

IMPLEMENTATION OF SPORTS ATHLETE WELFARE FULFILLMENT BY THE STATE

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Abstrak. The exceptional performance of athletes brings pride to Indonesia, both locally and internationally, warranting high appreciation from the State, represented by the Youth and Sports Service (Dispora). This recognition is in line with the provisions stated in Article 21 of Law Number 3 of 2005 concerning the Sports System. However, the ongoing issue of ensuring athlete welfare remains unresolved due to insufficient attention from the state. The rights of athletes, which must be upheld, are outlined in Article 55 paragraph 3 and Article 64 of Law Number 3 of 2005 concerning the Sports System. Numerous laws have been enacted to address athlete welfare concerns. Nonetheless, there remains a significant level of ambiguity surrounding the welfare of athletes, despite the existence of the National Sports System Law. This research aims to explore the challenges and gaps in ensuring the welfare of athletes in Indonesia. A qualitative approach will be employed, involving interviews and analysis of relevant legal documents and policies. The study will examine the current state of athlete welfare, identify existing gaps in the implementation of laws and regulations, and assess the effectiveness of the State's role, particularly through Dispora, in safeguarding athlete welfare. The findings of this study will shed light on the complexities and discrepancies related to athlete welfare in Indonesia. Despite the presence of laws and regulations, the level of confusion and ambiguity persists, hindering the full realization of athlete rights and well-being. These findings will contribute to the understanding of the existing challenges and provide insights for policymakers and stakeholders in devising effective measures to address athlete welfare comprehensively. In conclusion, while laws and regulations pertaining to athlete welfare exist in Indonesia, there is still a significant gap in effectively implementing and ensuring the fulfillment of athlete rights. The research findings emphasize the need for greater attention and a comprehensive approach from the State, particularly through Dispora, to improve athlete welfare. Addressing these challenges is crucial to uphold the rights and well-being of athletes, enabling them to continue bringing pride and recognition to Indonesia at all levels of competition.

Keywords: Implementation; Well-being; Athlete; Sport.

INTRODUCTION

Law is inseparable from social life, all individual behavior is regulated by law, both the law that applies in an area or customary law and the law that applies throughout Indonesia. This means that the law is inseparable from the mutual influence of all aspects of society. The implementation of law enforcement in Indonesia must view the law as a system. According to Lawrence M. Friedman, the legal system consists of three components, namely structure, substance, and legal culture (Finnis, 2011), these three components have reciprocity so that they must be linked together to achieve optimal legal objectives (Pranoto et al., 2021).

The function of law as a means of social control cannot be fully relied upon on the ability of formal legal legislation. Starting from this problem, Satjipto Rahardjo doubts the legal values to regulate the life of Indonesian society today which is much more complicated than before. The problem of law violations was exacerbated by the factor of the occurrence of the monetary crisis, which had a major impact on society resulting in a moral crisis in society, difficulty in finding employment opportunities, Termination of Employment Relations (PHK) everywhere, and many unemployed people (Aquilina & Henry, 2010).

From there it can be seen from the increasing crime and soaring unemployment which affect people's welfare. The low level of social welfare is also experienced by professional athletes belonging to the State of Indonesia. The issue of athlete welfare seems to continue to arise because it is rare for the State to

fulfill the welfare and rights that sports athletes should receive (Hoye et al., 2015).

Sports activities, which often entertain the audience (HARTINI et al., 2019), often do not entertain the outstanding athletes who have brought Indonesia's name to the world stage. Multiple rights should be obtained by athletes, instead they are abused by cunning State actors who tend to violate existing legal norms. Behavior that is not by the norms or can be referred to as a deviation from the agreed norms turns out to disrupt the order and peace of human life. Such deviations are usually labeled by society as a violation or even a crime. Crime in people's lives is a social phenomenon that will always be faced by every human being, society, and even the state (Batuwael, 2020).

