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# THE COMMERCIAL EXPLOITATION OF THE PERSONALITY OF ATHLETES IN SPORTS MARKETING

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## Abstract

*The commercial exploitation of the personality of athletes has emerged as a significant aspect of modern sports marketing. In the contemporary global economy, athletes are no longer viewed merely as participants in sporting events; rather, they have evolved into influential public figures whose names, images, voices, signatures, gestures, and overall identities possess substantial commercial value.<sup>1212</sup> Businesses and multinational corporations increasingly rely on athletes to endorse products, promote brands, attract consumer attention, and enhance market credibility. Through advertising campaigns, sponsorship agreements, merchandising, social media promotions, and digital content,*

*the personality of athletes has become a powerful economic asset.<sup>1213</sup> However, the increasing commercialization of athlete identity has also generated serious legal and ethical concerns. Unauthorized use of an athlete's likeness, false endorsements, digital manipulation, ambush marketing, and misuse of personality through artificial intelligence or deepfake technologies<sup>1214</sup> raise complex questions relating to privacy, dignity, intellectual property, and economic rights. While several jurisdictions such as the United States recognize the "right of publicity" as an independent legal right,<sup>1215</sup> many countries, including India, continue to rely on fragmented protections under constitutional law, trademark law, copyright law, and common law remedies such as passing off.<sup>1216</sup>*

*This article critically examines the concept of personality rights of athletes within the framework of sports marketing. It explores the legal nature of commercial identity, the methods through which athlete personalities are monetized, and the challenges posed by unauthorized commercial exploitation.*

**Keywords:** Commercial Exploitation, Sports Marketing, Athlete under Law.

<sup>1212</sup>Mark P. McKenna, "The Right of Publicity and Autonomous Self-Definition," 67 U. Pitt. L. Rev. 225 (2006).

<sup>1213</sup>Jennifer E. Rothman, *The Right of Publicity* (Harvard Univ. Press, 2018).

<sup>1214</sup>Michael Madow, "Private Ownership of Public Image," 81 Calif. L. Rev. 127 (1993).

<sup>1215</sup>Haelan Labs., Inc. v. Topps Chewing Gum, Inc., 202 F.2d 866 (2d Cir. 1953).

<sup>1216</sup>Nandita Rao, "Personality Rights in India," 14 Indian J.L. & Tech. 77 (2022).

## 1. INTRODUCTION

The modern sporting business has ceased being just a competitive landscape to become a multi-billion-dollar commercial landscape in which athletes are not just considered to be a performer but a marketable personality as well. In the era of globalization, media growth, and online communication, athletes have gigantic attention of the masses, control consumerism, and affect the creation of cultural discourse. Their names, faces, voices, signature, gestures and even personal lifestyles have great commercial potential.<sup>1217</sup> Consequently, companies, sponsors, sports teams, ads, and the Internet are more and more dependent upon the identity of a professional athlete to promote goods and services. This increasing practice has led to a significant legal and economic problem; commercial exploitation of the personality of athletes.

Personality here is the term used to describe the attributes of identity that a certain athlete is identified with. These are name recognition, physical similarity, voice, autograph, nicknames, jersey number, celebrations and a reputation that comes as a result of sporting excellence. Once these elements of identity are used commercially to make profits, to attract customers or to create a better brand presence, then they become a valuable intellectual and business property. Such high-profile sports stars as Virat Kohli, Cristiano Ronaldo, Lionel Messi, and LeBron James are examples of how the achievements on the field may be translated into a huge brand value that spans well beyond the field. Their endorsements and merchandising deals, as well as online influence, can earn them more money than their sports salaries.<sup>1218</sup>

Sports marketing has become a very dynamic branch of the world advertising economy. Brands want to be linked with athletes as they

are a representation of excellence, discipline, perseverance, national pride and aspiration.<sup>1219</sup> Famous athletes are often used as brand ambassadors to consumers because they are individuals whom consumers trust in a product promoted by such an athlete. As a result, athletes are featured on television adverts, social media initiatives, sportswear deals, and video games and sponsorships. Athlete identity commercialization has therefore become a norm and lucrative part of business strategy in the present day business world.

