HARDSHIP AS AN ALTERNATIVE LEGAL PROTECTION AGAINTS UNDUE INFLUENCE IN THE SCRAP IRON BUSINESS IN INDONESIA

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ABSTRACT

The bargaining power position between scrap iron sellers and buyers in Indonesia is unbalanced. This can be seen from the hardship in the delivery of scrap iron, which buyers use as an excuse to reduce the economic value of the scrap iron, which is detrimental to the seller. In practice, the protection of hardship conditions in scrap iron purchase and sale agreements in Indonesia has weaknesses, considering that there are no special regulations regarding hardship conditions in laws and regulations. The settlement of hardship conditions is only based on the principle of freedom of contract, which tends to benefit the consumer. Consumers also benefitted from Law Number 8 of 1999 on Consumer Protection. This condition shows that implementing the principle of balance in contracting in the scrap iron buying and selling business is not achieved, considering that Indonesian law indirectly overrides the potential losses experienced by sellers. This paper is the result of research that aims to describe and analyze the weaknesses of legal protection regulations for scrap iron sellers in sales and purchase agreements when hardship occurs and to reconstruct legal protection regulations for scrap iron sellers in fair-value purchase and sale agreements. The findings in this study include First, weaknesses in legal protection for scrap iron sellers in sales and purchase agreements when hardship occurs, consisting of substance, structural, and cultural weaknesses. Also, to differentiate between hardship and force majeure according to international law. Second, the weakness of substance in the implementation of protection of scrap iron sellers in the buying and selling of scrap iron when hardship occurs is in the form of the absence of regulation regarding hardship in the legal politics of buying and selling scrap iron in Indonesia, which has resulted in the injury of various dimensions of trade law policy in this country.

Keywords*:* Hardship, Legal Protection, Force Majeure, Scrap iron Business, Indonesia

INTRODUCTION

Iron is a raw material in various industrial branches at the domestic industry level and abroad. The demand for domestic iron needs was 54% in 2018.[1] The existence of the building construction industry is broadly supported by domestic iron demand. The need for domestic iron and the supply of iron in the market in Indonesia, as well as domestic iron production, are currently not in line with each other.

National iron and steel companies can only produce 4 million tons annually. Of that number, PT. Krakatau Steel (KS) contributed 2.5 million tons of iron and steel production. The national steel demand reaches 6 million tons per year. As a result, to meet local iron and steel needs, Indonesia must import 2 million tons of steel from various countries per year. The structure of the iron and steel industry in Indonesia is still weak and has not been integrated. This is reflected in the raw material for iron and steel, namely iron ore, that is still imported from abroad. PT. KS has to bring in iron ore as pellets from Brazil and Chile every year, with a volume of about two million tons. When viewed from the potential of iron ore, Indonesia has a very abundant potential source of iron ore, which is as much as 2-5 billion tons. The production price produced by the national steel industry, especially KS, is considered no longer economical. Apart from the fact that the raw materials are still imported, there are also resources to produce iron and steel using gas, the prices of which continue to rise.[2] Strengthening the national iron and steel industry is urgently needed. The government must accelerate the increase in iron and steel production to anticipate the rising demand for steel.[3]

The various narratives above clearly hint at the critical role of the domestic scrap iron business. The progress of the iron trade world is based on the crucial role of domestic scrap iron producers, distributors, and consumers. The importance of these three elements automatically requires a harmonious relationship between the three aspects of the industry. In reality, harmonization in the relationship of the scrap iron industry encounters many obstacles, especially between the iron seller or producer and the consumer.

