

**DE JURE NEXUS LAW JOURNAL**

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2<sup>nd</sup> Year, BA LL.B.**ANALYSIS OF SPORTS CONTRACT****Abstract**

*Sports in contemporary world is a multi-billion dollar industry all over the world. In India, the size of the sports industry was estimated to be around 5900 crore. The largest share in this amount goes to the media and the rest to sponsorship and celebrity endorsement. Sports is one of the largest industry not only in revenue but in employment as well. With various initiatives in the past, like development of professional sports, laying more emphasis on commercialization for the sports which are underdeveloped and rise of investments from corporate giants have led to the growth of sports industry at a faster pace. Sports Authority of India was established to upgrade, develop and promote the excellence of sports in India along with upgrading the skills of sports talent. This was established in the year 1984 and is an autonomous body under Ministry of Youth Affairs and Sports. With its 23 training centers across the nation, it ensures to provide supportive and strengthening programs to enhance the skills of athletes all over the nation. Sports Law and Welfare Association of India is a non-profitable organization with a goal of advancing and promoting Sports Law in India. This association provides a forum for lawyers to represent athletes, sports teams, sports leagues, conferences etc. Autonomous bodies like National Sports Federations are interested in functioning of selection for national teams for the country, coaches for the national teams, to sell broadcasting rights and earn revenues through that. Sports contract are homogeneous to contracts in day-to-day life. Sports contracts are legally binding agreements between two parties or it can be between more than two parties. Breach of contract occurs when*

*any party fails to perform according to the terms of sports contract which can be oral or written, without any legal excuse. A breach of contract may include not achieving results that the sports contract needed, indulging in interference with further sports contract, failed to play, interfering with the recruitment of athletes, coaches and violating other kind of terms and conditions of the contract. Sports contract consists of intricate terms and enormous monetary values. Whenever a sports contract is established or signed between the parties, the contract is immediately made public.*

### **Contract between a player and club/company**

For a player to play for a particular club, a standard player contract is necessary to be established between the two. These contracts are usually in a boilerplate form. <sup>1</sup>

In order to appear in public functions or events in trade for certain considerations, the appearance contract becomes eligible for this purpose. <sup>2</sup>

On televisions and social media, we see various athletes advertising for a particular brand. This is made possible with the help of Endorsement Contract.<sup>3</sup> In this contract, the private sponsor has the right to use the name and image of the athlete for advertisements. Sports Endorsement Contract consists of two types of clauses, Exclusivity clause and Compensation clause. Exclusivity clause determines the way a particular brand will use the image of athlete for the purpose of marketing. An athlete after entering in an endorsement contract cannot promote products like athletic shoes, energy drinks etc of some other brand. Compensation clause determines the payment procedure for the athlete and sometimes also bonuses can be awarded to a particular athlete by the sponsors depending on the fact that how much time he spent on the field wearing those products. Before signing an endorsement contract the athlete should be aware about the fees, compensation clause and the mentioned inducements. An athlete must be aware about important details, for example, when the product has to be worn and when not.

### **Necessary clauses in a sports contract**

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<sup>1</sup> Available at-<https://www.potts-law.com/practice-areas/sports-law/sports-contract-law/#:~:text=Sports%20contracts%20are%20similar%20to,a%20breach%20of%20that%20contract>(last accessed- 12/08/2021)

<sup>2</sup> Available at- <https://sportslaw.uslegal.com/sports-agents-and-contracts/endorsement-and-appearance-contracts/> (last accessed- 12/08/2021)

<sup>3</sup> Available at- <https://www.upcounsel.com/endorsement-contracts> (last accessed- 12/08/2021)

Verification of indemnification clause and morality clause is a must before entering into the contract. Indemnity agreements help in providing insurance to the athletes, sports clubs and organizers of the sport event because athletes are prone to injuries. Morality clause<sup>4</sup> consists of certain criteria which restricts or prohibits behavior of athletes. This clause plays a significant role for the brands because athletes are no less than celebrity figures and their inappropriate actions and behavior in public events can hamper the image of the brands as well as lead to the declining success rate which further can lead to heavy losses for their company. The significance of morality clause has increased due to the increased usage of social media platforms because an inappropriate behavior of an athlete can go viral online within few seconds. Thus Morality clause can prevent any such scenarios and the athlete will be forced to restrain from committing such act even if he wishes to do so. This morality clause becomes problematic for athletes because at one hand they have to follow such norms for the brands and on the other hand it infringes their right to freedom of speech and expression because they cannot give opinions or act according to the way they want to. But it is not just the athletes are on the disadvantaged side, companies too take a lot of risk because mentioning what kind of an act will be considered as immoral can be difficult and in such situations dispute can arise between the company and an athlete.

