

PROTECTION OF SPORTS IMAGE RIGHTS IN UGANDA. THE EFFICACY OF THE LEGAL FRAMEWORK

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AS21B11/223

**A DISSERTATION SUBMITTED TO THE SCHOOL OF LAW IN PARTIAL FULFILLMENT OF
THE REQUIREMENTS FOR THE AWARD OF THE DEGREE OF BACHELOR OF LAWS OF
UGANDA CHRISTIAN UNIVERSITY**

May, 2025



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DECLARATION

I **SEMAKULA SAULO** 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: 30th May 2025

ABSTRACT

The Bell is Ringing, Alier.M pg.233 Uganda in Retrospect “...Freedom is an abused word. But real freedom comes with a lot of responsibility. The British did most of the thinking and planning for us....” This is quoted from the Autobiography of the late Martin Alier, a prominent legislator of Uganda who believed that most of the remnants of the British rule are getting phased out since Ugandans have failed to uphold the standard left behind by the former colonial masters.

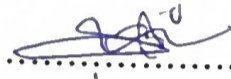
Looking at Uganda retrospectively, it looks clear more than ever that our legal and legislative power is degenerating tremendously because the laws made today are incredibly hard to logically discuss as some are transplants from other nations. The famed Lord Denning would refer to that as the oak tree from Europe which would never grow the same in Africa like it did elsewhere.

The field of Sports in law is emerging and the rights that come with it are undoubtable. It's important that Uganda should get braced for development and a future of wondrous developments in that area. The machinery of the British man needs to oiled or replaced with new functional implements which can serve as the incentive for the current and future development in sports as arena.

APPROVAL

This dissertation by Semakula Saulo under the title '**Protection of Sports Image Rights in Uganda. Efficacy of The Legal Framework**' has been under my supervision and is approved for submission to the examining authority.

Supervisor... KAJJA TIMOTHY...

Signature... .....

DATE... 30th MAY, 2025.....

DEDICATION

This research work is dedicated to Mr. and Mrs. Semakula, my parents, who have encouraged me through the unknown to this point. I am forever indebted to them.

This dissertation goes out to all friends I made whilst on the journey at undergraduate law school; and to all future lawyers. The sky is no longer the limit; it takes two to tangle; the yin and the yang alike, you will eventually make it.

ACKNOWLEDGEMENT

I acknowledge the unwavering support garnered from the library staff at the Uganda Christian University through showing great support and concern which has enabled the smooth sailing of my research from proposal to dissertation. Your efforts go beyond what meets the eye.

I recognise and appreciate the boisterous efforts from my Supervisor Mr. Kajja Timothy for the relentless exertions to help me complete my writing in time. Through his mentorship and insights, I have been able to iron out a lot of issues with professional writing. I can't take that support for granted.

THANK YOU ALL!

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LIST OF ABBREVIATIONS AND ACRONYMS

CAP.- Chapter

E.W.C. A- English and Wales Court of Appeal

F.U.F. A-Federation of Uganda Football Associations

H.C.C. S- High Court Civil Suit

I.A.A. F- International Association of Athletics Federation

I.B.M-International Business Machines

Ibid-refer above

I.F- International Federation

I.O.C-International Olympic Committee

IWC - International Watch Company

L.G.B.T. Q- Lesbian Gay Transgender Queer

Ltd.- Limited

M.T. N- Mobile Telecommunication Network

N.C. S- National Council of Sports

N.F. L- National Football Association

N.S. A- National Sports Act

O.C- Olympic Charter

Para - paragraph

Pg. -page

U.N - United Nations

UNESCO- United Nations Educational, Scientific and Cultural
Organisation

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Chapter1 General Introduction

1.1 Introduction

Protection of sports image rights can only happen if the rights exist. Uganda is a country in the post-colonial era and much of the legal systems they used back then are now main stream. Sports and athletes have developed from an archaic to a more tangible state. This development has led to the necessity to regulate the sector through instruments like policies, regulations and Acts of Parliament.

The audience of this research is the athletic community, legislators, coaches, lawyers, social workers, students and teachers and all who are directly and indirectly affected by the consequences of the system being optimized or not. The research intends to give not only a regional and national overview but also an international perspective to make the objectives clear and practical.

In Uganda, this is a work in progress which has been translated into professionalization of sport and creating an enabling environment which has propelled development in that area. The legal system has been made to be theoretically efficient and though that is the position, practicality and technicality make that a position which is subject to distortion because sometimes there may be major gaps in what has been planned. This creates a gap which will be addressed in this academic paper.

2.1 Background

This study is premised on the fact that sports has changed very drastically over the years and it has almost unheard of that sport can be separated from the rights it comes

with. The image rights are bundled together with the rights of protection from deprivation of property and privacy of person, home and other property.¹

The Uganda legal system has developed the *National Council of Sports Act*² which has been amended once, on inception and has made for provision of how to use the images of sportsmen and has made agencies and corporate bodies responsible for governing the rights of athletes.

On the International stage the *International federations* (I.F) and the *International Olympic Committee* (I.O.C) which comes with the *Olympic Charter*. (O.C) greatly advocate for recognition of these rights. This legal dissertation has been made in a time when sport law has developed to a point when it's no longer '*Not all fun and games*'³.

Women have gone on to get emancipated and this current state cannot be over looked with the likes of **Caster Semenya**, **The Serena Sisters** who have taken the idea of *Lex Sportiva* to the next level. As **Harris** says in the Article⁴, there is greater knowledge required of sports law and not simply a lawyer who has handled more than 1,000 contracts.