The condition is due to the unpredictable increase and decrease in iron prices. The fluctuation in iron prices is caused by the supply of domestic production not being able to meet the demand of the domestic and foreign markets, the existence of iron imports, and business competition between large and small capital entrepreneurs. The fluctuation in iron prices is increasingly complex, and the process of distributing goods from sellers to consumers is not timely due to unavoidable circumstances beyond the control of the iron seller or hardship.[4]

Even though the seller and the consumer's iron sale and purchase agreement contain hardship, most of the hardship is not the basis for solving a problem in the purchase and sale of scrap iron. The exclusion of this aspect of hardship is shown by the determination of price depreciation by iron buyers on the grounds of depreciation in the quality of goods and the length of delivery

[1]https://industri.kontan.co.id/news/impor-baja-dan-besi-capai-54-dari-kebutuhan-pengusaha-meminta-impor-baja-diperketat, retrieved at April 26th, 2021.
[2]Industrial Media, *Strategies for Strengthening the Iron and Steel Industry*, No. 2, 2017, Ministry of Commerce, p. 7.
[3]*Filter, cit.*
[4]*Loc, cit.*

of goods that do not follow the agreement. Mahmoedin stated that in realizing good business ethics, there is fairness between the parties involved in a business agreement.[5] Hardship is a compelling situation that impacts the uncertain business world.[6]

As is known, the iron and steel industry is greatly influenced by the construction sector and the processing and manufacturing industries. These two sectors are the critical *drivers* that absorb the most steel needs as raw materials for the processing and manufacturing industries and are directly used in construction and infrastructure projects. The decline in GDP in these sectors has directly impacted the consumption of finished steel products. Even though there has been a decrease in the demand for iron, it can be categorized as stable. However, COVID-19 also impacts the distribution of goods due to the policy of restricting goods traffic activities both at the national level and from abroad.

Other hardship situations that can threaten are accidents in the transportation of goods distribution services or the existence of natural disasters and bad weather, which can also inhibit the goods distribution process. So, hardships that are not regulated in the business agreement, including the iron purchase and sale agreement, will impact the loss of the iron seller. Including scrap iron sellers, the price flux is very felt in the purchase and sale of scrap iron; in contrast to new iron, where the friction is still relatively low, the flux in the purchase and sale of scrap iron is very high. Transportation delays in the distribution process of goods will be very detrimental to scrap iron sellers. The reason is that the agreed price can be changed because the delivery time of the goods is not suitable; the delay of the goods also often results in consumers requiring discounts from the seller of scrap iron. Meanwhile, if the sale and purchase are canceled, it will result in non-payment of production costs and the cost of distributing goods, which is also relatively high. COVID-19 has increased cases of delays in the delivery of scrap iron, which automatically also increases the number of loss-making scrap iron sellers.[7]

The problem, as mentioned above, is that in the economic world, it is inseparable from the need for laws to protect the parties' rights. In its existence in society, the law has a role and influence on economic activities following the function of the law itself. In its function, the law contains instructions for human behavior, a tool for resolving conflicts, and a tool for socio-economic engineering.[8] Economic development cannot be separated from legal development because economics and law are two things that affect each other. Law as a normative provision has a crucial role and function in economics.[9]

The various descriptions of the hardship situation above show that the opportunity for losses experienced by scrap iron sellers is enormous. This vulnerability is caused by the absence of legal rules that regulate seller protection. Protection in the world of trade in Indonesia is only aimed at consumers of services and goods. This impacts the absence of a guarantee of legal certainty for protection for scrap iron sellers in making scrap iron purchase and sale agreements. Scrap iron sales and purchase agreements are based solely on freedom of contract and consumer protection. As a result, scrap iron sellers have a low bargaining position, especially traditional scrap iron sellers who mostly do not understand the law. Therefore, it can be said that the absence of clear rules regarding legal protection for scrap iron sellers can result in the abuse of circumstances or *misbruik van omstandigheden* by scrap iron buyers.[10]

PROBLEM STATEMENT

The issue discussed in this article is related to the legal protection for scrap iron sellers during the hardship in scrap iron purchase and sale agreements that tend to lower the scrap iron price and concept the national legal protection for hardship based on fairness value.

