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LEGAL PROTECTION FOR CONSUMERS BUYING AND SELLING USED IMPORTED CLOTHES (CAKAR BONGKAR) ACCORDING TO LAW NUMBER 8 OF 1999 CONCERNING CONSUMER PROTECTION

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Abstract

This study examines the legal protection of consumers in the practice of buying and selling imported secondhand clothing (commonly known as cakar bongkar) within the framework of Indonesian law. The research employs a normative juridical method with a statutory and conceptual approach, focusing on the analysis of Undang-Undang Nomor 8 Tahun 1999 tentang Perlindungan Konsumen and related regulations governing trade and consumer rights. The findings indicate that, in principle, the sale and purchase of secondhand goods are legally valid under civil law, provided that the transaction fulfills the essential requirements of a valid agreement, including consent, legal capacity, a specific object, and a lawful cause, as stipulated in Kitab Undang-Undang Hukum Perdata. However, such transactions must also adhere to transparency principles, particularly in providing accurate and honest information regarding the condition of goods. Furthermore, the study reveals that the circulation of imported secondhand clothing is explicitly prohibited under Undang-Undang Nomor 7 Tahun 2014 tentang Perdagangan and Peraturan Menteri Perdagangan Nomor 40 Tahun 2022, due to concerns related to consumer safety and the protection of domestic industries. Consumers are entitled to legal remedies, including compensation and dispute resolution mechanisms, when they suffer losses due to defective or harmful products. Nevertheless, legal protection becomes limited when consumers knowingly engage in transactions involving prohibited goods. Therefore, effective consumer protection requires not only comprehensive regulations but also consistent law enforcement, government supervision, and increased legal awareness among both business actors and consumers.

Keywords: Consumer Protection, Secondhand Clothing, Legal Certainty, Trade Regulation.



A. Introduction

Basically, humans as social creatures are not able to live their lives independently without the involvement of other parties. In daily activities, individuals are always in a state of interdependence, interaction, and need each other. The dynamics of these interactions give birth to various forms of social relations in the community, one of which is reflected in buying and selling activities between sellers and buyers. The relationship is formed due to the mutual agreement of both parties to carry out a transaction in accordance with their respective interests.

In social life, the practice of buying and selling is common and an inseparable part of daily economic activities, especially with the existence of a legally recognized means of

payment as a means of exchange in transactions. Based on the provisions of Article 1457 of the Civil Code, buying and selling is defined as an agreement in which one party is committed to handing over an object, while the other party is obliged to pay a certain amount of agreed price. By referring to these provisions, it can be understood that buying and selling is a form of engagement that gives birth to rights and obligations for each party involved. The seller is obliged to hand over the goods to be traded, while the buyer is obliged to pay a predetermined price based on mutual agreement. The goods that are used as the object of sale and purchase must be "certain", at least the form and quantity can be determined when the property is handed over to the buyer.¹

¹ I Ketut Oka Setiawan, *Hukum Perikatan*, Jakarta (Sinar Grafika, 2016) p. 159



To meet these needs of life, cooperation between humans is needed. One of these collaborations is cooperation in terms of work, while one of the various works is buying and selling business.² In buying and selling, there is a purpose for the welfare of the³ buyers. This relationship occurs because both of them do want each other and have a fairly high level of dependence between each other. Manufacturers are in dire need and rely heavily on consumer support as customers. Without consumer support, it is impossible for producers to be guaranteed business continuity with a variety of choices.⁴ In fulfilling their goals, business actors are

expected to ensure the quality of their products so as not to harm consumers.⁵ Therefore, there is a need for something that can provide protection to both parties to minimize the losses that occur.⁶

Indonesia is a country rich in natural resources that are used to meet domestic needs and some of them are exported to support the economy. However, the limited quality of human resources and technology makes its management not optimal. Therefore, imports are still needed to meet needs that cannot be produced optimally domestically.

² Rahayu, E. L. B., & Syam, N. Digitalization of Buying and Selling Activities in the Community: Perspectives of Social Change Theory", *Ganaya: Journal of Social and Humanities Society*, 4(2), (2021), p. 672.

³ Fitriana, R., & Octaviyanti, S. "Implementation of the Murabahah Agreement on the Financing Products of Officer Welfare (PKP) IB Masalah at PT. Bank Jabar Banten Syariah KCPMajalaya". *ACCURATE Scientific Journal of Accounting FE UNIBBA*, 11(2), (2020), p. 60.

