
THE LAW & THE SPORTS: ON-GROUND-REALITY

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ABSTRACT

Sports contribute to the promotion of unity, child and youth growth, a healthy lifestyle, and active social involvement. It primarily inculcates a sense of belonging and pride in one's country. People develop a sense of loyalty as a result of sports, which is such a pure emotion that it elicits strong reactions. Everyone enjoys playing and watching sports because it is straightforward: if you achieve results, you will be given the opportunity to participate. Sports teach us the value of teamwork, culture, fidelity, and, most importantly, the importance of looking out for and caring for one another.

Law is the foundation of justice and harmony, and without it, everything will fall apart. People are protected from discrimination and oppression via rules and regulations. It is important to have a legal system in place to oversee sports so that issues such as racism, doping, and age manipulation can be avoided and controlled. Sports law aids in the protection of gender equality, the prevention of betting and gambling, the promotion of professional sports management, the resolution of antitrust and competition policy problems in sports, and the regulation of sports broadcasting rights.

Sports law is a synthesis of various laws that help to regulate sports around the world. Various organisations have been established to oversee the global governance of sports, such as-

- Cricket - International Cricket Council
- Football - Federation International Football Association
- Athletics - International Association of International Federations

India's Sports Law

The Ministry of Youth Affairs and Sports was established by the Indian government to oversee and regulate sports in the country. The Ministry was charged with improving sports facilities and promoting widespread development of sports, as well as achieving dominance in national and international competitions. Since India has so many sports, it's even more important to have a legal framework in place to track, control, and govern them.

Article 246 of the Indian Constitution's Seventh Schedule divides lists into three categories: Union lists, State lists, and concurrent lists. The Union list can only be governed by the Union government, the State list can only be governed by the State government, and the concurrent list can be governed by both the Union and State governments.

Under the State list, entry 33 declares that the state has the authority to enact sports-related legislation. Although sports growth is a state subject, it is only subject to state jurisdiction at the state level; at the national and international levels, it is subject to the Union Government's residuary powers and matters concerning foreign affairs and the enforcement of international treaty obligations, as specified in Union List Entries 10 and 13.

This is why, despite the fact that national sports bodies such as the Board of Control for Cricket in India (BCCI) and the Athletic Federation of India (AFI) are self-governing, the Supreme Court of India and various High Courts have ruled that national sports bodies in India are not included in the definition of state in Article 12 of the Indian Constitution. But they fall under the writ jurisdiction of High Courts under Article 226 of the Indian Constitution because they perform state-like functions such as national team selection and representation in international sports events and forums.

National Sports Policy, 2001

The National Sports Policy of 2001 outlined the steps that must be taken in order for sports to grow and evolve across the world. Working together is seen as a perfect way to accomplish the twin goals of broadening sports participation and achieving excellence in sports at the national and international levels.

To achieve the Policy's goals, the Union government will collaborate with state governments, the National Sports Federation, and the International Olympic Association (IOA). Sports

activities in which the country can develop and gain a competitive advantage should be actively promoted. The policy sought to incorporate physical education and sports into the education curriculum.

To identify and harness the available talent and potential, the government adopted the National Sports Policy of 2001 for the growth of sports in rural areas. In this context, rural Youth and Sports clubs, as well as Village Panchayats, must be prepared to assist in the creation of necessary infrastructure as well as the recognition of talent through an effective competition system in the country's deprived and most remote areas.

National Sports Federations (NSFs)

National Sports Federations are autonomous entities associated with State and District level associations for the management, creation, and gathering of sports groups and licenced players with the aim of organising sports through various competitions. NSF assists in the identification of future competitors as well as their preparation for national and international competitions. The federations were established in order to achieve the objectives outlined in the Government of India's National Sports Policy, which is frequently updated.

Sports Authority of India (SAI)

The Sports Authority of India is India's apex national sports body, created in 1982 by the Ministry of Youth Affairs and Sports of the Indian government to promote sport in the country. There are two sports academic centres, 11 "SAI Regional Centres" (SRC), 14 "Centres of Excellence", 56 "Sports Training Centres" (STC), and 20 "Special Area Games" (SAG) (SAG). Netaji Subhas National Institute of Sports (in Patiala, Punjab) and Lakshmibai National College of Physical Education (in Thiruvananthapuram, Kerala) are two "SAI Sports Academic" institutions that conduct research and offer certificate to PhD level courses in physical education and sports medicine. Chandigarh, Zirakpur Sonipat, Lucknow, Guwahati, Imphal, Kolkata, Bhopal, Bengaluru, Mumbai, and Gandhinagar are among the eleven "SAI Regional Centres" (SRC).

