

## SPORTS LAW AND CULTURE IN INDIA & GENDER DISCRIMINATION IN SPORTS IN INDIA: THE WRESTLING FEDERATION OF INDIA'S PRESIDENT

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### ABSTRACT

*The concept of sports defies a singular definition, rooted in diverse historical and linguistic origins. Spanning through distinct eras in history, from Greek athletic events merging with Roman influences to the emergence of modern sports during the Industrial Revolution, the evolution of sports mirrors societal shifts. However, attempts to define sports often incorporate notions of enjoyment, physical exertion, and competitive activities governed by rules. Well, I am connecting the topic of sports and Laws around sports to the historical and cultural aspects of it in India. In India, sports' historical significance lies in its role as a means to realize physical potential and holistic development. Yet, despite this rich history, the development of sports law in India remains relatively nascent. While addressing various legal facets, including contracts, torts, administration, and fraud, the law primarily emphasizes cricket due to its widespread popularity. Gender discrimination in sports perpetuates societal biases, significantly impacting women's participation. Stereotypes deeply rooted in cultural norms impede girls' involvement in sports, exemplifying pervasive gender biases. Instances within sports federations further illuminate systemic discrimination, as seen in controversies involving influential figures facing allegations of sexual harassment. Recent events, such as the election of officials closely associated with accused individuals, have highlighted the vulnerability and challenges faced by athletes. The reluctance of governing bodies and political influences underscores the complexity and struggles within the Indian sports landscape. In essence, the intersection of sports and law in India mirrors broader societal issues, emphasizing the need for comprehensive legal frameworks to address discrimination, protect athletes' rights, and ensure fair and ethical governance within the realm of sports.*

**Keywords:** Sports Law, Sports Culture, Gender Discrimination.

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## INTRODUCTION

Sports and law share a complex relationship that transcends time, history, and societal norms. Defining "sports", itself poses a challenge, as the term originates from diverse linguistic roots, reflecting its multifaceted nature. Rooted in French and Latin, 'sporten' and 'desport' respectively, sports defy universal definition, akin to the elusive essence of religion.

Spanning through epochs, sports history unfolds in five distinctive eras. From ancient Greek athletic competitions emulating the Olympic festival to the fusion of gladiatorial events during the Roman period, sports evolved through the middle Ages, the feudal era, and the British Industrial Revolution. The commodification of sports in the 20th century marked a significant transformation, ushering in a new era driven by intense corporatization. Despite the challenge of defining sports, various definitions have emerged from legislation, scholarly works, and sports bodies. Webster's Dictionary frames it as an activity providing enjoyment or requiring bodily exertion, while scholars like Coakley and Singer emphasize competition, physical skills, and standardized activities as defining elements. In India, sports have historically epitomized the realization of physical potential. Activities like martial arts, hunting, swimming, and archery were not just recreational but integral to holistic development. However, the development of sports law in India lags compared to global standards, with cricket often dominating legal discourse due to its widespread popularity.

Gender discrimination remains a significant challenge in Indian sports, deeply entrenched in societal norms. Stereotypes, societal pressures, and biases hinder female participation, reflecting broader cultural issues. Recent controversies surrounding influential figures in sports governance highlight systemic challenges, with allegations of sexual harassment exposing vulnerabilities within sporting institutions.

Instances such as the case against Brij Bhushan Singh, a prominent figure in Indian politics and wrestling, shed light on the complexities faced by athletes. Allegations of sexual harassment and subsequent legal proceedings underscore the challenges of seeking justice within the sporting ecosystem. The election of officials closely associated with accused individuals, despite protests from celebrated athletes like Sakshi Malik and Bajrang Punia, reveals the intersection of sports, politics, and power dynamics. The inability of governing bodies to address concerns reflects a darker side of Indian sports governance, overshadowing the aspirations and struggles of athletes. The intertwining of sports and law in India portrays a

landscape marred by systemic challenges, societal biases, and power struggles, urging the need for comprehensive legal frameworks that protect athletes' rights and ensure ethical governance within the sports domain.