⁴ Siregar, G.T_ & Lubis, M.R. Socialization of Law Number 8 of 1999 concerning Consumer Protection in Darma Agung University". *PKM Maju UDA*, 1(3),(2021),p.100

⁵ Rahmayani, N. "A Review of Consumer Protection Law Related to the Control of Financial Technology-Based Companies in Indonesia". *Sci-Fi Journal*, 2(1), (2018). 24.

⁶ Paryadi, D." Supervision of E-Commerce in the Trade Act and the Consumer Protection Act". *Journal of Law & Development*, 48(3), (2018), p. 651.



Imports in Indonesia take place within a fairly open trade framework, so that goods from abroad can enter the domestic market. This activity is generally carried out to meet needs that have not been able to be optimally met by the domestic industry. In the clothing sector, high demand encourages the entry of textile products from outside, both new and used, that are still suitable for use. These used clothes are usually imported for resale at a more affordable price than similar new products.

In flea markets, traders are still found who sell second-hand goods of low quality or not comparable to the price. Defects in goods are often only discovered after purchase, thus harming consumers and reflecting dishonest practices. Flea markets sell second-hand

goods and antiques, while traders at the free market sell handmade products.⁷

Regarding the import of used clothes, the provisions are regulated in Law Number 7 of 2014 concerning Trade. In principle, imports must be carried out under new conditions, except in certain circumstances set by the Minister, such as for production needs, increased competitiveness, disaster management, or other needs in accordance with applicable regulations.

Consumer problems are not only about the ability to choose goods or services, but also related to the low awareness of all parties to the importance of consumer protection. Both business actors and consumers have a role to play in creating fair trade. Business actors are required to provide products that are of quality, safe, in accordance with

⁷ Alfionita, V. "The Benefits of the Existence of the Wijaya Kesuma Waste Bank in Improving Community Welfare (Case Study of the Waste Bank on Jalan Jawa, KP Village. Peace of North Binjai

District)". Collection of Scientific Papers of Students of the Faculty of Islamic Religion and Humanities, 2(02), (2021), p. 4.



standards, and reasonably priced, so as to create a balanced relationship in transactions.

The current law in Indonesia that can be used as a guideline is Law Number 8 of 1999 concerning Consumer Protection because it aims to create a consumer protection system that contains elements of legal certainty and information disclosure as well as access to information and fosters awareness of business actors so as not to commit fraud against consumers.⁸ By fostering awareness of business actors about the importance of consumer protection so that an honest and responsible attitude grows in doing business.

The condition of consumers who are aggrieved requires increased efforts to

protect them, so that consumer rights can be upheld and balanced with provisions that provide protection for producers.⁹ To guarantee and protect the interests of consumers for goods and/or services purchased in Indonesia, on March 20, 2023. It is then known that there are four universal consumer rights, namely the right to security, the right to information, the right to vote, and the right to be heard.¹⁰

Consumer protection is an effort to ensure legal certainty for consumer rights as stipulated in Article 1 number (1) of Law Number 8 of 1999. However, its implementation is still constrained by weak government supervision and low consumer

⁸ Milala, F. S., & Ayunda, R. "Normative Review of Civil Liability Illegal Skincare Sales in the Perspective of Consumer Protection Law". *PETITUM*, 10(1), (2022), p.11.

⁹ Apandy, P. A. O., & Adam, P. "The Importance of Consumer Protection Law in Buying and Selling", *Jayakaria Journal of Management and Business*, 3(1), (2021), p. 12.

¹⁰ Suhadi, E., & Fadilah, A. A. "Settlement of Compensation Due to Breach of Online Sale and Purchase Agreement Associated with Article 19 of Law Number 8 of 1999 concerning Consumer Protection". *Journal of Research Innovation*, 2(7), (2021), p. 1967.



awareness, especially related to the circulation of imported used clothes.

In conducting a legal relationship between the seller and the buyer, it is only done verbally regarding the price of the goods and the type of goods being traded, there is no written agreement signed by the parties so that here the rights of the consumer can be violated by the seller.¹¹

Seeing from the occurrence of these various problems, the trade in used clothes that is increasingly popular in the community has various impacts, especially for consumers who are at risk of being harmed in imported used clothing transactions or known as "unloading claws". This situation shows the need for a more in-depth study of legal protection for consumers in this practice.

