



## NAVIGATING THE CONCERNS IN GOVERNANCE OF SPORTS IN INDIA

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### ABSTRACT

Sports shows its existence since time immemorial. Prominent forms of sports include cricket, tennis, badminton, basketball, football, chess, hockey, etc. Wrestling, archery, chess, etc. are the sports going on from the Vedic Era continuing in the present. Today, sports from local villages games have reached national and international competitive levels. Sports in India, especially cricket is the interim rejuvenation from the hectic daily schedule. The craze is highly visible as watching a movie with luscious popcorn and cold drink cans. Earlier, the matters of sports were solved by traditional customary methods. But today, with the evolution and development of sports, there is a need for laws to govern the rampant disputes in the field of sports. Today, E-sports are gaining more prominence. These are also recognized internationally as other physical sports. Sports have now evolved as a global industry. In India, sports is administered under different laws. Sports is currently governed under fields of civil law, including contract, Anti-doping, intellectual property rights, tax laws, certain provisions of the Constitution of India etc. Article 21<sup>8</sup> guarantees the right to life and personal liberty. Also, all education boards like the Central Board of Secondary Education provides free play and games to the students<sup>9</sup>. There is no uniform, comprehensive legislation governing sports in India. The Entry 33 in State List in Schedule VII under article 246 in <sup>10</sup>Constitution of India mentions sports under the jurisdiction of the state government. There are also other pulsing concerns for sports in India including Legal Regulation, Age Fraud, Sexual Harassment, Doping, Sponsorship Issues, Problems of Dispute Resolution, problems of esports etc. This research article aims to discuss the mushrooming concerns of sports including esports in India. It also analyzes the governance of sports in India. It navigates the concerns in the laws governing sports in India. This article recommends robust solutions to overcome these setbacks.

**Key Words**– Entry 33<sup>11</sup>, Comprehensive Legislation, Article 246<sup>12</sup>, Doping, Esports, Age Fraud, Sexual Harassment.



<sup>8</sup> INDIA CONST. art.21

<sup>9</sup> Manmath Nayak, CBSE makes Sports Period mandatory for Schools, buddy4study, (June 30,2023, 5:32 PM)

<sup>10</sup> INDIA CONST. art. 246

<sup>11</sup> Id

<sup>12</sup> Id



## INTRODUCTION

Sports to people is an emotional tonic for healthy, fresh and rejuvenating lifestyle. Sports and games like hockey and chess are of Indian origin. People enjoy sports as a temporary pause to their everyday monotony. But from these civilians' views of sports, it has developed and increased its scope and nature to national and international level. This also increases the scope of disputes in the sector which makes the need for governing laws and authorities of sports to be visible.

### I. Sports Laws and Authorities in India

Sports not only physically injures the player, but also psychologically affects the mental health of the player. This also leads to violation of the legal rights of the injured. Thus, there seems need for instant uniform law in this ever-growing field. Sports law is the umbrella of law that covers the various fields of sports and its events at different levels. It deals with the ever-emerging legal concerns of sports.

A. Authorities- Currently, there are many common and specific sports authorities and agencies governing sports in India. These include National Sports Policy, Sports Law and Welfare Association of India, Sports Authority of India, Board of Control for Cricket in India (BCCI) – specifically for cricket, The Federation Internationale de Football Association (FIFA) – for football, The National Sports Federations etc. The Ministry of Youth Affairs and Sports was set up by the Government of India to look after the sports events at the national and international levels and also to have developed infrastructure for the same. It is responsible to formulate policies of sports in India.

1. Ministry of Youth Affairs and Sports- the Ministry of Youth Affairs and Sports looks after the sports authorities in India. It exercises sports development programs to meet the expectations of the demands of sports in the country. As this is a department under the Government of India, the government

investments in sports is done through this ministry. It makes policies of sports in India. It promotes sporting events and sports recognition at national levels. It has to adhere to the provisions set by [Indian Olympic Association](#) (IOA).

2. Sports Authority of India- it was set by the Ministry of Youth Affairs and Sports under [Societies Registration Act, 1860](#)<sup>13</sup>. It provides scholarship in the field of sports. It organizes and manages Asian Games.

3. National Sports Federations- The National Sports Federations were setup by Government of India to assure the implementation of the National Sports Policies. These are independent bodies to govern sports at district and state levels. These recognize the sports players and train them for competitions at national and international levels.

4. Sports Law and Welfare Association of India- it was established in 1986. It is a non-profit organization. It was set up by the Senior Advocate of the Supreme Court of India, Late R.K. Jain and Hon'ble Justice Arun Kumar Mishra. It ensures the obeying of ethics of sports. It is responsible for the research and development in the field of sports.

B. Laws-Sports in India is governed and monitored under the extended ambit of existing traditional laws like the contract laws, the IPR, the Employment Laws, Criminal Law, Corporate Laws, the Competition Law etc. Following are the laws and policies that determine the governance of sports in India.

