

# CHILDREN’S RIGHT IN SPORT: AN OVERVIEW

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## Abstract

Malaysia as one of the signatories of the United Nations Convention on Children’s Rights (UNCRC) is working very hard to ensure in providing basic facilities for children but it hopes also to provide a conducive environment for children. UNCRC promotes three aspects, protection of children, participation and life. The Malaysian government has been supportive in providing not only in providing facilities but also programs which is hoped to serve for the best interest of children. The principle of best interest of children is a concept which has been promoted under the UNCRC. The first sport school was set up in 1996, Sekolah Bukit Jalil which aims to groom potential children in sports. This is in line with (National Sport Policy)-*Dasar Sukan Negara*. This paper aims to discuss children’s right to play and the right to sport. It raises various issues such as what type of sport is considered as abusive to children? How about the dress code in sport especially for Muslim girls? By analyzing the existing literature from primary and secondary sources, this paper addresses legal issues related to children’s rights in sport especially in Malaysia. Charting the Malaysian Children’s Rights in sport should not be deliberately overlooked by the policymakers as it is also related to best interest of children. This paper suggests that promoting sports among children are commendable but yet, there must a continuous effort in promoting sports for children within the Shariah principles by the authorities. Finally, an analysis is made based on the Shariah principles based on the *maqasid of shariah* in discussing issues pertaining to children’s rights in sport.

**Keywords:** children’s right in sport, *maqasid shariah* and Malaysian laws.

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## 1. Introduction

Sport, recreation and play may help children not only to develop their intellectual capabilities but also it may help in their physical growth. There is a Latin phrase says “The healthy mind comes from a healthy body”. Undeniably, physical activities such as sport may assist children to socialize with other group of children but it also may discipline the children in their daily lives. There have been reports claiming the benefits of sports, recreation and play. In addition, the practice of physical education is fundamental rights for all (UNESCO, 1978). Sports or physical activities are associated with living healthily and as a way to avoid tobacco and drug addiction among children and young people. Programs such as reflect the importance of sports as a mechanism to deter children and young people to involve with drugs. A coach is not an insurer of an athlete’s safety and is not necessarily liable for injuries that occur while coaching a sport. There was a growing concern on protection of children in sport due to sexual scandals which occurred in the United Kingdom in early 1980. The recent child sexual

abuse investigation that has rocked English football has “impacted” upon 148 football clubs, according to the National Police Chiefs’ Council (NPCC). The coordinating body for officers across the country said that 155 potential suspects and 429 victims have been identified. (*Telegraph*, 2016). The scandal on There was pressure from a few of sport organization to push the agenda of protecting children in sport. Despite that the respond from the state was slow but gathered momentum due to grassroots pressure. (Brakenridge, 2004). There is lack of concrete data which reflect the numbers of children who were abused in sport worldwide and in Malaysia. In the United States of America (USA) the concealment of child sexual abuse (CSA) within organizations has emerged as a key challenge for child protection work (Harthill, 2013). Thus, the surrounding factors and the relationship between the coach and the child might be affected if the abuse is revealed to the society. This paper will discuss the challenges in charting the agenda of child protection in sport by examining the rights of children under the Convention, the existing laws as well as under the *Maqasid Syariah* (the objectives of Syariah).

## 2. Literature Review

The arrest and imprisonment of ice hockey coach Graham James in Canada proved to be the tip of a sexual violence iceberg in the sport that was subsequently uncovered by investigative journalist Laura Robinson (1998) (see also Kirby et al. 2000). Sexual violence and abuse only emerged as a problem within sport in the early 1990s. Linda Jean Carpenter (2008) an American who has come out with a book entitled ‘Legal Concepts in Sport: A Primer’ highlight topics such as sexual harassment, corporal punishment, drug testing, transportation, and hazing in sport. Also anti-discrimination laws and the concepts involved in contracting to buy equipment or deciding to fire a coach are important for today’s teacher, coach, and administrator. This book sparks the legal issues related to sport and law.

In Malaysia, there is dearth of literature on child abuse in sport. In a research conducted by Syarifah Fathynah SS and Syarifah Syahirah SS (2015), they examined the occurrence of sexual harassment among sport practitioners in Bukit Jalil, Kuala Lumpur which can effect the performance of sport practitioners. In worth scenario, it may lead to self-harm and suicide. There is no specific guideline which state what amount to violence in sport for children. Little is known about the contexts whether boys or girls might be at greater or lesser risk of experiencing such crimes. Since the “discovery” of abuse in sport thirty years ago, research on CSA has been guided mostly by the “male perpetrator—female victim” paradigm; hence, the perspective of the sexually abused male in the sports context has rarely been considered. Since its “discovery” thirty years ago, research on CSA has been guided mostly by the “male perpetrator—female victim” paradigm; hence, the perspective of the sexually abused male in the sports context has rarely been considered. (Harthill, 2004). Based on the existing literature, this paper attempts to explore what actually amounts to abuse in sport?

