

Legal Duties and Legal Liabilities of Coaches toward Athletes

Authors' contribution:

- A) conception and design of the study
- B) acquisition of data
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- D) manuscript preparation
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ABSTRACT

Background. It is undeniable that coaches play a major role in the development of athletes. Coaches and athletes have a close relationship and share various experiences that lead to a strong bond between them, and this is of great responsibility for the coach. Therefore, the coach should maintain this bond with mutual respect and trust. Various responsibilities are progressively placed on coaches by law to prevent or minimize injuries to athletes. In other words, since a coach is placed in a position of power and trust, the duty of care will always be placed on him. If certain requirements are not met, the coach may be held financially, or even criminally, liable. In this study, the author explains and discusses coaches' legal duties, legal liabilities, and the elements required for liability of coaches toward athletes.

KEYWORDS

responsibility, negligence, disabled athletes, civil liability, criminal liability, sports activity

Introduction

In the field of sports, there are many personal relationships (e.g., athlete-athlete, athlete-team manager, athlete-team physician) that can have an impact on the performance of athletes; however, the coach-athlete relationship is unique and crucial (Jowett, & Cockerill, 2002; Lyle, 1999, 2002). This relationship is one in which the coach dominates his athlete's skills, time, energy, etc. (Emerick, 1997). This relationship is also an important determinant of the athlete's motivation and stress levels. However, the relationship between coach and athlete does not end here. They also have legal relationships in which the coach has important legal duties toward their athletes (Engelhorn, 2005). The obligations that result from these relationships are not defined by the parties. Instead, they are defined by case and statutory law (written obligations imposed by the government of each country) (Carpenter, 2008).

When a coach has a legal relationship either with the athlete or, alternatively, with the persons who threaten harm to the athlete, the coach has an affirmative duty to prevent harm to the athlete. The salary level of a party has no bearing on the duties owed. Therefore, a volunteer coach owes the athletes the same duties as a paid coach. For instance, they owe the same duties to the athletes in terms of performing adequate supervision, providing safe facilities and equipment, etc. In other words, the fact that one coach is paid and the other is not has no effect on the duties owed to the athletes (Carpenter, 2008). Failure to act in accordance with these affirmative duties constitutes nonfeasance and leads to the legal liability of coach (Epstein, 1990). Hence, the study of different aspects of the relationship between coach and athlete from a

legal perspective as well as coaches' legal duties and legal liabilities toward their athletes are very important. It should be mentioned that the duties and liabilities of coaches are not completely integrated in previous literature. Indeed, there are various opinions regarding these issues in different papers and legal cases, and therefore, the study and review of the related literature and suggesting a general conception in this regard might be valuable.

Materials and methods

This paper aimed to review the relevant English language literature focused on coaches' legal duties toward their athletes. Research papers were sourced in four ways. For the first part, diversified electronic databases were used to find relevant articles, including Heinonline, Sport Discus, ISI Science, ProQuest, PubMed, Elsevier, Google Scholar, and the reference list of each published research paper, as well as books, book chapters, and dissertations.

In the second step, suitable references were obtained from the literature and mentioned when they met the inclusion criteria. For the third step, the 'gray' literature, which cannot be found electronically, sourced from persons with the most knowledge in the area, was obtained, and includes researchers, librarians, and people active in the field. The third step contributes to the documentation for this purpose but may not have been submitted to peer-reviewed journals or reports for government bodies. In the fourth step, researchers focused on the relevant references from the published literature. Search terms included: "coaches' legal duties", "coaches' civil liability", "coaches' criminal liability", "coach-athlete relationship", "tort", "elements of tort", "negligence", "sexual harassment". The related articles were passed on for the next steps of the review.

The next steps include appropriately classifying the studies into those exploring the legal duties of coaches in different sports; including individual and team sports as well as recreational and competitive sporting activities and those pertaining to the liabilities toward their athletes.

Selected articles were independently reviewed. Results were equated and inconsistencies were deliberated. Data were extracted using a review schema developed by the author. In most cases, the original author's words were used as such to carry the planned sense and to gain a more truthful comparison between studies.

