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Sports Rights Laws in Iran

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ABSTRACT

The aim of this study was to investigate the laws of sports rights in Iran. This was a qualitative research. Researcher with tools to measure the quality of the library collection is discussed survey, opinions of experts and documents have been of data, the study population, the opinions of experts and documents. Qualitative research encompasses a range of philosophies, research designs and specific techniques including in-depth qualitative interviews; participant and non-participant observation; focus groups; document analyses; and a number of other methods of data collection. To analyze research data, both inductive and deductive content analysis methods were used. According to the research findings, it was determined that sport law is a new branch of law that deals with the study of the legal effects of sport. Sport is no longer just a social phenomenon, but due to the increasing development of the various nations, it is a matter of science. Sports Law has some resources including constitution, custom, precedent and doctrine. Civil and criminal liability of athletes, teachers, coaches, athletic directors, fans, creators and manufacturers of sporting goods are studied in sports law which, in essence, is a complex legal field owning two parts, criminal and private law.

KEYWORD: Sports law, civil liability, criminal responsibility

INTRODUCTION

In the current era, sport is considered an effective scientific way for moral education, especially for young people. From the beginning of the human creation, sport has always had a great role to play in human life to rotate the world to the maturing date. The recommendations aiming at addressing doing sports can be seen in the words of the great religious leaders such that the physical exercise beside the mental exercise is also reminded (3). The Prophet Mohammad told to teach the children swimming and archery (16). Today, sport is a trade and industry rather than a game and fun. It is of great importance in any community, and it owns a variety of economic, political, social and individual value. Regarding the political dimension, within the boundaries or out of which, sport has held a high position. To promote and establish a national reputation, a great deal of budget and energy is spent on sports in each country. Many governments are trying nowadays to invest in sports to prove its power to the world. Sport sometimes acts like a scene for the warring states' political actions. A case in point is the Iranian athletes' rejection to compete against Israel. Moreover, through extensive advertising and using athletes, there can be a lot of public attractions in any political election. Athletes act as representatives of national pride and values. The increasing importance of sport has led legal scholars willing to establish a specific field as "sports law". Betting on games as well as following hair and tattoos' styles reconsidered as the importance of exercise in social issues. Sport is a means of public health and welfare of mankind which can be effective in prevention and treatment of addiction, so any competent state invests in sports to fight against the social corruptions. In the today's world, sport is a subject of many studies in sociology, medicine, management as well as law. However, In Iran, sports rights and judicial procedures are not addressed fully. Accordingly, as the sport issues are comprehensive in the sports world and the advertising world focusing on the topic that Islam has not found sport necessary enough, this paper is written to tackle with the common view. However, the provisions relating to sport rights are not studied fully in Iran. Consequently, the sport rules and regulations that govern the course are determined mostly by foreign experts, even in wrestling which is considered the main sport in Iran (11). Aghaei Nina (1369), in his book, studied sports rights and general principles of criminal law, civil liability and sports deals. The author reached the conclusion that the subject of the law is eventually mass tort, fault, liability, penalty, compensation and condemnation (2). In his other book on the civil liability, he referred to responsibilities of sport teams' professional physicians on providing medical services to athletes and their wages by any institutions or legal persons. He also studied the responsibilities of owners and managers of clubs on sport tools' maintenance and facilities beside the responsibilities of judges and practitioners

(2). Elsewhere he stated that the sports incidences and the related injuries should not be considered as crimes. He, additionally, referred to the sports administration and the legal protection based on the second paragraph of the article III in the constitution to mention that physical education is free and it is the responsibility of any government to provide the related facilities for the public, and it reveals the great importance of sports (4). Katouzian (1997), in his book, pointed to civil liability as well as the sports related effects on the legal relationship to prove that the general civic rules do not cover sport since some crimes, namely assault, is permissible in sports yet not always. He also stated that "athletes' conscious behavior and their prudent actions are the actual criteria to determine any fault in sports (12). Katouzian (1999), in his paper, claimed that all kinds of sports laws and the responsibilities of the error can be investigated in three areas:1) athletes' relation while they are playing sports, 2) athletes and coaches' interactions with spectators, and 3) Institute, Sport athletes and coaches' communication. He also added that the athletes' conscious behavior is a criteria to distinguish any fault in sports and that would be detrimental to the verb. In his view, in case any viewer is hurt while watching the game, the organizers of the match are primarily responsible. However, the players or the spectators will be blamed if they are responsible for the fault (12). Najafi Tayana (17) pointed to the rules and regulations in sports which are internationally dominant, it is also added that any physical injury during a competition or exercise, is not deemed as a crime yet it is subject to multiple conditions(17). However, any kind of sport should be done under meeting some rules and regulations which cause the physical and mental improvement beside attractiveness and a safe environment required for athletes. The rules are different in every sport under certain conditions which are parts of the international switching. In Persian poems, lethargy and sluggishness are blamed. Vahshi Bafghi Yazdi, Nezami, Khajuye Kermani, Saadi, Hafez and Ferdowsi's words clarify the importance of sports. The following is narrated by Ferdowsi:

