

**AN EXAMINATION ON THE IMPACT OF THE SPORTS LEGAL FRAMEWORK
ON THE PERFORMANCE OF SPORTS IN UGANDA.**

BY

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DECLARATION


I OKETCH KEITH LAZARUS do hereby declare that this dissertation was carried out in accordance with the requirements of the university regulations and that it has not been submitted for any other academic award. Other works cited or referred to are accordingly acknowledged.

Signature.....

Date.....

APPROVAL

This dissertation by Oketch Keith Lazarus under the title '***An examination on the impact of the sports legal framework on the performance of sports in Uganda***' has been under my supervision and is approved for submission to the examining authority.

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DEDICATION

This research paper is dedicated to my family especially my parents Mr. and Mrs. Osuna for the confidence they have instilled in me to complete this work, to my brothers and sister Emma, Kelvin, Elvis, Jackie, Alison, Sharon, Arnold for their support inspiration and prayers to enable me finish this work successfully.

Last but not least to my good friend Marvin Aheebwa and my other friends Nannengo Madinah, Namulindha Rebecca Dhamuzungu et al for their love, support and encouragement

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“MAY THE ALMIGHTY GOD REWARD YOU ALL ABUNDANTLY”

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LIST OF ABBREVIATIONS

NADO	National Anti-Doping Organization
WADA	World Anti-Doping Agency
NCS	National Council for Sports
IF	International Federation
NF	National Federation
FUFA	Federation of Uganda Football Association.
RADO	Regional Anti-doping Organisation
WADA code	World Anti-doping Code

CHAPTER ONE

GENERAL INTRODUCTION

1.1 Introduction

Sport is an integral part of society throughout the world and has been practiced in some form or another, since ancient time for example; sporting events were an essential and popular part of social calendar of ancient Greece and Imperial Rome¹. Sports have played a key role in nation building and fostering unity and friendship between warring nations and hostile communities. For instance, during the 1955 India-Pakistan test series, an estimated 20,000 Indians were given permission to attend the third test in Lahore creating what one newspaper described as the biggest mass migration across the frontier since partition².

Sports is defined to mean all forms of physical activity which through casual or organized participation, aims at expressing or improving physical fitness and mental wellbeing, forming social relationships or obtaining results in competition at all levels³. This is traditionally and generally most accepted definition especially when deciding whether a particular activity claiming to be sport usually for funding purposes⁴.

The purpose of the proposal is to outline a comprehensive examination on the influence of the legal framework on sports performance in Uganda, with the growing interest and investment in sports across the nation, it's important to access the role of the legal structures in shaping the landscape of sports and its overall performance.

1.2 Background

Uganda boasts of a rich sporting tradition, consistently producing talented athletes across different sporting fields ranging from athletics, basketball, netball, cricket, boxing to football and many more sports beyond the above-mentioned sports and this has contributed significantly to its cultural, social and economic fabric. However, despite this potential and experienced sportsmen Ugandan sports performance on the international stage can be uneven and therefore the effectiveness of sport governance

¹ International sports law: An Introductory Guide.

² Law & Sports in India, 2011, LexisNexis, Haryana, India, p.37

³ Article 2.1 lit. a, Council of Europe Revised European Sports Charter of 16th May 2001.

⁴ International sports law: An Introductory Guide.

and regulation in facilitating the growth and development of sports remain a subject to debate.

Objective XVII⁵ provides for recreation and sport and states that the state shall promote recreation and sports for the citizens in Uganda. Furthermore, **Article 8A (1)**⁶ provides that Uganda shall be governed based on principles of national interest and common good enshrined in the national objectives and directive principles and furthermore **Article 8A (2)** provides that Parliament shall make relevant laws for purposes of giving full effect to clause (1) of this article. Through this Uganda got a new law that governs sports and it's the **National Sports Act 2023**. However, before the coming of the national sports act 2023 as the law governing sports in Uganda, **The National Council of Sport Act chapter 64** was the existing legal frame work in the sports sector and it was enacted in the year 1964 and it took almost fifty years to make the regulations which were made in 2014 and were also used to regulate the sports sector in Uganda.

As a result, I focused my research on understanding the impact of the new legal framework on sports performance for devising strategies to enhance the sectors efficiency and effectiveness.

1.3 Problem Statement

The study aims to investigate the impact of the legal framework that governs sport so as to assess its performance and development of sports in Uganda. Notwithstanding the growth, development and participation in sport in the country, the legal structures in place to support and regulate the sports sector are not doing enough to protect, promote and develop sport activities in the county.

By examining the existing legal framework and policies, this study aims to identify strengths and weaknesses to the sports sector in Uganda. Through an analysis of the legal frameworks impact in the sports sector, the study aims to provide insight and recommendations for enhancing the effectiveness of the performance and development of sport in Uganda.

⁵ The 1995 constitution of The Republic of Uganda as amended

⁶ The 1995 constitution of the Republic of Uganda as amended

1.4 Objective of the study

1.4.1 General Objective

The general objective of the study is to assess the role of the existing legal frame work in the performance of sports in Uganda.

1.4.2 Specific objectives

- a) To provide a comprehensive understanding of how the Uganda legal frame work impacts athletes development, competition fairness, commercialization and overall performance.
- b) To identify the strengths, weaknesses, opportunities and threats with in the current sports legal framework.
- c) To formulate recommendations for policy makers and sports governing bodies to strengthen the legal framework and improve Uganda's athletic performance.

1.5 Research questions

- a) What is the history concerning the legal framework of sport?
- b) What is the existing national legal and policy framework on sport in Uganda?
- c) How does the current sports legal framework in Uganda influence athlete development, training and welfare?
- d) How does the Uganda legal frame work promote fair competition, doping prevention and dispute resolution with in Ugandan sport?
- e) How does Uganda's sports legal framework compare to other successful sporting nations in Africa and beyond?