Injuries to athletes during the game or training can impact not only an injured athlete but also for the rest of the team members, owners and coaches. Hence one way to alleviate the odds of an injury can be utilized under Hazardous Activities clause<sup>5</sup>. This can alter the financial duty to an athlete if an athlete is injured in an activity which is not related to his and club's sport. This means if an athlete gets injured while practicing on the ground for his game, then his injury comes under the ambit of the sport undertaken. But if he gets injured by some other sporting activity which does not come under the ambit of his sport, then the financial duty will be abided by the athlete himself.

In case of natural unforeseeable event or any kind of event occurs which is beyond human control due to which the rescheduling or delaying of events become necessary, then in that case force

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<sup>4</sup> Available at- <https://www.ijlmh.com/wp-content/uploads/Importance-of-Moral-Clause-in-Sports-Contracts.pdf> (last accessed- 13/08/2021)

<sup>5</sup> Available at- <https://via.library.depaul.edu/cgi/viewcontent.cgi?article=1152&context=jslcp> (last accessed- 13/08/2021)

majeure clause<sup>6</sup> plays a vital role. The force majeure event has to be notified to the non-affected party by the affected party and the impact it created on the performance of affected party. The affected party has the right to suspend the contract for minimum thirty days which can further be extended till maximum ninety days. The sole purpose of this clause is to delay the performance and not to terminate it. It is pertinent to note that only the affected part of the contract can be suspended with the help of the force majeure clause and not the rest of the non-affected part of the contract. The non-affected parties have the right to remedy in case the suspension period extends further than the maximum number of days. If there is an absence of force majeure clause from the contract, then the parties can claim frustration of the contract but this must be considered as the last option because it leads to the end of the contract.

A termination clause<sup>7</sup> can be used by the parties to end the sports contract. This clause becomes significant when parties fail to perform their part of performance according to the contract, breach of condition, warranties etc. Whenever an athlete is no longer healthy and fit to play the sport or no longer can meet the team's demands, then the contract can be terminated with the help of this clause. The party must give advance notice to the other party before terminating the contract. This clause plays a significant role in an endorsement contract as an athlete becomes fully aware of the immoral acts that can lead to the end of the contract. An athlete can be compensated in case he is terminated for an act that was not mentioned in an endorsement contract. For instance, Chris Webber, a famous basketball player was disassociated from a brand known as Fila, on the charges of arrest for marijuana possession. But the contract between both the parties stated that termination will take place in case the athlete is found convicted and not on the basis of charges. Thus he was compensated with 2.6 million dollar from Fila. This indicates that the company shall be aware of the risks before signing with athletes and use of termination shall be applicable only in extreme circumstances.

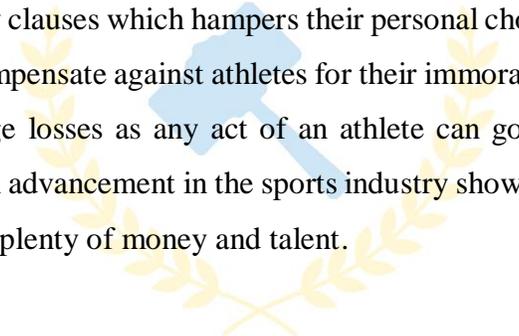
## Conclusion

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<sup>6</sup> Available at- <https://www.lexology.com/library/detail.aspx?g=bf67fbeb-b810-479f-83a7-2b6a6072eb13#:~:text=Force%20majeure%20clauses%20generally%20stipulate,a%20breach%20of%20the%20contract>. (last accessed at- 14/08/2021)

<sup>7</sup> Available at- <https://enhelion.com/blogs/2021/01/19/contracts-in-the-sports-industry-and-the-clauses-covered-under-it/#:~:text=Termination%20Clause%3A%20A%20termination%20clause,warranties%2C%20or%20the%20express%20agreement>. (last accessed at- 14/08/2021)

Sports in contemporary world is now not limited to playing a game between the two teams or players. It has become a hub of business for giant corporate companies. With the advent of leagues for sports like cricket, football etc, the business in sports industry is booming. Players are bought and sold in dollars and companies make millions and sometimes billions of profit. All this is made possible with the mentioned contracts with the necessary clauses. Such contracts enable the companies to make profits with athletes through public events, advertisements, sponsorship etc. But as we know that every coin has two sides, similarly one side of sports contract enables the sports industry to boom and the other side indicates certain disadvantages. Many athletes are bound to abide by the stricter morality clauses which hampers their personal choices. Sometimes companies do not find any option to compensate against athletes for their immoral and inappropriate behavior and thus have to suffer huge losses as any act of an athlete can go viral online in a couple of minutes. But looking at such advancement in the sports industry shows that it is the most powerful unit in the entire globe with plenty of money and talent.



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