



## **DISPUTES MANAGED IN SPORTS**

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### **ABSTRACT**

*Sports disputes refer to disagreements, conflicts or controversies that arise within the realm of sports activities. These disputes can arise between athletes, teams, coaches, organizations, and other stakeholders involved in sports. The resolution of these disputes can have significant implications on the integrity, fairness, and reputation of the sports industry. The process of resolving sports disputes can vary depending on the nature and complexity of the issues involved. Methods for resolving sports disputes include arbitration, mediation, negotiation, and litigation. Effective management of sports disputes requires a comprehensive understanding of the relevant laws, regulations, and governing bodies involved in the sport, as well as the ability to balance the interests of all parties involved.*

*Sports disputes are common in the world of sports, as athletes, teams, and organizations frequently clash over a range of issues, including rules violations, performance-enhancing drugs, contract disputes, and disciplinary actions. Resolving these disputes requires a comprehensive understanding of the legal framework that governs sports, as well as an appreciation for the unique cultural and organizational dynamics that shape the sporting world. This abstract provides a brief overview of the nature of sports disputes and the key legal and organizational factors that play a role in resolving them. It also highlights the importance of alternative dispute resolution mechanisms, such as arbitration and mediation, in facilitating the timely and effective resolution of sports disputes. Ultimately, a nuanced understanding of sports disputes is essential for anyone interested in navigating the complex and dynamic world of sports law and administration.*

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## INTRODUCTION

Sports disputes can arise for various reasons, such as disagreements over rule interpretations, fairness, or misconduct. To maintain fairness and integrity in sports, disputes need to be managed effectively.

Dispute management in sports<sup>1</sup> typically involves a process of resolution that includes several steps. The first step is often to try and resolve the dispute informally through discussion between the parties involved. If that fails, the dispute may be escalated to a formal process, such as arbitration or mediation, where an independent third party helps the parties to resolve it.

The earliest forms of sports can be traced back to ancient civilizations such as Egypt, Greece, and Rome, where sports like boxing, wrestling, and chariot racing were popular. The ancient Olympic Games<sup>2</sup>, held in Greece from 776 BC to 393 AD, were perhaps the most famous sporting event of the time and were attended by athletes from all over the Mediterranean.

During the Middle Ages, sports like jousting and archery were popular in Europe, while in Asia, martial arts and board games like chess and go gained popularity. The Renaissance period saw a resurgence of interest in ancient Greek and Roman sports, as well as the development of new sports like tennis and soccer.

The 19th century saw the emergence of modern sports, as advances in technology and transportation allowed for greater participation and organization. The first modern Olympic Games<sup>3</sup> were held in Athens, Greece in 1896, and over time, other international sporting events like the World Cup, the Tour de France, and the Super Bowl were established.

Playing sports can have a significant impact on a person's life in a variety of ways. Here are some of the ways playing sports can affect a person's life<sup>4</sup>:

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<sup>1</sup> Abhinav Das, 'Where Does India Stand In Sports Dispute Resolution' (*Legal Service*) <<https://www.legalserviceindia.com/legal/article-9128-where-does-india-stand-in-sports-dispute-resolution.html>> accessed on 15<sup>th</sup> February 2023.

<sup>2</sup> 'Welcome to the ancient Olympics games' (*Olympics*)< <https://olympics.com/ioc/ancient-olympic-games>> accessed on 16<sup>th</sup> February 2023.

<sup>3</sup> 'Athens 1896 Olympics Games' (*Britannica*) <<https://www.britannica.com/event/Athens-1896-Olympic-Games>> accessed on 16<sup>th</sup> February 2023.

<sup>4</sup> 'Health Benefits of Playing Sports' (*Digit*, 23 March 2023) <<https://www.godigit.com/health-insurance/health-guides/health-benefits-of-sports#:~:text=Sports%20have%20a%20significant%20effect,blood%20pressure%20and%20stress%20levels.>> accessed on 20<sup>th</sup> February 2023.



