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Avinash Kumar



Avinash Kumar has completed his Ph.D. in International Investment Law from the Dept. of Law & Governance, Central University of South Bihar. His research work is on "International Investment Agreement and State's right to regulate Foreign Investment." He qualified UGC-NET and has been selected for the prestigious ICSSR Doctoral Fellowship. He is an alumnus of the Faculty of Law, University of Delhi. Formerly he has been elected as Students Union President of Law Centre-1, University of Delhi. Moreover, he completed his LL.M. from the University of Delhi (2014-16), dissertation on "Cross-border Merger & Acquisition"; LL.B. from the University of Delhi (2011-14), and B.A. (Hons.) from Maharaja Agrasen College, University of Delhi. He has also obtained P.G. Diploma in IPR from the Indian Society of International Law, New Delhi. He has qualified UGC – NET examination and has been awarded ICSSR – Doctoral Fellowship. He has published six-plus articles and presented 9 plus papers in national and international seminars/conferences. He participated in several workshops on research methodology and teaching and learning.

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RESOLVING SPORTS DISPUTES: THE ROLE OF THE COURT OF ARBITRATION FOR SPORT (CAS) AND THE CASE FOR AN INDIAN SPORTS ARBITRATION COURT

AUTHORED BY - DR. AARUSHI BATRA¹

Abstract:

The dynamic world of sports is increasingly confronted with disputes spanning from contractual disagreements to doping allegations, governance issues, and beyond. Central to resolving such conflicts is the Court of Arbitration for Sport (CAS), which provides a specialized and globally recognized mechanism for adjudication. However, as Indian sports continue to grow in prominence, there is a pressing need for a national-level dispute resolution mechanism tailored to the unique challenges of India's sporting ecosystem. This paper explores the functioning and efficacy of CAS, analyses its relevance to Indian sports disputes, and advocates for establishing an Indian Court on Sports Arbitration.

1. Introduction

Sports law, a growing legal domain, seeks to address the complex disputes arising within the sports industry. Disputes may involve issues of doping, match-fixing, contractual disagreements, governance, and athlete rights. Internationally, CAS has emerged as the apex institution for resolving such disputes. However, India's diverse sports landscape calls for a more localized approach to dispute resolution. This paper examines the effectiveness of CAS, its relevance to Indian sports law, and the need for a dedicated Indian Court on Sports Arbitration.

2. The Court of Arbitration for Sport (CAS): An Overview

2.1. History and Structure of CAS

Founded in 1984 under the aegis of the International Olympic Committee (IOC), CAS aims to provide a neutral and efficient platform for resolving sports disputes. Headquartered in Lausanne, Switzerland, it operates under the procedural rules of the Code of Sports-related Arbitration and Mediation (CAS Code). CAS handles disputes in two key categories:

¹ Assistant Professor (Selection Grade), UPES, Dehradun

- **Ordinary Arbitration:** Ordinary arbitration in sports addresses disputes arising from contractual relationships within the sports ecosystem. These include conflicts over sponsorship agreements, employment contracts between athletes and teams, media rights, or breaches of contractual obligations. Arbitration provides a neutral forum where parties can resolve their issues without resorting to litigation. This process is often governed by an agreement that outlines the arbitration procedure and ensures confidentiality, expedience, and a binding resolution. The Court of Arbitration for Sport (CAS) acts as a significant body for ordinary arbitration, offering expertise in sports-related matters. By leveraging arbitration, stakeholders preserve relationships and uphold the integrity of sports governance.
- **Appeals Arbitration:** Appeals arbitration, on the other hand, is a mechanism for reviewing decisions made by sports governing bodies or federations. This form of arbitration is frequently utilized in cases of doping sanctions, disputes over player eligibility, disciplinary actions, or governance issues. Athletes or entities dissatisfied with a governing body's decision may bring the matter to CAS. The appeal process ensures fairness, adherence to due process, and consistency in sports law interpretation. CAS decisions in appeals arbitration can significantly influence global sports policies and the conduct of athletes, promoting justice while maintaining the autonomy of sports organizations.