1. National Sports Policy 2001- In 1984, there was felt a need for policies on sports in India. Thus, the points for the same were devised. These were seen good for implementation in India but were not done. In 2001, these were reformulated, devised and implemented as National Sports Policy, 2001. This was to increase sporting events worldwide. It recognized teamwork as the best solution for this purpose.

<sup>13</sup> Societies Registration Act, 1860, No. 21, Acts of Imperial Legislative Council, 1860 (India)



It introduced sports and games as a part of the educational curriculum. It made a framework for the Union government to work in connection to the state government to deal with the matters relating to sports. It recognized talents in rural areas. The panchayat has to provide with the necessary infrastructure. The law and policy governing sports in India also includes National Sports Development Code, 2011<sup>14</sup>.

2. Indian Contract Act 1872<sup>15</sup>– This is the fundamental law that governing sports in India. The basis of a sports played is the contract between the players, which makes it fall under the limits of the contract law in India. The contract laws govern sports in the areas of agreement between the players of a team, contract for events and media rights, broadcasting rights, intellectual property rights, etc. The contracts in sports involve the appearance contract between athletes to appear in public, the standard contract between athlete and sports organization, the agent contract between agent and athlete and more such contracts take place.

3. The Sports Broadcasting Signals (Mandatory Sharing with Prasar Bharati) Act, 2007<sup>16</sup>– it implemented a broadcasting contract with Prasar Bharati for affordable and free of cost access to the digital audience and fans of sports. Section 3 of The Sports Broadcasting Signals (Mandatory Sharing with Prasar Bharati) Act, 2007 <sup>17</sup>provides the rights to private broadcasting enterprises to share the live telecast on air.

4. Intellectual Property Rights– sports is an innovation. It has now become a commercial activity at various levels. To get a worldwide recognition of their names and logos, the sports players try to get registered trademarks and authenticity of their hard earned name and fame. This involves the functioning of Intellectual Property Rights and their laws in

governing sports. All sports teams have their own name, logo, leader, anthem, flag, symbol etc. The sports team has to be registered with their authentic name, logo and the details required as per the terms and conditions of the organization and the sports laws. This is done for the recognition of the teams. Thus, Intellectual Property Rights play a great role in the area of sports. The various Intellectual Properties include trademark, copyright, patent, geographical indication, trade secrets, domain names, personality rights, licensing, etc. Trademark is required for the advertisements and building of the brand of sports teams and organizations. For Trademark, the sports teams and organizations need to be registered under the Trademarks Act, 1999<sup>18</sup>. For patenting a new innovation, the details need to be registered under the Patent Act, 1970<sup>19</sup>. Copyright of logos, slogans, names of sports club and members and advertisements are protected by the Copyright Act 1957<sup>20</sup>. Thus, the IP laws in India include Patents (Amendment) Act 2005<sup>21</sup>, The Designs Act 2000<sup>22</sup>, Copyright Act 1957<sup>23</sup>, The Trade Marks Act 1999 <sup>24</sup>and many more.

5. Criminal Law– Criminal acts like match – fixing, doping, and betting are most common in sports. Thus, a law to govern such activities is the criminal law in India. The criminal laws in India are Indian Penal Code(IPC) <sup>25</sup>which is a substantive law and the Criminal Procedure Code<sup>26</sup>(CrPC) which is the procedural law. Criminal law in sports govern the illegal activities of sports like doping, match- fixing, corruption or bribery, etc.

6. Employment Law– This implies not only the athletes or players of sports but also the workers who labor their work in different areas of sports. These include managing sports fields, playgrounds, arranging food items and fresh

<sup>14</sup> National Sports Development Code 2011, NO. F.23-2/2011, Ministry of Youth Affairs and Sports, Government of India, 2011.

<sup>15</sup> Indian Contract Act 1872, NO. 9 Acts of Parliament, 1872 (India)

<sup>16</sup> [Sports Broadcasting Signals \(Mandatory Sharing with Prasar Bharati\) Act, 2007](#), NO. 11 Acts of Parliament, 2007 (India)

<sup>17</sup> Id at § 3

<sup>18</sup> Trademarks Act, 1999, NO. 47, Acts of Parliament, 1999 (India)

<sup>19</sup> Patent Act, 1970, NO. 39, Acts of Parliament, 1970 (India)

<sup>20</sup> Copyright Act 1957, NO. 14 Acts of Parliament, 1957 (India)

<sup>21</sup> Patents (Amendment) Act 2005, NO. 15 Acts of Parliament, 2005 (India)

<sup>22</sup> The Designs Act 2000, NO. 16, Acts of Parliament, 2000 (India)

<sup>23</sup> Supra note 14

<sup>24</sup> Supra note 12

<sup>25</sup> Indian Penal Code(IPC) Indian Penal Code, 1860, NO. 45, Acts of [Imperial Legislative Council](#), 1860(India)

<sup>26</sup> Criminal Procedure Code 1973, NO. 2, Acts of Parliament, 1973 (India)



water for the players and audience, keeping the surroundings clean, etc. The people who are all engaged in these tasks are governed under such employment laws and labor laws in India.

