



JURIDICAL ANALYSIS OF CRIMINAL ACTS OF Smuggling USED CLOTHES IN BATAM CITY (Research Study at the Batam Customs Commission)

Winda Anshelyca

Faculty of Law, Universitas Batam

E-mail: anshelyca@gmail.com

Abstract

The smuggling of used clothes is an act that violates the provisions of the law, the increase in smuggling cases, especially the smuggling of imports of used clothes (secondhand) has caused various impacts, especially the decline in the competitiveness of domestic production. The problem that will be researched and analyzed is how the legal arrangements, implementation, and what factors are obstacles to the criminal act of smuggling used clothes to minimize the number of crimes. Methods of data collection in this research using library research and field studies. Data analysis used qualitative analysis. This type of research uses normative law research and is supported by empirical law research. The results of this legal research reveal that the prevention of criminal acts of smuggling used clothes stipulates that the legal rules related to smuggling are regulated in Law Number 10 of 1995 concerning Customs as amended to Law Number 17 of 2006, as well as making Regulation of the Minister of Trade Number 18 of 2021 Concerning Export Prohibited Goods and Prohibited Import Goods. Customs and Excise is only the implementer of the existing rules in this case the smuggling of used clothes. The obstacles experienced by Customs and Excise in tackling the crime of smuggling used clothes are the resistance or resistance of the smugglers by mobilizing the masses, both on land and at sea. It is hoped that a statutory regulation will be established that provides more specific provisions regarding the prosecution and punishment of used clothing smuggling which emphasizes not only smugglers but also actors who play a direct role in importing used clothing. And it is hoped that strict sanctions behind complete legal regulations related to the criminal act of smuggling used clothes, then all elements related to the legal system are able to understand that the legal rules are made to protect the public from the threat of the dangers of second-hand clothes.

Keywords: *Smuggling, Crime Prevention, Used Clothing*

1. INTRODUCTION

Batam, which incidentally is a city consisting of a group of small islands and is located on an international trade route which is directly adjacent to Singapore and Malaysia, besides that Batam City is also designated by the government as a free trade area in accordance with Government Regulation Number 41 of 2021 concerning Regional Management. Free Trade and Free Port, so that special and inherent supervision is needed on export and import activities transported by sea in the Batam free trade area to avoid smuggling with various modes. Considering the size of the Indonesian customs area, which is the area of the sovereignty of the Republic of Indonesia,

Related to the increase in smuggling is one of the obstacles that can hinder national development. The increase in smuggling crimes is estimated to be influenced by many factors, including the vast territory of the archipelago and the many entrances and exits that must be secured (Hamdani & Haikal, 2010). One form of smuggling crime that occurs in Indonesia is including the smuggling of used clothes or better known as the general public, namely secondhand and or ballpress. It is known that used clothing (ballpress) is prohibited from being circulated because it is considered a source of disease, the decline in the competitiveness of domestic production in the market which will eventually affect the national economy. This provision has been stipulated in the Regulation of the Ministry of Trade Number 18 of 2021 concerning Export Prohibited Goods and Prohibited Imports (Warih Astri, 2010) explaining that what is meant is

imports in the form of used bags, used sacks, and used clothes. On the one hand, the government prohibits the import of used clothing because it contains a dangerous virus, and the import of used clothing can damage the competitiveness of local domestic products. However, on the other hand, the community really needs clothing at cheap and affordable prices (Yusnedi Ahmad, 2015) While the government has not been able to control and suppress the price of domestically produced clothing. On the other hand, in terms of the economy, the government must also pay attention, lest it be because of the import of used clothes, Domestic local products are damaged as a result of not being able to compete with the price of used clothes that enter secretly. It is also undeniable that the fact is that since the circulation of used clothing on the market, the price of imported used clothing from Singapore and Malaysia, although the quality is lacking, but the price is cheap and affordable, people will certainly buy it.

As smuggling used clothes is an act that violates legal provisions, in accordance with Law No. 10 of 1995 which was changed to Law No. 17 of 2006 concerning Customs. Regulate that the Directorate General of Customs and Excise is in charge of supervising the traffic of goods entering or leaving the customs area. However, considering the geographical location of Indonesia as an archipelagic country whose sea is directly adjacent to neighboring countries, it is necessary to supervise the transportation of certain goods. Certain goods are goods that are determined by the technical agency as goods whose transport within the customs area is supervised (Eddhi Sutarto). The implementation of customs duties is the supervision of the traffic of goods brought or entered or released to or from within the customs area or outside the customs area. Goods that are prohibited or restricted from being imported into a free area from outside the customs area or removed from a free area outside the customs area or to other places within the customs area that are not notified or notified incorrectly will be determined as goods controlled by the State, except for goods that is determined otherwise based on the provisions of the legislation (Ali Purwito, 2015).

