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PENSION GUARANTEE PROTECTION FOR ATHLETES BASED ON STATUTORY REGULATIONS IN INDONESIA

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ABSTRACT

Athlete is a sportsperson who takes part in sports training and championships regularly, systematically, integrated, tiered and continuously to achieve achievements. It is appropriate for the government to pay attention to athletes who have struggled hard in taking part in the championship by paying attention to the welfare of the athletes, especially for athletes who are no longer part of the club or national team. Law Number 11 of 2022 concerning sports is the legal basis regarding the government's role and responsibilities towards sportsmen in Indonesia. The research method used in writing this law is normative juridical. The research results show that the existence of Law Number 11 of 2022 concerning Sports has not been able to guarantee the welfare and old age security for former athletes, even though they contributed many achievements for Indonesia. In fact, quite a few athletes after entering retirement still have to struggle hard to survive by working in old age. Thus, there is a need for legal certainty that regulates old age security for athletes in both active and passive eras of their contribution in sports.

Keywords: *Athletes; Old Age Security; Government.*

1. Introduction

Exercise is a form of planned and structured physical activity that involves repetitive body movements to improve physical fitness which is part of the basic needs needed by the body by doing an activity that aims to nourish the body and train muscles which can also be useful in maintaining immunity in the body. Sport is an activity that is carried out regularly and planned which aims to encourage, arouse, develop, and foster strength both physically and spiritually[1] . The definition of sport is contained in Article 1 number 1 of Law Number 11 of 2022 which reads "Sport is all activities that involve mind, body, and soul in an integrated and systematic manner to encourage, foster, and develop physical, spiritual, social, and cultural potential". Someone who likes sports and dedicates

[1] RM Rizal A Sobarna, A Hamidi, *Sociology of Sport*, ed. by M.Pd Aripin, 1st edn (Banten: Desanta Muliavisitama, 2021).

his life to the world of sports with the aim of achieving someone's achievements is called an athlete.

Athlete is a sports profession that dedicates its life to make the country proud, by honing the skills it has to achieve achievement. In Law Number 11 of 2022 concerning Sports, the term used to refer to athletes is sportsmen. Sportsmen here mean sportsmen who participate in sports training and championships regularly, systematically, integrated, tiered, and sustainable to achieve achievements. A sportsman when participating in a championship he will train hard to make the country proud and the country's good name that he must fight for at the international championship level.

Thus, the government should give a form of attention to athletes who have struggled hard in participating in championships by paying attention to the welfare of athletes, especially for athletes who are no longer part of the club or national team. Not a few of the athletes who after entering their retirement still have to fight for their welfare by working in old age. Indonesia itself has regulated the law on sports which also contains the welfare of athletes regulated in the Sports Law.

The law on sports is still rarely understood and known by the Indonesian people, in the world of sports has its own legal formulation formed by the sports institution itself and enforced by the sports community concerned, the formulation is called *Lex Sportiva* or sports law in Indonesian. In practice, *Lex Sportiva* exists as an entity that is not influenced by a country's positive law or international law[2] . Sports law itself is transnational in nature where it has rules in accordance with the organization that oversees it or in other words, the existing rules are rules made by the parent sports federation and subject all parts of its members to these rules. The rules made by the parent federation are binding on all its members.

As explained above, an athlete is a meritorious person for a country because they make achievements so that the name of a country can be famous even in the international arena. For this reason, rules governing the welfare and protection of an athlete are needed. Because there are so many athletes in the past who have made the nation proud but currently do not get a proper job and welfare.

Not only that, many athletes also suffer injuries that make them unable to carry out

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[2] Slamet Riyanto, 'The Application of the Lex Sportiva Principle to the Indonesian Legal System in the Perspective of State Sovereignty (A Study of Legal Philosophy Regarding Conflict ...', 2019.

their activities and can interfere with activities at work. The Indonesian government itself is still not too aware of the importance of the protection needed by an athlete. From this, many athletes choose to retire early because they think the world of sports does not really guarantee their old life. The lack of government response to athletes is one of the reasons for the retreat of various famous Indonesian athletes. This reason, rules governing the welfare and protection of an athlete are needed. Because there are so many athletes in the past who have made the nation proud but currently do not get a proper job and welfare.

