



ILE

SPORTS LAW REVIEW

VOLUME 1 AND ISSUE 1 OF 2023

INSTITUTE OF LEGAL EDUCATION



ILE SPORTS LAW REVIEW

APIS – 3920 – 0053 | ISBN – 978-81-964391-3-2

(Free Publication and Open Access Journal)

Journal's Home Page – <https://slr.ilededu.in/>

Journal's Editorial Page – <https://slr.ilededu.in/editorial-board/>

Volume 1 and Issue 1 (Access Full Issue on – <https://slr.ilededu.in/category/volume-1-and-issue-1-of-2023/>)

Publisher

Prasanna S,

Chairman of Institute of Legal Education (Established by I.L.E. Educational Trust)

No. 08, Arul Nagar, Seera Thoppu,

Maudhanda Kurichi, Srirangam,

Tiruchirappalli – 620102

Phone : +91 94896 71437 – info@ilededu.in / Chairman@ilededu.in



© Institute of Legal Education

Copyright Disclaimer: All rights are reserve with Institute of Legal Education. No part of the material published on this website (Articles or Research Papers including those published in this journal) may be reproduced, distributed, or transmitted in any form or by any means, including photocopying, recording, or other electronic or mechanical methods, without the prior written permission of the publisher. For more details refer <https://slr.ilededu.in/terms-and-condition/>



CONTEMPORARY ISSUES IN SPORTS LAW

AUTHOR– SIDDH ANAND, STUDENT AT CAMPUS LAW CENTRE, FACULTY OF LAW, UNIVERSITY OF DELHI

Best Citation – SIDDH ANAND, CONTEMPORARY ISSUES IN SPORTS LAW, *ILE SPORTS LAW REVIEW (ILE SLR)*, 1 (1) of 2023, Pg. 12-18, APIS – 3920 – 0053 | ISBN – 978-81-964391-3-2.

Abstract

Sports law is a rapidly evolving field that addresses the legal aspects of sports activities, including regulations, contracts, doping, intellectual property, and governance. In India, a country with a rich sporting heritage, sports law has gained prominence in recent years due to the increasing commercialization and globalization of sports. This abstract provides a brief overview of contemporary issues in sports law in India. One of the primary challenges in Indian sports law is the absence of a comprehensive legislative framework dedicated solely to sports. The existing legal framework relies on various laws and regulations from different sectors, leading to ambiguity and inconsistency in the application of sports-related rules. This lack of specialized sports legislation hampers effective governance and enforcement in the sports sector.

Another significant issue is the prevalence of corruption and match-fixing in Indian sports. Match-fixing scandals have tarnished the reputation of Indian sports and highlighted the need for stringent regulations and penalties to combat this menace. The establishment of dedicated anti-corruption units and the enactment of robust legislation to address match-fixing are essential steps to maintain the integrity of Indian sports.

Intellectual property rights (IPR) are another pressing concern in sports law. Protecting the rights of athletes, sponsors, and broadcasters is crucial in a commercialized sports environment. Issues such as unauthorized use of images, trademarks, and broadcasting rights require effective legal mechanisms to safeguard the interests of all stakeholders. Additionally, the advent of technology and the rise of online sports platforms have introduced new challenges in sports law. The regulation of online betting, fantasy sports, and esports necessitates comprehensive and up-to-date legislation to ensure fair play, consumer protection, and the prevention of illegal activities. In conclusion, contemporary issues in sports law in India encompass the absence of a dedicated legal framework for sports, corruption and match-fixing, intellectual property rights, and the regulation of emerging technologies. Addressing these challenges through effective legislation, enforcement, and governance will contribute to the growth and development of sports in India while maintaining its integrity and commercial viability.

Keywords – Sports law, Contemporary Issues, Athletes, Harassment and Corruption.

i) Introduction –

India, a nation known for its passion for cricket, has witnessed a significant rise in popularity and participation in various sports over the years. This surge in interest can be attributed to several factors, including increased exposure to

international sports events, the advent of professional leagues, government initiatives, and the success of Indian athletes on the global stage. However, along with this rise, there are certain issues that need to be addressed in



order to sustain and further develop the sports landscape in India.

