

The Dynamics of Thrifting Clothing Import Based on Customs Law and Sadd Al-Dzariah in Malang

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Article	Abstract
<p>How to cite: Tajuddin Nur 'Afas, 'The Dynamic of Thrifting Cloting Import Based on Customs Law and Sadd Al-Dzariah in Malang' (2023) Vol. 4 No. 3 Rechtenstudent Journal Sharia Faculty of KH Achmad Siddiq Jember State Islamic University.</p> <p>DOI: 10.35719/rch.v4i3.303</p> <p>Article History: Submitted: 15/10/2023 Reviewed: 20/10/2023 Revised: 10/12/2023 Accepted: 30/12/2023</p> <p>ISSN: 2723-0406 (printed) E-ISSN: 2775-5304 (online)</p>	<p>Used imported clothing which is now widespread in Malang apparently does not meet the requirements of the Health Service for sale and purchase. Meanwhile, the aim of this is to ensure the safety and health of consumers so that their physical health is maintained, not only for consumers of imported second-hand clothing but also clothing sellers. This research is empirical juridical with a sociological juridical approach. The data collection method is by conducting interviews and documentation. Then carry out a qualitative descriptive data analysis method to get answers to the problems raised. The aim of the research is to find out the implementation of supervision regarding the prohibition on importing used clothing in Malang, what are the obstacles in carrying out supervision and knowing the implementation of importing used clothing in terms of Islamic Law. First formulation, how to monitor the ban on imports of used clothing in Malang by the Directorate General of Customs and Excise. Second, what are the obstacles in carrying out supervision and how the ban on importing second-hand clothing is implemented from Sadd Dzari'ah's perspective. The results of the research show that with the widespread sale of imported used clothing in Malang, it turns out that there is no action from the Directorate General of Customs and Excise, East Java Region II office in Malang in the form of supervision and the need for coordination between institutions so that this form of supervision and action can be achieved and realized.</p> <p>Keywords: <i>Thrifting Clothing, Custom Law, Sadd Dzari'ah.</i></p> <p>Abstrak Pakaian impor bekas yang kini marak di Kota Malang ternyata belum memenuhi persyaratan dari Dinas Kesehatan untuk diperjual-belikan. Sedangkan tujuan adanya ini untuk menjamin keamanan dan kesehatan konsumen agar terjaga kesehatan badannya, kesehatan jasmaninya, tidak hanya bagi konsumen pakaian bekas impor saja tetapi juga penjual pakaian. Penelitian ini adalah yuridis empiris dengan pendekatan yuridis sosiologis. Metode pengumpulan datanya dengan cara melakukan wawancara dan dokumentasi. Kemudian melakukan metode analisis data dekskriptif kualitatif untuk mendapatkan jawaban dari masalah yang diangkat. Tujuan penelitian untuk mengetahui pelaksanaan pengawasan tentang larangan impor pakaian bekas yang ada di Kota Malang, bagaimana kendala dalam melakukan pengawasan serta mengetahui pelaksanaan impor pakaian bekas di tinjau dari Hukum Islam. Rumusan Pertama, bagaimana pengawasan larangan impor pakaian bekas di Kota Malang oleh Direktorat Jenderal Bea Cukai. Kedua, bagaimana kendala dalam melakukan pengawasan dan bagaimana pelaksanaan tentang larangan impor pakaian bekas perspektif sadd dzari'ah. Hasil penelitian menunjukkan dengan maraknya penjualan pakaian bekas impor di Kota Malang, ternyata tidak adanya penindakan dari Direktorat Jenderal Bea Cukai kantor wilayah II Jawa Timur yang berada di Kota Malang berupa pengawasan dan perlunya kordinasi antar lembaga agar bisa tercapainya dan terealisasinya bentuk pengawasan dan penindakannya.</p>

Introduction

Since the Covid-19 pandemic, many of us have lost our jobs due to the many virus outbreaks that have spread and then fallen ill, and not many have closed their businesses because it is very quiet, as a result, now there are many new businesses, including buying and selling thrifting, which is commonplace in call thrift.¹ Imported used clothing or what is called thrift is an item that is considered illegal in Indonesia. What is meant by illegal here is something that is not in accordance with applicable laws or regulations. This imported used clothing can be categorized as dangerous goods because it circulates freely and without prior checking.²

This used clothing is of course more affordable in the lower middle class with attractive foreign quality. Therefore, the trade in used clothing or what is usually called thrift at low prices still continues today to meet people's demand.³ Added to this, Fashion is a style that is currently popular in a certain region and time period. Fashion is considered as one of the many meanings used by a social group to convey the identity of a social group to other social groups.⁴

Based on a letter issued by the Ministry of Trade of the Republic of Indonesia, through a press release, the Directorate General of Standardization and Consumer Protection has carried out tests on 25 examples of used clothing circulating on the market due to the large number of used clothing being imported into Indonesian territories such as: Japan, Malaysia, China, Hong Kong, Korea and Singapore. The example taken at Pasar Gede Bage Bandung consists of several types of clothing ranging from children's clothing, women's clothing and men's clothing.⁵

Based on a letter from the Ministry of Trade regarding the dangers of imported second-hand clothing, the public, especially consumers, are worried about the bacterial content contained in each imported second-hand clothing, and what is even more worrying is the public's ignorance or lack of information regarding the dangers posed by imported second-hand clothing. and this is also in line with sellers of imported second-hand clothes who do not know this, the bacterial content in the clothes can only be known by research, namely by checking in the laboratory.⁶ In Article 53 paragraph (2) of Law Number 17 of 2006 concerning Customs which states "provisions regarding the implementation of supervision over

¹ Qurrotaayun, Balqis, Et Al. "Dampak Pelarangan Impor Pakaian Bekas (Thrift) Terhadap Pedagang Di Indonesia." *Jurnal Pendidikan Tambusai* 8.1 (2024), 1329.

