



Regulating sports and games in India: Need of a comprehensive legislation

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Abstract

The aim of this paper is to identify the current challenges and for that need for sports Laws. There are various factors which are diminishing the interest of player's the major harms that the sporting world faces can be broadly categorized in points Drug use, Tort Laws, Laws Accountability. And Discussions on National Sports policy, sports Law and Welfare Association of India, Sport Authority of India, and Sports Broadcasting Law in India. An overview sport legislations to create awareness about the importance of sports Law and all these issues have been discussed in the present study.

Keywords: law, tort, accountability, sports policy and sport legislations

Introduction

There are laws and regulation on sports in number of countries and even the united Nations (hereinafter to as the 'UN') has framed conventions related to physical education, sports, countering doping and discrimination in sports. In view of this, Indian has a long way to go as it does not have a comprehensive law to deal, with sports issues.

There is a need to look at sports not as a frivolous means to enjoy oneself, but as the golden ticket for the Indian economy and an industry that promises great dividends for players and administrators alike. Also there is a need to utilize the youth in uplifting sports in the country and the enthusiasm of the masses for it can be channeled in an optimum manner to involve them in running sports in country.

Sports Law is not a concept that has just begun its march towards prominence. It started gaining momentum with the commercialization of sports. Leagues were formed; player auctions took place and sport as we know it, changed forever. While cases like Miller v. Jackson used the law of torts to handle disputes relating to injury in sports, the interaction of law and sport increased with the passage of time which in turn, gave impetus to the growth of sports law.

In India, however, the status of sports law is still contested not just for its importance but also for its very existence. The sports industry in India has also experienced tremendous growth- be it the Indian premier League (hereinafter referred to as the "IPL") and the Indian cricket League (hereinafter referred to as the "IPL") in Cricket the world series HOCKEY (hereinafter referred to as the "WSH") in hockey, the formula one championship at the Buddha International circuit in Delhi or the recently concluded Twenty 20 (hereinafter referred to as the "T20") Football tournament sponsored by Pepsi. This radical evolution in sport means that transactions involved right from the contract to organization to the actual event have become more complex.

Sports can be viewed as something done for recreation, but

with increasing competition, technology and skill levels, it is not just another match being played in a stadium. Billions of rupees are riding on each team, each player and every league formed. As such, myriad legal issues arise and these nuances need to be looked into. Competition law, regulation of sports governing bodies, sports injuries – issues of liability, health and safety issues in sports, employment issues in sports e.g. discrimination, working with children in sport, intellectual property issues in sport involving broadcasts, arbitration in sports issues, issue of harassment in sports, organizational matters, among others are the key facets involving law and sports

Need for Sports Laws

The sporting world has been plagued by scandals and controversies in the past few decades. The Olympic Games Bidding Scandal, the recent IPL scam and allegations of sexual harassment by the Indian Women's Hockey Team have rocked the nation. From six gold medals in a row from 1928 to 1956, the Indian Hockey team hit an all time low failing to qualify for the 2008 Olympics. This incident exposed the maladministration and insularity of a defective system that drained our resources. Even the gentleman's game cricket has been marred by match fixing and payment by bookies. All these incidents expose the dark side of a highly competitive world.

Simon Rottenburg, in his seminal work on professional sports, analysed sports in terms of the same paradigms that are applicable to any other economic activity and came to some brilliant conclusions. He defined the sporting competition as a joint product and a collective effort of a number of factors. He said that no single sporting team or player could offer an interesting and independent product of value in sports. Thus a sporting spectacle required a competitive balance and the ordinary rules applicable to a pure market had to be modified here. Even though competition was the core value that

promoted sports, one needed competitive balance or equality of competitors to some degree for the success of the event. Revenue was generated by the excitement offered by teams more or less evenly matched. Thus the principle that public interest is best served by the unrestrained free markets did not apply here. The second pillar on which the sporting world thrived was the unpredictability of outcome. These two factors defined the mechanism on which sporting industry worked.

The major harms that the sporting world faces can be broadly categorized as follows.

Labour Issues

Players and owners have to negotiate mandatory issues relating to hours, wages and working conditions. The agents entrusted to conduct business on player's behalf should be working as per well laid out norms that serve the best interests of the game.

Drug Use

The problem of performance enhancing drugs a major problem that needs to be addressed. Drug testing, list of banned drugs, penalties, privacy issues and right to appeal must be clearly stated by the nodal agency concerned.