7. Corporate Laws- Such laws don't directly govern the sports in India. But, govern the corporate affairs of the specific legal structure of an organization.

8. Competition Law- competition in sports is revenue generating mechanism. This is a source of national income. The Competition Law in sports determine the ethic of fair competition in sports in the market. It takes into account the void contracts performed in the market that poses a disadvantage to the market. It involves the policies on recruitment, code of conduct, harassment, discipline, selection etc. It includes the reference of liabilities and the flaws in structure of the sports body. The competition law in India governs over all the sports authorities in India.

## II. Dispute Resolution in Sports

A. International-Court of Arbitration for Sport (CAS)

Alternative Dispute Resolution (ADR) is a method available for dispute resolution. It is an alternative to the existing litigation procedures of judicial courts. Arbitration is one of the methods under the Alternative Dispute Resolution (ADR). In this method, a neutral third party called an arbitrator is appointed to resolve the matter among the disputed parties. If one person is appointed as a neutral third party, he is called an arbitrator, and if more than one person is appointed as arbitrators, they are collectively referred to as Arbitration Tribunal. The decision of the arbitrator is binding. The Court of Arbitration for Sport (CAS) is an international authority to settle sports disputes via arbitration. [International Olympic Committee](#) (IOC) appoints the members of Court of Arbitration for Sport. It solves the disputes which are disciplinary and commercial in nature. This body works on ordinary arbitration method and has an appeal provision.

B. India- there is no consistent dispute resolution mechanism for dispute resolution in India. Arbitration in India is looked after by the [Arbitration and Conciliation Act of 1996](#). The organizations governing sports in India have their own internal dispute resolution mechanisms and cells for the same. These include the CAS in the Sports organizations for the procedure of arbitration for dispute resolution. The Indian Court of Arbitration for Sports (ICAS) was setup by Dr. A.R. Lakshmanan, the former Judge of Supreme Court of India with seven more members. Further, under the [National Sports Development Code of India, 2011](#), the Sports Dispute Redressal body was setup.<sup>27</sup>

## III. Pulping Concerns of Sports

A. Legal Regulation - India is a hub of various sports. Thus, it is a significant need to have a uniform, consistent, and comprehensive legislation for sports in India. Currently, there is no one single legislation specifically to monitor sports in India. It is governed under some provisions of the Constitution and by some policy implementations by different sports regulating bodies and authorities. Article 246<sup>28</sup> of Indian Constitution mentions the divisions of the nation's affairs among three lists according to the jurisdictions of the Federal System. Here, the central government exercises control over the Union List, state government monitors the matters under state list and the third list which is the concurrent list is regulated by both the governments but in case of conflict, the decision of the Central Government prevails. Entry 33 of schedule VII in article 246<sup>29</sup> in the Constitution of India states that the state governments have the jurisdiction over the matters relating to sports. As there is a great evolution in society and the fascination for sports is growing at peak, there is a need for a single comprehensive legislation to govern and monitor the sports activities at all levels. Until there is a strong foundation of laws, the

<sup>27</sup> Karan Singh, Sports Arbitration in India, ipleaders, (June.30,2023, 3:08 AM) [Sports Arbitration in India - iPleaders](#).

<sup>28</sup> Supra note 4

<sup>29</sup> Ibid



superstructure of sports cannot be setup and can fall to the ground.

B. Bumps in development of Esports – Current and the foremost hurdle to the esports in India is that there is no legislation to govern esports in India. It is recognized as multisport as intergrated with the other traditional physical sports. It is governed by Ministry of Sports and Youth Affairs. The other criticisms to esports involves the issues regarding health of the players due to long hours of sitting for practice on screen; intellectual property rights of the owner the game or the game developer or the innovator in the game or esports etc. The million dollar issue with esports is the maintenance of environmental sustainability as the field is more tilted towards economic growth. It also involves the barrier incomplete development that refers to the incomplete development of the gaming industry as it's a newly built business, so it will need time to develop.

C. Sexual Harassment- Though after the case of Vishakha guidelines<sup>30</sup>, the cases of sexual harassment in the workplace in India are still climbing the ladder. In the field of sports, such cases are as common as the dust around even after the recognition of sports fields under the ambit of workplace as described in the case of Vishakha vs. the State of Rajasthan<sup>31</sup>. The case of Apparel Export Promotion Council v. A.K. Chopra<sup>32</sup>, stated that the crime of sexual harassment violates Article 14<sup>33</sup> and Article 21 of Indian Constitution<sup>34</sup>. The cases of sexual harassment of sports players involve sexual comments, sexual orientation, sexual abuse, discrimination not only on the basis of sex and gender but also race of a person, forceful sexual practices, etc. Female sportspersons face such sexual harassment at a great extent by their coaches. The acts of sexual harassment not only hurt an individual physically but also psychologically and violates the existing legal rights of the individual. It makes the ambience

of the workplace unsafe for others. This can cause a social trauma and highlight the negatives of the workspace as well as entire sports field as a career option. In 2013, the Sexual Harassment of Women at Workplace Act (Prevention, Prohibition and Redressal) Act<sup>35</sup>, commonly known as the PoSH Act, was introduced by the Indian Parliament. Recently, there is an ongoing investigation of sexual harassment in sports filed by a minor female wrestler's father against the WFI chief Brij Bhushan Sharan Singh under IPC sections 354<sup>36</sup>, 354(A)<sup>37</sup>, 354(D)<sup>38</sup>, 34<sup>39</sup> and section 10 of the Protection of Children from Sexual Offences (POCSO) Act<sup>40</sup>.