Results

Generally, the majority of previous studies related to coaches' legal duties and coaches' legal liabilities were focused on specific legal cases, and mostly tried to report on and explain the coaches' negligence, any athlete injuries which occurred resulting from coaches' failures, and courts' results regarding the liable coaches. In most cases, it is reported that coaches did not have sufficient knowledge and, consequently, failed in fulfilling their responsibilities toward athletes. Indeed, there is little research available in terms of considering and determining the duties and liability of coaches toward athletes from a legal perspective. Some court cases also only considered a specific responsibility breached by the coach. After considering several research studies, it is found that coaches owed various legal duties toward their athletes regardless of the type and level of sport they were involved in. A breach of those duties leads to coaches' civil or criminal liability.

Legal duties of the coach

Legal duties of the coach are usually well defined by state athletic associations, departments of education, and related government organizations, and gain an opinion of importance in coaching certification

programs. These rules are defined in the concern of the safety and well being of the athletes (Engelhorn, 2005)¹. Also, court decisions or other legal actions may regulate other duties for coaches².

Numerous studies have investigated the legal duties assigned to coaches. Typically, these studies analyzed case law related to those duties. For instance, Abraham (1970), after considering the court cases related to injuries that occurred in New York high schools, assigned the following duties to coaches: collecting proper equipment; supervising the locker room; inspecting all injuries and providing first aid; providing proper operations for injured athletes until the arrival of a physician; using protective equipment; and maintaining equipment. Porter et al., (1980) elaborated the following six legal duties of coaches: coaching athletes; administering conditioning programs; educating athletes about diet/ nutrition; maintaining equipment; providing first aid; and applying protective tape and equipment. Schwarz (1996), in his study, classified thirteen legal duties for coaches that have been derived from court precedents and legal literature. These duties include the following: to provide proper supervision; to warn athletes about the inherent risk of practice or competition; to provide adequate and proper instruction; to provide a safe environment and facilities; to provide safe equipment; to provide adequate and proper health care; to provide proper and safe transportation; to properly match and equate competitors for competition; to provide due press; to teach and enforce rules and regulations; the duty to foresee; the duty to plan; and the duty to uphold athletes' rights. Doleschal (2006) classified fourteen legal duties that should be viewed as obligations to be met or exceeded by schools and all athletic personnel such as coaches. These duties include: the duty to plan; the duty to supervise; the duty to assess an athlete's physical readiness and academic eligibility for practice and competition; the duty to maintain safe playing conditions; the duty to provide proper equipment; the duty to instruct properly; the duty to match athletes; the duty to provide and supervise proper physical conditioning; the duty to warn of inherent risk; the duty to make sure that athletes have injury insurance; the responsibility to have emergency action plan; the duty to provide proper emergency care; the duty to provide safe transportation; and the duty to select, train and supervise coaches. These duties are used to determine negligence in sports-related injuries that have been formulated from legal proceedings taken from tort related cases involving coaches, schools and athletic programs. Other researchers, however, have had different opinions. For instance, McCaskey and Biedzynski (1996), and McGirt (1999) assigned eight legal responsibilities of coaches. Also, Figone (1989), Hensch (2006), and Labuschagne and Skea (1999) classified coaches' legal duties into seven items. However, Carpenter (2008), Fast (2004), and Borkowski (2004) held other opinions, categorizing different legal duties for coaches. Based on the mentioned sources, there are many lists of responsibilities that arise for coaches. The most important of them, which covered most areas of coaches' legal duties and which are approved by some of the scientists, were initially classified by Figone (1989) and then completed by Engelhorn (2005). Those items are as follows:

1. Providing a safe sport environment;
2. Using the total knowledge and skills of instruction and training;
3. Using of appropriate and functioning equipment;
4. Planning for short- and long-term training programs;
5. Proper matching of athletes in practices and competitions based on their size, skill and power;
6. Conducting sufficient supervision of athletes;
7. Warning athletes and their parents regarding the inherent risks involved in their specific sport;
8. Providing proper medical care;
9. Preventing sexual harassment by other athletes and coaching staff, as well as discrimination;
10. Reporting to the proper authorities in cases of child abuse.