B. Problem Formulation

1. Is the system of buying and selling used clothes legal according to the law of buying and selling in terms of protecting consumers as stipulated in Law Number 8 of 1999 concerning Consumer Protection?
2. What is the legal protection for consumers against the buying and selling of used clothes (Cakar Bongkar), especially related to consumer rights as stipulated in Article 4 of Law Number 8 of 1999 concerning Consumer Protection?

C. Research Objectives

The purpose of the research is to find out and analyze the legal arrangements regarding the sale and purchase of used clothes legally according to the law of buying and selling in terms of consumer protection and legal protection for consumers against

¹¹ Erman Rajagukguk, et al., Consumer Protection Law, 2000, Mandar Maju, Bandung, p. 19



the buying and selling of used clothes (Cakar Bongkar), especially related to consumer rights as stipulated in Law Number 8 of 1999 concerning Consumer Protection.

D. Research Methods

The writing of this scientific paper uses a normative juridical method because it focuses on analyzing the law of buying and selling in terms of consumer protection and legal protection for consumers against the buying and selling of used clothes (Cakar Bongkar), especially related to consumer rights as regulated in Law Number 8 of 1999 concerning Consumer Protection. This type of legal research is qualitative descriptive with a series of documentation studies, by reading, citing, and studying laws and regulations and other information related to research problems.

The legislative approach is used to study and analyze various laws and regulations that are the legal basis for the sale

and purchase of used goods and legal protection of consumer rights, including Law Number 8 of 1999 concerning Consumer Protection.

E. Research Results and Discussion

1. The validity of buying and selling used clothes (claw and dismantling) is legal according to the law of buying and selling

Buying and selling activities are a form of economic interaction carried out by individuals to meet their needs and desires in life, which is characterized by an agreement between the seller and the buyer. In practice, consumer behavior in making transactions is influenced by various factors, including



social status and competence or skills possessed by the seller.¹²

In general, buying and selling transactions involve two legal subjects, namely the seller as the party offering goods or services, and the buyer as the party who benefits from the object being traded. In this context, sellers are required to have persuasive skills to attract buyers' interest so that commercial goals can be achieved optimally.¹³ In addition, market dynamics are also an aspect that cannot be ignored, including market characteristics, the level of people's purchasing power, and the patterns of needs and desires that develop in it.

In principle, the practice of trading used clothes is not a prohibited activity in the legal system in Indonesia. These activities are

still allowed as long as the object being traded is not an imported item that falls into the prohibited category. It is prohibited to protect domestic industry and protect consumer health. Import thrifting can reduce the market share of local textile MSME producers by 12-15%.¹⁴

Consumer dispute resolution can in principle be carried out through litigation in court or through non-litigation mechanisms outside court, the implementation of which is based on the voluntary agreement of the parties to the dispute. In the context of consumer protection against the trade practices of imported used clothing, an active role of the government is needed through

¹² Tjahyadi, R. "The Implementation of the Law on Used Goods Buying and Selling Transactions in Indonesia." *Indonesian Law Journal*, Volume 12, Number 2, (2020). 71-83.

¹³ Suryanto, E., & Widyastuti, D. "The role of regulation in influencing people's consumption

patterns of second-hand goods." *Journal of Regulation and Law*, Volume 5, Number 1, (2021). 15-30.

¹⁴ Ulfiana, D. N., Suliantoro, A., Megawati, W., Andraini, F., & Semarang, U. S. "Thrift shopping in a legal perspective in Indonesia and its impact on MSMEs." *Journal of Law and Economics*, 1(1), 1-24. (2024).



more intensive and continuous supervision.¹⁵ One concrete form of these efforts is the control and destruction of goods, as was done by Zulkifli Hasan on March 20, 2023 at the Jaya Park Warehouse as a law enforcement measure against the circulation of prohibited goods.

Conceptually, the practice of buying and selling used clothes (claw and dismantling) can be considered legitimate from the perspective of civil law in Indonesia, as long as it meets the requirements for the validity of the agreement as stipulated in the Civil Code, especially Article 1320, which includes the agreement of the parties, legal skills, certain objects, and halal causa.