At present, a sports lawyer is required to understand the nuances of sport and be able to get an idea of what impact a decision could have on the future of an athlete. **Lewis Hamilton** earns a great deal of his income from sponsors who use his social media presence to market themselves. A bunch of these include *Sony*, *Tommy Hilfiger*, *Puma*,

¹ 1995 Constitution of Republic of Uganda as amended. Article 26 and 27.

² National Council of Sports Act Cap 48

³ Dominic R. Not All Fun and Games, The Evolution of Sports Law (2002). <https://lsj.com.au/articles/not-all-fun-and-games-the-evolution-of-sports-law/> accessed on the 15th April, 2025

⁴ *ibid above*.

IWC among others⁵ all of which never existed when *Alberto Ascari* and *Luigi Villoresi* started out as formula one race car drivers for the Ferrari franchise in 1950.

Apon this background is today's research made. That and more will be explored below.

3.1 Statement of the problem

Sports image rights are not explicitly defined in Ugandan statute law⁷ but taken together with commercial rights and other rights under Chapter 4 of *the Constitution*⁸.

The fact that they are considered ejusdem generis makes them difficult to quantify and find the limits to.⁹

The stature of sports image rights needs to be recognized wholly through the legal system to ensure that the efficacy of the same is seen.

4.1 Objective of Study

The objective of study is to examine the interplay of sports image rights and the legal system In Uganda.

1.1.1 General Objective of study

The general objective of study is to examine the sports image rights in Uganda and the legal framework and the position of the future regarding the same.

⁵ Love. T. 'Lewis Hamilton Lands Global Endorsement Deal' published on 25th July, 2024. <https://www.sportindustry.biz/news-categories/news/lewis-hamilton-lands-global-endorsement-driver/#:~:text=Hamilton%2C%20who%20will%20move%20from,brand%20ambassador%2C%E2%80%9D%20said%20Hamilton>. Accessed on 15th May, 2025.

⁶Forix 'The stories behind motor racings facts and fiction' <https://www.forix.com/8w/ascari.html#:~:text=None%20the%20same%20they%20became,attractive%20blondes%2C%20the%20Tavola%20sisters>. Accessed on 15th May, 2025.

⁷ Justice Musa Ssekana on image rights; *Proline v MTN* cited in 9 below.

⁸ Protection and promotion of fundamental and other human rights and freedoms, Chapter 4 of the Constitution of Uganda.

⁹ Section 76 of the National Sports Act Cap 151 of Uganda, *Proline Soccer Academy v MTN Uganda Ltd, CQ Saathi & Saathi and FUFA Uganda Ltd HCCS 317 OF 2011*.

2.1.1 Specific Objectives of study.

1.1.1.1. To examine the background and development of sports image rights in Uganda.

1.1.1.2. To analyse the non -legal aspects of sports image rights in Uganda

1.1.1.3. To understand the legal framework to sports image rights in and out of Uganda.

1.1.1.4. To find out what the state of sports image rights and give recommendations for the future.

5.1 Research Questions

1. What is the background of sports image rights in Uganda?
2. What are the non-legal aspects of sports image rights?
3. What is the legal framework governing sports image rights?
4. What do the findings on the sports image rights and what are the recommendations for the future?

6.1 Significance of study

This study is supposed to build on the existing law as regards the extent of protection of sports image rights in Uganda.

This study is aimed at adding to the legal literature in the area of sports law in regard to image rights.

The study is also aimed at compounding the recognition of the autonomy which can exist within the sports world and how this can help develop the economy.

To help promote wider coverage and knowledge on the importance of sports laws to the common man and the average sports enthusiast in Uganda.

7.1 Justification of study

This study assesses the extent to which the national and international legislation has helped the sportsmen to recognize how their intellectual property in their images can be regulated and commercialized.

This study aims at assessing the extent to which the government and the businesses involving sports can have a middle ground which can ensure that the tax regimes can match the level of development of sports.

This study aims at dealing with the strengths and weaknesses of the particular legal frameworks around the sports image rights in Uganda.

8.1 Scope of study

1.1.1 Thematic Scope

This research centered on Sports image rights and intellectual property and its commercialization, benefit and exercise of such rights among others by sportsmen and women in Uganda. The Property and privacy rights in that nature were also addressed in an overlapping manner.

2.1.1 Geographical Scope

This research was carried out in primarily in Uganda with case studies from other more developed jurisdictions like South Africa, Europe and the greater Western world. Uganda's position and recognition of proposed and existent legal framework dealing the sports laws and image rights are to be ascertained.

3.1.1 Time Scope

This research was carried on from time immemorial to the current time (2025) taking into account the developing of the NCS Act into the National Sports Act; through the policy and bill growth among other temporal developments.

9.1 Literature Review

This part involved looking at the various documents and articles and how they have addressed the issues dealing with sports image rights together with the efficacy of the legal system to address the matters in Uganda and yonder.

In *The law of Sports and Entertainment in Uganda*¹⁰, **Christopher Lubogo** states that the law which exists and has developed to protect image rights; is that of the law of privacy and among others, the tort of passing off. These have developed in such a way that is confusing because they serve the general framework and do not look at protection of image or personality rights in particular. They assume that this is a once in a blue moon occurrence, and yet it happens more often than ever. The English and Ugandan laws have yet to develop an image rights legislation¹¹. The same partially exists in emerging jurisdictions like South Africa and more developed in areas such as Germany and France.

The personality rights are usually made in a way they are in tandem with the property rights even when the two are clearly miles off from each other, with the property rights being about commercialisation and growth of the money economy in regard to the rights of images of a person. The topic of the recognition of sports rights has been addressed in multiple ways and *in an academic paper from Uganda Christian University by Oketch Lazarus Keith*¹² which addressed the gap between the law and recognition of the sports image rights in Uganda and the efficacy of the legal system, but states that it

¹⁰ Lubogo. C. I. (2021) *The Law of Sports and Entertainment in Uganda*.pg 269.