"Truly the man who is serving is far away from laziness, perversity and shortcomings"

This paper is a type of qualitative research (1). During the investigation, the purpose of the paper got modified. The researcher measured the quality of the library collections. Besides, the opinions of experts and the present documents were studied. Finally, to analyze research data, both inductive and deductive content analyzing methods were used

Sports rights is a new branch of law that deals with the study of sports' legal effects. Sport, as a social phenomenon, due to the increasing development of various nations, is a matter of science which is examined. Sports rights as well as social development are a systematic attempt to discuss the civil liability of athletes, teachers, coaches, athletic directors, fans, and organizers. Sports Law refers to matters of the duties, authority and legal responsibility of all those who are somehow involved with sports activities. In other words, sports law show how one can participate in sporting activities and what his legal responsibilities are (14). From a legal perspective, physical laws can be divided into two main groups:

- There is a group of rules surrounding the main structures to manage a sports competition. Accordingly, the rules and the related rights of every branch of physical activity are determined. For instance, in a football game, except the goalkeeper, the other players are not allowed to drive the ball with the hands, and it is also prohibited to attack the goalkeeper and the like. Violation of these rules causes error and a special performance as a penalty has to be addressed to offenders.
- there is another group of rules which impose some special care and precautions on the players to guarantee safety of players during any match and avoid violence and revenge in a safe environment (4).

Sports law, in essence, is a complex legal directory which is divided into two parts: criminal sporting right and private sporting rights.

Indeed, it is necessary to examine sports legal resources, legal rules as well as different forces and powers existing in every community. The role of each is different in any country. The law resources include the constitution, customs, precedents and doctrine (13).

Now, a question arises. One tends to know whether sport laws are explicitly mentioned in the constitution or it should be found indirectly. This question is answered through this research. In Iran, the source of law is the constitution including a hierarchy which should be considered in the first stage (6).

- Constitution

Constitution refers to a set of rules that indicates the cultural, social, political and economic institutions based on Islamic principles and criteria. The other set of rules is governmental, and it involves the country's military powers, rights and freedoms of individuals, and the general outline of a country. Based on the article III of the constitution, the physical facilities are free, and it is considered the responsibility of the state to provide such facilities (2). This is understandable in terms of the following points:

Firstly, physical education or sport is clearly mentioned in the constitution which highlights its important place among the most basic institutions. In other words, constitution includes sport (2).

Secondly, sport and physical education are placed in the same array with pedagogy and higher education in the constitution, so it is considered a cultural institution to achieve the desired training system. Vivid enough, it is not a financial institution consisting of a series of physical movements.

Thirdly, sport is mentioned in parallel with pedagogy and education which shows the independent and critical role of sport in achieving the goals of the system (2). Laws and regulations relating to sports rights must be synchronized and aligned with the constitution and the laws as well as the regulations which are against the constitution should be revoked and rejected by the Guardian Council and the Court of Administrative Justice.

- Common rules

Sports law in both criminal and private division refers to common rules. In criminal penal code and in particular in paragraph 3 of Article 59 of the Penal code is invoked (18). The general rules are also considered in civil law while mentioning the civil liability and the other relevant issues.

-Sport Customs

Sport custom is a sport right resource. What action in civil liability is a fault is indicated through sport custom (4). Custom determines any athletic deliberate intent, errors and norms in sports. Transport systems are influenced by customs and habits of players and clubs. Perhaps the best proof is that other nations imitate the conventions governing the transport system.

- Regulations

Regulations are imposed by the sport competent authorities to supervise sport competitions and the rules relating to transferring players. These regulations shall be in accordance with the substantive laws. Provided that there are any points in opposition to the constitution, anyone can request for its cancellation in the Administrative Court.

Sports criminal law is a branch of law which is involved with any offense and quasi-offense by athletes, teachers, coaches, administrators, fans and other sports equipment manufacturers. These events may be the subject of health, life, property, honor, dignity and other legal entities. On this branch, there is unfortunately no study. It is a young field, but the rules and regulations that govern the country are mainly gained from the external experts' view. Even in wrestling, there is no such consideration (19).