¹For instance, mandatory child-abuse reporting is a legal responsibility of coaches in many countries and is a good example of a coach's duty that is mandated by governmental bodies (Engelhorn, 2005).

²It is legally expected of coaches to prevent athletes from participating in sport activities in circumstances in which an unacceptably high risk of injury during a practice or competition is created (Engelhorn, 2005; Labuschagne, & Skea, 1999).

Mohamadinejad and Mirsafian (2014) also classified the coaches' legal duties in another way. They arranged the duties in seven major categories, which cover coaches' duties in different types of sports and at various levels of recreational and competitive sport activities. Their classification is as follows:

- a) *Supervision*: Being present and supervising the locker rooms and practice areas, before, during, and after training sessions, in addition to supervising the transportation and nutrition of the athlete (Doleschal, 2006; Labuschagne, & Skea, 1999);
- b) *Instruction and Training*: Teaching the skills, techniques, and rules necessary for training and competition as well as methods to reduce the risk of injury (McCaskey, & Biedzynski, 1996; Williams, 2003);
- c) *Facilities and Equipment*: Examining indoor and outdoor facilities; accommodating clean, hygienic and functioning gear which meets all of the safety measures of the sport; and providing secure environs at athletic training sessions and competitions as well as considering weather and its relation to safe playing conditions (Doleschal, 2006);
- d) *Warning of Risk*: Cautioning the athletes of the risks may involve in the training sessions or in competitions. Warning of certain dangers originating from the nature of the exercise, the use of tools, the nature of the playing surface, and the methods involved in the play (McCaskey, & Biedzynski, 1996);
- e) *Medical Care*: Guaranteeing the accessibility of appropriate first aid and medical care (Figone, 1989); putting efforts to get practically quick and effective medical aid for injury before the arrival of proper medical help (Figone, 1989; McCaskey, & Biedzynski, 1996; Schwarz, 1996; Williams, 2003; Wong, 2010), and refraining from aggravating any injuries to the athlete (McCaskey, & Biedzynski, 1996);
- f) *Knowledge of Players*: Having knowledge about player's bodily state before, during, and after athletic participation and being aware of the athletes' backgrounds and properly assessing their keenness and ability (Labuschagne, & Skea, 1999);
- g) *Matching Players*: Placing athletes in direct competition, in contact and non-contact sports (Figone, 1989), with other athletes of similar age, size, mental and physical maturity, experience, and skill level in training sessions and competitions (Schwarz, 1996).

If coaches want athletes to participate safely in sporting activities, they should be informed about all of the mentioned responsibilities. When coaches fail to have adequate knowledge about their duties, they are placing athletes in insecure situations and also setting themselves up for legal risk (Sport Law and Strategy Group, 2011). This violation of duty may result in criminal prosecution of the coach (Wenham, 1994). However, the accident causing injury to the athlete may bring civil action against the coach. (Wenham, 1999).

Coaches' civil liability

Coaches normally have the closest relationship with athletes and have the most direct control over them in any sport (Labuschagne, & Skea, 1999). Even during the off-season, athletes are under the regular direction of their coaches³ (McCormick, & McCormick, 2006).

The coach-athlete relationship is special; hence, a heightened duty of care to prevent foreseeable risks of harm to participants is owed by coaches (Guskiewicz, & Pachman, 2010; Wehman, 2006; Whang, 1995). In essence, when athletes participate in a particular sport class, it is not sufficient for the coach to just teach the athletes the skills related to that specific sport; the coach must also continuously supervise and protect them from foreseeable risks. The comment from the previous sentence, that the duty owed to athletes is heightened, is because of the financial and nonfinancial benefits that coaches receive from the athletes' participation in sports activities (Whang, 1995).