## **SPORTS & LAW - HISTORY**

It is difficult to define sports because there is no universally accepted definition when it comes to 'sports'. The term 'sport' derives its origin from the French-determined Middle English verb 'sporting' literally meaning 'to divert',<sup>1</sup> and also the Latin term 'desport' which means 'to carry away'.<sup>2</sup> Sports are like religion, which defies definition. In a manner, it goes beyond definitive terminology. Neither has the substance that can be identified. In a sense, both sports and religion are beyond essence.<sup>3</sup>

Sports historians have identified five key eras in the annals of sports history. Starting in the fourth century BC and continuing through the third century AD, Greek athletic competitions modeled after the Olympic festival made their way across Europe before merging with gladiatorial events and "games" with Roman influences. Following the fall of the Roman Empire, the second period spans the Middle Ages. Sports participation has significantly decreased as a result of the socioeconomic climate at the time. The third historical period is the feudal era when men were trained for war and sports were considered a form of recreation. The fourth era, which took place in Britain during the Industrial Revolution, saw the emergence of modern sports, the decline of agricultural sports that relied on baiting animals, and the spread of the sporting process to other regions, mainly the US. The intense corporatization and commodification of sport in the second half of the 20th century is considered to mark the start of the fifth period.

## **WHAT IS SPORTS?**

However, it isn't easy to define sports but we have a certain definition that tries to define it through several legislations, sports bodies, and the work of scholars:

Webster's Dictionary<sup>4</sup>

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<sup>1</sup> Webster's New Collegiate Dictionary, New York, Webster's, 1995.

<sup>2</sup> S Gardiner et al, Sports Law, Second edition, Cavendish, London, 2001.

<sup>3</sup> Howard Slusher, Men, Sport and Existence: A critical Analysis, Philadelphia: Lea and Febiger, 1967.

<sup>4</sup> Webster's New World Dictionary of the American Language, College Edition, 1968.

1. Any activity or experience that gives enjoyment or recreation; pastime; or diversion.
2. Such an activity requires more or less vigorous bodily exertion and is carried on according to some traditional form or set of rules, whether outdoors, such as football, hunting, golf, racing, etc., or indoors, such as basketball, bowling, squash, etc.

According to Coakley, 'Sports' are institutionalized competitive activities that involve vigorous physical exertion or the use of relatively complex physical skills by individuals whose participation is motivated by a combination of intrinsic and extrinsic factors.<sup>5</sup>

Singer similarly defines 'Sport' as:

A human activity that involves specific administration or organizations and a historical background of rules that define the objective and limit the pattern of human behavior; it involves competition and/ or challenge and a definite outcome primarily determined by physical skill.<sup>6</sup>

## **SPORTS LAW AND SPORTS CULTURE IN INDIA**

It's easy to understand the name sports law which is the relation between sports and law subjects whether it is contracts, torts, administration, fraud, or any other field of law. Sports Law in India is however not that strong compared to other nations but it still has significance. In India Cricket is the only sport that is praised at a larger level hence the law is stronger and stricter comparatively.

### **HISTORICAL ASPECT:**

In ancient India, sports signified a way of realizing the potential of the body to its fullest. The synonym of sports was Dehvada defined as 'one of the ways to full realization'. Both sports and games involved the development of the physique of an individual and dealt with mastering the art of offense and defense.<sup>7</sup> Certainly! The historical significance of sports in India is deeply rooted in various activities that showcased not only physical prowess but also served as methods of self-defense and holistic development. Martial arts stood out as a robust means of

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<sup>5</sup> J Coakley, Sports in society: Issues and Controversies, Eight Edition, McGraw Hill, Boston, 2003.

<sup>6</sup> R Singer, Physical Education: Foundations, Second Edition, Holt, Rinehart and Winston, New York, 1976.

<sup>7</sup> [www.thisismyindia.com/index.lsporu](http://www.thisismyindia.com/index.lsporu), html.

self-defense, while sports like hunting, swimming, boating, archery, horse riding, wrestling, and fishing were both recreational and integral to shaping a person's character.

