BPS), Indonesia's used clothing transportation reached 26.22 tons, worth US\$272,146 in 2022. This figure has increased to 230.40% compared to last year's 7.94 tons, worth US\$44,136 (Finaka, 2021). This problem is the main trigger for smuggling used clothes abroad, and as a seller you should understand the laws regarding smuggling used clothes from abroad. The government and the Minister of Trade have issued Minister of Trade Regulation No. 40 of 2022 concerning changes to the Minister of Trade regulations, and No. 18 of 2021 concerning goods prohibited from export and goods prohibited from import, has prohibited the import of used clothing. Several experts stated:

Smuggling is an act that controls goods by stealth which certainly violates laws and regulations. Lately, the crime of smuggling imported used clothes often occurs in Indonesia. This is motivated by the Indonesian people who are more interested in foreign products and the price is sloping. So that these smuggling individuals are interested in taking greater advantage of this act of smuggling imported used clothes. On this occasion, the author uses a normative juridical method based on Indonesia's positive legal perspective. Then, this type of research uses qualitative descriptive with data analysis techniques derived from literature studies by reviewing books and involving literature related to the problems raised in this journal. Enforcement against the perpetrators of the crime of smuggling imported used clothes cannot be underestimated. The government together with law enforcement officials, especially customs, must be more responsive in monitoring the gaps in the entry of goods from abroad. Law enforcement against perpetrators must be dealt with firmly, considering that this smuggling has had a major impact on the country's income and progress. Various laws and regulations have long been present to maintain the smuggling attempt, only later the government and the government can carry out these regulations optimally (Winda Anshelsya, 2022).

Based on a health perspective, imported second-hand clothing can endanger the health of the Indonesian people because it can cause infectious diseases, and it is feared that it could attack the wearer of the clothes through the clothes. From the inspection observations carried out, it was found that a number of dominant germs and microbes were found using the Total Plate Number (ALT) experimental benchmark as well as mold throughout, for example used clothes which were quite expensive (Jelira, 2019). Not only that, outerwear also poses a risk from an economic perspective because it reduces the selling power of Indonesian products. Not only does it have an impact on health and economic problems, Indonesia also suffers the

impact of the influx of used clothes from foreign countries, namely the decline of the nation's character. But in reality, used clothes from our country will allow people from other countries to wear them. In fact, used clothes are considered local waste which then becomes a problem for the original country (Edy Suprpto, 2021). The government has regulated that importers are required to import new goods, although in certain cases the government can provide regulations regarding products delivered in non-new conditions as stated in Law no. 7 of 2014 article 47. Sellers are aware of the profit opportunities in the fast-selling Indonesian market, by carrying out the habit of smuggling imported used clothing.

The case that is currently visible is the crime of smuggling used clothes, this item is one of the items that cannot be imported. This has also been recorded in article 51 paragraph 2 of Law no. 7 of 2014 related to trade and Minister of Trade regulation no. 51/M-Dag/Per/7/2015 regarding the ban on importing used clothing (Tambunan, 2019). The government issues policies in the hope of succeeding in making local products stronger in contributing to domestic industry. If smuggling of imported and export products is not resolved seriously, it could cause huge losses to the country. Individuals have endless ways of thinking about various ways to smuggle used clothes. One way to smuggle used clothes is by sea. Individuals are even willing to order small boats which are modified and then used to accommodate tons of used clothes so that they are safe from customs inspection. Smuggling individuals use the balpress or ballpress method, which is a method term in the domestic trade sector which refers to the "imported" used clothing business. Other terms that are often used are claws, rags, rombeng, or monza. The term balpres is not only used for used clothes, it is also used for new clothes that do not sell well in terms of old models. In the country of origin, used and new old-fashioned clothes are put together and wrapped in sacks after which they are compressed using a pressure device, which makes one sack able to hold a lot of clothes (Edy Suprpto, 2021).

In this case, it is not only sellers who feel addicted to used imported products, but also consumers and Indonesian people who are not too interested in Indonesian products. Using local products is seen by the community as reducing self-confidence. With this, the government has the right to convey clear policies to solve smuggling cases by imposing heavy sanctions on naughty sellers who continuously import second-hand clothes. Regional governments often hold socialization activities to prevent and screen used goods in each region, because second-hand clothing exhibitions are very popular and quite a few of the clothes come from smuggling of imported second-hand goods. There are at least two

alternative options that can be used to build community engagement so that they want to wear local Indonesian goods. The two options are: (1) Aspects of nationalism in Indonesian society; (2) Aspects of rationalism in Indonesian society (Siswanto, 2017). Efforts to defend the country in national defense theory are often interpreted as taking part in military training to prevent military attacks by foreign countries. Meanwhile, wearing domestic products is included in the basic efforts to defend the country, by only shopping for local products and distributing them to the public without the need for mandatory military training which wastes time and energy.

