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THE RELEVANCE OF LEX SPORTIVA TO CRIMINAL LAW IN FOOTBALL SPORTS ISSUES

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ABSTRACT

Football is the most popular sport and is widely enjoyed by various segments of society. Its popularity is supported by accessibility, simplicity, major tournaments, social media, and star players. To manage football at an international level, FIFA was established in 1904 as the global governing body responsible for major events such as the World Cup. FIFA functions as an organization that upholds football sovereignty through the principles of Lex Sportiva. In Indonesia, Lex Sportiva is recognized under Law No. 3 of 2005, which regulates the independent resolution of sports disputes. However, there are instances of violence in football that are addressed through criminal law. One such case is that of Nanne Malomo in 2021, which sparked debate regarding the role of Lex Sportiva. In other countries, like China, football violations are often resolved without criminal law involvement, as exemplified by the sanction of Oscar in the Chinese Super League. This study aims to: (1) examine the application of Lex Sportiva and Criminal Law to football-related issues; (2) explore the relationship between Lex Sportiva and criminal law in addressing issues within football matches. This research uses a conceptual approach and a statutory approach. The study's findings include: (1) In national football competitions, Lex Sportiva rules are based on FIFA's legal system, including the FIFA and PSSI Statutes. Criminal law in Indonesia applies the principles of Lex Specialis and Ultimum Remedium, which are found in the Penal Code and Law No. 3 of 2005 on the National Sports System; and (2) The relationship between Lex Sportiva and criminal law in Indonesia indicates that, while Lex Sportiva focuses on internal sports discipline, serious acts of violence on the football field often require criminal law intervention. Through a dual application, both Lex Sportiva and criminal law work together to create justice and prevent future violence.

Keywords: Lex Sportiva; Criminal Law; Football.

1. Introduction

Football is the most popular sport in the world with millions of fans and players in various countries. Football fans come from various backgrounds, from children to adults, both male and female. The popularity of football can be seen from various aspects including accessibility, simplicity and ease of play, major international tournaments, mass media influence, and famous star players.

Based on the development of football in the world, a forum was formed that could organize football internationally. The forum is in the form of an international federation called the Federation Internationale de Football Association (FIFA). FIFA or the abbreviation of the Federation Internationale de Football Association is an international

football governing body founded on May 21, 1904 in Paris. FIFA is responsible for international football tournaments such as the FIFA World Cup and the FIFA Confederations Cup.[1] In the world of football, FIFA is the parent of world football. FIFA functions as an organization that regulates the sovereignty and system of football. FIFA has its own legal system, has full sovereignty.

The sport of football has autonomy and independence including in the rules of the sport which is called Lex sportiva. The principle of Lex Sportiva is implemented in Law Number 3 of 2005 concerning the National Sports System, which allows for dispute resolution independently of national law. This law recognizes international regulations such as those set by FIFA and stipulates that every athlete must comply with the code of ethics of their sport.[2]Lex Sportiva serves as the legal basis that regulates sports competitions and disciplines in Indonesia and ensures that sports are held fairly and transparently. Therefore, Lex Sportiva has an independent legal autonomy in resolving every case that occurs in sports.

Abuse is a form of violence and is included in legal cases that often occur in football matches in Indonesia. This has happened since the Galatama League until now which has not been resolved by PSSI.[3]The case of abuse that occurred was the violent incident between Nenne Malomo and Gasma Enrekang that occurred in 2021. When taking a free kick, the referee was suddenly attacked and beaten by several Nenne Malomo players which caused a torn wound on the referee's face. As a result of the actions carried out by Malomo, he was punished by the PSSI Discipline Commission. Nanne Malomo, the perpetrator, was charged with Article 170 in conjunction with 351 of the Criminal Code and faces six years in prison.[4]

From the above case, it raises questions about the existence and position of Lex Sportiva in the world of sports in Indonesia, especially in football. This is partly due to the

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1 A. Zainuddin, World Football Federation, Kalla Institute, 2024, https://kallainstitute.ac.id/federasi-sepak-bola-dunia/

2 Khairul Amar dan Ridwan, "Pelaksanaan Prinsip Lex Sportiva dalam Penyelesaian Kasus Tindak Pidana pada Sepakbola di Bima NTB," Prosiding Seminar Nasional Pascasarjana 2019 (2019): 1109–1116, https://proceeding.unnes.ac.id/index.php/snpasca/article/view/423/264.

