

# LEX READ

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Transgender  
Women  
In Sports

PM DR.  
NIK SALIDA

MENULIS



Equal Treatment or  
Equal Outcomes?



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# LEGAL ISSUES RELATING TO SPORTS IN MALAYSIA

Mohd Syahril Ibrahim (syah86@uitm.edu.my)  
& Anie Farahida Omar (aniefarahida@uitm.edu.my)



## INTRODUCTION

Sports law in Malaysia is a specialized area of law that deals with legal issues related to sports activities, athletes, sports organizations, and events. There are several legislations that govern this area such as the Sports Development Act 1997, the National Sports Council Act 1971, and the Anti-Doping Regulations. The main purpose of sports law is to ensure that sports activities are conducted fairly, ethically, and in accordance with the rules and regulations set by the relevant sports organizations. In Malaysia, sports law covers a wide range of legal issues, including contractual disputes, intellectual property rights, anti-doping regulations, and others. The following are some discussions of the legal issues related to sports in Malaysia.

### 1. Contractual Disputes

Contractual disputes between athletes, coaches, and organizations are common in sports. These disputes may arise from issues such as breach of contract, termination of contract, or non-payment of agreed-upon fees. In Malaysia, contractual disputes relating to sports are typically governed by contract law and may be resolved through arbitration or litigation.

In the case of *MISC Berhad v Duta FC & Ors [2012]*, there was a dispute between MISC Berhad, a football club, and Duta FC, a football team. The dispute centered around a player transfer agreement, which the plaintiff alleged was breached by the defendant. The court ultimately found in favor of MISC Berhad and ordered Duta FC to pay damages. Another case illustrating the breach of sponsorship agreement is between *JFC Worldwide (M) Sdn Bhd v Kelantan Football Association [2016]*. The court found that the defendant had breached the agreement and ordered it to pay damages to JFC Worldwide.

It is worth noting that many sports organizations have their own dispute resolution procedures and may require parties to use their specific processes. For example, the Football Association of Malaysia has a Disciplinary Committee that is responsible for handling disputes relating to football in Malaysia.

## 2. Intellectual Property Rights

Sports-related intellectual property rights, such as trademarks and copyrights, are also important legal issues in Malaysia. Sports teams and organizations may seek legal protection for their logos, names, and other branding materials. Intellectual property (IP) law relating to sports in Malaysia covers a range of issues, including trademarks, copyright, patents, and trade secrets.



Trademarks are an essential aspect of sports branding, particularly for sports teams and events. In Malaysia, the registration and protection of trademarks are governed by the **Trade Marks Act 1976**. Sports teams and events often register trademarks to protect their logos, names, and other identifying marks. For example, in the case of ***Sepak Takraw Association of Malaysia v. Dianabol Enterprise (M) Sdn Bhd (2011)***, the dispute arose between the Sepak Takraw Association of Malaysia and a sportswear company over the use of the association's logo and trademark on the company's products. The court found that the company had infringed the association's intellectual property rights and ordered it to stop using the logo and trademark.

Copyright law is governed by the Copyright Act 1987 that protects original works of authorship, including photos, videos, and broadcasts of sports events. Sports organizations may seek copyright protection for their broadcasts and other content to prevent unauthorized use and exploitation. This case of ***Ministry of Youth and Sports Malaysia v. Syarikat Pembinaan Yeoh Tiong Lay Sdn Bhd (2016)*** involved a dispute over the ownership of the copyright in the design of the National Sports Complex in Bukit Jalil, Malaysia. The court held that the plaintiff was the rightful owner of the copyright and that the construction company had infringed on the ministry's rights by using the design without permission.

By registering and protecting their IP, sports organizations can maintain their competitive edge and prevent unauthorized use of their intellectual property.

## 3. Doping

The use of performance-enhancing drugs is a serious issue in sports worldwide, and Malaysia is no exception. Athletes who test positive for banned substances may face disciplinary action, including suspension or expulsion from competition.



In the case of ***Mohd Yunus Lasaleh v. Anti-Doping Agency of Malaysia (ADAMAS) & Others (2016)*** a national weightlifter, Mohd Yunus Lasaleh, was charged with a doping offence by the Anti-Doping Agency of Malaysia (ADAMAS) after testing positive for a banned substance. The Court of Arbitration for Sport (CAS) in Malaysia found Lasaleh is guilty of doping and banned him from competition for four years.

“ Athletes must understand the serious consequences of doping and be aware of the substances they consume and the need to seek medical advice and approval before taking any dietary supplements or medications. ”

Another case related to doping is discussed in the case of ***Jonathan Wong Guanjie v. National Sports Council of Malaysia (NSC) & Others (2020)***. In this case, a national shooter, Jonathan Wong Guanjie, filed a judicial review application against the NSC after being dropped from the national team for refusing to undergo doping tests. The plaintiff claimed that he had a medical condition that made it difficult for him to provide a urine sample, and that the NSC had violated his rights by dropping him from the team. The court dismissed his application, ruling that the NSC had the right to impose doping control measures on athletes.

Athletes must understand the serious consequences of doping and be aware of the substances they consume and the need to seek medical advice and approval before taking any dietary supplements or medications.

#### 4. Sports Injuries

Sports injuries are common in Malaysia and can lead to legal disputes, especially in cases where negligence or misconduct is involved. Athletes may sue coaches, organizers, or other parties if they are injured due to unsafe playing conditions or inadequate safety measures.



In Malaysia, sports injuries fall under the purview of tort law, which deals with civil wrongs that result in harm or injury to another person. Sports participants can file a claim for damages against another participant or a party responsible for their injury, such as the organizers or facilities. It is important to note that sports injuries are relatively risky, and participants accept these risks when they engage in the activity.

Therefore, the law recognizes the concept of "assumption of risk" in sports. Hence, if a participant is injured as a result of a risk that is inherent to the sport, they may not have a claim for damages.

***Sports Do Not Build Character. They Reveal It.***

## 5. Violence and Hooliganism



*FAM braced for punishment after flare-throwing fans forced the abandonment of a World Cup qualifier in ugly scenes which deepened the country's soccer crisis. Photo source: The Sun Daily*

Violence and hooliganism are also significant issues in Malaysian sports, especially in football. Fans may engage in violent behavior, such as throwing objects onto the field, assaulting players, or engaging in physical altercations with rival fans.

The case of ***Muhammad Izwan bin Omar v. Football Association of Malaysia (FAM) (2016)*** demonstrates this issue. In this case, the plaintiff (a football fan) filed a lawsuit against the FAM after being banned from attending football matches for three years for throwing a flare onto the field. The court dismissed the plaintiff's claim, ruling that the defendant had the right to impose sanctions on fans who engage in violent or disruptive behavior.

Similarly, failure to ensure the safety and security of the match had caused Johor Darul Ta'zim (JDT) football club to be responsible for the fan's act. Hence, the court ordered the club to pay a fine and play several matches behind closed doors (***Ministry of Youth and Sports Malaysia v. Football Association of Malaysia (FAM) & Anor (2020)***).

### CONCLUSION

In summary, legal issues related to sports in Malaysia are wide-ranging and cover topics such as contractual disputes, intellectual property rights, doping, sports injuries, and violence and hooliganism.