Nevertheless, serious legal problems have also arisen due to the growing commercialisation of the athlete personalities. The illegal use of an athlete image or name may be in the form of false endorsement, imitation of products, digital editing, unauthorized video games, social media abuse and deceptive advertising. Third parties in most cases use the fame of an athlete without his or her knowledge, denying the athlete the economic gains that he or she rightly deserves and deceiving the consumers. This kind of misuse can not only be financially harmful but can also be reputation-destroying, can cause distortions to personal identity and be disrespectful of dignity interests.<sup>1220</sup> This has led to a question as to whether athletes have legal rights against the that can be enforced.

This scholarly paper will critically look at how this commercial exploitation of the personality of athletes in sports marketing works. It examines the notion of athlete personality rights, how sports marketing leverages athlete identities, the legal safeguards which exist in the Indian and comparative legal framework, and the challenges brought about by digital technologies. The article also assesses the need to have a special legislative framework to safeguard the athletes against unauthorized commercial use as well as create a balance

<sup>1217</sup>David Tan, "The Commercial Appropriation of Fame: A Cultural Analysis of the Right of Publicity and Passing Off" 59 Cambridge Law Journal 614 (2000).

<sup>1218</sup>Jennifer E. Rothman, *The Right of Publicity* 112 (Harvard University Press, Cambridge, 2018).

<sup>1219</sup>Frank Jefkins, *Advertising Made Simple* 87 (Rupa & Co., New Delhi, 2nd edn., 2005).

<sup>1220</sup>Michael Madow, "Private Ownership of Public Image: Popular Culture and Publicity Rights" 81 California Law Review 127 (1993).

between the freedom of speech and good public discourse in India.

Essentially, the personality of the athlete no longer is just an individual identity; it is a product with commercial value. The legislation should thus change to make sure that the creators of such value by skill and hard work have significant control over how it is exploited.<sup>1221</sup>

## 2. RIGHTS to personality of athletes.

The meaning and nature of personality rights will be discussed in 2.1.

Personality rights are a legal right that safeguards the identity, uniqueness and commercial worth of persona to a person.<sup>1222</sup>

These rights are of an extreme importance in the framework of sporting activities since professional sportsmen can enjoy a huge amount of publicity and commercial potential. Their signatures, voices, images, names, gestures and the general persona obtain separate economic potential because of their adoration by the masses and market demand. Personality rights thus allow sportsmen to regulate and grant the right to use such identifiable traits to commercial use.

Athletes, on the contrary to regular people, not only are sports professionals but also a product brand to the public. Their athletic performances, training, popularity and relationship with the fans make them change their identity to a marketable product. Businesses are often keen on identifying with athletes as consumers tend to believe and like them.<sup>1223</sup> Personality rights, therefore, assist in avoiding the abuse of the personality of an athlete in terms of advertisements, merchandise, promotions and digital media.

The concept typically involves two dimensions in general. To begin with it safeguards the dignity and autonomy of the individual by keeping off misuse of identity. Second, it protects the

economic interests which are based on the commercial value of fame. Personality rights therefore are a blend of personal rights and proprietary rights. In a number of jurisdictions, courts have acknowledged that a personality of a celebrity can be legally safeguarded in cases where it is abused and can lead to a loss of finances or damage to reputation.<sup>1224</sup>

## 2.2 Personality rights Components.

There are various components that constitute personality rights of sportspeople that as a whole make the familiarity of the sports person. These include:

### (a) Name Rights:

A name of a well known athlete is likely to have a lot of commercial worth. People can buy the products because they are related to a popular athlete. Using unwarranted name of an athlete can deceive people into thinking that there is endorsement<sup>1225</sup>.

### (b) Image and Likeness Rights:

It can be used commercially using photographs, facial features, body shape or any other visual representation of the athlete. Posters, advertisements, and packaging with pictures of athletes are a common practice by brands.

### (c) Signature and Autograph Rights:

The autograph of well known sportsmen can be copied on products, memorabilia and merchandise. This type of usage is usually authorized.