Therefore, reviewing the existing background with the widespread incidents of smuggling of imported second-hand clothing has inspired the author to study more intensely and extensively. Fighting smuggling of imported used clothing is the most important thing and can be classified as a criminal act according to the author. This action can disrupt state income from sales of local products and hinder creativity and production

RESEARCH METHODOLOGY

This paper uses a qualitative method, namely a method that focuses on in-depth observation of the data and facts that occur. Therefore, using qualitative methods for research can produce more thorough and comprehensive studies and phenomena.

RESULTS AND DISCUSSION

Law Enforcement is According to Positive Law

Activities of importing and exporting outside the customs service area or importing and exporting within the customs service area, even if using the strategy of eliminating goods in containers or false walls (concealment) or in the human body is called smuggling (Ramadhan, Citra, 2021). There are 3 aspects which are the main thing in enforcing the law against perpetrators of criminal smuggling, namely imposing criminal sanctions against perpetrators, reversing assets obtained from criminal smuggling, and preventing attempted criminal acts of smuggling. In Indonesian positive law, many methods have been created to impose criminal penalties on perpetrators. Various laws and regulations regulate prohibitions, steps and prevention of criminal acts of smuggling of imported goods. Article 102 letter e Law no. 17 of 2006 states that "concealing imported goods unlawfully" will be punished in accordance with article 102 "be punished for smuggling in the import sector with a minimum imprisonment of 1 (one) year and a maximum imprisonment of 10 (ten) years and a fine a

minimum of IDR 50,000,000.00 (fifty million rupiah) and a maximum of IDR 5,000,000,000.00 (five billion rupiah).” It is said to be an unlawful act if the perpetrator of the crime of infiltrating imported second-hand clothing often deceives customs inspectors by carrying out various methods described in this article.

This act of smuggling was carried out not just once but repeatedly, making unscrupulous individuals look for opportunities to carry out more violations. Repeatedly committing a crime can increase the severity of the perpetrator's sanctions from a criminal law perspective. Increasing the threat of punishment for economic crimes is stated in Government Regulation in Lieu of Law No. 21 of 1959. Promulgated on November 16 1959, LN of 1959 No. 130. states "if a criminal act is committed that can cause chaos in the economic sector in society, then the offender will be punished with the death penalty or life imprisonment or a temporary prison sentence of twenty years" (Fitri Wahyuni, 2017). Meanwhile in Law no. 7 of 2014 article 111 states "Every importer who imports goods that are not new as intended in article 47 paragraph \neg (1) shall be punished with a maximum imprisonment of 5 (five) years and/or a maximum fine of Rp. 5,000,000,000, 00 (five billion rupiah)” looking at article 47 of Law no. 7 of 2014, the Minister of Trade has issued PERMENDAG RI No. 40 of 2022 which states that goods are prohibited from being imported. The import of used clothing in any form is prohibited in the Republic of Indonesia Minister of Trade Regulation.

The impact of the emergence of second-hand clothing smuggling crimes is disrupting the branding of domestically made products and of course dropping the revenue figures for domestic products. From the results of these actions, Indonesia is seen by other countries as a country that lacks innovation. Because often goods from abroad, especially used clothing, enter Indonesia. Because it has a large influence, the punishment obtained by the perpetrator of the crime of smuggling is as severe as possible. Which started with the collapse of state interests, freezing the state's economy, thereby reducing state income, while the use of the income itself was to establish infrastructure for people's welfare programs. If the perpetrator of the criminal act of smuggling used clothes has assets, then these assets must also be confiscated. This makes the perpetrator unable to experience the fruits of the crime of smuggling imported used clothing. The perpetrators of crimes are considered important in providing criminal punishment in cases of smuggling of imported second-hand clothing. In article 102 of Law no. 17 of 2006 states regarding the imposition of cumulative sanctions on perpetrators in accordance with their criminal acts. Deprive their right to freedom by using a

prison sentence and at the same time paying the losses obtained from the smuggling act to the government with a fine so as to provide a deterrent influence on the perpetrators in using this cumulative sanction.

The author would like to explain as an example of a case that occurred in February 2018, namely the case of Ridwansyah bin Palewi in excerpt number 390/Pid.B/2017/PN Pal, the Master of KM Mega Buana, the defendant in the case of smuggling used clothes from Malaysia in the amount of 480 (four hundred and eighty) ball. Sentenced to 1 (one) year and 6 (six) months and fined Rp. 200,000,000 (two hundred million rupiah), then in the case of Burhanuddin Bin Kasim in the case of decision number: 508/Pid.B/2017/PN.Pal, Captain KM Rizki Abadi was the defendant in the case of smuggling used clothes in the amount of 1000 (one thousand) balls. Sentenced to 1 (year) and 3 (three) months and fined Rp. 50,000,000 (fifty million rupiah) (Jelira 2019). In this case, only government officials, especially customs, can handle perpetrators of the crime of smuggling imported used clothing. Regarding this case, the customs authorities have the power to arrest the perpetrators, which is carried out by customs investigators. In connection with this case example, it can be seen that there is an opportunity for criminal acts of smuggling from abroad to take advantage of the freedom of sea routes. As long as it is within its territorial scope, the government can exercise its right to know and protect the sea area from any action. By having many institutions that can monitor all movements in the sea area. Indonesian Navy; POLRI – Directorate of Water Police; Ministry of Transportation – Director General of Transportation; Ministry of Maritime Affairs and Fisheries-Director General of PSDKP; Ministry of Finance – Director General of Customs; Bakamla, as well as the Task Force for Eradicating Illegal Fishing (later called Task Force 115) are law enforcement bodies to maintain the condition of maritime areas in Indonesia (Birahayu, 2020). To prevent and guard against criminal acts of smuggling used clothing through sea routes, these institutions will later work together and strengthen to protect the sea zone.