1.6 Significance of the study

- a) This research will help in the partial fulfillment of the requirement for the award of the degree in Bachelors of Laws.
- b) The research shall add on the existing literature as far as the development of sport is concerned in Uganda, as the literature available is meant to inform the key players in the development of sport.
- c) The research finding can aid the policy makers to get more knowledge and techniques for the promotion and development of sports in Uganda.
- d) The study shall enable the researcher to acquire more knowledge and skill in the field of research.

1.7 Justification of the study

This study will assess the role played the legal framework in ensuring the promotion and development of sport in Uganda. The study shall also identify the different weaknesses with in the legal frameworks available that hinder the development of sports in the country and it will furthermore make recommendations to the weaknesses and challenges that hinder the development of sport in the country.

1.8 Scope of the study

1.8.1 Subject scope/content scope

The study shall focus on examining the impact of the sports legal framework on the performance of sports in Uganda and will rely on literature review, textbooks and journals among others.

1.8.2 Geographical Scope

This study shall be centered on the country of Uganda as a whole.

1.8.3 Temporal (time based) scope

This study shall cover a period of ten years from 2014 to 2024 in order to understand the impact of the sports legal frame work on the performance of sport in Uganda.

1.9 Literature Review

This section majorly focuses on the analysis of the already available literature on the impact of the legal frame work on the performance of sport that is to say how the legal frame work has enabled to promote and develop sport in the country. It should already be noted that there are different scholars and writers who have already made literature that are expressing their views about the impact of the laws and policies governing sport and how these laws and policies are influencing sport in the world and therefore the researchers feel that where the legal frame work doesn't fulfill the required standards then the realization to the development of sport is affected and its explained as below;

Smith, D in his book provides for athlete development and states that there have to be strong legal structures that are able to facilitate talent identification, training programs and athlete welfare through regulations on minimum standards and injury⁷.

⁷ Smyth, D. (2009). Sports Law (4th edition). Routledge.

In regards to the authors he shows that for there to be sport development there have to be legal structures that are into place so as to ensure athlete development.

Furthermore, Frisch D & Pelo A state that scouting programs that can be used to identify talents should have legal frame works which shall lead to the creation and operation of scouting programs at the grassroots level and they should be over seen by governing bodies with clear regulations so as to ensure fair and ethical identification of promising young athletes⁸. The author is of the view that there have to be a proper legal system with regards to scouting athletes starting from the grassroots level to enable the carrying out of scouting activities so as to easily identify young talented sports persons.

According to Scully D in his book talks about the anti-discrimination measures that should be emphasized in the sport sector and provides that legal frameworks can prohibit discrimination in sport on factors based on like race, gender, disability or socioeconomic background and further states that the legal frame work can create the same level playing field for all the athletes and also fosters inclusivity with in sports programs⁹. The author is of the view that for sport development the aspect of discrimination in sport has to be eliminated and further states that the legal frame works against discrimination and it's a proper tool that can be used to prohibit discrimination.

According to Waddington & Brookes¹⁰, both put a lot of emphasis on the anti-doping measures in the sports sector and they both state that a robust anti-doping legislation should be put in place to protect the athletes' health and ensure fair competition between the different athletes that competing in a specific sport. Furthermore they state that the legal framework can establish testing procedures, define prohibited substances and outline consequences that would arise as a result of violation of anti-doping. The authors are on the view that there should a legal frame work that is in place so as to ensure and promote anti-doping in sport since the legal framework shall provide for the different prohibited substances and also

⁸ Frisch D & Pelo A. (2010). Talent identification and development in youth sport: A review of the literature, *Quest*, 62(2), 187-221.

⁹ Scully D (2012) *Sports law* (2nd edition) Palgrave Macmillan.

¹⁰ Waddington I & Brookes K (2014). *Sports, ethics and gender* Routledge.

consequences for the violation of the anti-doping and furthermore that this creates a fair ground for competition. But whoever even though the laws are put in place especially in third world countries like for the case study in Uganda, there are high rates of illiteracy and there is a lot of ignorance of the law and people aren't even aware of these laws and they end up doping.

Furthermore according to Houlihan¹¹, legal frameworks should provide for standardized training and further states that the legal frame works should establish minimum standards of training facilities, equipment and coaching qualifications that through this the different athletes shall have access to high quality training equipment and this will minimize the risk of injury and the coach qualifications shall ensure that the coaches are able to give the athletes updated skills that necessary for a sport this therefore will optimize performance. Furthermore Houlihan also puts emphasis on the commercialization of sport and provides that a clear legal framework around intellectual property, broadcasting rights and athlete endorsement and sponsorships and this therefore can foster the development and promotion of sport sector. The author is on the view that the legal frame work and different policies should be able to ensure standardized training and ensure proper coach qualifications but however the to attain these standardized training and proper coaching qualifications there is need to purchase the equipment and these equipment are too expensive and cannot be purchased by countries in the third world class.

Several nations have demonstrated the positive impact of a well-designed legal framework and through this some sports activities have expanded in the different countries. According to Horne and Wann¹², Germany's success in football is partly attributed to its robust youth development system supported by a clear legal structure in country of Germany. And furthermore Malcolm¹³ shows that Australia's anti-doping legislation is considered a model for fair competition, contributing to the country's strong showing in various sports. Through this the authors are showing that through the proper legal framework there have been different countries are able to promote the development of sports in their countries.

¹¹ Houlihan B (2008) Sport, Law and Policy, Routledge.

¹² Horne J & Wann D (2012). The history of Sports law (vol. 14). Routledge.

¹³ Malcolm D (2013) Anti-doping law. Edward Elgar Publishing.

In conclusion, Uganda has a limited legal framework so as ensure the promotion and development of sport so as to compete globally with the already established developed countries that are excelling in the sports sector.

1.10 Research methodology

This part of the research shall show the scope within which the data was collected and ways in which it was further analyzed to achieve its intended objective for this study. It will also show the methods that were used during the research and the methods shall vary depending on the kind of information require, the sources of data among others.

The research to be completed, the analytical methodology shall be purely qualitative entailing library and internet research. It also involved the analysis of journals, law reviews, textbook, relevant cases from various jurisdictions.