National Sports Development Code of India, 2011

The Indian government has issued policies and initiatives to encourage good governance practises in the organisation and management of sports at the national level on several instances.

These policies are based on the Olympic and Sports Movement's Basic Universal Principles of Good Governance, and therefore do not conflict with or interfere with the individualism of national sports federations in carrying out their roles and duties in compliance with the Olympic Charter. The National Sports Development Code of India, 2011, incorporates recent judgments from the Hon'ble Supreme Court of India and various high courts.

In the case of the Indian Hockey Federation, the Hon'ble Delhi High Court stated that international sporting events are an important part of diplomatic relations, and that political and diplomatic clearances are needed for Indian teams before participating in international competitions and tournaments. The court also stated that the State Government does not have the authority to undertake issues.

Match Fixing

This is the age of corruption. It exists at all levels of government, from the lowest levels of service to the highest levels of the judiciary, as well as in governance. Unfortunately, it seems to have spread to sports as well. Abhijeet Kale, a Maharashtra player, recently accused Indian cricketers of cheating and match fixing. It was just a few years ago that the 'match fixing' scandal in Indian cricket erupted, with players like Ajay Jadeja, Azharuddin, and Manoj Prabhakar being accused of 'fixing' matches. Despite the fact that Indian players Ajay Sharma, Azharuddin and Ajay Jadeja, and Manoj Prabhakar have been banned for life and five years, respectively, this topic continues to be debated because there is no law in India that makes match fixing a crime. Under the new Indian legal system, there are latches and loopholes to regulate the crime of match fixing.

It may seem strange that the term "match fixing" is not specified in any law. The CBI Report on Match Fixing Allegations is the only place where the concept of match fixing can be found. During its investigation, the CBI described 'Match Fixing' as

- (i) instances in which a single player or a group of players was paid individually or collectively to underperform;
- (ii) instances in which a player put bets on games in which he participated, which would inevitably detract from his performance;

- (iii) instances where players passed on information to a betting syndicate about team composition, probable result, pitch condition, weather, etc.,
- (iv) instances where money was paid to groundsmen to plan a pitch in a way that matched the betting syndicate; and
- (v) Present and former players have been used by bookies to obtain access to Indian and international players in order to sway their success for a monetary reward."

First and foremost, this term gives the impression that it only applies to players and players alone. It makes no mention of the coach or selector themselves, or any other individual associated with the cricket team, passing information to a betting syndicate? Do these people suit the definition of a 'player'? A player is someone who participates in cricket on the field, not someone who is associated with the sport. Match fixing can be described as "an instance where a player(s) or official(s) does the undue favour to someone including himself by harming the basic spirit of the game, either directly or indirectly."

India's criminal law and match fixing

Match fixing is the act of arranging for a game to be played in order to achieve a predetermined outcome, in violation of both the game's rules and the law. It is deceiving the government as well as the general public, especially the millions of cricket fans. Underplaying and forming a nexus with bookies are both acts of deception for monetary gain. Teams deliberately playing poorly in order to achieve a future advantage, a better draught selection, or to lose for a future advantage are some of the practises that fall under the scope of match fixing. Thrown games are games that are intentionally lost. Contacts, players, team officials, and referees are all required to fix a match to achieve predetermined results. Game fixing, sports fixing, and hippodroming are all terms used to describe match fixing.

To put this 'dishonest concealment' under the heading of Cheating, however, one must show that the motive was to cause unjust loss to spectators. This wrongful loss to spectators, in my opinion, is an unintended consequence of this act, and therefore lacks the motive to cause wrongful loss. So, who was the one who cheated? Could anyone who made illegal bets be accused of being duped by a rigged match? However, this is not the case. As a result, the Indian Penal Code, 1860, does not cover match fixing.

The Indian Penal Code, Section 415, 1860 Whoever, by deceiving another person, either fraudulently or dishonestly, into delivering any property to another person, any person's property, or deliberately induces the deceived person to do so or omit to do anything which he would not do or omit if he were not so deceived, and Cheating is described as an act or omission that causes or is likely to cause damage or harm to a person's body, mind, reputation, or property. Explanation to this section says that- A deception within the context of this Section is a deceptive concealment of evidence. This section's interpretation for purposes of match fixing one has to look into definition of word 'Dishonestly' given in section 24 of Indian Penal Code, 1860 which reads as - Whoever does something with the intent of gaining an unfair advantage over another, or wrongful loss to another person is said to do that thing dishonestly." The courts while interpreting section 24 of Indian Penal Code, 1860 has made clear that just because someone has suffered a wrongful loss, it does not mean that the act that caused it was a dishonest act.