The increase in smuggling cases, especially import smuggling, has caused various impacts, especially the decline in the competitiveness of domestic production. Taking into account these influencing factors, it is necessary to handle this smuggling problem in any way. The eradication of smuggling will still be an interesting topic of discussion among law enforcers, therefore this problem is one of the main targets in carrying out the duties of law enforcers and several related agencies that have the authority and supervision over the import and export of goods. The mode carried out is generally carried out using various import-export facilities provided by Customs and Excise (Astri Warih, 2018).

2. IMPLEMENTATION METHOD

Regarding the type of writing methodology and theoretical basis, in essence, it will be adjusted to the title as included in this journal, in line with this, it is also adjusted to several important points as explained in the background above. Therefore, for this type of journal writing, it is normative law (Mukti Fajar, 2011). As described above, the methodology is carried out legally research. The theoretical basis uses the law of life theory by Hans Kelsen as a grand theory, middle theory uses the law of happiness theory by Jeremy Bentham, and applied theory uses legal structure law theory by Lawrence M Friedman.

3. RESULTS AND DISCUSSION

In this section, an analysis or discussion of the title in the formulation of the problem will be carried out as described in the above section as the discussion will be presented in the section below:

1. Legal Arrangements Against Combating the Crime of Smuggling Used Clothing in Batam City.

In connection with the analysis of the discussion of legal arrangements against the crime of smuggling used clothes in the city of Batam. It should be explained that the crime of smuggling is a



crime related to the release of goods or money from Indonesia to abroad (exports) or the entry of goods or money from abroad into Indonesia (imports). The definition of smuggling is entering or removing goods in secret contrary to the law without paying the required duty according to regulations (Andi Hamzah, 1995). The existence of an import policy carried out by the government is based on domestic needs to meet the needs of goods and services that cannot be fully produced domestically. The government also stimulates exports with export credit facilities, export credit guarantee and export insurance with soft credit facilities. A side effect of this policy is that smuggling is often carried out using export facilities. Based on the results of the research that smuggling related to customs is an act or act of importing and or exporting goods without complying with the provisions of the applicable laws and regulations with the aim of avoiding the payment of import duties and taxes in the context of imports, export duties, excise, and avoiding the provisions of prohibitions and import and export restrictions. The laws governing smuggling in the context of export and import activities in the city of Batam are regulated in several laws and regulations, including special rules regarding the status of the Free Trade Zone (FTZ) area in the city of Batam. The legal regulations are as follows:

Law Number 17 of 2006 concerning Amendments to Law Number 10 of 1995 concerning Customs and Government Regulation Number 41 of 2021 concerning the Implementation of Free Trade Areas and Free Ports. The two regulations are related to smuggling in the context of export and import. In Law Number 17 of 2006 concerning Amendments to Law Number 10 of 1995 concerning Customs, as regulated in article 102, article 102 A, and article 102 B. While regarding the status of the Free Trade Zone Area in Batam City, it is regulated in a Government Regulation Number 41 of 2021 concerning the Implementation of Free Trade Areas and Free Ports,

In connection with the rules regarding free areas and the stipulation of Government Regulation Number 41 of 2021 concerning the Implementation of Free Trade Areas and Free Ports, Batam has become an easy ground for smugglers to smuggle illegal goods, one of which is used clothing. 18 of 2021 concerning Goods Prohibited from Exporting and Goods Prohibited from Importing It is stated that in article 2 paragraph (3), namely that goods prohibited from import as referred to are imports in the form of used bags, used sacks, and used clothes. The purpose of the enactment of these regulations is to protect the state and society in the rampant smuggling of second-hand clothes that have an impact on the health and competitiveness of local products.