1. **Physical health:** Regular physical activity through sports can improve overall health and fitness, including cardiovascular health, muscular strength, and flexibility.
2. **Mental health:** Participating in sports can improve mental health by reducing stress, anxiety, and depression, and promoting self-confidence and a sense of accomplishment.
3. **Social skills:** Team sports provide opportunities for social interaction and can help individuals develop social skills like communication, teamwork, and leadership.
4. **Discipline and goal setting:** Sports require discipline and goal setting, which can translate into other areas of life, such as school or work.
5. **Time management:** Participating in sports requires time management skills to balance sports with other commitments, which can help individuals develop time management skills that are useful in other areas of life.
6. **Personal growth:** Sports can provide opportunities for personal growth and self-discovery, including overcoming challenges and developing resilience.
7. **Healthy habits:** Sports can promote healthy habits like good nutrition, getting enough sleep, and avoiding harmful substances like tobacco and alcohol.

Playing sports can have numerous physical benefits<sup>5</sup>, including: (1) Improved cardiovascular health: Regular participation in sports can improve heart and lung function, reducing the risk of cardiovascular disease, (2) Increased muscular strength and endurance: Sports require muscular strength and endurance, which can be improved through regular participation, leading to stronger and more efficient muscles. (3) Improved flexibility: Many sports require a range of motion, which can improve flexibility and reduce the risk of injury, (4) Weight management: Sports can promote weight loss or weight management, particularly when combined with a healthy diet, (5) Reduced risk of chronic diseases: Physical activity, including sports participation, can reduce the risk of chronic diseases such as diabetes, obesity, and some types of cancer.

### Types of Disputes

The history of dispute resolution in sports has been characterized by a gradual evolution from informal methods of settlement to more formalized and specialized processes. There are

<sup>5</sup> 'Benefits of Physical Activity' (*Centers for Disease Control and Prevention*, 16 June 2023) <<https://www.cdc.gov/physicalactivity/basics/pa-health/index.htm#:~:text=Regular%20physical%20activity%20is%20one,ability%20to%20do%20everyday%20activities.>> accessed on 21<sup>st</sup> February 2023.



various types of disputes that can arise in various contexts. The following are some of the most common types of disagreements:

1. **Personal Disputes:** These are disagreements between people, such as family members, neighbors, or friends. Disagreements over property rights, money, or personal behavior are examples.
2. **Business Disputes:** These are disagreements between companies or organizations, such as contract disputes, partnership disagreements, or intellectual property disputes.
3. **Employment Disputes:** These are disagreements between employees and employers about wages, working conditions, discrimination, or termination.
4. **Legal Disputes:** These are conflicts resolved through the legal system, such as those involving contracts, property, or criminal matters.
5. **International Disputes:** These are conflicts that arise between countries, such as territorial disputes, trade disputes, or human rights disputes.
6. **Sports Disputes:** Sports-related conflicts, such as disagreements over rules, regulations, or player behavior.
7. **Environmental Disputes:** These are disagreements over environmental issues, such as pollution, natural resource use, or conservation.

These are just a few examples of the various types of disagreements that can arise in various situations. Disagreements or conflicts that arise in the context of sports are referred to as sports disputes. There have been many examples of sports organizations and individuals involved in sporting disputes throughout history. A few examples of sports disputes in which sports organizations or sports persons were involved are –

1. **Lance Armstrong** - A former professional cyclist who admitted to using performance-enhancing substances and was stripped of his seven Tour de France wins.
2. **FIFA** - The international governing body of football, which has been embroiled in several disputes over corruption and ethics violations.
3. **Tom Brady** - A professional American football player who was suspended for four games for his alleged involvement in a scheme to deflate footballs to gain an advantage in a game.