### (d) Voice and Catchphrases:

There are certain sportsmen who are recognizable by a unique voice, saying, or cheer. They can also be used to obtain commercial protection.

### (e) Unique Style or Persona:

Some athletes have a distinct hairstyle, dance, number on the jersey or mannerism that comes

<sup>1221</sup>Mark P. McKenna, “The Right of Publicity and Autonomous Self-Definition” 67 University of Pittsburgh Law Review 225 (2006).

<sup>1222</sup>P. Narayanan, Intellectual Property Law 612 (Eastern Law House, Kolkata, 3rd edn., 2007).

<sup>1223</sup>David A. Aaker, Building Strong Brands 145 (Free Press, New York, 1996).

<sup>1224</sup>Haelan Laboratories, Inc. v. Topps Chewing Gum, Inc., 202 F.2d 866 (2d Cir. 1953).

<sup>1225</sup>Irvine v. Talksport Ltd. [2002] EWHC 367 (Ch).

to be strongly identified with him or her. Personality rights could be infringed upon by unauthorized copying with commercial intent.

To illustrate, the world identifies with the Siu celebration of Cristiano Ronaldo, even more than Virat Kohli is identified with his status of a fitness icon and sporting leader. Through such associations, such identities become marketable.

### 2.3 Personality Rights/ Publicity Rights and Privacy Rights.

The concept of personality rights can be grasped in two ways that are similar but not identical, namely, the publicity rights and privacy rights.<sup>1226</sup>

Publicity rights are related to commercial use of identity. They will enable athletes to regulate the usage of their persona in advertising, sponsorship and merchandising. In case a company takes a picture of an athlete and uses it to promote goods without his or her consent, the athlete can assert that his or her publicity rights are violated.

Privacy rights, on the other hand, guard the personal space of a given individual against any intrusion or exposure that one does not wish. Even renowned sportsmen have a right to their personal dignity and personal life. Invasion of privacy by publishing personal photographs without permission or misuse of personal information can infringe on privacy.

Therefore, the right to publicity is centred on the economic value whereas the right to privacy centres on individual autonomy. Both rights can be coinciding in most instances where there are athletes involved. When a covert photo is of a sportsperson and is utilized in a commercial manner, then it can be a violation of both privacy and publicity rights at the same time.

Personality rights are rights of an athlete that the identity of the athlete is entitled to personal

dignity and commercial value. In the modern sports marketing, athletes are not just competitors but influential brands whose names, pictures, and reputations are creating great economic opportunities. With the growing nature of commercialization in the forms of endorsements, digital media and global sponsorships, the necessity to safeguard such rights is all the more pressing. An unmistakable legal system is thus needed to strike the right balance between commercial innovation and consideration of athlete autonomy and economic interests.

### 3. SPORTS MARKETING and an athlete brand value.

The meaning and scope of sports marketing are discussed in 3.1.

Sports marketing describes the strategic application of sports, sporting events, teams and athletes in marketing goods and services and brand identity.<sup>1227</sup> It is a niche marketing approach that leverages on the popularity, emotional value and the mass reach that sports offer to help businesses reach consumers. Sports marketing has come to be more than just sponsoring contests in the modern business world or putting logos on shirts. It has now incorporated online campaigns, athlete promotions, licensing deals, fan interaction programs, social media promotions, and experience based branding.

The sporting business has turned out to be one of the most profitable business ventures all over the world and athletes are leading the change. Their success, discipline, their way of life and their image in the eyes of the society makes them appealing to the companies that want to gain credibility and image. When an athlete that succeeds in the sport identifies with a product, consumers tend to pass admiration and trust of the athlete to the brand.<sup>1228</sup> This renders sports

<sup>1226</sup>Melville B. Nimmer, "The Right of Publicity" 19 Law and Contemporary Problems 203 (1954).

<sup>1227</sup>Matthew D. Shank and Mark R. Lyberger, Sports Marketing: A Strategic Perspective 24 (Routledge, New York, 5th edn., 2014).

