



## Need for Sports Law in India

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### Abstract

The history of sports extends as far back as the existence of people as purposive, sportive and active beings. It also shows how society has changed its beliefs and therefore how changes in the rules are brought. The history of sports in India dates back to the Vedic era. Chess, wrestling, polo, archery and hockey are some of the games believed to have originated in India. But somewhere between the historical lineage of sports and sports in the modern era there is a gap of enthusiasm and encouragement. Little importance is left for sports at grass root level in India with every school concentrating only on academics. Though there are various federations in India that provide sports facilities but apart from cricket, India is largely failing in every major event for sports such as Olympics. One of the main reasons for it is the lack of uniform regulation in India for sports. There is a need for a legislation that governs sports and brings the various authorities into one roof.

**Keywords:** Sports, Law, Body, Regulation

### Introduction

From a mere source of entertainment and personal recreation, sports has grown into a highly competitive industry with global pervasiveness. It is one of the largest revenue generating industries in the world comprising 3% of the world trade. It has also metamorphosed into an important and inevitable political and social activity. The Beijing Olympics did more for the Chinese soft power in three months, than what diplomacy could do in three decades. The successful bidding to host an international sporting event is a unique opportunity for developing countries to showcase their progress, development and their world standing through their soft power. India hosted the Commonwealth Games, a sporting fiesta with 5000 competitors from 85 countries, more than 1.2 million spectators and an estimated 26000 crore rupees invested to make Delhi the cynosure of the sporting world. Such an event of mind boggling proportions entails problems unique and complex related to infrastructure, licensing, sponsorship, media rights and ethical sporting practices. It is an appropriate moment to analyse the need for lucid legal provisions pertaining to sports in India.

### 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.

Some of the major problems 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.

**Broadcasting Rights:** India's Competition Act 2002, holds void any agreement that is likely to cause an appreciable adverse impact on competitiveness. Yet the issue of grant of broadcast rights of sporting events has repeatedly been raising controversy. We need transparency in the matter, which is possible only if rules governing the same are clearly laid down.

The magnitude of the problem and its nuances make it clear that sports law will no longer be an applied law or an amalgamation of laws under some jurisdiction, but a law in its own right. Entry 33 in the Seventh Schedule of our Constitution has provided a provision for the State as well as the Centre to make and enact laws on regulation, registration and recognition of associations involved in sports. Rajasthan and Himachal Pradesh are two states where there is a functional sports law at present. In India, the provincial sports bodies work under nonprofit making organisations under the Company Law Jurisdiction. Rules and regulations like statutory orders act only as secondary legislations supplementing laws. The Competition Law (2002) promotes Competition advocacy, forbids abuse of dominance and anti-competitive agreements. But a comprehensive law on Sports must aim at a broader ideal and vision. The law

makers should provide and disseminate the idea and information on various issues related to sports and encourage the exchange of a variety of perspectives through conferences before embarking on the mission.

### **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 idea 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 programme 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

The Indian Sports industry has progressed by leaps and bounds. Sports have assumed a corporate form with the number of commercial interests involved. With increasing market maturity and the need for clear and comprehensive legal documentation, sport issues are slowly becoming a major focus as contracts must be able to clarify parties' expectations and commitments, must protect the athlete's and the brand's big-picture interests and must factor in regulatory, legal and other risks inherent in the industry. The country has reached a stage where India needs a legislation that deals with sports law. India's failure in all the international sports events is an indication of poor infrastructure and corruption which exists within the federations. In order to meet the increasing demands of the changing scenario, national as well as international, it is important that a uniform code for sports be promoted.

Like India, USA and UK do not have a national legislation to regulate sports and the sports federations in the country. However, the enactment of legislations in all the three categories of sports law i.e. amateur, professional and international athletes of US gives protection to the interest of the sportsmen. The key issues faced by the Indian sports include.

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