The kingdom of Takshila had different sports such as wrestling, archery, racing, and military training. In some cases, the prince of the kingdom where obligatory had to play those sports. The presence of sports can also be seen in the Buddhist era. Gautam Buddha is said to be an ace at archery and hammer throwing.

In the sixteenth and seventeenth centuries during Mughal rule, India had an inherent taste in outdoor sports. Babur was known for swimming across every river which he came across while on his numerous campaigns of conquest. Humayun was known for climbing mountains.<sup>8</sup> Then the British introduced cricket to Indians which was promoted all over India, we can see its glimpse in the Movie "Lagan", now cricket is seen from the eyes of nationalism from many Indians. In Modern India, different religions, races, and traditional and popular sports are flourishing such as Kho- Kho, Kabaddi, Football, wrestling, boxing, Shooting, Golf, Gella-Chutt, Ibean, Kang Shanapa, etc.

As already mentioned, the British were instrumental in curbing some of the brutalities in traditional sports and establishing a code of 'fair play'.<sup>9</sup> In India Cricket has become a spectator sport more people love to watch it whether they play that sport or not. The popularity of sports leads to individuals developing careers in sports. Indian sportspersons participated in the Commonwealth Games, Asian Games, and International sports events. India started to take part in the Olympics, Wimbledon Tennis, and Formula races. Recently India has been doing great in Football leagues also. Sportspersons such as Major Dhyanchand, KS Ranjitsinhji, Lala Amarnath, Ramnath Krishna, Milkha Singh, PT Usha, and Kapil Dev were the pioneers of sports culture in India. In the Present generation Virat Kohli, MS Dhoni, Tendulkar, Bajarang Punia, Geeta Phoghat, Mary Kom, PV Sindhu, and Hima Das are making us Proud.

## **EVOLUTION OF SPORTS LAW**

The evolution of sports law globally has been a response to the unique and intricate situations arising within the realm of sports. While there isn't a singular, uniform law governing sports in India, various legal decisions have been made concerning sports activities. These decisions

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<sup>8</sup> Stephen Meredyth Edwardes, Herbert Leonard Offley Garrett, *Mus/111/ Rull' 111 Indta*, Atlantic Publishers and distributors, New Delhi, 995, 1 pp 27'-2115.

<sup>9</sup> Richard Holt, *Sport and the British-A Mod me History*, Oxfl lrd, Cl.,r.,nd,,n Press, 1992.

encompass a wide array of issues within the ambit of sports law, including restraints on trade, sports broadcasting rights, regulation of sports governing bodies, environmental laws, torts, and constitutional aspects such as the right to a fair hearing in disciplinary and doping incidents.

Given the historical, social, and economic factors in India, the scope of laws falling under sports law in the country is extensive. This includes Tort Law, Laws of Contract, Intellectual Property Laws, Copyright Acts, Trade Marks Act, Designs acts, Broadcasting Acts, the Competition Act, Monopolies and Restrictive Trade Practices Act, Customs Act, and Anti-doping Laws, among others. Before delving into the specific aspects of sports law in India, it's crucial to explore the necessity and rationale behind the formulation of sports law within our country.

### NEED FOR SPORTS LAW

Sports in earlier times was just about participating and playing for the spirit of the game. However, at that time also there were certain rules and regulations that one had to follow while playing those rules. In the modern world, this has become a little stricter, things such as doping, betting, and match fixings made the rules and regulations more professional and the need for sports law increased and some of them also require Judicial intervention. One such issue is gender discrimination leading to the exploitation of women. Recently, we have seen such scandals involving the sexual exploitation of women in wrestling, in the past also we have seen that in Hockey, weightlifters, and other sportswomen being sexually harassed by their coaches, and federation of legislative members. However, the constitution of India guarantees equality among its citizens and does not discriminate against them based on caste, creed, sex, race, etc. under Article 14, yet it is not being implemented in government bodies either.