One of the key challenges is the lack of adequate infrastructure and facilities. While cricket has enjoyed substantial investment, many other sports struggle to access proper training centers, coaching expertise, and well-maintained sporting venues. Limited access to quality infrastructure hinders the development of athletes and inhibits the growth of non-mainstream sports in the country.

Financial constraints and sponsorship opportunities also pose a significant issue. The majority of funding and endorsements are directed towards cricket, leaving other sports with limited financial support. This disparity in financial resources affects the overall growth and competitiveness of non-cricket sports in India. Developing a sustainable financial ecosystem that promotes investment in diverse sports is crucial for their long-term success.

Sports governance and administration have been subject to criticism and scrutiny in India. The presence of multiple federations, lack of transparency, and political interference have led to administrative challenges and conflicts. Streamlining the governance structure, ensuring transparency, and implementing best practices in sports administration are essential to provide a level playing field for athletes and promote fair competition.

Doping and the integrity of sports remain a persistent concern. India has faced instances of doping violations, and there is a need for robust anti-doping measures and awareness campaigns to maintain the credibility of Indian athletes and protect their health. Strengthening the anti-doping framework, implementing stringent testing procedures, and educating athletes about the consequences of doping are vital to create a clean and ethical sports culture.

Gender disparity is another issue that requires attention. While Indian female athletes have achieved notable success in various sports, there are still systemic barriers and societal

biases that hinder their participation and recognition. Promoting gender equality in sports through initiatives such as increased opportunities, equal pay, and supportive infrastructure can help overcome these challenges and encourage more women to pursue sports.

In conclusion, the rise of sports in India has brought about tremendous enthusiasm and potential. However, addressing issues such as inadequate infrastructure, financial disparities, governance challenges, doping, and gender disparity is crucial to sustain this growth and ensure a thriving sports ecosystem. By recognizing and addressing these issues, India can harness the power of sports to inspire, unite, and nurture a healthier and more active nation.

ii) History of Sports in India –

Before independence

The history of sports in India dates back to the Vedic era. Physical culture in ancient India was fuelled by religious rights. The mantra in the Atharvaveda, says, "Duty is in my right hand and the fruits of victory in my left." In terms of an ideal, these words hold the same sentiments as the traditional Olympic Oath: "For the Honour of my Country and the Glory of Sport." Badminton probably originated in India as a grownup's version of a very old children's game known in England as Battledore and Shuttlecock, the battledore being a paddle and the shuttlecock a small feathered cork, now usually called a "bird." Games like chess (chaturanga), snakes and ladders, playing cards, originated in India, and it was from here that these games were transmitted to foreign countries, where they were further modernized.

After independence

India hosted the Asian Games in New Delhi in 1951 and 1982. The Ministry of Youth Affairs and Sports was initially set up as the Department of Sports in 1982 at the time of organization of the IX Asian Games in New Delhi. Its name was changed to the Department of Youth Affairs &



Sports during celebration of the International Youth Year in 1985. India has also hosted or co-hosted several international sporting events, including the 1951 and the 1982 Asian Games, the 1987 and 1996 Cricket World Cup, the 2003 Afro-Asian Games, the 2010 Hockey World Cup, and the 2010 Commonwealth Games. Major international sporting events annually held in India include the Chennai Open, Mumbai Marathon, Delhi Half Marathon, and the Indian Masters.

Position in India after the independence-

India finally got Independence in the year 1947 and Government of India did various efforts to improve the deteriorated status of physical education. An important 22 step in this direction was the establishment of a committee which was named "Tara Chand Committee". This committee came into existence in the year 1948. Various recommendations were made by this committee to improve the condition or status of physical education in the country.

