

SPORTS LAW AND ITS GROWING IMPORTANCE IN THE MODERN WORLD

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ABSTRACT

What is "sports law" is a question often asked by students, academics, lawyers and lay persons. The person attempting to respond often searches in vain for a response that is cogent and demonstrates some modicum of understanding of "sports law." Perhaps the difficulty in articulating a response is, in part, a result of uncertainty related to what information is being sought. Is the "what is sports law" query intended focus our attention on the content of the practice of sports law? In other words, which substantive areas of practice fall under the rubric of sports law? Specifically, is the role of the sports lawyer intended as the principal focus of the question? In this regard, perhaps what is sought is information concerning the range of services provided by the attorney who practices in the sports law context. Finally, perhaps the person who asks "what is sports law" seeks an answer to a more fundamental consideration- does such a thing as sports law exist? In other words, is sports law recognized as an independent substantive area of the law such as torts, contracts or employment law?

I will attempt to focus on each of these questions beginning with the last inquiry first: does sports law represent an independent corpus of law? I will also explore the relevance of attempts to resolve the issue. Is determining whether sports law is a field of law merely a matter of academic curiosity or a matter imbued with broader implications?

Keywords: Governance and Regulations in Sports Organization, Contractual Agreement in Sports, Anti-Doping Regulations, International Sports Law and India.

INTRODUCTION

Sports are considered to be an integral part of a human lifestyle. It has been a significant ingredient to lead a good and healthy life budding with the spirit of friendly competition following human development². Since immemorial time, sports have been seen as a component of the entertainment industry. The glory of Indian sports has outshined India in the world to its proximity. It gave eminent players who immensely contributed in the field of sports by setting example for the world by its diversified sports heritage.

In India, history of sports can be traced back to the epic of Mahabharata which narrates an incidence where a game called Chaturang was played between two groups of warring cousins Pandavas and Kauravas. Sports have been treated as important aspect of human development. A famous saying goes “all work and no play makes jack a dull boy.” Sport has traditionally seen itself as a private social activity separate from the reach of legal frameworks. As *Foster* explains, ‘legal norms are fixed rules which prescribe rights and duties; relationships within the social world of sport are not seen in this way’.

However, in the recent years the sports have not only remained an activity of physical development of body or an activity of entertainment, but has acquired a professional approach rather a business proportion involving many stakeholders. With high salaries, ticket prices, and profits, professional sports are no longer just a game, but a big business worth billions of dollars.

Moreover, now the trend is towards international sports providing a fresh area of thought on the legal relationship between the teams, organizers and states in which the game is played. The continuous interactions and involvement of varied aspects of contract, competition, rules of the game, protecting olympism has resulted into various rules and regulations, major part being regulated by customs. This necessitated for the development of sports law. Sports law has developed along different lines of thought and is not comprehensive one.

Sports as a Business Proposition

Sport is big business accounting for more than 3 per cent of world trade and 1 per cent of the combined GNP of the 15 member states of the European Union (EU). In the EU alone, some 2 million jobs directly and indirectly related to sport have been created. And in the UK, annual consumer spending on sport has reached a staggering £12 billion⁶. The stimulus for this attention has been the dramatic changes in the last decade within the sport, not only in England but across Europe, with regard to radically improved economic conditions and financial stealth. An example of this economic stealth was demonstrated by the willingness of Sky Television to part with £1.1 billion in 2001 for a five year contract for coverage rights of the FA Premier League.

Recently, the Indian Premier League (IPL) has shows the real business potential of sports. There are eight teams with their franchisees running the show. The BCCI has earned \$723.59m from the 'sale' of the eight teams. On top of that, the Board will get around \$1billion from the sale of TV rights to Sony Television and Singapore-based World Sports Group. Sony

Television and Singapore-based World Sports Group, who paid a whopping \$1billion to bag the rights for 10 years. The teams can even be listed on the stock exchange.

It is not surprising, therefore, with so much money at stake that sports disputes are also on the increase. For example, in the UK some 19 million sports injuries occur each year costing around £500 million in treatment and absence from work⁹. But sports disputes are not confined to personal injuries. They cover a wide range of claims, not least commercial ones relating to, inter alia, sports sponsorship, endorsement, licensing, merchandising, image rights and broadcasting arrangements.

What Is Sports Law?

Sports law is applicable on sports persons, athletes and on sports which they play. It also deals with gender discrimination, contract, criminal, tax issues and inequality among the players. It is also related to all the judicial decisions and ruling that governs all different sports. Sports law provides the protection to all the sportsperson, sports club, league, federation or company that are engaged in the field of sports.