The type of legal research used in this article is non-doctrinal research. In this non-doctrinal law research, the law is conceptualized as a manifestation of the symbolic meanings of social actors as seen in the interaction between them. The objective reality of life does not exist in the empirical realm, which is also the observation realm. It does not appear in the form of objectively patterned and structured behavior (let alone normative). Therefore, it can be measured to produce quantitative data. The reality of life only exists in the realm of meaning that appears in symbols that can only be understood after interpretation. Such a reality cannot be easily "captured" through observation and measurement from the outside. These realities can only be "captured" through experience and internal experiences that produce a complete picture of understanding.[11] Besides, the article used

THE DIFFERENCES BETWEEN FORCE MAJEURE AND HARDSHIP

In some literature, it is stated that force majeure and hardship are two different things. Still, both conditions have similar circumstances (not the debtor's fault or negligence) that can affect the course of the business agreement. Force majeure is "a failure to implement the agreement beyond the fault or negligence of the debtor."[12] Otherwise, hardship is identified as "an event that occurs after the agreement's closing beyond the parties' control (unexpected or foreseen) that increasing the cost of implementing the deal poses a risk of fundamental changes in the balance of the agreement so that it burdens the debtor, or vice versa, the decrease in implementation costs. Therefore, the deal eliminates profits for creditors.[13]

[5] Mahmodin, *Business Ethics*, Pustaka Sinar Harapan, 1996, p. 8.
[6] *Loc, cit.*
[7] Saharrudin, Interview with Business People in Scrap Iron Industry at Situbondo Regency February 16th ,2022.
[8] Gunarto Suhardi, 2002, *The Role of Law in Economic Development*, Atmajaya University, Yogyakarta, p. 27.
[9] *Loc cit*.
[10] https://sthgarut.ac.id/blog/2020/02/24/penyalahgunaan-keadaan-misbruik-van-omstandigheden-sebagai-bentuk-cacat-kehendak-ke-4-dalam-perjanjian/, retrieved at May 12th, 2024.
[11] Soetandyo Wignjosoebroto, *Law, Paradigm, Method, and Dynamics of the Problem*, HUMA, Jakarta, 2002, p.198.
[12] Pardomuan Gultom and Rumainur, Contract Renegotiation Due to the Covid-19 Pandemic from the Hardship Perspective, *Indonesian Law Journal*, Vol.`5, No.1, December 2022, p.85.
[13] Agus Yudha Hernoko, 2008, *Law of Agreements: The Principle of Proportionality in Commercial Contracts*, Yogyakarta: LaksBang Mediatama, p.215 in Pardomuan Gulton and Rumainur, *Ibid.*, p.86.

Here are some differences and similarities between hardship and force majeure:[14]

a. The similarities between force majeure and hardship include:
   1) There is an event that hinders the implementation of achievements by one of the parties;
   2) The event was unpredictable at the time of contract closing;
   3) It is not caused by the fault (risk) of one party.
b. The differences between force majeure and hardship include:
   1) At the time of force majeure, if it is proven, then:
      a) At that same time, the contract ends (except for the partial force majeure, there is an obligation to continue the remaining part) because if you refer to the substance of Article 1381 of the Indonesian Civil Code, then the force majeure is one of the reasons that causes the abolition of the agreement;
      b) Consumers are no longer responsible for any lawsuits for the risks that arise.
   2) On hardship
      a) Events that hinder the implementation of achievements are more emphasized on events that fundamentally change the balance of the contract, either because of the cost of implementation or because the value of the performance to be received changes significantly so that it will cause unreasonable losses to other parties.
      b) If proven, the contract does not end but can be renegotiated (renegotiated) by the parties for its continuation.
      c) If the renegotiation fails, the dispute can be submitted to the court.
      d) The judge may terminate the contract or revise the agreement to restore balance proportionally.

The difference in the systematics of the placement of hardship and force majeure substances can be seen *firstly*, specifically in the Unidroit Principles of International Commercial Contract 2016 (UPICC). In the Contract Bill (ELIPS), hardship and force majeure are placed in the systematics, that is, in order of each other, and of course, there is such a ratio of systematic placement. *Secondly*, hardship is placed in the order of systematics first, namely in Chapter VI on Performance, so that the emphasis on hardship is still in the context of the implementation of achievements, even though it is constrained, as much as possible, the implementation of achievements is still carried out based on the consideration of the proportionality of rights and obligations. Thus, in the hardship of the continuity of the contractual relationship, it is maintained as much as possible. *Thirdly*, force majeure is placed in the next systematic order, namely in Chapter VII about non-performance (*Non-Performance*), so that the emphasis of force majeure lies precisely in the non-implementation or non-fulfillment of achievements, with the consequences of contract termination.