² Dewi, Ni Made Indah Krisna, Ida Ayu Putu Widiati, And I. Nyoman Utama. "Implikasi Penjualan Pakaian Bekas Impor Bagi Konsumen Di Kota Denpasar." *Jurnal Interpretasi Hukum* 1.1 (2020), 217.

³ Kurniawan Saputro " Dalbo Thrift Festival Tempat Kumpul Pecinta Produk Thrift Kota Malang " Times Indonesia Maret 6 2022 <https://www.timesindonesia.co.id/read/news/399089/dalbo-thrift-festival-tempat-kumpul-pecinta-produk-thrift-kota-malang>

⁴ Russanti, Irma. "Faktor-Faktor Yang Mempengaruhi Minat Beli Konsumen Terhadap Pakaian Bekas." *Jurnal Online Tata Busana* 10.3 (2021), 62.

⁵ Wenny Puspita & Eny Sulistiowaty, *Penegakan Hukum Terhadap Perdagangan Pakaian Bekas Impor Di Tugu Pahlawan Kota Surabaya*, Universitas Negeri Surabaya, Surabaya. 2015.

⁶ Annisa Satiya Putri, 'Tinjauan Hukum Mengenai Keberadaan Impor Pakaian Bekas Di Pasar Gede Bage Bandung Dihubungkan Dengan Undang - Undang Nomor 7 Tahun 2014 Tentang Perdagangan Juncto Peraturan Menteri Perdagangan Republik Indonesia Nomor 51/M-Dag/Per/7/2015 Tentang Larangan '. Universitas Negeri Komputer, Bandung, 2018.

prohibitions and/or restrictions as intended in article (1) are further regulated by or based on ministerial regulations." The Ministerial Regulation concerning supervision is further regulated in the Regulation of the Directorate General of Customs and Excise Number P-53/BC/2010 concerning supervision procedures where Article 2 paragraph 1 reads "supervision activities are carried out in accordance with customs and excise authority based on applicable provisions and carried out systematically, synergistically and comprehensive "This is in accordance with article 4A paragraphs 1 and 2 which states "their recognition of certain goods is monitored in the customs area. The relevant technical agency, through the minister in charge of trade, notifies the minister of the types of goods designated as certain goods. "The Ministerial Regulation referred to here is 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 importing and prohibited from exporting, which contains what goods are prohibited from importing and prohibited from exporting, including imported used clothing. , In accordance with International Customs practice, supervision of the traffic of goods entering or leaving the Customs Area is carried out by the Customs agency. Thus, the technical agencies concerned collaborate with the Directorate General of Customs and Excise so that the implementation of supervision of prohibitory and restrictive regulations is effective and coordinated⁷.

Islamic law itself prohibits buying and selling in a false way or not in accordance with applicable law.⁸ This prohibition is based on the word of Allah which means "O you who believe! Do not consume each other's wealth in a false way, except in trade that is based on mutual consent between you. And don't kill yourself. Indeed, Allah is Most Merciful to you, and whoever does this in a way that violates the law and is unjust, We will put him in hell. That is easy for Allah. (Q.S. An-Nisa': 29-30)⁹

It's very easy to find in Malang itself, one of which is at the Comboran Flea Market and the Thrifting Market on Jl.Tenaga Blimbing, which are the busiest places for imported used clothing businesses. The imported second-hand clothes being sold are foreign branded clothes which are sold at low prices without considering the quality and bacterial contamination contained in the imported second-hand clothes.¹ The results of the author's observations and facts in Malang found that there are still places and sellers of thrifting imports peddle their wares, which means this action is not in line with Minister of Trade Regulation Number 40 of 2022 concerning Import Prohibited Goods.

Based on the above facts obtained by the author, it can raise suspicion regarding the supervision system carried out by the Directorate of Customs and Excise in accordance with the regulations of the directorate general of customs P-53/BC/2010 as the one which supervises the entry and exit of exported and imported goods into the customs area, including goods Used clothing is prohibited, so to this day used clothing sellers can still get and sell imported used clothing in the Malang area. Based on what is explained above, the author is interested in conducting research and writing a journal entitled "Supervision of the Prohibition on the

⁷ 'Undang-Undang Republik Indonesia Nomor 17 Tahun 2006 Tentang Perubahan Atas Undang-Undang Nomor 10 Tahun 1995 Tentang Kepabeanan Dengan', 1999.December (2006).

