Review the dimensions of responsibility (civil and criminal) and Disclaimer (civil and criminal) in sports law

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Abstract

Sports violence is now an integral part of sports fields and known as one of the most important anomalies that deal with it that requires special measures. Measures that should be matched foremost with space to commit violent acts in the sport; as if no matter what the characteristics of a sports framework and rules are developed, perhaps leading to the loss of its attractions and sports faced with the lack of athletes and spectators. The measures must take responsibility for the rights to the sport. Ranging from criminal and civil liability assessed in sports law and then, after taking responsibility for his responsibility in relation to the type of sanction was given. Run sponsorship deal with violators punished because of his criminal responsibility but this argument is not civil liability. So it is important to recognize the responsibility and authentication type.

Keywords: Violence, violence in sports; violent behavior in sport; criminal liability in sports rights, civic responsibility in sports law.
Sports rights and violence relationship

What is important to be considered on violence in sport this is not true in general to fight with violence in sports. But also, it is necessary to avoid the kind of violence that is colored by hatred, and is out of control. In such a case, according to that sense of violence and aggression and physical activity is also indispensable, the amount of violence can be prevented by enacting laws and regulations of each sport that is in order and under control, including the counting error pointed out some exercise; in this context, the Council of Ministers of the Council of Europe that placing the principle of fair play, in general, stood up to protest the violence among players and spectators should not be ignored; unfortunately violence on both sides, the players and spectators (fans) increased in recent years and partly more attention is needed (ibid, 1955, 13). The violence is the carnal dynamic quality that actualizes the risk, but aggression (or violence) is useful only if it is necessary that does not exceed moderation and not take an abnormal shape.

Violence can be divided into two forms. First, it may about the aggressive person him/herself like suicide and the second case is realized to the other as assault, murder, insults, defamation and threatened that the second case is more common in sports. In explaining the second case, it can be said that aggression or invasion is a characteristic that makes humans in certain cases, to impose ideas or materials and their interests, committed an activity which is defamatory color, but this has case different intensities among humans (Kaynia, 1990, 929).

"Council of Ministers of the Council of Europe was concerned as a result of the growth of violence in sport, openly supported the principle of fair play in sport. Considering the fact that if it is to reduce the violence in the community, this should be done with respect to all forms of violence as far as the general causes of violence among players and spectators can be seen to all scales long, to prevent the spread of violence in sport, the progress of the struggles should be considered; by supporting the concept of fair play, especially among young people, Government officials should increase the intimacy between sports players and audience "(Joleydoon, 1986,99).

Legal Liability in Sports Law and Its Variants

Sports activities are always faced with different events and thus, various operations in sport, will have a great impact on the athletes’ responsibility. However, this responsibility with the passage of time and the transformation of society is divided into two kinds of criminal liability and civil liability. These two are responsible for "defining", "Subject" and "legal requirements" and "behavior committed", the concept is independent and separate.

So, the sport and physical education as an activity that many people involved in it, occasionally provided the cause of friction and interests of individuals to commit an act of criminal damage by one on the other or others; it seems that they will be examined on the basis of the type of damage to exercise the responsibilities in the two types of "criminal" and "civil" division. Today, issues of legal liability have been developed in sports. Factors affecting the development may be due to increasing the diversity of sports in society moreover, it also depends on injured athletes to their behavior; because today, injured athletes generally seek complained of cause of their injury. Open sports events associated with the cause new issues such as civil and criminal liabilities (Halle, 2009, 35).
According to the law, the responsibilities exist for the athletes when there is a breach of legal duty, to reach loss others say that an athlete despite the violations of sport regulations in a sport environment is to maim other athletes, that has ignored his legal duty that is the lack of exercise violations. On the other hand, many athletes, coaches and referees’ violations in connection with the exercise of their responsibilities can be considered often single operation lead to civil and criminal liability (Hosseinnejad, 1991, 35).

However, sometimes, there are circumstances and factors in certain circumstances, which cause the law to recognize the criminal act committed without description of the criminal acts committed, and the description of criminal act committed in certain circumstances will be eroded. In other words, a justifiable cause is a quality that undermines indeed an act of unlawful activity against the public order, if a person regardless of the cause commits such an action, he will be known as guilty, but because such action is justified not only because of the sins committed with a crime is not known, but sometimes will be considered as implementation is done right or duty.

Civil liability is the commitment to compensate for harm to another person, whether action by the person responsible causes the loss or acts of objects and persons related to him or property owned or occupied by him.