More often, according to Article 6.2.2 UPICC, hardship is defined as "*There is hardship where the occurrence of events fundamentally alters the equilibrium of the contract either because the cost of a party's performance has increased or because the value of the performance a party receives has diminished and: a) the events occur or become known to the disadvantaged party after the conclusion of the contract; b) the events could not reasonably have been taken into account by the disadvantaged party at the time of the conclusion of the contract; c) the events are beyond the control of the disadvantaged party; and d) the disadvantaged party did not assume the risk of the events."*[15]

Article 6.2.3 paragraph (1) of the UPICC adds, "In case of hardship, the disadvantaged party should request renegotiation. The request shall be without undue delay and shall indicate the grounds on which it is based". Furthermore, if the renegotiation does not reach a new agreement, either party may file a lawsuit to the court as stipulated in Article 6.2.3 paragraph (3) of the UPICC.

This means that UPICC has provided indicators of events categorized as hardship. The limit is set to protect one of the parties involved in the agreement from the other party abusing the hardship situation as a reason to cancel the contract or obtain unilateral benefits. The article intends to protect the parties' interests in the agreement without removing the application of the principle of balance in contracting. Moreover, in determining whether a non-performance due to an impediment is included in hardship, it is necessary to have a common perception of the limitations of hardship by the parties.

On the other hand, according to British law dictionary, force majeure is defined as:

Force majeure is used particularly in commercial contracts to describe events possibly affecting the contract that are completely outside the parties' control. Such events are normally listed in full to ensure their enforceability; they may include acts of God, fires, failure of suppliers or subcontractors to supply the supplier under the agreement, strikes, and other labor disputes that interfere with the supplier's contract performance. An express clause would normally excuse both delay and a total failure to perform the agreement.[16]

According to Article 7.1.7 UPICC, force majeure is determined into three things; they are: 1) Non-performance by a party is excused if that party proves that the non-performance was due to an impediment beyond its control and that it could not reasonably be expected to have taken the impediment into account at the time of the conclusion of the contract or to have avoided or overcome it or its consequences; 2) When the impediment is only temporary, the excuse shall have effect for such period as is reasonable having regard to the effect of the impediment on the performance of the contract; 3) The party who fails to perform must give notice to the other party of the impediment and its effect on its liability to perform. If the other party does not receive the notice within a reasonable time after the party who fails to perform knew or ought to have known of the impediment, it is liable for damages resulting from such non-receipt; 4) Nothing in this Article prevents a party from exercising a right to terminate the contract or to withhold performance or request interest on money due.

Based on the definition above, the emphasis on the condition of force majeure lies in the appropriateness of fulfilling the contract due to things beyond the parties' control. The existence of force majeure can result in the contract not being enforced. However, from the beginning, the parties should be able to agree on what matters are included in the category of force majeure,

[14]Agus Yudha Hernoko, ""Force Majeur Clause" or "Hardship Clause" Problems in Business Contract Design", *PERSPEKTIF*, Volume XI No.3, 2006, p. 222-224.
[15] Unidroit Principles of International Commercial Contract 2016, p.217-220.
[16] Dictionary of Law, Oxford University Press, Market House Book ltd 1997 in Hubert Konarski, *Force Majeure and Hardship Clauses in International Contractual Practice,*The International Business Law Journal, No.4, 2003, p.4.

including those outside the issues stipulated in the civil code jurisdictions.[17] For example, by writing a clause like the following: "*telling that there is nothing in any those specific examples...which is even remotely connected with the economic downturn, market circumstances or the financing of the deal".* Another important thing is that the parties must prove that one of the parties has experienced force majeure as previously agreed. Methods that can be done to prove include looking at aspects of the event that occurred, causation, beyond control, and not avoidable.[18]