Dr. S. RadhaKrishanan committee was also formed in 1948 on school education. To advise the government in various issues relating to physical education, a board, named Central Advisory Board of Physical Education and Recreation was set up in the year 1950. The Kothari Commission on Education (1965) stressed the need of compulsory physical education both in schools and colleges. To provide training to athletes in various games and sports, some special kinds of schemes were introduced by the Government of India. Some other important committees and boards were appointed for promotion of Physical education and sports, which are as under: All India Council of Sports (1954) National Institute of Physical Education renamed as Laxmibai National College of Physical Education, Gwalior (1957) National Institute of Sports, Patiala (1961) All India Sports Congress (1962) National Sports Policy (1980) Ministry of Sports and Youth Affairs (1982) National Sports Policy (1984) National Sports (Development) Bill (2011) Because of various efforts of government, people got

attracted towards various sports in a large number. As a result of such popularity, various federations were set up on national level. Government of India established certain institutions which were setup especially to provide training of various physical activities. In these institutions, bachelor degree and master degree can be obtained in games and sports. In India, it was realised by the government that people did not lack in natural qualities, but they did not get proper opportunities to show their talents. So, Sports Talent Search Scholarship scheme was introduced by Government of India. In 1982 Asian Games were conducted in India itself.⁵

iii) Sports Laws in India

Sports law in India is evolving. There is no single, comprehensive law governing sports in India. The Constitution of India specifically states that sports fall under the jurisdiction of State governments (Entry 33, State List in Schedule VII). In practice, rules formulated by the Sports Authority of India and 'Sports Law and Welfare Association of India' apply to the administration of sports.

Individual sporting events are regulated by their respective 'national sporting federations'. The Union Ministry of Youth Affairs and Sports grants recognition to these federations for promoting and regulating the respective sport in India. If they fail to comply with government directives, the Ministry can withdraw the recognition granted.

For instance, recognition of the Archery Association of India as a 'National Sporting Federation' was withdrawn in 2012 for not conducting elections, as mandated by the National Sports Development Code of India 2011. It was restored only in 2020.⁶

iv) Issues

⁵ <https://www.journalofsports.com/pdf/2018/vol3issue1/PartA/2-2-85-782.pdf>

⁶ <https://nyaaya.org/nyaaya-weekly/does-india-have-sports-laws/>

Sportsmen and sportswomen confront many challenges. Some of those issues are like sexual harassment, discrimination, taxation, match-fixing, betting, gender-fraud, doping. The vital issues faced by them are-

Sexual harassment –

Sexual harassment is a type of [harassment](#) involving the use of explicit or implicit sexual overtones, including the unwelcome and inappropriate promises of rewards in exchange for sexual favours.^[1] Sexual harassment includes a range of actions from verbal transgressions to [sexual abuse](#) or [assault](#).^[2] Harassment can occur in many different social settings such as the workplace, the home, school, or religious institutions. Harassers or victims may be of any [sex](#) or [gender](#).^[3]

Sexual harassment in the workplace violates gender equality and the right to life and liberty. The legal body considers sports under the category of the workplace. The Vishaka guidelines have provided the basic procedural guidelines which can be applied in sexual harassment cases in the workplace. It contains definitions, preventive conditions, and remedies for sexual harassment. Before 1997, the law was constrained, a person who is sexually harassed at the workplace can take action by complaining about Section 354 or Section 509 of the Indian Penal Code. In the absence of any domestic law or provision for protecting them and formulating effective measures against evil acts, this guideline was formed. The Court has decided this guideline based on gender equality and human dignity to work in Articles 14, 15, 19(1) (g) and 21.

As per Vishaka guidelines, the employer has the following duties:

1. To provide a clean and safe working environment.
2. To prominently display in the workplace about the consequences that will be faced if

indulge in sexual harassment. It should also include the layout of the Internal Complaints Committee

3. To organize orientation programs and spread awareness about sexual harassment.
4. To treat sexual harassment as a misconduct
5. To monitor the periodical submissions of the Internal Complaint Committee.

In case of, Medha Kotwal (an NGO) highlighted that the Vishaka guidelines were not that effectively implemented in many individual cases.

A bill passed by Lok Sabha was the protection of women in the workplace. Vishaka guidelines were used symbolically until the legislative act comes into play.

Sexual Harassment of Women at Workplace Act, 2013 protects women from sexual harassment at the workplace. It superseded the Vishaka guidelines.

The workplace is defined in Section 2 (o) of the act. Workplace also includes sports events, venue, complex, stadiums. But the problem is that many sports federations capitalized by the government are out of the ambit of the workplace of the Act. The sports federation has to adopt the provisions of this Act and they have to form an Internal Complaints Committee to address the sexual harassment complaints.