Civil liability has been divided into the following types:

1. Public responsibility: human and financial losses caused to third parties that caused by everyday activities of the person or persons and operating losses refer to the law known as public liability.

2. Professional responsibility: the responsibility for the professionals to the law against those who are in relation to damage caused by their profession.

3. Contractual liability: means that the contract due to a violation of the conditions stipulated in the contract namely failure to perform its obligations or commitments are incomplete harm the other party. In this case, it will be realized as contractual liability.

As the above discussion is concluded, for the civil liability must be true, there should be losses relationship between the individual and also, there should be causal relationship between losses caused and action for damages and operating losses.

**Civil liability**

When a person with his behavior has caused prejudice to the legal rights of others so we say that it is the legal responsibility (Mac Brigadier, 2008). In each case, the person had to compensate other damages to say that he has civil liability and responsibility against him, it needed to be optional. Free and wise man is aware and responsible for the outcome of his work. Based on civil liability, special religious relationship arises between the injured and prejudicial, injured, creditors and prejudicial, debt and debt subject that are damaged, must be compensated and typically, this is done by paying compensation.

Article 1 of a civil liability law that is one of the most important sources in this case provides:

"Anyone who deliberately or as a result of recklessness without a legal license causes a damage to the life or health or property or freedom or dignity or reputation of the trade or any other rights established by law for persons that causes moral or material harm to others will be liable to compensate the damages caused by his actions."
Realization of civil liability
For the realization of civil liability, pillars and conditions should be integrated: 1. damaging act, 2. realization of the harmful outcome, and 3. the causal relationship between the acts committed and results.

Harmful act
Consultants prejudice to the rights of others through the act is doing something that will ease its external, visible and tangible manifestation.
Damage to other property, insert derogatory newspaper article and others like them is clear examples of such actions. But negative action (omission) can have the same result (Mac Breed, 2008, 29).

Harmful Results Realization
If any harm is not recognized, it can be impossible to identify a person as responsible. This is the first article of the law of civil liability that is mentioned. Where a defect in the property created or lost profits of Muslim or prejudice the health and dignity and feelings of the person, loss is incurred.
Generally, there are the civil responsibilities to compensate for the losses, have been divided into two distinct groups: 1. Material, 2. spiritual. Financial or material loss is the reduction and prevention of the proliferation of individual assets of each title.
Of course, just doing an action that led to the losses will not rise to civil liability, but also committed the unlawful act or as provided in civil liability laws article without a legal license. This is the opposite of the losses arising from the practice of law, not civil liability. For example, if an athlete injured his opponent with all applicable laws, his action was allowed in accordance with the law and would not be responsible for the injury. We should add, in tort, or negligence committed intentionally has no effect on the level of responsibility of the offender. Intentional negligence, involves understanding and accepting the possibility of loss due to recklessness or negligence without good reason and tolerance, that causes damage, no harm intended, but if it is not tolerance that, if the damage will not be caused to the other (Mac Breed, 2008, 30).

Causal relationship
Proof of committing a misdemeanor or of prejudicing the injured and the current by the reader or those who he is responsible for their actions alone would not explain the claim for damages, which must be established that there is a causal relationship between operating losses and harmful act, ie losses incurred due to harmful act is committed. Then it becomes more difficult to establish the causal relationship that is the responsibility of another action.
Suppose that sports teacher at the school are teaching students at the time and in the same period the exercise is harmful for any of them.
The question is whether it is required to exist a causal relationship between the loss and the act by the teacher, to make the teacher to compensate for the loss caused by the student? In such cases, the causal relationship between the work of students and loss must be established and
then, according to Article 7 of the law of civil responsibility, it should be proved that it is enough in caring for the student to pay damages (Aghaeinia, 2008, 26).

So when a person or persons, is obliged to compensate other damages allegedly he has been responsible against him based on civil liability and the civil liability is by the law or by contract. Contractual obligations due to non-performance and failing to fulfill the covenant of contract between the person who does not fulfill his obligations, thereby he is causing harm to others or is a contracting party is obliged to bear the losses, and the toggle is raised, means the responsibility resulting from the contract that is a commitment that violators is obliged to do the provisions of the contract, such as wrestling coach committed to teaching techniques of wrestling as a teenager and as a result of lack of care and his recklessness, teen is injured. Trainer is responsible against juvenile and his parents, and is obliged to compensate the damages.