⁸ Iswandi, Irvan, And Ahmad Asrof Fitri. "Tinjauan Hukum Islam Tentang Praktik Jual Beli Bawang Merah Dengan Sistem Taksiran: Studi Kasus Di Desa Larangan Kecamatan Larangan Kabupaten Brebes." *Jurnal Penelitian Multidisiplin Ilmu* 1.5 (2023), 882.

⁹ Ismelia Fathonah, 'Analisis Hukum Positif Dan Hukum Islam Terhadap Jual Beli Pakaian Bekas Impor', *Skripsi*, (2020), UIN Raden Intan Lampung. Lampung.

Import of Thrifting Based on the Customs Law and the Sadd Al-Dzariah Perspective in Malang".

Research Methods

This research is empirical juridical with a sociological juridical approach. The data collection method is by conducting interviews and documentation. Then carry out a qualitative descriptive data analysis method to get answers to the problems raised.

Results and Discussion

Supervision of Imports Thrifting Clothing by The Directorate General of Customs and Excise in Malang

In the provisions of Chapter The Ministerial Regulation concerning supervision is further regulated in the Regulation of the Directorate General of Customs and Excise Number P-53/BC/2010 concerning the implementation of supervision in which article 2 paragraph 1 reads "supervision activities are carried out in accordance with customs and excise authority based on applicable provisions and carried out systematically, synergistically and comprehensive "This is in accordance with article 4A paragraphs 1 and 2 which states "their recognition of certain goods is monitored in the customs area. The relevant technical agency, through the minister in charge of trade, notifies the minister of the types of goods designated as certain goods. "The Ministerial Regulation referred to here is the Minister of Trade Regulation Number 40 of 2022 concerning amendments to the Minister of Trade Regulation number 18 of 2021 concerning goods prohibited from importing and prohibited from exporting which contains what goods are prohibited from importing and prohibited from exporting, including imported used clothing.

In the implementation of the import of goods, the import restrictions are divided into 3 (three) parts, namely goods that are Import Restricted, goods that are Prohibited from Import, and goods that are Free to Import.¹⁰

1. Import Restricted Goods

Import-restricted goods are certain goods whose import system is regulated through a trade mechanism, namely in the form of recognition as an importer of goods who imports for their own interests, designation as an importer who trades goods to other parties, import approval, and technical verification of imports. Various goods that are restricted from import are: 1) sugar, 2) salt, 3) rice, 4) cloves, 5) lubricants, 6) textiles, 7) multifunction machines, color photocopiers and color printer machines, 8) imports non-new capital goods, 9) oil and natural gas, 10) alcoholic beverages, and 11) plastic.

2. Import Prohibited Goods

Import prohibited goods are goods that do not have an import permit from the authorized agency or party. The goods that are prohibited from import are: 1) thrifting or non-new goods, 2) hazardous and toxic waste (B3), 3) printing industry production, 4) ethylene bromide pesticide, 5) psychotropics, 6) narcotics, 7) waste and scrap from plastic, 8) alcohol containing halogens and salts, and 9) chemical weapons materials.

¹⁰ Dewi, Ni Made Indah Krisna, Ida Ayu Putu Widiati, And I. Nyoman Utama. "Implikasi Penjualan Pakaian Bekas Impor Bagi Konsumen Di Kota Denpasar." *Jurnal Interpretasi Hukum* 1.1 (2020), H. 216.

3. Import-free goods

Goods that are free to import are all types of goods that are not included in regulated, prohibited and supervised groups. However, import-free goods can be purchased by every company that has an Import Identification Number (API).

Based on this description, it can be interpreted that imported second-hand clothing is included in the category of goods whose import is prohibited, or whose existence is illegal in Indonesia as regulated in the Minister of Trade Regulation Number 51/M-DAG/PER/2015 concerning Prohibition of the Import of Used Clothing.

Officials of the Directorate General of Customs and Excise have carried out their duties as closely as possible by carrying out their duties in accordance with their role and authority as supervisors at certain points such as at ports, state borders and other places, but what is less supervised is in each city/district including in Malang, when illegal goods and smuggled goods are rampant entering our country, then who has the authority to supervise them if not the Directorate General of Customs and Excise?.

Below is a table of several sub-districts in Malang regarding the number of sellers or business actors in Malang :

Table 1. Number of imported used clothing businesses in Malang

No	Subdistrict	Amount
1.	Blimbing	63
2.	Kedungkandang	34
3.	Klojen	42
4.	Sukun	17
5.	Lowokwaru	26
Amount		182

Based on the data above, there are still many people who can get away with smuggling used imported clothes, it is proven that in Lowokwaru sub-district there are approximately 63 thrift shops, in Blimbing sub-district there are 34 thrift shops, Kedungkandang sub-district there are 42 thrift shops, in Klojen sub-district there are 17 thrift shops , and in Sukun sub-district there are 26 thrift shops. With the popularity of used clothing, it can become a shop for buying and selling clothes.

Many crowds were carrying out imports and attacks on officials of the Directorate General of Customs when they were about to make arrests, which made it difficult for the officials to carry out their duties, and also because smugglers are now increasingly clever, they pass certain points which are outside the control area of the Directorate General of Customs. Excise. This can also be caused by several other inhibiting factors in carrying out their duties. The Customs area contains many items that are prohibited or restricted, including used clothing that is imported and entered into the territory of the Republic of Indonesia..