A recent protest by Women Players who had represented INDIA in the Olympics that they have to face sexual harassment is worrisome. These sorts of allegations dent the image of sports and family members will think twice before sending their daughters.

More worrisome is the Government's MC Mary Kom-headed panel that looked into allegations of sexual harassment by some of the nation's top wrestlers against the Wrestling Federation of India chief, red-flagged this as a "major finding": there was no Internal Complaints Committee (ICC), as mandated by the 2013 Prevention of Sexual Harassment (PoSH) Act.



The wrestling body isn't the only one violating the law. As many as 16 of the 30 national sports federations – of disciplines in which India has participated in the 2018 Asian Games, Tokyo Olympics in 2021 and last year's Commonwealth Games – do not meet this mandatory compliance, an investigation by The Indian Express has revealed. And this, when there has been a record uptick in women's participation in sports. Their number in the Khelo India Games, an index of this growing trend, showed a 161 per cent increase from 2018 to 2020⁷

Corruption & Mismanagement of sports authorities:

Corruption has become synonymous with sports administration everywhere. Whether it is the most popular cricket or hockey or weightlifting or football most of the sports authorities have come under attack due to corruption charges.

In 2015, United States federal prosecutors disclosed cases of corruption by officials and associates connected with the Fédération Internationale de Football Association (FIFA), the governing body of association football, futsal and beach soccer.

2010 Commonwealth Games Scam in India involving pilferage of around Rs 70,000 crore. It was estimated that only half of the allotted amount was spent on Indian sportsperson.

DOPING IN SPORTS-

In sports law, another major challenge faced is doping. Doping is an act of sportsperson to consume drugs or prohibited substances for enhancing their Muscle growth, stamina, and the ability to play sports increases if such substances are consumed. In the worst-case scenarios, the side effects of doping are premature heart diseases.

The International sports federation banned doping in the year 1928, but they didn't have enough technology for conducting the dope test. In 1950, the continuous usage of these substances resulted in synthetic hormones.⁷ International Sports Federation faced another major challenge called "Blood doping", it was followed after the 1970s. They remove and infuse the blood to increase the capacity of blood to carry oxygen. To win the competition in milliseconds, the athletes are lured into the concept of doping. The IOC had established a body to ban such drugs, it is known as the World Anti-Doping Agency (WADA). The WADA code has a basic structure to maintain and monitor drug usage in sports. It also includes the international standards for testing and finding the drugs used by athletes.

In 2005, the National Anti-Doping Agency (NADA) was established for policies and principles of Anti-doping rules (ADR) and WADA. It was introduced with a vision of dope-free sports. Along with humans, even the horses go under the dope test.

THERAPEUTIC USE EXEMPTION

TUE is a process by which a sportsperson is allowed to consume a prohibited substance, but if only it is necessary for the treatment of a health condition.

The criteria to be satisfied are:

- A health issue that can be worsened if the substance is not used
- No alternative available for treatment
- Usage of that substance will not give performance enhancement

PUNISHMENT AND APPEAL

According to WADA, if any sportsperson violates the anti-doping regulations then he may be given a lifetime ban. The period of the ban may depend on each case and the type of violation or repetition of the same violation. The sports organization may even strip the medal that belongs to a sportsperson if anti-doping

⁷ <https://indianexpress.com/article/sports/not-just-wrestling-half-of-national-sports-federations-dont-have-sexual-harassment-panel-mandated-by-law-8590204/>

regulations are violated. The athletes can appeal for a fair hearing and request a re-test (B sample analysis).

The World Anti-Doping Agency (WADA) in 2019 banned the Russian Federation from all major sporting events, including the Olympic Games, for four years.

E Sports-

The rise of esports has brought about several significant issues that have emerged alongside its growing popularity. Here are some of the key concerns associated with esports:

1. Health and Wellness: Competitive gaming often requires long hours of practice and intense gameplay, leading to physical and mental health concerns. Players may face issues such as sedentary lifestyles, sleep deprivation, poor nutrition, and eye strain. It's important for players and organizations to prioritize player well-being and implement measures to mitigate these risks.