2. Implementation of Batam Customs Policy in Handling the Crime of Smuggling Used Clothing.

The implementation carried out by Batam Customs in tackling the crime of smuggling used clothing, considering that the location of the city of Batam is very strategic for international trade routes which are directly adjacent to Singapore and Malaysia, this causes trading activities to be very smooth in the city of Batam so that supervision of export and import activities is required. In its implementation, Customs and Excise conduct cross-institutional cooperation so that cross-institutional cooperation plays a role in law enforcement. The relevant law enforcers are: the Directorate General of Customs, the Police, and the TNI. It can be explained that Customs and Excise is an organization whose existence is very essential for a country that has the task of carrying out the formulation and implementation of policies in the field of supervision, law enforcement, services and optimizing state revenues in the field of customs and excise in accordance with the provisions of laws and regulations, on the other hand providing facilities Trade includes carrying out tasks entrusted by other agencies to protect the domestic industry from unfair competition with similar industries from abroad and protect the public from the entry of dangerous goods. Police is a function of the state government in the field of maintaining security and public order, law enforcement, protection, shelter, and service to the community. services and optimization of state revenues in customs and excise in accordance with the provisions of laws and regulations, on the other hand providing trade facilities including carrying out entrusted duties from other agencies to protect domestic industry from unfair competition with similar industries from abroad and protect the public from entry dangerous goods. Police is a function of the state

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The National Police of the Republic of Indonesia aims to realize internal security which includes the maintenance of security and public order, order and enforcement of the law, the implementation of protection, protection, and service to the community, as well as the establishment of public peace by upholding human rights. The TNI in Law Number 34 of 2004 states that the TNI has three main tasks, namely: first, upholding state sovereignty, second, maintaining territorial integrity and third, protecting the entire nation and the entire homeland of Indonesia from threats and disturbances.

In connection with cross-institutional cooperation, Customs and Excise also optimizes Operational Facilities and Infrastructure that support the success of Customs duties and functions in accelerating the flow of goods traffic, namely: X-rays, sniffer dogs, electricity, data processing and communication devices, Increased surveillance equipment capacity including mobile (vehicle) container scanners, portable trace detectors, mobile (van) scanners, handle chemical identifiers, UPS trace detectors, adequate marine surveillance to support patrol vessel operations, including the procurement of a Coastal Surveillance System (CSS) and the existence of Penal Policies and Non-Penal So that in the implementation of the handling of smuggling used clothing (used) can be monitored and prosecuted with the facilities and infrastructure of the operation.

3. Obstacles and Obstacles to Customs Factors in Combating the Crime of Smuggling Used Clothing.

The high unemployment rate is one of the contributors to the increase in the crime rate. Simple economic models predict that the increasingly difficult labor market opportunities open up the possibility for individuals to be involved in criminal acts so that naturally developed cross-border illegal businesses are seen as a last resort for local residents because they are unable to manage the available resources. The crime of smuggling is influenced by several factors, namely: Geographical factors such as the extent of the Riau Archipelago which consists of several small islands with a wide-spread coastline and very close to neighboring countries that have previously experienced progress both in the economy and industry open opportunities or opportunities , or it can even stimulate entrepreneurs (local and foreign) to smuggle. The condition of the domestic industry as it cannot be denied that the condition of the domestic industry also affects the emergence of smuggling crimes, the rapid import of used clothing in Indonesia because as is known, domestic industrial production is generally still in the development stage so that the results are still not available. high production costs make the products less able to compete with foreign goods. Transportation in the matter of smuggling will also be determined by the transportation factor of certain areas in the region in bringing goods for the community's basic needs often experiencing delays, This is due to the lack of smooth relations between one island and another. The mentality is that the perpetrators or smugglers are generally not people or entrepreneurs with