Based on the results of the interview by Informant 1 as Head of the investigation section and the goods resulting from the investigation, he explained that: "Supervision is not only

carried out by Customs and Excise, but also by the agency that entrusts these regulations to Customs. Like the ban on imports of used clothing, this is a regulation from the Minister of Trade which is then followed up by the Trade Department in each region itself. There is no or no order from the government regarding this supervision, because there are vertical agencies such as the Ministry of Trade which are related to exports and imports. Customs and Excise have tried their best to eradicate the import of used clothing, but there are still many obstacles that are inhibiting factors in this matter. "Supervision that is carried out requires cooperation between existing agencies."¹¹

Based on the statement above by informant 1 that supervision is not only carried out by customs officials but also requires cooperation between local trade agencies regarding the supervision of used imported clothing, and there are also many obstacles to carrying out this supervision, while informant 2 stated *"that's right sir Mr. Januri said that this is indeed a regulation that has been entrusted to us to carry out supervision. We as customs have made full efforts to monitor and prevent used clothing from entering our country because it can damage the country's economy, but yes, that's the case. sir, they passed places that we couldn't monitor, such as dropping to the beach, and then passed a truck containing goods that were allowed to enter, but this ball press was hidden inside, and it was out of our sight, it felt like there was nothing obstructing it, OK? we let it go, and when it comes to Malang, we have tried to monitor the shipping points, bro, because we have actually carried out surveillance in the port area there so in each city we don't monitor too much, and when there are many on the side of the road selling clothes "Even used ones, we can't immediately confiscate them, we have to know first where the goods come from, from this country, through this port and to this shop, so we have to know first, if we don't know then we can't take action."*¹²

Informant 2 stated that they could carry out supervision but could not carry out continuous supervision because of their human resources (HR) and they also had to know first the origin of the goods and could not just randomly investigate and confiscate the goods..

The Head of the Trade Development Section of the Malang Cooperatives, Industry and Trade Service said and explained the following from informant 3: *"We have no duties related to monitoring the ban on importing thrifting and of course we don't do that, because there are no Regional Regulations that regulate the ban on selling or trading thrifting in Malang, but due to prohibition number 51/M-DAG/PER/7/2015, the Department of Cooperatives, Industry and Trade of Malang has made efforts in the form of coaching and controlling the management of trade distribution facilities within 1 Once a year"*.¹³

Based on the statement above, informant 3 stated that he did not have the authority to carry out supervision, even though they knew that there were regulations prohibiting imported second-hand clothing, they only carried out outreach to sellers once a year. *Meanwhile, one of the Imported Used Clothing Business Actors at the Comboran Flea Market, namely the 4th informant regarding the ban on used clothing in Malang, when asked how to buy ball prees, he said, "If I buy it, I just call and ask when the goods will arrive, sir, later. delivered by truck to my*

¹¹ The Results Of The Interview With Mr. Januri As Head Of Investigations And The Results Of The Investigation By The Directorate General Of Customs And Excise, East Java II, Who Once Served At The East Java Regional Coordination I As A Traffic Supervisor. On July 7, 2022.

¹² Results Of An Interview With Mr. Kuswijayanto As Head Of The Narcotics And Prohibited Goods Section Of The Directorate General Of Customs And Excise, East Java II On July 7 2022.

¹³ Results Of An Interview With Mr. Tri Rudy Irawan As The Development And Trade Section Of The Malang Cooperatives, Industry And Trade Service On August 3 2022.

house".¹⁴ Some traders do buy and then deliver and only a few now use via post, because there are already several controls at each delivery post that carry out supervision.

According to one of the Imported Thrifting Business Actors at the Comboran Flea Market, namely the 5th informant regarding the ban on thrifting in Malang, he said, *"Yes, as a seller, I don't know if it's banned, so what bro, the proof is that goods can come in, if it's really banned, how come? It's not hindered from there, if you can enter and get here, that means it's okay, and if it's about disease, thank God it's safe, bro, since 2018 I've been selling it, so that's okay."*¹⁵

According to one of the imported used clothing businesses in Kota Lama, Kedungkandang, Comboran, who is the 6th informant regarding the ban on used clothing in Malang, said *"I have been selling since 2012, I take goods from ball press collectors, there are lots of people selling them, in Malang After that, take it outside the city like Surabaya, Bali, Bandung, this has become my main livelihood, as long as I have the goods, I'll keep selling, if no one sells ball presses, what do I use to sell them? "That means there are no goods and I won't sell them. If the reason is an illness, I don't think the disease can only come from clothes, it can also come from other things, but if it comes from the clothes I sell, I don't think so, bro."*¹⁶

From the 2 informants from the Comboran market above, it is clear that there is a lack of supervision from the government and minimal socialization regarding the existence of the ban and they don't even know that their merchandise is illegal in our country, whereas according to one of the imported second-hand clothing businesses in the Blimbing market, namely the 7th informant. Regarding the ban on used clothing in Malang, he said, *"Yes, it has always been illegal, sir, but the proof is there, even though it is banned by the government, the proof in the field is that the goods are there, and I have been selling them since the 90s, in this shop since 2005."*¹⁷

Some sellers in Malang actually know about the illegality of the goods being traded, but up to now they still get the goods and are still selling them. Here the researcher concludes that the lack of supervision regarding import prohibitions has led to the widespread sale and purchase of second-hand imported clothing. Meanwhile, this 8th informant said that *"I have been selling for a long time, sir, since the 90s, and just yesterday I bought a ball press from a collector, if the regulations were prohibited it would have been prohibited a long time ago, bro, but the proof is that I am safe,"* said the statement from the 8th informant. that there is indeed no supervision from the relevant agencies, it is proven that he has been selling for a long time in the Merjosari area, and indeed there has been no specific action.