1.11 Limitation of the study

There is limited access to information about sports in the country as most of the information is internationally based and there is little information about sports in Uganda.

CHAPTER TWO

NON-LEGAL ASPECTS OF SPORTS LAWS

2.1 Introduction

This chapter majorly looks at the non-legal aspect of the study and therefore gives it a much more detailed way of looking at the topic in a way that is not related to any legal aspect. Through this chapter we are able to know where the legal framework of sports came from and we are able to give an analysis about the legal framework and the development of sport.

In order to understand this chapter we shall look at the history of the legal frame work of sport in the country.

2.2 History of the legal frame work in sports

Sports have been in existence and have been played by athletes, individuals or teams since the ancient times. There are various forms of sport in the world and these include; rugby, football, tennis, boat rowing, basketball, hockey, cricket, swimming, boxing and table tennis and these sports can be understood by the way they are played or the activity involved in them¹⁴ and through these forms of different sport, different laws have been setup so as to ensure the development of the sport and fair competition in the sport.

According to Andrew,¹⁵ the history of sports law can be followed back from the beginning or origin of sport in the world and furthermore stated that the law in sport was majorly used in the organized sport competitions and he provided that these organized competitions can be traced back at the ancient Egyptians as early as 1829 B.C and also the athlete competitions that took place in Ireland. He further stated that the interaction of the sport and law was majorly involved where there was violation of the rules of the game and stated that the Olympic Games were majorly setup to promote peace between Greek city states and strict rules to govern the games were passed and they were enforced by judges.

¹⁴ <https://www.legal500.com/developments/thought-leadership/sports-law-evolution-an-introduction-by-ll-vol-1/>.

¹⁵ Andrew T. Pittman (1992). The Interaction of Sport and law; Where has it been, where is it now and where is it going.

He further stated that sport in ancient Rome was majorly for two purposes that are to train soldiers and to provide entertainment to the masses because most of the romans were unemployed or worked part time jobs. Furthermore, some of these events served as a way of eliminating some criminals or unwanted people in the society, he further goes ahead and states that some conservative Romans regulated sport since many romans believed that the Greek athletics were a corrupting influence on Roman youth, he further provides an example the law required the Roman athletes to wear clothing's during competition unlike the practice of nudity among Greek athletes¹⁶.

Traditionally, problems arising from a sporting event were solved by way of the customary practices of society. Sports Law fundamentally was not recognized in its presence in society and is generally managed by nonprofit bodies. Sports and law were often considered different realms. Many believed that it is a mere amalgamation of various areas of civil law such as Contract law, Labour Law, Tax Law, Anti-doping Law, and Intellectual Property Law. Sports Law was nothing more than the general law applied to the sportsperson or body¹⁷.

Over the years, the growth in the sports industry has been exponential but without a strong legal framework. Sports and the law work hand in hand so to ensure the proper development of sport. Since sports deals with many aspects there different issues of law that come into considerations and these include, contract law as this majorly deals with contracts, intellectual property law this brings out the aspect of image rights and therefore sports persons able to handle their rights in sports and discourages exploitations, human rights is also one that the sportsmen can engage with as this helps to protect their human rights and discourage any violation of their human rights¹⁸.

2.3 Conclusion.

In conclusion, the chapter majorly discusses the history of the legal framework of sport around the world, and we have been able to find out that sport has been in existence

¹⁶ Ibid.

¹⁷ <https://www.legal500.com/developments/thought-leadership/sports-law-evolution-an-introduction-by-ii-vol-1/>.

¹⁸ <https://www.legal500.com/development/thought-leadership/sport-law-legalframework-by-ii-vol-2/>

for a long period of time and that furthermore even in the ancient times there still existed laws that govern the way sports we played and this ensured the growth of sport in the ancient times.

The next chapter which is chapter three majorly refers to the legal of the study in the research and enable us look at the study in a legal way to see if the legal frame has an impact on the development of sport in the country.

CHAPTER THREE

ANALYSIS OF THE LEGAL FRAME WORK OF SPORTS IN UGANDA.

3.1 Introduction

Uganda as a country with a rich cultural heritage and passion for sport has made significant effort to develop the sports sector around the different sporting activities in the country and this has therefore made the country to boost a diverse range of sports discipline.

One of the critical aspects that have gained increasing attention in the recent years is the legal framework that governs sport in the country. According to James and Li Wei¹⁹ they state that the enactment of China's sports law provides an opportunity to gain fresh perspective developments not only in China itself but the global arena. Therefore through this we see that sports law is able to promote proper developments of the sports sector and being able to create competition on the international stage and challenge for the different awards in the sporting competitions.

In order to ensure the development of sport, this chapter is going to give an overview of the legal frame work of sports in Uganda and how the legal frame work has been able to promote sport in the country.

3.2 Legal framework of sports

3.2.1 The 1995 Constitution of the Republic of Uganda

In Uganda the supreme law of the land is the 1995 constitution of the Republic of Uganda as amended and it's binding on all people and authority on the land. Therefore, the constitution is the law that governs the land and all the laws formed must conform to it as provided for under Article 2²⁰. The 1995 constitution provides for sport under Objective XVII and provides for recreation and sport and furthermore, states that the state shall promote recreation and sports for the citizens in Uganda.

Furthermore, the constitution under Article 8A (1)²¹ provides that Uganda shall be governed based on principles of national interest and common good enshrined in the national objectives and directive principles and under article 8A (2) provides that

¹⁹ James A.R. Nafziger and Li Wei (1998) China's sports law

²⁰ The 1995 constitution of Uganda as amended.