Based on the description of the definition and type of impediment of a contract clause, there is a fundamental difference in the writing of a clause between hardship and force majeure. Where the provisions on hardship tend to regulate the potential anticipation of changes in the contract in the event of upsetting circumstances/impediments[19], the clause serves as a preventive measure to protect the parties. It emphasizes that if there is an impediment, it will not terminate the contract but can make adjustments so that it can still be performed.[20] Therefore, in the hardship clause, it is necessary to add the possibility of renegotiating the contract to adjust the field conditions and the sanctions agreed upon if the renegotiation does not result in an agreement.

Slightly different from writing a force majeure clause, writing a force majeure clause is written in as much detail as possible regarding what impediments fall into the category of force majeure, the existence of evidence that force majeure has occurred, the time limit or procedure for submitting force majeure, including the consequences caused by the occurrence of force majeure. As for if the hardship clause seeks to renegotiate, then for efforts to resolve the force majeure condition, it is necessary to emphasize the discussion of relief conditions (performance, damages, penalties, interest), extension (performance in particular or agreement in general), and termination (duration of force majeure and consequences of termination, restitution, etc.).[21]

LEGAL FORMULATION ON *HARDSHIP* IN IRON PURCHASE AND SELL PRACTICE IN INDONESIA

The absence of regulation regarding *hardship* in the legal politics of the purchase and sale of scrap iron in Indonesia has injured various dimensions of trade law policy in this country. Ethics and integrity are a pure desire to help others. The occurrence of unhealthy business ethics in the business world does not seem to be a trend, but on the contrary, it is increasing daily. Extreme honesty, the ability to analyze the boundaries of one's competition, the ability to admit mistakes and learn from failures.[22] Moral concerns about business are now entering a more advanced stage than traditional measures. The era of multinational conglomerates and corporations is developing significantly. Now, society is in the business and economic development phase of capitalism. Since the fall of the communist system, capitalism has developed rapidly without any significant obstacles. The business has become big, leaving the traditional business, which is increasingly being pushed and acquired. The wealth of the majority of private debtors in various countries can exceed the wealth of the State.[23]

A group of people who only care about the interests of life for themselves will say that business ethics make it difficult for them to do business at will. Business ethics is practical and fun to do because if business people experience business profits. At the same time, consumers also experience enjoyment, satisfaction, and welfare, and the world will be filled with happiness for all human beings. Capitalism teaches trade liberalism, but the theory's weakness is that liberalism will create a gap between the rich and the poor becoming poorer. In liberalism, there will be a minority dictator. The theory of socialism is that there is a possibility that the State will carry out a monopoly, and a leader or a big businessman tends to become a dictatorship of the majority. Business is a relationship between social beings who strive to benefit from human relations activities, so business must benefit both groups that communicate. Otherwise, business is unethical. According to Stark, the weakness of business ethics is that it is "*too general, too theoretical, too impractical*." He assessed that a gap occurred between academic business ethics and professionals in the management field. To what extent can capitalism be justified, or is socialism correct? Stark's assessment of business ethics is that business ethics is more like an exaggerated social philosophy, which is difficult for professionals to implement in a practical business way.[24]

The principle of good *faith*, according to Subekti, is one of the most important joints in the law of agreement.[25] Furthermore, Subekti argued that a deal in good faith is to carry out the service by relying on the norms of propriety and decency.[26] The obligation to execute a contract in good faith has been universally recognized in international contract law principles. Global recognition is in consideration of the 1969 Vienna Convention, which stated: "*The principles of free consent and good faith and the pacta sunt servanda rule are universally recognized*." In addition, in UNIDROIT (*The International Institute for the Unification of Private Law*) Article 1.7. stated, "*each party must act following good faith and fair dealing in international trade" and "the parties may not exclude or limit their duty*."[27] Based on this, good faith is a universal principle that must be applied to every agreement.