3 Erik Cahyo Nugroho dan Tolib Effendi, "Korelasi Lex Sportiva dengan Hukum Pidana terhadap Tindak Pidana di dalam Sepak Bola Indonesia," Simposium Hukum Indonesia 1, no. 1 (2019)

4 Persatuan Sepakbola Seluruh Indonesia (PSSI), "6 Pemain PS Nene Mallomo Sidrap Jadi Tersangka," 2021, https://www.pssi.org/news/6-player-ps-nene-malomo-sidrap-jadi-tersangka

imposition of positive law that intervenes in the organization of football in Indonesia by the Indonesian government which has been stipulated by the FIFA statute.[5]

In other countries such as the Chinese Super League, between Shanghai SIPG and Guangzhou R&F players caused a riot due to provocation from Shanghai player Oscar. From the incident, Oscar was banned from playing for eight matches and fined five thousand US dollars or around sixty-six million rupiah (Rp. 66 million).[6]From the case it shows that there is no intervention from criminal law in football sports cases. Although the violations that occurred have violated the norms in criminal law.

Previous research conducted by Hanif Alana Abigail and Hanifah Febriani (2024) entitled Application of Lex Sportiva and Criminal Law to Acts of Abuse in Indonesian Football Competitions, stated that in addition to Lex Sportiva, the Criminal Code can be used in handling cases of abuse in Indonesian football by referring to previous court decisions, the opinion of the Secretary General of the East Java PSSI Asprov in 2019 and types of sports violence.

Research conducted by Khairul Amar and Dr. Ridwan (2019) entitled Implementation of the Lex Sportiva Principle in Resolving Criminal Cases in Football in Bima NTB, states that the right action to resolve cases of fights between football clubs in Bima, West Nusa Tenggara is to use the mechanism as regulated in the PSSI Disciplinary Code of Ethics considering the specificity in terms of sports as regulated in Article 57 letter (d) of Law Number 3 of 2005 concerning the National Sports System. Furthermore, research conducted by Erik Cahyo Nugroho, Tolib Effendi (2019) entitled Correlation of Lex Sportiva with Criminal Law Against Criminal Acts in Indonesian Football, shows that the relationship between national criminal law and the PSSI Statute is mutually exclusive, which means that it can only be carried out by one system, in this case through the Disciplinary Code of Ethics mechanism.

This research was conducted with the aim of: (1) finding out the application of Lex Sportiva with Criminal Law to problems in football; (2) finding out the relationship between Lex Sportiva and criminal law to problems in football matches.

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5 Bintang Yudho Yuono, Lex Sportiva terhadap Tindak Pidana Penganiayaan dalam Sepakbola Indonesia (Skripsi, Fakultas Hukum, Universitas Islam Indonesia, 2018).

6 Achmad Yani Yustiawan, "Oscar Dilarang Tampil 8 Pertandingan karena Jadi Biang Keributan," Liputan6.com, 2017, https://www.liputan6.com/bola/read/3000607/dijual-biang-keributan-oscar-dilarang-tampil-8-pertandingan

2. Methods

The legal research method used is a literature study with a normative legal approach, namely an approach that focuses on the analysis of legislation and legal theory.[7]This research was conducted with a conceptual approach and a statute approach. This research analyzes the application of Lex Sportiva to soccer sports problems and its relationship to criminal law on soccer matches. The data used in this research are secondary data in the form of articles, journals, papers, government documents, and the like. The research procedure was carried out by (1) selecting a topic; (2) exploring information; (3) determining the formulation of the problem; (4) collecting data sources; (5) preparing the presentation; and (6) compiling the report. The analysis of this study includes (1) data reduction, namely selecting data that is in accordance with the theme to be searched for and processed; (2) presenting data in narrative form; and (3) verifying data.

3. Result and Discussion

3.1 Lex Sportiva in Football Sports

Lex sportiva is a legal order that regulates aspects of sports independently. Lex Sportiva is known as an autonomous law formed by organizations such as FIFA and PSSI that set regulations in football competitions. The implementation of Lex Sportiva in Indonesia begins with Lex Ludica (The Rule of The Game), which is the law or rules in a game in sports and organizes sports based on its own law based on the federation statutes, as part of the transnational legal system.[8]

Lex sportiva is the legal autonomy used in international sports. Lex Sportiva can be said as sports law. The principles of Lex Sportiva are used to meet the legal needs in the world of sports in dealing with disputes, ethics, and regulations of sports.