²¹ Ibid

Parliament shall make relevant laws for purposes of giving full effect to clause (1) of this article. Therefore, Article 8A (2) gives the parliament powers to make laws so as to put into force the different objectives that are provided for in the 1995 constitution as amended. Furthermore the 1995 constitution of Uganda as amended has different provisions within the constitution that can be used to regulate the sport sector in the country and these include different articles as provided for below;

Article 21²² provides for equality and freedom from discrimination, and furthermore states that all persons are equal before and under the law in all spheres of political, economic, social and cultural life in every other respect and shall enjoy equal protection of the law, Article 21(2) provides that a person shall not be discriminated against on the ground of sex, race, color, ethnic origin, tribe, creed or religion, social or economic standing, political opinion or disability. The constitution under Article 21(3) goes further ahead to define discriminate to mean to give different treatment to different persons attributable only or mainly to their respective descriptions by sex, race, color, ethnic origin, tribe, birth, creed or religion, social economic standing, political opinion or disability. Since the constitution is the supreme law in the country this article under the constitution falls under the sports sector and therefore it discourages discrimination in sport and every person is free to engage in sport and no one is to discriminate people basing on sex, race, color, ethnic origin, tribe, birth or any other aspect which may lay grounds for discrimination.

In the case of ***Christopher Martin Madrama Izama v Attorney General***²³ the court stated that for any of the above elements to amount to discrimination, it must have been done outside the law and with negative intentions. Therefore the court states that for one claim discrimination it must have been done under the elements stated in under article 21(2) of the constitution and it shouldn't be in line with law and it must have negative intentions towards the victim who has been discriminated.

Article 21 of the 1995 constitution as amended majorly prohibits discrimination on basis of race, sex, color, ethnic origin, tribe, birth, creed or religion therefore even

²² Ibid

²³ Christopher Martin Madrama Izama V Attorney General [2019] UGSC NO. 01 (14 February, 2019).

in sport everyone is encouraged to participate in sport and no one has a right to violate this right from them.

Furthermore the sport sector can also apply **article 26²⁴** as part of the legal framework that can help govern sport under the constitution of Uganda. Article 26 provides for the protection from deprivation of property and states that every person has a right to own property either individually or in association with others further more article 26(2) provides that no person shall be compulsorily deprived of property or any interest in or right over property of any description and further provides for the exemptions where the one can be deprived of the right to own property. Furthermore, in the case of ***Proline Soccer Academy Ltd V MTN Uganda Ltd & Others*²⁵**, Justice Stephen Mubiru stated that individuals or players have a right to own their image rights and no one has a right to deprive them of that right since one who violates their rights violates article 26 of the 1995 constitution which provides for the right to own property.

3.2.1 The National Sports Act

Article 8A²⁶ provides that Uganda shall be governed based on the principles of national interest and common good enshrined in the national objective and directive principle of state policy. Furthermore, Article 8A (2) provides for parliament to make relevant laws for purposes of giving full effect to clause (1) of this article, therefore through this clause the parliament made the National sports act 2023 to regulate sport in the country and it was assented to by the president on 17th August, 2023 and therefore it becoming law into the country as it repealed the National Council of Sports Act²⁷.

Section 2²⁸ defines sport to mean an activity involving physical exertion and skill in which an individual or a team participates or competes.

Section 3²⁹ provides for the object of the act and states that this act is to promote recreation and sports for the citizens of Uganda by the state in accordance with Article

²⁴ The 1995 constitution of Uganda as amended.

²⁵ Proline soccer academy ltd V MTN Uganda Ltd & others Civil suit No. 0317 of 2011.

²⁶ 1995 Constitution of Uganda as amended

²⁷ National council of sports act 1964.

²⁸ National Sports Act 2023

²⁹ National Sports Act 2023

8A of the constitution and national objective and directive principle of state policy XVII by;

- a) consolidating the law relating to the registration and regulation of national sports associations and national sports federations;
- b) promoting amateur and professional sports;
- c) codifying the obligations of Uganda under international sports governing statutes
- d) providing for sports disputes resolution mechanisms; and
- e) promote the participation of schools and institutions of higher learning in sports.

Section 6³⁰ provides for a declaration of a national sport and states that a person who intends to have a specific sport discipline declared a national sport shall, in the prescribed form make an application to the council, for council we shall refer to section 2³¹ which defines council to mean the National Council of Sports and furthermore section 6(3) provides that upon the satisfaction of the council then it can declare sports discipline a national sport.

Section 6(4) provides what the council shall base on determining whether a sports discipline is eligible for declaration as a national sport and the council shall look at the following; the nature of the sport, the popularity of the sport, the potential socio-economic impact of the sport, the recognition of the sport by an international sports governing body, where applicable, the presence of sports facilities to be used for the sport, the plan of the applicant to promote the sport in Uganda and any other factor as the Council may determine.

The National Sports Act 2023 further goes ahead and differentiates between a national federation and a national association and further provides that under Section 9 (1) (a)³² provides that a national sport association that wishes to be registered shall be engaged in amateur sports for the sports discipline, therefore through this we see that sport associations majorly deal with amateur sport and not any other form of sport.

³⁰ Ibid

³¹ Ibid

³² Ibid

Furthermore section 10³³ provides that a national sports federation that wishes to be registered as such shall be engaged in a sport discipline with a national character and for this purpose shall be a sports activity with the participation of Ugandans in at least seventy five percent of all the districts of Uganda. Therefore this shows that national federations (NFs) majorly regulate professional sport in the country.

Section 2³⁴ defines amateur sport to mean an activity involving physical exertion or skill in which an individual or team competes against another for pleasure as a pass time event or for recreational or health purposes or as training to become professional and further goes ahead to define professional sport to mean an activity involving physical exertion or skills in which an individual or team competes against another as an economic activity with the objective of earning fees or making profits.

This is the law that majorly governs sport in Uganda.

3.2.3 National Council of Sports Regulation 2014

Section 81(2)³⁵ provides that a statutory instrument made under the National Council of Sports act repealed under subsection (1) which is in force immediately before the commencement of this act, shall remain in force, until it is revoked by a statutory instrument made under this act. Therefore through this section the national council of sports regulation remains in force until when new regulations are made under the act by the minister.

Regulation 3³⁶ provides for the incorporation of a national sports association, and states that; **sub rule 1 provides** that every national sports association shall be incorporated in accordance with the laws of Uganda and the council shall take into different considerations when registering an association and these include; the nature of the sport, the popularity of the sport, the presence of facilities to play the sport, the plan of the association to promote the sport; and any other relevant factor.