It is known that the smuggling crime falls into the customs crime category. Based on Law Number 10 of 1995 as transferred through Law Number 17 of 2006, the definition of Customs is everything related to the supervision of the traffic of goods entering or leaving the customs area as well as the collection of import and export duties (Surono, 2015). PP No. 55 of 1996 concerning the investigation of criminal acts in the field of customs and excise article 1 paragraph (1) which reads "Investigations of criminal acts in the field of Customs and Excise are carried out by Civil Servant Investigators of the Directorate General of Customs

and Excise.", this regulation is the basic authority that owned by customs civil servant investigators. In order to eradicate all criminal acts of smuggling from abroad, especially the import of used clothing, this basis really strengthens the scope of customs operations. In accordance with article 1 paragraph (16) of the Criminal Procedure Code, "Confiscation is a series of actions by investigators to take over and/or keep under their control movable or immovable, tangible or intangible objects for evidentiary purposes in investigations, prosecutions and trials.", which means duties. Excise not only has the power to carry out investigations into customs crimes, but also carries out confiscations as an investigator. Investigations and development of criminal cases of smuggling of imported used clothing to customs can be carried out through this authority. Later, the perpetrators of criminal acts of smuggling will be given legal consequences in the hope that law enforcement can be harmonized based on legal regulations in Indonesia.

Efforts to Prevent the Crime of Smuggling Imported Used Clothes

Efforts to avoid criminal acts of smuggling of imported used clothing are considered important in law enforcement because before the smuggling of used clothes occurs, it can eliminate losses or sanctions from smuggling cases. The existence of used clothing smuggling businesses means that the government, especially customs, must be quick and responsive in preventing and avoiding smuggling cases. Simultaneously, the government and law enforcement officials are arranging appropriate plans to avoid the crime of smuggling imported second-hand clothing. Indonesia's geographic condition is very prone to the entry of illegal goods because its territory is large and has many islands. According to Zulkifli, smuggling takes many shortcuts in various regions such as Sumatra, Java and Kalimantan as well as Indonesia's vast geographical conditions. Therefore, there is a need for cooperation between law enforcement officials and regional governments with the aim of creating a deterrent effect (Dewi, Mis Fransiska, 2023).

So that business people know that the act of importing used clothes is the same as committing a criminal act of smuggling in the economic sector, therefore strict regulations are needed to prevent smuggling of imported used clothes. Using the legal basis, the impact on the perpetrator, and the impact on the state must also be included in providing this information. If there are plans to import used clothing, business people will want to rethink this. There are several real actions that can be carried out by the government together with relevant law enforcers to prevent incidents of attempted smuggling crimes. Starting with:

First, holding socialization regarding the prohibition on importing used clothing. Inform the public, especially clothing business people, regarding the government's ban on importing used clothing. As well as the wide dissemination of this notification through customs social media accounts or by providing direct outreach by customs throughout Indonesia. Second, monitor the movements of business people when managing clothing businesses and regulate the entry and exit of goods in Indonesia. By directly monitoring movements in the field and ensuring compliance with statutory regulations by customs, the business was recognized as quite successful. You can also check transportation equipment entering Indonesian territory, so that it can be handled directly if there are suspicions about certain movements. Always prioritize preventative efforts to resolve suspicious incidents before entering the realm of litigation which is the hope of the customs authorities.

CONCLUSION

The rampant smuggling of imported second-hand clothing causes the country to incur huge losses, therefore the importance of legal supervision of those involved in criminal acts of second-hand clothing smuggling. It is hoped that the government and law enforcement authorities will not take this case lightly. Various regulations in order to avoid smuggling and to deal with the perpetrators clearly and through regulations that have been passed. Regulations exist only to be used to disburse budget funds for the formation of regulations which are then not monitored in implementing the regulations. It is ironic that this behavior is in reality capable of hindering the development of the country's infrastructure, hindering the progress of the prosperity of the Indonesian people and holding back the nation's economy. This is one of the triggers for criminal acts of smuggling. imported used clothing. There are suggestions that the author gives as follows: 1). Strict action will be taken against perpetrators of smuggling of imported second-hand goods. 2). Provide appropriate punishment to provide a deterrent effect and ask for the assets obtained by the perpetrator. 3). Encourage preventive efforts to prevent criminal cases of infiltration of imported used clothes.

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