It was stipulated in the case of *Ahmed v. State of Rajasthan* (1967 Cri LJ 1053(Raj.)) that an act becomes 'dishonest' only when there is an intention, regardless of the outcome. Now, in the case of match fixing, if there is an aspect of "dishonest concealment of evidence" and whether it results in someone suffering an unjust loss or benefit. Dishonest concealment of truth occurs when a player hides the fact that he or she has received money from punters or bookmakers. They trigger wrongful benefit to themselves, which translates to wrongful loss to onlookers.

Match fixing is a criminal act that has not been described or stated in any Indian criminal law, so it is loosely included in the criminal conspiracy defined in the Indian Penal Code, 1860. The Indian Penal Code (IPC) Section 120 (A), 1860 defines the act of criminal conspiracy where if any 2 or more persons agree to do or when an arrangement is made to carry out an unlawful act or a lawful act by illegal means, it is considered a criminal conspiracy.

Prosecution for criminal conspiracy necessitates charges of criminal breach of confidence, deception, and dishonestly causing property delivery.. It is difficult to prove that any player was involved in a criminal act of match fixing because the prosecution must prove what property was transferred and how it was misappropriated.

Maharashtra Control of Organised Crime Act, 1999

Along with several cases of organised crime in sports, Maharashtra enacted a special law with stringent and preventive provisions to eradicate the threat of organised crime. The Act quashed any other laws which are prevailing or made in contravention with the provisions of the act.

The Act was enacted to become the most promising statute for controlling and ending the state's organised crime syndicate, but it had some major flaws, such as the fact that it did not explicitly criminalise match fixing, and that in order to convict anyone for match fixing, they had to commit another unlawful act or be a member of an organised crime syndicate, making it very difficult to prove the criminal act in a court of law.

Prevention of Corruption Act, 1988

The act was passed to prohibit public officials from corrupting government organisations and public sectors. To convict a player of corruption, the prosecutor must show that a bribe was given to a public servant or athlete.

According to Section 13 (1) (d) (ii) of Prevention of Corruption Act, 1988 'a public servant is said to commit the offence of criminal misconduct, if he has abused his status as a government employee, Every valuable item or monetary gain for himself or for someone else. .' To bring the act of cricket fixing one has to bring 'cricketers' under 'public servants.

Section 2 (c) (viii) defines public servant as a person who holds an office by virtue of which he is authorized or required to perform any public duty. But do cricketers really do any public duty. Cricketers are self-employed professionals whose sole purpose is to entertain people by playing cricket. They do nothing sort of public duty. As a result, cricketers are exempt from the Prevention of Corruption Act of 1988.

When a national sports organisation with state-like characteristics hires an athlete, the athlete is referred to as a public servant. Acts that would usually be considered match fixing in India are not expressly criminalised under Indian law, so if any of the acts in question occurred between two clubs, none of the players can be considered public servants, as needed for prosecution under the Prevention of Corruption Act, 1988.

The Supreme Court of India decided in the Zee Telefilms case that the Board of Control for Cricket in India (BCCI) and its state associations must comply with the Sports Code, and that only a Writ Court can start the process. However, in an age-bound game where one's best years are between the ages of 20 and 24, resorting to litigation could backfire. In India, Darwin's Law does not seem to apply to cricket, at least not yet.

Conclusion

In a survey of Indian laws conducted in 2000, the CBI discovered that only the Prevention of Corruption Act, 1988 is one legislation that could be convincingly useful for criminalising match fixing by members of the Indian cricket team. The Hon'ble Court, in a PIL filed in the Delhi High Court, expressed grave concern about the country's mismanagement of the sports sector and expressed profound concern about the government's failure to implement and enforce its own guidelines. The government must recognise this and establish a legal framework to regulate sports in India.

To summarise, the legal provisions are insufficient to regulate the offence. It is now high time for the authorities to act. There is a need to change the current legislation to include 'match fixing' as an offence. It is likely to cause turbulence unless it is nipped in the bud as soon as possible.

It is a difficult task to prove match fixing using Indian criminal law, and the penalties are insufficient for crimes committed in the sports industry. The government and the governing body of sport will prosecute offences more severely through national legislation.

A national legislation for the creation and standardised management of sports is desperately needed in India. Sports should be included in the Concurrent List, which both the Union and the State governments have jurisdiction over. The Indian government should take genuine steps to enforce the country's National Sports Policy.

In addition, the Indian government should create a Sports Commission to oversee sports regulation in the country. The sports commission will assist the government in surveying the implementation of sports policies in India and advising it on how to formulate those policies.