4. Maria Sharapova - A professional tennis player who was suspended for 15 months after testing positive for a banned substance.
5. The Russian Olympic Committee - The organization responsible for overseeing the participation of Russian athletes in the Olympic Games, which was suspended from the 2018 Winter Olympics after a widespread doping scandal.
6. Colin Kaepernick - An American football player who was involved in a dispute with the NFL over his decision to kneel during the national anthem in protest of racial injustice.
7. The New England Patriots - An American football team that was fined and docked draft picks for their involvement in the "Spygate" scandal, in which they were found to have illegally videotaped opposing teams.
8. The International Olympic Committee - The organization responsible for overseeing the Olympic Games, which has been involved in numerous disputes over issues such as doping, corruption, and human rights.
9. Neymar Jr. - A professional football player who was involved in a dispute with his former club Barcelona over a contract dispute, which ultimately resulted in his move to Paris Saint-Germain.
10. The World Anti-Doping Agency - An organization responsible for promoting and coordinating the fight against doping in sports, which has been involved in disputes over issues such as the fairness of drug testing and the role of athletes in the anti-doping process.

A rule violation is a common type of sports dispute. When an athlete or team is accused of breaking a rule, whether intentionally or unintentionally, this can happen. Doping, cheating, and unsportsmanlike behavior are examples of rule violations. These disputes are typically resolved through disciplinary measures imposed by the sports organization or governing body, such as suspensions or fines.

### **Legislative Perspective in India**

Sports have a significant impact on India, both socially and culturally. Here are some of how sports have influenced India:

1. National identity: Sports have played a significant role in shaping India's national identity, particularly in cricket. The Indian cricket team is one of the most popular and



successful teams in the world and has helped to unify the country across cultural and regional divides.

2. **Economic impact:** Sports, particularly cricket, have a significant economic impact on India. The Indian Premier League (IPL) has emerged as one of the most lucrative and popular sports leagues in the world, with a significant impact on the Indian economy.
3. **Health and fitness:** Participation in sports can promote physical fitness and health, which is particularly important in a country where chronic diseases such as obesity, diabetes, and heart disease are on the rise.
4. **Social inclusion:** Sports can promote social inclusion and provide opportunities for disadvantaged communities to participate in organized sports programs.
5. **Women's empowerment:** Sports can also promote women's empowerment by providing opportunities for girls and women to participate in sports and challenge traditional gender roles.
6. **International reputation:** India has also gained international recognition and respect through its success in sports such as cricket, hockey, and badminton. This has helped to raise India's profile on the world stage and to promote a positive image of the country abroad.

Sports have a significant economic impact on societies, with a variety of positive effects. Here are some of how sports can impact the economy:

1. **Job creation:** Sports can create jobs in a variety of areas, including coaching, training, facilities management, marketing, and event management.
2. **Tourism:** Sporting events can attract tourists from around the world, generating revenue for local businesses and stimulating economic growth in the host city or region.
3. **Infrastructure development:** The construction of sports facilities, such as stadiums and arenas, can stimulate infrastructure development and investment, creating jobs and generating economic activity.
4. **Sponsorship and advertising:** Sports provide opportunities for businesses to sponsor teams or events, or to advertise their products and services to a large and engaged audience.



5. Merchandising: Sports merchandise, such as team jerseys, hats, and accessories, can generate significant revenue for sports organizations and local retailers.
6. Health and fitness: Participation in sports can reduce healthcare costs by promoting physical fitness and preventing chronic diseases, which can have a positive economic impact on society.

In India, a large number of cases are now pending, preventing swift justice and leading to delayed dispute settlement. To address this, India has established numerous authorities to resolve disputes, manage, and regulate issues that occur in the country's sports law. The Indian Court of Arbitration for Sports was established in 2011 as an official entity to implement ADR mechanisms in the context of sports-related disputes in the most effective manner possible. India is currently facing a huge backlog of cases that have resulted in delayed dispute resolution and hindered the speedy delivery of justice. This situation has been particularly detrimental in the sphere of sports law, where disputes often require immediate resolution to ensure that athletes can continue to compete without hindrance.