Sports law covers various issues such as:

- Selection disputes/trials
- Doping charges
- Privacy concern
- Social media comments

History of Sports Law?

Sports agencies can be traced in the year 1925 when a player called Red Grange hired an agent for the negotiation of his professional football contract. Red Grange was the first sports player who played football having a personal representative to work out on his performance contract. He was the first professional athlete whose pay was based on his fame, number of fans and his performance in the game.

Later in 1960 attorney Mark McCormack work with a young golfer Arnold Palmer changed the working process dealt with professional athletes.

In recent times, in the US there is no federal law that governs sports agencies. Uniform Agent Athlete Act is a model act that governs sports agents. It was written by the National Conference of Commissioners on Uniform State Laws.

Sports legislation in India

There is no national or state legislation in India to govern sports laws. The Ministry of Youth Affairs and Sports has been set up by the Government of India for the regulation of sports in India at various levels. The Ministry also promotes the level of sports at national as well as international level and to achieve excellence in various competitions.

Sports promotion is a primary function and duty of various National Sports Federations (NFS) which are autonomous in nature. The Ministry of Youth Affairs and Sports issues timely guidelines to these federations.

The Sports Law is governed and regulated in India by:

- ❖ National Sports Policy
- ❖ Sports law and Welfare Association of India
- ❖ Sports Authority of India
- ❖ The Sports Broadcasting Law in India

National Sports Policy

The Resolution of National Sports Policy was laid in both the Houses of Parliament in August, 1984. The National Sports Policy was made with the objective to raise the standard of sports in the country. In order to reformulate the National Sports Policy 1984, National Sports Policy 2001 was drafted.

The objectives of National Sports Policy are as follows:

- Define areas of responsibility of various agencies involved in the field of sports for development and promotion.
- Identify National Sports Federations eligible for coverage under the guidelines and to give details of the procedure followed by federations, to avail government sponsorship and support.
- State the conditions for eligibility by which the government will get ready to release the grants to sports federations.

Sports Law and Welfare Association of India

The Sports Law and Welfare Association of India is a national non profitable association. It works with the aim of understanding the practice of sports law in India. It promotes sports with a legal practitioner and sports person together. The association provides consultancy in matters of sports governing bodies, law issues and a forum of

lawyers representing teams, athletes, leagues involved in Olympics, amateur sports and physical education.

Sports Authority of India

The Sports Authority of India operates to promote games at various levels such as sub junior, junior and senior. SAI also provides various programs like Academic program, Coaching, Physical Education awareness and Scholarship to sportsperson. It also helps in upgrading skills of Indian sportsperson.

The Sports Broadcasting Law in India

The Sports Broadcasting Signals (Mandatory Sharing with Prasar Bharati) Act was passed in 2007. Its objective is to provide the coverage of sports to maximum number of viewers and listeners. The Act provides that no television holder or radio broadcasting service owner shall provide a live telecast of sports in India unless it shares the live broadcasting signal with Prasar Bharati, the public broadcasting agency of the country.

Laws connected with Sports

Sports and Competition law

Two teams playing against each other are like two corporate firms producing a single product in a form of game.

Sports governing bodies like BCCI prevent and preserve the players from competing in other events. Such rules are subject to challenge under Competition Law.

After the launch of Indian Cricket League (ICL), BCCI announced that any cricketer who aligns with ICL will be banned for life from playing for India. Such practice of BCCI was considered liable under Section 4(2)(c) of Competition law, 2002, which lays down that if any enterprise indulges in the practice or practices resulting in denial of market access in any manner would be liable for abuse of dominant position.

Sports Law and Arbitration

Arbitration is a form of Alternative Dispute Resolution (ADR). It is legal technique to solve the dispute outside the courts.

In India, Arbitration is governed by the Arbitration and Conciliation Act 1996, which is based on UNCITRAL Model Law.

In sports the disputes are first referred to the federation that govern the particular sport and later on the international authority that govern the sport. For example a hockey

dispute it will be referred to the Indian Hockey Federation and later to International Federation of Hockey.

Arbitration exists in international sports through the Court of Arbitration for Sports (CAS). Its head quarter is in Lausanne, Switzerland. CAS was created by International Olympic Committee (IOC) in 1983. Any disputes between international sports federations or associations which are part of Olympic Games are to be decided by CAS.

Sports Law and Anti-Doping

Doping cases are becoming common among the sports person these days due to the better performance greed. So, the Government of India has formed an agency to put control and testify the purity in the sportsperson.