Based on the understanding of good faith in the contract/agreement, the main element is honesty. The honesty of the parties in this agreement includes honesty about their identity and honesty about the will and objectives of the parties. Honesty is the main element in agreeing/contract because the dishonesty of one party in the agreement/contract can result in losses for the other party.

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[17] Patricia Robertson QC, Ben Lynch QC, and Deborah Horowitz, Covid-19, Force Majeure and Frustration: Key Legal Principles and Industry Implications,2020, pg. 3 retrieved from COVID-19, Force Majeure and Frustration: Key legal principles and industry implications - Fountain Court Chambers on 16th July, 2024.

[18] *Ibid.*p.4.

[19] Sample of unforeseen circumstances categorized as hardship likes economic arise, political or technical circumstances that are beyond of control and affected the parties, but not terminating the contract.

[20] The Renegotiation of the Investment Contract, ICSID Review, *Foreign Investment Law Journal,* Volume 13, No. 2,p.419 in Hubert Konarski, *Op.Cit,* p.16.

[21] Ibid.p.5.

[22] Jusmani, Masyhuri, et al, Sharia-Based *Business*, Jakarta, Bumi Aksara, 2008, p. 25

[23] *Loc. Cit*

[24] *Filter, dwarf*

[25] Subekti, *Principles of Civil Law,* PT. Intermasa, Cet.XXVIII, Jakarta, 1996., p.4

[26] *Ibid*, p.5

[27] Cindawati, *The Principle of Good Faith in International Business Contracts*, Legal Pulpit, Vol.26 No.2, June 2014, Gajah Mada University, Yogjakarta, 2014, p.191

First, as an illustration, there is one party who is dishonest at the beginning of agreeing regarding his identity; of course, likely, he will not carry out the content of the agreement because his initial goal is solely to get achievements from other parties but on the contrary he is carrying out his achievements. Second, the parties were not honest about the purpose of the agreement/contract. As an illustration of the debt A owes to B, A has not been able to pay off the debt according to the schedule to B, so A has the intention to pledge his assets to B, but instead of the parties making a debt agreement with a guarantee agreement through fiduciary or dependent rights. Still, the parties make a binding sale and purchase agreement with a *buyback* option). The illustration shows that the parties are dishonest in making the contract/agreement because the agreement does not follow the actual purpose. The agreement is legally void, and the cancellation of the agreement, of course, is detrimental to the parties to the agreement.

The absence of *hardship* in the legal system of treaties in Indonesia has resulted in the neglect of good faith in the purchase and sale of iron. This can be seen in the case of Panca Jaya Company, which is located in Jakarta and PT. Putra Kemuning who is in Cimahi. In mid-2020, PT. Putra Kemuning, a scrap iron procurement and distributor company, ordered scrap iron from Panca Jaya Company. After placing an order, Panca Jaya Company responded, and there was a scrap iron purchase and sale agreement between Panca Jaya Company and PT. Putra Kemuning. The agreement states that Panca Jaya Company will send its scrap iron to PT. Putra Kemuning, due to the sale and purchase that will arrive on June 24, 2020, by land due to transportation licensing problems that hinder the delivery of scrap iron from Panca Jaya Company to PT. Putra Kemuning, so that the goods arrived on July 1, 2020. Such a situation makes the distribution of PT. Putra Kemuning experienced a delay, which led to the cancellation of the sale and purchase between PT. Putra Kemuning with his buyer. As a result of this, PT. Putra Kemuning asked for a discount that resulted in Panca Jaya Company losing money. In this case, Panca Jaya Company must bear the losses caused by *hardship.*[28] This shows a lack of understanding among scrap iron business actors regarding the importance of legal provisions in sales contracts related to *hardship.* In other words, it can be seen that the mandate or clause related to *overmacht* in the purchase and sale of scrap iron born from the *civil law* system does not protect scrap iron sellers from losses due to the abuse of circumstances or *misbruik van omstandigheden* by scrap iron buyers. The types of *misbruik van omstandigheden,* according to Article 1321 of the Civil Code, are:[29]