<sup>1228</sup>Grant McCracken, Culture and Consumption 77 (Indiana University Press, Bloomington, 1988).

marketing very effective in shaping the buying behaviour.

Sports marketing can be categorized into two, in general. First, there is the marketing of sports in itself which involves marketing of leagues, clubs, tournaments and sporting merchandise. Secondly is marketing associated with sports whereby brands rely on the services of the athlete and sports to market their products that have no relationship with sports, including drinks, apparel, cars, financial services, and technology. Both of those forms are intensive in terms of the commercial viability of sportspeople.

### 3.2 Commercial Brands of athletes.

Contemporary players are not considered as only players taking part in the games. They are being more and more considered as free commercial brands that have a quantifiable economic value. Their names, pictures, voice, signature parties, their fashion, and their stories are integrated into the greater brand name. This identity is licensable, endorsable and can be exploited commercially via different media platforms.

An example is Virat Kohli who is not only famous in the sporting field but also in fitness, discipline and being youthful. These attributes render him a worthy brand partner in industries like sportswear, nutrition, banking and technology. Likewise, Cristiano Ronaldo has also turned his personality into a worldwide commercial business by means of endorsing, fashion items, perfumes, and on-line influence. Serena Williams has also created a strong business name that is associated with empowerment, strength, and performance.

Athletes have a brand value which is established through a number of factors. They are on-field performance, consistency, following on social media, the popularity, the reputation of the people, the demographics of the market, and the cultural relevance. Athletes who are disciplined and have good public relations have a

commercial life spanned longer as compared to athletes who base their career on short term athletic achievements.<sup>1229</sup>

### 3.3 The importance of Athlete Endorsements in Consumer Behaviour.

Endorsements by athletes have a great impact on consumer preferences since they are both aspirational and credible. Elite sportspeople are also viewed as an example of success, health, determination, and reliability by the consumers. Whenever such figures are promoting a product, the message will have more persuasive power than normal advertisements.

An example is, a sports shoe advertised by a sports star can seem more real as the sports star is a performance and physical perfection. Likewise, nutritional supplements or energy drinks, which are sponsored by star athletes, can receive instant credibility. The fan-athlete emotional attachment forms a psychological attachment which is the monetizing brands.

This is especially high among the younger generations who have icons of sports personalities. The way of dressing, speaking, leading a lifestyle, and buying habits of the favourite athletes are often imitated by children and adolescents. Thus, organizations and corporations spend a lot of money on the endorsement deals with professional sportspeople who are attractive to people of all ages and belonging to different social groups.

There are however, legal and ethical obligations due to endorsements. When an athlete promotes false and dangerous products, there are concerns of deception and responsibility among the consumers. The commercial exploitation of athlete personality, thus, has to be weighed against integrity and compliance with regulations.

### 3.4 The use of Social Media and Growing Athlete Brand Value.

<sup>1229</sup>Philip Kotler and Kevin Lane Keller, Marketing Management 312 (Pearson Education, Delhi, 15th edn., 2016).

The online era has radically transformed the sports marketing business by providing the players with direct communication to millions of their fans. In the past, the commercial value was primarily relying on appearances on television and print media. Instagram, X, YouTube, and other online platforms give athletes the opportunity today to communicate one to one with fans, advertise products in real-time, and develop their image.

A professional sportsman with a huge number of followers on the Internet has huge commercial bargaining power. One sponsored post by a well-known player around the world can have more consumers than numerous advertising campaigns.<sup>1230</sup> Lionel Messi and Cristiano Ronaldo are some examples of players whose digital presence in itself is a valuable commercial resource.

With social media, athletes also have the opportunity of launching personal brands, clothing, fitness apps, charitable campaigns and content by subscription. In this way, the athlete will no longer have to rely on third-party sponsors exclusively; he or she can make himself or herself into an entrepreneur who will be a direct controller of commercial identity.

Meanwhile, the increased use of digital has enhanced the possibility of unauthorized usage. False advertisements, faked videos, deep fakes and exploitation of athlete images on online market places have become a norm. This shows how there is an urgent need to implement a stronger protection of the personality rights in the digital market.