³³ Ibid

³⁴ Ibid

³⁵ National Sports Act 2023

³⁶ National Council of Sports Regulation 2014

Part 6 of the regulation³⁷ establishes the National forum of sports association which has functions provided for under **rule 17(3)**³⁸ and these include; to recommend to the Minister strategies for promoting and developing sports, to attract and solicit funding and partnerships for sports, to advise the Minister on the nature of assistance and support to be given to a national sports association representing Uganda abroad and to assist the council in branding sports in the country.

3.2.4 The National Physical Education and Sports Policy

Sports is defined to mean an institutionalized competitive activity which involves two or more opponents and stresses physical or mental exertion by serious competitors who represent or are part of formally organized associations³⁹. The national policy further goes ahead and provides for the different problems that affect sport and physical education in Uganda at different levels from the initiation of and development of sport, to sports at a community level and furthermore to professional sport in the country.

The national physical education and sports policy has a policy direction which is:

“....to provide a framework to guide the actions of all stakeholders involved in the realm of physical education and sport so as to achieve an effective, sustainable and globally competitive sports industry that meets the societal and national development aspirations of Uganda.”

The vision of the policy is a “Uganda which is a regional and global leader in physical activity and sports for personal development, socio-economic transformation and national development.”

The mission of this policy is “to create a framework for standardization and effective management of Physical Education and Sports in order to build a robust and sustainable sports industry that harnesses and maximizes physiological, economic and social benefits citizens.”

³⁷ National council for sports regulation 2014

³⁸ Ibid

³⁹ The National physical education and sports policy.

Through this policy the government is initiating goals and steps so to enable it promote and develop sport in the country so as to increase competitiveness with in the country and outside the country.

3.3 Influence of the legal framework on athlete development, training and welfare in Uganda's sports

Athlete development refers to the process of mastering skills, becoming more efficient at sporting and enhancing athletes technical understanding of play to become more competitive⁴⁰.

According to Lucie Thibault and Katherine Babiak⁴¹ athletes play an important role in the sports system and furthermore provide that athlete development and excellence in international competitions have been central to Canada's sport system for many years. They furthermore provide that the concept of an athlete centered or participant centered sport system has been raised as an important principle for Canadian sport. For example, the Canadian Sport Policy (CSP) called for a system where athletes or participants are the primary focus in the development of policies programs and procedures. Therefore through this we see that the Canadian sports policy puts into consideration the athletes or participants as the primary focus in the development of sport in Canada.

Section 46⁴² provides for authorized sports activities for schools and institutions of higher learning and further states the council shall with the approval of the ministry and in consultation with the ministry of health authorize the sports activities in which pupils and students in schools and institutions of higher learning may participate, sub section 2 furthermore provides that a school or an institution of higher education shall offer at least fifteen sports activities for the pupils or students which shall be sport activities authorised by the council. Through this we are able to see that the government wants to promote sports from schools and this can be seen where schools shall offer at least fifteen sports activities for the pupils and students.

⁴⁰ <https://www.scienceforsport.com/athlete-development-a-how-to-guide/#:~:text=Athlete%20development%20relates%20to%20the,play%20to%20become%20more%20competitive>.

⁴¹ Lucie Thibault, Katherine Babiak Sport Policy in Canada, 2013, pp. 147-176 (30 pages).

⁴² National sports act 2023

Furthermore, we see the Ministry of sport also engaging the ministry of health for sports that can be accepted in school, through this we see that the government is in need of ensuring a proper athlete development depending on the health of the pupils and students in schools and higher institutions of learning.

Under the National physical education and sports policy, the government has come up with different ways of promoting development of sports under Policy 4.1⁴³ and therefore provides that the government shall put into place different frameworks for the development of sport in the country. Under policy 4.3⁴⁴, there are different strategies that have been formulated by the government to promote sport and ensure development of athletes and these include; the government is to identify and recruit well trained and adequate personnel so as to teach physical education and sport in the country. Through the process of recruiting well trained and adequate personnel, the issues of negligence in sport are to be minimized.

In the case of **Donoghue V Stevenson**⁴⁵, negligence amounts where one breaches his/her duty of care to another. Furthermore in sports coaches, instructors and supervisors can be held liable for carrying out negligent acts for their breach of the duty of care they owe to the athletes or participants in case of injury caused by failure to train or supervise the sport athlete or participant. In the case of **Gibbs V Barking corporation**⁴⁶ the PE Teacher was held liable in negligence for the injuries caused to one of his pupils when he failed to assist the boy in landing safely on the mats following his vaulting over a horse during a gym session. Therefore through hiring well trained physical education teachers in schools the students are able to learn the necessary skills that they are supposed to do in order to compete positively and achieve sportsmanship.

The National Physical Education and Sports Policy provides under **Policy 4.3.2** to incorporate physical education, physical activities and sports in teaching and learning curricula at all levels of teaching, this has not been implemented but through this we are able to see that different talents will be identified at a young stage which shall

⁴³ National Physical education and sport policy.

⁴⁴ Ibid

⁴⁵ Donoghue V Stevenson [1932] AC 562.

⁴⁶ Gibbs V Barking Corporation [1936] 1 ALLER 115.

promote easy development of the athletes from a young stage⁴⁷. Through this on paper Uganda evidentially doesn't have all this it requires so as to promote sport in the country as all these ideas are not put into practice.

3.4 The role of the legal frame work in promoting fair competition, doping prevention and dispute resolution with in Ugandan sport

3.4.1 Doping

Holger Strulik,⁴⁸ notes that doping has long been a matter of private concern inside the sporting fraternity. Doping has a long history in many sports but particularly in cycling, at the time of the first Olympics, Baron de Coubertin promoted the motto that competing is more important the winning. Equally, Doriane Lambelet Coleman and James E Coleman Jr⁴⁹, since 1988, when Ben Johnson was stripped of his gold medal at the Seoul Olympics after he tested positive for steroid stanozolol, doping increasingly has become a matter of public concern, furthermore they state that for the outcry of doping internationally the international Olympic committee (IOC) and the United States Olympic committee created the World Anti-Doping Agency. (WADA)

The World Anti-Doping Agency was created in 1999 so as to regulate doping in the world. The primary role of WADA is to develop, harmonize and coordinate anti-doping rules and policies across all sports and the countries. The WADA is governed by the World Anti-Doping Agency Code 2021.