¹¹ The Data Protection and Privacy rights legislation exist but are generic laws not particular to sports and image rights and the issues they may be facing. *Ibid above*.

¹² Oketch.L.K.; Examination of the Impact of the Sports Legal Framework on the Performance of Sports in Uganda. Pg 17.A dissertation paper presented at the Uganda Christian University school of Law on 8th May 2024

only does so little to highlight the underlying issues. International Sports Law¹³ provides for the recognition of sports rights as human rights.

The International right to own intellectual property is an inherent right and should be treated just as seriously as a violation of the right to participate in sport such as was done in the case of *Annet Negesa*¹⁴ as **Amanda Shalala** states. The Cisgender woman had her career in Athletics sabotaged by the *IAAF*, a federation that told her she could not compete in the 2023 Olympics because her testosterone levels were beyond 5 Nanomoles of per litre of their blood. This was above the required levels for women in the competitions. From that time, she has had her career go down the drain and had also considered being an intersex athlete¹⁵ which did not work out.

Two years ago, the betting franchise **BET 365** was found guilty of violating the image rights of the Danish athletes by broadcasting and marketing its services.¹⁶ This action involved the joint and several violations of 23 athletes' rights including footballer *Christian Eriksen*. Thus, the use of images without consent has great penalties and even greater consequences for those who hijack them such as a report from the **Reuters** states.¹⁷

¹³ Nafziger J.A. (2004) International Sports Law^{2ND} edition pg.131,131 to 146

¹⁴ Shalala. A, Intersex runner Annet Negesa fighting for everyone's right to compete in Sport, 11th March, 2023 <https://www.abc.net.au/news/2023-03-12/intersex-runner-annet-negesa-seeks-equal-rights-in-sport/102069710> accessed on 20th April 2025

¹⁵ *Supra 13 above.*

¹⁶ Reuters, BET 365 must pay compensation to Danish Soccer star Eriksen and others, court finds. 8th May 2023. <https://www.reuters.com/sports/soccer/bet365-must-pay-compensation-danish-soccer-star-eriksen-others-court-finds-2023-05-08/> accessed 21 April, 2025.

¹⁷ *supra 16*

There needs to be protection of image rights of all athletes and this does not leave out persons with disability, women and children whom all have rights which are to be jealously guarded. As when a player switches teams, they transfer with all their intellectual property except where there has been an express agreement to relinquish the same to the former teams. The old *Rozelle Rule* came in to ensure that teams in the *NFL* pay each other for developing a player which can be in various aspects including making them publicity figures and for the income they earn off the player being popular among the fans.¹⁸This still exists in modern sports with gratuities and bonuses which are given to teams for the players loaned, sold, and also exchanged.

The argument has been made as to whether the image of an amateur athlete should also be given as much weight as that of a professional athlete. It is considerate to keep in mind that some amateur athletes aim at becoming professional athletes and some simply play for leisure and may have little or nothing to gain from the commercial use of their image unless there is a great financial implication or reputational discomfort anticipated.

An image right in sport encompasses a great deal of nuances and if registered has to include rights to the broadcaster either in live or recorded sessions, filming for a movie or documentary, audio recordings, for electronic pictures were moving or static; whether live or recorded, a personalities name and likeness, their auto biography, story of their life among others.

¹⁸ *supra* 12

David Evans in his article talks about Kevin Keegan, a British football international, who was able to start the regime of face contracts (now image rights) when he sold his image rights to buyer in the 1970s and ticked off the commercialisation in sport on that level.¹⁹

Presently, many of the England and global athletes have taken the famous route and also created an interest to benefit from their likeness as a second stream of income to supplement their sports careers. Sports careers are ridiculously short and this can trigger players who have nothing saved up or a backup plan after the game, to keep them on their feet.

More than often before the Gurnsey Image Rights Legislation, the trade of an image right was seen an act of goodwill and payment made would sometimes fail reflect the actual value of one's image right as a sportsman.²⁰

Forceful usurp of power by sports associations and bodies is inappropriate and has landed the victims in trouble such as was in the matter of *Lindsay Lohan* and *Manuel Noreiga*.²¹ The two were placed in as characters in a video game without endorsement and this was violating their right to person as was stated by Eric.S. Engel. *The Uganda Rugby Union* was earlier this year featured in the Rugby 25 game with none of the players getting formal endorsement for the use of their image and were simply taken

¹⁹Evans. D. 'Can you protect your image like your brand?' 11TH May, 2015. <https://www.wipo.int/en/web/wipo-magazine/articles/can-you-protect-your-image-like-your-brand-55539> accessed 14th May, 2025.

²⁰ *Supra* 18

²¹ Engel.S.E. 'Manuel Noriega and Lindsay Lohan have no doubt about their right to publicity' 15th August 2024. <https://www.conklelaw.com/manuel-noriega-and-lindsay-lohan-have-no-doubt-about-their-right-of-publicity#:~:text=What%20do%20Manuel%20Noriega%2C%20Lindsay,%E2%80%9D%20of%20the%20players'%20images>. Accessed 16th May, 2025.

by the *World Rugby*, the International Rugby regulatory body and given away on a team basis.²²

Traditional tools of copyright and intellectual property seem to be outweighed by the legal system and the *Gurnsey Image Rights Legislation* should be adopted worldwide according to **Ian Brownshaw**, an international sports lawyer.²³

The most popular method of achieving these rights by athletes is through establishment of intermediary company. A one *Maro Itoje*, an athlete based in the United Kingdom uses an

intermediary company which gets paid for endorsements. This is a properly arranged strategy to cut paying exponential amounts in taxes which normally works out well.²⁴

Image rights are human rights which are particular and more crucial to others because most athletes tend to be more vulnerable than the ordinary people and who can be compromised.