The definition of sport is contained in Article 1 point (4) of Law Number 3 of 2005 concerning the National Sports System, which states that "Sport is all systematic activity to encourage, foster and develop physical, spiritual and social potential." Meanwhile, the scope of sports is regulated in Article 17 of Law Number 3 of 2005 concerning the National Sports System including:

- a. Educational sports;
- b. Recreational sports; And
- c. Performance sports.

Achievement sports are sports that foster and develop athletes in a planned, tiered and sustainable manner through competition to achieve achievements with the support of sports science and technology. Sports achievements that people imagine are difficult or impossible to achieve are now commonplace, and the

number of athletes capable of achieving such achievements is now increasing (Cumming et al., 2017).

The problem that often occurs is the lack of appreciation for outstanding athletes, which causes great disappointment for our athletes. Article 21 of Law Number 3 of 2005 concerning the National Sports System states that:

- (1) The government and regional governments are obligated to foster and develop sports by their authority and responsibility.
- (2) Guidance and development as referred to in Paragraph (1) includes sports, manpower, organization, funding, methods, infrastructure, and facilities, as well as sports awards.
- (3) Sports coaching and development is carried out through the stages of introducing sports, monitoring scouting, as well as developing talent, and increasing achievement.
- (4) Sports coaching and development is carried out through the family, educational, and community pathways based on the development of sports for all people that lasts a lifetime.

From the article above, it is clear that the sports system has protected the rights of athletes, including the protection of athletes who have made the name of the Region, Regency/City, Province, and Country. To is further emphasized in Article 55 Paragraph 3 of Law Number 3 of 2005 which contains Concerning

"Every professional sportsman has the right to;

- (a) accompanied by, inter alia, managers, trainers, medical personnel, psychologists, and legal experts,

- (b) take part in championships at all levels by the provisions,
- (c) obtain guidance and development from the parent organization of the branch sports, professional sports organizations, or functional sports organizations,
- (d) get a decent income".

Article 64 of Law Number 3 of 2005 which contains Sports Personnel carrying out their profession who have the right to obtain:

- a) fostering, developing, and improving skills through training,
- b) security guarantees, career advancement, welfare services, legal aid, and/or awards.

Article 86 Law Number 3 of 2005 Paragraph (1) "Every sports actor, sports organization, government/private institution, and the individual who has achievements and/or has contributed to advancing sports is given an award. Paragraph (2) "The awards referred to in Paragraph (1) are given by the government, regional governments, sports organizations, other organizations, and/or individuals. Paragraph (3) Awards may take the form of grants of convenience, scholarships, insurance, employment, extraordinary promotions, honors, citizenship, honorary citizenship, old-age security, welfare, or other forms of appreciation that are beneficial to the recipient of the award. Paragraph (4) Further provisions regarding the awarding and the form of the award, as well as the implementation of awarding as referred to in Paragraph (1) to Paragraph (3), shall be regulated by a Presidential Regulation".

An athlete can sue the government,

or in this case Dispora, if he does not get the rights he should have. The lawsuit can be included in a criminal or civil lawsuit. Prevention of crime by using criminal law itself is the oldest way, as old as human civilization itself (Barama, 2016). This was further emphasized by Mardjono Reksodiputro, who stated that: the ideal scope of duties of the criminal justice system includes: (1) preventing people from becoming victims of crime; (2) solving the crimes that have occurred so that the community is satisfied that justice has been upheld and the guilty have been punished; and (3) trying so that those who have committed crimes do not repeat their actions. The state has taken over the right to prevent and resolve conflicts involving public interests that occur among citizens, especially in criminal law.

Based on the description above, the fulfillment of the welfare of national sports athletes needs good attention, and the State represented by the Youth and Sports Agency is the party that is most highlighted in this regard. It is only natural for athletes to have their rights fulfilled because they are legal subjects who have made Indonesia proud in the local, national, and international arena.

The problem in this paper is how is the implementation of fulfilling the welfare of sports athletes by the state?.