Article 20.7⁵⁰ provides for the responsibilities and roles of WADA and provides that it's to accept the code and commit to fulfill its roles and responsibilities under the code through a declaration approved by WADA's foundation board, to adopt and implement policies and procedures which conform with the code and the international standards and furthermore to provide support and guidance to signatories in their efforts to comply with the code and the international standards and monitor such compliance and many more functions.

⁴⁷ <https://stnicholas.com.br/en/blog/importance-of-physical-education-at-school/>

⁴⁸ Holger Strulik (2012) Riding High: Success in sport and rising of doping cultures.

⁴⁹ Doriane Lambelet Coleman and James E Coleman Jr (2008) The problem of doping.

⁵⁰ World Anti-doping agency code 2021.

Article 1⁵¹ defines doping as the occurrence of one or more of the anti-doping rules violations set forth in article 2.1.

Article 2⁵² provides for what circumstances would constitute anti-doping rule violations and provides presence of prohibited substances or its metabolites or markers in an athlete's samples, use or attempted use by an athlete of a prohibited substance or a prohibited method, evading, refusing or failing to submit to sample collection by an athlete, where about failures of an athlete and many more as provided for under the code.

Article 4⁵³ provides for the prohibited list and states that a list shall be produce annually and therefore every of 1st of January every year a new list is realized and this list shows the different substances and methods that are prohibited so as to enhance sport performance. And the list provides for different categories and these include; prohibited at all time (in and out of competition), this majorly means that these are substances that are prohibited from athletes during competition and out of competition.

Prohibited in competition, this means that these are substances which are not allowed when a competition is taking place or when a competition has started and furthermore those prohibited in a particular sport, this majorly means the substances under this category are prohibited in a particular sport.

Section 2⁵⁴ defines doping to mean the use of prohibited substance and methods in any sporting activity whether competitive or recreational in order to artificially enhance performance.

Part VII⁵⁵ provides for the national anti-doping organization (NADO) and under section 51 it provides for the establishment of the NADO and states that there is established, in accordance with the requirements of the WADA code and further goes ahead to state that the NADO shall be a body corporate with perpetual succession and shall have a seal of its own and can sue and be sued in its name.

⁵¹ Ibid

⁵² Ibid

⁵³ Ibid

⁵⁴ National Sports act, 2023.

⁵⁵ Ibid

Section 53⁵⁶ provides for the functions of the NADO and the main purpose of NADO is promote anti-doping in sport in Uganda and furthermore shall in collaboration with the ministry develop a national strategy to address doping in sports, promote and implement the WADA code and associated international standards, provide athletes and athlete support personnel with the procedure for the collections and testing of samples of specimen as specified WADA code and international standards and furthermore, select the sportspersons to provide bodily samples for testing and collect samples in accordance with the approved WAD code and international standards.

Therefore through this the Uganda legal framework is giving the NADO the mandate to collect samples from the sports men and their support so as to go and carryout testing so as to ensure no violation of anti-doping.

The Act furthermore gives the NADO the duty to test and analyse samples of specimens of sporting persons using laboratories accredited by WADA and securing the safe transmission of samples to those laboratories therefore through this we see the aspect of quality checks coming into play to ensure that the results of the sports persons have the correct findings and no tempering with them through this the legal framework is promoting a fair ground for competition and promoting anti-doping in the country.

Furthermore, under section 59 the act provides for the prohibition of doping and states that one who commits doping commits an offense and is subject to sanctions of the WADA code, this therefore brings in the aspect of offenses and punishments for doping, and this therefore brings in the aspect of promotion of fair competition in sport.

3.4.2 Dispute Resolution

Dispute resolution in sport is provided for under section 55⁵⁷ and provides that settlement of disputes shall be by arbitrators who shall be appointed under this party. This therefore shows that where there is a dispute in sport it shall be resolved by arbitration and furthermore under section 58 for the purpose of arbitration in respect of a matter which part has not expressly made provision the arbitration and conciliation

⁵⁶ Ibid

⁵⁷ National sports act 2023

act shall apply. This therefore further show that dispute resolution is by way of arbitration.

Section 2⁵⁸ defines arbitration to mean any arbitration whether or not administered by a domestic or international institution where there is an arbitration agreement.

Section 57⁵⁹ provides for arbitration in constitutions of every sports association and national federation, under section 57(d) there is prohibition of settlements of sport disputes between a national sports association or a national sports federation and its members by courts of judicature, including the interpretation and application of the constitution and regulations of the national sports association or the national sports federation. This therefore shows the legal frame work only recognizes arbitration as the way of solving sport disputes and majorly this is due to the desire not go out and spoil the reputation of sport. However, with this provision it is ousting the jurisdiction of court and there this violates Article 126 (e) of the 1995 constitution of the republic of Uganda.

Through solving disputes by arbitration this is a good step towards the promotion and development of sport as this enables easy solving of disputes and doesn't delay and furthermore arbitration is private this therefore doesn't encourage exposing sports federations and association which can easily spoil their reputation to the public eye.