#### 4. MODES of commercial exploitation.

The character of a sportsman has turned out to be one of the most important resources of the contemporary sports business. The name, image, signature, voice, appearance, achievements and the general reputation of an athlete has great commercial value since they have the power to impact consumer decisions

as well as bring about emotional response in fans. Businesses are usually keen to take advantage of this popularity by use of different marketing strategies. Although most of these applications are legitimate (when consenting to the use of the athlete), unlawful or overuse can be extremely problematic in terms of legal and ethical issues. The main ways of commercially exploiting the personality of athletes are the following:

#### 4.1 Endorsing Deals and Sponsorships.

The most typical areas of commercial exploitation is by endorsement contracts.<sup>1231</sup> Popular athletes are hired by companies as brand ambassadors to advertise goods and services like sportswear, beverages, fitness products, automobiles or luxury goods. The credibility, discipline, and success of an athlete is normally attributed to the product being advertised by the consumers. Consequently, athlete endorsement has the potential to boost the brand image and sales greatly.

As an illustration, Virat Kohli has promoted many brands such as apparel and financial services whereas Cristiano Ronaldo has joined high-paying endorsement deals with the international companies which focus on sports and lifestyle. Such deals are typically made in the form of licensing agreements wherein the athlete allows the commercial use of their name, image or likeness in exchange of financial negativities. But, there are issues when the brands remain using the identity of the athlete once the agreement has been terminated or when they make false impressions that they are still associated with them.

The rights of merchandising and licensing rights will be encompassed under 4.2.

Commercial exploitation also takes place with the sale of merchandise bearing the names of athletes, their jersey numbers, autographs or other distinct symbols. The sale of sports jerseys, footwear, posters, caps and collectibles, and

<sup>1230</sup>Andreas Kaplan and Michael Haenlein, "Users of the World, Unite! The Challenges and Opportunities of Social Media" 53 Business Horizons 59 (2010).

<sup>1231</sup>Lisa Pike Masteralexis, Carol A. Barr and Mary A. Hums, Principles and Practice of Sport Management 391 (Jones & Bartlett Learning, Massachusetts, 6th edn., 2015).

signed memorabilia are sold to fans, who desire to be associated with their sporting role models. The personality of the athlete in many cases is more influential than the product in making the merchandise a commercial success.

Indicatively, commercial products linked to Lionel Messi or LeBron James make a lot of money throughout the world. The use of such identity markers is controlled by licensing schemes. However, the popularity of athletes is often used without their permission by counterfeits and unscrupulous sellers, thus resulting in a loss in the economy and the watering down of the brand. It is especially concerning in online stores where counterfeit products are able to spread quickly.

#### 4.3 Influencer marketing and Social Media Promotion.

In this growth of digital media, social media has emerged as a key avenue of exploiting athlete personality rights. Athletes whose audiences are in the millions have a direct influence and are very appealing to advertisers. Athletes are being paid by the brands to advertise the products by posting, stories, videos, and interactive campaigns on Instagram, X, and YouTube.

Serena Williams and Neymar Jr. have been utilizing the social media as a paid promotion and personal branding. The use of influencer marketing as opposed to traditional advertising does not seem as personal and trustworthy, which enhances its commercial influence. Nevertheless, this can be misapplied when the fake accounts represent the athletes, when they can reuse old photos without their permission, or when the brands can manipulate the content digitally to suggest the endorsement that is not there. This brings a bad reputation and can be deceptive to the consumers.

#### 4.4 Video Games, Digital Avatars and Virtual Use.

The other commercial exploitation that is becoming more popular is the integration of sports personalities into video games, fantasy sports, and virtual realms. The faces of athletes, how they move their bodies, talk, and play are

usually reproduced in sports games to make them sound and look realistic. Such games are very dependent on the presence of star athletes in order to make them economically viable.

Athletes like Kylian Mbappé and Stephen Curry, who are popular, are often featured in sports gaming franchises. In the countries where appropriate license is in place, then such usage is legal and profitable to game developers and athletes. However, the personality rights might be infringed upon when an athlete is unlawfully duplicated in the form of an independent game or fantasy application. With artificial intelligence, this problem has been made more complicated, as now realistic digital clones can be made without permission.