There are several points that should be strictly monitored, namely the Malang border area with Pasuruan because on average goods are picked up at the Surabaya port, due to the large number of trucks transporting goods and entering the Malang area without inspection and also shipping points that can deliver large goods. such as cargo and others.

Another contributing factor is the lack of supervision or firm action from authorized officers, apart from the lack of public awareness and limited knowledge of the regulations that prohibit this. It is true that the positive impact of selling used imported branded clothing from abroad is that it is cheap and can be said to be of better quality, but without us realizing it, the popularity of selling second hand imported clothing has an impact on local products from our own country whose enthusiasts turn to imported second hand clothing, and make them

¹⁴ Results Of An Interview With Mr. Munir As A Business Actor At The Comboran Flea Market On 31 July 2022.

¹⁵ Results Of An Interview With Mr. Dhani As A Business Actor At The Comboran Flea Market On 31 July 2022.

¹⁶ Results Of An Interview With Mr. Yoyok As A Business Actor In Kedungkandang, Kota Lama On 31 July 2022.

¹⁷ Results Of An Interview With Mr. Ridwan As A Business Actor At Blimbing Market On 31 July 2022.

interested in a little and in the end the shop will close, if that continues then there will be no local brands that we can be proud of.

Obstacles in Monitoring The Ban on Imports of Thrifting by The Directorate General of Customs And Excise in Malang

The government's efforts to realize social welfare are expressed in the form of policies, namely in the form of permits and prohibitions. In the event that a citizen wants to break through a policy in the form of a prohibition, a legal instrument in the form of a permit is needed. Issuing a permit is a legal act and is empowered by statutory regulations. This can be seen by the creation of a policy related to the prohibition on buying and selling imported used clothing in the form of a ban on the import of used clothing as a form of the government's support for the local economy, because apart from the government having to make efforts to continue to improve the quality of domestic products, the government also needs to make preventive efforts from a normative aspect.¹⁸

Prohibited from importing or goods that are prohibited from exporting, including smuggled goods such as used clothing, in accordance with what is stated in Chapter "Provisions regarding the implementation of supervision of prohibitory and/or restrictive regulations as intended in article (1) are further regulated by or based on ministerial regulations."¹⁹ The Ministerial Regulation concerning supervision is further regulated in the Regulation of the Directorate General of Customs and Excise Number P-53/BC/2010 concerning the implementation of supervision in which article 2 paragraph 1 reads "supervision activities are carried out in accordance with customs and excise authority based on applicable provisions and carried out systematically, synergistically and comprehensive "This is in accordance with Article 4A paragraphs 1 and 2 of Law Number 17 of 2006 which states "their recognition of certain goods is monitored in the customs area. The relevant technical agency, through the minister in charge of trade, notifies the minister of the types of goods designated as certain goods. "The Ministerial Regulation referred to here is the Minister of Trade Regulation Number 40 of 2022 concerning amendments to the Minister of Trade Regulation number 18 of 2021 concerning goods prohibited from importing and prohibited from exporting which contains what goods are prohibited from importing and prohibited from exporting, including imported used clothing.

The rise of imported second-hand clothing businesses in Malang is of course that they do not go through the applicable customs procedures, the customs authorities are not yet fully able to carry out supervision at every point outside the control location, such as other than at the delivery point, at the customs place, When someone imports goods from abroad, the customs monitors the goods until the importer comes and picks them up. If they comply with the procedures, they are allowed to take them. If there are any discrepancies, the goods will be detained, but with the sophistication of technology, today's officers cannot fully handle sophisticated people who master communication technology so that they can find out where certain points are that are not known by customs authorities so that they can bring prohibited goods into Indonesia, especially in the city of Malang.

¹⁸ Chairy, Raudhea Vara Yulfa, And Elfrida Ratnawati Gultom. "Larangan Jual Beli Pakaian Bekas Impor (Thrift) Oleh Pemerintah Ditinjau Dari Perspektif Negara Kesejahteraan." *Indonesia Berdaya* 4.3 (2023), 1140.

¹⁹ Article 53 Law Number 17 Of 2006 Concerning Customs.