Theoretical principles of criminal responsibility arisen from sport operation

Due to the harsh nature of some sports, they can cause damage to one or more players and may even lead to the death of the injured person. Can criminals be punished? There are sayings in this regard:

The first theory: there is a theory based on the lack of criminals' intent (15). Some has tried to consider the injuries due to a lack of criminal intent beyond punishment. In 1912, the French court issued the point that "ordinary crime is caused in terms revenge While it is not true for a football player such that any player just does his job and duty (15).

The second theory: the theory is based on laws and customs and habits, it is a condition to comply with rules that the customs would justify (15). The actual reason is that the athletes are not punished by law and custom and any injuries to players are not traceable. Laws and customs and habits of sports give the permission and encouragement to make defense in a controlled way. It means if a player during the game ignores errors, he will be traced according to law and custom search (15).

The third theory: the theory is based on law and social norms: Some lawyers believe that the approval under paragraph 3 of article 59 of the Law on Criminal Justice resolves many problems and afflictions. In other words, it is an immunity granted to athletes and this is no small advantage (15). As a result of sport which is aimed at fostering healthy people, it considers sports facilities and attracts young people to sport. Some lawyers believe that the damage caused by exceptional sports activities should not be followed by punishment when the standards and regulations of the criminal laws are met (15).

The fourth theory: the theory is based on consent: the damages resulting from the exercise of the doctrine of justification should be satisfactory. If any sport competition is done with mutual consent and during which any injury occurs so that it leads to death of the other racers, there will be no criminal responsibility (15). Some argue that no overt consent is needed since participation in sports means a tacit acceptance of the risks. However, if any player makes a fraud and deceit against his desire and satisfaction such that athletic operations and damages are visible, he will not be followed (14). The writer agrees with the second comment that one should not be blamed as long as there is no deliberate assault.

Sports Leaders' responsibilities in specific

From the perspective of the law, a manager is the one who is responsible for sports administration to undertake a task from providing human resources to the subject of leadership and supervision on facilities. These include office managers, stadium managers, team leaders, coaches, teachers, sports and the like (2). To select coaches, club staffs, doctors and sports facilities are all considered the responsibilities of a manager. Sports managers are responsible for any players' fault once it is not deliberate. In accordance with the general principles of criminal responsibility, any deliberate interference and accident is the direct responsibility of the player to be punished under criminal law. For example, to select and hire a physician who has enough expertise in sport medicine is the responsibility of the club manager which means an act of recklessness and negligence in the event of an accident, caused by a medical doctor, is on behalf of both the club director and the physician. Nevertheless, if the manager of the club buys hazardous and unsafe equipment for treating an injured athlete, in case of any harm which is due to using such devices, the manager is fully responsible.

The second issue: Responsibilities of Judges

Athletic directors are a group of judges whose job is to control games. However, controlling a game is a general concept including judgment. Different sports involve general basic aspects: obligation and authority. The duties of the jury contain various sporting codes and principles, such as any accident prevention as well as any severe outcomes' prevention. According to the rules and customs duties, judges' responsibilities can be summarized as follows: A) Judges are responsible for preventing conflict and tensions between players from the moment of arrival until they leave the field. B) Judges should govern the game according to the rules and regulations.

There may be some sporting events against the norms. By the initial observation, a referee is responsible for that to be tackled, and the police can be asked to maintain peace. Bad judgments on the referee's poor performance, the bad playground conditions and allowing a team to keep playing despite dangerous weather conditions are all caused by a bad referee(2). The federation's disciplinary regulations and the technical assistance and punishment in violation is mentioned in article 20 , paragraph 8, point to the referees' penalties including giving a written reprimand, suspending ones' judgment, asking to leave the position of a referee, offering a jury nullification card and arbitration waiver card both nationally and then internationally. Under the penal laws and the consequences of violating constitutional rights, no one can be excused whether his fault is intentional or unintentional, and judges, like the other members of society, should be punished for any fault.

Now the rules of some sports are discussed beside the referees' duties:

Swimming: article 1-2: The referee holds the positions of supervision and control over all he could do to confirm their statements as well as writings and consider special cases, orders and regulations to guide and advise them. He shall have power to make FIFA laws and decisions (2).

Wrestling: article 14: the jury is responsible for all foreseen tasks in wrestling and performance of special rules that may be imposed upon the organization of the tournament (2).

Football: the referee is a responsible authority for any action of the players as soon as the game begins. His domain of responsibility also includes controlling the game once it is stopped. Referees' decisions are madeabout the error, regardless of the outcome of the game to enforce the law (2).

Water Polo: article 1-9: the absolute control of the game is the lap of referees. Their authority over the players during the game has to be applied within the pool (2).