Beth. A. Cianfrone & Thomas. A. Baker in an article on the use of student athlete likeness refer to the *NCAA, Sports Video games (S.V. Gs)* and the use of likeness by franchises such as *Electronic Arts (E.A)* which makes commercial benefit from the use of student-athlete likeness without completely indemnifying athletes. There exists an amateurism principle in the *NCAA bye laws (bye law 12.1.2)* which greatly conflicts with

²² Tunney J, 'Rugby 25 slammed by fans: Claims of mis selling unfinished game.'

<https://www.rugbydump.com/news/rugby-25-slammed-by-fans-claims-of-mis-selling-over-unfinished-game/>

accessed on 14th May, 2025

²³ *Supra 18*

²⁴ Adams & Adams, 'What are image rights and how are they protected in South Africa?'

<https://www.adams.africa/intellectual-property/what-are-image-rights-and-how-are-they-protected-in-south-africa/#:~:text=From%20an%20IP%20perspective%2C%20we, cap%20by%20paying%20him%20less.> Accessed 16th

May, 2025.

the publicity and commercialisation rights. This states that athletes should not directly benefit from the use of their likeness as amateur athletes. This was deemed to be in violation of their collective image rights. Individually, they seemed no issue as regards violation as the video game characters had no name but simply had great likeness to the athletes. Likeness in the form of weight, size and characteristics. This led to a class action suit by *Sam Keller* (Keller Class Action Complaint 2009) among his other teammates and this was in among others believed to be in violation the *Unfair Competition Act of California* at the time²⁵ The rights of publicity and judicial precedents that supported this claim were also in position to enable the suit sustain. The case of *Gionfriddo v M.L. B*²⁶ was relied on to get across the violation against Sam Keller and his counterparts. The future projections of this situation is better legislation and also creation of trust funds from where the athletes can claim compensation in case of future violations. Pressure from Advocacy groups has also ensured that athletes are not exploited no matter where they stand in the professionalism.

A similar position is raised by **Richard Giulianotti** in his article on human rights, globalization and sentimental education in regard to sports. He believes that the rights surely exist but are merely gatekept for elite athletes at the expense of the amateurs. There are times where young athletes are seen to be in some form of 'indentured servitude' as they don't really recognise and benefit from the use of their pictures and likeness which violates their rights as a person. ²⁷ He also brings out the issue of cultural

²⁵Cianfrone. A. B., Baker. A. T, 'The Use of Student-Athlete likeness in Sport Video Games: An Application of the Right of Publicity.' Page 38 pg.35-74

²⁶ Gionfriddo v Major League Baseball (2001) C.A State of California 94 Cal App 4th 400.

²⁷ Giulianotti.R.(2004) 'Human Rights, Globalization and Sentimental Education. The case of Sport.' *Sport in Society, Cultures, Commerce, Media, Politics* 7:3, 355-369.

relativism and human rights. He states that certain cultures make it difficult to enforce and realise the rights. The Western world may deem a violation of a human right which may seem non violation in less developed countries. The standard of proof is gently varied and a unified code to determine what could be a violation and what could not may be separated by a reedy line.

10.1 Methodology

This research was carried out using the qualitative research guide. This involved collection of information on sports image rights from people through questionnaires and also desktop research which involves consultation of articles, journals and law reports online. The contextual framework was laid out, data collection strategy, instruments of collection, and data analysis.

1.1.1 Contextual Framework

This research involved the use of statutes and case laws. These may include the *Constitution, Lotteries and Gaming Act*²⁸, *The National Sports Act*,²⁹ *Copyright and Neighboring Rights Act*,³⁰ *The Olympic Charter, WIPO Copyright Treaty* among others. These will be used to determine if the realization of sports image rights is really dependent on the legal system being effective or not. Control factors and variables will be taken into consideration such as the growth of the number of athletes and how this has no effect on the legal system as long as it is in place and functional.

Information was gathered from the field from participants who accept to voluntarily answer questionnaires on the topic of research. The ages of the recipients will be from

²⁸ Lotteries and Gaming Act, Cap 334.

²⁹ *supra* 7

³⁰ Copyright and Neighboring Rights Act, Cap 222

approximately 16 years to 60 years. These were of both female and male genders who are expected to be about 30 in number. These people are to be of no particular ethnicity. They may have advanced or ordinary knowledge on the topic of study.

2.1.1 Data Collection Strategy

Exploratory Research design was employed here through surveys to find out the perspective of the people on the topic of research. This involved both latitudinal and longitudinal study of the object of research.

For the surveys to be carried out, it was randomized and everyone had an equal opportunity of identifying and giving opinion on the research questions. It's estimated to get mostly, the attention of more youthful population, due to research done using online means.

3.1.1 Instruments

The research was carried out using questionnaires as a means of surveys. These was given out to people through google forms and they had to fill in and answer 12 questions as regards the topic of study.

Comparative studies of cases and statutes were done as well.

The questions asked were open ended to enable the recipients to give an answer which is based on the information they know about or have had.

A sample question was; *When did you first hear about image rights in sports?*

4.1.1 Data Analysis

The data collected was analyzed qualitatively choosing between the level of intention of the opinion given by the parties to the research.

Information collected was interpreted basing on the questions answered and given an objective translation to the variables of research.

11.1 Limitations

The study was limited by the underdeveloped jurisprudence of sports law which has to depend greatly on other areas of law such as commercial law and laws of contract. This gave the understanding of sports image rights and laws an ambiguous interpretation by the objects of research.

High levels of illiteracy among the people from whom information about the efficacy of the legal system in regards to sports image rights. This is because the legal systems may not be easily understood by simply reading them without legal assistance.

