

BOOK REVIEW

SPORT, LAW AND PHILOSOPHY: THE JURISPRUDENCE OF SPORT

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Miroslav Imbrišević. *Sport, Law and Philosophy: The Jurisprudence of Sport*. Abingdon, Oxon: Routledge, 2023. xx + 254 pp. ISBN: 9780367560805

Abstract: The richness and integrity of sports culture constitute one of society's most important forms of collective engagement. Although often dismissed as mere entertainment, sport – and the philosophy that underpins it – plays a vital role in shaping social development. The scholarly contributions in this volume highlight how philosophical reflection on sport, combined with legal frameworks, can guide players and institutions toward more meaningful participation in society. This relationship echoes a core principle: rules are inseparable from the spirit of the game. A player who ignores the rules cannot truly take part; likewise, sport and its regulatory structures work together to advance the cultural and developmental dimensions of sports culture. The question, however, is how the rules of sport intersect with legal norms and social theories: do they stand apart, contradict them, or reinforce them? *Sport, Law and Philosophy: The Jurisprudence of*

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Sport, edited by Miroslav Imbrišević, engages directly with these questions through the still-emerging field known as the “Jurisprudence of Sport” (JOS).

Keywords: *Game Contract Theory, Gender Inequality in Sport, Jurisprudence of Sport (JOS), Legalism in Sport, Lex Sportiva, Philosophy of Sport, Playfulness, Sports Governance, Strategic Fouling.*

The book *Sport, Law and Philosophy: The Jurisprudence of Sport*, edited by Miroslav Imbrišević, directly addresses various contemporary concerns. The book comprises two parts and fourteen chapters. The first five chapters lay the theoretical foundation, while the remaining nine explore specific applications and case-based issues. The work is grounded in the concept of the “Jurisprudence of Sport” (JOS), introduced by Mitchell N. Berman in 2011. Imbrišević expands this concept by examining sports through philosophical and legal views to illuminate issues both within and beyond the athletic domain. While JOS remains an underdeveloped area within sports studies, the editor and contributors substantially enrich the discussion by addressing topics such as punishment, rule-breaking, gender inequality and the legal frameworks governing contemporary sport. Collectively, the book advances JOS as an emerging scholarly field offering fresh insights into sports, law and philosophy.

In the first section, Mitchell N. Berman’s chapter, “The Jurisprudence of Sport: A Research Strategy,” outlines a scholarly approach to studying the legal dimensions of sport. He argues that philosophers of law are indispensable to interpreting puzzling or controversial events in sports, and to the maturation of JOS as a discipline (4). As an emerging field, JOS calls for engagement with both popular sports media (such as ESPN and Sky Sports) and academic inquiry (5). Berman illustrates how the study of rules, sanctions and scoring systems in sports such as biathlon, golf, badminton and boxing can generate new questions and expand philosophical literature (15). His work positions JOS as an evolving discipline that responds to new challenges and

deepens the philosophical understanding of sport.

Andreas von Arnould’s chapter, “On the Game Contract,” applies social contract theory to sport. He argues that just as societies rely on mutually agreed rules, sports depend on shared commitments to how the game is played (18). Individuals, though born free, enter into a “contract” when playing games, agreeing to follow and even modify rules in ways that promote collective well-being (19). Arnould extends this analogy to democratic societies, noting that the equality and universality of rules in sport mirror democratic principles (20). His study provides a philosophical framework linking sports rules to the creation of fair and well-ordered societies. The chapter skillfully outlines how rule-making and rule-following in sport mirror the political processes that sustain a well-ordered society.

In the final chapter of this section, “Contra Legalist/Formalist Conceptions of Sport,” Yunus Tuncel critiques the tendency to over-legalize sports. Unlike earlier chapters, which emphasize legal structures, Tuncel warns that excessive legalism undermines the spirit of play (xiii). Drawing on thinkers such as Bataille, Caillois and Huizinga, he argues that sport belongs to the heterogeneous domain of cultural creativity – alongside art, music and philosophy – where playfulness precedes rules (56, 68). Overemphasis on penalties and formalism, he argues, breeds resentment and diminishes sport’s cultural value. His contribution offers a necessary counterbalance, highlighting the dual importance of uniformity and diversity within the philosophy of sport.

The second section addresses practical and specialized issues. Bodo P. Bützler’s chapter, “The Dual Function of Constitutional Rights in *Lex Sportiva*,” is one of the volume’s most compelling contributions. Focusing on the doping case of speed skater Claudia Pechstein, Bützler critiques the 2016 German Federal Supreme Court ruling that upheld the arbitration agreement preventing her from challenging her suspension. He argues that constitutional rights play a dual role in transnational sports disputes – expressing fundamental values and providing procedural legitimacy (91–92). His analysis highlights the need for constitutional safeguards within *lex sportiva* to ensure fairness in

international sports arbitration.

Pam R. Sailors' chapter, "Equality and the Case of Women's Sport," examines longstanding gender disparities in access, media representation and economic status. She critiques practices such as the sexualized portrayal of women athletes—for example, in volleyball broadcasting—which undermine both gender equality and the philosophy of sport (205). Using the framework of "easy," "not-so-easy," "hard," and "flash" cases, Sailors advances the scholarly development of JOS while insisting that debates about transwomen in sport must not overshadow the persistent structural inequalities faced by women and girls (216–217).

The final chapter by Imbrišević revisits the jurisprudence of strategic fouling. In his opinion, strategic fouls should be treated not as mere costs within a game-theoretic framework but as breaches akin to infractions in criminal law (221). Just as citizens are not free to break laws simply by accepting punishment, athletes cannot treat fouls as optional. This legalistic interpretation, though demanding, adds depth to JOS by highlighting the moral education embedded within athletic practice.

The book offers fresh perspectives, conceptual clarity and interdisciplinary depth, making it useful for scholars, policymakers and students alike who engage with the philosophical and legal dimensions of contemporary sport. Nevertheless, certain areas remain unexplained. The tension between legalism and anti-legalism, introduced briefly in the editor's remarks, deserves a fuller theoretical justification. Moreover, issues such as gambling, commercialization and the proliferation of violent or non-family-friendly sports—problems that threaten the very playfulness the book defends—could have been addressed more systematically. Despite these limitations, the contributors bring forward innovative perspectives that significantly advance the jurisprudence of sport. It demonstrates that sport is not merely entertainment but a domain where law, ethics and human flourishing intersect.