D. Gender inequality – Article 14<sup>41</sup>, Article 15<sup>42</sup>, and Article 21<sup>43</sup> of Indian Constitution recognize transgender and their rights in India. But this community of Transgender has not been given recognition at every field at all levels. Still, the field of sports only recognizes women and men as two genders, among which women even got their recognition and rights post long. Transgenders are still neglected in sports. When a transgender person wants to participate in the sports activities, the person often has to undergo a surgery of sexual organs to identify as one specific gender as recognized in the society. Similar cases to undergo surgeries is also seen for females who want to be recognized in sports. For Example, in the most prominent case of Dutee Chand v. Athletics Federation of India<sup>44</sup>, Dutee Chand challenged the Hyperandrogenism regulations of the International Association of Athletics Federations (IAAF). According to these regulations, if the level of testosterone in a female body is the higher than as deemed

<sup>30</sup> Vishakha vs. the State of Rajasthan, AIR 1997 SC 3011

<sup>31</sup> Ibid

<sup>32</sup> Apparel Export Promotion Council vs. A.K. Chopra (20.01.1999 - SC) : MANU/SC/0014/1999

<sup>33</sup> INDIAN CONST art. 14

<sup>34</sup> Supra note 2

<sup>35</sup> Sexual Harassment of Women at Workplace Act (Prevention, Prohibition and Redressal) Act 2013, NO. 14, Acts of Parliament, 2013 (India).

<sup>36</sup> Indian Penal Code(IPC) Indian Penal Code, 1860, § 354, NO. 45, Acts of [Imperial Legislative Council](https://www.india.gov.in),1860(India)

<sup>37</sup> Id at § 354(A)

<sup>38</sup> supra note 30 § 354 (D)

<sup>39</sup> Id at § 34

<sup>40</sup> Protection of Children from Sexual Offences,2012, § 10, Acts of Parliament, 2012 (India).

<sup>41</sup> Supra note 27

<sup>42</sup> INDIAN CONST. art.15

<sup>43</sup> Id at art.21

<sup>44</sup> Dutee Chand vs. Athletics Federation of India (AFI) and Ors. (24.07.2015 - CARs) : MANU/CARS/0069/2015



normal, then that particular woman is incapable of being in the sports. The same happened with Dutee Chand who was a female sprinter. To this, the recommendation for Dutee Chand was to undergo a surgery to lessen the level of testosterone in her body which she refused. Thus, she challenged the same in the court of arbitration. As a result, these regulations were suspended by the Court of Arbitration for 2 years. The Court of Arbitration gave a chance to the IAAF to bring evidences concerning the link between female athlete performance and androgen level during those 2 years period. If not, the regulations will be held null and void. This shows a need of constant evaluation and proper implementation of the regulations and laws in the field of sports in India.

E. Labor concern- the labor concern is one of the major concerns in India. This includes the problems of exploitation of sports players and those employed in the sporting events. The practice the players need is much more than what they are paid. The employers in other tasks in sporting events like for arranging the field and the stadium, arranging the food items and snacks etc. work long hours for the same, do extra and heavy work but are still paid less. The workers contracts are not enforced properly and are sometimes terminated without the knowledge of the workers. This leads to increased exploitation of the workers.

F. Intellectual Property Rights- it is a great legal issue in sporting era. The owners of Intellectual Property Rights are often not aware of what is mentioned in the contracts they enter into. Sometimes, they miss out reading some provision or sometimes the provisions are not only clearly mentioned and contain absurdity and ambiguities. Infact, in most of the cases the owners of Intellectual Property Rights are unaware of their existing Intellectual Property Rights. There should be a complete protection of sports intellectual property rights by the administration and its laws.

G. Broadcasting Rights- The advertising and broadcasting of sports teams and events is

done to magnetize the fans and the common crowd. The granting of Broadcasting Rights in sports is a serious and a major issue to be taken care of. Again, when it comes to the Broadcasting Rights of sports organizations , there are no specific laws. The Broadcasting Rights of sports organizations are looked over by different laws like the IT Act, 2000 <sup>45</sup>and Indian Copyright Act, 1957<sup>46</sup>. [Though there was an introduction of the Sports Broadcasting Signals \(Mandatory Sharing with Prasar Bharti\) Act, 2007<sup>47</sup>](#), still the issues like privacy, data leakage, ill- contents of advertisements, illegal broadcasting, misrepresentation of the players or logos or other details of the sports players or the associations etc. are present. This act shows a discrimination against private enterprises. There is also an existing legal issue of illegal intervention in the intellectual properties of other which involves claiming to be the authorized and official owner of the brand logo, name, song, content, taglines, themes etc. This is also known as Ambush Marketing. Every step of implementation is not perfectly suited to the existing laws.