MATERIALS AND METHODS

The method used in writing this applied paper is an analytical descriptive method, namely by using data that clearly describes the problems directly in the field, then the analysis is carried out, and then concluded to solve a problem. Methods of

data collection through observation and literature study to obtain problem-solving in the preparation of this paper.

Normative juridical approach, namely the juridical approach method used to examine problems from a legal and statutory perspective, namely rules that can be used as a basis for studying problems and their legal consequences, in this case namely Law Number 3 of 2005 concerning the National Sports System (Qamar et al., 2017).

The normative juridical approach is carried out against certain statutory regulations or written laws, which are related to the Implementation of the Fulfillment of Sports Athlete Welfare by the State. The study describes the condition of the object under study, which focuses on regulation and the Implementation of Sports Athlete Welfare Fulfillment by the State in practice (Setjo & Ma'ruf, 2020).

RESULTS AND DISCUSSION

1. Implementation of Sports Athlete Welfare Fulfillment by the State

Two terms refer to accountability, namely liability, and responsibility. Liability is a broad legal term that designates almost any character of risk or responsibility, which is certain, which depends on or which may include all the characters of actual or potential rights and obligations such as losses, threats, crimes, costs, or conditions that create the duty to carry out the Act. - Invite. Responsibility means things that can be held accountable for an obligation, and includes decisions, skills, abilities, and skills including the obligation to be responsible for the law that is implemented. In understanding and practical use, the term

liability refers to legal responsibility, namely accountability due to mistakes committed by legal subjects, while the term responsibility refers to political responsibility (Ash-Shidiqqi & SH, 2022). However, this study refers to political responsibility, which is none other than the exercise of authority as a state official who takes legal action based on the authority given. As a tool for the implementation of the functions and duties of government officials so that the goals of the state can be achieved, namely the welfare of the community (Susylawati, 2006).

The welfare state is a state whose government guarantees the welfare of the people. In realizing the welfare of its people, it must be based on the five pillars of statehood, namely, Democracy. Law enforcement (Rule of Law), protection of Human Rights, Social Justice, and anti-discrimination. The definition of well-being contains at least 4 (four) meanings, namely:

1. As a state of well-being. This understanding usually refers to the term social welfare as a condition for fulfilling material and non-material needs. Prosperous conditions occur when human life is safe and happy because the basic needs for nutrition, health, education, housing, and income can be met; and when humans obtain protection from the main risks that threaten their lives.
2. As a social service. In the UK, Australia, and New Zealand, social services generally cover five forms, namely social security, health services, education, housing, and personal social services.
3. As a social allowance, especially in the

United States (US), it is given to the poor. Because most recipients of welfare are poor, disabled, and unemployed people, this situation then creates a negative connotation on the term welfare, such as poverty, laziness, and dependency, which is more appropriately called.

4. As a planned process or effort carried out by individuals, social institutions, communities, and government agencies to improve the quality of life (first sense) through the provision of social services (second sense) and social benefits (third sense).

A prosperous country means that the country can guarantee good legal protection for every citizen. Legal protection in the context of State Administrative Law is an illustration of the functioning of the legal function to realize legal objectives, namely justice, benefit, and legal certainty. Legal protection is protection given to legal subjects by the rule of law, both preventive (prevention) and repressive (coercion) forms, both written and unwritten to enforce legal regulations. Legal protection for the people includes two things, namely: (Maswandi, 2017)

- a. Preventive legal protection, namely a form of legal protection in which the people are allowed to submit objections or opinions before a government decision gets a definitive form,
- b. Repressive legal protection, namely a form of legal protection that is more aimed at resolving disputes.

The legal protection given to the

people of Indonesia is an implementation of the principle of recognition and protection of human dignity which is rooted in Pancasila and the principle of a rule of law based on Pancasila. Everyone has the right to protection from the law. Almost all legal relations must receive protection from the law.

Law No. 11 of 2009, Regarding Social Welfare, explains that Social welfare is a condition of fulfilling the material, spiritual and social needs of citizens so that they can live properly and be able to develop themselves so that they can carry out their social functions. Therefore, the lack of services from the government can cause a lack of social functions in the community.