3. Role of CAS in Global Sports Dispute Resolution

The Court of Arbitration for Sport (CAS) plays a pivotal role in resolving global sports disputes, offering a dedicated forum for issues ranging from doping violations to athlete eligibility. Established in 1984, CAS provides a neutral, specialized, and efficient mechanism for addressing conflicts in the sports domain, helping maintain the integrity and fairness of competitions worldwide.

Some of the most notable judgments given by CAS on issues in sports have been discussed hereunder. One notable example is the Maria Sharapova case (2016), where the tennis star was sanctioned for using Meldonium, a banned substance. CAS reduced her suspension from two years to 15 months, considering mitigating circumstances and her lack of intent to cheat. Similarly, the Lance Armstrong case involved allegations of systemic doping in cycling. While the case exposed weaknesses in anti-doping enforcement, CAS's role in confirming sanctions underlined its commitment to clean sports.

Another major concern area for sports law is intersex and trans participation in sports. In 2019, CAS addressed complex questions of sex, biology, and fairness in the famous case of Caster Semenya. CAS upheld World Athletics' regulations requiring intersex athletes with naturally high testosterone levels to medically lower these levels to compete in women's events. This ruling highlighted CAS's challenging role in balancing inclusion, fairness, and scientific considerations in sports.

CAS ensures disputes are resolved efficiently, often within expedited timelines. Its awards, enforceable globally under the New York Convention, strengthen international sports governance. Despite criticism regarding costs and perceived bias, CAS remains the cornerstone of global sports dispute resolution, exemplified by its handling of landmark cases that shape contemporary sports law.

3.1 Advantages of CAS

Expertise: CAS panels include arbitrators with extensive experience and deep understanding of sports law and related regulations. This specialized knowledge ensures that disputes are adjudicated by professionals who are well-versed in the complexities of sports governance and athlete rights, fostering confidence in the decision-making process.

Efficiency: Compared to traditional litigation, CAS offers a significantly faster resolution of disputes. This timeliness is crucial in the fast-paced world of sports, where delays can adversely impact careers, competitions, and stakeholder interests, ensuring that justice is delivered without unnecessary procedural hindrances.

Global Recognition: CAS awards are binding and enforceable in most jurisdictions under the New York Convention of 1958. This international enforceability strengthens the global sports ecosystem, allowing decisions to be upheld across borders, thereby promoting consistency and reducing jurisdictional conflicts.

3.2 Criticisms of CAS

Perceived Bias: CAS has faced criticism for perceived favouritism toward sports governing bodies, potentially undermining its neutrality. This perception stems from structural aspects, such as the influence of international sports organizations on CAS appointments and proceedings.

Cost Barriers: High arbitration fees and associated costs can deter athletes from developing nations or financially weaker backgrounds from accessing CAS. This economic barrier limits the inclusivity of the arbitration process, making justice inaccessible for some.

Lack of Transparency: Proceedings at CAS are often closed to public scrutiny, raising questions about the fairness and impartiality of decisions. Critics argue that greater transparency is necessary to ensure accountability and enhance trust in the arbitration outcomes.

4. Indian Sports and Dispute Resolution: The Current Landscape

4.1. Challenges in Indian Sports Disputes

Governance Issues: National sports federations in India frequently experience internal conflicts, often stemming from political interference, lack of accountability, and poor management practices. These issues undermine the credibility and efficiency of sports administration, delaying decisions and creating uncertainty for athletes and stakeholders. For instance, controversies within the Board of Control for Cricket in India (BCCI) have drawn attention to governance lapses.

Doping Cases: India consistently ranks among the top nations with doping violations, as highlighted in reports by the World Anti-Doping Agency (WADA). This trend points to systemic issues, such as inadequate anti-doping education and the availability of performance-enhancing substances. The lack of robust monitoring and testing mechanisms exacerbates the problem, tarnishing India's reputation in global sports.