3.4.3 Fair competition

Competition is defined to mean a situation in which two or more rivals vie against one another to gain a desired goal or object⁶⁰. Competition has been used to motivate individuals to better performance in the sporting world. When people compete, they strive to obtain a goal, in sport the contest specific goal is to win and therefore to

⁵⁸ Arbitration and conciliation act

⁵⁹ National sports act 2023

⁶⁰ [https://thesportjournal.org/article/the-effects-of-competitive-orientation-on-performance-in-competition/#:~:text=Competition%20is%20generally%20defined%20as,sports%20\(22%2C%2035\).](https://thesportjournal.org/article/the-effects-of-competitive-orientation-on-performance-in-competition/#:~:text=Competition%20is%20generally%20defined%20as,sports%20(22%2C%2035).)

achieve this there is a lot of preparation, determination and energy that an individual puts in to strive to win and this therefore is referred to as competitiveness.⁶¹

In sport the concept of fair competition is embedded in the aspect of fair play, therefore play is defined to mean a complex concept that comprises and embodies a number of fundamental values that are not only integral to sport but relevant to everyday life. The fundamental values of fair play include; fair competition, respect, friendship, team spirit and many more.⁶²

Under fair competition, to enjoy the fruits of success is not enough to win, the triumph must be ensured by a fair win and honesty when competing. Therefore the Ugandan legal frame work has put into place some provisions in the legal and policy framework to ensure a competition in place and these include;

The Legal framework has put in place the NADO provided for under section 51,⁶³ as an organization responsible for anti-doping in the country, and to avoid doping the NADO has functions it has to fulfill and these include to develop a national strategy to address the issue of doping in the country and furthermore its mandated to carry out checks on the sports persons to ensure that they haven't been doping and through this checks and one is found to have violated anti-doping rules one shall face the penalties that are provided for in the WADA code. Therefore through this fair competition is being promoted the law ensure that when one is liable for the violation of anti-doping code one is eliminated from the competition so as to create a leveled ground for those who haven't engaged in the anti-doping violations.

However, there are other aspects that lead to fair competition an these include proper training facilities, but for the aspect of Uganda we look at situations where different sports men have different or sports teams have training facilities that are standard compared to other sports men or teams, this therefore doesn't exhibit fair competition as the teams and sports men with standard training facilities shall show a lot of professionalism and therefore competing on a higher level than the other competitors.

⁶¹ <https://psychology.iresearchnet.com/sports-psychology/team-building/competition-in-sports/>

⁶² <https://www.fairplayinternational.org/what-is-fair-play->

⁶³ National Sports act 2023.

Therefore the aspect of fair competition shouldn't only involve competitions and getting champion it should look at all the aspects that surround how one has become a champion.

3.5 comparing Uganda's legal framework on sports to other jurisdictions.

In order to clarify the importance of the legal framework in the development of sport, this study shall compare the different laws of countries that have been able to excel in sports development as a result of the legal framework.

This study is majorly going to engages countries that also have a common law system a system is much similar to that of Uganda and we able to analyse and make comparisons basing on the laws they have that regulate and govern sport in their countries, this study is going to base on countries like Kenya, Tanzania and South Africa.

3.5.1 The National and Recreation Act No.110 of 1998 of South Africa.

This Act was amended by the SI 18 of 1998 to provide for the measures for the promotion and development of sport with in South Africa and furthermore provides for resolutions of disputes amongst the sports fraternity. Among other provisions, Section 6⁶⁴ provides for national federations and associations with the full responsibility of safety issues with in their respective sport and recreational disciplines and furthermore prohibits the national federations from recruiting foreign players, staff or administration without satisfying the sports confederation that no national can undertake that particular task or job.

Section 8 provides for the sports commission with its funding policy provides for physical facilities for sport and recreation at national level depending on the available funds and furthermore under section 9 the sports commission is to ensure promotion of equality of sport and recreation in South Africa.

Section 12⁶⁵ provides for environmental conservation and states that all sports and recreational activities must be environmentally friendly. Section 13⁶⁶ provides for the dispute resolution and provides that all disputes must be resolved internally among

⁶⁴ National and recreation Act No. 110 of 1998 (amended by SI 18 OF 1998)

⁶⁵ Ibid

⁶⁶ Ibid

its members or with its governing body and further provides for the right to appeal to the sports commission in case a party is not satisfied by the outcomes of the dispute resolution

In comparison with the legal frame work in Uganda both legal frame works encourage the resolution of disputes internally and this can be through arbitration but however the South African legal framework gives one the right to appeal unlike in Uganda where everything has to be solved internally.

3.5.2 The National Sports Act No. 25 of 2013

This is the main act that governs and regulates sport in Kenya and it was assented to in the year 2013.

Section 2⁶⁷ defines sport to mean

“all forms of physical or mental activity which through casual or organized participation or through training activities aims at expressing or improving physical and mental well-being, forming social relationships or obtaining results in competition at all level and includes any other activity as the cabinet secretary may from time to time after consultation with the technical department responsible for sports prescribe.”

The act goes ahead and provides for professional sport and provides that it's one that it means a sport where a contract has been between professional persons and the sports clubs or organisations

Section 33⁶⁸ provides for the establishment of the Kenya academy of sports and states that the academy shall be body corporate that is to sue and be sued and also to hold property in its name and further provides that the headquarters shall be in Nairobi but whoever the academies shall be placed in different parts of Kenya.

Section 35 of the National sports act 2013 provides for the functions of the academy and states

- a) to manage and establish training academies

⁶⁷ The National sports act No.25 of 2013

⁶⁸ Ibid

- b) Organize, administer and co-ordinate sport courses for technical and sports administration personnel.
- c) Promote research and development of talents in sports in collaboration with institutions of higher learning, national sports organisations and other stake holders.

Through this we see Kenya ensuring that there is an Academy that is responsible for carrying out research and development of talents with in Kenya and also ensuring that there are proper sports courses in institutions of learning so as to ensure that people have wide knowledge about sports.

In comparisons with Uganda's legal system, we don't see any provisions which mandate the government to setup academies so as to ensure there is proper development of sports person and sports activities in the country. The Kenyan Legal framework ensure the that the academy should identify talents and ensure their development through this we see the highest development of sport in the Kenya law.

3.5.3 National Sports Council of Tanzania Act Cap 49.

This is the law that governs and regulates sport in Tanzania. The law doesn't provide much on the development of sports but how ever its merely regulates the sport.

The act provides few circumstances to certain aspects that ensure the development of sport in Tanzania. Under section 3⁶⁹ it provides for an establishment of a council which shall be body corporate with the name National Sports Council of Tanzania and furthermore section 4⁷⁰ provides for its functions and states that promote and control all forms of amateur sport on national basis, provide stadia, playing fields and other facilities, through this we see the NCS is mandate to ensure that there is stadia, playing fields and other facilities which enable to facilitate sport in the country.