2. Methods

This legal research is normative juridical legal research, where the object of study is the main focus in this research. Normative juridical legal research is a process to find legal rules, legal principles, and legal doctrines in order to answer the legal issues at hand[3] . As with this research, the researcher chose the object of research because the problem under study is not yet clear in the rule of law. Therefore, the researcher analyzes the problem using existing rules to find a temporary solution to the legal obscurity.

The normative legal research method uses a normative juridical approach. The normative juridical approach is an approach that refers to the applicable laws and regulations.[4]

3. Result and Discussion

3.1. Old Age Security Protection for Athletes

Making athletes as a profession carries a high risk both in terms of mental and physical health as well as financial stability and security, for this reason, rules are needed that regulate the welfare of athletes which were previously regulated in Law Number 3 of 2005 concerning the Sports System. Furthermore, the regulation has been revoked and replaced by Law Number 11 of 2022 concerning Sports. The government created regulations in Law Number 11 of 2022 concerning Sports as a form of attention from the

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[3] Treat J et al James W, Elston D, *LEGAL RESEARCH METHODS*, *Andrew's Disease of the Skin Clinical Dermatology*, 2023.

[4] Kornelius Benuf, Siti Mahmudah, and Ery Agus Priyono, 'Legal Research Methodology as an Instrument to Unravel Contemporary Legal Issues', *Legal Reflection: Journal of Legal Science*, 3.2 (2019), 145-60 <https://doi.org/10.24246/jrh.2019.v3.i2.p145-160>.

government to the welfare of athletes and former athletes. Previously, in Law Number 3 of 2005, it did not explicitly regulate the welfare of athletes during their active period or when they had retired from the world of sports. However, the government in this law includes rules related to giving awards to athletes who excel.

In Law Number 11 of 2022 concerning Sports, it is stated about social security and awards for athletes but athletes who are awarded have special criteria contained in Article 13 paragraph (1) and paragraph (3) of Presidential Regulation Number 44 of 2014 concerning Sports Awards which reads:

(1) Awards in the form of old age guarantees can be given to sportsmen, sports coaches, and sports personnel who excel and/or have extraordinary contributions to the progress of national sports and have met the requirements.

(3) Old age security awards to sportsmen as referred to in paragraph (1), can be given if they meet the following requirements:
- became the first international champion;
- won first place at the national level at least 3 (three) times; or
- break records in certain sports at the national and/or international level.[5]

Regarding social security, it is regulated in Article 100 of Law Number 11 of 2022, but the article only mentions social security provided to sports players. It is not yet clear what is meant by a sportsman who is still working as an athlete, or also regulates athletes who have been inactive. However, in the existing regulations, related to the welfare protection of athletes who have retired until now there are no clear rules governing this.

An athlete and also a former athlete who has made the nation proud and finally chooses to retire should get welfare in accordance with the Sports Law. one of the former badminton athletes, Taufik Hidayat, who is a former Indonesian badminton athlete, also voiced the welfare of an athlete. An athlete will be praised when he gets a gold medal and manages to become a champion. But when his achievements decline even when he returns from the match without winning the title, it is not uncommon for people to seem ignorant of the existence of these athletes. Not only that, the government that initially flattered will immediately ignore and forget about the athlete. Even though the athlete has devoted his

[5] Minister of Health of the Republic of Indonesia, 'Presidential Regulation Nomo 44 Year 2014 on Sports Awarding', 2014 <http://www.springer.com/series/15440%0Apapers://ae99785b-2213-416d-aa7e- 3a12880cc9b9/Paper/p18311>.

time and energy during training until the match period to fight for the nation's name.

The form of protection provided by the government is slowly starting to appear, one of which is in terms of law. in this case, the law not only functions as a tool for development, but also functions to provide social welfare. In this case is the life of athletes. This is in accordance with the concept of a welfare state where the state has an obligation to provide or the welfare of its people.[6]

3.2. Application of Old Age Security to Athletes

Based on the Kompas R & D *online* survey, out of a total of 330 athletes and former athletes who were respondents, 63.5 percent stated that they were not financially prosperous. This shows that those who during their productive years worked hard to make achievements in the name of the nation, but still have to struggle to get welfare in their old age. For example, a former rowing athlete from Jambi named Leni Haini. During her youth, she had made many international achievements. One of them, Leni Haini won 3 gold medals with her team at *The World Dragon Boat Racing Championship* in Taipei 1997. Leni also won 2 gold medals and 1 silver medal at the 1997 SEA Games championship. But after retiring, Leni was forced to work as a laundry worker. Sometimes, she was also asked to train rowing athletes but with a relatively low honorarium. Leni also takes care of her youngest child who is usually called Habibah or Dedek who has *Epidermolysis Bullosa* (EB) disease. The disease causes Habibah's skin to be easily injured until it can peel off .[7]