National Anti-Doping Agency (NADA) was established under the Societies Regulations Act, 1890 on November 24, 2005. The main aim of NADA is to make sports in India dope free. It consists of members from government and non-government agencies, scientists and members from IOA. It can detect testing during competition or out of competition of the sportsman.

The Board of Control for Cricket in India (BCCI) has its own anti-doping rules: to maintain the integrity of sports of cricket in India, to protect the health of all cricketers in India and to keep Indian cricket free from doping. BCCI has also started an Anti-Doping helpline: +91 9820556566.

World Anti-Doping Agency (WADA) was established on November 10, 1999 in Lausanne with the aim to remove doping from international sports. It was founded under International Olympic Committee (IOC). Its key activities are scientific research, education, development of anti-doping capacities and monitoring of World Anti-Doping Code (Code) - the document of anti-doping policies in all sports and all countries.

International Olympic Committee

IOC has its main aim to protect a clean athlete by fighting against doping. It also established zero tolerance policy to fight cheating, use and providing doping products. Olympic Movement Medical Code was applied in RIO Summer Olympic Games 2016 which defines the rules to safeguard the rights and health of athletes.

Prevention of competition manipulation.

The IOC's goal is to protect the clean athletes from any form of cheating in sports. Competition manipulation means when an athlete or sport official cheats in order to win or part of it.

Sports BeGng

It is one of the parts of competition manipulation. Betting in sports is not prohibited in all countries like in parts of Europe and Russia.

Betting can be a risk when it will modify any of the competition rules or results. It is the responsibility of Olympic movements to check out the betting issues.

Sexual Harassment and Abuse in Sports

The sexual harassment and abuse are forms of sex discrimination. It is very common in this field. Many times athletes do not recognize what is happening with them because they become trapped in a process called grooming.

Rights to be protect from sexual harassment and abuse:

- To be treated fairly and equally
- Health and safety
- To be heard.

Indian Olympic Association

Indian Olympic Association is an organization working on the welfare of sports and matter connected to sports. IOA also formed various committees and commissions for the sports and athletes:

- A. Athlete s commission/committee
- B. Disciplinary committee
- C. Settlement of disputes/conflicts
- D. State Olympic Associations
- E. National Sports Federations

IOA has the power for disqualification, de-recognition, disaffiliation and suspension of National Sports Federations/State Olympic Associations, Central Boards on the grounds of not following the guidelines.

Sports law in various countries

United States of America.

There is no single federation legislation for sports regulation in U.S. it is divides into three categories:

- a. Professional sports
- b. International sports- United States Olympic Committee (UNOC)
- c. Amateur sports- Amateur Sports Act of 1978

Australia

In Australia, the Australian Sports Commission Act, 1989 was enacted to establish the Australian Sports Commission and for related purposes.

There are various other institutions like

- a. Australian Institute of Sports (AIS)
- b. Australian Sports Foundation
- c. Sports Performance and Development

China

In China, there is a national legislation on sports known as the Law of the People Republic of China on Physical Culture and Sports Act, 1995. It aims at promotion and development of physical culture and sports In China.

South Africa

In South Africa, the South African Sports Commission Act, 1998 was enacted to establish the South African Sports Commission for administration of sports and its development.

CONCLUSION

As the sports sector continues to flourish in India, both on and off the field, the legal landscape surrounding this dynamic industry has embarked on a journey to evolve in tandem. Case law has revealed that India lacks adequate legal provisions to encompass the growing competitive field of sports legislation, preventing what is an otherwise fruitful area from realising its full potential.

The reluctance to initiate such legislation can be witnessed in the failed effort made by the central government in 2017 to move sports to a 'concurrent list' so that both the union and state legislatures can formulate laws relating to sports. The need to balance commercial interests with fundamental public rights must be addressed to ensure that the sports sector accurately reflects the nation's collective passion and commitment to sporting excellence.

India has aspirations to host the 2036 Olympics. Therefore, it has about a decade to bring about a much needed revolution in the field of sports law in India.

In recent time, there is a need for the development of sports and for the establishment of a national legislation in India which would look after all related matters of sports.

The key issues faced by sports in India are:

- Lack of kit and hygiene facilities to sportsplayers
- Lack of sports funds
- Injustice in selection process at various level
- Use of dope and narcotics amongst sports players

The National Sports Commission is the need of the hour to regulate and work on matters like:

- a. Coordination between all sports bodies for promoting the sports.
- b. Solve disputes and punish the offender for violations of guidelines.
- c. Proper functioning of all sports board/ federation/ association/ authorities
- d. Implementations of guidelines made by sports commission.

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