Basketball: under article 19, referees will run the game according to the rules (2). One of the responsibilities of the referee is to maintain the security of the competitors and to prevent injury typically (2).

The third issue: responsibilities of physicians in Sports:

Team physicians are the medical professionals who are committed to providing medical services to athletes, and all or part of their wage is provided by an institution or a legal person other than the patient or his family. Team physicians are responsible for neglecting any legal duties. According to the doctors' contract with club, he is responsible for and committed to the athletes. Selection and recruitment of skilled physicians is a club manager responsibility, and in case of any accident, caused by the negligence of a doctor, both the physician and the manager of the club are responsible (2).

The fourth issue: sport and club managers' responsibilities for stadiums' safety violations:

Sports and clubs managers are responsible for safety violations against any fault in the design, construction, maintenance, repair and sports facilities charge. Sport managers are also responsible for safety compliance. Statutes and regulations of various sports show that coaches and athletic administrators have the duty to investigate and inspect the situation where the players do exercise to be free from any danger. The legal aspects are not limited to

areas where the activity is done but it includes all places which are somehow related with sports activities such as locker rooms or athletic grandstand (4).

1) Private Sports Law

Private law is closely linked to civil liability. Whenever someone causes harm to another person's legal rights intentionally, he is responsible for his offensive behavior as he has a legal responsibility. Such actions are treated as an offense against the law; the offender has the responsibility in case of any crime (1)."So when an athlete dies in practice by his opponent's offense once there was an error, the offender has a criminal liability. However, unintentionally the ball hits the neighbors' window, the athlete is required to pay for the damages and he has a civil liability. In some cases, the individual has both legal and civil responsibilities. For example, if you perform a wrong operation to cause the opponent break his leg, the offending athlete has not only civil but criminal liability (1).

Civil liability arisen from doing sports

The general rules of civil liability are studied in sports. It is very difficult to enforce general rules of sports' responsibility which appears in behavior of sports men, while the athletes' behavior can be a good measurement to distinguish errors if they behave morally (4). We assume an attacker in each football play who faces a goalkeeper going through the ball. If he does not pass the goal keeper, he probably will not be able to shoot the ball into the goal. It seems jumping over the goalkeeper is the best solution so that he may not commit an error of sports. Then, the player's behavior is good criteria which meets civil liability. Anyone without legal authorization, intentionally or unintentionally, who threatens life, health, property, freedom, dignity, business reputation, or any other right is responsible for his offensive behavior.

Relation between the game athletes

In competitive sport, the vitality and mental health are occasionally disturbed, and it sometimes leads to death. Now, there is a question to see whether such sports should be welcome or avoided as they cause danger (6). In Iran, there is an Islamic culture which bans any activity which disturbs the body as it is mentioned in Quran and narrated by Prophet Mohammad (9). There are some sports competition, requiring self-torment like running and gymnastics. They may cause damage to heart or spinal cords and gymnastics if the limit is exceeded. There are other sports such as karate and boxing which can be dangerous enough. Thus, the lawyers have to review the legal aspects of the sports, and their distinguishing features from multiple views can be viewed.

Sports fault concept cannot be achieved via the general rules of civil liability and legal responsibility. It is a series of original and independent exercise which should be studied separately by the international federation. Fault is simply an unreasonable risk of harm involving the factors that contribute to the realization of the act committed by someone such that the aggravated victim the children, the elderly and the general population. Violating the rules of the game and not respecting the legally required precautions should also be blamed, so sport fault must first be interpreted as violating the rules of the particular game. Contrary to paragraph 3 of article 59 of the penal code, whoever violates this section is guilty. In this section, we are among the acts that are not considered crime, it includes the unintentional sports-related injuries if they are according to the rules and regulations approved by the religion and constitution and it should not be opposed to the concept of general rules.

Above all, practicing forgiveness, courage and moral edification bold sports games. That is why when someone leaves the game field with a broken leg and broken ribs, he is proud of that, and he faces with public humiliation if he complains (10). Violation is probably done for a must in winning whose specific areas of ethical debate should be considered. However, there is a fine distinction to know illegal violations. There is abuse and brutality within the ring, boxing, ice hockey and field hockey, but if it is outside the game, it owns an illegal scope (2). Hitting the opponent in boxing, karate and wrestling is allowed, but in tennis and volleyball, it is not permissible (2).