The research was time consuming through collection of data from various sources both primary and secondary. These data collection activities are susceptible to long hours of collecting and sieving out o information by the researcher.

The research was hindered by funds because it is costly to carryout. This required the use of financial resources to study information received from the field of research.

The research was limited by various people giving wrong information in the field to simply escape the researcher and others failing to give information by rejecting information by way of questionnaire due to the option not to answer. Others answered information on the forms and have two entries which can give wrong information and estimates.

12.1 Chapter Synopsis

1.1.1 Chapter One

This chapter gives a clear introduction and background of the research looks at the preliminary stages of the research and it goes through various objectives which include general and specific. It also looks at objectives both general and specific objectives.

2.1.1 Chapter Two

This chapter looked at the non-legal aspects of the research in regards to sports image rights and all other information regarding the non-legal state of image rights in Uganda and the world at large.

3.1.1 Chapter Three

This chapter looked at the legal analysis of image rights in both in Uganda and internationally.

4.1.1 Chapter Four

This chapter involved the summary of findings and recommendations for the future. Concluding remarks were also made.

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Chapter2 ; Non-Legal Aspects of Sports Image Rights.

1.1 Introduction

Once a person's image is used publicly, issues non legal in nature may arise but all these even when looked at legally, may have an implication which may not be remedied by legal action such as reputation biases and cultural and ethical issues. These and many others with case scenarios will be explained.

2.1 Analysis

1.1.1 Ethical considerations

Where a person's image or likeness is used, their actions can cause ethical implications which may not be observed as breach of contract. For instance, *Ronaldo's coca cola incident* via the Euros 2020.³¹ Him being used by the *Coca-Cola* company who were sponsors of the Euros, was going against his personal healthy routine and he encouraged people to take water instead of the packaged beverage. He carried the coca cola drink and put them on the side which caused the sponsor to lose about 4 billion US dollars. This sort of mandatory endorsement causes a conflict of interest to the athlete.³²

The reputation of the athlete is doubted and cause them to be doubted by the greater population and this can cause a deep ripple effect. *Sam Morsy*³³ Ipswich town captain during a premier league match in 2024 refused to wear an *LGBTQ* band in protest to violation of his religious beliefs. This caused an uproar among the sponsors and football

³¹Garcia, A. 'Christiano Ronaldo snub sees Coca- Cola market value fall by \$4bn, 16th June 2021'.

https://www.espn.com/soccer/story/_/id/37618171/cristiano-ronaldo-snub-sees-coca-cola-share-price-fall-4bn

accessed on 27 April 2025

³² *Ibid above.*

³³ The Guardian, 'Ipswich reveal captain Sam Morsy chose not to wear rainbow arm band.' Monday 2nd December, 2024 <https://www.theguardian.com/football/2024/dec/02/ipswich-captain-sam-morsy-refused-to-wear-rainbow-armband#:~:text=Ipswich%20have%20revealed%20their%20captain,owing%20to%20his%20religious%20beliefs.>

Accessed on 27th April 2025

fans all over the world. The fact that it wasn't mandatory for him to advocate for rights of diversity; which are human rights, must have put him at a cross roads of duty and religious affiliation.

2.1.1 Financial implications

An image that someone holds when exploited for commercial benefit without factoring in the originator of the rights causes a commercial standoff which can be more moral than legal in nature.

In the matter of *Usain Bolt* and his iconic lightning bolt celebration which was adopted by multiple advertising agencies to promote their products was financially unfavorable to Usain who was not getting any pecuniary benefit.

Issues arose as to whether Bolt had actually copyrighted the celebration it was found that he actually had not and could copyright the action. Companies would use his image and was done as a marketing gimmick which was very lucrative in nature.³⁴

Similarly, *Ronaldo* has an iconic celebration which has been used world over and its use cannot be denied to be very influential. More than one celebrity and advertising agent has used it and it can be argued that given its popularity and use, in less developed countries and jurisdictions its simply used without paying any royalties because of the unable financial muscle by counties in the 3rd world to pay for such rights as they are expensive.

³⁴ Usain would make the lightning pose after securing victories in his various races mostly 100m. These were at the Olympics among other events. Usain bolt personal website, Home <https://usainbolt.com/> accessed on 27th March 2025

3.1.1 Emotional Impact and consequences.

When it comes to the toll the use of one's image can have on their future and to the people related to them, one cannot underestimate what the violation of image rights can hold. Very many players have their careers ended due to the inappropriate use of their likeness. Harnessing the impact may not even require legal intervention because the damage done can only be compensated to a small extent.

This can be through various methods such as deep fakes which mimic the likeness of athletes and it's used to portray them doing something they wouldn't have done in real life.³⁵ Many AI videos of such disrepute have been made of super star *Lebron James* and in some cases with *Sean Combs* an American Musician who is being investigated. His image has been put up in offensive posts supporting the investigated person.³⁶ This has capacity of sabotaging his career in basketball to an extent legal action cannot fix.

4.1.1 Conclusion

In a nutshell, the non-legal aspects of sports law tend to tie into culture, impact on emotions and public image which most people hold in high regard about themselves. Mishandling of this essential information about a person can have great repercussions on sportsman's future and also hamper their careers in a multitude of ways. Taking these aspects in considerations makes sports timeless and noble, quintessential and respectable part of the economy.

³⁵ Use of the Artificial Intelligence and other technologies to depict people in ways they are not. Refer to 36 below.