³At the professional level of sports.

Due to the close relationship of the coach and athlete and the duties that are owed to the athlete, coaches often find themselves as defendants in lawsuits brought about by said athletes (Labuschagne, & Skea, 1999). In sports, when an unexpected incident occurs on the playing field, the actions or inactions of the coach are possibly criticized or directly blamed (Guskiewicz, & Pachman, 2010). However, it should be mentioned that coaches are under no automatic legal liability merely because the injuries occurred under the coach's control (Khan, 1991). The source of civil liability is normally based on the theory of negligence (Labuschagne, & Skea, 1999). Negligence has been the most frequent basis for suits brought against the coach by plaintiff athletes, claiming that the coach should be held liable for injuries suffered during training. An athlete must prove, within a balance of probabilities, that the coach's action was careless. Negligence may be defined as the failure to exercise the degree of care demanded by the particular circumstances at the time of the charged act or omission (Speiser, 1985). In cases of negligence, a cause of action from which liability will follow requires:

- A legally-recognized duty of care on the part of the coach;
- A breach of this duty by the coach;
- Resulting injuries or damages to the athlete; and
- A causal connection between the breach of the duty and the resulting injury; causation in fact, proximate cause (Keeton et al., 1984; Whang, 1995).

In order to decide if a cause of action is created for a coach's liability, a court must first determine, as a matter of law, whether a duty runs from the coach to the athlete (Stirling et al., 2011). A duty of care depends on some sort of connection between the parties. If an injury/ accident happens, the legal authority will question about the relationship between the parties, and whether it was such that the coach should have predicted that his act would lead to an injury suffered by the athlete. Based on a basic principle of tort law, if special circumstances between the plaintiff and defendant are absent, no duty arises. Thus, under the general principals of tort law, the coach has no duty to aid or protect his athletes unless the relationship between them is characterized as "special" (Whang, 1995). After that, a court must determine if the coach breaches the duty of care. A coach's responsibility is to provide practical care to his athletes, matching another confident and careful coach providing in similar circumstances. While the idea of standard of care is always the same, the precise manner or behaviors used to achieve that standard may vary with conditions, such the setting, the nature of the sporting activity, age and gender of the participants, their skill level, and other factors. A duty may be violated by either a coach's action or inaction. This means that it might happen by acting wrongfully (misfeasance) or failing to act when there is a duty to do (nonfeasance) (Speiser, 1985). Breach of the duty would involve the judiciary to initiate a case-by-case inquiry into the factual specifics of each athlete's situation (Emerick, 1997). The breach must have resulted in damages or losses to the athlete's person, property or interest (Dougherty et al., 2007). The offender's (coach's) negligence in the duty causing trouble or harm to the accuser (athlete) is not sufficient for a lawsuit. The court must determine that the specific damage for which compensation is demanded was actually a result of the coach's careless act. The negligent actions of the coach must be shown to have been the proximate cause of the injury. The concept can be reduced to one rather simple question: *Did the negligence of the defendant cause or aggravate the injury in question?* If the answer to this question is negative, then, regardless of the amount of carelessness present, the injured athlete cannot recover damages due to negligence of the coach (Dougherty et al., 2007).

Hence, the first and perhaps most critical factor in determining if a coach is liable for the injuries of his player is whether the coach has fulfilled the duty to perform reasonable care regarding protection of the athlete (Whang, 1995). Failure by coaches to recognize the risks within their sport and/ or to enlighten athletes on how to control these risks could leave coaches defenseless to civil liability in the situation of an athlete's accident (Mageau, & Vallerand, 2003).

Generally speaking, civil liability arises when a damaging action has taken place, creating loss or damage for the injured party. It is important to note that the absence of any of these elements will bar recovery under law. Also, in each negligence case, these elements are different and are decided based on its

own facts. Moreover, it should be mentioned that the negligent person is not to be punished, yet the injured party may demand financial benefit from the party who has caused the loss.

