

A STUDY ON ANTI-DOPING LAW IN MALAYSIA

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Submitted in Partial Fulfillment of the Requirements
for the Bachelor in Legal Studies (Hons)

**Universiti Teknologi MARA
Faculty of Law**

December 2012

The students/authors confirm that the work submitted is their own and that appropriate credit has been given where reference has been made to the work of others.

ABSTRACT

This research is about anti-doping law in Malaysia. The main objective is to examine various types of existing anti-doping law, rules, policy and international conventions around the world in order to provide a comprehensive law to govern doping problems in Malaysia. An emphasis on the Australian anti-doping law is made for it provides one of the best and holistic legal frameworks in anti-doping.

Furthermore, the current situation relating to sports law in Malaysia is being discussed. The lack of laws to govern the local sports industry has been highlighted together with several law principles such as judicial review and natural justice in sports adjudication. Apart from that, the implementation of various regulatory mechanisms such as internal tribunals has been scrutinised.

The effectiveness, advantages and disadvantages of the current practice will be examined followed by appropriate suggestions and recommendations necessary for the government to improve the sports law in Malaysia particularly on doping problems.

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CHAPTER ONE: INTRODUCTION TO THE RESEARCH

1.0. Introduction

The increasing number of cases regarding the use of performance enhancing drugs (PED) or as it is known as doping has become a major concern in the Malaysian sports industry. This research will examine the inadequacy of law to govern doping in Malaysia. For the purpose of this research, Australia and several other countries have been chosen as benchmarks as they each possess a good legal framework which can be implemented in Malaysia to fill in the loopholes in the current anti-doping law in Malaysia.

1.1. Background

According to the World Anti-Doping Code 2003, doping occurs when a prohibited substance or its metabolites or markers is present in an athlete's body.¹ The doping problem became worse after World War 2 when large quantities of anabolic steroids were made available to the athletes. Anabolic steroids are drugs which are derived from testosterone that mimic the effects of male hormones in the body.² The event which served as a turning point in the history of fighting doping in sports was the scandal in the Tour de France in 1998. At that time, it was discovered that there was an extensive network of athletes, sports physicians, officials and other assistants who were involved in doping practices. This showed that the measures taken by the International Cycling Union were not effective in combating doping in cycling. The serious action taken by the French authorities made it clear that the fight against doping could no longer be left to the sports organizations alone as it lies in the public interest and should be controlled through police and legal means.³

Malaysia has implemented two sets of rules in the form of international conventions to govern doping. The first is one is the World Anti-Doping Code governed under the World Anti-Doping Agency. This agency is the worldwide independent

¹Agency World Anti-Doping, "World Anti-Doping Code," ed. World Anti-Doping Agency (Montreal, Quebec, Canada2003).

²Cynthia M. Kuhn, "Anabolic Steroids," *Recent Progress in Hormone Research* 57(2002).

³Matthias Kamber, "Development of the role of National Anti-Doping Organisations in the fight against doping: From past to future," *Forensic Science International* 213, no. 1–3 (2011).