³⁶ Video published on YouTube, Daily Mail World, October 2024

<https://www.youtube.com/watch?v=IFXG3ZFx5yE&pp=0gcJCdgAo7VqN5tD> accessed on 27th March 2025

Chapter3 ; Legal Analysis of Sports Image Rights

1.1 Introduction

Sports image rights have a diverse legal framework governing them most of which begin out internationally and are later adopted into the regional and local legal systems. In areas with regional blocks, these laws function on the regional basis. The legal system is very essential and it must be efficient to enable the rights to be realized.

2.1 International Perspective

On the global scale, international law has been put in place to influence how the rights of sportsmen and athletes in regards to sports law is to be achieved.

1.1.1 World Intellectual Property Organisation Copyright Treaty

This treaty is made to protect literary and artistic works of contracting parties within the meaning of the *Berne Convention*.³⁷

There is no specific clause in this Treaty that talks about sports image rights but there is general talk on the protection of images and likeness of people in regards to artistic and literary work.³⁸

There is the right to own, distribute, rent out and right to communicate to the public about the same.³⁹

Most of the clauses trickle down to the current states of the United Nations and are adopted in statutes of member states to the U.N and other nations on privacy, publicity and personality rights.⁴⁰

³⁷ Article 20 of the Berne Convention 1886

³⁸ *WIPOCT Article 7; Authors ... cinematographic works, Article 9; Duration of Protection of Photographic Works.*

³⁹ *Ibid 38.*

⁴⁰ Blackshaw. I. 'Understanding Sports Image Rights' paragraph 7 to 8 https://www.wipo.int/en/web/ipday/2019/understanding_sports_image_rights accessed on 29th April 2025.

2.1.1 The Olympic Charter

This is an international instrument binding all International Federations and National Olympic committees and the greater Olympic movement. This instrument refers to the IOC as the body which possesses all the rights to the Olympic activities which include rights to games and properties⁴¹ together with advertising, demonstrations and propaganda⁴². These rights exist but can be given out for a commercial nature of business.

3.1.1 United Nations Global Sports Programme guidelines

These are guidelines for counter terrorism and also exist to promote safety at major sporting events, promotion of sports and its values as a tool to prevent extremism. *Guideline 2 and 3* under the don'ts states that community members should not defame the participants and say uncertified information about them. Profanity and use of prejudiced information is also banned.

4.1.1 United Nations Guiding Principles of Business and Human Rights.

These are soft laws binding parties to the United Nations in business which may include international sport and it requires respect to the human rights of the athletes involved. Image Rights also are human rights which are also protected by the United Nations as a whole.

5.1.1 International Charter of Physical Education, Physical Activity and Sport.⁴³

This is an instrument under *UNESCO* which operates to promote proper implementation and making of decisions as regards sports.

⁴¹ Article 7 of the Olympic Charter para. 2

⁴² *supra*. 50, para. 4

⁴³ International Charter of Physical Education, Physical Activity and Sport 2015.

This provides for right to participate and meet the rights of those discriminated against in sport such as minors, vulnerable adults, women and persons with disabilities.

3.1 Regional Perspective

1.1.1 Statute of the African Union

This is the principle legal instrument that promotes the rights of African parties to the African Union. It provides for the protection human and people's rights in respect to the *African Charter on Peoples' Rights*. Sports image rights are taken to fall in the same category even when not expressly stated.⁴⁴

2.1.1 African Union Policy Framework for Sustainable Development of Sports in Africa

This policy works as a template for nations in Africa such as Uganda, South Africa, Kenya among others. It ensures that enforcement of the policy and incorporation into statute law must align with the five pillars: An active Africa, A winning Africa, A sustainable Africa, An Innovative Africa and a United Africa.⁴⁵

This has resultantly influenced the stature of the local legislation.

4.1 National Perspective

5.1 Uganda

1.1.1 The 1995 Constitution of Uganda as amended

This stands as the grand norm of Uganda and it gives power to parliament to make legislations and the Minister to make regulations.

⁴⁴ Objective h) of ARTICLE 3 OF Statute of the African Union.

⁴⁵ Section 2, *Policy Framework for the Suitable development Of Sport in Africa*.

The *National Objectives and Directive Principles of State Policy, Objective XVII* provides for the promotion of recreation and sports for the citizens. This usually comes with some rights and obligations which are interpreted together with the bill of rights in chapter 4 of the Constitution.

There exist two important right which are the right to privacy of person, home and other property⁴⁶ and the right to protection from deprivation of property.⁴⁷ These fit into the spot for sports rights with regard to images and a lot other sports rights such as a right to choose endorsees and sponsors by the athletes.

2.1.1 The National Sports Act Cap 151

This Act is translation from the *National Council of Sports Act Cap 48*. It holds the values that uphold the status and image of a sportsman. This is seen through the penalties set for violation and inappropriate use of rights commercially.⁴⁸

There is also safeguarding against the exploitation of participants in sports activities. Section 65(1) particularly states that exploitation shall not, among others be financial in nature.⁴⁹ Penalty for the violation of that right is about 480 currency points with or without imprisonment for ten years.

This creates candid awareness that rights must be safeguarded and failure to do so can be so catastrophic to the violator.

In the Proline case, the image rights were seen to first be in possession of the athletes before belonging to any third and consent to use them is necessary at all times⁵⁰.

⁴⁶ Article 27, 1995 Constitution of Uganda.

⁴⁷ Article 26, 1995 Constitution of Uganda.

⁴⁸ Section 60, *N.C.S Act*.

⁴⁹ Cross referenced with 14 above.

⁵⁰ Section 75 of the *N.C.S Act*.