The disabled athlete and coaches' civil liability

In controlled environments, organized sports provide athletic opportunities to young and old, male and female, and able and disabled people (Healey, 2005; Mageau, & Vallerand, 2003). This means that sports can improve the lives of disabled persons, just like with everyone else. Disabled people who participate in sports are, first and foremost, athletes with same need, drive, and dreams as any able athlete (Coaching Association of Canada, 2005) and can relish the same privileges towards any negligence, risk or wrongful behavior, etc., towards them (Bringer et al., 2002).

A qualified and talented coach can develop the skills of a disabled athlete, like any able athlete. But it is a point of concern to think about the safety and the way of communication between the coach and his athlete. Thus, coaches should develop their understanding of the disabled athlete (Coaching Association of Canada, 2005).

Athletes' disabilities are divided into broad categories like mobility, sensory, and intellectual disabilities. Disabilities may be genetic (e.g., present at birth) or developed (developed through a hurtful injury or an infection); therefore, an athlete with physical disability may have low fitness level, trouble with bodily movements, or may become restless. Intellectual disabilities may include a delay in cognitive development, a short attention span, difficulty with intellectual concepts, and difficulty with transfer of learning (Coaching Association of Canada, 2005).

In order to offer suitable support and sound programming, evaluation of the physical aspects of athletes with disabilities is essential. Therefore, coaches have to get the required information directly from the athlete with disabilities as to what persons with that special disability can or cannot do, and to arrange a facility accessible to them. Whether athletes are disabled or not, they should be evaluated based on the demands of their respective sport. Some investigators evoke that goalball, for instance⁴, includes a lot of training, like other sports with different training components. The coaches would consider an athlete's power like that of a football player, but the conditioning would be assessed more like that of a volleyball player. Paralympics sports have exclusive demands, so a different method may be needed to evaluate athletes (Coaching Association of Canada, 2005).

Rather than risking the athlete's capabilities, coaches should involve in frank discourse. Communication is a crucial factor in any fruitful coach-athlete relationship. Face-to-face dialogue is advisable from the start, as both the coach and the disabled athlete come to know each other better (Coaching Association of Canada, 2005), and it represents a good way to assess the nature of the disability and the training required.

It is also considered that coaching athletes with a disability increases the coach's liability. In fact, liability is not of much concern when working with athletes with disability compared to when it concerns any other athlete. Indeed, coaches soon learn that coaching these participants is basically no different than coaching any other athlete. However, coaches of disabled athletes feel bound to offer more care compared to the able-bodied participants, as the standard of care for the disabled is not same as for the other athletes. Athletes with disabilities certainly require a higher standard of safety, trained equipment, and other facilities (Healey, 2005). Consequently, coaches acting for disabled athletes must be more cautious than other coaches. Disregarding other civil obligations, the risk of liability of the stated/ accused coaches is minor due to their situation. Hence, the failure of the coach to know or have known about an athlete's disability, and failing to take the required precautions, will lead to liability (Khan, 1991). However, it must be stated that evidencing the disability of a disabled athlete is essential to execute liability on coaches. So it results that the

⁴Goalball is a sport specific to people who are visually impaired.

athlete should prove himself/herself as disabled (Weissenburger, 2008), then the athlete must justify all the other essential features, the same as with able-bodied athletes.

Criminal liability of the coach

Coaching includes a complicated set of relationships that gives the coach a chance to reformulate coaching styles and interpersonal relationships (Dowey, 2008). The coach has a great deal of power over his athletes; however, athletes do not have that power (Dodge, & Roberston, 2004). The relationship between coaches and athletes is not based on an equal collaboration, but majority power held by the coach. Also, athletes often uncritically accept what their coaches propose. Therefore, the coach-athlete relationship is based on power (Fasting, & Brackenridge, 2009). In addition to power, trust between coaches and athletes plays an important role in their relationship (Williams, 2003). Coaches are believed to be trustworthy because of the responsibility they have compared to other persons involved in sports or normal persons in society (Dowey, 2008).