The implementation carried out by the government in providing old age insurance to athletes has not been maximized. Many athletes and even former athletes have not received old age insurance. One of the former athletes who felt the government had not been maximized was badminton athlete Susi Susanti. On June 13, 2020, Susi Susanti attended an online meeting with Commission XI of the Indonesian Parliament and PAKAR Olahraga. During the meeting, Susi stated that the awards given by the government to

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[6] Adhiputro Pangarso Wicaksono, 'Legal Politics of the Government of the Republic of Indonesia in Improving the Lives of Athletes (Sportsmen) and Former Athletes', *Faculty of Law, Boyolali University*, 6.1 (2022), 44-56 <https://www.sportstars.id/read/begini-nasib-sederet-mantan-atlet-indonesia-setelah->.

[7] Ahmad Zuhad, 'Apart from Verawaty Fajrin, 7 Former Achievement Athletes Also Fared Poorly', 2021<https://www.kompas.tv/olahraga/214078/selain-verawaty-fajrin-7-mantan-atlet-berprestasi-ini-juga- bernasib-nelangsa?page=all>.

athletes are only given when athletes are still productive, while the form of protection and appreciation after being inactive or retired has not been maximized .[8]

This less than optimal application makes some athletes choose to leave the world of sports because they think that the government only focuses on welfare during productive times and will be less concerned when they retire. There are several things that cause athletes not to get old age security welfare. There are so many factors from outside and from within that affect this. The following are the factors that make an athlete not get old age security:

1. Organizational Factors

Every organization has a leader who plays an important role in the sustainability of the sports organization's life. in running the organization also experiences obstacles, the obstacles that first arise when an athlete is and is bound in an organization are not obtained eligibility for facilities and guarantees as an athlete. In addition, the organizational body that does not voice the interests of athletes regarding guarantees is also a factor that affects the non-implementation of old age guarantees for athletes.

Financial factors through *sponsorship* are also very influential in the world of sports. Although the government has budgeted funds in the sports sector, in fact the world of sports still needs sponsors to continue the sustainability of their athletes' lives. In this case, finding *sponsorship* is not as easy as turning your palm. Sponsors also sort and have criteria in providing their support. Some sports also have difficulty in getting *sponsorship*, because the field of sports they live in is not widely known by many people.

2. Government Factors

The second factor is the government. In accordance with existing regulations, the government has provided budget funds in the field of sports. However, these funds are not easily distributed and used by athletes. With this, many athletes feel that the government ignores the presence of athletes. The government is also too inclined or focused on certain sports fields. This is felt by many athletes who feel that the government is more in favor of certain sports. One example is the sport of soccer.

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[8] Muhammad Ruby Duto Pranoto, Nabitatus Sa'adah, and Suhartoyo, 'The Role and Responsibility of the Government in Fulfilling Athletes' Welfare in Indonesia', *Diponegoro Law Journal*, 1.10 (2021), 179-90.

3.3. Appointment of Outstanding Athletes as Civil Servant Candidates

Based on the Regulation of the Minister of Youth and Sports Number 11 of 2018[9] , sportsmen who have achievements are given the opportunity to become Civil Servant Candidates (CPNS) with achievement pathways. The general requirements given are not much different from those listed in the requirements for CPNS registration in general. What distinguishes is the achievement criteria that must be owned by the athlete. In accordance with Article 4 paragraph (2) letter g of the Ministerial regulation, the requirements that must be met by Outstanding Athletes to be appointed as Civil Servant Candidates are as follows:

have tangible achievements with medals, at international level, for the organization of sports weeks that include:

1. At least a bronze medal at the 2016 *Olympic Games* or *Paralympic Games* or 2016 World Championships recognized by the international federation;
2. At least a silver medal at the 2014 *Asian Games* or *Asian Para Games* or 2014 Asian Championships recognized by the international federation;
3. At least a bronze medal at the 2018 *Asian Games* or *Asian Para Games*; or
4. At least a gold medal at the *SEA Games* or *Asean Para Games* in 2015 and 2017 or the Southeast Asian Championships in 2017 which is recognized at the same level by the international federation,

evidenced by a charter / certificate and certificate of achievement issued by the institution/ parent organization of the sport that is authorized and approved by the Minister of Youth and Sports.