Article 13 of the Law on the National Sports System explicitly regulates the rights and obligations as well as the powers and responsibilities of all parties (the central government, local government, and the community) as well as vertical synergic coordination between the center and the regions and horizontally between related institutions both at the central and regional levels in the framework of managing, fostering and developing national sports.

Article 21 of Law Number 3 of 2005 Concerning the National Sports System states that:

- (1) The government and regional governments are obligated to foster and develop sports by their authority and responsibility.
- (2) Guidance and development as referred to in Paragraph (1) includes sports, manpower, organization, funding, methods, infrastructure, and facilities, as well as sports awards.
- (3) Sports coaching and development is

carried out through the stages of introducing sports, monitoring scouting, as well as developing talent, and increasing achievement.

- (4) Sports coaching and development is carried out through the family, educational, and community pathways based on the development of sports for all people that lasts a lifetime.

From the article above, it is clear that the sports system has protected the rights of athletes, including the protection of athletes who have made the name of the Region, Regency/City, Province, and Country. To is further emphasized in Article 55 Paragraph 3 of Law Number 3 of 2005 which contains Concerning.

“Every professional sportsman has the right to;

- (a) accompanied by, inter alia, managers, trainers, medical personnel, psychologists, and legal experts,
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- (c) receive coaching and development from the main sports organization, professional sports organization, or functional sports organization,
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Article 64 of Law Number 3 of 2005 which contains Sports Personnel carrying out their profession who have the right to obtain:

- a) fostering, developing, and improving skills through training,
 - b) security guarantees, career advancement, welfare services, legal aid, and/or awards.
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Article 86 of Law Number 3 of 2005 also regulates the welfare of athletes and former athletes.

- (1) Every sports actor, sports organization, government/private institution, and individual who achieves and/or contributes to advancing sports is given an award.
- (2) The awards referred to in Paragraph (1) are given by the government, regional governments, sports organizations, other organizations, and/or individuals.
- (3) Awards may take the form of grants of convenience, scholarships, insurance, employment, extraordinary promotions, honors, citizenship, honorary citizenship, old-age security, welfare, or other forms of appreciation that are beneficial to the recipient of the award.
- (4) Further provisions regarding the awarding and the form of the award, as well as the implementation of awarding as referred to in Paragraph (1) to Paragraph (3), shall be stipulated in a Presidential Regulation".

The purpose of the national sports system is that the government is here to give appreciation to athletes who have really devoted their skills and raising the red and white flag abroad, so they have represented the country to get medals for the country, so we give appreciation for that purpose only from the soul or essence of Article 86.[12].

The fulfillment of another right that deserves appreciation is the fulfillment of the Old Age Security Right as stipulated in Law Number 3 of 2005 concerning the

National Sports System. Referring to natural rights that are separate from the political recognition given by the state to them and first existed from the state as a political community, it is precisely the state that must protect and serve the natural rights that belong to each individual, there should be protection regarding old age security for athletes under Article 13 Paragraph 1 of Presidential Regulation Number 44 of 2014 which contains awards in the form of old age security which can be given to athletes, sports coaches, and sports personnel who have achieved and/or made outstanding contributions to the progress of national sports and have met the requirements, as well as Article 32 Awards the form of bonuses in the form of money and/or goods can be given by the government to sportsmen, coaches, and sports assistant coaches who excel and meet the requirements. The reward is very closely related to motivation. Every athlete has their life principles, so it is not uncommon for athletes to make an award a separate motivation. Whatever an athlete does, he will get different satisfaction if the thing he does gets a response or appreciation from other people. So it can be explained that the award is one of the important factors that can influence the action or behavior of an athlete (Ahmad et al., 2019).

CONCLUSIONS

The purpose of the national sports system is that the government is here to give appreciation to athletes who have really devoted their skills and lifting the red and white flag abroad, so they have represented the country to get medals for

the country, so we give appreciation for that purpose only from the soul or essence of Article 86.