The need for sports law is also seen when some weapons are required in a sport such as shooting. The Customs Act of 1962 (u/sec11) has allowed certain exemptions about sporting goods, prizes, medals, and trophies.<sup>10</sup> National Sports Federation can provide permission for sportspersons with arms for training purposes, in the case of **Chandrakant Hargovindas Shah v Deputy Commissioner of Police**<sup>11</sup> a question of arms about sports came up. The appellant was a renowned shooter who was charged with selling ammunition that he had for sports activities. The Supreme Court upholds the statutory authority direction to cancel the licenses

<sup>10</sup> Section 11 in the Customs Act, 1962

<sup>11</sup> Civil Appeal no. 3243 of 2009, Decided on 5 May 2009. [Arising out of SLP(C) No. 8729 of 2007; (2009) 7 SCC 186.

of the shooter and a sportsperson can only be given a license for sporting activities with terms and conditions additional to the use of the weapon. This case shows the need for sports law and how even sportspersons can exploit the resources.

## **GENDER DISCRIMINATION IN SPORTS**

Gender discrimination in sports is a prevalent problem in India, and it affects female athletes more than their male counterparts. Conducting gender-based analyses is crucial to identify the barriers faced by female athletes, including a lack of opportunities, stereotypes and discrimination in sports media coverage, gender-based violence, and disparities in funding. By identifying and addressing these barriers, we can implement effective policies and programs to support female athletes and ensure equal opportunities for all. It is essential to recognize the importance of conducting gender-based analyses in supporting female athletes and promoting gender equality in sports.

Female athletes in India face numerous forms of gender discrimination, including a lack of opportunities compared to male athletes. Often, women's teams are given fewer resources, leading to less training and fewer competitions. Additionally, they are subject to stereotypes and discrimination in sports media coverage, which can limit their public support and success. Female athletes may also face gender-based violence and harassment, both on the playing field and in their personal lives. These barriers are further exacerbated by disparities in funding for female athletes compared to their male counterparts. The effects of gender discrimination on women athletes are profound, robbing them of self-esteem, motivation, and opportunities for career advancement. Women athletes are often denied the resources needed for training and development, which can impact their physical and emotional health, leaving them at a severe disadvantage. The rampant gender discrimination in sports also poses a significant threat to women's ability to achieve their career goals and develop their full potential, which only perpetuates the cycle of inequality in the industry.

India has put in place many laws that prohibit gender discrimination in sports. However, despite these laws, gender discrimination is still prevalent in the sports industry. The effectiveness of the current laws can be improved with more stringent implementation by the authorities. A few examples of successful implementation of these laws include the All India Football Federation appointing a women's head coach for the women's team and the introduction of the Khelo India

scheme aimed towards developing and nurturing young women's talent in sports. These laws will only be effective if their proper implementation and enforcement are ensured.

However, certain negative labor market results experienced by women, ethnic minorities, immigrants, disabled individuals, and religious or sexual minorities can be attributed, to some extent, to economic bias. This bias manifests when individuals with identical productive traits are treated disparately based on their demographic attributes, such as gender or ethnic background. In this study, we analyze wage-related data about the most significant demographic group facing discrimination. When we talk about discrimination we see it mainly based on race similar to that of in America discrimination based on race which black people are treated differently but when it comes to race and gender it becomes worse as black women are treated more badly.

Discrimination based on gender is deeply rooted in the society in its culture and when it comes to India it is very strong. I can understand the level of discrimination as I am a sportsperson and represented the states of Madhya Pradesh and Rajasthan where the conditions for women in sports are really bad. I remember it was very uncommon at that time for a girl to wear shorts and play, so I used to wear my brother's shorts and never told my parents till I got selected for states. This shows the level of backwardness in the mind of society. It's not some federation or some big organization stopping women from participating in sports it's the society itself that is doing that for their daughters. There is this thing still in the minds of people, I don't know due to uneducated or social norms that if a young girl plays sports, she will tend to break her hymen due to sports which will create issues in her married life.