Malaysia has launched the eleventh Malaysia Plan (2015- 2020) with the theme anchoring growth on human emphasis will be placed on mass sports participation, developing high-performance athletes, and building youth leadership capabilities in sports and sports-related. The tenth Malaysia Plan (2011-2015), the Malaysian government invested significant resources to enhance the wellbeing of the *rakya* (citizen). Improvements in the healthcare sector led to an increase in life expectancy, a decrease in infant and maternal mortality rates, and improvements in access to healthcare services. Earlier, the National Sports Policy was launched in 2007. Since then, rapid development of sport facilities in Malaysia emerged (see Barghchi, M, Dasima bt Omar and Mohad Salleh Aman, 2009). However, there is lack of data on as how far the

participation of the public in sports as a result of the existing facilities in sport. There is also a worrying trend due to lack of participation of public in sport, which also lead to obesity not only among adults but also children.

The government legitimises its control over the policies which affect people's lives by appeals to Islamic principles and the need to put collective needs of nation building ahead of individual concerns for freedom (Aman, M, 2005). However, there is lack of discussion how sport is well accepted among the Muslims especially on sensitive issue such as dress code especially among Muslims women. Despite there is a guideline from authorities like JAKIM on dress code, there is still debate on its implementation.

### **3. Defining Abuse in Sport**

Sport itself might be harsh and also sounds very tough for children. The long hours of tough training is not only tiring but it can be as abusive to children. Findings revealed that emotionally abusive behaviours of the coach occurred in three ways: through physical behaviours, verbal behaviours, and the denial of attention and support. Based on the findings, a definition of emotional abuse in sport is proposed. Brakenridge and Fasting (2005) stated that there is possibility that the sport children are trapped into compliance, because they trust or even love their abuser. Such relationship is possible due to the close relationship between the child and the coach. Burke (2001) was in view that the relationship itself open to opportunity of possibility of abusive relationship. The law recognizes peer-to-peer and subordinate-boss harassment. Thus, female athletes should also be reminded on how might to improve their personal safety to guard against abuse during sport. Although it might a difficult relationship which is trapped between trust and respect, reminding the female athletes should not be seen as burdensome, but it should be seen as prevention is better than cure.

A book written by Zaidi Hashim (2005) was the first ever book that has been written related to sport law in Malaysia which also traced on the historical development of sport in Malaysia. Attempts have been made to define sport law from the Malaysian perspective. However, what amounts to abuse in sport is still open for debate. This is because abuse in sport may comprises not only physical abuse but it also may cover emotional abuse. Thus, sport which is violent in nature might not be suitable to be involved by children. For instance, driving in Formula One race is a dangerous sport to a child. The nature of the sport itself can be torturing and horrible for a child to practice. The authorities involved should come out with definitions which show what type of sport amount as abusive and should be prohibited.

### **4. Child's Right in Play-Sport**

Late 19<sup>th</sup> century, a pivotal point appeared on child's right to play. Play-the forgotten right which is describes the important and often overlooked role of play in children's learning. The relationship of children and sport are inseparable, children due to their nature love to play (Hughes, 1990). In addition, play also has role in mental development of a child. Too much restriction put on children in sport is considered as deprivation of their right to play and actively involved in sport. Article 31 of the UNCRC provides that child has the right to rest and leisure, to play and engage in recreational activities appropriate to the age of the child. Question may arise as what is the appropriate sport to the age of a child? There is possibility that the right to play among children might differ from one society to another society. Only a few research

studies have explored children's experiences of play from an explicit rights-based perspective. (Davey and Lundy, 2009). The Committee on the Rights of the Child could take a greater lead on this issue through more robust monitoring and enforcement of Article 31. Each country should adopt a standard of procedure (SOP) in dealing with children and sport. Authorities might look aspects of violence in sport, as the UNCRC protects children from violence. (Article 19) Despite that often the nature of sport might be harsh, there should be some line drawn to ensure that the aspect of security and safety are paramount in dealing with children who actively engaged with sport.

Monitoring and enforcement of child's right to play may be useless if there is no mechanism from the government to promote play among children. If schools are meant for academic excellence only, it is impossible to promote children's right to play. Thus, planning and executing the plan must be structured at all level, from the school authorities and also individual child. In Malaysia, the promotion that 'One Sport One Child' can be materialized if all parties involved take the effort to materialize such promotion. (Elumalai and Saryono, 2015). Compounding the problem are households now with less time to prepare healthy meals caused by demanding work and other factors. (Oliver Bayani, 2017). The right to play should also come with the right to get nutritional food and drink.

Three suggestions were made to improve sport in schools, firstly, the Ministry of Education must try to meet the needs of sports facilities and equipment for schools. Secondly, the number of sports periods must be increased. Thirdly, the Physical Education curriculum design also requires some changes in order to attract the interest of students and make it as a culture in their life (Elumalai and Saryono, 2015). It is quite challenging to ensure all students participate in sport and make it as a lifestyle. Thus, a continuous effort must be taken by the authorities in promoting a safe sport.