#### 5. INDIAN legislation.

India is yet to have a solitary codified statute that solely addresses commercial personality rights of athletes. Protection has however evolved gradually based on the constitutional principles, intellectual property laws and judicial precedents. Indian courts have started to appreciate that the name of a sports athlete has become an economic asset and the misappropriation of such name can be a civil offense. The current law has partial yet effective protections to sports marketing in the case of athletes whose image, reputation, and goodwill with the public are often exploited.

#### 5.1 Protection of the Constitution: the right to privacy and self-respect.

Personality rights in India can be traced back to Article 21 of the Constitution that entitles rights to life and to personal liberty. The Supreme Court has given Article 21 a very wide interpretation to encompass the right to privacy, dignity and autonomy. Personal identity is constituted by the name of an athlete, his/her face, voice, or likeness. When such attributes are used commercially without the consent of the individual, then it can be against the dignity and privacy of the individual.

Contemporary athletes do not just contest, they are people with personal identity of great

commercial importance. The making of an advertisement, deceptive endorsement campaigns, and Internet abuse of identity using an image of an athlete without their permission can lead to not only reputational harm but also financial loss. The constitutional jurisprudence contributes to the fact that people can control their aspects of personality that relate directly to personal autonomy.

Meanwhile, the courts strike a balance between such rights and freedom of speech in Article 19(1)(a). Authentic reporting or commentary, satire or discussion of athletes may be safeguarded. But in case of pure commercial use and with the intention of selling goods or services, the constitutional guard to personality is enhanced.

5.2 recognition of celebrity and personality rights by the courts.

The doctrine of personality rights has been slowly developed over time by Indian courts on basis of precedent. In ICC Development (International) Ltd. v. Arvee Enterprises, Delhi High Court noted that right of publicity is a result of commercial exploitation of fame and can be a resultant right of a personality. This case assisted in establishing that identity has a commercial value.

In DM Entertainment Pvt. Ltd. v. Baby Gift House the court prohibited the unlicensed use of persona of singer Daler Mehndi on doll and merchandise. Although not a case involving an athlete, it had a great impact in the area of celebrity rights jurisprudence that are also applicable to sportspersons.

In the case of Titan Industries Ltd. v. Ramkumar Jewells, the Delhi High Court safeguarded the right to publicity of renowned personalities, whose pictures were unlawfully used in advertising. The court acknowledged that commercial use of identity without permission can be considered as an infringement of personality rights.

All these choices are beneficial to the sportsmen as today sportsmen act as commercial figures,

like movie stars and entertainers. They monetize their fame by use of sponsorships, appearances, licensing and endorsements.

The need to have particular legislations.

Even with the developments in judicial practices, India has yet to have a specific statute on personality rights. The only remedies that athletes need to go through at the moment are fragmented under the constitutional law, trademarks, copyright, tort, and contracts. This brings ambiguity in terms of the scope, time, heredity, digital abuse, and damages.

Considering the growing sports business, India would enjoy a dedicated legal framework of acknowledging rights of publicity, licensing system, and expedient solutions in the event of unlawful commercial exploitation. This reform would not only safeguard the athletes, but also promote good sports marketing practices.

6. PERSONAL RIGHTS of the athletes- difficulty.

The commercial worth of sports identity of athletes has grown tremendously with the growth of international sports teams, online television, and social media advertising. The contemporary athletes are no longer a part of sporting events; they are their own commercial brand, the name, image, signature and personal story of which have a significant market value. Nonetheless, even with this increased significance, legal safeguarding of the personality rights of athletes in most jurisdictions is still unclear and disjointed. This lack of a clear and standardized structure poses numerous challenges to the sportspeople who want to have control and generate revenues out of their identity. These challenges are especially apparent in the up-and-coming sports economies like India where sports marketing has increased quickly and the legal framework is yet to solidify principles in this field.

6.1.Lack of Special Statutory Protection.