Where there is a case for identity theft, the accused if found is guilty, is entitled to pay a sum about 500 currency points and can be imprisoned for term of about 10 years. Given that broadcasting also exists the rights are required to be got through the right channel and presently with the premier league audio-visual rights in Africa are given to SuperSport. There has been illegal streaming of content of the premier league of recent through satellite decoders which use internet to tap into the mainframe and distribute this intellectual property with no right.⁵¹

3.1.1 Copyright and Neighbouring Rights Act⁵²

This statute of parliament is in place to make sure intellectual works and their neighboring rights are protected. The Act talks about the rights of a performer and in that sense would include an athlete who in part of a team sport. These can give authorisation of use of their images and likeness through a co-performer or legal representative⁵³ because asking each and every one of the teammates to accept to use their image to be used is impractical.

The right to broadcast a performance by a producer either visual or audio-visual is given to the broadcaster with a right to do so.⁵⁴

⁵¹ Adeya.K.J. J; 'Will DSTV win war against abrasive cheap decoders' 26TH February, 2025. <https://www.kampalaedgetimes.com/will-dstv-decoders-win-against-cheap-ones/#:~:text=On%20February%2013%2C%202025%2C%20MultiChoice,holders%20to%20local%20content%20creators>. Accessed on 10TH MAY 2025.

⁵² Supra 30 above.

⁵³ Section 24 Copyright and Neighbouring Rights. Also, in *Proactive Sports Management Limited v Wayne Rooney [2011] EWCA Civ 1444*

⁵⁴ Section 31, supra above.

4.1.1 The National Sports Regulations⁵⁵

These set out the procedures on utilization of commercial rights. Where there are beneficial owners⁵⁶, they are required to state their affiliation to sports entity and the right of ownership of rights. Mostly sets out procedure to follow in achieving objectives of the N.S.A.

6.1 South Africa

1.1.1 The National Sport and Recreation Act⁵⁷

This is the equivalent of the Ugandan legislation⁵⁸ and it provides for special care and interest on '*High Performance Sports*' which have the Sports Commission which makes sure that all reasonable care is given to the sportsmen which includes but not limited to rights and proper representation in the sports confederations and associations. Provision is also for equity and consideration.⁵⁹

7.1 United Kingdom

In the U.K, just like it is in the various areas of prominent British influence such as colonies and protectorates, there is no particular legislation. This creates a necessity to apply the intellectual rights, common law and statute law.

The *Committee of Advertising Practice Code*⁶⁰ in Rule 6 limits marketers of all sorts of adverts from making unfounded information to offend and inappropriately portray a party.

⁵⁵ National Sports Regulation, 2025

⁵⁶ Regulation 20, Form 9 schedule 2.

⁵⁷ National Sport and Recreation Act

⁵⁸ Ibid 17 above.

⁵⁹ Section 14, supra 57.

⁶⁰ Committee of Advertising Code (CAP)

It should be noted that the *Committee of Advertising Practice* is a quasi-judicial and if it's to enforce rights, it simply takes down offensive ads but cannot provide damages. *Irvine v Talksport*⁶¹ elaborates on violation of image rights and benefitting without consent of the owner. In this case, the defendant lost a case for passing off where my made brochures for their radio agency and made them seem to be endorsed by the plaintiff who had not done so.

8.1 Conclusion

The legal aspects of sports image rights are progressive in nature and represent the needs and wants of the time in which they exist. In nations of Africa is not as developed as in continental Europe and the United Kingdom. This makes it seem like a gap waiting to be explored in the less developed nations.

International and regional instruments govern the reception of sports image rights on that level and serve to bridge the differences which may exist in the legal frameworks of local jurisdictions.

⁶¹ *Irvine v Talksport Ltd* [2003] EWCA CIV 423

Chapter4 ; Summary of findings, conclusions and Recommendations.

1.1 Summary of Findings

Research was carried out in the online and also by the help of library research.

A total of 32 people were interviewed in the survey and the average being 23 years of age.

Majority of the respondents were students and were not actively working anywhere.

Questionnaires were handed to people and responses were recorded as follows.

Have you heard of sports image rights?

32 responses

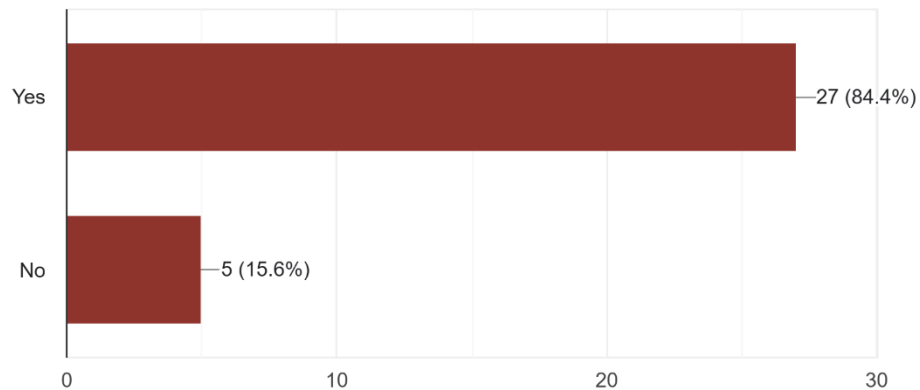


Figure 1

Most of the people who were answered questionnaires had some knowledge on sports image rights. This proves that generally the population has some knowledge of this phenomenon and are open to the fact that these are rights every athlete has and must enjoy given that they are in that position.

The survey was carried out by mostly Ugandans and a lesser percentage from other countries. Ugandans who have known about these rights have had prior knowledge to this from a few years ago. These are the majority as well.

This shows that the sports landscape of Uganda is developing and is yet to catch up.

This shows that sports image rights are recognized nationally, regionally and internationally.

The question as to whether sports image rights exist locally and internationally were answered in the affirmative. Case law such as the Irvine⁶², Proline⁶³ and Proactive Sports ltd⁶⁴. has proved the existence of sports image rights far and wide. Confirmation of the same has been made by the survey sample space.