In accordance with the above regulations, outstanding athletes who register and pass as CPNS have the opportunity to be further appointed as Civil Servants (PNS) in accordance with the provisions of laws and regulations. CPNS from the path of outstanding athletes also have the same rights and obligations as CPNS in general.

To be appointed as civil servants, these athletes must also undergo a trial period of 1 (one) year and follow the education and training process[10] . After passing the education and training and being declared physically and mentally healthy, CPNS can be appointed

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[9] Minister of Youth and Sports Regulation No. 11/2018 on Amendments to Minister of Youth and Sports Regulation No. 6/2018 on Requirements and Selection Mechanism, and Appointment of Outstanding Athletes as Civil Servant Candidates.

[10] Article 34 of Government Regulation No. 11/2017 on Civil Servant Management.

by the Civil Service Officer in accordance with the provisions of laws and regulations[11] . On the other hand, CPNS who do not meet these requirements will be dismissed as CPNS[12] . As a form of appreciation and government efforts in ensuring the welfare of sportsmen who excel and have been appointed as civil servants, these athletes will get rights like civil servants in general. The rights of civil servants according to Article 21 paragraph (6) of Law 20 of 2023, one of which is social security consisting of: a. health insurance; b. work accident insurance; c. death insurance; d. pension insurance; and e. old age insurance. With the pension guarantee scheme, sportsmen who are appointed as civil servants will continue to receive income when entering the retirement age limit in accordance with the provisions of laws and regulations.

5. Conclusion

The legal politics of the Government of the Republic of Indonesia in order to prosper the lives of athletes and former athletes by providing welfare guarantees, is strengthened by the enactment of Law Number 11 of 2022 which revokes and replaces Law Number 3 of 2005. In its application, the welfare guarantees given to athletes are still not maximized, including not regulating old-age welfare guarantees and / or pension guarantees for former athletes.

However, opportunities are also given by the government in order to give appreciation to outstanding sportsmen through the CPNS and PNS schemes in the Minister of Youth and Sports Regulation Number 11 of 2018. With the appointment of outstanding sportsmen as civil servants, the right to pension insurance and old age insurance will be attached to these sportsmen in accordance with the provisions of applicable laws and regulations. However, these opportunities are only limited to the types of competitions and achievements written in the regulation so that opportunities for other outstanding sportsmen are not open.

From the case examples above, it is known that there are still many outstanding senior athletes who have escaped the attention of the government. In addition, young sportsmen at productive age also choose to quit because of the unclear regulations

[11] Article 36 of Government Regulation No. 11/2017 on Civil Servant Management.
[12] Article 37 of Government Regulation No. 11/2017 on Civil Servant Management.

regarding welfare and social security for athletes. Therefore, further rules are needed that regulate old-age and pension guarantees for athletes, especially for sportsmen with achievements with a wider range.

The researcher's recomendation in terms of regulation and government are as follows:

1. Providing old age guarantees, especially for former athletes, must be a concern for the government. This is useful to keep the enthusiasm of prospective new athletes so that they do not leave the world of sports because they are afraid of the stability of their lives after no longer being active in the world of sports, especially in financial factors.
2. The government's legal politics should provide supervision to athletes and former athletes to ensure their welfare, especially in fulfilling old age guarantees.
3. Updating data on athletes and facilities for each sport equally and fairly must also be done to ensure sustainable welfare.

   In addition, researchers also provide advice to athletes and prospective athletes as follows:

   1. Financial organization and entrepreneurial skills. As in the case above, the financial stability of athletes depends on the type of achievement they make. Not always athletes who excel will continue to be given appreciation by the government. However, by managing finances early on and learning entrepreneurship, it is hoped that athletes will have other sources of income besides being athletes.
   2. *Knowledge transfer* and *coaching clinic.* Transferring knowledge and coaching other sportsmen can be an option for athletes who have entered retirement age. Besides being able to transfer their knowledge and experience, retired athletes can also continue to revive their passion as sportsmen.

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