In the case of non-contractual liability, the situation is the same way, this means that in civil damage caused by error or abuses either by a contract or not, the compensation is for the one whose negligence and recklessness caused the damage, and it can be recognized clearly by the order of Article 1 of the decree of civil liability laws have already mentioned. To learn the legal article that is the main basis for civil liability for all supervisors, managers, coaches and referees and careful attention to the text and words, it is necessary and with an understanding and attention to the words and sentences we will know that what activitie, will rise to civil liability in the garb Director of team or sport or guardians or coaches or referees? (Chalabi, 2010, 142).

Civil liability in the field of sports includes all those who directly or indirectly related to sports activities, duties, and in the event of an accident, as the case may be held responsible. They can be divided into two major groups.

The first group: includes the coach, manager, trainer, gym teacher, savior lifeguard, Major savoir, referee, team physicians and athletic activities are mainly direct, monitor and manage actions.

The second group includes those on the exercise, but not technical supervision immediately after the first group of athletes or with tools, equipment, and sport facilities or associated with the first group of managers. This group includes supervisors in stadiums and sports camps, BS, sports officials, general manager of Physical Education, heads, bodies and associations sport.

From a legal standpoint and despite the differences in their functions, both in terms of its position in relation to sporting events have their legal responsibility. Meanwhile, all those in the regulatory bodies and athletic performance on a large scale, their management practices are involved in this field.

Coaches and sports administrators are obliged to take care of their athletes and if they refuse to perform this task, if they cause an accident, will be held accountable; however, just doing something that would be detriment of other, would not be responsible for sport, but had committed an act without legal authorization (unlawful). In addition to civil liability, fault or committed deliberately, will have no effect on the level of his responsibility. The civil liability of prejudicing other is accompanied. This means that people are not blamed for the unrealized losses.

From a legal perspective, "the athletes' coaches are responsible about the events that arise by atheletes. The fault can be attributed to the coach, is the lack of care that court measures in the final stage because the defect due to being permitted the act of coach and the possibility of his
actions in preventing the damage. For example, the trainer is guilty if permits to practice boxing turned into the fray. But familiarize students with practical rules of boxing, is not fault, it is clear that the coach's responsibility is only to negligence or errors that students have been given to the operations related to the class to coach" (Hosseininejad, 1991, 41).

Dealing with civil matters, except in exceptional cases in accordance with law, private claimant as a result of the criminal investigation, has the right to claim to compensate the losses from crime in the criminal court and in other cases of civil courts; in compliance with certain formalities have jurisdiction over civil matters. In civil cases, unlike criminal cases, the burden of proof plays a significant role and this reflects the complexity and specific problems, and the injured (hurt) must process for the fact that he claims to prove the defendant's responsibility.

Criminal responsibility

The issue of criminal responsibility related to an action sports is very important issue in society, and it increasingly focuses on violence (Halle, 2009, 189). The aim of understanding the principles of criminal liability of athletes, to impose punishment on the wrongdoer is in order to protect society and safeguard public order and reform is implemented and punishes others.

Legal elements of crime

The legal element of a crime, an act of recognition is one of the offenses in the Criminal Code.

There are three factors to consider a human act as a crime:
1. The spiritual element that criminal behavior must be accompanied by criminal intent or criminal negligence; 2. Material element, including Realization foreign operations imply criminal behavior; 3. Legal elements

Disclaimer on sports law

After the above conditions, legal liability in sports (civil liability and criminal liability) are now stripping the responsibility to exercise the rights described because sometimes the person can be deprived of the legal responsibility of, and conditions (including civil and criminal), the first speech is dealt with Disclaimer Disclaimer II civil and criminal speech.

Deprivation of civil liability

To avoid the liability in sport claims that are based on negligence, there are several ways to defend the offender that the most common of them are the fault of the injured, the relative fault and take the risk.

Theory of fault of injured

The fault of the injured is a defense if the offender wants to be able to invoke the wrongdoer. It is the behavior that is done by injured about the criteria that law, its implementation is to protect the self.

If lack of care by the plaintiff is effective for his safety in realization of damage, the offender can defend himself according to the fault of the injured, however, the burden of proof of
negligence of the injured by the offender shall be appointed by expressing the reasons for its efforts.

If a person with knowledge of the circumstances of the risk, tries to take the risk, in fact, he had accepted the results of the risk and therefore, if the fault is willing to cause harm, he will be deprived of compensation and the same doctrine is the fault of the injured.