This type of stereotype when it comes to women in sports decreases the participation of women in sports. This shows how much gender stereotypes and discrimination are deeply embedded in Indian society. To better understand rural India's condition. I would recommend watching a Short Film by Prajakta Koli "Khayali Pulao" available on YouTube<sup>12</sup> And a must-watch film on a biography of Mary Kom where it was showed how stereotypes such as women playing boxing will lead to the breaking of their bones and destroying their facial beauty will again lead to no one marrying them, shows how the sole purpose of being a woman is marrying a man and bear his children according to society. The movie also depicts how the Boxing federation doesn't have enough funds for women players and how an International Sportsperson gets a

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<sup>12</sup> [https://youtu.be/8cMDYZUfW-A?si=TYGFd\\_d5Yu3PZd6G](https://youtu.be/8cMDYZUfW-A?si=TYGFd_d5Yu3PZd6G)



police constable job after her pregnancy, which we won't find happening with Dhoni, Tendulkar, or some male sportsperson.

However, this shows how the people of the nation perceive women in sports however this is not different among the Federations and administration. The recent controversy around Ex-Wrestling Federation of India President Brij Bhushan Singh a six-time elected member of parliament, five times from Bhartiya Janta Party (BJP) and once for the Samajwadi Party (SP) from eastern Uttar Pradesh. He is actively associated with more than 50 educational institutions including engineering, pharmacy, education, law, and others that he established in Bahraich, Gonda, Balrampur, Ayodhya, and Shravasti districts.<sup>13</sup>

Since his youth, he was involved with wrestling in Akharas. He was an important face in the Ram Janmabhoomi Movement and was also named in the Babri Masjid demolition case. The support by the religious sections was unhindered even after various sexual harassment allegations, ironically from Maryada Purushotam Shri Ram's Bhoomi, Ayodhya. He is named 'dabang neta' (strongman) and he maintains that image. An RSS functionary in UP said, "After this controversy, Singh has become a gale ki haddi (an inconvenience) for the BJP. If the BJP denies him the ticket, he may join any other party to win and the BJP will lose a seat. Singh has *varchar* (influence) in Kaiserganj, Shravasti, Basti, and Ayodhya Lok Sabha constituencies. He cannot be ignored."

Brij Bhushan Singh was accused of sexual harassment, assault, and stalking by six women wrestlers a minor wrestler, and her father. The wrestlers protested against Brij Bhushan Singh for a month which involved India's best sportspersons such as Vinesh Phogat, Bajrang Punia, and Sakshi Malik at Delhi's Jantar Mantar. They also wrote a complaint letter to PT Usha Indian Olympic Association (IAO) president PT Usha, demanding the registration of Brij Bhushan and the formation of an internal inquiry committee on the six women's allegations of sexual harassment. IOA formed a seven-member committee including – Mary Kom, Yogeshwar Dutt, Dola Banerjee, IWLF president Sahdev Yadav, Alaknanda Ashok, and two advocates.

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<sup>13</sup> <https://indianexpress.com/article/political-pulse/decode-politics-bjp-importance-of-brij-bhushan-singh-9078912/>

## CASE AGAINST BRIJ BHUSHAN SINGH

In April 2023, two FIRs were filed against Brij Bhushan Singh one was by six women wrestlers and one was by a minor wrestler and her father. The Delhi Police filed a chargesheet against the MP in case of sexual harassment, stalking, and assault of six women wrestlers and also a report for cancellation of the POCSO case by the minor and her father to withdraw their allegations. Which did the MP state as a false case afterward as he says it was filed deliberately out of anger. The father told The Hindu that he was threatened by people and his family was under pressure. However, in the in-chamber, the minor and the father told the court that they were satisfied with the inquiry of the Delhi Police that found 'no evidence' against the MP. The six women wrestlers' case was earlier heard in the court of Additional Chief Metropolitan Magistrate Harjeet Singh Jaspal however no arguments will be heard from the start in Judge Priyanka Rajpoot's Court from January.