## CONCLUSION

I hope that the preceding chapters have persuaded the reader that mediation, although relying significantly on the will of the parties in disagreement to settle their issue and achieve a compromise, also relies on the mediator's personality. As a result, three important discoveries emerge:

1. Mediation is an accepted and agreeable extra-judicial dispute resolution approach for addressing some legal difficulties, such as sports and healthcare disagreements;
2. The mediation process must be based on a mediator's abilities and knowledge;
3. A successful mediation is dependent on the mediator's personality, which includes process skills, such as "knowledge about the mediation process and the ability to use that knowledge to influence behavior" (Brand N., 1999), as well as substantive knowledge, which can be divided into specific legal expertise and industry expertise.

Although mediation cannot resolve all highly sensitive situations, it has regularly aided in the achievement of solid mutually agreeable solutions in a timely and cost-effective manner. Even if issues are not resolved during mediation, mediation offers value by increasing understanding and respect among the parties and increasing the likelihood of a subsequent settlement before arbitration. The overall result has been improved connections and a more positive, satisfying environment for everyone involved.



While the majority of HP's jurisdictions throughout the world do not now mediate disciplinary or anti-doping matters, the SDRCC experience shows that facilitating disciplinary disputes benefits all parties significantly. I propose that both the national and international levels seriously consider expanding mediation efforts into disciplinary disputes. Making mediation a necessary component of the dispute resolution process should be seriously considered. To be sure, this calls the concept that all mediation must be selected voluntarily by all parties into doubt. Many parties are early introduced to the mediation process and its benefits as a result of mandatory mediation.

The mediation task could be performed by mediators or professional ombudspeople with a larger dispute resolution responsibility. Some time-sensitive and/or disciplinary matters, such as doping violations, will be less amenable to mediation in that context, but many conflicts/issues (team selection, contract concerns, personal conduct difficulties, and so on) could benefit from effective expedited mediation at crucial events.

Litigation is the conventional method of resolving problems. Yet, the adversarial strategy is not essential for all situations to be managed or resolved successfully. Arbitration, mediation, and its hybrid forms must be understood by students, instructors, and practitioners. While studying case law in sports is useful, incorporating ADR as a substantial element of a sports law course (or as its course) will allow for more discussion and re-examination of the adversarial nature of the legal system.

Professional sports leagues and the Olympic Movement employ ADR as a favored method of settling numerous contractual and other conflicts, therefore understanding ADR concepts in a relevant sport management course is vital. The introduction and spread of the Internet have provided a market for the natural progression of online ADR, but non-face-to-face settlement negotiations have advantages and downsides for the arbitrator or mediator.

ADR is not a perfect process and, particularly in mediation, implies that both parties strive to reach an agreement. The focus of ADR advocates is on the parties, not the lawyers. ADR focuses less on "winning at any cost" and more on problem-solving and settlement. Finally, if the parties are willing to compromise from the outset of an ADR session, they are more likely to be satisfied with the outcome.

There is no uniform dispute resolution method in India to which the aggrieved party can resort; nevertheless, instructions exist to construct an internal mechanism within National Sports Federations, which are autonomous entities. Nonetheless, the NSFs have failed to put in place suitable internal procedures in compliance with the Court of Arbitration for Sport (CAS) (CAS).





Ultimately, the choice between sports litigation and sports dispute resolution will depend on several factors, such as the nature and complexity of the dispute, the cost and time involved, the relationships between the parties involved, and the desired outcome. In some cases, a combination of both methods may be the most effective way to resolve a dispute.

It is also worth noting that sports dispute resolution has been gaining popularity in recent years. Many sports organizations have established their dispute resolution mechanisms to address disputes quickly and effectively. For example, the Court of Arbitration for Sport (CAS) is an independent institution that provides a forum for resolving sports-related disputes through arbitration. The CAS has become a popular choice for resolving disputes in the sports industry, particularly for high-profile cases.

In conclusion, the choice between sports litigation and sports dispute resolution will depend on the specific circumstances of the case. Both methods have their advantages and disadvantages, and parties involved in sports disputes should carefully consider their options before deciding on the best course of action. Ultimately, the goal should be to find a fair, just, and efficient solution that preserves relationships and promotes the growth and development of the sports industry.

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