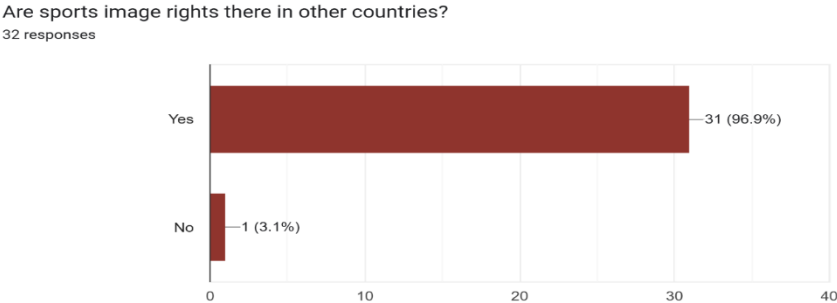


Figure 2

⁶² Supra 61 above
⁶³ Supra 38 above
⁶⁴ Supra 53 above

Do the laws in Uganda support sports image rights ?

32 responses

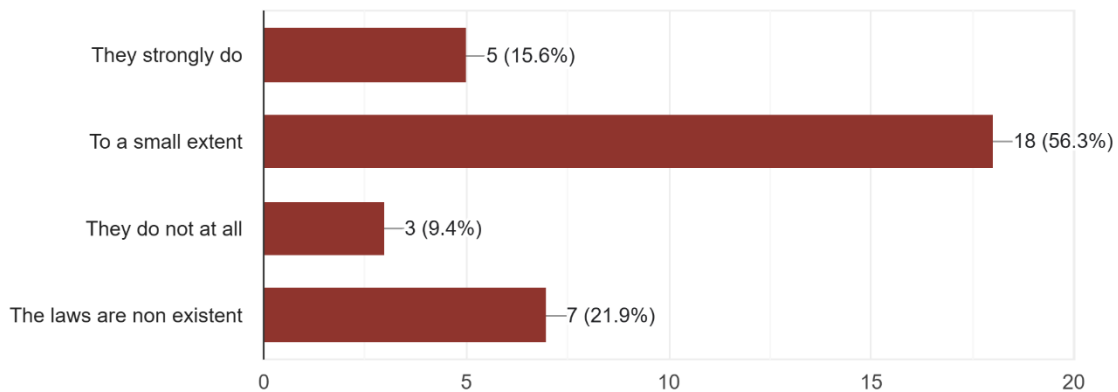
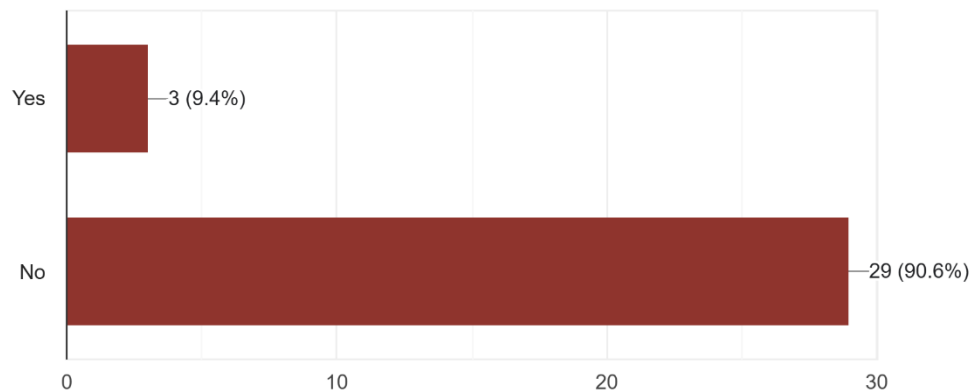


Figure 3

The athletes are seen to play a great role in recognizing their rights such as was seen in the *Irvine case*. Certain sports take priority over other such as was seen in South Africa in the high-performance sports and this creates a special need and care for professional athletes their properties. However, the impact of the athletes to recognize their rights is directly proportional to the availability of the laws and given the laws are unavailable, the rights and efforts of the bidders would be in vain. Resultantly it is felt that the laws have done that role sparingly in Uganda and the fruits are yet to be achieved.

If Uganda had no laws, would sports image rights be respected?

32 responses



It was also discovered that International Instruments such the *Olympic Charter*, regional instruments such as the *African Union Charter* have also made sure this is possible. Various National Legislations in countries like Uganda, South Africa and the United Kingdom have been studied and have been found to stand for the recognition of these types of rights and are available for the sportsmen and women when needed.

2.1 Conclusions

The state of the law in Uganda and abroad is in a developing state and given that the law is an ever-evolving creature, better utilization and recognition of sports image rights is expected in the future. Athletes and the beneficiaries of this system are required to pay keen attention to the evolving nature of this concept of the law.

3.1 Recommendations

1. Sensitization should be done on a large scale in Ugandan Sports Institutions such as Academies, schools and all informative channels to ensure that people can get a better understanding of sports image rights and how they affect them.
2. The legal and regulatory framework in Uganda should be reinforced with policies directly targeted to Sports Images and intellectual property because this is a rapidly growing sector of the economy which has to be pruned as it grows. One such legislation can be the Sports Image Rights Act of Uganda.
3. Just like the Committee of Advertising in the U.K, Uganda needs to adopt a similar model to curb the prospective cases in courts and tribunals by simply pulling down adverts not endorsed on the internet and other social media platforms. Uganda has the Uganda Communications Commission which is overwhelmed and can only do much to make sure that this objective is achieved.
4. Standardisation of the what qualifies an athlete as a professional or an amateur need to be looked into so that as the sportsmen and women recognize their rights and they can know to what extent they need to claim for them.

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