Inhibiting factors for Customs and Excise in carrying out supervision are²⁰ (1) Inhibiting factors in carrying out supervision of the prohibition on importing used clothing, including (a) Law Enforcement Factors in terms of quantity, Customs and Excise does not have many human resources in the Directorate General's Regional Office, only 71 employees., This lack of staff is an obstacle to carrying out their duties, while there are also many entrances to the city of Malang and there are also many areas that must be patrolled at all times by officials from the Directorate General of Customs and Excise, there are also many used clothing sellers, so that when patrolling there are many The task of arresting importers of illegal goods cannot be fulfilled. Daily officers who carry out supervision while on patrol cannot arrest business actors for free. They must know where the clothes are taken from, such as from ports A, B and C, when not There is clear information that the customs authorities cannot arrest and confiscate the merchandise even though it is clearly stated that what is being sold is imported custom clothing. In Malang, there are no significant regional regulations or regulations in Malang that regulate the prohibition of trading in imported second-hand clothing.

Facilities and Infrastructure Factor: Limited facilities are also an obstacle to carrying out patrols and surveillance in the Malang area. In the Directorate General of Customs and Excise, Regional Office II, there is 1 field that handles prohibited goods, namely the field of action and investigation which consists of 17 people and is limited by the State in relation to the budget to carry out duties and supervision in the import of used clothing. This lack of budget has made Customs and Excise also confused, every car, motorbike or existing facility requires fuel to run the existing infrastructure. The lack of budget has resulted in disorganized supervision or patrols carried out by Customs and Excise itself. According to the Directorate General of Customs and Excise, cooperation between agencies, especially the Trade Service in Malang, is needed in order to achieve massive supervision.

Community Factors: There are many people from Malang who sell second-hand clothes and one of them is at Comboran Market as the center of the second-hand goods market. Meanwhile, the population of Malang in 2022 will reach 874,890 residents²¹, There is certainly a lot of need for clothes, on the other hand, people also don't know about the ban on importing thrifting and the large number of requests from buyers, which is why the thrifting business is booming, especially among young people who are starting businesses by selling second-hand clothes, and now it has become very popular. Dalbo event (buying and selling thrifting in certain places and inviting several local bands to enliven it. And also the public's ignorance regarding the ban on importing thrifting.²²

Cultural factors, the habits of the people of iMalang who highly value imported goods are more special and think that these goods are very luxurious when used. For this reason, it is this community culture that is difficult to eradicate and causes people to wear imported second-hand clothes, whose prices are more affordable among the lower classes. The existence of the Comboran Market has been around since the Dutch era, which was originally a place for buying and selling second-hand goods including clothing, until now it is still very popular

²⁰ Baladiah, Riza Sitanala Putra, And Anna Silviana. "Peran Direktorat Jenderal Bea Dan Cukai Bandar Lampung Terhadap Larangan Impor Pakaian Bekas." *Jurnal Ilmiah Universitas Batanghari Jambi* 23.1 (2023), 905.

²¹ Kominfo Pemerintah Kota Malang https://Ncctrial.Malangkota.Go.Id/Malang/Halaman_Sub_Utama Accessed On October 13, 2022.

²² Kurniawan Saputro " Dalbo Thrift Festival Tempat Kumpul Pecinta Produk Thrift Kota Malang " *Times Indonesia* 02 Maret 2022 <https://Www.Timesindonesia.Co.Id/Read/News/399089/Dalbo-Thrift-Festival-Tempat-Kumpul-Pecinta-Produk-Thrift-Kota-Malang>

with the public, especially in Malang.²³

Sadd Al-Dzari'ah Reviews Monitoring of Ban on Imports of Thrifting

The word sadd al-dzari'ah consists of two words, namely sadd which means to block or close and dhari'ah which means a means of delivering something.²⁴ Meanwhile, in the understanding of the term Ushul Fiqh, what is meant by al-dzari'ah is something which is a medium and a way to arrive at something related to Sharia law, whether haram or halal (forbidden or justified) and which leads to obedience or disobedience.²⁵ In another lughawi (language) sense, al-dzari'ah means: "The path that leads to something, hissi or ma'nawi, good or bad."²⁶

It is from this neutral understanding that Ibnu Qoyyim adopted it into the formulation of the definition of al-dzari'ah, which means "What is an intermediary and path to something."²⁷ Ibn Qoyyim divides it into two types. The benefit of work is stronger than the benefit of work. And Kemafsadatan is greater than benefit, divided into four parts, namely (a) Deliberately shown to do something wrong, such as drinking alcohol. (b) Work which is basically permissible, but is shown to carry out harm, such as tahlil marriage. (c) This work is legally permissible and the person doing it does not aim for any evil, but usually it will result in evil, such as cursing idolatrous deities, resulting in insults in return. who was proposed.²⁸ Furthermore, Badran provides a non-neutral definition of al-dzari'ah, which means: "What conveys something forbidden which contains damage."

According to Wahbah Zuhaili, he chose a neutral definition like the definition expressed by Ibn iQoyyim. Because the meaning of lughawi contains a neutral connotation without providing judgment on the results of actions. In the discussion of taklifi law regarding "obligatory" the law of doing everything that leads to and precedes an obligatory act, which is called "obligatory muqaddimah", has been explained. He is Wasilah (intermediary) for an action that is subject to law, so he is called dzariah. Therefore, Ushul writers and scholars include discussions about obligatory muqaddimah into discussions about al-dzari'ah because they are both intermediaries for something..