## ELECTION OF SANJAY SINGH A LOYALIST TO BRIJ BHUSHAN AS WFI CHIEF

Sanjay Singh a business partner, close associate, and good friend of the ex-WFI president was elected as the new chief of WFI on 21<sup>st</sup> December winning the panel by 13 posts out of 15 in New Delhi. Which has again created a controversy around the topic. On this Rio Olympic bronze medallist, the daughter of this country, Sakshi Malik announced her retirement from wrestling in protest against Sanjay Singh, she said with teary eyes "We fought from our heart but if a man like Brij Bhushan, his business partner, and a close aide is elected as the president of WFI, I quit wrestling," and kept her shoes on the table added "We wanted a female president but that did not happen," added the 31- year- old Common Wealth gold medallist. The Olympic medalist Bajrang Punia and Sakshi Malik had repeatedly requested Sports Minister, Mr. Anuraj Thakur to stop Sanjay Singh from contesting election but no help came to them. "Unfortunately, the government did not stand by its word that no Brij Bhushan loyalist will contest the WFI election," Bajrang Punia said "Upcoming women wrestlers will also face exploitation," Vinesh Phoghat added. However, BJP's Kaiserganj MP Brij Bhushan Sharan Singh celebrated with supporters at his Delhi residence where he raised a slogan: "*Dabdaba to hai, dabdaba to rahega. Yeh to bhagwan ne de rakha hai* (influence prevails and will continue.

God has given this influence).”<sup>14</sup> Shows the dark side of Indian politics and the helplessness of our sportspersons.

## CONCLUSION

The journey through the dynamic fusion of sports, law, and societal evolution unfurls a captivating narrative, rich in historical tapestry and societal nuances. Sports, much like religion, eludes a precise definition, transcending boundaries and embracing a spectrum of experiences and emotions. Tracing back the corridors of history, sports emerge as a testament to human prowess, evolving through distinct epochs that mirror societal transformations. From the grandeur of Greek athletic feats to the Industrial Revolution's impact on modern sports, each era unveils a chapter of human endeavor, resilience, and adaptation. Defining sports proves elusive, yet attempts through legislation, scholarly perspectives, and institutional definitions offer glimpses into its multifaceted nature. It's an amalgamation of competitive vigor, physical skill, and intrinsic motivation, woven into the fabric of traditional norms and organized frameworks.

Delving into the historical context of sports in India, the legacy is deeply ingrained in physical prowess, self-defense, and holistic development. From the kingdoms of Takshila to the Mughal era's outdoor pursuits, the evolution is a testament to cultural amalgamation and athletic excellence. The evolution of sports law parallels the intricate growth of sports itself, responding to the evolving complexities within the sports domain. In India, the legal framework spans a wide spectrum, encompassing torts, contracts, intellectual property, and anti-doping laws, among others, catering to the diverse landscape of sports activities.

However, the need for robust sports law becomes evident in addressing critical issues like gender discrimination, exploitation, and the intersection of sports with societal biases. Despite constitutional mandates against discrimination, systemic biases persist, hindering the progress of female athletes and perpetuating stereotypes that deter their participation. The recent controversies, like the accusations against Brij Bhushan Singh and subsequent electoral implications, cast a glaring light on the intersection of sports with politics, power struggles, and the helplessness faced by athletes in seeking justice and fairness within their federations.

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<sup>14</sup> <https://indianexpress.com/article/political-pulse/decode-politics-bjp-importance-of-brij-bhushan-singh-9078912/>

In conclusion, the journey through sports and its legal dimensions is a tapestry interwoven with triumphs, challenges, and the poignant struggle for fairness. It serves as a clarion call for societal introspection, advocating for reforms, transparency, and gender equality within the sporting realm. It's a fervent plea for a future where sports transcends biases, providing an equitable platform for every athlete to thrive and excel, irrespective of gender, background, or societal norms. I would also like to add something important for society and the women reading this article. One must be aware of their rights and duties, Laws are there to help but, you need to come up with the wrong happening to you, like those six brave women who stand against the injustice they felt.

“When I started boxing, people laughed at me and said, 'What can women do in boxing?' I took it as a challenge. If men can do it, why can't women? And I became a world champion before my marriage.” - MC Mary Kom