H. Infrastructure and Investment- in India, there is a huge lack of investment and infrastructure in the field of sports in India.

I. No Fault Liability- Another controversy regarding the matter is that the authorities and agencies governing the sports activities is vicariously liable for the false act of their players, employees as well as the fans. The liability is completely and strictly imposed on these authorities and federations.

J. Concerns of the Commercial Sports- Today, most of the sports have gained global recognition and have become commercial sports. Now, the monetary circulation is also visible through sports. The most famous of these is the sport of cricket. Such sports are also governed under the above-mentioned laws. This can pose problems to the individual player and the team. It creates ever- emerging issues

<sup>45</sup> [Information Technology Act 2000](#), No 21, Acts of Parliament, 2000 (India).

<sup>46</sup> Supra note 14

<sup>47</sup> Supra note 10



of broadcasting, advertisements and sponsorships etc. Legallands deal with these issues of sports. Goa and Sikkim have setup casinos based on legal-land<sup>48</sup>. But still commercial sports have issues like broadcasting, sponsorship and advertisements.

K. The Dispute Redressal Mechanism – There are also international organizations and committees to deal with sports disputes. There are policies and codes to be adhered to. But in cases of disputes there are international body like the CAS. The CAS is also present in the bodies authorized for dispute resolution in sports in India. But leading to disappointment of the public, the internal dispute resolution in these bodies is a major concern. It has not been implemented as per the expectation. Also, no acceptable provision of appeal is visible. In addition to it, the judiciary has also not been so active in dispute resolution via litigation. Only arbitration cannot be a perfect solution for serious disputed. It is a high- time to establish a much needed and properly implemented Dispute Redressal Mechanism in India. The CAS at international level can be beneficial for international disputed but not for local disputes.

L. Corruption – Corruption and the collection of black money that is involved without the payment of taxes is most common in every field today. There is no complete practical check on the crime of corruption today. Yet there are some laws that govern the same. These include the Prevention of Corruption Act, 1988<sup>49</sup>, and some provisions of Indian Penal Code, 1860<sup>50</sup>. 171E of IPC, 1860<sup>51</sup> defines punishment for bribery as whoever commits the offence of bribery shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both: Provided that bribery by treating shall be punished with fine only. In the case of Zee Telefilms Ltd. & Anr vs

Union of India & Ors<sup>52</sup> on 2 February, 2005, the Supreme Court of India declared that athletes appointed by the Board of Control for Cricket (BCCI) in India are public servants as the BCCI performs the functions of a state. Due to no specific dispute resolution body, there is seen an interference of courts in the matters of the national sports federations and other sports bodies.

M. Age Fraud- Age fraud is the misrepresentation of sports players' age for a benefit over other players or his/her opponents. Though poisoned in every sport, the age of fraud or the age- cheat is most commonly visible in the sports of badminton, tennis, and cricket. In such acts, the players present fabricated documentation to show up their age as required and play in the other age groups where they do not even belong. Some either play under aged games and some play in over-aged games and sports as per the requirements of the terms and conditions of the specific sports. National Code against Age Fraud in Sports 2010(NCAAFS) was an effort towards controlling and reducing this problem of age fraud in sports, which was practically seen as a failure as the number of cases of this matter rapidly bulged. As per the code, the violation of regulations of age or age fraud results in no use of optimal energy, skills, and talents of the players as they compete with their seniors or juniors. Thus, it can either lead to less use of their potential or compete with players of more potency than them. This false representation of age can also lead to violation of ethics of sports, which include fair gameplay, honesty, and team spirit. Thus, the NCAAFS was introduced to prevent such frauds, preserve the value of the sports ethics, and allow players to play as per their optimization and capabilities. The code recognized the powers and authority of the National Sports Federations and Sports Authorities of State governments. The code gave the forms of formats of identity card and

<sup>48</sup> Legal online casinos, [India Gambling Laws - The Legal Status Of Gambling In India \(legalonlinecasinos.in\)](http://India.Gambling.Laws - The Legal Status Of Gambling In India (legalonlinecasinos.in)), (last visited June.30,2023)

<sup>49</sup> Prevention of Corruption Act, 1988, NO. 49, Acts of Parliament, 1988 (India)

<sup>50</sup> Supra note 19

<sup>51</sup> Id at § 171E

<sup>52</sup> Zee Telefilms Ltd. & Anr vs Union of India & Ors MANU/SC/0074/2005



age estimation to be filled in with the proofs of documents attestation.