2. Player Burnout: The demanding nature of professional esports can lead to player burnout. The pressure to constantly perform at a high level, participate in frequent tournaments, and maintain rigorous training schedules can take a toll on players' mental and emotional well-being. Proper management of player workload and support systems are crucial in preventing burnout.

3. Lack of Infrastructure: Esports is still developing in terms of infrastructure, particularly at the grassroots level. Many regions lack proper facilities, training centers, and resources for aspiring players to develop their skills. The establishment of infrastructure, including dedicated training facilities and local tournaments, is necessary for the sustainable growth of esports.

4. Exploitative Practices: Some esports organizations and team owners have been criticized for exploiting young players, particularly in the absence of comprehensive player rights regulations. Issues such as unfair

contracts, inadequate compensation, and mistreatment have been reported. Developing standardized contracts, player associations, and guidelines for fair treatment are vital for safeguarding player interests.

5. Lack of Diversity and Inclusion: Esports has struggled with diversity and inclusion. The competitive gaming scene has predominantly male participants, and women, racial minorities, and members of the LGBTQ+ community are underrepresented. Efforts to foster diversity, create inclusive spaces, and provide equal opportunities for all individuals are necessary to address this issue.

6. Match-Fixing and Cheating: Esports faces challenges related to match-fixing and cheating, which can undermine the integrity of competitive play. Instances of players or teams engaging in match-fixing scandals, using performance-enhancing substances, or employing cheating software have been reported. Robust anti-cheating measures, strict regulations, and thorough investigations are needed to maintain the integrity of esports competitions.

7. Viewer Experience and Accessibility: While esports tournaments have gained popularity, challenges remain in making the viewing experience accessible to a wider audience. Issues such as inconsistent broadcasting quality, unclear tournament structures, and complex game mechanics can make it difficult for newcomers to understand and enjoy esports events. Enhancements in broadcasting, better storytelling, and improved accessibility features can help address these concerns.

v) Conclusion –

In conclusion, contemporary issues in sports law present complex challenges that require careful analysis and consideration. The dynamic nature of sports, coupled with the evolving legal landscape, has given rise to several significant issues that impact athletes, teams, organizations, and society as a whole. While it is impossible to cover all the contemporary issues



in sports law in this brief conclusion, some key themes emerge.

One major area of concern is the issue of athlete welfare and safety. With the increased awareness of the physical and mental toll that sports can take on athletes, there is a growing emphasis on safeguarding their well-being. This includes addressing issues such as concussions, player contracts, and the protection of athletes' rights in areas such as privacy and endorsement deals.

Another important aspect is the fight against doping and the maintenance of fair play in sports. The use of performance-enhancing substances continues to be a significant problem, challenging the integrity and credibility of various sporting events. Sports law plays a crucial role in implementing anti-doping regulations, establishing testing protocols, and enforcing penalties for violations.

Moreover, the emergence of new technologies and the digital era have brought forth novel legal challenges in sports. Issues such as intellectual property rights, data protection, and the regulation of e-sports have gained prominence. Sports law must adapt and respond to these developments to ensure fairness, protect athletes' rights, and encourage innovation within the industry.

Additionally, the globalization of sports has raised issues related to jurisdiction and international regulations. With athletes, teams, and organizations crossing borders more frequently, questions arise regarding which legal framework applies, conflicts of laws, and dispute resolution mechanisms. Harmonizing international sports laws and ensuring consistency in their application pose ongoing challenges.

Lastly, social and ethical issues have become increasingly prominent in sports law discussions. Matters such as gender equality, discrimination, and the promotion of diversity and inclusion require legal frameworks that address these concerns effectively. Sports

organizations and governing bodies are under pressure to take a proactive stance in addressing these issues and creating a more equitable and inclusive sporting environment.

In conclusion, contemporary issues in sports law encompass a wide range of challenges, reflecting the evolving nature of the sports industry and society's expectations. Striking a balance between protecting athlete welfare, maintaining fair play, embracing technological advancements, navigating international complexities, and addressing social and ethical concerns requires ongoing efforts from legislators, sports organizations, legal professionals, and stakeholders. By engaging in thoughtful and proactive dialogue, it is possible to shape a sports legal framework that ensures integrity, fairness, and sustainability for the future of sports.