Athlete Grievances: Indian athletes often face grievances related to unfair selection processes, lack of transparency in sponsorship deals, and unfulfilled endorsements. These issues are compounded by the absence of a centralized mechanism to address such disputes. Cases like wrestler Vinesh Phogat's grievances against the Wrestling Federation of India (WFI) spotlight the struggles faced by athletes seeking justice.

Sexual Harassment Allegations: Cases of abuse and harassment by sports officials frequently surface in India, highlighting the lack of robust mechanisms to address such grievances. Despite initiatives like the POSH Act, the sports sector often fails to provide safe environments for athletes. High-profile cases, including those involving national-level coaches, underscore

the need for dedicated redressal forums to tackle misconduct effectively.

Infrastructure Deficiencies: Athletes often struggle with inadequate or poorly maintained training facilities, limiting their competitive potential. Issues like lack of access to modern equipment, underqualified coaches, and poor funding for grassroots programs hinder athlete development. These deficiencies are particularly pronounced in rural and semi-urban areas, exacerbating inequities in sports participation.

Contractual Disputes: One-sided or ambiguous contracts, particularly in sponsorships and endorsements, frequently lead to disputes. Athletes often face issues related to misrepresentation, delayed payments, or unilateral contract termination. The absence of legal safeguards tailored for sports agreements leaves athletes vulnerable to exploitation, as seen in controversies over endorsement deals.

Judicial Delays: India's overburdened judicial system contributes to significant delays in resolving sports disputes. Lengthy litigation often discourages athletes and federations from seeking justice. High-profile cases, such as the prolonged legal battles involving selection disputes, highlight the inefficiency of relying solely on conventional courts for sports-related issues.

Lack of Awareness: Many athletes are unaware of their legal rights or the available avenues for dispute resolution. This lack of knowledge is compounded by insufficient legal education within the sports community. Enhanced awareness campaigns and training programs could empower athletes to navigate contractual obligations and seek redressal effectively.

Addressing these challenges requires systemic reform, including specialized sports arbitration mechanisms.

4.2. Existing Mechanisms

India addresses sports disputes primarily through traditional courts and ad hoc arbitration panels. While courts offer a structured approach, they are often overburdened and lack the specialized knowledge required for nuanced sports-related issues. Ad hoc panels provide flexibility but suffer from inconsistencies and limited enforceability, especially in international matters. These mechanisms are also criticized for procedural delays that undermine the prompt

resolution essential for sports disputes. Moreover, the absence of a centralized sports-specific arbitration body in India often leaves athletes and federations without a streamlined and specialized avenue for resolving conflicts efficiently. This gap highlights the urgent need for reform.

5. The Case for an Indian Court on Sports Arbitration

5.1. Rationale

India's growing prominence in international sports necessitates a dedicated dispute resolution mechanism. An Indian Court on Sports Arbitration could:

Cost-Effective Platform: An Indian Court on Sports Arbitration can reduce the financial burden on athletes and federations, providing an accessible alternative to costly international arbitration. By offering affordable resolutions, it supports athletes from economically weaker backgrounds, fostering equitable access to justice within the sports community.

Regional Accessibility: Incorporating regional languages ensures better accessibility for stakeholders across India's diverse linguistic landscape. This approach bridges communication gaps, making legal processes more inclusive and effective, particularly for grassroots athletes and local sports bodies.

Cultural and Legal Alignment: A dedicated Indian tribunal aligns dispute resolution processes with India's socio-cultural and legal frameworks. This alignment enhances stakeholder trust and ensures decisions are both contextually relevant and legally binding within India's domestic sports governance ecosystem.

5.2. Structure and Functioning

Jurisdiction: The court could handle disputes related to player contracts, selection processes, doping violations, sponsorship disagreements, and governance issues involving national federations and athletes. Such a defined jurisdiction ensures comprehensive coverage of sports-related disputes.

