

## **SPORTS LAW AND RELATED ISSUES IN KENYA**

There is no specific area that may be referred to as Sports Law. The area cuts across many disciplines of law. There are millions of athletes worldwide and thousands in Kenya. It is not an area that could be said to be specific. In fact, it can be compared to areas of law such as health law and cyber law which really involve the application of many areas of law to a unique industry.

The eclectic nature of the sports law field requires sports lawyers to have expertise in several areas of law to effectively represent their clients. Sports law courses are a relatively recent addition to the curriculum at most law schools. In Kenya however, very few lawyers have taken an interest in the area and the practice is as good as non-existent.

Most sports lawyers have varied backgrounds; most of them did not obtain full-time employment with sports organizations or have a stable of sports industry clients upon graduation from law school. Rather, they gained legal knowledge, skills, and experience representing clients in other industries that transferred into handling sports-related matters.

Very few attorneys spend a majority of their time practicing sports law, but many lawyers perform professional services for one or more clients who are part of the sports industry.

### **Issues to be addressed by Sports Lawyers in Kenya**

#### ***1. Contract reviewing***

The law of contract is the cornerstone on which sports law has been built and which is of primary importance in most areas where there is an interface between sport and the law. Whether sport is being played at an elite level or at a more humble one there is always a contract working somewhere. Usually it is an enforceable one. Many sporting disputes revolve around the proper interpretation of the contract in question. Sports, particular amateur ones, are not always financially well resourced. Often the relevant contractual regimes in place in respect of such sports are drafted or prepared by people without any formal legal qualifications.

## ***2. Dispute Resolution in sports***

The importance of quick dispute resolution in sports cannot be overemphasized. Any time an athlete is out of active sport is a loss both in revenue as well as causes deterioration to his form and fitness in most cases. There is need for sports lawyers in Kenya not only to have the expertise in dispute resolution in the area, but also to be in a position to advice clients on Domestic and International Arbitration and Mediation, League/Club/Association Dispute resolution, Court of Arbitration for Sport, Intra Club Sport Resolutions' arbitration and mediation forums, Civil and Criminal courts matters, Regulatory disputes and rule infringements, Contractual disputes, Debt recovery matters amongst others.

## ***3. Doping***

This area is fairly new in Kenya and many athletes, coaches and agents are unaware of how to proceed in these instances which have caused athletes irreversible damage and ended careers in the process. Sports lawyers must be at the forefront in education and providing technical and legal support to their clients. Furthermore, the peoples who work must closely with the athletes such as trainers must be trained extensively in this area.

## ***4. Sports Regime in Kenya***

There are various laws in Kenya that seek to regulate sports starting with the ***Sports Act***. However, there needs to be alignment with the Constitution with not just the laws but the various constitutions regulating the different sporting associations, clubs and Leagues. Further, there need s to be serious benchmarking to ensure adherence with international sporting standards of these to ensure that the Kenya regime matches up to international standards.

## ***5. Immigration and Citizenship***

Many athletes have been caught up in these issues in Kenya and there seems to be no clear policy or clear procedure and/or redress where this happens. This is a fairly expansive area that must be looked at.

## ***6. Branding***

Recently, many athletes have been expanding their influence beyond their sport by getting involved in a variety of social activities and businesses. In light of modern media culture, those athletes are considered “a social sign, carrying cultural meanings and ideological values, which express the intimacies of individual personal consumer decisions. In modern times, players not only control their endorsements, but have become ‘human’ brands in their own right. Sport is an intangible and subjective commodity therefore brand management is more effective when the value of the branding objects is more subjective as in the case of athletes. A lot of work has to be put in this area. The sport lawyer also serves as an advisor who is responsible for ensuring that the athlete surrounds himself with a proper marketing team to ensure that he reaches the highest brand level that can be. Brand managers in form of athletes have not only increased sales products, but athletes who have embraced these have also been ambassadors and influencers in many issues of importance to the world such as social justice and women rights.

## ***7. Sports Lobbying***

Sports lobbying has existed in many other jurisdictions. Through their specific organizations and/or associations, legislation has been passed to regulate sports courtesy of pressure exerted by these groups. Issues such as sponsorship have also been tackled in order to ensure favourable terms for athletes seeking sponsorship as individuals, teams. Kenya lacks enough lawyers to be at the forefront of lobbying. This would enable them to crystallize the needs of athletes and ensure that there is adequate legislation, regulations and rules to favour athletes. Athletics is a major export in Kenya. With Kenyan athletes excelling in sports which were not traditionally considered to be an area of excellence for Kenyan athletes, legislation has to come into force that ensures that all needs are covered.