In the famous case of "Harrison" in 1983, which was filed in the United States, the injured was a 14-year-old student who was completely paralyzed in physical education class as a result of injuries inflicted on him, so that the guardianship permanently and continuously was required. Maryland Court of Appeal, confirmed the order issued by the lower court that the damage is not compensable because this is the fault of injured not to take enough and reasonable care in the exercise of reasonable care for his safety to the extent that any reasonably prudent person in similar circumstances would do the same agreement (Aghaeinia, 2008, 19).

**Risk theory**

But the doctrine of Risk in sports has a long and divided history. Lawyers often citing the text that "this doctrine is so vague that to remove it from the list will be in the interest of law."

Differences between inseparable injuries caused by the fault or from sports injuries authentication are shrouded in mystery. This doctrine has doubled the fault of the injured complexity.

To take risk can be defined as: Voluntary admission (expressed or implied) risks that are known and have been evaluated. So someone who accepts the risk of behavior (explicitly or implicitly) in case of losses cannot claim damages.

Usually, it is assumed that players will play to their will, are accepting all clear and predictable risks related to race. Then, take the risk is explicit, and by the time that want to explicitly accept the risk and ignores his right about "inseparable" physical violence from a sport, this means that he accepts what happens to him and there is not any compensation. The term "inseparable" as a result is emphasized because it is an important part of taking risk that person is only accepting risks inseparable from the sport; therefore, neither inherent nor predictable risks will not be accepted. For example, in a file, a professional horse rider was injured due to the deviation of horse from the racing track, and it was due to the negligence in installing the gate. Court has suggested that he is not accepting the danger because he was not aware of the inherent risk of the sport (Aghaeinia, 2009).

**Theory of comparative fault**

However, in order to mitigate the unfair aspects of the teachings of the fault of the injured and the risk that both are considered some of the obstacles compensation, courts and legislatures, to another extension doctrine called "comparative fault". Currently, the majority of courts and legislative bodies raised"comparative fault" by the principles of fairness and in order to achieve common solutions to mitigate the fault of the injured and the risk of unfair teachings, the doctrine of raised voice as inferred from its title, different rules about"comparative fault" allow the injured to compare his fault with the fault of offender.

However, although how this comparison is done, depends on the law, but most of the rules, advocating a pure comparative fault, which means that the percentage of share of the damages
sought will be compensated that is not at fault. Another method is such that if the injured is guilty by more than fifty percent of losses, he will not be compensated.

In an important case called "Li V yellow cup," California Supreme Court referred to unfair aspects and criticized it as the fault of the injured said teachings and inability in the relative distribution of fault liability resulting from errors. In Lee's case, different forms were examined the first of which is absolute or simple type that distributes the responsibility to direct the blame. In this procedure, the injured just receives damages that are caused by the defendant's fault. In this method, "Lee" was more plausible apparently among jurists of the time. The second form of relative fault dealing with the case of Lee was considered by the court is known as the modified variant. In this figure, if the defendant is entitled to damages partially, his fault is considered less than the defendant's fault.

Due to the impact of the problems relating to blame the relative fault of the injured was within the framework of Risk doctrine, continued to be discussed in the case of "Lee". According to the teachings of the Court's reasoning was that such a risk, the principles of comparative fault causes the fault of the injured severely reduced to one-dimensional approach.

The court also noted that the defense objection risk-based fault of the injured determine responsibility and have also criticized the plan to willful misconduct in fact, it is nothing but the principle of relative fault. As an essential point in cases where person involves no extremist involvement in sports, in defense doctrine cannot take the risk of loss on negligence of injured in the framework of the principle of comparative fault. An experienced skater, who voluntarily and deliberately unsupervised, while having the skis on the one hand, puts severe risk on a slope, has accepted the risk of injury and danger and such acceptance cannot be integrated into the relative fault principle.

Criminal Disclaimer

It was said that the necessity for punishment prescribed by law is subjected to obtaining criminal liability of athletes and in some cases, criminal liability of persons is removed despite of the social existence of components of crime, although the operation is a crime as provided by law. In principle, the causes and directions are different that will help to eliminate criminal liability, but there are certain qualities, and external factors to cause the practical implementation of the law, it is in the form of crime, as has deemed justified by law. In other words, the description of the criminal act in normal conditions isigned that is an inclusive of components of crime, and the offender is not responsible. In this case, the "action or omitting the act committed, because of the specified legal text is permitted in the conditions that they were committed, is lacking the criminal title" (Noorbaha, 1996,207).

Scholars of law explain the basics of crime due to lack of exercise-induced damage caused by the operation have different views expressed that we are briefly referring to them.