Expert Panels: Panels comprising experts in sports law, medicine, and management ensure specialized and informed decision-making. This interdisciplinary approach addresses the multifaceted nature of sports disputes, from doping to contractual and governance issues.

Appellate Mechanism: For disputes involving international stakeholders, the Indian court could serve as a preliminary forum, with provisions for appeals to CAS. This structure ensures compatibility with global sports arbitration while prioritizing national interests.

Comparative Analysis: CAS and the Proposed Indian Court

Feature	CAS	Indian Court on Sports Arbitration
Jurisdiction	Global	National
Accessibility	Costly and centralized	Affordable and localized
Language	Primarily English and French	Regional languages supported
Expertise	International sports law experts	National sports law and cultural experts
Appeal Mechanism	Limited (to Swiss Federal Tribunal)	Domestic appellate mechanism, with CAS as ultimate appeal forum in international matters

6. Policy Recommendations

I) For CAS

Fee Subsidies: Reducing arbitration fees for athletes from developing nations would make CAS more accessible, addressing the current financial barriers faced by economically disadvantaged athletes. This subsidy could be funded through partnerships with international sports federations or by introducing a tiered fee structure based on a party's financial capacity.

Increased Transparency: Implementing measures such as publishing detailed case summaries and allowing limited public access to non-sensitive proceedings would enhance trust in CAS. Increased transparency ensures fairness and mitigates concerns of bias or undue influence in arbitration outcomes.

II) For India

Legislative Framework: A dedicated law establishing the Indian Court on Sports Arbitration is essential to streamline dispute resolution. This framework should define the court's jurisdiction, procedures, and enforceability of its decisions. A robust legislative basis would lend credibility and legal clarity to the initiative.

Capacity Building: Investing in the training of legal professionals, arbitrators, and sports

administrators is critical. Specialized programs in sports law can build expertise, ensuring high-quality arbitration that addresses the unique challenges of sports disputes.

Awareness Campaigns: Educating athletes, federations, and stakeholders about the benefits of specialized dispute resolution mechanisms is vital. Campaigns through social media, workshops, and outreach programs can bridge knowledge gaps and foster trust in the new system.

7. Conclusion

The Court of Arbitration for Sport has played a pivotal role in shaping global sports dispute resolution. However, its limitations necessitate localized solutions for countries like India, where sports law is still evolving. An Indian Court on Sports Arbitration, tailored to the country's unique needs, would enhance access to justice for athletes and stakeholders while reinforcing India's commitment to fostering a robust and fair sports ecosystem. By complementing CAS, such a mechanism could ensure a holistic approach to dispute resolution in sports.

References:

1. Mitten, M. J., & Opie, H. (2010). "Sports Law: Governance and Regulation in a Globalized World." *The International Sports Law Journal*, 10(3).
2. Nafziger, J. A. R. (2004). "International Sports Law as a Process for Resolving Disputes." *American Journal of International Law*, 98(1), 99-123.
3. Blackshaw, I. S. (2009). *Sport, Mediation and Arbitration*. The Hague: T.M.C. Asser Press.
4. Focuses on the global framework of sports law and includes chapters on arbitration mechanisms like CAS.
5. Indian Olympic Association v. Union of India, 2022 SCC Online SC 210.
6. WADA. (2020). "Global Anti-Doping Policy Compliance." Retrieved from www.wada-ama.org.
7. International Olympic Committee. (2021). "Arbitration Rules of CAS." Lausanne: IOC.
8. McLaren, R. H. (2001). *The Court of Arbitration for Sport: An Independent Arena for the World's Sports Disputes*. *Valparaiso University Law Review*, 35(2), 379-405.
9. Duval, A., & Van Rompuy, B. (2016). *The Legality of the Arbitration Agreement in CAS Jurisprudence: Balancing Independence and Flexibility*. *International Sports Law Journal*, 16(1-2), 58-68.