Tort Laws

Tort Laws were once not a part of the landscape of sports laws. But intentional tort pointing to a criminal act of assault needs to be penalized. Similarly right to publicity has to deal with the defamation of a person's character and reputation.

Laws on Accountability

There is a need to check corruption and ensure accountability in conduct and monetary deals of the government bodies and other agencies involved in managing sports. Tenure caps and age restrictions of office bearers of federations are long overdue. Agreements that are exclusionary and therefore contrary to the Trade Practices Act should not be encouraged. Denial of essential facilities indispensable for the rivals to compete in an event must be severely dealt with. This is especially applicable to our country where the organization of administration is pyramidal with a dominating agency at the helm of affairs.

The key question here is whether sports and law should be mixed at all however, no sooner than you realize that there is a distinct difference between game and sport, you will begin to realize the need for governance of sport- at least at the level at which it is being played in the world now and in India as well. A game is merely a mode of recreation and it could be as simple as a game of foosball or snakes and ladders at home. But sport is a more organized version where there are teams and players who play professionally and it begins to take the form of a business.

A number of factors that have made sports law necessary are: Disputes in sports, weather related to injuries, finances or governance, Monopoly of sports federations and a strict hierarchy comprising entirely of people with vested interests, Exploitation of players (sexual and otherwise) The problem of doping Violence in sports as well as conduct during tournaments in stadia ect. Intellectual property rights issues like broadcasting and webcasting of sports events, laws being

misused by sportspersons.

Significance of sports

Howard coell rightly said, "Sports is human life in microcosm". Have you ever witnessed the ebb and flow of the Mexican wave in a stadium? The crests and troughs of a graph charting hear beats during a game? The shrill yet inebriating sound of the vuvuzela? The sheer passion that is enthused in all who watch the game even though they may not be playing it? Sport has the ability to pit one against the other but at the same time unite everyone in that unequivocal thirst for a good game a fair game. While sport is often confused with game which is just another recreational activity, there are some fine differences between the two. For starters, a sport involves a greater degree of professionalism and a lot more is at stake in sport as opposed to a game one might play in their backyard as well.

A sport is a physical activity carried out under an agreed set of rules, with recreational purposes: for competition or self enjoyment or a combination of these. A game is a recreational activity involving one or more players, defined by a goal that the players try to reach, and some set of rules to play it. Games are played primarily for entertainment or enjoyment. The difference of purpose differentiates sport from game, combined with the notion of individual (or Team) skill or prowess.

FICCI has advocated for granting industry status to the sports sector. It is one of the main revenue generating industries of the world and with the propagation of the Internet and other forms of media, the sports industry is growing at a faster tempo. An Industry of billions of dollars with an all encompassing world wide presence is bound to raise its own disputes.

Sports legislations in India- An overview

There is no national or state legislation for regulation of sports in India. The Ministry of Youth Affairs & Sports was set up by the Govt. of India to create the infrastructure and promote capacity building for broad-basing sports as well as for achieving excellence in various competitive events at the national and international levels. Sports promotion is primarily the responsibility of the various National Sports Federations (NSFs) which are autonomous in nature. The Ministry of Sports and Youth Affairs issues notifications and guidelines from time to time for the purpose of regulation of NSFs.

The Sports Law in India is governed and regulated by

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

National Sports Policy, 1984/2001

The main objective behind enacting this was to raise the standard of sports for the reason that it was degrading due to corruption, betting, etc. It was later realized that the Bill of the year 1984 was incomplete, and its implementation was not complete, and in a bid to revise the bill the same was reformulated in the year 2001.

The guidelines are three-fold

- Firstly, to earmark the areas of responsibilities which different agencies have to undertake to develop and promote sports.
- To lay down the procedure to be followed by the autonomous bodies and federations to make the assistance and aid by the government available.
- And also identifying the sports federation that is eligible for coverage under these set guidelines.

It was only after this policy that the lawmakers realized the importance of sports and therefore 'Sports' was included in the Constitution in the State list of the Seventh Schedule (Entry 33). The central government by the provisions of this policy aims to achieve excellence in sports on the national and global plane and collaborates with the state government and other agencies to achieve it.

Sports Law and Welfare Association of India

It is a non-profit national organization that aims to understand, and work for the advancement of ethical sports law in India for promoting sports. The primary task of the organization is to provide consultancy services on different matters like Indian sports policy, sports injuries, health and safety in sports, IP issues in sports, etc. It also provides a forum for legal practitioners who represent different people, to set up rules for ethics for sports persons.