Article 13 of the Law on the National Sports System regulates strictly the rights and obligations as well as the powers and responsibilities of all parties (central government, local government, and the community) as well as vertical synergic coordination between the center and regions and horizontally between related institutions both at the provincial and central levels as well as at the regional level in the context of managing, fostering and developing national sports. As it is said that an athlete is a hero because one/group of people who can fly the flag in another country is an athlete, therefore an athlete is considered a hero. Thus, athletes need to receive attention from the government, and one of the government's concerns for the welfare of athletes is a good form of state responsibility and deserves high appreciation from all of us.

REFERENCES

- Ahmad, A. F., Firdaus, E., & Diana, L. (2019). Tinjauan Yuridis Terhadap Atlet Yang Tidak Mendapatkan Hari Tua Berdasarkan Peraturan Presiden Nomor 4 Tahun 2014 Tentang Pemberian Penghargaan Olahraga Dalam Perspektif Hak Asasi Manusia. *Jurnal Online Mahasiswa (JOM) Bidang Ilmu Hukum*, 8(1), 1–15.
- Aquilina, D., & Henry, I. (2010). Elite athletes and university education in Europe: a review of policy and practice in higher education in the European Union Member States. *International Journal of Sport Policy and Politics*, 2(1), 25–47.
- Ash-Shidiqqi, E. A., & SH, M. H. (2022). *Pengantar Hukum Administrasi Negara*. Penerbit Lakeisha.
- Barama, M. (2016). Model Sistem Peradilan Pidana Dalam Perkembangan. *Jurnal Ilmu Hukum*, 3(8), 8–17.
- Batuwael, R. A. (2020). Fungsi Pidana Denda Dalam Sistem Pemidanaan Di Indonesia. *Lex Crimen*, 9(3).
- Cumming, S. P., Lloyd, R. S., Oliver, J. L., Eisenmann, J. C., & Malina, R. M. (2017). Bio-banding in sport: applications to competition, talent identification, and strength and conditioning of youth athletes. *Strength & Conditioning Journal*, 39(2), 34–47.
- Finnis, J. (2011). *Philosophy of law: Collected essays volume IV* (Vol. 4). Oxford University Press.
- Hartini, H., Turatmiyah, S., & Handayani, S. (2019). *Implementasi Tanggung Jawab Dinas Pemuda Dan Olahraga Kabupaten Ogan Ilir Dalam Hal Pemenuhan Kesejahteraan Atlet Taekwondo Dikabupaten Ogan Ilir*. Sriwijaya University.
- Hoye, R., Smith, A. C. T., Nicholson, M., & Stewart, B. (2015). *Sport management: principles and applications*. Routledge.
- Maswandi, S. H. (2017). Putusan Verstek dalam Hukum Acara Perdata. *JURNAL MERCATORIA*, 10(2), 160–179.
- Pranoto, M. R. D., Sa'adah, N., & Suhartoyo, S. (2021). Peran Dan Tanggung Jawab Pemerintah Dalam Pemenuhan Kesejahteraan Atlet Di Indonesia. *Diponegoro Law Journal*, 10(1), 179–

190.

<https://doi.org/10.14710/dlj.2021.299>

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Qamar, N., Syarif, M., Busthami, D. S., Hidjaz, M. K., Aswari, A., Djanggih, H., & Rezah, F. S. (2017). *Metode Penelitian Hukum (Legal Research Methods)*. CV. Social Politic Genius (SIGn).

Setjo, O. S., & Ma'ruf, U. (2020). Investigation of Children Which Conflicting With Law in Narcotics Criminal Acts In Law Area of the Semarang City Police Jurisdiction. *Jurnal Daulat Hukum*, 3(2), 283–290.

Susylawati, E. (2006). Kewenangan Hakim Untuk Menilai Alat Bukti dalam Hukum Acara Perdata. *AL-IHKAM: Jurnal Hukum & Pranata Sosial*, 1(2), 212–225.



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