The spectators' relation with athletes and race organizers

In a car race, it is possible that the car hits an audience, or in a soccer match, the soccer ball hits the spectators sitting on the back of the gate. Are athletes responsible? It seems that athletes are not responsible for the security of any audience as they have no commitment towards the audience. If sports are played in the specific location and the rules of the game are met, there is no responsibility on behalf of the players, so do the organizers have the responsibility? It may be argued that the spectators in dangerous athletic fields are implicitly acknowledged about the possible effects. However, this argument is only possible in some forms of audience participation which is free. Nonetheless, it does not lessen the responsibility if the audiences pay to watch the game, and their safety should be maintained while watching games. Commitment to their safety is considered, but the official contest organizers are responsible or the ticket sellers (2). The responsibility for any harm to audiences should be studied. It has been

argued the audiences' attendance does not mean accepting any injuries but answering to their spiritual desire (2). The writer believes that sport is not considered a profession in Iran yet a hobby even it is so for the main sport in Iran, wrestling, whose rules and regulations are used based foreign countries'. There are the people in Iran who look at exercise as a moral virtue whose aim is to provide health for human. All laws in foreign countries are blindly accepted all major sports. It is hoped that in future the Iranian experts in sports make their own rules and regulations.

The Role of Media in Sports

Ethical role of the media in promoting and reinforcing a negative stereotype about the racial minorities and women is debatable. In Western societies, women are shown in sports magazines. Clear enough, Instead of focusing on females' athletic ability and skill, their physical attraction is mainly focused on. When it comes to girls and women in sport, the language of gender which is in the media is not uncommon. Gambling is a contract between two or more people who are doing a specific game such that each of them who wins should be given a certain property. Gambling transaction is not based on commercial principles. Thus, invalidity of the commitment of the two is illegitimated, it is a matter of 654 article which says that gambling is banned, so if someone loses the gamble and avoid paying off his debts and gives the winner a document to express a commitment, the court does not accept it, and the witnesses' claim to prove the gambling has no place as gambling is essentially banned (7). The media is accused of legalizing gambling in sports. They are subject to copyright, and advertising and the like, which are more accessible to them. In America where gambling is illegal, through the media, such activities which cause corruption are somehow reduced. Some sources accuse the media of unethical behavior in sports once they glorify violence, which is often used to promote the events because kids will mimic them, so some devastating effects on their behavior would be seen. The slow and steady scenes over the game, especially in terms of violence, reflect more violence among the audience. To determine which news is sport news is not easy enough. Sports complexes also have problem with media to know which sports figures are confidential and what is newsworthy, or know what is valuable and what is worthless to write another. In addition, media have the role to keep professional sports championships important to the community and introduce professionals and amateurs to the public so that the audience will be attracted.

Conclusions

Sport law is a new branch of law that deals with the study of the legal effects of sport. Sport is no longer just a social phenomenon, but due to the increasing development of the various nations, it is a matter of science. Sports Law has some resources including constitution, custom, precedent and doctrine. Civil and criminal liability of athletes, teachers, coaches, athletic directors, fans, creators and manufacturers of sporting goods are studied in sports law which, in essence, is a complex legal field owning two parts, criminal and private law. Aghaie Nina (1369) in his book on sports rights and general principles of criminal law as well as incidents in sports operations and civic responsibility in sports reached the conclusion that the issues of criminal law, tort, fault, liability, penalties, compensation and condemnation are seen in sports and any sports manager is responsible to have broader awareness of the realities of the legal duty to the ultimate sports injury to make the situation inviolate. Katouzian (1999) allied to all kinds of sports law and sports law and liability arisen from errors that can be studied in three areas 1) sports athletes' relation, 2) the relationship between athletes and coaches with the third parties, and especially the audience, 3) athletes, coaches and athletic institutions interaction. Najafi Tavana (17) allied to regulatory approvals in connection with sport of the most special part of the international agreement that deal with any sports events as well as any physical, financial or mental injury during sports, whether in competition or training that is deemed to occur. As long as such injuries are based on the provisions of the law or rules, they are not known as a criminal offense. However, the rules are different in every sport under certain conditions, some of which have an international dimension. In the end, sports Law refers to a series of duties, authorities and legal responsibilities of all those who are somehow involved with sports activities. According to the third paragraph of article 59 of the civil code and the penal code, general principles of law should be considered by courts. Certain rules and regulations are set forth in each sport which is based on errors and general guidelines, established by international sporting organizations. However, in the case of any sports injury, the offender shall be responsible for damages to cope meeting the rules. While the scope of these responsibilities is not held by only athletes, but officials, including sporting venues, sport makers in action and the fans, are also responsible. Performing the general rules in sports is not always possible, since some crimes, such as assaults, is sometimes is permissible in an especial context where the ethical behavior of athletes is counted as a scale to distinguish the sports errors and faults.

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