N. Doping - Doping is a universal concern in the sporting events today. Doping is harmful for the health of athletes and players of any sports. Doping refers to the situations where the sports players cheat by consuming the banned drugs to enhance their performance in the sport matches the play. Consumption of such drugs improves the muscle strength of the players to win the match easily. It gives the consumer various diseases in return as side effects including heart diseases, liver issues etc. It also violates the core principles of sports including the fair gameplay and honesty as it involves the consumption of drugs and makes the match unfair and intentionally deceptive for the players, opponents as well as the audience. Thus, creates unhealthy competition. The professional players today opt for doping methods, techniques, and substances often to increase the efficiency and enhance performance in their sporting events, matches and competitions. This shows an illegal, unprofessional and deceptive approach to the players' profession of sports. The International Sports Federation <sup>53</sup> had already banned Doping in the mid 20<sup>th</sup> century or 1900s. But due to lack of technological advances in the period, doping still increased and took up a new form of Blood Doping. This involves the infusion of blood for better levels of oxygen and movements during the gameplay. Thus, to decline the acts of doping in sports at international levels and assure a fair gameplay and healthy competition, the World Anti- Doping Agency (WADA) <sup>54</sup> was constituted. It states to stay a ban on the players in case of violation of the Anti- Doping Laws. To adhere to the policies of Anti-doping rules and WADA, National Anti Doping Agency (NADA) <sup>55</sup> was set up by Societies Registration Act of 1860 <sup>56</sup> on November 24, 2005 to reduce

and disappear the presence of doping in the sports in India. It was setup to create awareness about doping and its effects, perform and promote awareness about the same and setup campaigns and programs for the same. There is no single consolidated law for doping in India. As the other concerns of sports, this pulping issue also is regulated under different roofs of different acts. But there is an exemption known as therapeutic exemption to the consumption of drugs for the sports players provided that the player is suffering from a deadly disease and that drug is the only medicine for a disease suffered by the player and that it will not enhance the performance in the gameplay.

O. Agency problems- agent is appointed by the sports players to negotiate of their behalf of the terms of employment and contract. This third party intervention of an agent creates difficulty and problems in direct connection and clear negotiation of the players with the sports club or organization. This creates issues in negotiation and less clarity in putting forward the wants of the players.

P. Transparency- the problem of transparency in sports is on its peak. The live updates of any sporting event at national or international level is shared on screen which makes it possible for the information of the match on field to reach the audience. The off screen news or the back stage conditions are not revealed to public and the news is often released when the small spark of problem becomes a huge limelight. Until then, the situations are kept behind the veil hidden from the public. Also, the matches or sporting updates at local level are often kept behind screen. Transparency is required in monetary deals and contracts, terms and conditions of employment, the code of conduct of the players, etc.

Q. Legal Wagering - The act of Legal Wagering includes the following crimes related to sports.

1. Match- Fixing - This act involves forecasting the results of the match before the

<sup>53</sup>Olympics, [International Sports Federations \(IFs\) with Olympic Recognition\(olympics.com\)](https://olympics.com) (last visited June.30,2023)

<sup>54</sup>Wada-ama, [Raising the game for clean sport | World Anti Doping Agency \(wada-ama.org\)](https://wada-ama.org) (last visited June.30,2023)

<sup>55</sup>Nada India, [National Anti Doping Agency - National Anti Doping Agency \(nadaindia.org\)](https://nadaindia.org) (last visited June.30,2023)

<sup>56</sup>Supra note 7





match is played. Due to the pre-predicted results, the specific team deliberately gives a poor performance in the match for upcoming future perks. This type of match or game where the players play to intentionally lose the game is called a thrown match. Match-fixing is also called hippodroming or game-fixing. 120 (A) of the Indian Penal Code, 1860<sup>57</sup> implicitly includes match-fixing under the ambit of criminal conspiracy. Match-fixing can also be convincingly governed under the Prevention of Corruption Act, 1988<sup>58</sup>. No other explicit provision for match fixing is mentioned in criminal law, and other laws do not criminalize the act of match-fixing in India. Thus, it makes it extremely hard to prove this act of match-fixing as a crime - or taking some legal action for the same.

2. Gambling- gambling is illegal betting on the probability of outcome of the game. The person who gets the outcome right wins and gains from the game. It is an act of wagering under law. The two types of gambling are small and proper. Gambling in sports is visible since time immemorial. It was seen from ancient times in countries like New Jersey, United States of America, United Kingdom, etc. But it has also become common in India. India has also a long history of gambling. India also has had laws for the same. Public Gambling Act 1867<sup>59</sup> was enforced in India before independence during the colonial era. Today, the authority to make laws and regulate gambling in India is with the Indian States. There is also pre-existing bone of contention with the Public Gambling Act 1867<sup>60</sup> regarding offshore [online casinos accepting players from India](#), poker sites, and [Indian online sports betting sites](#)<sup>61</sup>. The gambling is regulated by different acts in India including The Information Technology Act of 2000<sup>62</sup>, Public Gambling Act 1867<sup>63</sup>, Prize Competition Act (1955)<sup>64</sup>. Gambling is a matter under state list

<sup>57</sup> Supra note 19 § 120 (A)

<sup>58</sup> Supra note 43

<sup>59</sup> Public Gambling Act 1867, NO. 3, Acts of Parliament, 1867(India).