## **5. Current Practice in Sport for Athletes Children and Young People**

Currently, there are two sport schools in Malaysia, namely, Bukit Jalil Sport School and secondly, Bukit Penawar Sport School in Kota Tinggi, Johor. Besides sport schools, the government also set up *Institut Sukan Negara* (the National Sport Institute) which is based in Bukit Jalil. The National Sport Council. In fact, sport science also become a specialization at the higher education such as University Malaya. The government invested a large amount of public fund in developing sport facilities. In fact, the Malaysian government has also plans for those with disability to participate sport competition at the international level such as Paralympic, which witnesses the winning of gold medals (see Wilson, 2013). Thus, sport can be seen as mechanism to promote equality among the society at large.

## **6. Child's Sport and *Maqasid Shariah***

In general, the objectives of shariah (*maqasid shariah*) outline for a Muslim to protect five aspects in life, protection of wealth/property, religion/faith and protection of life and protection of intellect. Shariah itself is based on wisdom and achieving people's welfare in this life and the afterlife. Shariah is all about justice, mercy, wisdom and good (Auda, 2008). There have been suggestion that tenets of an international treaty would be filtered through the five objectives of *maqasid al-shariah* (2015). *Maqasid al-shariah* (higher purposes and intents of the Islamic law) is a system of values that could contribute to a desired and sound application of the shariah. Theoretically, the *maqasid al-sharia* is formulated in the works of Al-Ghazali and Al-Shatibi. the Quran has discussed about the vision of the future and continuation of

generation ( al-Hasyr 59:18). There are Quranic verses and hadith which reflect the Islam's positive view of sport. For instance, a hadith by Omar Ibn. Khattab recommends that the Muslims teach their children swimming, archery and horseback riding (al-Qardawy, 1992). Sport has played an important role in child development of a Muslim family. Sport is seen as essential in development of peace, equality and brotherhood.

The involvement of children in sport is commendable as there are hadith that Allah loves those who are strong. The Prophet Mohamad encouraged young people to learn swimming and archery. By observing *Maqasid al-Shariah*, the government of Malaysia may protect the interests of Islam as a religion of the Federation (as stated in Article 3 of the Federal Constitution) and Muslims as the core and dominant citizens (ML Mohd Yusob, MA Salleh, AS Haron, 2015). Thus, arising issues such as dress code, touching during training between different sexes are widely debated due to different opinion and views on the subject matter.

### 6.1 Dress Code

Dress up for sport often create controversy among Muslims children especially girls and young lady. In Malaysia, the dressing of gymnast has created concern among the public. In 2015, during the South East Asia (SEA) Sport, the furore over Malaysian gymnast Farah Ann Abdul Hadi's attire at the Singapore SEA Games rages on. The Ministry of Youth and Sports, Khairy Jamaluddin told the athletes they do not have to abide by any dress code drawn up by the Malaysian Islamic Development Department (Jakim). On the other hand, the Minister in the Prime Minister's Department Datuk Seri Jamil Khir Baharom had said that sports attire would be reviewed. (*The Star*, 2015). There have been literatures which discuss on Muslim women's dress code in sport. Islam is not a mere belief system, an ideology or a religion in the usual sense in which these words are understood. Rather it is a total way of life, a complete system governing all aspects of man's existence, both individual and collective. (Hasina Zaman, 1997).

Current situations indicates that they are no clear guidelines and regulations on how to manage an Islamic and Sharia-compliance sport facilities for the local authority and private company to follow and control. Considering the socio-cultural and economic values and the local government, sports must be given its due as an intermediary that promotes inter-ethnic relations especially in a society that is polarised in a multi-cultural setting. (CN Jacobs, *et.al*, 2014). The current legislations, education and policies to promote intercultural respect and tolerance and understanding (Ramalingam, 2014). Thus, how sports can be seen as one of the activities which is used to promote multiculturalism in Malaysia. Besides promoting nation building, sport can be seen as united mechanism among the multi-racial ethnics in Malaysia. At the same time, promoting a healthy lifestyle starting from childhood until adulthood.

## 7. Discussions and Conclusions

The right of a child to play impliedly shows the promotion of the importance of sport in one's life. Islam has outlined conceptual aspects of sport which should be based on Islamic principles. For example, the relationship between coach and students, safety and security issues. The United Nations Convention on Children's Rights provides some mechanism to promote children's right in sport. In supporting children's involvement in sport, there is a need to ensure that the place for sport is not only safe for children but also it should not exposed children to abuse. It is timely that the parties involved such as schools, stadium and playground to adopt certain standard of procedure in promoting safety among children and young people in sport. The need to define what type of sport is abusive is timely. The most complicated part is how to

protect children from being abused by people surround them. Malaysia as a country which upholds Islamic principles as way of life should promote sport which is in line with the spirit in Islam.

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