Here are the main principles of Lex Sportiva:

1) **Sports Autonomy**

Sports bodies have the right to regulate themselves without any intervention from the government or other institutions. This principle aims to ensure that sports

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[7] Kornelius Benuf dan Muhamad Azhar, "Legal Research Methodology as an Instrument for Analyzing Contemporary Legal Problems," Gema Keadilan 7, no. 1 (2020): 20–33, https://doi.org/10.14710/gk.2020.7504

[8] Bintang Yudho Yuono, *Loc.cit*

organizations can maintain their independence and all decisions are based on internally made regulations.[9]

2) **Principle of Honesty and Fair Play**

Fair play is the moral basis in doing sports. In this principle, prioritizing fair and sporty play, as well as ethics adhered to by athletes and sports actors.[10]

3) **Anti-Doping Principles**

In this principle, it aims to maintain the integrity and health of athletes. With this principle, it results in very strict rules and doping tests are carried out which aim to ensure that the match is carried out fairly and there is no cheating.[11]

4) **Principles of Dispute Resolution through CAS (Court of Arbitration for Sport)**

Lex sportiva uses the CAS principle as a way to resolve disputes in international sports. It aims to provide fast and accurate decisions in accordance with sports law.[12]

5) **Principles of Protection of Athletes' Human Rights**

This principle ensures that the fundamental rights of athletes are protected, including the right to be treated fairly, the right to health, and freedom from discrimination.[13]

3.2. Application of Lex Sportiva to Football Sports Problems

Violence in football matches is one of the problems that often arise and is addressed with the principles of Lex Sportiva. The principle is also related to the rules that aim to maintain the integrity of the match, ensure fair play, and maintain the safety of the actors involved in the field. The implementation of lex sportiva is expected to reduce incidents of violence, maintain the safety of players and officials, and promote the spirit of sportsmanship in the world of football.

The implementation of the Lex Sportiva principle in the case of football matches is as follows:

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[9] F. Dewi dan Z. Muhammad, "Independence of Sports Organizations and Legal Challenges in Indonesia," Journal of Law and Sports 5, no. 2 (2020): 120–134.

[10] R. Pratama, "Fair Play Ethics in Football: Case Study in the Indonesian League," Indonesian Journal of Sports Science 8, no. 1 (2019): 45–58.

[11] T. Kusuma dan Y. Rahardian, "Analysis of the Implementation of Anti-Doping Principles in Indonesia," Journal of Sports and Law Studies 6, no. 3 (2021): 98–110.

[12] A. Sutrisno, "The Role of the Court of Arbitration for Sport in Resolving Sports Disputes in Indonesia," Journal of Arbitration and Sports Law 4, no. 1 (2022): 25–40.

[13] B. Wibisono, "Protection of Athletes' Human Rights in the Perspective of Indonesian Sports Law," Journal of Human Rights and Sports 3, no. 2 (2020): 33–47.

1) Imposition of Direct Sanctions by Referees

The referee is responsible for directly imposing sanctions in accordance with the rules of the FIFA match such as giving a yellow or red card for violations of physical violence. This sanction is a preventive measure in controlling the match and preventing more severe violence.[14]

2) Disciplinary Review by League Disciplinary Commission

The League Disciplinary Commission has a role to ensure that players or parties involved in violence are punished. The punishments in question are in the form of a ban, a fine, or a ban from participating in competitions for a certain period of time.[15]

3) Education and Training for Players and Coaching Staff

Many education programs are conducted by football federations in an effort to raise awareness of fair play and the consequences of violence on the field. This education focuses on sports ethics and emotional management as a way to prevent violence on the field.[16]

4) Use of Technology to Monitor Violent Incidents (VAR)

VAR technology is used to review an event that the referee missed or an incident that requires further examination. With the Video Assistant Referee, violence that the referee cannot clearly see can be traced more deeply so that it can produce the right and fair decision.[17]

5) Providing Counseling for Perpetrators of Violence

Some football institutions implement counseling programs for players involved in violent incidents. The counseling program is expected to enable players to manage their emotions and avoid violent acts in the future.[18]

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[14] F. Wijaya dan R. Akbar, "The Role of Referees in Maintaining Fair Play and Preventing Violence on the Football Field," Indonesian Sports Journal 6, no. 3 (2021): 45–57.