The trust and power that is vested in a coach can provide opportunities for the coach to misuse them (Fried, 1996; Williams, 2003). The complexity of legal suits is an intense cue of the possible abuse of power that coaches can purposely or accidentally inflict in their association with athletes (Dowey, 2008). Very few researchers reported that the unbalanced power between coach and athlete in the field creates susceptibility to abuse of the athlete, which is not affected by the age of the athlete (Brackenridge, & Kirby, 1997). Indeed, the normal physical contact between coach and athlete, in order to teach various skills associated with movement, can be abused by some coaches who disrespect appropriate boundaries between the athletes and themselves (Bringer et al., 2002). Yet sometimes the coach's action may be decent in faith but is misunderstood, therefore causing an impression of physical, sexual, or emotional abuse, or the subject of false allegations (Dowey, 2008) based on alteration in factors like maturity, authority, status, and dependence between the coach and athletes, even though the athlete has reached a legal age of consent. Therefore, the coach-athlete relationship is an unequal power relation based on power and trust that, if not cautiously managed, may easily lead to emotional or physical exploitation (Toftegaard, 2005).

According to criminal law, the person in a position of trust/authority towards a young person must not engage in any sexual activity with that young person, even when the activity is consensual (Corbett, 1993); therefore, the sexual harassment and abuse of athletes by their coaches is a criminal offence under criminal law and leads to criminal prosecution against the coach (Wenham, 1994). But it should be mentioned that, to impose criminal liability on a coach, it must be confirmed that the coach was in a position of trust or authority towards the athlete when the abuse was committed, and the circumstances and evidence of the case must establish that the coach was intentionally abusing his athlete (Corbett, 1993). The circumstances of the relationship between the coach and athlete, including the age of the athlete, the official status of the coach in relation to the athlete and the times when the position or relationship begins and ends would determine whether the coach has been in a situation of trust and power or not.

Unfortunately, victims of sexual abuse usually do not report the abuse and many of those committing crimes of sexual nuisance and sexual abuse in sports did not enter the criminal justice system due to victims' shame and embarrassment, as well as love, fears of paybacks, de-selection or not being taken seriously (Brackenridge, 1997). Nevertheless, examples of youth sport coaches preying on youth are vast (Wenham, 1994). Also, according to reliable information, the majority of abusers in sports are mature males; however, in some cases, many victims are boys who are older than the children abused (Department for Culture, Media and Sport /DCMS/, 2002; Nack, & Yeager, 1999).

All in all, criminal liability arises when a crime has been committed and a special punishment is determined for it.

Conclusion

Coaches are the core of the sports system. If coaches honestly believe in the importance of their position in relation to athletes, and adopt and practice legal and ethical responsibilities, most litigation brought against them would not occur.

In this article, the author provides a general view about coaches' legal duties as well as their legal liabilities, which are reported in the previous literature as well as related court cases. It should be noted that all of the mentioned duties are in direct connection with coaches, regardless of the type of sport they are involved in as well as the level of sports activities; therefore, to minimize the risk of litigation following sport-related injuries, it is required that coaches be aware of and understand their legal responsibilities and have the necessary skills and knowledge to competently fulfill their duties. They must also be aware of the required standard of care for managing specific injuries, and, in general, risk management in the sports environment.

In addition, coaches should not maintain intimate affairs with their athletes, of any age, and never knowingly do anything that would harm their athletes physically, psychologically, emotionally or mentally, because there is always a danger that the relative power they have may influence the initiation of the relationship. Also, they should not entertain any initiative action from an athlete of a sexual relationship by advising them of the moral basis for the denial.

It is also important that sports organizations educate coaches to help them realize and exercise their power with the utmost care and to enlighten them on the issues that may arise due to any cherished relationship between them, as well as their impact on team members and their public image.

Finally, coaches can learn from examining various legal cases and the first-hand experiences of those who have defended coaches during the litigation process. In addition, various sources of knowledge acquisition (formal, informal, and non-formal) should be provided for coaches in this regard (Mohamadinejad, & Mirsafian, 2013).

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