If the transaction is carried out transparently with information disclosure, the goods traded are used goods, accompanied by an honest explanation of the conditions, and there is a price agreement, then the legal relationship formed still meets the qualification as a valid agreement. Thus, judging from the aspect of the contractual relationship between the seller and the buyer, the transaction is not necessarily null and void.

On the other hand, if consumers have known that the used clothes they buy are imported goods that are prohibited from circulation, but still make transactions and then suffer losses, then their legal position becomes weak to obtain protection.¹⁶ This is because the object of the transaction is

¹⁵ Laura Aulia Rosaline1, Asa Diamon, Zaki Ardiansyah, & Sintong Arion Hutapea, "Legal Protection of Consumers in the Purchase of Imported Thrifting Products in Indonesia." *Journal of Politics, Social, Law and Humanities*. Volume 3, Number 2, (2025)

¹⁶ Rahmawati, F., & Santosa, M. "Thrifting: Trends or threats to the Indonesian economy?" *Journal of Socioeconomics*, Volume 10, Number 3, (2021).112-121.



included in the category of goods that are expressly prohibited from trading based on Law Number 7 of 2014 concerning Trade and Regulation of the Minister of Trade Number 40 of 2022, so that legal protection cannot be provided optimally in such conditions

2. Legal Protection for Consumers Against Buying and Selling Used Clothes (Cakar Unloading)

In order to provide legal protection to consumers, especially in the purchase of used clothes, the government has established Law Number 8 of 1999 concerning Consumer Protection as a normative basis to ensure the fulfillment of consumer rights. These provisions are explicitly regulated in Article 4, which outlines various basic rights of consumers in the consumption of goods and/or services.

Oughton and Lowry view consumer protection law as a modern phenomenon typical of the twentieth century, but as the legislation asserts, legal protection for consumers itself began a century earlier.¹⁷

According to Ernest Barker, in order for consumer rights to be perfect, they must meet three conditions, namely that they are needed for human development, that they are recognized by society, and that rights are declared as such, and therefore are protected and guaranteed by state institutions. If these three conditions are not met, then consumer rights are not perfect rights, but are pseudo-rights (*quasrights*). These three requirements have generally been fulfilled by countries that adhere to *Common Law* and *Anglo Saxon*, such as the United States, the United Kingdom, and continental Europe that adhere to the *Code Civil* legal system, especially the

¹⁷ Abdul Halim Barakatullah, "The Urgency of Protecting Consumer Rights in Transactions in E-

commerce." *Journal of Law*. Volume 14, Number 2, (2007)



Netherlands, where consumer rights occur due to the existence of strong consumer protection legal principles, which can guarantee full members of society, which arises from legal awareness.¹⁸

In the context of the trade in used clothing, Article 4 letters a and c affirm that consumers have the right to comfort, security, and safety in the use of goods, as well as the right to accurate, clear, and honest information regarding the conditions and guarantees of the goods offered. Therefore, consumers who buy imported used clothes have the right to be assured that the product is safe to use and does not pose a risk to health, especially skin health. On the other hand, business actors are obliged to ensure that these security and safety aspects are met, as well as provide transparent information

about the condition of the goods, including the existence of defects or imperfections in the products being traded.

The prohibition against business actors is expressly regulated in the provisions of Article 8 paragraph (2) of Law Number 8 of 1999 concerning Consumer Protection, which states that business actors are not allowed to trade damaged, defective, used, or polluted goods without being accompanied by complete and correct information about the condition of the goods. Normatively, this provision can be interpreted as providing space for the circulation of used goods, as long as business actors fulfill their information transparency obligations to consumers.

However, this interpretation cannot be separated from the explanation of Article 8

¹⁸ Adrian Sutedi, "Product Responsibility in Consumer Protection Law, Bogor, Ghalia Indonesia." (2008). p. 50



which emphasizes that the goods traded must meet safety standards and do not pose a potential danger to consumers, and must be in line with the provisions of the applicable laws and regulations. In this context, imported used clothes that have the potential to pose a risk to health, especially skin health, can be categorized as goods that endanger consumers. Therefore, the circulation and trade of imported used clothes is basically not allowed because it is contrary to the principle of consumer protection which focuses on security and safety aspects.¹⁹

According to Ahmadi Miru and Sutarman Yodo in their book, "The right to consumer security and safety in the use of the goods or services they obtain, so that consumers can avoid physical and

psychological losses when consuming the product."²⁰

Law Number 8 of 1999 concerning Consumer Protection basically guarantees consumers' rights to security and safety aspects in the use of goods, including used clothing. However, the practice of trading in imported used clothing has been expressly prohibited by the government through the Regulation of the Minister of Trade Number 40 of 2022 as an amendment to the Regulation of the Minister of Trade Number 18 of 2021 concerning Goods Prohibited from Export and Goods Prohibited from Import, and strengthened by Law Number 7 of 2014 concerning Trade.