small capital but people with large capital. As well as the community factor, there is a lack of participation even though the mass media has been aggressively enough to make news about the eradication of the crime of smuggling used clothes, maybe this is because the community feels lucky because they can buy imported goods from abroad with low prices and high quality. without thinking about the health effects. Besides, the weakness in the Customs Law which only provides administrative sanctions to importers who violate. The mentality is that the perpetrators or smugglers are generally not people or entrepreneurs with small capital but people with large capital. As well as the community factor, there is a lack of participation even though the mass media has been aggressively enough to make news about the eradication of the crime of smuggling used clothes, maybe this is because the community feels lucky because they can buy imported goods from abroad with low prices and high quality. without thinking about the health effects. Besides, the weakness in the Customs Law which only provides administrative sanctions to importers who violate. The mentality is that the perpetrators or smugglers are generally not people or entrepreneurs with small capital but people with large capital. As well as the community factor, there is a lack of participation even though the mass media has been aggressively enough to make news about the eradication of the crime of smuggling used clothes, maybe this is because the community feels lucky because they can buy imported goods from abroad with low prices and high quality. without thinking about the health effects. Besides, the weakness in the Customs Law which only provides administrative sanctions to importers who violate. As well as the community factor, there is a lack of participation even though the mass media has been aggressively enough to make news about the eradication of the crime of smuggling used clothes, maybe this is because the community feels lucky because they can buy imported goods from abroad with low prices and high quality. without thinking about the health effects. Besides, the weakness in the Customs Law which only provides administrative sanctions to importers who violate. As well as the community factor, there is a lack of participation even though the mass media has been aggressively enough to make news about the eradication of the crime of smuggling used clothes, maybe this is because the community feels lucky because they can buy imported goods from abroad with low prices and high quality. without thinking about the health effects. Besides, the weakness in the Customs Law which only provides administrative sanctions to importers who violate. As well as the community factor, there is a lack of participation even though the mass media has been aggressively enough to make news about the eradication of the crime of smuggling used clothes, maybe this is because the community feels lucky because they can buy imported goods from abroad with low prices and high quality. without thinking about the health effects. Besides, the weakness in the Customs Law which only provides administrative sanctions to importers who violate.

In connection with the influencing factors as described above, the customs barriers in tackling the smuggling of used clothes (used) some of the most dominant things experienced by Batam Customs are the legal culture of the people who tend to be disobedient and obedient to the law and law enforcement officials, The community considers that used clothing is a livelihood that has long been a source of the community's economy so that prevention and prosecution of used clothing smuggling often get resistance from smugglers and the community. Regarding legal institutions and infrastructure, Batam Customs and Excise encountered obstacles because the personnel owned by Batam Customs were unable to take action and countermeasures against the smuggling of used clothing, both on land and at sea. If we relate this to the availability of personnel, the TNI/Polri must be partners with Customs because we know that the TNI/Polri have good personnel availability in terms of taking action. Regarding secondhand clothes which were delegated to Batam Customs investigators, it is difficult to prove if the arrests were made on land, otherwise it would be easy for the Batam Customs investigators to conduct an investigation. and investigation.

4. CONCLUSION

In this concluding section the author will present conclusions as well as suggestions from the analysis or explanation as presented by the author in the section above, which will elaborate further conclusions and suggestions below:

1. The legal rules related to smuggling are regulated in Law Number 10 of 1995 concerning Customs as amended by Law Number 17 of 2006 to be precise in Article 102 and Article 102A. The rules for export and import activities in the city of Batam are regulated in several

laws and regulations including the status of the FTZ (Free Trade Zone) area as regulated in Government Regulation Number 41 of 2021 concerning the Implementation of Free Trade Areas and Free Ports. As well as the legal rules regarding the prohibition of trade in used clothing (used) are contained in the Regulation of the Minister of Trade Number 18 of 2021 concerning Goods Prohibited from Exporting and Goods Prohibited from Importing, precisely in Article 2 paragraph (3).

2. Specifically regarding the implementation of Customs and Excise, it is only as the executor of the existing regulations in terms of smuggling of used clothes through the Regulation of the Minister of Trade Number 18 of 2021 concerning Goods Prohibited from Exporting and Goods Prohibited from Importing. Considering the factors causing the smuggling of used clothing (used) in the Batam island region due to the geographical location of the Riau archipelago which can be a soft land for a smuggler, therefore Customs and Excise has the authority to supervise the traffic flow of goods in the Batam free area so that it often carries out routine marine patrol activities, both with independent patrol schemes, coordinated patrols and assisted patrols. Everything is done optimally to tackle the crime of smuggling.
3. Obstacles related to tackling the crime of smuggling used clothes (used) which were delegated to the Customs and Excise agency, namely when carrying out law enforcement during sea patrols, there was resistance or resistance from smugglers by mobilizing the masses, related to law enforcement against smuggling used clothes (secondhand) that circulating in the public market and or being traded in the form of retail or colli, regarding the facilities and infrastructure of the Batam Customs and Excise personnel, the Customs and Excise have personnel constraints so that they cannot carry out prosecutions and countermeasures against the smuggling of used clothes (secondhand) both on land and on land. in the sea perfectly.

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