According to Badran and Zuhaili, he differentiated between obligatory muqaddimah and al-dzari'ah. The difference lies in the dependence of the main action aimed at the intermediary or Wasilah. In Dzari'ah the law of the main action does not depend on the intermediary. If you want to differentiate between the two, it would be more appropriate to look at it in terms of the form of the main action behind the intermediary. If the main action aimed at is an action that is ordered, then the Wasilah is called muqaddimah. Meanwhile, if the main action aimed at is a prohibited action, then the Wasilah is called dhari'ah ²⁹

Fiqh experts divide al-dhari,,<ah into 4 (four) categories. This division has significance

²³ Pasar Comboran Kota Malang, Pusat Barang Bekas Sejak Era Kolonial Belanda <https://Tugumalang.Id/Pasar-Comboran-Kota-Malang-Pusat-Barang-Bekas-Sejak-Era-Kolonial-Belanda/>

²⁴ Suwarjin, Us}Hul Fiqih (Yogyakarta:Teras, 2012), H 196. <https://Onesearch.Id/Record/IOS12528.Ai:Slims-24593>

²⁵ Abd. Rahman Dahlan, *Ushul Fiqih*, (Jakarta, Amzah: 2010), 236.

²⁶ Amir Syarifuddin, *Ushul Fiqih Jilid 2* (Jakarta: Kencana, 2009), 424.

²⁷ Munawaroh, Hifdhotul. "Sadd Al-Dzari'at Dan Aplikasinya Pada Permasalahan Fiqih Kontemporer." *Ijtihad* 12.1 (2018), 83.

²⁸ Sidi Nazar Bakry, *Fiqh Dan Ushul Fiqih* (Jakarta: PT. Raja Grafindo, 2003), 245-246

²⁹ Hifdhotul, Munawaroh. "Sadd Al-Dzari'At Dan Aplikasinya Pada Permasalahan Fiqih Kontemporer." *Ijtihad: Jurnal Hukum Dan Ekonomi Islam* 12.1 (2018), 131.

when it is connected with the possibility of having a negative impact (mafsadah) and assisting in actions that have been forbidden. The division is as follows: (a) Dzari'ah which will definitely and convincingly lead to mafsadah. For example, digging a well in the middle of a public road where it is dark. Regarding this kind of dzari'ah, Ushul Fiqh experts have agreed to determine its haraam. (b) Dzari'ah which is based on strong suspicion will lead to mafsadah. For example, selling grapes to people or companies that usually produce liquor. Regarding this kind of Dzari'ah, Ushul Fiqh experts have also agreed to determine its prohibition. (c) Dzari'ah that is rare or small is likely to lead to mafsadah, such as planting and cultivating grapes. Regarding this kind of dhari'ah, Ushul Fiqh experts agree to determine its permissibility. (d) Dzari'ah based on ordinary assumptions (not strong assumptions) will bring mafsadah. For example, buying and selling transactions on credit.³⁰

Based on ordinary assumptions, such transactions will lead to mafsadah, especially for the debtor. Regarding this kind of sadd al-dzari'ah, scholars have different opinions. There are those who argue that this act is prohibited or haram on the basis of sadd al-dzari'ah and there are also those who think otherwise..

Regardless of which category of dzari'ah should be prohibited or prohibited, what can clearly be understood is the proposition of sadd al-dzari'ah to maintain benefit and at the same time avoid mafsadah.³¹ Malik bin Anas and Ahmad bin iHambal, both famous fiqh madhab maestros, accepted sadd al-dzari'ah as hujjah of syar'iyah.

According to al-Shaf'i and Abu Hanifah, both of whom are also famous maestros of the madhab of fiqh, accepted sadd al-dzari'ah. Meanwhile, in terms of sadd al-dzari'ah, it means preventing an action from causing al-mafsadah (damage), if it will cause mafsadah..³² Meanwhile, according to Imam al-Shatibi, as written by Rahmat Syafi'i in his book, what is meant by sadd al-dzari'ah which means: "carrying out work that originally contained benefits leads to damage i(mafsadatan)".³³

According to al-Shatibi there are criteria that make an act prohibited, namely (a) The act which was previously permitted to be done contains damage, (b) The evil is stronger than the benefit (c) The act which is permissible by the sharia' contains more elements of evil.³⁴ Based on the data presented above, Law No. 7 of 2014 concerning trade states that every time you carry out business or trade there are legal rules that apply. This means that the role of trade is very important in increasing economic development, but in meeting the need to face national development challenges, political-economic alignment is needed which provides opportunities, support and development of the people's economy which includes micro, small and medium enterprise cooperatives.

Law Number i7 of 2014 concerning Trade also defines the meaning of import as the activity of bringing goods into the customs area. Then the definition of illegal is not valid according to the law, in this case it violates the law, is illegal, illegal goods, or does not have permission from the party concerned. In context, the illegal import of used clothing is included in international trade, namely trade between countries based on mutual agreements. iThe definition of international trade itself is trade carried out by residents of one country with

³⁰ Takhim, Muhamad. "Saddu Al-Dzari'ah Dalam Muamalah Islam." *AKSES: Jurnal Ekonomi Dan Bisnis* 14.1 (2020), 41.

³¹ Asmawi, Perbandingan Ushul Fiqih, (Jakarta:Amzah, 2013), 143.

³² Ibid, 236.