[15] A. Santoso dan Y. Fajar, "Implementation of Disciplinary Sanctions against Violence in Football: A Case Study of the Indonesian League," Journal of Sports and Ethics 5, no. 2 (2020): 112–127.

[16] B. Putra dan T. Handayani, "The Importance of Fair Play Education in Reducing Violence in Football," Journal of Sports Education 7, no. 1 (2019): 33–44.

[17] M. Hasan dan D. Wibowo, "Implementation of VAR Technology in Football Law Enforcement in Indonesia," Journal of Sports Technology 4, no. 1 (2022): 60–72.

[18] H. Siregar dan E. Wijaya, "Effectiveness of Counseling for Football Players Involved in Violence on the Field," Journal of Psychology and Sports Science 8, no. 2 (2020): 78–89.

3.3 Application of Lex Sportiva with Criminal Law to Football Sports Problems

In national football competitions, the Lex Sportiva rules based on the FIFA legal system, including the FIFA Statutes and PSSI, are used to maintain the competition mechanism according to independent rules. Cases of violence or abuse that occur on the field such as the incident between Nenne Malomo and Gasma Enrekang which occurred in 2021. The referee was attacked and beaten by several Nenne Malomo players while taking a free kick. This resulted in the referee's face being torn. The actions committed by Malomo were punished by the PSSI DISCIPLINE COMMISSION. Nanne Malomo was charged with Article 170 in conjunction with 351 of the Criminal Code and faces six years in prison.[19]

In addition to the above cases, cases of alleged abuse violations are often resolved by the PSSI Disciplinary Commission (KOMDIS), such as in the 2009 case between Persis Solo and Gresik United, where players were involved in an argument that resulted in a double punishment, namely a punishment from PSSI and a court verdict. PSSI regulates fights between players in the Disciplinary Code Articles 47 and 50, which state a ban of up to six matches for players involved, while players who try to prevent the fight from happening are not subject to punishment.[20]

However, in Indonesia, FIFA law is not fully applied absolutely. The national legal system, such as Article 351 of the Criminal Code on assault, is also applied in handling cases of violence on the field. The intervention of national law in cases of violations in football shows the relationship between international sports law and national law. Although there are differences between the two systems, if synergized, they can support the goal of public welfare.[21]

PSSI has rules to resolve legal cases in football independently. Criminal law in Indonesia applies the principles of Lex Specialis and Ultimum Remedium which support Law Number 3 of 2005 concerning the National Sports System, which is explained in the PSSI Statute. The national legal system respects the existence of international sports federations. So that professional sports organizations in Indonesia are required to be

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[19] Persatuan Sepakbola Seluruh Indonesia (PSSI), "6 Pemain PS Nene Mallomo Sidrap Jadi Tersangka," 2021, https://www.pssi.org/news/6-player-ps-nene-malomo-sidrap-jadi-tersangka, accessed November 3, 2024.

[20] Erik Cahyo Nugroho dan Tolib Effendi, "Korelasi Lex Sportiva dengan Hukum Pidana terhadap Tindak Pidana di dalam Sepak Bola Indonesia," Simposium Hukum Indonesia 1, no. 1 (2019): 89–99.

[21] Ibid., 97.

members of the relevant international federation, such as FIFA in football. This law, especially Article 29 paragraph (2), recognizes the role of sports organizations in fostering and developing professional sports affiliated with international federations.[22]

3.4 The Relevance of Lex Sportiva to Indonesian Criminal Law

The implementation of lex sportiva in handling violence in football matches is intended to create a fair and safe match for all parties. Lex sportiva not only limits players, but also management, coaches, and organizing committees as a way to reduce incidents of violence on the field.

The relevance of Lex Sportiva to Indonesian Criminal Law is related to the scope of each jurisdiction. Lex Sportiva refers to international sports rules and laws that aim to regulate on-field activities by implementing internal sanctions, such as yellow cards, red cards, bans, or fines. However, if violence crosses the boundaries of sport and involves criminal acts that have been regulated in the Criminal Code, then Indonesian criminal law applies as an additional law to ensure justice for victims and national law enforcement.