<sup>60</sup> Id

<sup>61</sup> Supra note 42

<sup>62</sup> Supra note 39

<sup>63</sup> Supra note 53

<sup>64</sup> Prize Competition Act, 1955, NO. 42, Acts of Parliament, 1955(India).

which makes it difficult for centre to enact legislations accordingly. The Foreign Exchange Management Act, 1999<sup>65</sup> stated to have the growth of tourism by magnetizing from Foreign Direct Investments.

3. Betting- like gambling and lottery, betting is also a state subject. The Supreme Court in 2016 recommended to ban the wagering activities of gambling and betting. Thus, in 2018 on the basis of this recommendation, the Law Commission of India prepared and presented a report on the same. But the point of tension was the federal structure and division of subjects in the lists. The act of betting comes under the state list. Again, parliament has less to obstruct and govern on the same.

4. Lottery- the Central Lotteries Regulation Act of 1998<sup>66</sup> legalized lotteries in India but has a great setback that it is not a federal law. Thus, some states accept the lottery system and some do not and often some are confused of the same. This creates problems of implementation. This act terminated Satta Matka which was early traditional form of gambling practiced in India.

Thus, the common problem with the legal wagering acts of gambling, betting and lottery is that these are the subjects under state list and thus parliament has no say on these which makes the implementation of its laws also difficult.

## RECOMMENDATIONS

The recommendations to the emerging issues of sports and its laws in India are given below.

A. Legislation- The presence of sports at the national and international level and the increased fascination for traditional sports as well as other physical sports and also the Esports at all levels shows the need of covering sports in India under one roof. The Parliament should build a clear, comprehensive, uniform

<sup>65</sup> Foreign Exchange Management Act 1999, NO.42, Acts of Parliament, 1999, (India)

<sup>66</sup> Central Lotteries Regulation Act of 1998, NO. 17, Acts of Parliament, 1998, (India)



and consistent law for Sports in India. It should contain all the practically possible provisions for the regulation and monitoring of the sports and its thorning concerns in India. It should provide the penalization provisions and the remedies for the same.

B. Role of Executive and the Judiciary- The menacing malpractices and growing concerns in the field of sports poses a pressure on the Administration and the Judiciary of the country to take a step forward and take stringent measures for the same. The Executive should act as another hand of the Parliament to impose the laws it makes and provide a better future for sports in India. The Judiciary should correctly interpret the laws (whether a uniform consolidated law or different laws). It should help in practically implement such laws in India over its ever- growing population by imposing the penalizations on the offenders and granting the remedies to the victims.

C. Provision of Appeal- there should not only be one non- government organization to regulate sports. The judiciary has a specific role to regulate and sort out disputes in sports. There should be a provision of appeal for all matters. Infact, the highest court of appeal in matters of sports should be the Supreme Court as in case of other areas of disputes.

D. Separate Law for Esports- there should be a separate legislation for Esports. The Esports should be governed by a separate body or authority. Its governance and regulation should not be mixed with that of traditional sports. It should have its different body for its development at national and international levels. Its emerging malpractices should be governed under separate laws. Its provisions of penalties and compensations should be different from that of those of traditional sports.

E. Doping Tests- there should be a doping test of the players before he/she steps into the sports field if the person is consuming banned or unnecessary drugs or not. There should be proper setups of fingerprints scanners as a part of doping test. Such procedures should take place under mandate surveillance. There

should also be innovations of new mechanisms using technologies for doping.

F. Ethics and Standards of Sports<sup>67</sup>- the ethics of sports is a concept used in positive connotation. The ethics in sports have two dimensions including personal and Institutional. Common ethics and standards of sports involves fair gameplay, trustworthiness, responsibility, caring, citizenship and respect. During a match or any sporting event at all levels whether local or national or international, the ethics and standards of sports should be taken care of and followed by the players. These are not only for the players of sports in field but also for all who are related to or involved in any sports or sporting activities. To have an ethical sporting event, these moral points should be followed. This also reduces the chances of issues of sports to take place.

G. Intellectual Property Rights- the Intellectual Property Rights to be strictly provided to the owner of Intellectual Property Rights. The owner of Intellectual Property Rights should be educated and conscious of his/ her own Intellectual Property Rights. The contract he/ she enters into should have clear mention of the terms and conditions of the contracts, the Intellectual Property Rights of the owner, the fines and penalties on not adhering to the contract including the remedies, the tenure of contract, etc.

H. Stringent Bans- there should be a Stringent Ban on all the unethical activities as mentioned above in the article. These include practices of Age Fraud, Sexual Harassment, legal waging like match- fixing, gambling and betting.

I. Transparency- the regular flow of information of any kind in sports should be maintained. Every person relating to sports should be aware of the updates of their surroundings. Any sporting event is a public event which makes it more significant to share updates to all those individuals who are more or less related or engaged in the same.

<sup>67</sup> V.K. Sharma, Health and Physical Education—Class IX 111 Pratibha Press & Multimedia Pvt. Ltd. (2020)



J. Medical test of Players- before every match of any sports game, there should be a bona fide medical checkup for the players involved in the match. The fit and best suited players should only be allowed to enter the competitions and events.