The existence of comprehensive regulations accompanied by consistent law enforcement provides a guarantee for

¹⁹ Rizki, S. "Thrift fashion and sustainability: The link between second-hand goods consumption and the environment." *Journal of Environment and Development*, Volume 9, Number 3, (2021). 77-90.

²⁰ Ahmadi Miru and Sutarman Yodo, "Consumer Protection Law." (Jakarta : Rajawali Pers), (2010) p. 41



consumers to obtain accurate information regarding the condition and quality of the goods purchased. In this context, Law Number 8 of 1999 concerning Consumer Protection functions as a juridical instrument that provides a framework for the protection of consumer rights, especially related to aspects of product safety and quality.

Thus, if the consumer receives the goods in a damaged or inappropriate condition, then the consumer has a legal basis to demand compensation or compensation. Furthermore, as has been described, the government expressly prohibits the export and import of used goods, especially used clothes, through the strengthening of regulations that limit the entry of these goods into the territory of the Unitary State of the Republic of Indonesia. This provision shows the state's commitment to maintaining

consumer protection and order in trade activities.

In the event of losses experienced by consumers due to the use of imported used clothes, especially if the consumer does not know the origin of the goods, then legal responsibility is imposed on business actors. This is in line with the provisions of Article 19 of the UUPK which requires business actors to provide compensation for damage, pollution, and/or losses arising from the use of goods or services produced or traded. These consumer rights have been injured by business actors when viewed from the side of selling imported used clothes, because the goods sold can endanger consumer health.²¹

The mechanism for enforcing consumer rights is regulated in Article 45 paragraphs (1) and (2) of the UUPK, which gives consumers the right to file lawsuits

²¹ Sumarni, R., & Hermawan, B. "Analysis of the economic impact of the thrifting industry on MSMEs

in Indonesia." *Journal of Development Economics*, Volume 13, Number 2, (2022). 45-58.



against business actors, either through consumer dispute resolution institutions or through litigation channels in the general courts. This provision reflects the guarantee of access to justice for consumers in order to obtain effective legal protection.

F. Conclusion

Juridically, buying and selling activities are a valid legal relationship as long as they meet the terms of the agreement as stipulated in the Civil Code, namely the existence of an agreement, the skill of the parties, certain objects, and causa that are halal. In the context of the used clothing trade, this practice is basically allowed as long as it does not involve prohibited imported goods and is carried out transparently by providing honest information about the condition of the goods.

However, Law Number 7 of 2014 concerning Trade and Regulation of the Minister of Trade Number 40 of 2022

expressly prohibit the circulation of imported used clothes in order to protect consumers and domestic industries. Legal protection for consumers depends on compliance with regulations, accompanied by government supervision and legal awareness of the parties. In the event of a loss, consumers can pursue dispute resolution efforts, but protection is limited if transactions are made for goods that are legally prohibited.

However, Law Number 8 of 1999 concerning Consumer Protection is the main legal basis that guarantees consumer rights, especially related to security, safety, and information disclosure in the use of goods and/or services. In the trade in used clothes, the provisions of Article 4 and Article 8 affirm the right of consumers to obtain safe products and honest information, while requiring business actors to meet these standards responsibly.



Although the circulation of second-hand goods is basically allowed, the practice is still limited by the principle that goods must not harm consumers and must be in accordance with the provisions of applicable law. Therefore, imported used clothes that have the potential to pose health risks are declared prohibited as stipulated in Law Number 7 of 2014 concerning Trade and Regulation of the Minister of Trade Number 40 of 2022. In the event of a loss, consumers have the right to claim compensation and pursue dispute resolution through legal channels, so the effectiveness of consumer protection is highly dependent on regulatory enforcement and legal awareness of the parties.

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Consumer Protection

Law Number 7 of 2014 concerning Trade.