Theory of lack of criminal intent

"Some have attempted to know the impunishable sporting events from operations in the absence of criminal intent. The theme in 1912 was legally reviewed in one of the French courts. According to the ruling committee, common crime to commit assaults that is punished by the criminal law emanates from a sense of vengeance. If a boxer during the race is devoid of sense."
In this article can be criticised such that though there may not the hatered and its feelings, initially for the players, but in practice we see that the players virtually, especially if they feel like a failure, will change his fighting style deliberately to assault and pay mayhem. Examples of this can be seen in the boxing tournament. Since, by definition, "the criminal intent is to commit an act of consciousness that the legislator forbids it" (Noorbaha, 1996, 251).

**Theory of based on the consent of the victim**

If the victim of a crime, with his will and different motivation accepts that has practical tolerance law under normal circumstances, it criminalizes. There is a general principle, that "the consent of the victim in crimes involving life, health and bodily integrity damage is a noble person, and therefore the justification for the act or omission is not criminal."

If the penalty is done to protect private interests, the proof is that it would eliminate criminal liability for the offender to victim satisfaction, but as we know, the purpose of maintaining public order is punishable by not fulfilling private individuals. Therefore, the general rule is that the consent victim denies criminal responsibility and which it does not destroy (Aliabadi, 1998, 247).

Professor "Karaduzo", US lawyer has said on this issue: the coward can stay at home (Sanei, 1976, 45). Accordingly, a person who participates in sport activities principally cannot complaint about the dangerous consequences that can be achieved within the framework. In this regard, the Court of Justice has ruled in Oregon in 1962, "Soccer is a sport with physical involvement. Due to the continuous involvement and frequent players with even more power is physical conflict, bruises and fractures of events is inevitable in Soccer... players must welcome with satisfaction the blows risk, fractures and injuries" (Baheri, 1969, 256).

**Theory of allowed by law, custom and habit**

By rejecting ideas based on lack of intent and consent of the victim, it can be said that the real reason for the lack of penalties for the athletes in implementing these sports and those who exercise during the operations, commit assaults are allowed by law. The implementation and administration of law and custom, and even encourage violent sports thus, exchange blows are allowed (Ardabil, 2006, 116).

Some authors in France have considered the law based on civil law because the law after the loss of tracking debt caused by gambling, between games in its success, have been announced thanks to luck and fortune and exercise, the difference between left and implicitly legitimizing recent games (Shokri, 2008, 60).

**Conclusion**

Civil liability in the field of sports, including all those who directly or indirectly related to sports activities, duties, and in the event of an accident, as the case may be held responsible. They can be divided into two major groups.

The first group includes the coach, manager, trainer, teacher, sports, lifeguard savior, the Messiah, referee, team physicians and athletic activities are mainly direct, monitor and manage actions.
The second group includes those on the exercise, but not technical supervision immediately after the first group of athletes or with tools, equipment, and sport facilities or associated with the first group of managers. This group includes supervisors of stadiums and sports camps, BS, sports officials, general manager of Physical Education, heads, bodies and associations sport.

From a legal standpoint and despite the differences in their functions, both in terms of its position in relation to sporting events have their legal responsibility. Meanwhile, all those in the regulatory bodies and athletic performance on a large scale, their management practices are situated in this field.

Coaches and sports administrators are obliged to take care of their athletes and if they refuse to perform this task, if it causes an accident, they will be held accountable; however, only to take action that leads to the detriment of other does not cause the responsibility for sport; but the act must be committed without a license (illegitimate). In addition to civil liability, or fault committed deliberately, will have no effect on the level of his responsibility. The civil liability of prejudicing other is accompanied. This means that people cannot be blamed without unrealized losses.

The issue of criminal responsibility related to an operation in sports, and this issue is very important in a society increasingly focuses on violence. The aim of understanding the principles of criminal liability of athletes, impose punishment on the wrongdoer is that in order to protect society and safeguard public order and reform is implemented and punish others.

To avoid liability claims based on negligence brought the sport, there are several ways to read the defense of the most common of them are the fault of the injured, the relative fault and Risk.

Causes and directions that will help to eliminate the criminal liability are different, but there are certain qualities, and external factors cause the practical implementation of the law, it is in the form of crime, as has, by law, to be deemed justified. In other words, the description of the criminal act in normal conditions, inclusive of components of crime, was destroyed and did not know it was responsible. In this case, the "action or omission committed, because of the legal text specified in the permit conditions is that they were committed, is lacking the criminal title."
References