K. Pharmacy- maintaining a good health is extremely important for every person and is the foremost priority for a sportsperson. Thus, there should always be a provision and facilities for a pharmacies and clinics for proper health checkups and provisions of medicines and required treatments for the players. They should be provided with every sort of care they need to recover. Additionally, the players should not blindly consume the medicines or go through the treatment prescribed. They should be self-aware of the medicines or drugs they consume and its side-effects and consequences.

L. Anti- Doping laws- as the illegal acts of doping touches the summit, there is no Anti-Doping legislation in India. There should be a consistent Anti- Doping legislation in India needed as per the increasing unethical acts in the evolving sports and increased competition. A list of banned drugs should be prepared by the concerned association and a strict execution of penalties on the use of the same should be visible.

M. Employment and Labor- the employed players should have efficient monetary gains and benefit as per their capabilities. They should get proper wages and pay of their hardwork. Exploitation of labor in sports should not be there. There should be governance through laws and governing bodies.

N. Call for Gender Equality- after a long and harsh struggle, women have got sporting rights. But still are discriminated in some areas of sports. They would get equal rights as men. Also, Transgenders should be recognized as eligible players in every sports at all levels of sporting events. They should not be segregated and separated from the society of other players of specific genders. Their rights should be protected and they should be given equal recognition and representation. The

constitutional and humanitarian rights should be strictly implemented to prevent such gender and sex based discrimination.

O. Check on Documentations- there should be development of law on the issue of false and fabricated documents and age fraud. There should be a guided surveillance and check on the documents of the players of the match. Those with false documents and age fraud should be penalized under the specific laws.

P. Application of AI- If used appropriately, nothing can be more beneficial than Artificial Intelligence. In sports, the AI can be used as an upgraded technologically advanced tool. It can provide training programs, help in documentation check, be a great helping hand and provide a new method for drugs consumption test, get predictions of the player performance, reduce the scope of injuries of players, give modern and advanced tools and equipments to enhance the game, gives the fans of sports cozy and luxurious virtual as well as real view experience at the field. Thus, AI model in sports can very well give an experience of technologically advanced, modern and a safe sports. Therefore, AI should enter all sports and used appropriately to provide the sporting players as well as the fans and the management the coziness in organizing events.

Q. Liability- though it is agreed that the Sports Federations and Authorities should be vicariously liable for the acts of their employees and the players they recruit. But they should not be liable for the acts of their fans. The fans of sports or any Sports Authorities should be individually liable of their acts and their consequences.

R. Promote Indemnity Agreements- this is the agreement between the sports players, sports event organization and the sports club. It is undertaken to prevent the physical injuries to sports players and provide remedy for the same if takes place.

S. Responsibility- all the stakeholders of sports and sporting events including the government, parents, coaches, doctors,



pharmacists, referees, journalists, sports leaders, physical education experts, administrators, etc. should be well aware of their independent roles and responsibilities and undertake those smoothly and consciously. The visible errors should be avoided. If done some drastic mistake, the liability should be recognized and accordingly the individual or the organization responsible should be penalized and the remedy should be provided. This also involves the role of law to step in and provide for the penalization and remedy for the same.

T. Implementation- there should not only be a law on papers passed by the Parliament and assented by the President but it should also be properly practically implemented in welfare of the people.

U. Discipline- it is the foremost quality of a sports player to have discipline. This can be achieved by an early and set lifestyle, by adhering to the laws and policies to regulate sports and by practicing regularly. The same should be achieved to excel in the particular sports the player is in.

V. Sports committees and commissions- the Sports committees and commissions should be established at various levels of sports to look after the implementation and execution aspects of sports laws and policies. These committees and commissions should submit timely reports of the status of implementation. They should also recommend the suggestions much needed for improvement in the areas of sports.

## CONCLUSION

Sports are developing as a cumbersome industry in India. Traditional sports are well developed yet are further enhancing and upgrading. Esports is newly entered charisma in sports. But it has a legally underdeveloped system in India. It is governed by different areas of law and by different authorities. Still post such efforts, some areas of sports are mismanaged and some issues are neglected with no laws to regulate. This shows that these existing sports authorities and governance sectors or policies

are inadequate. Sports has now become a commercial and corporate affair. Yet, there is no consolidated and comprehensive sports law in India gives rise to the challenges as mentioned above in the research article. But such setbacks can be resolved if the recommendations are taken into consideration and implemented according to the evolution in sports and the demands of society. The foremost and the fundamental need of the society is to have all the sports laws under one roof and one governing umbrella that is a static statute and a regulatory framework. This regulation should be an assistance for governing sports at all levels. The given recommendations in the article are instant relief to the arising concerns in the field of sports in India. Adhering to sports laws, policies, ethics and codes of conduct should be an individual's primary agenda to achieve long term sporting goals. The government's and the sports authorities' primary agenda should be to formulate and practically implement the laws or codes of conducts. The grey areas of sports can be a red sign of danger if no step is taken towards them.

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