Sports Authority of India

The Sports Authority of India (SAI) is an apex National Sports body set up in the year 1984 by the Ministry of Youth Affairs and Sports for broad-basing and bringing excellence in sports across India as a whole. It is located across 9 regions at Bangalore, Gandhinagar, Chandigarh, Kolkata, Imphal, Guwahati, Bhopal, Lucknow and Sonapat; and two Academic institutions like Netaji Subhash National Institute of Sports (NSNIS), Patiala and Laxmibai National College of Physical Education. It also accounts for academic programs like coaching and physical education awareness programs.

The Sports Broadcasting Signals (Mandatory Sharing with Prasar Bharati) Act

This Act was passed in the year 2007; its main objective was to provide access to listeners and viewers so as to encourage a larger audience. It shall cover the sporting events which are of national importance through mandatory sharing of sports broadcasting signals with Prasar Bharati and for matters related to it. The Act provides that no content right owner or holder or television or radio broadcasting service provider can carry out a live TV broadcast of important national sporting events. For doing this, it has to share its live broadcasting signal simultaneously (except advertisements) with the Prasar Bharati.

Role of different stakeholders

Ministry of Youth Affairs and Sports

- To lay down the conditions for eligibility of National Sports Federation to get recognition

- The conditions that have to be fulfilled by NSFs and other agencies if they wish to acquire government aid and support.
- To provide assistance to the NSFs if they carry out long-term development program.

National Sports Federation

The responsibility for the complete management, direction, supervision and regulation of the discipline and promotion, development and sponsorship of the discipline is on National Sports Federation. They are expected to discharge these responsibilities in consonance with the principles laid down in the Olympic Charter or the Charter of the Indian Olympic Association in compliance with Government guidelines applicable to NSFs.

SAI

For providing the necessary support to NSF for the identification, training, and coaching of sportspersons, also to improve infrastructure, equipment, and such other facilities, the SAI plays a significant role. Further SAI will also be responsible for releasing funds to NSFs against proposals approved by the Government. The release of funds to IOA shall, however, continue to be made by the concerned Ministry.

National Anti-Doping Agency

The centre has set up a National Anti-Doping Agency (NADA) as an autonomous body. It consists of persons from government and non-government agencies, scientists as experts and also members from IOA. In the recent past, the controversy surrounding the intake of dope by sports persons is prevalent and in this light, NADA was set up. It shall carry out 'in competition' and 'out of the competition' testing on the sportsman. NADA helps in the regulation of sports activities so that it can be corruption-free and non-controversial.

Vision of a Comprehensive Sports Law in India

The Law should establish and promote rules of ethics and spirit of sportsmanship among competitors and the bodies involved in decision making. Ethical solution to legal issues in sports is the core ideas behind the vision. This will enhance the morale of the players by improving contractual dynamics among them and the administrative bodies. Contracts must clarify expectations and commitments from the players and agents.

Consultancy services must be provided to the sports bodies and players. Co-ordination of the legal fraternity and the sporting community is a prerequisite for such a healthy interaction.

National identity and the spirit of representing India must supersede political decisions. It would be highly advisable to include a former player of a game at the helm of affairs rather than a mere administrator or politician with vested interests.

To check corruption, tenure caps and age restriction on office bearers of federation must be brought in. Denial of essential facilities and exclusionary policies that are intentional for a player or a rival organization should result in the termination of the services of the administrator concerned. Misuse of

authority must be severely dealt with.

Salary caps on players and teams should be brought in. Practices that create a barrier for new entrants, draw out the existing players and lead to the foreclosure of a competition must not be tolerated.

A greater sensitivity and legal support must be provided for women players. Perpetrators of harassment and discrimination should be severely punished.

Research of excellent quality must be encouraged in the area of sports through continuing education. The area of sports law is relatively new in our country. Nevertheless, it is an area of study that is worthy of definition and in depth academic inquiry and practice. A well planned exhaustive competition compliance programmed can be of great benefit to all enterprises. A fresh perspective, an independent authority and a comprehensive law is the need of the hour.

Conclusion

Given the close relation of sports with national pride and the kind of influence it has on the mind of the nation, the state has the most important role to play. It is very clear that the existing model has not succeeded in achieving its objective and it is time for a new model to be made. Also, it is quite clear that our culture and our attitude towards sports is the biggest hindrance in improving sporting standards.

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major loopholes which our *sports law* face include labour and employment issues, drug use, broadcasting rights, sports injury.