A deficiency of special legislation is one of the main issues in the rights of athlete personality. The protection of personality rights is in place in a number of countries being a combination of

constitutional rights, trademark law, copyright law, privacy law and the principle of tort. Nevertheless, such protections are mere indirectities and sometimes inadequate in dealing with commercial abuse of an athlete identity.

As an example, there is no statute in India, which explicitly acknowledges the right of athletes to regulate the commercial use of their name or likeness. The judicial creativity has been applied by the courts in cases that concern celebrities, yet this protection is case-by-case and unpredictable. This poses confusion to the athletes, advertisers and sports organizations. This would be achieved through a clear legislative framework to define ownership, duration and remedies and licensing rights.

#### 6.2 Unauthorized Commercial Exploitation

The other issue that poses a grave challenge is the illegal use of identity of an athlete to make a fortune. Companies frequently employ pictures, names or symbols of athletes in their adverts without their consent. This can be done by way of posters, Internet advertising, local merchandise or false claims of sponsorship.

As an example, when a company claims falsely that it is related to Virat Kohli or Cristiano Ronaldo without their approval, then consumers can think that the athlete is communicating in favor of this product. This abuse not only damages the image of the athlete but also his/her finances. It also poses unwarranted competition in the market.

Illegal use is mostly prevalent in smaller markets where it is not strictly enforced and most users believe that the photographs that are publicly available can be used freely to do commercial businesses.

#### 6.3 Social Media and Online Abuse.

The infringement has taken the new shapes brought about by the emergence of digital platforms. With social media, the content of athletes can be disseminated in millions of users within seconds, and it is hard to see the difference between fan appreciation and

business abuse. Athlete images are often used by influencers, pages and online sellers to either promote products, engage or sell goods without permission.

The personality rights of an athlete can be infringed through the use of the image to promote apparel, gambling services, nutrition products, and even sporting gear without his/her permission. Since such material can be disseminated fast and internationally, the law has a way of being too slow to ensure that the law is effective.

Furthermore, numerous athletes also make money on their personal social media. The unauthorized copying of accounts or misleading advertisements is a way of diluting the value of official endorsement contracts.

#### 7. SUGGESTIONS AND REFORMS

Sports have become a frenzied commercialization that has turned athletes into a lucrative economic brand whose names, image, voice, and personal identity bring in huge revenues to corporations, advertisers, and digital platforms. Nevertheless, the legal safeguards that can be provided to athletes against commercial exploitation without their consent is still not unified and sufficient, especially in India. Available solutions to the trademark law, copyright law, privacy law and the law of torts offer incomplete protection. Thus, thorough reforms are necessary so that athletes can have a good control of commercial use of their personality. The below recommendations can aid in establishing a more robust legal system.

- A Law on the Dedicated Personality Rights.
- Better Control of Endorsing and Sponsoring agreements.
- Defense against the Digital Misuse and Deepfake Technology.
- Establishment of Special Sports and IP Tribunals.
- Licensing and Collective Management Systems.

- There is limited awareness and education among athletes.
- The Striking the Right Balance between Commercial Rights and Freedom of Expression.

Although more protection is needed, there should be reforms that safeguard the freedom of speech and journalism, satire and public discussion. Not all the applications of the identity of an athlete must be consented to. News reporting, commentary, biographies, criticism and non-commercial parody should be safeguarded.

Thus, any law must be extremely careful to differentiate between commercial exploitation and fair use of expression. As an example, a paid advertisement with the picture of Lionel Messi should be subject to a liability, but a sports article, where he is discussed should not be subject to liability. Being moderate would ensure that there is no usurpation of legitimate economic interests.

#### Conclusion

One of the current problems of sports law has become the commercial exploitation of the personality of the athletes. Athletes nowadays are no longer just competitors; they are global brands, the identities of which are of a great market value. However, laws, particularly in emerging jurisdictions, have not responded to this fact. The law can establish a fair system that allows athletes to regulate and enjoy the commercial exploitation of their own personality through special laws, online protection, fair contracts, special courts, collective licensing, education and awareness and balanced protection of free speech.



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