1. Mistake (*Dwang*);
2. Coercion (*dwaling*);
3. Fraud (*bedrog*).

The price of scrap iron is a value attached to the object agreed upon in a scrap iron purchase and sale agreement, so the buyer should not be able to unilaterally change the price of the goods when a force majeure occurs. *T*his is because force majeure is an event beyond the control of the scrap iron seller. So, to change the value of the object of the *agreed goods*, it is necessary to rely on a civil agreement influenced by *hard shipping* or force majeure. It is not that one of the parties changes the existing agreement; this is contrary to the principle of consensualism, the principle of ***Pacta Sunt Servanda,* and good ethics.** Violating **these three principles will harm one of the parties bound by the agreement**, so unilateral changes to the agreement are tantamount to dwelling or coercion, **which falls into the category of abuse of circumstances or** *misbruik van omstandigheden*.

This is contrary to the view of purchase and sale according to Islam. Purchase and sale transactions are allowed in Islam, whether mentioned in the Quran, hadith, or Ijma' Ulama. The legal basis for purchase and sale is as follows: As noted in the words of Allah SWT in QS. Al-Baqarah 2:275: "Even though Allah has legalized purchase and sale and forbids usury." In QS. An-Nisa' 4:29: "*O you who believe, do not eat one another's wealth in a corrupt way, except by a business done by mutual pleasure among yourselves. And do not kill yourselves. Indeed, Allah is Most Merciful to you*."

The same is true in reviewing trading or purchase and sale activities carried out by the Prosecutor's Office in selling goods confiscated from motor vehicles. The Prosecutor's Office uses the principle of purchase and sale auctions in the form of purchase and sale activities—article 45 of the Indonesian Criminal Procedure Code (KUHAP). Trading, in all its forms, must be clean and honest. The above verse of the Qur'an explains the important principle of trade (al-tijarah). Every Muslim should live his life as if Allah is always with him. We must think that all our wealth is a trust from God, whether in our name, in the name of others, or belongs to the community. The Qur'an's statement "*the wrong way (bil ibathil)*" relates to practices contrary to the sharia and morally not halal. The so-called trade is a process in which the exchange of interests as profit occurs without unjustified suppression or fraudulent acts against other groups. There should be no bribery or usury in trade. The Qur'anic verse emphasizes good deeds in trade. This means no displeasure or differences between groups in the business relationship should exist. In bribery riba, people often think that it is not dangerous to commit riba and bribery, with full agreement between groups.[30]

CONCLUSION

Regulations on legal protection for scrap iron sellers in sales and purchase agreements, when hardship occurs, are currently not based on justice. This is because there are no rules regarding *hardship* in goods and services trade agreements, especially in the provisions of Government Regulation instead of Law of the Republic of Indonesia Number 2 of 2022 on Job Creation *Jo*. Law of the Republic of Indonesia Number 6 of 2023 on Stipulation of Regulations Government in Lieu of Law Number 2 of 2022 on Job Creation. When hardship occurs, the weaknesses in legal protection for scrap iron sellers in sales and purchase agreements consist of substance, structural, and cultural weaknesses. The weakness of substance in the implementation of the protection of scrap iron sellers in the purchase and sale of scrap iron when hardship occurs is in the form of the absence of regulation regarding *hardship* in the legal politics of the purchase and sale of scrap iron in Indonesia, which has resulted in the injury of various dimensions of trade law policy in this country.

[28]Marjuki, *Interview with the Owner of PT. Putra Kemuning,* on April 1, 2022.
[29]https://sthgarut.ac.id/blog/2020/02/24/penyalahgunaan-keadaan-misbruik-van-omstandigheden-sebagai-bentuk-cacat-kehendak-ke-4-dalam-perjanjian/, retrieved at May 12th, 2023.
[30]F. Rahmatullah, 2018, "Pelaksanaan Jual Beli Barang Sitaan Menurut Perspektif Hukum Islam", *Jurnal Muamalah*, Vol. 4 No. 1, p. 56-58.

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