Some important aspects related to the relationship between lex sportiva and Indonesian criminal law are as follows:

1) Scope of Application of Lex Sportiva and Criminal Law

Lex sportiva regulates minor acts of violence that do not cause serious injury or death. The sanctions imposed are internal sanctions such as cards or bans from playing. However, if the violence that occurs on the field is an attack with the intention of harming and causing serious injury or death, then the action falls under criminal law.[23]

2) Application of Criminal Code Articles in Cases of Violence in Football

Violence that results in serious injury or death on the soccer field, then the perpetrator is charged with articles in the Criminal Code, such as Article 351 on assault and Article 338 on murder. These articles allow law enforcement officers to

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[22] Ibid., 98.

[23] A. S. Pratama dan T. Nugroho, "Violence in Football: Analysis of Sports Law and Criminal Law," Journal of Sports Law and Ethics 7, no. 2 (2021): 75–88.

follow up on the perpetrator without ignoring internal sanctions from the sports organization.[24]

3) Dualism of Sanctions: Lex Sportiva and Criminal Law

Violence in football is subject to double sanctions, namely sanctions from Lex Sportiva and the football association, and criminal law sanctions from the court. For example, when a player attacks an opponent to the point of serious injury, he can receive a ban from playing and will undergo punishment.[25]

4) Criminal and Disciplinary Liability of Clubs or Committees

Criminal liability may apply to the committee or team if the violence that occurs is due to their negligence in maintaining the security of the match. Article 358 of the Criminal Code on negligence causing injury to others can be applied if there is evidence of negligence from the organizer.[26]

5) The Role of Law Enforcement Officers in Sports Competitions

Law enforcement officers and sports organizers often work together to prevent violence on the field. If serious violence occurs on the field, then law enforcement officers have the authority to take criminal steps and coordinate with sports officials. With this, Lex Sportiva is strengthened in law enforcement through cooperation with the Criminal Code.[27]

6) Out-of-Court Settlement through Sports Arbitration and Mediation

Violence that is still within limits can be carried out through mediation or arbitration without involving the court. Arbitration, which is regulated by the Court of Arbitration for Sport (CAS), can be an option if both parties agree to a non-litigation settlement.[28]

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[24] H. Riyanto dan M. Siregar, "Application of the Article on Assault in Cases of Violence in Football Matches," Indonesian Criminal Law Journal 5, no. 3 (2020): 103–117.

[25] I. Wiratmaja dan F. Kusuma, "Double Sanctions in Handling Violence in Sports: Lex Sportiva vs. Criminal Law," Journal of Law and Sports Studies 8, no. 1 (2019): 45–58.

[26] D. Saputra dan J. Haryanto, "Criminal Liability of Clubs and Committees in Violent Incidents in Football," Journal of Sports Law Management 4, no. 2 (2022): 121–135.

[27] S. Nurhadi dan F. Ramadhan, "Synergy between Criminal Law Enforcement and Lex Sportiva in Sports," Journal of Criminology and Sports Studies 3, no. 1 (2021): 75–87.

[28] B. Santoso dan M. Putri, "Settlement of Violence Disputes on the Football Field: The Role of Sports Arbitration," Journal of Arbitration and Sports Law 5, no. 3 (2020): 89–101.

4. Conclusion

In national football competitions, the Lex Sportiva rules are based on the FIFA legal system, including the FIFA and PSSI Statutes. PSSI has rules for every legal action that occurs in Indonesian football independently. Criminal law in Indonesia uses the principles of Lex Specialis and Ultimum Remedium which support Law Number 3 of 2005 concerning the National Sports System, which is outlined in the PSSI Statutes. The national legal system respects the existence of international sports federations. Both principles are not located in the Criminal Code with the PSSI Disciplinary Code of Ethics, but are found in the Criminal Code and Law Number 3 of 2005 concerning the National Sports System.

The relationship between lex sportiva and Indonesian criminal law in dealing with violence in football emphasizes the importance of collaboration and clear jurisdictional boundaries. Lex sportiva focuses on internal sanctions aimed at maintaining the integrity of the sport, while criminal law ensures broader justice, especially in cases of serious acts of violence that harm others. The relationship between lex sportiva and criminal law in Indonesia shows that while lex sportiva focuses on internal discipline in the sport, serious acts of violence on the football field often require criminal law intervention. Through dual application, both lex sportiva and criminal law work together to create justice and prevent future violence.

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