Therefore, in comparison with Uganda's legal framework Tanzania does not completely ensure the development of sport basing on its legal framework and it doesn't address the issue of doping therefore this creates problems on issues with regards to fair competition.

⁶⁹ National Sports Council of Tanzania act cap 49.

⁷⁰ Ibid

3.6 Conclusion

The discussions in this chapter examined the legal framework that governs and regulates sports in Uganda and how these different provisions in the legal and policy framework have ensured the development of sport in the country. The study further shows that for the development of sport there need to be fair competition in sport but however there are different aspects that contribute to unfair competition for example training facilities as some sports personnel and teams have advanced training facilities and furthermore shows about importance of anti-doping so as to prevent the use of prohibited substances in order to enhance performance of sport. The study furthermore shows the comparisons between the legal frameworks of specific countries that have excelled in the sports sector with that of the legal framework in Uganda so as to ensure the development of sport in the country.

Chapter 4 of the study is majorly going to address the findings of the research, recommendations and a conclusion about the research made.

CHAPTER FOUR

SUMMARY OF FINDINGS, CONCLUSIONS AND RECOMMENDATIONS

4.1 Introduction

As the final chapter in this dissertation, the researcher shall sum up the findings of this entire research and where applicable shall suggest necessary recommendations to overcome the challenges raised across this research. The primary objective was to examine on the impact of the sports legal framework on the performance of sports in Uganda.

4.2 Summary of findings

The study reveals that the sports sector is one of the most growing sectors globally and its one that's increasing and improving the livelihood of different people in the community, through this the sports sector requires laws that are to be able to regulate and govern sport in the country and other places of the world.

The study revealed that the legal framework in Uganda still has very many loopholes in regards to the promotion of sport in the country as the legal framework has left out many different fields that are able to promote sport in the country, the legal framework doesn't address the E-sport as its one the ventures that's completely growing in the sport world.

The study revealed that the legal framework ousts the jurisdiction of court in sports disputes and this therefore violates the rule of law as no one is able to check sport institutions in case of disputes and furthermore this also defeats justice and further more violating article 126 of the 1995 constitution of Uganda as amended.

The study shows that doping is one of the regulated sectors in the sports fraternity and this is majorly due to the high rates of the violation of the anti-doping rules that are provided for in the code. Through this the a body has been setup to regulate doping worldwide and its referred to as WADA, also at regional level there is establishment of an organisation that has been established so as to regulate doping at regional level and this referred to as RADO and furthermore at National level one has been established to regulate doping at country level and these are referred to as NADOs.

The study further shows that fair play and competition in sport have not been properly provided for in the legal framework of Uganda, this shows that the country has not fully embraced the importance of fair play and fair competition so as to ensure proper development of sport in the country.

The comparison between the legal frameworks of the countries chosen which include South Africa, Tanzania and Kenya to that of Uganda show us that as a country there is still a lot needed to be added in the law to ensure the development of sports in the country, different legal frameworks mandate their governments to provide proper facilities to ensure that there is development of the sport and the athletes themselves as this shall lead to sports development.

4.3 Recommendations

There is need to promote E-sport in the creation, the world is greatly evolving around the internet and there the world is adapting to E-sport so as people can engage in sport from all different places of the world therefore, I recommend that the government should look into E-sport as this will increase more revenue for the country.

I recommend that **section 57 (d) of the National Sports Act** be amended as this to ensure that all matters to be resolved by arbitration but in case one isn't satisfied with the decision from the arbitration then there is need to appeal the decision than leaving a party unsatisfied with the decision of the arbitration.

I recommend the government to ensure the make amendments in the already existing laws and to also add more provisions in the law, the government should add laws that make it a mandate for them to offer sports facilities and equipment to sports persons as to ensure that they are able to compete on the international scenes with other well trained athletes or sports persons.

I recommend the government to further separate the ministry of sports from the ministry of education and make it more of a separate ministry, through the ministry of sport shall be able to get qualified personnel who know sports and be able to ensure that the laws that shall be formulated to govern sport shall also ensure that they lead to the development of sport.

I recommend that the government should provide tax exemptions in the sporting sector, through this we shall be able to realize the growth of sports infrastructure and

furthermore we shall also be able to see sports equipment available to the sports persons and this can enable to enhance their performance.

4.4 Conclusion

The development of sports in a country is majorly based on many different aspects but however due to this study emphasis has been much placed on the legal framework that governs sport and how it has promoted the development of sport in the country and other countries. The development of sport majorly grows day by day but however for the case of Uganda sport has been stagnant and no sign of development and this therefore caused me to make a study on the legal frame work to see if it's the tool that's prohibiting the development of sport in Uganda.

Through this study I came up with various questions for the study which are provided for under chapter to guide me in carrying out the research, the questions showed me that there is a lot that is missing in the legal framework and through this we are finding it difficult to promote sport in the country. The non-legal aspect of the study shows that there have been laws that have been used to promote sport from back in the day and through this as a country we have just remembered to make a proper law to govern sport that repealed the old law but however even with the new law there is still a lot that is missing in the laws, I made a comparison of the laws with that of other countries but however our laws don't provide for any development and promotion of sport or even giving the government the mandate to provide stadia and sport equipment, all these even though practically can be seen that the government is giving infrastructure but whoever this is not mandatory by the government it's by their choice to give us the stadiums, this therefore shows that the government shall not be able to give us infrastructure in sport at an available time this is because it's not mandated to do so, the government should make it compulsory for themselves to provide sporting infrastructure and equipment.

The legal frame work of Uganda hasn't fulfilled its purpose of majorly promoting the development of sport in the country, some of the provisions in the legal frame work haven't been fulfilled by the government for example the NADO hasn't yet been established yet and therefore this is limiting the roles of the NADO in spreading and educating the sport persons about the consequences of doping.

The legal frame in Uganda should be made to be at the standards of the already established countries that are excelling in sport.

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