³³ Rachmat Syafi'i, Ilmu Ushul Fiqih, (Bandung: CV Pustaka Setia, 2015), 132.

³⁴ Andewi Suhartini, Ushul Fiqih, (Jakarta:Direktorat Jenderal Pendidikan Islam Departeman Agama RI, 2009), 137.

residents of another country on the basis of mutual agreement. The population in question can be between individuals (individuals and individuals), between individuals and the government of a country or the government of a country and the government of another country. International trade has occurred for thousands of years, and its impact on economic, social and political interests has only been felt in recent centuries. International trade has also helped encourage industrialization, advances in transportation, globalization and the presence of multinational companies.

The laws and regulations in the field of trade require harmonization of provisions in the field of trade within the framework of economic unity in order to respond to the development of the trade situation in the current and future era of globalization. For this reason, it is necessary to establish a Trade Law that must be followed in relation to transactions of goods or services within or outside the country. Trade outside the country is an activity carried out by exporting or importing or goods and services that exceed the territorial borders of the State..

Violating Minister of Trade Regulation No. 40 of 2022 concerning Import Prohibited Goods. Imported used clothing does not know the risks involved in imported used clothing. Physically, imported thrifting do not contain bacteria. Research conducted by the Health Service found that thrifting contain bacteria. Then imported thrifting are taken from collectors who are not first tested by the Health Service. Health tests are carried out to obtain samples of bacteria present in imported used clothing.³⁵

As previously explained, imported used clothing does not meet the requirements of the health service for sale and purchase. Meanwhile, the aim of having health requirements for the clothes being sold is to ensure the safety and health of the clothes so that bodily health and physical health are maintained, not only for consumers of imported second-hand clothes but for all clothing sellers. The safety of imported used clothing that cannot be guaranteed can result in the risk of skin disease. However, if a consumer experiences a skin disease, the consumer cannot sue the seller of imported used clothing.

Traders should need permits from the local government so that there are no risk-based businesses in accordance with Government Regulation Number 5 of 2021 concerning the implementation of risk-based business licensing in article 7 paragraph 1 which states "Risk-based business licensing is carried out based on determining the risk level and activity scale ranking businesses include MSMEs and/or large businesses." Assessment according to article 9 with the criteria "health;, safety; environment; and/or utilization and management of resources." With permits like this, imported clothing traders should no longer exist in Indonesia, including in the city of Malang, because used clothing can be guaranteed to pose a risk of skin disease. It is feared that imported used clothing is illegal goods from abroad. This is because usually clothes that come from abroad are subject to customs clearance and are tested first by the Health Service, so it is reasonable to suspect that the imported second-hand clothes come from illegal goods. So, by banning the buying and selling of imported used clothing, consumers can be protected from skin diseases.

Based on the description above, from Sadd al-Dzari'ah's perspective, it can be concluded that the prohibition on imported second-hand clothing in Indonesian law is in accordance with this idea. sadd al-Dzari'ah This prohibition is in accordance with the aim of the sharia,

³⁵ Elsa Catriana " Kemendag Larang Impor Pakaian Bekas, Ini Alasannya " Kompas 12 Agustus 2022 <https://Money.Kompas.Com/Read/2022/08/12/150100926/Kemendag-Larang-Impor-Pakaian-Bekas-Ini-Alasannya>

namely to maintain health. The aim of the Shari'ah to maintain health in the implementation of the Prohibition on Imported Thrifting in Indonesian law has fulfilled the level, namely Dzari'ah, which is based on strong suspicion that this leads to mafsadah. To maintain health, a person must fulfill his basic needs such as clothing, food and shelter and prevent disease with the aim of maintaining his survival. If imported used clothing continues to be used, it will threaten the health of consumers.

Conclusion

The supervision carried out by the Directorate General of Customs and Excise is based on Article 53 paragraph (2) of Law Number 17 of 2006, Regulation of the Directorate General of Customs P-53/BC/2010 concerning supervision procedures and the Ministerial Regulation which regulates the prohibition on the import of used clothing as stated In 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 importing and prohibited from exporting, there is indeed no supervision and enforcement. Due to the absence of post posts at the border, this results in the absence of supervision at the entrance to Malang, where there are many routes to Malang, resulting in the proliferation of imported used clothing sellers in Malang, and the need for coordination between institutions so that this form of supervision can be achieved and realized.

The implementation of the prohibition on importing thrifting is reviewed from sadd al-dzari'ah, which is meant by Sadd Al-Dzariyah, namely an occupation that is basically permissible, but sometimes this action leads to a crime, so that buying and selling clothes There should be no prohibition on this used product, but this is clearly regulated by the state and it is not permissible to import it, because the aim of the Shari'ah is to maintain health. The aim of the Shari'ah to maintain health in the implementation of the Prohibition on Imported Thrifting in Indonesian legislation has met the level, namely Dzari'ah, which is based on strong suspicion that it leads to mafsadah, and Meanwhile, the Trade and Industry Office only carries out socialization once a year, even though the Directorate General of Customs and Excise requires coordination between agency, namely Diskoperindag, so that this supervision can be realized. There needs to be a solution to this problem for the common good that contains good values in order to create a prosperous community environment and an advanced economy in Malang.

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